

"BREGDETI"(RIVIERA) ASSOCIATION

Defending Property, Pursuing Justice

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Tirana, 18.12.2012

Your Excellency,

In the name of the legal owners of the touristic area Vlorë-Sarandë that have been violently expropriated during the communist regime, following several requests presented to the OSCE representative office in Tiranë, we are addressing you regarding **the 1.6 million Euro project lead by the OSCE representative office in Albania on registration of the properties in the touristic coastal areas.**

Albanian state authorities are not applying the article 181 of the Constitution that provides that the solution of the problem of the return of the properties expropriated by the communist regime should take place within the year 2001(!) conforming to the basic right of private property that is guaranteed from the article 41 of the Constitution. Even worse than this, the Governments' intersectorial strategy for properties 2012-2020¹

¹ <http://www.justice.gov.al/>

provides a postponement of the deadline for the return of properties to the year 2020 while the deadline for the completion of the “legalizations” is fixed to the end of year 2013. For us the strategy of the Government is clear : it means ignoring the physical return of property, disregard of deadlines to cancel acts that go against article 181 of the Constitution, as well as postponement and obstruction of the return of properties. This strategy aims the “legalization” of the thefts and abuses of the properties of the legal owners by the political and economical elite in power. This strategy serves to the final objective of the Government and politics that is the consolidation of the economical power of the elite of the communist regime that continue to hold in their hands the economical and political power and present a fake alternation between the so called right and so called left parties. The legal owners, expropriated and persecuted by the communist regime as well as trampled on by the authorities during these 20 years of “democracy”, have only with one hope : the international pressure on the Albanian politicians to apply the basic principles of a democratic state.

The lack of respect for the right to property of the legal owners is associated with a purposeful anarchy in the administration of the property titles and the consequence is the frightfully high number of murders for property issues (over 6'000), unscrupulous corruption, as well as social and judicial unrest. The website of the associations “Property with Justice” and “The coast” www.defendingproperty.com presents a summary of the situation and among others the lack of enforcement of the court decisions including those of the Court of Strasbourg (look at [dokumente/jurisprudence/vendimi unifikues i Kolegjeve te bashkuara](#). you may also consider looking at the letters, papers and videos in the website).

In the current situation, while both sides of the politics aim to “legalize” and consolidate the illegal gains of wealth while in power, we welcome and support any constructive step taken by the international organizations towards the solution of this problem.

In this context, in relation to the project of the representative office of OSCE in Albania for the registration of the properties in the coastal areas that directly concern the touristic areas of Vlorë-Sarandë where the abuse with private property is more obvious, first of all we notice that our associations have not been invited to participate in some meetings on this issue for example in the meeting organized in Himara on 9th of November 2012. We as direct stakeholders in this project and representatives of the interests of the legal owners, **request the you systematically invite the associations “Property with Justice” and “The coast” in every discussion related to this problem.**

Secondly, we inform you that we do not have available any information on the solution of this pilot area included in the OSCE project for the cases when the same property has several claimant owners, which unfortunately is a very common case. We kindly ask you to inform us as provided , **in this project, on the solution of cases when the same property is claimed by several owners.** It would be very welcomed if this information is made public! We are presenting a complaint about the inappropriate management of the right to property. We re-bring to your attention that we have made aware the working group of OSCE before the start of the project application, that this is a well-known phenomena and we have emphasized that the funds put in this project will have negative impact if the following solution is not taken: proposing a draft law in accordance with the article 181 of the Constitution. Later on we have submitted to the OSCE and EC offices the draft law both in Albanian and English. **We believe that this draft law that was developed by our specialists and foreign jurists solves the problem of property** in accordance with the article 181 of the Constitution, the requirements of the EC of 05.12.2012 and the requirements of the pilot decision of the Court of Strasbourg dt.31.07.2012 on the application of the rights to property. **We invite you to publicly pronounce your statement on this draft law that is in accordance with the article 181 of the Constitution and the European Convention of Human Rights**

We also inform you that during the month of November 2012 there have been several conflicts on which party should harvest the olives production: those who have got olives based on the per-person distribution done by the commissions of distributions of property after the year 1994, who beside the document of the commission have no registration even at the Office for Registration of Real Estate (ZRPP), or the other party of the historical owners who have inherited the olives from their grandparents but were expropriated after the year 1945 during the

establishment of the communist regime. We think that it is beneficial for all parties that each one is entitled to their inherited property and that the expropriated owners are compensated only when the property has been altered or used for public needs. Families from northern areas and in 75% of Albania have taken possession of their inherited properties based on the old boundaries and this has caused no problem, while in the touristic areas politicians insist to apply a different standard.

We would like to believe that OSCE by respecting the Constitution of Albania and the basic human right for private property , will acknowledge and confirm in the framework of this project the right of the legal owners whose property titles are based on the state registers of before the communist collectivization. These property titles-documents with constitutional effect of the right to property, are available today in Cadastre and the State Archives. As the acknowledgement of these titles has a vital importance for the respect of the basic right to property, **we invite you to publicly present your stand on this solution.**

We are convinced that only the international and especially your persistence and pressure, in the framework of this project, on the Albanian State should attain the return of property to the legal owner in conformity with the Constitution , will make possible the final and stable resolution of this problem and will open the door to serious investments and a genuine economic development. Any “alternative solution” would seriously damage the credibility of the international institutions in Albania and beyond.

Our requests are based not only on the Constitution but also the jurisprudence of the Albanian courts and the Court of Strasbourg. On the final interpretation of the return of property to the legal owners that were expropriated during communism we invite you to refer to the decision of the United Colleges in march 2002 and the decisions of the court of Strasbourg especially Driza v. Albania and Puto etc. v. Albania. These documents maybe accessed in our website as well <http://defendingproperty.com/shqip/court-decisions/> . In its decision of July 2012 the Court of Strasbourg requested Albania to solve within 18 months (December 2013) the problem of return/compensation of properties. The court of Strasbourg insists that the financial compensation as is currently applied, does not solve but on the contrary worsens the problem.

The current Albanian government as a worthy representative of all the politics applied in this area in Albania in the past 20 years, has no desire to solve this issue and transforms the problem of the return of property as an issue of compensation of property. Surely the amount of money for the compensation is unaffordable by the Albanian taxpayers. Thus it is inevitable that the property crisis will cause other crisis. We believe that the taxpayer should not pay to allow the abusers to misappropriate the properties of the legal owners.

The compensation and legalisation can not be done without first of all the physical return of property. The State during the establishment of the communist regime, has been and remains a legal owner of 52% of the real estate: thus there is enough property funds available for any kind of social programs in favor of the homeless people. The properties confiscated by the communist regime should be returned to the owner, and this should be done now! This is a solution that is demanded by the article 181 of the Constiution, a solution that respects the rights of all parties. Therefore political pressure should be exerted on the Albanian government!

We kindly ask you to protect the respect to the right for property in Albania, politically and in the framework of this current project led by your institution.

While we wait for your answer to the above mentioned issues, we are remain available for any kind of additional information you may need.

We hope for your understanding.

Respectfully yours
For the Leadership of Association “Bregdeti ”
Chairman Dr. Niko Nesturi