

TECHNICAL NOTE

ON THE FUNCTIONING OF THE E-PERMITS PLATFORM AND ITS IMPACT IN THE IMPROVEMENT OF THE INVESTMENT CLIMATE

Tirana

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ABBREVIATIONS

GDP – Gross Domestic Product

GLP – The General Local Plan

GNP – The General National Plan

ICM – Institute of Cultural Monuments

MIE – Ministry of Infrastructure and Energy

MUD – Ministry of Urban Development

NAIS – National Agency on Information Society

NCA – National Council of Architecture

NCR – National Council of Restauration

NEA – National Environment Agency

NTC – National Territory Council

NTPA – National Territorial Planning Agency

NTPI – National Territory Protection Institute

NWC – National Water Council

TDA – Territory Development Agency

I. INTRODUCTION

Law No.107/2014 “On Territorial Planning and Development”¹ and its amendments in 2015 and 2017 reshaped the mechanisms, terms and procedures in the area of territorial planning and development.

This reform 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 urban and rural well planning through the adoption of General Local Plans (GPLs) and the provision of qualitative services to citizens by centralizing the application procedures for construction permits in a single procedure via the electronic platform.

Implementation of the *e-Permits* platform had the following key objectives: a) simplification of the procedures to be followed by the stakeholders in the area of construction design and development; b) to reduce the time of decision-making by the respective institution (National Territory Agency or the Municipality) for the approval or refusal of the permit²; c) to promote the online institutional interaction; d) to increase the transparency and accountability that municipalities, in particular, should have while deciding on the approval or refusal of construction permits to citizens and businesses; e) reducing the time for applicants to obtain documents in state institutions or other public agencies³. This instrument that includes in a single procedure all the necessary steps for applying for a construction permit was also implemented in order to improve ranking in the World Bank’s Doing Business report.

The implementation of this innovative solution has not been easy considering the limited capacities of some municipalities, the difficulties of their administration to discontinue 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.

These issues have been mostly in evidence especially during the mid-stage implementation phase of the April-September 2016, when the platform was still an alternative to the usual application and the secondary legal framework was still in the consolidation phase.

During 2016, the IC Secretariat held meetings with businesses interested to know more on the construction procedures, particularly those related to agricultural and industrial warehouses. From these meetings it came out that there was a lack of mutual information from both businesses and some municipalities on the applicable procedures. To assist with some useful business information, the IC Secretariat prepared in August 2016 a summary information on the applicable legislation and procedures to be followed by the businesses⁴.

¹ Law No.73/2015, Date 09.07.2015 and Law No.28/2017, Date 23.03.2017.

² Law No.107/2014 in Article 44 "Request for a Construction Permit" provided for the first time the principle of administrative approval in silence according to which "..... The responsible authority decides on the construction permit within 60 days from the submission of the application for construction permit. The regulation on development may specify shorter deadlines or differentiated procedures for issuing construction permits, for low impact works on territory, or strategic investment for the country. **If the responsible authority does not take a decision within the above deadline and the responsible planning unit at the local authority has not given any negative opinion regarding the request, the construction permit is considered approved in silence.** Approval in silence does not apply to building permits that are within the competence of the NTC, as well as for other works, including those with high risk, as defined by the regulation on development or which are specifically regulated by the applicable legislation."

³ E-Permits Platform is conceived as a single window where different institutions should give their approval/refusal on the basis of documents filed by applicants (designers/ developers). In this way, many documents/confirmations/certificates/authorizations that should be separately received before the application phase in these institutions are now received during the application phase. This way has saved the time spent to the applicants on getting them, by including these services as part of the platform.

⁴ <https://www.investment.com.al/sq/?s=lejet+e+ndertimit>

More than one year has passed,⁵ since the implementation of the e-platform 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.

The objective of this Technical Note is to identify the most important issues of the e-Permits Platform users (architects, designers, developers, municipalities, TDA and other institutions) regarding the application process for development permits, construction permits or other applications through it. Also, this Technical Note aims to structure the debate among the involved stakeholders and encourage discussions on possible legal or regulatory improvements focusing on further simplification of the procedures and raising the transparency. In the Technical Note have been tackled also issues of institutional coordination as a prerequisite for the operation of any similar platform. In this context, it was considered in particular the role of the central institutions in supporting the platform with up-to-date databases and the need to promote the platform from institutions such as AIDA which have ongoing contacts with potential investors.

By addressing the relevant findings and recommendations, the analysis aims to answer to the following questions:

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

The analysis has also taken into consideration real issues from various investors reported to the Secretariat during 2016-2017, in regards to the procedures and documents needed to be completed before applying on the e-Permits platform, issues related to the institutional coordination or even specific procedures such as the conversion of the land required for the construction permits on agricultural land in the territory of the Municipalities that have not yet approved the relevant GLP.

In order to be more inclusive in addressing potential issues and recommendations, the Secretariat held meetings with designers, architects, builders and institutions (Municipalities, MUD, and TDA). To this end, a Questionnaire was prepared with specific questions for designers, developers, municipalities or central institutions to get concrete suggestions that address the identified issues.

The Findings and Recommendations that are included in this Technical Note were discussed in a Focus Group Meeting (25 October 2017) with experts and professionals from the public and private sector in the area of territorial planning and development, to bring forward to the Investment Council the most representing issues for all the actors.

II. CONTEXT

Obtaining a construction permit is one of the key elements assessed by the *Doing Business* report in the framework of the overall assessment made by the World Bank for a business-to-

⁵ E-Permits Platform came into force on 20 April 2016 and became mandatory on 1 September 2016.

business climate in one country. The assessment criteria for the *"dealing with construction permits"* indicator focus only on a specific category of construction. These criteria are:

1. Procedures to legally build a warehouse (number).
2. Time required to complete each procedure (calendar days).
3. Cost required to complete each procedure (% of the warehouse value).

Albania has had a bad performance on this indicator over the years (see Table 1). The restriction on issuing construction permits for a period of almost 2 years, affected negatively the ranking according to this report.

Positive change came in the business climate assessment for 2016. According to the *"Doing Business 2017"* report, the country increased significantly its ranking by 39 places to 58th position. The implementation of the e-Permits platform was one of the main reasons for this improvement. Also according to the *"Doing Business 2018"* report, Albania keeps the same position in regards to this indicator.

Table 1: Ranking of Albania according to Doing Business (2011-2018)

Indicator	2011	2012	2013	2014	2015	2016	2017	2018
Obtaining Construction Permit	170	183	185	189	122	189	106	106
Doing Business	82	82	85	90	62	97	58	65

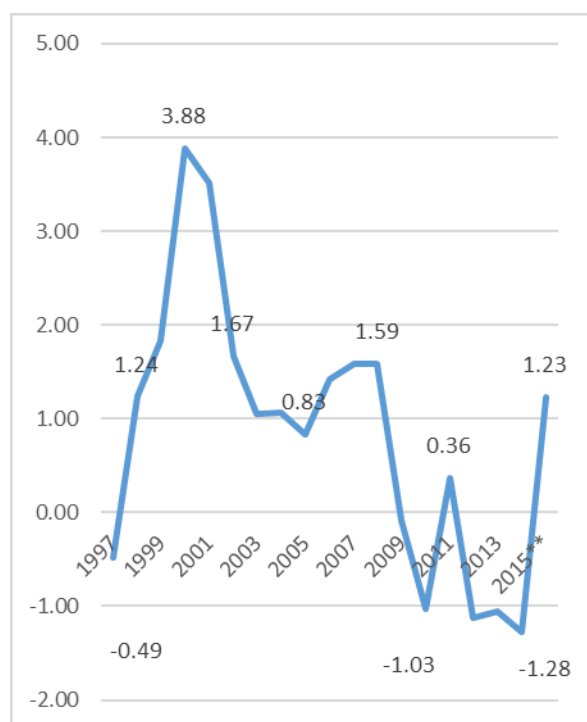
Source: World Bank

On the other hand, the construction sector has been one of the main promoters of growth throughout the transition period. Sector growth and private investments in construction were significant until 2008. The elements of the global financial crisis, which were reflected in Albania in 2008, dramatically reduced the growth rates in the construction sector with negative numbers, resulting in the most affected sector by this crisis⁶. Particularly these consequences were reflected in the decline of the demand for residential apartments and new investment in construction sector.

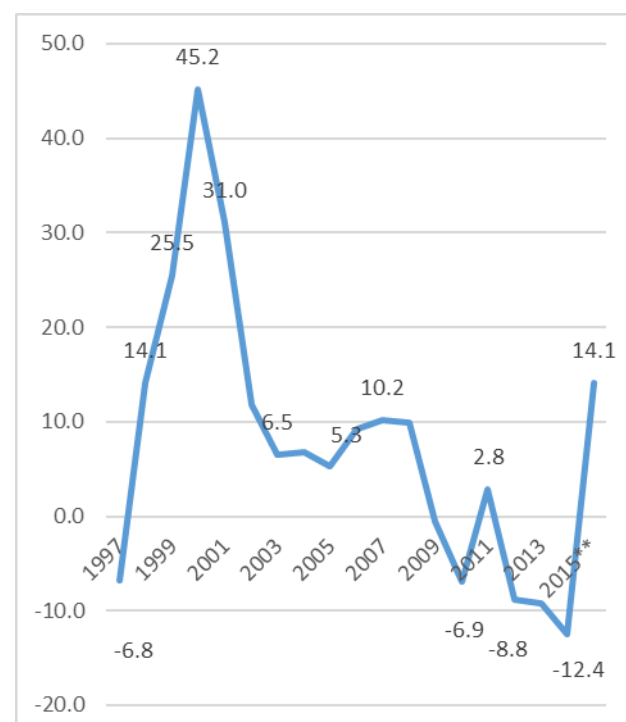
In the following graphs, an overview on the impact of the construction sector in the GDP during 1996-2015.

⁶ This conclusion comes out from the analysis of INSTAT data on economic growth.

Graphic 1. Contribution of the construction sector in the real increase of the GDP



Graphic 2. Annual real growth of GDP as per construction sector



Source: INSTAT, National Accounts as per Production Method, 1996 - 2015

Since 2015, it is noticed an increase in the construction sector of 14% after several years of decline. INSTAT latest data confirm the continuing of the increasing trend for 2016 and for the first 6-months of 2017. During the Q3 of 2017⁷, construction activity contributed by 0.68 percentage point in GDP, over the same period in 2016. For Q3 construction activity grew by 7.64% mainly influenced by private investments associated with TAP, as well as by companies that perform public works.

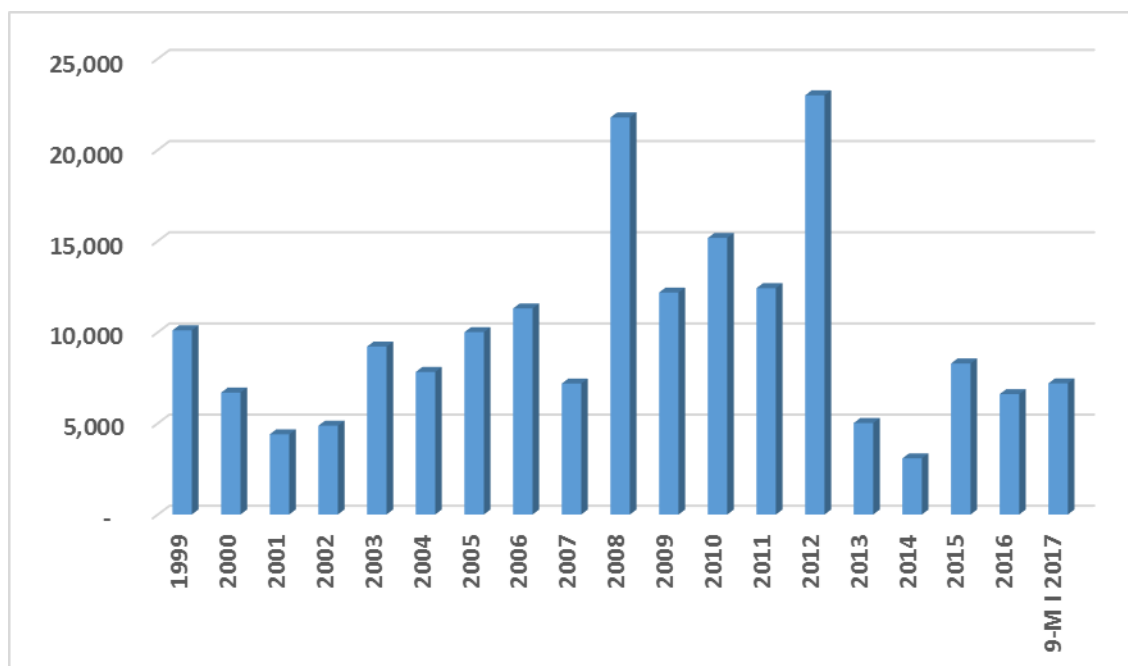
Another aspect that has affected the poor performance of the construction sector, especially after 2011 was the heavy regulatory burden for obtaining permits and suspension (with some minor exceptions) of the applications for development and construction permits according to Decision No. 1 Dated 22.08.2014⁸ of the National Territorial Council. This was reflected in Albania's ranking in assessing the reforms under this indicator of the Doing Business 2016 as per Table No.1.

Another indicator, such as that of non-residential private investments, mainly for industrial buildings, hotels and tourism, has decreased considerably since 2012, with very small fluctuations for the period 2013-2016.

⁷ INSTAT, Economic Growth, Q3 - 2017, December 2017

⁸ Infrastructure works, public structures, emergency interventions, development permits for public, state and national interest, development permits for structures with production, industrial, tourist facilities purposes etc.

Graphic 3. Approximate value of construction for private clients for non-residential buildings according to approved construction permits (*million ALL*)



Source: INSTAT

The above was also associated with the process of establishing 61 new Municipalities⁹ that covered a much wider territory than before and the lack of planning tools (General Local Plans) contributed to reducing the number of construction permits in a period of 2 year period (2014-2016).

Currently, General Local Plans (GLPs) have been completed for a good part of the municipalities, while the objectives are that preparation and approval of planning instruments to be completed by 2019 for all the municipalities. According to the National Territorial Planning Agency (NTPA)¹⁰, it has been completed the drafting of 31 GLPs, 26 GLPs have been approved by TDA, 5 GLPs are in the process of adoption, 13 GLPs are under drafting process, and 17 municipalities are waiting for funding to start work in 2018-2019.

With the introduction of the e-Permits platform in April 2016 and its full implementation from September 2016, there was a significant improvement in Albania's ranking in the respective indicator at "Doing Business 2017" (see Table 1). Application procedures through the e-Permits platform are being consolidated, while an increase in the number of construction permits is noted at both local and central level.

According to INSTAT for the first 9 months of 2017, in all the territory have been issued 608 construction and residential (non-residential) permits, with an estimated investment value of around 37.4 billion ALL (see Table 2).

⁹ Territorial-Administrative Reform

¹⁰ <http://www.planifikimi.gov.al/?q=sq/content/planet-e-p%C3%ABrgjithsbme-vendore>

Table 2: Indicators of construction permits approved for **new buildings** according to the districts for the first 9-months of 2017

Districts	Number	Estimated value 000/ALL
Albania (Total)	608	37,368,655
Berat	19	871,238
Dibër	24	1,047,164
Durrës	71	2,434,259
Elbasan	48	1,600,368
Fier	98	4,281,756
Gjirokastrë	7	555,342
Korçë	57	2,317,296
Kukës	3	176,847
Lezhë	16	136,078
Shkodër	42	1,186,843
Tiranë	167	20,857,746
Vlorë	56	1,903,718

Source: INSTAT

2.1 Methodology

The steps undertaken by the Secretariat to identify business challenges as related to the procedures through the *e-Permits platform* and the impact of this instrument on improving the investment climate are as follows:

- Desk research on the national legislation in the field of territorial planning and development and on the institutional legal framework established for the implementation and monitoring of this legislation;
- Desk research on the strategic documents and international reports such as *EU Progress Report 2016*, *Doing Business 2017*, etc., e-Permits platform models implemented in different countries of the region (e.g. Macedonia, Serbia).
- Preparation of a semi-structured Survey/Questionnaire¹¹ to be completed by e-mail and discussed in direct interviews with architects, designers, territorial planning experts, investors, interested groups. Meanwhile, specific questionnaires were prepared for central public administration institutions and 4 Municipalities (Tirana, Durrës, Korça, and Shijak). In total 36 interview meetings (66 people) took place during the period June - September 2017. The detailed Questionnaire was completed by 10 companies.
- Consultation with 22 experts in the area at a Focus Group meeting (25 October 2017) to discuss in advance the most important findings and recommendations to be presented at the IC Meeting.

¹¹ Annex 3

2.2 Legal and Institutional Framework

2.2.1 Laws and secondary legislation

In 2009 initiated the reform in the territorial planning which failed to be fully and successfully implemented due to the lack of drafting of planning instruments, despite of the positive opinions on the Law No. 10119/2009 "On Territorial Planning". In 2014, Law No.107/2014 "On Territorial Planning and Development" (hereinafter "Law 107/2014") was approved. Its primary purpose was to strengthen the control mechanisms on the territory, aiming the good management of lands and sustainable well-planned development of the territory.

In addition, a number of other legal¹² and sub-legal acts were adopted (DCM No. 408, dated 13.5.2015 "On The Adoption of the Territorial Development Regulation" hereafter referred to as "DCM No.408"¹³) necessary to implement the principles of Law 107/2014. Their aim was to regulate and align the legal framework in this area with the territorial and functional changes of the municipalities that followed the territorial administrative reform, and also with the strategic instruments¹⁴ and policies in the field of planning. All these created a new base for the applicable legislation in the field of urban development, abolishing a whole corpus of previous legal and sub legal acts¹⁵.

The legal changes as above, accommodated the practical needs that arise for the allocation of the Integrated Territory Register into two separate platforms, one serving for the territory planning process and the other in function of applications and equipment construction permits at the national and local level.

Considering that e-Permits Platform and the territorial planning platform used to work independently in practice and with a different systemic logic, a separate legal and regulatory regime was established for each database.¹⁶

2.2.2 Responsible institutions for territorial planning and development

Annex 1 provides synthetically the institutions which from a regulatory point of view are considered as planning and development authorities and their main competencies¹⁷.

¹² Law No. 73/2015 and Law No. 28/2017 "On Some Additions and Amendments in the Law No.107/2014".

¹³ DCM No. 408 dated 13.05.2015 has been amended 5 times, more concretely with the following DCMs: No. 672 dated 29.07.2015; No.1043 dated 16.12.2015; No. 271 dated 06.04.2016, No. 231 dated 21.03.2017 and No. 355 dated 19.04.2017.

¹⁴ The planning instruments at national and local level are: General National Plan (GNP), National Sectorial Plan (NSP), Detailed Plan for National Significant Areas (DPNSA); Sectorial Plan in District Level (SPDL) and General Local Plans (GLPs).

¹⁵ Law No.107/2014 abrogated 6 laws and 5 sub-legal acts (Decisions by the Council of Ministers)

¹⁶ These dynamic developments in the legislation of the territorial planning and development brought up changes, in the institutional and regulatory framework needed to monitor and implement this legislation which determined with the establishment of new institutions such as TDA and the division of competencies between the latter and the NTPA. On the other hand, new concepts were introduced such as: (1) the principle of silent approval for construction permits, (2) application for construction permits through a single window (one stop shop), (3) transfer the right for development; (4) separation of the database of the territory planning from the construction permits database.

¹⁷ With the establishment of the Government that followed the elections of 25 June 2017 and the reconfiguration of the Ministries, the Ministry responsible for territorial planning and development policies is the Ministry of Infrastructure and Energy. Other subordinate and/or cooperating institutions in the field of planning and development of the territory have not been subject of changes in the name, scope of activity or competencies. Central level monitoring of competences belongs to the Council of Ministers, while at the level of local government units other actors are also the District Council/Chairman of the Regional Council District and the Municipality Council.

2.3 Electronic e-Permits Platform

In Albania, the functioning of the *e-Permits platform* was enabled with DCM No. 271 dated 06.04.2016 "On some amendments and additions to the DCM No. 408 Dated 13.05.2015 "On the Adoption of the Territorial Development Regulation" (as amended). The e-Permits platform is conceptualised according to the model implemented in Macedonia¹⁸ aiming to provide a *One-Stop Shop Service*, by channelling to electronical means the application procedures as well as the review and approval procedures. Currently, the e-Permits platform enables about 20 procedures starting from permits on development in the Municipality/TDA and relevant construction permits, preliminary declaration for the completion of works, procedures for changing the works or those related to the equipment with a certificate of use. As confirmed by TDA, the platform includes the interaction of 146 institutions which have access in the procedures related to the construction permit.

All the necessary institutional coordination among the various agencies involved in the process must be done through the platform, within legal deadlines and considering the administrative approval in silence¹⁹, removing the direct contact of the applicants (business) with the institutions, as well as by removing the administrative burden from the business to the administration. The purpose of the implementation of this instrument is to simplify the procedures for construction permits, reducing the number of these procedures and increasing the transparency in decision-making.

The implementation of the e-Permits Platform went through several stages:

1. On 20 April 2016, it became effective the electronic application for a construction permit via e-Albania platform, an alternative to applying in paper to the respective institution, to the Municipality for permits with local impact and NTC for permits with national impact. During the application, it was made possible to liaise automatically with other public institutions databases as Immovable Property Registration Office (IPRO), National Business Centre (NBC), and General Directorate of Civil Status (GDCV) to obtain and validate the applicant's information.
2. Since 1 September 2016, the entire application process (review and approval of permits) was carried out exclusively via the electronic platform as the only form for carrying out such applications. All applications submitted physically until 31 August 2016 would continue to be reviewed by the responsible authorities in written form, according to the rules and procedures provided by the legislation into force at the time of the application.

An analysis on the application elements of the e-Permits Platform, the applicable procedures and deadlines depending on whether the application is made for a permit under the competence of the TDA or the Municipalities is detailed in Annex No. 2.

¹⁸ The e-permits platform implemented in Macedonia besides the online application for construction permit it has additional functionalities such as the direct appeal through the platform to the competent court for decisions of the authorities put in charge by the law for issuing construction permits.

¹⁹ The e-Permits Platform enables the One-Stop Shop service to be implemented: the application will be sent to the municipality and the municipality will carry out through the system all the coordination with other public institutions, within clear deadlines and without delay. The deadline for reviewing the construction permits by the Municipality is 15 days, while other institutions that have to give their opinion on the permit must reply within 10 working days. If public institutions do not respond to the municipality within 10 working days, their approval/consent is considered to be provided in the silence and the municipality may further proceed with the examination of the application. **In any case of lack of response by the municipality within 60 days from the submission of the applicant's request, the system should generate a decision for approval in silence.**

III. FINDINGS

The Findings section reflects only the most important aspects discussed with architecture studios, investors and experts involved in the review and approval procedures under the e-Permits Platform. The findings below can be grouped into:

- A. Findings on issues related to **legal** aspects, for addressing of which are necessary recommendations that require additions, changes and supplements in the legal and sub legal framework;
- B. Findings on issues related to **institutional** coordination for addressing of which have been provided recommendations to institutions involved, on the ways of completing the obligations imposed to them by laws and/or by-laws and the necessary mutual institutional cooperation;
- C. Findings regarding the **technical** aspects of the e-Permits Platform, for addressing of which technical discussion at the technical level is recommended by the experts, while for their implementation are required investments and operational/technical changes.
- D. **Other** findings related to issues that are not directly related to the e-Permits Platform and the services it provides, but which relates to the issues faced by the construction sector in general. This category of findings is not necessarily analysed by the Secretariat, but included in the Technical Note with the aim of reflecting comprehensively the comments received from the stakeholders during the consultation phase.

3.1 Legal Aspects

1. Meeting the legal timeframes for the reviewing of the construction permit applications and their correct implementation into practice remains a challenge for the administration of institutions.
 - 1.1. The timeframes envisaged in the legislation regarding the procedures to be followed in the e-Permits platform have disciplined the parties, aiming to reduce bureaucracies and unnecessary delays. Despite this, 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. There were claims that in many cases the procedure for the examination and approval of construction permits exceeds 60 days. From the meetings of the Secretariat with representatives of the respective Municipal administration, these delays are explained with the fact that the applicants are not yet accustomed with the e-Permits platform procedures and **therefore do not file accordingly all the necessary documents**. This obligates the Municipalities to request the completion of the documentation in the best case or to reject the entire application, suggesting re-application. While in the applicants point of view (mainly architecture studios) these delays are explained with the fact that Municipalities usually request additional documents as a mean of "buying" time for the review of applications, using this opportunity, to suspend the deferring of the legal deadline of 60 days. The reasons for these delays are also limited human resource capacities.

- 1.2. There is a contradiction between Law No.107/2014 and Decision of Council of Ministers No. 408 (DCM No.408) regarding the maximum timeframe for approval of the construction permits. The maximum timeframe of 60 working days as provisioned in the e-Permits platform for closing the review and approval/rejection cycle of the application, it is not designed in accordance with the provisions of Law No.107/2014. While the law provides at maximum the timeframe of 60 days (read: calendar), DCM No. 408 refers to the term of 60 working days. 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. According to the institutions, this is justified by the fact that for as long as the Law No.107/2014 did not specify the type of the timeframe, then the DCM No. 408, which is a more detailed act, has all the attributes to specify in its content if the maximum timeframe will be on working days, calendar days or in some other form.

Based on the integral interpretation of the above provisions it may be concluded that the 60-day timeframe provided under Article 44²⁰ of Law No. 107/2014 should be implemented as read and in the most favourable scenario for users and not for administration. In any case, the legal provision under Article 44 of the Law should prevail over any other provision of sub-legal acts. This conclusion derives from the legal interpretation of Article 44 in the literal, systematic, historical and teleological sense (purpose) and in accordance with the other terms provided by law, from the purpose intended by the lawmaker to formulate the provision as well as by interpreting this legal norm by analogy with other norms of criminal, civil or administrative law. As per the above, the interim procedure timeframes relating to the responses of the institutions or the administrations that consider the applications may be on working day basis, but not the maximum timeframe (deadline) of 60 days as a guarantee by the legislator for the applicants to receive the response administration on approval and/or refusal of construction permit.

The legal analysis on the basis of the above interpretations is detailed in Annex 3.

- 1.3 The timeframes related to the procedure for paying the infrastructure tax are applied differently, in different municipalities. For example: the Municipality of Tirana applies 0.2% interest per day for non-payment of infrastructure tax within the initial 5 days. This measure is foreseen in the Decision of Tirana Municipality Council (DMC) No. 59 dated 30.12.2015 (as amended)²¹, while other municipalities do not apply such a sanction.

²⁰

1. The responsible authority, pursuant to Article 27 of this law, shall review the application for construction permit according to the one-stop shop principle, coordinating the work with all the specialized public authorities that should provide their replies for the application.
2. The responsible authority shall decide on the construction permit within 60 days from the submission of the application for a construction permit. The regulation of development may specify shorter deadlines or differentiated procedures for issuing construction permits, for low impact works on land, or strategic investment for the country.
3. If the responsible authority does not make a decision within the above deadline and the responsible unit on planning at the local authority has not given any negative opinion regarding the request, the construction permit is considered as approved in silence. Silent approval does not apply to construction permits that fall within the competence of the NTC, as well as for other works, including those with high risk, as defined by the regulation on development or which are specifically regulated by the applicable legislation.
4. In case of the refusal of a request for construction permit or refusal of a preliminary declaration for the execution of works, the decision must be justified.

²¹ DMC No.59 has been subjects of other additions and amendments, respectively DMC No. 8 dated 11.03.2016 and DMC No. 23.05.2016

DMC No.59, paragraph I/d provides that: "The tax shall be paid within 5 days from the date of the decision on the approval of the works and the issuance of the payment authorization by the General Directorate of Territorial Planning and Development. If the applicant fails to pay this liability within 5 working days, then for each day of delay shall be calculated the interest at 0.2% per day of the amount to be paid, up to 30 working days. If, at the end of this deadline, the applicant has not yet paid the liability, the Mayor decides other appropriate measures, until the revocation of the approved permit."

In conclusion, this provision is an overpass of the legal obligation for the developers/investors to pay the infrastructure tax according to Law No.107/2014 and Law no. 9632 dated 30.10.2016 "On the Local Tax System" (as amended).

Law No.107/2014 and Law No.9632 dated 30.10.2016 "On the Local Tax System" (as amended) **do not provide such a procedure** and either authorize the Municipalities to apply interest rates or to set interim payment timeframes within the clear timeframe (deadline) set by law. Specifically, Article 46/2 provides that: "The infrastructure tax for new constructions shall be paid before the construction permit document is issued by the planning authority responsible". Whereas the Law no. 9632, dated 30.10.2006 "On the Local Tax System" (amended) in Article 27 provides only the methodology of calculating the infrastructure tax and not the possibility of setting any interest rates.

Based on the consultation with experts and as per Secretariat's analysis, the deadline for the payment of the infrastructure tax is 15 days for applications for building permits in the Municipality and 30 days for applications for building permits to the NTC, interpreting the foregoing provision in conjunction with Article 47²² and the structure of the e-Permits platform. These deadlines should start from the moment of notification of the decision of the authority responsible for the approval of the permit to the applicant on the e-Permits platform. The 15-day deadline available to the investors for applications to Municipalities cannot be terminated with other deadlines and the interest should not be applied in cases when the payment has not been performed within 5 days. The Municipality of Tirana should expect the payment of the infrastructure fee within the above mentioned 15-day deadline. Any other provision is not based in the law.

Apart from the above, it is being confirmed that the application fee for application permits is different for different municipalities. Some municipalities apply a standard fee (i.e. 2,500 ALL), while other municipalities have set a fee for reviewing the application for a construction permit, on the basis of the investment value (e.g. Municipality of Tirana applies a 1% tariff on the value of the investment). It is true that the municipalities have the autonomy to decide on local taxes and tariffs through the City Councils decisions, but considering that the service provided through the Platform is basically the same regardless of the investor locations, the above application tariff is disproportionate and subject to debate.

2. The list of documents required by the relevant legislation as necessary to apply for a construction permit is not sufficiently detailed and in some cases it is interpreted in discretionary manner by the Municipalities/Institutions. More specifically:

2.1 In some cases, there are no checklists of sectorial documents prior agreed between the institutions (TDA and the Ministries) as per construction areas (e.g.

²² "The construction permit document shall be submitted to the applicant by the responsible authority no later than:

a) 15 days from the date of the decision on the approval of the construction permit by the Mayor;

b) 30 days from the date of the decision on the approval of the construction permit by the National Territorial Council".

energy/hydropower) leaving room for interpretation by institutions and applicants. This is confirmed in the case 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 subordinate institutions. Since the model chosen for the e-Permits Platform is a one-stop shop service that must be completed within relatively short deadlines, the detailed lists of documents required for a construction permit or certificate of use agreed upon by the institutions responsible for their approval /refusal, are of outmost importance to avoid institutional ping-pong.

- 2.2 The Regulation on the development of the territory has not exhaustively specified according to the typologies/area of construction which licenses/authorizations should be submitted by the applicants. In the absence of a Manual/Guidance or any other legal act this has brought ambiguity to the applicants.** The regulation in its Article 15 provides, *inter alia* that the documents to be submitted for a construction permit are: ë) *"Permits, licenses, authorizations or acts of approval required for the exercising of the activity, pursuant to the specific legislation on permits, licenses and authorizations, in cases when it is necessary to submit them before obtaining the construction permit"*.
- 2.3 Some municipalities require additional documents beyond those provided in the Law No.107/2014 and DCM No 408.** Specifically, notarized licenses or copies of property document of the last 3 months were requested, while none of them is a necessary document for applying for a construction permit under the legislation. Moreover, the list of required documents is different from the various municipalities. These lists have been constantly changed over the past few months, creating confusion on the interested entities. This has been due to the dynamics of changes that have been made to DCM No.408 and the e-Permits platform in terms of architecture which has been in the process of continuous improvement and testing. Despite the foregoing, there is an improvement in this aspect in the recent months, where many of the documents required in the first months of platform implementation are excluded from the list of required documents. (E.g. list of documents for the Municipality of Tirana, June 2017).
- 2.4 Various Municipalities require additional documents for applications related to the works carried out with the Preliminary Declaration in overpassing of the requirements of Law No.107/2014.** The most typical case for this is for the Municipality of Tirana which applies a list of additional documents²³ that increase the

²³ Source: <http://www.tirana.al/tirana-sherbime/planifikim-territori/>

List of documents:

- A document certifying the identity of the applicant, together with a photocopy to attach it to the documents.
 - Request for works, (according to the Type Form of Annex D of the Regulation), which must be completed and signed by the property developer and the technical manager of the works. If there is co-ownership, the application must be signed by all co-owners or their representative, authorized by power of attorney, drafted before the notary, original copy or notarized.
 - Notarial declaration from the owner/co-owner of the property for the type of work to be carried out.
 - Certificate of ownership or mortgage certificate of property, attached indicative maps and a copy of the accompanying file, issued by the Immovable Property Registration Office, original copy received in the last three months.
 - A copy of the map and the map of assets, calculated with the original, for the design of the Genplan from the GIS Cadaster Sector, where it is evidenced the object in which the works will be carried out.
 - Gen-plan designed by the GIS Cadaster sector on a scale of 1: 500.
 - The technical project for the realization of works:
- Attached to the project:
- Technical architecture report, including the technical data table.

burden on the applicants, especially for individuals. According to the Municipality of Tirana, these additional documents are required, because in practice there are many abusing with the requests for works that are required to be carried out with a preliminary declaration, while being subject to construction permits. Therefore, the submission of these documents minimises the abusing and the execution of works in the territory different from what had been declared. Also according to the Municipality of Tirana these documents, although not stated as such by Law No.107/2014, are required in accordance with the provisions of the Civil Code. In fact, according to Article 41²⁴ of Law No. 107/2014 the documents to be filed for works carried out with a **Preliminary Declaration** are exhaustively defined: i) a written statement filed to the responsible development control authority, ii) the work-project drafted and signed under the responsibility of the licensed professionals attached to the pre-declaration form that is filled through the e-Permits Platform. Law No.107/2014 and DCM No. 408 did not delegate any competencies to the Municipalities, which would discretionarily foresee other documents other than those provided for in the aforementioned acts.

Following consultations with experts and the analysis of the Secretariat, it can be concluded that the Municipalities cannot request additional and different documents than those provided under Article 41 of Law No.107/2014. This legal provision is concrete, not open, and does not refer to any other legal provision. Also, based on the types of documents required by the Municipality of Tirana according to the respective list, it does not appear that any of them is subject to the provisions of the Civil Code (with the exception of document related with the approval of the co-owners). It is true that in practice there are cases when, in order to avoid the construction permit and the specific procedures related to it, applicants apply for works with Preliminary Declaration. However, in order to avoid these cases, we do not think that a different extra-legal standard should be applied, than the one provided by the provisions of the current law, unless this dynamic is reflected in the Law No.107/2014. Furthermore, the analysis and the consultations suggest that the practice currently pursued through the e-Permits platform which requires the approval of the Preliminary Declaration by the Municipalities before the works to begin should be revised. Law No. 107/2014 in its letter and spirit, defines works carried out with a preliminary declaration, as those for which it is not necessary to obtain a construction permit. In this sense, the law-maker, in order to facilitate the procedures in the area of construction and especially to assist individuals who perform simple and non-essential constructions works, has requested only the expression of interest by the applicant and not the necessity of approval by the Municipalities in the form of a Permit and/or Authorization. Based on this, we think that for this category of works should not be expected in advance any form of approval by the Municipalities. The latter have the opportunity to oppose these works when they are carried out in violation of legal requirements, while other control and inspection mechanisms in the field should be set up to avoid abuses with this category of works.

-Graphic works.

-The notarized individual architect's license with the relevant works categories, for the structure required to be built, within the validity period.

Timeline: 10 days

Location: Near the Citizen's Communication and Reception Section in Tirana Municipality,

²⁴ Article 41 **Preliminary Declaration for the performance of works**

1. The Regulation on Development defines the list of constructions, installations and works that, due to intrinsic interventions in the building, the temporary nature of installations or regulation of the control of development by another permit or authorization or by sectoral legislation, do not require a construction permit and are subject to a preliminary declaration for their execution.

2. In the cases specified in accordance with paragraph 1 of this Article, **a written statement deposited to the responsible authority on territory development, together with the work-project, drafted and signed under the responsibility of licensed professionals, is the only sufficient document for the start of construction works.**

3. **Responsible authority may provide objections to the Preliminary Statement for execution of the works, with a justified decision, if it finds that the conditions and legal requirements governing the preliminary declaration of works are not respected.**

3. Although the legal framework does not provide for, businesses claim the need for a supervisory appeal body to coordinate the municipalities and the applicants as well as to resolve disputes between them.

The legal framework in the field of territorial planning and development has not foreseen an administrative appeal against the decisions of the Municipality. This finding is brought to this Technical Note as a reflection of the comments of some actors contacted by the Secretariat for analysis purposes. Based on the analysis conducted, there is not an imperative requirement in national or international legislation, the existence of bodies for reviewing the administrative appeals of the parties towards a particular administrative act. The right of the parties to appeal, the decision of the Municipalities/NTC for the procedures of the e-Permits Platform, is guaranteed by the existing legislation through the judicial appeal of the act of approval/refusal to the competent Administrative Court. To date, the Secretariat has not identified any cases of judicial appeals against Municipal Decision-Making for building permits under the e-Permits platform. According to the stakeholders' feedback during meetings held by the Secretariat, this may be due to several factors: i) investors/developers do not prefer to pursue the judiciary path because they do not trust the courts; ii) the review timeframe by the Administrative Courts in practice is very long; iii) it is easier for investors to re-apply again through the e-Permits platform by filling out the required documents as requested by the Municipalities.

Given the above and considering that from the practice, it has not resulted as necessary the existence of an administrative appeal body, which existence would in any case be associated with additional procedures and deadlines that would determine the speed of the whole procedure related to the construction permits, the recommendation to establish such a body at this moment and at this implementation stage of the e-Permits platform (only 1 year being implemented), it would be premature. However, with the maturity of the process and after 2 or 3 years, the above issue may be subject to further discussions by the experts regarding the provision of such a possibility, the implementation of which would require in any case legal amendments.

4. There are still sectorial laws that need to be harmonized with specific legislation to meet the digitalization requirements of e-Permits.

Based on the 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 the platform under the legislation of planning and development of the territory. Below are some concrete cases:

- 4.1 Notification on the commencement of works after obtaining the construction permit is made by the entity through the platform. Through the platform, the respective local territory protection inspectorate receives information on the start date of the works. Based on the consultations, it comes out that despite this electronic notice, in practice, investors are obliged to submit again to these inspectors as well as to the State Police in the **printed format** all the application documents for construction permit together with the permission issued by the Municipality. There are many cases that inspectors referring to Law no. 8402, dated 10.09.1998 "On the Control and Discipline of Works" (amended) do not consider sufficient only the notification on the commencement of works, but require prior receipt of a Certification/Authorization by the respective inspectorate, a practice which increases the administrative burden for the parties involved in the process.
- 4.2 Based on consultations, it turns out that in many cases the IPROs do not accept applications for electronic registration (e.g. for the registration of a construction permit or certificate of use) through the e-Permits platform. According to IPRO, the practice of

documents should be in written form and in compliance with the sectorial legislation, namely Law no. 33/2012 "On the registration of immovable properties" and the DCM No. 1, dated 13.04.2016.

- 4.3 There are sectorial laws of institutions that are directly involved in the e-Permits platform, which do not delegate the obtaining of permits/authorisations through the platform, but in the traditional and written form. For example, Law no. 9048 of 07.04.2003 "On the Cultural Heritage" (as amended) in its Article 47 provides that: "Investors are obliged to obtain **written** approval by the National Council of Restoration and the National Council of Archaeology". Similar legal provisions have also been made for the NWC.

5. Suspension of applications (except for preliminary declarations) in the Permits Platform for some Municipalities during August 2017, while Law No.107/2014 does not provide such option.

During the meetings with architecture studios and investors it resulted that applications on the e-Permits platform in August 2017 were suspended. According to the Municipality of Tirana and TDA, this came as a result of the suspension of IPRO's work during this period. In the absence of responses by IPRO, the Municipality of Tirana was unable to continue the procedures for reviewing construction permits. Law No.107/2014 and DCM No. 408 do not foresee the possibility of suspension of construction permit procedures nor authorise any institution to take such a decision even when objective conditions and circumstances may exist. Law No.107/2014 and DCM No. 408 have foreseen that the lack of responses from institutions is considered as an administrative silent approval which enables the continuation of the procedure.

3.2 Institutional Coordination

1. Different municipalities apply different practices in handling applications in the e-Permits platform such as the case of implementing the silent approval principle.

Specifically, in the case of the lack of responses of the institutions or agencies involved in the process of confirming the documents submitted by the applicants, some municipalities continue with the procedure for approval of construction permits considering the non-response of these institutions as a silent consent. In other cases and when mainly, IPRO does not confirm within 10 days the property ownership documents submitted on the platform by the applicants, the municipalities do not consider this as a silent approval, but suggest the applicants to follow the correspondence via letters, hesitating to assume the responsibilities regarding property issues.

There is a discussion by the institutions on the possibility of abolishing the principle of silent approval for the responses to be given by the IPRO, given the importance of accurate property documents for all subsequent procedures. Setting such a provision requires intervention in Law 107/2014. It could be a proportional measure if it would provide additional guarantee to the process (such as increasing of sanctions) to make sure IPROs respond to the Municipalities in any case within the 10 days' timeframe.

2. **There is still a lack of coordination among the Municipality Directorates that are involved in the procedures related to the applications on the e-Permits platform, although there is a noted continuous improvement.**

For example, in the Municipality of Tirana it was not considered sufficient only the filing of the mandate for the collection of the infrastructure tax on the e-Permits platform, but also the receipt of a Certificate by the General Local Taxes Directorate (GLTD) (the subordinate directorate under the Municipality) to confirm that the payment was performed in the respective treasury code-branch. In some other municipalities a certificate was required from the Fire Protection Directorate, when such structures are already part of the local government units and subordinate to the Municipalities. This fact has been evident especially in the first months of implementation of the e-Permits platform, while in the last 2-3 months there is a significant improvement and stabilization of internal procedures which enable better coordination and reduction of the administrative burden for applicants on the platform. Currently, according to the Municipality of Tirana, the confirmation of the payment of the infrastructure tax payment is done automatically by GLTD on the e-Permits platform, without the need for a written confirmation/certificate. The above cases and other similar cases have been an institutional practice not only for the local administration institutions, but also for the central administration because of the *lack of the digitalisation and systematisation of the information* or a traditional bureaucratic approach.

3. **Structured hearing sessions with interested subjects (applicants) are not always organized. In some cases, it is reported that the clarification of technical aspects or additional documents to be submitted is done more on the basis of personal, than institutional meetings.**

Following the feedback from the interviews with stakeholders involved in the e-Permits platform, it is broadly accepted that the Platform has increased the speed of the process, but it has limited the contacts/meetings between the architecture studio specialists and the municipality specialists who deal with the technical review of projects submitted as part of the application. Even when these meetings are organised, they are unstructured, based on personal contacts and in inappropriate environments. The reason for this are the short timeframes available for the review of documents and the lack of physical facilities available to the responsible structures within the Municipality.

4. **No electronic databases have yet been completed by NEA, IMC, and NWC to be put at the disposition of the TDA and Platform.**

Based on the Prime Minister's Order No. 143 dated 03.11.2015 "On the Establishment and the Functioning of the Responsible Structures for the Coordination of Work with the Territorial Development Agency (TDA), point 5 provides that: *"the following institutions such as: the National Environmental Agency, the Institute of Monuments & Culture, the Water National Council and the National Archaeology Council, which grant approval/consent/prior approval for the development/construction permits, are responsible that not later than 6 (six) months from the date of adoption of this order, to prepare and submit to the TDA an electronic database showing where parts of the territory are not eligible for the development/construction according to the sectorial laws, according to which these institutions are supervised"*. Currently, it results that only the NAC has fulfilled this obligation and has prepared relevant databases.

5. **There are still gaps in the platform architecture as related to specific sectors, such as energy.**

This concern has been raised by entities (applicants and institutions) involved in the procedures for the reviewing of the applications for a certificate of use for built objects-Hydropower Plants. For these complex constructions in specific areas such as hydropower, the 10-day deadline available to the line ministry is estimated by them as insufficient. While from the investor's perspective, the procedures for completing the application documents required on the Platform remain bureaucratic and leave room for discussion on the boundaries between the institutions, despite the positive will of all the parties involved in resolving these cases.

6. There has not always been an interaction/coordination between the IPRO and the Municipalities. It is noted a significant improvement as of September 2017.

Despite of the above, lack of full registration and digitalization of the properties constitutes a serious obstacle to the fulfilment of the e-Permits objective as a one-stop shop service. Projects launched to complete the registration and digitalization of the property titles are expected to give an impact in the upcoming months.

B.1 PROCEDURES TO BE FOLLOWED BEFORE APPLYING FOR A CONSTRUCTION PERMIT

During the meetings of the Secretariat with architecture studios and investors, have been identified also some issues regarding the documents to be prepared prior to the application in the e-Permits platform. According to them, the procedures in some cases are tedious or bureaucratic and slow down new investments. In this regard, they underline the procedures for obtaining the *Environmental Permits* and procedures for the *Land Conversion* in those cases when the construction of the facility on agricultural land is planned in the territory of the Municipalities which have not yet approved the GLP. These cases have been briefly discussed below, without the intention to bring final recommendations, but in order to bring them under the attention of the relevant decision-making institutions.

a) Environmental Impact Assessment - Is it necessary for every category of construction, including housing?

For each construction category regardless of its typology or functionality, it is needed a prior approval of the *Environmental Impact Assessment* (a preliminary or deep assessment), which is issued on the basis of the *Environmental Impact Assessment Report (ELA)* prepared by a licensed expert. According to sector representatives contacted by the Secretariat, this is considered as an excessive step, especially for residential-purpose constructions, which do not have a significant impact on the environment. Moreover, when the Municipalities have already adopted the Strategic Environmental Plans and when in any case GLPs are confirmed in advance by the National Environmental Agency (NEA), the receipt of this confirmation is assessed as an increased bureaucracy which increases the administrative and financial burden especially for individuals. In practice, there have been uncertainties about when an environmental permit must be obtained. Should it be obtained prior to applying on the e-Permits platform or after making the application through the platform, avoiding in this case the paper correspondence and the long timeframes of 45 days under the sectorial legislation into force related to environmental permit? Questions that require decision-making by the institutions involved in this regard could be: 1) Can the EIA be deposited through e-Permits Platform? Can the receipt of the

Environmental Confirmation/Permit be obtained through the e-Permits platform? 2) Is EIA necessary for each category of construction, including housing?

b) Conversion of the Land²⁵

1. Due to the large number of requests for construction permits on agricultural land, MUD in cooperation with the Ministry of Agriculture and Rural Development prepared the DCM No.283 dated 01.04.2015 "On the Determination of Types, Rules, Criteria and Procedures for the Construction of Facilities for the Production, Conservation and Processing of Agricultural and Livestock Products on Agricultural Land" (as amended). This DCM seems to have partially solved the need for buildings only for purposes closely related to agricultural ones, by setting minimum criteria and conditions to be met, such as the distances, surfaces and volumes involved. When the Municipalities have approved GLPs, the construction permit is issued by the local government unit in accordance with the terms and conditions of the GLP. In the absence of such GLP, the construction permit is issued after checking the compliance of the project proposal by the TDA which in cooperation with the Ministry of Agriculture and Rural Development verifies the conformity with the territorial planning documents into force. The following steps are:

- a) TDA notifies the relevant municipality and the applicant for checking the compliance and the continuation of the procedures;
- b) The municipality conducts verification in the field, based on the legal provisions into force for territorial planning, including the rules and criteria set forth in the above DCM and notifies the TDA;
- c) If, as a result of field verifications, it comes out that the proposal is in accordance with the criteria set out in this DCM and the territorial planning documents in force, the mayor shall take a decision on the approval of the construction permit and shall propose to the Ministry of Agriculture and Rural Development to continue the procedures for the transfer of agricultural land to construction land, subject to the construction permit. This Ministry then drafts the respective decision, which is submitted for further approval to the Council of Ministers

The problem in practice is related to the long period of time required for the implementation of the above procedure and the approval of the respective DCM that would enable the conversion of land from agricultural land to construction land, and then obtaining a construction permit. Obtaining construction permits in the area of agriculture is also a prerequisite to benefit funding from support schemes, soft loans or other sector funding. What can be improved in this respect is that the building permit is first approved and then the land conversion process is done without the certificate of use. Once approved by the institutions, including the Ministry of Agriculture and Rural Development, it remains only a matter of procedure the drafting of the respective DCM for final approval in the Council of Ministers.

2. The procedures for land conversion from the agricultural land to construction land are also followed in the cases of reviewing of applications for the purpose of building industrial facilities or different warehouses on agricultural land. These requests are reviewed by a

²⁵ The legal basis for land conversion is related to basic laws: Law No.8752, dated 26.3.2001 "On the Establishment and Functioning of Land Management and Protection Structures" (amended) and Law No.9244, dated 17.06.2004 "On the Protection of the Agricultural Land "(amended).

special committee at the Ministry of Finance and Economy²⁶ in cooperation with the Ministry of Agriculture and Rural Development which has to give its opinion before proceeding with the preparation of the respective draft decision to the Council of Ministers in accordance with the provisions of the DCM No. 410, dated 27.06.2012 "*On the Definition of Rules and Procedures for the Change of Land Resources*". Even in this case, filing of the documents requires a long period of time and the completion of the procedures requires full coordination of the involved institutions.

Given the above considerations, and focus group discussions, remain to be further elaborated the following topics:

1. *In the conditions when the agricultural land stock is at a minimum (estimated at 340,000 ha), is it perhaps a drastic decision to not allow any other type of construction on agricultural land, except those of agricultural character?*
2. *Should all the GLPs be firstly approved and afterwards to review the land conversion procedures?*
3. *Is it feasible the automatic conversion of land at the moment of GLP registration in the IPRO?*
4. *Should it prevail the interest for building industrial and agricultural warehouses or the need to protect the existing agricultural land stock?*

3.3 Technical Aspects

The following findings are of technical nature, listing only those findings identified as the most rationale ones based on the meetings held with most of the involved stakeholders.

1. The platform does not enable to upload documents of DXF format. The documents uploading capacities are limited.
2. GIS Cadastre for the Municipality of Tirana is not part of the e-Permits platform.
3. The platform should confirm not only the submission of documents, but also the receipt of documents by the respective institutions. (For example, applications have been rejected with the claim that the insurance police is missing while the company can prove (by print screen) that this documentation has been uploaded).
4. The platform does not enable the user to check responses from other institutions. The debate in this aspect is both technical and strategic based on the purpose that the e-Permits platform should have. According to the Secretariat, TDA should be equipped by the legislation with the attributes of the legal and technical administrator of e-Permits Platform.
5. Not informing in real time applicants and municipalities about changes made to the platform.
6. The platform can display a limited number of developers although the legislation has foreseen that there might be several of them.

During the consultations held by the Secretariat, it comes out that there is a positive will from the institutions involved in the technical administration and management of the platform (TAD and NAIS) as well as the technical capacities from the service provider (IKUBINFO) to add functionalities to the platform and

²⁶ Former Ministry of Economic Development, Tourism, Trade and Entrepreneurship – Instruction No.5557 dated 12.06.2017

further improve it. Of course, the speed and quality of the service provision to the entities, remains one of the main challenges of the e-Permits platform as a one-stop shop.

3.4 Other

The following issues are not necessarily related to the e-Permits platform, but they are mainly related with problematic issues of the investors in the area of construction. Some of these issues have been raised by the groups of interest (Builders Association) and have been discussed also with pertinent institutions which are responsible for decision-making. This analysis does not take the responsibility to clarify exhaustively all the issues or provide concrete recommendations for all of them. In the following, some of these issues have been summarised to incite debate and discussion at the Investment Council.

1. It remains a challenge the quality level of the applications and the control filter in the content of the documents and studies submitted during the application phase for construction permits. Continuous training, qualification, and quality of the projects and investments is not a challenge only for the central and local administration, but also for the private sector.
2. Some builders ask the liberalisation of the procedures related to the making of the Structural Warranty (Technical Critique), with the reasoning that this should not remain of sole domain to the Construction Institute.
3. Standards for construction – Should they be mandatory? Is it time for a Construction Code?
4. Construction inspection procedures – should they be reviewed?
5. Method for the calculation of the infrastructure tax – does the business take in return the development of the infrastructure?
6. The income tax paid by the builder also for the exchanged part with the landowners should be revised.
7. Clear definition of the competences of the local government units for the review procedures of applications for construction permits and development permits.

IV. RECOMMENDATIONS

The following recommendations aim to address the identified above-mentioned findings in the legal, institutional and technical framework. Considering that many recommendations, address at the same time both legal and institutional issues, their presentation is given within a general grouping and not specific for every concrete finding as presented above.

1. **The authorities in charge which decide on the construction permits to meet the legal time term of 60 calendar days.** Amendment to the DCM No. 408 dated 13.05.2015 “*For the Approval of the Territory Development Regulation*” in order to reflect this deadline. Interim deadlines (e.g. for providing opinions/approvals by the other institutions might be defined in *working days*, meanwhile the general deadline for the approval/rejection of the construction permit should not exceed **60 calendar days**). Re-settlement of the deadlines as above-mentioned in the e-permits platform to ensure that the legal obligation is met.

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 operational, technical and legal manual as an Instruction for all the users. The manual should be made available to all platform users, in particular Municipalities and AIDA as institutions that can promote platform's one-stop-shop services to potential investors.**

The manual to provide details for each application category within the e-permits platform:

- Exhaustive lists (as much possible) of the necessary documents according to the typologies/categories of construction permits. These lists must be previously agreed with the other institutions (Ministries, Agencies, Committees, and Councils).
 - The competences and the role of each institution included in the platform.
 - Technical and legal workflow pursued by the platform and institutions which are part of it.
3. **TDA should be provided by the legislation with the attributes of the legal and technical administrator of e-Permits Platform. The necessary amendments should be reflected in the Law No. 107/2014 and in the DCM on the Administration of e-Platform to be approved on this purpose.**
 4. **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. Reconfiguration of the e-Permits platform for the category *Preliminary Declarations* in compliance with the legal provisions of the Law No.107/2014.
 5. **Suspension cases of the functioning of the platform when necessary should be made on legal basis.** To resolve this kind of situations as per legal framework and to avoid any misunderstanding in practice, it is recommended that cases of applications suspension in the e-permits portal only for objective/maintenance reasons should be explicitly provided by the Law itself No. 107/2014, DCM No. 408 and other sub-legal acts.
 6. **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) IPRO should not request practices in written form and by post for the registration of the administrative acts (construction permits/development permits/certificate of use) which are instead provided with a digital stamp and electronic signature by the e-Permits platform. 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. These approvals should be made electronically only through the platform. The entire

procedure of sending the application at the Institute of Cultural Monuments (ICM) and the Agency of Archaeological Service (which function as technical secretariats of NCR and NCA), should be carried out (depending on the typology of the construction), by TDA, or respective municipalities.

- 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. The notification on the starting of the works in the e-permits platform should be sufficient to the institutions (ICM/NTPI). This does not prevent on-sight inspections by the responsible inspectorate for inspecting the territory as relates to technical security conditions implemented by the developers.
- d) *Amendments to the DCM No. 416 and DCM No. 268 dated 06.04.2016 regarding NWA.* In cases when for the approval of a construction permit, according to the law for planning and development of the territory, it is required in advance submission of an authorisation, or permission by NWA, the respective authority of territory development, to delegate the application via e-Permits platform to:
 1. Water Basin Agency, when the activity for which it is required the use of water, it is foreseen to be performed within the basin boundary;
 2. The Technical Secretariat of the National Council of Water (TSNCW), in the case of approval, in principle, of the request for issuing a concession for water resources and for issuing a permit for the use of the water resources after the signing of the concession contract;
 3. The Technical Secretariat of the National Council of Water (TSNCW), when the activity is foreseen outside the boundary of a single basin and in cases when the activity is “navigation” or “construction of anchoring and port structures”.

In these cases, the procedure will be performed based only on the information given by the applicant in the construction e-Permits portal. For the above, it is deemed necessary to make relevant amendments to *DCM No. 416, dated 13.5.2015 “For the approval of the special conditions, accompanying documents, validity deadline, application forms for authorisation and permits, procedures of review and decision-making, as well as authorisation and permits forms for the use of the water resources”*, as well as *DCM No. 268, dated 06.04.2016 “For the Approval of the Regulation “On the Functioning of the National Council of Water”*.

- 7. **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).**
- 8. **Review of the deadlines and interest rates for the payment of the infrastructure tax in the Municipality of Tirana.** The review should have as an object the compliance with the established deadlines to the applicants by the Law No.107/2014 “On the Planning and

Development of the 'Territory' (amended) and addressed with the amendment to the Decision of Tirana Municipality Council No. 59 dated 30.12.2015 (amended) paragraph III.d.

9. **Completion within a deadline of not more than 3 months of the electronic *database* from NEA, IMC and NWA, in compliance and in implementation of the paragraph 6 of the Ordinance No. 143 dated 03.11.2015 of the Prime Minister and making then available to TDA.**

10. **Re-categorise the constructions for which it is necessary environmental permit based on the risk analysis and environmental impact.** For the residential constructions or other constructions without an impact to the environment should not be required an Environmental Permit when Municipalities have approved environmental strategic plans for their territories.

11. **Raising of the awareness in the decision-making for applications through the platform enabling structured hearing sessions with the applicant according to the provisions of the Administrative Procedures Code.** Due to the specifics of this document, conducting hearing sessions, as part of the administrative practice for the clarification of parties, is deemed necessary. This would avoid misunderstandings which arise from formal responses or delays in the review of the technical document and/or its completion. From the point of view of the Secretariat there is no impediment from the legislation which regulates the procedures of the e-Permits platform to enable these hearing sessions also based on the principles of the Administrative Procedures Code.

12. **Preparation by the municipalities of simple explanatory manuals also in accordance to the typology of the services provided in the e-Permits platform. Assistance from the municipalities for specific categories of applicants (farmers and individuals).**

13. **To facilitate 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.

14. **Automating of the procedures among the directories and institutions dependent from the municipalities and digitalisation of the information *reducing the administrative burden to the business*.** Confirmations for the payment of application fees or other liabilities related to local tax and tariffs and any other certificate, should not be a burden to the applicant but should be carried out by the directory itself which reviews the applications in the *e-Permits platform* as per the principle of one-stop shop service.

15. **Digitalisation of the registry of permits/licenses/authorisations²⁷ issued by the Ministry of Urban Development/MIE. Interconnection of the e-Permits platform with the electronic registry of the MUD and NBC.**
16. **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.**
17. **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.**
18. **Discussion at technical level by TDA, NAIS, Municipalities and users of the following possible technical improvements:**
 - a) **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.
 - b) **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.
 - c) **Any amendment in the structure of the e-Permits platform should be communicate in advance to its users** through pop-up notifications in the account of the user and/or by e-mail.
 - d) **To make it possible to add in the platform the number of developers** since the law itself recognises the possibility to have several developers.

²⁷ There is a misinterpretation in practice between licences and certificates. Certificates are not licences and consequently are not administrated by the NBC. "Licences" which are issued in the construction area (designer, architect, construction checker, supervisor etc.) are administered independently by MUD and issued by the Professional Commission under this Ministry. With the current legal basis, MUD has the legal obligation to deposit in the registry of the NBC only those licences given to judicial entities-companies equipped with a Taxpayer's Identification Number. For other "licences" given to individuals which to the understanding of the Law No.10081 dated 23.02.2009 "For Licences, Authorisations and Permits in Republic of Albania" (amended), for NBC, are certificates and do not have any legal obligation to notify NBC. Despite this, for this category an important step is their digitalisation initially in a register at MUD, so that systems become integrated and application in practice becomes faster.

ANNEX 1 - INSTITUTIONS

FOR THE PLANNING AND DEVELOPMENT OF THE TERRITORY AND THEIR COMPETENCES

A. Ministry of Transport and Infrastructure²⁸

1. Undertakes legislative initiatives in the area of planning and development of the territory;
2. Supports the planning authorities and international planning;
3. Drafts and approves the national planning policy;
4. Drafts the legal framework & construction regulation;
5. Performs studies and drafts territory developments plans;
6. Takes the initiative and drafts NGP (National General Plans).

B. National Territory Council (NTC)

1. NTC is the authority responsible for decision-making for development permits and construction permits for complex developments, defined in the development regulation, and those related to issues, zones, objects of national importance or with strategic investments on the country's interests, with proposition by MUD;
2. Decides on the zones of national importance in the field of construction;
3. Decisions for application procedures for construction permits in the competence of the NTC;
4. Approves NGP (National General Plans), NSP (National Strategic Plans), DPNSA (Detailed Plan of National Significant Area), and GLP (General Local Plans).

C. Agency for the Development of the Territory (ADT)

1. The Secretariat of NTC;
2. Monitors the development of the territory and the institution which administrates the e-permits platform;
3. Carries out the coordination for the development of the territory (NTPA & Municipalities);
4. Conducts trainings for the e-permits users;
5. Develops the report on the development of the territory.

D. National Territorial Planning Agency (NTPA)

1. Drafts/coordinates NGP (National General Plans);
2. Sets up/ maintains the database for the territory;
3. Checks compliance in planning studies, programmes, competitions;
4. Prepares and runs the Registry of Territory Planning. The Registry of Territory Planning is an electronic inventory and public document containing information related to the territory planning which is being created, stored, maintained, administrated and updated independently by the national and local planning authorities and other public institutions.

²⁸ Ministry of Urban Development (MUD)

The basic functions of the registry are:

- Registration of legal and physical information of the public and private rights or restrictions on the land.
- Notification in adequate manner and form the draft laws and acts, related to planning and checking the development of the territory.
- Any other function that may be provided by the law.

E. Mayor

1. Develops programmes for development planning;
2. Takes the initiative and drafts GLP;
3. Draft and/or coordinates & approves DLP;
4. Monitors developments in the territory;
5. Approves development permits and construction permits;
6. Prepares the annual territory report.

ANNEX 2 – APPLICATION FOR PERMITS

ELEMENTS OF APPLICATION IN THE E-PERMITS PLATFORM, PROCEDURES AND DEADLINES

1. ELEMENTS OF APPLICATION FOR CONSTRUCTION PERMITS

1.1 Application Procedure

Application for construction permits since 1 September 2016 should be conducted through e-permits platform for all the categories of construction permits. The application for construction permit contains a detailed description of the works which are carried out and accompanied by a full construction documentation, including detailed projects, drafted and signed under the responsibility of licensed experts. The DCM No. 408 dated 13.05.2015 (amended) gives details on the content of the application form and the full list of documents which should accompany the request for construction permit²⁹.

The procedure and the applied deadlines for application in the platform e-permits as regards to the category of construction are standard. Law No. 107/2014 and DCM No.408 does not foresee differentiated procedures i.e. documents and applicable deadlines for certain categories of construction permits or certificates of use according to a defined risk system or according to specific sectors. The above acts have defined only cases when it is required a construction permit and cases when such a procedure is not required e.g. works carried out with a preliminary declaration, which because of the non-substantial interventions in the object make it not necessary the issuance of a construction permit³⁰ while instead an alleviated regime has been foreseen as regards to necessary documents.

1.2 Application Review

The authority in charge³¹ reviews the application for permit as per the principle of one-stop shop, coordinating the work with all the specialised public authorities which have their say regarding the application. The administrative burden to prove the validity of the submitted documentation is transferred from the applicant to the institutions of the administration which need to coordinate their activities in function of the foreseen deadlines in the e-permits platform. The applicant in his full personal and profession responsibility undertakes to guarantee that the submitted documentation is legitimate. Based on Article 44 “Review of the request for construction permit” of the Law No.107/2014 foresees that: “The responsible authority decides on the construction permit within 60 days from the submission of the application for construction permit. The regulation of development may define shorter deadlines and differentiated procedures for the issuance of the construction permission, for works with a low impact on the territory or for strategic investments in the country”.

²⁹ Article 15 defines the list of documents required for obtaining a construction permit. Since DCM cannot define in an exhaustive way the list of documents for any kind of construction permit, it is foreseen the obligation of the institutions (e.g.: Ministries, TDA etc.) to define and make public the entire list of documents required for obtaining a construction permit. Specifically, paragraph 2 of the Article 15 foresees: “The responsible authorities must publish in their official website, the entire list of documents required for obtaining a construction permit”.

³⁰ Article 41 of Law No. 107/2014.

³¹ NTC through TDA and Municipalities.

1.3 The Principle of Approval in Silence

Law No.107/2014 has adopted a very important principle in function of the alleviation of the burden for developers (business), the one of the approval in silence of the construction permit³². According to this principle in case the authority in charge does not take a decision with the above deadline and the responsible planning structure within the local authority does not give a negative opinion on the request, the construction permit is considered granted (approved) in silence. In the case of procedures and deadlines regarding the e-permits platform, this principle is extended to the case of construction permit as a pertinent final administrative act issued by the competent body (Mayor or NTC) as well as to the intermediary phases of receiving confirmation from various institutions which have to respond to the requests asked to them via the electronic platform within 10 days. The approval decision in silence should be published automatically from the electronic system in the register. The approval decision in silence, as per submitted request, constitutes, together with the payment mandate of the infrastructure tax, the only necessary documents for the starting of works³³.

1.4 Exemption from the Application of the Approval Principle in Silence

The exceptional cases where it is applied the approval principle in silence are foreseen in the Article 44 of the Law 107/2014. This principle is not applied for construction permits which are of the competence of NTC, as well as for other works, including those of high risk, defined by the regulation of development or are regulated in special by the effective legislation.

1.5 Submission of the Construction Permit

The document of construction permit is handed to the applicant by the authority in charge, no later than:

- a) **15 days** from the date the decision was taken for the approval of the construction permit by the Mayor;
- b) **30 days** from the date of the decision for the approval of the construction permit from the National Territory Council.

1.6 Infrastructure Tax from the New Buildings and Application Fee

The infrastructure fee and the method for its calculation has been an object of discussion by the groups of interest, starting from the selected criteria for its calculation and a kind of confusion created between the two approaches foreseen in two different laws, Law No.107/2014 and Law No. 9632 dated 30.10.2006 “On the System of Local Taxes” (amended). Article 46 “Infrastructure tax from new buildings” of Law 107/2014 provisions that: “The impact tax is calculated on the reference price or the quotation of the forthcoming investment requested for implementation, selecting the one which is of higher value” meanwhile Article 27 “Infrastructure Tax” of Law No. 9632 provisions that: “The tax base is the value in ALL of the forthcoming investment requested for implementation or the value in ALL of the sales price per square metre of the new investment”. The created confusion seems to have pushed the lawmaker to amend in March 2016³⁴, article 46 of the Law 107/2014 and to make as

³² In the theory of the administrative right it is recognised also as the non-response of the public administration as an administrative decision-making.

³³ Article 26/1 of DCM No.13.05.2015 (amended)

³⁴ With the Law No.28/2017 “On some amendments and additions to the Law No.107/2014 “On the Territorial Planning and Development” (amended) paragraph 1 of Article 46 was amended as follows: “1. Infrastructure tax from new

a single reference the method for calculation of the infrastructure tax, the pertinent provision of the Law No. 9632. The infrastructure tax depends on the category of the construction³⁵ as per definitions in the Article 27 of Law No. 9632. The above legislation has not foreseen any standard for the application fee in the e-permits platform. The application fee for construction permits in the electronic platform is different in different municipalities (e.g. 1% of the investment value in the Municipality of Tirana and 5,000 ALL in the Municipality of Durrës) and it is decided according to the defined criteria with the pertinent decisions of the Municipal Councils. Resubmission of the request for construction permits, after non being accepted or refused, is treated as a new request³⁶.

buildings applies to new developments which according to this law, require equipment with construction permit and calculated according to the legislation on local tax system”.

³⁵ Article 27 of Law 9632 dated 30.10.2006:

*“2. In the case of residential constructions or service units from the construction companies, which are not intended for use in the sector of tourism, industry or public use, infrastructure tax is between **4% - 8%** of the sales price per square metre. The tax base is the value in ALL for metre square of the sales price of the service units or buildings for residential purposes. The sales price per metre square is based on the reference value of the market, according to the instruction of the Council of Ministers, “On the approval of the median cost of the housing construction by the National Housing Authority,” which is approved every year.*

*3. In the case of constructions other than those defined in the paragraph 2, of this article, the tax level is expressed as percentage of the investment value and **it is 1% - 3% of this value**, meanwhile for the Municipality of Tirana it is 2% - 4% of the value. For infrastructure projects, for the construction of national roads, ports, airports, tunnels, dams, infrastructure construction in energy, including machinery and equipment for these projects, infrastructure tax of new buildings **is 0,1% of the investment value**, but not less than the rehabilitation cost of the damaged infrastructure, when this cost is not included in the investment estimate.*

For buildings, which are in process of legalisation, infrastructure tax of new buildings is 0,5% of the investment value.

4. The Municipal Council approves the categories and subcategories for the classification of investments, which may be used to set the tax rate.”

³⁶ Article 23/3 of DCM No.408 dated 13.05.2015 (amended)

ANNEX 3 - LEGAL INTERPRETATION OF THE ARTICLE 44 OF THE LAW NO.107/2014 (*amended*)

Article 44

Review of the application for construction permit

1. *The authority in charge, according to article 27 of this law, reviews the application for construction permit according to the principle of one-stop shop, coordinating the work with all the specialised public authorities which have their say on the application.*
 2. *The authority in charge decides on the construction permit within 60 days from the submission of the application for construction permit. The Development regulation may define shorter deadlines or other procedure for issuing the construction permit, for works with a low impact in the territory or for investments which are strategic to the country.*
 3. *In case the authority in charge does not take a decision within the above deadline and the structure responsible for planning at the local authority has not given a negative opinion on the application, the construction permit is considered approved in silence. Approval in silence is not applicable for construction permits which are of competence of NTC, as well as for other works, including those with a high risk, defined by the development regulation or regulated specifically by the effective legislation.*
 4. *In case of refusal of the application for construction permit or refusal of the preliminary declaration for the execution of the works, the decision should be justified.*
- A. *According to literal interpretation*, the deadline foreseen by the legal dispositions does not leave room for a different interpretation. The general rule of defining the deadlines as per thumb rule are the days of the calendar. The deadline specified as “*working days*” is usually used in acts which regulate the work of the administration, organising the internal processes as per the working days of the administration. This is not the case of the Law No.107/2014 which is applicable for the administration and individuals, natural and judicial persons. This type of deadline makes an exemption to the rule and as such the law should either express it explicitly or authorise another sublegal act to do so.
- B. *According to the systematic interpretation* and in relation to all the other dispositions of the Law No.107/2014 which do not foresee any other deadline, other than “days”, the deadline is 60 calendar days.
- C. *Even according to the historical and teleological interpretation (intentional)* the conclusion remains the same. Making reference to the report submitted to the Parliament of Albania in the phase of review and approval of the Law No.107/2014, it is clear that the interest of the involved parties (groups of interest, executive and law-making) is the definition and establishment of simpler and clear deadlines and in function of the facilitation of procedures related to development and construction permits and not their complication. In all the cases, the public has been informed about the “60 days” deadline, within which it is received a response about the application. Even if the disposition is unclear at this point, again it should be interpreted in the interest of the entity applying for construction permit and not of the administration. Also, the law for no single case does not authorise an act or other institution to decide on a different deadline or create another judicial norm as made by DCM No.408. Moreover, article 44/2 authorises even sublegal acts to foresee only shorter deadlines and simpler procedures, setting thus maximum obstacles, beyond which no other provision can be made

except when it is in favour of the entities which apply for construction permits. Specifically, in Article 44/2 it is foreseen that: *“The authority in charge decides on the construction permit within 60 days from the submission of the application for the construction permit. The Development Regulation (read: DCM) **may define shorter deadlines or other procedures for the issue of construction permits, for works with a low impact in the territory or for investments strategic to the country**”*. Based on the above, a deadline in *working days* cannot be shorter than the deadline in *calendar days*. Lastly, the sublegal act itself DCM No.408, initially had provisioned *days (i.e. calendar days)* the general and interim deadlines related to procedures of construction permits. Afterwards, with each following DCM amending base DCM No.408 there has been a gradual transition to *working days*, which are defined as such for each procedure with the addendum to DCM No. 355 dated 19.04.2017 *“On Some Additions and Amendments to DCM No.408”* in the Article 45/2 according to which: *“**The foreseen deadline in the Regulation are calculated as working days**”*.

ANNEX 4 - QUESTIONNAIRE

ON THE FUNCTIONING OF THE E-PERMIT'S PLATFORM AND ITS IMPACT ON THE IMPROVEMENT OF THE INVESTMENT CLIMATE (CONSTRUCTION SECTOR)

1 August 2017

About the questionnaire

The Secretariat of Investment Council in the framework of the preparatory work about the upcoming Meeting of the Investment Council (IC) with agenda item: *"The electronic platform of construction permits. Its impact in the raising the transparency and improvement of the investment climate in the country"*, has held various preliminary consultations with investors in the field of construction, design firms, experts in construction, Albanian Builders Association (ABA), central and local institutions in the area of territory planning and development.

The purpose of the held meetings is to *identify main concerns* and possible recommendations for legal/regulatory/administrative improvements from a wide range of stakeholders involved in the procedures for the issuance of development or construction permits.

This questionnaire has been conducted in collaboration with the ABA with the purpose of receiving direct opinions from the builders' community with regard to administrative procedures of getting a construction permit or other concerns related in the investment area of the construction sector.

The findings and the suggestions deriving from the questionnaire will be constructively discussed in the Meeting of the Investment Council. The approved recommendations of the Investment Council will be submitted to the Albanian Government for further considerations.

The deadline for completing the questionnaire is **5 September 2017**.

1. How do you assess the impact of the e-permits portal **on your sector** comparing with the period before the online application?

- ☐ It has disciplined the deadlines and the application procedure
- ☐ Provides more transparency
- ☐ It has reduced corruption
- ☐ It provides better institutional coordination (central & local)
- ☐ Nothing has changed
- ☐ Other (specify)

2. List in the following the positive elements (novelties) that the application of the e-permits platform has brought to your **business**.

a)-----

- b)-----
- c)-----
- d)-----
- e)-----

3. List below some elements which you consider should be improved for the well-functioning of the e-permits portal and recommend for each of them how they should be improved:

a)-----

Recommendation:-----

b)-----

Recommendation:-----

c)-----

Recommendation:-----

d)-----

Recommendation:-----

e)-----

Recommendation:-----

4. Is the administrative procedure of the application for the development/construction permit from Municipalities/NTC clear and transparent? Is the practice applied by various municipalities unified?

- ☐ Yes
- ☐ No
- ☐ Other (*specify if you have any additional comment*)

5. Have you received a response on your application for development/construction permits within the legal deadlines? (*Note: 45 days for construction permits from the Municipalities and 90 days for construction permits from NTC*).

- ☐ Yes
- ☐ No
- ☐ Other (*specify if you have any additional comment*)

5.1 If you have received a positive response (Approval), how would you assess your experience for the following elements?

a) The deadlines for the application and review of the request

b) Applied procedure

c) Application fees and the infrastructure tax

d) Other

5.2 If you have received a negative answer (refusal), how would you assess your application experience through the platform? Were the refusal reasons of your request well-elaborated and were you clear with the argumentation given?

6. How would you assess the list of documents that need to be deposited for application of development/construction permit in the e-permits platform?

- ☐ The list of documents is correct
- ☐ The list of documents is short. (*List below the documents that need to be added and why*).

- ☐ The list of documents is too long. (*List below the documents that need to be made redundant and why*).

- ☐ Other (*specify if you have any additional comment*)

7. Have you been requested that apart from the listed documents in the e-permits platform, to submit also other documents/authorisations/certificates not previously requested?

- ☐ No
- ☐ Yes

7.1 If yes, specify below which documents you have been requested and the reason for this request from the Municipality.

8. Have you applied for construction permit for industrial buildings (warehouses, workshops, factories, stalls, etc.) or tourism intended objects (hotels, resorts etc.)?

- ☐ No
- ☐ Yes

8.1 If yes, did you have to follow the procedures for the conversion of the land in another construction land at the line ministries? How was your experience?

8.2 Have you ever been asked to follow another procedure? Please specify.

9. Which are the factors you consider that inhibit or promote investment in this sector?

- ☐ Informality and unfair competition
 - ☐ Administrative burden in central institutions
 - ☐ Administrative burden in local institutions
 - ☐ Inspections by institutions
 - ☐ Obtaining of permits and licenses
 - ☐ Fiscal burdens
 - ☐ Other (*specify if you have any additional comment*)
- -----

10. Have you been subject of inspection from the inspection organs?

- ☐ No
- ☐ Yes (specify) -----

10.1 Specify which has been your experience in relation to the following elements?

- ☐ Number of inspections within the year, and specifically from how many inspectorates?

- ☐ Professionalism of inspectors

- ☐ Duration of inspection

- ☐ Recognition and respecting of the legal base and inspection

- ☐ Inspection results (If there is an improving effect for your business from the inspection)

11. Please list any other comment or suggestion on the faced issues in the sector of construction.

12. Please list any other issue in general which you would suggest to discuss in the future meetings of the Investment Council.

Thank you!

For further inquiries please contact: info@investment.com.al.

Note: *About Investment Council & Secretariat*

The Investment Council and Secretariat were established with Decision of Council of Ministers No. 294 dated 8 April 2015. The Investment Council is a platform established by the Albanian authorities with the support of the EBRD to intensify the dialogue between the government and the private sector, to improve the business investment and to promote good governance. For more www.investment.com.al

BIBLIOGRAPHY

1. *EU Progress Report 2016*
2. *Albania Doing Business 2017*
3. *Albania's Economic Reform Programme 2016-2018*
4. *Territory Planning and Development in Albania – Technical Manual - 17 November 2015*
5. *National General Plan/First National Document for Territory Planning 2015-2030;*
6. *USAID Business Enabling Project- Proposal of the Concept of Reform of Construction Permits in Serbia- June 2013*
7. *Assessment of Constraint to Construction Permits in Serbia- Executive Summary-USAID*
8. *Submission of the Documents and Requests for Permits in the Planning Registry of the Territory – Technical Manual – National Agency for Territory Planning - NATP.*
9. *List of Technical-Legal Documents for Construction Permits – Municipality of Tirana - June 2017*
10. *Law on Territory Planning and Development No. 107/ 2014 (amended)*
11. *Law No.9632 dated 30.10.2006 “On the Local Tax System”.*
12. *Law No.115/2015 “On the Administrative-Territorial Division of the Local Government Units in the Republic of Albania”*
13. *Law No. 139/2015 “On the Local Self-Government”.*
14. *DCM No. 408, dated 13.5.2015 “On the Approval of the Territorial Development Regulation” (amended)*
15. *DCM No. 271, dated 06.04.2016, “On Some Amendments and Additions to the DCM No. 408”.*
16. *DCM No. 671 dated 29.07.2015 “On the Approval of the Territorial Planning Regulation”.*
17. *DCM No. 427 dated 08.06.2016 “On the Organisation and Functioning of the National Agency of Territorial Planning”.*
18. *DCM No. 354 dated 11.05.2016 “On the Approval of the Manual on the Fees for Services in Territory Planning, Design, Supervision and Checking”.*

19. *Decision No.1 dated 30.07.2015 of the National Territory Council (NTC) "On the Establishment of Regulations and Procedures to be followed by the Authorities of the Territory Development of the Review of the Requests for Construction Permits till the Approval of the General Local Plans".*
20. *Decision No.5 dated 29.12.2014 of the National Territory Council (NTC) "On the Identification of the Urban Zones throughout the Territory of the Republic of Albania and Approval of Maps where it can be intervened in the Function of the Urban Development."*
21. *DCM. No.283, dated 01.04.2015 "On the Definition of Types, Rules, Criteria and Procedures for the Construction of Buildings for the Production, Preservation and Processing of the Agricultural and Livestock Products in Agricultural Land" (amended);*
22. *Law No. 8752 dated 26.03.2001 "On the Establishment and Functioning of the Structure for the Administration and Protection of the Land" (amended)*
23. *Law No.9244 dated 17.06.2004 "On the Protection of the Agricultural Land" (amended)*
24. *DCM No. 410 dated 27.06.2012 "On the Definition of the Rules and Procedures for the Changing of the Categories of the Land Resources" (amended)*
25. *Decision of the Prime Minister No. 143 dated 03.11.2015 "On the Establishment and Functioning of the Responsible Structures for the Coordination of the Work with the Agency of Territory Development"*
26. *Instruction No. 5557 dated 12.06.2017 "On the Prior Review of the Compliance with Sectorial Policies, Strategies and Legislation of the Ministry of Economic Development, Tourism, Trade and Entrepreneurship as well as the Special Technical Criteria for the Approval/Consent/Authorisation of the Development/Construction Permits, which are approved by NTC and the Requests for the Conversion of the Agricultural Land in Urban Land (Territory) or Issues related to the Planning and Development of the Territory."*