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**“Governance in the Protection of Immovable Property Rights in
Albania: A Continuing Challenge”
A World Bank Issue Brief**

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Acronyms

AKKP	Agency for Property Restitution and Compensation
ALUIZNI	Agency for the Legalization, Urban Planning, and Integration of Informal Areas/ Constructions
BEEPS	Business Environment and Enterprise Performance Survey
EBRD	European Bank for Reconstruction and Development
EC	European Commission
ECHR	European Court of Human Rights
EU	European Union
FYR	Former Yugoslav Republic
GDP	Gross Domestic Product
IDRA	Institute for Development Research and Alternatives
IPRO	Immovable Property Registration Office
IT	Information Technology
LAMP	Land Administration and Management Project
LEK	Albanian Currency
NATO	North Atlantic Treaty Organization
NSDI	National Strategy for Development and Integration
OSCE	Organization for Security and Cooperation in Europe
USAID	United States Agency for International Development
WB	World Bank

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PREFACE

Over the past decade, the World Bank has intensified its focus on governance as a key factor accounting for variations in development effectiveness. Through its long-standing engagement in Albania, the World Bank has supported institutional development and governance reforms to help strengthen the capacity of state institutions to deliver public goods and achieve development outcomes more effectively and efficiently. Governance is a key pillar of the Government's National Strategy for Development and Integration for 2007–2013.

The World Bank's seminal report on governance and development (1997) defined governance as “the manner in which power is exercised in the management of a country's economic and social resources for development.”¹ The Bank's Strategy on Governance and Anticorruption broadens this definition to “the manner in which public officials and institutions acquire and exercise the authority to shape public policy and provide public goods and services.”² The authors of the World Bank Institute's Worldwide Governance Indicators offer a more comprehensive approach:

Governance consists of the traditions and institutions by which authority in a country is exercised. This includes the process by which governments are selected, monitored and replaced; the capacity of the government to effectively formulate and implement sound policies; and the respect of citizens and the state for the institutions that govern economic and social interactions among them.³

This review of immovable property rights in Albania draws primarily upon this definition, which takes into account the popular legitimacy of state institutions and respect for the law among citizens and government institutions—the “softer” aspects of governance that are essential to understanding how policies are made and implemented in practice and how public resources are used.

The Issue Brief was prepared as a background paper to the World Bank's Country Partnership Strategy for Albania for 2011–2014. It makes no pretension to comprehensiveness and should be considered complementary to other Bank analytical studies, notably the Country Economic Memorandum (2010) and the Investment Climate Assessment (2009). This review builds on the World Bank's engagement in supporting the property registration process through the Land Administration and Management Project (LAMP).

This Issue Brief was prepared by Clelia Rontoyanni (Public Sector Specialist) based on research and analysis conducted by Mr. Tony Lamb (World Bank Consultant). Comments and advice from Jane Armitage (Country Director for the Western Balkans), Kseniya Lvovsky (Country Manager for Albania), Jonathan Mills Lindsay (Senior Counsel), Gavin Adlington (Lead Land Administration Specialist), and Stephen Karam (Lead Urban Economist) are gratefully acknowledged. Funding for this research from the World Bank's Governance Partnership Facility, which is financed by DFID, the Netherlands, and Norway, is also gratefully acknowledged. The findings from this paper were discussed with the Government of Albania at a workshop held in Tirana on March 7, 2011 and at public workshop held in Tirana on September 13, 2011.

¹ World Bank. 1992. *Governance and Development*. Washington DC: World Bank; World Bank. 1997. *World Development Report 1997: The State in a Changing World*.

² World Bank. 2007. *Strengthening World Bank Group Engagement on Governance and Anticorruption*.

³ Daniel Kaufman, Aart Kraay, and Pablo Zoido-Lobaton. 1999. *Governance Matters*. World Bank Policy Research Working Paper No. 2196.39.

This is the second edition of the Issue Brief that was first published in September 2011, which aims to acknowledge the views of various stakeholders expressed during the ‘workshop that was held in Tirana on September 13, 2011, as well as comments received from civil society organizations since the publication of this Brief.

Governance in the Protection of Immovable property Rights: A Continuing Challenge

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EXECUTIVE SUMMARY

i. **Despite several attempts at reform, immovable property rights in Albania are not adequately secure and represent an important governance challenge.** Problems have resulted from incomplete first title registration, the lack of accurate cadastral records, and, in many cases, the absence of reliable evidence of ownership. Although Albania has adopted legislation calling for restitution or compensation for owners whose property was expropriated under communism, implementation remains incomplete.

ii. **In Albania, rapid internal migration has resulted in informal occupation of land and unauthorized construction on a mass scale, thus compounding the problems associated with the incomplete transfer of property.** During the 1990s, as much as one third of the population of rural (mostly northern, mountainous) regions migrated to urban, peri-urban, and coastal areas in search of income generation opportunities, despite the lack of adequate housing infrastructure or public service provision. Internal migration continues, albeit at a slower pace. Gaps in territorial planning legislation and administrative failures in the issuance of construction permits have made it difficult to obtain an appropriate construction permit, even when occupiers have legal title to the land. State authorities have largely failed to prevent new illegal occupation of land and illegal construction, and it is estimated that up to one third of all buildings in Albania are illegal due to the occupier's lack of clear title and/or appropriate construction permit.

iii. **The insecurity of real estate property rights affects a large share of Albanian citizens, particularly vulnerable groups.** The lack of clear legal title—and the resulting informality of property transactions—prevent property occupiers (including those with lawful ownership rights) from entering the formal property market or using the property as collateral to obtain access to credit. It denies them legal protection in the event of expropriation or demolition and, in some cases, makes it difficult for them to access utilities. The prevalence of illegal land occupation and construction has created environmental problems and placed growing pressure on urban public services. Widespread informality and weak enforcement of property rights have fuelled social tensions, as old urban dwellers have come to resent newcomers who seem to have benefited by breaking the law as well as the authorities who have failed to stop illegal land occupation and construction. At the same time, informal occupiers risk eviction, demolition, and inadequate access to public services. Vulnerable groups are disproportionately disadvantaged, including women in rural and mountainous areas, children, and the Roma community, as these groups lack the connections and knowledge to assert their rights effectively.

iv. **Insecure land title and unclear procedures for obtaining construction permits pose a major constraint to investment.** A survey conducted in 2008 as part of the World Bank's Investment Climate Assessment found that insecure property rights and access to land were considered to be “severe or very severe” obstacles by over 20 percent of firms respectively. The impact seems to be greatest among small and medium-sized firms, and anecdotal evidence suggests that foreign investors are often deterred from investing in Albania due to difficulties in obtaining access to land or premises with clear legal title. According to *Doing Business 2012*, Albania ranks last among 183 economies on dealing with construction permits—much lower than the country's overall ranking of 82nd on the ease of doing business.

v. **The courts have not been successful in resolving property disputes or enforcing property rights, potentially damaging Albania’s EU integration prospects.** Property disputes represent a large share of court caseloads and citizen complaints to the People’s Advocate, but enforcement of court decisions in these matters remains problematic. As a result, many Albanian citizens are bringing such cases to the European Court of Human Rights—and often winning, yielding greater international visibility for concerns regarding property rights in Albania. Problems in this area are cited in European Commission reports as examples of weaknesses in the protection of human rights, the rule of law, and the functioning of a market economy able to withstand competitive pressures in the European internal market—three of the main criteria for accession to the EU. Although the Government has adopted some appropriate policy responses, implementation has lagged due to policy incoherence, coordination problems, capacity constraints, and corruption.

A way forward

vi. **The current problems are not intractable and can be addressed through a coherent policy aimed at a comprehensive and pragmatic solution, based on broad political and societal support.** Such a solution would need to address some important inconsistencies and gaps in the existing legal framework to remove current bottlenecks holding back the key processes of title registration, legalization, and restitution and compensation. Resolving the long-standing process of restitution and compensation within a reasonable timeframe will be critical to a sustainable solution. An acceleration of this process is urgently needed to ensure credibility of the law, stem the flow of legal challenges, and remove obstacles to the completion of the legalization process. The scope for completing physical restitution of property (including by transferring state property to the claimants) should be given more attention and exhausted. At the same time, given the volume of outstanding claims, many claimants will still need to receive monetary compensation.

vii. **A credible compensation scheme must ensure the timely payment.** This, in turn, would necessitate an approach to compensation that is fiscally affordable. In particular, a policy solution whereby a greater share of the cost of compensation would originate from beneficiaries of expropriation (such as legalization applicants) would likely be more sustainable, both in terms of fiscal affordability and perceived fairness. At the same time, a viable compensation scheme may need to draw lessons from international practice which universally applies certain limitations to compensation at current market values. A comprehensive solution will also need to consider the status of a large number of informal properties that currently remain outside the legalization process and clarify the legal rights of legalization applicants while the process is ongoing. An open debate with the active participation of all stakeholders and civil society at large will be instrumental to finding a solution that is seen as legitimate, equitable, and sustainable over the longer term. The Government’s Action Plan for the Resolution of Property Rights Issues, which was adopted in April 2011, aims to accelerate the payment of compensation to restitution claimants and address related aspects of the legalization and title registration processes. While the Action Plan represents a positive step toward a policy debate on a sustainable solution, a comprehensive Strategy still remains to be prepared.

viii. **A successful solution will also require a strong focus on ensuring effective and consistent implementation of policies and laws.** In this regard, the Government will need to continue its efforts to further strengthen the capacity of IPRO and seek to speed up the systematic completion of first registration in urban centers and other economically significant areas to improve the validity of IPRO records. It will also be important for the Government to act with determination to enhance coordination among IPRO, ALUIZNI, and AKKP, possibly by amalgamating these agencies or subordinating them to the supervision of a single cabinet member. Indeed, the Government's Action Plan of April 2011 foresees a new coordination mechanism. At a minimum, it will be necessary to ensure the full compatibility between these agencies' data, information requirements, and procedures (Needs updating). Finally both the Government and civil society will need to closely monitor the effective and consistent implementation of the new Urban Planning Law as well as municipal authorities' practices in issuance of construction permits, which have hitherto been fraught with uncertainties and corruption opportunities.

GOVERNANCE IN THE PROTECTION OF IMMOVABLE PROPERTY RIGHTS IN ALBANIA: A CONTINUING CHALLENGE

1. **Despite ongoing reform efforts, the security of land tenure, and of real estate ownership more broadly, is insufficiently protected in Albania.** As in several other transition countries, land privatization led to a number of problems such as incomplete registration and lack of reliable documentary evidence of ownership, thus compromising the security of land tenure. The restitution and compensation process remains incomplete. Though the legal framework is generally adequate, inconsistencies have complicated implementation and enforcement. Lack of clear legal title exposes property occupiers, including those with lawful ownership rights to the land, to a multitude of risks when engaging in property transactions, which often remain informal, and prevents them from using the property as collateral to obtain access to credit. Rapid, spontaneous internal migration has compounded these problems, resulting in informal occupation of land and unauthorized construction on a mass scale. Gaps in territorial planning legislation and administrative failures in the issuance of construction permits have made it difficult to obtain appropriate construction permits, thus hindering the country's competitiveness. Resolving property disputes and enforcing property rights through the courts has been problematic, damaging Albania's reputation with regard to the rule of law and affecting the country's EU integration prospects.⁴ The most recent EC Progress Report notes that "property rights remain an issue of great concern".⁵

Immovable property Rights Reform in the 1990s

2. **The concept of private property ownership was revived in Albania after the fall of communism through a broad, but inconsistent, privatization process.** Prior to World War II, much of the immovable property in Albania was privately owned and included in an indigenous land registry established in the 1930s. All immovable property was progressively nationalized under communism. In 1991, the newly elected parliament reintroduced private immovable property ownership and reactivated the immovable property registry. Particularly important was the 1991 Law On Land, under which agricultural lands were divided among those working them and their families—some two-thirds of the population in total.⁶ All former cooperative farms were distributed as part of this process, although the details of implementation varied from

⁴ The opinion of the European Commission on Albania's application for opening accession negotiations includes the adoption of a strategy and action plan on property rights, which should cover the restitution/compensation and legalization processes, among the key priorities. Albania will need to address prior to opening accession negotiations. EC reports have also repeatedly highlighted this problem in discussion the protection of human rights, adherence to the rule of law, and the functioning of a market economy able to withstand competitive pressures in the European internal market—three of the principal criteria for EU accession. European Commission. 2010. *Opinion on Albania's Application for Membership of the European Union*. Brussels, November 9, 2010: 6-8, 11; European Commission. 2010. *Albania 2010 Progress Report*. Brussels, November 9:22-24, 31.

⁵ European Commission. 2011. *Albania 2011 Progress Report*. Brussels, October 12: 19

⁶ By 1993, 92 percent of cooperative land had been privatized. Economist Intelligence Unit. 1993. *Country Report for Albania*.

region to region.⁷ This uneven approach gave rise to frequent disputes, which the local authorities were typically unable to resolve. Ineffective law enforcement increasingly led the population to question the authority of the state and the law.⁸ In urban areas, a 1992 Law On Privatization of State-Owned Housing ensured that occupiers obtained ownership of their homes. Some 440,000 apartments and houses were privatized under this law.⁹ Table 1 provides a summary of key legislation on property rights in Albania.

Table 1: Brief Chronology of Immovable property Rights Reforms

Early 1990s	<p>Immovable property privatization</p> <ul style="list-style-type: none"> • Law No. 7501 of July 19, 1991, On Land, under which agricultural lands were divided among those working them. • Law No. 7652 of December 23, 1992, On Privatization of State-Owned Housing transferred to occupiers ownership of their homes. • Law No. 7698 of April 15, 1993, On Restitution and Compensation to Former Property Owners was the basis for further privatization in urban areas.
Mid-1990s	Civil law reform, particularly under the Civil Code of 1994 , provided a legal framework for private property transactions.
1995	Law No. 7843 of July 13, 1994, On the Immovable Property Registry System .
1998	Constitution adopted, including provisions guaranteeing immovable property rights.
2004	Law No. 9404 of October 29, 2004, On Legalization and Urban Planning of Informal Zones attempts to regularize illegal buildings based on a self-declaration process managed by local authorities.
2004	Law No. 9235 of July 29, 2004, On Restitution and Compensation of Property replaces the 1993 law and introduces compensation at current market value .
2006	Law No. 9482 of April 3, 2006, On Legalization, Urban Planning and Integration of Illegal Constructions replaces the 2004 law and attempts to regularize illegal settlement and buildings constructed before May 2006, subject to a self-declaration process managed by the central Agency for the Legalization, Urban Planning, and Integration of Informal Areas/Constructions (ALUIZNI).
2007	Law No. 9780 of July 16, 2007, On Construction Inspection delegates much of the responsibility for dealing with illegal buildings to the local government.
2009	Law No.10119 of April 23, 2009, On Territorial Planning introduces modern concepts of urban planning and control. The secondary regulations were adopted in June 2011. Amendments to the Law on Legalization , adopted in October 2009, give legalization applicants the option of paying for up to 50 percent of the value of the property with otherwise worthless privatization vouchers from the 1990s.

⁷ For example, in the mountainous areas of northern Albania, local communities did not distribute land on a per-capita basis, as required by law, but per family and according to hereditary ownership in pre-communist times, ostensibly in adherence to the norms of customary *kanun* law.

⁸ This was arguably an important factor in the resurgence of revenge killings. See Clarissa de Waal. 2004. "Post-socialist Property Rights and Wrongs in Albania: An Ethnography of Agrarian Change." *Conservation and Society* 2 (1): 21-27.

⁹ World Bank. 2006. *Status of Land Reform and Property Markets in Albania*. Tirana: 47.

2. **In the early 1990s, Albania adopted legislation on the restitution of property that had been nationalized under communism to the dispossessed owners or their descendants.** The Government adopted a policy of compensating former owners or, where possible, restoring ownership of their land.¹⁰ For non-farm land, the parallel privatization process sometimes resulted in split ownership between the buildings and land.¹¹ The implementation of the Law on Restitution and Compensating Former Property Owners successfully restored a large number of properties to the original owners, but the Law on Compensating Former Owners for the Value of Agricultural Land was less successful.¹²

3. **The first step in introducing a modern property registration system was taken in 1994, but the process of first property registration remains incomplete.** The Law on the Registration of Immovable Property adopted in 1994 provides for a modern, parcel-based registration system, and established a dedicated agency, the Immovable Property Registration Office (IPRO) for managing this process. Since then, various donor-sponsored projects have worked to register immovable property in a systematic manner, including the World Bank-financed Land Administration and Management Project (LAMP). Due to the lack of a nationwide effort aimed at systematic first registration, IPRO now estimates that it has records for some 60–70 percent of all properties.¹³ IPRO has completed first registration for 83 percent of rural cadastral zones, but only 25 percent of urban cadastral zones. As a result, most properties in urban areas still remain unregistered, though first registration in these areas is currently underway with support from the LAMP.

4. **It is estimated that some 350,000 to 400,000 buildings have been erected without permits nationwide.** Rapid internal migration during the economically turbulent, yet less restrictive, 1990s led to mass squatting on state and private land—especially in coastal and peri-urban areas. No official mechanism existed to allocate land for such large numbers of migrants, so people simply occupied land and started to build. Land was carved up informally, but much of it remained classified as agricultural land and thus ineligible for construction permits. Construction took place without regard for planning or building laws, without official approvals, without proper infrastructure, and often (but not always) on land that did not belong to the builder. As a result, many urban properties are regarded as illegal. The lack of effective planning and construction controls facilitated additions and expansions of existing constructions that are now also considered illegal. Illegal constructions are estimated to make up one-third of the total

¹⁰ The rights of ex-owners of buildings and sites in urban areas were restored or recognized under Law No. 7698, of April 15, 1993, On Restitution and Compensating Former Property Owners. Under Law No. 7699 of April 21, 1993, On Compensating Former Owners for the Value of Agricultural Land, former owners were to receive either restitution of land nationalized or compensation, but this law was not implemented.

¹¹ It is impossible to make categorical statements on this topic; practically every case needs to be considered individually. For an outline of 1990s policy responses to property privatization, see European Parliament, Directorate General External Policies of the European Union. 2008. *Property Restitution in Albania*. Brussels: 2-3.

¹² For the period to June 30, 2003, distributions under Law No. 7699 yielded 12,521 decisions on agricultural land affecting some 52,000 hectares, 574 decisions on forest land affecting 16,000 hectares, and 818 decisions on pasture affecting 42,000 hectares. See OSCE. 2003. *Commentary on the Draft Law on Restitution and Compensation of Property*.

¹³ A higher estimate of up to 80 percent was mentioned in an interview of Mr. Elidon Laze, Director of the Legal Department of IPRO, and cited in EC EURALIUS project. 2010. *Final Assessment Report on the Situation of Property Rights in Albania*. Tirana: 12.

housing stock and to have cost some €10 billion to build.¹⁴ Approximately one-third of the land on which illegal buildings have been constructed belongs to the builders, one-third to the state, and one-third to another person, such as an owner whose property was restored or a person who received land under the 1991 Law On Land.¹⁵ Table 2 outlines circumstances that result in illegal status. The institutional structure for property rights in Albania is laid out in Table 3.

Table 2: Status of Properties in Albania

Status	Issues	Consequences
Registered property with clear title and boundaries	Property is registered at IPRO without restriction and boundaries are not in dispute	Registered property may be sold, mortgaged, or receive compensation in case of expropriation; may be sold at about a 10 percent higher price than an equivalent property without registration or with unclear title. Law offers protection.
Unregistered property with clear title and boundaries	Documentary proof of ownership exists and boundaries are not disputed, but property is not registered at IPRO	Cannot be mortgaged, difficulties in expropriation (has to be registered first), unappealing to foreigners, notaries not involved in sale. Property can be registered subject to applicable fees and legal costs.
Registered property with unclear title	Some problems or uncertainty exist regarding legal rights, such as missing documents	Requires effort and costs to resolve problem, possibly court case. Some difficulties in mortgaging, selling.
Unregistered property with unclear title (or boundaries)	Property could not be registered due to uncertain ownership	Requires effort and costs to resolve problem, possibly court case, plus costs of registration. Cannot be mortgaged; difficulties in expropriation; more difficult to sell, especially to foreign buyers; notaries not involved in sale.
Land occupied by squatters and illegally built on, but successfully legalized	After legalization by ALUIZNI and title registration at IPRO, property has the same status as registered property with clear title and boundaries	Same as for registered property with clear title; during the legalization process, legal protection unclear (e.g., in case of expropriation, as property needs to be registered first).
Land (registered or not) with illegal building	Occupier is legal owner of land (may nor may not be registered) but building does not have construction permit; or building does not comply with terms of construction permit (for example, has additional floors)	Owner at risk of having building demolished; problems with expropriation, sale; property cannot be mortgaged if land is not registered.
Land belonging to a different owner (registered or not) and illegally occupied by squatters ; not part of the legalization process	Mass migration resulted in large-scale occupation of land and construction without legal title or planning permit; not all occupiers have applied for legalization; some properties are not eligible for legalization (including land in designated natural reserves)	Least secure category: owner is at risk of eviction or demolition of building. Property cannot be mortgaged or legally transferred; no legal protection in case of expropriation.

¹⁴ Mr. Shaban Memia, Director the legalization agency ALUIZNI, estimates the number of illegal constructions to be closer to 400,000 than 350,000, which is the figure identified from aerial photographs and contained in the ALUIZNI database. Interview with World Bank Consultant Tony Lamb, Tirana, September 11, 2009.

¹⁵ *Ibid.* According to ALUIZNI data, 29 percent of the identified illegal constructions were built on land belonging to the owner, 24 percent on state land, and 35 percent on land owned by another person; information was unavailable for 12 percent of cases. See Republic of Albania Council of Ministers. 2009. *National Strategy for Development and Integration: Progress Report 2008*. November: 17.

Table 3: Key Institutional Actors on Property Rights

Organization/Agency	Mandate
I PRO	To register immovable property, transaction documents, and changes to boundaries, and to supply data to the public
ALUIZNI	To coordinate with planning authorities on the introduction of illegal buildings into urban plans and to grant ownership of occupied land to squatters who are legalizing their building
AKKP	To manage the restitution of land or provide compensation in cash or through alternate properties or other means
Municipalities and Communes	To develop and issue urban plans and approve projects up to 5,000 square meters
National Council for Territorial Adjustment	To develop and issue plans at the national level and approve projects larger than 5,000 square meters
Construction Police (national and local level)	To investigate, fine offenders, and take remedial action, such as demolishing structures

5. **Many properties have been subject to informal transactions over the years, and the current occupiers often paid sizeable sums to acquire them.** Sales and subdivisions often occur without documentation, and even where sales documents exist, they frequently cannot be notarized or registered because the property is not registered to the seller. As a result, many current occupiers paid significant amounts of money for property but have little legal protection because the transaction remains, from a legal point of view, informal.

6. **The process of informal settlement and construction gave rise to social tensions, challenges to government authority, and political implications.** In the 1990s, occupiers used force to secure and defend property against occasional—mostly unsuccessful—attempts by the authorities to evict them. As the squatter communities grew in size, the authorities became increasingly wary of interfering with them.¹⁶ The lawless approach of the settlers and the authorities' failure to stop them gave rise to resentment among residents of nearby urban areas, as well as anger and frustration among those whose land was occupied. As the squatters gradually acquired residence registration and voting rights in their communes of settlement in the mid-1990s, the country's political landscape was transformed. At the same time, squatter communities became increasingly assertive in expressing dissatisfaction over the often-appalling conditions in which they lived due to the absence of public services such as water and sanitation.¹⁷

The Legalization Process

7. **Legalization was a pragmatic response to the increasingly difficult implications of mass illegal land occupation and settlement.** When confronted with problems of this kind, governments have generally had little choice but to recognize reality and legalize occupation.

¹⁶ The resistance put up by armed squatters at Bathorë, an informal settlement north of Tirana, against an attempt by the police to evict them in 1995 was highly publicized, as the squatters took the Deputy Prime Minister at the time hostage. See Clarissa de Waal, *op. cit.*: 41.

¹⁷ *Ibid.*

Following the 1963 earthquake in neighboring Macedonia, for example, large-scale rebuilding activities progressed without regard for formalities. In 1971, the Government of Macedonia legalized the large number of unapproved constructions *en masse*. The alternatives—demolishing all illegal constructions or ignoring the situation—are unattractive; the former risks major social unrest, and the latter produces a drag on the economy and immovable property market and reduces people’s sense of security as well as their willingness to make further investments in their properties. The failure to regularize illegally constructed buildings thus leaves large amounts of capital outside the formal system. Legalization has the potential to convert this “dead capital” into useful, workable capital that can make its way into the formal system.¹⁸

8. Albania’s legalization policy aimed to regularize illegal constructions, transfer ownership of the land on which they were built, and extend urban planning to informal settlements. There have been two main attempts to regularize informal settlements in Albania. The first attempt, under a Socialist Party-led government in 2004, set up a scheme of self-declaration and legalization but had limited success due to insufficient resources and expertise at the local government level.¹⁹ The legal framework for this approach was replaced in 2006 by the Law On Legalization, Urban Planning and Integration of Illegal Constructions, which, as amended,²⁰ provides a mechanism for legalizing illegal constructions and extensions and establishes a system for urban planning approval. The law also sets up a mechanism for transferring ownership of land on which a legalized construction is built to the applicant, and includes a right of compensation for the former owner and a formula for calculating compensation.²¹ The law provides sanctions and penalties for failure to comply.²²

9. A centralized, professional agency was created to manage the legalization process. The amended Law on Legalization established the Agency for the Legalization, Urban Planning, and Integration of Informal Areas/Constructions (ALUIZNI) and defined related functions—notably urban planning and registration of legalized properties—exercised by other bodies. ALUIZNI is mandated to process legalization applications and coordinate the legalization process. The application is relatively simple on the assumption that the applicant may not have

¹⁸ The term “dead capital” comes from Hernando de Soto. 2000. *The Mystery of Capital*. Basic Books. New York. The United Nations Development Program sponsored de Soto’s organization, Instituto Libertad y Democracia, to review the situation in Albania in 2007. The draft report was never publicly released, but it can be assumed that its findings and recommendations were consistent with de Soto’s underlying philosophy of legalizing properties to integrate them into the mainstream economy.

¹⁹ This scheme was based on Law No. 9304 of October 23, 2004, On the Legalization and Urban Planning of Informal Areas and Law No. 9209 of March 23, 2004, On the Legalization of Additions to Constructions. For details on the operation of these laws, see World Bank. 2006. *Status of Land Reform and Property Markets in Albania*. World Bank: Tirana: appendix 12; and Kathrine Kelm. 2005. *Legal Assessment: Demolitions and Involuntary Resettlement Issues in Albania*.

²⁰ Law No. 9786 of July 19, 2007, On Some Changes and Amendments to the Law No. 9482 of April 3, 2006, on Legalization, Urbanization and Integration of Illegal Constructions, makes only slight changes to the financial and administrative provisions of Law No. 9482.

²¹ As discussed below, if a third party owns the land, it is first expropriated, and then transferred from the state to the applicant.

²² World Bank. Legal and Institutional Assessment, World Bank Integrated Coastal Zone Management and Clean-up Project.

the expertise or all of the information needed. ALUIZNI's operating instructions cover the procedures for legalization, qualifying criteria for informal objects, procedures for issuing legalization permits, and initial title registration by the IPRO. ALUIZNI also carries out title searches, identifies informal properties, approves boundary lines, and prepares technical and legal documentation for government approval. After cases have been processed, ALUIZNI submits draft decisions to the government in batches. Finally, ALUIZNI works with local governments' town planning units to prepare urban plans for areas affected by legalization.²³ If the area where a building is located is not first included in an urban plan, the property cannot be legalized.

10. Special expropriation procedures enable the state to grant land to applicants who do not own the land on which an illegal construction is erected. As noted above, about one-third of illegal buildings were erected on land belonging to a third party. To address this issue, ALUIZNI makes a proposal to expropriate the privately owned land to the government, and once it becomes state land (by virtue of government decision), it is transferred to the applicant. The title can then be registered with IPRO. Owners of illegally occupied properties have challenged this provision in court as unconstitutional,²⁴ but the Constitutional Court ruled that the use of expropriation to reassign land to squatters was permissible, essentially interpreting legalization to be in the public interest.

11. Provisions are in place to compensate owners of expropriated land, but the fees paid by legalization applicants have fallen short of the amount due in compensation. Further amendments to the Law on Legalization, introduced in 2008, simplified administrative procedures to ensure that both the building and land on which it stands would be legalized at the same time, and synchronized the payment of compensation to owners of expropriated land.²⁵ In practice, however, only 874 expropriated owners have received compensation in connection with the legalization process and another 1,300 cases have been transferred to the Agency for Property Restitution and Compensation (AKKP),²⁶ while a much larger number of cases await compensation. Figures produced by ALUIZNI and obtained from AKKP show that some 4.5 billion lek (over €30 million) is due to be paid to 1,460 owners of expropriated property whose

²³ However, a legal amendment adopted in April 2009 gives ALUIZNI the competence to collect data on properties under the legalization process and compile maps of informal areas, if the local urban planning councils fail to do so by the specified deadlines. EC EURALIUS project. 2010. *Final Assessment Report on the Situation of Property Rights in Albania*. Tirana: 28-29.

²⁴ Article 41.3 of the Constitution guarantees private property rights and states that the "law may provide for expropriations or limitations in the exercise of a property right only for public interests" (rather than in the interest of individuals, such as legalization applicants).

²⁵ Law No. 9482 was amended by Law No. 9895 of June 8, 2008, On Changes and Additions to Law No. 9482. ALUIZNI Director, Mr. Shaban Memia, advised that there are plans for another set of amendments to Law No. 9482. One of the proposals is to record application fees on the property title as a deposit, so that the owner would not have to come up with the full application cost immediately. Interview by World Bank Consultant Tony Lamb with ALUIZNI Director, Mr. Shaban Memia, September 11, 2009.

²⁶ Republic of Albania Council of Ministers. 2009. *National Strategy for Development and Integration: Progress Report 2008*. November: 17. Beneficiaries of compensation from legalization fees, include claimants whose land had already been legally restituted, but who were not able to actually recover their land, as it was actually occupied by a legalization applicant.

claims have been approved by Government decision.²⁷ ALUIZNI has collected €30 million in fees so far, of which half has been paid to restitution claimants.²⁸ This has fallen far short of the required amount to compensate expropriated owners, which means the largest share of the compensation due must therefore be paid out of budget resources. This shortfall notwithstanding, amendments to the Law on Legalization were adopted in October 2009 that allow applicants to pay up to half of the cost of legalization using otherwise worthless vouchers issued under a 1990s privatization scheme. The acceptance of vouchers is likely to deprive the state of significant revenue that could have been used to compensate expropriated owners. However, the non-payment of fees by many legalization applicants remains an obstacle to the completion of the process.

12. **The legalization process has moved slowly despite the resources devoted to it.** ALUIZNI is a large, well-resourced organization with operating costs covered by the state budget. The agency has expertise in surveying, mapping, law, and urban planning, and has produced modern digitized maps for the entire country based on aerial photographs taken in 2006. ALUIZNI has produced digitized maps of most of the properties for which it has received legalization applications (Table 4). Yet only a small proportion of legalizations have been completed, with the titles having been registered by IPRO (Table 5). Coordination problems between ALUIZNI, IPRO, and AKKP have reportedly hindered legalization. First, there have been issues in standardization of data. ALUIZNI’s geographic data, which are produced using recent aerial photography and GPS technology, are based on more accurate and up to date technology than those of IPRO. IPRO’s records rely on older paper maps and less accurate surveying methods. IPRO has started accepting ALUIZNI cartographic data only recently. Previously ALUIZNI would supply electronic data at a scale of 1:1,000, and IPRO would manually convert the information to its own scale of 1:2,500 and record it on paper maps. This slowed down the process and reduced the accessibility and accuracy of the data. Second, the payment of compensation for expropriation due to legalization remains insufficiently funded. AKKP reports that neither ALUIZNI nor the state budget has provided the 4.5 billion lek needed to pay the compensation called for in legalization decisions submitted by ALUIZNI.²⁹ There is a risk that the failure to compensate expropriated owners could cause expropriation decisions to be declared invalid.³⁰

Table 4: Applications for Legalization by District

District	Self-Declarations 2004 and 2006	Percent of Total
Tirana	96,526	36
Durres	38,944	14
Vlore	25,348	9
Lezhe	12,518	5
Shkoder	22,224	8
Elbasan	21,556	8

²⁷ Of these only some 500 claimants had actually received partial compensation as of the end of 2010. Interview with Mr. Elvis Cefa, Director of AKKP, June 28, 2011.

²⁸ Interview with Mr. Shaban Memia, June 28, 2011

²⁹ Again, this amount concerns the 1,300 cases that have been processed and await payment.

³⁰ Observation of her Honor Vjollca Mecaj, High Court judge. Interview with World Bank Consultant Tony Lamb, September 25, 2009.

Fier	27,124	10
Berat	8,833	3
Gjirokaster	3,278	1
Korce	9,322	3
Diber	2,365	1
Kukes	2,554	1
Total	270,592	100

Source: ALUIZNI.

Table 5: Status of Applications Received by ALUIZNI (end of 2010)

Applications Received	Verification Completed and Digitized Maps Prepared	Processed Eligible Applications	Submitted for Government Approval	Legalized properties registered with IPRO
270,592	113,490	90,464	54,104	4,504

Source: ALUIZNI.

13. **The ongoing legalization process leaves out a large number of informally constructed buildings.** The Law on Legalization applies only to buildings constructed before May 2006 and for which legalization applications were submitted by November 15, 2006.³¹ The law does *not* apply to constructions in existing urban areas, land within the borders of urban areas, or constructions within 100 meters of a national road, except in designated areas. As the application deadline has long passed, the possibility of legalization no longer exists for those who failed or were ineligible to apply. Assuming a conservative figure of 350,000 illegal constructions in total, beyond the 270,592 properties for which legalization applications were submitted, there are at least 80,000 properties that remain illegal and outside the process of legalization. Furthermore, the number of illegal constructions continues to grow, as buildings continue to be constructed without permits—either by choice or because the planning system is not operating effectively. As a result, a substantial number of properties remain outside the formal immovable property market, and illegally constructed buildings that are not covered by the legalization process continue to be exposed to the risk of demolition.

14. **A successful legalization must be accompanied by credible action to prevent new illegal construction.** It is unrealistic to expect the Government to tear down the 80,000 (or more) buildings which are currently not included in the legalization process. However, should the Government consider another round of legalization, it will be important to ensure that this action does not result in expropriations of legal owners. Moreover, a new round of legalization would risk strengthening incentives for future illegal construction and squatting, if the population interprets it to mean that illegal activities will always be eventually regularized. It will therefore be crucial for the Government to put in place a credible program to enforce existing legislation on construction inspections and undertake vigorous upstream efforts to prevent illegal construction before it starts. It should be also noted that not all constructions could eventually be legalized, as some are built in areas unsuitable for construction, such as environmentally protected areas, cultural heritage sites, and areas that pose safety risks, e.g. flood zones. Any

³¹ Law No. 9482 entered into force on May 13, 2006.

additional legalization should also closely review the expropriation method, as it has the potential to encourage further illegal occupation of land.

Restitution Since 2004

15. **It appears that the number of properties that can be used for physical restitution is limited.** In the 1990s, many properties were returned to former owners or their descendants or, in the case of agricultural land, to those who worked it. This approach to restitution continues to elicit controversy in the Albanian society, particularly as associations of expropriated owners question the legitimacy of any privatizations that proceeded without the property having been restored to the original pre-1944 owners or their descendants.³² This controversy is perpetuated by the expropriated owners' resentment of the authorities' concern about possible social tensions, which could arise in the event of large-scale forcible evictions of current residents, many of whom may have bought the properties in good faith. If such evictions were to be avoided (not least because they would also give rise to legal challenges, with *bona fide* buyers and long-term tenants claiming compensation), the number of properties now available for restitution would seem to be rather limited. The Government is currently seeking to expand the pool of properties that can be used for restitution by completing an inventory of state property that could be made available to restitution claimants. Still, it remains unlikely that such properties will be sufficient to cover all outstanding claims.

16. **As a result, the payment of compensation remains at the core of the current process.** In terms of policy content, the Law On Restitution and Compensation of Property adopted in 2004 takes a similar approach to that adopted by other countries in Central and Southeastern Europe. However, the requirement to compensate expropriated owners at current market value without limitations is difficult to implement within a reasonable timeframe (e.g. even within two or three decades) due to the high fiscal costs and deviates from international experience.

17. **Restitution and compensation cannot be viewed in isolation from privatization and legalization.** During the privatization process, buildings and small enterprises were privatized to particular persons, but the land under the buildings may have been transferred to others through restitution. Land around apartment blocks was often privatized to the owners of the apartments, regardless of whether it was subject to restitution claims. Property on which a building has been illegally constructed cannot be restituted while legalization is underway.³³

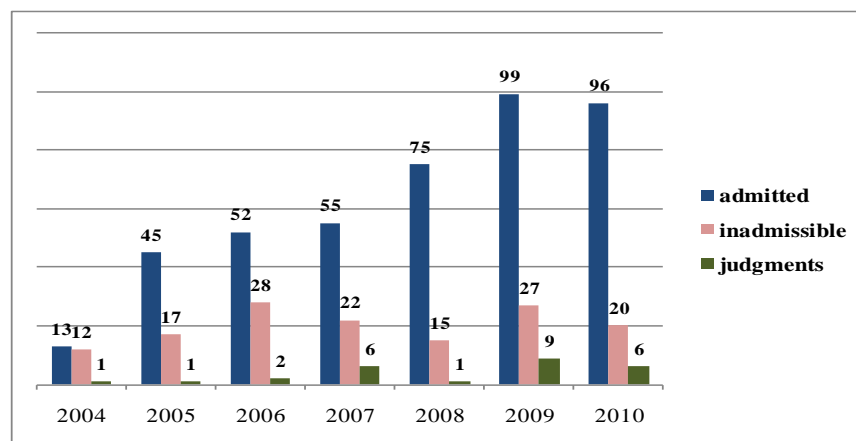
18. **Albanian citizens can submit claims for restitution and compensation to the European Convention on Human Rights (ECHR).** The ECHR does not require states to restore property or compensate citizens, but once a state has adopted legislation to that effect,

³² World Bank consultations with associations of expropriated owners, "Property with Justice" and "Bregdeti Association", 2011-2012.

³³ For more on some of these problems, see European Parliament, Directorate General of External Policies of the European Union. 2008, *op. cit.*, pp. 7-9. A property with a building that is subject to a legalization claim can also be claimed by the occupier under Law No. 9482 on Legalization, Urbanization and Integration of Illegal Constructions. Law No. 9235 on Restitution and Compensation of Property provides that compensation is not possible until the legalization process has been finalized.

citizens acquire this right. According to ECHR rulings, the state has leeway in the amount of compensation and there does not need to be “a guarantee of full compensation in all circumstances, because legitimate objectives of the public interest could call for an amount, which is less than full market value.”³⁴ ECHR decisions have also addressed the date and the quantum by which compensation—generally market value—should be assessed.³⁵ In the past two years, the ECHR has admitted an increasing number of cases filed by Albanian citizens claiming their right to property, a fair trial, and effective remedy (Figure 1). According to the statistics of the ECHR, 52 percent of Court judgments that found violations by the Albanian state related to the right to property, particularly in connection to restitution and compensation.³⁶ An estimated 200 cases from Albania are pending before the ECHR.³⁷ Given that over 80 percent of ECHR judgments have been in favor of the former owners, the Albanian Government is facing large compensation bills and penalties. If all, or at least many, of the outstanding claims were taken to the ECHR, Albania could potentially face a compensation bill of several billion euro, which would pose an unaffordable burden on the country’s public finances.³⁸ The ECHR has noted that “the non-enforcement of domestic judgments and administrative decisions concerning restitution and/or compensation to former owners in Albania is a systemic problem,”³⁹ and EC Progress Reports refer to this issue among concerns over human rights in Albania.⁴⁰

Figure 1: Cases Brought to the ECHR from Albania



Source: ECHR 2010.

³⁴ World Bank. 2006. *Status of Land Reform and Property Markets in Albania*: 89-90; Centre on Housing Rights and Evictions. 2002. *Albania: Resolving the Question of Land and Property Restitution and Compensation*. Report to the World Bank and OSCE.

³⁵ *Ibid.*: 90.

³⁶ These rights are guaranteed by Articles 1, 6, and 13 of the ECHR, which is a legal instrument of the Council of Europe that Albania ratified in 1996. For statistics, see ECHR. 2012. *Violations by Article and by State: 1959-2011*.

³⁷ ECHR. 2008. *Analysis of Statistics 2008*. Strasbourg: 13-14; Interview of World Bank Consultant Tony Lamb with Mr. Christoph Kopecky, EC EURALIUS Project property rights expert, October 27, 2009.

³⁸ Interviews with Mr. Agim Toro, June 9, 2009, and with Mr. Flamur Kuci, Adviser to the Prime Minister for urban planning issues, September 23, 2009.

³⁹ ECHR judgment on *Ramadhi and 5 Others v. Albania*, of November 13, 2007, application no 38222/02.

⁴⁰ European Commission. 2009. *Albania 2009 Progress Report, op. cit.*: 16.

19. **Since 2006, responsibility for implementing restitution and compensation in Albania has rested with AKKP.** The restitution and compensation process was delayed initially, as the legal framework contained uncertainties, including on the valuation methodology and role of various government bodies. In 2006, amendments to the Law on Restitution and Compensation established the AKKP and transferred to it the functions of restitution and compensation previously held by the central government and local committees. These amendments aimed to increase the effectiveness and pace of the process, but these expectations have not been met. AKKP staff qualifications include primarily law and surveying. The organization's resources are generally adequate in most areas, but it lacks proper transport for conducting site visits, modern hardware and software, and information technology (IT) support. AKKP's maps are mostly in paper form, as it has not received digital maps from other agencies such as ALUIZNI, and even if it had, AKKP's IT infrastructure and staff training would not be sufficient to work with them. The Government's draft strategy on property rights recognizes that the lack of accurate cartographic data has delayed restitution and compensation.⁴¹

20. **Some 39,000 claims were submitted under both phases of the restitution and compensation process.** The deadline for filing an application (December 31, 2008) has passed, so no new claims may be submitted. The application process was criticized for its complexity, as claimants were required to submit extensive documentation, including a property map, which was difficult to obtain in rural areas where even the authorities did not always have cartographic data.⁴² As of late 2009, some 10,000 files were pending with the AKKP. The deadline for AKKP to reach decisions on all claims was extended to December 31, 2011.⁴³ According to official data, the authorities have restituted 58 percent of the land claimed and 30 percent of properties. An additional 20 percent of properties were partially restituted, and 50 percent of property claims are to be compensated.⁴⁴

21. **As in other areas, only a small proportion of compensation claims handled by AKKP have been paid due a shortfall of funds.** The Law on Restitution and Compensation provides for various methods of compensation, including transfer of state property of equal value, if restitution is not possible. An inventory of state property has been completed, and some of that property is to be used for restitution in kind. However, most outstanding cases will need to be settled through monetary compensation. Since 2005, the Government has allocated budget funds to AKKP for payments to successful claimants. Because these funds were limited, the Government decided that each claimant would receive compensation for up to 200 square meters, irrespective of the size of the successfully claimed property.⁴⁵ In accepting payment for the 200 square meters, a claimant does not give up the right to be compensated for the remainder of the property, if and when additional funds become available. AKKP reports that in 2005–2008, compensation amounting to 1.5 billion lek (one-third of the total approved) had been paid. In 2009 another 1.25 billion lek was paid, while in 2010–2011 the budget for compensation was 1

⁴¹ Government of Albania. 2009. *Draft Inter-Sectoral Strategy for Reform in the Field of Property Rights*: 11.

⁴² The list of required documents is specified in Government decision no. 747 of November 2006.

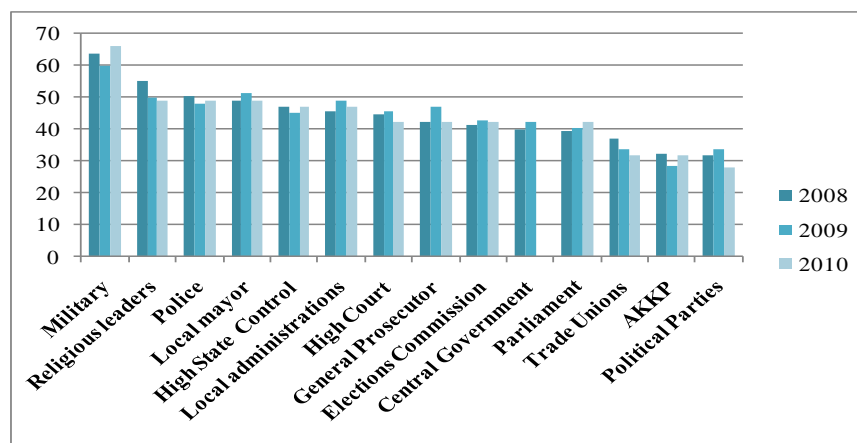
⁴³ Law No. 10207 of December 23, 2009, extended the deadline that had expired on June 30, 2009. For the intervening six months, AKKP had no legal authority to make decisions on claims.

⁴⁴ Government of Albania. 2009. *Draft Inter-Sectoral Strategy Reform in the Field of Property Rights*: 11.

⁴⁵ Rules on disbursement of the funds are set under a Council of Ministers' decision.

billion lek.⁴⁶ In May 2009, the Government set up a special account to enable compensation funds to be carried over from one financial year to another, providing AKKP with greater administrative flexibility. As noted above, however, AKKP has not received sufficient funds either from the budget or from ALUIZNI.⁴⁷ The slow progress in the compensation process may account for the low levels of public trust expressed in the AKKP (Figure 2).

Figure 2: Public Trust in Institutions (including AKKP)



Source: IDRA, 2010.⁴⁸

22. **The Government needs to expedite compensation for expropriated owners in order to abide by its policy commitments, observe citizens' legal rights, and improve the functioning of the property market.** Expropriated owners claiming restitution or compensation have fared poorly under successive governments. The process has dragged on for over 15 years with little monetary compensation paid, indicating a lack of political will to complete the process. Delays in resolving outstanding restitution and compensation claims impair the efficient functioning of the property market, as properties with a pending restitution claim may not be legally transferred or mortgaged, while the legal uncertainty reduces owners' incentives to invest in improving these properties. The growing number of ECHR rulings against the Albanian authorities in property rights cases risks the accumulation of significant damages claims to be paid out of the budget and may harm Albania's international reputation. Moreover, failure to protect private property rights guaranteed by national legislation is considered by the ECHR to be a violation of human rights and fundamental freedoms, thus hindering Albania's EU accession aspirations. Indeed, the European Commission's Opinion on Albania's application for EU accession, which was issued in November 2010, sets the adoption of a strategy and action plan on property rights, based on ECHR case law, among the key priorities that Albania will need to

⁴⁶ The EC EURALIUS rule of law project gives an estimate of a total 2.75 billion lek (around €19 million) paid in compensation in the period 2005-2010 to some 4 percent of the claimants. EC EURALIUS project. 2010. *Final Assessment Report on the Situation of Property Rights in Albania*. Tirana: 20. Data published on the AKKP website confirm this data.

⁴⁷ Interview by WB Consultant Tony Lamb with Mr. Genc Celu, September 8, 2009.

⁴⁸ Institute of Development Research Alternatives. 2010. *Corruption in Albania: Perception and Experience*. Survey 2010: Summary of Findings. Survey financed by USAID.

address to open accession negotiations.⁴⁹ The Action Plan adopted in April 2011 foresees a transitional compensation mechanism with a view to allowing as many restitution claimants to receive at least partial compensation within a short time frame, while longer-term options for covering the cost of compensation through a permanent mechanism are evaluated.⁵⁰

23. The approach to compensation, currently postulated at current market values without limitations, needs to be reviewed in the light of international practice, fiscal affordability and social equity. Based on the level of partial compensation awarded so far, compensating all outstanding claimants even partially would at least € 625 million (over 7 percent of Albania's GDP in 2009), with the cost rising in line with the value of real estate in the country.⁵¹ At the present rate of funds allocation to AKKP, it would take several decades to fully compensate former owners in accordance with the law. The current legal requirement is therefore not realistic within anything resembling a reasonable timeframe. A realistic solution would require some modification of the current compensation scheme. In this regard, Albania could consider the experiences of other countries in Central Europe, which have adopted legislation on the restitution of property nationalized under communism and the payment of compensation to expropriated owners whose property could not be restituted. Among these countries, Albania is the only case that awards compensation at current market value without limitations.

24. Some examples of other countries' practices that Albania could examine when considering reforms to the current restitution and compensation framework include the following:

- **Croatia:** Claimants may receive compensation at 100 percent of current market value only for apartments; for all other properties, there is a sliding scale for compensation, with properties in the highest category receiving just four percent of the current value. At the same time, 25 percent of the value of compensation has been paid in cash, with the rest covered by government bonds with maturity of up to 20 years.
- **Czech Republic:** Eligible claims are limited to an area of no more than 150 hectares of non-agricultural land. Eligible claimants are limited to the person who property was expropriated and to his or her spouse and direct descendants (i.e. children); brothers and sisters, nephews and nieces are not eligible. In addition, only the person whose property was expropriated may receive cash compensation; direct heirs may receive only bonds.

⁴⁹ European Commission. 2010. *Opinion on Albania's Application for Membership of the European Union*: 11

⁵⁰ Republic of Albania Council of Ministers. 2011. Decision no. 350 of April 29, 2011, *On the Adoption of the Action Plan concerning the Property Rights Issues as Identified in the Memorandum of the Committee of Ministers of the Council of Europe*.

⁵¹ This a low-end estimate based on the following assumptions: (i) approximately 30,000 of eligible claims (AKKP estimate); and (ii) partial compensation of 4.5 billion lek awarded to 1,460 claimants (i.e. average 3.1 million lek per claim) based on the limitation set by the Government for compensation for the market value of the property up to 200 square meters, which however does not override the claimants' entitlement to receiving the amount of compensation for the remainder of their property at a later stage.

- **Latvia:** The law provides for compensation for the value of the property at the time of expropriation in 1941.
- **Macedonia, FYR:** Compensation is based on current market value, like Albania, but the value is calculated according to the state of the property at the time of confiscation (i.e. if the property was farm land in 1945 and now contains a high-rise building, the owner would be compensated for farm land value). Compensation can be paid in bonds with maturity of up to 10 years.
- **Montenegro:** Compensation is calculated based on the state of the property at the time of confiscation, as in Macedonia. Montenegro has also set a legal limit on how much can be paid out each year from the budget (0.5 percent of GDP) and a maximum that could ever be paid out for compensation of confiscated land (10 percent of GDP). Compensation can be paid in state bonds instead of cash.
- **Serbia:** Compensation is subject to an upper limit of €500,000 per claimant. The total amount of compensation to be paid to restitution claimants is limited by law to a maximum of €2 billion; any shortfall in funds is to be shared among all claimants on a *pro rata* basis.

25. **Adopting a new approach will require a frank public debate to foster broad understanding about the level of compensation that the state (and, by extension, the taxpayers) can realistically pay and raise awareness about possible alternatives.** The views on this issue by different directly affected groups remain very strong and polarizing while the society at large has not yet awakened to the broader economic and social impacts of alternatives solutions. It may be necessary to establish a commission of respected persons to act as facilitators for such a debate. Options for containing the fiscal and social impact of compensation would need to be thoroughly evaluated and publicly debated, before the decision is taken. For the purposes of illustration, such options might include some of the following:

- Explore and maximize the remaining scope for physical restitution, including by means of state property of equal value to the property claimed;
- Consider limiting the maximum amount of compensation, for example, by a given percentage of the property's current market value exceeding a certain threshold (possibly using a progressive scale), or/and by capping the size of property that might be considered for the purpose of estimating the amount of compensation, or other measures drawn from applicable international experience.
- Earmarking distinct sources of non-tax revenues (e.g. legalization fees; revenue from the sale of state property) for the payment of compensation;
- Spreading the cost of compensation by issuing state bonds with long maturities (e.g. 20 or 30 years) to some categories of successful claimants; and

- Giving successful claimants options, e.g. accepting a lower amount of compensation payable immediately as opposed to accepting state bonds with a higher value.

At the same time, the Government will also need to protect the property rights of those whose restitution claims have succeeded by enforcing current legislation to evict current squatters occupying restituted properties.

Incomplete Title Registration

26. **Immovable property registration remains incomplete.** The process of post-communist immovable property registration began in 1995 with the establishment of IPRO. The Law on the Registration of Immovable Property provides for a modern, parcel-based registration system comprising both legal documents and cartographic information. All property transactions and changes to boundaries must be registered, and landholders receive a certificate documenting ownership. Albania's law adequately covers all of the fundamental issues to be regulated by a land registration law.

27. **IPRO has complete records for 83 percent of rural cadastral zones and 25 percent of urban cadastral zones, which are estimated to account for some 60–70 percent of all properties.** There are two types of first registration: *sporadic*, in which a property owner applies for registration of a property, and *systematic*, in which a group of properties in the same geographic area are mapped, investigated, and registered as part of a single process. Sporadic registration has taken place since soon after the registration law was enacted and continues today according to need, particularly where an unregistered property is going to be developed. The cost of sporadic first registration of property is relatively high and in some cases exceeds the value of the property—for example, for smallholdings in rural areas—thus acting as a clear disincentive for immovable property registration. Systematic registration efforts have so far been the result of donor-funded projects. The first major program, funded by USAID and the EU in 1994–2001, registered almost 2 million rural properties and 120,000 apartments. Smaller projects in 2002–2004 resulted in the registration of another 70,000 rural properties and 88,000 urban properties. Unfortunately, many of the records produced during these previous programs have proven to be unreliable and need correction. IPRO is currently undertaking systematic registration in all urban areas and the high-value coastal zone areas with support from projects financed by the European Commission and by the World Bank.

28. **The functioning of the property market is impaired by the lack of title registration for those who buy an apartment in a building that has yet to be constructed.** When contracting to buy an apartment that is not yet built, a buyer hands over a large sum of money (€50,000–60,000, for example) to the developer, but the contract cannot be registered against the property (assuming that the property itself is registered). As a result, there is no security for the buyer and there is a clear possibility for fraud through multiple sales of the same apartment. At present, people rely on personal relationships rather than on the property registry. The Government of Macedonia has recently addressed a similar problem by permitting qualified registration, with notices to be recorded against the property at the Macedonian equivalent of IPRO.

29. **IPRO capacity, resources, and quality of service have improved in the past two years, but further efforts will be needed to strengthen staff skills and further increase efficiency.** The agency is headed by a chief registrar and has 35 offices around the country, with more than 550 employees consisting of lawyers, surveyors, economists, and administrative staff. Staff turnover is high,⁵² and training was last conducted in the late 1990s. It is not surprising, therefore, that IPRO clients often complain that staff do not know the subtleties of the system, though recent client surveys commissioned by IPRO indicate increasing rates of client satisfaction. Still, high staff turnover needs to be addressed as a priority, and ongoing training needs to be introduced to improve administrative practices and customer service. Limited progress in automating IPRO work processes and records have held back efficiency improvements, though the automation of the registry is currently underway with support from LAMP. IPRO does not retain the fees and taxes that it collects;⁵³ these are forwarded to the state budget. At current levels, these funds would cover IPRO's expenses. The issue of retained earnings has been proposed for consideration, but currently IPRO's funding comes from the state budget. IPRO also collects the transaction (capital gains) tax on property sales.

30. **Improving data quality remains the major issue facing IPRO.** As discussed above, geographic data are often poor, with errors of one to ten meters on some maps. Although a large percentage of IPRO's maps are considered unreliable, they are the "legal" maps. The recent use of digitized maps produced by ALUIZNI under the ongoing systematic registration undertaken with support from LAMP is a positive step for improving data quality. Legal data are also considered questionable in many cases, causing government agencies and private sector entities that use these data to spend staff time resolving discrepancies.⁵⁴ It would be advisable for IPRO to adopt a systematic approach to improving registration data, beginning where the needs are strongest in terms of economic growth. In addition, IPRO could adopt lower-cost methods for sporadic first registration to make the process more efficient and attractive to property owners.

31. **Despite recent improvements, continued efforts are also needed to increase transparency and improve public perceptions of IPRO.** The poor quality of existing records, some legal or procedural ambiguities affecting title registration for some types of properties, and insufficient staff training have led to uncertainties and frequent inconsistencies in the way different IPRO offices handle title registration applications, which – in turn – have provided fertile ground for corruption opportunities. As a result, IPRO offices have been perceived to be among the public services most prone to petty corruption at the municipal level.⁵⁵ In response, IPRO has recently undertaken initiatives to improve transparency, increase client satisfaction with its services, and reduce corruption. Since 2009 it has commissioned annual client satisfaction surveys to gather feedback on the quality of its services. Indeed, the most recent

⁵² Precise figures are unavailable, but there is a widely quoted figure of 60 percent staff turnover every two years.

⁵³ Fees range from 400 lek for a copy of a property title to 30,000 (around €200) for first registration in a rural area—a high cost for many rural small landowners.

⁵⁴ The Directorate of Roads, a major user of IPRO data, estimates that up to two-thirds of staff time is dedicated to resolving discrepancies in IPRO data to substantiate property owners' entitlement to compensation for property to be expropriated for the purpose of public investment.

⁵⁵ Transparency International Albania reports that 60 percent of complaints by citizens concern property rights, especially title registration. Transparency International Albania. 2008. *Corruption with Property: An Impediment to Sustainable Development*.

survey indicates some improvement in client satisfaction with service quality and IPRO integrity. IPRO now publishes information on its activities, procedures, fees, complaints mechanisms, and other issues of interest to the public on its website. Since 2010, it has also established communication channels, including a dedicated telephone hotline, for the public to report concerns and complaints related to IPRO services, including allegations of corruption. Finally it has strengthened internal mechanisms for institutional integrity (e.g. internal control and audit, disciplinary procedures) as well as cooperation with other institutions responsible for fighting corruption and economic crimes, including money laundering.

The Impact of Insecure Property Rights on the Property Market and Business Environment

32. **Albania has a functioning immovable property market in urban areas, although problems affecting the security of tenure limit the market's efficiency.** Properties are generally increasing in value, and the mortgage market is developing rapidly. Yet as a result of unclear legal status, many properties are excluded from the formal property market and cannot be used as collateral to access financing, which limits the contribution of the property market to investment and economic growth. When a property is not registered, transactions take place informally and IPRO records cannot be updated.⁵⁶ Transaction costs and uncertainties concerning ownership and parcel boundaries discourage investment and improvements. Unlike the market for urban immovable property, the agricultural land sale market is barely functioning, which deters efficient land utilization. As shown in the 2008 Business Environment and Enterprise Performance Survey (BEEPS), access to land is increasingly affecting the business environment, with some 43 percent of respondent firms noting it as a problem as compared to 26 percent in 2005.⁵⁷ These problems seem to constrain foreign investment involving real estate across the country, particularly in the major urban areas and on the coast.

33. **Property buyers do value legal protection of their ownership rights by paying a premium for registered properties, which are however in short supply.** A property is reported to carry a 10-percent price premium if it is registered, which reflects the fact that banks will only lend against registered properties and suggests that buyers value the certainty of ownership and legal protection that registration can provide. Lack of clear title presents serious problems in the event of legal disputes, as courts do not have clear evidence on which to base their decisions, thereby creating opportunities for corruption. Foreign buyers are more concerned about avoiding risk and tend to buy only registered properties. The market is not functioning as efficiently as it could be, given the lack of urban planning and use approvals, absence of registration of title, and the time, costs, and bureaucratic hurdles that owners face when attempting to regularize their properties.

34. **Cumbersome procedures for property registration and the issuance of construction permits are damaging Albania's business environment.** According to the *Doing Business 2012* report, property registration in Albania encompasses six procedures, which take 33 days to complete (9 fewer than in 2011), and that the registration cost is 11.9 percent of the property

⁵⁶ Among other problems, failure to register a property or change of ownership creates difficulties in paying compensation for expropriated land, as the expropriation agency obliged to deal with the legally registered owner. Properties need to be registered with IPRO before they can be legally expropriated.

⁵⁷ EBRD-World Bank. 2010. *BEEPS 2008*.

value (up from 3.4 percent in 2011). It should be noted that the *Doing Business* approach focuses only on the registration process; if factors such as the security of title were taken into account, Albania's position in the rankings (118th among 183 economies; see Table 6) would likely be lower. *Doing Business 2012* also reports that obtaining a construction permit in Albania takes an average of 24 procedures over 331 days and costs 381 percent of per-capita income. As a result, Albania ranks last among 183 countries on Dealing with Construction Permits (Table 7).

Table 6: Albania's Comparative Performance in Registering a Property

Country	Ranking 2012	Ranking 2011	Procedures (number)	Time (days)	Cost (% of property value)
Albania	118	126	6	33	11.9
Hungary	43	42	4	17	5
Macedonia, FYR	49	67	4	40	3.1
Slovenia	79	99	5	110	2
Serbia	39	98	6	11	2.8
Bosnia and Herzegovina	100	101	7	33	5.3
Croatia	102	104	5	104	5
Montenegro	108	117	7	71	3.1
Greece	150	151	11	18	12

Note: Rankings are out of 183 economies. *Source:* Doing Business 2012.

35. **The lack of effective territorial planning at the national level complicates the issuance of construction permits, but many implementation problems occur at the municipal level.** Without urban plans, property developers have difficulty obtaining construction permits legally, which creates incentives for corruption. In the 2008 BEEPS, 29 percent of firms reported that informal payments were expected for construction permits—the highest level for any business process in Albania and more than three times the average in Southeastern Europe (Figure 3). Hitherto, the issuance of construction permits has been subject to wide variations in different municipalities, reportedly providing a major source of corruption opportunities at the municipal level, particularly in major cities and coastal areas. Developers' activities often bring to the surface existing problems with boundaries and ownership. The adoption of a Law on Territorial Planning in 2009 may help, as it creates a legal basis for harmonizing requirements and procedures for issuing construction permits. The law has attracted some criticism, however, for centralizing much of the decision-making power, which could increase the potential for grand corruption.

Table 7: Albania's Comparative Performance in Dealing with Construction Permits

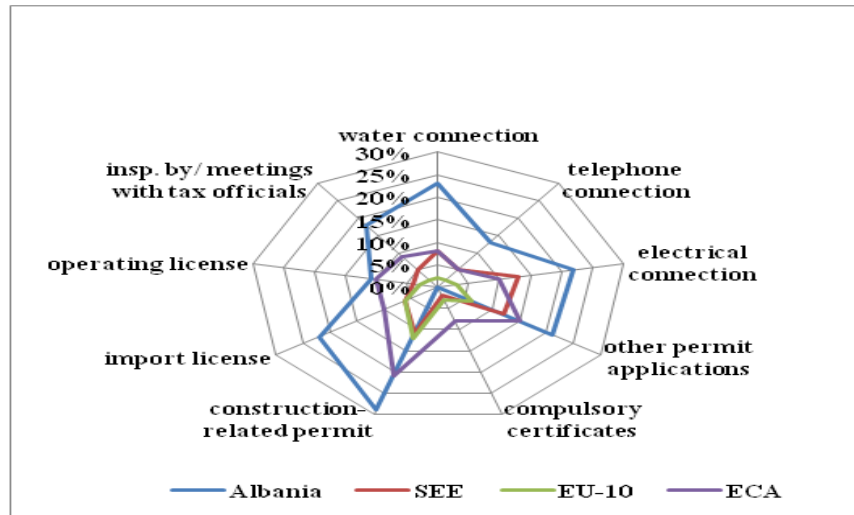
Country	Ranking 2012	Ranking 2011	Procedures (number)	Time (days)	Cost (% of per capita income)
Albania	183*	170	24	331	381.3
Greece	41	42	14	169	3.4
Slovenia	81	74	13	119	64.9
Hungary	55	56	29	102	5.8
Croatia	143	142	12	317	591.1

Macedonia, FYR	61	147	10	117	552.7
Bosnia & Herzegovina	163	173	18	181	1,112.9
Montenegro	173	170	17	267	1,469.9
Serbia	175	174	19	279	1,603.8

Note: Rankings are out of 183 economies. Source: Doing Business 2012.

* Data for Albania 2012 are from the 2011 report, as the 2012 report has no detailed data (number of procedures, days, cost) for the country; Albania's ranking deteriorated in 2011 owing to improvements in other countries on this indicator.

Figure 3: Firms Reporting That Informal Gifts Were Expected/Requested for Public Services



Source: BEEPS. 2010. Corruption Report.

The Political Economy of Immovable Property Rights Reform

36. **The protection of immovable property rights has become a politicized issue, owing to the high stakes and the involvement of many stakeholders with often contradictory interests.** Expropriated owners are arguably the most visible and vocal interest group. Although their number is relatively small, they are represented by well-organized civil society associations, notably *Property with Justice* and the *Bregdeti Association*, which enjoy the sympathy and support of influential political figures in the major parties.⁵⁸ These associations question the legitimacy of law 7501 On Land, which preceded the legal framework on restitution and allowed for the privatization of immovable property to persons other than the pre-1944 owners. However, these associations have so far been largely unsuccessful in reversing the privatizations conducted under law 7501 or in accelerating the payment of compensation at full current market value. On the other hand, residents of illegal properties (including legalization applicants) are a much larger and more diverse group, but they are not organized and lack explicit representation. Politicians from the major parties have therefore been cautious with relevant policy initiatives that might risk alienating either of these important constituencies.

⁵⁸ The 39,000 restitution claims might be indicative of the number of households concerned. The *Bregdeti Association* speaks for the interests of expropriated owners in the Southern coastal area in particular.

37. **The issue of legalization is polarizing for the population, though no major political party questions its necessity.** The weakness of the state in the 1990s rendered it largely helpless in stopping people from occupying land and building permanent constructions. The failure of the authorities to protect private property sent the message that breaking the law would lead to rewards while law-abiding citizens received nothing, and it fostered a lasting distrust in the state's ability to protect citizens' legal rights. Expropriation for the purposes of legalization is also problematic from this point of view, as the state sometimes intervenes to grant property to an illegal occupier at the expense of the legal owner. Though legalization is a sensible solution to mass illegal land occupation and would result in clear ownership rights, its ethical defensibility suffers due to the authorities' failure to compensate expropriated owners. Likewise, allowing legalization applicants to obtain clear title for a price below market value results in the use of public funds for the private gain of illegal occupiers.

38. **Real estate market professionals, investors, and developers are important stakeholders.** Notaries, banks, and real estate agents would benefit from the development of the formal immovable property market, which is currently hindered by the large share of properties that lack clear title, are unregistered, or are otherwise illegal. Owners of such properties cannot access credit to invest in their properties. Many firms' expansion plans are constrained by difficulties in finding premises with a clear title, which is required in order to use the properties as collateral, and by the lack of transparency in obtaining construction permits. Small firms and international investors seem to be particularly affected by these issues. Large property developers have been more successful in advancing their interests (for example, securing construction permits, especially in high-value areas), often by using media ownership or outright corruption to influence the decisions of public officials at national and local levels.⁵⁹ However, the lack of predictability and transparency in issuing permits has reportedly frustrated the investment plans of many developers due to the rise of unfair competition.

39. **Officials in local governments and central government agencies have a stake in how immovable property rights policies are implemented.** These officials are generally capable and committed, but sometimes suffer from insufficient resources and training. Gaps in the legal framework and the absence of reliable documentation often present opportunities for corruption in granting building permits, demolishing illegal buildings, and registering properties. Coordination problems among these agencies have recently begun to be addressed (as evidenced, for example, by IPRO's acceptance of ALUIZNI data), but much scope for improvement remains to ensure that various processes and agencies related to immovable property rights work in synergy rather than in an *ad hoc* manner or even at cross-purposes. Reforms that would affect the functions of these bodies may therefore be expected to encounter some resistance. For example, the adoption of the 2009 Law on Urban Planning has reduced the discretion of local territorial planning units in zoning and issuance of construction permits.

40. **Insecurity of immovable property rights further disadvantages vulnerable social groups such as women in rural areas, children, the disabled, and the Roma.** The Government has so far not assigned priority to promoting equity in immovable property

⁵⁹ According to BEEPS 2008, the issuance of construction permits is the service most affected by corruption, with 29 percent of firms saying that unofficial payments/gifts were expected or requested.

ownership. Many societal groups are effectively disadvantaged when it comes to immovable property, particularly women in rural areas who are often pressured to cede their ownership or inheritance rights to male relatives. The lack of registered title disadvantages the inheritance rights of minor children and disabled persons who are not able to regularize their property rights on their own. The Roma often encounter difficulties in defending their property rights, not just because of prejudice by local authorities (for example, in granting residence registration), but also because many Roma have limited education or are illiterate and therefore find it hard to navigate official procedures.

The Way Forward

41. **The highly complex situation regarding immovable property rights in Albania requires a comprehensive and pragmatic solution, which should be backed by broad political and societal support.** Legalization claimants cannot obtain clear ownership rights unless expropriated owners have been compensated. Neither the legalization nor the restitution and compensation processes can be completed promptly without expanding first registration and improving the reliability of IPRO data. So far, none of these processes (first registration, legalization, restitution, or compensation) has advanced substantially in terms of implementation, largely due to incoherence among policy initiatives in these areas. In this environment, the Government's drafting of a cross-sectoral strategy that attempts to tackle these interlocking issues in a holistic manner is a positive development. The Government has also taken a number of important steps to create some of the necessary preconditions for strengthening the security of property rights in Albania, notably by investing in the development of digitized cadastral maps covering the entire country.

Box 1. Toward a Strategy for Property Rights Reform

A first draft Cross-Sectoral Strategy for Reform in the Field of Property Rights was produced in mid-2008 by the Inter-Ministerial Working Group on Property Rights. Established in 2006, this group is chaired by the Ministry of Justice and assisted by a technical secretariat. The draft strategy has not yet been adopted by the Government. However, such a strategy is foreseen by the Government's Action Plan adopted in January 2011 for addressing the recommendations of the European Commission's Opinion on Albania's application for candidate status. Based on this new perspective, in April 2011 the Government adopted an Action Plan on Property Rights Issues, which focuses on restitution and compensation, while also addressing related aspects of title registration and legalization of informal properties. A new Concept for a Property Rights Strategy has also been drafted with a view to forming the basis of a public policy debate on a comprehensive solution.

42. **While the current legal framework is broadly sound, there is a pressing need to address several specific gaps, inconsistencies, and bottlenecks.** These include the following key issues:

- Extend clear legal protection to legalization applicants, which would increase their security and could grant them legal rights in case of expropriation for public investment;⁶⁰
- Consider possible solutions for the status of the large number of properties that remain illegal; such solutions (including legalization under certain conditions) should not involve expropriation of previous owners (restitution claimants) and must be accompanied by credible measures to avoid perpetuating incentives for illegal land occupation and construction;
- Assess possibilities for resettling people from informal areas that may not be legalized on the grounds of environmental protection, cultural heritage, or safety;
- Ensure credible enforcement of existing laws to prevent new illegal land occupation and construction;
- Explore the remaining scope for physical restitution, including by means of state property of equal value; while at the same putting in place a comprehensive policy to minimize social tensions that could result from forcible evictions of *bona fide* post-privatization owners and long-term tenants;
- Accelerate the payment of compensation to expropriated owners (restitution claimants) to ensure credibility of the law, while reviewing the compensation scheme of paying at the current market value without limitations to protect fiscal sustainability and public interest; and
- Consider a mechanism whereby a greater share of the cost of compensation would originate from beneficiaries of expropriation (such as legalization applicants) or from other non-tax revenues (such as sales of state property).

43. **A comprehensive policy solution will need to be matched by a coherent and determined approach to implementation.** The current fragmentation of responsibilities and lack of coordination among agencies is a major constraint to effective policy implementation. To achieve a breakthrough in implementation, however, the Government will need to provide clear leadership and oversight of all related processes at the political level. This could be achieved in several ways, including the following options:

- Further enhance coordination to ensure that all agencies (IPRO, ALUIZNI, and AKKP) apply the same technical standards and requirements, accept the same documents, use the same or fully compatible cartographic data, and work in as integrated a manner as possible (for example, by giving priority to the processing of documents received by another agency);

⁶⁰ At present, properties under the legalization process must be legalized and registered by IPRO before they can be legally expropriated for public investment.

- Further strengthen IPRO capacity and prioritize the completion of systematic first registration, especially in economically significant areas, to improve the accuracy of IPRO records;
- Consider making a single cabinet member responsible for all agencies involved in property-related issues (IPRO, ALUIZNI, AKKP, and possibly the National Construction and Urban Planning Inspectorate) to strengthen accountability and unity of purpose; indeed, the Government Action Plan adopted in April 2011 envisages such a coordination mechanism under the Ministry of Justice;
- Consider a merger of key agencies involved in the regulation of immovable property rights (IPRO, ALUIZNI, and AKKP) under a combined mandate to improve coordination and reduce operating costs; and
- Closely monitor implementation of Law on Urban Planning and benchmark municipalities' performance to ease the compliance burden on households and business, improve transparency, and reduce corruption in the issuance of planning and construction permits.

44. **A public consultation with all stakeholders and political parties will be crucial in building the broad societal and political support needed to ensure policy continuity and long-term security of property rights.** A sustainable solution to the immovable property rights agenda cannot come from the Government alone. Nor can it come from any particular interest group. It will need to be based on a broad public debate and informed consultations that would allow all major political parties and stakeholders to express their views on the relevant policy options and trade-offs. It will be important to avoid the capture of such a debate by political antagonisms that might detract from consensus-building efforts. A constructive debate can occur if all major stakeholders recognize that the security of immovable property rights is of fundamental national interest, with far-reaching implications for the country's economic development, its EU accession prospects, and the welfare of all Albanians. It will involve broad recognition that postponing the search for a solution and perpetuating the status quo ultimately does not benefit anyone, but leaves society as a whole worse off by eroding property rights and damaging the competitiveness of the national economy. Though increasingly urgent, such a debate has yet to take place.

45. **The security of immovable property rights is an issue that affects most of Albania's public and a solution will require strong engagement from civil society.** Civil society organizations have a potentially important role to play by promoting public awareness of the benefits of holding clear title to a property and of the risks of further illegal land occupation and construction. The media and civil society need to be active participants in a national debate on different options for reaching a comprehensive policy solution to ensure more secure protection of immovable property rights. Civil society organizations can also act as a check on the work of various authorities to ensure that the legal framework is implemented consistently and fairly without prejudice to disadvantaged social groups. Community organizations can play a major part in monitoring territorial planning and construction licensing decisions at the municipal level. They can thereby help articulate public demand for predictability of procedures and reducing

opportunities for corruption related to title registration, issuance of construction permits, and other processes.

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