

MATRIX OF RECOMMENDATIONS ON INVESTMENTS AND LEGAL SECURITY ON PROPERTY		INVESTMENT COUNCIL SECRETARIAT MAY 2019	
PILLAR	RECOMMENDATION	RESPONSIBLE INSTITUTION	
I. STRATEGIC	<p><b>Recommendation 1.</b> <i>A modern vision for a new standard on the registration of property which takes into account private sector priority interventions. The vision of the government to be updated in a consolidated document by considering which recommended intervention is of highest priority from the private sector's point of view and which is feasible from the Government's point of view, including concrete proposals for implementation such as:</i></p> <p>a) What is the vision of decision-making in 2019 regarding options for resolving property registration issues in relation to stimulating investments in priority sectors (agriculture, tourism, natural resources)? Will it be a cross-cutting strategy or a stand-alone strategy? What approach will be used for the cost or the incentivising to solve the elements of social conflicts closely related to the overlapping of property titles? To be considered solving property-related issues in coherence with priority development areas for investment stimulation (Agriculture, Tourism), but respecting property rights.</p>	CoM/SAC	TBD <sup>1</sup>

<sup>1</sup> The final time-terms for the recommendations to be determined at the end of 2019, depending on the progress of the reform and approval of Action Plan by SAC, and adoption of the Law "On the finalization of the transitory processes on property".

	<ul style="list-style-type: none"> <li>b) Drafting of an Action Plan specifying the activities/deadlines/costs/responsibilities/indicators for monitoring, interventions at all levels for the consolidation of the property registry and its digitalization;</li> <li>c) Given that corruption remains one of the main factors hampering the business climate in the country and the lack of a credible justice system, it is suggested for the reform on the property to consider concrete measures that restrict corruption practices of the administration in the interaction with the business and vice versa.</li> </ul>		
	<p><b>Recommendation 2.</b> <i>Monitoring the progress of property reform.</i> Law No.111/2018 “On Cadastre” and the Draft Law “On the Finalization of Transitory Processes” provision many procedures, measures, activities and deadlines. (e.g. transitory processes are thought to last up to 10 years), finalization of the update of inventory and transferred properties to institutions/local government units within 18 months), which fulfilment is of public interest. In view of the transparency of these processes it would be suggested:</p> <ul style="list-style-type: none"> <li>a) Developing instruments for the monitoring of the reform and the respecting of deadlines, such as establishing a Monitoring Committee, including business representatives (e.g. from the banking sector), business associations, and civil society to enable not only transparency of funds but also to provide suggestions for coping with the challenges of such a crucial reform for the country’s economy where postponement of the deadlines and final solutions only degrade the situation.</li> <li>b) <i>Publication of monitoring reports or minutes of committee meetings</i> in view of the transparency to the public on the status of transitional processes, to monitor the established deadlines.</li> <li>c) <i>Creation of an interactive platform under the administration of SCA to oversee all the measures and steps of the reform, public and stakeholder comments, legal and sub-legal acts applicable in the area of property.</i></li> </ul>	CoM/SAC	TBD

	The credibility and achievement of the reform will also depend on the monitoring of its performance and not just on laws and regulations laid in the paper. The above steps are evenly crucial and they will help to identify weaknesses and reasons for not making progress, by suggesting necessary adjustments to the reform targets and strategy.		
<b>II. LEGAL</b>	<p><b>Recommendation 3.</b> <i>Public Consultation with Parties and Interest Groups on the Draft Law “On the Finalization of Transitory Processes on Property”.</i></p> <p>During the consultation phase of the findings and recommendations of this Technical Note, business associations and experts contacted by the Secretariat claimed that they were not consulted or contacted to give their opinions on the draft law. Considering that the draft law is still under review process at the Albanian Assembly, this period should be used for its consultation with various interest groups, chambers of commerce and business associations.</p>	<b>CoM/MSEP/ Business Associations/ Chambers</b>	<b>TBD</b>
	<p><b>Recommendation 4.</b> <i>The Draft Law “On the Finalization of Transitory Processes on Property” (Sections 30 et seq.) does not foresee sanctions for local government units as relates to the updating of inventoried/transferred properties which should be completed within 18 months of its entry into force. It is suggested for the law to provide a penalty element against them, which would increase the guarantee for the enforcement of the legal obligations as relates to this process of national interest.</i></p>	<b>CoM</b>	<b>TBD</b>
	<p><b>Recommendation 5.</b> <i>Digital Cadastre for state properties to be online and with free access for the general public. As a constant demand of the business and citizens and in the function of transparency, this measure would be welcomed also in the view of accountability towards taxpayers.</i></p>	<b>SAC</b>	<b>TBD</b>
	<p><b>Recommendation 6.</b> <i>Unification of operational and advisory practices provided by the regional cadaster directorates for the users of cadaster services, particularly for financial institutions. Publication of SAC unifying orders in real time on the SAC official website together with the inventory of applicable sectoral laws and sub-legal acts to enable the functioning of the cadaster services as a single one.</i></p>	<b>SAC</b>	<b>TBD</b>

<b>III. INSTITUTIONAL</b>	<p><b>Recommendation 7.</b> <i>Drafting of a priority list of state property registration (part of the Action Plan). As a first step of political commitment and affirmation to the reform, it is suggested:</i></p> <ul style="list-style-type: none"> <li>a) Full (initial) registration of property for state institutions to decisively resolve first of all problems with the registration of the institutions where the state is the owner and where the administration executes its functions and provides public services.</li> <li>b) Registration of leasing contracts entered into until to date and the registration of concessionary contracts for properties owned by the state (agriculture, energy, tourism, etc.) by central government at the State Cadastral Agency.</li> <li>c) Specify a priority list of properties that are “clear” from any type of burden to enable investment promotion. Concession or lease contracts for state-owned properties should be signed by the state institutions only after their registration at SAC.</li> <li>d) Public transparency on the status of contracts awarded or leased in the field of Agriculture, Energy, Tourism, by publishing a report that reflects not only the status of state-owned property, but also detailed information such as the level of investment vis-à-vis the initial business plan, as well as the main issues faced by the investors and the state.</li> <li>e) Formalization of the unregistered buildings not owned by the state through the use of “temporary” incentives, especially in tourism or agro-tourism as priority sectors = e.g. “free for a 6-month period” to also have an impact on the state budget.</li> </ul>	<b>SAC/CoM</b>	<b>TBD</b>
	<p><b>Rekomandim 8.</b> <i>Institutionalize the updating process between GLP and the information recorded in the registers of immovable properties (priority areas for investment, including the areas where the state is the owner). Meanwhile, for timely and continuous information of any legal dynamics related to the property and the role of the municipalities – to encourage the awareness of the municipalities about the GLP registration and any changes related to it.</i></p>	<b>MUNICIPALITIES</b>	<b>TBD</b>

	<p><b>Recommendation 9.</b> <i>Municipalities, especially large ones, cannot make the registration of their properties with the argument of lacking funds or independence in the framework of decentralization reform. Therefore, municipalities that cover the areas of priority investments should:</i></p> <ul style="list-style-type: none"> <li>○ Establish a Working Group in relation to the progress made on the transferring, mapping and full registration of their properties. The Working Group shall report in the meetings of the Municipal Council (as the authorizing authority for leasing their disposition or alternation).</li> <li>○ Reporting of the Working Group to be documented and made public.</li> <li>○ The Municipal Council should plan a special budget line on the inventoring and registration of state properties if considered a strategic process.</li> </ul>	SAC/ MUNICIPALITIES	TBD
	<p><b>Recommendation 10.</b> <i>In the context of no full public statistics on the number or profile of judicial cases, between investors and state institutions on property-related issues in national or international courts, and for purposes of a deeper analysis, <u>we would suggest initiating this process through a working group, for example, from the MSEP at the same time with the consolidating of the initial property registration.</u></i></p>	MSEP	TBD
	<p><b>Recommendation 11.</b> <i>Progress of the fiscal cadastre is conditioned by the lack of a complete property register, non-verification in the grounds by municipalities, lack of capacity in small municipalities and political will in major municipalities, lack of interaction between institutions. Political engagement has already been affirmed since the Government has allocated budget funds (e.g. a directorate at MFE filled with staff and funding made available also from donors), the platform has been set up but the <i>concrete steps and its implementation timing needs to be more realistic</i>, to be revised as they depend on the performance of the preliminary processes that are currently on “standby”.</i></p>	MFE/SAC	TBD
IV OPERATIONAL	<p><b>Rekomandim 12.</b> <i>Reform on Property should be supported by concrete measures as relates to:</i></p> <ul style="list-style-type: none"> <li>a) continuous training programs for all public servants which provide business services, especially on their rights and responsibilities;</li> </ul>	SAC	TBD

	<ul style="list-style-type: none"> <li>b) support the reform with human resources and allocate necessary funds for the closing of procedures related to property registration;</li> <li>c) SAC to establish specific evaluation systems on its staff performance in line with the institution's objectives on annual performance and executed procedures.</li> </ul>		
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OTHER SUGGESTIONS	ENTITY
<ul style="list-style-type: none"> <li>1. Individuals and legal entities as well as the state itself, must register the properties. In order to achieve this objective, the provision of the respective sanctions should be considered;</li> <li>2. Accumulated issues related to properties documents which are substantially related to small details but impede the final property registration should be resolved as soon as possible and tolerated in the framework of the reform, in order to keep pace with the progress of the reform.</li> <li>3. Adoption as soon as possible of the draft law allowing foreign investors the purchase of agricultural land as an important process for stimulating investment in the agricultural sector.</li> </ul>	<b>BoA</b>
<ul style="list-style-type: none"> <li>4. Communication with IPRO offices is a real challenge for entrepreneurship, especially for the construction sector. Attention should be focus not only to front office, but also to back office personel who deals with to file processing, staff recruitment and training as soon as possible with regard to registration procedures, since the improved communication is not enough.</li> <li>5. Unblocking of properties which are related by contracts with no specified time-terms entered into between investors and builders.</li> </ul>	<b>TIRANA CHAMBER OF INDUSTRY &amp; COMMERCE</b>

<p>6. The registration of state assets should be done in the frame of a priority list within a sector as per investors' interest &amp; demand. For example, the Ministry of Finance or the Ministry of Industry has industrial properties (lands or buildings) but it is not normal to start the process with some properties which are far away. Based on the investors' demands, it is necessary to start with properties in the nearby areas. Investors require properties in large cities that are over 5 hectares. This may be a criterion during the starting phase of the prioritisation of properties owned by a ministry or a municipality. For agriculture, investors request over 100 hectares. AIDA can provide assistance to ministries or municipalities with the part related to the direct demand from an investor.</p> <p>7. AIDA recommend that regardless the process of creating a list of "clean" state properties, which is going to take a lot of time, it can be started by working on the "property passport" for those properties that are "clean," in the meaning of a useful map with some basic data such as electric line, water, or the distances from the port or borders as well as the procedure of handling the property (because for different properties there are different procedures to be followed).</p>	<p><b>AIDA</b></p>
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Matrix of Recommendations *On Investments and Legal Security on Property* is the outcome of the Technical Note drafted by the Investment Council Secretariat. The purpose of the Matrix is to provide a summary of the proposed Recommendations and Solutions. Besides, the Matrix serves as the Secretariat's Internal Monitoring Plan so that it follows up on the implementation of Recommendation:

#### **ABBREVIATIONS:**

**CoM-Council of Ministers**

**MSEP-Minister of State for Entrepreneurship Protection**

**MFE- Minister of Finance and Economy**

**SAC- State Agency of Cadastre**