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REAL ESTATE AND CONSTRUCTION LEGAL FRAMEWORK IN ALBANIA

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Rights over immovable property

- Private property is guaranteed under the Constitution of Republic of Albania (Art. 41).
- Albanian Civil Code regulates the ownership right over immovable properties and other related rights such as easement, emphyteusis, usufruct and lease. Said rights may be created by contract or by law.

Registration of Immovable Property

- Albania has in place a registration system for registration of immovable properties and transactions involving immovable properties.
- It is organized in districts offices that keep and manage the immovable properties registry of the district within the office jurisdiction.
- A main registrar office is supervising the activity.
- Lands, buildings and any other immovable property is registered in the immovable property registry being identified by a property number showed in a map and recorded to the owner/s.
- Any transaction involving immovable properties such as sale, lease, development agreements, mortgage, legal lien, servitudes (easement) etc. are should be recorded with the immovable property registry.

Origin of the Private Property Title

- **Land distribution**

Farm lands, previously owned by collective and state farms were divided into plots and distributed to the collective members and farm employees in family ownership (law no. 7501, dated 19.07.1991 "On Land", and law no. 8053, dated 21.12.1995 "On transfer without compensation of the agricultural land's ownership").

- **Housing**

Housing properties, including apartments and houses with small land plots were transferred into the ownership of their occupants (law no. 7652, dated 23 .12.1992, "On state housing privatization").

Origin of the Private Property Title

- **Privatization of State Owned Enterprises and Assets**

Trade, industrial and service premises, buildings and land were transferred in ownership (or a lease subordinate to state ownership) to juridical persons or entrepreneurs in the process of "privatization" (law no. 7512, dated 10.08.1991 "On sanctioning and protecting private property").

- **Restitution and Compensation of Immovable Properties to Former Owners**

Families that were owners of land and property prior to 1945 have been able to claim restitution of their non-agricultural properties, or alternatively to receive other property or financial compensation (law no. 7698, dated 15.04.1993 "On restitution and compensation of properties to former owners", revised by law no. 9235, dated 29.07.2004 "On restitution and compensation of property", as amended).

Land Acquisition by Foreigners

- Foreigners, either individuals or entities, may purchase lands in Albania. Due to certain legal restrictions they may need to establish a vehicle company in Albania to complete the purchase and further transactions with the land.
- Foreigners, either individuals or entities, may directly purchase and own constructible land in Albania, provided that they invest three times the value of such plot of land.

Government Support and Incentives for Foreign Investments (1)

- Investors in Albania enjoy legal protection as regards their investments. Private investment cannot be nationalized, expropriated, or subject to any similar measure, except in special cases provided by laws which protect the public interest. Parties to a dispute may agree to submit claims for consideration by an arbitration institution. Foreign investors have as well the right to submit disputes to an Albanian court.
- The government has amended the law no. 7764, dated 02.11.1993 "On foreign investments" in order to enhance the protection level for foreign investors. The amendment passed by law no. 10316, dated 16.09.2010 introduces the concept of 'special state protection'. Such protection is granted after a dispute arises between the foreign investor and a private party claiming title over the land where the project is or will be built / developed.

Government Support and Incentives for Foreign Investments (2)

1- Euro Contracts – foreign investors may lease or take in emphyteusis state owned properties against the symbolic value of 1 euro, when realizing investments exceeding 10 million Euros or investments that help resolving economic or social problems in specific areas. Such contracts are granted based on a competition procedure. (Decision of Council of Ministers no. 529, dated 08.06.2011 “On defining the criteria, the procedure and modalities for leasing or giving in emphyteusis or other contracts the state owned property”).

(NOTE- Provision of a guarantee equal to 10% of investment value is required. Guarantee to be returned upon successful completion of investment).

Expropriation

- The Albanian Constitution guarantees the private ownership under its article 41. Article 41.3 & 4 of the Constitution provide that no expropriations or similar limitations of the property right shall be made if not required for public interest and against fair consideration.
- Modalities of compensation in case of expropriation are defined upon decision of Council of Ministers (i.e. reference to the decision of Council of Ministers approving the price reference list (in accordance with the law no. 9235, dated 29.7.2004, "On Restitution and Compensation of Properties or in absence of the fixed price, the land value shall be estimated based on the average value of the sale price of land in the relevant area (within the last 3 months) as indicated in the Register of the Immovable Properties Office or by direct comparison to the average sale prices of land in other areas and types of land.

Recent Developments related to Rights over Immovable Property

- The new law no. 10119, dated 23.04.2009 “On territory planning” provides for the terms on the creation of public easement/servitude as lien or right imposed to an immovable property for the purpose of public use and for the benefit of a specific public interest.
- The public easement may be established by a local or national planning instrument (such as specific plans and/or regulations), or by a development request (application for construction permit).
- Under new law (i.e. art 67.7), creation of public easements for public interests does not give rise to compensation rights. Nevertheless, the owner may apply for compensation, when establishment of a public easement results in the modification of the prior status of the land or structure and due to that the owner suffers direct damages.

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