

SUMMARY OF RECOMMENDATIONS INVESTMENT COUNCIL - 2018

-MEETING NO. 12-

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

In the focus of the meeting was the presentation and discussion of the main findings of the Secretariat on the functioning of the e-Permits Platform, as part of the Deregulation Reform, as well as the launching of the process for the preparation of the new unified law on investments by the International Finance Corporation (IFC). The analysis aimed the identification of the main concerns of the users of the e-permits platform (designers, developers, investors, etc.) as relates to the application process for developing permits, construction permits or other applications (around 20 services), with the aim of further simplification of procedures in the context of the Deregulation Reform.

IC approved in total 16 Recommendations which were grouped in 3 main pillars as below:

To be implemented in the short term

Recommendation 1

The authorities in charge which decide on the construction permits to meet the legal time term of 60 calendar days.

1. 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*).
2. Re-settlement of the deadlines as above-mentioned in the e-permits platform to ensure that the legal obligation is met.

Recommendation 2

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.

Recommendation 3

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.

Recommendation 4

Completion within a deadline of not more than 3 months of the electronic database from NEA, IMC and NWA.

- Implementation of the paragraph 6 of the Order No. 143 dated 03.11.2015 of the Prime Minister and making then available to TDA.

Recommendation 5

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.

Recommendation 6

Digitalisation of the registry of permits/licenses/authorisations issued by the Ministry of Urban Development/MIE. Interconnection of the e-Permits platform with the electronic registry of the MUD and NBC.

Recommendation 7

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. 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.

- c) To make it possible to add in the platform the number of developers since the law itself recognises the possibility to have some developers.

To be implemented within a medium term

Recommendation 8

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 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.

Recommendation 9

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.

Recommendation 10

Legal amendments to the sectorial legislation of some institutions, in order to respond to the digitalisation requests of the platform as a one-stop shop service.

- a) Law No. 33/2012 "On the registration of the immovable properties" and Instruction of the Council of Ministers No. 1, dated 13.04.2016 should be subject of legal amendments in order to address this need.
- b) Law No. 9048, dated 7.4.2003 "On Cultural Heritage," should be subject of amendment as relates to the written approvals issued by NCA and NCR.
- c) Amendments to the Law No. 8402/1998 "On the Controlling and Disciplining of the Construction Works" (amended) and the relevant sub-legal framework require the

notification for the starting of the works to be equipped with a Certificate/Authorisation before the starting of the works.

- d) Amendments to the DCM No. 416 and DCM No. 268 dated 06.04.2016 regarding NWA.

Recommendation 11

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.

- o Legal amendments in DCM No.408 date 13.05.2015 and other sub-legal acts.

Recommendation 12

Unification of the tariff for the application of construction permits in the e-Permits platform.

- a) 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).
- b) Review of the deadlines and interest rate for paying the infrastructure tax in the Municipality of Tirana.

Recommendation 13

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.

For continuous and long term implementation

Recommendation 14

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.

Recommendation 15

Preparation by the municipalities of simple explanatory manuals also in accordance to the typology of the services provided in the e-Permits platform.

- o 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.*

Recommendation 16

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.

For more information: <https://www.investment.com.al/meeting/5863>

-MEETING NO. 13-

LEGAL FRAMEWORK ON INVESTMENTS, DEBATES AND CHALLENGES

The meeting was held on 18 June 2018 and was chaired by Mr. Arben Ahmetaj, Minister of Finance and Economy, with special participation of EBRD Vice President, Mr Alain Pilloux and EBRD Director for Western Balkans, Ms.Zsuzsanna Hargitai. In the focus of this meeting was the investment climate and the current debates on the improvement of the investment legal framework .

During this meeting no recommendations were approved by the IC. The Secretariat presented several issues on the investment climate and the current legal framework evaluated by the Secretariat during 3 years of work, as well as some comments and issues raised by the business community during a preliminary round table organized in cooperation with MFE and IFC on 23 May 2018. These comments were grouped by the Secretariat in the Summary Document presented in 3 pillars: i) Legal aspect, ii) Institutions and administration; and iii) strategic policies.

In this regard, the main principle for legislation development, is to identify together all the elements of the current framework and to make respective amendments, if necessary, to improve their functioning and not only, but also to put new elements on the legal framework, which precede government's ambitious goals for economic growth, diversification, increased competitiveness of the economy, and consequently opportunities for significant investment and employment.

For more information: <https://www.investment.com.al/meeting/ic-meeting-no-13-on-the-legal-investment-framework>

-MEETING NO. 14

ON FORMALIZATION AND COMPETITIVENESS IN THE TOURISM SECTOR

In the focus of the IC meeting held on 15 October 2018, was assess the impact of the informal activities and tax evasion in the sector's competitiveness. The objective of the analysis was identification of the fiscal, legal and regulatory measures, necessary to address sector's high informality and their alignment with the general framework of policies and strategies for the development of the sector.

Some of the main findings of the Secretariat's analysis are: a) Informality remains a systemic problem of the sector with peculiarities as per tourist destinations and business models; b) The structure of the businesses remains dynamic, from small businesses to medium businesses and big ones, with specific characteristics as per tourism destinations/ % of foreign investments in the sector is low, c) Regulatory reforms have improved the investment climate in the sector – particularly positively assessed business registration, licensing and relationship with the tax authorities; d) meanwhile, some of the major business concerns are unfair competition, lack of quality in human resources to cope with the increasing number of visitors, impediments to access to finance, the need for more investments in the public infrastructure etc.

IC approved in total 17 Recommendations grouped in 3 main pillars: i) Strategic Approach; ii) Legal Obligations; iii) Institutions, Administrative Capacities/Transparency and Awareness. Summarized approved recommendations are provided here below:

To be implemented in the short term

Recommendation 1

Finalization and the approval of the Strategy of Tourism

- a) Aligning of the objectives between MTE and MFE with regard to the actions, concrete measures and responsible agencies to tackle informality in the sector. More concretely, defining of clear formalization milestones to meet the objective of the draft-strategy on tourism: "registration of 80% of family accommodation (rooms, apartments, houses) by 2022". Envisages of concrete actions and methods that addresses the formalization issues (identification and registration), could make the strategy objective realistic.

Recommendation 2

Classification of accommodation structures

- o Fulfilment of the provisions of the Law 93/2015 and modalities stipulated by the Regulation “On the Conditions, Criteria, Tariffs, Terms and Procedures for Classification of the Accommodation Structures” as approved via CoM No.730 dated 20.10.2016 is a must to be done in order to further tailor the measures for tackling the informality in the sector, especially fiscal policies.

Recommendation 3

Identification and registration of accommodation structures could be finalized with a simple labelling of formal operators in tourism sector - which states that the operator are recognized as registered operators that regularly pay tax and tariffs.

- This labelling has been used in neighbouring countries such as Greece/Croatia as a transitional measure toward full formalization of the sector. This is a preliminary step until the National Register is consolidated.

Recommendation 4

Amendments of the MFE Instruction No.24 date 02.09.2008 “On Tax Procedures” and CoM decree No.96 dated 17.02.2010.

- The purpose of these amendments should be facilitating doing business and finding out innovative solutions such as enabling issuance of a “summary coupon” associated with a “detailed list of orders” for services offered in accommodations structures, by making formalization process easier. These changes would improve tax administration while monitoring fiscal equipment, moment when the coupon is issued etc. and would provide a tailored model for businesses operating in tourism, reducing also the tension created between the entrepreneurs and tax administration.

Recommendation 5

Preparation of a consolidated and easy accessible information for investors on all the incentives (general and sectoral) on the tourism sector.

Recommendation 6

Considering the lack of consolidated data on the informality level in the sector, it is of major importance to consolidate information provided by different data sources - INSTAT, Tax Authorities, Local Authorities, online booking platforms etc. be brought together in order to update and make accurate the information base. MFE or Tax Authorities could lead this process of data consolidation under the frame of an inter-institutional task force.

Recommendation 7

Anti-informality programmes should be developed for the tax administration but also for the inspectorates which monitor the conformity of the market on permanent basis. This platform should be implemented on regular basis, and not focused only during the tourism season, because actions during high season has had a negative impact on business activity and tourist’s perception.

Recommendation 8

Introduce training programs for employees during the off season period, at the verge of the touristic season.

- This will improve hiring of employees, improve the quality of staff as demanded by many companies. This training scheme could be part of the Active Employment Measures.

Recommendation 9

Internship and seasonal employees legal framework needs to be adjusted to the nature of this employment scheme.

- *The requirement for such employment scheme are treated similar to full-time employees, posing unnecessary cost of hiring staff for seasonal or internships employment schemes. There is a discussion at national level to improve terms of engagement for internships that practice during education cycle. Tourism business associations have to engage in that discussion and contribute.*

To be implemented within a medium term

Recommendation 10

Strengthen of the governance of tourism sector at local level as an integrated policy

- a) Tourism is a strategic sector at national level, however it remains a local *shared economy*. Considering this, local government need to be more active in monitoring the sector development, better fulfil their obligations and establishing dialog with businesses, as provided by law no.93/2015 “On Tourism”, in order to bring their voice to policy making.
- b) The establishment of local anti-informal platforms (initially as pilot project) will stimulate new synergies between local actors involved in the tourism industry (associations, businesses, institutions, municipalities) to address the rapid resolution of formalization issues.

Recommendation 11

The business model and features of informality are diversified per typology of tourist destinations. Considering that informality in the sector remains systemic it is suggested that formalization strategies could be tailored accordingly and grouped as following:

- *Group 1* - formalization/registration + tax controls for cases where the construction industry is to a certain level converted into a “touristic” one by leasing massively apartments to tourists. The impact in budget losses from this informal activity is significant (main cities like Vlora, Durrës, Shëngjini, Saranda etc.)

- *Group 2* - simple registration of small accommodation structures (which do not exercise pure economic activity) only for touristic purposes and not for fiscal ones (e.g. historical destinations such as Gjirokastra, Berat, Korca). However, these kind of “microbusinesses” should be subject of local or national authority’s inspections regarding compliance with

the hygiene and sanitary standards and subject of assistance to gradually shape into sustainable businesses.

- *Group 3* - formalization of the activities promoted via online platforms such as Airbnb in main cities like Tirana, Durrës etc. through self-declaration as personal incomes at 15% as already stated by GTD via technical instructions.

Recommendation 12

The policy agenda for formalizing the sector should be coherent with public local and national investments:

- a) Infrastructure investment in areas with a registered business such as the overpass in Golem (subject to formalization of the business of the area);
- b) Connection of formalized businesses of the Korça area to the TAP pipeline network.

Recommendation 13

Encouraging of electronic payments via POS terminals could impact the high level of shadow economy in the tourism activities, it would increase the tax compliance of business and it would significantly contribute to the increasing of transparency and reputation of Albanian tourism offer especially to foreigners.

- a) The means on how to struggle with this challenge would be subject of further discussion with BoA, banks of second level and MoFE, aiming to find an acceptable solution and avoiding additional costs for businesses especially for micro-businesses. The international practice offers several measures that can be followed¹.
- b) Additionally to the above, implementation into practice of the rules on categorization and classification of the accommodation structures as per the provisions of the CoM Decree No.730 dated 20.10.2016 “Approval of the Regulation on the Conditions, Criteria, Tariffs, Terms and Procedure for Classification of Accommodation Structures”, which impose use of POS terminals in 4 and 5 star hotels/resorts, would help to the formalization.

¹ 1) *Obligation to operate POS terminals for selected types of businesses (i.e. tourism services). South Korea is known for promoting electronic transactions by applying a wide range of policy tools. In 2001, card acceptance was mandated for all VAT-paying businesses in the country. Moreover, in 2002 South Korea imposed fines for card refusal; 2) VAT deduction on electronic payments accepted by merchants (example Uruguay where 2 p.p. VAT deduction on electronic payments accepted by merchants has recently been introduced); 3) Incentives for customers while using POS terminals (VAT deduction); 4) Incentives for customers for being equipped with debit cards.*

Recommendation 14

Identification of all the accommodation structures as defined under the Law no.93/2015 including also apartments/villas and guesthouses which exercise economic activities in the field of tourism, via a coordinated campaign between GDT, MTE, Regional MTE Units and Municipalities.

- For a transitory period, a simple solution might be simple registration of guesthouses which offer accommodation services on occasional basis and for a limited period of days, in cultural/historical destinations on yearly basis as accommodation structures with NUIS/ID, but out of the regime of physical person for national and local tax purposes, might be considered as a solution. In the meantime these businesses subject of inspections as related to fire and sanitary measures.

Recommendation 15

Informality from accommodation facilities penetrates the market through the chain of tour-operators, which need to be subject of better monitoring and joint inspections between GTD and Inspectorate on Tourism, ensuring compliance with regulatory and fiscal requirements. Business Associations operating in this segment may help to identify the processes which need to be formalised.

For continuous and long term implementation

Recommendation 16

Informality as unregistered employment, overpasses that of not-issuing coupon, as per business reporting in the IC Secretariat Survey. Supporting businesses through cost-sharing of health & social contributions for employees with a minimum 1 year working contract, for off season period.

Recommendation 17

Since small and medium-sized businesses have a high level of informality, it is recommended to increase efforts for their fiscal education through the active role of business associations in the field of tourism, to properly share the formalization measures by MFE and DPT and to enable specific fiscal training for this category of businesses.