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January 23, 2013

Dr. Niko Nesturi
President
"Bregdeti" Association
Albania

Dear Dr. Nesturi,

Re: Response to your letter dated October 25, 2012

As promised in the letter sent to you on November 1, 2012 we have reviewed the concerns presented in your letter to Dr. Kim dated October 25, 2012 regarding the Issue Brief "Governance in the Protection of Immovable Property Rights in Albania: A Continuing Challenge" (hereinafter Issue Brief). A World Bank team of legal and land experts have reviewed the five main points in your letter and would like to respond as follows:

First, with regard to your points that **physical restitution should have priority over other compensation and that restitution should have priority over legalizations**: The Issue Brief states that a holistic policy is needed to balance the competing interests for property rights in Albania and to develop a realistic and reasonable solution to the complex issues. Your assertion that article 8 of Law 7501 is null and void is a point that must be determined by the appropriate Albanian judicial bodies. There are numerous international and national level court decisions related to property rights legislation and the drafters of the Issue Brief were careful to review and take into account relevant decisions. Your argument that the Albanian legislation that offers compensation in lieu of physical restitution is unconstitutional and against the European Convention of Human Rights has been rejected in the case law of the European Court of Human Rights in *Jonas v. Czech Republic* (App 23060/93) and other related decisions. Furthermore, as has been discussed with you and your organization on several occasions, it also needs to be emphasized that physical restitution would in many cases entail displacement of current occupants. Regardless of the legal status of such affected people, international best practice, as reflected in the World Bank policy on involuntary resettlement and similar internationally-recognized standards, would require that resettlement assistance and other compensatory measures be provided when such displacement occurs. Hence, we stand by the Issue Brief's conclusion that a holistic solution is needed.

The World Bank is not in a position to comment on the assertion that 6,000 murders have been committed due to 'conflicts related to land restitution,' although the Issue Brief notes that the seriousness of unresolved property issues impacts social stability and economic development.

Regarding your argument supporting **financial compensation to be made at market value**: The Bank's view, as stated in the Issue Brief, is that such an approach to compensation in the specific context of the national restitution process is fiscally unaffordable for Albania. Your argument that Albania is different from other countries in the region that have undergone similar reforms may be true but each country has unique circumstances, culture and history. However, the differences amongst countries do not change the fact that market value compensation in the context of restitution is simply unaffordable for Albania as well as for other countries in the region. Ultimately, what is needed in the World Bank's view is a realistic and balanced solution to the issue of restitution/compensation which must take into account fiscal implications.

Regarding the need for **adequate institutional capacities indispensable to resolve the restitution issue**: The World Bank supports, and indeed the Issue Brief reflects, the need for the government to provide adequate resources to resolve outstanding restitution and compensation claims. The Albanian government has outlined its plan to complete the restitution/compensation process in the approved Cross Cutting Strategy for the Reform in the Field of Property Rights, with a related Action Plan providing a clear set of steps and deadlines to complete the process.

With respect to the point that there needs to be **alignment of the Issue Brief's recommendations and strategy with the jurisprudence of the European Court of Human Rights**: The Issue Brief reflects the jurisprudence of both the European Court of Human Rights and the Albanian Constitutional Court that were in force at the time the Issue Brief was written. The European Court of Human Rights has clearly stated that there is no obligation for a country to retribute/compensate property but when a country approves restitution/compensation legislation, the state must then honor its obligations (see *Jonas v. Czech Republic*). Furthermore, the Albanian Constitutional Court has issued decisions such as V35/07 upholding former and current restitution/compensation legislation. While the 2002 Unifying Decision of the United Collegiate of the Supreme Court does offer guidance on interpretation of the law, it does not alter the legislation currently in force. Ultimately, the Albanian Constitutional Court would need to rule on the effects of the Albanian Constitution Articles 41 and 181 with respect to current property rights legislation. As noted above, the Issue Brief reflects the legal status at the time of writing and new decisions from international or national courts will be included in any future reviews and analyses.

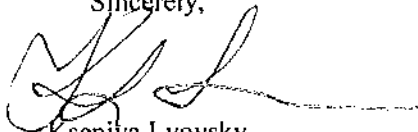
Overall we note there seems to be a misunderstanding about the nature of the World Bank's role. The Bank works with governments to support sound policy development and decisions. It is not an organization that imposes its views or plays the role of the "stick" to prod a government to act one way or another, as you suggest should be the case in your letter dated September 28, 2012.

While we appreciate your viewpoints we continue to believe that the Issue Brief provides a fair and balanced assessment of the situation. The Issue Brief does not recommend one particular solution, rather it presents a range of options and examples of practices that other countries have followed in similar situations in order to provide for an informed policy discussion.

Following your concerns after the first version of the study was published in June 2011, a revised version was prepared and made public. The revised version explicitly acknowledges many of the views of stakeholders, stressing the fact that former owner associations remain strongly opposed to a number of the policy options included in the Issue Brief. Overall, the Issue Brief is consistent with the analysis and concerns of other international bodies such as the European Commission and the OSCE.

Over the years World Bank representatives, legal experts and land team members have met on a regular basis with your association, most recently being a 3 hour meeting in October, 2012, and we continue to value your insight and opinions. Your assertion that World Bank policy and projects support and condone corruption is unfounded. The purpose of the Issue Brief was to inform the public debate and highlight the importance of engaging in dialogue with all interest groups. The Issue Brief reflects an earnest effort to be unbiased and to serve the public interest, without being unduly influenced by any particular interest group. It states the facts, the opinions of internationally recognized experts and international experience in dealing with similar issues. It also focuses on the key issues affecting the security of immovable property rights and offers a range of policy options based on economic and legal analyses as well as a review of international practices.

Sincerely,



Kseniya Lvovsky

Cc: Mr. Agim Toro, President, "Property with Justice" Association
H.E. Eugen Wollfarth, Ambassador, OSCE
H.E. Ettore Sequi, Ambassador, Delegation of the European Union
Mr. Piero Cipollone, Executive Director, World Bank