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PROGRAM IN ALBANIA

GUIDELINE FOR LOCAL GOVERNMENT ASSET MANAGEMENT



SEPTEMBER 2010

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The guideline addresses the legal and procedural issues involved in utilization of municipal assets, and is a companion volume to the LGPA's ***Municipal Asset Management Toolkit***, published in March 2009, which addressed the issues of municipal asset transfer, survey and ownership registration more generally.

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ACRONYMS

ALUIAIB	Agency of Legalization, Urbanization and Integration of Areas with Informal Buildings
AMS	Asset Management Strategy
AMU	Assets Management Unit
APPC	Agency of Property Restitution and Compensation
BOT	Build-Operate-Transfer
BOOT	Build-Own-Operate-Transfer
CIP	Capital Investment Plan
CoMD	Council of Ministers Decision
CTU	Concessions Treatment Unit
DBOO	Design-Build-Operate-Own
DDFS	District Directorates of Forestry Service
DPPAS	Directorate of Public Properties Administration and Sales
EU	European Union
GIS	Geographic Information System
IAS	International Accounting Standards
IPRO	Immovable Properties Registration Office
IPSAS	International Public Sector Accounting Standards
IRM	Indicative Registration Map
IT	Information Technology
ITPPA	Inventory and Transfer of Public Properties Agency
LGPA	Local Governance Program in Albania
LGU	Local Government Unit
MAFCP	Ministry of Agriculture, Food and Consumer Protection
MBA	Midterm Budget Program
MEFWM	Ministry of Environment, Forests and Waters Management
METE	Ministry of Economy Trade and Energy
MoF	Ministry of Finance
MoI	Ministry of Interior
MPWTT	Ministry of Public Works Transport and Telecommunication
NAC	National Accounting Council
NAS	National Accounting Standards
NCUPI	National Construction and Urban Planning Inspectorate
NGO	Nongovernmental Organization
NHE	National Housing Entity
NTPA	National Territory Planning Agency
PPA	Public Procurement Agency
PPP	Public-Private Partnership
REA	Regional Environment Agency
RIM	Registration Indicative Map

SIAP	Service Improvement Action Plan
TLA	Tangible Long-term Asset
UALRB	Undivided Agricultural Lands Rental Board
URI	Urban Research Institute
USAID	United States Agency for International Development

INTRODUCTION

As the transfer process of immovable property from the central government to local government units (LGUs) moves toward completion, LGUs are looking for efficient and creative ways to utilize their new assets to improve the quality and quantity of services provided to their citizens.

To help meet this need, the Local Governance Program in Albania (LGPA) prepared and published the *Municipal Asset Management Toolkit* (March 2009), which addressed the issues of municipal asset transfer, survey and ownership registration. The toolkit was designed as a general awareness-raising tool for municipal officials responsible for decision making regarding municipal assets, and as an operational aid to municipal staff responsible for recording, monitoring and managing the assets.

The toolkit provided an overview of the generic legal framework that regulates different asset utilization and disposal mechanisms. However, the legislative framework concerning LGU powers with regard to their assets is based on a myriad of laws, instructions and Council of Minister Decisions (CoMDs)—some of which are contradictory, resulting in uncertainty at the local level. Another deficiency of the existing legal framework—resulting from the historical fact that municipalities have only recently become legal owners of immovable property—is that most asset management issues (in particular, those involving selling/privatization, transformation of former state/public-owned enterprises into shareholding companies, leasing and concessions) are treated solely from a central government perspective. As such, there are few laws, by-laws and CoMDs that refer to asset management at the local level.

This has resulted in LGU confusion about the extent of their powers: “what” applies “where and when.” Because of this uncertainty and confusion, LGUs have to take extreme care just to be certain that the procedure they are following is legally correct and does not conflict with other legislation, or overstep the bounds of local authority. The *Guideline for Local Government Asset Management* seeks to clarify the legislative framework pertaining to asset management at the local level, while acknowledging discrepancies and shortcomings in the law. The guideline is designed to be a practical and easily accessible document for LGUs to strengthen their asset management techniques and improve delivery of public services. Unlike the toolkit, the guideline is designed primarily to inform and guide senior decision makers—i.e., the Mayor and members of the municipal council—on the steps and procedures that must be followed to properly utilize or dispose of municipal immovable property assets.

The guideline is organized in two parts:

- **Part A** addresses the basic concepts of asset management and recommends a step-by-step Local Asset Management System. In addition, Part A clarifies the legal role and responsibilities of various stakeholders, including LGUs (both the legislative and executive branches) and central government agencies in various aspects of asset management.
- **Part B** includes detailed guidance on the legislation governing the acquisition, privatization/sale (including for social housing purposes) and lease of local assets by LGUs. In addition, Part B describes how LGUs can use their assets effectively in a Public-Private Partnership (PPP).

PART A: ASSET MANAGEMENT AT THE LOCAL LEVEL

1.0 MANAGEMENT OF PUBLIC ASSETS BY LOCAL GOVERNMENT UNITS

As decentralization reforms are implemented in Albania, local government units (LGUs) are faced with greater demand from citizens including education, health, social and cultural services, as well as water, sewage and solid waste service. The demand for more and better services will only continue to increase as the standard of living improves in Albania and the country moves toward European Union (EU) accession. To meet these growing demands, LGUs must manage their resources, including public assets, more efficiently. This requires the development of an asset management strategy (AMS) that fits with local priorities and the overall strategy of the community and involves ongoing analysis of the situation to ensure public assets are adequately maintained for future generations.

1.1 WHAT IS ASSET MANAGEMENT?

Asset management is a structured decision-making process, which maximizes the quality and quantity of service provision while minimizing cost and risk throughout the useful life of an asset.

LGU assets include short-term financial assets such as money, bonds, etc.; long-term physical assets or immovable assets such as land, infrastructure and buildings; and movable assets or tangible long-term assets, including securities, long-term financial investments, etc., which are related to the investment.

This guideline focuses on immovable properties, financially the largest component of LGU assets, including land, buildings, infrastructure, water supply and sewage networks and the systems linked with them, road networks, transport and telecommunication systems, solid waste collection and treatment plants, etc. In other words, the type assets as provided for in Articles 2, 3 and 4 of Law No. 8743 dated 22 February 2001 as amended by Law 9558, dated 6 June 2006 on Immovable State Property.

Asset management approaches in Albania must take into account three major factors:

1. Due to decentralization, LGUs have significantly increased responsibilities and must provide a higher number of public services despite scarce resources.
2. The majority of LGU assets do not generate revenues (e.g., roads, schools, parks, etc.) and the cost of operating these assets will increase due to inflation, increasing maintenance requirements and growth in the demand for services. Efficient management of public assets is needed to control costs.
3. Public assets can offer an excellent revenue opportunity in the event an LGU has assets that are not required to provide services. To capitalize on these revenue opportunities, an effective asset management approach is required.

1.2 ROLE AND FUNCTIONS OF LGUs IN ASSET MANAGEMENT

The authority of LGUs to manage their assets and exercise their property rights is defined in various laws and regulations. Decentralization reforms in Albania have resulted in a new legal framework encouraging LGUs to make independent decisions with regard to asset management to increase revenues and improve public services, while at the same time creating challenges for LGUs to do so.

A review of Albanian legislation indicates that LGUs have a number of their own exclusive functions, for which they have full administrative, service, investment and regulatory responsibility and authority. Although the establishment of minimum standards and norms is performed at the national level, the legal framework provides significant opportunities for LGUs to define the level of service provision based on citizens' needs and priorities.

Provisions of Law No. 8652 on the *Organization and Functioning of Local Government* prescribe the rights and responsibilities of LGUs concerning asset (property) management. Other laws define the process

The Albanian Constitution and Law 8652 on the "Organization and Functioning of Local Government" define local government as a legal entity and therefore it is accorded with property rights; both of which are important provisions in ensuring LGUs have independent asset management.

for transferring properties to LGUs or

property acquisition through expropriation or other means. Another set of laws provide the procedures for evaluation, registration and disposal approaches such as lease, concession, establishment of enterprises, etc. Meanwhile, laws such as the one on territory planning and environment protection provide the role and conditions through which LGUs regulate the sustainable use and development of assets.

A special legal package enables use of local government assets for market purposes and to develop social housing programs. This package allows application of various forms; it especially encourages and legally ensures private sector participation in this process.

The legalization process and the legislation that regulates it are expected to have a significant impact on LGUs' assets. For example, the law requires that LGUs provide public services for newly legalized

- Law No. 8652 (Article 10) provides for LGUs to have full authority in the areas of infrastructure and public services and social and cultural services. Other functions, including education, environment, etc., are defined as shared functions.
- The law also defines local government as a legal entity with property rights (Article 8.II and 8.IV), i.e., basic rights that ensure—through the coordinated application and enforcement of other laws (laws on concessions and laws on commercial enterprises and suppliers)—motivating opportunities for the efficient management of assets by LGUs.
- The legal framework is completed by Law No. 8744 on the "Transfer of Immovable State Properties to Local Government Units", which transfers to LGUs the immovable assets that constitute the basic infrastructure for the performance of the LGU's own functions as well as some shared functions.

Conveyance of state property **through privatization and transformation under approaches similar to the structures of private business** is a central government competence and is regulated by Council of Ministers Decision (CoMD) No.1638 of 17 December 17 2008 as amended on the *Criteria for the Evaluation of State Property to be Privatized or Transformed and the Sales Procedure*. Although the role of LGUs is rather limited, they are not excluded from this process. LGUs develop proposals and provide comments on the privatization of local state property—state property located in their territory.

areas. This will have a substantial financial impact for LGUs and place a greater burden on LGU assets.

LGUs are also responsible for economic and social development. To implement these responsibilities successfully, LGUs must incorporate global economic development trends, particularly those that rely more heavily on market-based solutions, including:

- Shifting from direct service provision to creating conditions and identifying opportunities to allow the private sector to provide the service, and
- Utilizing immovable assets as productive public commodities.

Asset management for mandatory functions should strive to:

- Increase the efficiency of public assets usage,
- Minimize operational costs, and
- Reduce the use of public immovable assets for purposes other than public services.

Asset management for a number of functions such as water supply and sewage service, cleaning, collection and treatment of solid waste should aim to:

- Charge full cost recovery tariffs, and
- Minimize subsidies thereby freeing financial resources for services that do not generate revenues and have a **negative cash flow**.

Negative cash flow is when the amount of money paid (cash outflow) by LGUs for investments, operation and maintenance of a facility is greater than the amount of money (cash inflow) that the LGUs receive from the use, operation or maintenance of this facility.

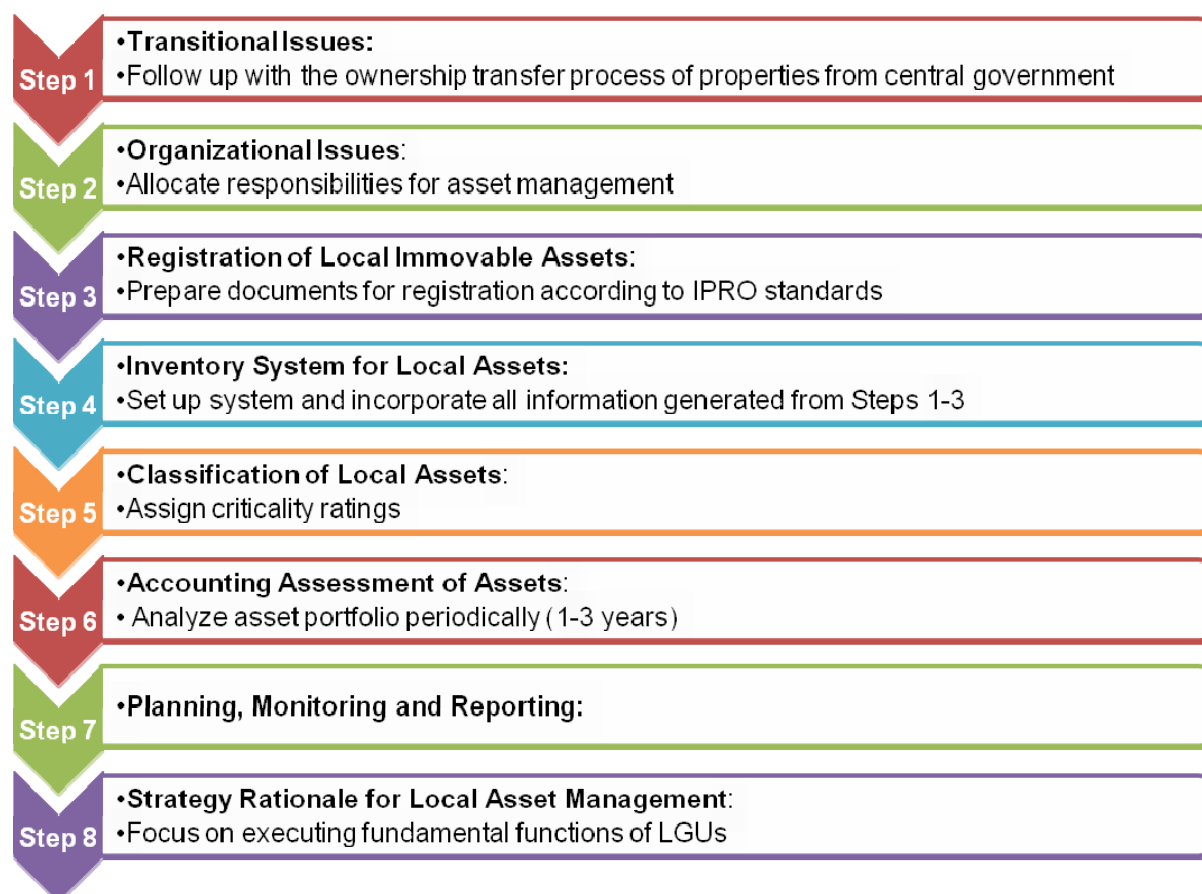
Renting or selling through privatization of nonpublic immovable assets (such as industrial facilities, land or plots, etc.) generates revenues. If disposal of an asset is not possible, then the main objective should be to minimize maintenance costs while preserving the market value of the asset.

2.0 LOCAL ASSET MANAGEMENT PROCESS

Throughout the world, LGUs continually strive to improve their asset management approaches in a never-ending effort to decrease expenditures, improve services and increase revenues. Different asset management approaches are the focus of research and development work as assets constitute a primary public resource.

Several local asset management models have been designed based on legislation, the local context and expectations for service delivery. The complexity and implementation success of these models is also diverse and it corresponds to the stage of a country's development and the decision-making and management capacities in relation to asset management. A recommended asset management process for Albanian LGUs, based on the Albanian context and best international practice, is proposed below.

FIGURE 1. LOCAL ASSET MANAGEMENT PROCESS- IMPLEMENTATION STEPS



The primary purpose of the process described in Figure 1 is to provide Albanian LGUs with a tool to enhance the benefits generated from the use of public immovable assets. The process describes the necessary steps to establishing a sound AMS. While these implementation steps may be consecutively

implemented, some activities may be implemented simultaneously. Each step is presented in detail below.

2.1 TRANSFER OF PROPERTIES TO LOCAL GOVERNMENT UNITS

The inventory and transfer process of public immovable properties to LGUs is based on a package of laws, by-laws, and instructions.¹ The process of inventorying and transferring immovable properties to LGUs is carried out in three stages.

Legal Framework of Property Transfer

- Law No. 8743 of 22 February 2001 on “State Immovable Properties” as amended;
- Law No. 8744 of 22 February 2001 on the “Transfer of State Immovable Properties to Local Government Units”, as amended; and
- CoMD No. 500 of 14 August 2001 on the “Inventory of State Immovable Properties and Transfer to Local Government Units”, as amended.

First Stage. This stage requires each LGU to prepare an inventory list of all the properties under its territorial and administrative jurisdiction. Following adoption by the local council, this list is submitted to the Agency for the Inventory and Transfer of Immovable Properties in the Ministry of Interior. The Agency then drafts the procedures for submission to the Council of Ministers, who then approves the preliminary list of immovable

properties for transfer to each LGU.

Second Stage. Based on the preliminary inventory, as adopted by the Council of Ministers, each LGU drafts the preliminary list of properties it wants to be transferred to its property. Following adoption by the local council, the preliminary list is presented to the Agency for the Inventory and Transfer of Immovable Properties. The Agency drafts the procedures of the submission to the Council of Ministers and the approval by the latter of the list of immovable properties to be transferred to each LGU.

Third Stage. This stage opens the way to the adoption of the final list of public properties to be transferred to into ownership or use of a LGU. Once the preliminary list is adopted, the LGU posts the property list in public locations and informs the community and other stakeholders. During this stage, the list may be reviewed or amended depending on any problem identified during the public reviews (i.e., missing properties from the list, problems with the borders, etc.). This list is publicized for at least one month. Each change is reflected in the final list, which is adopted by the local council and then submitted to the Agency for the Inventory and Transfer of Immovable Properties, who pursues the same procedures as in Stages 1 and 2.

2.2 SHARING OF ASSET MANAGEMENT RESPONSIBILITIES AT THE LOCAL LEVEL

Law No. 8652 on the Organization and Functioning of Local Government provides a division of rights and responsibilities concerning property administration within the structure of the local government in Albania.

¹ Instruction No. 1 of 15 February 2002 on Completing the Inventory Form and Transfer of Administrative Facilities to the Property of Local Government Units; Instruction No. 2 of February 30, 2002 “On the inventory of state immovable properties and filling in of the forms”.

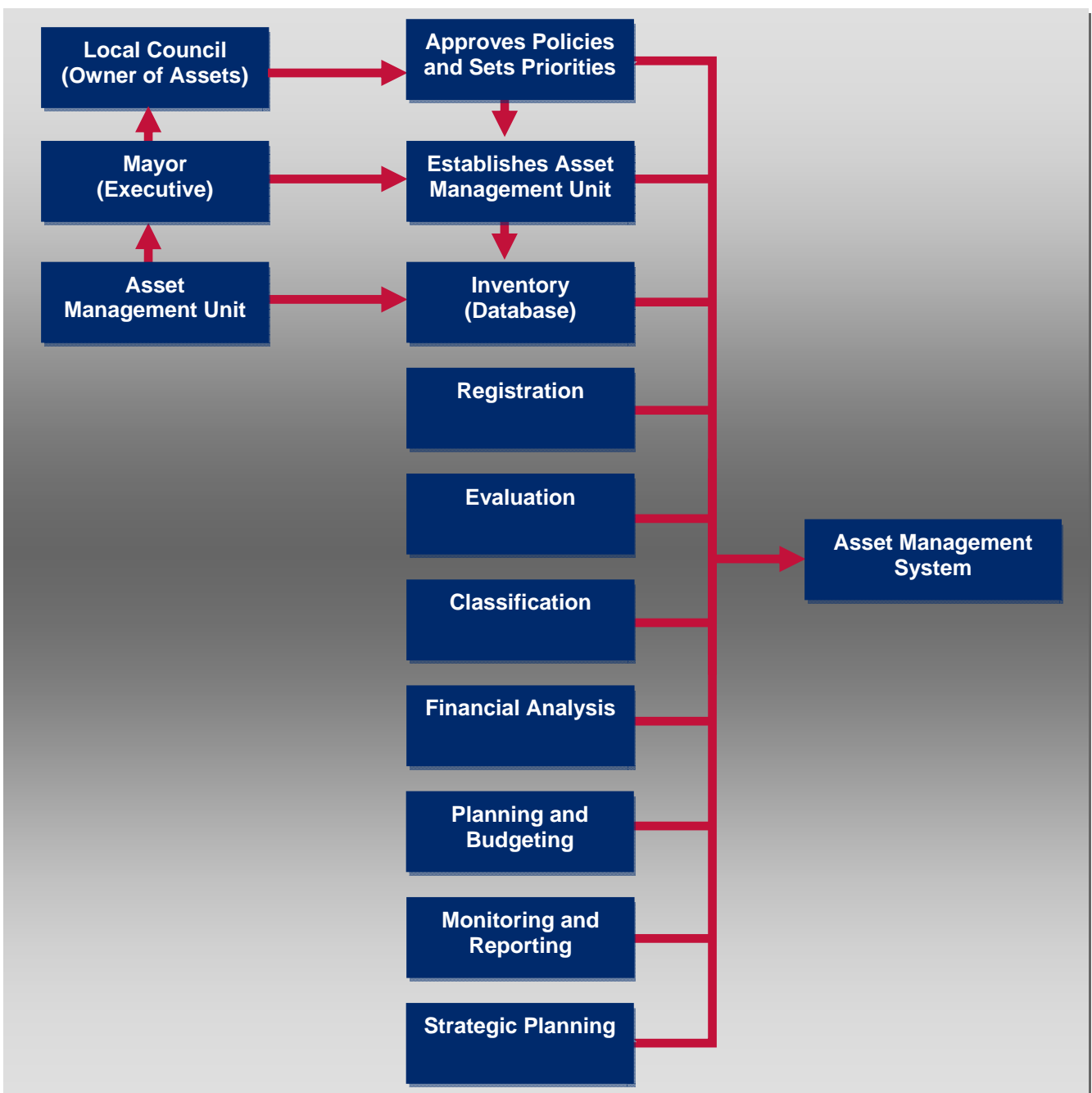
Instruction No. 3 of 18 July 2002 “On the inventory of state immovable properties by the local government units”; Instruction No. 15 of 30 May 2003 “On the approach of submission by the local government units of the applications for the transfer to their priority of public immovable properties.”

- LGUS are owners of assets and the local council exercises its property ownership rights under other laws. The local council defines policies and adopts strategies on local asset management.
- The Mayor and his executive branch staff propose and/or enforce asset management policies and strategies. Local executive power identifies and implements new approaches and technologies to maximize the efficient and effective use of local assets.

The Municipal Asset Management Toolkit, developed in 2009 by USAID’s Local Governance Program in Albania provides a comprehensive division of rights and responsibilities in the sphere of asset management at the local level.

Figure 2 summarizes how responsibilities for asset management are shared at the local level. The graph indicates the decision-making role of the local council in its capacity as owner, the role of the Mayor as head of the executive branch and the tasks of the asset management unit (AMU).

FIGURE 2. SHARING OF ASSET MANAGEMENT RESPONSIBILITIES AT THE LOCAL LEVEL



2.3 REGISTRATION OF LOCAL IMMOVABLE ASSETS

Registration of an asset at the Immovable Property Registration Office (IPRO) entitles a LGU, alone or as a co-owner, to ownership rights to that asset. Law No. 7843 of 13 July 1994 on Immovable Property Registration regulates the procedures for registration of immovable properties. Registration requires every document confirming or connected to the ownership transfer of immovable assets including the Property Card and the Survey Plan showing the asset/property borders as included in the Indicative Registration Map (IRM).

In the IPRO, LGUs register or call on third parties, with which they have entered into asset agreements, to register property transfer contracts, rental contracts, court decisions, mortgages which pledge the asset as collateral and other legal documents which have an impact on the asset/property. Information as registered in the Property Card and in the IRM constitute all the necessary asset/property information to be included in a register/inventory/database of LGU assets.

2.4 LOCAL ASSET INVENTORY SYSTEM

An asset inventory system is of substantial importance for the management of a LGU's assets. Each unit should set up an inventory system which provides comprehensive information for assets under ownership or use of the LGU. The inventory system should be based on a computerized inventory form which may also incorporate an accounting value of the asset and regularly generate reports on the condition of each asset under the ownership or use of a LGU. It is recommended that all LGUs use the same system. A computerized asset inventory system should provide geographic information about the location of an asset and the topography.

The Municipal Asset Management Toolkit developed by USAID's LGPA provides a detailed description of an inventory system and includes an MS[®] ACCESS[®]-based database, which allows LGUs to register and generate reports. This software can be supplemented with a module that would provide for the preliminary assessment of the asset accounting value and another module that would provide for a link to geographic information.

Most advanced asset inventory systems link financial data with inventory data, as well as geographic positioning information (i.e., a Geographical Information System [GIS]). In a simplified way, a GIS can be described as a combination of different layers of information, which enables better analysis and management. How these information layers are combined depends on the specific needs of the user. Essentially, a GIS allows the user to see their data on a cartographic map.

There are many important applications for GIS in asset management. A GIS can graphically show a LGU how close assets are to each other that are all used for the same purpose. For example, a GIS can map all education buildings or all health clinics. This type of information can help the municipality make decisions about which buildings should be prioritized for repair, or if there is a declining student population, which school should be closed down based on its condition and proximity to others schools to which the students can be sent. This type of analysis can extend to many other areas of asset management and depends on the quality and quantity of the data added to the system, and the analysis performed by the AMU.

What is required to create and operate a GIS?

A complete GIS requires the following:

- Hardware
 - GIS does not require specific hardware features. Hardware requirements are usually related to the size of the database.

- Software
 - There are several GIS software applications. For a municipal asset management GIS system, ArcView[®] 3.2, a cost-effective and readily available program, would be sufficient.
- Data
 - GIS relies on different formats of data collected, including, but not limited to, alphanumeric and cartographic data. The asset inventory includes a substantial amount of information that a municipal AMU will need in a GIS system, and additional fields can be added depending on individual municipal needs.
- Properly trained personnel
 - Specific expertise is required at the initial stages of establishing a GIS system, including linking an asset inventory to the graphic and/or cartographic information. Once the system is developed, municipal personnel with basic IT skills can then be trained to operate the system on a daily basis including data entry, creation of additional fields and production of required reports.

2.5 ASSET CLASSIFICATION

Not every asset that a municipality owns or uses is important to the overall economic and social stability of the community. Some assets are more important than others, and should receive proportionally more attention and resources from the municipality. Therefore, it is important to know which assets are required for provision of public services. Determining which assets are the most critical is a judgment call that the AMU, with local council approval, will make.

Assets can be given one of the Criticality Ratings shown in Table 1 below.

TABLE 1. CRITICALITY RATINGS

Criticality Ratings	Description
Critical	An asset that is used to provide essential services
Critical–Surplus	A critical asset that provides essential services in excess amounts, such as an aging primary school when there are other primary schools with adequate capacity for the children in the municipality
Non-Critical	An asset used in the provision of non-essential services that are deemed to be desirable services provided to the community, such as sports and culture
Surplus	A non-critical asset not used to provide essential services or non-essential services deemed desirable to provide to the community

Critical Property. These properties are needed by the LGU and should be retained for use except when the asset will be replaced or decommissioned. Some examples of critical property include school buildings, irrigation canals, and roads. Each of these assets provides essential public functions that are economic in nature and mandatory by central government law. For example, all children must go to school to be educated (which will benefit future local governmental functions), irrigation canals are essential for interstate and local commerce, and roads are essential for public safety and transportation. The assets that are given poor condition ratings will have to be repaired immediately to ensure that essential services are provided to the public, or in cases when an asset cannot be

adequately repaired, it should be replaced either with an asset from the critical-surplus criticality grouping or through purchase or construction of a new asset.

Critical-Surplus Property. These are properties that, in principle, would provide essential services required by local governmental functions, but whose services are not needed because of excess capacity and/or poor condition. Because the asset's function is critical in nature, the asset should be kept under ownership of the local government until further use is needed. An example of critical-surplus property is when there are multiple administrative buildings not filled to capacity, and the consolidation of one or more of those buildings will both increase the capacity of that building and facilitate better coordination and communication between related administrative sectors.

If the asset is expected to be used in the near future, then the LGU should simply pay to maintain the asset. Once the LGU puts the asset into use, it should be transferred to the critical property group. If the asset is not expected to be used in the short term, the municipality can consider leasing the asset to a third party. By leasing the asset, the municipality will successfully reduce the maintenance costs and increase revenues. The LGU should consider the expected time frame when the asset will be put into use when determining the length of the lease agreement.

If the asset is in bad condition or the municipality has so much excess capacity, the LGU may consider reassigning assets from critical-surplus to simply surplus.

Non-Critical Property. These are properties whose use provides services supplementary to the mandatory functions of a local government. These services typically provide recreational or cultural experiences for the community and often generate income for the local government. These assets are desired by the community but are not necessary for the local government to function. These assets can be owned and maintained as long as there are available budgetary funds. Some examples of non-critical property are theaters, cinemas, parks and sports premises.

Surplus Property. These properties are not needed for the delivery of mandatory/essential or supplementary services. They are classified as surplus and either held for generating recurrent revenue from lease or disposed of to ease budget shortfalls. The asset management goal for these assets is to maximize the financial return on the assets (which requires the highest and best use of the property, if possible) and to control costs. These properties can be leased to generate revenues or sold/privatized to generate revenues and property taxes. Some examples of surplus property are former industrial buildings and factories and small parcels of land owned by the municipality, which should be sold.

To assign a Criticality Rating to each asset, the AMU may elaborate the characteristics of each Criticality Rating or decide that the descriptions provided above are adequate. The AMU should then assign a preliminary rating to each asset, and record the rating in the asset inventory. This rating will serve as the basis for how the asset will be managed in the future.

Once the AMU has assigned a preliminary Criticality Rating to each asset, the LGU executive, through the AMU, should submit the list of assets and their Criticality Ratings to the local council for approval.² It is essential that the local council understand the importance of assigning a rating to each asset. The approval of the Criticality Ratings by the local council provides the AMU with the approval to begin initial steps to analyze the possibilities of leasing critical-surplus assets and potentially selling or disposing of surplus assets. Note this is only the initial approval to begin the necessary steps; further approval by the local council is required before leasing or selling a municipal asset.

² An explanation of the importance of the criticality ratings and how they will be used should be provided to the municipal council by the AMU the first time Criticality Ratings are presented to them.

2.6 FINANCIAL REPORTING OF LOCAL ASSETS

By developing accounting assessments for immovable assets, LGUs obtain accurate information for planning, approval, negotiation, execution and monitoring purposes. Assessment approaches should link quality and quantity of service with the incomes and costs associated with the management of a specific asset. Solid financial reporting enables an LGU to attract investors, provide reliable collateral for borrowing and explore opportunities for strategic investment.

LGUs should start to publish annual financial reports in compliance with Law No. 9228 of 29 April 2004 on Accounting and Financial Statements, as amended by Law No. 9477 of 9 February 2006 on Accounting. Therefore, LGUs should apply accounting standards for the analysis, evaluation and reporting of the value of immovable assets also known as tangible long-term assets (TLA) as defined by the **International Accounting Standards (IAS)**.

According to International Accounting Standard No 5 (IAS 5), in reference to International Public Sector Accounting Standards (IPSAS 17), as established by the National Accounting Council (NAC) in 2008, immovable assets or TLAs include the following:

- Plots, buildings, machinery and production lines, ships, aircrafts, motor vehicles, furniture and furnishings, office equipment, computer software and hardware, etc.; and
- Due to the nature of the public sector, LGU have long-term assets such as roads, underground surface service networks, water works, etc.

2.6.1 LOCAL ASSETS ACCOUNTING ASSESSMENT METHOD

According to IAS 5, the main methods for asset assessment include:

1. **Initial assessment (at the beginning)** is done upon acquisition of an asset by the LGU through:
 - a. Purchase from third parties,
 - b. New construction,
 - c. In-kind exchange, or
 - d. Lease.
2. **Further assessments**, which, depending on the LGU's accounting policy, is performed by the following:
 - a. **Cost model:** a TLA should be recorded with its cost, minus the accumulated amount of depreciation and minus the accumulated losses (decrease) of value; or
 - b. **Reassessment model:** its reassessed value (due value in the moment of reassessment), minus post-accumulated depreciation and the post-accumulated losses due to depreciation. Reassessment must be conducted on regular basis.
 - 1) Right value of the plot and the building are assessed by professional market value assessors.
 - 2) Reassessment frequency: if the reassessed value differs substantially from the accounting value, then reassessment is conducted frequently; if the reassessed value does not substantially differ, then reassessment is conducted once in three or five years.
 - 3) The entire category of TLAs must be assessed, not just one element.

Due to Albania's dynamic economic situation, application of assessment approaches—which are based on market value with purchase from third parties or, the depreciation value—might be the most appropriate options. The method and the assumptions as used for the assets assessment (for example, application of price comparison against similar adjacent assets/properties) should be part of the data, which are reported from the inventory (database), especially in case of strategic assets.

Apart from the assessment made by LGU specialists, it is recommended that an assets assessment must be, at least, reviewed by immovable properties independent evaluators, engineers, economists and external accounting experts. LGUs should pay special attention to the compliance with legal requirements of the Law on Accounting and National Accounting Standards (NAS), which derive from the IPSAS.

LAND ASSESSMENT

The land can be best assessed by applying the market value approach. However, under a situation where necessary information and technical/financial capacities required to perform such an assessment are scarce, LGUs may use the specific acts issued by the Council of Ministers as basis for assessment, which define the minimum land price for different zones in each municipality.

Assessment of lands with potentials for market purposes, land for utility use (treatment plants, roads, etc.), and lands which have the potential to be exchanged with building areas should take into consideration the increased value, which comes as a result of the following: (a) investments that are made for infrastructure improvement and provision of infrastructure and services; (b) increasing of market value due to overall economic development of the country; and (c) change of zoning conditions, which bring changes of destination or of urban conditions.

Independent assessors of Immovable properties must reassess land assessments conducted by local government experts, especially when it is a question of important projects.

BUILDING ASSESSMENT

Buildings assessment may be carried out by using various methods. These methods may combine NAS requirements, experience and the professional assessment of real estate experts in particular.

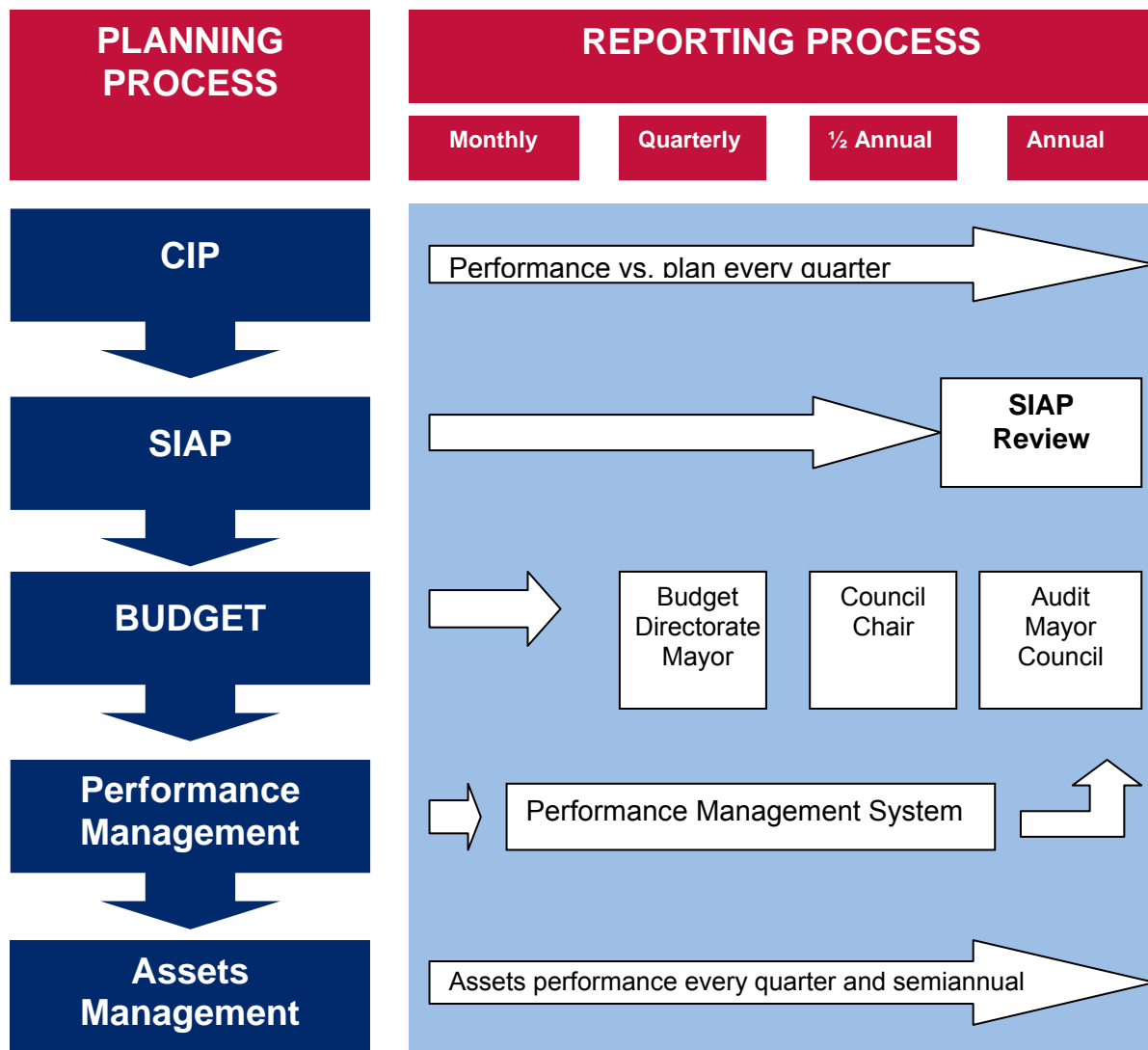
The value of buildings in use may be reported with the historic purchase price by adding the accumulated value of depreciation. For analytical purposes, comparison of sales prices under different assumed conditions, which reflect the market value, may be applied. Assumptions may be dominated by the location, or urban planning development in the area where the building is located. The assessment may include only the land value, the land value plus the existing structure plus potential changes to urban planning, which might provide another value in the future to the land and to the building.

2.7 PLANNING, MONITORING AND REPORTING

LGUs must plan the level of services for which they are responsible. They must also plan how to distribute available funds to maintain, increase and expand the range they cover with these services. This planning must be oriented by the expected result based on performance and it must be monitored with clear and easily measurable indicators. This must include planning of service provision with different options versus the relevant budget within the framework of Service Improvement Action Plans (SIAPs).

Decisions to be made must follow the Capital Investment Plan (CIP) as integrated into the SIAP. The CIP will contain information about the investment costs, which will be integrated into the maintenance costs, as well as an additional percentage for other unexpected expenses, which are calculated based on the prior year. These expenses will be included in the SIAP and all will be incorporated into the Mid-term Budget Program (MBA), which covers a period of at least three years.

FIGURE 3. SUGGESTED PLANNING AND REPORTING PROCESS



LGUs need to monitor the use and status of assets and SIAPs in addition to the actual budget versus the estimated budget. Moreover, LGUs need to report the progress of plan implementation to all stakeholders. The reporting format for accounting information is defined by IAS 5, likewise the reporting format for the estimate and actual budget and expenses execution are also defined.

A coherent reporting by the assets office or the assets manager on a quarterly, semiannual and annual basis to the LGU would be useful in terms of periodically providing information on the condition (both physical and accounting status) of assets (Figure 3). These reports must be coordinated and integrated into those of the sector responsible for drafting, monitoring and executing the budget and the officials responsible for accounting and drafting annual balances. A final annual report must contain information on the performance of capital assets, as well as on their management status during the year under consideration.

2.8 STRATEGIC REASONING ABOUT LOCAL ASSET MANAGEMENT

If a LGU wants to change public services quality, infrastructure, and capacities of the administration significantly and involve citizens in the urban environment renovation process, it needs to develop an AMS. This strategy would:

- Assist in improving the public and private service levels;
- Enhance active participation of citizens and ensure their support; and
- Encourage inclusive economic development, so that no one is deprived of the opportunities for positive results, and at the same time, interest private investors in public projects.

A Public Assets Management Strategy in a LGU requires application of a program to manage setting up and using a GIS. In addition, it requires a participatory process that helps LGUs and the community to build a common vision and set clear long-term goals, as well as draft an action plan, the implementation of which would ensure improvement of well-being, governance, service efficiency, infrastructure, economic reliability and environment.

In general, the methodology to draft an AMS goes through a set of stages, as described below, culminating when the LGU council adopts the final document:

1. Build a common vision,
2. Set long-term goals,
3. Analyze development trends and set targets,
4. Set performance measuring indicators,
5. Define financial resources and which of the fiscal policies that support implementation of the strategy,
6. Develop the Strategy Implementation Schedule, and
7. Implement follow up and reporting.

The first step requires engaging citizens in a participatory process to identify their priorities and expectations.

2.8.1 REVIEWING STRATEGIC OPTIONS OF LOCAL ASSET DEVELOPMENT

LGUs must analyze their disposal options for individual assets or groups/categories of assets. They must do this by conducting a regular and periodical review of costs (e.g., maintenance costs) against the benefit of keeping the asset in use for a specified purpose (e.g., marketplace or parking lot) or renting of a premise vis-à-vis privatization or creation of joint-stock companies with the private sector versus concession (for example, water supply and sewer system, etc.).

Decision-making criteria concerning asset classification and application of the selected option must be based on economic benefit (including investment return, assets position versus liabilities/debts/loans of LGUs). It must also rely on economic development objectives (including production economic activity growth and creation of job positions) or on the financial criteria (including necessary budgetary resources for operation and maintenance, needs for investments, etc.). Additionally, an environmental impact assessment is another important criterion, including protection and enlargement of green areas, erosion prevention, air quality, recreational values, etc.

When making a strategic consideration of assets, LGUs must apply national and international standards. For example, an urban development plan, which provides for environmental protection, air quality, protection against noises and industrial pollution, etc., must also consider its financial impact on the local budget. This includes fees and taxes, which generate necessary revenues to renew and keep the local assets in operation.

In addition to the factors listed above, improvement of service levels and overall lifestyle helps in terms of attracting investors' interest, stimulating economic growth and improving social life in Albanian cities.

In conclusion, strategic use of local assets may significantly improve LGUs' capacity to ensure delivery of quality services and ensure citizens' participation to achieve a common development

vision. Immovable assets are particularly important in terms of ensuring provision of services, for which citizens are ready and able to pay either through taxes or through local user fees. Due to the potential impact on sustainable development, local asset management deserves special attention to political and development policies by both local elected officials and the citizens themselves.

3.0 ROLE OF CENTRAL GOVERNMENT INSTITUTIONS IN LOCAL ASSET MANAGEMENT

Central government institutions have an important role in local asset management. They often have a dominant or controlling role in deciding on the proper use or possible disposition of an asset owned by an LGU. Thus, there must be good coordination, frequent consultation and effective counseling between the two levels.

The functions of central institutions in the management, use and possible disposition of LGU assets is described in Table 2.

TABLE 2. CENTRAL INSTITUTIONS AND THEIR ASSET MANAGEMENT FUNCTIONS AT THE LOCAL LEVEL

No	Institution	Function
1	The Council of Ministers	Adopts the list of properties to be transferred to the LGUs, and the list of private and local properties to be expropriated for public purposes and the approval of the Contracting Authority for local concessions
2	The Inventory and Transfer of Public Properties Agency (ITPPA) in the Ministry of Interior (Mol)	Follows up on the process of property inventory and transfer
3	Immovable Properties Registration Office (IPRO)	Carries out initial registration and lists all conditions, constraints and transactions with assets, including various types of contracts on the registration card
4	Ministry of Public Works Transport and Telecommunication (MPWTT)	<ul style="list-style-type: none"> • Directorate of Housing Policies in MPWTT provides assistance on the use of assets for market purposes and social housing programs • Expropriation Directorate (ED) covers expropriation activities • National Territory Planning Agency (NTPA) provides assistance on instruments, rules and procedures of territory planning • Agency of Legalization, Urbanization and Integration of Areas with Informal Buildings (ALUIAIB) coordinates urbanization and delivery of services in legalized zones and buildings • National Construction and Urban Planning Inspectorate (NCUPI) coordinates safeguarding and administration of national assets • National Housing Entity (NHE) distributes houses constructed by NHE, and provides assistance on remaining inventory of houses and other facilities that are included in this inventory after their occupation by inhabitants

No	Institution	Function
5	Agency of Property Restitution and Compensation (APPC)	Provides assistance on legal situation of assets in advance of conveyance
6	Ministry of Economy, Trade and Energy (METE)	<ul style="list-style-type: none"> • The Minister of Economy, Trade and Energy makes the final decision on the privatization of local assets • Directorate of Public Property Administration and the Directorate of Privatization provide assistance and privatize facilities under state and local government ownership • General Directorate of Commercial Services (GDCCS) in METE provides assistance on the procedures to assess the property/asset to be privatized • Concessions Management Unit (CMU) encourages and assists the local contracting authority (LGUs) when considering and negotiating concessions
7	Ministry of Finance	Directorate of Public Properties Administration and Sales (DPPAS) in the Ministry of Finance, provides assistance with the procedure to privatize and/or transfer facilities under state and local ownership
8	Public Procurement Agency and the Public Procurement Commission	Proceeds with the procurement/auction as conveyance approaches (privatization, transformation, sales, etc.) of public assets, and supervises concession contracts and reviews the complaints against the concessionaires selected by the Contracting Authorities
9	Urban Planning Office of the Regions' Prefect	Confirms the graphic layout of the asset location (location plan)
10	Ministry of Environment, Forestry and Waters Management (MEFWM)	<ul style="list-style-type: none"> • General Directorate of Forestry Service and District Directorates of Forestry Service (DDFS) provides assistance on forest and pasture management • Regional Environmental Agency (REA) provides assistance on drafting and implementation of environmental plans in addition to providing environmental consent/ authorization for local activities
11	Ministry of Agriculture, Food and Consumer Protection (MAFCP)	Consults on the inventory process of undivided farm land and availability of state farming land, and the procedures to rent this local asset

Table 3 summarizes the distribution of the administrative, regulatory and decision-making authorities for local asset management of five of the most applicable mechanisms present at the LGU level including emphyteusis, rental, privatization/sale, sale for social housing and concessions. The terms used in the matrix are in accordance with the definitions given to these concepts by Article 10 of Law No. 8652 of 31 July 2000 on the Organization and Functioning of Local Government, as amended by Law No. 9208 of 18 March 2004: administrative authority, regulatory authority and decision-making authority.

- **Administrative authority.** LGUs have the authority to decide on their organizational structure and personnel including hiring, dismissal and transfer as well as to define the salary level and benefits in regard to asset management.
- **Regulatory authority.** LGUs have the authority to make decisions within the context of a regulatory framework on asset management in accordance with the mechanisms presented in the table below. LGUs have the authority to issue licenses and impose fees and penalties as well as to define local standards on asset management, which shall not contradict national standards, however.
- **Decision-making authority.** LGUs have the authority to make final decisions on the approaches and mechanisms applied in the management of local assets, in addition to the role of central

government. Ultimately, this authority (competency) determines if the management of local assets and services provided through them are considered own functions of LGUs.

TABLE 3. DISTRIBUTION OF THE ADMINISTRATIVE, REGULATORY AND DECISION-MAKING AUTHORITY FOR THE LOCAL ASSETS MANAGEMENT

	Administrative Authority					Regulatory Authority					Decision-Making Authority				
	Emphyteusis	Rental	Privatization	Sale for Housing & Market Purposes	Concessions	Emphyteusis	Rental	Privatization	Sale for Housing & Market Purposes	Concessions	Emphyteusis	Rental	Privatization	Sale for Housing & Market Purposes	Concessions
Council of Ministers						•	•	•	•	•					•
LGUs	•	•		•	•						•	•		•	
ITPPA															
PPA					•					•					
Housing Policies Directorate in MPWTT									•						
ED in MPWTT															
NTPA															
ALUIAIB															
NCUPI															
NHE															
Properties Restitution and Compensation Agency															
Public Properties Administration Directorate in METE						•	•								
ATTRAKO					•										
GDCS in METE								•							
CMU in METE										•					
DPPAS in MoF			•												
National Privatization Agency															
Directorate of Forestry Service in MEFWM						•	•								
MAFCP															

PART B. LEGAL FRAMEWORK LOCAL ASSET MANAGEMENT

LGUs exercise their property rights based on the provisions stipulated in the Constitution and in Law No. 8652 of 31 July 2000 on the Organization and Functioning of Local Government, as amended by Law No. 9208 of 18 March 2004.

I. ACQUISITION OF IMMOVABLE ASSETS

Local government units (LGUs) are entitled to acquire property through several methods as defined in the Civil Code including a) *purchase (Article 705 of Civil Code)*, b) *donation (Article 761 of Civil Code)*, c) *subcontract* (through the public procurement process), d) *transfer* of property from the state, and e) *expropriation for public purposes*.

1.0 PURCHASE OF IMMOVABLE PROPERTIES

1.1 A SUMMARY OF THE LEGISLATION GOVERNING THE PURCHASE OF IMMOVABLE PROPERTIES BY LGUS

Purchasing of immovable properties by LGUs is not subject to legal provisions contained in the Public Procurement Law; instead, their purchase is based on Article 705 *et seq.* of the Civil Code.³ Although there is no specific regulation of immovable asset purchasing by LGUs, a set of general legal acts may apply when purchasing immovable properties.

In the case of determining the asset purchase price, LGUs may use acts adopted by Parliament or by the Council of Ministers for other processes, but that could be applied in their situation. For example, land and plot prices in Albania, as defined to the effect of properties restitution and compensation, may be an indicator and may be used as a reference when purchasing immovable assets (land, plot). In addition, when purchasing immovable assets such as buildings, office facilities or apartments, the list of reference prices may be used to the effect of corporate tax/personal income tax for businesses and individuals as adopted by the Council of Ministers upon a relevant decision.

Nevertheless, the aforementioned acts serve only as legal reference and they may be used for comparison, but the purchase process is first a process of *negotiation* between parties. The LGU must try to demonstrate negotiating skills to get the best value for its benefit. Although negotiations generally require some discretion, the purchase process must be absolutely transparent by applying the relevant legislation on transparency and public information in addition to avoiding situations that may lead to conflict of interest.

1.2 ROLE OF STAKEHOLDERS

The council of the LGU (local council), in its capacity as the body that exercises property rights, plays the key role in this mechanism. The council must make a formal decision when purchasing immovable property and when appropriating the relevant financial fund of the budget, or when applying for a loan or other financial instruments. The role of the Mayor is to present the policies/reasons why the immovable property purchasing is needed, and identify appropriate immovable properties which the LGU will purchase. The Mayor, in his/her capacity as the executive body, carries out the procedures of the property transfer and its registration in the IPRO.

2.0 DONATION

Donation is a legal institution prescribed in Article 761 *et seq.* of the Civil Code. The LGU may be a beneficiary under the scope of immovable assets donation by private entities.

³ Civil Code of the Republic of Albania adopted upon Law No. 7850 of 29 July 1994.

2.1 THE RIGHTS AND ROLES OF SPECIFIC GOVERNMENT BODIES

In the case of donation of immovable properties in favor of the LGU by private legal entities, the local council will state whether it consents to accept the donation or not. The Mayor, in his/her capacity as the executive body, carries out the procedures of the property transfer and its registration in the IPRO.

A frequently practiced example of this mechanism is a situation where the LGU improves a road network and expands the road track onto sections of privately owned properties where the owners have expressed their consent to donate the affected section. This transfers the ownership of the surface affected by the road track expansion to the LGU free of charge, rather than using the expropriation mechanism.

3.0 SUBCONTRACT (ARTICLE 850 OF CIVIL CODE)

Subcontracting allows LGUs to enter into contracts where one party (the contractor) is obliged to carry out a public work or provide a public service within its own means and at its own risk, while the other party (the LGU) accepts it against the quality, quantity and price defined in the contract. The contractor is selected through a public procurement process (as regulated by the Public Procurement Law).

3.1 ROLE OF LGUS AND OTHER STAKEHOLDERS

The role of the local council is confined to the adoption of the budget and allotment of funds for public works subcontracting (construction/reconstruction of local roads, schools, kindergartens, water supply systems, etc.), which is carried out through the public procurement process. The LGU's administration is responsible for implementation of the public procurement process and supervision of the contract execution. The head of institution—in this case the Mayor of the LGU—signs the contract.

Specialized bodies of central government such as the Public Procurement Agency (PPA) or the Procurements Advocate have an important regulatory role in terms of preparing and keeping the procurement system (electronic application system) functional, as well as the standard procurement documents. The PPA/Public Procurement Commission supervises the public procurement process and reviews complaints lodged against economic operators involved in the process.

4.0 TRANSFER OF IMMOVABLE STATE PROPERTIES TO LGUS

- Law No. 8743 of 22 February 2001 “On state immovable properties”;
- Law No. 8744 of 22 February 2001 “On the inventory and transfer of state immovable properties to Local Government Units”; and
- The CoMD No. 500 of 14 August 2001 “On the inventory of state immovable properties and their transfer to Local Government Units”.

The state immovable properties inventory and transfer process is conducted under a collection of laws, by-laws and instructions issued pursuant to them. The immovable properties inventory and transfer process to LGUs is carried out in three stages, which are provided in Law No. 8744/2001, and are described above in this guideline.

This Law, “On the inventory and transfer of state immovable properties to Local Government Units” authorizes central government to transfer assets to LGUs under the restrictions set out in the act of transfer. There are two kinds of potential restrictions:

- First, assets may be transferred to the ownership of LGUs or, only to the use of LGUs.
- Second, when properties are transferred to the use of LGUs, central government may define the manner of using the asset.
- Even if the asset is transferred to the ownership of the LGU, the central government may set restrictions on changing the asset use, changing of the property condition, or restricting property

sale. If the central government imposes restrictions on assets transferred to the ownership or to the use of LGUs, then central government monitors the LGU's compliance with the conditions laid down in the "Act of transfer".

Central government has the right to intervene when observing violation and noncompliance with the conditions and restrictions as laid down in the Act of Transfer. Central government has the responsibility to provide financial resources for the operation and maintenance of assets transferred to LGU use.

5.0 EXPROPRIATION FOR PUBLIC PURPOSES

5.1 ROLE OF LGUS AND OTHER STAKEHOLDERS

LGUs, in the role of public works investors, may require and initiate the expropriation process. A public expropriation process is carried out by the special committee of expropriation, which resides within the Ministry of Public Works Transport and Telecommunication. The Council of Ministers makes the final decision on the expropriation and the compensation value of the property subject to expropriation.

As a rule, the compensation value must be paid by the investor, i.e., the LGU, but in several cases dues to lack of funds, the compensation value is covered by state budget funds. The expropriated immovable property is transferred to the LGU and is added to the inventory and registered like the rest of other immovable properties.

5.2 STEPS FOR PROPERTY ACQUISITION PROCESS

Legislation regarding expropriation by LGUs:

- Law No. 8561 of 22 December 1999 on Expropriations and taking under temporary use of public property for public interest”;
- CoMD No. 138 of 23 March 2000 “On the technical criteria of the assessment and calculation of the compensation amount of privately owned properties, which are expropriated, properties, which are devaluated and third party rights, for public interest”, as amended by:
 1. CoMD No. 662 of 18 December 2002, and
 2. CoMD No. 872 of 12 December 2007;
- CoMD No. 127 of 23 March 2000 “On the content and procedures of submitting the application and the notice about expropriations and about taking under temporary use for public interest of property, which is under private ownership”;
- CoMD No. 147 of 31 March 2000 “On the rules and the functioning manner of expropriations ad hoc commission”;
- CoMD No. 747 of 09 November 2006 “On the procedures of collection, processing and administration of applications submitted by the expropriated entities during the process of recognition, restitution or compensation of property”;
- CoMD No. 401 of 23 October 1998 “On depreciation rates”; and
- CoMD No. 257 of 11 April 2007 “On the criteria and the procedure of physical compensation of expropriated entities with state plots, in a number of specific cases”.

Property acquisition by LGUs is a process to be carried out on a permanent basis. Transference of state immovable properties to LGUs remains the main mechanism of property acquisition by LGUs. However, other approaches—mentioned above— can and should be used as appropriate.

The legal mechanisms of property acquisition discussed above help establish an immovable properties stock, which LGUs need to efficiently carry out the public functions assigned to them by law. In this sense, property acquisition, establishment and management of local immovable asset stock is not an

end in itself. In this regard, the series of steps that should be followed for the process of acquiring asset ownership include the following:

1. First, the LGU analyses the needs of increasing the immovable properties stock based on local public work policies, local public services, community needs for social and cultural facilities, etc. This step is important in creating a clear vision of efficient management of existing immovable properties and, if needed, in increasing the inventory/stock of immovable assets.
2. Analysis under the first step then brings the necessity of finding financial resources in the local budget to carry out financial transactions to purchase immovable properties or to acquire property through the process of building public works through subcontracting, expropriation for public purposes, etc.
3. The LGU/local council makes relevant decisions to adopt legal actions (adopt the purchase contract, sign the subcontract agreement, adopt properties inventory list, accept donations, etc.). The local council must be fully updated about the immovable assets management process, because it has the authority to exercise property rights in the LGU.
4. The LGU supervises the progress of the property transfer process or subcontracting process implementation in public contracts.
5. The LGU administers the immovable property according to the relevant mechanisms as explained in this guideline and in other documents like this. The LGU must have an Assets Management Plan.

II. CONVEYANCE OF IMMOVABLE ASSETS THROUGH SALE OR PRIVATIZATION

1.0 SALE/PRIVATIZATION OF LOCAL ASSETS

The LGU, in its legal entity as owner, has the right to sell or privatize immovable assets. Because the property conveyance process, which always leads to a reduction of the assets inventory, is so important, the legislators have regulated this mechanism as discussed in detail below. LGUs and all other public institutions are subject to legislation enforcement.

1.1 THE RIGHTS OF LGUS

Local government rights and responsibilities about sale/privatization of local assets is regulated by CoMD No. 1638 of 17 December 2008, as amended, on the “Criteria of the Evaluation of State Property that is Privatized or Transferred and the Sales Procedure”.

Immovable properties of LGUs (or the subsidiary institutions and/or enterprises under its ownership) may be conveyed through sale or privatization. Proceeds received from the sale/privatization process are transferred to the central government. In this process, the LGU is entitled only to provide its opinion on the sale or

privatization of its property, whereas the Minister of Economy issues the order on the adoption of local assets sale/privatization.

1.2 ROLE OF STAKEHOLDERS AND STEPS TO SELL/PRIVATIZE AN ASSET

The process to sell or privatize local assets is regulated as follows:

1. For assets associated with an enterprise or institution under the administrative jurisdiction or ownership of a LGU, the LGU sends their **opinion** on the privatization of the asset to the Minister of Economy.
2. The Minister of Economy reviews the LGU’s opinion and issues the order on adoption of privatization.
3. The Directorate of Public Properties Administration and Sales (DPPAS) in the Ministry of Finance carries out the full process of selling/privatizing the LGU immovable property, beginning with the assets evaluation and continuing up to the auction.
4. Proceeds from the sale/privatization of local assets are disbursed to the state budget.

1.3 IMPLEMENTATION PROCEDURES

When selling LGU immovable properties, the aforementioned steps are pursued (i.e., the local council decides to sell the relevant immovable properties). The decision is then sent to the Minister of Economy in the form of an *opinion*, while the Minister makes the decision whether the immovable property (or movable property) will be privatized, or not.

In some cases, if a LGU fails to take the initiative of privatizing an immovable property, the Minister of Economy has the authority to request their position concerning privatization of properties under their ownership. If the LGU fails to state its position within 30 days, the Minister of Economy sends a commission which assesses whether or not the property under the administration or under the ownership of the LGU is being used or abandoned. In this case, the Minister provides the approval for the privatization “**by deeming that the institution in possession of the property or administering it has provided its consent concerning their participation in the privatization and he calls on the administering institution to appoint a representative in the property evaluation commission**”.

If the Minister of Economy states a positive position concerning privatization, s/he then issues the order to privatize and the DPPAS in the Ministry of Economy, Trade and Energy assesses the property value. A commission consisting of relevant experts—including a representative of the institution that administers the property—will conduct the assessment.

Following the evaluation process and completion of the relevant file of the property to be privatized, the privatization file is transferred to DPPAS, which carries on with the privatization process via auction. The CoMD provides a more elaborate description of auction rules and procedures.

Problems with the process of selling the LGUs’ immovable properties

The process of selling immovable properties, which are under the ownership of LGU, its subsidiary institutions and under the ownership of enterprises of undertakings owned by the LGU, presents a paradox. By the Constitution and Law 8562, LGUs exercise (or must exercise) property rights with all its attributes. Under this right and the decentralization process, the transfer process of state properties to LGUs has continued at a fast pace, therefore creating a new type of owner—the LGUs. On the other hand, the property-selling process is regulated by the aforementioned executive regulations and restricts or confines the exercise of property rights by LGUs only to providing their **opinion** about whether the property may be privatized. The Minister of Economy who **makes the decision on the privatization or not**, is exercising the owner’s property rights, which actually belongs to the LGU. Even further, when the LGU fails to take the initiative of privatizing its properties, the Minister of Economy may make the decision on the privatization also without the LGU initiative. The LGU may challenge the privatization process, but the CoMD defines that such a challenge should be supported by arguments. Even the privatization process is carried out by another central government agency—in this case DPPAS in the Ministry of Finance—and all proceeds generated by the sale are transferred in favor of state budget (ministries).

This situation, first, is against the independent exercising of the LGU’s property right, therefore affecting the key element of its exercise (sale). As well, it fails to promote efficient use of all property management mechanisms, because it will not be in the LGU’s interest to sell or privatize properties if they cannot realize any of the proceeds.

It is recommended to respect the constitutional and organic Law 8652/2000, which recognize independent exercising of the property rights by the LGUs.

2.0 SALE OF IMMOVABLE LOCAL ASSETS FOR MARKET PURPOSES AND SOCIAL HOUSING

Municipalities are entitled to sell plots for market purposes and community housing. In this case, the procedure is carried out by the municipality itself based on Law 9232/2004, the respective by-laws and the Auction Law. Given that this law extends its effects only to the municipalities, communes and regions are excluded from application of this legal instrument.

2.1 THE RIGHTS OF LGUS

Legislation on this process includes the following:

- Law No. 9232 of 13 May 2004 “On the social programs of housing urban areas inhabitants”, as amended by Law No. 9719 of 23 April 2007;
- CoMD No. 35 of 24 January 2007 “On the procedures and forms of selling the plots, which are provided with the infrastructure for market purposes”;
- CoMD No. 456 of 16 April 2008 “On the evaluation and sale procedures, as well as, the criteria of defining the price of selling plots to families, which benefit low cost houses”; and
- Instruction No. 6 of 15 May 2009 “On guiding approaches re: calculation of buildings surface to the effect of selling plots, which are provided with infrastructure”.

Article 10/3/I/(g) of Law No. 8652 of 31 July 2000 “On the Organization and Functioning of Local Government” provides that “urban planning, land management and housing, as described in the Law, are exclusive functions of Local Government Units, the powers of which are hereby prescribed in a full manner”.

Law No. 9232 constitutes complete legislation and allows LGUs to use plots for market purposes (selling for payment or in exchange for building lots) for social housing. The scope of this law prescribes administrative rules and procedures for provision,

distribution, administration and planning of community housing programs—creating opportunities for convenient and affordable housing for low-income families that need housing and state support.

This law covers only the territory under the jurisdiction of all municipalities of the Republic of Albania, thus excluding communes. Pursuant to Law No. 9232, LGUs shall apply one out of the three defined manners:

- Rental social housing program,
- Low-cost housing program, or
- Provision of infrastructure to plots program.

Funding for the above programs will be provided from the following resources:

- State budget funds,
- Donor contributions, and
- Property tax revenues.

Law No. 9232 additionally stipulates the obligation, as well as the possibility, of municipalities to possess a plot for market purposes to support housing. Article 22 provides the possibility to possess (to sell) the plot for market purposes after it is provided with infrastructure depending on its location, price and ownership. In cases when they are sold to the private sector for market purposes, the municipalities for social housing programs shall use generated revenues.

The selling price of plot, with associated infrastructure, is determined based on open market value and ***adopted upon decision of the municipal council***. Selling procedures are defined by CoMD No. 35 of 24 October 2007 “On the procedures and forms of selling the plot, which is provided with infrastructure for market purposes”, and by Instruction No. 6 of 15 May 2009 “On the guiding approaches regarding the surface of houses assessment to the effect of selling the plot, which is provided with infrastructure”.

1. The plot, provided with infrastructure and predetermined for social programs, shall be sold to private sector entities, which will construct low-cost buildings, or it will leased to them as per the Civil Code procedures.

2. The plot, with associated infrastructure and a building permit, may be sold to a low-income family, which may not be able to afford a low-cost house but may build the house themselves as per the prescriptions set forth in the urban planning study of the area.

2.2 PROCEDURE TO SELL A PLOT FOR SOCIAL HOUSING

CoMD No. 35 of 2007 defines the procedures and the approach of selling the plot, which is provided with infrastructure, through a public auction where the participation of as many as possible bidders shall be encouraged to present their bids. The bidder with the highest price is awarded as the winner.

The CoMD also defines how to set the initial bidding price. Under this CoMD, the initial information is obtained from the Immovable Properties Registration Office (IPRO) who will check transactions prices of the previous three months for 1 m² in the relevant area:

- If the IPRO does not have the data, or if the reported prices are significantly lower than market value, the CoMD provides for the establishment of a Plot Evaluation Commission to define—within 20 days—the average selling price based on the requirements set forth in CoMD No. 35/2007. The bidding procedure, which is explained in detail in the aforementioned CoMD, starts after the price has been defined.
- Paragraph 14 of CoMD No. 35 provides that the selling price of a plot with infrastructure may be sold for money or in-kind, that is, by exchange: “Payment for the selling of the plot, which is provided with infrastructure, may be made as follows:
 - In money to the account of the entity which implements the program, or
 - In-kind, against provision of a given area for social houses”.
- Assessment of the given construction area, acquired in exchange for the plot as provided with infrastructure, is defined by the MPWTT Instruction according to the three approaches:
 - Using a comparative approach, based on comparing ratios resulting from the exchange of the plot with the surface area around the plot that will be developed and calculation of an arithmetical mean;
 - Using a percentage approach, which is applied when no market data are available according to the aforementioned approach; or
 - Using a cost approach, which is applied when there is lack of data according to the aforementioned approach.

III. RENT/EMPHYTEUSIS

1.0 RENT/EMPHYTEUSIS OF BUILDINGS, PLOTS AND MACHINERY, EQUIPMENT AND PRODUCTION LINES

Immovable properties of LGUs (its subsidiary institution and/or enterprises and companies under its ownership) may be granted for rent or emphyteusis.

Rent (Article 801 of the Civil Code) is the transfer of property (asset) to the use of another party against a specified compensation. This transfer of the property (asset) is made by contract, in which the timing and the compensation versus the use of the property is set. Use of the property is temporary—for no longer than 30 years—unless otherwise defined upon specific law.

Emphyteusis (Article 784) of the Civil Code, is a form of rent performed through a contract, by means of which LGUs may entitle a third party to the right of use and improvement (investment) of an asset against a periodical compensation in money or in kind. Emphyteusis term is defined upon contract.

1.1 RIGHTS OF LGUS

State properties (including those of LGUs) that are granted for rent or emphyteusis include buildings, free plots, free functional plot (not under a building), machinery, equipment and production lines. LGUs have full authority to grant the assets under their ownership for rent and emphyteusis. This process includes different stakeholders, and their role is defined by the size of assets and duration of rent and/or emphyteusis.

Rent and emphyteusis is carried out through bidding. Immovable properties under 200 m² are exempted from this rule, and are granted without going through a bidding process.

1.2 ROLE OF STAKEHOLDERS

The LGU's authority to grant assets for rent or emphyteusis is exercised in compliance with the effective legislation, which is adjusted as per the asset size and term of property possession.

- In case of assets of up to 200 m² for a term of up to one year and are not subject to the bidding process, the following enterprises, companies or state institutions may grant the asset for rent, and have the right to conclude the contract:

- The Director of the Public Enterprise of the LGU, the Director of the Nursery, the Director of the Library, etc.;
- When the institution, which grants the asset for rent, is the LGU itself, **the Mayor** is entitled to this right. Whereas, when the state institution includes, for example, a house of culture or libraries, which is under the ownership of the LGU, but as a subsidiary institution, the contract is concluded by the **head of the institution** itself as stated above.

Summary of applied legislation

- CoMD No. 1712 of 24 December 2008 “On state properties rental/emphyteusis”, as amended by the Council of Ministers Decision No. 739 of 01 July 2009; and
- Instruction of the Ministry of Economy Trade and Energy No. 316 of 08 April 2009 “On the implementation of the Council of Ministers Decision No. 1712 of 24 December 2008 “On state properties rental/emphyteusis”.

- LGUs or subsidiary institutions may grant assets up to 200 m² for rent or emphyteusis also for terms over one year, but not longer than five years; however, this requires approval in writing of the body of administrative dependence—in this case, the Mayor.
- In the case of assets granted for rent or emphyteusis with surfaces over 200 m² and for relatively long terms of 10 to 20 years, the right to this competence is granted to the body which exercises the right of the state property representative. This means that **local councils**,⁴ the LGU's competent bodies, exercise the property rights, and this is a right they are prohibited to delegate.

Exercising of the property rights includes all aspects of the administration of the process of granting assets for rent or emphyteusis. CoMD No. 1712 refers explicitly in a number of cases to the head of the body, which exercises the right of the representative of the state as the owner. Meanwhile, in administrative practice, the concept of the *head* refers to the head of the institution, which in the LGU's specific case is the Mayor. This situation may lead to confusion when strictly obeying the law, although it should be always borne in mind that the local council is permanently considered the competent body concerning issues of decision making related to properties, and in case of uncertainty, the interpretation should be made in favor of the local council. Nevertheless, the Mayor in his/her capacity as the executive body and head of the LGU (the institution) has the relevant role solely for those aspects of property management, which are related to the executive/implementation competences and not decision making, except cases specifically provided for in the law. In this context, in cases where CoMD No. 1712 refers to the concept of the *head*, the Mayor should be considered for those aspects related to the administration process, for example, signing the rental contract on behalf of the institution (but only after the local council makes the decision).

- In addition to the above, when granting properties for rent/emphyteusis through bidding, the Chair of the local council issues a contract execution order according to the prescription set forth in the CoMD.
- The council may set other additional criteria in addition to the criteria defined by the CoMD, which must be fulfilled by the economic entities.
- The LGU body, which has signed the contract, is responsible for its monitoring.

1.3 PROCEDURES TO RENT OR LEASE (EMPHYTEUSIS) AN ASSET

The process of granting local assets for rent and/or emphyteusis is conducted under the steps described hereunder:

- Define the properties to be granted for rent or emphyteusis,
- Set bidding criteria and the competition file according to the criteria defined in CoMD No. 1712,
- Issue the order to grant assets for rent or emphyteusis,
- Set up the commission for bid evaluation,
- Conduct the bidding procedure,
- Sign the contract, and
- Monitor the contract and revenue collection.

1.4 PROBLEMS OF RENTAL/EMPHYTEUSIS PROCESS

The main problems in the process of granting local assets for rent and emphyteusis are related to the accurate definition that should be made concerning the head of institution, which has the right to conclude rental and emphyteusis contracts. Organic Law 8652 of local government clearly provides that the local council is the body which exercises the right of property, and may not delegate it. Therefore, even CoMD No. 1712 must specify more accurately the role of the local council in this

⁴ Under Article 8 of Law No. 8652 of 31 July 2000 on the Organization and Functioning of Local Government.

process, because difficulties are faced in practice when making an accurate interpretation of which is the competent body/head.

Another important aspect is financial, because CoMD No. 1712 provides that revenues from rents or emphyteusis are shared with the state budget and are not fully transferred to the LGU's budget or to the budget of the subsidiary institution or of the enterprise/company owned by the LGU. This situation should be reviewed in favor of LGUs, because it may otherwise reduce the interest of LGUs to efficiently manage properties through the rental/emphyteusis mechanism.

2.0 MANAGEMENT OF LOCAL FORESTS AND PASTURES

Forests and pastures are among the properties that have been “abundantly” transferred to LGUs, especially to communes. Forests and pastures transferred to the property or use of LGUs are classified as communal forests and/or pastures, as distinguished from the national forests and pastures, which remain under state property.

2.1 TASKS OF LGUS REGARDING FORESTS AND PASTURES MANAGEMENT

Duties and responsibilities of LGUs within the framework of forest administration include the following:

- LGUs must draft forest management plans regarding their administration and development.
- LGUs must establish, under the law, **the technical and administrative units** that will work on the sustainable administration of forestry inventory.
- LGU's task is to take measures and plan funds for investment in forests. These funds should come either from revenues or from other resources including borrowing mechanisms.

Pastures, like forests, are an important asset for a considerable number of communes in Albania and their management has been encouraged by the passing of executive regulations concerning their rent to third parties. Responsibilities of LGUs in the pasture and meadow administration process include:

- Management, use and treatment of pastures and meadows in compliance with the management and inventory plans of pastures and meadows;
- Reconciliation of data with the district cadastre;
- Periodical conducting of the pastures and meadows retaining capacity; and
- Organization, follow up and control of pasture and meadow use, as well as carrying out of work in them according to planned projects.

Legislation on using local assets in support of carrying out responsibilities concerning management of forests and pastures by LGUs includes the following:

- a) Law No. 9385 of 04 May 2005 “On forests and forestry service”;
- b) The Council of Ministers Decision No. 396 of 21 June 2006 “On the criteria of forests transferring and using by the Local Government Units”;
- c) Law No. 9693 of 19 March 2007 “On pasture inventory”;
- d) The Council of Ministers Decision No. 632 of 11 June 2009 “On the adoption of fees for the use of pastures and meadows for grazing and mowing”.
- e) The Council of Ministers Decision No. 887 of 19 December 2007 “On the adoption of fees for using state pastures and meadows for grazing and mowing”;
- f) Instruction of the Ministry of Environment Forestry and Waters Management No.2 of 14 May 2009 “On the competition criteria and the procedure of granting for use upon rental contract of the forestry and pasture stock”. and
- g) Instruction of the Ministry of Environment Forestry and Waters Management No. 4 of 12 September 2008 “On keeping the cadastre of forestry and pastures inventory.

2.2 GRANTING USE OF COMMUNE FORESTS AND PASTURES

No specific law defines the process of granting use upon rental contracts of commune forests and pastures. The Minister of Environment, Forestry and Waters Management has issued Instruction No. 2 of 14 May 2009 “On the competition criteria and the procedure of granting for use upon rental contract of the forestry and pasture stock”. The instruction defines in detail the process of granting for use of these public assets under the ownership of the Directorate of Forestry Service. Paragraph 27 of the instruction sets out that the procedures and requirements as set forth in it *may* be applied by analogy also by the LGUs. The instruction specifies the following:

“Requirements and procedures of this instruction may be also applied by the Local Government Units when granting for use surface areas of commune forests and pastures”.

Although the instruction itself is not highly detailed, its application in practice by the LGU presents a number of difficulties as follows:

- The instruction fails to specify the bodies that apply the procedures and make decisions on the requirements, therefore bringing to attention dualism of LGU’s bodies (local council vs. Mayor).
- Terminology as applied in Paragraph 27 of Instruction No. 2 where it is defined that provisions *may* be applied also by the LGUs, thus raising questions, for with the answers are ambiguous and leaves room for misinterpretation:
 - What provisions will be used in the opposite case, i.e., the LGU fails to rely on the provisions of this instruction?
 - What is the relation between Instruction No. 2/2009 and CoMD No. 1712 on granting state institutions properties for rent/emphyteusis, etc? This legal situation should be subject to a better regulation.

By judging positively on this aspect, in the case of the component of commune forests and pastures, central bodies (Minister of Environment) judged that local government is independent and regulates issues under its authority in an independent manner. In this case, it is defined that the instruction is not binding, but is only an *instruction and it may* be replicated/ applied also by the LGUs.

2.3 RECOMMENDATIONS

In regard to the reluctance of LGUs to independently apply the procedures of granting commune forests and pastures for rent and the circumstances when Instruction No. 2 requires a further elaboration in the case of LGUs, it is recommended that an explicit solution is necessary in the near future by the central bodies (Minister of Environment) through an amendment to Instruction No. 2. This amendment should consist in a more accurate specification of the commune forests and pastures management or a special *Guidebook* should be drafted for independent replication by the LGUs.

Despite the above, LGUs should not hesitate to apply the procedures and requirements set forth in Instruction No. 2 concerning granting of commune forests an pastures for use upon rental contracts. It is recommended that in the case of the aforementioned situation, LGUs may apply provisions of the instruction, but specify them further in a special decision by the local council on granting the commune forests and pastures for rent.

3.0 AGRICULTURAL LAND MANAGEMENT

Agriculture land management is generally achieved through the mechanism of granting for rent, although most recent legal changes have made agriculture land subject to the application of concession, too.

3.1 GENERAL OVERVIEW

Overall agricultural land surface by type of ownership is as follows:

- Private ownership: 560,000 ha or 80 percent; and
- State ownership: 137,000 ha or 20 percent.

Due to its origin (former agriculture cooperatives and former state farming enterprises), as well as some specifics of legislation according to which it is managed, agricultural land inventory—which is actually under state ownership (with 137,000 ha)—is classified into *undivided agricultural lands inventory (about 112,000 ha)*; and “*available state*” agricultural lands inventory (*about 25,000 ha*)

3.2 ROLE OF LGUS IN THE MANAGEMENT OF AGRICULTURE LANDS RENTAL MECHANISM

3.2.1 UNDIVIDED AGRICULTURAL LANDS INVENTORY

Land surfaces, which before 1 August 1991 were part of former agriculture cooperatives, are classified under the undivided agriculture land inventory. Due to their poor fertility rate, lack of infrastructure, distance from residential areas, mountainous relief, etc., agricultural families were not interested in owning the land.

LGUs are entitled to the legal authority of granting these lands for rent to domestic and foreign natural persons and legal entities to utilize them for lawns, pastures or forests. The rental mechanism is regulated under the criteria and procedures laid down in CoMD No. 3 of 16 May 2007 “On the procedures of the rental of undivided agriculture lands”, which derives as a legal obligation deriving from CoMD No. 531 of 21 August 1998.

Instruction No. 3 of the Council of Ministers of 16 May 2007, defines:

- The rental authority, which is Undivided Agricultural Lands Rental Board (UALRB), in the communes and/or municipality;
- Rental procedures, which are carried out through auction to ensure public transparency; and
- Rental terms:
 - up to 10 years, for short-term contracts,
 - up to 30 years for midterm contracts, and
 - up to 99 years for long-term contracts.

3.2.2 THE INVENTORY OF AGRICULTURAL “AVAILABLE STATE” LANDS

This inventory consists of agricultural land surfaces, which used to be under the management of former state farming enterprises and other state institutions, which are actually undivided under possession or use of private third parties. Law No. 8318 of 1 April 1998 regulates management of this fund by defining the contracting conditions and rental term for agriculture “available state” land, which are as follows:

- Up to 10 years, short-term, for crops and ether-oil plants;
- Up to 30 years, midterm, for livestock, seedling, protected environments, low forests; and
- Up to 99 years, long-term, for tourism and recreation activities, high forest, fruit trees.

3.3 UNCERTAINTIES IN THE MANAGEMENT OF STATE AGRICULTURAL LAND

Management of agricultural land by LGUs was affected by the contradiction of the scope of Law No. 8318 of 1 April 1998 with the scope of Law No. 8337 of 30 April 1998 “On transferring to ownership of agricultural and forestry land, meadows and pastures”.

Law No. 8337 of 30 April 1998, Article 3, provides the following:

“Agricultural land, forestry land, meadows and pastures, which are state property, may not be conveyed until there shall be a full compensation of former owners, except when otherwise stipulated by law”.

Next, Article 4 of this law provides the following:

“Foreign natural and legal entities shall enjoy the right of renting it (the category of the aforementioned resources) for a period of up to 99 years”.

Rent, in the legal formal sense, does not change the right of property over this category of properties, but rental term of up to 99 years practically does not enable use of these lands to compensate former owners as provided in the aforementioned Article 3.

3.4 ROLE OF STAKEHOLDERS IN RELATION TO AGRICULTURE LAND MANAGEMENT

Upon observing this legal controversy, the Council of Ministers passed Decision No. 265 of 1 October 2002 “On evidencing and interruption of the procedures of conveyance or rental of state property, agriculture land, forestry land, meadows and pastures”, which orders the interruption of all procedures of renting or conveying of state property for this category of properties. Article 3 of Law No. 8337 of 30 April 1998 was the basis of this order.

By the end of 2006, the Ministry of Agriculture, Food and Consumer Protection deemed it necessary that the content of this order had to change in order to allow rental of “available state” agricultural lands only for crops and ether-oil plants with one-year contracts. This amendment was accomplished by Prime Minister’s Order No. 287 of 20 December 2006, “On evidencing and interruption of the procedures of conveyance of state property including agriculture land, forestry land, meadows and pastures”.

The category of “available state” agriculture lands has become subject to the CoMD No. 567 of 05 September 2007 “On the adoption of criteria and procedures of defining properties as a immovable properties fund for physical compensation” and to Order No. 350 of 15 October 2007 of the Minster of Agriculture Food and Consumer Protection “On the inventory and transfer of available state agriculture lands belonging to former State Agricultural Enterprises and to research institutes to the Agency of Properties Restitution and Compensation.

In regard to the provisions addressed above, the result is that agricultural land has actually ceased to exist as part of the scope of Law No. 8318 of 01 April 1998 “On renting agriculture land, forestry land, meadows and pastures” due to the fact that from the legal point of view, Law No. 8337 of 30 April 1998 prohibits conveyance and rental of these properties. Prime Minister’s Order No. 287 of 20 December 2006 additionally confirms this prohibition.

Transferring of this surface to the physical fund to be used for former owners’ compensation does not leave any physical space for the management of state agriculture land through rental by LGUs.

The following summarizes the legal framework about agriculture land management:

- Law No. 7501 of 19 July 1991 “On the land”;
- Law No. 8053 of 21 December 1995 “On transferring of agriculture land to ownership at no charge”;
- Law No. 8312 of 26 March 1998 “On undivided agriculture lands”;
- CoMD No. 531 of 21 August 1998 “On undivided agriculture lands” as amended by the Council of Ministers Decision No. 452 of 17 October 1992 “On restructuring of agriculture enterprises”;
- Law No. 8318 of 01 April 1998 “On renting agricultural land, forestry land, meadows and pastures, which are state properties”, and CoMD No. 831 of 28 December 1998 “On the approach of renting agriculture land, which is state property”; Instruction No. 3 of the Council of Ministers of 28 December 1998 “On the procedure or organizing the auction for renting agriculture land as state property”;
- Law No. 8337 of 30 April 1998 “On transferring to ownership of agricultural and forestry land, meadows and pastures”;
- Order No. 265 of 01 October 2002 “On evidencing and interruption of the procedures of conveyance or rental of state property, agriculture land, forestry land, meadows and pastures”, CoMD No. 567 of 05 September 2007 “On the adoption of criteria and procedures of defining properties as a immovable properties fund for physical compensation”; and
- Order No. 350 of 15 October 2007 of the Minister of Agriculture Food and Consumer Protection “On the inventory and transfer of available state agriculture lands belonging to former State Farming Enterprises and to research institutes to the Agency of Properties Restitution and Compensation”.

IV. PUBLIC PRIVATE PARTNERSHIPS

Concepts about public-private partnership (PPP), which are provided below, rely on the European Commission Guidelines for Successful Public Private Partnership, 2003, in addition to the supporting legal framework in Albania.

1.0 WHAT IS A PUBLIC PRIVATE PARTNERSHIP?

A public-private partnership is an agreement on a commercial undertaking between a public entity and private sector or investor with the purpose of providing services and public investments, which have traditionally been provided by the public sector. Roles and responsibilities of the private sector in this undertaking range from maintenance and operation of existing assets to the design, building and funding of other assets to ensure long-term provision of the required public service. This agreement shifts part of the risk to the private investor's side, whereas LGUs may use released funds to provide other services.

2.0 PUBLIC-PRIVATE PARTNERSHIP OBJECTIVES

Decentralization reform in Albania presents a platform to motivate and encourage participation of the private sector and the application of **PPP** approaches for public service delivery. Setting clear objectives for asset management and application of PPP approaches should be linked with the aims provided below to ensure a priority in terms of encouraging the enhancement of public services quality:

- Improvement of service reliability and delivery,
- Expansion of service coverage,
- Ensuring of economic stability,
- Efficiency enhancement, and
- Promotion of cost-effectiveness.

Deterioration of public infrastructure, lack of funds and limited capacities of financial management lead toward a number of other goals, which at first sight, are included in the time schemes of asset and service management:

- Improved infrastructure (provision of funds for capital investments),
- Improved cost recovery, and
- Promotion of capital investments;

Application of PPP schemes in public service and asset management may help LGUs in the development of institutional capacities, and thus, other goals such as the following may be simultaneously addressed:

- Staff capacities improved;
- New technologies introduced, and
- Successful managerial practices institutionalized.

3.0 ROLE OF LGUS IN IMPLEMENTING PPPS

There are several manners and stages of the development of PPP schemes. In essence, PPP stands for a long-term contractual relationship, into which a public entity enters with a considerable capital share (assets), whereas private sector undertakes the risk of investment and service management.

According to the economic area of use, these forms are legally based on the property and on the right of legal entity as provided by Law No. 8652, on Articles 784 – 849 and 860 *et sequence* of the Civil Code, CoMD No. 396 of 21 June 1994 “On procurement of subcontracting of public services of waste cleaning and disposal”, CoMD No. 473 of 03 October 1994 “On procurement by subcontracting of public services of funeral, greenery areas maintenance and public cemeteries”, Law No. 8094 of 21 March 1996 “On waste public disposal”, CoMD No. 315 of 24 April 2003 “On renting of the assets belonging to enterprises and state institutions”, CoMD No. 1712 of 24 December 2008 “On transferring of state assets for rental or emphyteusis”, etc. These contracts have a large application at present across all LGUs concerning management of a number of services, buildings and plots.

More traditional and less complicated PPP approaches consist of subcontracting service management to third parties through various approaches including rental contracts, service contracts, management contracts, emphyteusis, etc.:

1. A service contract with a term from one to several years consists of subcontracting part or all the activities in relation to a certain public service (for instance, contract services cleaning, collection and disposal of waste). These contracts are concluded for substantial (own) services and the Civil Code, the property right and legal entity right of LGU are the basis of their legal support.
2. Rentals and leasing, consist of transferring assets to the use of a private supplier against a fixed payment/fee.
3. Emphyteusis is used to grant local public assets for use and improvement purposes. These are usually long-term contracts.
4. A management contract, where LGU assets are put at the disposal of a private investor who undertakes fulfillment of key elements of public service.

Management of local forests and pastures assets according to the above approaches is carried out under the following legislation: Law No. 9385 of 04 May 2005 “On forest and forestry service”, as amended, (Article 32), Law No. 9663 of 19 March 2007 “On Pastures inventory”, as amended (Article 19), Law No. 8312 of 26 March 1998 “On undistributed agriculture lands”, as amended (Article 8), CoMD No. 531 of 21 August 1998 “On undivided agriculture lands”, (Paragraph 4) and CoMD No. 391 of 21 June 2006 “On setting the fees for forestry and pastures sector”.

More advanced forms of PPPs, which involve the private sector for a longer term, and are generally applicable in EU countries, but have to do with different types of concession contracts include:

- Concession contracts of a Build-Operate-Transfer (BOT) type. Such contracts confine temporary assignment of public assets including land, buildings, and infrastructure networks, to a term of up to 35 years. Contracts specify service conditions, coverage, and quality and, in some cases, they additionally define the level and size of investments, which are needed to

Typical concession contracts are based on Law No. 9663 of 18 December 2006, “On concessions”. Article 5 of this Law defines LGUs as the **Contracting Authorities**, which are defined as such by the Council of Ministers. LGUs are entitled to the right of the Contracting Authority after they have identified and proposed (Article 9) the concessions in the economic fields, which are under their jurisdiction and, which comply with the substantial functions of LGUs.

execute the contract. According to the type of contract, public assets that are allotted to private entities either are, by the end of the concessionary term, restituted to the property of LGUs, or remain under the private supplier ownership, depending on the form of concession as chosen at the beginning of the process.

- Privatization, divestiture (partial selling of assets, which are not vital to a public company) or projects, which are completely newly developed and, which may start with the design, build, operation and acquisition of assets—Build-Operate-Own-Transfer (BOOT), Design-Build-Operate-Own (DBOO), or variations of different types of long-term contracts of PPP type. Areas of interest for LGUs include:

1. Transport and public transportation service infrastructure;
2. Water generation, distribution and management; waste water treatment, collection, disposal and management; irrigation; drainage; cleaning of canals and dams;
3. Solid waste collection, transportation, treatment and management;
4. Education and sports;
5. Healthcare;
6. Tourism and culture;
7. Recycling projects, land and forest rehabilitation, industrial parks, housing, governmental buildings, services of the information technology and database infrastructure maintenance; and
8. Management contracts or public services delivery, including those sectors mentioned above.

- Another potential form of PPP development includes joint-stock companies in the forms of shareholding or limited liability companies, which represent agreements or enterprises, by means of which public and private entities may achieve joint objectives in the long term. Aspects of

This form of local asset management is based on Law No. 9901 of 14 April 2008 “On commercial enterprises and suppliers” and they are registered based on the provisions of Law No. 9723 of 03 May 2007 “On the National Registration Center”.

activity, project, funding, operation, maintenance and assets ownership and establishment are set forth in the article of incorporation and in the charter of the company shareholders according to the format as provided in Articles 32-36, as well as, in Article 213 – 229 of Law No.

9901. These forms are typical for commercial or semi-commercial activities of a specific type as in the case of water supply service management or cases of activities of economic character.

- A specific form of PPP is the sale of plots, which are provided with infrastructure to be used for social purposes or to be sold in the market to generate funds in Albanian Lek or in exchange of building areas, the end destination of which is to provide housing. This form of PPP is carried out by means of sales or exchange contracts with the private investor as selected through the public auction procedure.

This form of PPP development is based on Law No. 9232 of 13 May 2004 “On social housing programs for the inhabitants of urban areas”. This Law authorizes selling of plots, which are provided with infrastructure, to private sector in Leks or in exchange of an area for building. Pursuant to Law No. 9232 No. 9232 of 13 May 2004, CoMD No. 35 of 24 January 2007 and Instruction No. 6 of 14 May 2009 define the procedures of plot selling in Albanian Leks and its exchange with a building area, therefore completing the legal framework for this special aspect of public assets use.

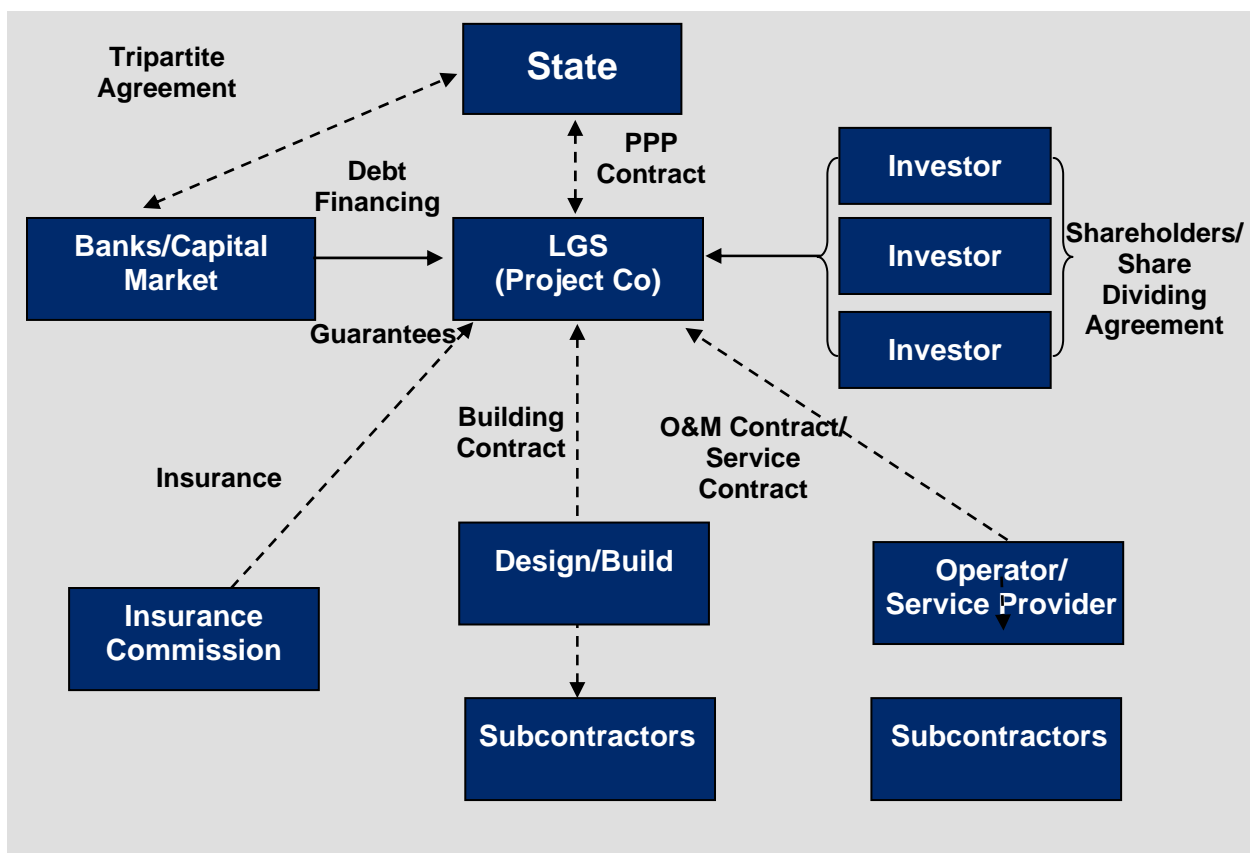
Figure 4 presents a summary layout of developing a PPP, which includes application of several forms at the same time such as financial PPP, BOT, service contract, exchange contract for market purposes and social housing, etc.

The state and, in this specific case the LGU, participates in a project based on a PPP contract where it has contributed with an immovable asset, the

value of which may increase via a tripartite contract with funding from the banks, its own budget or from the state budget (for example, in the case of providing the plot with infrastructure). Increase of asset value will simultaneously increase the share that the LGU will benefit from implementation of the project.

The LGU will enter into a contract with the private investor/investors, which are selected through a competing process (auction), who will undertake development of the project. The PPP contract defines the form of the implementation and operation of the work at the end of its building including design, building, operation and maintenance, works safety, etc. The PPP contract also contains the explanation of how the end output will be shared (for example, for land development for market purpose and social housing).

FIGURE 4. SUMMARY LAYOUT OF PPP APPLICATION



This PPP form presented in Figure 4 was applied to design and develop a PPP strategy for Korça Municipality, summarized in the case study provided below.

Case Study: Drafting of a Strategy for PPP in Korça Municipality

Korça Municipality has decided to develop a Land Development for Market Purposes and Social Housing Program based on a PPP scheme, the aim of which is to address housing problems for families that have been identified and registered by the municipality as families without housing. The municipality has invested a parcel of public land of about 40,000 m² for this project, 8,500 m² of which will be used for building purposes. The parcel has been recently transferred to the ownership of the municipality by a special Council of Ministers Decision. The Municipal Territory Planning Council approved a partial urban study, which has been reviewed within the framework of this project to better adjust to the market needs and the objectives of the municipality for this strategy.

The project will consist of building 437 apartments at a total cost of 15 million Euros. The municipality will benefit from 97 apartments of various sizes, which will address about 13% of the housing needs for 738 families without housing.

II.1	Municipality Investment	184.603.300
	Land value based on the price per m ² as defined by the land map value of 2008	123.757.500
	Value of investments in infrastructure, including also supervision	60.845.800
II.2	Private Investments	1.578.044.488
	Building cost	1.489.600.000
	Infrastructures cost	44.600.000
	Urban planning study and final design cost	5.000.000
II.3	Total Investment (municipality + private)	1.762.647.788
II.4	Minimum % of exchange as a ratio of the municipality investment vs. the total investment	11%

A set of cost and benefit scenarios have been considered based on the housing demand in Korça Municipality. Assessments are based on the information on the number of families without housing in Korça, prior demographic developments and prognosis for the future in addition to the legal provisions on social housing. The conceptual plan assumes that the project will go through three stages within a timeline of eight years. The project parameters, such as the parcel surface size, construction surface size, parking lots and green areas have been also estimated versus the capital value that the municipality will contribute in this undertaking.

Due to demand conditions in Korça market for residential apartments, as well as capacities that local firms can provide, the proposal is to develop the project in three stages:

Stages	Number of buildings	Number of floors per building	Basic building surface in m ²	Apartments surface in m ²	Commercial Surface in m ²	Total Surface in m ²
Stage 1	6	35	2.290	9.600	4.330	13.930
Stage 1: Commercial Block	3	10	755	0	2525	2525
Stage 2	9	59	2456	14946	1156	16.102
Stage 3	11	75	3034	18909	1734	20643
Summary	29	179	8.535	43.455	9.745	53.200

The project was presented to a large group for discussion, including the participation of construction businesses, civil society, banks and other stakeholders to ensure support and transparency about decision making on local asset management.

The main problem the municipality will face is the legal framework. Because PPP is a new concept and this project, in particular, is the first effort for local government involvement in Albania, a clear legal and procedural was missing and needed.

4.0 ROLE OF STAKEHOLDERS IN PPP DEVELOPMENT AT LOCAL LEVEL

Development of PPP forms at the local level is carried out through a combination of the role and responsibilities of stakeholders that participate in the process, generally these three:

1. Central government and the interdependent structures responsible for the regulation of the process and final decision making;
2. The LGU, which identifies and implements the project; and
3. Private sector entities, which are proposed, or selected via a competitive process to achieve PPP.

Table 4 on the following page presents, in matrix form, the process, stages and sharing of responsibilities of the primary stakeholders in developing a PPP.

The legal procedure of supervising concessionary contracts is carried out by the Public Procurement Agency (PPA) as the supervisory administrative body. This role has been assigned through a Council of Ministers Decision adopted on **5 May 2010**. Meanwhile, the role of the administrative body regarding reviewing of complaints that arise when implementing the concession procedures by the bidders will be performed by the Public Procurements Commission. This competence has been assigned to this Commission upon the aforementioned decision. Public Procurements Commission decisions are the final ones in the route of administrative complaining. The Public Procurements Commission plays the same role for complaints against the public procurement procedures.

The Public Procurements Commission is established under Law No. 10170 of 22 October 2009 "On a number of additions and amendments to Law No. 9643 of 20 November 2006 "On public procurement" as amended (Article 19)".

5.0 EU DIRECTIVES ON PPP CONTRACTS PROCUREMENT

Upon the association of Albania in the EU) Structures and transposition of legislation, LGUs also are obliged to pursue and implement the specific requirements as provided in the EU Directives.

Depending on a project's size, it be that even within the EU Directive framework, there will be no restrictions or strict requirements that LGUs must fulfill when choosing private partners in accordance with the PPP format concerning asset management and public services. Nevertheless, LGUs must recognize and implement the following basic principles, which derive from the EU Directives, when they undertake the procurement process for a potential PPP scheme.

Transparency	Procurements must be carried out with a sufficient degree of transparency.
Equal treatment	All participants in a tender or bidding must be subject to equal treatment.
Mutual recognition	Mutual recognition of technical specifications, capacities and training between EU Member States
Proportionality	Demands must be proportional to the needs

TABLE 4. STAGES AND SHARING OF RESPONSIBILITIES OF MAIN STAKEHOLDERS IN THE DEVELOPMENT OF A PPP IN LOCAL LEVEL

Steps of PPP Development		Process of PPP Development		Decision-making
I	Project Identification	Project preliminary approval	Identification of potential concessions is carried out under Article 9 of Law No. 9663 and Chapter II of the CoMD No. 27. Identification is carried out through administrative bodies of LGUs in cooperation with the Concessions Treatment Units and METE or by the private sector through the uncalled proposal. However, every concession and the associating contract must be approved by the local council.	LGUs will carry out a feasibility study, make a cost and benefit estimate. Project is approved at the initial stage by the Mayor who makes sure the selected project is part of Capital Investment Plan (CIP) of the unit and of the national strategic goals.
		Capital Investment Plan	The Working Group drafts a CIP or the Asset Management Strategy (AMS), which defines the needs for investments by the private sector and other resources, as well as, the assets or services that are expected to be achieved via PPP.	The local council approves the CIP or AMS as a strategic document for the LGU.
		Assessment of Options	The Working Group drafts a description of the project (and, when necessary, an Environment Impact Assessment), it assesses the optimum option and presents it for preliminary approval to the local council.	
		Approval of the PPP project		The PPP will be approved in advance by the local council based on the assessment report. In the case of a concession, the LGU presents the projects and applies to the Council of Ministers for the right of Contracting Authority.
		Appointment of the Process Auditor		The Mayor of the LGU will appoint an Auditor for the process who has the responsibility to ensure continuation of the process and permanent liaison with the central institutions.
II	Procurement I	Prequalification Procedures	The Working Group drafts the procurement documents package. <i>In the case of Concession, documents are drafted for the prequalification stage. Article 10 of Law No. 9663 provides that concessionaires shall be selected through a</i>	The Working Group drafts the procurement documents package. The Mayor adopts the documents and, <i>in the case of a concession, they are published in the Public Notifications Bulletin</i>

Steps of PPP Development		Process of PPP Development		Decision-making
			<i>prequalification procure, which is associated with an call for proposal as set forth in Articles 11 through 21 of this Law</i>	
		Approval for Prequalification	<i>In the case of a Concession, the Contracting Authority provides the bidders with the call for proposal and invites the bidders to submit their final bid.</i>	LGU carries out the prequalification stage. <i>In the case of a Concession, the Contracting Authority conducts qualification of submitted bids in compliance with the prequalification criteria.</i>
	Procurement II	Awarding of the winning bidder	End stage document contain explanations, final modifications and the assessment criteria regarding the winner award. The procedures of projects comparing and assessment are defined under Articles 20 and 21 of Law No. 9663. By this procedure, the contracting authority assesses and selects the proposal for potential concessions through relying on the assessment criteria, their relative weight as defined in the call for proposal	LGU awards the best bidder and authorizes the Mayor to conclude the contract. <i>In the case of a Concession, the Contracting Authority makes final selection, takes the feedback of Concessions Treatment Unit and applies for approval to the Council of Ministers</i>
		Contract approval		<u><i>In the case of a Concession, conclusion of the contract is published in the Public Notifications Bulletin.</i></u>
III	Building		The contractor begins building, while the LGU continues monitoring and management of the contract.	The legal procedure of supervising concessionary contracts is carried out by the PPA as the supervisory administrative body. This role has been assigned to PP through a CoMD adopted on 5 May 2010.
IV	Operation		At the due moment and, when satisfied with the works quality, the LGU approves the works and signs starting of the operation and the maintenance contract	
V	Evaluation		Project performance will be regularly reviewed and assessed by another party	

Although not all projects are developed according to the same process, Table 4 above describes a general approach on how a LGU can develop a typical PPP.

The public procurements market in the EU is a substantial part of the Common Market and is governed by rules which are designed to lift barriers and make competition open to all Member States. Once EU Directives are transposed into laws, they shall become binding on Albania, and the contracting authorities at the central and local levels shall apply them. All contracts fall under one or the other of the four categories as described hereunder:

Civil works	Include buildings and works of engineering networks
Goods	Include products purchasing
Services	Delivering of services including engineering, architecture, financial auditing and other service professions
Public services (utilities)	Cover contracts of water and power supply, transport, telecommunications, etc.

Each category has a threshold or an amount, above which the application of EU Directives becomes necessary.

6.0 PROCESS OF ACCOMPLISHING A PUBLIC PRIVATE PARTNERSHIP

A PPP is linked with a specific project and a LGU must accomplish it under the format of a project cycle. Due to its great importance, LGUs must consider at the beginning of the process all the steps necessary to develop a PPP project, because these projects are usually large, and construction and operation usually last longer than an office term, and will have significant social and environmental impacts.

As a legal obligation, and at the same time, as an indication of accountability, depending on the economic sector and public service, LGUs coordinate with the relevant directorates and agencies of the line ministries, which cover the policies of the sector in which the PPP is developed.

6.1 APPOINTMENT OF THE WORKING GROUP AND THE PROCESS AUDITOR

After the identification of the area, the LGU's mayor will select and appoint a Working Group consisting of specialists of the unit, which is possibly supported by external advisors who are experts of the area. This is done at the initial stage of PPP development. The Working Group has the responsibility of developing the process according to a project cycle. At the same time, the Mayor appoints a Process Auditor to ensure the Working Group is operating in compliance with the program without neglecting any of the project cycle links.

6.2 SOCIAL CONSENSUS

Other countries' experience, as well as Albanian experience (e.g., the concession case of water supply enterprise of Elbasan Municipality) indicates that, in order to have a successful PPP, it is necessary to have a wide social consensus and be transparent in the identification and procedures of concessionaire selection. Social consensus is a substantial feature of PPP for a number of reasons:

1. PPPs often involve the private sector in the asset management or services of large public interest domain.
2. PPPs are often accompanied by the utilization of public natural resources, against which public opinion is very sensitive.
3. Often, functioning of PPPs in public service is directly linked with the payment of a fee by consumers, that is, citizens.

4. Such agreements are usually for a very long term. For these reasons, it is necessary that a concession or a PPP agreement of another type should specifically seek transparency and involvement of stakeholders in the process of project identification and assessment.

LGUs may gain consensus of citizens and other stakeholder groups by using the experience of several municipalities and communes in budgeting, urban planning and participatory capital improvement plans. Application of these approaches enables identification of needs for concessions and public consensus right in the early stages of needs assessment.

As it is a long-term agreement, it is necessary for the development of any PPP to ensure monitoring, measuring and permanent reporting on the concessionaire performance compared to the goals as set at the beginning of the concessionary agreement.

6.3 EMPLOYMENT RELATIONS

Employment practices present one of the most challenging issues regarding public sector management in the frame of PPP approaches. Therefore, when the issue of preparing a concession or another form of PPP is addressed in terms of public service management—especially when these contracts include transformation of existing public enterprises—special attention should be paid to a person’s employment or dismissal, employment compensation, employment conditions, payment of social and health insurance contributions, etc., which must be incorporated in the concession contract.

6.4 FINANCIAL RISK MANAGEMENT

Financial issues are of a special importance in terms of understanding how a PPP may be successfully applied. LGUs should not view a PPP as a way to get rid of responsibilities related to the performance of a fundamental function. PPPs will work only if the private sector considers involvement into these modalities as something of interest, and if it will find opportunities for profit. If the risk is high, then the costs of delivering the service will be high, and therefore, the costs for the citizens and society will be generally high. In addition, the success of a PPP often depends on the citizens’ willingness or ability to pay the cost of a concession or of another form of PPP in relation to local asset management and public service delivery. Each LGU should conduct a careful cost and benefits analysis of options when making decisions on asset management/service delivery.

Both the LGUs and the private sector accept that the financial risk is high in these types of partnerships. The public sector—in this case the LGUs—run the risk that the subcontractor may not be able to perform according to goals either in terms of investments or service quality, or it may become bankrupt and withdraw from the project. Therefore, a successful PPP needs to be accompanied by a guarantee to minimize the risk. This guarantee may be provided by the central government or by international financial institutions or by bilateral or multilateral agencies, which are interested in supporting programs to promote sustainable growth and poverty alleviation.

6.5 PPP KNOWLEDGE BASE

Local officials need to build the necessary knowledge base on PPP approaches in public asset management. Training and education for different levels of local officials and the private sector are an important tool to deal with PPP applications. Short training programs that include topics such as project evaluation, financial management, legal issues and contracts and institutional development will not only help local officials, but provide them with the opportunity to have access to new sources of information, to gain international experience and to get in touch with enterprises interested in entering into new public sector markets.

Information exchange and study tours to see PPP performance in action are also important. For example, exchanges are of crucial importance for politicians, and senior-level officials may help with

the enhancement of public sector credibility or to provide solutions to facilitate PPP development in the country.

V. MANAGEMENT OF ASSETS THROUGH COMMERCIAL ENTERPRISES

Legal framework of the transformation of state and commercial enterprisers

- Law No. 9901 of 14 April 2008, “On traders and commercial enterprises”;
- Law No. 7582 of 13 July 1992 “On state enterprises”; and
- Law No. 7926 of 20 April 1995 “On the transformation of state enterprises into commercial enterprises”.

After 1992, the legal framework governing the functions of state enterprises changed completely. The market economy system demanded a change to the role of state enterprises to be practically oriented toward efficiency and effectiveness of production and public services. Therefore, state enterprises became subject to the process of restructuring

through the privatization or transformation into commercial enterprises with state-owned capital, but which presumed an equal status in the market—just like the commercial enterprises with private capital.

To encourage transformation process, an appropriate legal framework was adopted to regulate the status of state-owned enterprises and the process of their transformation into commercial companies. This legal framework regulated functioning of existing state enterprises, and at the same time, stipulated that no further state economic enterprises could be set up (local government) in the form of state enterprises, but only in the form of commercial enterprises. The Law on State Enterprises (No. 7582) and Law on their Transformation (No. 7926) will be effective up to the moment of the transformation of all existing state-owned enterprises.

1.0 LOCAL GOVERNMENT RIGHTS

With the decentralization process, LGUs have the main role in providing public utility services (water supply and sewer systems, solid waste management, local transport, etc), and may practically establish commercial enterprises or companies with its own local capital stock.

In addition to immovable asset transfer, LGUs have also become owners of former state-owned enterprises, which are no longer active, or of the tangible assets of the water and sewer commercial enterprises. This process was developed intensively during 2006-2008.

Upon coming into effect of the new legal framework, every economic enterprise with state stock (and with local government stock) will be established, organized and operate under this law. This means that when establishing economic enterprises (e.g., enterprises to provide public services), local government must set them up under this law in one of the legal forms stipulated by this law. Legal entities (including LGUs) operate namely by setting up limited liability enterprises (Ltd.) or joint stock enterprises (S.A.).

Set up of commercial enterprises with local government stock may be carried out by means of funding the capital stock in money, and by in-kind contributions including land, plots, buildings, equipment or vehicles, etc. Upon the commitment of capital stock, they are further capitalized in the form of enterprise assets vs. the value of the shares owned by the LGU. Further management of these assets is carried out upon decisions of the enterprise bodies as set forth in Law No. 9901 of 14 April 2008, “On traders and commercial enterprises” and in the enterprise charter. When the LGU is the founder or partial or full owner, decisions about these transformations are made by the local council.

LGUs may commit their immovable assets as single owner or co-owners in a company of joint-venture type with other private legal entities or with public entities/LGUs in the form of cross-communal cooperation.

2.0 STEPS OF PROCESS IMPLEMENTATION

1. The first step of setting up joint stock companies is the decision of the local council on the adoption of the Articles of Incorporation (when setting up a new enterprise) and the Charter of the Company or the decision to purchase shares/quotes from companies, which are already established.
2. The council makes a decision on the immovable assets capital transfer as a contribution in kind to the capital stock or to the capital if the existing enterprise.
3. *The Council of Ministers Decision No. 1638 of 17 December 2008 “On the criteria of evaluating state property, which will be privatized or transformed and the sale procedure, as amended, will be applied when assigning immovable assets of enterprises with local government stock.*

VI. AUCTION

Auction is a component part and an important element to set functioning some of the mechanisms by means of which the LGUs may administer public assets transparently, therefore ensuring the increase in value of the asset and improvement of public services.

1.0 THE RIGHTS OF LGUs

By the public auction procedure, LGUs achieve, *inter alia*, selling of objects, which are public properties. Objects sold through the procedures of this law include those defined upon a special law such as, for example, selling of plot, which is provided with infrastructure, as laid down in Law 9232/2004 “On social housing program”.

Article 4, points d) and e) which regulate initiation of auction, specify that this law will extend its effects only to selling of seized and confiscated objects and to other objects, which are specified by special laws.

It is understood that this is a general law compared to *CoMD No. 1638 of 17 December 2008 “On the criteria of evaluating state property, which is to be privatized or transformed and the sale procedure”*, which will be used as an act of legal prevalence as a specific act vis-à-vis the public auction law.

1.1 ROLE OF SPECIFIC BODIES

- The head of the selling authority (LGU), i.e., the Mayor, or the official authorized by him or her, is the body responsible for the organization of the auction procedure. The Mayor takes measures to establish the Auction Unit. The Mayor signs the final report of the auction and the relevant contract with the winner by the end of the bidding procedure.
- The Auction Unit, which functions as an institution, is responsible, *inter alia*, for drafting documents, announcing the auction, reviewing and evaluating bids.
- A commission that defines the initial minimum value of the assets when selling by auction, will be established upon the order of the head of institution.
- The PPA reviews the complaints process, if the selling authority (LGU) has failed to solve them. The PPA plays a leading role in methodological preparation and training in auctions field.

Summary of legislation to apply auction:

- Law No. 9874 of 14 February 2008 “On public auction”;
- CoMD No. 1719 of 17 December 2008 “On the adoption of public auction rules”;
- CoMD No. 1242 of 16 December 2009 “On the functioning rules of the auction commission, property evaluation criteria, which is announced for bidding, as well as, the approach of monthly financial profit indexation”; and
- Standard Public Tender Documents (approved by METE).

2.0 STEPS OF IMPLEMENTING AUCTION LAW

The following steps will be applied when conducting the auction procedure:

1. Draft an auction organization registry (Auction Unit);
2. Order auction (Head of Institution or Authorized Official);

3. Draft auction documents (Auction Unit);
4. Approve auction and publish the auction notice (Head of Institution or Authorized Official);
5. Submit auction bids (economic entities);
6. Open and evaluate bids (Auction Unit);
7. Award winner (Auction Unit);
8. Review complaints (Head of Institution or Authorized Official or PPA); and
9. Sign contract (Head of Institution or Authorized Official).

ANNEX 1: LOCAL ASSET MANAGEMENT LEGISLATIVE AND REGULATORY FRAMEWORK INDEX

No.	Legislation Number & Date	Legislation Content
1	Law No. 7512 of 10 August 1991, as amended by Law No. 8306 of 14 March 1998	Sanctioning and Protection of Free Initiative and Independent Private Activities and Privatization
2	Law No. 8561 of 22 December 1999	Expropriations Taking under Temporary use for Public Interest of Privately Owned Property
3	Law No. 8652 of 31 July 2000 as amended by Law No. 9208 of 18 March 2004	Organization and Functioning of Local Government
4	Law No. 8743 of 22 February 2001, as amended by Law No. 9558 of 06 June 2006	State Immovable Property
5	Law No. 8744 of 22 February 2001	Inventory and Transfer of State Immovable Properties to Local Government Units
6	Law No. 9663 of 18 December 2006	Concessions
7	Law No. 9874 of 14 February 2008	Public Auction
8	Law No. 9235 of 29 July 2004	Property Restitution and Compensation
9	Council of Ministers Decision No. 27 of 19 January 2007	Adoption of Rules of Evaluation and Granting Concessions
10	Council of Ministers Decision No. 315 of 24 April 2003	Rental of Enterprises, Companies and State Institutions' Properties
11	Council of Ministers Decision No. 500 of 14 August 2001	Inventory of State Immovable Properties and Transfer to Local Government Units
12	Council of Ministers Decision No. 1638 of 17 December 2008	Criteria for Assessing State Property to be Privatized or Transformed and the Sales Procedure
13	Law No. 9232 of 13 May 2004 as amended by Law No. 9719 of 23 April 2007	Social Housing Programs for the Inhabitants of Urban Areas
14	Law No. 9416 of 20 May 2005	Privatization Procedure of Buildings Which Have Been Built or Purchased by Funds of National Housing Entity
15	Law No. 9321 of 25 November 2004	Privatization of Buildings and Facilities Transformed into Residences Built with the Funds of the State Companies and Enterprises
16	Council of Ministers Decision No. 35 of 24 January 2007	Procedures and Forms of Selling the Plots that are Provided with Infrastructure for Market Purposes

No.	Legislation Number & Date	Legislation Content
17	Council of Ministers Decision No. 97 of 03 February 2008	Procedures for Privatization of Buildings Governed by Law No. 7652 of 23 December 1992 on the Privatization of State Houses, and Law No. 9321 of 25 February 2004 on the Privatization of Houses and Facilities Transformed into Residences by the Funds of State Enterprises and Companies
18	Council of Ministers Decision No. 814 of 03 December 2004	Housing Standards for Families that Benefit from Housing Social Programs
19	Council of Ministers Decision No. 258 of 28 April 2005	Conditions and Standards to be Met by the Rented Social Houses Purchased in the Market
20	Council of Ministers Decision No. 148 of 13 February 2008	Defining the Procedures of Purchasing Low Cost Housing in the Market
21	Council of Ministers Decision No. 456 of 16 April 2008	Evaluation and Sale Procedures and the Criteria of Defining the Price of Selling Plots to Families that Benefit from Low Cost Housing
22	Instruction No. 6 of 15 May 2009	Guiding Approaches for Calculating Buildings Surface to the Effect of Selling Plots Which are Provided with Infrastructure
23	Law No. 7850 of 29 July 1994, as amended by Law No. 8536 of 08 October 1999 and Law No. 8781 of 03 May 2001	Civil Code
24	Law No. 8306 of 14 March 1998	Privatization strategy of sectors of special importance
25	Law No. 7926 of 20 April 1995	Transformation of State Enterprises into Commercial Companies
26	Law No. 7523 of 06 November 1991	State Enterprises
27	Law No. 8103 of 28 March 1996	Privatization of Water Supply and Sewage Enterprises
28	Law No. 9482 of 03 April 2006	Legalization, Urbanization and Integration of Illegal Buildings
29	Law No. 7843 of 13 July 1994	Immovable Property Registration
30	Law No. 8934 of 05 September 2002, as amended by Law No. 9890 of 20 March 2008 and Law No. 9983 of 08 September 2008	Environmental Protection
31	Law No. 7917 of 13 April 1995	Pastures and Meadows
32	Law No. 9385 of 04 May 2005	Forests and Forestry Service
33	Law No. 10119 of 23 April 2009	Territorial Planning
34	Law No. 9901 of 14 April 2008	Traders and Commercial Companies
35	Law No. 9869 of 04 February 2008	Local Borrowing

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