

Herman Felstehausen
Land Tenure Center and Natural Resources
University of Wisconsin-Madison
1357 University Ave
Madison, WI 53715

David Stanfield
Land Tenure Center/Albania
University of Wisconsin-Madison
tel 608/262-3657 fax 608/262-2141

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ALBANIAN LAND PROJECT: MAPPING AND REGISTERING PUBLIC RIGHTS TO PRIVATE PROPERTY

Abstract: Since 1991, Albania has converted most of its agricultural land, housing, shops and urban apartments to private property. The goal is to create a viable land market with uniform map indexes, automated records, and a national property registry. Public versus private roles in determining land allocations and future needs for agriculture, infrastructure, and the environment are becoming central policy issues in Albania. Mechanisms for local governments to own and manage land and direct land uses have not been clarified; new policies are suggested.

LAND MARKET PROCESS

Albania's national land distribution and titling program has generated intense interest from individuals and families seeking to acquire their own property. The Albanian Parliament in July 1991, approved the Law on Land, No. 7501, granting parcel ownership and use rights to workers and residents of former village cooperatives and state farms. Subsequent laws and decrees expanded the privatization program to include rural housing and enterprises, commercial properties, and state-build apartment units. In July 1994, parliament approved the Law on the Registration of Immovable Property providing for identifying and mapping individual properties, computerizing the registration of owners and parcels, and creating property registration offices in each major district of the country.

Agricultural land was given priority attention in the privatization process. Albania is a small country (about the size of Vermont or Maryland) with one-fourth of its 28,000 square kilometers in farmland. When the central government collapsed in 1990, two-thirds of the country's 3.2 million population still lived in rural villages and hamlets. Farming was organized in two principal ways: (1) Village-Based Cooperatives that had been created by collectivizing former private farms in order to centralize production, management and services; and (2) a system of State Farms developed mainly around capital investments in irrigation, drainage, terracing, greenhouses, and other improvements to achieve intensive fruit, vegetable, crop, and animal production.

The 1991 land law and subsequent decrees allocated land from these two rural systems primarily to residents and workers. This distribution resulted in the following allotments:

- 365,000 families were given ownership rights to Ex-Cooperative lands consisting of 426,000 hectares; 1.5 million parcels.
- 101,000 families were given 'use rights' to Ex-State Farm lands consisting of 120,000 hectares; 0.4 million parcels.

In December 1992, occupants of state-constructed apartment buildings (mostly in cities and larger villages) were authorized to purchase at modest prices the apartments they occupied. By the end of 1994, approximately 96 percent of 205,000 eligible apartment units had been converted to private ownership. Besides these units, an estimated 400,000 farm and village dwellings were transferred to local residents in the process of granting land. The land registration program calls for all privatized housing to also be identified, mapped and registered.

The total number of private properties (parcels, houses and apartments) created by the four categories of activity described above exceeds 2.5 million. This does not include other registration categories such as mortgages, easements, right-of-ways, publicly owned properties, national forests and other legal restrictions affecting property.

THE PUBLIC ROLE

The purpose of Albania's land market is to stimulate investments in a broad based and sustainable development process in the country. The emphasis has been placed on granting property rights to individuals and families. There is widespread recognition that privatization of immovable property by itself, without public institutions to record and secure that possession, will not lead to flexible and dynamic markets. There is less appreciation for the role of government in providing a framework to guide the behavior of land owners without actually taking possession of land.

The public role in land market development is threefold (Denman, 1964; Penn, 1961). First, and most important, is the role of government in providing a national institutional framework making it possible for individuals to interact logically and predictably within a common market system. Property as a market concept has no meaning without a system of public rules to define rights of access, possession and transfer. This should not imply that all rules must be created by government. Many rules already exist as a result of past practices and recognition of established traditions; such rules have only to be acknowledged. Both formal and informal rules together make up the private property system.

The second role of government is to participate in the market as a property owner. In all countries, government bodies possess 'ownership rights' over properties that are in public use: some examples being streets, parks and public buildings. Governments usually own or control properties that provide essential common services such as reservoirs that provide drinking water to the urban population.

The third role of government in a market system is to act as coordinator and intermediary

giving direction without possessing ownership (Moore, 1977). This area is referred to as 'land use planning' in the United States, or as 'land allocation planning' in Europe. While land use plans are usually not registered on individual property documents, it is necessary in order for private systems to function, and to protect public and private interests, that cross-referencing be created and constantly maintained. Thus, restricted use does not appear on the deed, but the cross-referencing creates the same effect. Simple examples are restrictions against building over floodways, reservoirs or shipping channels where the land is privately owned but the public function takes precedence over private investments.

In Albania, the most critical need in this regard is to devise rules allowing cities and villages to define urban expansion zones and to restrict access and construction in critical environmental areas being damaged by squatter claims. Land use designations could be filed at Property Registration Offices as a method to improve information and predictability in land development processes.

PROPERTY DOCUMENTATION

Until passage of the first Albanian land laws in 1991, the cadastral system was operated by the Department of Lands in the Ministry of Agriculture. The cadaster was divided into 26 districts. Former cadastral offices kept documentation concerning field sizes and locations, predominant soils and land uses, plus topographic information pertaining to nearly all agricultural land in the country. Farm and field maps were maintained by the respective cooperatives, agricultural enterprises, and production sectors to meet their own needs. Cadastral district maps were used by local land distribution commissions in 1991 and 1992 to identify and reparcel agricultural lands during the reform stages. Most existing district information, however, is now out of date and has not been maintained.

Under previous governments, traditional surveying methods (theodolites, steel tapes) were used for describing parcel boundaries (Lamani, 1995). Aerial photography coverage was flown in 1994 of Tirana and the surrounding region west to the coast. Some earlier aerial photography was available but did not play a major role in preparing large scale maps. Up until the land distribution law of 1991, about 10,000 square kilometers of the country had been surveyed by the Topographic Service of Agriculture at a scale of 1:5000. The Topographic Service of the Construction Ministry had surveyed about 140 square kilometers in urban zones at a scale of 1:5000. Various urban planning offices had carried out partial surveys in rural villages in order to prepare construction and expansion plans. Few of these plans are tied to the national coordinate system yet continue to be used locally, in many cases, as the only parcel maps available.

The new Government of Albania has not yet prepared a surveying law. The country had never created an urban cadaster; however, a significant amount of map and parcel information exists having been prepared by urban planning agencies under the old regime or sometimes by private owners in order to defend traditional property claims. Unfortunately, this information is scattered, not systematically indexed or filed, and is therefore difficult to locate and use.

Privatization laws and decrees also cover private commercial activities and regulate access to some classes of land retained in the public domain. Supplemental acts include privatizing ex-state enterprises of small and medium class, leasing land in tourist development zones, granting studios as property to artist occupants, granting year to year forest harvest concessions to private

companies for access to publicly owned forests, and consideration of transferring use rights to individuals and groups for access to publicly owned pasture lands (Jazoj and Stanfield, 1995).

Under the former central government, mortgage registration offices (called Hipoteka Offices) doubled as Deeds Registries. Many Hipoteka offices closed when Albania nationalized rural lands and industrial and commercial enterprises. Meanwhile, some private housing parcels in the main cities remained in private ownership. Mapping and record keeping functions were shifted to the ministries where government personnel produced regional plans and set standards for mapping and surveying.

Hipoteka Offices reopened after 1991 to accommodate the registration of deeds resulting from a rapid increase in claims and exchanges of private properties, plus the need to record the several hundred thousand apartment units, shops, and store fronts granted as private property under new laws and decrees. Results to date show a rapid rush to privatize land and buildings throughout Albania.

Once an automated registration system is in place, the old Hipoteka Offices will close permanently. At the present time they continue to operate under very poor conditions. Registry books are kept by hand, there are no copy machines, documents are torn and breaking apart, working and filing conditions are dusty and exposed, and facilities are inadequate for the volume of business generated especially by merchants and established residents buying and renting property for commercial or investment reasons. The new Albanian immovable property registration system now being implemented by the Project Management Unit (PMU) in pilot districts will identify owners and parcels, prepare property cards (kartelas), open registry offices, and meet the legal requirements of a modern and permanent record system.

PUBLIC AND PRIVATE FACTORS

The property system developed thus far registers rights that have been allocated to private persons or companies as well as parcels of land that were retained in public categories from the previous government: for example, forest lands. Since government agency authority to sell or transfer land under agency control has not been addressed in legal codes, the benefits of the registration system remain confined primarily to private ownership parcels. To provide a complete land market in the future, local governments and national agencies must be allowed to "own and transfer" land on a basis similar to that provided to individuals.

Initial programs all granted rights directly to individuals and families. Local authorities need these powers immediately in order to own and use property for urban infrastructure and urban expansion. Market systems do not function in isolation from public institutions (North, 1990). Public authorities must play some role in categorizing and directing the way land parcels will be used and the way various competing functions will be integrated. Either governments will create the institutional framework ahead of time, or aggressive actors in the market will devise rules to serve their own interests (Cronon, 1991). Some of the institutional issues associated with property that have been the most controversial include:

- Illegal building on land that was recently privatized.

- Illegal building on the periphery of cities both inside and outside of city borders.
- Absence of a legal framework for governments to contract with each other to obtain needed space for infrastructure and public services.
- Contradictions among laws and codes with conflicting criteria for assigning property rights .
- Conflicts between former owners of buildings and present occupants.
- Conflicts between former owners and newly assigned owners of farmland.
- Conflicts between land recipients and former owners where farm parcel and house parcels are separate.

The high level of building activity in urban and rural areas, mostly by private individuals and companies to construct family owned houses, implies that the relative importance of private housing has dramatically increased since 1992 in both urban centers (particularly Tirana) and rural areas. Property rights associated with many of these private houses are in legal limbo. Many of the families that consider themselves owners of their houses have no documentation of that claim, or only old and often unregistered documents. In rural areas the problem of undocumented ownership claims is probably more severe than in cities. Efforts since 1991 to privatize rights to real property have not adequately dealt with house plots. The 1991 Law on Land focused on the distribution of agricultural land as private property. Procedures outlined in the land law and used by the land commissions to distribute land in villages did not expressly grant ownership rights to house parcels although 'trual' (house plot) rights have been included with the commission grant in most districts.

Undocumented informal land sales are widespread. Such sales are illegal; transactions are usually documented only with a receipt, often without the benefit of witnesses. Unauthorized building by land beneficiaries on their own agricultural parcels represents a clash between people's desire for more adequate housing and the long-term policy goals of government. It is national policy to protect an already limited supply of agricultural land and to promote rational land use. At the same time, people want to live on their own land even though there will be high infrastructure costs to extending electricity, water and roads to scattered parcels.

LOCAL AUTHORITIES

Local governments play a key role in the operation of an efficient land market. Under the new government of Albania, mayors and councils are elected. There has been some continuation of historical tradition by acknowledging a role for village elders. Elders are elected, although villages have few legal powers; they are not incorporated. Territorial divisions for administrative purposes (below national) are divided into 36 district governments (somewhat akin to counties in the United States). Districts are governed by an elected chief and council. District governments have remained, for the most part, administrative arms of central ministries – part of the legacy of 45 years of central government control.

District capitals, regional cities, and village settlements are defined spatially by an urban boundary, in Albania called "the yellow line." There are specified rules for what an urban area

must do to "move the yellow line" in order to expand its territory. Procedures are cumbersome, require review at the highest levels of government, and are only periodically approved.

Municipal governments are basically parallel to district authorities in autonomy; they are governed by elected mayors and councils. But because cities are responsible for physical facilities and social conditions, they have urgent requirements for revenues, personnel, and control over infrastructure and services. The national government continues to retain possession of most urban resources. Under the former communist authorities, many public service functions were centralized under ministries or special national 'enterprises' and 'directorates' in order to distribute investments more evenly and to capture tax revenues and user fees directly at the top. This structure provided at least a minimum level of public service throughout the country (e.g., electricity and running water). However, the original quality of materials was poor; systems are in urgent need of repair. In many cases, cities have not received control over even the small amounts of revenue being generated and must wait helplessly while infrastructure declines.

The lowest level of local government is the komuna (a word suggesting community). It is somewhat like an American township except a komuna always has a village or town located within its borders. If there are several villages within a komuna, the outlying villages may elect village elders who report to the komuna chief. The government of the komuna is headed by an elected chief and council. Komuna governments are likely to become more important in future democratic processes in Albania because they still derive significant authority from traditional family and clan rule and custom. Albanian society is family oriented and was governed for centuries by elaborate rules of conduct, respect, and exchange handed down through village leaders who gave counsel on all important matters. Many rules defining rights and procedures are recorded in a famous document called the Code [Kanuni] of Lekë Dukagjini (1989).

Komuna and district councils are seeking greater autonomy. District Land Commissions played a direct role in assembling the local land commissions that in turn allocated ex-cooperative and ex-state farm land parcels. Council members understand local politics, are acquainted with important power brokers, and have some sense of how to adapt rules to local conditions. They advise on land use plans but have no authority to approve or reject them. They are essentially without revenues; if given permission it appears many would immediately institute some form of local taxation.

INSTITUTIONAL FACTORS

The institutional framework for land and cadastral functions in Albania generally follows the Continental European model based on Napoleonic codes. The French-Napoleonic form, as contrasted with the alternative British form, is hierarchical and operates with chain-of-command assumptions (Alderfer, 1964). Powers of the highest authorities are defined by the constitution and assigned to the president, parliament, ministers, and judges. Local governments receive delegated authority from central ministries. This system, in order to function well (as in Western Europe) requires a well trained and specialized civil service with elaborate communication and watchdog functions reaching to the lowest levels.

At the same time, the civil service must be given direction and instruction regarding society's goals and priorities. This comes from popularly elected councils and ad hoc interest groups with wide access to government at all levels. In this way, power is shared and actions are

tempered by interaction between the civil service, and multi-layered citizen bodies. Albania's attempt at a centrally managed system during the communist period functioned badly, in part, because Albania was a traditional mountain society without a trained civil service and no chance to convert traditional village leaders into popular citizen councils.

The British/American administrative form, in contrast, assumes a higher degree of local autonomy and leaves to local councils and elders the responsibility to hire (or elect) their own administrators. The role of central authorities is to provide a blueprint for how to organize local activities, and to provide oversight to make sure bookkeeping is honest, and that meetings and decisions are held in the open with access by all. Details about how to carry out everyday functions are not dictated from the top; they vary according to local capabilities. The system is obviously less uniform in both method as well as quality of performance. Historically, this is seen as a strength because it allows at least some activities to occur immediately, even though they may be at an elementary level, with the assumption that subsequent governments and councils will add refinements in the future.

Rural Albanian practices in 1991 and 1992 provided a close approximation to the English model when hastily formed komuna land commissions allocated former cooperative and state farm lands to workers and residents. Locally organized and administered commissions picked their own leaders to assign parcels according to number of family members, and divided large fields into numerous small units so that each family would receive both high and low quality land. As predicted, commission methods varied and so did results, but overall, the process is viewed by Albanians as positive. This experience represents a successful example of local decision making and is a demonstration of the viability of a decentralized model functioning within a former hierarchical system.

LAND DEVELOPMENT DYNAMICS

When Albania shifted to an elected government and removed restrictions on where citizens could live and work, hundreds of families migrated to Tirana and coastal cities to open shops and seek wage jobs. The capital city of Tirana was totally unprepared for these new pressures. In-migrants immediately took over vacant lots in the city and occupied farm parcels on the outskirts where allocations had not been completed, or where land was being held in reserve for future expansion (Driscoll, Ersenkaj and Iadarola, 1994).

In an unstructured market with a high degree of political and economic uncertainty, land assumes values beyond what market forces would dictate. Under such circumstances, individuals often claim as much land as possible (Felstehausen, et.al., 1991). There are several reasons for this. First, land is required as sites for housing and businesses. Second, housing is one of the ways urban families invest savings in something tangible, immediately usable, and likely to increase in value. Third, land acquired at low cost and without taxes has low risk and low holding costs with a high probability that at least some compensation will be received if the land must be abandoned later.

Rural and urban residents in Albania are actively using land at this time as a method for accumulating capital to be applied to better housing or other uses in the future. Due to high demand, many land claims and exchanges are taking place without being authorized by law.

PLANNED AND PROTECTED AREAS

Private markets require public institutional frameworks that will guide both local governments and private owners in their land use decisions (Logan and Molotch, 1987). Part of that framework involves a government role in assigning land to future and protected uses. At present, local governments lack authority to create defined boundaries around urban expansion areas or to acquire the rights to purchase or sell parcels for housing and environmental space. Because property definitions are unclear, such lands cannot be identified and entered into the new property registration system.

At present, the yellow line of urban areas is an indicator line; it does not follow specific parcel boundaries. This makes it difficult to separate urban construction zones from protected agricultural and environmental areas. There are no legal or fiscal powers available to local governments to acquire land for environmental reasons. Local governments may recommend action to central authorities, but they have no role in the decision. Future legislation will need to provide cities and komunas with the power to manage and dispose of state lands located within their boundaries and to effectively designate and protect areas for public benefit.

Under the former central government, rural and urban land uses, as well as construction zones and state enterprise locations, were specified within ministerial plans. Under the present government, individuals and private enterprises have taken de facto control over building locations and investments. The new system lacks a public framework to guide private decisions that affect social costs.

KAMZA: UNPLANNED SETTLEMENT

Kamza, a komuna bordering Tirana on the north, is the focus of urban expansion debate because a 100 hectare hillside parcel in full view of the Agricultural University has become the capital city's biggest, and most visible, squatter settlement. The Kamza settlement is the result of rural to urban migration, rising wages, and new land tenure conditions. Kamza is part of the former Red Star State Farm that was turned over in 'use rights' to resident workers and managers. Some parcels, formerly reserved for field experiments, were retained by the Agricultural Research Institute located on the university campus but administered by the Ministry of Agriculture.

The village of Kamza is located 8 kilometers northwest of Tirana. The Kamza flat lands, drained and irrigated, formed the center of the Red Star Enterprise producing vegetables, fruit, grapes, milk and grain for the urban market. The Red Star Farm was one of the most successful, and benefited from having experimental plots and technical advisors nearby.

Part of Kamza Hill land still belongs to the Agricultural Research Institute. It is of poor agricultural quality and was not protected from squatter claims. As ease of access became known, a steady stream of settlers began to arrive, especially from economically depressed regions in the north. In a study by the authors of the Kamza case during the summer and fall of 1994, five factors were identified as being relevant to the way the land was claimed and held.

Allocation factors. Kamza State Farm land allocations were carried out in 1992 by a komuna land commission following government approval to grant 'use rights' to state farm

occupants. The first allocation was 920 hectares divided at the rate of 1.4 dynym per family member (dynym is 0.1 ha.). This gave land to about 1,300 families with more than 400 families left out of the allocation because they were engaged in work not directly related to the farm enterprise. Another 700 families are (or were) state employed in the city or other nearby off-farm activities.

A lignite coal mine is located a few kilometers west of Kamza. It is a large, once modern, mining operation supplying cooking coal and fuel to factories in western Albania. The presence of miners broadened the agenda of the local land commission because the miners often supported socialist positions in opposition to government plans. A large number of mine workers have since been laid off as the demand for coal declined when state-run industries closed. Some mining families are requesting to be included in future land allocations.

Location. Kamza Hill is well located for low-income squatter housing. It is far enough from the city to be outside of the built-up area, thus land is not carefully policed. At the same time, it is next to a well serviced transportation route, bus stop, and local shops. Water and electricity are within reach through clandestine hookups coming from existing urban neighborhoods to the south.

Tenure and wages. The status of ex-state farm lands near cities has not yet been decided. Unlike ex-cooperative farm land which was given out with full ownership rights, state lands are allocated as 'in-use' allotments. Because this system is uncertain, land recipients casually and openly take unauthorized actions in pursuit of their own interests. Some allocated farm parcels of good quality are being illegally leased to larger farm operators while the recipients commute to Tirana for wage work. Unskilled workers report earning \$5 to \$6 per day. Some families entered into share cropping arrangements that allowed the landholder to work part-time in the fields. Kamza parcels were originally laid out in large fields supplied with surface irrigation; housing was clustered in villages. Now that the land is divided, some families are building houses on their parcels, a practice that is not legally permitted.

Multiple jurisdictions. The southwest triangle of Kamza Hill (about 20 ha.) has been assigned to the Agricultural Research Institute to be used for field experiments. Remaining farmlands, extending more an 1 kilometer east, consisting of 204 hectares of State Farm land, were assigned by the Superior Council of Territorial Adjustment in March 1994 to be settled by displaced families from Bovilla. Bovilla, northeast of Tirana, is the designated site for a new city water supply reservoir. It is not clear that the people of Bovilla know that they have been assigned "land rights" in Kamza. The chief of the Kamza komuna government reported that no one from Bovilla has appeared to make a request for land. It is also not clear if anyone from the Tirana Water Authority or other government entity has been asked to coordinate the relocation of Bovilla families.

There are other stakeholders involved in Kamza. The large vineyard parcel southeast of Kamza Hill (not built on) is managed by the National Fruit Tree and Vineyard Institute. The Olive and Citrus Institute controls land to the west of the university campus. The Municipality of Tirana has planning jurisdiction south of Kamza Hill. In all of these arrangements, the unit of government with the greatest interest and willingness to act is the Komuna Government of Kamza. Pëllumb Lepi, Kamza komuna chief (1994), argues that land allocation powers must be shared with komuna governments, otherwise agricultural parcels will not be separated from

housing parcels and high quality farmland will be lost.

Spontaneous settlement. The selection of parcels for individual housing is based on informal and customary rules. When a new family arrives, the head of household locates an open parcel and asks existing neighbors if they object to a new land claim. If there are no objections or warnings to be careful, the new claimant 'places the stones,' a kind of corner-marking ceremony done with witnesses. At that point, the new claimant has established a 'traditional right' to call the land and any improvements his own. A family cannot be put off without applying customary due process – which in these cases would be according to the canons of village norms and customs. These procedures are not legally recognized by the national government, but in the absence of formal laws, they are applied everywhere.

Houses are usually simple two-room cement block and tile structures built by the owner. Almost predictably, speculation is immediately evident. A young entrepreneur identified in July 1994 claimed land in **Kanza**, constructed houses in his own name, then sold or leased them to newcomers.

CONCLUSIONS

There is an active effort underway in Albania to re-invent an economy built on market processes. People are using land as a means to experiment with alternative institutions to foster private investments, and at the same time to stimulate participatory government. Many of the conflicts and shortcomings are classical ones: how to define the public's role while minimizing the social and environmental costs of giving state resources to individuals.

The land privatization program defines how private persons (physical or juridical) become owners of land and/or buildings that were formerly owned by the state. The quality of the ownership right, as well as the ability to transfer it, is directly related to the organizational structure of the immovable property registration and mapping system now being created. Registration of ownership still suffers from ambiguities in defining rights, and in some cases, from difficulties in defining the shape and location of immovable properties.

Efforts to define property rights suffer from pressures of time and public opinion demanding that privatization programs move as quickly as possible. After property allotments are made, owners, occupants, and public officials still need information about the options available to them to assure that the land will be used in a productive and environmentally sustainable manner. Relationships between public and private rights and responsibilities, especially in urbanizing areas, needs to be spelled out in legislation. Without a public framework, areas of high demand will yield chaotic patterns of land claims that will be extremely difficult to adjudicate, map and register in the future.

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