

FINAL REPORT

PRIVATE SECTOR DEVELOPMENT OF HOUSING EASTERN EUROPE

HOUSING PRIVATIZATION IN ALBANIA

Prepared for

**United States Agency for International Development
Bureau of Private Enterprise
Office of Housing and Urban Development**

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ABSTRACT

On 23 December 1992, the Albanian parliament approved a law for the privatization of state-owned housing, which was 70 percent of the urban inventory. During 1993, privatization moved swiftly; by the end of the year, it is expected that at least 90 percent of all urban Albanians will own their homes. The parliament also approved a law requiring the government to convert each privatized multiple dwelling to condominium ownership. During 1994, condominium tenants must form associations to operate their buildings without financial assistance from the government.

This report describes the background of these events and the legislative and administrative development of the privatization program. Then it discusses the remaining steps that must be taken to insure the success of that program: clarifying private titles to condominium property, creating a workable system of building management, and developing an efficient private market for renting and selling dwellings. Both the World Bank and the Agency for International Development contributed to Albania's housing reforms and will help carry them to successful conclusions.

FOREWORD

The privatization of state-owned housing is part of a wider Albanian program of housing reform directed by Mr. Ilir Manushi, Minister of Construction, Housing, and Territorial Adjustment, and assisted by a number of foreign and international agencies, including the World Bank and USAID. I was fortunate in being able to join this effort in November 1992 as a consultant to USAID and have thus been able to participate in its planning and implementation from an early stage. However, I am only one of a number of individuals, Albanian and foreign, who have contributed to its partial successes to date and who are prepared to assist further efforts leading to a national system in which dwellings are for the most part private property, managed by their owners without state subsidy, and freely marketable for sale or rent.

In particular, I want to acknowledge the dedication and skills of the Albanian team under Mr. Manushi: Mr. Adrian Konini, Director of Housing, and his successor, Mr. Adem Duka; Mr. Sokol Ademi, Director of the National Housing Agency; and Ms. Leila Gjini, Legal Advisor to the Minister. Mr. Gian Carlo Guarda, Task Manager for the World Bank, and Ms. Sonia Hammam, Regional Housing and Development Officer for USAID, organized the joint World Bank-USAID project. Mr. Guarda led the first mission in November 1992, consisting of Mr. Robert Buckley (World Bank), Mr. Antonio Milia (Consultant, Italian Trust Fund), Mr. Maris Mikelsons (Urban Institute), and myself. Ms. Carol Rabenhorst and I followed up in December to help with reform legislation; we were then consultants to the Urban Institute, which provided USAID support for the first two missions.

In February 1993, USAID began a technical assistance program for the Albanian Housing Sector through PADCO, first on a mission-by-mission basis, then as an 18-month program beginning in July 1993. Ms. Rabenhorst and I continued as legal advisor and housing policy consultant, respectively; she and I had a most fruitful collaboration during the months that followed. Mr. Everett Post joined the project in February 1993, and Mr. Gary Giffis joined in August 1993, both providing technical assistance to the newly formed National Housing Agency, one of whose responsibilities is the administration of the World Bank housing loan. Mr. Kenneth A. Baar was appointed resident project manager in September 1993. Ms. Toni Baar worked with Ms. Rabenhorst to organize a condominium management training program.

The draft of this report was reviewed by Mr. Guarda, Ms. Hammam, Mr. Baar, Ms. Rabenhorst, and Mr. Hank Henward (PADCO). I have paid close attention to their suggestions, but bear full responsibility for the final text, including any errors or omissions.

Ira S. Lowry

December 1993

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HOUSING PRIVATIZATION IN ALBANIA

On 23 December 1992, the Albanian Parliament approved Law No. 7652, *On the Privatization of State-Owned Housing*. During the next three months, this law was supplemented by ministerial decrees detailing the privatizing procedures and by additional legislation providing for condominium ownership of multiple dwellings. The first dwellings were privatized in April 1993; by early December, the occupants of more than 197,000 dwellings (99 percent of the state-owned urban housing stock) had applied for titles of ownership and 165,000 had paid the requisite privatization fees, totalling nearly 1.4 billion leks (\$13 million).

This is a stunning achievement for the poorest and most isolated of the formerly socialist countries of Eastern Europe, with respect both to the speed and clarity of parliamentary and ministerial actions and to the high rate of voluntary participation by the public. The following report describes the background of these events and legislative and administrative development of the privatization program. Then it discusses the remaining steps that must be taken to insure the success of that program by clarifying private titles to condominium property, creating a workable system of building management, and developing an efficient private market for renting and selling dwellings.

1 CULTURAL AND POLITICAL BACKGROUND

Albania is a small nation (28,748 square kilometers, slightly larger than Vermont), with a long Adriatic coastline. About three-fourths of its territory is mountainous, with little arable land; but the remaining area is a fertile coastal plain, well-watered by run-off from the mountains further inland. Its predominant ethnic stock and its language are Illyrian, an Indo-European tribe distinct from the Slavic peoples to the northeast and the Greek peoples to the southeast of Albania; however, its culture and religion were strongly influenced during historical times by a succession of invaders-Romans, Goths, Huns, Bulgars, Slavs, Normans, Serbs, and Turks.

Albania achieved independence from the Ottoman Empire in 1912, first as a republic. In 1927 the country was reconstituted as a monarchy ruled by the former president, Ahmed Zog, for the decade prior to World War II. The country was annexed by Italy in 1939 and occupied by Germany in 1943. In 1944, the Germans were driven out by local partisans affiliated with the Albanian Communist Party; the partisans formed a government headed by Enver Hoxha that developed into the most authoritarian, ideologically-rigid, and isolated state in Eastern Europe. Land, natural resources, and other means of production were nationalized. Agriculture was reorganized into village cooperatives and state-owned farms whose workers were wage-earners. State economic enterprises took over all production and trade. Production quotas, wages, and prices were fixed by the state without regard for efficiency, incentives, or costs of production. Emigration and travel abroad were forbidden; residence permits strictly controlled internal migration. All churches were closed and

religious observance was outlawed. And after ideological quarrels with first Yugoslavia, then Russian, then China, Albania adopted a policy of economic autarchy, refusing foreign aid or investment.

Despite a deteriorating economy and conspicuous evidence of paranoia, Hoxha ruled unchallenged until his death in 1985. His successor, Ramiz Alia, lasted until March 1991, when the first multi-party elections were held. After a year of shifting coalitions, new elections in March 1992 gave a clear majority to the Democratic Party, whose leadership was not derived from the old regime and whose platform was strongly anti-socialist.¹

2 HOUSING CONDITIONS IN 1989

In 1989, the year of the last census, Albania had 3.2 million inhabitants organized into 675,000 households. It was (and is) the least urbanized country of Europe. Sixty-four percent of the population and 57 percent of the households lived in rural territory, divided administratively into villages. The nation's 62 chartered municipalities contained 36 percent of the population and 43 percent of the households. Tirana, the capital and largest city then had 238,000 inhabitants; the next largest city (Durrësi) had 87,000. Only eight cities, including those mentioned above, had more than 30,000 inhabitants and only 22 had more than 10,000.²

Urban and rural housing policies of Albania's socialist government differed considerably. **Tables 1 to 3** summarize the results as of 1989, distinguishing state-owned from privately owned dwellings and urban from rural dwellings. (Tables 1 and 2 describe residential buildings, which may contain more than one dwelling. Table 3 describes individual dwellings, for which very little data were collected in the census.)

Table 1
ALBANIAN HOUSING CONDITIONS IN 1989:
AGE OF BUILDING BY OWNERSHIP

Year Built	State-Owned			Privately Owned		
	Total	Urban	Rural	Total	Urban	Rural
	Number of Buildings					
Before 1945	3,618	2,799	819	50,207	21,722	28,485
1945 to 1950	1,414	810	604	21,480	3,019	18,461

¹The two preceding paragraphs draw heavily on Mario I. Blejer and others, *Albania: From Isolation Toward Reform*, Ch. 1; and Adrian Konini, *Logique du pouvoir et le réseau urbain en Albanie*, pp. 1-21.

²Liberalization of travel restrictions and the weakened transitional economy led to considerable emigration in 1990-91, so the 1989 Census figures may overstate current population. Some estimates of amount of emigration in 1990-91 are as high as 300,000 persons; others are well under 100,000. Most emigrants went to Italy or Greece, and many have returned or will return to Albania; their family ties are strong, and remittances from abroad are an important source of foreign exchange.

Year Built	State-Owned			Privately Owned		
	Total	Urban	Rural	Total	Urban	Rural
1951 to 1960	4,932	3,054	1,878	49,837	8,218	41,619
1961 to 1970	7,973	5,310	2,663	64,793	8,442	56,351
1971 to 1980	8,500	5,145	3,355	84,664	6,810	77,854
1980 to 1989	6,868	4,406	2,462	79,048	5,585	73,463
Year unknown	576	453	123	1,859	330	1,529
Total	33,881	21,977	11,904	351,888	54,126	297,762

Percent of Total						
Before 1945	10.7	12.7	6.9	14.3	40.1	9.6
1945 to 1950	4.2	3.7	5.1	6.1	5.6	6.2
1951 to 1960	14.6	13.9	15.8	14.2	15.2	14.0
1961 to 1970	23.5	24.2	22.4	18.4	15.6	18.9
1971 to 1980	25.1	23.4	28.2	24.1	12.6	26.1
1980 to 1989	20.3	20.0	20.7	22.5	10.3	24.7
Year unknown	1.7	2.1	1.0	0.5	0.6	0.5
Total	100.0	100.0	100.0	100.0	100.0	100.0

SOURCE: Albanian Census of Population and Housing, 1989, Principal Results, Table 94.

NOTE: Nearly all state-owned buildings are multiple dwellings, averaging 9.2 dwellings per building in urban areas and 3.1 dwellings per building in rural areas. Privately owned buildings are mostly single-family dwellings and row houses, averaging 1.6 dwellings per building in urban areas and 1.2 dwellings per building in rural areas.

In the countryside, cropland, orchards, and pastures were collected into village cooperative units, and the village council allocated a plot of land to each family for residential use—either the site of an existing dwelling that had been in the family before the war, or a site for building a new house.³ In either case, although the land belonged to the state, the house was the property of its occupants. In some areas, state-owned farming enterprises were formed to develop hitherto under-utilized land. The state usually built rental housing for the workers on these farms, amounting in 1989 to about 10 percent of all rural dwellings. As shown in **Table 2**, the state-owned rural housing often had water piped into the building and indoor toilets; but the privately-owned dwellings, accounting for 90 percent of all rural housing, rarely had water piped into the building, and only 20 percent had indoor toilets.

³The year-built data from the Census of 1989 (see Table 1) indicate that only 29,304 pre-war residential buildings survived in all of rural Albania, which I find hard to believe. The same source indicates that rural families built 267,748 residential buildings (about 315,000 dwelling units) for their own use during the socialist regime, 1945-59. However, an investment account published in the *Statistical Yearbook of Albania, 1991*, Table 189, says that only 251,566 dwellings were built “by the people themselves, in the countryside” during those years. I am unable to reconcile these two accounts.

Table 2
ALBANIAN HOUSING CONDITIONS IN 1989:
PLUMBING CHARACTERISTICS OF BUILDINGS

Source of Water and Toilet Facilities	Percent of All Buildings					
	State-Owned			Privately Owned		
	Total	Urban	Rural	Total	Urban	Rural
By source of water:						
Piped into building	63.9	85.9	23.1	11.8	53.7	4.2
Tap outside building	18.1	9.3	34.3	29.2	38.0	27.6
Well on premises	1.9	0.2	5.0	11.9	2.2	13.7
No piped water or well	13.7	1.6	36.0	46.5	5.5	53.9
Source unknown	2.5	3.0	1.5	0.6	0.6	0.6
Total	100.0	100.0	100.0	100.0	100.0	100.0
By toilet facilities:						
WC in building	75.5	88.1	52.4	25.5	56.4	19.9
-Sewer connection	66.0	83.8	33.1	10.7	40.5	5.2
-Septic tank	9.6	4.3	19.3	14.9	15.9	14.7
WC outside building	20.1	8.3	41.7	70.5	41.4	75.8
-Sewer connection	6.1	5.2	7.8	8.9	23.9	6.1
-Septic tank	14.0	3.1	33.9	61.6	17.5	69.6
Other arrangement	2.2	0.9	4.6	3.5	1.6	3.9
Facilities unknown	2.2	2.7	1.3	0.5	0.6	0.4
Total	100.0	100.0	100.0	100.0	100.0	100.0
Number of buildings	33,881	21,977	11,904	351,888	54,126	297,762

SOURCE: Albanian Census of Population and Housing, 1989, Principal Results, Tables 108-113.

In the cities, fewer than 30,000 prewar dwellings have survived, mostly row houses and detached single-family houses that are occupied by their owners. The postwar socialist government permitted home ownership, but large dwellings had to be subdivided and shared with rental tenants chosen by municipal authorities; the few apartment houses that existed then were expropriated and administered by the state as rental housing. The state also confiscated several thousand dwellings whose owners had offended the regime by speech or political action. However, the regime did allow a few hundred dwellings to be built each year for private use, under strict regulation and stringent financial conditions.

During the 45 years of socialist government, urban populations grew rapidly. The state responded by adding thousands of five- and six-story apartment houses, built and managed as rental housing by local *Banesa*-state housing enterprises in each of the nation's 26 administrative districts. State-owned economic enterprises also sponsored cooperative

apartment buildings for their workers, financed mostly by bank loans to be repaid by the tenants. These efforts reshaped the urban landscape; in many neighborhoods of the larger cities, existing houses were expropriated and their sites redeveloped as apartment blocks. Similar apartment blocks were built on the urban fringes. By 1989, the state owned about 22,000 residential buildings in urban areas, containing over 200,000 individual dwellings.

In 1989, the privately owned urban housing stock consisted of 54,000 buildings containing 86,000 dwellings. A few were cooperative apartment houses, but most were structures accommodating one to three families. About 40 percent of the buildings predated 1945 and about 45 percent had no piped water or flush toilets in the building; their occupants depended on outdoor water taps and privies used by several families.

About 70 percent of all urban dwellings were state-owned and occupied by renters. Families were assigned to these dwellings by municipal authorities, pursuant to space standards set by the national government. Rents were also set by the national government at levels far below those needed to maintain the dwellings, even without amortization of the initial investment. In 1986, the Ministry of Economy estimated that rent and utility expenses together comprised 4.5 percent of the typical urban household's budget.⁴ Although tenure was nominally controlled by an annual lease, in fact eviction was virtually impossible even if the occupant failed to pay rent or otherwise defaulted his obligations.

With the exception of a few villas built or remodeled for high officials of the government, the state-owned apartment blocks are the best urban housing in Albania. At the same time, they are very nearly the worst housing in Europe. The buildings usually contain 20 to 50 apartments on five or six floors, accessed only by stairwells. Most are built of brick, the external walls supporting pre-cast reinforced concrete floor slabs; in earthquake areas, the structures are strengthened by a framework of reinforced concrete columns and boundary beams. Roofs are covered with clay tiles. About 5 percent of all state-owned residential buildings were assembled on site from prefabricated reinforced concrete panels, made in a factory in Tirana (a gift of the government of China in 1979). About half were built with volunteer labor under the supervision of state building enterprises. Nearly all have piped water and indoor toilets connected to sanitary sewers.

The *Banesa* have provided very little in the way of building maintenance, limiting their efforts to emergency conditions such as power outages and broken water pipes. Exteriors are badly weathered; entries and interior common areas lack the simplest amenities of paint, electric light, or regular cleaning. Approaches to the buildings are typically unpaved, muddy, and garbage-strewn. To western eyes, many of these apartment blocks look uninhabitable. Ironically, the Albanian word for apartment house is *pallat*, a cognate of "palace."

⁴My source is a table prepared by the staff of the International Monetary Fund in 1992, entitled "Structure of Household Expenditures in 1986." The data are credited to the Ministry of Economy (formerly Planning Commission).

The standards for individual apartments improved during the Hoxha regime. In the 1950s, a typical unit consisted of two bedrooms, a very small kitchen, and an unequipped area plumbed for use as a bathroom. Apartments built during the 1980s usually contain a general purpose room plus one or two bedrooms, a larger kitchen, and an enclosed cubicle with a flush toilet, shower and lavabo. Often, there is a small balcony that most tenants enclose. In most apartments, space-heating is provided by a wood-burning kitchen range, also used for cooking. Water for bathing, laundry, and dishwashing must be heated on the range.⁵ Each room is usually wired for an overhead light and one wall outlet. Apartment interiors, maintained by their occupants, are much cleaner and more attractive than common areas, but kitchen and bathroom fixtures are often overdue for replacement and makeshift electrical extension wiring is failure-prone and dangerous.

Because Albania's extended family structure is strong, nearly everyone has shelter; when other resorts fail, relatives will take in the homeless. But the urban dwellings are both small and crowded (see Table 3). Fifty-six percent contain less than 30 m² of floorspace, and 87 percent contain less than 45 m². Occupancy averages 1.7 persons per room (not counting kitchen or bathroom) and 7.5 m² per person.⁶ About 10 percent of all urban dwellings contain members of three or more generations.

Table 3
ALBANIAN HOUSING CONDITIONS IN 1989: DWELLING UNITS BY OWNERSHIP AND SIZE

Characteristics of Dwellings	Number of Dwelling Units			Percent of Total Units		
	Total	Urban	Rural	Total	Urban	Rural
Total	674,633	288,412	386,221	100.0	100.0	100.0
By ownership:						
Public	238,700	202,225	36,475	35.4	70.1	9.4
Private	435,933	86,187	349,746	64.6	29.9	90.6
By bedrooms:						
No bedroom	32,827	20,950	11,877	4.9	7.3	3.1
1 bedroom	293,025	168,041	124,984	43.4	58.3	32.4
2 bedrooms	241,949	85,782	156,167	35.9	29.7	40.4

⁵In some buildings, a stove flue was also provided in the living room, allowing space-heating separate from the cooking stove. Since 1990, the more prosperous tenants of these structures have purchased electric space-heaters and water-heaters. In cold weather, the buildings' electrical systems are frequently overloaded by these appliances, resulting in a power outage that may go unrepaired for several days.

⁶For comparison, Czechoslovakians have 30.9 m² of floorspace per person, Hungarians have 31.9 m², Poles have 21.1 m², and Russians have 15.1 m². In Washington, D.C., the average is 59.9 m² per person. The European data come from national censuses in 1989; I do not know the source for Washington, D.C. figure, published in Maris Mikelsons, *An Initial Assessment of the Albanian Housing Sector*, p. 9.

Characteristics of Dwellings	Number of Dwelling Units			Percent of Total Units		
	Total	Urban	Rural	Total	Urban	Rural
3 bedrooms	79,614	11,161	68,453	11.8	3.9	17.7
4+ bedrooms	27,218	2,478	24,740	4.0	0.9	6.4
By floorspace:						
Less than 20 m ²	131,795	73,701	58,094	19.5	25.6	15.0
20 to 34 m ²	225,271	120,177	105,094	33.4	41.7	27.2
35 to 49 m ²	199,765	74,343	125,422	29.6	25.8	32.5
50 to 64 m ²	79,280	15,236	64,044	11.8	5.3	16.6
65 or more m ²	38,522	4,955	33,567	5.7	1.7	8.7

SOURCE: Albanian Census of Population and Housing, 1989, Principal Results, Tables 98-104.

NOTE: The source does not include a cross-tabulation of size by ownership.

During the year of political confusion after the collapse of the socialist regime, the state budget was in disarray and housing construction ceased. About 13,300 urban apartments, begun under the old regime, were left unfinished. Those with walls and roofs in place were soon occupied by squatters (many of whom had claims to the apartments based on the construction labor they had contributed during evenings and weekends) who made them more or less habitable despite the lack of proper utility connections. Other buildings, in the early stages of construction, were abandoned to the weather and the depredations of do-it-yourself builders seeking materials.

3 RESIDENTIAL PRIVATIZATION: THE LEGAL FRAMEWORK

On 29 April 1991, the Albanian parliament adopted Law No. 7491, *On the Main Constitutional Provisions*, which set Albania's course for economic and political reform. It called for privatization of economic activity, the development of competitive markets for the exchange of goods and services, restitution of real property to its former owners, and the privatization of state-owned housing. Residential property was included in the restitution program, but few dwellings are affected.⁷ Rural land reform granted homeowners formal titles to the land occupied by their dwellings, but only slightly changed their legal rights and

⁷Law No. 7698, *On the Restitution and Compensation of the Properties of Certain Former Owners* (15 April 1993), restores confiscated or expropriated single-family dwellings to their former owners, but only after the owners find satisfactory alternative dwellings for the current tenants (Art. 14). This provision will affect several thousand confiscated dwellings. Land that was developed or redeveloped after expropriation will not in general be restored to its former owners; instead they may claim compensation. There are exceptions for land that now contains retail shops (Art. 17) or detached houses (Art. 20); the former owner may claim a share of the premises.

responsibilities.⁸ The remainder of this essay deals with urban residential privatization-the transfer of state-owned urban dwellings to private ownership. I shall not further discuss residential restitution or rural residential privatization.

During 1991 and 1992, the Department of Housing (in the Ministry of Construction) prepared three draft programs of residential privatization. The Council of Ministers approved the first draft and submitted it to the parliament, but the government fell before the parliament acted on the bill. The department submitted a second draft to the Council of Ministers in mid-1992, but the council returned it for revision. Pursuant to the council's instructions, the Department of Housing prepared a third draft, which the council was considering at the time of the joint World Bank/AID housing-sector mission in November 1992.

The purpose of the joint mission was to determine the feasibility of a program of capital investment and technical assistance for the housing sector of the Albanian economy. The World Bank was considering an IDA (interest-free) credit of US\$15 million to finance the completion of some 4,500 apartments begun by the former regime and the sale of these apartments to private citizens. In conjunction with this loan, AID was considering a program of technical assistance with two major components: 1) Training the staff of the Ministry of Construction in modern construction procurement and management methods, and 2) Advising the government on general issues of housing policy. Implicitly, the loan was contingent on Albania's adoption of measures reducing the state's role as the financier, producer, and manager of housing in favor of a market system in which private enterprise and private lenders were primarily responsible for these functions-goals to which the government was already committed.

The first opportunity for policy assistance was the residential privatization bill then under consideration. Several months earlier, the Council of Ministers had reviewed and returned a draft that proposed 1) the sale of state-owned urban dwellings to their current tenants at prices equal to depreciated construction cost⁹ and 2) the issuance of housing purchase

⁸Under the socialist regime, about 90 percent of all rural dwellings were owned by their occupants, although the land on which the dwellings stood was state property managed by village cooperatives. Law No. 7501, *On the Land* (19 July 1991), dismantled the cooperatives and called for equitable distribution of village land to the village families, without regard for pre-1945 ownership. As a result, village residents acquired title to their homesites as well as to various parcels of farmland. However, land ownership under Law No. 7501 does not include the right to sell the land.

⁹The socialist countries of the Soviet Union and Eastern Europe account for the value of buildings by depreciating the original construction cost, as invoiced by the state construction enterprise (or estimated for buildings constructed before the socialist regime). Because prices throughout the economy were set by state directive and were rarely changed, this accounting worked better than one might suppose; however, price inflation since 1990 has made "original cost" irrelevant, and depreciation factors did not take account of different rates of deterioration for different kinds of buildings.

vouchers in the amount of 2,600 leks per urban resident.¹⁰ The vouchers, supplemented by cash if necessary, could be used by a family to purchase its state-owned dwelling, or in partial payment for a new dwelling or materials to build one. Those who did not live in state-owned dwellings also received vouchers, which they could use to improve their present dwellings or acquire other dwellings.

To meet the Council's objections, the Department of Housing prepared a new draft, eliminating the voucher mechanism, reducing the number of beneficiaries and increasing the benefits. Apartments would be sold to their occupants for prices that varied with dwelling size and quality, but were only a small fraction of potential market value. People who did not live in state-owned dwellings would not directly benefit, but were vaguely promised other housing assistance.

The members of the joint mission reviewed these two drafts and discussed the issues of policy and administrative problems each proposal entailed. They presented the Minister of Construction with a position paper discussing these matters, including the appropriate wording for various legislative alternatives.¹¹ On 19 November, the members met for several hours with the minister and his staff to explain the alternatives and learn the minister's views. The minister agreed to many of the suggestions and asked for further help with drafting a condominium bill to follow the privatization bill.

A draft privatization bill was approved by the Council of Ministers and submitted to the parliament on 3 December; the parliament, a generally contentious body, approved it without significant amendment on 23 December—a testimonial to the government's credibility and effectiveness. The law as passed follows the principles stated in the Department of Housing's second draft, but is better organized and more precise in its language; the joint mission's influence is evident in several important clauses. (See Appendix A for a translation of the Albanian text.)

3.1 The Housing Privatization Law

Law 7652, *On the Privatization of State-Owned Housing*, enables the current occupants of most state-owned dwellings, both apartments and single-family houses, to claim ownership title to their dwellings by registering their claim with the district *Banesa* (state housing enterprise). About 50,000 older and smaller dwellings can be transferred to private ownership free of charge. About 150,000 newer, larger, and better-designed dwellings are

¹⁰This voucher value was calculated by estimating the aggregate depreciated value of the state-owned housing stock and dividing by the urban population. Thus, the sum total of face value was just enough to buy the entire state-owned housing stock; but the dwelling that could be purchased by any given family might cost more or less than its voucher allotment. Small families and those in larger than average or better than average dwellings would need to supplement their vouchers with cash.

¹¹Ira S. Lowry, "Designing a Housing Privatization Program for Albania," reprinted in Maris Mikelsons, *An Initial Assessment of the Albanian Housing Sector*, Appendix C.

transferable subject to a schedule of fees promulgated by ministerial decree;¹² The fee may be paid in a lump sum or in installments over a term to be negotiated in each case. Applications for privatization will be accepted until 31 December 1993.

Each privatized dwelling will be registered in the name of all adult members of the household, who will hold title as tenants in common. For a dwelling occupied by members of more than one family, each family receives an undivided share in proportion to its share of the rent contract. However, when all tenants (whether or not more than one family) agree, the title can be registered as the property of one household head.

The site occupied by a privatized dwelling is also transferred to the new owners. In the case of a multiple dwelling, only the site occupied by the building (its "footprint") plus a border one meter wide will be transferred. It becomes the joint property of the owners of the individual dwellings. In the case of the single-family house "surrounded by a garden which is permanently used and maintained by the tenants," the garden is included in the transfer. An additional fee is charged for the land, pursuant to a schedule of urban land prices set by the Council of Ministers in 1992.

Although the owners of privatized dwellings will immediately have the right to sell, rent, or mortgage their dwellings, only those who privatize single-family dwellings will immediately gain control of (and responsibility for) maintenance and repair. The privatization law does not discuss the management of multiple dwellings after privatization, stating only that "Relations among owners of jointly owned property shall be regulated by a special law." (Article 22) That law (No. 7683, *On Condominiums*), was approved by the parliament on 17 March 1993 and is discussed below.

Occupants of state-owned housing are not obliged to become owners. They can continue as tenants, but are warned in Article 2 of the law that their rents soon will be increased to levels that cover "the full cost of administering and maintaining the housing." This prospect is reinforced by Article 19, which states that the Council of Ministers will review rents for both state-owned and privately owned dwellings every six months, and that rent controls on privately owned dwellings will be abolished in December 1995. Rents for privately owned dwellings first offered for rent after enactment of Law No. 7652 will not be controlled by the state.

¹²When the Council of Ministers submitted the draft law to the parliament, they attached an exemplary schedule of fees to indicate their intentions. The final schedule promulgated by the Council includes additional wrinkles not detailed in the example. See below, "Implementation Decrees."

3.2 Implementation Decrees

On 29 January 1993, the Council of Ministers published four decrees detailing standards and procedures for implementation of Law No. 7652.¹³ The two most important are summarized below.

Decision No. 48 of the Council of Ministers describes the administrative procedures for privatizing state-owned housing. The process is to be supervised by a national commission headed by the Minister of Construction. Each of Albania's 36 administrative districts¹⁴ will have a district privatization commission headed by the deputy chairman of the district council and including ex officio representatives of both the district and municipal governments.

Each district commission is responsible for compiling and authenticating lists of state-owned dwellings that are ineligible for privatization and lists of occupants who are ineligible to become owners, as well as lists of persons and families entitled to special treatment under the law. In addition, the district commission will organize a working group to classify state-owned dwellings according to the criteria that determine privatization fees and another working group within the district *Banesa* to register and review individual applications for ownership of state-owned dwellings, prepare privatization contracts, negotiate installment payment schedules, and accept payments.

Bylaw No. 1 deals with the classification of dwellings subject to privatization; application forms and administrative procedures; the schedule of privatization fees and its interpretation; and the procedures available to various groups (the homeless, those in substandard private housing, and those who are building houses on their own account) for obtaining benefits in lieu of privatization.

The fee schedule is quite complex. The amount of the fee for a given dwelling depends on the age of the building, the number of rooms in the unit, the location and quality of the building, and whether the unit includes a kitchen (as opposed to makeshift cooking facilities). For example, within Category I (best quality and location) the fee for a dwelling in a 40-year-old building ranges from 2,000 to 10,000 leks; in a 5-year-old building, the range is 16,000 to 40,000 leks. The Department of Housing estimated that the average fee would be about 15,000 leks, excluding cases in which no fee was charged. For comparison, typical monthly incomes for government workers in Tirana in mid-1993 were 3,000 to 4,000 leks.

These fees are subject to percentage adjustments depending on the dwelling's location within its building and on the number of occupants per room. Apartments on the top floor of a multiple dwelling and those on the ground floor are discounted relative to those on

¹³Decision Nos. 46, 48, and 49 and Bylaw No. 1. Full citations are given in the References at the end of this report.

¹⁴The number of administrative districts was increased in 1992 from 26 (a figure cited earlier in the text of this document) to 36.

intermediate floors. If the number of persons occupying a privatized unit is larger than permitted by official space norms, the fee is reduced by 10 percent per extra person. If the household is "too small" for its unit, the fee is increased by 10 percent per person shortfall.

The derivation of the fee schedule for residential land is obscure.¹⁵ An example in the bylaw estimates the value of one square meter of land at 100 leks, "in accordance with the Council of Ministers' decision (1992)." Using this standard, the land transferred with a single-family house-say a plot 7.5 by 15 meters (= 25 x 50 feet)-would carry a fee of 11,250 leks, nearly as much as the house. However, the land fee for an apartment of 30 m² in a six-story apartment building would only amount to 500 leks (= 30 m² x 100 leks/m² / 6).

3.3 The Condominium Law

Pursuant to the Minister of Construction's request for help with a condominium law, AID arranged for a mission to Albania by an attorney specializing in real property law. The attorney arrived on 3 December, drafted a comprehensive bill governing the foundation and operation of condominiums, had it translated, and delivered it to the Minister on 7 December 1992; In January, the Council of Ministers approved this draft with only very minor changes and submitted it to parliament, which in turn approved the bill on 17 March as Law No. 7683. The English translation is attached as Appendix B.

The law is an adaptation of U.S. models and other western models. The founder, which may be the state, an agency acting on behalf of the state, or any other legal entity holding title to the property, files a condominium foundation deed for each building, accompanied by text and a drawing of the building that identifies its individual apartments and the common areas and equipment. The deed allocates to each apartment a fraction of undivided interest in the common property, liability for common expense, and voting power in the condominium association that will manage the building.

Each apartment, together with its allocated share of the common property, is registered as a separate parcel of real estate that is transferable by sale or otherwise from the founder to an individual owner. The owner of an apartment thereafter has the right to occupy, sell, rent, bequeath, mortgage, or otherwise use the unit in accordance with the general provisions of the Civil Code concerning the use and transfer of privately owned real estate, except that ownership of the apartment and its allocated interest in the common property cannot be separated.

¹⁵Both Law No. 7652 (Article 10) and Bylaw No. 1 (Article 12) cite land price "criteria determined by the Council of Ministers in 1992." However, notes I made shortly after the bylaw was published refer to Decision No. 364 (10 May 1991). The only relevant decree in 1992 seems to be Decision No. 305 (20 July 1992), which sets land rent for property leased to natives and foreigners and sets purchase prices for undeveloped land sold to natives "for construction of new dwellings" (Article 5). For land in the larger cities, the price is set at US\$3.00/m², or about 300 leks/m²; in smaller cities, the corresponding price is 200 leks/m². I cannot derive the exemplary figure of Leks 100 leks/m² that appears in Bylaw No. 1.

An association of owners must be formed for each condominium, representing all the owners with voting power allocated as specified in the founding deed-usually in proportion to floorspace. The association has the power to assess its members for the common expenses, hire a property manager and other employees to operate the building, make contracts and incur liabilities pertinent to building management and operation,¹⁶ and regulate the use and maintenance of the common property. Each apartment owner is responsible for maintaining the interior of his apartment in a way that does not damage or endanger the common property or the property of any other owner.

3.4 Implementation Decree

Two months after this law was passed, the Council of Ministers issued Decision No. 214, *On Establishing Procedures for Creating Condominiums* (10 May 1993). An English translation is attached as Appendix C.

The decree was based on a draft prepared by the author of the condominium law, but was modified to accommodate a different sequence of events than we envisaged. Whereas we had supposed that condominium foundation deeds would be registered for each state-owned building prior to privatization, Decree No. 214 skirted this issue. Only much later did we understand the reason: The government planned to privatize state-owned buildings **before** transforming them to condominiums.¹⁷ The procedure is summarized below:

- The *Banesa*, acting on behalf of the state, shall register a condominium foundation deed for each state-owned building subject to privatization. The foundation deed will identify the individual units (residences or shops) and their associated undivided shares of common property.
- No condominium unit may be transferred from state ownership until a foundation deed has been registered for the condominium. In case the privatization of the units is accomplished, all necessary measures must be taken for their registration in condominiums according to the procedures of this decision."¹⁸

¹⁶To borrow money secured by the real property of the condominium, the association must obtain unanimous consent of the owners. Each apartment owner is free to mortgage his apartment and allocated interest in the common property without the consent of the association or the other owners.

¹⁷The implementation decree was issued on 10 May 1993 in response to a requirement of the World Bank, which included the decree among conditions preceding execution of a loan agreement that was to be negotiated in Washington, D.C. during 10-14 May. However, the Albanian negotiating team did not then provide an English translation of Decree No. 214 as approved by the Council of Ministers, nor were we informed of the change in procedures implied by the final wording of the decree.

¹⁸This item is a direct quotation of Art. 3 of Decision 214. The first sentence was part of the AID draft; the second was added by the government, apparently because the government planned to privatize all units before condominiums were created. Although the two sentences are logically inconsistent, the second opens the door to ex post condominium formation.

- Each transferee shall receive a deed of ownership of a particular dwelling together with an allocated interest in the common areas and equipment of the building, and his title shall be registered separately by the real property registration office (*Hipoteka*). Subsequent changes in the unit's ownership will also be registered on the record for that unit.
- The state will continue to own units whose occupants elected not to privatize. As owner of one or more condominium units in a building, the state (represented by the National Housing Agency¹⁹) will belong to the condominium owners' association, with voting rights and financial obligations proportional to its ownership interest.
- The state will continue to manage unprivatized condominium units, which will be rented in accordance with rent regulations then in effect until termination of the privatization period.

Decree No. 214 completed the legal framework for residential privatization by clarifying the procedure for transferring state-owned, state-managed apartment houses to private ownership and self-management. However, in the government's rush to privatize, the provisions of this decree were simply ignored for the time being, as will be explained below.

4 THE PRIVATIZATION PROGRAM

Clearly, the issue of residential privatization had become a critical test of the intentions of the Democratic Party's government. The parliament was pressing the government to act quickly even though some mistakes might be made; according to one senior official, "they would rather have an egg to eat today than wait till next year for a hen."

The Director of Housing organized implementation of the privatization law, working through district privatization commissions and using the staffs of the district *Banesa*. During February 1993, privatization commissions were appointed in all 36 administrative districts, and representatives of these commissions attended a workshop designed to explain to them their responsibilities and the procedures they must follow. To be sure, the district commissions did not finish their task of compiling and authenticating lists of dwellings and persons eligible and ineligible for privatization or special treatment by the scheduled date of 20 February, but the speed with which the administrative operation was organized is nonetheless impressive.

In a major break with traditionally slow bureaucratic procedures, the director established a system of weekly telegraphic reports from each district commission, indicating the number of

¹⁹The National Housing Agency (NHA) is a government enterprise closely associated with the Ministry of Construction. It was created by the Council of Ministers (Decision No. 431, 10 December 1992; see also Decision No. 198, 4 May 1993) to build new dwellings and sell them to the public. Its operations are currently funded from residential privatization fees, loans from the Albanian Commercial and Savings Banks, a grant from the government of Albania, and a loan from the World Bank. Apartment houses built or completed under its sponsorship will be founded and sold as condominiums; as indicated in the text, it will also administer the state's residual interest in existing buildings after privatization.

privatization applications received to date and how many had reached various processing milestones. These statistics were compiled in Tirana over the weekend so that they could be on the minister's desk on Monday morning. The first such report, dated 18 April 1993, indicated that over 1,500 privatization contracts had been executed by *Banesa* in 15 of the 36 districts (850 in one district, Kucova). A week later, 26 districts reported a total of 12,818 applications screened;²⁰ privatization contracts had been executed and fees paid for 3,163 dwellings, but only 216 contracts had been registered with the *Hipoteka*, an office of the district court similar to a notary public in the U.S.A.

This last statistic flags what was to become a significant problem. Although the privatization program had over 400 *Banesa* employees at its disposal to screen applications, prepare contracts, and accept payments, the *Hipoteka* in each district was staffed by a single clerk-notary who manually recorded private contracts in a ledger. These clerks were unprepared for the flood of contracts generated by the privatization process; and because the *Hipoteka* belonged to the Ministry of Justice rather than the Ministry of Construction, the Department of Housing couldn't easily augment their capabilities. However, a delay in registration had no immediate consequence for either the new owner or the *Banesa* responsible for managing the building, so did not constrain the privatization program.²¹

A more serious problem soon became apparent to the technical advisors supplied by AID. In no case had an apartment building been transformed into a condominium before privatization. The sales contract transferred title to the apartment without specifying the buyer's rights vis-à-vis the common areas of the building, noting only that "In a building with multiple co-owners, citizens are obliged to fulfill and respect all the obligations defined in the laws and regulations on co-ownership." From a legal perspective, the sale of these units clouded the ability of the state to found a condominium, since it no longer had title to all parts of the property. The AID advisors brought this problem to the attention of the Director of Housing and his superior, the Minister of Construction, proposing that no more titles be transferred until foundation deeds had been registered. However, the minister decided to proceed with privatization and worry later about founding condominiums.²²

²⁰Although a system for generating real-time process statistics was a great innovation, the quality of the data has not been carefully controlled. Although the *Banesa* surely must know exactly how many dwellings they manage, the Department of Housing's weekly report uses rounded inventory estimates for over half of the districts. Also, most districts clearly are estimating rather than counting applications that have passed the various milestones. There may be some surprises when a final accounting is done.

²¹According to the standard privatization contract, "Before the deed of title becomes official, the citizen has no right to sell the house or make changes in it or change its designation without prior approval from the Public Works and Housing Enterprise [*Banesa*]. The tenant becomes the owner of the unit with the signing of this contract and its registration in the mortgage office [*Hipoteka*]." An Albanian court would have to decide whether the *Banesa* can legally authorize a privatizing owner to sell his apartment before his title is registered by the *Hipoteka*.

²²In retrospect, we can see that the administrative complications of condominium foundation would have greatly slowed privatization, and that the minister's priorities were sensible. Perhaps if he had explained the

In the face of our belief that perhaps 60 percent of the rental tenants of state-owned housing would choose to privatize, the Director of Housing insisted that nearly everyone would do so. To help make this prediction come true in Tirana, where privatization had got off to a slow start, the Director arranged for *Banesa* staff to visit state-owned apartment buildings and solicit applications for privatization. By August, this procedure was producing 3,600 approved applications per week in Tirana.

Elsewhere, privatization proceeded unevenly but on the whole rapidly. By the end of May, 20 percent of all state-owned dwellings had been approved for privatization (see **Table 4**). Another 20 percent were approved in June, and 21 percent in July. The pace slowed in August and September, but by early October the *Banesa* had received and processed applications for more than 90 percent of their inventory—far above the expectations of the AID advisors.

Table 4
PROGRESS WITH HOUSING PRIVATIZATION: ALBANIA, APRIL-DECEMBER 1993

Report Date	Number of Dwellings				Percent of Inventory		
	Inventory Estimate	Application Screened, Approved	Fee Paid, Contract Executed	Contract Notarized	Application Screened, Approved	Fee Paid, Contract Executed	Contract Notarized
25 April	172,190 ^a	12,818	3,163	216	7.4	1.8	0.1
29 May	203,311	41,690	12,699	2,016	20.5	6.2	1.0
2 July	209,740	84,801	31,925	5,869	40.4	15.2	2.8
30 July	207,505	127,522	58,308	15,374	61.5	28.1	7.4
28 August	212,527	165,035	91,744	26,495	77.7	43.2	12.5
18 September	211,504	186,175	116,998	35,831	88.0	55.3	16.9
9 October	215,004	196,378	139,071	46,476	91.3	64.7	21.6
5 November	214,473	208,715	159,908	54,433	97.3	74.6	25.4
4 December	198,948 ^b	197,209	165,398	60,624	99.1	83.1	30.5

SOURCE: Department of Housing, Weekly Privatization Reports.

NOTE: Inventory estimates for individual districts were usually rounded in the weekly reports and occasionally changes. Privatization statistics from some districts appear to be precise counts; from other districts, the statistics are clearly rounded estimates that sometimes exceed inventory values.

(a) Only 26 out of 48 local offices reporting.

(b) The weekly statistical reports do not explain the reduction in inventory between 5 November and 4 December, paralleled by a reduction in the cumulative number of applications screened. Entries for some districts increased or decreased by several thousand dwellings.

problem to us, we could have helped resolve it, devising privatization contracts that would have smoothed the *ex post* transition to condominiums and forestalled potential lawsuits.

To be sure, applying to privatize one's dwelling required only a filing fee of 200 leks and no final commitments; it was an inexpensive way to keep one's options open. But by early October, nearly two-thirds of all approved applicants had executed binding contracts and paid at least the first installment of the purchase price. In fact, it is reported (without statistics) that very few purchasers chose to pay by installment, preferring the 20-percent discount offered for full cash payment. The revenue from privatization fees by then exceeded 1.1 billion leks (\$10.7 million).²³

The weekly statistical report for 4 December reflects some as-yet-unexplained adjustments to both the inventory account and the cumulative number of screened applications. Taken at face value, the report indicates that the tenants of 99.1 percent of all state-owned dwellings have applied to privatize them and 83.1 percent have executed binding contracts. At this point, it seems quite plausible that over 90 percent of all rental tenants will complete the privatization transaction. If so, about 190,000 dwellings will pass into private ownership and the National Housing Agency will receive 1.5 billion leks (\$14.7 million) in privatization fees, to be applied to other housing initiatives.

5 REFORMING HOUSING MANAGEMENT

Despite the dramatic success of the privatization program described above, the housing circumstances of urban Albanians have been only minimally altered by the formal transfer of titles from the state to the tenants. It is now legally possible for a privatized owner to sell or lease his apartment, and we hear that a few have done so. But the apartment buildings are still theoretically managed by the *Banesa*, whose policies with respect to maintenance and tenant services have not changed and whose fiscal resources are evaporating. Housing privatization will be a colossal failure unless management policies change and operating budgets increase dramatically.

The legal framework for reforming housing management is in place but has not been implemented. Few tenants of privatized apartments understand that they have acquired new responsibilities along with their titles of ownership. During the coming months, it is imperative that privatized apartment houses be legally transformed into condominiums and that the condominium owners be educated about their new powers and responsibilities.

²³Better information on these payments would be very useful for national economic policy. How is it that so many Albanians had ready cash in a period of high unemployment and rapid inflation? National accounts from the late 1980s and early 1990s suggest that the public was hoarding cash because consumer goods were scarce; but it is generally believed that high unemployment and rapid inflation have wiped out these liquid savings. The experience of the privatization program suggests differently.

5.1 Condominium Formation

The Director of Housing doesn't share our concerns about legal problems that might arise because apartment ownership was transferred to the tenants before condominiums were founded. He believes that the owners of privatized flats will cooperate to re-record their titles so long as their basic rights to own, sell, and rent their units are not restricted, and will view re-recording as amplification of title, not a restriction. In November, the AID legal advisor worked with Ministry staff to organize a training program for the *Banesa* managers who, under Decision No. 214, are responsible for founding condominiums in their jurisdictions. This program will teach the managers how to prepare the foundation deed and register it with the *Hipoteka*. Then, they will re-record the transfer of title for privatized apartments within the framework of the foundation deed.

Aside from the legal problems, successful registration of the foundation deed and transfers of title will require at least additional resources and preferably new systems of record-keeping for the *Hipoteka*. At present, these offices merely notarize a contract and identify it by a handwritten ledger entry. They do not archive contracts or deeds, only attest to their existence. Even this limited function cannot be performed twice (before and after founding a condominium) for each of 200,000 apartments without a major increase in staff. If only it could be organized, this would be a very advantageous moment to begin an urban real property registry based on machine-readable records.²⁴ At the very least, the condominium registration procedure should be designed to facilitate subsequent conversion to a general property registration system.

5.2 Condominium Associations

Once condominium titles are issued, the next step is forming condominium associations composed of the apartment owners in each multiple dwelling. These are self-governing organizations that will take over the physical and financial management of the buildings, pursuant to the provisions of the foundation deed. Few former rental tenants are prepared for this responsibility.

AID technical advisors believe that a massive program of public education will be needed to orient tenants to their new rights and responsibilities. We recommend training a cadre of

²⁴The Land Tenure Center of the University of Wisconsin, working under AID sponsorship, has prepared a plan for creating a national cadastre and a property registration system for Albania; see *Land Market Action Plan for Albania*, Final Draft, 15 May 1993. The plan is primarily motivated by the requirements of the agricultural land reform now under way, but is designed to include urban as well as rural property. A cadastre is essentially a collection of maps that unambiguously identify individual parcels of land, including their exact boundaries. A property registration system is a public record of the current ownership of each such parcel; the record is updated whenever a transaction affecting ownership is registered, and unregistered transactions have no standing. If the records are machine-readable, they can be readily searched to ascertain the ownership, including liens, of any parcel identified in the cadastre or to ascertain the holdings of any person named as an owner. Absent such a system, property titles must be researched through a chain of transactions leading back for many years.

Albanian instructors and advisors who in turn can teach citizen-owners about property management. We suppose that the associations in large buildings will hire professional managers (perhaps even some transmutation of the existing *Banesa*), whereas associations in small buildings may undertake self-management with some outside contract services. During the formation of the condominium associations and their attempts to organize building management, much counseling will be needed.

AID's technical assistance plan includes an ambitious training program in condominium operation and management. The AID legal advisor and a property management consultant are working with the staff of the Ministry of Construction to develop manuals and teaching materials covering such topics as the legal rights and obligations of condominium members and their elected representatives, the organization and operation of condominium associations, budgeting and financial record-keeping, and property maintenance and management. The training is designed to be provided to officers and directors of condominium associations and to property managers in the private and public sectors.

The first step in this training program was to explain the fundamentals of condominium formation and operation to the *Banesa* managers who must prepare the foundation deeds, the *Hipoteka* notaries who must record them, and the district managers of the National Housing Agency who will represent the state's residual interests after condominium associations are formed.²⁵ This step was accomplished by a seminar convened in Tirana on 19 November, attended by about 120 people. The seminar agenda is attached as Appendix D; note that except for the introduction, the topics were all presented by staff of the Ministry of Construction who had prepared their lectures with help from AID advisors.

5.3 Will the State Actually Withdraw from Housing Management?

Although the *Banesa* may have withdrawn their support of single-family houses formerly under their supervision, they continue to be responsible for managing multiple dwellings. According to Bylaw No. 1, Art. 7, "At the time the tenant signs the privatization agreement, he ceases to be a tenant and no longer pays rent." If this provision has in fact been noted and followed, approximately 165,000 tenants have already been relieved of their obligations to the *Banesa*, and the *Banesa* revenues have diminished by 80 percent.²⁶ Because no condominiums have been formed, there have been no condominium assessments and no provisions for alternative management. This fiscal and managerial interregnum cannot persist without serious consequences.

²⁵The National Housing Agency is also involved in condominium formation for new apartment buildings built or completed under its supervision, including the 4,500 apartments whose completion is funded by the World Bank loan.

²⁶Staff of the Department of Housing tell us that the *Banesa* have stopped collecting rent and have stopped maintaining the buildings under their jurisdiction. It isn't clear how the occupants of a building currently remedy power outages, breaks in water pipes, drain stoppages, leaking roofs, etc.

The Minister of Construction has indicated his readiness to begin condominium foundation early in 1994; but with nearly 200,000 apartments in 22,000 buildings to be registered as condominiums, even the mechanical steps will take some time; activating condominium associations to the point at which they can manage these buildings will certainly require months—perhaps several years. It is generally acknowledged that most of these buildings are subject to frequent electrical and plumbing failures and that wet-weather leaks are common. If the occupants are unable to improvise arrangements for costly repairs, the government may be pressed to resume—temporarily—its former responsibility for building maintenance. If it does so, the pressure to form self-managing and self-financed condominiums will diminish, and housing reform could end with the transfer of apartment ownership as it currently is being done.

5.4 Rent Control

As noted earlier, the privatization law (Law No. 7652) warned tenants of both state-owned and privately owned dwellings that rents would rise in the near future. In fact, the law scheduled semi-annual rent adjustments by the Council of Ministers, leading controlled rents to market levels; and termination of rent control at the end of 1995.

The appointed date of the first semi-annual review was the end of June 1993. The Council of Ministers then published a decree (No. 313, 28 June 1993) that tripled shelter rents in both state-owned and privately owned dwellings, effective 1 September. Taken together with the doubling of shelter rents in August 1992, this action raises dwelling rents to six times the level maintained for many years by the old regime. Base monthly rents now range from 1.78 to 2.16 leks per square meter, or about 53 to 65 leks for an apartment of 30 m². Although the rent increase decree raised the expectable objections that ordinary citizens could not afford a six-fold rent increase, the base was so low that the effect on household budgets is quite moderate.²⁷

Meanwhile, the privatization program has greatly reduced the number of rental tenants. If all those who have already applied pay their fees, the state will be left with only about 2,000 rental units out of more than 200,000. The government's rent controls are unlikely to bind private transactions any more than the prohibition on private rentals of state-owned flats has done. Unless the government reimposes rents on those who have privatized their apartments, rent control has in fact ended.

²⁷The national statistical system has not adapted to the privatization of employment, so it is difficult to estimate the growth of nominal household income since economic reform began. In 1990, under the old regime, average monthly wages ranged, by sector, from 437 leks (manufacturing) to 937 leks (central government). Today, middle-level employees of the central government earn 3,000 to 4,000 leks per month, and we hear that private enterprises pay much more. Our impression is that the six-fold increase in rent has been roughly matched by increased earnings; for example, 65 leks per month is only about 2 percent of 3,000 leks.

6 CREATING A MARKET FOR RESIDENTIAL REAL ESTATE

Most families who have privatized their apartments expect to continue living in those dwellings, so have no immediate interest in selling or leasing their apartments to others. However, they do value the right to dispose of their property at some future date. Those who now feel overcrowded will surely begin to explore opportunities for buying or renting larger dwellings. Others who are overhoused (at least in terms of customary space-norms) may begin to think about moving to smaller dwellings in order to rent or sell to others the units they now occupy.

Similar transactions were not uncommon when the state owned the dwellings. Trading apartments under the supervision of the *Banesa* was legal, but illegal transactions were probably more common. Without informing the *Banesa*, a tenant could move his family in with relatives and rent his legal residence to others. In the last few years, many representatives of foreign governments and businesses have come to live in Tirana or Durrës and have been ready to pay much more than the legal rent for an apartment or villa. Privatization and the imminent end of rent control makes such transactions legal.

An open and active rental market will probably develop even under present conditions of ambiguous ownership titles, since the rental tenant doesn't usually require long-term security of tenure. Judging from experience in other countries of Eastern Europe and the former Soviet Union, prospective renters and prospective landlords quite rapidly converge on the rental values of different types of dwellings; after six months of open transactions, accurate price quotations will be routinely available.

The sales market, however, will be hampered by the lack of clear title until the current confusion about condominium foundation and existing privatization contracts is resolved by the government or by the courts. At present, privatizers who have registered their contracts with the *Hipoteka* become owners and thereby have the right to sell their apartments; but exactly what property would be conveyed is ambiguous. Although the privatization fee includes an explicit payment for a pro-rated share of the land under an apartment house, the privatization contract does not mention either land or the common areas of the building. It only describes the apartment.

Despite those contracts, the Department of Housing plans to re-register the apartments as condominium units whose owners are subject to fees assessed by the yet-to-be-formed condominium associations. When it does, we would expect someone out of 190,000 or more privatizers to challenge the procedure in court, citing the sanctity of contract. Until the government implements its plan and the courts adjudicate it, the purchase of a privatized dwelling from its new owner will entail some uncertainty about the financial obligations of ownership and the conditions of occupancy.

Owners of residential property, whether single-family houses or condominium apartments, may face another obstacle to selling their homes. Law No. 7652, *On the Privatization of State-Owned Housing*, provides for transferring both dwelling structures and their sites from

state ownership to private ownership (Arts. 9 and 10); it also declares that "Owners will have the right to alienate, to lease, and to mortgage their dwellings." (Art. 1). But "ownership" of the land may not include the right to sell it along with the dwelling, and clearly does not include the right to sell land to foreigners.²⁸

At present, foreigners are prohibited from owning land in Albania. For single-family houses, whether privatized or restituted to former owners, this restriction can be finessed by selling the building together with a long-term lease on the land. But for a multiple dwelling that is privatized under the *Law on Condominiums*, title to individual apartments cannot be separated from title to an allocated share of the land and common areas of the building. Consequently, it appears that foreigners would be prohibited from buying condominium apartments-and foreigners are the most lucrative prospective market for such apartments.

For condominiums, the restriction on sales to foreigners is not so easily finessed by a long-term lease. The reason is that the owner of a condominium unit, not the tenant, is responsible to the condominium association for the maintenance of the apartment and for paying monthly assessments for upkeep of the building. A tenant's failure to meet his lease obligations to his landlord does not relieve the landlord of his responsibilities to the condominium association.

Private owners of residential property who rent it to others will face another problem that should give them pause: The practical impossibility of eviction. The Civil Code, which is slowly being redrafted, provides only for the relationship between the state as landlord and the tenants of state-owned housing. Articles 284 list grounds for terminating a lease, but requires the state to provide the tenant with another suitable dwelling when the lease is terminated. It is not clear that even this limited power of eviction would apply to a private landlord. Clearly, for a private rental market to flourish, the government must propose and

²⁸An earlier law (No. 7501, *On the Land*, 19 July 1991) says that "The state gives land to physical or juridical persons. They enjoy the right of ownership and all other rights envisaged in this law. **The sale and purchase of land is prohibited.**" (Art. 2, emphasis added.) Law No. 7501 was obviously drafted as an instrument of agricultural land reform, but its jurisdiction is not limited to rural areas or arable land. Various of its articles explicitly mention urban land and land for residential use (e.g., Arts. 4 and 13), though the context suggests that the drafters were thinking of agricultural villages, not cities. The Albanian courts may have to decide whether "ownership" under Law No. 7652 is an exception to the general limitation on ownership rights set forth in Art. 2 of Law No. 7501.

Alternatively, the courts may conclude that the subsequent Law No. 7512, *On the Sanctioning and Protection of Private Property*... (10 August 1991), provides the authority for private sale of residential land. This law provides for privatization of state-owned economic enterprises by auction, sale or gift of shares, or "any other appropriate method." Article 21 declares that "Native physical and juridical persons who are owners of the existing buildings of any kind are also the owners of the grounds which these building occupy." They have the right to buy and sell land as well as buildings. However, foreign physical and juridical persons cannot buy land either from the government or from a private citizen of Albania; they can acquire land only by lease for a maximum of 49 years. The article doesn't restrict the application of these rules to business property, but the law does not mention residential property at all.

To the best of my knowledge, no law says explicitly that **residential** land can be sold by a private citizen to any other natural or juridical person, native or foreign.

the parliament must pass legislation governing relations between private landlords and their tenants.

Other legislative reforms, although less urgent, would facilitate development of an organized market for residential real estate. One is reform of the system of title registration, discussed above (Note 24). As presently organized, the public record contains only a ledger entry indicating that a contract affecting a specific parcel of land has been executed. The parties to the contract hold notarized copies of it, but no copy is archived by the state. To research a chain of title, then, one must discover the existence of a contract by searching the *Hipoteka* ledger, which is organized only by date of entry; then locate at least one party to the contract to obtain a copy of it. This copy would identify the last previous owner, but would not necessarily say how he acquired the property; so, back the *Hipoteka* ledger! Considering the confusion introduced by expropriation of all land in 1976 and its partial restitution under recent legislation, land titles in Albania are particularly ambiguous. Starting with a clean slate of registered titles would be a great boon to future transactions.²⁹

Another needed reform is legislation supporting the use of real estate mortgages as a means of financing the purchase of real property.³⁰ The Albanian Civil Code provides for secured loans only in the case of movable property (Art. 291). If a secured debt is not paid, the creditor can obtain a court order for recovery of the property. The Council of Ministers did provide recently for the registration of mortgages on real estate and other immovable property, but the decree (No. 273, 12 August 1992) does not deal with mortgage terms, default, or foreclosure. Absent legislation on these matters, the right to register a mortgage doesn't much diminish the lender's risk.

7 THE ROAD AHEAD

The Albanian parliament and government have accomplished a remarkable feat in legislating residential privatization, organizing the privatization program, and completing the sale of nearly 165,000 state-owned apartments within a period of 11 months; all signs point to completion of another 25,000 transactions before the end of this calendar year. By the beginning of 1994, nearly all Albanians, urban and rural, will own the dwellings they occupy.

²⁹Decision No. 214 says that "Each condominium unit shall be registered separately in the real property registration office....Each eventual change in the unit's ownership shall be listed on the separate registration sheet for that unit." The implication is that the *Hipoteka* will archive a "registration sheet" for each parcel of real estate (i.e., condominium unit). To the best of my knowledge, that will be an innovation.

³⁰Under the socialist regime, state institutions (e.g., a ministry or a state bank) made loans to finance residential construction—for example, a cooperative apartment building or a single-family house. From the instances I have seen, it would appear that title to the buildings remained with the lender until the loan was repaid. Under Law No. 7652, tenants who privatize their apartments can pay the privatization fee in installments—which amounts to a loan by the state; again, the state retains title until the last installment is paid (Bylaw No. 1, Art. 7).

However, the government was able to privatize so quickly only by deliberately neglecting an important legal step in privatizing multiple dwellings, the foundation of condominiums. Until building management passes to an association of condominium owners who have enforceable powers over the common property and over their members, privatization must be described as an event whose principal significance was the transfer of 1.5 billion leks from the public to the National Housing Agency.

In the meantime, building management is in limbo. The *Banesa* no longer have the resources or the motivation to manage or maintain the 22,000 buildings that are still nominally their responsibility. The occupants of these buildings do not have the legal rights or the technical information they would need to take over the responsibilities of building management. Very likely, the consequences will become conspicuous with the advent of cold weather during the winter of 1993-94.

Aside from the issue of condominium formation, we have seen the ramifications of privatization on the laws and institutions relating to real property. Much of the social value of private ownership of real property depends on the development of a market for residential real estate that will allow easy transfer of title and provide security for buyer and seller. For Albanians to obtain these benefits, condominium titles must be clarified, a better system of title registration must be created, and laws supporting the development of mortgage lending must be passed. And if rental tenancy is to remain an option in the private market, a code of landlord-tenant relationships must be legislated.

Transforming a socialist economy into a market economy based on the institution of private property is an enormously complex task, in large part because the success of any given reform depends on the timing and success of collateral reforms. We are impressed by the energy and sense of purpose exhibited by the Albanian government and parliament in its privatization of residential property, and are ready to support its continued efforts to solidify the institution of private property in real estate and to create an efficient market for residential property.

