

SUMMARY OF THE MINUTES OF MEETING
INVESTMENT COUNCIL (IC)
MEETING XVI

On Investments and Legal Security on Property in Albania

Tirana, 30 May 2019, 16h00 – 17h50

The meeting was held at the Ministry of Finance and Economy (MFE) and it was chaired by Ms Anila Denaj, Minister of Finance and Economy, with the special participation of State Agency of Cadastre (SAC), Mr Artan Lame. The meeting was attended by 12 IC members and around 30 observers representing the business community, domestic and foreign business associations and representatives from state institutions.

I. Opening of the meeting and speech by IC Chair, Minister Anila Denaj

At the opening of her speech, Minister Denaj expressed her gratitude to the international partners, European Bank for Reconstruction and Development (EBRD) and Swiss State Secretariat for Economic Affairs (SECO) for supporting the IC, as well as all business associations for cooperating with the Council and Secretariat. Minister Denaj thanked the members for the participation as well as Mr Artan Lame to participate in the discussion of the findings and recommendations prepared by the Secretariat.

Respecting property rights and complete and final property registration remain two important challenges for the government. A coherent, non-fragmented approach to solve property-related problems is considered essential to the economy of the country and it is a prerequisite for promoting investments. Any progress in this area increases legal security for investors, promotes transparency and good governance, enhances the fight against corruption, and it is reflected immediately in the international reports on the progress of reforms in Albania.

Minister Denaj mentioned several efforts made in the past years which address simplification of property registration procedures such as providing access to the electronic IPRO register for notary offices and 'Fast Track' service to citizens and business which enables 9 services in 24 hours. However, these improvements mainly refer to the administrative property management in the ideal scenario where the property is registered in the electronic IPRO system and the title of the property is clear and clean. Therefore, their positive impact is limited in terms of territory and the number of services provided.

In many cases, the lack of legal property security has affected the development of the agricultural sector and penalized the tourism sector, where foreign investors have hesitated because of property issues.

II. Presentation 'On Investments and Legal Security on Property' - Secretariat of Investment Council

Mr. Elvis Zerva, Legal and Regulatory Expert of IC Secretariat, delivered a brief presentation on the methodology followed by the Secretariat when analysing the complexity of property registration

issues in the country and the main findings of the analysis. The findings, which summarized also the investor's point of view on property registration, were grouped into four pillars: (1) legal, (2) institutional, (3) operational capacities, and (4) other (such as human resources, corruption and politics, etc.). The presentation emphasized the recent legal and institutional dynamics (the establishing of the SAC) as a serious effort to address the problems that have taken place over the years with regard to property registration in the country.

Ms Diana Leka, Head of the IC Secretariat briefly presented the 12 recommendations proposed for this meeting, mainly focused on: *a) Updating the government's vision into a consolidated document; b) Developing an Action Plan which specifies the activities/ deadlines / costs/ responsibilities/ monitoring indicators and interventions at all levels for the consolidation of the property register and its digitalization; c) Solving property registration problems in relation to the stimulation of investments in priority sectors; d) Public consultation of the draft law "On the completion of the transitional processes" by considering the necessity to monitor actions timelines, a priority list of registration of state properties, etc.*

III. Summary of the Main Comments Raised in the Meeting

Mr Artan Lame, SAC, commended the technical note prepared by the Secretariat where a good part of the reflected issues was beyond those provided by the SAC. These data are consistent with the SAC's information, while the proposed recommendations are consistent with the concrete steps.

At the core of property-related issues in Albania stand the issuance of permits at different times and based on different laws, unrelated to each other. The Strategy on Property (2012) faced contradictions with what occurred during 2013. In addition, contradictions were found even in the objectives stipulated in the strategy itself, where it was stated that by 2013 the whole legalization process (or the initial register) would be completed, when in fact until 2012 (in 8 years) were finished only 4% of the legalizations. Beyond the strategies, the core of the problem remains country's mapping system. Mr. Lame stated that in many cases the environment itself liked the chaos as it was interested in continuing to benefit from it. In many cases, the politics in paper seemed to help, but in reality it hindered the process. If until to date the reform on property were hampered, it has not been a mere political issue, but also a political decision-making issue of all the times. Fortunately, there is already a political will, while the business itself demands clear rules. This is a guarantee that things will work.

The situation of cadastral mapping is in its worst situation ever since the existence of the Albanian State. Despite all the improvements made in the provided services, a big concern remains what lies behind the delivery of these services, i.e. the system.

The new Law on Cadastre regulates the legal part, which may again need adjustments as testings are made in this initial phase. In fact, also the previous law of 2012 regulated it, but this new law systemizes one important issue: it tries to bring into the direction of unification the most terrible "disease" of the system, which is institutional fragmentation. Just two months from the merging of the two key institutions in this process, ALUIZNI and IPRO, around 20,000 bureaucratic correspondences in paper between them have been eliminated. By the end of the year, it is expected there will be no correspondence in paper between these two institutions since they are now merged to one. Therefore, further unification of institutions is indispensable. Law on transitory processes continues the process of unification of legislation and the removal of the partial laws regulating different parts.

One of the most important recommendations put forward by the Secretariat is recommendation 1/b regarding an action plan to specify the activities, deadlines and the financial costs. A substantial amount of money is necessary to bring the whole process back to work. To date, key donors such as the EU and WB, but not only, have expressed their enthusiasm to be re-involved in the upgrading and sustaining of the system. The engagement of these two donors provides support to the final planning scheme of operation. A crucial issue remains the improvement of the mapping system. This process requires human resources to work on the grounds, new software, and creation of databases. This is an issue which takes time.

As relates to transitory processes, the maximum foreseen deadline is 10 years, which corresponds to the deadline for the restitution and compensation of properties. All other processes are due in shorter terms, where the process of legalization is expected to have the shortest term—to be closed by 2021.

Very important also the recommendation no. 4 “Drafting of a priority list of state property registration.” No distinction should be made between state property and unregistered properties. Albania has 3,057 cadastral zones, out of which 2,000-2,400 need initial registration. In response to the positive business pressure—“What tourism can we speak about when there is no map for the southern coast?”—SAC is working on a priority list for both state and private properties for the improvement of the mapping and initial registration.

Digital cadastre for state property is a very good idea and the Agency will take it into consideration and further elaborate.

As regards to the penalizing of local and central units institutions whenever they do not apply the law - i.e. when they do not take action for the registration of their properties, this was not implemented in the past due to the lack of political will. Apparently, now the political will exists and an institution will hold political responsibility.

Minister Eduard Shalsi, MSPE, appreciated the structuring of the material in 3 parts: laws, institutions and human resources and stresses the challenges of the new institution are related to the human capacities. There is a political will to open a new chapter to human resources as well. They have been left out for many years, and even when there was a declared political will, no capacities were available. Today, there is enough experience to open a new chapter, probably already made with the emerging of the institutions into one. Another concern is building information management systems and processing workflows to enable proper information decision-making. No accurate data has been ever produced from the property registration offices. A lot of money has been invested chaotically and this should not be repeated.

Simplification of the legal framework for the interpretation of laws which deal with mortgages and clarification of institutional roles would facilitate a lot the process. The way how the agency is being restructured, how people are being selected and how the setting of criteria has been made creates optimism.

Minister Anila Denaj, MFE, stated that it is true that it cannot be measured today the time needed to finalize the process but it is already behind time. The process, which should have started years ago, must be transparent and associated with timelines in order to come with proper recommendations. Concrete deadlines are important not only to businesses but to the ministry as well, in order to calculate financial effects on the state budget as well as the missed economic development of the country.

Ms Ines Muçostepa, UCCIAL, thanked for the organization of this meeting and the inclusion of the UCCIAL as an IC member with a permanent mandate. She emphasizes the complexity and the sensitiveness of the subject on property, underlining that the property security remains a crucial

problem for both big investors and small businesses. She thanked Head of SAC for the engagement and reaffirmed support in terms of work and the respecting of reform timelines. She also expressed readiness to be part of the working groups.

Mr Tom Christian Larsen, FIAA, thanked the IC for the chosen discussion topic. FIAA's issues have been properly presented in this analysis, but of course, there is a lot of effort to be done to put things into work. If there is no legal security on property, obviously there is no economic growth. Bureaucratic procedures and documents as well as expropriation of property constitute major impediments. There is a lot of potential for improvement. Digitalization of the system, the archives and all the data would also remove informal barriers. FIAA members are open and ready to meet with government representatives and to contribute to this process.

Ms Natasha Ahmetaj, BoA, stated that the topic of legal security on the property is very difficult, as there are problems for the citizens and the state. To push forward the reform, Ms Ahmetaj suggested that a) all citizens and private/public entities should be obliged to register their properties and sanctioning should also be considered; b) tolerating some non very important details does not hinder the reform, on the contrary, it allows some flexibility to resolve issues; c) the problem of property registration requires the adoption of the draft law which also allows acquisition of property (including agriculture land) by foreign investors as an important process for promoting investments in the agricultural sector.

Mr Nikolin Jaka, CCI TR, thanked the Secretariat for the work done. Property-related issues remain quite problematic for the country and specifically for business.

- Communication with IPRO offices is a real challenge for the business, especially for those in the construction sector. Special focus is required not only for the front offices but also for those who process the files (standardization of security clearance processes). Processing of the file, including the prolongation of the process, depends on the willingness of the employee, creating the opportunities for corruptive practices. There is immediate need for unification of practices, including the cases when an area is under the legalisation process. To be made staff circulation and training because communication is not enough.
- Unlocking of properties with and without time term and regulatory plans, because if there is an approved regulatory plan there is no need for formalism. Businesses claim that they cannot report properly their property-related expenditures in their balance sheets when it comes to the properties leased by the state authorities, as the property is not registered in the property registration office.
- Agricultural lands have higher reference prices compared to the market prices, consequently, higher taxes are paid—a solution must be found. (For an agriculture land that the investor can buy with 3 € the price reference is 22 € therefore the land owner would have to pay tax on profit on the reference price and not on the real price, by creating situations when the value of the tax on profit is in practice higher than the price of the land.) If we want to develop rural areas then we need to develop investments which bring economic development.

In the end of his word, Mr Jaka expressed approval on the Secretariat's recommendation for the application of penalties for negligence in the registration of property.

Ms Laura Qorlaze, IFC, thanked for the organisation of this meeting and commended the Secretariat for the prepared analysis. The recommendations are exhaustive and there is nothing to be added. The drafting of the action plan is very important and setting short-term, mid-term and long-term objectives is crucial. The plan should aim not only to solve the existing problems created in the past 30 years but also to prevent the creation of new problems in the future or recreating the old ones. Any kind of political or procedural measures that SAC will take regarding the resolution of property issues should always consider the opportunity to establish a good basis to

address other issues as well, such as informality and the expansion of taxpayer's base. An alternative that is probably worth to study is to link the property to the personal identification number. Property is not shown in the list of assets a person possesses. In the future, this would expand the taxpayer's base and help solving the problem of informality.

Question for Mr Lame: Cost and social angles are very important aspects of addressing property issues, but this is coupled with financial costs as mentioned earlier. Has any assessment been made of the financial cost of this action plan for the next 10 years? Have the agency also thought about the resources on how to fund this cost?

Minister Anila Denaj, MFE, informs the members about the project of fiscal cadastre, which is halfway implemented. It is a process that is being implemented with the help of donors and its objective is to register immovable property, associating it with the individual, but not through the identity card. This is an important tool for local self-government units in drafting their fiscal policies based on registered assets. Some municipalities have done a great job and 3 of them are leaders: Tirana, Korça and Fier. Meanwhile, there are still municipalities that are far behind. 33 municipalities have not yet taken decisions in their municipal councils to continue the process and move on. On the other hand, in our register, there are about 520 properties, a relatively small number, less than 50% of MFE's expectations. One reason for this is probably the registration part. Many of the experts working on this project work on assumptions. If this were to be linked to fiscal payments, then the entire system would be in difficulties. Therefore, property registration is very important to all, as well as the process of interaction at central and local level. As the Minister responsible for the fiscal cadastre, there is a commitment to complete by the end of the year with the current tools the initiated work in coherence with the action plan for the registration of property.

Mr Mario Mariani, EU Delegation, appreciated the selection of the topic and the very useful analysis prepared by the Secretariat. It is a good collection of proposals that fully matches to what EU Delegation is looking at when it examines this complex matter. Property rights are crucial for investment, competitiveness, attracting foreign investments, improving the collection of domestic revenue and for the development of certain sectors (such as tourism and agriculture, mentioned before). Mr Mariani highlighted the importance of policy dimension, partnership dimension, follow up of legal developments, government's commitment, and the need to respect the constitutional rights, the fundamental rights and the legal rights of security on property.

Progress should be fast and right, respecting all the needs in the dimension of rights, but through an open and inclusive process. Dialogue with the stakeholders is very important and it needs to be in the form of a cross-cutting attitude and approach by taking into account all the different legal developments that are in the pipeline and the ones that might be envisaged. Mr Mariani made also a reference to the fact that some recent laws have been sent to Parliament without reflecting properly the consultation process.

Then there is the dimension of support where EU Delegation plays an important role. In a recent proposal of EU Delegation, the ambition is to work with the Agency and other interlocutors and ministries by working firstly on the 1st registration, correction of registration, digitalisation and mapping, doing it in a progressive and phased approach, but also not overlooking the very important dimension of who needs to carry out these works. Key elements for success are efficiency, effectiveness, fight against corruption, having the right resources, etc. EU Delegation will work with the WB on some critical reforms in which they have not been engaged before and therefore the political commitment and activity is very much appreciated.

Ms Anila Denaj, MFE, thanked the EU Delegation for the recent recommendations to open the negotiations for Albania considering it as a very important process that will bring together all the parties. With regards to the latest proposed draft Law on Albanian Investment Cooperation to

Parliament, it has been withdrawn, and currently in the phase of discussion and the recommendations from the EU Delegation and other partners are being considered, as it is being performed also for the draft law on investments. These processes must follow the entire consultation process and they should take into account all the valuable recommendations for improvement. However, this is a continuous process and any remarks in regard are welcomed.

Mr Matteo Colangeli, EBRD, stressed EBRD's full alignment with EU Delegation's position on this topic and thanked Minister Denaj for taking leadership on this issue, which he pointed out as the key single obstacle to improving the business climate in the country but also to the fulfilment of Albania's economic potential. This is an issue that, beyond economic growth, is tied to other major reforms in the country such as the justice reform, fight against corruption, and strengthening capacity in the public administration.

He thanked the Secretariat for the well-prepared technical note and recognised the wide and complex dimensions of the property rights issues. Having a fresh and structured action plan by the government that sets out not only the political commitment but also concrete steps and priorities, with well-defined responsibilities of each actor and resources allocated to accomplish these steps, would be a key enabler for co-ordinated multi-donor support.

Ms Edlira Muka, Balfin Group, thanked for the invitation to participate in this meeting and expressed willingness to provide feedback also in the future on any developments that may have an impact on property-related issues. For any business which considers undertaking a serious investment, the first thing being required is the origin of land. If the identified strategic sectors are not supported by concrete reforms, it is very difficult to fully utilize all the capital funds. In this context, it is recommended that in the range of planned priorities, the development plans should be prioritized. Therefore, those areas and sectors which bring economic development should be prioritized. If this is to be followed, the financial costs will be a bit more affordable in terms of the time that this process will take on itself. This suggestion will somehow mitigate the great economic impact which conditions businesses regarding the time when this issue can be solved.

Mr Giordano Gorini, Confindustria Albania, said that Confindustria represents the biggest association of industrial companies in Italy. In Albania, it started operating 2 years ago and now it has over 100 members. The issue of human resources is very important, and often the business deals with the underqualified front office staff. Mr Gorini is the administrator of a hydroelectric company operating in the country for 15 years using state properties. His company had to register the state properties it uses, in total 23 hydropower plants. For 17 plants, the company managed to complete the property registration, by taking over the costs. For the remaining plants, it could not complete the registration due to the refusal from the public administration personnel to register the respective state property. In one of these plants, the company wanted to carry out maintenance work and tried to get a permit. In response, they received a penalty of 1.3 million leks and they still failed to register the property. This behaviour hugely influences business considerations to invest further.

Mr Genc Çeli, AIDA, said that AIDA is the institution that feels more the frustration about the property issues because it deals directly with the investors. One of the biggest incentives for investment in the country is the state land leased for 1 euro but even this incentive is difficult to be implemented. In regards to the recommendations of this meeting, Mr Çeli expressed AIDA's commitment to contribute to the priority list. It is not enough to say that in the priority list should be included properties in tourism or industry but a priority list should exist within a sector based on the investors 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.

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).

Regarding the selling of the property (agricultural land), as set out in the new draft Unified Investment Law, a review of those laws or procedures that investors refer to as the ‘negative list’ will be carried out. This review process will also be carried out on the basis of this new law.

Minister Anila Denaj, MFE, informed that the work initiated by MFE in this context also requires the assistance of SAC and it is hoped to set up a joint working group to work on an inventory of each property that is registered, and then an inventory for the properties to be registered and then to filter out those which can or should go further with the processes. Based on the most recent experience, there is a routine demand for leasing or privatization, and in the first report on privatization, there were situations when the municipalities themselves, in 2-3 cases, requested privatization and then withdrew the request. This means that there is uncertainty and the decision on each property takes a longer time. So it should not be seen simply as a legitimate or incorrect process, but it should also be seen whether this property should be given for privatization or if it is to be leased based on what criteria. It is true that there is no transparency. A list of all leased properties and a list of all criteria must be published on the MFE official website, and continuous monitoring should be undertaken. So a step forward could be to carry out this process initially for properties owned by MFE. For more extensive privatization of properties, a working group would be needed within this action plan to make it more dynamic. AIDA is being reorganised, not only as related to the structure but also in the role it will have in the future as the only ‘door’ where the foreign investors can knock at. Around 12 employees hired by AIDA will work within the cabinet of each ministry. This is an approach to address various issues that investors may have with line ministries but in the end, AIDA runs the process both administratively and strategically. This process started two months ago and it is not yet completed. This is an initiative for not allowing processes to remain halfway without any solution, beyond the issues related to property.

Ms Diana Leka, IC Secretariat, thanked the associations for the provision of their comments as relates to the subject, especially AmCham, FIAA, Confindustria Albania, Center of Exporters in Albania, CCI France and invited all other associations to send comments until the material is concluded. In addition, Ms Leka gave a short clarification as relates to the comment of Mr Jaka. She explains that the interviewed municipalities had no funds for registration at IPRO, due to limitations in their budget, lack of interest by the investors in these municipalities, but also due to the lack of focus. It is needed to emphasise the importance of collaboration between the municipalities and the central government.

Mr Artan Lame, SAC, invited all the stakeholders for individual meetings in the upcoming days on any additional question or issue that they may have.

IV. Approval of recommendations

All IC members unanimously approved in principle this meeting's draft recommendations. However, there was left time for further discussion in the coming weeks to complete their comments when necessary

V. Closing of the meeting

Minister Denaj thanked all the associations for the collaboration, EBRD and SECO for their support to the IC, as well as the EU Delegation on the recommendations regarding the progress of Albania.

Regarding the amendment to DCM on the IC organization (DCM 335 dated 22.05.2019), Minister Denaj informs the key elements for these new changes. First, increasing the time duration of the business members mandate from 1 to 2 years and secondly, reducing the number of government representatives and adding 2 new members from the business community. Selection procedure of the members will be transparent and communicated by the IC.

The meeting was considered closed at 17:50.

List of participants

Representatives from the government

1. Ms Anila Denaj, Minister of Finance and Economy/IC Chair
2. Mr Eduard Shalsi, State Minister for the Protection of Entrepreneurship
3. Ms Natasha Ahmetaj, Deputy Governor, Bank of Albania
4. Mr Genc Çeli, Director of FDI, AIDA, in the absence of Mr Sokol Nano, CEO of AIDA

Representatives from the business community

1. Mr Tom Kristian Larsen, President, FIAA
2. Ms Ines Muçostepa, Chair of UCCIAL
3. Mr Giordano Gorini, Deputy President, Confindustria Albania
4. Mr Nikolin Jaka, Chair, Chamber of Commerce and Industry, Tirana
5. Ms Edlira Muka, CEO, Balfin Group

International Partners

1. Mr Matteo Colangeli, Head of EBRD RO in Albania
2. Mr Mario Mariani, Head of Cooperation, EU Delegation in Albania
3. Ms Laura Qorlaze, Representative of IFC in Albania

Other participants in the table

1. Mr Artan Lame, Head of State Agency of Cadastre
2. Ms Ermira Gjeçi, Deputy Minister of Agriculture

Absent:

1. Ms Evis Sulko, Acting Country Manager, World Bank in Albania
2. Mr Malfor Nuri, Country Manager, TAP
3. Ms Stephanie Sieg, President, DIHA
4. Mr Enio Jaco, President, AmCham