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Implications of Forestry Programs for the  
Immovable Property Registration System

by John Bruce and  
Ray Gurries  
University of Wisconsin, Forestry Department

This paper seeks to identify situations developing in the forestry sector which may require attention of PMU for the Immovable Property Registration System Action Plan.

1. Private Forestry:

The initial documents for the USAID private forestry project indicate that USAID plans to work with both the General Directorate of Forestry (GDF) and environmental NGO's to develop a series of village-level projects, and several potential projects are identified in an annex to the project design documents. (We had the opportunity to review only the annex.) These projects would focus on restoration of degraded land and the planting of fruit and nut trees (and to a lesser extent fodder production). USAID indicated that participants would need to have title to the land involved in the project.

Individual farmers may chose to plant trees on their small pieces of owned land. While this may occur, the very small size of parcels does not make it a particularly promising approach. To the extent it does occur, it has no implications for the PMU.

The draft USAID project also anticipates that individual farmers with contiguous holdings may commit their land to a common program of agroforestry development over a larger area, in return for project investments in land restoration and tree establishment. Many of the fragmented holdings contain some hillside land not suited for agriculture, and this would appear an attractive proposition for these owners. It would be possible for them to pool their ownership, but it seems more likely that they would simply enter into contracts with the project which commit them to the common scheme of management. If this is the case, the contract might be registered as on the relevant kartela.

In addition, village land not distributed to farm families may be incorporated into the USAID project, in which case the project is likely to require that the land be securely titled to those families which would participate in the project. It is not clear how those participating would be chosen, or whether the land might then be titled to them individually or as a group, but titling will be required and registered as this land is taken out of the public (village) land into private ownership.

In addition, we can foresee two situations not mentioned in our discussions with USAID. First, there might be tree planting by private persons on unallocated, agricultural state land within the village, e.g., along highways. The Forestry Law declares that such trees are not part of the forest fund, but it unfortunately does not then specify what other rules apply. The Forestry Law should be amended to specify this. We see no justification for registration of individual trees. Second, it is conceivable that some state-owned forest land within the village boundaries will be

assigned to one or more private persons from the village under a lease arrangement (or concession), which should be treated as a lease and registered on the same basis. The main problem is that under the Forest law, there is no way to change forest land from state to komuna or private ownership.

The Ministry of Local Government is considering legislation which would allow komunas to own land in their own right, and PMU should support this initiative. This question should be considered when the forest law is reviewed. It is of great importance for the PMU to encourage a rapid resolution of the types of ownership of public land in order to show in the kartelas what public entity exercises ownership rights over the property.

There is also a farm forestry component (\$0.9 million of the \$13.1 million projected project budget) of the proposed World Bank/FAO Integrated Forest Development Project. It emphasizes nurseries, parcel boundary delimitation with trees, windbreaks, scattered shade for livestock, live fences and limited plantations of timber. Bank funds would not directly support fruit tree planting because this falls outside the GDF experience. The issues raised for PMU would appear to be substantially the same as the USAID proposed project.

## 2. Communal Forestry:

The other major project initiative under development which has implications for PMU is the communal forestry component of the World Bank/FAO Integrated Forest Management Project. Communal forests are provided for in article 4 of the new Forestry Law (1992). That article in the authoritative Albanian version specifies komuna, the particular administrative unit, which is more specific than the English translation "communal" suggests. (For instance, village forestry might be "communal forestry", but not "komuna forestry".)

World Bank consultants have worked with the General Forestry Directorate staff since 1992 to design this component. Last month, three komunas (Tregan, Gjinar and Kayan) in Elbasan District were identified as the locations for a pilot program, to be carried out (when funding is received) by the Rural Development Fund working with GDF staff in Elbasan. The program is to begin later this month, if funding has been received from the Bank, and last for three months, which may be unrealistically brief for this prototype development. At this point, the pilot program seems to be focusing on the village as the management unit, apparently convinced that it has greater legitimacy with local people and will respond to incentives posed by property rights. But the komuna must legally be the unit of attribution of management authority from the State under the 1992 forest law.

Under that law, as the result of a process of planning and local consultation, it would appear that a certain amount of forest land will be turned over by the General Directorate of Forestry to the komunas for management. In turn, they will turn over all or a part of that land (for instance, certain classes of land such as shrub and coppice) to the villages for management. Article 4 makes it clear that this land would remain state owned. Alternatively, the forest may be assigned to an individual for management, with the revenue paid by that individual shared with the village. It may be that the lack of ability to confer ownership rights on management units will undermine confidence in this program, in which case this element of the forestry law should be reexamined.

For the PMU's purposes, the question is whether it would be appropriate for the kartelas to show

the assignment of such land to komunas, villages or individuals. This may depend upon the terms of which the land is assigned. If it is assigned in such a way that long-term tenure is created, as would be hoped, for instance through a lease-like instrument, then it can and should be registered. If it is a simple administrative assignment, revokable at any time by the superior administrative entity, then there is little point in registering it. If komunas do receive under new legislation the right to own land in their own right, the registration of village or individual rights of use of forest resources could probably still best be registered independently; alternatively, the komuna's ownership could be registered and the use rights registered as such on the relevant kartelas.

The World Bank funds under this project will be used only for investment works on very limited areas of land. It is not clear how the costs of shifting from centralized to decentralized management systems will be borne, and this seems a serious flaw in project design.

### 3. The Forest Cadastre and PMU:

When the PMU gets involved in the registration of state forest land under the administrative control or ownership of komunas and villages, the forest cadastre is a useful resource. The Forestry and Pasture Research Institute maintains the forest cadastre. The state forest is divided into "economies", i.e. units of forest management, which are in turn subdivided into smaller units, with management plans on file for each unit. Each district would have several units (there are 375 in the country), but such units are purely for forest management purposes, and can cut across district, komuna and village boundaries.

These units will presumably need to be redefined substantially where local government units become the units of forest management. This redefinition will not be easy. While district boundaries have recently been mapped, many komuna boundaries are new and unmapped, often defined by natural features. Village boundaries are better known at local level, and maps of village territories were prepared in connection with the land reform if not earlier. But neither komuna mapping or village mapping has been integrated with mapping of forest resources, except in local, special purpose exercises. To the extent that it appears important for PMU to register management rights assigned to komunas or villages, this could pose complications for PMU.

### 4. Management Transition Needs:

It is not clear how the local management of forest and pasture resources will be established in a national policy. The RDF will implement some ideas in the komunas under the World Bank project, but what about the other komunas? How will PMU define registrable rights in public land in these areas? The transition in management organization and approach do not appear to be funded under the Bank project.

GDF will need several types of information to institute effective management of forest and pasture resources by the komuna and those to whom it would delegate management rights through instruments such as leases. First, there is the need to understand existing patterns of use of resources by villagers. These reflect felt needs, village preferences and even perceptions of rights on the part of villagers. They would be the starting point in negotiations on which resources should be assigned to komunas and villages. Second, there is a need to provide maps which combine forest and pasture information with the boundaries of komunas and villages, as

the basis for planning the management of those resources. Third, there is a need to decided what use rights should be assigned to villages and/or individuals, and whether and how these should be shown on the kartelas.

This need could be met by village and komuna-level Participatory Rural Appraisal (PRA) of local resource management, at the same time utilizing Global Positioning System (GPS) technology to map natural resources and local administrative boundaries in relation to each other, as well as rights conferred on users.

Consideration should be given by the PMU to help develop a training program and pilot work with these methodologies for GDF staff.