

## EXECUTIVE SUMMARY

### ON THE FUNCTIONING OF THE E-PERMITS PLATFORM

January 2018

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Review of the legislative framework on territorial planning and development during 2014 reshaped the mechanisms, terms and procedures for obtaining of construction permits and increased transparency. This process associated with the territorial and administrative reform brought a new synergy of coordination and cooperation between central and local government with the objective of integrated development and offering of quality and transparent services to citizens and developers/investors. In this perspective, as of 2016 it was initiated *e-Permits* platform conceptualized as a *one-stop shop service* to unify the procedures of applying for construction permit in a single window. Platform offers currently 20 services for citizens and developers, by including 146 institutions which have access to the procedures regarding construction permits and which should interact both in national and local level.

More than one year<sup>1</sup> has passed, since the implementation of the e-Permits as the only and mandatory way of applying for a permit in the construction field and consequently the unification of the procedures for the 61 municipalities of the country. Its progress has already been acknowledged by international reports such as *Doing Business 2017*<sup>2</sup>, *EU Progress Report 2017* etc. Currently, albanian government has undertaken a national reform in the deregulation area aiming to enhance the legitime regulatory role of the government necessary for the functioning of a market economy, which stimulates investment and also protect interest of both privat and public actors.

During 2016, in the framework of identifying investment climate issues, Secretariat held meetings with businesses involved in construction permits including those on agricultural and industrial warehouses. From these meetings it came out that due to the very dynamic process, there was a lack of mutual information from both businesses and some municipalities on the applicable procedures. To assist with some useful information, the Secretariat prepared at that time a practical summary on the applicable legislation to assist with proper information mostly the businesses.

During the first year of platform implementation, several issues have been identified by the users, mostly related to the deadlines, review application tariff, ways of information and notification, need of harmonizing sectorial legislation, applying the principle of approval in silence, administrative appeal etc. Some of the issues have been resolved from time to time. Some others are being taken into consideration even in the frame of the current *Deregulation Reform*.

The objective of this *Technical Note* is to identify the most important issues of the *e-Permits* platform users (architects, designers, developers, etc.) regarding the application process for development permits, construction permits or other applications through it, aiming its further simplification in the frame of the *Deregulation Reform*.

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<sup>1</sup> Effective as of 20 April 2016 and obligatory as of 1 September 2016

<sup>2</sup> Albania improved ranking from 97<sup>th</sup> position to 58<sup>th</sup> position.

The analysis aims to answer the following questions:

- *Is the e-Permits platform a single window service?*
- *Has it disciplined the application and the evaluation procedures considering the deadlines, the required procedures and documents?*
- *Has the platform promoted efficient institutional coordination?*

Regarding the above, apart from the research on the national legislation on territorial planning and development, institutional legal framework, strategic documents and international reports such as *EU Progress Report 2016*, *Doing Business 2017*, it was prepared by the Secretariat a Questionnaire with semi-structured questions according to the profile of the involved actors (municipalities, institutions, architects, and investors). In total 37 interview meetings were held in Tirana and some other districts (including 66 people) during June-November 2017, as well as a focus group meeting was held with 22 experts (November 2017) for the alignment of the most important findings and recommendations to be presented in the IC. The recommendations have been grouped in three pillars: legal, institutional, and technical.

***Some of the main Findings of the analysis may be summarized as following:***

- Implementation of *e-Permits* platform as of 1 September 2016 as the only instrument of application, review and approval of construction permits has unified the procedures for all 61 municipalities in the country and has disciplined the review of applications both for applicants and institutions by reducing the operational costs for both parties.
- Finalization of the procedures related to the reviewing process within the time-frame of 60 *calendar days* remains a challenge for the administration of municipalities. Lack of the *digital databases* showing those parts of the territory which are not eligible for development/construction according to the sectoral laws, makes difficult the institutional coordination. Improvement of such aspects in the future shall materialize the purpose of the platform as a one-stop service.
- Implementation of such novelty has not been easy while considering the limited resources of some municipalities or institutions, difficulties of their administration to discontinue from the documentary tradition of paper practices or to be timely informed on the new concepts of the sectorial legislation such as the principle of *approval in silence* which is not applied in all the cases, especially when the municipalities do not receive clearance from IPRO on the property status.
- Implementation of the *e-Permits* platform has been associated with a dynamic process of amendments and additions to the DCM No.408 "*On the Adoption of the Territorial Development Regulation*" and operational changes to the electronic platform. In the absence of a detailed Manual these frequent changes in some cases have incurred confusion to the users (applicants, municipalities, institutions) as related to the deadlines and intermediate procedures to be applied.
- Territorial Development Agency (TDA) has been proactive to coordinate the activity on *e-Permits* platform and performing the trainings for the users. Despite this, it still

remains not clearly defined in the legislation which institution is the administrator of the platform from the legal point of view.

- Various municipalities follow different practices during the reviewing application process, requesting additional documents above to what it is required by the Law No.107 and DCM No.408, e.g. in the cases of the works which can be performed with a preliminary declaration and which according to the Law No.107 there is no need for an approval. The tariff related to the reviewing application it is not unified for all the municipalities and it varies from 500 ALL up to 1% of the value of the investment.
- In practice, the *e-Permits* platform has set-up its interim processes and timeframes as defined by the DCM No. 408, thus counting them as working days and consequently the 60-day timeframe has been interpreted in this form. It should be possible for the secondary legislation to be aligned with the provisions of the Law No.107.
- The timeframes envisaged in the legislation regarding the procedures to be followed in the *e-Permits* platform have disciplined the parties, but it still remains a challenge to meet them, especially by the institutions (Municipalities) which in non-isolated cases while facing an increasing flow of applications, cannot complete their review within the respective deadlines.
- Although the legal framework does not provide for, businesses claim the need for a *supervisory appeal body* to coordinate the municipalities and applicants as well as to settle the disputes between them. However, this cannot be considered as a priority at this moment when such change would require further legal amendments and additional procedures which could slow the whole process.
- There are still sectorial laws that need to be harmonized with specific legislation to respond to the digitalization requirements of *e-Permits*. From consultations it turns out that in many cases there are problems and bureaucracies that come as a result of the overlapping of sectorial laws with the concept of platform under the legislation of planning and development of the territory e.g. the case of National Councils of Restoration or Archaeology, the respective law provides that "*Investors are obliged that during the design and implementation of the project to obtain **written** approval*"
- In cases of complex and specific constructions for which the primary and secondary sectorial legislation refers to studies, analyses, certificates, licenses and procedures of a technical and operational nature which must be met not only by central institutions (Ministries), but also by other agencies and other sub-ordinate institutions, the list of documents required for construction by the sectorial legislation it is not enough detailed and in some other cases it is discretionarily interpreted by the municipalities/institutions. More specifically, there are no checklists of sectorial documents previously agreed between the institutions (TDA and the Ministry) as per construction areas (e.g. energy/hydropower) leaving room for ambiguous interpretation by the parties involved in the process.

***Recommendations that addresses the findings of the analysis are grouped as following:***

***a) Recommendations on legal aspects;***

1. The authorities in charge which decide on the construction permits to meet the legal time term of 60 calendar days. DCM No.408 dated 13.05.2015 “*On the Adoption of the Territorial Development Regulation*” to be amended accordingly.
2. Unification and firmly establishing of the procedures followed by the responsible authorities which decide on the approval of the construction permits. Preparation by MIE/TDA of a detailed legal, operational and technical manual as an Instruction for all the users.
3. Suspension cases of the functioning of the *e-Permits* platform only for objective circumstances and/or maintenance purposes should be explicitly provided by the Law itself No. 107/2014, DCM No. 408 and other sub-legal acts.
4. Legal amendments to the sectorial legislation of some institutions, in order to respond to the digitalisation requests of the platform as a one-stop shop service.
  - a) Law No. 33/2012 “On the registration of the immovable properties” and Instruction of the Council of Ministers No. 1, dated 13.04.2016 should be subject of legal amendments in order to address this need.
  - b) Law No. 9048, dated 7.4.2003 “On Cultural Heritage,” should be subject of amendment as relates to the written approvals issued by NCA and NCR.
  - c) Amendments to the Law No. 8402/1998 “On the Controlling and Disciplining of the Construction Works” (amended) and the relevant sub-legal framework require the notification for the starting of the works to be equipped with a Certificate/Authorisation before the starting of the works.
  - d) Amendments to the DCM No. 416 and DCM No. 268 dated 06.04.2016 regarding NWA.
5. Unification of the tariff for the application of construction permits in the e-Permits platform. Legal amendments to the DCM No.408 which should make reference to Law No. 9632 dated 30.10.2006 “On the Local Taxes System” (amended). Review of the deadlines and interest rate for paying the infrastructure tax in the Municipality of Tirana.
6. Facilitation the foreseen procedures and deadlines in the e-Permits platform for farmers/collectors/exporters which desire to build light constructions for storing agricultural products and medicinal plants which do not have an impact on the environment.

**b) *Recommendations related to the regulatory and institutional aspects.***

1. TDA should be provided by the legislation with the attributes of the legal and technical administrator of *e-Permits* Platform.
2. Preliminary declaration should not be considered as application for the approval of the permit. For the works carried out with Preliminary Declaration, it is suggested as not necessary the prior approval/authorisation from municipalities.
3. Completion within a period of 3 months of the electronic databases from NMA, IMC and NWA, in compliance and in implementation of the paragraph 6 of the

Order No. 143 dated 03.11.2015 of the Prime Minister and making then available to TDA.

4. Re-categorise the constructions for which it is necessary Environmental Impact Assessment based on the risk analysis and environmental impact.
5. Raising of the transparency in the decision-making process for applications through the platform enabling structured hearing sessions with the applicant according to the provisions of the Administrative Procedures Code.
6. Preparation by the municipalities of simple explanatory manuals in accordance to the typology of the services provided in the e-Permits platform. Automating of the procedures among the sub-ordinate directories and institutions of the municipalities and digitalisation of the information reducing the administrative burden to the business.
7. Digitalization of register of permits/licences/authorizations issued by the Ministry of Infrastructure and Energy (MIE). Interconnection between *e-Permits* platform and MIE register with the register administered by NBC.
8. Continuous training and qualification of the human resources which are directly involved in the approval procedures of the construction permits via *e-Permits* platform. Consolidation of dedicated structures only for this process.

***c) Recommendations related to the technical aspects of the e-Permits platform.***

1. To consider the possibility of inclusion within a 6-month period by the Municipality of Tirana of the GIS cadastre in the e-Permits platform.
2. Discussion at technical level by TDA, National Agency on Information Society, Municipalities and users of the following possible technical improvements:
  - The structure of the *e-Permits* platform to enable involved parties in an application procedure, to see the exchanged responses thus raising the transparency offered until to date.
  - Increase the technical capacities of the platform to shorten the time and enable the submission of application documents also in other format apart from pdf.
  - To make it possible to add in the platform the number of developers since the law itself recognises the possibility to have several developers.

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