Consultant□s Report

for the

Period June 23, 1996 to July 23, 1996

prepared by

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for
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Terms of Reference

The original Terms of Reference for my trip were:

1. Work with Mira and Lida to clearly codify the legal requirements for land market transactions--sales, leases, mortgages, inheritances, easements, cautions as contained in the Civil Code, the Law for the Buying and Selling of Agricultural Land, the Registration Law, the Notary Act, and other relevant legislation.

2. Prepare recommendations for the harmonization of the Civil Code with other legislation pertaining to rights to immovable property.

3. Review legal aspects of the IPRS training program and curriculum at the Law Faculty pertaining to immovable property transactions.

4. Review legal status of the Mapping Coordination Committee.

After arrival in Albania some changes were made to these terms. The then Minister of Agriculture suggested that a further revision be done on the Immovable Property Tribunal Act to reflect the need to put it into operation. Therefore, a new draft has been prepared as item No. 6 in the Report reflecting our discussion.

Secondly, Mr. Ismael Beka, of the Ministry of Agriculture suggested that I draft a proposal on the structuring of the Lands Department. This is Item no 7 in the Report.

Finally, David Stanfield suggested that I draft terms of reference for possible research that could be carried out by Albanians dealing with legal subject matter. Item No. 9 of the Report suggests two possible research projects.

The Terms of Reference were reviewed and amended in the Ministry of Agriculture to reflect these changes.

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1. Regulations for the Buying and Selling of Agricultural Land

The following Regulations, in Albanian and English have been reviewed by the PMU, the Ministry of Agriculture and Food, the Real Estate Association and the Association of Notaries. There were comments from all quarters relating to what is the best approach. It is clear that this situation concerning the Regulations has been going on for some time and there is a number of issues about which there is disagreement. It has been emphasized that a compromise is necessary in order to come up with the best Regulations for the current circumstances. It was also emphasized that the Civil Code has to be taken seriously when deciding which form of the Regulations should be adopted.

The following is what was presented for consideration:

a. In English

Proposed Regulations
Subsidiary to the Law for
Buying and Selling of Agricultural Land

The Law for the buying and selling of agricultural land requires the preparation and approval of implementing regulations. The objective of these regulations is to clarify the procedures to be used in implementing the law. Procedures can be complicated and expensive to implement, signifying high transaction costs for the farm families engaging in sales. An objective in the preparation of regulations, therefore is the achieving of the policy objectives the law but with regulations which put a minimum of financial burden on farm families.

From this perspective of minimizing transaction costs, the law as written could be interpreted so as to impose complicated steps on the buying and selling of agricultural land, as distinct from the steps required in the Civil Code for the buying and selling of urban land. There may be policy benefits pertaining to agricultural land use which justify these higher transaction costs. These potential benefits should be carefully weighed against the costs of transactions, and if such costs are high, the avoidance of the registration system rules where such costs are enforced. It is extremely important to create a method for making the Buying and Selling of Agricultural Land operate without major complications for the seller as well as the buyer of the land.

To encourage this debate, we have prepared two alternative approaches to the preparation of regulations for the Buying and Selling of Agricultural Land Law:

I. Two Levels of Regulation

(1) The first option is to repeal Articles 4, 6 ,7 and 8 of the Buying and Selling

Law, use the provisions of the Civil Code for transactions (Sections on Co-ownership of Farm Family Members 222, 224 227 and 228; Preparatory Provisions on Contract, 659-670, Effects of Contracts, 690-704 and Sales, 705-756), and the preparation of simple regulations for defining who in families should participate in transactions. This would provide greater clarity to Sections 224 (helping with the definition of whom would be included in selecting the person who is authorized to sell) of the Civil Code pertaining to farm families;

2. The second option is keep the law as it exists, with strict and elaborate procedures for carrying out transactions. This would deal with some problems, but would impose burdens on persons who wish to buy and sell and on the Immovable Property System Registrars.

Of course, where it is deemed necessary a combination of the different Regulations can be used if it is so desired.

II. The Issues

An outline of the five issues that appear to be most significant follows and then there will follow two options for the Regulations that represent methods of making the Act function properly.

a. Definition of the Farm Family. The clear definition of the farm family is needed to define who must participate in transactions involving farm family land The premise of Law 7501, On the Land, which was the basis on which the distribution took place in 1991 is that the land was assigned in ownership and in use to families, although only the name of the family head was recorded on the tapis. If this family head has the complete power to sell or mortgage the land, there can be instances of irresponsible transactions by the family head which would damage the welfare of other members of the family who are dependent on the land. It is desirable to have one or more family members involved in transactions to prevent a single individual from taking precipitous and irresponsible steps in dealing with land.

b. Resolution of Disputes. Transactions will generate disputes. No matter how well regulations are implemented, transactions will potentially generate conflict. The Regulations may help avoiding conflict, but the likelihood is that there will be considerable court activity that could be generated. If an alternative dispute resolving institution can be created which does not impose high costs on the system, it should be considered. However, it is also possible, if the alternative is a high cost alternative persons in disagreement would resolve the dispute themselves without referral to the court. It would then be most efficient not to develop an alternative. It should be noted that these dispute generate factual issues which need not be referred to a court. Thus if there is an institution that is to be developed it should be an informal Tribunal or some other locally based institution, like the

kryeplak, that uses mediation as a process of resolution. Regulations could refer to both possibilities.

c. Land Fragmentation. There is an opinion widely held, that the land should not be fragmented below some legally accepted minimum. However, since there is no law which defines what the minimum should be, owners and buyers cannot know whether they can legally subdivide their parcels.

d. Change of Land Use. A change of land use may be contemplated by the persons who might be buying (or inheriting) the land. In order to prevent illegal change of use, procedures have to be developed. This requires time and bureaucracy, which if inserted into the buying and selling procedures would raise the cost of transferring land. Regulations for the buying and selling of agricultural land might require that the classification of agricultural land which is held by a family will not be changed without going through an application process which when completed according to law can be approved by the Registrar for changing the classification on the kartela.

e. Notice to Farm Family Members and to Potentials Buyers. For some people procedures are needed for notice of a pending sale of the land in order to ensure that persons within the farm family, but not living on the land in question are aware of the fact that the land is for sale. Providing them with an opportunity for objecting to a sale would reduce the likelihood of subsequent conflicts within families or between some family members and the buyers of the land.

Notice of the availability of land for sale to neighbors, relatives and members of the general public would also be helpful. Owners of neighboring land might want to buy the land, thereby encouraging consolidation of holdings.

On the other hand, requiring all sellers to give notice in specific ways raises the issue of determining whether notice was done properly. If any person is given that power over every transaction the corruption problem emerges as well as the high cost factor.

III. Alternative Approaches to Regulations

Option No. 1:

Under this option transactions are governed by the provisions of the Civil Code. The major policy objectives of the Buying and Selling Law would be (1) to keep transaction costs low and (2) to prevent irresponsible transfer of the agricultural land by the family heads who on their own might attempt to make a transfer, since only their names are recorded on the kartelas.

Articles 4, 5 7 and 8 of the Buying and Law would be repealed to reduce the transaction costs.

The only regulations would be the following:

Article 1. Definition of the Farm Family

The definition of the farm family for purposes of transferring the ownership or for the mortgaging of agricultural land shall be comprised of all competent adult persons who live on the land.

Article 2. Statement of Civil Registry

The family desiring to transfer the ownership of, or mortgage agricultural land which it owns shall get a statement from the relevant office of the Civil Registry listing these persons and their dates of birth.

Article 3. Notarized Authorization for Family Head

Those adult family members of sound mind who are listed on the Civil Register are required to sign a notarized authorization which allows the family head to carry out a specified transaction involving the family owned land.

Article 4. Designation of the Change of Type of Ownership of Immovable Property

If the buyer wishes to change the type of ownership of land identified as family land (F) on the kartela of the property which he/she buys, the buyer must indicate that desire in the contract of sale, and must present a separate application to the Registrar to register a new type of ownership.

Article 5. Submission of Statements to Registration Office

The statement from the Civil Registry, the notarized authorization of the transaction, and the application to change the type of ownership if desired shall be presented to the Registrar as part of the request for registration of the transaction.

Rationale:

This approach would avoid an inflexibly complicated and costly system which would result from a complex bureaucratic structure. This approach would also equalize the manner in which one would deal with agricultural land with the urban land.

This option leaves to the owners the right to subdivide their properties as they wish, as long as all created parcels are in accordance with other laws, such

as there being required access from a public road to each parcel and legislation which regulates construction and parcel size.

There is no need for "priorities". Rather this option leaves to the calculations of the buyers as to the desirability of the parcels for sale. This would include the issue of the closeness of the parcel to other land. Such owners presumably would be willing to pay more, thereby encouraging consolidation.

There would be no requirement for notice, since the sellers will naturally notify the public as to the availability of the land for sale, so as to produce several offers of purchase equal to or in excess of the seller's asking price.

Any disputes which occur would be settled among the parties or would be taken to an existing institution.

Option 2

The second option would be a more strict and costly set of regulations, which would be the more difficult to administer. These Regulations are presented so that we can understand what a complicated and costly system would look like. If the Law on Buying & Selling of Agricultural Land is to operate in a smooth manner, it is not recommended that these be adopted. In addition, the system for buying and selling urban lands is not costly nor is it complicated. It is therefore suggested that the buying and selling of agricultural land should be simple as well. Why impose special costs on farm families?

The Regulations would potentially be:

Article 1. Definition of the Farm Family

Notwithstanding the provisions of any Act, the definition of the farm family for purposes of the transfer of ownership or mortgaging of agricultural land owned by the family shall include only those competent adult persons living on the land at the time of the proposed transaction.

Article 2. Proof of Membership in Farm Family

The family desiring to transfer the ownership of, or mortgage agricultural land which it owns shall get a statement from the relevant office of the Civil Registry listing the individual family members and their dates of birth. Those adult family members of sound mind are required to sign a notarized authorization of the family head to carry out a specified transaction involving the family owned land.

Article 3. Resolution of Disputes Over Transfer of Agricultural Land when the Membership in the Farm Family

is in Question

In the case of dispute between individuals claiming to be members of the farm family or for any other reason, when immovable property is to be transferred, the dispute, if it cannot be settled by the persons themselves, must proceed to the relevant resolution institution recognized by law for a hearing in accordance with the provisions applicable.

Article 4. Requirement of Signatory at the time of Transfer of Agricultural Land

All adult family members of sound mind who live in the dwelling unit with the family head must sign a notarized statement that a specific person is authorized engage in the specified transaction of family owned agricultural land.

Article 5. Designation of the Change of Type of Ownership of Immovable Property

If the buyer wishes to change the type of ownership of land identified as family land (F) on the kartela of the property which he/she buys, the buyer must indicate that desire in the contract of sale, and must present a separate notarized application to the Registrar to register a new type of ownership.

Article 6. Notice of Intention to Sell Family Owned Agricultural Land

Any person who represents the farm family shall be required to give public notice that he/she intends to sell the agricultural land in question by:

(a) publishing, in one locally published daily newspaper on three successive days in two weeks (15 days) duration that are normally read in the area that an intention exists to sell the land in question;

(b) posting and maintaining a notice of intention to sell on the land concerned in a secure manner and in a position calculated to be seen by persons passing the immovable property;

(c) informing by post, if address is known, all persons who would be included in the definition of the farm family;

Article 7. Length of Time of an Offer

The transaction should be completed within fifteen days from the time the buyer makes an offer. If more than fifteen days have elapsed that is considered a refusal by the seller.

Article 8. Sale at Highest Price Offered

If a person offers the highest price and the seller is willing to accept the offer of purchase, the offerer is entitled to the land even if his own land is located further from the seller□s or his offer is of lower priority than other offers.

Article 9. Certification Necessary for Registration of Transfer of Ownership

(1) The application to register a transfer of ownership of a parcel of agricultural land shall include the notarized declaration by the head of family authorized to transfer the ownership of the parcel by the family members certifying:

(a) that he/she placed a notice of the desire to sell in a public place in the village where the parcel is located from _____(date) to _____(date) for a period of at least fifteen (15) days before signing a contract of sale;

(b) that no adult person listed in the civil register as living in the household and dependent on the land objected to the sale within the fifteen (15) day posting period;

(c) that the parcel involved in the transaction is not smaller than the smallest parcel created in that Registration Zone by the Land Distribution Commission; and

(d) that the buyer has indicated that he wishes to change the type of ownership of land which was distributed according to Law No. 7501 or listed as family land (F) on the kartela;

(e) that no person has benefited from the sale who does not have that right.

(2) Within fifteen (15) days of the filing of the notarized statement as an application for registration, if no person has called to the attention of the Registrar that the seller□s statement is incorrect, and if there is no other reason to

consider the sale invalid, the Registrar shall register the contract of sale in accordance with the provisions of the Law on the Registration of Immovable Property.

If within one year of the sale, the Registrar determines that the person authorized to file the notarized certification of sale knew that any part was false, the Registrar shall fine the seller or his/her heirs in accordance with the provision of the Law and Registration of Immovable Property.

Section 10. Registration

The statement from the Civil Registry, the notarized authorization of the transaction, the notarized certificates required under Articles 5 and 9 and of these Regulations shall be presented to the Registrar as part of the request for registration of the transaction.

b. In Albanian:

RREGULLORET PER BLERJEN DHE SHITJEN E TOKES BUJQESORE

Rregulloret e meposhtme, ne Shqip dhe Anglisht jane rishikuar nga NMP, Ministria e Bujqesise dhe Ushqimit, Shoqata e Pasurive te Paluajtshme dhe Shoqata e Notereve. Kishte komente nga te gjitha anet ne lidhje me ate se çfare eshte me e mira. Eshte e qarte se kjo situate ne lidhje me rreguloret ka vazhduar për njefare kohe dhe ka nje numer çeshtjesh per te cilat ka kundershti. Eshte theksuar qe eshte i nevojshem nje kompromis me qellim per te dale me rregulloret me te mira per rrethanat e tanishme. U theksua gjithashtu qe Kodi Civil duhet te merret seriozisht kur te vendoset per formen e Rregulloreve qe duhen adaptuar.

E meposhtmja eshte çfare u paraqit per konsiderate:

Rregullore e propozuar ne mbeshtetje te Ligjit
per Shitblerjen e Tokes.

Ligji per shitblerjen e tokes ka nevoje per pergatitjen dhe aprovimin e rregulloreve per zbatimin e tij. Objektivi i ketyre rregulloreve eshte qe te sqaroje procedurat qe duhen zbatuar per venien ne jete te ketij ligji. Keto procedura mund te jene te komplikuara dhe te shtrenjta per tu vene ne zbatim, gje qe do te thote kosto e larte per transaksionet e familjeve bujqesore qe duan te bejne shitblerje. Prandaj, nje nder objektivat ne pergatitjen e rregulloreve eshte arritja e qellimeve te politikave te ligjit por me ane te rregulloreve te cilat minimizojne barren financiare vene mbi familjet bujqesore.

Nga perspektiva e minimizimit te kostos se transaksioneve, ligji ashtu sic eshte shkruar mund te interpretohet ne menyre qe te imponoje shume hapa

te komplikuar per shitjen dhe blerjen e tokes bujqesore, ne ndryshim nga hapat qe duhen ndermarre sipas Kodit Civil per shitblerjen e tokes urbane. Mund te ekzistojne perfitime politike ne lidhje me token bujqesore, perfitime te cilat justifikojne keto kosto me te larta te transaksioneve. Keto perfitime te mundshme duhet te vleresohen kundrejt kostos se transaksioneve, dhe nese kostoja del shume e larte, ka shume te ngjare qe te evitohet zbatimi i sistemit te rregjistrimit ku keto kosto aplikohen. Eshte shume e rendesishme qe te krijohen procedura per te lejuar veprimin e ligjit per shitblerjen e tokes pa krijuar komplikacione te medha per individet qe perpiqen te shesin ose blejne token.

Per te inkurajuar kete debat, ne kemi pregatitur dy alternativa per pergatitjen e rregulloreve te Ligjit per Shitblerjen e Tokes Bujqesore:

I. Dy shkallet e mundshme te rregulloreve

(1) Mundesia e pare eshte qe te shfuqizohen Artikujt 4, 6, 7 dhe 8 te ligjit te shitblerjes se tokes, te perdoren nenet e Kodit Civil per kontratat (Bashkepronesia e Anetareve te Familjes Bujqesore - 222, 224, 227, dhe 228; Dispozitat Pergatitore te Kontrates - 659-670, Efektet e Kontrates - 690-704; dhe Shitja - 705-756) dhe te behet pregatitja e rregulloreve te thjeshta per percaktimin e anetareve te familjes qe marrin pjese ne transaksione. Kjo duhet te sqaroje Nenin 224 (duke ndihmuar ne ane te percaktimit te personave qe duhen perfshire ne dhenien e autorizimit te shitjes) te Kodit Civil ne lidhje me familjen bujqesore;

(2) Te mbahet ligji sic ekziston, me procedura strikte dhe te zgjeruara mbi kryerjen e transaksioneve. Kjo do te zgjidhte disa probleme, por do te impononte barre mbi personat qe deshirojne te blejne dhe te shesin toke dhe mbi Regjistrat e Sistemit te Pasurive te Paluajshme.

Natyrisht, atje ku shihet e nevojshme mund te perdoret nje kombinim i rregulloreve te ndryshme ne qofte se deshirohet nje gje e tille.

II. Ceshtjet

Nje permbledhje e pese çeshtjeve me te rendesishme vijon dhe me pas do te jene dy alternativat e rregulloreve qe paraqesin metoda per ta bere ligjin te funksionoje sic duhet.

a. Perkufizimi i Familjes Bujqesore. Perkufizimi i qarte i familjes bujqesore duhet per te percaktuar se kush do te marre pjese ne transaksionet e tokes bujqesore te familjes. Premisa e Ligjit 7501, Mbi Token, e cila ishte baza mbi te cilen u krye ndarja e tokes ne 1991, eshte qe toka u jepet ne pronesi dhe perdorim familjeve, pamvaresisht qe vetem emri i kryetarit te familjes paraqitet mbi tapi. Nese kryetari i familjes do te kishte fuqi te plote per te shitur ose lene peng token, mund te kete raste transaksionesh te papergjegjshme nga ana e tij, te cilat do

te demtonin mireqenien e anetareve te familjes qe varen nga ajo toke. Eshte e mira qe nje ose me shume anetare te familjes te perfshihen ne transaksione ne menyre qe te parandalohet nje individ i vetem nga marrja e vendimeve te nxituara ose te papergjegjshme ne lidhje me token.

b. Zgjidhja e konflikteve. Transaksionet do te krijojne mosmarreveshje. Pamvaresisht se si zbatohen rregulloret, transaksionet do te gjenerojne konflikte. Rregulloret mund te ndihmojne ne shmangjen e konfliktit, por ka te ngjare qe te rritet aktiviteti i gjykatave si rezultat i zbatimit te ligjit. Nese nje institucion alternativ per zgjidhjen e konflikteve mund te krijohet pa kosto te larte, atehere nje ide e tille duhet marre parasysh. Megjithate ka mundesi, qe nese kjo alternative eshte shume e kushtueshme, personat ti zgjidhin vete konfliktet e tyre, pa ju drejtuar gjykates. Do te ishte atehere me efektive qe te mos krijohej nje alternative e tille. Duhet patur parasysh se keto konflikte jane mbi ceshtje faktike dhe se ato nuk duhen cuar ne gjykate. Keshtu qe nese krijohet nje institucion i tille, ai duhet te jete nje gjykate jo formale ose ndonje institucion tjeter lokal, si kryeplaku, qe perdor ndermjetesimin si proces te zgjidhjes se konflikteve. Rregullorja mund t'i referohej te dy mundesive.

c. Fragmentimi i Tokes. Ka nje opinion te gjere, qe toka nuk mund te copezohet poshte nje minimumi ligjerisht te pranuar. Megjithate meqenese nuk ka nje minimum te percaktuar me ligj, pronaret dhe bleresit nuk mund te dijne nese mund t'i ndajne parcelat ligjerisht.

d. Ndryshim i Perdorimit te tokes. Ndryshimi i perdorimit te tokes mund te mendohet nga personat që mund blejne (ose trashegojne token). Me qellim qe te parandalohet ndryshimi i paligjshem i destinacionit, procedura perkatese duhen krijuar. Kjo kerkon kohe dhe burokraci, qe nese futet ne proçedurat e blerjes dhe shitjes do ta rriste akoma koston e tjetersimit te tokes. Rregulloret per shitblerjen e tokes bujqesore mund te kerkojne qe klasifikimi i tokes bujqesore, qe mbahet nga nje familje, nuk do te ndryshohet pa kaluar neper nje proçes aplikimi, i cili kur te jete perfunduar ne perputhje me ligjin mund te aprovohet nga Regjistruesi per ndryshimin e klasifikimit ne Kartele.

e. Njoftimi i Anetareve te Familjes Bujqesore dhe i Bleresve Potenciale. Sipas disa mendimeve, nevojiten procedura "lajmerimi" për shitjen, ne menyre qe te sigurohet se personat anetare te familjes bujqesore, por qe nuk jetojne mbi token ne fjale te jene ne dijeni te faktit qe toka eshte per shitje. Mundesia qe u jepet atyre per te kundershtuar shitjen do te kufizonte mundesite per konflikte te mevonshme brenda familjes

ose mes disa anetareve te familjes dhe bleresve te tokes.

Njoftim per shitjen e tokes u duhet bere fqinjeve, te afermve, dhe publikut. Pronaret e tokave kufitare mund te jene te interesuar per blerjen e kesaj toke, ne kete menyre duke inkurajuar konsolidimin e pronave.

Ne anen tjeter, duke u kerkuar te gjithe bleresve te njoftojne te rruge specifike ngrihet çeshtja e percaktimit nese njoftimi eshte bere siç duhet. Ne qofte se i jepet kjo kompetence mbi çdo transaksion ndonje personi, lind problemi i korrupsionit si dhe faktori i kostos se larte.

III. Alternativa te Rregulloreve

Mundesia Nr.1:

Sipas kesaj mundesie, transaksionet duhet te zbatojne dispozitat e Kodit Civil. Qellimi kryesor i politikes se Ligjit te Shitblerjes duhet te jete (1) te kete nje kosto te ulet per transaksionet dhe (2) te parandaloje transferimin e papergjegjshem te tokes bujqesore nga kryetari i familjes te cilet nga ana e tyre mund te perpiqen te kryejne nje gje te tille, meqenese vetem emrat e tyre jane shenuar ne kartela.

Artikujt 4, 5, 7 dhe 8 te Ligjit te Shitjes dhe Blerjes se Tokes do te shfuqizoheshin ne menyre qe te reduktohej kostoja e transaksioneve.

Rregulloret e vetme do te ishin si vijon:

Artikulli 1. Perkufizimi i Familjes Bujqesore

Perkufizimi i famijes bujqesore per qellimin e tjetersimit te pronesise ose per hipotekimin e tokes bujqesore do te perfshije te gjithe ata persona madhore te afte qe jetojne mbi kete toke.

Artikulli 2. Certifikata e Gjendjes Civile

Familja qe deshiron ta tjetersoje pronesine e tokes bujqesore qe zoteron, ose ta hipotekoje ate, do te marre nje certifikate nga zyra perkatese e gjendjes civile, e cila permban emrat e te gjithe pjestareve dhe datelindjet e tyre.

Artikulli 3. Autorizimi i Noterizuar i Kryetarit te Familjes

Anetaret madhore dhe me mendje te shendoshe te familjes te cilet jane te regjistruar ne Regjistrin Civil, duhet qe te firmosin nje deklarate te noterizuar e cila e lejon kryetarin e familjes qe te zhvilloje

nje transaksion te specifikuar qe perfshin token e familjes bujqesore.

Artikulli 4. Percaktimi i Ndryshimit te Llojit te Pronesise te Pasurise se Paluajtshme

Ne qofte se bleresi deshiron te ndryshoje llojin e pronesise se tokes e identifikuar si toke e familjes (F) ne kartelen e pasurise qe ai/ajo blen, bleresi duhet ta tregoje ate deshire ne kontraten e shitjes, dhe duhet te paraqese nje aplikim te veçante tek Regjistruesi per regjistrimin e llojit te ri te pronesise.

Artikulli 5. Dorezimi i Certifikatave ne Zyren e Regjistrimit

Certifikata nga gjendja civile dhe autorizimi i noterizuar per kryerjen e transaksionit, dhe aplikimi per ndryshimin e llojit te pronesise nese deshirohet duhet t'i paraqiten Regjistruesit si pjese e kerkeses per regjistrimin e transaksionit.

Shpjegim:

Ky qendrim do te menjanonte nje sistem shume kompleks dhe te kushtueshem i cili do te vinte si pasoje e nje strukture burokratike shume komplekse. Ky qendrim edhe do te barazonte menyrat e trajtimit te tokes bujqesore me ate urbane.

Kjo mundesi i jep te drejten pronareve qe te ndajne pronat e tyre sipas deshires, per sa kohe qe parcelat e krijuara jane ne perputhje me ligjet e tjera, sic jane e drejta e rrugeve publike neper parcela dhe legjislacioni i ndertimit, qe rregullon ndertimin dhe madhesine e parceles.

Nuk ka nevoje per "prioritete." Kjo u duhet lene bleresve te cilet vendosin sipas deshires se tyre per parcelat e tokes per shitje. Por kjo do te perfshinte ceshtjen e afersise se parceles me tokat e tjera qe ata zoterojne. Pronare te tille, siç mund te merret me mend, do te ishin te gatshem te paguanin me shume, ne kete menyre duke inkurajuar konsolidimin.

Nuk ka kerkesa per njoftim, meqe shitesi do te njoftoje natyrshem publikun per token per shitje, ne menyre qe te kete oferta te ndryshme per blerje te barabarta ose siper cmimit qe kerkohet nga shitesi.

Cdo konflikt qe mund te ndodhe duhet zgjidhur mes paleve ose duhet cuar ne nje institucion ekzistues.

<u>Mundesia nr.2:</u>

Alternativa e dyte do te ishte nje seri rregulloresh me strikte dhe te kushtueshme, te cilat do te ishin me te veshtira per tu administruar. Keto

rregullore jane paraqitur ne menyre qe te kuptohet se si do te ishte nje sistem i komplikuar dhe i kushtueshem. Ne menyre qe Ligji i Shitblerjes te Tokes te funksionoje me mire, rekomandohet qe mos perdoren keto rregullore. Per me teper, sistemi i shitblerjes se tokes urbane nuk eshte as i kushtueshem dhe as i komplikuar. Prandaj sugjerohet qe edhe shitblerja e tokes bujqesore te jete e thjeshte. Pse t'u imponojme kosto te vecante familjeve bujqesore?

Rregulloret mund te ishin si vijon:

Artikulli 1. Perkufizimi i Familjes Bujqesore

Pamvaresisht nga dispozitat e çdo Akti tjeter, perkufizimi i familjes bujqesore per qellimet e tjetersimit te pronesise ose te hipotekimit te tokes bujqesore do te perfshije vetem ata persona madhore qe jetojne mbi toke ne kohen e transaksionit te propozuar.

Artikulli 2. Prova e Anetaresise ne Familjen Bujqesore.

Familja qe deshiron te tjetersoje pronesine ose te hipotekoje token bujqesore qe zoteron duhet te marre nje deklarate nga zyra perkatese e gjendjes civile e cila rendit personat dhe ditlindjet e tyre. Anetaret madhore te familjes, te cilet jane te afte menderisht, kerkohen te firmosin nje autorizim te noterizuar per kryetarin i familjes ne menyre qe ai te kryeje nje transaksionin te specifikuar qe perfshin token e familjes.

Artikulli 3. Zgjidhja e Konflikteve mbi Tjetersimin e Tokes Bujqesore kur Anetaresia ne Familjen Bujqesore eshte me Pikepyetje.

Ne rast konflikti ndermjet personave te cilat pretendojne te jene anetare te familjes bujqesore, kur pasuria e patundshme tjetersohet ose per cdo lloj arsyeje tjeter, nese konflikti nuk mund te zgjidhet nga vete personat, duhet proceduar ne institucionet perkatese te percaktuara me ligj per nje seance degjimi ne perputhje me rregullat perkatese.

Artikulli 4. Domosdoshmeria e Nenshkrimit ne kohen e Tjetersimit te Tokes Bujqesore.

Te gjithe anetaret madhore te familjes, te afte menderisht, qe jetojne ne njesine e banimit me kryetarin e familjes, duhet te nenshkruajne deklaraten e noterizuar qe nje person i veçante eshte i autorizuar per tansaksionin e specifikuar mbi token e familjes bujqesore.

Artikulli 5. Percaktimi i Ndryshimit te Llojit te Pronesise te Pasurise se Paluajtshme.

Nese nje bleres deshiron te nderroje llojin e pronesise se tokes dhene ne perputhje me Ligjin 7501 ose regjistruar si toke e familjes (F) ne kartelen e pasurise qe ai/ajo blen, bleresi duhet ta tregoje kete deshire ne kontraten e shitjes dhe duhet te paraqese nje aplikim te vecante te noterizuar tek Regjistruesi per regjistrimin e nje tipi te ri pronesie.

Artikulli 6. Njoftimi per Qellimin e Shitjes se Tokes Bujqesore te Familjes

Cdo personi i cili perfaqeson nje familje bujqesore do ti kerkohet te beje njoftim publik, qe ai/ajo synon te shese token bujqesore per te cilen behet fjale:

(a) duke publikuar ne nje gazete lokale të përditshme, per tre dite te njepasnjeshme ne dy jave (15 dite), qe lexohet normalisht ne zonen ku ekziston qellimi per shitjen e tokes ne fjale.

(b) duke vene dhe mirembajtur nje njoftim shitjeje mbi token ne fjale, ne nje pozicion te dukshem per personat qe kalojne prane pasurise se patundshme;

(c) duke informuar me poste, ne se dihet adresa, te gjithe personat te cilet do te perfshiheshin ne perkufizimin e familjes bujqesore;

Artikulli 7. Kohezgjatja e nje oferte

Transaksioni duhet te mbyllet brenda 15 ditesh nga koha qe nje bleres ben nje oferte. Nese me shume se 15 dite kane kaluar, atehere kjo konsiderohet si refuzim nga ana e shitesit.

Artikulli 8. Shitja ne Cmimin me te Larte te Ofruar

Ne qofte se nje person ofron cmimin me te larte dhe shitesi eshte i gatshem ta pranoje kete oferte te blerjes, aatij personi i jepet e drejta ta bleje token edhe pse parcela e tij mund te jete gjeografikisht me e larget nga ajo qe shitet ose oferta e tij e nje prioriteti me te ulet se sa ofertat e tjera.

Artikull 9. Certifikata e nevojshme per Regjistrimin e Tjetersimit te Pronesise.

(1) Aplikimi per regjistrimin e shitjes se nje parcele toke bujqesore do te perfshije nje deklarate te noterizuar nga kryetari i familjes i cili eshte autorizuar per te tjetersuar pronesine e

parceles nga anetaret e familjes, qe verteton:

(a) qe ai ka vendosur nje njoftim me deshiren per te shitur ne nje vend publik ne fshatin ku parcela gjendet nga _____(data) deri me _____(daten) per nje periudhe te pakten 15 ditore perpara se te firmose nje kontrate shitjeje;

(b) qe asnje person madhor sipas regjistrit te gjendjes civile qe banon ne ate shtepi dhe qe varet nga toka kundershtoi shitjen brenda 15 ditesh nga data e njoftimit;

(c) qe parcela e perfshire ne transaksion nuk do te ndahet, ne asnje pjese qe eshte me e vogel sesa parcela minimale e krijuar ne fshat nga Komisioni i Fshatit per Ndarjen e Tokave; dhe

(d) qe bleresi ka treguar qe ai do te ndryshoje tipin e pronesise se tokes e cila u nda sipas Ligjit 7501 ose eshte regjistruar si toke e familjes (F) ne kartele;

(e) qe asnje person, qe nuk e ka ate te drejte, nuk ka perfituar nga shitja.

(2) Brenda 15 ditesh nga dorezimi i kerkeses se noterizuar si aplikim per regjistrim, ne se asnje person nuk ka vene ne dukje prane regjistrarit qe dokumenti i shitesit eshte i parregullt, dhe nese nuk ka asnje arsye tjeter per te menduar qe shitja eshte e parregullt, regjistrari do te regjistroje kontraten e shitjes ne perputhje me procedurat e Ligjit mbi Shitjen e Pasurise se Patundshme.

Megjithate, nese brenda nje viti nga dita e shitjes, Regjistruesi vendos se personi i autorizuar per dorezimin e vertetimeve te noterizuara te shitjes dinte qe ndonje pjese ishte e parregullt, Regjistruesi do ta gjobise shitesin ose trashegimtaret e tij/saj sipas Ligjit mbi Regjistrimin e Pasurive te Patundshme.

Artikulli 10. Regjistrimi

Deklarata nga zyra e gjendjes civile dhe autorizimi i nenshkruar per transaksionin, çertifikatat e noterizuara qe kerkohen sipas Artikullit 5 dhe 9 dhe nga keto Rregullore do t'i paraqiten Regjistruesit si pjese e kerkeses per regjistrimin e transaksionit.

2. Procedures for the First Registration of Parcels whose Present Owners do not have Valid Tapis: a) Parcel Exchanges which occurred prior to First Registration; b) Refusals; and c) De Facto Possessions

a) In English

There are many instances where farm families' possession of land is not documented by valid tapis. There are different reasons, however, for this situation, and only some types of cases can be resolved by the first registration field teams.

1. The exchange of parcels by farmers who had valid tapis, but without updated tapis.

Such exchanges are permitted by law, but the registration of changes by the Cadastral Offices as required by Law 7501 (Article 10) and Article 17 of Decision No. 256 of 2.8.1992 have rarely been done.

It is necessary to set a procedure which will allow the field teams to receive the information of the exchange of parcels and register such changes without disrupting the system of registration. At the same time it is important to make the interest holder of the land in question conscious that he cannot do anything with the land until there is an accurate registration.

It is recommended that when parcels for which valid tapis have been issued and which have been exchanged, the Field Teams should fill out a special form for each exchange, with a description of each parcel and a reference to the relevant tapis, as well as the names of the original and present owners. The Field Teams then should recommend that the parties to the exchange sign and notarize these forms to indicate their approval of the exchange, followed by the notarized signature of the head of the District Cadastral Office approving of the exchange as provided for in Decision 256. Until the forms are completed, the Field Teams should create kartelas for each exchanged parcel based on the original tapis, with the name of the original owner recorded, but with a caution that the parcel has been exchanged, noting the name of the new owner in the caution section. Once the exchange forms are finalized and presented to the Field Teams, during or before the 90 day display period, the kartelas should be corrected.

2. **Problem of Land Refusal**

Many people who received a distribution of land through the issuance of valid tapis were not happy with the quality of it. For that reason or another they refuse to take the land. For families which received land but who do not use it, Law 7501 says that

the state is to resume control over the land and reassign it, but nothing was ever done to complete this procedure.

To regularize the records, a documentation of the refusal is needed so that the land can be registered as state owned and thereby providing the Government with the opportunity to redistribute it or to make it available for some other alternative.

A form providing for the notarized declaration of refusal will allow the PMU field teams to "first register" such parcels in the name of the original owners named on the tapis, but then updated as state owned land on the basis of the declaration of refusal.

3. The first registration of parcels claimed by families for which no valid tapis have been issued.

The situation is more complicated in the situation where land has been possessed by families, but tapis have not been issued. The best solution, of course, would be for the Cadastral Office to issue tapis to the holders of the land following established legal procedures. However, it appears unlikely that government will soon undertake the regularization of many situations of de facto possession.

When first registration field teams encounter such situations of possession without valid tapis, they should map and record actual possession, prepare field note books in which the holders of the land will be noted, prepare kartelas as owned by the State but with a caution that the there is a family in possession of the land, and then conduct the display exercise. For those parcels with these cautions, the field teams should inform the District Cadastral Offices of the irregularities found and the need to regularize the ownership of parcels for which there are no valid tapis.

Once tapis are issued, the Cadastral Offices should inform the Registrar so that the cautions can be removed and the holders will be able to deal normally with the parcels.

The Council of Ministers should issue a decision: (1) directing the PMU to prepare reports on irregularities for the Cadastral Offices at the time of the finalization of first registration for each Cadastral Zone; (2) directing the Cadastral Offices to inform the Registrar when tapis are issued for land in a Cadastral Zone where first registration has been finalized.

b) In Albanian

PROCEDURAT PER RREGJISTRIMIN E PARE TE PARCELAVE PRONARET AKTUALE TE TE CILAVE NUK KANE TAPI TE VLEFSHME:

A) SHKEMBIMET E PARCELAVE TE CILAT NDODHEN PERPARA RREGJISTRIMIT TE PARE;

B) REFUZIMET;
DHE

C) ZOTERIMET DE FACTO

Ka shume shembuj ku zoterimi i tokes se familjeve fermere nuk eshte i dokumentuar me tapi te vlefshme. Ka arsye te ndryshme, megjithate, per kete situate, dhe vetem disa lloje rastesh mund te zgjidhen nga ekipet e fushes se rregjistrimit te pare.

1. Shkembimi i parcelave nga fermeret te cilet kishin tapi te vlefshme, por pa tapi te azhornuara.

Shkembime te tilla lejohen me ligj, por rregjistrimi i ndryshimeve nga Zyrat Kadastrale sic kerkohet nga Ligji 7501 (neni 10) dhe neni 17 i Vendimit Nr. 256 i dates 2.8.1992 rralle eshte bere.

Eshte e nevojshme te vendoset nje procedure e cila do te lejoje ekipet e fushes te marrin informacionin e shkembimit te parcelave dhe te rregjistrojne ndryshime te tilla pa percare sistemin e rregjistrimit. Ne te njejten kohe eshte e rendesishme qe zoteruesi i interesuar i tokes ne fjale te behet i ndergjegjshem se ai nuk mund te beje asgje me token derisa te behet nje rregjistrim i sakte.

Rekomandohet qe kur parcelat per te cilat jane leshuar tapi te vlefshme edhe te cilat jane shkembyer, Ekipet e Fushave duhet te plotesojne nje formular special per cdo shkembim, me nje pershkrim te seciles parcele dhe nje reference tek tapite perkatese, si edhe emrat e pronareve fillestare dhe aktuale. Ekipet e Fushes pastaj duhet te rekomandojne qe palet qe shkembejne te firmosin dhe noterizojne keta formulare per te treguar miratimin e tyre per shkembimin, pasuar nga firma e noterizuar e Drejtuesit te Zyres Kadastrale te Rrethit qe miraton shkembimin sic eshte parashikuar ne Vendimin 256. Derisa formularet te kompletohen, Ekipet e Fushave duhet te krijojne kartelat per cdo parcele te shkembyer duke u bazuar ne tapite fillestare, me emrin e rregjistruar te pronarit fillestar, por me nje paralajmerim qe parcela ka qene shkembyer, duke shenuar emrin e pronarit te ri ne seksionin e paralajmerimit. Sapo formularet e shkembimit te kene ardhur ne trajten perfundimtare dhe i jane paraqitur Ekipeve te Fushave, gjate ose para periudhes 90-ditore te demonstrimit, kartelat duhet te korrektohen.

2. Problemi Mospranimit te Tokes

Shume njerez te cilet moren nje shperndarje toke nepermjet leshimit te tapive te vlefshme nuk mbeten te kenaqur nga cilesia e saj. Per ate arsye ose ndonje tjeter ata nuk pranojne te marrin token. Per familjet te cilat moren toke por nuk e perdorin ate, Ligji 7501 thote se shteti duhet te rifilloje kontrollin mbi token dhe t'a ricaktoje ate, por asgje nuk bere eshte ndonjehere per te kompletuar kete procedure.

Per t'ua nenshtruar rregjistrimet rregullave te caktuara, nje dokumentim i mos-pranimit nevojitet keshtu qe toka mund te rregjistrohet si e zoteruar nga shteti dhe me anen e kesaj i sigurohet Qeverise mundesia per t'a rishperndare ate ose per t'a

lene ate ne dispozicion per ndonje alternative tjeter.

Nje formular qe siguron deklarimin e noterizuar te mos-pranimit do te lejoje ekipet e fushes se NMP te "rregjistrojne se pari" parcelat e tilla ne emer te pronareve fillestare te permendur me emer ne tapite, por pastaj te azhornuara si toka te zoteruara nga shteti ne baze te deklarimit te mos-pranimit.

3. Rregjistrimi i pare i parcelave i kerkuar nga familjet per te cilat nuk jane leshuar tapi te vlefshme.

Situata eshte me e komplikuar ne situaten ku toka ka qene zoteruar nga familje, por tapi nuk kane qene leshuar. Zgjidhja me e mire, natyrisht, do te jete qe Zyra Kadastrale t'u leshoje tapi pronareve te tokes duke ndjekur procedurat ligjore te themeluara. Megjithate, nuk duket se ka te ngjare qe qeveria se shpejti te ndermarre rregullimin e shume situatave te zoterimit de facto.

Kur ekipet e fushave te rregjistrimit te pare ndeshin situata te tilla te zoterimit pa tapi te vlefshme, ata duhet te hartojne dhe te rregjistrojne zoterimin aktual, te pergatisin fletoret e fushave ne te cilat pronaret e tokes do te shenohen, te pergatisin kartelat si te zoteruara nga shteti por me nje paralajmerim qe ka nje familje ne zoterim te tokes, dhe pastaj te kryejne ushtrimin demonstrues. Per ato parcela me keto paralajmerime, ekipet e fushave duhet te informojne Zyrat Kadastrale te Rrethit per parregullsite e gjetura dhe nevojen per ti'a nenshtruar rregullave te caktuara pronesine e parceles per te cilen nuk ka tapi te vlefshme.

Menjehere pasi tapite te jene leshuar, Zyrat Kadastrale duhet te informojne Rregjistruesin keshtu qe paralajmerimet mund te hiqen dhe pronaret do te jene te afte te merren me parcelat normalisht.

Keshilli i Ministrave duhet te nxjerre nje vendim: (1) te urdheroje NMP te pergatise raporte mbi parregullsite per Zyrat Kadastrale ne momentin e finalizimit te rregjistrimit te pare per cdo Zone Kadastrale; (2) te urdheroje Zyrat Kadastrale te informojne Rregjistruesin kur tapite jane leshuar per toke ne nje Zone Kadastrale ku rregjistrimi i pare eshte finalizuar.

a) In English

3. Regulations for Transfers of Ownership of Unregistered Agricultural Land Parcels

Commentary: During the period of first registration, a procedure is needed for situations that the PMU/IPRS field Teams encounter when transactions have been made in the field prior to the first registration of parcels. This situation arises where a Tapi is in existence, and the presumed owner of the land wishes to sell the land or mortgage it. There are two proposed procedures: (1) a promise to transfer the ownership of the land and register the transfer after a Kartela is finalized and (2) the registration of the promise to transfer with the Registrar or Chief Registrar.

The proposed procedures in draft have been presented as the following:

a. In English

Regulations for a Transaction Involving an Agricultural Land Parcel Before First Registration is Completed

Article 1. Person with Tapi wishes to Transfer the Ownership of Agricultural Land

If a person possesses a valid Tapi which documents the family's ownership of an agricultural land parcel, and if that family wishes to transfer its ownership before the first registration process is completed for that property, he/she can:

(a) make a promise to transfer the ownership of the immovable property in the future as set out in Article 3; and

(b) request the special registration of the parcel with the Registrar of the Registration Zone where the parcel is located, or with the Chief Registrar as set out in Article 6.

Article 2. Declaration by a Person Wishing to Transfer Ownership

In cases where a family wishes to transfer its ownership of an agricultural land parcel before that parcel is registered, the family head, authorized by the adult members of the family in a written and notarized declaration, shall prepare a notarized declaration which promises to transfer the ownership of the parcel when a finalized Kartela is created for that parcel. That declaration must be accompanied by a notarized copy of the tapi showing the name of the head of family wishing to transfer ownership as the owner of the parcel.

Article 3. Meaning of a "Promise for a Future Transfer"

(1) The person or persons to whom the land is transferred shall only have the use of the property until a proper kartela and other required procedures for first registration are followed.

(2) The promise to transfer shall have no effect on the legal ownership of the agricultural land parcel until the parcel is successfully processed for first registration, including the display required under the Immovable Property Registration Act (Section 25) to allow the parcel to be registered and become legally transferable.

Article 4. Attempt to make a second promise before the Special First Registration is completed

(1) There shall only be one promise to transfer a parcel in existence at any time.

(2) Only the head of family named on the tapi as the owner of the parcel can make a promise to any one that he/she shall transfer his/her ownership of the parcel.

(3) The owner cannot make a promise to a subsequent person without first cancelling the original promise.

Article 5. A Special Registration by the Person Wishing to Transfer an Unregistered Parcel of Agricultural Land

A family which wishes to transfer ownership of an unregistered parcel shall apply to register the unregistered parcel to the Registrar of the Registration Zone in which the parcel is located, or to the Chief Registrar if a Registrar has not been named. That application shall follow the procedures for first registration found in Section 24b, including a notarized copy of a valid tapi, a statement from neighboring owners that the family is the owner of the parcel, and a survey plan of the parcel prepared by a licensed land surveyor. This information shall be put on public display by posting the information for 90 days in a prominent and relevant place in the Cadastral Zone for public examination. Clear instructions must also be displayed for how any claims against the request for registration can be communicated to the Registrar or Chief Registrar.

Article 6. Finalization of Special First Registration Following Display

After the termination of the public display period, if there are no claims against the request for first registration, a finalized special kartela shall be prepared for the parcel of land, which shall be kept on file by the Registrar or by the Chief Registrar.

Article 8. Fees for Special Transfer

The family which has made the promise of transfer or the family which is to become the owner of the parcel shall present the notarized promise to transfer ownership to the Registrar or Chief Registrar and request the registration of the transfer. There shall be a special fee to be set out in the Regulations to the Immovable Property Registration Act in order to register the transaction affecting a special registered parcel.

Article 9. Subsequent Transfer after Finalized First Registration

A subsequent transfer of the parcel with special first registration shall follow the procedures for transactions described in the regulations for the Buying and Selling of Agricultural Land Law. This includes paying the special fees covering transactions of parcels with special registration.

Article 10. Transfer of Kartela to Registration Zone where the parcel is located

When the Cadastral Zone where the parcel of land is located shall have completed first registration, the special kartela shall be transferred to the proper Registry Book, and the parcel shall be given a valid identification number within the Cadastral Zone.

Article 11. Completed Transaction Considered Illegal

There shall be no transfer of ownership of agricultural land allowable under the operation of the Immovable Property Registration Act, the Buying & Selling of Agricultural Land, Forests and Meadows Law or any other laws when a kartela does not exist in the registration zone where the parcel is located or for any other reason.

b. In Albanian

23.07.1996
N. Singer

RREGULLAT PER TRANSFERIMIN E PRONESISE SE PARCELAVE TE PARREGJISTRUARA TE TOKES BUJQESORE

Koment: Gjate periudhes se rregjistrimit te pare, nje procedure nevojitet per situatat qe ekipet e fushes se NMP/SRPP ndeshin kur transaksionet jane bere ne fushe para rregjistrimit te pare te parcelave.Kjo situate shfaqet kur nje Tapi ekziston, dhe pronari i supozuar i tokes deshiron t'a shese token ose t'a leri peng ate. Ka dy procedura te propozuara:

(1) nje premtim per t'a transferuar pronesine e tokes dhe per te rregjistruar transferimin pasi nje Kartele eshte perfunduar dhe (2) rregjistrimi i premtimit per t'u transferuar nga Rregjistruesi ose Krye-rregjistruesi.

Procedurat e propozuara ne draft jane paraqitur si me poshte:

b) In Albanian

Rregullat per nje Transaksion qe Perfshin nje Parcele te Tokes Bujqesore Para se Rregjistrimi i Pare te kete Perfunduar

Neni 1. Personi me Tapi deshiron te Transferoje Pronesine e Tokes Bujqesore

Neqoftese nje person zoteron nje Tapi te vlefshme e cila dokumenton pronesine e familjes mbi nje parcele toke bujqesore, dhe nese ajo familje deshiron t'a transferoje pronesine e saj para se procesi i rregjistrimit te pare te kete perfunduar per ate prone, ai/ajo mund:

(a) te beje nje premtim per te transferuar pronesine e pasurise se patundshme ne te ardhmen sic behet e njohur ne paragrafin 3; dhe

(b) te kerkoje regjistrimin special te parceles nga Rregjistruesi i Zones se Rregjistrimit ku parcela ndodhet, ose nga Krye-rregjistruesi sic eshte bere e njohur ne paragrafin 6.

Neni 2. Deklarata nga nje Person qe Deshiron te Transferoje Pronesine

Ne rastet kur nje familje deshiron te transferoje pronesine e saj te nje parcele te tokes bujqesore para se ajo parcele te rregjistrohet, kryetari i familjes, i autorizuar nga anetaret e rritur te familjes ne nje deklarate te shkruajtur dhe te noteruar, do te pergatise nje deklarate te noteruar e cila premton te transferoje pronesine e parceles kur nje Kartele ne trajten perfundimtare eshte krijuar per ate parcele. Ajo deklarate duhet te shoqerohet nga nje kopje e noterizuar e tapise qe te tregoje emrin e kryetarit te familjes qe deshiron te transferoje pronesine si pronari i parceles.

Neni 3. Kuptimi i nje "Premtimi per nje Transferim te Ardhshem"

(1) Personi ose personat te cileve toka j'u transferohet do te kene vetem perdorimin e prones derisa nje kartele e duhur dhe procedurat e tjera te kerkuara per rregjistrimin e pare te vijojne.

(2) Premtimi per te transferuar nuk do te kete efekt mbi pronesine ligjore te parceles se tokes bujqesore derisa parcela te jete perpunuar me sukses per rregjistrimin e pare, duke perfshire demonstrimin e kerkuar sipas Aktit te Rregjistrimit te Pasurise se Patundshme (seksioni 25) per t'a lejuar parcelen te rregjistrohet dhe te behet ligjerisht e transferueshme.

Neni 4. Perpjekja per te bere nje premtim te dyte para se Rregjistrimi i Pare Ligjor te jete perfunduar

(1) Do te kete vetem nje premtim per transferuar nje parcele ekzistuese ne cdo kohe.

(2) Vetem kryetari i familjes i cili ka emrin ne tapi si pronar i parceles mund te beje nje premtim kujtdo qe ai/ajo do t'i transferoje pronesine e tij/e saj te parceles.

(3) Pronari nuk mund t'i beje nje premtim nje personi te mepastajshem pa anulluar fillimisht premtimin fillestar.

Neni 5. Nje Rregjistrim Special nga personi qe deshiron te transferoje nje Parcele te Parregjistruar te Tokes bujqesore

Nje familje e cila deshiron te transferoje pronesine e nje parcele te parregjistruar do te aplikoje per te rregjistruar parcelen e parregjistruar tek Rregjistruesi i Zones se Rregjistrimit ne te cilen parcela ndodhet, ose tek Krye-rregjistruesi n.q.s. nje Rregjistrues nuk eshte emeruar. Ai aplikim do te pasoje procedurat per rregjistrimin e pare te gjetura ne Seksionin 24b, duke perfshire nje kopje te noterizuar te nje tapie te vlefshme, nje deklarate nga pronaret fqinje se familja eshte pronarja e parceles, dhe nje plan studimi i parceles i pergatitur nga nje topograf i licensuar i tokes. Ky informacion do te vihet ne demonstrim publik duke e derguar me poste informacionin per 90 dite ne nje vend te dalluar dhe perkates ne Zonen Kadastrale per ekzaminim publik.
Instruksione te qarta duhet gjithashtu te demonstrohen per ate sesi cdo pretendim kundrejt kerkeses per rregjistrim mund t'i komunikohen Rregjistruesit ose Krye-rregjistruest.

Neni 6. Finalizimi i Demonstrimit vijues te Rregjistrimit te Pare Special

Pas perfundimit te periudhes se demonstrimit publik, nese nuk ka pretendime kundrejt kerkeses per rregjistrim te pare, nje kartele speciale ne trajten perfundimtare do te pergatitet per parcelen e tokes, e cila do te mbahet ne skedar nga Rregjistruesi ose nga Krye-rregjistruesi.

Neni 8. Kuotat per Transferimin Special

Familja qe ka bere premtimin e transferimit ose famija qe do te behet pronare e parceles do te paraqese premtimin e noterizuar per te transferuar pronesine tek Rregjistruesi ose Krye-rregjistruesi dhe do te kerkoje rregjistrimin e transferimit. Do te kete nje kuote speciale qe do te behet e njohur ne Rregullat per Aktin e Rregjistrimit te Pasurise se Patundshme me qellim qe te rregjistrohet transaksioni qe e ndikon nje parcele speciale te rregjistruar.

Neni 9. Transferimi i Pasues pas Trajtes perfundimtare te Rregjistrimit te Pare

Nje transferim pasues i parceles me rregjistrim te pare special do te vijoje procedurat per transaksionet te pershkruara ne rregullat per Blerjen dhe Shitjen e Ligjit te Tokes Bujqesore. Kjo perfshin pagimin e kuotave speciale qe mbulojne transaksionet e parcelave me rregjistrim special.

Neni 10. Transferimi i Karteles per ne Zonen e Rregjistrimit ku parcela ndodhet

Kur Zona Kadastrale ku parcela e tokes ndodhet do te kete perfunduar rregjistrimin e pare, kartela speciale do te transferohet ne Librin e duhur te Rregjistrimit, dhe parceles do t'i jepet nje numer i vlefshem idendifikimi brenda Zones Kadastrale.

Neni 11. Transaksioni i Perfunduar i Konsideruar Jo-Ligjor

Nuk do te kete transferim te pronesise se tokes bujqesore e lejueshme nen operimin e Aktit te Rregjistrimit te Pasurise se Patundshme, Shitjes dhe Blerjes se Tokes Bujqesore, Ligjit te Pyjeve dhe Kullotave ose ndonje ligj tjeter kur nje kartele nuk ekziston ne zonen e rregjistrimit ku parcela ndodhet ose per ndonje arsye tjeter.

4. Conflicts Between the Immovable Property Registration System and the Civil Code

The below mentioned conflicts were the ones perceived by the PMU staff. There were only five such conflicts referred to. One is a little complicated and a supplemental Note of "Legal Opinions" versus "Factual Opinion" and the effect of Registration is under preparation.

a) English

Problems in the Application of the Civil Code
and the Registration Act

The following problems have been identified as causing problems in the application of the Civil Code is association with the Immovable Property Registration Act. Each of the problems both as determined by the staff of the PMU and this writer will be discussed. There is no particular order of importance to the discussion.

1. Prescription - Conflict between Civil Code Sections 170, Civ C 168, Civ. C. 193 and Regis Act 37 and 48 (b) There is no conflict. Sub-section (dh) of section 193 says that court decision declaring ownership must be registered. The last line is not part of sub-section (dh). It says that "factual" determinations of ownership do not have to be registered. The determination of ownership after a period of prescription is not "factual". It is legal, therefore, it must be registered. **The two Acts are in complete agreement**.

The last paragraph of section 193 refers to a "factual judgment" which is clarified by referring to Article 388 of the Civil Procedure Code. This article refers to verification of facts when the evidence needed to prove a state of facts is impossible. If there is a lost or altered document which is necessary for verification or clarification of ownership rights, the court in the place where the immovable property is located has the power to hear the facts and issue a judgment. This judgment must be used in the Registration Office to provide the correct state of facts for the Kartela. To say that this information should not be registered is wrong. **If there is a change in the information that is on a Kartela and a court has issued any kind of judgment, registration is appropriate.**

2. Registration of Lease-Conflict between Civ. C. 197 (a) and Registration Act 32. There is a conflict. The registration Act requires registration of leases of a shorter duration in order to provide a regularization of transactions. It was felt that it was better to have more leases registered in order to be able to keep track of property and prevent multiple leasing of the same property. A shorter period is justified if people are not used to a registration system. **It is recommended that the Civil Code be amended to**

reflect the shorter period.

3. Definition of the Farm Family-Conflict between Civ. C. 222 and 223, Decision No. 255 on the application of Law 7501, and Article 4(b) of the Law of Buying and Selling of Agricultural Law. There is a conflict between the definitions in each of these laws. It is recommended that a single definition, preferably in the Civil Code, be developed by amending the Code to reflect a realistic group of person who either live on the land and are dependent on its production or some other simple concept. As each of these are different and each is complex, all of the definitions should be scrapped and a new definition be developed. I will not in this memo suggest, other than I have just above, what the apparent best answer to the conflict might be. None of the existing definitions suffice. **It is recommended that a simple definition should be developed in the Civil Code and all other laws should refer to it**.

4. Recognition of Joint Ownership-Conflict between Civ. C. sections 227, 228, and 207, Article of Law 7501 and Article 5 of the Law on Buying and Selling of Agricultural Land. There is no conflict here. First of all, if it agreed that the land is to be sub-divided, it can only be divided into units that will provide agriculturally for the owners according to the natural conditions of the area. However, the basic premise of subdivision of land that is joint owner appears to be to give a person who wants to sell the □value□ of his or her interest as a proportion of the total. The basic premise of Section 207 is that unless all members agree to sell the land it is the value of the individual share that is calculated. Of course, the formula that Section 207 presents is complicated, but for most of the situations, one would be given value not land. The reference in Law 7501 all the way through is made to Juridical or physical persons there is nothing that is obvious in the law which refers to the □farm family□ as a □juridical person□. The reference to the juridical person is meant to be corporations or other corporate bodies such as trusts, etc. The farm family is made up of a number of physical persons and the manner in which the Civil Code deals with these individuals is as a proportion to the whole. The demise of one, leaves to his or her heirs a value which is a proportion of the whole.

5. Change of Classification from Family Agricultural Land-Civ C. 226 and 359. Apparently, when land is designated as agricultural land, it is very difficult, under the Civil Code provisions to change its use. Most agricultural land is classified as family lands. It can be changed in use if it is allotted to a member of the family as □personal property□. This is clear is we understand personal property to mean □individualized□ property. If there is a farm family it would take a decision by the entire family to designate one portion as □personal□. It is unlikely. It is highly unlikely that an individual heir would be able to change the use of the property since it is highly unlikely that a situation would be reached where there is only one heir. If an heir demands to have his portion segregated from the rest of the farm family, division is carried out by Section 207 (see above) which means that a person will most

likely only get a designated value as his portion, not physical land. It is very difficult to conceive of a legal change in agricultural land when the provisions of the Civil Code are applied.

6. Administration of the Immovable Property Registration System-Conflict between the Civ. C. 198 and Section 2 Registration Act. There is a direct conflict. The Registration Act says in Section 2 □There shall be established and maintained in each administrative center of the Immovable Property Registration zone defined under the authority of the Council of Minister□and Section 198 of the Civil Code which says □The Ministry of Justice administers the activities of the immovable property register for immovable property.□ The Chief Registrar called for under the Registration Act has been appointed and activities have begun under the authority of the PMU setting up Registration Offices under the authority of the Chief Registrar. It does not appear that the Ministry of Justice has begun to organize any Immovable Property Registries. Therefore, **it is recommended that the Civil Code be amended to reflect the current situation**.

Problemet e zbatimit te Kodit Civil dhe Ligjit te Regjistrimit

Problemet e meposhtme jane identifikuar si veshtiresi ne zbatimin e Kodit Civil se bashku me Ligjin e Regjistrimit. Ketu do te diskutohet secili nga problemet e percaktuara nga stafi i NPM dhe nga autori. Nuk ka rregull logjik ne kete diskutim.

1. Parashkrimi - Konflikti ndermjet Kodit Civil Nenet 170, 168, dhe 193 dhe Ligjit te Regj. Artikulli 37 dhe 38 (b). Nuk ka asnje konflikt. Nen seksioni (dh) i seksionit 193 thote qe vendimet e gjykates te cilat deklarojne pronesi duhet te regjistrohen. Fjalia e fundit nuk eshte pjese e seksionit (dh). Ajo thote percaktimet faktuale te pergjegjesise nuk duhet te regjistrohen. Percaktimi i pronesise pas nje periudhe parashkrimi nuk eshte faktual. Eshte ligjor dhe prandaj duhet te regjistrohet. **Te dyja ligjet jane ne perputhje te plote.**

2. Regjistrimi i qirave - Konflikt ndermjet K.Civ. 197 (a) dhe Ligj. Regj. Art. 32. Ka nje konflikt. Ligj. Regj. kerkon nje periudhe me te shkurter kohe ne menyre qe te vendose rregull mbi transaksionet. Une mendova qe ishte me mire qe te regjistrohen me shume qera dhenie ne menyre qe te kete informacion mbi pronat dhe te parandalohet dhenia me qera me shume se nje here i se njejtes prone. Nje periudhe me e shkurter justifikohet edhe nga mungesa e eksperiences qe kane njerezit me sistemin e regjistrimit. Kerkimi i regjistrimit me te shpeshte i familjarizon njerezit me sistemin.

> **Rekomandohet qe Kodi Civil te ndryshohet per te reflektuar periudhen me te shkurter.**

3. Percaktimi i familjes fshatare - konflikti ndermjet Kod.Civ 222 dhe 23, Vendimit 255 mbi zbatimin e Ligjit 7501, dhe artikullit 4(b) te Ligj. Mbi shitblerjen e tokes bujqesore. Ka konflikt ndermjet perkufizimeve te secilit nga keto ligje. Rekomandohet qe te ekzistoje nje perkufizim i vetem, me preference Kodin Civil, duke e ndryshuar Kodin ne menyre qe te reflektoje nje grup realist njerezish te cilet ose jetojne mbi toke dhe varen nga prodhimi i saj, ose perkufizohen nga ndonje koncept i thjeshte. Nderkohe qe te tera perkufizimet ekzistuese jane te ndryshme dhe i komplikuar, te tera duhen hequr dhe nje perkufizim i ri duhet te krijohet. Une nuk do te sugeroj ne kete memorandum, me teper se me siper, se cila eshte zgjidhja e dukshme e ketij konflikti. Asnjeri nga perkufizimet ekzistuese nuk mjafton.

> **Rekomandohet qe nje perkufizim i thjeshte te krijohet ne Kodin Civil dhe te tera ligjet e tjera t'i referohen atij.**

4. Njohja e bashkepronesise - konflikt ndermjet Kod.Civ. 227, 228 dhe 207, Artikujve te ligjit 7501 dhe artikullit 5 te ligjit te shitblerjes se tokes bujqesore. **Nuk ka asnje konflikt ketu**. Se pari, nese bihet dakord qe toka bujqesore te ndahet, ajo mund te ndahet vetem ne pjese te cilat do japin prodhim bujqesor per pronaret ne baze te konditave natyrore te zones. Megjithate, premisa kryesore e ndarjes se tokes duket sikur eshte qe ti jepet nje personi qe do ta shese "vleren" e interesave te tij/saj si pjese e se teres. Premisa baze e nenit

207 eshte qe nese te tere anetaret nuk duan ta shesin tokes llogaritet vlera e pjeses personale dhe individi merr vetem kete vlere ne perpjestim me te teren. Natyrisht, formula qe neni 207 paraqet eshte e komplikuar, por ne shumicen e rasteve, nje pjesetari do ti jepet vlera (ne para) dhe jo pjese toke. Referimi ne ligjin 8501 eshte bere gjate gjithe kohes ndaj personit juridi ose fizik dhe nuk ka asnje vend ne ligj ku familja bujqesore emertohet si person juridik. Referimi person juridik perdoret per korporatat ose trustet. Familja bujqesore eshte e perbere nga persona fizike dhe Kodi Civil i trajton keta individe si pjese te se teres. Vdekja e njerit u le te trashegimtarve te tij nje pjese e cila eshte pjese e se teres.

5. Ndryshimi i klasifikimit nga toke bujqesore - Kod. Civ. 226 dhe 359. Shihet qarte qe kur toka trajtohet si bujqesore eshte shume e veshtire qe ti bderrohet destinacioni sipas neneve te Kodit Civil. Shumica e tokes bujqesore perktohet si toke e familjeve. Asaj mund ti ndryshohet perdorimi nese i jepet nje anetari te familjes si prone personale. Eshte e qarte qe me fjelne personale kemi parasysh individuale. Nese flasim per nje familje bujqesore, do duhej nje vendim nga tere familja per te percaktuar nje pjese si personale. Kjo nuk ka te ngjare. Ka pak te ngjare qe nje trashegimtar do te jete ne gjendje te ndryshoje perdorimin e prones meqenese eshte pak e mundur qe te mbetet vetem nje trashegimtar. Nese nje trashegimtar kerkon qe pjesa e tij te ndahet nga ajo e familjes, ndarja behet sipas nenit 207 (shih me lart) qe do te thote qe nje person ka shume mundesi qe te marre vleren e pjeses se tij, dhe jo token. Eshte e veshtire qe te mendohet per ndonje ndryshim ligjor te tokes bujqesore kur zbatohen dispozitat e Kodit Civil.

6. Administrimi i sistemit te pronave te patundshme - konflikt ndermjet Kodit Civil 198 dhe artikulli te ligjit te regjistrimit. Ka nje konflikt te drejtperdrejte. Ligji i regjistrimit, Artikulli 2 thote " Do te vendoste dhe mirembahet ne cdo qender administrative te pronesive te patundshme, te percaktuara nen autoritetin e Keshillit te Ministrave" dhe neni 198 i Kodit Civil thote "Ministria e drejtesise administron aktivitetin e regjistrimit te pronave te patundshme." Krye regjistrari, sipas ligjit te regjistrimit, eshte caktuar dhe aktiviteti ka filluar nen autoritetin e NMP per ngritjen e zyrave te regjistrimit nen autoritetin e kryeregjistrarit. Nuk duket qe ministria e drejtesise te kete filluar organizimin e zyrave te regjistrimit. Prandaj, **rekomandohet qe Kodi Civil te ndryshoje per te reflektuar situaten konkrete.**

5. Immovable Property Mediation Organ Law

a) English

1) Background to the Latest Revision

During the June-July 1996 visit the Minister of Agriculture (now Minister at-large without portfolio and a member of Parliament) raised the possibility of preparing a revised Immovable Property Mediation Act for consideration as a replacement for the Immovable Property Tribunal Act. David Stanfield, Project Advisor, also indicated that the Ministry of Justice (the Ministry which administers the court system) is not in favor of the Immovable Property Tribunal as they apparently said it is too expensive and they are not willing to ask for an allocation funds for its establishment. The former Minister of Agriculture, Mr. Hassan Halili, has always been in favor of establishing an informal Mediation Organ through which land disputes would pass and as I mentioned above raised this possibility again in our meeting early in the consultancy. Therefore, as part of my terms of reference it was decided, in consultation with the Ministry of Agriculture officials, to add this item and for me to prepare a revision of the former presentation in order to include a more cost free and informal structure that would include members of the local social structure more intimately in the process.

The justification for the Mediation Organ was to assess the kind of activities that were existing in the District Courts at this time. A brief analysis in discussing the problems that were emerging indicated that the courts were in fact beginning to receive numbers of petitions on land matters. It was not clear how the courts were processing these disputes. It was thought that an analysis in a number of courts (three to five) throughout the country might show that the activities were going to impose a serious burden on the courts - thus justifying the Mediation Organ. We therefore plan to create Terms of Reference for a study that someone might carry out over the next six months. Secondly, we thought we might review the court statistics kept by the Ministry of Justice to see whether there was any indication of heavy land dispute activity.

Therefore, a letter was prepared for the Minister of Agriculture to send to his colleague the Minister of Justice. This was to see if we could get permission to do the court observation and review the statistics. There has been no feedback to me concerning the response to the letter. In the past the Ministry of Justice had rejected the idea of administrative or special jurisdiction Tribunal and had generally been unwilling to extend itself to the Project. Since I have not heard anything concerning a permission to review whatever statistics there might be (or even selected ones), it is assumed that no permission has been granted. We should ask again.

A law for creating the Mediation Organ is enclosed and is meant to capture and use existing social institutions and the brief commentary. Perhaps this time there will be some attention paid to it. As I have not been present at the meetings with the previous Minister of Justice when the draft idea was rejected, and since I have not discussed the matter with the new Minister, I am not really certain of the reception of the idea in the Ministry. I think we need to proceed with this ideas through the Minister of

Agriculture. I am sure if we present the ideas in a satisfactory manner, the former Minister of Agriculture will support the idea in Parliament. Please note - it is strongly recommended that the Mediation Organ should be presented through the Ministry of Agriculture and the Chief Registrar's Office. It will not be administered by the Ministry of Justice, but will be the responsibility of the Zonal Registration Offices as part of the administrative function of the Chief Registrar's Office.

2) Commentary and Explanation of the Immovable Property Mediation Act.

The Immovable Property Mediation Act (in section (c) below)is one of the components of the set of legislation that will assist in the development of a functioning property registration system. Because it is highly likely that there will be a significant number of cases involving immovable property over the years, it was felt necessary to create a separate Mediation Organ to deal with immovable property matters. This is a special, and informal court-like institution which will be in existence in each District with a wide jurisdiction in matters relating to immovable property.

The Mediation Organ is created to deal with the cases involving immovable property, but it is not set up to avoid the regular courts from hearing any immovable property matter that involves an issue of law. These matters, if the disputants feel it is necessary, will be able to be heard by the appropriate appellate court as a matter of judicial review.

The reality in matters of immovable property is that an overwhelming percentage of cases involve factual issues, like the location of a border or whether a tenant is still in possession, etc. It is fundamental that a resource be made available to persons with such disputes. However, it is also fundamental that such disputes are not given license to clog up existing court agendas. Thus, it is proposed, through this legislation, that there be created a special informal court, called an Immovable Property Mediation Organ, which hears a broad range of immovable property disputes.

An Immovable Property Mediation Organ will be set up in each of Albania's Immovable Property Registration Zones. Each Mediation Organ will have a Chairman who will have the recognized qualifications and experience of a leader of village society (like the kryeplak) who has had experience in resolving disputes. Each Mediation Organ shall also have two sitting Assessors who shall be upstanding persons of their community, who shall not be considered civil servants, but shall receive an allowance provided by the Registration Office for the service they render as Assessors on the Mediation Organ. All persons so selected (Chairman and Assessors) shall serve for an elected term of five years.

The two Assessors and the Chairman sit as a single panel for each of the disputes brought before the Mediation Organ. The decisions of the Mediation Organ will be made by majority vote unless there is an issue of law involved; then the Chairman shall have the controlling vote.

Each Mediation Organ shall also have a Clerk who shall be an employee of the zonal

Registration Office (and as many assistant clerks as are necessary) who is responsible for all of the administration of the Mediation Organ including providing all relevant persons with notice.

The jurisdiction of subject matter, set out in section 10, is meant to be broad and to capture as many immovable property related matters as possible. This includes issues relating to the distribution of immovable property which started in 1991 and is meant to include all issues involving ex-owners that have to be processed through a court. The Act explicitly includes all issues relating to registration.

The process of the Mediation Organ is designed to expedite cases. The Chairman has the authority to attempt to conciliate a matter at any stage. The Chairman can also call for a pre-hearing conference to elaborate on specific issues that need to be clarified by special evidence or for any other reason that he so determines. All hearings are open, but there is the possibility of closing the hearing, with the agreement of the parties, if the Chairman feels that statements of a witness should not be taken publicly. However, the overall process is designed to be informal and each of the parties is given the chance to present the evidence that is deemed relevant. There are no rules of evidence applicable to a hearing in the Mediation Organ. However, the Chairman does have the authority to make a determination that certain evidence is irrelevant to the dispute at hand and need not be heard.

Although the purpose of the Mediation Organ is to have matters heard informally and to be decided according to, a mediated process, if a party to a dispute chooses, legal representation is possible. Experts in immovable property matters can participate and the parties are encouraged to use persons who have special training or knowledge to help resolve the dispute at hand.

The procedure for filing a petition, answering it and filing counter-petitions is presented in the Act with all the necessary standards for notice, etc. There are requirements relating to how much time can elapse between the filing of a petition and actual hearing, twenty-one days. The language of the Act is set up to require the schedule to be met whenever possible and for that purpose there is included a procedure which allows for additional persons to be appointed as Chairmen and Assessors who will comprise extra panels in order to facilitate meeting the time schedule which is set out in the Act.

Decisions are rendered either by mediation or where that does not work by majority vote. Any party has the right to petition for the reconsideration of a decision within ten days of the issuance of a final decision. A brief written opinion dealing with the petition for reconsideration must be issued. The Mediation Organ also has the power to issue a default decision when the accused does not appear. In this case, an accused loses both the right to petition for reconsideration and the right of judicial review.

The Mediation Organ can also order the accused to pay money damages to a petitioner in installments if the circumstances so require.

Finally, the Mediation Organ shall keep records of all activities, through the zonal registration offices, and charge fees. The fee schedule is set up to be reviewed and

changed periodically.

3) The Draft of the Immovable Property Mediation Act follows:

PARLIAMENT

LAW

On the Creation and implementation of an Immovable Property Mediation Organ for the settlement of disputes relating to issues involving immovable property

in conformity with Article 16 of Law nr. 7491, dated 29 April 1991 on Main Constitutional Provisions", proposed by the Council of Ministers

THE PARLIAMENT OF THE REPUBLIC OF ALBANIA

HAS DECIDED:

PART I

DEFINITIONS

Section 1

"accused" means the person defending against the accusation of wrongdoing;

"answer" means the papers filed by the person(s) accused of the wrongdoing;

"Chairman" means the presiding person of each zonal Registration Office's Mediation Organ and the chief administrator of the Immovable Property Mediation Organ;

"Chief Registrar" means the person with overall responsibility for the Immovable Property Registration System in Albania:

"clerk" means an employee of the Zonal Registration Office who is the officer in charge of the Mediation Organ's records;

"counterpetition" means a claim by an accused against a petitioner;

"decision" means the decision of the Mediation Organ;

"default" means failure to defend against the petitioners claim by failing to answer or

to appear for hearing;

"immovable property" means land, water sources, buildings as well as immovable objects defined in the Civil Code;

"Minister" means the Minister responsible for the immovable property registration system of Albania;

"petition" means the paper filed by the person making the claim;

"petitioner" means the party commencing the case;

"subpoena" means an order of the court requiring a witness to attend or testify at a hearing;

"summons" means the paper issued by the clerk of the Mediation Organ which orders the accused to admit or deny the petitioner's claim.

PART II

LOCATION AND STAFFING OF MEDIATION ORGANS

Section 2

1) There shall be one Immovable Property Mediation Organ in each Registration Zone in Albania, located in the administrative center of the Zone and in each village or other location when necessary.

Section 3

1) The Chairman will be elected by a majority vote of all the kryeplaks (kryepleqve) who serve in each Registration Zone, for a term of two years.

2) Additional chairmen, when needed because of the amount of activity facing the Mediation Organ, shall be temporarily appointed by the Zonal Registrar to hear specific cases.

3) Assessors who will sit on the Immovable Property Mediation Organ shall be the kryeplaks (kryepleqve) holding office in each of the registration zones.

Section 4.

1) Each panel shall consist of a Chairman and two Assessors which shall hear the dispute over which the Mediation Organ has jurisdiction as set out in Section 9.

2) The Chairman shall have the same level of authority as a member of the judiciary who is sitting in an ordinary court

3) Both the Chairman and the Assessors shall receive an allowance, the amount of which shall be determined by Regulations issued by the Chief Registrar's Office, depending on the location and length of each hearing.

Section 5

The Chairman of each Registration Zone's Mediation Organ will sit on all Panels as the presiding judge with two of the appointed Assessors resident in the District where the dispute is being heard.

Section 6

1) To ensure that the established Schedule for hearings and other procedures is adhered to special Immovable Property Mediation Organ Chairmen shall be appointed by the Registrar of the Registration Zone where the Mediation Organ is located, in consultation with the Chief Registrar, to assist with hearings, if the schedule set out in section **22** cannot be followed.

Section 7

Each District Immovable Property Mediation Organ shall have a Clerk, who shall be an employee of the zonal Registration Office.

Section 8

The functions of the Clerks shall be the following:

a) to receive the petitions and counter-petitions and other documents of persons with claims which come under the jurisdiction of this Law;

b) to set the location and schedule for hearing disputes by the Mediation Organ;

c) to ensure that each person who should receive notice of completed or pending action of the Mediation Organ are so notified;

d) to issue all subpoenas for the discovery of evidence;

e) to notify persons who have been appointed Temporary Chairmen or Assessors of their appointment and assignments; and

f) to perform any other function that ensures the procedures of the Mediation Organ operates smoothly.

PART III

JURISDICTION AND PRELIMINARY MATTERS

Section 9

The Immovable Property Mediation Organ shall have primary jurisdiction over proceedings instituted where parties have conflicting claims to immovable property, including the following issues:

a) actions involving claims of a right to ownership, a right of use, a right of usufruct and/or a right to possession in respect of any immovable property;

b) demarcation of immovable property which is connected to activities related to the subdivision of parcels and any matter for which demarcation or surveying must be carried out;

c) any issue involving the registration of immovable property;

d) the use, development and capacity of immovable property;

e) partition of holdings in which potential multiple ownership is involved;

f) immovable property valuation and issues involving compensation for immovable property;

g) removal from possession or eviction from immovable property;

h) expropriation of immovable property by the government;

i) agricultural or agro-industrial contracts of lease;

j) transfer of property in contravention of the applicable law;

k) exchanges, illegal subdivisions and other irregularities involving improper division or partition of immovable property;

l) succession to immovable property;

m) possession of both urban and agricultural immovable property;

n) use and development of immovable property for purpose of conservation and development and the use of natural resources;

o) the recovery of publicly held immovable property from a person in possession; and

p) all other matters relating to immovable property.

Section 10

The parties shall have access to conciliation at any stage of a dispute and if possible they shall, in collaboration with the Chairman, shorten the hearing and deliberations in order to reduce the duration of the process.

Section 11

1) In the course of the proceedings, the Chairman may unilaterally, if he deems it appropriate, issue an order which is designed to expedite the process.

2) The parties may agree with the Chairman to abbreviate and concentrate deliberations with a view to reducing the duration of the process.

Section 12

The hearings of the Immovable Property Mediation Organ shall be informal, the object being to dispense justice promptly between the parties. However, in order to allow for the organization of the system, a structured hearing system, with pre-hearing information and conferences shall be part of the procedure.

Section 13

With the agreement of the parties involved, the Chairman may close the proceedings for the examination of witnesses, for the taking of statements or at any time such a course is deemed appropriate.

Section 14

1) Any party may participate in the hearing in person or, if the party is a juridical person, by a duly authorized legal representative.

2) Whether or not participating in person, any party may be advised and represented, at the party's own expense, by a legal practitioner, or where allowed by law, any other representative.

Section 15

1) Where technical evidence is required, experts deemed appropriate by the agreement of the parties to the action may be brought to testify from government or non-government bodies or any other source deemed appropriate by the parties to the action and the members of the panel.

2) Where the parties cannot agree on the appropriateness of a particular individual, and the members of the panel feel that the person in question is the most appropriate, the Chairman may call in a neutral person, acceptable to the parties, who shall determine whether or not the selection of the expert is appropriate.

3) The members of the panel are not obligated to accept the statements of the experts brought to testify in any matter before the Mediation Organ as the testimony is merely the opinion of the experts.

PART IV

PROCEDURE FOR THE MEDIATION ORGAN

Section 16

1) A case shall begin when the petitioner files with the Clerk of the Mediation Organ, in the Registration Zone where the immovable property in question is located, a short and plainly written statement showing what the petitioner claims and why he/she claims it.

2) The petitioner may combine as many claims in one case as may exist against an accused and more than one accused may be included in the case if the petition includes reference to more than one person.

Section 17

1) The accused shall file a short and plain reply showing what the accused admits, what is denied and why it is denied.

2) An answer may not be made by a request to dismiss.

3) The panel shall be very lenient in allowing changes or amendments to petitions, answers and counter-petitions when it is necessary to assist in reaching a fair and equitable decision.

Section 18

1) If the accused believes there is also a claim against the petitioner, it shall be filed as a counterpetition at the zonal registration office with the Clerk, in the zone where the original petition was filed, together with the answer.

2) The clerk shall ensure that a copy be delivered to the petitioner.

3) Failure of the accused to make a counter-petition which is based on events which give rise to the petitioner's claim will not of itself prevent the accused from raising such a claim in another case so long as the accused either wins his case in the Immovable Property Mediation Organ or prevents the decision of the Mediation Organ from becoming final by filing a notice for judicial review as provided in **38**

Section 19

1) Upon the filing of a petition, the clerk shall issue a summons to each accused through personal service or through the postal system, whichever is more practicable in the situation of the case.

2) If the summons is personally served on the accused, the server shall locate the person to be served and shall deliver the summons and a copy of the petition and any accompanying documents to the person to be served. When the summons and the petition have been personally delivered, the server shall endorse the date, place and time of delivery on a copy of the summons and return it to the clerk who shall make note on the appropriate agenda.

3) When the server is unable to personally serve the summons and a copy of the petition within fourteen days, the server shall endorse that fact and the reason for non-delivery on the summons and return the summons and the petition to the clerk who shall make note on the appropriate docket, and immediately notify the petitioner, in the most practicable manner, of the inability to deliver the summons and petition. The fact of notifying the petitioner shall be made on the appropriate docket.

4) If the clerk elects to serve the summons and the complaint by registered mail with a return receipt, the server shall endorse that fact on a copy of the summons and return it to the clerk who shall make an entry on the appropriate docket.

Section 20

1) All time periods shall be measured by starting to count on the first day after the petition was served on the accused or on the first day after the decision was entered or on the first day after any other event happens by which this Law starts the running of a time period.

2) If the last day is not a working day, then the last day is not considered to have arrived until the next working day has arrived.

Section 21

1) The accused shall file his answer or counter-petition in the office of the Clerk, at the zonal Registration Office, where the original petition was filed, within 14 days after a copy of the summons and petition have been delivered to him by an official server or a person otherwise authorized to make service.

2) If the service has been made by registered post with as return receipt required an answer must be filed within 14 days of the receipt of the summons and petition which shall be calculated from the time the receipt is signed.

3) The accused does not have to have a copy of his answer personally served on the petitioner unless his answer contains a counter-petition.

Section 22.

1) The Chairman, together with the Clerk, will determine the schedule of disputes to be heard. The time schedule set out in this Law, shall be closely followed, whenever possible.

2) Under no conditions shall a case be heard more than one month after the summons and petition are delivered to the accused.

Section 23

The parties to any dispute arising under this Law are encouraged to make a voluntary exchange of information before the hearing, but under no circumstances shall the Mediation Organ require such an exchange.

Section 24

The Chairman of the Mediation Organ shall confer with the parties before any hearing takes place, whenever it appears that such a conference might simplify the issues or shorten the hearing or lead to a voluntary exchange of information which might promote a settlement of the dispute.

Section 25

If a pre-hearing conference is held the Chairman shall:

a) set the time and place of the proposed conference;

b) give reasonable notice to all persons entitled to notice which includes all persons who should be present at the conference;

c) include in the notice anything which the Chairman feels is desirable to assist in expediting the proceedings; and

d) issue an order based on the result of the pre-hearing conference which is aimed at either terminating the dispute prior to hearing or to narrow the issues which shall be heard at the hearing;

Section 26

1) The Chairman shall set the time and place of a hearing and give written notice in advance to all parties and persons who have petitioned to intervene in the dispute.

2) The notice must include a copy of any order issued by the Mediation Organ in the matter under consideration.

3) The notice may also include any other matters the Chairman considers important to assist in expediting the proceedings.

Section 27

1) If a party to the dispute fails to attend or participate in either a pre-hearing conference, the hearing, or any other meeting called to discuss the matter at issue, the Chairman may serve written notice on all parties of a proposed default order. This notice shall include a statement of grounds for such an order.

2) If after fourteen (14) days no answer has been received, as accused shall be given an additional fourteen days (14) from the time the accused receives that notice to state the reason why a response has not been made to the accusation. If no satisfactory response is received by the end of the second fourteen (14) day period, the members of the panel may then issue a default order.

3) Within seven (7) days after the service of a proposed default order, the party against whom it has been issued may file a written notice requesting that the proposed default order be vacated and he shall state the reasons for such request.

4) During the time within which a party may challenge a proposed default order, the Chairman shall adjourn the proceedings until the time for challenge has passed.

5) The Chairman shall either issue or vacate the default order promptly after the expiration of the time within which the party may file a written notice under subsection (3).

6) After issuing a default order the Chairman shall conduct any further proceedings necessary to complete the matter that was before the Mediation Organ without the participation of the party who was found to be in default.

Section 28

1) The Chairman shall grant a petition for intervention by any person in a dispute scheduled to be heard by the Mediation Organ if:

a) the petition is submitted in writing to the Chairman, with copies distributed to all parties who are named by the Chairman as persons interested in the outcome, at least three days before the hearing is scheduled.

b) the petition states facts that demonstrate the petitioner's interest may be substantially affected by the proceeding or that the petitioner qualifies under a provisions of law to intervene in the matter.

c) the Chairman determines that the interests of justice and the orderly and prompt conduct of the proceedings will not be impaired by allowing the petition.

2) The Chairman may grant a petition for intervention at any time, upon determining that the intervention sought will serve to assist in a fair disposition of the dispute and will not impair the orderly and prompt conduct of the proceedings.

3) If a petitioner qualifies for intervention, the Chairman may impose any reasonable conditions on the intervenor's participation in the proceedings either at the time the intervention is allowed or at any subsequent time as conditions may require.

4) The Chairman must give notice to the petitioner and any party in interest of any decision allowing or denying intervention at least twenty four hours prior to a scheduled hearing, specifying any conditions attached to an order of intervention and briefly giving reasons for the order.

Section 29

The Chairman, on his own decision or at the request of any party, may issue a subpoena for discovery, for the protection of a party, or for other purposes which will make the process go more smoothly. These orders shall be in conformity with the Code of Civil Procedure or any other law relevant for such a matter.

Section 30

A subpoena requiring a witness to attend and to testify at a hearing shall be issued by the clerk, in the Registration Zone where the petition was filed, on the request of one of the parties.

Section 31

1) A hearing shall be scheduled to take place, whenever possible, no more than twenty-one days following the answer of the accused and in cases where a counter-petition or petition for intervention is filed, whenever possible, no more than twenty-one days following the answer to the counter-petition or decision whether the

intervention of an additional person will be allowed.

2) At least fourteen days before the scheduled hearing date, the Clerk, in the Registration Zone where the petition was filed, shall notify the parties of the time and place of the hearing.

3) At the hearing, whether or not there is a lawyer who represents either party, each party shall have the right to put questions to the other party or witnesses.

4) An opportunity shall be provided for non-parties to present oral or written statements concerning the dispute. The parties then must be given a chance to question the non-party.

5) The members of the Mediation Organ Panel, in their discretion, may participate freely in the examination of the parties and witnesses.

6) The Mediation Organ may receive properly certified written or recorded statements of witnesses or parties who are not present at the hearing.

Section 32

1) There shall be no rules applicable to the hearing which limit the presentation of evidence the parties feel is relevant to the case at hand.

2) The Chairman, may, however, limit the presentation of evidence which is deemed irrelevant, immaterial, unduly repetitious or in any other way delays the normal progress of the hearing.

3) Any part of the evidence may be received in writing if doing so will expedite the hearing without prejudicing the interests of any party.

4) Any documentary evidence can be presented in the form of a copy, but if any party requests, an opportunity must be given to compare the copy with the original, if the original is available.

Section 33

1) All decisions of the Mediation Organ, whether the final decision or interim matter, shall be made by majority vote of the three sitting person, the Chairman and two Assessors.

Section 34

1) Any party to a dispute which has been before the Mediation Organ may, within ten days after the issuance of a final decision, file a petition for reconsideration, stating the specific grounds upon which the request for reconsideration is made.

2) The petition for reconsideration must be disposed of by the same panel of persons which issued the decision, if those persons are available and if they are not all available by as many as are available who made the first decision by participating a second time.

3) The Chairman shall issue a written opinion denying the petition, granting the petition and dissolving or modifying the decision or granting the petition and issuing an order for further proceedings.

4) The petition for reconsideration is deemed to have been denied if the Chairman does not issue a written decision within twenty (20) days from the time the petition for reconsideration was filed.

Section 35

1) When an accused does not answer within the required time or fails to appear when the case is set for a hearing, after a fourteen (14) day wait following the second notice issued under section 28 (2), the petitioner will be required to present evidence in support of his claim, if the members of the Panel find the evidence supports the petition, the Clerk, in the Registration Zone where the petition was filed, shall enter a decision against the accused.

2) If a default decision has been entered, the person against whom such a decision has been entered does not have the right to petition for reconsideration of the decision.

3) If the accused does not appear when a decision is issued against him, he loses the right to petition to a court for judicial review in accordance with the provisions of Section 39.

Section 36

Enforcement of any final decision may proceed through any means available under the law, regulations or rules and deemed appropriate and in force under the law of Albania.

Section 37

1) The Mediation Organ may order that any final decision, when the payment of money is involved, shall be paid in installments by setting a schedule of payments over a stated period of time.

2) The Mediation Organ may also revise the schedule of installment payments when the paying person, after presenting to the Mediation Organ evidence of the difficulty in making payment, has convinced the Mediation Organ that a rescheduling of

payment is necessary.

3) Under no conditions may the installment system created for the payment of a monetary decisions be extended for more than three years.

Section 38

1) Judicial review may be sought after a decision has been rendered, involving a matter of law, by filing a notice for judicial review in the office of the Clerk, in the Registration Zone where the original petition was filed.

2) Judicial review is not available for disputes where the sole issue is the determination of compensation.

Section 39

1) The Mediation Organ shall maintain an official record, prepared by the Clerk, of each proceeding that has taken place under this Act.

2) The record shall consist of:

a) all notices issued by the Chairman;

b) any pre-hearing order;

c) any request made by any of the parties;

d) any petitions for intervention;

e) any written evidence submitted or received;

f) any decision issued; and

g) anything else that has transpired since the initial petition was filed that has any bearing on the matter that has been before the Mediation Organ.

PART V

MISCELLANEOUS

Section 40

1) Misdeeds and accusations of wrongdoing by any person in a position of authority (Chairmen and Assessors) associated with the Immovable Property Mediation Organ can lead to dismissal following a hearing at which evidence is presented and

proved in a clear and convincing manner.

2) Any person who is dismissed shall face criminal proceedings and on a finding of guilty shall be fined or imprisoned.

Section 41

There shall be fees payable to the Immovable Property Mediation Organ for the filing of a case and the costs which are necessary for the dissemination of any materials necessary, for the clarification of the issues which are part of the dispute before the panel and for the time spent.

Section 42

The Minister may make Regulations in general to give effect to the purposes and provisions of this Law and in particular without compromising any general regulations, for prescribing the manner in which the procedure relevant to this Mediation Organ shall be carried out and for prescribing anything under this Law which may be allowed.

Section 43

Any matter not provided for in this Law or in any other law in relation to the administration and procedure relating to the processing of disputes involving immovable property shall be decided in accordance with the principle of justice equity and good conscience.

Section 44

1) All laws or portions of laws in conflict with the provisions of this Act shall be deemed to be repealed and anything done under a repealed law shall be deemed to have been performed under the provisions of this Law.

2) All pending cases prior to the commencement of this Law shall be dealt with in accordance with the provisions of the repealed laws.

Section 45

The Law shall come into operation on a date to be fixed by the President published in the Official Gazette.

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b) Albanian

1) **Sqarime per rishikimin e vitit 1996**

Gjate vizites se qershor-korrikut 1996, Ministri i Bujqesise (tani minister pa portofol dhe deputet) paraqiti mundesine e pergatitjes se nje Ligji te ripare per Ndermjetesimin e Pronesive te Patundshme, si zevendesim i Ligjit per Tribunalin e Pronave te Patundshme. David Stanfield, keshilltar i projektit, gjithashtu tha se Ministria e Drejtesise (e cila administron sistemin gjyqesor)nuk eshte ne favor te Ligjit per Tribunalin e Pronave te Patundshme pasi ata thone qe nje gje e tille eshte shume e kushtueshme dhe se ata nuk duan qe te aprovohet nje fond per kete qellim. Ish-ministri i bujqesise, z. Hasan Halili, ka qene gjithmone ne favor te krijimit te nje organi ndermjetesimi nepermjet te cilit do te kalonin konfliktet per token, dhe sic e permenda me lart, e paraqiti perseri nje mundesi te tille ne takimin tone ne fillim te vizites sime. Prandaj, si pjese e termave te mia te references, u vendos, qe ne bashkepunim me nepunesit e Ministrise se Bujqesise, te shtojme kete pike dhe qe une te pergatit nje rishikim te prezantimit te shkuar me qellim qe te krijonim nje strukture me pak te kushtueshme dhe joformale, e cila do te perfshinte me shume njerezit e struktures sociale lokale ne kete proces.

Justifikimi per krijimin e nje organi ndermjetesimi lindi nnga vleresimi i aktiviteteve te gjykatave te rretheve gjate kesaj kohe. Nje analize e shkurter qe u be gjate diskutimit te problemeve, tregoi qe ishte rritur numri i padive ne lidhje me ceshtjet e tokes. Nuk ishte e qarte se si po i zgjidhnin gjykata keto ceshtje. U mendua qe nje analize nje nje numer gjykatash(3-5) ne te gjithe vendin, do te tregonte qe keto aktivitete po krijojne nje barre te rende per gjykatat - duke justifikuar ne kete menyre organin e ndermjetesimit. Prandaj ne mendojme te krijome termat e references per nje studim qe dikush mund te beje gjate 6 muajve te ardhshem. Se dyti, ne menduam qe te rishikonim statistikat e gjykatave qe mbahen ne Ministrine e Drejtesise, per te dalluar nese ka aktivitet te madh gjyqesor mbi ceshtjen e tokes.

Prandaj, u pergatit nje leter te cilen Ministri i Bujqesise do t'ja dergonte Ministrit te Drejtesise, kolegut te tij. Kjo behej per te kerkuar qe te merrnim leje per te pare statistikat e gjykatave. Nuk kam patur asnje pergjigje ne lidhje me kete leter. Ne te shkuaren, Ministria e Drejtesise e ka kundershtuar idene e tribunalit administrativ ose me juridiksion te vecante dhe ka qene ne pergjithesi jo e gatshme per te ndihmuar projektin. Meqe une nuk kam degjuar asgje ne lidhjem lejen per te pare cfaredolloj statistike gjyqesore ekziston (ose edhe pjese te vecanta), marr me mend qe nuk na e kane dhene lejen. Ne duhet ta kerkojme perseri nje gje te tille.

Edhe nje here tjeter, Tribunali i Pronave te Patundshme, tani me ermrin Organi i Mdermjetesimit te Pronave te Patundshme, po paraqitet. Kesaj rradhe une kam perfshire nje draft te rishikuar ne menyre thelbesore, i cili ka per qellim qe te perdore strukturat sociale ekzistuese, si edhe nje koment te shkurter. Ndoshta kesaj rradhe do t'i kushtohet me shume vemendje. Meqe une nuk kam qene prezent ne takimet me Ministrine e Drejtesise ku ideja e draftit u kundershtua, una nuk jam shume i sigurt per arsyet e kundershtimit. Une mendoj qe ne duhet ta shtyjme kete ide nepermjet Ministrit te Bujqesise. Jam i

sigurt qe nese ideja paraqitet ne menyre te kenaqshme, edhe ish-Ministri i Bujqesise do e mbeshteste nje ide te tille ne parlament. Vini re - rekomandohet qe nje organ ndermjetesimi te prezantohet nepermjet Ministrise se Bujqesise dhe Zyres se Kryeregjistruesit. Ai nuk do te administrohet nga Ministria e Drejtesise, por do te jete nen autoritetin e zyrave te regjistrimit te zonave dhe pjese e funksionit administrativ te Zyres se Kryeregjistruesit.

2) Komente dhe shpjegime mbi Ligjin e Ndermjetesimit te Pronave te Patundshme.

Ligji i Ndermjetesimit te Pronave te Patundshme (seksioni (C) me poshte) eshte nje nder komponentet e legjislacionit qe do te ndihmoje ne krijimin e nje sistemi funksional te regjistrimit. Meqe ka shume te ngjare qe do te kete nje numer te madh rastesh ne lidhje me pronat e paundshme gjate viteve, ndjehet nevoja qe t krjohet nje organ i vecante ndermjetesimi i cili merret me ceshjet e pronave te patundshme. Ky eshe nje organ i vecante dhe jofromal gjykimi i cili do te krijohet ne cdo rreth dhe do merret me ceshtjet qe kane te bejne me pronat e patundshme.

Organi i ndermjetesimit rijohet per tu marre me rastet qe kane te bejne me pronat e patundshme, por nuk krijohet per te shmangur ceshtjet ligjore nga gjykatat e rregullta. Keto ceshtje, nese palet e shohin te nevojshme, do jene te mundura per tu apeluar ne gjykatat perkatese.

Fakti eshte qe shumica derrmuese e rasteve lidhur me pronat e patundshme jane ceshtje faktike, si psh. vendndodhja e kufirit ose nese nje qirradhenes ka akoma te drejte shfrytezimi, etj... Eshte esenciale qe persona me probleme te tilla te kene ku te drejtohen. Megjithate, eshte po kaq e senciale qe ceshtje te tilla mos kene te drejte te bllokojne gjykatat. Prandaj, propozohet qe nepermjet ketij legjislacioni te krijohet nje gjykate e vecante joformale, e quajtur organi i ndermjetesimit te pronave te patundshme, i cili merret me nje game te gjere konfliktesh per pronat e patundshme.

Nje organ i ndermjetesimit te pronave te patundshme do te krijohet ne secilen nga zonat e regjistrimit ne Shqiperi. Cdo organ ndermjetesimi do te kete nje kryetar i cili do te kete qualifikimin dhe eksperiencen si nje udheheqes i fshatit(kryeplaku), i cili ka patur eksperience ne zgjidhjen e konflikteve. Cdo organ ndermjetesimi do te kete gjithashtu edhe sy keshilltare qe do te jene persona te nderuar te komunitetit te tyre, te cilet nuk do te jene nepunen civile, por do te marrin dieta nga zyrat e regjistrimit per sherbimin e tyre si keshilltare te organit te ndemjetesimit. Te gjithe keta persona (kryetari dhe keshilltaret) do te sherbejne per nje periudhe 2 vjecare.

Dy keshillaret dhe kryetari jane komisioni qe degjon konfliktet qe vijne perpara organit te ndermjetesimit. Vendimet e organit te ndermjetesimit do te merren me shumice votash ne qofte se nuk behet fjale per ceshtje ligjore; ne raste te tilla, kryetari do kete fuqine e votes.

Cdo organ ndermjetesimi do te kete edhe nje sekretar i cili do te jete nepunes i zyres se regjistrimit te zones dhe do te jete pergjegjes per anen administrative te organit te regjistrimit, duke perfshire edhe lajmerimin e personave te nevojshem.

Juridiksioni, sic shprehet ne seksionin 10, ka per qellim te jete i gjere dhe te te perfshije sa me shume ceshtje te lidhura me pronat e patundshme sa te jete e mundur. Kjo perfshin ceshtje lidhur me ndarjen e tokes filluar ne 1991 dhe te tera ceshtjet e ish-pronareve te cilat duhet te kalojne nepermjet gjykates. Ligji perfshin qarte te tera ceshtjet qe lidhen me regjistrimin.

Procesi i organit te ndermjetesimit ka per qellim te shpejtoje zgjidhjen e ceshtjeve. Kryetari ka autoritetin qe t' pajtoje palet ne cdo pike. Kryetari mundet edhe qe te kerkoje nje seance paraprake per t'u sqaruar per ceshtje te vecanta qe kerkojne evidence te vecante ose per cdo arsye tjeter qe ai e sheh te nevojshme. Te gjitha seancat jane te hapura, por ekziston mundesia e mbylljes se seancave, me marrevshjen e paleve, nese kryetari mendon qe deklarata e ndonje deshmitari nuk duhet te behet publikisht. Megjithate, i tere procesi eshte menduar te jete joformal dhe secila nga palet ka mundesine qe te paraqese evidencen qe sheh te nevojshme. Nuk ka rregulla per paraqitjen e evidences gjate nje seance te organit te degjimit. Megjithate, kryetari ka autoritetin per te vendosur qe evidence e vecante mund te jete e parendesishme per ceshtjen dhe nuk duhet degjuar ose pare.

Edhe pse qellimi i organit te ndermjetesimit eshte qe te degjoje ceshtjet joformalisht dhe te marre vendimet nepermjet nje procesi ndermjetesimi, nese njera nga palet ne konflikt vendos, eshte e mundur qe ata te kene paraqitje ligjore. Edhe eksperte te pronave te patundshme mund te marrin pjese dhe palet inkurajohen qe te perdorin persona me njohuri ose pergatitje speciale per zgjidhjen e ceshtjeve.

Procedura per padine, pergjigjen ndaj saj, dhe per kunder-padine, paraqitet ne ligj, duke pefshire edhe standardet e nevojshme per njoftimin, etj... Ka kerkesa te vecanta per sasine e kohes qe mund te kaloje pasi behet nje padi - 21 dite. Gjuha e ligjit eshte e tille qe kerkon qe te zbatohen kerkesat kohore kurdohere qe te jete e mundur dhe per kete qellim perfshihet nje procedure qe lejon caktimin e personave te tjere si kryetare ose keshilltare, te cilet do bejne pjese ne komisione shtese me qellim qe te lehtesohet mbajtja ne kohe e seancave, ne perputhjeme ligjin.

Vendimet merren ose me ane te ndermjetesimit ose kur nje gje e tille nuk funksionon, me shumice votash. Secila pale ka te drejte per nje kerkese per riparjen e ceshtjes brenda 10 ditesh nga marrja e vendimit perfundimtar. Nje raport i shurter me shkrim duhet bere per kerkesen per rishikim, Organi i ndermjetesimit ka autoritetin qe te marre vendim edhe kur i akuzuari nuk paraqitet. Ne nje rast te tille, i akuzuari humbet te drejten per riparjen e ceshtjes si edhe per konsiderim ne gjykate te kesaj ceshtjeje.

Organi i ndermjetesimit ka edhe te drejten qe te urdheroje te akuzuarin t'i

paguaje akuzuesit demet monetare, qofte edhe me keste nese nje gje e tille eshte e nevojshme.

Se fundmi, organi i ndermjetesimit do te mbaje dokumentacion per te tera keto aktivitete, nepermjet zyres se regjistrimit te zones, dhe do te kete tarifa pagimi. Lista e tarifave do te krijohet ne menyre qe te rishikohet here pas here.

LIGJI

MBI KRIJIMIN DHE VENDOSJEN E NJW ORGANI TW NDERMJETESIMIT TE PRONAVE TE PATUNDSHME PER ZGJIDHJEN E KONFLIKTEVE NE LIDHJE ME PRONAT E PATUNDSHME

ne perputhje me Artikullin 16 te Ligjit 7491,
date 29 prill 1991, "Mbi Depozitat kryesore Kushtetuese"
propozuar nga Keshilli i Ministrave

PJESA E PARE

PERKUFIZIMET

Neni 1

"i paditur" do të thotë personi që mbrohet kunder akuzes se shkeljes;

"përgjigje" do të thotë dokumentat e depozituar nga personi ose personat e akuzuar për shkelje.

"kryetar" do të thotë personi ne krye te organit te ndermjetesimit ne cdo zone regjistrimi dhe ka fuqine e administratorit kryesor te tij;

"Krye regjistrues" do te thote personi me autoritetin per drejtimin e regjistrimit te Sistemit te Regjistrimit te Pronave te Patundshme ne Shqiperi;

"sekretar" do të thotë njw nënpunës i zyres se regjistrimit te zones, i cili eshte përgjegjës për dokumentacionin e organit te ndermjetesimit.

"kundërpeticion" do të thotë një pretendim nga një i paditur kundër ankuesit.

"vendim" do te thote vendim i organit te ndermjetesimit;

"moskryerje" do te thote mos mbrojtja ndaj pretendimit te personave qe bejne peticion duke mos iu pergjigjur ose duke mos u paraqitur ne gjyq.

"Ministër" do te thote ministri pergjegjes për sistemin e regjistrimit te pronave te patundshme në Shqipëri;

"peticion/ kërkesë/ ankesë" do të thotë letra e depozituar nga personi që bën pretendimin.

"ankues" quhet pala qe fillon ceshtjen;

"lajmerim" do te thote nje urdher i organit te ndermjetesimit qe i kerkon nje deshmitari qe te marre pjese ose te deshmoje ne nje seance degjimi;

"fletë-thirrje" do të thotë letra e lëshuar nga sekretari i gjykatës që urdhëron të padituri të pranojë ose të mohojë pretendimin e paditësit.

PJESA E DYTE

VENDNDODHJA DHE PERSONELI I ORGANIT TE NDERMJETESIMIT

Neni 2.

Do te kete nje Organ te Ndermjetesimit te Pronave te Patundshme ne cdo Zone Regjistrimi ne Shqiperi, me vendndodhje ne qendren administrative te zones, dhe ne cdi fshat ose vendndodhje tjeter ku del nevoja.

Neni 3.

1) Kryetari do te zgjidhet me shumice votash nga kryepleqte e zones se regjistrimit< per nje periudhe dy vjecare>

2) Kryetare te tjere do te caktohen perkohesisht nga regjistruesi i zones per te zgjidhur ceshtje te vecanta, kur ata nevojiten per shkak te ngarkeses se aktiviteteve te organit te ndermjetesimit.

3) Keshilltaret qe do te bejne pjese ne organin e ndermjetesimit te pronave te patudshme, do te jene jene kryepleq te seciles zone regjistrimi.

Neni 4.

1) Çdo trup gjykues perbehet nga nje kryetar dhe dy keshilltare te cilet degjojne mosmarreveshjen per te cilen organi i ndermjetesimit ka juridiksionin e percaktuar ne nenin 9.

2) Kryetari ka te njejtin autoritet si nje anetar i trupit gjykues te nje gjykate te rregullt.

3) Kryetari dhe te dy keshilltaret do te marrin dieta, sasia e te cilave do te percaktohet nga rregullore te percaktuara nga zyra e krye regjistruesit, ne

varesi te vendit dhe kohezgjatjes se cdo seance.

Neni 5.

Kryetari i organit te regjistrimit te cdo zone do te kryesoje seancat, qe mbahen ne prani te dy keshilltareve qe jane banore te rrethit ku ekziston konflikti.

Neni 6.

Per te siguruar ruajtjen e orarit te degjimeve te mosmarrveshjeve dhe ndjekjen e procedurave, kryetare speciale te organit te ndermjetesimit per pronat e patundshme, do te caktohen nga regjistruesi i zones se regjistrimit ku ndodhet ku organ ndermjetesimi, ne bashkepunim me krye regjistruesin, per te ndihmuar ne degjimin e ceshtjeve, nese orarri i percaktuar ne seksionin 22 nuk mund te ndiqet.

Neni 7.

Organi i ndermjetesimit te pronave te patundshme te cdo rrethi do te kete nje sekretar, i cili do te jete nepune i zyres se regjistrimit te zones.

Neni 8.

Funksionet e sekretarit do te jene si me poshte:

a) te marre peticionet dhe kunder-peticionet, si dhe dokumentet e tjera qe sjellin personat me pretendime qe perfshihen ne juridksionin e ketij ligji;

b) te percaktoje vendin dhe orarin per degjimin e konflikteve nga organi i ndermjetesimit;

c) te siguroje lajmerimin e cdo personi i cili duhet te lajmerohet per plotesimin ose pritjen e vazhdimit te procesit nga ana e organit te ndermjetesimit;

d) te leshoje te gjitha lajmerimet per zbulimin e evidences;

e) te lajmeroje personat qe jane caktuar si kryetare te perkohshem ose keshilltare, per caktimin e tyre dhe detrat; dhe

f) te kryeje cdo funksion tjeter qe siguron ecjen normale te procedurave te organit te ndermjetesimit.

PJESA E TRETE

JURIDIKSIONI DHE AKTIVITETET PARAPRAKE

Neni 9.

Organi i ndermjetesimit ka juridiksion paresor per proçeset e nisura kur palet kane pretendime te kunderta mbi pronat e patundshme, duke perfshire ceshtjet e meposhtme:

a) veprime qe perfshijne te drejten e pronesise, te perdorimit, te usufruktit dhe/ose te drejten e kontrollit mbi nje pronesi te patundshme;

b) demarkimin e pronave te patundshme i cili lidhet me ndarjen e parceles dhe me cdo lloj ceshtjeje tjeter per te cilen nevojitet demarkimi;

c) cdo ceshtje qe ka te beje me regjistrimin e pronave te patundshme;

d) perdorimin, zhvillimin dhe kapacitetin e prones se patundshme;

e) ndarjen e pronave ne te cilatmund te ekzistoje bashkerponesi;

f) vleresimin e pronave te patundshme dhe ceshtje qe kane te bejne me kompensimet per pronat e patundshme;

g) heqjen nga pronesia te prones se patundshme ose largimin prej saj;

h) shpronesimin e pronave te patundshme nga qeveria;

i) kontratat e qerase bujqesore ose agro-industriale;

j) trasnferimin e pronave ne kundershtim me ligjin;

k) shkembimet, ndarjet e paligjshme dhe parregullsi te tjera qe kane te bejne me ndarjen e parregullt te prones se patundshme;

l) vazhdimesine mbi pronen e patundshme;

m) pronesine mbi prona te patundshme urbane dhe bujqesore;

n) perdorimin dhe zhvillimin e tokes bujqesore per qellime konservimi dhe zhvillimi si dhe per perrdorimin e burimeve natyrore;

o) rimarrjen e prones se patundshme publike nga ana e nje personi; dhe

p) te gjitha ceshtjet e tjera qe kane te bejne me pronat e patundshme.

Neni 10.

Palet kane mundesine e pajtimit ne çdo faze te çeshtjes dhe, nese eshte e mundur, ne bashkepunim me kryetarin e organit te ndermjetesimit, ato e shkurtojne proçesin i degjimit dhe debatet per te shkurtuar zgjatjen e proçesit.

Neni 11.

1) Gjate procedurave, kur kryetari e sheh te pershtatshme, ai mund te leshoje nga ana e tij nje urdher qe synon te pershpejtoje procesin.

2) Palet mund te bien dakort me kryetarin qe te shkurtojne dhe t'i perqendrojne diskutimet me qellim qe te shkurtojne zgjatjen e procesit.

Neni 12.

Degjimet ne organin e ndermjetesimit jane jozyrtare dhe qellimi eshte te vendoset drejtesia menjehere midis paleve. Sidoqofte, per te lejuar organizimin e sistemit, pjese e procedures eshte edhe sistemi i organizuar i degjimit , me informacion dhe seanca paradegjuese.

Neni 13.

Me marreveshjen e paleve ne fjale, gjyqtaret mund ta mbyllin proçesin per shqyrtimin e deshmitareve, per te marre pohimet, ose ne çdo kohe qe kjo shihet e pershtashme.

Neni 14.

1) Çdo pale mund te marre pjese ne degjim personalisht ose, ne rast se pala eshte person juridik, me nje perfaqesues me autorizimin e duhur.

2) Nese merr pjese personalisht ose jo, çdo pale mund te keshillohet dhe perfaqesohet, sipas deshires se saj, nga nje jurist ose, kur e lejon ligji, ndonje perfaqesues tjeter.

Neni 15.

1) Kur kerkohet deshmi teknike, ekspertet e menduar te pershtatshem me marreveshjen e paleve ne proçes mund te sillen per te deshmuar nga organizmat shteterore ose jo shteterore ose ndonje burim tjeter i quajtur i pershtashem nga palet ne proçes dhe gjyqtaret.

2) Kur palet nuk bien dakort per pershtatshmerine e nje individi te veçante, dhe gjykatesit e ndjejne se personi ne fjale eshte shume i pershtatshem, kryetari mund te therras nje person neutral, te pranueshem nga palet, i cili jep vendimin e fundit nese zgjedhja e ekspertit eshte e pershtatshme ose jo

3) Anetaret e organit nuk jane te detyruar te pranojne pohimet e eksperteve te sjelle per te deshmuar ne nje çeshtje para trupit gjykues, pasi deshmia eshte vetem mendimi i eksperteve.

PJESA E KATERT

PROCEDURA E ORGANIT TE NDERMJETESIMIT

Neni 16.

1) Çeshtja fillon kur peticioneri/ kerkuesi depoziton ne dosje tek sekretari i organit te ndermjetesimit, nje deklarate te shkurter e te shkruajtur qarte ku te tregoje çfare pretendon kerkuesi edhe perse e kerkon ate.

2) Kerkuesi mund te bashkoje aq pretendime ne nje çeshtje sa mund te kete kunder nje te padituri dhe me shume se nje i paditur mund te perfshihen ne çeshtje ne qofte se kerkuesi ben fjale per me shume se nje person.

Neni 17.

1) I padituri depoziton ne dosje nje pergjigje te shkurter e te shkruajtur qarte ku tregon se çfare ai pranon, çfare mohohet dhe pse mohohet.

2) Mund te mos jepet nje pergjigje me ane te nje mocioni per heqje.

3) Organi i ndermjetesimit eshte shume dashamirese ne lejimin e ndryshimeve dhe korrigjimeve te peticioneve, pergjigjeve dhe kunderpeticioneve kur eshte e nevojshme te ndihmohet per arritjen e nje gjykimi te drejte e te paaneshem

Neni 18.

1) Ne rast se i pandehuri beson se ka nje pretendim kunder kerkuesit, nje kunderpeticion depozitohet ne dosje ne zyren e sekretarit ne rrethin ku u depozitua peticioni i pare, bashke me pergjigjen.

2) Sekretari ben qe nje kopje t'i jepet kerkuesit

3) Mosberja nga i padituri i nje kunderpeticioni qe te bazohet ne ngjarje qe ngrejne pretendimin e kerkuesit, nuk e ndalon dot nga ana e saj te padituri qe te ngreje nje pretendim te tille ne nje çeshtje tjeter sa kohe qe i padituri ose e fiton çeshtjen ne organin e ndermjetesimit, ose parandalon vendimin e organit te ndermjetesimit qe te behet vendim perfundimtar, duke depozituar ne dosje nje njoftim per rishikim gjyqesorne gjykate me te larte siç parashikohet ne nenin **39**.

Neni 19.

1) Me depozitimin ne dosje te nje peticioni, sekretari leshon nje flete-thirrje per çdo te paditur duke ia dhene ate ne dore ose me poste, cilado eshte me praktike ne situaten e çeshtjes.

2) Ne qofte se pergjigja i jepet dorazi te padituri, derguesi percakton vendndodhjen e tij dhe i dergon atij flete-thirrjen dhe nje kopje te peticionit dhe dokumentat shoqerues. Pasi dergohen flete-thirrja dhe peticioni, derguesi shenon daten, vendin dhe kohen e dergimit ne nje kopje te flete-thirrjes dhe ia kthen ate sekretarit i cili ben shenim ne regjistrin perkates.

3) Ne rast se derguesi nuk mund ta dergoje personalisht flete-thirrjen dhe nje kopje te peticionit brenda katermbedhjete diteve, derguesi duhet ta deshmoje kete fakt dhe arsyen per mosdergim ne flete-thirrje dhe t'ia ktheje flete-thirrjen dhe peticionin sekretarit, i cili ben shenimin ne regjistrin perkates dhe menjehere njofton paditesin, ne menyren me praktike, per pamundesine e dergimit te flete-thirrjes dhe peticionit. Fakti i njoftimit te paditesit shenohet ne regjistrin perkates.

4) Ne qofte se sekretari vendos t'i dergoje flete-thirrjen dhe peticionin me poste rekomande me faturen e marrjes, derguesi e verteton faktin ne nje kopje te flete-thirrjes dhe ia kthen ate sekretarit, i cili e regjistron ne regjistrin perkates.

Neni 20.

1) I gjithe afati kohor matet duke filluar llogaritjen diten e pare pas dergimit te peticionit tek i padituri ose diten e pare pas hyrjes se gjykimit ose diten e pare pasi ndodh nje ngjarje tjeter me te cilen ky ligj fillon nisjen e afatit.

2) Ne qofte se dita e fundit nuk eshte dite pune, atehere dita e fundit do te quhet dita tjeter e punes.

Neni 21.

1) I padituri duhet ta depozitoje pergjigjen e tij ne dosje ne zyren e sekretarit, aty ku u depozitua peticioni fillestar, brenda katermbedhjete ditesh pasi atij i dergohen nje kopje e flete-thirrjes dhe peticioni nga nje dergues zyrtar ose nje person tjeter i autorizuar per te bere dergimin.

2) Ne qofte se dergimi eshte bere me poste rekomande, me faturen e dergimit te letres, pergjigja duhet te depozitohet ne dosje brenda 14 diteve te

marrjes se flete-thirrjes dhe peticionit, e cila do te llogaritet nga koha kur eshte firmosur fatura e dergimit.

3) I padituri nuk eshte i detyruar t'ia dergoje paditesit personalisht kopjen e pergjigjes se tij, ne rast se pergjigja e tij nuk permban nje kunder-peticion.

Neni 22.

1) Kryetari, se bashku me sekretarin percakton kohen e degjimit te mosmarreveshjeve. Afati i percaktuar ne kete ligj duhet te zbatohet rigorozisht, kurdo qe eshte e mundshme.

2) Ne asnje rrethane nje çeshtje nuk duhet te degjohet pas me shume se nje muaji pas dergimit te flete-thirrjes dhe peticionit tek i padituri.

Neni 23.

Palet e nje mosmarreveshjeje qe ngrihet sipas ketij ligji nxiten te bejne nje kembim te lire informacioni para gjyqit, por ne asnje rrethane organi i ndermjetesimit nuk e kerkon vete kete kembim.

Nenin 24.

Kryetari i organit te ndermjetesimit duhet te bisedoje me palet para fillimit te proçesit gjyqesor, kur do te shihet se nje seance e tille mund t'i thjeshtonte problemet dhe te shkurtonte degjimin ose te çonte ne nje kembim informacioni qe mund te nxiste nje zgjidhje te mosmarreveshjeve.

Neni 25.

Ne qofte se mbahet nje seance paradegjimi, kryetari

a) cakton kohen dhe vendin e seances se propozuar;

b) u ben njoftim brenda nje kohe te aresyeshme te gjithe personave qe e kane kete te drejte dhe qe perfshin te gjithe personat qe duhet te jene te pranishem ne seance,

c) perfshin ne njoftim gjithçka qe kryetari e sheh te nevojshme per te ndihmuar pershpejtimin e veprimeve, dhe

d) leshon nje urdher te bazuar ne rezultatin e seances paragjyqesore qe synon ose te mbylle çeshtjen para procesit i degjimit ose te ngushtoje gamen e çeshtjeve qe do te degjohen ne gjyq.

Neni 26.

1) Kryetari cakton kohen dhe vendin e degjimit dhe i dergon me perpara njoftim me shkrim te gjitha paleve dhe personave qe kane kerkuar te marrin pjese ne çeshtje.

2) Njoftimi duhet te perfshije nje kopje te ndonje urdheri te leshuar nga organi i ndermjetesimit per çeshtjen ne shqyrtim.

3) Njoftimi mund te perfshije edhe çeshtje te tjera qe kryetari i quan te rendesishme per te ndihmuar ne pershpejtimin e proçesit.

Neni 27.

1) Ne qofte se nje pale e mosmarreveshjes nuk eshte e pranishme ose nuk merr pjese qofte ne seancen para-gjyqesore, ne seancen gjyqesore te degjimit, ose ne nje mbledhje tjeter te thirrur per te diskutuar çeshtjen ne fjale, kryetari mund t'u dergoje njoftim me shkrim te gjitha paleve per nje urdher te propozuar per mosparaqitje. Ky njoftim permban edhe shkaqet e ketij urdheri.

2) Ne qofte se pas katermbedhjete(14) diteve asnje pergjigje nuk eshte marre, te padituri duhet t'i jepen katermbedhjete(14) dite shtese nga koha kur i padituri e merr njoftimin, per te bere te ditur arsyen pse nuk eshte dhene pergjigje per akuzen. Nese asnje pergjigje e kenaqshme nuk merret ne fund te periudhes se dyte prej katermbedhjete(14) diteve, anetaret e trupit gjykues mund te nxjerrin nje urdher per mosparaqitje.

3) Brenda shtate diteve pas degjimit te nje [**njoftimi me shkrim sipas te cilit**] nje urdher i propozuar per mosparaqitje **[do te nxirret]**, pala kundrejt se ciles **[njoftimi]** eshte leshuar, mund te depozitoje nje njoftim me shkrim ku te kerkohet qe urdheri i propozuar per mosparaqitje te terhiqet dhe ajo shenon aresyet per kete kerkese.

4) Gjate kohes qe pala zgjidh çeshtjen e urdherit te propozuar per mosparaqitje, kryetari e shtyn procesin i degjimit deri sa te kaloje afati per zgjidhjen e saj.

5) Kryetari ose leshon ose terheq urdherin e shkeljes menjehere me mbarimin e afatit brenda te cilit pala mund te depozitoje njoftimin me shkrim sipas paragrafit **(3)**.

6) Pas leshimit te urdherit te mosparaqitjes, kryetari drejton procedurat e metejshme te nevojshme per te perfunduar çeshtjen qe ishte para organit te ndermjetesimit, pa pjesemarrjen e pales qe nuk u paraqit.

Neni 28

1) Kryetari pranon nje kerkese per nderhyrje nga ana e ndonje personi ne mosmarreveshjen 1e planifikuar per t'u degjuar nga organi i ndermjetesimit, ne rast se:

a) kerkesa i leshohet me shkrim kryetarit, dhe kopjet t'i jene shperndare te gjitha paleve te percaktuara nga kryetari si te interesuara ne rezultatin, te pakten tre dite para dites se caktuar te degjimit;

b) kerkesa thekson faktet qe tregojne se interesi i kerkuesit mund te preket ne menyre te konsiderueshme nga procesi ose se kerkuesi e ben kerkesen sipas nje dispozite te ligjit per nderhyrje ne çeshtje;

c) kryetari vendos qe interesat e drejtesise dhe ecurise se rregullt dhe te shpejte te çeshtjes nuk pengohen nga lejimi i kerkeses.

2) Pasi vendos qe nderhyrja e kerkuar ndihmon ne zgjidhjen e drejte te mosmarreveshjes dhe nuk e pengon ecurine e rregullt dhe te shpejte te procesit, kryetari mund te pranoje kerkesen per nderhyrje ne çdo kohe.

3) Ne rast se nje kerkues kerkon nderhyrje, kryetari mund te vendose kushte te aresyeshme per pjesemarrjen e kerkuesit ne proces, ose ne kohen qe lejohet nderhyrja, ose ne nje kohe te mevonshme, siç mund ta kerkojne kushtet.

4) Kryetari duhet te njoftoje kerkuesin dhe çdo pale te interesuar per vendimin qe e lejon ose e hedh poshte nderhyrjen, te pakten 24 ore para seances se degjimit te planifikuar, dhe percakton kushtet qe i bashkangjiten urdherit per nderhyrje dhe jep aresyet per urdherin.

Neni 29

Me vendim te tij ose me kerkesen e nje pale, kryetari mund te leshoje nje urdher paraqitjeje dhe deshmimi per zbulim deshmie, per mbrojtjen e nje pale, ose per qellime te tjera qe e bejne procesin te ece normalisht. Keto urdhera duhet te jene ne pajtim me Kodin e Procedures Civile.

Neni 30

Urdheri qe i kerkon nje deshmitari te paraqitet dhe te deshmoje ne gjyq leshohet nga sekretari, ne rrethin ku depozitohet kerkesa, me kerkesen e njeres prej paleve.

Neni 31

1) Nje proçes i degjimit duhet te planifikohet, kur eshte e mundur, jo me vone se 21 dite pas marrjes se pergjigjes nga i padituri dhe, per rastet kur depozitohet ne dosje nje kunderpeticion ose kerkese per nderhyrje, kur eshte e mundur, jo me shume se 21 dite pas marrjes se kunderpeticionit ose vendimit nese lejohet nderhyrja e nje personi tjeter.

2) Te pakten 14 dite para fillimit te proçesit i degjimit te planifikuar, sekretari ne rrethin ku depozitohet peticioni njofton palet per vendin dhe kohen e gjyqit.

3) Nese ka ose jo avokat perfaqesues per çdo pale, ne proces i degjimit çdo pale ka te drejte t'i beje pyetje pales tjeter ose deshmitareve.

4) Mundesia u jepet edhe jo-paleve per t'u shprehur me shkrim ose me goje ne lidhje me mosmarreveshjen. Pastaj paleve u jepet mundesia t'u bejne pyetje jo-paleve.

5) Anetaret e organit te ndermjetesimit, sipas gjykimit te tyre, mund te marrin pjese lirisht ne shqyrtimin e paleve dhe deshmitareve.

6) Organi i ndermjetesimit mund te marre deklarata te vertetuara mire me shkrim ose te regjistruara nga deshmitaret e paleve qe nuk jane te pranishem ne proçesin gjyqesor.

Neni 32.

1) Ne degjim nuk zbatohen rregulla qe e kufizojne dhenien e deshmise qe palet mendojne se i perket çeshtjes ne shqyrtim.

2) Sidoqofte kryetari mund ta kufizoje dhenien e deshmise qe konsiderohet e pavlere pa kuptim, e perseritur ne menyre te panevojshme, ose qe ne nje menyre tjeter vonon ecurine normale te degjimit.

3) Çdo pjese e deshmise mund te merret me shkrim ne qofte se kjo e pershpejton degjimin pa paragjykuar interesat e paleve.

4) Çdo deshmi dokumentash mund te paraqitet ne formen e nje kopje, por po ta kerkoje njera pale, jepet mundesia e krahasimit te kopjes me origjinalin, ne rast se gjendet.

Neni 33.

Te gjitha vendimet e organit te ndermjetesimit, qofshin gjykime perfundimtare ose te perkohshme, merren me shumice votash nga tre anetaret, kryetari dhe keshilltaret.

Sidoqofte, kryetari ka vote vendimtare per te gjitha ceshtjet e ligjit.

Neni 34.

1) Çdo pale ne mosmarreveshje qe ka dale ne gjyq, brenda dhjete diteve pas dhenies se vendimit perfundimtar, mund te beje kerkese per rishqyrtimin e çeshtjes duke percaktuar arsyet specifike mbi bazen e te cilave behet kerkesa per rishqyrtim.

2) Kerkesa per rishqyrtim trajtohet nga i njejti trup gjykues qe mori vendimin e pare, ne qofte se antaret e tij mund te marrin pjese; ne qofte se ata nuk mund te marrin pjese te gjithe ne vendimin e dyte mundesisht te marrin pjese sa me shume persona qe moren vendimin e pare.

3) Kryetari leshon nje deklarate me shkrim qe e hedh poshte kerkesen, e pranon kerkesen dhe e anullon ose e ndryshon vendimin, ose e pranon kerkesen dhe nxjerr nje urdher per procedura te metejshme.

4) Kerkesa per rishqyrtim quhet e hedhur poshte ne qofte se kryetari nuk leshon nje vendim me shkrim brenda njezet (20) diteve nga koha qe depozitohet kerkesa per rishqyrtim.

Neni 35.

1) Kur i padituri nuk pergjigjet brenda kohes se caktuar, ose nuk paraqitet kur çeshtja shqyrtohet ne proces gjyqesor, pas nje pritjeje prej 14 ditesh, paditesit i kerkohet te paraqese deshmi qe vertetojne pretendimin e tij. Ne rast se gjykatesit shohin se deshmia e verteton pretendimin, sekretari i organit te ndermjetesimit ne rrethin ku u be peticioni shenon vendimin ndaj te padituri.

2) Nese merret vendim per mosparaqitje, personi ndaj te cilit eshte marre ky vendim, nuk ka te drejten e kerkeses per rikonsiderim te vendimit.

3) Ne rast se i padituri nuk paraqitet kur vendimi del se eshte kunder tij, ai e humbet te drejten e kerkeses per nje gjykate me te larte, per rishqyrtimin gjyqesorne pajtim me dispozitat e nenit 29.

Neni 36.

Zbatimi i vendimit perfundimtar, mund te behet nepermjet çdo mjeti te mundshem, sipas ligjit, rregullave ose rregulloreve dhe quhen te pershtatshme dhe ne fuqi sipas ligjit shqiptar.

Neni 37.

1) Organi i ndermjetesimit mund te urdheroje qe, kur vendimi perfundimtar perfshin pagese ne te holla, kjo te shlyhet me keste duke caktuar afatin e shlyerjes per nje periudhe kohe.

2) Organi i ndermjetesimit mund gjithashtu ta rishikoje afatin e shlyerjeve te kesteve kur personi pagues pasi i ka paraqitur organit te ndermjetesimit deshmi per veshtiresite ne shlyerje, e bind gjykaten se eshte i nevojshem caktimi i nje afati te ri shlyerje.

3) Sistemi i krijuar per shlyerjen e nje vendimi ne te holla, nuk mund te shtyhet per me shume se tre vjet ne asnje rrethane.

Neni 38.

1) Rishikimi gjyqesormund te kerkohet pasi eshte dhene vendimi dhe duke depozituar nje njoftim per rishikim gjyqesor, ne sekretarine e organit te ndermjetesimit ne rrethin ku u be kerkesa e pare.

2) Rishikimi gjyqesor nuk mund te behet per mosmarreveshje ku çeshtja e vetme eshte percaktimi i shperblimit.

Neni 39.

1) Organi i ndermjetesimit mban nje proçes-verbal zyrtar per çdo proçedure qe behet sipas ketij ligji:

2) Proçes-verbali duhet te kete:

a) te gjitha njoftimet e bera nga kryetari
b) çdo urdher i marre para seances se degjimit
c) kerkesat e bera nga palet
d) kerkesat per nerhyrje
e) çdo deshmi me shkrim e dorezuar ose e marre
f) vendimet e nxjerra; dhe
g) gjithshka tjeter qe ka kaluar qysh kur u depozitua peticioni i pare e qe ka lidhje me çeshtjen e shqyrtuar nga organi i ndermjetesimit.

PJESA E PESTE

TE NDRYSHME

Neni 40.

1) Gabimet ose akuzat per gabime nga cdo person qe ka autoritet (kryetari dhe keshilltaret) te cilet lidhen me organin e ndermjetesimit te pronave te patundshme mund te patundshme mund te cojne ne lirimin nga detyra te tyre, pas nje seance degjimi ne te cilen paraqitet evidence qe e provon ankesen ne

menyre te qarte dhe bindese.

2) Cdo person i cili hiqet nga detyra do t'i nenshtrohet procesit penal dhe po qe se eshte fajtor do te gjobitet ose denohet me burgim.

Neni 41

Per depozitimin e nje çeshtje dhe kostot e nevojshme per shperndarjen e materialeve te domosdoshme per sqarimin e çeshtjeve qe jane pjese e mosmarreveshjes se shtruar ne gjykate, si dhe per kohen e harxhuar, organit te ndermjetesimit i paguhen tarifa.

Neni 42

Ministri mund te nxjerre rregullat ne pergjithesi per t'i bere te efektshme qellimet dhe dispozitat e ketij Ligji dhe ne vecanti pa kompromentuar rregullat e pergjithshme, per paracaktimin e menyres sipas se ciles do te kryhet procedura ne lidhje me kete Organ Ndermjetesimi dhe per te paracaktuar ne kete Ligj cdo gje qe mund te lejohet.

Neni 43

Cdo ceshtje qe nuk trajtohet ne kete Ligj ose ne ndonje ligj tjeter ne lidhje me administrimin dhe proceduren qe lidhen me perpunimin e mosmarrveshjeve qe kane te bejne me ceshtjet administrative, do te vendoset ne perputhje me parimet e barazise ligjore dhe ndergjegjes se mire.

Neni 44

1) Te gjitha ligjet ose pjeset e ligjit qe jane ne kundershtim me dispozitat e ketij Ligji duhet te gjykohen per t'u anuluar dhe cdo veprim i kryer sipas nje ligji te anuluar duhet te gjykohet si veprim i kryer sipas dispozitave te ketij Ligji.

2) Te gjitha rastet qe presin zgjidhje para fillimit te ketij ligji duhet te trajtohen ne perputhje me dispozitat e ligjeve qe kane qene ne fuqi ne ate kohe.

Neni 45

Ky Ligj do te vihet ne zbatim ne nje date qe do te caktohet nga Presidenti pasi te botohet ne Gazeten Zyrtare.

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6. Recommendations for the development of the Lands Department in the Ministry of Agriculture and Food

(a) English

The recommendations are as follows:

The Ministry of Agriculture and Food currently has a Department of Lands. It's principle responsibility in recent years has been to oversee the distribution of land, which is virtually complete; so much of its justification no longer exists. It is therefore necessary to determine if this Department is going to continue to function, and if so what functions it might have.

It is recommended that the Department of Lands continue to exist so as to fulfill new needs of the emerging agricultural sector. The Department of Lands should have the four following sections:

i. Land Administration;
ii. Valuation;
iii. Land Use Planning; and
iv. Land Protection

1. Land Administration

The Department of Land DL should have the overall responsibility for all agricultural land administration and management issues (with the exception of the administration of the Immovable Property Registration System under the Chief Registrar).

Two functions are particularly important at the present time, the exercise of the responsibilities which may emerge from the regulations for the Buying and Selling of Agricultural Land Law, as well as the leasing of publicly owned agricultural land. The exact nature of these functions, however, will depend on the extent to which the exercise of public ownership of immovable property is decentralized. If organs of local government emerge as the effective managers of publicly owned agricultural land, and as the effective decision making bodies for the implementation of the buying and selling law, then the role of the DL would be to provide technical assistance and monitoring to these local government organs. Other options for the local management of leases of publicly owned agricultural land should also be explored, such as the formation of Komunal Land Administration Boards whose membership would include local farmers.

If the effective control over publicly owned agricultural land as well as the buying and selling law remains centralized, the DL would be the logical place to locate this responsibility. Under this scenario The Director of DL could be designated the government's landlord. He should be responsible, for example, for signing all leases from the government. If it is deemed appropriate there should be a counter-signature on the lease. The counter signature could be the Minister of Agriculture and Food or a person delegated by him such as the Legal Advisor of the Ministry of Agriculture

and Food.

For the time being, given the present preference for some centralized control, with experiments in decentralization underway, the land administration functions have to be defined in an ad hoc temporary way. It is clear, nonetheless, that the landlord function has to be exercised to avoid the loss of opportunities for the productive leasing of publicly owned, agricultural land.

In a more permanent sense, this Section should be given the responsibility for the inspection of publicly owned agricultural lands as well as the environmental damages being done on privately owned lands. The Inspectors will work under this section and will also have responsibility to the heads of the other sections.

2. **Land Valuation Functions**

The Valuation Section will be responsible for all agricultural, pasture and forest land valuations required by the government, including the contracting of private sector specialists for such valuations as needed by this section. This section will also provide the official valuation when it is necessary for a rent level determination, a sale or compensation of any government controlled land or improvements on agricultural, forest or pasture land.

3. **Land Use Planning Functions**

The Land Use Planning Section will be responsible for all planning on the use of primarily agricultural lands. It is difficult to set up a planning section and restrict its activities to agriculture. In order to deal with the planning functions involving land, it might be necessary to define with a broader perspective than agriculture alone. For example, ultimately there will be issues of allocating land (which will be an administrative function of the Department) to persons that would like to be involved in tourism. The planning for coastal zones includes a consideration of a number of issues which will have to be performed with the least bureaucracy possible. Thus, in consideration of the functions of this section of the Lands Department, I am taking into consideration many of the land-based activities that will have to be part of the Albanian picture in the future.

It does not seem appropriate to limit the planners in this section only to planning for agriculture. Part of their function should be Extension Department activities in which they not only advises the farmers on the best cropping systems for their area, but also provide support in the field with agricultural inputs and other materials support. Therefore the planners are people who coordinate activities with respect to all land both nationally and regionally, for the future in the short term (5 years), and middle term (20 years). They need both to analyze the manner in which soil systems are appropriate for certain activities and to develop the plan for the implementation of these activities. The planners in the Lands Department will need to cooperate (or have their own staffing) to deal with soil scientists, the extension staff and other individuals who can provide the basic advice into what the agricultural (and other) disciplines might be when land is involved.

The issue of decentralization is fundamental to the planning function. It is recommended that for the foreseeable future Albania should not attempt to develop a system that staffs the Districts with planners who feed information to the Lands Department in the Ministry of Agriculture and Food where the planners will prepare the national land use plan. It is crucial, at the outset, to have persons from the Lands Department involved directly in local planning activities as much as possible. If authority for planning is passed to the District or Komuna, the planning process could be negatively affected. Thus it is recommended that there be central coordination of all local involvement in the land use planning.

Any local area can create a planning zone which can develop plans to implement their areas. It would be hoped that each District would have a □planning authority□ which would attempt to develop a plan for the efficient and appropriate use of agricultural and other land in their District. However, this system would not just support planning at the □District□ level. Any locale could create a □planning authority□ to work with the planners in the Lands Department to create the appropriate plan for their area. Thus, an area which persons (or the state) would like to develop, for example as forest or pasture, could create as a planning authority to develop a plan (which would fit in to both regional plans and the national plan). Clearly, in this case the local □planning authority□ will have relevant professional persons on the local planning team. However, all of the activities would pass through the land use planning section of the Lands Department. The ultimate goal of the Section would be to develop a national plan, as well as regional plans and special local area land management plans throughout the entire Republic.

This section would also have the responsibility for carrying out research in a multidisciplinary manner to determine what are the actual needs in a given area and how particular activities which might affect or involve different local areas. For example, research might be developed on the activities concerning the growing of spices like oregano or basil. This research activity can then be used for both a regional and a national planning perspective.

It is important that the section have trained planners to take the responsibility for the preparation of the drafts of both locally based and national plans. But it is also imperative that the section be staffed with persons of different disciplines who can analyze the activities which can then be put into a planning perspective.

4. **Land Protection**

The land protection section of the Department must have functions that serve the people of Albania in a broad manner. First of all there should be a conservation function. This will have to be coordinated with the planners who are involved in local area activities inasmuch as planning activities involve the efficient and appropriate use of the land.

Secondly, this section should have a development control function which oversees the manner in which any individual would like to develop (including changing) the use of his land. It would be essential to develop standards for development control

to ensure that individuals cannot develop their land in any way they desire without first obtaining the necessary permission. As noted above in consideration of the land use planning activities, it is necessary to coordinate local activities with the center. Although it is an inconvenience for an individual who would like to develop his/her own land to require a permission directly from a central authority, this requirement is essential to develop a mechanism for local District authorities responsible for development control to interact with the persons in the Lands Department who can make the ultimate decision.

Thirdly, this section should develop a system of environmental impact assessment through which it can effectively determine whether or not a proposed activity or land makes sense, especially when considering the possible degradation (like erosion etc.) of the land resource. A group of inspectors who operate locally must be tied in to the central authority for purposes of dealing with the affect that an activity might have of the land. It would be necessary to develop an administrative system to support the assessment of their activities in environmental terms. This activity would be necessary in both the urban and rural settings.

Fourthly, this section should be responsible for environmental education. This would mean developing both local and national groups that would focus on the issues of the environment. It would be essential to sensitize local people to the problems they might face in the future because of particular activities in their area. This would necessitate assisting with the development of school groups, women□s groups and village environmental action groups to try to prevent activities that might lead to negative environmental activities. This education function would, like the others, be both an urban and rural function.

Finally, one needs to consider how broadly based the Lands Department will be. Obviously, land is both urban and rural. It seems bureaucratically essential that both urban and rural lands be part of any land activity whether or not it is administration, valuation, land use planning or protection. The issue of a broad and separate set of functions in this area is a matter that has to be considered. However, it is abundantly clear that the Ministry of Agriculture and Food should have a Department which, at a minimum, deals with these four broadly based issues from the perspective of the agricultural sector.

(b) Albanian

6. Rekomandime per zhvillimin e Departamentit te Tokave ne Ministrine e Bujqesise dhe Ushqimit

Rekomandimet jane si me poshte:

Ministria e Bujqesise dhe Ushqimit konkretisht ka nje Departament te Tokave (DT). Pergjegjesia e tij kryesore ne vitet e fundit ka qene te mbikqyre ndarjen e tokes, gje qe ne fakt ka mbaruar; keshtu qe shume prej perligjies se tij nuk ekziston me. Prandaj del e nevojshme te percaktohet nese ky Departament do te vazhdoje te funksionoje, dhe nese po cfare funksionesh mund te kete.

Rekomandohet qe Departamenti i Tokave te vazhdoje te ekzistoje me qellim qe te permbushe nevojat e reja te sektorit bujqesor qe po shfaqet. Departamenti i Tokave duhet te kete kater seksionet e meposhtme:

i. Administrimi i tokes;
ii. Vleresimi
iii. Planifikimi i Perdorimit te Tokes
iv. Mbrojtja e Tokes

1. Administrimi i Tokes

Departamenti i Tokave DT duhet te kete pergjegjesine totale per te gjitha ceshtjet e administrimit dhe manaxhimit te tokes bujqesore (me perjashtim te administrimit te Sistemit te Rregjistrimit te Pasurise se Patundshme nga Kryerregjistruesi).

Dy funksione jane ne menyre te vecante te rendesishem ne kohen aktuale, ushtrimi i pergjegjesive te cilat mund te shfaqen nga rregullimet per Ligjin e Blerjes dhe Shitjes se Tokes Bujqesore, si dhe nga dhenia me qira e tokes bujqesore ne zoterim publik.

Natyra ekzakte e ketyre funksioneve, megjithate, do te varet ne shkallen ne te cilen ushtrimi i pronesise publike te pasurise se patundshme eshte decentralizuar. N.q.s. organet e qeverise lokale shfaqen si menaxheret efektive te tokes bujqesore ne zoterim publik, dhe si grupe njerezish efektive ne marrje vendimesh per permbushjen e ligjit te blerjes dhe shitjes, atehere roli i DT do te ishte te siguronte asistence teknike dhe monitorim te ketyre organeve te qeverise lokale. Alternativa te tjera per menaxhimin lokal te qerave te tokes bujqesore ne zoterim publik do te shqyrtohen, te tilla si formimi i Kufijve Administrative te Tokes se Komunes anetaresia e te cilave do te perfshinte fermere lokale.

N.q.s. kontrolli efektiv mbi token bujqesore ne zoterim publik si edhe ligji i blerjes dhe i shitjes mbetet i centralizuar. Sipas ketij skenari Drejtori i DT mund te emerohej pronar i tokes i qeverise. Ai duhet te pergjigjet, per shembull, per firmosjen e te gjitha qerate nga qeveria. N.q.s. gjykohet e pershtatshme duhet te kete nje firme-ekuivalente ne qera. Firma ekuivalente mund te te jete Ministri i Bujqesise dhe Ushqimit ose nje person i deleguar nga ai i tille si Keshilltari Ligjor i Ministrise se

Tashti per tashti, me preferencen e dhene per nje kontroll te centralizuar, me eksperimentet ne rruge e siper, funksionet e administratimit te tokes duhet te percaktohen ne nje menyre te perkohshme. Eshte e qarte, prapeseprape, se funksioni i pronarit te tokes duhet te ushtrohet per te shmangur humbjen e rasteve per qera produktive te tokes bujqesore ne zoterim publik.

Ne nje sens me te qendrueshem, ketij seksioni duhet t'i jepet pergjegjesia per inspektimin e tokave bujqesore ne zoterim publik si dhe demet ambjentale te bera ne tokat ne zoterim privat. Inspektoret do te punojne sipas ketij seksioni dhe gjithashtu do te kene pergjegjesine ne lidhje me drejtuesit e seksioneve te tjere.

2. Funksionet e Vleresimit te Tokes

Seksioni i vleresimit do te jete pergjegjes per te tera vleresimet e tokes bujqesore, kullote, dhe pyll te kerkuara nga qeveria, duke perfshire kontraktimin e specialisteve te sektorit privatper vleresime te tilla sic kerkohet nga ky seksion. Ky seksion do te siguroje gjithashtu edhe vleresimin zyrtar kur duhet per qellime vendosje qeraj, nje shitje ose kompensim te cdo toke te kontrolluar nga shteti ose permiresime te tokes bujqesore, pyjeve ose kullotave.

3. Funksionet e Planifikimit te Perdorimit te Tokes.

Seksioni i planifikimit te perdorimit te tokes do te jete pergjegjes per te gjithe planifikimin e perdorimit kryesisht te tokave bujqesore. Eshte e veshtire te krijohet nje seksion planifikimi dhe te kufizosh aktivitetet e bujqesise. Ne menyre qe te merremi me funksionet e planifikimit te tokes, duhet percaktuar nje game me e gjere perspektivash sesa vetem bujqesine. Per shembull do te dalin probleme te ndarjes se tokes (te cilat jane funksione administrative te departamentit) per personat te cilet duan te merren me turizem. Planifikimi i zonave bregdetare perfshin nje shqytrtim te numrit te ceshtjeve te cilat duhet te kryhen me sa me pak burokraci qe te jete e mundur. Prandaj, kur kam parasysh funksionet e ketij seksioni te departamentit te tokave, une po marr ne konsiderate shume aktivitete te lidhura me token qe do te jene pjese e realitetit shqiptar ne te ardhmen.

Nuk me duket me vend qe te kuizohen funksionet e planifikuesve te ketij seksioni vetem me planifikim bujqesor. Pjese e funksioneve te tyre duhet te jene aktivitetet e Shtrirjes se Departamentit, me ane te te cilave ata jo vetem keshillojne fermeret per sistemet me te mira te prodhimit per zonen e tyre, por edhe japin ndihme ne fushe me materiale bujqesore dhe materiale te tjera ndihmese. Prandaj, planifikuesit jane njerez te cilet kooordinojne aktivitetet qe kane te bejne me token, qofte ne shkalle kombetare ose zonale, per te ardhmen e afat-shkurter (5 vjet) dhe te afat-mesem (20 vjet). Ata duhet te analizojne qofte menyren se si sipas se ciles sistemet e tokes jane te pershtatshme per aktivitete te caktuara, ashtu edhe te krijojne planin per menyrat e venies ne jete te ketyre aktiviteteve. Planifikuesit ne Departamentin e Planifikimit duhet te bashkepunojne (ose te kene personelin e tyre) me shkencetare

tokash, stafi shtese, ose individe te tjere te cilet mund te japin keshilla baze per bujqesine (dhe disiplinat e tjera) te lidhura me token.

Ceshtja e decentralizimit eshte esenciale per fuksionet e planifikimit. Rekomandohet qe edhe per nje kohe te gjate, Shqiperia nuk duhet te perpiqet qe te krijoje nje sistem qe pajis rrethet me planifikues, te cilet nga ana e tyre i japin informacionin Departamentit te Tokave ne Mnistrine e Bujqesise dhe Ushqimit, ku planifikuesit e ketij departamenti do te pergatitin planin kombetar te perdorimit te tokes. Eshte esenciale qe ne fillim te kete njerez nga Departamenti i Tokave te perfshire direkt ne aktivitetet lokale te planifikimit sa me shume te kete mundesi. Nese autoriteti i planifikimit i kalohet rrethit ose komunes, procesi i planifikimit mund te ndikohet negativisht. Prandaj rekomandohet qe te kete koordinim qendror per te gjithe perfshirjen lokale ne planifikimin e perdorimit te tokes.

Cdo zone lokale mund te krijoje nje zone planifikimi e cila mund te krijoje plane per te permbushur zonat e tyre. Do te shpresohej qe cdo rreth do te kishte nje "autoritet planifikimi" i cili do te perpiqej te krijoje nje plan per perdorimin e duhur dhe me efektivitet te tokes bujqesore ose tokes tjeter, ne rrethin e tyre. Megjithate ky sistem nuk do te mbeshteste vetem planifikimin ne shkalle" rrethi". Cdo zone mund te krijonte nje "autoritet planifkimi" per te bashkepunuar me planifikuesit ne Departamentin e Tokes per te pergatitur planin e duhur per zonen e tyre. Keshtu, nje zone te cilen individet (ose shteti) do te donin t'a zhvillonin, per shembull si pyll ose livadh, mund te krijohej si nje autoritet planifikimi i cili do te krijonte nje plan (qe do te perputhej qofte me planet zonale qofte kombetare). Eshte e qarte, ne kete rast "autoriteti i planifikimit" lokal do te pajiset me specialistet perkates ne ekipin planifikues lokal. Megjithate, te tera aktivitetet do te kalonin neper seksionin e planifikimit te perdorimit te tokes ne Departamentin e Tokave. Qellimi final i seksionit do te jete krijimi i nje plani kombetar, plus atyre lokale dhe atyre per manaxhimin e tokes ne zonat lokale te gjithe Republikes.

Ky seksion do te kete edhe pergjegjesine per te bere kerkime ne nje menyre shume-disiplinore per te percaktuar nevojat specifike ne nje zone te dhene dhe se si aktivitetet specifike te cilat mund te ndikojne ose perfshijne zona lokale te ndryshme. Per shembull, kerkimi mund te kryhet per aktivitetet qe lidhen me rritjen e erzave te ndryshme si majdanozi ose piperi. Ky aktivitet kerkimor, mund te perdoret pastaj qofte ne nje perspektive lokale ose kombetare te planifikimit.

Eshte e rendesishme qe ky seksion te kete planifikues te pergatitur qe te marrin pergjegjesine per pergatitjen e drafteve te planeve me baze kombetare ose lokale. Por eshte gjithashtu e rendesishme qe seksioni te pajiset me persona te disiplinave te ndryshme, te cilet mund te analizojne aktivitetet te cilat do te bejne pjese ne perspektiven e planifikimit.

4. Mbrojtja e Tokes.

Seksioni i mbrojtjes se tokes se ketij departamenti duhet te kete funksionet qe ju sherbejne gjeresisht njerezve ne Shqiperi. Se pari duhet te ekzistoje nje funksion ruajtje. Ky duhet koordinuar me planifikuesit te cilet jane perfshire ne aktivitetet e zonave lokale, deri ne ate pike ku aktivitetet e planifikimit perfshijne perdorimin e

duhur dhe efektiv te tokes.

Se dyti, ky seksion duhet te kete nje fuksion te kontrollit te zhvillimit i cili mbikqyr menyren ne te cilen nje individ do te pelqente te zhvillonte (duke perfshire ndryshimin) perdorimin e tokes se tij. Do te ishte esenciale qe te krijohen standarde per kontrollin e zhvillimit, ne menyre qe te sigurohet qe individet nuk mund ta zhvillojne token e tyre si te duan, pa marre se pari lejen e nevojshme. Sic permendet me siper ne mendimet per aktivitetet e planifikimit te perdorimit te tokes, eshte e nevojshme qe te koordinohen aktivitetet lokale me qendren. Megjithese nuk eshte e pershtatshme per individin qe do te zhvilloje toke e tij/e saj, qe te marre leje direkt nga nje autoritet qendror, kjo kerkese eshte esenciale per te krijuar per te krijuar nje mekanizem per autoritetet lokale te Rrethit qe pergjegjese per kontrollin e zhvillimit pere te bashkevepruar me personat ne departamentin e tokave te cilet marrin vendimin perfundimtar.

Se treti, ky seksion duhet te zhvilloje nje sistem te vleresimit ndikues te ambientit, nepermjet te cilit mund te percaktohet me efektivitet nese nje aktivitet i propozuar i tokes ka kuptim apo jo, vecanerisht kur merret parasysh degradimi i mundshem (si erozioni, etj.) te burimit tokesor. Nje grup inspektoresh qe veprojne ne baze lokale duhet te lidhet me autoritetin qendror me qellim qe te merren me efektin qe nje aktivitet mund te kete mbi token. Do te ishte e domosdoshme te krijohej nje sistem administrativ per te mbeshtetur vleresimin e aktiviteteve te tyre ne kushtet ambjentale. Ky aktivitet do te ishte i domosdoshem qofte ne zonat fshatare, ashtu edhe ne ato urbane.

Se katerti, ky seksion duhet te jete pergjegjes per edukimin ambjental. Kjo do te thoshte zhvillim si i grupeve lokale ashtu dhe atyre kombetare qe do te fokusonin ne ceshtjet e ambjentit. Do te ishte thelbesore te sensibilizohej popullsia lokale per problemetqe ata mund te perballnin ne te ardhmen per shkak te aktiviteteve te vecanta ne zonat e tyre. Kjo do te bente te domosdoshme asistimin ne krijimin e grupeve shkollore, grupet e grave dhe grupet vepruese te ambjentit te fshatitte perpiqen te parandalojne aktivitetet qe mund te conin ne aktivitete negative per ambjentin. Ky funksion edukimi do te ishte si te tjeret nje funksion si rural ashtu dhe urban

Se fundi, dikush ka nevoje te shqyrtoje sa do te jete madhesia e departamentit te tokave. Eshte e qarte qe, toka eshte si urbane dhe rurale. Eshte esenciale nga ana burokratike qe qofte tokat urbane dhe qofte fshatare te jete pjese e cdo aktiviteti toke, pavaresisht nese ai eshte apo jo administrimi, vleresimi, planifikimi i perdorimit te tokes, ose mbrojtja e tokes. Ceshtja e nje grupi funksionesh me te gjera dhe te vecanta ne kete zone eshte nje ceshtje qe duhet shqyrtuar. Megjithate, eshte shume e qarte qe Ministria e Bujqesise dhe Ushqimit duhet te kete nje Departament i cili, te pakten, te merret me keto kater ceshtje me baze te gjere nga perspektiva sektorit bujqesor.

7. Design of the Operations Manual for the Registration Offices

There are two parts to the following. First, is the verbalization of the steps to take a transaction to the Registration Office which follow the chart originally drafted by Romeo Sherko and his draft description, which in turn incorporate ideas developed by the PMU Legal and Registration Departments as well as observations by Helen Schutten. This step by step description is not finished as of the writing of this report and does not yet have an Albanian version, both of which Romeo is preparing. Second is the rewriting of the regulations in the form of a Manual. This is not completed.

Steps in the Registration Office to Complete a Transaction

There are a series of steps that are necessary to follow to complete the registration of a transaction at the zonal Registration Office. The key to completion of the transaction without any complication is to have the appropriate completed form or declaration, notarized and in possession in order to start and complete the process without any complication.

There are a series of steps that one has to follow. They are presented here with brief comment, where necessary, in order to assist both the employees of the Registration Office and the member of the Public in the completion of the process.

Steps: Activity

1. **Transaction**. Persons A & B agree to enter into a transaction which requires a change or notation on the Kartela of the parcel in question.

2. **Visit to the Notary□s Office**. Persons A & B go to the Notary□s office to explain what the transaction is that they wish to enter into. The ideal situation would be for the Notaries to have copies of all the Forms that need to be employed at the Registration Office. If the Notary has a copy of the Form, the persons who wish to enter the transaction simply need to explain to the Notary what the essence of the transaction would be and the Notary would provide the appropriate Form, the parties would sign, the Notary would notarize the Form and the parties would then have to bring it to the Registration Office for processing. If the Notary does not have the Form, one or both of the parties would have to go to the Registration Office, explain the nature of the transaction and take the Form from the Registry to the Notary. The Notary would then process the Form if it is the appropriate one. If it is not appropriate, a second visit would have to be made to the Registration Office to collect the proper

one. It would be most efficient for the process if the Notary already had copies of all the Forms and simply was able to prepare the appropriate Form on the first visit.

3. **Notary Prepares the Proper Form**. As noted in Step 2, the Notary, on the basis of the information about the transaction, selects the proper Form, completes it and prepares the person for the Registration Office and the actual process.

4. **Member of Public goes to Registration Office**. Once the Notary completes the formal preparation of the Declaration or Form, the person goes to the Registration Office.

5. **Request to Register a Transaction**. The person then goes to the Registration Office's public reception area and, in turn, presents the notarized Form or Declaration in order to have the transaction registered.

6. **Clerk looks at the Notarized Form and Checks it Correctness.** The Clerk receives the Form or Declaration, reviews the transaction with the Applicant, checks the Form or the Declaration.

7. **Clerk finds the proper Kartela for the Parcel in Question**. If the information on the Form or Declaration appears correct, the Clerk retrieves the volume in which the Kartela is found.

8. **Comparison with the Information of the Kartela and on the Form**. The Clerk then reviews the information contained on the Kartela with the information on the Form to determine its coherence and if possible its correctness.

9. **Referral to Registrar or Assistant Registrar for Clarification.** If there are any legal questions, the clerk refers the matter to the Registrar or Assistant Registrar for clarification. If the appears to be a problem that can be answered immediately, it is answered. However, if the Kartela and the Form have to be studied or clarified, the Registrar either keeps the Kartela and Form for further clarification or send the Form back to the applicant and suggests that a clarification is necessary. The application process is terminated at this point and the applicant is requested to find the clarifying information and start the process again.

10. **Referral to Surveyor for Clarification**. If the problem the clerk ascertains pertains to the survey plan that is presented with the Application, referral is made to the Surveyor in the Office. A comparison is made with the submission is the Application with the original survey plan. If it can be explained or clarified, the

process continues, if not the Applicant is told to have the survey plan redone, the get the clarifying information or whatever else is necessary and the process will begin anew when the Applicant returns with the clarification.

11. **Determination of the Fee for the Transaction**. If the application is determined to be proper in form and substance, the Clerk determines the appropriate fee for the transaction in question and gives the Applicant a voucher for the payment of the fee..

12. **Payment of the Fee**. The Applicant takes the voucher to the Cashier and pays the fee, in accordance with the statement of charge as set out on the voucher.

13. Entry into Journal. The Clerk enters the information concerning the transaction in the daily master Journal which lists all of the transactions that take place in the Registration Office. Most importantly, the clerk enters the date, time of transaction, sequential registration number and other information that is necessary for accurate record keeping.

14. **Reference of Transaction entered on Kartela**. The Clerk now enters the appropriate information on the Kartela or creates a new Kartela, if one is necessary, making all the cross-referencing information, and replaces the Volume or Volumes to its original place.

15. **Clerk signs the Form or Declaration**. If the Transaction is considered proper, the Clerk signs a copy of the Form to indicate the transaction is considered proper.

16. **Photocopy of Form of Declaration**. The Clerk makes a second copy of the Form (in the case that there are not already two copies when presented by the member of the public)

17. **Copy for Public and Office**. The Clerk presents the member of the public with one approved copy and keeps the second one for the Registration Office files. The Form is sent to the Computer section of the Registration Office. At this point the member of the public has completed his/her relationship with the Registration Office for the current transaction.

18. **Computer Entries**. Each day between 1400 - 1500 the daily transactions are referred to the Computer section for the entries necessary to complete this aspect of the transaction:

    -- collects today's Forms (if behind the week's Forms or whatever is not completed);

-- gets the concerned Kartela;
-- fills in the Kartela in the computer;
-- prepares the List of the day's (appropriate time period) transactions by type of property; and
-- checks the List against the Kartela and Forms.

19. **List in the Journal**. The person who has made the computer entries then takes the List and put it in the cumulative Journal which is located in the front room.

20. **Preparation of List as Backup Copy at end of Month**. The computer operator prepares a disk or tape (to be decided) with all of the transactions of the last month in two copies (one for the Zonal Registry Office and the other for the Master backup copy with the Chief Registrar).

21. **Generates List**. The list that is prepared in generated by the Computer operator for distribution to the proper places.

22. **Double Check of the Monthly List**. The Computer operator then checks the list as prepared against the disk and tape that have been prepared - this is meant to see that the information which is in hard copy is accurate as compared with the backup disk or tape.

23. **File the List**. The List is taken to the Master File of the monthly Lists. These should be kept in an active file for two years.

24. **Deposit of Disk or Tape**. One copy of the disk or tape is sent to the Central Registration Office in Tirana.

25. **Filing for security of all Documents**. The Documents from the different Registration Zones should be sent to the Central Registry (perhaps either semi-annually or quarterly) for preparation of security back-up copy which will be on either microfilm or microfiche.

26. **Updating of the Map sheets**. The surveyor or Mapper takes the survey plan which has been submitted (he does this at the end of the day, if possible) and makes the changes in the map to conform to the new transaction. He does the following:

    -- gets the proper Kartela volume;
    -- gets the proper maps sheet; and
    -- updates the map sheet in question.

27. **Return of Kartela and Map Sheet**. The Surveyor return the Kartela Volume and the Map sheet back to the archives in the proper place. The filing in the Archives in completed by a Clerk

who is responsible for filing and disseminating materials from the Archives, thus assuming responsibility for proper placement.

28. **Preparation of a List of all Mapping Activities**. The Surveyor or Mapper then prepares a master list, to be enter in a Journal, of all maps that have been changed.

29. **Digitization and updating of Maps**. Twice a year the Zonal Registration Offices send the updated maps for digitizing in the Central Office (the digitizing is to be done by computer/ the changes in the Zonal Registration Offices at the time of change will be done by hand.

(b) Albanian

8. Perpilimi i Udhezuesit nepermjet te cilit Zyrat e Rregjstrimit do te Organizohen

E meposhtmja ka dy pjese. E para, eshte shprehja me fjale e hapave per te derguar nje transaksion ne Zyren e Rregjistrimit e cila ndjek diagramen e bere te njohur nga Romeo Sherko dhe pershkrimin e draftit te tij. Kjo analize e bere hap pas hapi nuk ka mbaruar persa i perket shkrimit i ketij raporti dhe ende nuk ka nje version Shqip, gjera te cilat Romeo po i pergatit. E dyta eshte rishkrimi i rregullimeve ne forme te nje Udhezuesi. Kjo nuk eshte perfunduar.

Hapat ne Zyren e Rregjistrimit per te Perfunduar nje Transaksion

Ka nje seri hapash qe jane te domosdoshme te ndiqen per te perfunduar rregjistrimin e nje transaksioni ne Zyren e Rregjistrimit te zones. Celsi i perfundimit te transaksionit pa asnje komplikacion eshte te kesh formularin ose deklaraten e duhur te kompletuar, te noterizuar dhe ne zoterim me qellim per te nisur dhe perfunduar procesin pa asnje komplikacion.

Ka nje seri hapash qe dikush duhet te ndjeke. Ato jane paraqitur ketu me koment te shkurter, ku eshte e nevojshme, me qellim qe te ndihmoje si te punesuarit e Zyres se Rregjistrimit ashtu edhe anetarin e Publikut ne perfundimin e procesit.

Hapat: Aktiviteti

1. **Transaksioni.** Personat A dhe B bien dakord te hyjne ne nje transaksion i cili kerkon nje ndryshim ose nje sistem simbolesh ne kartelen e parceles ne fjale.

2. **Vizite ne Zyren e Noterise.** Personat A dhe B Shkojne ne zyren e Noterise per te shpjeguar ne cfare transaksioni ata deshirojne te hyjne. Situata ideale per Noteret do te ishte te kishin kopje te te gjithe Formulareve qe nevoitet te perdoren ne Zyren e Rregjistrimit. Nese

Noterja ka nje kopje te Formularit, personat qe deshirojne te hyjne ne transaksion nevojitet vetem t'i shpjegojne Noteres si do te ishte thelbi i transaksionit dhe Noterja do te siguronte Formularin e duhur, palet do te firmosnin, Noterja do te noterizonte formularin dhe palet do te duhej t'a sillnin pastaj ate ne Zyren e Rregjistrimit per perpunim. Nese Noterja nuk e ka Formularin, njera ose te dyja palet do te duhej te shkonin ne Zyren e Rregjistrimit, te shpjegonin natyren e transaksionit dhe te conin Formularin nga Zyra e Rregjistrimit tek Noterja. Noterja pastaj do te perpunonte Formularin nese ai do te ishte ai qe duhej. Nese ai nuk do te ishte i duhuri, nje vizite e dyte do te duhej te behej ne Zyren e Rregjistrimit per te gjetur te duhurin. Do te ishte me me eficience per procesin nese Noterja tashme do t'i kishte kopjet e te gjithe Formulareve dhe vetem do te ishte e afte te pergatiste Formularin e duhur qe ne viziten e pare.

3. **Noterja Pergatit Formularin e Duhur.** Sic eshte vene re ne Hapin 2, Noterja, ne baze te informacionit rreth transaksionit , perzgjedh Formularin e duhur, e perfundon ate dhe e pergatit personin per Zyren e Rregjistrimit dhe procesin aktual.

4. **Anetari i Publikut shkon ne Zyren e Rregjistrimit.**Sapo Noterja perfundon pergatitjen formale te Deklarates ose Formes, personi shkon ne Zyren e rregjistrimit.

5. **Kerkon te Rregjistroje nje Transaksion.** Personi qe shkon ne zonen e pranimit publik te Zyres se Rregjistrimit dhe, me radhe, paraqet Formularin ose Deklaraten e noterizuar me qellim qe t'i rregjistrohet transaksioni.

6. **Nepunesi shikon Formularin e Noterizuar dhe Kontrollon Saktesine e tij.** Nepunesi merr Formularin ose Deklaraten, inspekton transaksionin me Aplikuesin, kontrollon Formularin ose Deklaraten.

7. **Nepunesi gjen Kartelen e duhur per parcelen ne fjale.** N.q.s. informacioni ne Formularin ose Deklaraten paraqitet i sakte, Nepunesi gjen perseri vellimin ne te cilin Kartela eshte gjetur.

8. **Krahasimi me Informacionin e Karteles dhe ne Formular.** Nepunesi pastaj inspekton informacionin qe permban Kartela me informacionin ne Formular per te percaktuar koherencen e tij dhe nese eshte e mundur saktesine e tij.

9. **Referimi tek Rregjistruesi ose Asistent Rregjistruesi per Sqarim.** N.q.s. ka ndonje ceshtje ligjore, nepunesi j'a percjell ceshtjen Rregjistruesit ose Asistent Rregjistruesit per sqarim. N.q.s. ai paraqitet nje problem qe mund t'i jepet pergjigje menjehere, i jepet pergjigje. Megjithate, nese Kartela dhe Formulari duhet te studjohen ose te sqarohen, Rregjistruesi ose mban Kartelen dhe Formularin per sqarim te metejshem ose j'a kthen Formularin aplikantit dhe i sugjeron qe nje

sqarim eshte i domosdoshem. Procesi i aplikimit ne kete pike eshte i perfunduar dhe aplikantit i kerkohet te gjeje informacionin sqarues dhe te nise procesin perseri.

10. **Referimi tek Topografi per Sqarim.** N.q.s. problemi qe nepunesi merr vesh ka te beje me planin e rilevimit qe paraqitet me Aplikimin, referimi behet kundrejt Topografit ne Zyre. Nje krahasim i bere me paraqitjen eshte Aplikimi me planin fillestar te rilevimit. Nese ai mund te shpjegohet ose te sqarohet, procesi vazhdon, nese jo aplikantit i thuhet te rihape planin e rilevimit, per te gjetur informacionin sqarues ose cdo gje tjeter qe eshte e domosdoshme dhe procesi do te filloje serishmi kur Aplikanti te rikthehet me sqarimin.

11. **Percaktimi i Kuotes per Transaksionin.** N.q.s. aplikimi eshte percaktuar si i pershtatshem ne forme dhe permbajtje, Nepunesi percakton kuoten e duhur per transaksionin ne fjale dhe i jep Applikantit nje kupon per pagimin e kuotes.

12. **Pagesa e Kuotes.** Aplikanti con kuponin tek arketari dhe paguan kuoten, ne perputhje me shpalljen e cmimit sic behet e njohur ne kupon.

13. Hyrja ne protokoll. Nepunesi fut informacionin qe ka te beje me transaksionin ne Protokollin e perditshem zoterues i cili ve ne liste te gjitha transaksionet qe ndodhin ne Zyren e Rregjistrimit. Me me rendesi, nepunesi fut te dhenat, kohen e transaksionit, numri vijues i rregjistrimit dhe informacion tjeter qe eshte i domosdoshem per mbajtje te perpikte te rregjistrimit.

14. **Referenca e Transaksionit te hyre ne Kartele.** Nepunesi tani fut informacionin e duhur ne Kartele ose krijon nje kartele te re, nese eshte e domosdoshme, duke bere gjithe informacionin kryq-referues, dhe rivendos Vellimin ose Vellimet ne vendin e tyre fillestar.

15. **Nepunesi firmos Formularin ose Deklaraten.** N.q.s. Transaksioni konsiderohet i duhur, Nepunesi firmos nje kopje te Formularit qe te tregoje qe transaksioni eshte konsideruar i pershtatshem.

16. **Fotokopje e Formularit ose e Deklarates.** Nepunesi ben nje kopje te dyte te Formularit (ne rast se nuk ka dy kopje ne momentin qe paraqitet nga anetari i publikut)

17. **Kopje per Publikun dhe Zyren.** Nepunesi i paraqet anetarit te publikut nje kopje te miratuar dhe mban te dyten per skedaret e Zyres se Rregjistrimit. Formulari i dergohet seksionit te Kompjuterit te Zyres se Rregjistrimit. Ne kete pike anetari i publikut ka perfunduar lidhjen e tij/e saj me Zyren e Rregjistrimit per transaksionin aktual.

18. **Hyrjet ne Kompjuter.** Cdo dite nga 1400 - 1500 transaksione ditore i

referohen seksionit te Kompjuterit per hyrjet e domosdoshme per te perfunduar kete aspekt te transaksionit:

-- mbledh formularet e dites (nese ka pune te prapambetura, mbledh formularet e javes ose te tera ato qe nuk jane plotesuar);

-- merr kartelat ne fjale;

-- ploteson regjistrin(kartelen) ne kompjuter;

-- pergatit listen e transaksioneve te dites (sipas periudhes kohore) sipas llojeve te pronave;

-- kontrollon listen me kartelat dhe formularet.

19. Shenimi ne regjister. Personi qe ben futjen e te dhenave ne kompjuter, e merr listen dhe ben hyrje ne regjistrin perfundimtar i cili ndodhet ne dhomen e perparme.

20. Pergatitje e listes rezerve ne fund te muajit. Informaticinei pergatit nje diskete ose nje shirit (qe duhet te vendoset) me te tera transaksionet e muajit te fundit, ne dy kopje (nje per zyren e regjistrimit te zones dhe tjetren per zyren e krye regjistruesit.)

21. Nxjerrja e listes. Lista e pergatitur nxirret dhe u shperndahet zyrave perkatese.

22. Kontrollimi i listes mujore. Operatori i kompjuterit pastaj kontrollon listen e pergatitur me ate qe disketes ose shiritit - kjo behet per te pare nese informacioni ne leter korrespondon me kopjen ne forme manjetike.

23. Depozitimi i listes. Lista pastaj cohet ne dosjen e listave mujore. Keto duhen mbajtur aktive per te pakten dy vjet.

24. Depozitimi i disketes ose shiritit. Nje kopje e disketes ose shiritit i dergohet zyres qendrore te regjistrimit ne Tirane.

25. Depozitimi i tere dokumentacionit per qellime sigurie. Dokumentacioni nga zonat e ndryshme te regjistrimit duhet derguar ne zyren qendrore (ose cdo gjashte muaj ose cdo tre muaj) per pergatitjen e kopjeve rezerve, ose ne mikrofilma ose ne mikrofisha.

26. Azhornimi i hartave. Topografi ose hartografi merr planit topografik i cili eshte dorezuar (kjo behet ne fund te dites nese eshte e mundur) dhe ben ndryshimet ne harte per te paraqitur transaksionin e ri. Ai kryen veprimet e meposhtme:

- merr volumin e karteles perkatese

- merr hartat perkatese; dhe
- azhornon harten ne fjale.

27. Kthimi i kartelave dhe i hartave. Topografi kthen ne vendin e duhur ne arkive volumin e karteles dhe harten perkatese. Depozitimi ne arkive behet nga nje nepunes i cili eshte pergjegjes per depozitimin dhe shperndarjen e tere materialeve te arkives, duke patur keshtu pergjegjesine per vendosjen e duhur te materialeve.

28. Pergatitja e nje Liste per te gjitha Aktivitetet Hartografike. Rilevuesi ose hartografi me pas pergatit nje liste baze, e cila duhet hedhur ne nje Regjister, te te gjita hartave qe jane ndryshuar.

29. Digjitalizimi dhe Azhornimi i Hartave. Dy here ne vit Zyra Zonale e Regjistrimi dergon hartat e azhornuara per digjitalizim ne Zyren Qendrore (digjitalizimi behet me kompjuter/ ndryshimet ne Zyrat Zonale te Regjistrimit ne kohen e ndryshimit do te behen me dore.

c) The Manual in general:

This section is incomplete. It was not part of the Terms of Reference, but it was felt that a manual must be prepared for the employees of the Registration Offices. Therefore, a draft was begun, but it was not completed as time did not allow for it. Since the draft was not completed, no translation in Albanian was prepared.

MANUAL
FOR THE OPERATION
OF AN
IMMOVABLE PROPERTY REGISTRATION OFFICE (REGISTRY)

Table of Contents

Chapter I

Introduction

Chapter II

ORGANIZATION OF IMMOVABLE PROPERTY REGISTRATION SYSTEM

A. Immovable Property Registration Offices [the Registries]

In accordance with Part II of Law No.7843, date 13.7.1994, Registration Act, the Republic of Albania is divided into 37 immovable property registration zones (hereafter called Zone) which are geographically divided to coincide with the existing local government divisions known as Districts. The District of Tirana, which is the largest, is divided into two registration zones.
(see three Variants attached).

In every Zone there is one Immovable Property Registration office which is authorized to operate independently as a legal person. It has a separate bank account and seal in addition to its office.

Each zone is sub-divided into smaller cadastral zones (on a village and sub-divided urban basis) with administrative reference codes). The boundary of the administrative and cadastral zones is defined in the Registry Index Map (RIM)

Within a cadastral zone, the immovable properties, known as parcels, are designated by boundaries on the Registry Index Map, and the presentation of all of the information concerning each parcel is on the Kartela which is also referred to as the Register. Any transaction which concerns this property is registered on the Kartela and important references are included on the Index Maps. Each property has a unique number known as the UPRN, Unique

Property Reference Number, which is independently coded for every District and cadastral zone so there is no duplication. These numbers (UPRNs) are included on both the Index Map and Kartela.

B Registration Office Seal [Official Stamp]

Each Registry has its own seal. Any document which is issued by the Registry should be made official by the seal. The registration offices will use the seal in the following types of transactions:

19. where the reception has received a form or some other type of document. The document shall be stamped and the time and date of submission to the Registry shall be noted;

20. where a document is prepared for the archives, the documents shall have a stamped notation as to when it was received and when it is to be filed in the archives;.

21. where a payment is required the transaction shall be stamped to make it official;

22. where it is necessary for the certification of copies for persons using the Registry when the original has to remain in the Registry.

C. Documents kept in the Registration Office

23. The Immovable Property Registers. There are volumes of two hundred and fifty sheets or Kartelas (each sheet equals one register). The pages are numbered from one to two hundred and fifty (1 to 250). Each Volume is successively numbered and the Kartela is found on a page in that volume. In each Registry the volumes are given numbers with a pre-fix so that the volume number for the Registry can be determined for each District and sub-division or cadastral zone. Each Volume contains Kartelas for state, private and public Immovable Properties.

24. The Original and Copies of the Registry Index Maps. The map sheets and copies of them which have been developed and changed over time. They will be found in each Registry and there will be one copy of all the sheets in the Chief Registrar□s Office in Tirana. (See Chapter II, Maps and Other Topographic Subjects)

25. The Parcels Books and Field Topographic Documentation. The books which describe the process of adjudication and notification before the first registration. These documents are kept in the archives relating to each parcel of land.

26. Certifications, documents declarations, etc. All documents which effect the ownership interest or the registration and status of the same such as: the documents which recognize the legality of ownership or use, survey plans, the documents which deal with the privatization of apartments, the documentation of restitution of properties to the ex-owners, other legal documents concerning privatization, contracts for the transfer of property, relevant court decisions, mortgages, acts and orders of inheritance, and other documents that effect the rights over immovable property.

27. Indexes. Index books which relate to issues of registration like those that refer to the parcels according to: the property number, owner's name and address, etc.

28. Computerized Databases. The databases that comprise the Immovable Property Registration System, the Mapping system and all databases that comprise part of the LIS or GIS database.

29. Controls and analysis. The materials that comprise analyses and controls about the operation of the system.

30. Record Books of claims from the legal and physical persons and the reply from the Registration Office.

31. Financial documentation. All financial records about the maintenance of the Registration Office.

D. The Chief Registrar

The Chief Registrar is the head administrator of the system and has to ensure an accurate implementation of the Law on the Registration of Immovable Properties. He has the following rights and responsibilities:

- In cooperation with the Council of Ministers, He has to define the immovable property registration zones.

- To nominate the Registrar and Assistant Registrar of the District Registration Office.

- To prepare a set of fees and fines according to the Immovable Property Registration Law to be approved by the Council of Ministers.

- To control the activity of all the Registrars and their offices.

- To prepare a standard policy for the parcel mapping, Kartela preparation,

fees and fines collection.

- To create and maintain the archives for computerized database copies and also copies of all the RIM of each Registration Office.

- To propose necessary changes for legal and by-legal acts to the Council of Ministers.

- To take over all those administrative duties assigned to him by Law or by the decision of the Council of Ministers.

- Individuals, who have not provided the Registrar with sufficient information are to be charged with all the expenses for this collection of information.

- To organize training for the registration office employees and provide them with technical assistance.

- To approve the Interior Regulation of the registration office operation.

- To review Registrars decisions in cases of claims.

- To direct the annual audit for all the registration offices.

E.. The Registrar

The Registration Zone Registrar is nominated from the Chief Registrar. The Registrar is responsible before the Chief Registrar for both the storage of documentation and other aspects of Registration Office administration for that registration zone.

The Registrar acts in conformity with the Albanian Existing legislation in directing the Registration Office work.

The Registrar and the Assistant registrars have the following rights and responsibilities:

- The Registrar is responsible for the daily work of his office staff. The Assistant registrar informs the Registrar on the continuance of the work in the registration office.

- Initiate and follows the first Immovable Property registration up to its end.

- Requires the submission of documents he thinks are necessary from the persons who are interested in, asks for information and clarification about the immovable properties and the interested person is obliged to give that.

- Notifies in a written form and orders every person to submit documents for registration to the registration office in the case when a person deliberately

does not present such documents.

- Suspends registration in the case when the documents of ownership, lease etc, are incomplete etc, and in the case when it is not acted in conformity with the Registration Law.

- Administers the documentation and verifies it.

- Is responsible for the preparation and maintenance of Registry Index Maps of the Registration Office.

- May correct the Kartela or the RIM when the mistakes do not affect the interests of an owner. This is done on the basis of a court decision with the request of the interested persons, when after the property surveying, it comes out that an area registered in Kartela or RIM is not accurate. In this case the owners whose interests are affected should be notified.

- On the request of the interested parties, makes a decision for indemnification of the damage caused by a record of not exact information.

- Proposes to the Chief Registrar the amount of expenses done by the Registration Office for the verification of the property in the case of a incorrect declaration of the property and which is at the charge of the person who declares.

- Supervise the financial activity of the Registration Office.

F. Other staff of the Registration Office.

1. The Registration administrators. The administrative employees of the registry, who will deal with the public and receive the requests for administrative activities that relate to registration, have the following responsibilities:

a) To receive requests of people who come at the registration office;

b) To record in the corresponding book the presented requests;

c) To fill in the necessary forms according to the presented requests;

d) To consult the Property Kartelas in order to define the validity of the presented requests;

e) To submit to the Registrar the forms for approval;

f) To make an entry of the action in the relevant Kartela;

g) To fill in the certificates according to the requests presented by the interested persons;

h) To look for in Database;

2. Cartographic employees. The cartographic employees of the Registry who will have responsibility for all the technical aspects of the mapping system; they are responsible for checking the surveying plans, updating and designing new surveying plans according to the rules as defined in Chapter II of this Regulation.

3. Archivists

- Are responsible for archiving all the ownership documentation which begins with the first registration based on the ownership documentation recognized by the relevant laws.

- Are responsible for archiving all the documents presented according to the requests of the registration office for the realization of various transactions over the immovable property.

4. The Informatician [the Computer Person]

- Based on the relevant software the informatician enter in computer all the data about the immovable property that exists in the registration office.

- He enter in Database of all the changes done in the immovable Property Kartelas in cooperation with the Registrar and the Assistant Registrar.

Financial administrator

Is responsible for recording all the financial activity of the Registration Office according to the relevant legislation. (Erida)

8. Terms of Reference for Legal Projects to be submitted to competition for Albanian specialists

a) Analysis of land conflicts
b) Use of traditional authority systems

(a) Analysis of Land Conflicts:

1. Find the different type of land disputes in different Districts - looking at coastal lowland, mountain and urban;

2. By looking at Article 10 of the proposed Mediation Organ Law see what kinds of disputes predominate and determine if there are others that should be included;

3. Try to ascertain how many land disputes are □legal□ and how many are □factual□;

4. Do a follow-through on the manner in which the disputes are handled;

5. Chart the time spent by a sampling of disputants in different type of cases, in differing locales to understand how different types of cases are treated differently;

6. Determine the manner in which local traditional village authorities are perceived;

7. Through interviews determine how the people would like to handle land disputes; and

8. Determine if the way land disputes are presently handles *s effective.*

(b)The use of traditional authority systems.

1. Describe the different traditional systems of dispute settling in different areas of Albania;

2. Explain which ones are still operating and why that is so;□

3. Determine from villagers what their view of the traditional dispute settling system might be;

4.Assess the manner in which the traditional system is presently operating;

5. Determine what ordinary villagers would like as a system of dispute resolution; and

6. See if the traditional system conforms to the plan in the Mediation Organ Law.