

LEGAL REGULATION OF STATE PROPERTY IN THE PERIOD 1925 – 1939

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Abstract

State property has not had a proper legal regulation until the years of the Albanian Kingdom. Efforts for a package of laws to intervene in the determination of their legal regime, almost failed, so did the administrative structures set up for this purpose; they had failed to carry out the function for which they were set up. Assets have been constantly threatened from being ripped apart from private entities, which peaked in 1928. The period of the Albanian Kingdom gets the credit for establishing and developing comprehensive legal framework for the inventory and management of State Property. This intervention would be seen as closely associated with the efforts for the preservation and integrity of state property, the incomes of which constituted the basis for the beginning of every economic and social reform in the country.

Keywords: State property, ownership, reform, transcription, robbery, registration, inventory

1. Inherited state of the state property until the years of the Albanian Republic.

The legal regulation of property of the state, through legal acts adopted by the institutions of the Albanian State, dates back to 1913 when the Provisional Government of Vlora, in September of this year, decided to assign a commission to investigate the state assets.¹ This Commission failed to conduct a thorough property adjustment process that the Albanian state had inherited, for reasons already known and related mainly to the destabilized political situation in the country. The legal regulation of the property of the Albanian State has constantly manifested specifications due to various factors that have led to adoption of measures for their security and management.

¹ H. Shkoza, Finances of Albania 1839 – 1934, Tirana, 1935, p.3.

But we may say that in each period of the regulation of this property two have been the main reasons: First: the prohibition of unlawful interference in state assets from third parties, and this is an aspect that has to do with the security of state property. Second: efficient management of the revenue deriving from state property. The property that the state manages primarily real estate, is divided into two parts: property destined for public services (domanial possessions) and the property not intended for public services (patrimonial possessions); this property brings revenues to the state and all management actions are concentrated on this in order to extract revenues from it. Both of them make up the object on which the rights of the state as the entity of property relations are addressed and at the same time its powers to perform any action for maintaining, managing, and alienating such property. This causes the state to come out as a separate entity in the field of civil rights, too, with an equal legal position on all other entities, whether natural persons or legal entities. Regulation of state property is among the first processes undertaken by governments upon coming to power and particularly when there are huge upheavals of the political-judicial regimes within a country. Besides the legitimate reason of knowing the balance of properties it possesses and will dispose of for its goals, in various periods of its consolidation, the Albanian state has been facing extortion and illegitimate interference made to the state possessions. Mainly the local private entities, taking advantage of the different situations of unrest and war had intervened on government property, ripping a part thereof, or by expanding the boundaries of private land at the expense of state-owned lands. Until 1912, legal regulation of state property was done by the State Property Management Regulation, dated 20.06.1910.² Upon Albania's secession from the Ottoman regime, the Albanian state inherited an estate of 56.287 hectares.³ Neither the Vlora provisional government, nor other provisional governments could administer or fully regulate the patrimonial property of the state. During the foreign occupations until 1922, the State property was administered by a special office based in Lushnje, which had played an important role in the preservation and management of state assets.⁴ But the phenomenon of abduction of state property has been constantly present and very disturbing. In the Parliamentary debates of 1922, the issue of state property has been treated several times by putting emphasis on the actions for alienation of these properties by the invaders, along with the looting that was done by private

²SCA, v. 1909, f. Ministry of Finances, Lib, Qark, p.403.

³H. Shkoza Finances of Albania..., p.2.

⁴Ibidem.

individuals.⁵The Lushnja government had announced that it would not recognize the legal validity of any act of transfers of state property by the invaders. This will be reflected in Laws that would be implemented later by A. Zogu's government.

2. Regulation of state property in years 25-39

In the early years of the Albanian Republic several measures were taken for the regulation of the state property. The newly formed government was aware of the difficult economic situation which the country was in and turned its eyes to the state owned property. Revenues to be drawn from this wealth will be the basis of any reform or project that the government would take consistently. The process would begin with the regulation of property in Saranda. It started with Saranda, not only for its strategic position, but also for certain specifics on how these assets were disposed of by the foreign invaders. For the regulation of state property in Saranda, since the time of the Vlora Government, a special commission was set up. Its main task had been to resolve the problem of the barracks in Saranda. ⁶ This commission was unable to resolve the issue in question. Thus on 29 March 1925 the decree "On the regulation of state property located in Saranda", which was enacted into law 28/07/1925, was drafted."⁷ The purpose of the law was the regulation of state property in Saranda, their inventory and enrolment in the cadastral registers. Thus a commission was set up that would record in the special registers all land and buildings that are state property and would appreciate the documentation of all those people claiming a title deed on the buildings. Complete inventory of the property of the state and its registration in the cadastral registers would give the state access through contracting to install farmers for housing and employment needs. A good portion of these properties were leased to farmers under the old law of the land, but in some cases contracting conditions were not respected by them. Special attention was paid to rent arrears collection, not only to fill state coffers but also because the new law would apply a different tariff system for leases. All private individuals, mostly traders who claimed the assets in question, would turn to the commission that had the characteristics of an arbitration in decision-making, but nonetheless did not exclude the right of entities to challenge the decision in court. The task of the commission was not just the registration of the state property, it had full power to administratively investigate and verify all the documents on the basis of which a title deed over the property of the state was claimed. Archival sources suggest that each title unregistered in the cadastral acts and that

⁵SCA, v. 1922, f. The Parliament, Parliamentary Discussions, p. 335-336.

⁶SCA, v. 1922, Official Journal no. 19, p. 15.

⁷SCA, v. 1925, Official Journal no.13 , p.34.

had errors in transcription was not taken into consideration by the Committee. By right the fact of the perennial possession on these properties was not taken into account. Such a thing caused some resentment in the entities that had them in their possession, due to the contractual regime established between the parties. Moreover, a significant proportion of these entities had not paid rents, thus violating the contractual obligations. Another very important point of law was what defined the ipso jure passing in ownership of the state of all the buildings erected by foreign armies in Albania. It declared ipso jure null and void, any act of sale on these properties. With this action, from all persons, who had acquired property by various acts of transfer of ownership, but in times of invasion and from the invaders, it was taken and passed onto state property regardless of the title held. This definition was in line with the decisions made earlier by legitimate governments that had run the country. Invaders could not in any way dispose of the Albanian State assets, it would be intolerable. Maintaining territorial integrity was related directly to this issue and the way how it was resolved and how all this wealth was administered later, it would indicate to a high national awareness of the Albanian state in the defense and the preservation of its assets. This is amplified by the other fact established by law, which gave authority to the Ministry of Finance, to install in a part of these estates Albanian refugees, on the condition that they did not have the right to dealership for 25 years. In August of the year 1925 a regulation "For the installation of immigrants and farmers on state lands" was adopted.⁸ Farmers and immigrants were given land from state owned estates and through loans intended for this purpose were granted the right to build buildings as needed. The state was trying through this strategy to provide optimal conditions for immigrants that would return to their country and for the farmers, who did not have the minimum of a normal lifestyle. The said reform provided solutions to many social problems, so this law and regulation in view of its implementation should be considered as important normative acts despite contestations made by the owners. Upon application, every farmer could benefit land, on condition that he had the productive labor power on it. Plots of land up to 2 and a half hectares were excluded from any kind of a tax liability. For home construction and purchase of tools, an aid in the form of credit would be given with the obligation of being paid off within 10 years, an obligation that will start after the third year of their installation on land. This determination should be seen as very stimulating for the time, when it was formulated. Farmers were given the opportunity to raise their economy and the guarantee of the state to protect and stimulate their production

⁸SCA, v. 1925, Official Journal, No. 48.

activities. Already, the landlords' exploitation would be done away with and they will pass on to new relations of ownership of the entity over the land and property. The formation of new villages, in case of an influx of immigrants, was regulated by law. It was foreseen that they had all the conditions for a normal life in the community. The state would take care of the delivery of essential public services and building special infrastructure for them. Entities will benefit from the law if they applied within one year from the date of promulgation of the law. With these legal acts, the state took care of the installation of Albanian farmers on state-owned lands and creating opportunities for their full disposition and boosting domestic production. But along with the advantages brought by these acts to target groups, in some cases they caused disappointment for traders, who considered arbitrary the acts and decisions of the Commission, as destroying and eventually sinking the business built by them, which, as they claimed, brought more income to the coffers of the state. In their petition addressed to the Chamber of Deputies, several traders from Saranda try to give wide-ranging economic, but also national proportions, to the regulation of state-owned lands issue in Saranda.⁹ With the regulation of the buildings issue, they claim that a great injustice and terrible damage by the law, but rather by the committee, is made to them. They considered Commission incapable and its decisions arbitrary, and complained about procedural delays of trial on the issues of rental contracts and ownership.¹⁰ But their contesting mainly concerned the rental arrears. Collecting unpaid rent was one of the priority issues in the work of the commission. The situation was such that a significant part of traders had contracted through leasing in state owned premises versus periodic payments and had not met the contractual obligations. On the other hand, at the time of foreign invasion, a part of the buildings built by the invaders, mainly military barracks were purchased from them and for these they possessed property titles. After obtaining ownership by sales & purchase agreements, they had installed the business for which they paid taxes regularly. Besides spending in order to turn them into useful buildings, according to the purpose for which they were purchased, they made various investments for which traders had demands and claims.

Under the passed law these properties would pass ipso jure state-owned, it was justified by the fact of their sale from the Italians, an action which could not be tolerated by the newly established government. In this context, the invader could not dispose of the assets of the occupied territories and therefore any act of their assignment or transfer ipso jure is

⁹SCA. f.146, year 1927. d 30, p. 20. "Complaint of some traders of Saranda on the issue of state owned properties in Saranda".

¹⁰Ibidem.

declared null and void and the most normal action in such cases was to return to the previous situation. But it was not seen as a real harm caused to the business, the more so since it was a small business organized in the context of the family activity. At this time, there could not be widely spoken of organized enterprises because the level of national economic development was quite low for already known reasons. Renting was the most common form of contracting for exploiting the properties. As a result of limited profit opportunities, a part of traders resulted in outstanding obligations in favor of the state. Their accumulation over the years would make the final accounts to be at unaffordable levels for the tenancy entities. In a decision no.218, dated 15 .03.1927 by the Commission, a trader owed to the state an amount of 18416.16 gold francs for unpaid rents for a period of 9 years.¹¹ Unable to pay the obligation, the tenant would have to vacate the dwelling that would be administered in continuation by a person appointed by the commission.

3.The sale of state properties and procedures for their implementation.

Systemizing the state property in public registries and their precise definition would give the state access, through laws on sale of state assets, to raise some financial base, but also make possible the administration and commissioning these properties by private entities. Since the first months of governance experts were charged to draft the law, to prepare a draft law on the sale of state property¹² First the draft law prepared by the Ministry of Finance was presented to the Council of Ministers. The reasons why the adoption and transformation into law of the draft presented should be seen in the few opportunities the state had to manage its assets, the more so since these consisted of small plots scattered across the country, plots of land of the obsolete buildings which required a major commitment with very slim profit opportunities from them.

It was obvious this process would be carried out much better by private individuals and it somehow boosted free private initiative and gave them the opportunities to build businesses within the territories of the country. On the other hand, the state treasury was quite poor. The management of these assets from the state was seen as an expense that was made to the treasury rather than as its enrichment. The sale of state buildings to private individuals could be seen as a means to indirectly augment the treasury. There was no a special fund for the rehabilitation of state-owned buildings and therefore there was risk of their collapse and destruction. There is a kind of awareness of the authorities of the time in relation to the

¹¹SCA, f. To the Ministry of Finances, v.1927, d. 36. p. 23.

¹²SCA, year 1925,d. 28, p. 4.

advantages caused by the stimulation of private property and free economic initiative. This mentality was obviously based on Western experience, adopted especially in drafting a very democratic and advanced legislation for the time. Benefits from the law for the sale of state property would affect a particular contingent of former owners to getting back the ownership of their former owned property registered in the name of the state treasury. They had presented their inclination that against the purchase price and other costs which were done for the sale at auction, they could regain their property and might be exempted from the obligations as debtors of the Agricultural Bank, with which they had contracted years ago, leaving their properties as collateral. The state immovable assets recorded in the register of real estate are divided into three categories. Small separate properties that were recorded earlier with the state treasury such as meadows, pastures, vineyards, olive groves etc., which do not bring any big advantage compared to their geographic expansion, as well as homes, shops, warehouses, which are almost destroyed and require significant amounts for their repair, constituted the first category of state property to be traded in auction.¹³ Another category was the real estate of borrowers of the Bank of Agriculture and other persons, who because of previous mortgages was assigned to the state treasury, and the government had the right to sell at auction.¹⁴ Assets deemed without proprietor, that were registered in the name of the state treasury constituted the third category of properties that the state had the right to sell in auction.¹⁵ State assets called estates could not be sold by auction, for its legal regulation would apply the rules of law on land. The draft law was extensively discussed in the Chamber of Deputies and the Senate. During its discussion in the Chamber of Deputies there were discussions regarding the treatment of the issue of some state-owned lands that were in the cities, and that nearly half a century ago since the Ottoman rule were leased to some individuals. In a correspondence of 1926 between the Presidency of the Senate and Chamber of Deputies, there was talk about a specific treatment of these properties by selling them at the reference price of the state property left deserted and without any profit.” It said that; “Senate, taking into consideration that these people paid for years the rent and have tried in every way to enhance their position, spending not insignificant amounts of capital, should be preferable in the sale of land as to other persons that did not help in any way their improvement”.¹⁶ The sale of these assets at a price equal to other state assets would cause

¹³SCA, f.146, year 1926, Dossier 28, Justifying report of the draft law.

¹⁴Ibidem.

¹⁵Ibidem.

¹⁶SCA, f. 146, v, 1926, d. 28, p. 34 Correspondence between the Presidency of the Senate and the Chamber of Deputies.

great disappointment, so the draft law decided that they have a preference among the other subjects, these assets should not be sold at auction, but must be sold to residents at a value determined by the Commission and the set value might be paid in installments within three years. Part of state property sold at auction on the basis of special legal authorizations was that sold to private individuals and official institutions or exchanged with private or donated wealth. In the row of state real estates sold at auction were those seized from entrepreneurs who did not repay contractual obligations to the state. Their obligations were added year after year and for this it was decided on their partial selling. Regarding the sale of State property, the Parliament had set a rule where the financial offices, each year submitted to the Ministry of Finance a list that reflected the assets that will be sold at auction.¹⁷ These lists were attached to the concerned draft law to be enacted for their sale. Assets included in the list in most cases were sold under the provisions of the relevant law. It is noted that for the regulation and management of state property during the period of the Republic and later that of the Monarchy, a series of laws have been adopted having as the main target the sale of these assets. The process has been going on for a long time; even during the period of the general crisis six decrees have been adopted for the sale of the properties of the state. This should be seen and treated in the context of the difficult economic situation in the country.

Conclusion:

- State owned real estate was devoted special importance throughout the governance and reign of A. Zogu. Actions related to the management and regulation of state property began in the early days of the declaration of the Albanian Republic 1925.
- State Property has not had a steady legal regulation in all historical periods, although it was often the subject to discussion and debates in the highest levels of the Albanian state.
- State property has witnessed continued illegal interference, mainly from private individuals, who have exercised its possession, or have ripped parts of the state property. These interventions have reached their peak in 1928, when private entities, bordering with state properties, interfered illegally and were settled on state owned lands.
- The legal framework developed and approved during the period of the Albanian Monarchy made a full legal regulation of state property. The Statutory Provisions on Property of the State, prevented any alienation of state real estate and any agreement with regard to them for a period longer than 20 years, except with the consent of higher legislative

¹⁷ H. Shkoza, Finances of Albania.....p.37.

bodies. Actions for the alienation of state property were always carried out with specific laws, with clearly defined procedures for the sale and administration of the income derived from it.

- A number of projects for major social economic and agrarian reforms have been implemented having as a basis the state property. Projects for the development and improvement of the capital and some other cities of the country, were conducted mainly based on the expropriation of state property. Likewise, the agrarian reform, which also had a significant impact on the country's economic transformation and the transformation of property relations, was based on a significant part on property of the state.
- Regulation of the state property was seen as an important factor in maintaining and ensuring national integrity. With regard to this, legal provisions established rigorous criteria related to the disposition in them by Albanian private entities and banned any disposal of foreign entities, except in accordance with constitutional principles and always with the permission of the highest legislative bodies

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