

ON INVESTMENTS AND LEGAL SECURITY ON PROPERTY

INVESTMENT COUNCIL MEETING XVI

Tirana, 30 May 2019

CONTENT

I.Objective & Methodology

II.Findings & Recommendations

I. Objective of the Analysis

Highlight most concerning property-related issues from the point of view of the business and providing suggestions for prioritizing interventions in coherence with the development of the strategic sectors in the country.

I. METHODOLOGY

Desk-research

- Strategies and documents approved by the government during years;
- Consultation and analysis of relevant laws and by-laws.

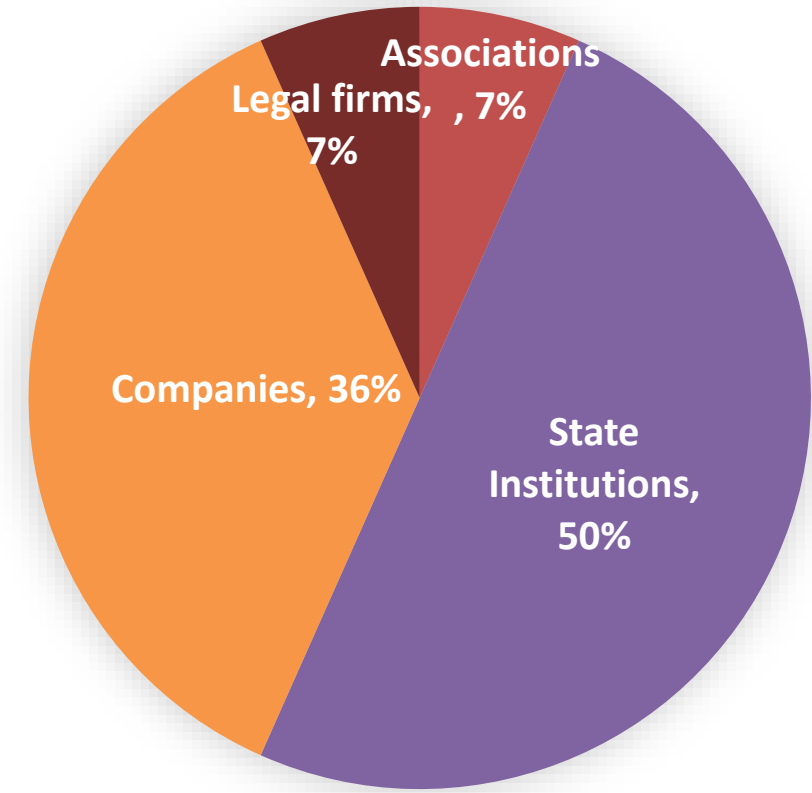
Consultation

- Business issues recorded in the Secretariat's database, 2015-2019;
- Consultations with 30 representatives of business associations/state institutions/municipalities/investors.
- Written comments from AmCham, FIAA, Confindustria Albania, CCI France, Exporters Association, Tirana Chamber of Commerce and Industry

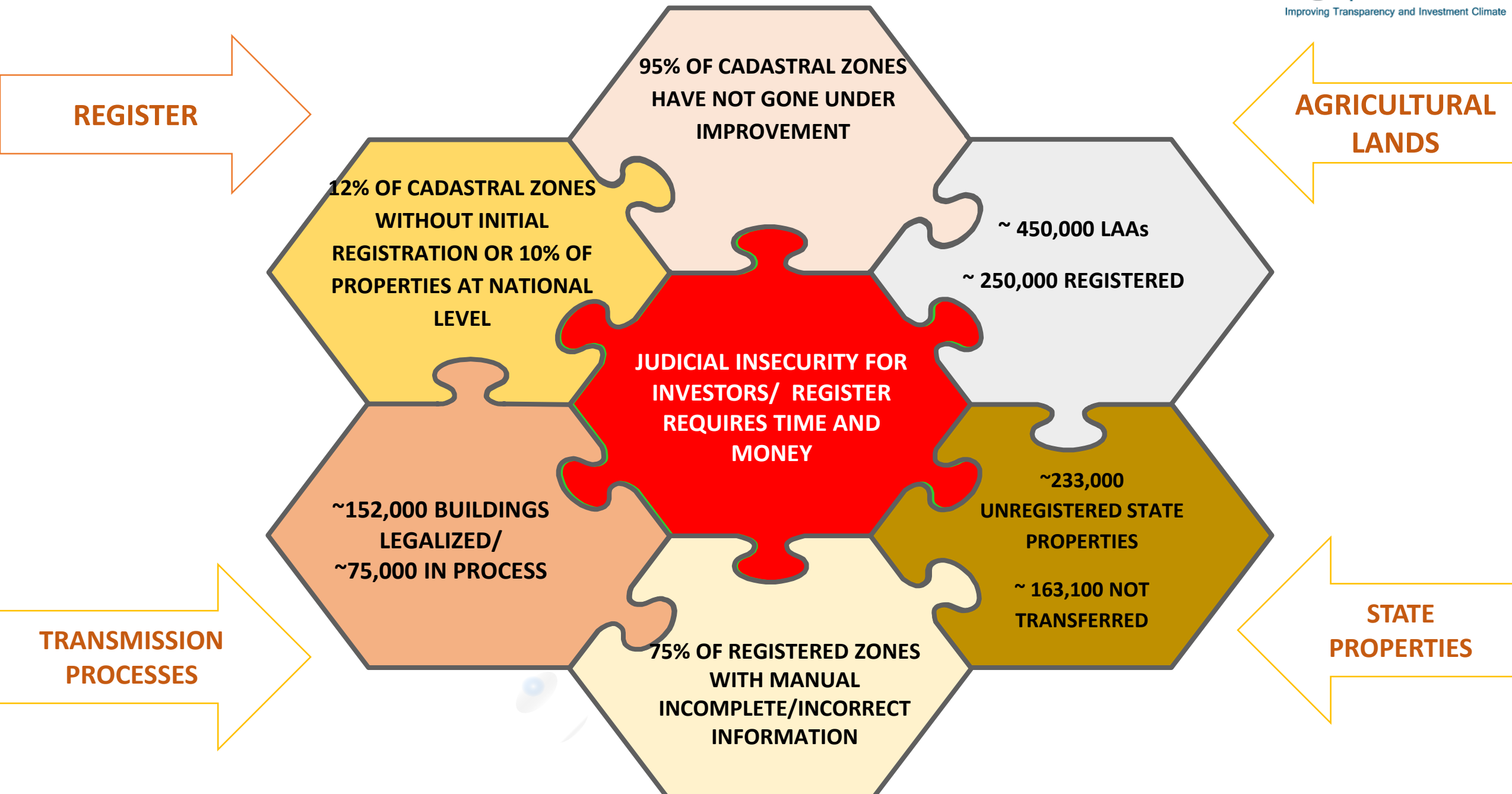
Focus Group

- Companies members of FIAA
- AmCham's Business Forum on Property (21 May 2019)
- Focus Group Meeting by the Secretariat with 22 stakeholders (17 May 2019)

Direct consultation meetings with 30 stakeholders (April - May 2019)



I. FACTS & NUMBERS



II. Findings, 4 Pillars

I. LEGAL FRAMEWORK

COMPLETED LAWS/even more complicated bylaws/about 15 laws on property rights

LAW no.7501/1991, fragmentation of agricultural land/**LAA** abusive practices mainly after 2000

LAWS HAVE CREATED OVERLAPPINGS LAA (Law, 1991) and Decisions on Property Restitution (Law, 1993)

SPECIAL LAWS FOR ANY TRANSITIONAL PROCESS
(e.g. LAA/Legalization/Registration of State Properties)

II. INSTITUTIONS

INSTITUTIONAL INSTABILITY/ FRAGMENTATION / 9 institutions dealing with property

LACK OF COORDINATION/OVERLAPPING OF COMPETENCES
separate reporting systems without organic relation

TRANSFERRING/INVENTORYING OF STATE PROPERTIES
uncoordinated/unfinished process

NONREGISTRATION OF STATE PROPERTIES
Institutions/Municipalities do not apply for registration (capacities/budget)

III. SYSTEM/OPERATIONAL ASPECTS

ARCHIVE AND MAPS SYSTEM NOT IMPROVED/UPDATED

LACK OF HARMONIZATION IN METHODOLOGY (≠ systems of maps/discrepancies)

TRANSACTIONS/ OPERATIONS
manual processing and no digitalization

PASTURE FORESTRY FUND - borders dividing administrative units unclear/overlapping/maps with problems

IV. OTHER

HUMAN RESOURCES limited, no trainings, bureaucratic and non unified work processes, politicization and lack of professionalism

INSTITUTIONS NOT TAKING RESPONSIBILITY for documents or entered contracts

CORRUPTION/FAILURE OF JUDICIAL SYSTEM
part of the problem not of the solution

LEGALIZATION/DECISION FOR PROPERTY RESTITUTION- high cost for sustainable investments

II. RECOMMENDATIONS - STRATEGIC

☐ What is the **current vision and political will** to resolve property registration issues for investment promotion? *Updating of government's vision in a consolidated document considering "which recommended intervention is of highest priority from the private sector's viewpoint and which priority is possible to be considered from the viewpoint of the Government."*

- Consider solving property-related issues in coherence with development of priority areas for investment promotion (Agriculture, Tourism); but **respecting property rights**.
- Drafting an **Action Plan** specifying the activities / deadlines / financial cost / clear responsibilities / monitored indicators, systematic update/upgrade in the grounds;
- Reform on Property to consider concrete measures that restrict corruptive practices of public administration in relation **to business and vice versa**.

II. RECOMMENDATIONS - LEGAL

- ❑ Consultation with the stakeholders - draft in Parliament “*On the Finalization of Transitory Processes on Property*”, has it been consulted with the stakeholder? What were the comments from the business?
- ❑ The draft “*On the Finalization of Transitory Processes on Property*” - processes expected to last for about 10 years.
 - Are there *monitoring instruments* for observing deadlines, e.g. establishing a Monitoring Committee with business representatives (Association of Banks, Associations and Chambers of Commerce), postponement of deadlines only degrades the situation - **NOT ONLY LAWS AND REGULATIONS ON PAPER**
 - Publication of monitoring reports or minutes of committee meetings, in view of transparency to the public on the status of transitional processes, to monitor the deadlines set.
- ❑ The draft law “*On the Finalization of Transitory Processes on Property*” ... “(Sections 30 et seq.) Does not provide **sanctions for self-government units**/institutions regarding the updating of the inventory/list of transferred properties (18 months) and property registration. Can any such sanctions be imposed?

II. RECOMMENDATIONS - INSTITUTIONAL

❑ **Roadmap on Registration of State Properties** – *priority step toward the reform:*

- Full (initial) registration of properties when the state is the owner and the administration executes its functions and provides public services.
- Registration of contracts awarded to date for leasing and registration of concession contracts for state properties (agriculture, energy, tourism, etc.) from the central government at the State Cadaster Agency.
- Determining a priority list of properties which are "clean" from any kind of burden to enable investment promotion and public transparency, reporting on the status of concession or leasing contracts in Agriculture, Energy, Tourism (detailed information on the level of investments versus the initial business plan, as well as the main issues of investors and the state.

❑ **Municipalities** that cover investment priority areas to establish a working group for the progress of the transfer processes, inventory and complete registration of their properties. The working group to report in the meetings of the City Council.

II. RECOMMENDATIONS - OPERATIONAL

- ❑ **Unification of operational and advisory practices** provided by the regional cadastre directorates for the users of cadastre 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 cadastre services as a single one.
- ❑ **Digital Cadastre** for state properties to be online and with free access for the general public.
- ❑ 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.
- ❑ Continuous **training programs** for all public servants which provide business services, necessary **funds** for the closing of procedures; SAC to establish specific evaluation systems on its staff performance in line with the institution's objectives on annual performance and executed procedures.

II. RECOMMENDATIONS – OTHER

- **Progress of Fiscal Cadastre** - 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”.
- **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.
- 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.

THANK YOU!

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