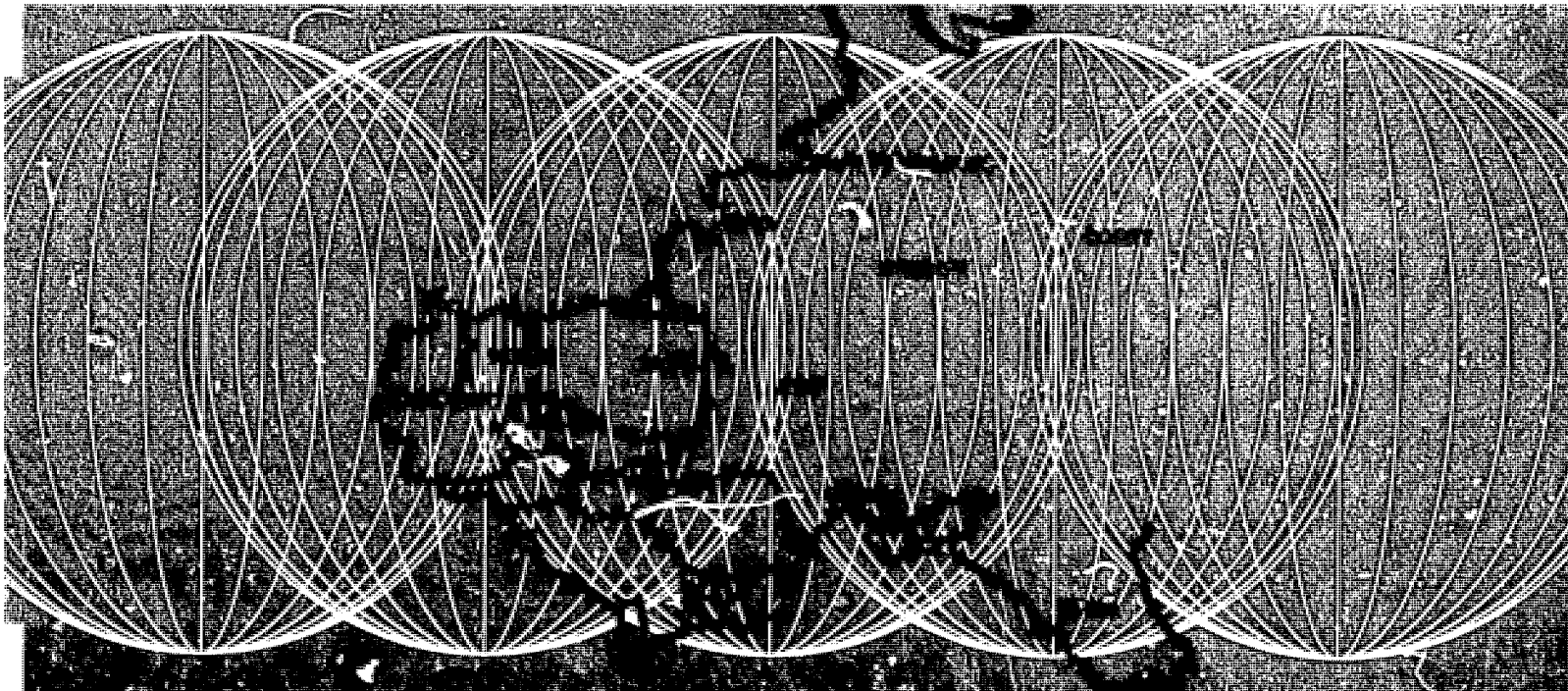


FROM PLANNING TO MARKETS HOUSING IN EASTERN EUROPE



THE URBAN INSTITUTE
Prepared for the Office of Housing and Urban Programs (USAID)

**AN INITIAL ASSESSMENT OF THE
ALBANIAN HOUSING SECTOR**

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Currency Equivalents

Unit of Currency: Albanian Lek

<u>Year</u>	<u>Leks per US Dollar</u>
1980	9.50
1985	8.58
1988	8.00
1989	8.00
1990	8.00
1991, September	25.00
1992, November	93.00

OVERVIEW

Albania was the last Eastern European country to abandon a centrally planned system for one more reliant on markets.¹ As part of the transition, the Albanian Ministry of Construction (MOC) is restructuring in order to facilitate rather than dictate housing provision. This process will involve resolving many long-standing distortions and misallocations in the economy. Like other former Eastern European communist countries, Albania is facing many problems: falling aggregate demand; a weak financial sector; extreme inflation; and economic dislocation. In this context, the housing sector is not only essential for meeting the demand for better shelter, but also plays an important role in the economy as a whole.

At the request of the Government of Albania (GOA) a joint World Bank - USAID housing mission visited Tirana from November 9 to November 20, 1992. The Mission's purpose was to pre-appraise the feasibility of a program of capital investment tied to an International Development Association (IDA) loan of 10 million USD.² In addition, the Mission was to assess technical assistance needs in the housing sector. The joint Mission was led by Gian Carlo Guarda (World

¹ A coalition government was formed in June 1991 to begin to implement actions necessary for a market based economy.

² See Annex A for the Mission Memoire describing the capital investment program in more detail and Annex B for a list of persons consulted over the course of the Mission.

Bank) and comprised of Bank representatives: Robert Buckley, Michael Heller, and Antonio Millia. USAID was represented by Sonia Hammann (RHUDO/Warsaw), Maris Mikelsons (Urban Institute) and Ira Lowry (consultant to the Urban Institute).

The Mission viewed the introduction of an act regulating the privatization of the existing state housing stock as a crucial step towards facilitating market-based housing in Albania. In this regard, Ira Lowry, with the assistance of the Mission's team, drafted a privatization law and submitted the draft law to the Minister of Construction, Mr. Ilir Manushi for his review. Before departing Tirana, the Mission was informed that the law would be sent to current session of the Albanian parliament for debate (see Annex C). Further, the MOC requested technical assistance in formulating a condominium law and guidelines for restructuring the current draft restitution law. A follow-up mission was fielded by USAID consisting of team members Ira Lowry and Carol Rabenhorst (consultant to the Urban Institute) [Annexes E-H document the activities and results of the follow-up mission].

The purpose of this paper is to provide a preliminary assessment of the housing sector in Albania. In so doing, the first section of the paper outlines the political and economic history of Albania, concentrating on the current economic situation. The second section, describes Albanian social and demographic factors. The third section provides an overview of the housing sector in Albania by describing the housing sector's institutional framework, characteristics, demand and tenure, construction industry, and the structure of the Albanian banking system. In addition, the last section provides an outline of technical assistance proposed by the Mission for Albania's housing sector.

1. POLITICAL AND ECONOMIC HISTORY

Present day Albania was under Turkish rule for over 400 years until it declared its independence in November, 1912. During the First World War, Albania was occupied by Italy but reestablished its independence in 1920. Ahmet Zogu became the first elected president of the Republic of Albania in 1925. In 1939, Italy formally incorporated Albania as territory until the end of the Second World War. Upon the German withdrawal from the Balkans in 1945, the communist-led National Liberation Front (supported by the Yugoslavian communists) assumed control of the Albania government. Enver Hoxha, the head of the communist party became the self-appointed titular ruler of Albania. Within a short period of time, Albania joined the Council of Mutual Economic Assistance (CMEA) as full member of newly formed European socialist states, all of which became dependent upon the USSR for foreign aid.

After the Second World War, the USSR provided Albania not only material

but also technical assistance. Through 1961, the Soviets financially supported up to 40 percent of Albania's domestic investment. At the time, this level of foreign aid invigorated the faltering domestic economy, which had suffered decades of neglect under Turkish rule. In the early 1960s a ideological rift developed between the USSR and China; Albania broke relations with the USSR and turned to China for material and technical assistance. After the break with the Soviets, China continued to be Albania's major foreign aid donor in not only material goods but in foreign exchange as well. Nonetheless, Albania structured its economic system after an orthodox Stalinist model; a system which was extremely centralized even when compared to the former Soviet Union or China.

Starting in 1978, Albania discontinued its relations with China, again for ideological reasons, and became the world's first communist autarky by constitutionally banning all forms of foreign financial aid. Through 1985, Albania sustained itself by relying on external reserves, although the economy suffered badly from the loss of foreign capital support. This loss led to a rapid depletion of much of its capital stock and, more importantly, it deprived the country of the technological exchange needed to rejuvenate its obsolete industries. The self-imposed isolation, coupled with the misallocation of resources by an extremely rigid economic system, contributed to the degradation of a country already considered Europe's poorest.³

Within the last two years, Albania has slowly shed the tenets of the old command system and turned to market principles as the dominant model for its economy. Within the government, power shifted from the former socialist parties (led by the Labor Party) to the new, reform-oriented parties (led by the Democratic Party). In June of 1991, a five-party coalition government was formed and immediately initiated a series of economic reforms intended to stimulate the economy.

At least in the short run, the institutional changes damaged the economy, which began an accelerated contraction in 1990. As Table 1.1 shows the Net Material Product (NMP is Gross Domestic Product less services) fell by 5 percentage points in 1990 while industrial output contracted by 6 percent over the pervious year. The agricultural sector which employs over 49 percent of the labor force, also contracted in 1990, dropping by 3 percentage points. Investment, which traditionally was a large share of government outlays, fell by 5 percentage points in 1990.

Table 1.1 shows the extent of the economic contraction in 1991. Albania's NMP fell precipitously from its 1990 level. Agriculture and industrial output

³ Albania's per-capita income in 1990 was 670 USD. The IMF estimates that in 1991 the per-capita income will fall to 500 to 550 USD.

Table 1.1
LEADING ECONOMIC INDICATORS, 1989-1993
ALBANIA

Indicator:	1989	1990	1991	1992(e)	1993(f)
Percentage Change:					
Net Material Product	2.0	-5.0	-45.0	-20.0	5.0
Industrial Output	5.2	-6.0	-50.0	-15.0	5.0
Agricultural Output	9.0	-3.0	-35.0	-20.0	-5.0
Investment	1.5	-5.0	-60.0	-10.0	5.0
Exports (mil USD)	309	258	100	150	200
Imports (mil USD)	393	423	200	350	400

Source: IMF and EIU, 1992 (e) = estimate, (f) = forecast

declined by 35 and 50 percent, respectively, over their 1990 levels. In addition, investment suffered a severe set back as internal trade came to virtual halt. Albania garnered only 100 million USD in 1991 export earnings, a minuscule amount for country of its size. Commensurate with the drop in exports and Albania's inability to borrow, the capacity of the country to import also plummeted to the lowest level in decades. In short, the command economic system, where all economic decisions on production, pricing, wage setting, investment, and external trade were centralized and implemented within the context of five-year plans, had collapsed.

As the country switched from a planned system to one more reliant on markets new institutions were created and old ones discarded. The transition period was marked by economic dislocation while new policies were formulated. Starting in 1991, the Albanian government embarked upon a program of economic recovery by putting into place radical economic reform measures. The more important steps taken by the government included the following:

- institution of private markets in many sectors
- liberalization of prices;
- rationalization of state wages, and;
- liberalization of the exchange rate.

These initial measures, combined with massive foreign aid assistance (credits and foreign exchange loans) helped to stabilize the economy. In fact, economists predict positive growth rates for the Albanian economy in 1993. As Table 1.1 shows, the Economist Intelligence Unit (EIU) forecasts a positive (5 percent) growth rate for the Albanian economy in 1993.

Nonetheless, high inflation rates have eroded the purchasing power of most Albanians. Due to price liberalization, the freeing of the exchange rate, and government deficit spending, prices have risen faster than wages. The results of rapidly rising prices depressed an already impoverished nation to even a poorer level going into 1993. Table 1.2 shows the Consumer Price Index (CPI) for Albania in December 1990 and in July, September, and October of 1992. Between December 1990 and December 1991, prices rose by 104 percent (IMF, 1991), and continued to rise. In January 1992 prices had risen by a factor of 2.4 from their 1990 levels. The pace of inflation accelerated through 1992 and by October the CPI was 6.6 times higher than it was in December 1990.

Table 1.2

**CONSUMER PRICE INDEX FOR DECEMBER 1990 THROUGH OCTOBER 1992
ALBANIA**

	1990	January	1992 July	September	October
Consumer Price Index	100.0	224.4	377.4	588.0	655.3
Pct. Change Over Previous Month	1.9	12.7	6.4	7.1	11.4

Source: Directorate of Statistics, 1992

2. DEMOGRAPHIC AND SOCIAL FACTORS

Geography and Population. Albania is one of the smallest countries in Europe, spanning only 11,100 square miles (28,748 square kilometers or size of the state of Maryland) with a population estimated in 1989 at 3.26 million persons (111 persons per square kilometer). It is located in the Balkan peninsula,

bordering on the Adriatic sea. To the south, Albania's neighbor is Greece, while Macedonia, Kosovo, and Montenegro border on the east and north. Albania's coastal climate is Mediterranean, becoming temperate inland. Mountains cover 72 percent of the country, but between the mountains and the sea are broad, fertile valleys, well watered by mountain streams. Ethnic Greeks who live in the southern Districts are the predominant minority group. Islam is the most widespread of all religions, with a recently estimated participation rate of over 70 percent of the population; Greek Orthodox accounts for 20 percent and Roman Catholic makeup the remainder.

One interesting feature of Albania is the development of its human settlement patterns (see map). Partially driven by the predominance of the agriculture sector and a mountainous terrain, Albania has the lowest level of urbanization in Europe, with just 35.7 percent of the total population living in urban areas (Albanian Census, 1989). The country is divided according to administratively set boundaries for villages, cities, and districts. Villages define the basic rural administrative units, while 62 urban centers are accorded city status. The cities, in turn, are sub-divided into smaller units labeled quarters or zones. The largest administrative units, and probably the most influential following the central government, are the 26 districts or *rrethi*.⁴

Another important demographic feature of Albania is its relatively high population growth rate by European standards. At its peak, the population growth rate over the 1955 to 1960 period reached 3.2 percent, accounting for 1.6 million Albanians. Today the growth rate has slowed to around 2.2 percent which is still high when compared to other European countries. Western Europe's growth rates are near zero. The population of Tirana, the capital, has expanded the most rapidly of all the Albanian cities mainly due to the high birth rates as opposed to in-migration. As of the latest census in 1989, Tirana's estimated population stood at 238,057 inhabitants, easily Albania's largest city (second largest is Durres with only 82,719 persons in 1989). Since the new regime opened the borders of Albania, it is believed that about 10 percent of the population has emigrated, mostly to Italy and Greece.⁵

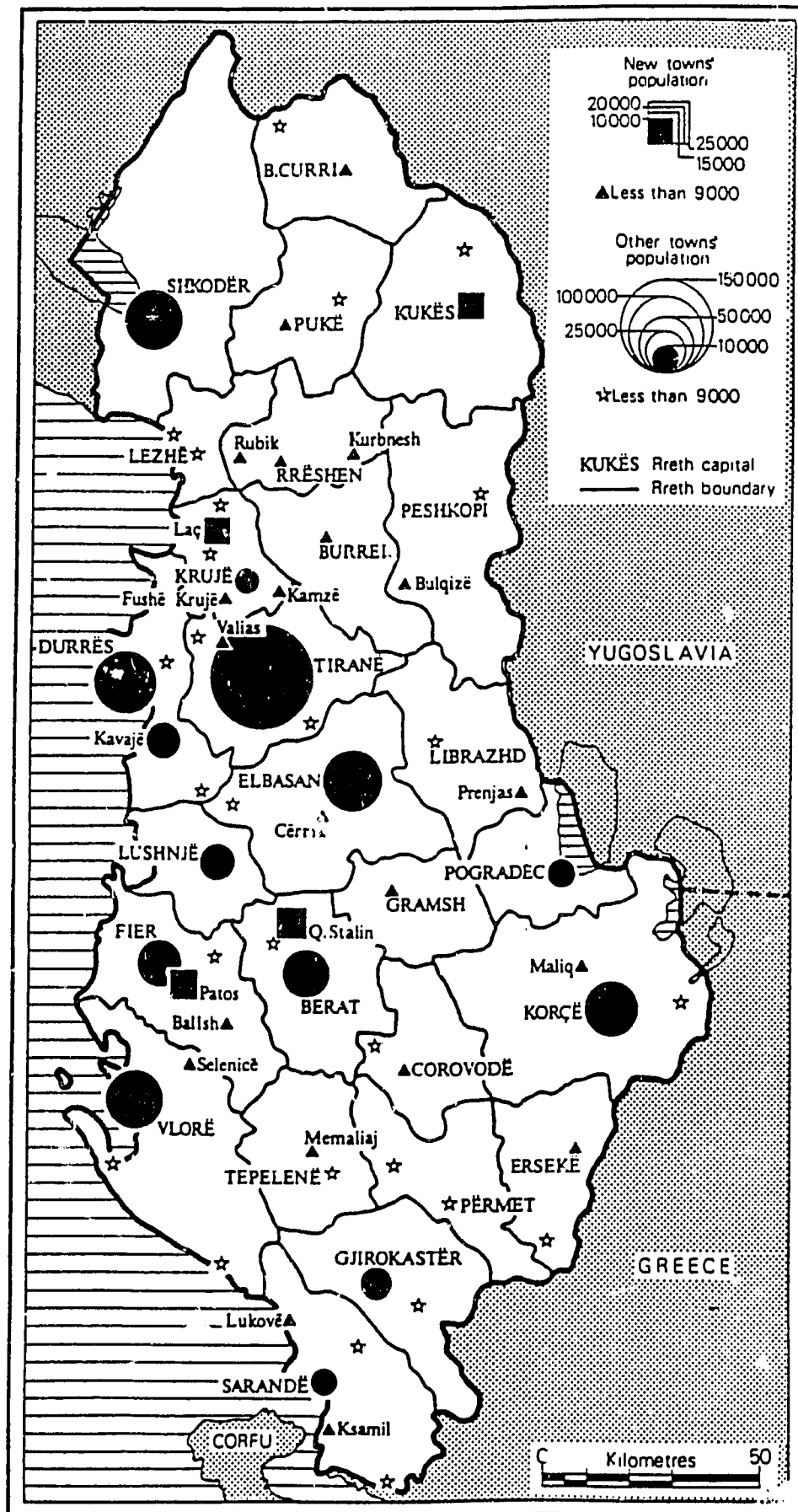
3. HOUSING

Institutional Framework. In the past, the government was responsible for the provision of housing to the urban population. The right to shelter was

⁴ A new local government law was recently passed which devolves many former central government functions to the local units, though it does not empower local government with taxation rights.

⁵ According to the U.S. Census, the cities with the highest Albanian emigre population are Detroit and Boston.

ALBANIA



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guaranteed by the State. Accordingly, about 200,000 public units were built over the past 40 years. In line with rigid centralized system of the past, the Ministry of Construction (MOC) planned, allocated, and built housing for the majority of Albanians.

Within the Ministry, the National Planning Institute was responsible for the conception and implementation of urban development. Housing was allocated annually according to five-year plans. The Institute prepared model plans for each district, which were then distributed to the regional offices for implementation. The goal of the plan was to maximize the number of dwellings for a given budget. In addition, the Institute was responsible for the master plan for all large cities in Albania.⁶

Following the development of the plan, large government construction enterprises located in each district were given the authority to execute the plan's projected housing need. In this manner the government allocated housing according to norms established at the Ministry that applied equally to all households. The construction process was subsidized by the central government through a budgetary mechanism designed to distribute housing according to targets.

Today, the MOC is formulating a more decentralized approach to housing provision -- one less reliant on top-down master plans. The MOC is striving to devolve its past function as the provider of housing by promoting a privatization scheme to sell-off a large share of the housing and transfer maintenance responsibility to individuals or their respective condominium associations. Recently, the Ministry created a nascent institution called the National Housing Fund (NHF) to facilitate privatization, complete construction of the unfinished residential units, and grant credit to households with funds from a World Bank development loan.⁷ It is anticipated that the NHF will provide the institutional bridge to bring about a market-based system of housing provision in Albania.

Housing Characteristics. Of all the housing stock in Eastern Europe, Albanian housing is structurally the worst and in need of the greatest amount of maintenance. From the construction process to the provision of housing infrastructure, such as water and electricity, Albanian standards are low. Furthermore, Albanian housing affords the least amount of space per person than

⁶ An interesting feature of the Albanian urban landscape are buildings which never exceed 6 stories. This phenomena is attributed to the urban planners' attempt to reconcile a perceived shortage of urban land with the fact that Albania is located in a seismic zone.

⁷ For description of the current structure of the National Housing Fund see Annex D.

any other housing in Europe, including the Russian Federation. When housing indicators are compared across Eastern European countries, Albania ranks lowest in the provision of quality housing.

Table 3.1 shows the distribution of housing units according to water source and access to sewage disposal by urban/rural status. Though the figure for the percent of urban public housing with piped water might seem high at 86 percent (as compared to 95 percent for Bulgaria), it is offset by the figure for private rural housing, which shows just 54 percent of houses with piped water.⁸ Of all the public housing units in Albania, only 64 percent have piped water for indoor use. Another service indicator of housing quality is the provision of sewage facilities. According to the 1989 Census, only 65 percent of urban housing units had access to a water closet, while a full 75 percent of private rural households had to exit their house in order to access a water closet. Of all the housing units in Albania, only 31 percent have a way of disposing sewage inside the unit.

Table 3.1
PERCENTAGE OF PRIVATE AND PUBLIC HOUSING UNITS BY WATER SOURCE, 1989
ALBANIA

Indicator:	Urban		Rural	
	Private:	Public:	Private:	Public:
Piped Water	53.7	85.9	4.2	23.1
Yard Tap	38.0	9.2	27.6	34.3
Yard Well	2.2	0.2	13.7	5.0
No Piped Water	5.5	1.5	53.9	36.0
Unknown	0.6	0.6	0.6	1.5

Source: Albanian Census, 1989

Another indicator of housing quality in former communist countries is age of the unit, since minimal maintenance was afforded to the housing stock; the older the housing, the lower the quality. Table 3.2 shows the distribution of the age of the housing units by urban and rural status. Urban housing in Albania is old in comparison to other Eastern European countries. For example in

⁸ Another factor to consider is the inability of cities to provide water during certain periods of the day. This deprivation of water varies according to season and can be acute in some localities, including Tirana.

Bulgaria, only 10 percent of the housing was built before 1945 contrasted to 14 percent in Albania. Compared to the urban areas, rural housing is relatively new, which is not surprising given that the greater share of rural housing is privately held (90 percent).

Table 3.2
AGE OF CONSTRUCTION BY URBAN/RURAL STATUS, 1989
ALBANIA

(Percentage of Total)	Urban		Rural	
	Private:	Public:	Private:	Public:
Before 1945	40.1	12.7	9.6	6.9
1945 - 1960	20.8	17.6	20.2	20.2
1961 - 1970	15.6	24.2	18.9	22.4
1971 - 1980	12.6	23.4	26.1	28.2
1981 and later	10.9	22.1	25.2	21.7

Source: Albanian Census, 1989

Housing in Albania does not adequately accommodate the population. The most acute problem Albanians face is overcrowding. Table 3.3 shows the distribution of total space (square meters) by urban and rural status. Approximately 60 percent of the housing units are between 15 and 45 square meters in size (average of 36 square meters), indicative of rather small housing units. Only 3 percent of the urban housing units are over 60 m² in size. The size of units do not vary greatly by location. Even in rural areas, where units sizes traditionally are larger, only 16 percent of the housing is over 60 m².

When these figures are related to the number of family members or household individuals that occupy the unit, they become even more pronounced. The 1989 Albanian census reports that, on average, only 7.6 square meters of floor space are available per person. This figure is low when compared to an average figure of 59.9 square meters per person for residential units in Washington, D.C. And when compared to other former Eastern European countries, Albania ranks the lowest in floor area per person. For example, the average square meters per person in Czechoslovakia is 30.9, in Hungary 31.9, in Poland 21.1, and in Latvia 17.6 (Telgarsky, 1991, World Bank, 1991). Needless to say, there are virtually no vacant housing units in Albania.

Table 3.3
SIZE OF HOUSING UNITS BY URBAN/RURAL STATUS, 1989
ALBANIA

	Urban:	Pct.:	Rural:	Pct.:
Less than 15 M ²	47,446	16.4	20,665	5.4
15 to 30 M ²	114,176	39.6	87,977	22.8
30 to 45 M ²	90,159	31.3	133,433	34.5
45 to 60 M ²	27,576	9.6	81,332	21.0
Over 60 M ²	9,004	3.1	62,814	16.3

Source: Albanian Census, 1989

Another way to measure overcrowding is to look at number of households with more than one generation living in the unit. Based on the 1989 Census for Albania, over 16 percent of the housing units have more than three generations living under the same roof. In the rural areas, these figures increase to 21 percent, reflecting a high average household size figure of 5.3 persons. In urban areas, the average household size is 3.9 persons.⁹

Housing Demand and Tenure. Given the high population growth rate and the poor quality of its housing stock, there exists an excessive level of unsatisfied demand for housing in Albania. Housing supply has not been able to keep up with rapid increases in the number of households. Since the level of overcrowding in Albania is more severe than any other country in Europe, demand for housing increases commensurately with household growth. In addition, since residency permits are no longer required in urban areas, rural-to-urban migration is expected to further add to the shortage of housing in urban areas.

In the past, public housing has been allocated by municipal committees. Selection of a unit for an individual or family was based on three criteria: 1) those deprived of an apartment (including those that have been expropriated by the state), 2) those living in unhealthy places, and 3) those who are entitled to a larger apartment due to the size of their family (more than 90 percent of the request for alternative public housing belong to this group).

⁹ Albanians label those individuals who live in overcrowded conditions, or otherwise do not meet the housing norms set by the state, as "homeless". It is interesting to note that the Minister of Construction currently falls into this category.

Individuals and families in urban Albania have had very little choice in housing tenure. Private ownership of housing in urban areas was permitted, though extremely difficult to realize. Alternatively, in rural areas, most housing was privately built and owned. The 1989 Census reports that only 29.9 percent of the dwellings in urban areas are privately held as opposed to rural areas, where over 90 percent of the housing is privately owned. Underlying these figures is the fact that over 40 percent of the private urban buildings were built before 1945; part of the private stock of housing was never nationalized during the communist regime. Since 1980, only 11 percent of the total urban private housing stock was built. Just the opposite pattern emerges for the rural areas, where only 9.6 percent of the housing was built before 1945 and over 25 percent was built since 1980.

Home ownership was strictly limited in urban areas, with only 15,000 private units built between 1945 and 1991. Laws governing home ownership in Albania have shifted over time due to a growing perception of a land shortage in urban areas. From 1955 to 1966, individuals and families were permitted to construct single family (fully detached) homes in urban areas. However, since 1966, construction of private housing in urban areas virtually ceased due to the imposition of stringent construction codes and regulations, which dictated that all privately built urban dwellings be multi-unit and comply with strict zoning ordinances. In this manner, ownership in urban areas was limited while the rural areas of Albania were free from building constraints and thus experienced high homeownership rates.¹⁰ Similar to other former communist countries, all land in Albania remained under state control.

Public Housing. Tenants of public housing in Albania have been subject to rent control ever since 1945 and only recently had their first rent increase. Rent is calculated according to the (subsidized) value of the construction cost of the building, plus insurance costs and are adjusted by coefficients which relate to amenities and location. The base rent is administratively set according to three types of housing units, grouped according to amount of floor space and building type.¹¹ Within each group, the rent level is also adjusted by coefficients according to amenities such as type of sewage disposal, presence of tiles in the bathroom, type of floor material, etc. The rent is further adjusted corresponding to three location areas or zones (these were based on the proximity to the center)

¹⁰ Construction of additions to urban dwellings, however, was not strictly limited. Indeed, the state savings bank, from 1966 to 1990, offered favorable terms to finance building additions to existing housing in urban areas.

¹¹ The first group consisted of villas, or the best quality units belonging to the nomenklatura (they represented about 10 percent of the urban housing), the second group consisted of multi-unit flats and made-up about 89 percent of the housing, while the third group consisted of the poorest quality units.

within the city. All public housing units are also charged a fixed stair cleaning fee of 5 leks per month. In addition, each unit is charged an insurance fee, which is set at 1/1000 of the value of the original construction costs of the building. For the past 45 years, the base rent varied from 0.297 leks per square meter to 0.36 leks per square meter. In August of 1992, base rents were doubled, though the adjustment coefficients remained the same. To date, there is no private rental market in Albania, thus prices for private units are not available.

Rent payment in Albania does not include utilities. Utility payments, including those for electricity, water, and telephone, currently comprise about 45 percent of the total housing costs. Total housing cost as percentage of household income constitutes a small share of the household budget. It is estimated that only about 1.5 to 3.0 percent of total household income is devoted to costs associated with housing.

Maintenance of public housing is the responsibility of the local housing enterprise or *banese* that also collects the payments.¹² Rent is used to cover the cost of maintaining the unit. In reality, repair costs always exceeded rent collections and, thus preventive maintenance and major capital repair is either never performed or delayed.¹³ In fact, major capital repairs, such a roof repair, are directly subsidized through the central government's budget, though they are performed only when absolutely necessary.

Housing Construction.¹⁴ Housing in Albania was constructed using four different resources. These included: private, cooperative, voluntary, and state investment. As in all former socialist economies, cooperative housing was built collectively among workers of a state enterprise. In this manner, once the building was completed the workers collectively "owned" the building in which they resided. Voluntary housing was built using labor from enterprises that allowed time-off from the usual labor to build state approved housing. Under this system, the voluntary laborer had a right, though not an obligation, to rent a unit in the building he constructed. The majority of urban housing was built using

¹² Tenants sign one year leases, which define maintenance responsibilities as well as the rent level. They are renewed every year since there was little or no residential mobility. With the recent doubling of the base rent, it estimated that 10 percent of households living in state owned housing are delinquent in their rent payment.

¹³ It is estimated that maintenance enterprises, which are located in each district or major city, kept 25 percent of the rent payment for salaries while the rest went for maintenance costs. Commonly, maintenance enterprises responded to repair needs located in common areas of a multi-unit building, leaving the tenants responsible for repair and maintenance of all items within the unit.

¹⁴ The bulk of the material for this section came from a report on the construction industry by Antonio Milla, provided to the World Bank as part of the Mission.

state owned building enterprises and was allocated by the state administered housing agencies (municipal councils) located in each urban center. Except for the construction of a few, mainly rural, private and some voluntary labor units, construction of housing in Albania ceased in 1990.¹⁵

Construction methods in Albania were based on fixed models, conceptualized by the central government at the National Institute for Planning and Architecture. This institute was responsible for the design of government housing projects over the past 45 years. The design attempted to minimize construction costs while providing an adequate housing unit for each Albanian household.

Through 1977, urban housing design was standardized every ten years. From 1950 to 1960 the predominant design called for two bedrooms, a small kitchen (8-10 m²) and an area for a bathroom. A living room was not incorporated into the design. In the 60s, the kitchen was enlarged to 12 m² and then in the 70s a living room was introduced into the design. In 1977, a normative element was formulated for the allocation of space in urban housing. This led to the distribution of housing based on space requirements according to household size. (It should be noted that the new construction norms were only 10 to 15 percent below Western European standards.)

Though the amount of the space allocated per unit changed over time, basic amenities remained primitive. Central heating in Albanian housing is almost nonexistent (except for a few villas located in Tirana). Housing units are heated by using a small fireplace connected to a smoke pipe. The space allotted for the bathroom allows for a toilet (optional), one sink or lavabo, and a place assigned for a shower though it is rarely equipped with one. Electrical installation, when available, is usually limited to a single lamp and one socket per room. Overall, finishing is crude by Western European standards.

Unlike many Eastern European countries, which relied on panel construction, the majority of Albanian state-owned housing was constructed using brick. Approximately, 90 percent of urban housing is made of domestically produced red brick, while 5 percent of the housing stock uses pre-fabricated concrete panels based on Soviet technology, and the rest is made of reinforced (poured on-site) concrete slabs. Traditional methods of house construction are still used in rural areas, e.g., load-bearing walls of stone, brick, or concrete blocks mortared with clay.

¹⁵ Housing construction averaged about 13,000 state units per year through 1990. At this rate over 38 percent of public housing was built over the last decade. Allocation for housing investment, as a percentage of the government's budget, amounted to a little over 3 percent per annum.

The Albanian Banking System. The banking system in Albania is currently composed of four banks; the State Bank of Albania (SBA), the State Agricultural Bank, the Albanian Commercial Bank, and the State Savings Bank. Central bank status is attributed to the State Bank of Albania, for it issues currency, transacts government accounts, and holds the country's foreign exchange reserves. Credit to state enterprises is issued by the SBA while commercial and personal account activity is performed by the State Savings Bank. To date, there are no other financial institutions in Albania.

As mentioned earlier, Albanians had access to credit granted only sparingly for housing construction at subsidized terms through 1990. The State Agricultural Bank granted loans to up to a maximum of 50,000 leks at 3 percent interest rate over 30 years for the construction of rural housing. Credit was more difficult to obtain in urban areas for housing construction since regulations virtually forbade private ownership. Currently, the only bank in Albania with liquid assets is the State Savings Bank.

The SSB was established only one year ago, using the assets of the government's insurance fund. The bank was capitalized with over 3 billion leks of insurance monies, which have grown to over 5.5 billion leks in just one year. The bank's branch network is extensive, with at least one office in each of the 27 districts for a total of over 120 offices. Deposit interest rates vary according to the type of account. For deposits denominated in leks, the rate is set at 32 percent per annum, while deposits denominated in dollars return 5 percent per annum.

The SSB is able to earn a profit through favorable lending terms with the Central Bank. By lending (over 70 percent of its deposits) to the SBA at 1 percent interest rate over its deposit rate the SSB earns a profit. Additionally, the SSB lends to commercial customers but only in dollar denominated loans. The terms for this type of lending vary according to the length of the loan and the purpose. For example, loans used to purchase food items for sale carry a 8 percent interest rate if the repayment schedule is less than one year.

4. PROPOSED TECHNICAL ASSISTANCE

Albania undoubtedly has the most severe housing problems of Eastern Europe and its government is clearly committed to improving housing conditions. The nation's calamitous experience with a centrally planned economy has brought to power a generation of young politicians eager to create a Western-style market economy, but poorly informed about the ways and means of accomplishing this transformation. The nation's 45 years of isolation from the West leaves it with few citizens familiar with western models or even with the techniques of democratic institutional change.

In this regard, the staff at the MOC are young and eager to learn. In particular, the Minister of Construction is extremely receptive to technical assistance for institution building. As indicated in the attached mission trip reports (Annexes E-G), less than three weeks of work resulted in a housing privatization bill that was approved by the Council of Ministers and sent to the Parliament on 1 December 1992; a draft condominium law that is now being reviewed by the Council of Ministers and should go to Parliament in January 1993. These accomplishments were possible because of the extreme receptiveness at the Ministry to advice, guidance, and institution building based on Western concepts.

Because of these weaknesses at the MOC, a program of technical assistance to facilitate privatization is urgently needed. Similar timely advice is needed concerning administrative procedures and public information. Housing privatization will be a very disturbing process to most Albanians, one that could be made much easier and more palatable by application of good administrative principles and dissemination of public information. The Minister of Construction and his staff are quite worried about public responses, and need help with program planning. Technicians supported by AID can provide that help.

Housing Privatization. Key to housing reform in Albania is privatization of the housing stock. In this regard, the mission drafted a privatization law and submitted it to the Government for review. The mission also recognized that progress toward a market-based housing sector will depend upon several accompanying reforms: condominium laws (thus defining maintenance responsibilities), rent increases (that protect the poor through a housing allowance program), legal eviction rights (ensuring discipline into the market), a mortgage finance system based on equitable returns for the lender, a housing valuation system capable of assessing properties according to local demand and supply conditions, and the promotion of private construction industry to efficiently bring to market new housing in Albania. Below are rank ordered items and sub-items for technical assistance that conform to the housing reform agenda enumerated above.

1. Designing an administrative structure for privatization
2. Drafting a manual of operating procedures for:
 - a) Review and approval of privatization applications
 - b) Management of mixed-tenure buildings
 - c) Creation of condominium associations
 - d) Transferring management responsibilities to private firms
3. Drafting legislation governing:
 - a) Private sales and leases of real estate
 - b) Mortgage loans and installment contracts
 - c) Foreclosures and evictions

- d) Title registration
- e) Phasing out rent control
- d) Landlord - tenant relationships
- 4. Organizing an efficient brokerage industry
- 5. Organizing a building management industry
- 6. Designing a housing allowance program

National Housing Fund/World Bank Development Loan. The World Bank has taken a decisive role in promoting market principles in the housing sector in Albania. As such, the Bank is investigating the feasibility of a multi-million dollar loan earmarked to the Ministry for finishing construction on housing units left uncompleted in wake of the 1990 price rises. The nascent institution created to facilitate this endeavor is the National Housing Fund. The NHF will support formulation of a general policy for the housing sector and assist in the implementation of the specific programs. Below are rank-ordered items and sub-items for technical assistance which relate to the formation and objectives of the NHF.

- 1. Drafting a policy matrix and time-table of pre-loan conditions
- 2. Designing an administrative structure
- 3. Designing a manual of operating procedures for:
 - a) Selecting projects for investment
 - b) Clearing title to selected projects
 - c) Preparing technical specifications for each project
 - d) Writing construction contracts
 - e) Designing competitive bidding procedures
 - f) Monitoring contractors' performance
 - g) Disbursing progress payments
- 4. Drafting a manual of operating procedures for:
 - a) Writing mortgage loans
 - b) Selecting among qualified applicants
 - c) Appointing an interim building manager
 - d) Forming a condominium association

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ANNEX A

Aide Memoire, Joint World Bank - USAID Mission, 20 November 1992

AIDE MEMOIRE

Joint World Bank - USAID Mission

November 20, 1992

1. Background. At the request of the Government of Albania (GOA) a joint mission of the World Bank and the USAID visited Tirana from November 9 to November 20, 1992. The purpose of the mission was to pre-appraise the feasibility of a program of capital investment and technical assistance in the housing sector. The mission was led by Mr. Gian Carlo Guarda (Principal Urban Planner, EC2IN) and comprised Mr. Robert Buckley (Senior Economist, INURD), Mr. Michael Heller (Consultant, INURD) and Mr. Antonio Milia (Architect, Italian Trust Fund) as well as Mr. Ira Lowry (Housing Policy Expert) and Mr. Maris Mikelsons (Housing Sector Analyst), both under USAID sponsorship. Mr. Hans Apitz (Division Chief, EC2IN) and Ms Sonia Hammam (Regional Representative, USAID Office of Housing and Urban Development Program) also participated in the mission's activities. The Joint Mission gratefully acknowledges the assistance and hospitality of the Minister of Construction, H.E. Ilir Manushi and his staff. The following Aide Memoire condenses the main findings and recommendations of the Mission.

2. Proposed Financial and Technical Assistance Project. During its stay in Albania, the Mission tried to advance as much as possible the preparation of a project along the lines proposed in the Initial Executive Project Summary reviewed on October 26, 1992. The World Bank is currently considering a soft terms credit (IDA funds) of about US\$ 10 million to help the Ministry of Construction finance the completion of several thousand dwelling units, the construction of which was interrupted because of lack of funds. Upon request of the GOA, the World Bank is also looking into the possibility of securing additional co-financing from other sources. USAID is considering the request for complementary technical assistance by the Ministry of Construction (MOC) and the National Housing Fund (NHF) to support formulation of a general policy for the housing sector and to assist in the implementation of the program. It is anticipated that World Bank staff and consultants provided by USAID would continue to cooperate closely in both respects.

3. Project Objectives. The project would encourage a market-based housing system, while resuming a certain level of construction activities to provide jobs and additional dwellings in Albanian cities. This involves: i) supporting the privatization of a

substantial part of the existing housing stock; ii) increasing gradually the level of rents on the remaining public housing iii) broadening the role of private agents in housing production and maintenance (investors, developers, contractors, suppliers) while reducing direct involvement of the public sector; iv) establishing the National Housing Fund as an effective agent of reform; v) progressively reducing housing subsidies by introducing cost recovery through affordable, indexed schemes of repayment.

4. Privatization Act. The Mission views the introduction of an act regulating the privatization of a substantial part of the existing housing stock as a crucial step if the GOA wants to create a facilitating environment and to reduce the public sector involvement in housing provision. The Minister has reviewed two successive drafts of this act, neither of which has been discussed yet in Parliament. The first is based on the distribution of tradable vouchers of partial ownership to the entire urban population, the second simply offers to sitting tenants the chance to purchase their flat for a nominal amount, payable through a long term installment scheme. After reviewing the merits of each proposal and discussing their budgetary implications with the Ministry of Finance advisor, the mission would recommend a modified version of the act, which is left to the consideration of the Government (see attachment). It is expected however, that the GOA will present soon to Parliament its definitive proposal. Implementation of the Act would then take place immediately, and probably be completed in parallel with the start of the World Bank supported investment program.

5. Phasing Out Rent Control. The GOA is aware that no housing privatization scheme has a chance to succeed, unless the present system of rigid rent control is removed. The first step in this process is to eliminate rent-control on those public dwellings that would be purchased by private parties and to progressively raise rents on the remaining public properties at least to the level necessary to cover the costs of operation, maintenance, and repair. This might require the parallel introduction of a scheme of rent allowances to protect the most needy households from economic hardship caused by the increase in rents. However, it is important that any rent subsidy be well targeted, limited, transparent, and possibly coordinated with other forms of welfare assistance. The mission understands that the MOC has initiated studies on this subject and that it would welcome advice in this regard.

6. Completion of Unfinished Construction. The MOC has presented to the Mission its preliminary inventory of unfinished dwellings. The Mission understands the following: i) of the 13,300 flats presently unfinished, only about 6,000 (spread across several cities of Albania) would be suitable for World Bank financing; ii)

the average state of completion of these dwellings is about 55 percent; iii) they would not be subject to claims originated by restitution procedures; iv) their title would be clear and transferable, and v) the flats are not presently occupied or squatted-in nor have they been pre-assigned to people in waiting lists. It is understood further, that work to complete the buildings would be contracted on the basis of competitive bidding procedures (i.e., with adequate advertising, at least 3 price quotations, and to the lowest evaluated bid).

7. Sale of Completed Units. The Mission understands that MOC agrees to the principle that all flats bearing World Bank financing should be put up for sale at prices reflecting the real cost of production including the pro-rated value of the land site. The Mission acknowledges that during this critical period of adjustment of the national economy, the ratio between the production price of housing and the average household income is so unfavorable, that few families would be able to carry debt service corresponding to the entire cost of the unit. Therefore, by analogy with what is being done for the flats being privatized, only a nominal charge would be levied for the sunk costs, i.e., for the capital invested to date. Under these assumptions, only the incremental costs incurred for completion of the flats would be charged to the purchasing household (on average about 50 percent of the value of an apartment). Preliminary affordability analyses, indicate that average households should be able to service its debt over a twenty-five year period at a positive interest rate of 3 percent. Given the high level of current inflation and the volatility of nominal interest rates, it is proposed that loan repayment be indexed in similar fashion to the repayment schemes adopted in Mexico, Poland, and other countries with unstable economies.

8. Creation of The National Housing Fund. The MOC has created a National Housing Fund (NHF) which would act as the projects implementation agency. The NHF would receive equity contributions from MOC (mainly the proceeds from IDA credit). In order to perform its functions the NHF needs organization, staffing, technical assistance and personnel training. It will also need help for drafting a Manual of Operations, detailing procedures. Tailored technical assistance and training are urgent and should be already provided during project preparation.

9. Housing Construction Costs. The Mission noticed that considerable uncertainty seems to exist in the MOC as to the current costs of construction. This is understandable in view of the sudden spurt of prices during the past year, following the liberalization of construction material prices, the gradual opening of the domestic economy and the changing patterns of production. While the mission has done its best effort to come up with its own

independent estimates, it must emphasize that only a system of competitive bidding can approximate economic pricing in the current circumstances. This casts some doubts on the reliability of the estimates currently adopted by the MOC, which contractors might interpret as an open invitation to escalate their bids even further. While the price of some construction materials may have grown somewhat faster than general consumer prices, this cannot be warranted for all domestically produced materials and certainly is not the case for the labor component. The suggested tenfold increase adopted in the MOC estimates appears to be justified only for the foreign components of construction costs. The Mission was glad to learn that the Institute of Statistics is now undertaking work on a monitoring index of construction prices.

10. Disbursement. It is anticipated that a Special Account in dollars will be established at the National Bank of Albania, with an initial advance. The Special Account will operate as a revolving fund, alimented with the proceeds of the IDA credit. The Special Account will be replenished from time to time to the extent of the amounts withdrawn to support expenditures of the NHF. The NHF shall submit disbursement applications based on consolidated statements of expenditures and its accounts as well as the Special Account shall be audited annually by an independent auditor acceptable to the World Bank. Expenditures on Technical Assistance will be met directly by the donor according to its own regulations and practices.

11. Procurement. All civil works contracts financed with World Bank (IDA) credit and greater in value than US\$ 500,000 would have to be contracted on the basis of locally advertised, competitive bidding procedures acceptable to the Bank. This implies that: i) a bidding document would be issued; ii) adequate competition would be encouraged to obtain reasonable prices; iii) the procedures to be followed in bid evaluation and contract award would be made known in advance to all bidders; iv) such procedures would not be arbitrarily applied and v) foreign firms would be allowed to participate if interested to do so. For civil work and purchases of lesser or equivalent value than US\$ 500,000 procurement by competitive price quotation (local shopping) would be acceptable to the World Bank, provided that at least 3 separate price quotations are obtained and that the contracts be awarded to the lowest evaluated price.

12. Policy Matrix. The GOA is expected to carry out a number of actions in the short term for the reform of the housing sector; this includes the adoption of the Housing Privatization Act; a Condominium law, a Land Use and Planning law, a Procurement act, the liberalization of rent control, etc. All these measures should sum up in a coherent policy framework for housing sector reform,

conducive to a gradual contraction of the public sector's involvement in the production and management of rental housing and to the encouragement of private initiative in housing investment. A Policy Matrix, listing government policies, actions to be taken and a monitorable sequence of accomplishments would be prepared by MOC by project appraisal time, with the assistance of foreign experts.

ANNEX B

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ANNEX C

Designing a Housing Privatization Program for Albania,
prepared by Ira S. Lowry for the Minister of Construction, 17 Nov 1992.

BACKGROUND

Based on the Albanian Census of 1989, the cities and towns of Albania contain about 290,000 dwellings. Currently, about 70 percent of all urban dwellings are state-owned. Nearly all are apartments of one to three bedrooms in multiple dwellings managed by district agencies under the direction of the Department of Housing in the Ministry of Construction. About 70 percent of the state-owned dwellings were built after 1960.

Under the former regime, families and individuals were assigned dwellings in order of priority on a waiting list. They occupy the dwellings as renters with annual leases that are automatically renewed, so that a family effectively has perpetual tenure. Eviction is legally possible if a tenant fails to pay three months rent or abuses the dwelling, but evictions are rare. Rent (excluding utilities) typically amounts to about 2.5 percent of household income.

Rents are administratively set according to a complex schedule of dwelling size, amenities, quality, and location, last promulgated in 1982. The scheduled rents have never covered operating and maintenance expenses of the buildings, much less amortization of capital costs. Scheduled rents were recently doubled (August 1992) but still do not cover operating and maintenance costs. As subsidies from the Treasury have diminished, maintenance has been reduced to a minimum.

The remaining 30 percent of the urban housing stock is privately owned. Private ownership has never been illegal in Albania, but all state-sponsored urban construction has been for public or cooperative housing. Private dwellings include many built before the communist regime came to power, and many that were built by or for farmers in the rural fringe that subsequently became urbanized. They are mostly single family dwellings with garden space, but only 56 percent have indoor plumbing. About forty percent were built before 1945 and 61 percent were built before 1961 (1989 Albanian Census).

PRIVATIZATION POLICY

The Albanian government is committed in principle to privatization of the urban housing stock. To date, three draft programs have been prepared by the Department of Housing. The first was submitted to parliament, but the government fell before it was enacted. The second reached the council of ministers and was sent back for revision. The third draft is currently under consideration by the ministers. The president hopes to present it to parliament by the 28th of November, the anniversary of the new regime.

Purposes of Privatization

The basic purposes of privatization are :

- o To improve housing maintenance by enabling the owner-occupant to control repair policies, choose repair contractors, and monitor costs.
- o To improve utilization of the housing stock by enabling owners and renters to move freely between dwellings, but with the knowledge that they must pay the full cost of the dwellings they choose.
- o To create a market for new dwellings by giving households equity in their current dwellings that can be sold for cash, which in turn can be used as partial payment for new homes.
- o To relieve the government of responsibility for providing and managing housing, enabling private individuals and enterprises, each, acting in his own interest, to perform these functions better and more efficiently.

.Of these obligations, the most pressing is to create conditions for resuming building maintenance, in order to prevent further deterioration of an already marginal housing inventory.

Desirable Characteristics of a Privatization Program

To succeed in the objectives listed above, a privatization program must appeal to those who currently occupy state owned rental housing and be acceptable to those who do not. The procedure for acquiring title to an apartment must be both simple and rapid, and any cash requirement should be minimal.

The goal is not to eliminate rental tenure, but to reduce the state's role in providing and managing housing. Some individuals and families are financially or physically unequipped for home ownership, and some will prefer to continue as renters. Whether owners or renters, families with very low incomes may need financial help, either in the form of cash or earmarked housing assistance.

Finally, the current national fiscal situation imposes the requirement that privatization must be accomplished without substantial demands on the national treasury.

PROGRAM DESIGN

We distinguish six key elements of program design: 1) who should receive claims to the state-owned housing, 2) the method for distributing and redeeming these claims, 3) the incentive for tenure change, 4) the legal form of ownership tenure, 5) how mixed tenure buildings will be administered, and 6) the duration of the privatization program. Below, we discuss each element in turn as it applies to the Albanian situation.

Who Should Receive Claims to State-Owned Housing?

Privatization entails the distribution of claims to the inventory of state-owned housing. Philosophically, it can be argued that the entire adult population of Albanians has contributed to the capital cost of this inventory, since the state taxed their labor and used part of the proceeds to build the dwellings. The rural population has been partially compensated by agricultural land reform, so the urban population comprises the largest claimant universe, about 290,000 households containing about 1.2 million persons.

However, the 200,000 state-owned dwellings cannot easily be divided among 290,000 households. If we want owner-occupancy, there can be no more claimants than dwellings. Both philosophically and practically, it can be argued that the current occupants should have superior claims to their dwellings, whether as owner-occupants or as renters.

One way to reconcile the indivisibility of dwellings with the excess of claimants is to distribute prorated claims to all, and require those who choose ownership to accumulate enough of these claims to cover the full value of their dwellings. Those who do not become owners could sell their claims for cash or other considerations.

Given this possibility, a privatization program could be designed so that claims to the state-owned inventory are divided in different ways, for example:

- o among all urban residents
- o among all residents of state-owned dwellings
- o among resident of state owned dwellings who are willing to become owners.

Of course, there are other categories of claimants who could be given special consideration - for example, the elderly, the disabled, veterans, former political prisoners, etc. Keeping in mind that the total claims cannot exceed the total of assets to be distributed, the wider the distribution of claims, the smaller each

claimant's share will be. At one extreme, it would be possible to transfer title of each state-owned dwelling to its current occupants free of charge; at the other extreme, occupants might get claims equal to about two-thirds of the value of their dwellings, so they would be obliged to purchase the remainder from others who did not plan to use the claims to obtain ownership title.

What Methods Should Be Used To Distribute and Redeem Claims?

The choice of methods depends very much on the choice of recipients. If claims are given only to current occupants who choose ownership, then a bookkeeping transaction will suffice. This method has been used in the Russian Federation; any occupant of a state-owned dwelling who wants to become an owner merely goes to the management enterprise that administers his building and registers his ownership title to the apartment. A variant of this plan limits the amount of housing that is transferred free of charge. If the applicant's dwelling exceeds the norm, he must pay cash for the excess housing. A further variant allows the applicant to pay the cash balance in installments.

If claims are more widely distributed, a negotiable instrument must be issued -- i.e., a voucher entitling the bearer to a specified share of the state-owned inventory. These vouchers need not be redeemable by the government for any other purpose than transfer of title to state-owned dwellings. Those who wish to obtain title would be responsible for accumulating enough vouchers to cover the assigned value of the specific dwellings they wished to privatize. The market value of a voucher would depend on its scarcity. If few households elected privatization, the market would be flooded with unused vouchers, so their price would fall. Subsequently, more households would elect privatization because accumulating the necessary vouchers would require less cash outlay. As these transactions occurred, unused vouchers would become less abundant, so their price would rise.

. Under this plan, the state would not engage in cash or credit transactions with homebuyers. In order to acquire title, the buyer must procure the appropriate number of vouchers; how he acquires them and on what terms would not concern the state.

The Incentive for Tenure Change

Privatization can succeed only if the occupant of state-owned dwellings perceive ownership as more advantageous than rental tenure. Currently, tenants of state-owned dwellings pay very little rent and have not been evicted when they pay no rent at all. On the other hand, they have little voice in the management of their buildings and the buildings are very poorly maintained. Furthermore, they cannot easily exchange the dwelling assigned to them by the state for another that better suits their needs, even if they are willing to pay this privilege.

Raising rents is an essential part of any program of privatization, both because higher rents will encourage the shift to ownership and because the state cannot afford general housing subsidies. Rents were recently doubled, but that is not nearly enough. Shelter rent, not including utilities, must be rapidly increased until it covers prorated operating and maintenance costs; and indexed thereafter to cost inflation.

Those who privatize their dwellings will no longer pay "rent"; but they must pay its exact equivalent, their prorated share of building operating and maintenance costs, under some other name.¹ So raising rent to a cost-recovery level does not alone offer an incentive for ownership. To provide an incentive, the state must also persuade tenants that, as owners, they will jointly control operating and maintenance policies - i.e., will get the services they prefer and for which they are willing to pay. (Currently, virtually no maintenance is performed.)

It is therefore important for the privatization program to include a clear statement of the arrangements for building management after privatization. (See below, "Legal Forms of Ownership" and "How Mixed-Tenure Buildings Will be Administered")

Privatization can also be made attractive by minimizing the capital cost for those who choose ownership. As noted earlier, if claims are distributed only to this group, title could be transferred free of charge. On the other hand, if claims are more widely distributed, the privatizing tenant must pay for the additional vouchers needed to cover the value of the his apartment. So this incentive for ownership conflicts with the equity-based preference for a wide distribution of claims.

Another way to make privatization attractive is to specify clearly that those who privatize their dwellings immediately gain the unconditional right to sell or rent the dwelling to someone else. If this right is bestowed, the first privatizers are likely to be persons planning to emigrate from Albania, interested in liquidating their claim against the state's assets rather than in occupying the dwelling. This group of privatizers will serve a valuable function by opening a private resale market, enabling under- and over-housed citizens to buy or rent homes that better fit their desires and budgets.

¹ This point must be made very clear to the public. In policy discussions, it tends to be overlooked.

Legal Forms Of Ownership

Nearly all state-owned dwellings are apartments in small multi-unit buildings, averaging 9.2 units per building. Only a few are single-family houses. All urban land, including the sites of privately owned dwellings, presently belongs to the state; homeowners have only a revocable right to use the land for an indefinite period.

The privatization program must include legislation to create new forms of tenure for residential real estate, and should be accompanied by a program of cadastral surveys and title registration. The law must recognize the rights of both natural and juridical persons to buy, sell own, bequeath, lease, and sublet land and buildings, including forms for sole, joint, cooperative, and condominium tenancy.

The best form of tenancy for privatized apartment buildings is a condominium, allowing divided ownership of individual flats and an undivided interest in the building site and the common areas and facilities of the building. Typically, an apartment building will be only partly privatized, with some flats owned by their occupants and others owned by the state. Governance of a condominium is by an elected board that chooses a manager and assesses monthly fees to be paid for each apartment, whether privately owned or state-owned. (The state, as owner, would recoup its condominium fees by collecting rent from the tenants of state-owned units.) Each condominium owner can sell or lease his flat without consulting the others, but all must abide by the rules of the condominium association.

For privatized single-family dwellings, the occupant should be granted ownership in fee simple, meaning that he can immediately sell or lease the property to others or convert it to new uses (consistent with the urban plan) if he chooses not to live there.

In all forms of ownership, mortgage instruments are needed to enable purchases using long-term credit. The privatization program itself could in some of its variants include mortgage credit from the state, and subsequently the owner should be able to use the property as collateral for private loans.

Managing Multi-Unit Buildings After Privatization

Currently, state-owned multi-unit buildings are managed by district management firms appointed by the Department of Housing. When such a building is privatized as a condominium, the condominium governing board assesses fees and appoints a manager, who could be a full-time employee but also could be a private management company that serves many buildings. In fact, the present district enterprises might themselves be privatized as joint stock companies. In any case, operating and maintenance

policies are made by the board and carried out by the appointed manager.

The state, as owner of some units in the building, has a vote in the governance of the building that is proportional to the number of apartments it owns. The privatization law or subsequent executive orders should specify who will exercise these voting rights. The Department of Housing could appoint a single representative of the state's interests in each building, or could delegate the state's votes to the renters who occupy the state-owned apartments.

Terminating The Privatization Process

The privatization law should empower the Council of Ministers decide when the privatization program begins and ends. The program cannot begin immediately after the law is enacted because the Department of Housing must prepare detailed regulations, establishing procedures, and create the administrative structure to carry out the process. Only when these arrangements are complete can the Department of Housing, acting through its district agents, accept applications for transfer of title.

No one knows how fast the program will proceed. Perhaps there will be a rush to privatize apartments, perhaps not. The termination date of the program should not be written into law; instead, that decision should be made by the Council of Ministers upon recommendation of the Department of Housing.

Termination of the program means that no further occupant applications for privatizing apartments will be accepted, and that all unredeemed claims (vouchers) become worthless. The termination date must be announced far enough in advance to enable renter occupants to exercise their rights under the program if they have not done so before.

When the program ends, the state will still own some dwellings that are still occupied by renters -- no one knows how many. The government will then have the option of continuing its role as landlord, albeit for a much smaller portion of the urban housing stock than previously; or it can negotiate the sale of these units to private persons or joint stock companies that may continue to rent the dwellings to current occupants (without rent control), or could otherwise dispose of the dwellings.

This decision need not be made at the onset of the privatization program; but the privatization law should not include a guarantee that the state will continue indefinitely as landlord for renters who decline the privatization offer.

MODEL PRIVATIZATION LAW FOR ALBANIA

Article 1. Preamble

This act is intended to improve the utilization, maintenance, and management of urban housing by enabling those who rent state-owned dwellings to become owners. As owners of separate houses or joint owners of multiple dwellings, they will choose the managers of their buildings, determine the level of services and maintenance they desire, and pay or share the costs of their choices. The owners will also have the right to give, sell, lease or hypothecate their property to others.

It is the intention of the state to withdraw from its current role as the main provider of urban housing after creating the conditions for the operation of a private market where residential property may be freely purchased or leased and where building maintenance is performed by private contractors under competitive conditions.

No one will be forced to change from rental to ownership tenure. However, those who continue as renters should expect their rents to rise to amounts that cover the full cost of operating and maintaining their dwellings.

Article 2. Privatizing State-Owned Dwellings

- 2.1 Families and persons occupying state-owned dwellings under rental tenure are invited to become owners of those dwellings [free of charge/subject only to payment of a fee]. As owners, they can (a) continue to occupy their dwellings; (b) give, sell, or lease their dwellings to other persons, natural or juridical; and (c) use their dwellings as collateral for mortgage loans. Sale prices and lease rents will not be regulated by the state.
- 2.2 Beginning n days after the passage of this act, the occupants of state-owned dwellings can apply to the Department of Housing for ownership title. When the application has been approved by the Department of Housing [and the scheduled fee has been paid], a deed of title will be prepared and registered with a new bureau to be created by separate legislation.
- 2.3 The Council of Ministers will determine the final date at which applications will be accepted and will publish notice of the end of this privatization program at least n days before the event.

[2.4 The schedule of fees for ownership of individual dwellings will be determined by the Council of Ministers, taking into consideration:

- a) the size of the dwelling,
- b) the original quality of construction,
- c) the age of the building, and
- d) the location of the building.

In no case shall the fee exceed 00000 leks.]

[2.5 The fee may be paid in full at the time of privatization, or it may be paid by installments on terms set by the Council of Ministers. However, if paid by installments, interest will be charged on the outstanding balance, at a rate set by the Council of Ministers. Until the fee is paid in full, the state retains a lien on the dwellings equal to the outstanding balance of the fee.]

Article 3. Dwellings Not Eligible for Privatization

The following categories of dwellings cannot be privatized by their occupants:

a) dwellings that were formerly private property, taken by the state. Title to these dwellings will be restored to their former owners, subject to the rights of existing tenants, by separate legislation.

b) dwellings designated by the Council of Ministers as unsuitable for private ownership or as needed by the state for public use. Existing tenants can be evicted only if suitable alternative accommodations are provided by the Department of Housing.

Article 4. Forms of Ownership

- 4.1 If the occupants of a privatized dwelling are all members of one family, ownership of the dwelling will be registered in the names of all adult members of the family as tenants in common.
- 4.2 If the occupants include members of more than one family, ownership will be divided among the families on any basis that they choose. If they cannot agree on the division of ownership, the privatization application will be rejected.
- 4.3 When a separate house is privatized, the owners will receive exclusive title to both the structure and the land on which the structure is located, including the uncovered space that has previously been maintained and used exclusively by or for the benefit of the occupants.
- 4.4 When an apartment in a multi-unit building is privatized, owners will receive exclusive title to the space within the apartment and an undivided share of ownership of the common areas and facilities of the building, including the land on which the structure is located and uncovered space that has previously been maintained and used exclusively by or for the benefit of the occupants of the building.
- 4.5 During the privatization period, dwellings that have not been privatized will continue as property of the state. The state will also retain an undivided share of the common areas and facilities of the building and its site, and will be jointly responsible with owner-occupants for managing and maintaining the building.

- 4.6 During the privatization period, boundaries of the sites of all privatized or partially privatized buildings must be determined by survey and approved by the Department of Housing. Privatization applications can be approved by the Department of Housing subject to later determination of site boundaries by survey as described above.

Article 5. Condominium Associations

- 5.1 When at least 50 percent of the dwellings in an apartment house have privatized, the owners of the privatized dwellings must form a condominium association and elect a board of governors. Separate legislation will establish the legal forms to be observed.
- 5.2 The board of governors will decide on operating policies for the building and will contract with a person or enterprise to manage and maintain the building. It will determine the monthly fees that must be paid by the owners of individual dwellings and will account to them for the expenditures.
- 5.3 Until the condominium association is formed and has contracted with a building manager, operating policies and monthly fees will be set and building services will be provided by the Department of Housing under existing arrangements.

Article 6. Dwellings That Continue in State Ownership

- 6.1 Occupants of state-owned dwellings who do not wish to privatize those dwellings have the right to continue as renters subject to renewable annual leases.
- 6.2 The rents of such dwellings will be set [annually/every six months] by the Council of Ministers at amounts needed to cover the prorated full cost of building operation and maintenance, as determined by the Department of Housing for separate houses and by the condominium association for multi-unit buildings.
- 6.3 The Department of Housing will collect rent from the tenants and will pay the monthly fees assessed by the condominium associations even if some of the tenants have not paid their rents.
- 6.4 The Department of Housing will be responsible for maintaining and operating separate houses that continue in state ownership and apartment buildings that are less than half privatized. Condominium associations will be responsible for maintaining and operating other partially privatized apartment buildings. In such cases, the Department of Housing will appoint representatives to the governing board of the condominium association to represent its interests in the dwellings that remain under state ownership.

Alternative Article 2. Privatizing State Owned Dwellings

- 2.1 The state owned inventory of 200,000 urban dwellings contains approximately 6,000,000 m² of floor space. The value of this inventory will be distributed among all urban residents by means of vouchers that can be freely traded for cash but will be redeemed by the Department of Housing only for the purchase of existing dwellings. One voucher will be issued to each of about 1,200,000 urban residents listed on the population registers as of 1 November 1992. Each voucher represents a claim to 5.0 m² of floor space.
- 2.2 Families and persons occupying state-owned dwellings under rental tenure are invited to become owners of those dwellings by purchasing them with vouchers equal to the amount of floorspace contained in the dwelling. Because 97 percent of all state-owned dwellings contain between 7 and 60 m² of floor space, nearly all purchasers will need more vouchers than are issued to members of their households. They must obtain these vouchers from others occupants of state-owned dwellings who do not want to privatize, or from occupants of dwellings that are already privately owned.
- 2.3 Voucher recipients who are not already occupants of state-owned dwellings cannot use their vouchers to obtain different or better housing. However, they can give or sell their vouchers to those who do occupy state-owned dwellings and who wish to purchase them. Selling prices for vouchers will not be regulated by the state.
- 2.4 Within n days after the passage of this Act, vouchers will be distributed to the registered urban population, following procedures adopted by the Council of Ministers. After that date, occupants of state-owned dwellings can apply to the Department of Housing for title of ownership. When the application has been approved by the Department of Housing and the appropriate number of vouchers has been deposited, a deed of title will be prepared for the purchaser and registered with a new bureau to be created by separate legislation.
- 2.5 Those who acquire ownership titles can a) continue to occupy their dwellings; b) give, sell, or lease the dwellings to other persons, natural or juridical; and c) pledge the dwelling as collateral for a mortgage loan.
- 2.6 The Council of Ministers will determine the final date at which applications for privatization will be accepted and will publish notice of the end of the privatization period at least n days before the event. When the last applications have been approved, vouchers will have no further value.

ANNEX D

Structure of the Albanian National Housing Fund/MOC, Nov 1992.

The National Housing Fund was created by decree in November of 1992. The NHF operates as a government agency attached to the Ministry of Construction. In its current form, the NHF has four discrete departments; Economics, Regulations, Construction, and Notarization or Legal. Lead administrative responsibility is given to the Office of the Director and the four departments. Upon creation of the NHF, Mr. Sokol Ademi was appointed as its first director by the Minister of Construction. Nine other staff members have been appointed to the four departments at the NHF, temporarily housed at the Ministry Building in Tirana. Three economists are attached to the Economics Department; an economist and two engineers were appointed to the Regulations Department; two engineers are heading-up the Construction Department; and, one lawyer was appointed to the Legal Department. Approximately 40 other staff members of the NHF are distributed among 10 district offices (formerly government housing offices) located through-out Albania.

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ANNEX E

Report on Trip to Tirana, Albania, Dec. 3-8, 1992, memo from Carol Rabenhorst to Jeff Telgarsky and Maris Mikelsons.

MEMORANDUM

TO: Jeff Telgarsky and Maris Mikelsons

FROM: Carol Rabenhorst

SUBJ: Report on Trip to Tirana, Albania
Dec. 3-8, 1992

DATE: December 18, 1992

This report is based on file memos and work produced by Jack Lowry and me during our recent trip to Tirana, Albania. It concludes with recommendations for follow-up activities.

A. Meetings with Minister of Construction Ilir Manushi and Prime Minister Alexander Meksi.

Jack and I met with Ilir Manushi, the Minister of Construction, on December 3, 1992. We were joined by Adem Duka, Director of Housing for the Ministry, Leila Gjini and Ilir Shpuza, lawyers at the ministry.

Manushi said the privatization law had been approved by the ministry as drafted during the last mission, with only one substantive change -- a new provision that prohibits a citizen from acquiring more than one privatized apartment at the same time. The law was going to Parliament that day, and Manushi expected discussion to begin very soon.

Manushi asked me to work with Leila Gjini in reviewing her draft of a condominium law.

Manushi said there is a draft of a proposed restitution law that will be discussed today or tomorrow by a number of ministers, and he will provide us with an English translation so that we can give him comments.

Later that day, Manushi took us to be introduced to the Prime Minister, Alexander Meksi, who met with us for about 20 minutes. He seemed very interested in the status of the privatization law, the condominium law and the restitution law.

Prime Minister Meksi told us Albanians are very anxious for privatization and other reforms to get underway, and are putting pressure on the government to move quickly even though some mistakes might be made. (He said "they would rather have an egg to eat today than wait until next year for a hen.") He expressed

strong support for our work, and gave the impression of being very receptive to our proposals.

While we were waiting to see the Prime Minister, Manushi explained to us how the system of land records works. There is now a rural cadastral system, and the intent is to expand it to include urban property. As part of the court system, there is an Office of Juridical Assistance, where rural land records and liens are registered. It is Manushi's belief that this office be the repository of transfer and ownership records for privatized apartments. In that office, an administrator who is a lawyer will review applications, verify that they are complete, and then record the ownership. A copy of the ownership records will be kept in the office of the maintenance enterprise as well.

After these meetings, Jack and I agreed to split up our responsibilities; he would work on the restitution law and I would work on the condominium law.

B. My Work on the Condominium Law.

When I reviewed the draft of the condominium law prepared by Leila Gjini, the lawyer for the Ministry of Construction, I noted that it had a number of fundamental problems. It failed to set out a framework for condominium ownership, contained a number of internal contradictions, and failed to address many key issues. I decided that it would be more efficient and would result in a better product if I wrote a new version rather than trying to revise Leila's draft.

After I had prepared a new version, I met with Leila for several hours and we went over both drafts so that she would understand the changes. She seemed to understand and accept my revisions. She said she would have my draft translated into Albanian by December 7 so that Manushi could read it and I could meet with him again before I left Albania.

On the evening before my departure from Tirana, I met with Ilir Manushi, Adem Duka, and Leila Gjini to go over the draft condominium law. Manushi had not had a chance to review it, because the translation had not been completed until just before the meeting. I explained some of the more important features of the law, such as: the steps needed to establish and register a condominium; the concept of individual ownership of the apartment units and joint ownership of the common property; the continuing role of the state as a unit owner unless all of the units are transferred to individual ownership; how the association of owners will be formed, how the executive board will be elected, and what their powers and responsibilities will be; what options there would be for maintaining and managing the property; how the financial affairs of the association will be handled.

A copy of the condominium law I drafted is attached.

Manushi said he agreed with the approach I recommended, and appeared to have a good grasp of the concepts underlying the law. He said after he reviews it, he will send it on to a number of other ministers for their review before the law is formally presented to the Council of Ministers and then to Parliament. I stressed that the adoption of a condominium law is an important initial step in the privatization process so that there are legal and operational guidelines in place at the time individual units are transferred to private ownership. Manushi said he felt strongly that the condominium law should follow very closely behind the privatization law.

I also suggested that it might be advisable to provide training and support on condominiums to the ministry staff who would handle privatization, and to the new private owners who would eventually be taking over management of their buildings. I explained that I was not sure about the status of AID's work in the housing sector in Albania, but AID planned to provide assistance in the form of training for new owners and managers of privatized housing in other Eastern European countries, and that I thought such programs might be very helpful in Albania.

Manushi seemed very enthusiastic about our working with his ministry on such a project and asked whether he should make a formal request to AID. I said I would find out how to proceed and someone would get back in touch with him about this.

Manushi again was very warm and cordial, and seemed very grateful for our assistance.

C. Lowry's Work on the Restitution Law and Recommendations For Future Action.

Attached are a memorandum from Jack Lowry and a copy of a letter he sent to Ilir Manushi after leaving Tirana. These documents set out Lowry's analysis of the proposed restitution law and his recommendations for an alternative approach to restitution. As far as I know, he is still awaiting a response from Manushi to the letter.

D. Recommendations For Future Action on the Condominium Law and Training.

1. I recommend that a positive response be given to Manushi's request for technical assistance in developing a condominium training program for members of relevant government agencies and new condominium unit owners.

In preparation for my discussion with Manushi, I discussed possible training options with the director of housing, Adem Duka, and the ministry lawyer, Leila Gjini. Both of them recognize that they are likely to be on the front lines in developing and implementing the housing privatization program and, because of their inexperience with private ownership in general and condominiums in particular, they are very anxious to receive assistance in meeting their new responsibilities.

Therefore, I recommend proposing to AID that we provide technical assistance in setting up an Office of Condominium Services somewhere in the Ministry of Construction -- probably in Duka's housing department. Initial efforts would emphasize: (1) training of staff and preparation of written materials, to enable the Office to meet the anticipated demand from the public for information that will help them understand the process of privatization, and (2) helping the Office prepare a program for training new owners in condominium operations and management.

2. I recommend that we follow up with Manushi on the progress of consideration of the Condominium Law, and offer to prepare a one-day seminar for government officials to explain the concepts underlying the law and how it might be implemented. In addition to government ministers and legislators, mayors of towns and cities outside of Tirana should be invited as well.

The seminar could be very helpful in assuring that effective legislation goes to Parliament and in bolstering political support for it. It will also begin the process of preparing government officials below the national level for carrying out privatization programs.

cc: Jack Lowry

ANNEX F

Condominium Law, draft prepared by Carol Rabenhorst for the Minister of Construction, 7 Dec 1992.

REPUBLIC OF ALBANIA
PEOPLE'S ASSEMBLY

CONDOMINIUM LAW

On the basis of Article 16 of Law No. 7491 dated 29.04.1991 "On the Main Constitutional Provisions," upon the proposal of the Council of Ministers, People's Assembly of the Republic of Albania,

D E C I D E D :

CHAPTER ONE
GENERAL PROVISIONS

Article 1. Purposes.

The purposes of this law are: to determine the legal status of condominium property; to legalize the right of ownership of a unit in a condominium property; to provide for the implementation of co-ownership and management of condominium property; and to facilitate private ownership of housing and market-based housing reform.

Article 2. Applicability.

This Law may be applied to all multi-unit apartment buildings within the Republic of Albania, whether existing on the effective date of this Law or constructed thereafter. In those building which become condominiums, operation and management of condominium property shall be in conformity with this Law.

Article 3. Relationship To Other Laws.

No zoning or land use plan, building code, or other real estate law, ordinance, or regulation may prohibit the condominium form of ownership or impose any requirement upon a condominium not imposed upon a physically similar property under a different form of ownership.

Article 4. Definitions.

Unless otherwise specifically provided or the context otherwise requires, in this Law:

(a) "Allocated interests" means the indivisible ownership interest in the common property, the common expense liability, and the voting power in the association which are allocated to each unit. Unless otherwise provided in the foundation deed, interests will be allocated to each unit on the basis of the ratio of the

number of square meters in the unit to the total number of square meters in all of the individual units.

(b) "Association" means the organization of owners of all units in a condominium building.

(c) "Common expenses" means expenditures or financial liabilities of the association in relation to the common property.

(d) "Common expense liability" means the liability for common expenses allocated to each unit.

(e) "Common property" means all portions of a condominium property other than the units. Common property is indivisibly and jointly owned by the owners of individual units in accordance with their allocated interests. Common property includes all parts of the property not intended for individual use, such as: the grounds upon which the building is built, the foundations, supporting walls, roof, terraces, stairways, hallways, lifts, pathways, cellars, wells, and water reservoirs. Common property also includes parts of the building for common use which have been installed or fixed during the construction of the building or which have been set up later by the owners, such as: sewerage channels, discharging columns, chimneys, electrical systems, waterworks, and gas or heating systems that may pass through the common property to distribution points in the individual units.

(f) "Condominium" means real estate, portions of which are designated as individual units for separate ownership, and the remainder of which is designated as common property for joint ownership by the owners of the units. Real estate is not a condominium unless the undivided interests in the common property are vested in the owners of the units and may not be separated from the owners' interests in the units.

(g) "Foundation deed" means the contract or instrument which, upon registration in the land records, creates a condominium, and which is a binding agreement between the founder and the unit owners and among the unit owners in the condominium.

(h) "Founder" means any legal entity, including a state, local government, business enterprise, person, or group of persons acting together, by or on behalf of which a foundation deed is registered, and which offers to sell, convey, or otherwise transfer units within a condominium to individual ownership.

(i) "Unit" means a portion of a condominium designated for individual ownership, which together with an undivided proportionate share of the common property, constitutes a separate parcel of real estate. Except as otherwise provided in this Law or in the foundation deed, ownership rights in a condominium unit are

to be treated on the same basis as the rights of ownership of other real property.

(j) "Unit owner" means one or more persons who own a condominium unit.

CHAPTER TWO CREATION OF A CONDOMINIUM; FOUNDATION DEED

Article 1. Registration.

A. A condominium is created by registration of a foundation deed in the land records in the jurisdiction where the condominium is located, in accordance with applicable laws and regulations regarding registration of interests in real estate.

B. At the time a condominium is registered in the land records, each individual unit together with its allocated share of the common property shall be separately registered and shall constitute a separate parcel of real estate. As ownership of each unit is transferred from the founder to an individual owner and for each transfer of ownership of the unit thereafter, the date of the transfer and the name of the individual owner, together with any other information required for registration of real estate in the land records, shall be registered in the land records for that unit.

Article 2. Foundation Deed.

A. A foundation deed must contain:

(1) a description of the property comprising the condominium, including the land and the building structure, that is legally sufficient for registration in the land records of the jurisdiction where the condominium is located;

(2) plans or drawings sufficient to identify, by location and floor area, each individual unit within the building structure;

(3) the allocated interests appurtenant to each unit, expressed as a percentage or proportionate share of the total allocated interests in the condominium;

(4) a description of the common property; and

(5) procedures for forming and operating an association of unit owners.

B. The foundation deed must allocate to each unit a fraction or percentage of undivided interest in the common property, liability for common expenses, and voting power in the association,

and state the formula used to establish the allocations. The allocations may not discriminate in favor of units owned by the founder.

C. If units may be added to or withdrawn from the condominium, the foundation deed must state the formula to be used to recalculate the allocated interests among all units included in the condominium after the addition or withdrawal.

D. Except for minor variation due to rounding, the sum of the allocated interests of all the units must equal one (1) if the allocated interests are stated as fractions or one hundred percent (100%) if the allocated interests are stated as percentages.

E. Agreement of all unit owners is necessary to amend or modify the foundation deed. Any amendment or modification must be registered in the land records.

CHAPTER THREE RIGHTS AND RESPONSIBILITIES OF UNIT OWNERS

Article 1. General Rights of Ownership.

The owner of a unit has the right to occupy, sell, rent, bequeath, mortgage, or otherwise use the unit in accordance with the norms of ownership and the general provisions of the Civil Code concerning the use and transfer of privately owned real estate, except that the unit and its allocated interest in the common property cannot be sold or otherwise transferred separately.

Article 2. Rights and Responsibility of Founder As Unit Owner.

So long as some units are not sold or remain under the ownership and control of the founder, the founder shall remain the owner of an interest in the common property to the extent of the interests allocated to the unsold units, and shall have all the rights and responsibilities of ownership of such allocated interests including the obligation to contribute to common expenses.

Article 3. Obligations of Tenants of Owners.

A tenant of a unit owner may not participate in the management of the condominium or the decision-making of the association, but must comply with rules adopted by the association insofar as such rules are applicable to all occupants of condominium property.

CHAPTER FOUR
MAINTENANCE, REPAIR, AND IMPROVEMENT OF THE PROPERTY

Article 1. Maintenance of Individual Units; Access to Units.

A. The owner of a unit is obligated to maintain the unit in good repair at the owner's own expense. In maintaining the unit, no owner may infringe upon, damage, or endanger the common property or the property of any other owner.

B. Upon reasonable notice, an owner is obligated to admit a representative of the association or management to the unit when it is necessary to inspect, repair, or replace elements of the common property that may conveniently be reached only from the unit.

Article 2. Management, Maintenance, and Repair of Common Property.

Ordinary management, maintenance, and repair of the common property is the responsibility of the association, and the expenses incurred in performing these responsibilities shall be common expenses. The association may retain the services of employees or enter into contracts with outside entities to perform these responsibilities.

Article 3. Renovation and Improvement of Common Property.

Ordinary improvements to the comfort and efficiency of the condominium property may be undertaken by the association upon approval by a majority of the voting interests. Major improvements or renovation of the common property, such as the addition of equipment such as hot water boilers, central heating, water reservoirs, lifts, or other improvements of similar magnitude may be undertaken by the association only with the approval of at least seventy five percent (75%) of the voting interests.

Article 4. Alterations to Units by Unit Owners.

A unit owner may make any improvement or alteration to the unit that does not impair the structural integrity or mechanical systems or lessen the support of any portion of the condominium. A unit owner may not change the appearance of the common property without first receiving the permission of the association.

Article 5. Altering Boundaries Between Units and Common Property.

The boundaries between adjoining units may be relocated by agreement of the owners of the affected units and upon approval by the association. The boundaries between individual units and the common property may be changed only upon amendment of the foundation deed with the unanimous consent of the owners.

Article 6. Damage to Common Property or Other Units.

If the owner of a unit or any person acting on behalf of the owner causes damage to any part of the common property or any other unit, the owner of the unit must repair the damage or pay the costs of repair.

Article 7. Insurance.

A. Each unit owner shall be responsible for any insurance obtained on the contents of the unit, including all personal property and fixtures contained therein.

B. The association shall maintain, to the extent reasonably available, property insurance on the common property against risks of physical loss and liability insurance protecting the association and the unit owners against claims for damage to person or property occurring on the common property.

CHAPTER FIVE ASSOCIATION OF UNIT OWNERS

Article 1. Formation of Association.

An association of unit owners shall be formed and an organizational meeting of the association convened by the founder within sixty (60) days of the date when at least one third (33-1/3%) of the allocated interests in the condominium have been conveyed by the founder to individual ownership. The membership of the association shall consist of the owners of all units, including the founder so long as the founder continues to own one or more units in the condominium.

Article 2. Meetings of Association; Notice.

After the first organizational meeting, a meeting of the association must be held at least once each year. Special meetings of the association may be called at any time by the executive board or by unit owners representing at least twenty percent (20%) of the allocated interests. All owners must be provided with notice of any meeting of the association at least ten (10) days before the date of the meeting.

Article 3. Quorum.

An association meeting may be convened and decisions made if at least two-thirds (66-2/3%) of the voting interests are present, in person or by proxy. If a quorum is not present, the meeting may be adjourned and reconvened. At the reconvened meeting, decisions may be made regardless of the share of voting interests present.

Article 4. Voting.

Unless otherwise provided by this Law or the foundation deed, decisions of the association shall be made upon the vote of a majority of the allocated interests. The votes allocated to each unit cannot be divided. Votes may be cast by proxy so long as the proxy is in writing and signed by the owner on whose behalf the votes are to be cast. In case of a tie vote, the vote of the chairman is decisive.

Article 5. Powers of the Association.

In accordance with provisions of this Law and the foundation deed, the association has the power to:

(a) hire, supervise, and discharge a person or firm or other employees or personnel to manage, operate, or perform services for the condominium, including carrying out responsibilities of the association;

(b) manage the fiscal affairs of the condominium by: adopting budgets for revenues, expenditures, and reserves; collecting and accounting for regular and special assessments for common expenses; paying bills and otherwise meeting the financial obligations of the association; and maintaining the books and records of the condominium;

(c) make contracts and incur liabilities on behalf of itself or the unit owners in matters relating to the condominium;

(d) regulate the use, maintenance, repair, replacement, and modification of the common property;

(e) initiate or defend in legal actions in its own name on behalf of itself or the unit owners on matters relating to the condominium;

(f) maintain, to the extent reasonably available, insurance on the common property of the condominium against risks of loss or liability;

(g) impose charges for late payment of assessments;

(h) adopt and amend bylaws and rules and regulations; and

(i) exercise other powers conferred by the foundation deed or by affirmative vote of the unit owners.

Article 6. Borrowing By the Association.

A. The association may enter into agreements to borrow money for maintenance, repair, or improvement of the common property or

for operating costs of the condominium with the approval of a majority of the voting interests at a meeting of the association. Such borrowing may be secured with the future cash flow of the association, including the association's right to receive payments for common expenses.

B. To place a mortgage or otherwise secure a loan with the real property of the condominium, the association must obtain the unanimous consent of the owners. Each unit owner is free to mortgage his/her individual unit and allocated interest in the common property without the consent of the association or the other owners.

Article 7. Minority Rights.

If a decision of the association is contrary to law or the foundation deed, or leads to considerable grievance of the interests of a minority of the unit owners, any owner may commence a legal action to challenge the validity of the decision within sixty (60) days of when it is made. Such legal action shall not interfere with the execution of the decision by the association unless the court determines that the execution of the decision should be suspended.

CHAPTER SIX EXECUTIVE BOARD

Article 1. Election of Executive Board.

At the organizational meeting of the association, the unit owners shall elect an executive board composed of unit owners, and shall determine the number of members of the executive board and the length of the term for which they shall serve. The candidate who receives the highest number of votes shall be chairman. Thereafter, the executive board may fill vacancies in its membership for the unexpired portion of any term.

Article 2. Authority of Executive Board.

The executive board may act on behalf of the association in managing and operating the condominium, except for powers exclusively reserved to the association or made subject to vote of the unit owners at a meeting of the association. Subject to that limitation, the executive board may delegate management responsibilities, hire such personnel, or appoint such committees as it deems necessary or advisable to assist in carrying out its responsibilities.

Article 3. Authority of the Chairman of Executive Board.

The chairman of the executive board may represent the association in executing contracts and otherwise assuming obligations on behalf of the association, and may represent the association against third parties, including in legal action brought by the association against an owner who has failed to fulfill obligations to the association or in legal action brought by an owner to challenge a decision made by the association.

CHAPTER SEVEN **COMMON EXPENSES; COLLECTION OF ASSESSMENTS**

Article 1. Annual Budget for Common Expenses; Fiscal Year.

A. The fiscal year of the association shall be determined by the association at the organizational meeting.

B. Prior to the beginning of the next fiscal year and for each fiscal year thereafter, the executive board shall cause to be prepared and presented to the unit owners an annual budget sufficient to cover the anticipated expenses of maintaining and operating the common property and, if the establishment of a reserve account for replacement and improvement of the common property is approved by the unit owners, an amount needed to fund such an account. The annual budget shall be subject to approval by a majority of the allocated voting interests at a meeting of the association.

Article 2. Obligation to Pay Common Expenses.

All unit owners are required to pay in advance their allocated portion of the annual budgeted common expenses. Such payments may be made on a monthly basis at the beginning of each month of the fiscal year for which the common expenses have been budgeted.

Article 3. Special Assessments for Common Expenses.

Upon the affirmative vote of two thirds (66-2/3 percent) of the ownership interests, a special assessment in excess of the budgeted common expenses may be levied upon the unit owners to meet unanticipated and necessary expenses. Such special assessments shall be paid in accordance with terms adopted by the association at the time the special assessment is levied.

Article 4. Common Expenses for Heating or Water Systems Added After the Establishment of the Condominium.

If central heating systems, water reservoirs, or other systems of this kind are added after the establishment of the condominium, payment of expenses for installation, operation, and maintenance of

such systems shall be in accordance with a regulation to be adopted by the Council of Ministers.

Article 5. Delinquency in Payment of Common Expenses.

(a) The association may impose interest in an amount up to the highest rate allowable by law, or a late charge in the amount of _____ per month, against any owner who is delinquent in payment of common expenses, including special assessments, for more than thirty (30) days after any such payment is due.

(b) The association has the right to bring a legal action against any owner who is delinquent in payment of common expenses, including special assessments, for more than ninety (90) days after any such payment is due.

(c) A judgment in favor of the association for sums due from any owner may be enforced in any manner permissible by the Civil Code for collection of debts.

CHAPTER EIGHT
TERMINATION OF THE CONDOMINIUM

Except in the case of a taking of the entire condominium property by eminent domain, a condominium may be terminated and the property liquidated only by agreement of at least eighty percent (80%) of the voting interests, unless the foundation deed provides otherwise. Proceeds from a taking or termination and liquidation of the assets of the condominium shall be distributed to the owners in accordance with their allocated interests.

Termination of the condominium shall be reported to the register of land records.

ANNEX G

Letter to Mr. Ilir Manushi, from Ira S. Lowry, 7 Dec 1992.



IRA S. LOWRY
Housing and Development Consultant

7 December 1992

Mr. Ilir Manushi
Minister of Construction
Bd. Deshmoret E Kombit
Tirana, Albania

Fax: 355 42 27879/2331/27819

Dear Mr. Manushi:

I am sorry that we were unable to meet on 5 December to discuss the ministerial draft of the law on restitution of property. In this letter, I will try to convey my thoughts about this law and will offer my assistance in drafting a new version.

I have studied a translation of the law prepared by Mr. David Allen and have discussed the law with him and with Adem Duka. However, there are some aspects of the draft law that I do not understand. Perhaps you can respond to this letter, explaining your thoughts about the issues discussed below.

QUESTIONS ABOUT THE DRAFT LAW ON RESTITUTION

Q.1. Do you intend the law to deal only with urban land and buildings?

The draft law does not explain its jurisdiction: Whether it applies only to land and buildings in urban districts or whether it also applies to rural land and buildings. Because Law 7501 redistributed agricultural land to the rural population, I suppose that the law of restitution applies only to urban land. However, you must decide whether to include (a) all land and buildings in urban districts (within the "yellow line") or (b) all nonagricultural land and buildings, wherever located.

Q.2. Do you intend the law to include undeveloped urban land that was nationalized in 1976?

The draft law clearly applies to (a) land and buildings that were confiscated for political reasons; and also to (b) land and buildings taken by the state for public purposes, without adequate compensation. However, the draft is silent about (c) undeveloped urban land that was nationalized in 1976. I suspect that (c) is

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Mr. Ilir Mamushi, p. 2

in fact the largest category of expropriated land, so the law must clearly say whether this category is included or excluded.

Q.3. When the actual land and buildings cannot be restored to the former owners, what is the basis for compensation?

According to the draft law, when compensation is offered, the amount of compensation will be the "real value" of the property when it was taken by the state, adjusted for subsequent price inflation. Unfortunately, the draft does not explain how this "real value" will be determined. Consider, for example, a house and garden that was taken by the state in 1954; subsequently, the house was demolished and a public building was constructed on the site. Because the house and garden cannot be restored to the owner, compensation must be paid. What was the "real value" of the house and garden in 1954? I do not think that all property values were registered each year by the municipality or national government, and I cannot think of a reliable way to estimate such values retrospectively.

Q.4 If the former owner(s) are dead or have left Albania, can their heirs claim restitution?

Because we are dealing with properties taken by the state over a period of 45 years, there must be many cases in which former owners have since died or disappeared. I understand that Albanian inheritance law divides real property equally among all children of the deceased parents, but that Albanian custom divides real property only among the sons; also, that a widow is unlikely to obtain title to family property if there are any male children. Moreover, I am told that the heirs often neglect to reregister property whose owner of record is their father or even their grandfather; so the existing title records may not accurately identify the owners at the time of expropriation. You should also be prepared for cases in which the former owner is dead and there are two generations of descendants who have legal claims to the estate--perhaps as many as 30 individuals, some of whom may have left Albania.

Q.5. Do you know how many properties altogether are eligible for restitution and how many are eligible for compensation under the provisions of the draft law?

I have been informed that your government has a list of about 3,000 properties that were confiscated for political reasons, but the person who told me did not believe that this list was

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Mr. Ilir Mamushi, p. 3

complete. Although a search of public records for the past 45 years might enable you to make a list of properties that were taken for public purposes and a list of parcels of undeveloped land that were nationalized in 1976, such lists do not now exist. Do you have some other way of estimating the number of properties eligible for restitution or compensation?

CONCLUSIONS ABOUT THE DRAFT LAW ON RESTITUTION

The questions above call attention to certain parts of the draft law that are not clear as to the government's intentions. Your answers to these questions could make some difference to my conclusions, but I presently think that the government does not know enough about the number or characteristics of potential claims to promise (as the present draft does) full restitution or full compensation for all valid claims.

I think that the number of claims would be much larger than the 3,000 cases most often mentioned; and that most claims would have to be settled by compensation, not restoration of the original properties. I cannot guess how much money would be needed for full-value compensation, but think it would be more than the government could easily afford.

AN ALTERNATIVE PROPOSAL

I would like to propose a different approach that will indicate to the public the government's serious intention to make restitution without committing the government to specific rules or amounts of compensation. I suggest a law of restitution that contains only the following elements.

1. Definition of eligible properties.

Specify what kinds of properties are eligible for restitution or compensation (see Q.1 and Q.2, above). For example, the property must have been taken by the government between 1945 and 1989 without fair compensation, and it must be located in an urban district. At the time of expropriation, the property could consist of undeveloped land or of land and buildings of any kind. (There may be additional requirements.)

Mr. Ilir Mamushi, p. 4

2. Definition of eligible claimants.

Specify who is eligible to claim restitution or compensation for an eligible property (see Q.4 above). If the owner at the time of expropriation is deceased, can his heirs claim the property? Does a claimant have to be a resident of Albania? Must he be a citizen of Albania? What about properties owned by joint stock companies at the time they were expropriated? Do the stockholders have a claim?

3. Procedure for filing claims.

Establish a procedure for filing claims with a judicial office in each urban district of Albania. Set a deadline for filing claims--perhaps 6 months after passage of the law.

4. Local review committee.

Create a committee in each urban district to review all claims. The committee should be composed of perhaps 3 persons who are familiar with the district and its history during the years of the communist regime, and should have access to all relevant municipal records.

The committee should determine whether the property described in the claim was eligible for restitution or compensation under the definition given in Art. 1 above. The committee should also determine whether the persons submitting the claim were in fact the former owners of the property (or heirs of the former owner) and whether all persons with legal rights to the property were represented on the claim.

The local review committee should also decide whether or not it is feasible to restore the original property (land or land and buildings) to the former owner. If restitution is not feasible, then compensation is appropriate. *However, the local committee should not be allowed to prescribe the amount of compensation due in each case.*

5. National registry of restitution claims.

When the local committee completed its review of a claim, it should forward the certified claim to a national registry of restitution claims. When all claims have been reviewed and the valid claims have been registered, the totality of claims should be

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Mr. Ilir Mamushi, p. 5

analyzed to determine how many and what kinds of properties are eligible for restitution to former owners and how many and what kinds of properties are eligible for compensation. Only when this step has been completed will the government have the information it needs to make sound decisions about restitution policy.

6. National commission on restitution.


The law should provide for the appointment of a distinguished national commission on restitution to review the information contained in the national registry of claims and consider how best to satisfy these claims. In reaching its conclusions, the commission would consider the number and types of claims, the characteristics of the claimants, how restitution of properties would affect current occupants or users, and how "full compensation" could be estimated in cases where restitution was impractical. The commissions would also consider *what the government could afford to pay* in cash compensation, and would explore the possibilities of deferred compensation or compensation in kind rather than in cash.

The commission would report its recommendations to the prime minister, who would then prepare a second law of restitution, specifying under what circumstances restitution or compensation would be made and appropriating the necessary funds. The commission's recommendations would not bind the prime minister, but if they are reasonable and responsible recommendations, he should follow them in drafting the law.

ADVANTAGES OF THIS PROPOSAL

If you follow my proposal, the first law of restitution will set in motion a process for registering and reviewing claims, thereby indicating to the claimants that the government is responding to their distress. However, it postpones decisions about restitution vs. compensation, how much compensation, and the form of payment, until information about the totality of claims is available.

At that time, the government will be able to estimate accurately the social, economic, and fiscal consequences of alternative restitution policies. The chosen policy could be submitted to the parliament in a second law, about 12 to 18 months after the first law is passed.



Mr. Ilir Mamushi, p. 6

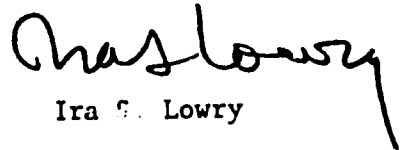
THE NEXT STEPS

If you are persuaded that my proposal is sensible, I am willing to prepare a draft of the restitution law whose elements I have described above. However, I will not do this unless you specifically request it.

If you do request my help in this way, please also respond to my five questions about the present draft, so that my new draft can reflect your thoughts about those issues.

You can respond to this letter by sending a Fax to me in care of the Urban Institute. I will be traveling in Eastern Europe until 16 December, and will not receive the Fax until I return home.

Sincerely,

A handwritten signature in black ink, appearing to read "Ira S. Lowry". The signature is fluid and cursive, with a long, sweeping tail on the last letter.

Ira S. Lowry

c/o The Urban Institute
2100 M Street, N.W.
Washington, D.C. 20037
U.S.A.

Fax: 1 202 223-3043

ANNEX H

Albanian Restitution Law: Progress Report, memo from
Ira S. Lowry to Jeff Telgarsky and Maris Mikelsons, 18 Dec 1992.

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MEMORANDUM

To: Albania File

From: Jack Lowry

Subj: Review of Albanian Restitution Law

Copy to: J. Telgarsky, M. Mikelson, C. Rabenhorst

Date: 12 December 1992

Carol's memos describe our initial meeting with the Minister of Construction and the Prime Minister on 3 December and her subsequent work on the condominium law. During my brief stay in Tirana, I worked on the restitution law.

The working conditions were chaotic. When I left Tirana on 21 November, the Minister proposed to send me a draft of the law for comment; however, he didn't do so. At our first meeting on Thursday, 3 December, he promised me a translation of the draft before the day was over; however, his staff didn't deliver. In the late afternoon, I was in his outer office where I met David Allen, a British "surveyor" (appraiser) who has been an informal advisor to the minister on various matters. Allen was present for an interdepartmental meeting to discuss the draft law on restitution--a meeting to which I had not been invited. In the event, the meeting was postponed, so I didn't miss anything.

Allen had arranged for a translation of the draft law and gave me a copy, which I studied that night. It is an incoherent compilation of rules for restitution and compensation; the basic ideas are as follows:

- o All property confiscated or expropriated without full compensation after November 1944 is recognized as belonging to its former owners.
- o If feasible, the land and buildings taken by the state will be returned to the former owners.
- o If restitution is infeasible because the land was subsequently developed or redeveloped, compensation will be paid to the former owners.
- o The basis for compensation is the "real value" of the property at the time it was taken, indexed for general price inflation.

Aside from the many technical flaws in the draft, it is fiscally dangerous. No one knows how many valid claims for restitution/compensation might be made pursuant to the law and no one knows how to estimate "real values" retrospectively. In

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passing this law, the state would assume a large but indefinite obligation.

Friday morning, I asked for an appointment with the Minister to discuss my concerns. He was engaged for the day with a party conference, but proposed a meeting at 9:00 a.m. on Saturday. During the day, I met with David Allen to discuss the draft and found that he agreed with my concerns. I outlined an alternative that I thought would get the government off the hook (it feels under pressure to do something about restitution) without making such open-ended financial commitments. Allen agreed with my strategy.

I also learned that Allen too was scheduled to meet with the Minister at 9:30 Saturday morning; it wasn't clear to either of us whether the Minister had decided to include me in a previously scheduled meeting with Allen or had simply muddled his calendar. In any case, we both showed up on Saturday morning to learn that the party conference continued and the Minister sent his regrets.

I told the Minister's secretary to inform him that I could not delay my mid-day departure from Tirana, but would write him a letter outlining my views on the restitution law. Allen volunteered to present my views if and when he had the opportunity. I also explained them to Carol Rabenhorst, who was staying through Monday so might still have an opportunity to confer with the Minister; and to Adem Duka, director of the Department of Housing, who had been participating in meetings on this subject.

On 8 December I faxed a 5-page letter (from Prague) to the Minister and sent hard copy by airmail. The letter expresses my concerns about the draft law of restitution and outlines an alternative approach. I offered to draft the alternative if the Minister so requests. He can reach me through the Urban Institute, Washington, D.C., after 16 December, date on which I return to my home in California.

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