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### **THE IMPACT ON THE DEVELOPMENT OF A LAND MARKET IN ALBANIA CAUSED BY THE RESTITUTION AND COMPENSATION OF AGRICULTURAL LAND**

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#### **SUMMARY**

This report focuses on the influence that the claims of ex-owners have had on the development of a land and real estate market in Albania regarding the restitution and/or compensation of agricultural land owned by them before expropriation. In the beginning you will be presented with some information concerning the origins and ownership of agricultural land in Albania and then this report will explain the effects caused upon the redistribution of property by the implementation of the Agrarian Reform that took place in the year 1946. Later, the adaptation and implementation of the Soviet model of Socialist collectivisation brought about the total elimination of private ownership of agricultural land. The downfall of Communism and the initiation of a democratic process was followed by a series of transitional reforms that began with the restoration of private ownership of agricultural land.

After explaining how the privatization process progressed in accordance with a special law, the emergence of issues regarding the restitution or compensation of agricultural land to ex-owners will be indicated. This report explains all the efforts that have been applied in order to obtain a solution to this problem, the many difficulties and barriers encountered, failures and reasons for their occurrence and other matters that have seriously caused delays and have at times endangered the success of this reform. Special attention is dedicated to the fact that the failure to resolve the claims of ex-owners will have an enormous effect upon the land and real estate market in Albania.

This report will suggest a course of action that can be taken for a definitive solution to this problem, as one of the most decisive conditions for the achievement of political and economical stability to the benefit of the present and future of Albania.

## **INTRODUCTION**

In the year 1991, after almost one-half of a century of totalitarianism, Albania started the long and arduous process of transition from a communist dictatorship to a democracy, from a centralized economy to an economy based on free enterprise. It was necessary for a series of reforms and transformations to be undertaken in all fields of everyday living, social and economic activities. Many strategies were developed for the achievement of these changes, necessary transformations that would answer the problems created during the transition.

The Agricultural sector, representing more than 60% of the Albanian population, was a sector in which the need for complete change was acute and imminent. This was so because the interference of the communist regime in that sector was so deep and deforming, causing the disappearance of any capitalistic element. In agriculture only state property existed; state owned enterprises, state owned farms, collective working teams, state owned markets, etc.,etc.... Only a person's biological life was private.

In the wholeness of measures and strategic reforms that took place in the agriculture sector during the transition, the central spot, "the Achilles heel", was comprised of all the processes connected with the creation of the appropriate markets and institutions that did not exist. The creation of a land and real estate market is probably the most sought after, the most important, most difficult and complicated part of the prolonged and tiresome process of transition in Albania. In order to achieve the necessary, expected results all the components important for the functioning of this market like: the creation of privately owned agricultural land, the creation of institutions and infrastructure essential for all transactions, the creation of legislation and necessary procedures and the bases for teaching this buying and selling psychology would have to be built from the ground up.

Even though there have been important accomplishments, we have to accept that we are far from reaching a final solution to this problem. Many problems have arisen and they have a negative influence not only the creation and functioning of this market but also the lengthy transition of Albania toward free enterprise and of future integration with regional and international economic and political institutions. Amongst the problems that have a negative impact on the development of a land and real estate market in Albania, that of restitution or compensation of the land to its previous owners is probably the most important and most difficult that needs to be solved.

We are aware that this problem is, to a certain extent, specific for Albania. We hope though, there would be interest to have this subject included as a topic of exchange on transition experience in the field of agriculture in Eastern Europe.

## **THE ORIGINS OF AGRICULTURAL LAND OWNERSHIP IN ALBANIA**

Before 1912 Albania was a western border province of the Ottoman Empire. Agricultural land ownership was regulated by the Osman code of law and Turkish legislation ( see Table 1).

**Table 1. Agricultural land ownership in the year 1912**

Land ownership	Surface area	
	hectar	%
State and Sultanate Property	56287	14,7
Latifundist Property	140000	36,7
Farmers Property	171789	45,0
Religious Property	13700	3,6
<b>TOTAL:</b>	<b>381.776</b>	<b>100,0</b>

After the proclamation of independence and a very unstable period, the result of several regional and continental conflicts (the Balkan wars and the World War I), the new and independent Albanian state was reduced to a size of 28748 Km<sup>2</sup> and about one-half of the territory that had been historically inhabited by Albanians was left outside of the political borders.

Until 1946, the year in which the Communist regime that came in power after the Second World War applied the Agrarian Reform, private ownership of agricultural land predominated in Albania (Table 2).

**Table 2. Agricultural land ownership in the year 1946**

Land ownership	Number of Families		Surface of agricultural land. in ownership.	
	Nr.	%	hectars	%
State property	–	–	50000	12,71
Large land owners	4720	3,04	105587	26,86
Small and medium scale land owners	128961	83,08	237668	60,43
Landless Farmers	21544	13,88	–	–
<b>TOTAL:</b>	<b>155225</b>	<b>100,00</b>	<b>393255</b>	<b>100,00</b>

It is also of interest to understand how this land was distributed between the various categories of owners (Table 3).

**Table 3. Agricultural land ownership until 1946 according to the size of property.**

Category based on Property size	Number of families	%	Surface of agricultural land in ownership	
			hectar	%
From 0 to 0,5 ha.	36548	23,55	10707	2,73
0,5 - 1,0	27962	18,01	20070	5,10
1,0 - 3,0	53763	34,64	101905	25,91
3,0- 5,0	19065	12,28	70417	17,90
5,0 - 10,0	13167	8,49	84475	21,48
10,0 - 100,0	4585	2,95	61181	15,56
100,0-300,0	97	0,06	15600	3,97
300,0- 500,0	21	0,01	8400	2,14
500,0-1000,0	10	0,006	6000	1,52
Latifundists above 1000 ha.	7	0,004	14500	3,69
<b>TOTAL:</b>	<b>155225</b>	<b>100,00</b>	<b>393255</b>	<b>100,00</b>

From the data shown in Table 2 and Table 3, it becomes clear that only 3% of the owners controlled 27% of the land and 14% of families were landless. A large number of farm families owned an average 1.8 ha. each. These circumstances were the justification used by the Communist regime for undertaking the Agrarian Reform.

### **THE AGRARIAN REFORM AND THE DISPOSSESSION OF LARGE AND MEDIUM SCALE OWNERS**

In August 1945 the Law “On the Agrarian Reform” was approved. According to this law all property owned by previous governments and those owned by religious entities, large scale land owners (Latifundists), medium scale owners and World War II Fascist collaborators would have their land obligatorily expropriated, partly or entirely, without any compensation. All the landless farm families, those with little property or those forced to move from the war devastated areas would profit from the redistribution of this land. The land was given in ownership to these families, and the whole process was legitimized by supplying them with a special document called a “Tapi”. However, this type of ownership was very incomplete because the new owner had no right to sell or rent out his land. This law eliminated altogether any possibility for the growth of a land and real estate market.

The Law “On Agrarian Reform”, if viewed as a whole, was acceptable and democratic at that time, but in fact it was never completely implemented because a short time after its release and during its execution, administrative decisions and legal decrees amended it. These alterations removed any democratic essence this law had and by the end of 1946, after complete implementation, the land of most large and medium scale land owners was completely expropriated. Ironically, the law that claimed it would forever remove “the serfs” from the statistics created a new category, that of the “Dispossessed Families”. Expropriation was not the only suffering that this class had to undergo. They were labeled “Class Enemies”

and suffered political discrimination as well. The Agrarian Reform caused a serious shock to the right of agricultural land ownership (Table 4).

**Table 4. Agricultural land ownership in the year 1947 after the completion of the Agrarian reform.**

Land ownership	Number of Families		Surface of agricultural land in ownership	
	Nr.	%	Ha.	%
State property	-	-	50000	12,27
Large and medium scale families partly or entirely dispossessed	11121	7,41	50028	12,28
Those not dispossessed but who did not receive land either .	88740	59,16	115637	28,39
Those who for the first time owned land	50139	33,43	191720	47,06
<b>TOTAL:</b>	<b>150000</b>	<b>100,00</b>	<b>407385</b>	<b>100,00</b>

#### **SOCIALIST COLLECTIVISM AND THE TOTAL ELIMINATION OF PRIVATE OWNERSHIP OF AGRICULTURAL LAND.**

The Agrarian Reform did not serve to eradicate feudalism to the extent claimed by the Communist propaganda. For the most part the reform served the implementation of socialist collectivism in the field of agriculture, adopted from the Soviet model. The process started with the decree “On the Creation of Cooperative Farms” issued by The People’s Assembly on 20 April, 1946, and after intensive activity was completed throughout the country in 1967. Legally, the Cooperative Farms were “Group Property” but in reality they were owned by the state. Subsequent laws and decrees eliminated all capitalistic components on the farms until 1976, a year in which the new Constitution declared that all agricultural land was exclusive property of the state. This made Albania the first and only country in Europe to eliminate private ownership of agricultural land and make the state its sole, exclusive owner (Table 5).

**Table 5. Land ownership until 1989.**

Land ownership	Surface of agricultural land in ownership	
	ha	%
State Agricultural Enterprises (NB)	161000	23
Cooperative Farms (KB)	524000	74
Private*	19000	3
<b>TOTAL:</b>	<b>704000</b>	<b>100</b>

**Annotation** (\*) This area is comprised only of land located inside the farm house property (courtyard/gardens) and which could not serve for production.

It is, of course, unnecessary to focus on the catastrophic consequences that the Socialist Collectivisation caused, consequences which are well known.

### **THE COLLAPSE OF COMMUNISM AND THE REINSTATEMENT OF THE RIGHT TO PRIVATE OWNERSHIP OF AGRICULTURAL LAND**

In the fall of 1989 the Communist government, pressured by the ever-changing political situation in Eastern European countries and especially from the general economic collapse inside the country, was forced to decree the allocation of 0.2 ha. (in the plains) or 0.3 ha. (in mountainous areas) to every farm family who was a member of the cooperative. Later, in the beginning of 1991, the area was increased to 0.4 ha. of land and every family living on the State Agricultural Enterprises was given 0.2 ha. Thus, after a 45 year period the privatization process began once again in Albania.

These decisions that were imposed were the starting point of a dismantling process that brought to an end the Cooperative farms that had been built and developed with a fanatic persistence for almost half a century. At the same time an end to the Communist dictatorship was inevitable and Albania, like its Eastern counterparts, started down the path toward democracy and free enterprise.

A new pluralist Parliament comprised of two parties, the Former Labour Party with 70% of the seats and the new Democratic Party with 30% of the seats, was created from the first democratic election that took place in March, 1991. However, the Government approved by this Parliament was communist controlled. The political war between these two parties rapidly caused a political crisis which in turn caused the collapse of this Government. A "New Stability Government" was created in June, 1991, hosting members of five political parties.

One of the first problems that this new Government faced was that of ownership of agricultural land. Law 7501 "On (Agricultural) Land" drafted and approved by the Parliament in July, 1991, was a compromise between the two biggest parties: The Socialist Party (former Labour Party) and The Democratic Party. With this law each one of these parties achieved a part of their respective objectives that were set forth in their Political Programme.

The Socialist Party accepted the privatization of agricultural land and the Democratic Party accepted the Principle of Equality in the distribution of this property, based on every family member. This Law was not only a reform law but also a property law because it dealt not only with the distribution of the land but also with the right of ownership to the property, accepting for the first time in 45 years the right to private ownership of agricultural land.

According to this law, properties would not be restituted to those families affected by the Agrarian Reform. Rather, the land would be distributed to those families living on the farms as of 31 July 1991 and it was given "...in ownership or in use to those natural or legal persons without compensation" (Article 3). This property "could not be purchased or sold" (Article 2). The size and location of the land given in ownership would be determined by a special committee (The Land Committee) (Article 5) which would determine the criteria for the division and distribution of the land and would develop the proper procedures through a series of Government decisions.

The process of implementation of the Law "On (agricultural) Land" began quickly and the steps of privatization were truly fast if not spectacular. In the first four months alone (September-December 1991) more than 50% of agricultural land was privatized (Table 6).

**Table 6. The steps of the agricultural land distribution/privatization according to the "Agricultural land Law Nr.7501"**

Years	Surface of privatized land	
	ha	%
September- December 1991	308000	58
1992	412000	77
1993	508000	89
1994	522000	92
1998	546000	96

Nevertheless, an area of 150.000 ha. remained undistributed with the farmers refusing the right of ownership of the land because of low productive qualities, of far and inconvenient location from their residences, the impossibility to irrigate, etc. This land remains State property.

Even though there is no dispute that the implementation of the Law "On Land" has successfully reinstated private ownership of agricultural land, the privatization process is, unfortunately, not complete even after a ten year period. In this extensive process a series of difficulties and objections has arisen, especially claims of ex-owners whose property was expropriated during the Agrarian Reform, creating probably the most acute and difficult problem to be solved and which has had a serious influence on the creation and proper functioning of the land and real estate market.

## **THE RESTITUTION AND COMPENSATION OF AGRICULTURAL LAND TO THE EX-OWNERS - A DIFFICULT PROCESS REQUIRING AN URGENT SOLUTION**

As previously mentioned Law 7501 “On (agricultural) Land” did not return the right to complete or partial ownership to those dispossessed from the Agrarian Reform. A powerful movement was born right after the approval of this law and continued to grow during implementation. All of the ex-owners organized in an association called “Property with Rights” and with the support of some political parties, exhibited intensive political activity, at times reaching violent forms of protest. The aim of all their activities was an unconditional and unlimited return of the right of ownership to the legitimate ex-owners.

The Parliament and the Stability Government explained the exclusion of the ex-owners and their rights with some arguments like: the area of agricultural land per capita was very small- 0.22 ha/person (maybe the smallest in Europe), the majority of the population was living on farms (64%), the population had tripled compared with the years of the Agrarian Reform, there were big changes and a demographic shift between the different regions and the transformations in the country’s infrastructure and geography created serious problems in the identification of properties and legal documents associated with them, etc...

Since the “New Stability Government” (which later on would be replaced with a Technical Government), and the Parliament itself (which would be dissolved before the early elections that took place in March 1992), had a temporary character and they did not undertake any efforts to begin discussions about the claims of the ex-owners. This duty would be left for the new Parliament to face. After the March 1992 elections, the Democratic Party came in power (more than 70% of the votes) and the Parliament gave its vote of confidence to a new Government, a three Party coalition.

The Government and the Parliament were quickly faced with the acute problem of the ex-owners, which in turn was set as a condition for the successful progress of the reforms in agriculture and for the creation of the land and real estate market. For a solution to this problem three alternatives existed:

1. The unlimited and unconditional return of the right to ownership of agricultural land.
2. Complete compensation with monetary value or other forms, equivalent to the right to ownership of agricultural land.
3. Partial compensation with monetary value or other forms of property.

The Government and the Parliament choose the third alternative arguing that this decision fit best with the characteristics and difficulties of Albanian reality. At the beginning of 1993 Law 7699 (date.21.04.1993 ): “On the Compensation in Value of Agricultural Land to the Ex-owners” was approved. One year later, this law was followed by Law 7836 (date.22.06.1994) “On the Price of Agricultural Land for Purposes of Compensation” which was approved with the intention of reaching completion in a short time.

The law on compensation recognized the right to ownership to the ex-owners of agricultural land for the purposes of compensation that had this right at the time of the approval of Law “On Agrarian Reform” (Article 1). This right would be recognized for their legal heirs (Article 3). The right of ownership would have to be certified with valid official documents or court decisions (Article 4). In cases where the ex-owners or their heirs had obtained

agricultural land according to Law 7501 “On (agricultural) Land” they would then be compensated only for the remaining difference (Article 6).

All of the ex-owners would be fully compensated for properties up to 15 ha. Those who owned more than 15 ha. would be compensated for the extra area according to a special formula but in any case the compensated area was not to exceed 43.5 ha. (Article 8) The compensation would be done using monetary values according to a special law that would be approved after a six month period (Article 9), but only through State Bonds, issued in LEK, which the State was obliged to liquidate through other State property until 31.12.1999. After this time limit the compensation could be done in cash (Article 10). Those who could not profit from this law were: Fascist collaborators during World War II, Ex-Chiefs of the Labour Party and of the Communist government and those punished for unlawful appropriation of public property (Article 12).

For the implementation of this law a Committee would be created: The “State Committee on Restitution and Compensation of Property to the Ex-owners” (KSHKKPP), with branches in every district of the country (Article 13), was created and ex-owners would present ownership documents within a one year period after the effective date of the law (Article 14).

The approval and beginning of the implementation of the law had no visible effect or change in attitude of the ex-owners who continued their efforts for the achievement of their extreme goals with the same intensity. After an eight year period of activity of the KSHKKPP, only 49.8% of the claims of the ex-owners have been processed and only 36.390 ha. of agricultural land with a value of 5.067.827.714 Lek (or US \$ 36.198.769) have been approved for compensation. Meanwhile, even this compensation has not been granted due to the objection to the price calculated per ha. of agricultural land. The ex-owners argue that the price is too low.

The slowness with which the process of recognition of the right to ownership for the ex-owners of agricultural land for the effect of its partial compensation in value is connected with problems that relate to the inexactness of their claims. The claims are at times exaggerated. Their claims presented to the KSHKKPP amount to 139.967 ha. of agricultural land, a surface which is difficult to be trusted for the following reasons:

1. The implementation of the Law On Agrarian Reform in the year 1946 partially or entirely dispossessed 11.121 families with an agricultural land surface of 50.028 ha. (Table 4). In the KSHKKPP, 16.267 claims for recognition of former ownership of properties have been presented. This means that a surface of 80.000 ha. would have to be attributed to almost 5.000 claims, a number which exceeds the number of dispossessed families in the year 1946! If we consider the fact that these claims don't come from the large and medium scale land owner families which were totally or partially expropriated but from families that owned less than 10 ha. land each (Table 3), then the claims for recognition of the right to ownership of 13.9967 ha. of agricultural land appear suspicious.
2. After 1991, the implementation of Law 7501 “On (agricultural) Land” provided agricultural land to more than 60% of the population that lived on Collective Farms or State Farm Enterprises, among which were members of families who had their land expropriated. Thus, a part of these ex-owners or their heirs which left those farms

after expropriation and who live in urban areas, according to the law, don't have the right to ownership of agricultural land but their claims often cover all of the expropriated land even though a part of their family continues to live on the farms and already gained the right of ownership to a part of it.

3. Since the documentation which proved the right to ownership of agricultural land suffered serious damage or has disappeared in the many links of the administrative chain, the law "On the Compensation in Value of the Agricultural Land to the Ex-owners" allowed this ownership to be proven in the district tribunals based on the testimony of witnesses. If we keep in mind the situation in which the tribunals worked during the transition period, where the objectivity and truthfulness of the judicial decisions left much to be desired, then rightfully we can doubt the exactness of the claims of the ex-owners for the 139967 ha. of agricultural land.

Another Governmental attempt to fulfill the claims of the ex-owners by using another alternative had the same unsuccessful ending. As mentioned previously an area of 150.000 ha. was refused for various reasons. In order to legally regulate the administration of this refused land, the Parliament approved Law 8047 (date 14.12.1995) "On the Administration of Refused Agricultural Land". The law considers such land as state property and gives it in administration to the General Directorate of Forestry and Pastures (Article 2) which, through its respective branches in different districts and in cooperation with the committees of land distribution (Article 3), has the right to sell the state property to natural and legal persons, giving them the right to pre-purchase with the bonds obtained from the compensation of the ex-owners with the same price as the compensation value (Article 4). This law could not be implemented mainly because its success depended not only from the implementation of the Compensation Law, but also because the majority of the refused land was non-productive or was located in inconvenient areas far from inhabited areas.

But there have been other factors which have seriously obstructed the implementation of the Law "On the Compensation in Value of the Agricultural Land to the Ex-owners". Of main importance were factors of a political nature and also the political situation of Albania during the transition period.

The activity of the ex-owners through their association was strongly intensified, escalating at times into violent protests. Their requests were also supported from some political parties of the right wing and the approach of the new Parliamentary elections that would take place in the spring of 1996 made their stand more radical which was shown by their categorical refusal to any solution through compensation.

There were objections to the 1996 election due to manipulations and serious breaches of democratic principles. The Parliament and the new government approved by it could not exercise their activity because Albania entered a period of heavy economic, social and political unrest which was unleashed after the downfall of the pyramid schemes, bringing the country to the brink of civil war and near disintegration. In the spring of 1997, after the Government's resignation, a new Temporary Government was created, the so-called "Government of National Reconciliation". Its main duty was the organization of new Parliamentary election which would take place in June 1997.

The new Parliament that emerged after the June election was dominated by the Socialist Party and its allies. The approved Government was leftist and the Democratic Party

and other opposition parties contested the election and boycotted the Parliament for almost one year. In these conditions the representation of the ex-owners was diminished but their attitude did not change.

The Parliament and the leftist government were faced with many challenges that had to do with the overall stability of the country, but especially with the continuation of the transitional reforms which had stopped after the 1996-1997 crisis. Between the attempts made by the government for the continuation of efforts to create a land and real estate market and especially for the fulfillment of the necessary legal acts and the consolidation of the institutions and the necessary infrastructure became an important issue.

In this spirit the government quickly approved some laws necessary for the functioning of the land and real estate market. In 1998 2 new laws were approved: Nr.8318 “On the Leasing of Agricultural Land, Forests, Pastures and Meadows that are State Property” and in the same month Nr.8337 “On the Selling of Agricultural Land, Forests, Pastures and Meadows” which invalidated a previous law approved in 1995. It is important to note the preoccupation of the government towards the claims of the ex-owners, a preoccupation which is clearly expressed in article 3 where it is said: “agricultural land, forests, pastures, meadows which are state property can not be alienated until the compensation of the ex-owners is complete, except for when it is otherwise foreseen by law.” The fact that in this definition the purchase and sale of the land is conditioned on the compensation of the ex-owners and especially the fact that the method of compensation is not specified (in kind or with monetary value), leads to hope that in the future new alternatives will be found in order to fulfill the claims of the ex-owners. Such an effort was done through the approval of Law 8398 (date 03.09.1998), “On the Compensation of Ex-Owners for Agricultural, Non-agricultural, and Occupied lands located in the Lapraka and Bathore area in Tirana district”. For the first time, even though in a limited area, compensation of the ex-owners is applied in kind “...with land located in the tourist or inhabited areas up to a limit of 10.000m<sup>2</sup>”(Article 2).

But the most important step toward the solution of the ex-owners claims is the inclusion in the Constitution of the Republic of Albania, approved by the Parliament on 21.10.1998 and in the Referendum which was held on the 22.11.1998 and decreed by the President of the Republic on the 28.11.1998, of two articles of great importance for the solution of this problem.

Article 41 of the Constitution states:

1. The right to private property is guaranteed.
2. Property is gained through gift, inheritance, purchase and any other method foreseen by the Civil Code.
3. The law can foresee expropriation or limitations to the right of ownership only for public interests.
4. Expropriations or other limitations to the right of ownership equal to expropriation are allowed only with fair compensation.
5. Disagreements related to the amount of compensation are subject to complaints in the court.

However, Article 181 of the Transitional Provisions states: “The Parliament, within two to three years from the coming into force of this Constitution, issues laws for the proper regulation of various cases connected to expropriations and confiscations made before the approval of this Constitution, guided by the criteria of Article 41.”

So, in the end, 7 years after the approval of Law 7501 “On (agricultural) Land” which provoked the birth of the ex-owners problem, a base was created to find new alternative solutions for the compensation in value of the land other than the one offered in 1993. But the enthusiasm of the ex-owners did not continue for long because the Parliament and the Government, for various reasons (the Kosovo crisis, frequent replacement of Prime Ministers and as a result, of the Government composition, the approach of the new parliamentary election of 2001, etc.), did not properly engage itself for the achievement of this Constitutional obligation. This procrastination forced the Ex-owners Association to address the Human Rights Tribunal in Strasbourg which is the latest chapter in the lengthy history of this problem.

### **THE EFFECT THAT THE LACK OF SOLUTION TO THE AGRICULTURAL LAND PROBLEM HAS IN THE DEVELOPMENT OF THE LAND AND REAL ESTATE MARKET IN ALBANIA**

During the 10 years of transition in Albania there have been serious attempts for the creation and development of an agricultural land market. The first necessary step toward this goal was the creation of a contemporary system for the Registration of real property. In 1993, with Decision .505 (date 20.10.1993), the Government approved an “Action Plan” to make possible the achievement of this goal and which found its legal basis in Law No.7843 (date 13.07.1994) “On the Registration of Immovable Property”. The implementation of this project started in the same year. The main objective was: “The creation of an institutional base for dynamic, fair and stable markets of immovable properties, that support the effective transition towards a market economy”. The Action Plan was extended in 1998 and was used to coordinate the attempts of the Government and International Donors for the creation and development of a registration system.

With all of the good work that has been done, we still cannot say that Albania has a dynamic and social market of immovable property, including agricultural land. Several difficulties and barriers are evident, where the claims of ex-owners regarding the restitution or compensation of agricultural land have caused the most serious impact. We will try to elaborate on some of the consequences:

1. Currently only 60% of the work for the registration of immovable property, and the provision of owners with the respective certificate of ownership of agricultural land, is complete. The claims of ex-owners are the main cause why this process is not yet finished. The negative impact of this problem is direct and indirect. On the one hand, the ex-owners that have obtained agricultural land from Law 7501 “On (agricultural) Land” have not proceeded with the necessary steps for registration due not only to the dissatisfaction of the amount of land obtained (they claim more) but also to the location of this land (they want to get back what they had before the expropriation). On the other hand, a number of new owners that benefited from the law are under pressure from the ex-owners who consider the land to be theirs and thereby creating uncertainty and a constraint on the registration procedures and the start of a land and real estate market.

2. The finalization of the registration process is seriously hindered by the lack of fulfillment of ex-owners claims for the restitution or compensation of agricultural land,

especially from the condition created in the Constitutional obligation to “issue laws for the fair regulation of the various issues related to expropriation and confiscations...”

3. In certain northeastern districts of Albania, Law 7501 “On (agricultural) Land” was neither respected nor enforced but, according to traditional decisions, each head of a family took in possession the land owned previous to the collectivisation. Since this technically illegal action has not yet been denounced or legalized, these land owners hesitate to complete the necessary steps of registration.

4. Because of the lack of a solution to this problem a psychology of uncertainty among many actual owners has been created. They are not ready to sell or purchase agricultural land even if they have the possibility or need, thus seriously hampering the functioning of the land and real estate market. In a study finished in 2001, where agricultural transition and the restructuring of the agricultural economy was analyzed, some significant conclusions were identified, proving the strong influence of this psychology on the proper functioning of the land market. Some of the conclusions are:

In answering the question: What are the causes of uncertainty in land ownership?  
952 interviewed farmers responded:

-Part of property is claimed by others	80%
-Tradition requires the farmer to return the land to the ex-owner	12%
-State policy could change	5%
-Lack of clear documentation	2,5%
-Unregistered Land	0,5%

In answering the question: Do you have any conflict connected with the agricultural land under your ownership? 84 out of 1232 interviewed farmers (6,81%) said yes. Of them, 68% had such conflicts with the ex-owners.

Only 4/1232 interviewed farmers had purchased agricultural land and 57% thought it was difficult or next to impossible to buy land because of the uncertainty related to ownership.

From what was said the question rises:

## **WHAT SHOULD BE DONE?**

In June 2001, new Parliamentary elections took place and the Socialist Party remained in power as leader of the Leftist coalition. Mr. Meta was re-confirmed as Prime Minister and his Government now has all the conditions and motives to find a final solution to the claims of the ex-owners. Serious involvement in this problem would be one of the most fruitful attempts toward the achievement of political and economic stability for the present and future of Albania because it is evident that there can not be a stable government in an unstable society.

We will now try to pinpoint some measures and proposals which have already been elaborated by various governmental departments, public and private groups and institutions as well as in academic environments.

I. It is necessary and still possible to review one more time the legislation that regulates the ownership of agricultural land that has been approved during the transition period. This is logical not only as a Constitutional obligation (article 181) but also because many reasons for doing so have come forth during the 10 years of transition. Nevertheless, we believe that as a whole, the laws have been necessary and have fulfilled the will and needs of the majority of Albanians. A review will make it possible to find alternatives to fulfill the needs of a minority which has remained unsatisfied because in the end, it all comes down to: Politics should be the art of the Possible.

a) Law No.7501 (date 19.7.1991) “On (agricultural) Land”:

--The law needs to be totally reviewed in order to eliminate those concepts and ideas that were imposed by the political and social circumstances at the time of its approval.

--Some articles of the law, which are contrary to the laws approved in later years such as “prohibition of sale and purchase of the land” (Article 2) need to be annulled.

--There is a need to review the position toward the right of the ex-owners of agricultural land, a position which has been modified not only in recent laws but also has evolved significantly in all state and societal structures.

--Significant improvements need to be done especially in the by-laws and regulations, in order for them to be compatible with those situations that have occurred during implementation and which, even though were not in accordance with this law, have been accepted as an unchangeable reality.

b) Law No.7699, (date 21.04.1993) “On the Compensation in value of the Ex-owners of Agricultural Land” needs to be completely reviewed. Many possibilities and arguments exist that would allow the compensation to be done not only in value but in other forms as well such as: a partial return of the land, the compensation in other immovable property or in “cash”. The idea of drafting a new law, which will foresee the physical compensation of the ex-owners has been elaborated in central administrative circles. Some of the major elements of this idea are:

- The selection of the subjects obtaining physical compensation should be more accurate;
- Definition of the land area to be used for compensation;
- Definition of the maximum limits of the area that can be obtained as physical compensation by all subjects;
- Definition of the deadline in which the physical compensation process will start;
- Definition of priorities to be respected in order to achieve physical compensation;
- Definition of the formula to calculate the area to be obtained by the persons subject to compensation.

c) Law No.7836 (date 22.06.1994) “On the Price of Agricultural Land for the Purposes of Compensation” needs to be reviewed regarding the compensation formula and also to see the possibility of changing and defining the price per unit of agricultural land, adopting it to the philosophy of the free enterprise market.

d) For all the other laws that have direct or indirect connection with the process of compensation of the ex-owners, it is necessary to avoid all incompatibilities and to complete or draft all sublegal acts that are missing.

2. It is necessary to undertake administrative actions because the experience of the administration imposes the review of all procedures implemented during the transition period.

a) A complete study to determine exactly what are the real claims of the ex-owners is needed.

b) A study to determine the extent to which members or heirs of the ex-owners of agricultural land have obtained the right to ownership of the land according to Law 7501 is also needed in order for there to be clear and accurate claims. The conflicts between family members concerning land ownership should cease to be cases in which the state is a party to the litigation but should be considered civil cases among the members and resolved by the courts.

c) It is necessary to find out the legal and administrative tools in order to verify the truthfulness and accuracy of the court decisions which have resulted from suspicious procedures, not based on reliable facts but only on subjective testimonies and in the complete absence of documents proving ownership of agricultural land.

3. There is place for organizational improvements. Some organizational measures in order for the process of restitution and compensation to be correct, indisputable, effective and less time consuming are needed.

a) The reactivation, restructuring or even the establishment of new administrative structures that will perform all the necessary procedures for the restitution or compensation of the land.

b) A review of the composition, the authority and the procedures of special state institutions previously established for the completion of the restitution or compensation process is necessary.

c) The possibility for the Ministry of Justice to have the leading and coordinating role in the activity of all government institutions involved in the process of restitution or compensation of agricultural land should be reviewed.

d) It is necessary for non-governmental organizations which focus on the transition problems in general and especially of those concerned with agriculture, to engage in this process. Such involvement would have a positive impact not only on the increase of work effectiveness but also in the reinstatement of faith from the part of the ex-owners.

4. The involvement of politics in this process is more than necessary in order to create the much needed background for the success of the reform of ownership of agricultural land and the functioning of the land market. The organization of round tables among political forces for a political review of these problems and achieving a consensus will make possible the continuation of the reform and the guarantee of the stability regardless of the party in power.

5. The media involvement and the complete openness of the state administration would be strong factors for the success of the reform on the right to ownership of agricultural land.

## CONCLUSIONS

1. Private ownership of agricultural land was dominant until the Communist regime came into power in Albania (After World War II) but the distribution was typically

feudal: 3% of the land owners had 27% of agricultural land in their possession, 83% of farm families possessed 60% of agricultural land while 14% were land less.

2. The Agrarian Reform of 1946 brought feudalism to an end but the adoption of the socialist soviet model of collectivization in rural areas led to the gradual but consistent dissolution of private land ownership which culminated in 1976 with a new Constitution and all agricultural land became state owned.
3. Democratic reforms started in 1991 after the communist dictatorship broke down but the reforms did not fully and properly satisfy the ex-owners, who had been dispossessed of their property by the communist regime, even though private ownership of agricultural land was re-established.
4. All efforts to reach a consensus with ex-owners through a partial compensation with monetary values failed, creating serious problems in the establishment and consolidation of the land and real estate market in Albania.
5. In order to reach a definitive solution to the problem of restitution and compensation to legitimate ex-owners, the following proposals should be considered and are highly recommended: (i) review the legislation dealing with property rights and land ownership (ii) undertake appropriate administrative measures; (iii) improve the organization and functions of the public administration; (iv) political parties need to engage in serious discussions in order to reach a consensus on an issue of such an important political, social and economic nature.

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