



SPI Project

Improving auction procedures for immovable collateral under foreclosure

Minutes

Fourth meeting

October 28, 2008—AAB premises

10:00 – 12:30

Project Objectives

1. To undertake analytical activities that would support the enactment of law amendment proposals.
2. To support the improvement of the Bailiff Office activity.
3. To improve the quality of the buildings evaluation.

Project Management Team

Project Owner (PO): Seyhan Pencapligil, General Director, BKT
Project Manager (PM): Veronika Prifti, Legal Department Manager, BKT
Deputy Project Manger (DPM): Rudina Gorishti, Legal Department Deputy Director, Bank of Albania

Attendees:

Kimmo Vikman, EURALIUS (peer-reviewer)
Odetta Hyseni, EURALIUS (observer)
Andin Jakova, BNT (member)
Andon Daka, Credins Bank (member)
Arta Taipi, UBA (member)
Ylli Kaceli, UBA (observer)
Petrit Qarri, MoJ (member)
Elona Bollano, SPI Albania Director of Analysis and Policy
Anuela Ristani, SPI Albania Director of Operations

SPI Albania Secretariat

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AGENDA

- I. Project Activity Brief
- II. Project Document on CPC PWG recommendations (Discussion and Approval)
- III. Project Document on Bailiff Improvement PWG recommendations (Discussion and Approval)
- IV. Impact Assessment Questionnaire on CPC amendment proposals (Discussion)
- V. Conclusions and distribution of tasks
- VI. Closing Remarks

I. Project Activity Brief

- As a response to the decision of the Council of Ministers to forward to the parliament legislative initiatives on contract enforcement, SPI Project Owner of the project on Auction Procedures forwarded on October 3 to SPI Committee members the up-to-date documents prepared by PWG for further actions and support. The documents under the SPI Project will be finalized by the end of October.
- SPI Committee member and AAB Chairman, Mr. Edvin Libohova, sent on October 6 the package on Auction Procedures to the Albanian Legal Parliamentary Commission to consider changes on the Draft Law on Bailiff Services Liberalization and on the Civil Procedure Code. The SPI Project Manager sent the same documents to MoJ for consideration.
- SPI Secretariat and the PMT discussed the proposals of the PWG on the CPC with Mr. Pal Metaj, Director of Foreclosure Department and Mr. Enid Minarolli, Adviser to the Minister of Justice. The representatives from MoJ agreed to include a major number of the PWG recommendations in the package to be forwarded to the Legal Parliamentary Commission
- SPI Secretariat has met with the Delegation of European Commission in Albania. As a follow up to Auction Procedures Project Owner correspondence to several institutions to map all related activities in this field, SPI Secretariat met with Mr. Aneil Sing, Head of Justice and Home Affairs Section and Ms. Ledia Muco, Economic and Trade Adviser.
- SPI Albania participated in the Parliamentary Hearings. SPI Secretariat and PMT participated in the hearing session of the Parliamentary Commission of Legal Affairs, Public Administration and Human Rights on the amendment proposals to the Civil Procedure Code. The PM presented to the Chairman, Mr. Rusmaili, and the members of the commission the Project Working Group amendment proposals and their respective arguments.

- SPI Secretariat has drafted the Project Document on CPC PWG recommendations.
- SPI Secretariat has drafted the Project Document on Bailiff Improvement PWG recommendations.
- SPI Secretariat has drafted the questionnaire for impact assessment and delivered it to the all the banks after approval by the PMT.

II. Project Document on CPC PWG recommendations (Discussion and Approval)

SPI Secretariat has drafted the project document on CPC PWG recommendation. This document represents all PWG work done so far with regards to the CPC changes. This document is structured accordingly to the EU Better Regulation approach and will be presented to the SPI Committee for endorsement.

The document is highlighting the project objectives and the importance of the PWG composition that represented all main stakeholders, giving thus more legitimacy to the project outcomes.

The Project Working Group Members, based on the draft proposal approved by the Council of Ministers in 2007, the documents prepared by SPI Secretariat, EURALIUS' recommendations, the Romanian CPC and their professional and practical experience in the foreclosure process, have discussed and agreed on 18 amendment proposals to the CPC. The purpose of these proposals is to achieve:

- fairness and equal treatment of parties during the foreclosure process;
- better use of resources and better regulated process;
- Enhanced efficiency of the enforcement system.

The document presents also the consultation process with banks and with MoJ. The financial effect of the amendment proposal will be assessed through the Impact Assessment Questionnaire.

The PWG members present in the meeting approved the document. However they recommended to SPI Secretariat to re-send the documents for the rest of the PWG to review before they are finally presented to the SPI Committee.

III. Project Document on Bailiff Improvement PWG recommendations (Discussion and Approval)

SPI Secretariat presented the project Document on Bailiff Improvement PWG recommendations for approval. The document is structured accordingly to the EU Better Regulation approach and will be presented to the SPI Committee for endorsement.

PWG recommendations refer both to the existing Public Bailiff Service and to the projected Private Bailiff Service as proposed by MoJ draft law:

- Recommendations on the Public Bailiff Service:

A. General recommendations

PWG considers that regulators should develop a more efficient legislative framework that regulates the enforcement process by:

- a. Enhancing the soundness of the legislative framework through:
 - i. revising and harmonizing the primary and secondary legislation in order to define better the procedures and the general time line of the process;
 - ii. defining more accurately the mutual obligations and responsibilities of the state institutions involved in the enforcement process (the Immovable Property Registry Office, Regional Directory of Transport, the State Police etc)
 - iii. providing an equal and fair treatment of all parties involved in the enforcement process;
- b. Rationalizing the tax and fee system in order to put in place incentives for a successful conclusion of the process;
- c. Improving the uniform law application.

B. Specific recommendations

The Bailiff Service activity should be improved through more transparent and clear internal procedures and rules, and by developing better practice by:

- a. building up strong control and supervisory structures responsible for the full compliance with the ethical, disciplinary and professional requirements;
- b. improving human resources management, with special attention to the process of recruitment, motivation, professional evaluation and reward;
- c. organizing more intensively workshops with senior experts in the field of law enforcement in order to agree on common interpretations on primary and secondary legislation;
- d. establishing long-term training strategies for the bailiff officers to enhance their level of professional expertise;
- e. building up specialized expertise by case typologies establishing a Code of Best Practices of the enforcement system (required for both private and public bailiffs);
- f. setting up a transparent and fair selection process of the appraisal experts;
- g. using more effectively the information collected by banks on debtors in order to trace the debtor or sources of debtor's income or property.

- Recommendations on the Private Bailiff Service

The largest part of the consulted stakeholders considers the establishment of the private bailiff service as premature given the state of the development of the society and institutions.

Regarding the proposed draft law, PWG recommendations are:

A. General recommendations:

- a. To better align the proposed legal initiatives to the existing legislative framework that regulates the enforcement process;
- b. To establish a sound legal structure for the private bailiff officers so that within this structure all the necessary professional expertise, logistics and financial are assured;

B. Specific recommendations:

- a. To define accurately the functional and territorial competences of the public and private bailiff offices;
- b. To design an impartial fee system to achieve a fair treatment of all parties involved in the process and to set up a level playing field for both private and public bailiff.

The PWG members present in the meeting approved the document. However as in the CPC case, they recommended to SPI Secretariat to re-send the documents for the rest of the PWG to review before they are finally presented to the SPI Committee.

IV. Impact Assessment Questionnaire on CPC amendment proposals (Discussion)

The SPI Secretariat presented the Impact Assessment Questionnaire to the PWG. The questionnaire was approved by the PMT and was sent to the banks for their feedback due to time restrictions introduced by the legislative procedures taking place for the CPC. The purpose of this survey is to assess the economic impact that these amendment proposals will have in the banking community. This Regulatory Impact Assessment (RIA) seeks to provide an estimate of the possible incremental costs and benefits generated by each individual provision, trying to identify as well the area where the major part of underlying costs and benefits will be concentrated. This will help regulators and banks in the forthcoming negotiations to better acknowledge the costs and the benefits that these amendment proposals, in individual and in aggregate level, will produce.

The PWG members analyzed some of the questions in terms time savings - how much time the proposed changes will save for the banks compared to the previous provisions. SPI Secretariat took note of the suggestions and will reflect them on the document highlighting the main findings of the survey.

V. Conclusions and distribution of tasks

- SPI Secretariat will send the Project Documents for the CPC amendments and the Bailiff Improvement PWG recommendations to the PWG members for their final approval before presenting the document to the SPI Committee.
- SPI Secretariat will collect individual contributions on the Impact assessment questionnaire, aggregate the results and prepare report on the findings. The report will be presented to the PWG during the next PWG meeting.

VI. Closing Remarks

The fifth meeting is planned to focus on appraising standards - and is preliminarily scheduled to take place in the last week of November, 2008.