

TECHNICAL NOTE

“ON INVESTMENT AND LEGAL SECURITY ON PROPERTY”

Tirana

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ABBREVIATIONS

AmCham	<i>American Chamber of Commerce</i>
ASIG	<i>National Authority for Geospatial Information</i>
CIPRO	<i>Central Immovable Property Registration Office</i>
CIPRO	<i>Central Immovable Property Registration Office</i>
DAPL	<i>Directory for Administration and Protection of Land</i>
ECHR	<i>European Court of Human Rights</i>
FIAA	<i>Foreing Investors Association in Albania</i>
GLP	<i>General Local Plan</i>
IC	<i>Investment Council</i>
IPRO	<i>Immovable Property Registration Office</i>
LAA	<i>Land Acquisition Act</i>
MSEP	<i>Minister of State for Entrepreneurship Protection</i>
NGDI	<i>National Geospatial Data Infrastructure</i>
NSDI	<i>National Strategy for Development and Integration</i>
NSED	<i>National Strategy of Economic Development</i>
SAC	<i>State Agency of Cadastre</i>
WB	<i>World Bank</i>

I. INTRODUCTION

Respecting property rights, complete and final registration of properties remain two critical challenges for the Albanian government in the framework of respecting its citizens' rights as well as in improving the investment climate in the country. A coherent, non-fragmented approach for addressing property-related issues is considered crucial for the well-functioning of the market and it is a prerequisite for investment promotion. Any progress in this area increases legal security for investors, enhances transparency, good governance and the fight against corruption and it is reflected directly in the international reports on the reforms in Albania.

Recently, there have been some legal dynamics aimed at addressing the ultimate resolution of the complex property registration issues. The country's property situation is challenging with numerous problems, ranging from inaccuracies and lack of initial registration, successive institutional failures, or even high level of corruption associated with property-related processes.

Despite the ongoing efforts to resolve property-related and property registration concerns, the situation is still far from being resolved. In many cases, lack of legal security on the property has affected the development of the agricultural sector due to fragmentation of the land, it has penalised the tourism sector due to the lack of large-scale investments, considering that some foreign investors have been forced to leave their projects in the middle and in some cases even to leave Albania. Additionally, it is evidenced a deformation in the real estate market, considering the existence of entire informal assets with no access to finance, non-taxation of immovable property, fictitious prices, and considerable unregistered agricultural lands almost out of taxation system. Property issues have driven fraud in the real estate market and have sparked social conflicts thus affecting the individual, the business as well as the state itself.

Being some of the most imminent obstacles for investments in the country and improvement of the business climate, property-related issues have been identified in almost all the topics analysed by the Secretariat and discussed by the IC, such as *Informality in the Economy*, *Investment Incentives*, *Access to Finance*, *Administrative Appeal*, *Electronic Platform on Construction Permits*, *Informality in Tourism* etc.

Presently, after the voting of the subject by the IC members, the Secretariat has collaborated with business associations, field experts, as well as with pertinent institutions which have contributed actively to the drafting of this Technical Note in order to highlight main critical property-related concerns from the business point of view and to provide suggestions for the prioritisation of interventions in coherence also with the development of the strategic sectors of the economy.

In this Technical Note, the Secretariat does take the responsibility to provide exhaustive recommendations for the final resolution of property-registration issues in the country, but only to prioritize some concrete actions that should be taken as soon as possible to put the Reform on Property in coherence with the necessity to improve investments in the country.

II. METHODOLOGY

Steps taken by the Secretariat to identify investors' challenges regarding property rights and registration procedures are as follows:

- (i) Desk-research on strategies, documents, laws and by-laws adopted over the years by the government to resolve property-related issues and analyze some of their issues from a business perspective;
- (ii) Desk-research on international reports such as *EU Progress Report 2018*, *Doing Business 2019*, *US Department of State Investment Climate Statement 2018*, etc.
- (iii) Analysis of individual businesses/business associations concerns recorded during period 2015-2019 and chronologically arranged in the Secretariat database.
- (iv) Direct consultations with representatives of Business Associations (e.g. meeting with FIAA representatives on 16 April 2019), some businesses, experts in the area and institutions which are part of the concerns and resolutions on the basis of pre-structured issues and questions prepared by the Secretariat. Contacted businesses operate mainly in the field of energy, tourism and agriculture.
- (v) A focus group meeting held at a technical level (17 May 2019) with 30 representatives from state institutions, private companies, business associations, chambers of commerce, municipalities, experts, etc. to discuss and validate preliminary findings of the Secretariat's analysis and relevant potential recommendations.
- (vi) Public consultation of SAC with businesses members of AmCham organized on 21.05.2019 with subject Institutional Reform on Property.

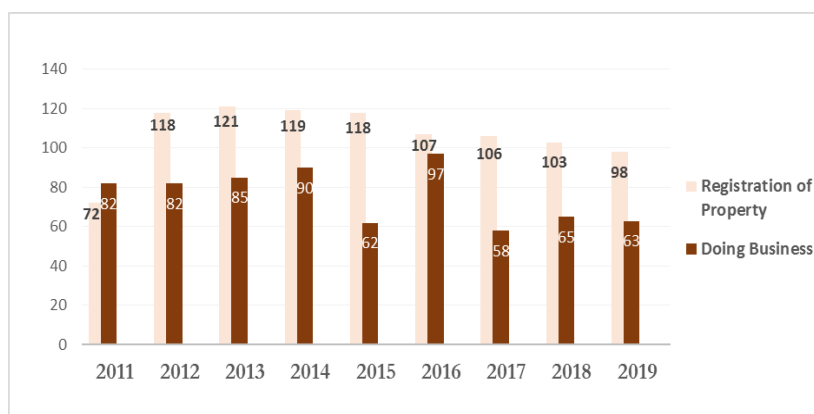
In addition, the IC Secretariat has received written comments with concrete business issues and concerns as relates to property in general and its registration in particular by AmCham, FIAA, Confindustria Albania, Association of Exporters, French-Albanian Chamber of Commerce and Industry and Tirana Chamber of Industry and Commerce.

III.CONTEXT

Registering property is one of the key elements assessed by the *DB* report in the framework of the overall assessment made by the WB for a country. This indicator examines the steps, time and cost involved in registering property, **assuming a standard (normal) case of an entrepreneur who wants to purchase land and a building that is already registered and free of a title dispute**. In addition, the indicator also measures the quality of the land administration system in five (5) dimensions: (a) reliability of infrastructure; (b) transparency of information; (c) geographic coverage; (d) land dispute resolution, and (e) equal access to property rights.

1. According to the *2019 World Bank's DB Report*, Albania performed poorly in the registering property category, ranking 98 out of 190 economies. According to this Index, it takes 19 days and 5 procedures to register property and the associated costs can reach 9.2 per cent of the total property value.

Figure 1: Ranking of Albania in “Doing Business” (2011-2018)



Source: WB DB Reports

Secretariat's Note: Property registration ranking has almost always been lower than overall country ranking in DB.

It is worthy to mention that in the last years, Albania has made several efforts to address simplification of the procedures as related to the property registration by businesses, by making the registration also available via public notaries as *one shop stop service*¹ through their access in IPRO electronic register, and “Fast Track” service² for citizens and businesses for provision of 9 registration services within 24h.

However, these improvements refer mainly to the administrative management of clear properties and to the normal scenario where the property is duly registered in the electronic system of IPRO and property title is clear. Therefore their positive impact has been limited in terms of territory and number of services offered.

The problem with the registration of properties in Albania, relates with the non-systemic initial registration of properties, lack of certainty and accuracy of such registrations, high number of disputes over property titles and failure of justice system to manage them in timely and proper manner, transitional processes on property rights over the years, and failure to finish the digitalization and mapping of properties. All the above-mentioned issues make the final registration procedures in general as cumbersome and exhaustive and lead to a firm perception of uncertainty on property rights.

2. The above issues are largely confirmed by other international reports such as US Department of State on Investment Climate for 2018 according to which: *“Property rights remain another challenge in Albania, as a clear title is difficult to obtain. Some factors include unscrupulous actors who manipulate the corrupt court system to obtain title to land not their own. Illegal construction is a major impediment to securing property titles. The legalization process to address large-scale illegal construction started in 2006, and is still underway.”*

¹ Service introduced in 2012 and made available with the Law No. 10491, dated 15.12.2011 “On Some Changes and Addenda to the Law 7829 “On Notary”

² Launched in 2018 as a pilot project through cooperation among IPRO, ADISA and Albanian Post.

3. EU Progress Report 2018 emphasizes that *“...as regards to property rights, progress has yet to be made toward improving the legal framework for registration, expropriation and compensation. The 2012-2020 strategy on property rights has yet to be updated and institutional coordination should be improved. Shortcomings in the rule of law continued to hamper the business environment, although the justice reform advanced. This is causing tax revenue losses, lack of labour protection and unfair competition among firms. Ineffective contract enforcement, uncertain property rights and the prevalence of corruption are major concerns repeatedly expressed by businesses.”*

Additionally, it underlines the need for Albania to: *“Further consolidate the entrenchment of property rights, advance the revision of property deeds, and make the necessary progress on the digitalising and mapping of property.”*

4. The public document, which has consolidated information on foreign funded-projects in support of strategic objectives on property, is the *“Cross-cutting Strategy in the Field of Property Rights 2012-2020”* (hereafter referred to as “Strategy”). The main projects that deal with ownership issues are Land Administration and Management Project (LAMP) launched in 2007, projects of CARDS, FAO, OSCE, which aim to address among others:
 - strengthening security on the property, improving urban planning, control, management and land development by streamlining data administered by IPRO;
 - initial systematic registration of immovable property, return compensation and legalization;
 - Improving the management of communal forests and pastures and clarifying the surface of the forest and pasture fund and its registration in the digitalized (GIS) cadastre.

IV. LEGAL AND INSTITUTIONAL FRAMEWORK

4.1 STRATEGIES AND LAWS

For purposes of this analysis, below are briefly mentioned only the basic documents which tackle problems in the area of property rights and its registration and the steps envisaged to address them.

From a legislative point of view, property-related issues have been addressed by specific, detailed and sectoral laws that have not been effective. This is related to the frequent changes of these laws and its applicable secondary legislation, which have impacted on the creation of non-uniformity of administrative and judicial practices. *For example, there are around 15 sectoral laws that deal with property rights, each of which has established special procedures and sectoral state bodies, thus fragmenting the issues and consequently their resolution. The above finding is also confirmed by reputable reports on investment climate according to which property laws have developed in a piecemeal and uncoordinated way. The*

reform in the sector has not achieved the consolidation of property rights and the elimination of legal uncertainties³. The following documents are herein considered in a summarized version:

1. Economic Reform Program 2018-2020 (ERP)

In the last ERP report, it is noted that issues related to property rights and land registration *continue to affect* the competitiveness of the Albanian economy. This is a cross-cutting issue affecting infrastructure and industrial development, agriculture, the property market and, importantly, access to finance. Progress in establishing a comprehensive cadastre has been slow. The ERP maintains a narrative of the issue, prioritizing only agricultural land. There has been some facilitation of the registration of assets to simplify the registration of property, while no progress has been made on setting up the e-cadastre.

2. National Strategy for Development and Integration 2014-2020 (NSDI)

In the meantime, NSDI underlines the concrete actions to be followed:

1. Addressing inconsistencies and gaps in the legal framework for property rights to enable title registration, legalization, restitution and compensation to proceed quickly and efficiently.
2. Completing an initial systematic national registration and establishing a consolidated electronic public registry of immovable properties.
3. Completing the physical restitution of property (including the transfer of state property to applicant) where this is feasible.
4. Creating a compensation scheme that is considered fair and consensual by all parties, that is fiscally affordable, that delivers payments on a timely basis and for which beneficiaries of expropriation assume a fair share of the cost.
5. Resolving the status of informal properties that currently remain outside the legalization process.

3. Intersectoral Strategy “Reform on Property Rights 2012-2020” and its Action Plan⁴.

The strategy has acknowledged that property issues have been tackled in a fragmented way, and the respective laws have not provided exhaustive or comprehensive solutions. The strategy identifies key issues as well as the following strategic objectives:

1. 100% completion of the initial systematic national registration by 2013, establishing a public electronic register of consolidated immovable properties and improvement of IPRO functions.
2. 100% completion of the interim national level processes; the recognition of the ownership of expropriated subjects within 2014, the release of ex-owners' houses within 2017, the legalization of informal constructions within 2013, as well as the verification of property titles within 2013.

³ US Department of State- Bureau of Economic and Business Affairs, *Investment Climate Statements for 2018*

⁴ Strategy approved with DCM No. 405 dated 27.06.2012.

3. Creating an effective single compensation scheme within 2013 and starting of its implementation based on a consolidated physical and financial fund for expropriated entities through the reform of the real estate valuation method according to the market value and the process of inventory of state property.
4. Strengthen the system of property rights and their protection until execution according to the standards of the ECHR in accordance with the Crosscutting Strategy of Justice in order to increase the security of property acquired by law and investment on it, as well as the dynamics of the land market by 2020.
5. Modernization and improvement of information through the digitalization of 100% systems of information on real estate, including maps, according to the standards of the INSPIRE directive, in order to benefit from the capacities of the NGDI until 2020.

The above strategic objectives detailed with concrete measures and specific timeframes result in most of the cases as unfulfilled and already expired. Considering the new legal initiatives that have a new vision on the integrated solutions for property issues in the country and on the basis of new time-terms, the cross-cutting strategy can now be considered an old document which cannot be referred to for the implementation.

4. Law No.111/2018 “On Cadastre”⁵- its novelties

The purpose of this law is to guarantee an accurate and reliable register of immovable properties, as the main elements that have been problematic for the country considering also the transitory processes (legalization, urbanization, agricultural land registration, etc.) which have been continuous, dynamic and without a systemic cohesion on property-related rights on immovable properties. Unlike other countries that have dealt with and facing such challenges earlier and sooner, in Albania *transitory processes* determine the consolidated immovable property registration and consequently the quality and reliability of the registry⁶.

With the approval of Law no. 111/2018 and its completion with by-laws, it has been established the basis for the online digital cadastre for access and use by physical and legal persons, domestic and foreign, to enable the real-time verification of the legal status of an immovable property. Specifically, Article 28 paragraph 3 of the Law provides that: “*Legal entities/individuals who have the right to have access to the electronic system or to the single multifunctional government portal can obtain electronic property ownership extracts/ documents directly after having obtained the consent of the subjects, who appear as owners of immovable property.*” It is not clear why the law provides for prior consent in order to access data from the digital cadastre even for state properties, which in the end are public property and do not contain personal data.

Law no.111/2018, under the article 5/b, provides that public service on immovable properties and related procedures is run, among other, on the basis of: “*b) Legal security principle: Respect of the previously acquired rights and legitimate expectations of the entities of the rights.*” This provision, although not explicitly, refers to legal security that should be guaranteed to

⁵ Law No.111/2018 has substituted Law No. 33/2012 “For Registration of Immovable Properties” via which IPPRO was transformed as self-financed institution, set rules for the improvement and updating of data recorded in the register, as well as establish the grounds for the provision of online service as “One-Stop Shop” principle.

⁶ For purposes of this Technical Note, Serbia and North Macedonia cases have been explored.

property owners even in the case of damages caused by NSC as a result of the illegal activity of its employees⁷.

With regard to this aspect, as in the foregoing *law no. 33/2012 "On Immovable Property Registration" (amended)* is foreseen the establishment of the Compensation Fund as a guarantee for covering the damages caused by the cadastral activity.

5. Draft-law "On the finalization of the transitory processes on property"

In comparison to law no.111/2018 "On cadastre", the draft law *"On the finalization of the transitory processes on property"* ("the Draft Law") has a temporary character, until its purpose is achieved. The draft law sets out the rules, criteria and conditions for the finalization of administrative processes and the final registration of property titles on immovable properties, aiming to close the long transition period of resolution property issues for state or private properties. With its approval into law, 7 current laws will be abolished, avoiding as such the overlapping of the rules on property rights and their registration.

Among other, the most important transitory processes are those related to: a) the legitimacy of ownership titles given under the legal and sub-legal legislation for agricultural land; b) completion of the process of inventorying of immovable property of central and local government; c) regulating ownership relations in the territories designated as priority areas for tourism development; d) the legitimization and registration of illegal constructions.

From a preliminary assessment, the consolidation of property-related relations on immovable property and the achievement of legal security in these relationships, including the completion of the above-mentioned transitory processes, is expected to take up to 10 years⁸.

Both documents were foreseen to be discussed, examined and approved in parallel. Currently, only Law No. 11/20189 has been approved with some improvements that followed the decree of the President of the Republic returning the draft for re-assessment to the Albanian Assembly, while the draft law "On the finalization of the transitory processes on property" is in the process of re-evaluation for the facilitation and unification of procedures related to the registration of property titles¹⁰.

4.2 INSTITUTIONAL DYNAMICS

⁷ Law No.33/2012 "On Immovable Property Registration" (as amended) has been more concrete with regard to the provision of rates for reimbursement of damages caused by the activity of the immovable property registration office. Notwithstanding, entities that suffer damage from cadastral activity may override the principle of legal security guaranteed by Law 111/2019 in Article 5/ b by referring to the general provisions of the Civil Code and Special Law no. 8510 dated 15.07.1999 which deals with the regulation of the extra-contractual liability of the state administration bodies (eg NAC) which may arise as a consequence of their illegal administrative activity.

⁸ Rational of the draft-law "On the finalization of the transitory processes on property "

⁹ Approved on 07.02.2019

¹⁰ Report of the Commission on Legal Affairs, Public Administration and Human Rights".

Agencies operating over property rights up to the moment of entry into force of Law No.111/2018 were 8. The high number of Agencies and the overall regulatory framework has created overlapping processes related to property rights¹¹. *In order to simplify it, and in particular procedures related to immovable property registration*, the State Agency of Cadastre (SAC) has recently been established, which forms the basis for the reform in the area of property.

Establishing of the State Agency of Cadastre (SAC)

Law no.111/2018 “On Cadastre” established the basis of SAC as the responsible institution for the procedures of immovable properties registration, and for the performing of the transitory processes on property¹².

SAC, as the law enforcement responsible institution for all the procedures under this law, centralizes the competences and functions of 3 institutions operating in the field of property, namely: 1) Public Property Inventory and Transfer Agency (AITPP); 2) Agency for Legalization, Urbanization and Integration of Informal Zones/Buildings (ALUIZNI) and 3) Immoveable Property Registration Office (IPRO)¹³.

From the point of view of property reform, the creation of a single institution SAC aims to improve, harmonize and unify the loopholes and procedures leading to property registration, from the rules on cadastre administration, the improvement of the cadastral mapping system and to those that relate to the way of correcting inaccuracies and material errors, functions which in other models in the region are also centralized in the counterpart institutions of SAC¹⁴.

SAC, upon its initiative primarily or at the request of interested parties, should improve the boundaries of real estate surfaces, cadastral maps and their geographic position with a view to ensuring compliance between the actual situation on the ground and the initial registration in the IPRO¹⁵.

Efficiency of SAC as an institution that unifies procedures for the registration of property rights remains to be seen in the future, considering that the legal and sub-legal framework on which the SAC is organized and functions is very young, still incomplete and the draft law "On the finalization of the transitory processes on property" is not yet approved and subject to re-assessment. Therefore, the finalization of the institutional structure and by-laws promptly is a necessity.

¹¹ *Cross-cutting Strategy in the Field of Property Rights 2012-2020, page.5.*

¹² *Law No.111/2018 and the Draft Law "On the finalization of the transitory processes on property" are part of the package on Property Reform. Compare to law no.111/2018 "On cadastre", the draft law "On the finalization of the transitory processes on property" ("the Draft Law") has a temporary character, until its purpose is achieved. The draft law "On the Completion of Transitional Ownership Processes in the Republic of Albania" defines the rules, criteria and conditions for the completion of administrative processes and the final registration of property titles for immovable property, aiming to end a long transition period for solving property issues for state or private immovable property. Both documents were foreseen to be discussed, examined and approved in parallel. Currently, only Law No. 11/2018 has been approved with some improvements that followed the decree of the President of the Republic for his return to the Albanian Parliament, while the draft law "On the completion of transitional ownership processes" is in the process of reappraisal for the facilitation and unification of procedures related to the registration of property titles. (Report of the Commission on Legal Affairs, Public Administration and Human Rights).*

¹³ *SAC is now organised as an institution under the Prime Minister's Office dbe not as IPRO which was under the Ministry of Justice.*

¹⁴ *Immoveable Properties Cadastre in Serbia and Immoveable Properties Cadastre in Northen Macedonis are organised on the basis of Law No. 55 dated 16.04.2013 "On Immoveable Properties Cadastre".*

¹⁵ *Articles 35, 36 and 37 of the Law No. Nr.111/2018 "On Cadastre"*

V. FINDINGS

The findings below, are the result of the analysis of comments sent to the Secretariat by business associations, discussions and preliminary consultations with interest groups, business associations and chambers of commerce, businesses, experts as well as public reports according to the methodology as above presented.

Findings are of a different nature, such as: lack of systematic initial registration of private and state property; inappropriate property maps and overlaps; incomplete electronic register on property and limited services; incoherence over years among transitory processes on property, their timelines for completion and property registration; lack of legal security for investors and banking system due to unclear/inaccurate documents on property; informality in the real estate market also due to non-registration of property units; unregistered agricultural land at a large extent and outside the formal market real estate etc.

They are profiled and prioritized as per business point of view and the costs they bear, where the common denominator is the lack of legal security for immovable property transactions. The following findings are grouped in 5 pillars as below:

1. Despite efforts undertaken over the years through legal and institutional amendments, national and international projects, still until 2019 there is no unique complete and consolidated register of immovable properties, their types as well as property rights over them. Its absence has led to legal insecurity over property rights¹⁶, for all entities and in particular for investors.

The lack of a full registry on immovable properties is one of the fundamental problems recognized as such by all governments and never fully addressed. Despite our efforts¹⁷, to enable a debate on the basis of an up-to-date information, we could not identify for the purpose of this analysis a public document with complete and uncontested information about the progress of the property registration process in Albania and the real inventory e.g. data on the number of cadastral zones that have passed the initial registration process; the number of properties registered and those in process or unregistered, the exact number of land, agricultural or state property properties. In the following, there are some rough data that were made available to the Secretariat by stakeholders¹⁸ and later confirmed by SAC during the consultation phase in the framework of this Technical Note:

- 12% of the Cadastral Zones has not conducted the Initial Registration - translated into 10% of national properties;
- 95% of the registered zones date back to 1992-1995 – These zones have not undergone any update and improvement for over 20 years;
- 75% of registered zones have totally archived information in manual mode, with poor and inaccurate recordings;
- 80% of the rural properties are not equipped with Ownership Certificate.

¹⁶In the rationale of Law No.111/2018 it is underlined that the intended effects of the law are to guarantee an accurate and reliable register of immovable properties.

¹⁷ Therefore, the Secretariat has partially made reference to the data presented in the Cross-cutting Strategy “Property Rights Reform 2012-2020” as well as data obtained during consultation with institutions or associations, while other data are in the most of the cases pertinent to 2011-2012.

¹⁸ Not officially published

The initial full and systematic registration of assets, although a process that should have been completed by 2013,¹⁹ remains an open process. From consultations with the business and additional analysis, it came out that the lack of a full registry on immovable properties is related to the following factors:

a) *The complicated legislation on different property titles has created an overlapping of procedures.* For the acquisition of property titles on immovable property, the legislation provides the approach, forms, and various institutions. Few of them are mentioned here below:

- The Civil Code of the Republic of Albania approved by Law No. 7850, dated 29.7.1994²⁰;
- Law No.133 / 2015 “On tackling Property and the Completion of the Property Compensation Process”;
- Law no. 7501, dated 19.7.1991 “On the Land”;
- Law no. 9482, dated 03.04.2006 “On the legalization, urbanization and integration of illegal construction”.

These laws have aimed at resolving property-related issues independently by not integrating solutions, but by treating them as transitory processes. It is difficult to find clear and exhaustive provisions on how to resolve conflicts between ownership titles in the legal and sub-legal framework, which means has priority over the others. In most cases, such issues have ended up for resolution under the judicial jurisdiction, which instead of being part of the solution, it has mostly been part of the problem. The recent legal initiatives, and more specifically the draft-law “On the finalization of transitory processes on property” and *Law 111/2018* are expected to satisfactorily address some of these issues.

b) *Institutional fragmented regulatory structure has affected the non-systematic handling of property titles and their failure to register them appropriately.* The large number of Agencies that have been dealing with the problems over the years has produced more insecurity than legal security.

The various state authorities that have the right to grant rights to state-owned property are not coordinated with one another and in some cases, the same land granted to investors is also given to agricultural households by other state authorities. This creates major damages to foreign investors who have to follow up for years the administrative and judicial procedures for the implementation and protection of their rights that should have been provided by the Government. This not only creates costs for investors but also does not allow them to invest in these properties and therefore create the risk of investing and/or damaging the state for damages.

Source: Concern raised by an investor, member of FIAA

c) *These institutions have operated only within a narrow framework of competencies, with separate and non-aligned methodologies, often producing decisions that are in conflict with one another.* Coordinative and mapping systems have been constantly different, in different institutions and incoherent with the technological solutions offered today. ALUIZNI used the maps from the satellite imaging while IPRO old and not accurate maps. As a result, often there are discrepancies among the position of properties in IPRO and properties configuration in the grounds.

¹⁹ Refer to the Action Plan - Crosscutting Strategy “Reform of the Property Rights Area 2012-2020”.

²⁰ Amended by law no.8536, dated 18.10.1999 and no.8781, dated 3.5.2001

Such a problem is sometimes found by investors who are interested in investing. In a case presented to the Secretariat, a business had no legal security for the purchase of immovable property in the Tirana-Durres highway. From the verifications carried out by the investor himself, there was a lack of clarity on the factual situation on the ground with that of the legal status that was shown in the IPRO maps, as far as the land surface was concerned. In the certificate of ownership, it was recorded a surface 13,000 m² of land, while the actual measurements resulted in 10800 m². The difference of 2200 m² was assumed to have been expropriated by the state for the construction of the secondary road, while the institutions themselves had not performed the respective update. Moreover, the status of the property was unclear with regard to displacements and overlappings.

Source: Case brought to the Secretariat by CCI France-Albania

The establishing of SAC as a merge of several institutions with sufficient financial and human resources is expected to solve the institutional coordination issues missing to date.

- d) *Transactions after initial registration are reflected in the public register (property extract and indicative map) in the paper copy and only in a few cases also digitally.* The digitalisation process of the map and indicative maps of the initial property registration started in 2011-2012 for Durrës and Tirana and then it spread to other regions. Currently, it is being carried out via electronic system and non-electronic system depending on the progress of the process. The updating of the actions made on properties is still performed manually. Maps on paper are of poor quality, mainly in cadastral zones with a high volume of transactions. From the Secretariat's research, this process seems to not have progressed. Public information about the status of this process is missing. The preparation of the full immovable property register and its digitalization is conditioned by the digitalisation of all systems that supply it as well as proactive actions of institutions such as ALUIZNI, ATP, notaries, bailiffs, courts etc.

Law No.111/2018 in its Article 24 has made a qualitative step toward the preparation of the national digital cadastre by providing that: "Acts of courts, notaries, bailiffs and other state organs, which determine winning, recognition, change, ceasing of a property right, or declaring invalid legal or other acts of transfer of ownership previously registered, must be registered. The bodies declare the abovementioned acts in the national digital cadastre, at the time of their formalization, through the access provided by the SAC. In addition to electronic declaring, the above bodies send a written copy of these acts to the local directorate of SAC within 10 days from the date of their formalization."

- e) *Failure to complete the initial registration impedes the digitalization of complete data on immovable properties and consequently its online access by interested parties (owners, domestic and foreign investors, institutes, banks etc.).* This issue was raised in several cases from companies and business associations.

From the experience of our members, even when the IPRO claims that the initial registration was completed, this has been problematic or incomplete. Thus, for the purpose of initial registration, the property was registered in the name of the builder, but the transfer of ownership performed either by the builder or the new owner, based on the mortgage documents and duly deposited at IPRO, were not reflected in the IPRO register. As long as the acts that are already recorded in the IPRO and

mortgage documents are not reflected in the immovable property register, it means that there is no full registration and each owner should spend time and money with IPRO to finalize the procedure that the IPRO should have done before.

Source: Case brought to the Secretariat by AmCham

Based on DB 2019 Findings on property registration, the progress is slow.²¹

Meanwhile, the digitalisation of immovable properties registration system should provide a complete system for single application from different sources of information, data processing during initial registration as well as in reflecting subsequent transactions (archive, immovable property extract and registration map, both in paper and digital format). Finalization process of improving the digital data on immovable properties/creation of the electronic registry is considered as a necessary measure in the context of improving the DB²² indicators with regard to *property registration*.

Currently, the electronic part of the immovable property register is not effective and accessible to third parties (except notaries), while during the Secretariat consultation meetings, concerns were raised about the physical integrity of the electronic system due to unauthorized actions that might be performed on the system. This service is deemed to be effective based on the provision of Article 28/b of Law No.111/2018²³.

2. Although agriculture is considered as a strategic sector with untapped potential, the agriculture properties are largely non-registered. Non-registration has prevented the introduction of agricultural land into civil circulation, access to finance and support programs and its consolidation in the function of important investments.

a) Law no. 7501, dated 19.7.1991 "On Land" and law no. 8053, dated 21.12.1995 "On the transfer of ownership of agricultural land without compensation"²⁴ was implemented through unwise thinking and in the absence of raised institutions being accompanied also with some problems that still exist today:

²¹ In DB 2019 to all the following questions the answer was "no".

1. Are all privately held land plots in the economy formally registered at the IPRO?
2. Are all privately held land plots in the largest business city formally registered at the IPRO?
3. Are all privately held land plots in the economy mapped?
4. Are all privately held land plots in the largest city mapped?

²² DCM no. 591 dated 10.09.2014 and DCM no. 445 dated 15.06.2006 "On the adoption of the Action Plan for Improving and Monitoring the "Doing Business" Indicators "

²³ Legal/natural persona, local/foreign legal entities, which have the right to have access to the electronic system or to the single multifunctional government portal, can obtain electronic extract/electronic documents on property directly after having obtained the consent of the entities that appear registered as owners of the immovable property.

²⁴ By means of these laws, ownership of agricultural land was granted without remuneration for the purpose of exploitation only for agricultural purposes, maintain and increase productive capacity, as well as arranging and construction of works to protect it. Beneficiaries were agricultural households or individuals - members of the agricultural cooperative or resident in the cooperative villages as well as agricultural households of former agricultural enterprise employees.

- a) unlawful actions in the awarding of title to agricultural lands, such as lands released for ownership, which were not always recorded in the cadastre as "agricultural land" (especially after 2000 and presently), as well as entities treated with land, which have not always been entities recognized by law.
- b) fragmentation of agricultural land, significantly affecting productivity because of misuse, not as per its natural function ²⁵.
- c) overlapping between Land Acquisition Acts (LAAs) and property restitution and compensation decisions especially for lands on the coast.

Currently, it is estimated that about 450,000 agricultural households or individuals have received ownership titles - LAAs, where it comes out that:

- a) only 250,000 of them are registered in registers of immovable properties, while the rest is unregistered;*
- b) there are a large number of LAAs which are issued with substantial errors (residence, incorrect signatures, stamps) which can not be effectively registered in the registers of immovable properties, sometimes for legal reasons and sometimes due to the lack of coordination between the Municipalities and the IPRO and the non-registration of registration practices.*

The Secretariat was acquainted with concrete cases of non-registration by IPRO of LAAs due to the inaccuracies that relate to the time when LAAs were issued and not the fault of the agricultural households holding these property titles. Specifically, in a case affecting about 100 agricultural households, non-registration of LAAs in the registers of immovable properties was made with the claim that the residents were not resident in the village on 1 August 1991. Meanwhile, although it is easy to prove that these families are even today part of the administrative unit outside the urban area and some members of these families still receive pensions as members of the former agricultural cooperative, LAA registration has again been suspended. In addition, it is claimed that the standard applied to the same cases in different rural areas is different among IPROs.

Source: Consultation of the Secretariat with Municipalities

- b) *A significant part of the farmers which are subject to the provisions to Law no. 7501 and actual users (about 20,000) for agricultural purposes were not equipped with LAA. For this purpose, Law No.171/ 2014²⁶ created the necessary legal basis for obtaining LAA via temporary procedures to be followed by the Municipalities and then their registration in the IPRO. This process, which was supposed to be closed by 30 June 30 2016, has been postponed several times, although it does not bear procedural costs. The latest deadline for these entities to be equipped with LAA is 31 December 2019. According to data as of 31 December 2018, around 7,000 LAAs were distributed while around 11,000 others remain in the process while in the meantime public and complete records for this process are missing. The progress of the process depends on the efficiency of the Municipal Procedures in finding actual users as well as on the farmer's own interest to initiate the process. In some cases, the process has been suspended by the Government itself.*

²⁵ Cross-cutting Strategy in the Field of Property Rights 2012-2020

²⁶ Law no. 171/2014 "On the Completion of Legal Procedures for the Transfer of Agricultural Land to Former Agricultural Enterprises Owned by the Beneficiaries".

“DCM no.138 dated 23.02.2018 “On the temporary suspension of the procedures for the transfer of ownership of agricultural land beneficiaries of former agricultural enterprises and the registration of land acquisition acts in the area of importance to the Fund of Strategic Investment Support.” DCM temporarily suspends the administrative procedure that can be performed by IPRO for assets located in the areas included in the map attached to this DCM. This constitutes a restriction in the rights of the owner, a restriction that under the Constitution can only be done by law and not by the DCM. The suspension continues as long as the IPRO estimates that the strategic investment fund may be ready in order to revoke this suspension. What are the government's intentions about this process?”

Source: AmCHam

Based on the above, we can conclude that the frequent extension of the legal deadline and/or the non-finalization of these transitional processes in relation to the legality of ownership titles granted under the legal and sub legal acts on agricultural land, delays the full registration of agricultural land and consequently their inclusion in transactions which would pave the way for land consolidation and the creation of productive agricultural farms.

3. *The lack of a complete inventory of state property at local and central-level government and the failure to register them in the register of immovable properties as a concern of the State itself has violated legal security for investors.*

State immovable properties of public or non-public nature, are regulated and administrated in accordance with Law no. 8743 dated 22.01.2001 “On State Immovable Properties”²⁷ and Law no. 8744 dated 22.01.2001 “On the Transfer of the State Immovable Properties to Local Government Units.”²⁸ These laws specifically define the procedures and applicable deadlines to the preparation of the inventory of all public properties, their identification and registration on behalf of the state with the status of the owner/administrator²⁹.

Despite the above, based on the Secretariat’s verifications, as well as on the basis of the consultation process and confirmations from the institutions involved in this process, it comes out that:

- a) *The inventory process of state property and the transfer process have not yet been completed, while there is no complete and systematic database*³⁰.

²⁷ Amended 1 time with Law No. 9558, dated 08.06.2006.

²⁸ Amended 2 times with Law, No.9561, dated 12.06.2006 and Law No. 9797 dated 23.07.2007.

²⁹ In Law no. 8743 it was foreseen a deadline of 12 months from the entry into force of the law within which the Council of Ministers approved the inventory of immovable property, while in Law 8744 it was envisaged that the transfer of immovable property would be completed within 24 months after the entry of in effect. This framework has been supplemented by a series of other sub legal acts which have detailed deadlines and special rules for the categories of immovable property of the State.

³⁰ Referring to the 2012 Strategy, 363 decisions of the Council of Ministers have been adopted for the approval of the list of inventories of local government units, 220 decisions of the Council of Ministers for approval of the preliminary list for transfers in ownership or use of local government units, and 120 decisions of the Council of Ministers to approve the final list of properties that are in use or owned.

Delays have been noted by the local government units in submitting the necessary documentation for the continuation of the transfer procedures, creating considerable vacuum from the first phase till the end of the procedure for property transfer. Borders between local government units, especially in areas where their administrative border, is in forest areas has hindered the inventory process and then the registration process. This issue became more serious after the territorial reform which reconfigured the local government units and their subordinate administrative units.

- b) *Even after the release of the DCMs for the transfer of immovable properties under the ownership or administration of local government units, the latter ones, in many cases do not apply for their registration in the immovable properties offices.*

This is a confirmed issue for almost all local government units. For example, the Municipality of Berat from about 900 of its assets has registered in immovable properties register about 60 of them. The Secretariat in the absence of data and public statistics did not make to bring a full picture of all local government units. In some cases, Municipalities do not prepare and/or transmit geographic information, together with the act of obtaining a title for registration at the immovable property registration offices. The reasons for these inactions relate to:

- their inability to prepare relevant documentation due to the lack of licensed topographers in the territory under their jurisdiction;
- limited budgets available to carry out application and payment of relevant fees at IPROs;
- lack of interest in the development of these assets, which are largely degraded and there is no economic interest by the private actors.

There are cases where local government units are not aware of the respective DCMs while the property transfer process is not accompanied by institutional coordination that enables real-time registration and de-registration processes of these assets in the inventories of both state institutions and local government units.

In practice, there are cases, as in the case of development of strategic projects-concession contracts, when local government units have requested lease rights over assets that were previously transferred to them via DCM, but which because of their omission were not registered in immovable properties registration offices. Meanwhile, the Company paid the lease regularly to the contractor-Ministry. In order to avoid delays, blocking of works and other costs associated with them until the clearance of the case, the subject paid the lease for the land used twice, once to the Ministry and once to the local unit.

Source: Consultation of the Secretariat with businesses

- c) *Non-fully inventoried pasture forestry fund³¹ has created concerns in practice especially for the implementation of small HPP investments.*

In 2008, in the framework of decentralization policies, over 50% of the forest and pasture fund was transferred to the ownership of commune³². The process has been

³¹ A concern raised by small HPP investors which has been re-affirmed in other meetings of the Secretariat as well as in the Strategy.

³² Another part was transferred to Ministry of Environment.

accompanied with the overlapping of borders and numerous fragmentations of property, detached from one another, which makes it difficult to acknowledge and manage this fund. For the local government units and the community, the functions of the transferred property are unclear. Among the main problems were the dividing boundaries between local government units, the overlapping of property titles, changes to the destination for land usage compared with the initial inventory of the former General Directorate of Forests and Pastures of 2004. No registration of assets has been made yet under the cadastral classification of "forest" and "pasture" at IPROs and as an obstacle it is claimed the submission of the maps at LIPROs at the required scale, generally 1:2500, because in the breeding and inventory plans they are at the scale of 1:10000 or 1:25000.

From the above analysis it can be concluded that: The lack of inventory processes and/or transfer of state property (estimated 163,100 properties to be transferred) and their high level of non-registration (estimated about 233,000 state properties to be registered), the status of these assets remains unclear and uncertain for the investors, which entity is the owner or administrator, or which body has legally the title to be the owner of this category of property. Failure to register these assets in public registers has also been used to issue LAAs in violation of the law.

The draft law "On the Completion of Transitional Property Processes," in articles 29 and successive has addressed the above issues till a final solution conditioned by the proactive role of local government units, their budget capacities allocated for this purpose, as well as the willingness to fulfill their legal obligation that *within 18 months from the entry into force of the law to complete the full updating of mapped properties and to be transferred in their favor.*

In Article 38, guarantees have been provisioned to state institutions and local government units to enable initial registration of state property at SAC with reduced service fees. While for properties registered before the entry into force of the law, which update is carried out by the institutions and local government units, no fee will be paid.

4. **Concerns regarding proper property registration causing legal insecurity for the investors³³.**

a) *The state property given to investors in use, by concession or as a state contribution in the form of joint ventures, is often not registered at the IPRO and therefore virtually no rights to use or any other factual rights can be created and recorded by investors on such unregistered property. This creates causes impediments to the investors in obtaining construction permits or in the registering of the developed property on the unregistered state land and also constitutes an obstacle to access to finance. Consequences are endangering investments by becoming the source of damages to the investors and the state itself.*

Source: Consultation from the Secretariat with businesses and FIAA's experts

³³ The findings in this section have been highlighted during the consultation meetings with foreign and domestic businesses, FIAA and its members, experts, lawyers, representatives of private companies.

- b) *In some cases for investors who have entered into 1 Euro lease contracts for state properties, based on DCM No. 54 dated 05.02.2014 "On the definition of the criteria, procedure and lease method, emphyteusis or other contracts for state property", it has been impossible to register the notarial lease contract at IPRO.*

IPRO makes the allegation that the leasing body had not specified the number of properties, or it did not map the object on the indicative map and did not associate to the contract the property extract and indicative map. The situation remains persisting as long as there is no institutional coordination between state institutions themselves. A consistent solution would be the initial registration of state-owned assets according to the requirements of registration offices and then proceeding with lease contracts with investors. However, in a different optic, this would be a lengthy process that would limit the leasing of these assets to the private sector for economic purposes, which activities generate employment, tax revenues, and the improvement of the assets themselves.

- c) *State institutions are not always accountable for the documents they issue or the agreement they sign with investors in various areas by unjustly positioning investors against third parties.*

Cases have been identified that even when the state has guaranteed the investor for the non-existence of mortgages/pledges on the leased immovable property for development purposes in the area of energy or agriculture through concession contracts, the investor faced with claimants from alleged owners equipped afterwards with LAA (there is a reasonable suspicion that LAAs have been illegally issued) during the project development. Although the concession contract clearly states the mutual obligations of the parties by ensuring that the leased property to the investor is a state property, investors are again obliged to pursue the administrative and judicial institutional saga (though they are only the lessee party) and do not have the responsibility with respect to immovable property taken into use.

Source: Assertion from the groups of interest during consultation phase

In one case, the private company (investor) had legally purchased from the State in 2007 a land where an object would be built associated with respective investments. The Albanian state had provided the following guarantees: the land is free from collateral, mortgages, impediments and/or third party rights of any kind; Property is free from any liability of any kind and is not leased, not used or is not occupied for any reason by third parties. The State had also guaranteed to hold sole and exclusive responsibility with respect to any claims that may be made by any person and/or entity on the title, possession and use of the site even after the sale, for whatever reason. Despite these guarantees, a third party has made allegations about this transaction since 2007, sending the case even to court. The litigation continues for years while the investor is considering to sue the state for all the damages he has suffered.

Source: Case submitted to the Secretariat from Confindustria Albania

Such situations expose the state to investors, undermine the legal security of the parties and the credibility of the institutions, but also damage the state budget that must pay the damage caused by the failure to comply with the contractual terms and eventually by the unilateral termination of the contract in favour of the concessionaire firm.

- d) *Enforcement of sanctions against concession companies for delays in the registration of concession contracts in immovable properties registration offices and non-coordination of state institutions.*

More specifically, a contract entered between the State (Ministry of Industry and Energy and the former Ministry of Economy) and the private company (the Concessionaire). The object of the contract is to grant a ROT (rehabilitation - operation - transfer) concession type of a series of small local HPPs, mostly of low

power, for the purpose of their rehabilitation, empowerment, and operation while at the end of the concession period their return to the Albanian state. The concessionaire is sanctioned with a fine for non-registration of the Concession Contract by the IPRO. Although it has been proven that the proceedings have started in time and that the CIPRO gave right to the concessionaire's concern, the IPRO decided to apply the fine, requesting the filing of the technical-legal documentation which is actually not possessed in fact by the Concessionaire, but by MEI. Only with the intervention of the latter one it, it appears to have been decided on the further extension of procedures for the registration of this property which is not owned by the contractor, but the state itself. In addition, the bank accounts of the concession company were blocked because of a respective order by the Municipality due to the obligations related to the property, currently unregistered. The concessionaire is in difficulty as it can not operate in compliance with the ROT Concession Contract, thus affecting the exercise of the concessionary right to carry out maintenance work on these energy works, which in the end are owned by the Albanian State.

Source: Case submitted to the Secretariat by Confindustria Albania

e) *The costs of transitory processes on the property registration, due to the country specifics, as a threat for sustainable investments*³⁴

- Restitution and Compensation of Properties to Former Owners started as a process in 1993, after the distribution of LAA's which had begun pursuant to Law no. 7501. This caused numerous cases of property disputes over agricultural land distributed according to law no. 7501 and law no. 133/2015 "On the Tackling of Property and the Completion of the Property Compensation Process". As for the same property for which an LAA was issued to an agricultural family, it was subsequently given the decision to return the property to the former owner, without providing clear rules on the priority between the property titles.
- Legalization of informal constructions, considered as a transitory and temporary process started in 2006, is still ongoing. It is estimated that up to now 152,000 objects have been legalized, while 75,000 remains legalized, while the registration process in the immovable property registers will still take time. Certificate of legalization as property title has priority over LAA and decisions on property restitution. Regular legalizations make an investor feel insecure as long as these procedures continue.

The above processes, until their closure, remain elements of insecurity for domestic and foreign investors, especially for projects that require considerable land and forest (energy/agriculture investments etc.)

VI. OTHER

1. *Special state protection and investments*

Amendments during 2010, to the law no. 7764 dated 02.11.1993 "On Foreign Investments"³⁵ provided for the conditions and procedures for granting special state protection. This

³⁴ The Secretariat has not analysed in details the transitory processes as not being the direct subject of this Technical Note.

³⁵ Amendments with the Law No.10316 date 16.09.2010

type of protection was initially foreseen for foreign investments in general under a special procedure and then for strategic investors³⁶ without any prior condition in cases where due to judicial disputes with third parties (including property disputes over property real estate where the investment is made), the realization of a foreign investment or the exercise of the economic activity arising out of or related to it is impeded.

Special state protection includes the civil law protection provided by the government to foreign investments in cases where, due to judicial conflicts with private third parties, the execution of a foreign investment or the exercise of economic activity arising out of or related to it. The defence provides for the full replacement of the foreign investor by the Albanian state in the civil-law conflict with private third parties. Through the special protection institute, the state guarantees 100% of foreign investments. Currently, the state's special defence as an institute remains valid until 31 December 2019, while virtually civil legal disputes over immovable property between investors and third parties may arise or extend their effect even after that date. The Secretariat did not find any evidence of the number of investors that benefited from this protection option.

From the consultations that the Secretariat has had with AIDA, it is reported that in the case of strategic investments, the property issue has been solved privately between investors and owners of immovable properties in the phases prior to the submission of business plans and the requirements for obtaining the status of a strategic investor.

However, in some cases, investors have found it difficult to find the private landowner of land for negotiation, as many of the properties especially on the coast have not undergone any initial registration.

From the requests that AIDA has submitted to line institutions (about 9) including DAPL, ATP and IPRO etc. regarding ownership of immovable properties, institutions confirmed that there were no property issues and the information provided by these institutions has been accurate and without problems.

2. Lack of consolidated property register, as an impediment for the implementation of the fiscal reforms.

The legal framework for the Fiscal Cadastre,³⁷ as the central database of the real estate database serving for the administration of the immovable property tax, was adopted in 2017 as an expression of political will and as a necessity to fulfil the recommendations of IMF. Unable to have complete data from the immovable property register, the current process requires an interaction between local government units responsible for updating Fiscal Cadastre data and implementing some of the obligations that arise for these units. Although initially envisaged its implementation since 1 April 2018, there is still no clear stage of the process and how will the process continue within the institutional coordination and role of SAC, local self-government units and the General Tax Directorate of Assets.

³⁶ As defined according to the provisions of the Law no.55/2015 "On Strategic Investments"

³⁷ Law No.106/2017 On Some Amendments and Addenda to the Law No.9632 dated 30.10.2006 "On Local Taxes System" as amended.

VII. RECOMMENDATIONS

1. *A modern vision for a new standard on the registration of property which takes into account private sector priority interventions*

The vision of the government to be updated in a consolidated document by considering which recommended intervention *is of highest priority* from the private sector's point of view and which is *feasible* from the Government's point of view, including concrete proposals for implementation such as:

- a. What is the vision of decision-making in 2019 regarding options for resolving property registration issues in relation to stimulating investments in priority sectors (agriculture, tourism, natural resources)? Will it be a cross-cutting strategy or a stand-alone strategy? What approach will be used for the cost or the incentivising to solve the elements of social conflicts closely related to the overlapping of property titles? To be considered solving property-related issues in coherence with priority development areas for investment stimulation (Agriculture, Tourism), but respecting property rights.
- b. Drafting of an Action Plan specifying the activities/deadlines/costs/responsibilities/indicators for monitoring, interventions at all levels for the consolidation of the property registry and its digitalization;
- c. Given that corruption remains one of the main factors hampering the business climate in the country and the lack of a credible justice system, it is suggested for the reform on the property to consider concrete measures that restrict corruption practices of the administration in the interaction with the business and vice versa.

2. *Monitoring the progress of property reform*

Law No.111/2018 "On Cadaster" and the Draft Law "On the Finalization of Transitory Processes" provision many procedures, measures, activities and deadlines. (e.g. transitory processes are thought to last up to 10 years), finalization of the update of inventory and transferred properties to institutions/local government units within 18 months), which fulfilment is of public interest. In view of the transparency of these processes it would be suggested:

- *Developing instruments for the monitoring* of the reform and the respecting of deadlines, such as establishing a *Monitoring Committee*, including business representatives (e.g. from the banking sector), business associations, and civil society to enable not only transparency of funds but also to provide suggestions for coping with the challenges of such a crucial reform for the country's economy where postponement of the deadlines and final solutions only degrade the situation.
- *Publication of monitoring reports or minutes of committee meetings* in view of the transparency to the public on the status of transitional processes, to monitor the established deadlines.

- *Creation of an interactive platform under the administration of SCA to oversee all the measures and steps of the reform, public and stakeholder comments, legal and sub-legal acts applicable in the area of property.*

We understand that the credibility and achievement of the reform will also depend on the monitoring of its performance and not just on laws and regulations laid in the paper. The above steps are evenly crucial and they will help to identify weaknesses and reasons for not making progress, by suggesting necessary adjustments to the reform targets and strategy.

3. *Public Consultation with Parties and Interest Groups on the Draft Law “On the Finalization of Transitory Processes on Property”*

During the consultation phase of the findings and recommendations of this Technical Note, business associations and experts contacted by the Secretariat claimed that they were not consulted or contacted to give their opinions on the draft law. Considering that the draft law is still under review process at the Albanian Assembly, this period should be used for its consultation with various interest groups, chambers of commerce and business associations.

4. *Drafting of a priority list of state property registration (part of the Action Plan)*

As a first step of *political commitment and affirmation* to the reform, it is suggested:

- a) Full (initial) registration of property for state institutions to decisively resolve first of all problems with the registration of the institutions where the state is the owner and where the administration executes its functions and provides public services.
 - b) Registration of leasing contracts entered into until to date and the registration of concessionary contracts for properties owned by the state (agriculture, energy, tourism, etc.) by central government at the State Cadastral Agency.
 - c) Specify a priority list of properties that are “clear” from any type of burden to enable investment promotion. Concession or lease contracts for state-owned properties should be signed by the state institutions only after their registration at SAC.
 - d) Public transparency on the status of contracts awarded or leased in the field of Agriculture, Energy, Tourism, by publishing a report that reflects not only the status of state-owned property, but also detailed information such as the level of investment vis-à-vis the initial business plan, as well as the main issues faced by the investors and the state.
 - e) Formalization of the unregistered buildings not owned by the state through the use of “temporary” incentives, especially in tourism or agro-tourism as priority sectors = e.g. “free for a 6-month period” to also have an impact on the state budget.
- ### 5. Institutionalize the updating process between GLP and the information recorded in the registers of immovable properties (*priority areas for investment, including the areas where the state is the owner*). Meanwhile, for timely and continuous information of any legal dynamics related to the property and the role of the municipalities – to encourage the awareness of the municipalities about the GLP registration and any changes related to it.

6. The Draft Law “On the Finalization of Transitory Processes on Property” (Sections 30 et seq.) does not foresee sanctions for local government units as relates to the updating of inventoried/transferred properties which should be completed within 18 months of its entry into force. It is suggested for the law to provide a penalty element against them, which would increase the guarantee for the enforcement of the legal obligations as relates to this process of national interest.
7. Municipalities, especially large ones, can not make the registration of their properties with the argument of lacking funds³⁸ or independence in the framework of decentralization reform. Therefore, municipalities that cover the areas of priority investments should:
 - Establish a Working Group in relation to the progress made on the transferring, mapping and full registration of their properties. The Working Group shall report in the meetings of the **Municipal Council** (as the authorizing authority for leasing their disposition or alternation).
 - Reporting of the Working Group to be documented and made public.
 - The Municipal Council should plan a special budget line on the inventoring and registration of state properties if considered a strategic process.
8. In the context of no full public statistics on the number or profile of judicial cases, between investors and state institutions on property-related issues in national or international courts, and for purposes of a deeper analysis, *we would suggest initiating this process through a working group, for example, from the MSEP at the same time with the consolidating of the initial property registration.*
9. Digital Cadaster for *state properties* to be online and with free access for the general public. As a constant demand of the business and citizens and in the function of transparency, this measure would be welcomed also in the view of accountability towards taxpayers.
10. Unification of operational and advisory practices provided by the regional cadaster directorates for the users of cadaster services, particularly for financial institutions. Publication of SAC unifying orders in real time on the SAC official website together with the inventory of applicable sectoral laws and sub-legal acts to enable the functioning of the cadaster services as a single one.
11. Progress of the fiscal cadastre is conditioned by the lack of a complete property register, non-verification in the grounds by municipalities, lack of capacity in small municipalities and political will in major municipalities, lack of interaction between institutions. Political engagement has already been affirmed since the Government has allocated budget funds (e.g. a directorate at MFE filled with staff and funding made available also from donors), the platform has been set up but the *concrete steps and its implementation timing needs to be more realistic*, to be revised as they depend on the performance of the preliminary processes that are currently on “standby”.

³⁸ *Comment: We point out that municipal revenues have increased as a result of the local tax increase which is reported among the three major factors influencing the business climate (2018 IC Survey).*

12. Reform on Property should be supported by concrete measures as relates to:

- a) continuous training programs for all public servants which provide business services, especially on their rights and responsibilities;
- b) support the reform with human resources and allocate necessary funds for the closing of procedures related to property registration;
- c) SAC to establish specific evaluation systems on its staff performance in line with the institution's objectives on annual performance and executed procedures.

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