

FREEDOM AND PROSPERITY

A Review of Property Rights Issues in Albania

ICG Research Report

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Supported by:  **Atlantic Council**  **ATLAS
NETWORK**

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Executive summary

Unresolved property rights issues in Albania continue to deprive thousands of households throughout the country from the fundamental right to property, withholding substantial amounts of capital from entering the economy and dimming prospects of happiness to many trapped into this never-ending process now in the fourth decade.

Empirical researches over time, but more precisely the latest reports from the Freedom and Prosperity Center of the Atlantic Council emphasize the positive correlation between property rights and prosperity of nations, also serving as building blocks of the market economy hence solid foundations of healthy democracies rooted in the respect for the universal human rights.

EU progress reports, in continuity over the last years, indicate for a prolonged and highly inefficient legalization process under the management of chaotic public authorities that after continuous structural changes face operational challenges related to

the digitalization of the process. Overcoming these structural challenges requires a prudent and effective collaboration of main stakeholders that could serve to build synergies in addressing primary concerns that keep pending the process.

Introducing legal time-frames for the assessment of every unresolved case while adding also a tracking feature to the newly launched digital process, needs to be followed by a clear plan of action helping all the actors involved to make a clear division of tasks. Even though delayed, the new momentum comes at a time when increased attention is being drawn into the tourism and real estate sectors of the Albanian economy.

Introduction

The nexus between prosperity and property rights has proven to be a determinant in the complexity of factors defining the wealth of nations and intrinsic as a growth correlation. The essential precondition of having clear and secure ownership titles in order to allow for full economic potential to be explored is now commonly accepted and widely recognized in policymaking circles as well as integral part of the general economists' consensus. Literature shows that in many post-communist countries where demographic shifts were not followed by proper urbanization policies and rule of law enforcement on land use regulations, major property rights issues remain unresolved.

Property rights in Albania continue to haunt economic development still today, when AI and cloud computing are transforming the way we live and interact in the socio-economic landscape of what is now an upper-middle income country. Despite progress has been made, there are still hundreds of thousands of legalization cases unresolved, resulting in an economic gridlock for numerous households throughout the country. Thousands of Albanian families continue to have their most inherent obstacle to reach freedom

and prosperity, still unresolved right of ownership over the land they cultivate, the place they live in or the business they have built on privatized yet not legalized buildings. In order to encourage formal participation in the economy, increasing confidence in households and entrepreneurs to invest and create employment opportunities in vital sectors of the economy such as agriculture or tourism, the government should prioritize the final solution to the property rights hurdle at the top of the reforms agenda.

This policy paper supported by the Freedom and Prosperity Program of the Atlantic Council in partnership with Atlas Network aims to analyze the progress made to date in the country's prolonged legalization process. Albania's performance in the Freedom and Prosperity Indexes of the Atlantic Council is used as a valuable benchmark to assess the present position highlighting potential areas for achieving further degrees of freedom towards more prosperity and better opportunities for improving living standards through entrepreneurship. Drawing parallels with developing countries also help with setting a new course for action while narrowing down existing gaps in economic freedom grounds.

Albania in the Freedom and Prosperity Indexes

The Freedom and Prosperity Center of the Atlantic Council published for the second consecutive year the Freedom and Prosperity Indexes¹ as result of a highly imposing methodological research project aimed at investigating the causal nexus between freedom and prosperity, as one of the most important questions determining democracies' prospects all around the globe. Is freedom a prerogative to achieve prosperity, or the latter could be reached without necessarily being rooted in economic freedom? How much is the freedom needed to build socio-economic welfare for countries?

As the answers to these questions become indicative in identifying critically important factors that define prosperity, in developing countries rights answers are crucial to pave the way towards better living standards and functioning democracies. The Freedom and Prosperity Indexes provide a world-wide perspective of how 174 countries perform, how do they compare to one another and how these gaps could be translated into potential policies improvements that

would result into higher opportunities for citizens to prosper.

The Freedom Index is build on three categories of indicators measuring the economic, political, and legal freedom, key to understand local realities and put them in a comparative perspective. The Economic Freedom category includes indicators related to property rights, trade freedom, investment freedom and women's economic freedom. Political Freedom category includes constraints on governments, political rights and civil liberties. The Legal Freedom category is composed by judicial effectiveness, government integrity, state capacity, order and security and regulatory effectiveness.

The Prosperity Index is based primarily on outputs and is built on five categories of indicators Income, Citizens Happiness, Health, Minority Rights and Environment.

The results show for a positive correlation between freedom and prosperity around the world. As the empirical evidence analysis is based on time series dating back to 2006, the authors argue that trends over time, in conjunction with other

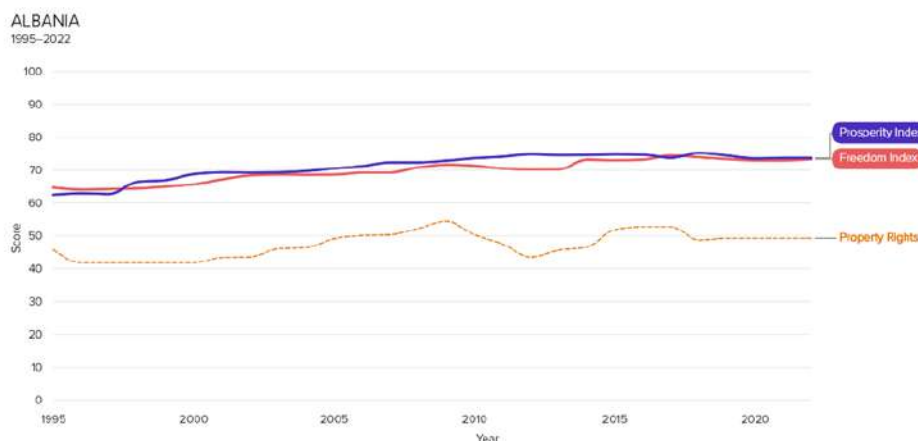
¹<https://www.atlanticcouncil.org/wp-content/uploads/2023/06/FP-2023.pdf>

historical evidence, suggest that greater freedom tends to result in more enduring prosperity. Focusing on Albania's results, in the 2022 edition the country ranked 66th in the Freedom Index among 174 countries with a total score of 63.2 points, and in the Prosperity Index Albania ranked with 60th with 56 points. While in the 2023 edition Albania is classified as mostly free and mostly prosperous, raking 50th in the Freedom Index with 73 points, and 43rd in the Prosperity Index with a total score of 74 points.

Despite improvements in the overall performance over the years, if we take a closer look into the property rights indicator dynamics is possible to notice that based on the data

gathered by the authors² the progress in the property rights domain is slow, irregular and highly dependent on reforms campaigns. The following graph shows that Property Rights score in 2022 is equal to the 2006, year when the Government of Albania decided to formally initiate the legalization process of more than 600'000 properties around the country. A prolonged and slow process that still didn't provide answers to around 2/3rds of the total cases filed, indicating for a slow inefficient process heavily distorted by reformations of state authorities in charge of providing a final solution to the property rights saga in the country.

Graph 1: Property Rights performance of Albania in the Freedom and Prosperity Indexes



Source: Atlantic Council

²<https://www.atlanticcouncil.org/wp-content/uploads/2023/06/FP-2023.pdf>

Legalizations, a never-ending struggle for property rights

In the optics of the European Commission, EU Progress Report 2023³, Albania has made decisive progress over the years in terms of first registration and compensation, improvements in transparency and high quality of property register, however still persist significant obstacles that do not allow for billions of EURs in properties in legalization process that cannot enter the formal cycle of economy because of lack of ownership titles.

Legal progress has been achieved, but according to the report the state cadaster should give prime importance to the introduction of effective measures to prevent corruption in the administration dealing with property rights cases. The Government launched in July 2023 a newly designed digital cadaster system that would provide real time answers to citizens and accelerate the process. Establishing international standards of transparency and efficiency in procedures is mentioned in the report as another bottleneck in the agency's performance. Worthied to mention that it is still unfinished the reconciliation of legal titles with digital cadastral maps which doesn't allow for a faster advancement in the legalizations process.

As a vivid proof of the detrimental impact of authoritarian regimes over

property rights and societal welfare, Albania still hasn't finalized the rightful compensation for properties illegally expropriated during the communist era, even if more than three decades have passed from communism collapse. As stated in the report, compensation for properties confiscated by the communist regime continued to stall during 2022, with, only around 800 requests finalized, while the agency for the treatment of properties (ATP) still has to process around 26000 more requests

Assessing the Cadaster Agency work and capabilities, the European Commission identifies major issues in the functioning of the institution, an urgent need to upgrade infrastructure and lack of harmonization with international standards on excellency of operations. Inaccuracy in cadastral zones data, paper based cadastral records still not digitized with only 40% digital as of April 2023, delayed start of systemic correction of cadastral data and measurements, high corruption levels, lack of clarity and anti-bribery measures are just a few from the complex extensive list of must-do actions that the government should undertake to reform this systemic agency at the top of the national land reform agenda.

³https://neighbourhood-enlargement.ec.europa.eu/albania-report-2023_en

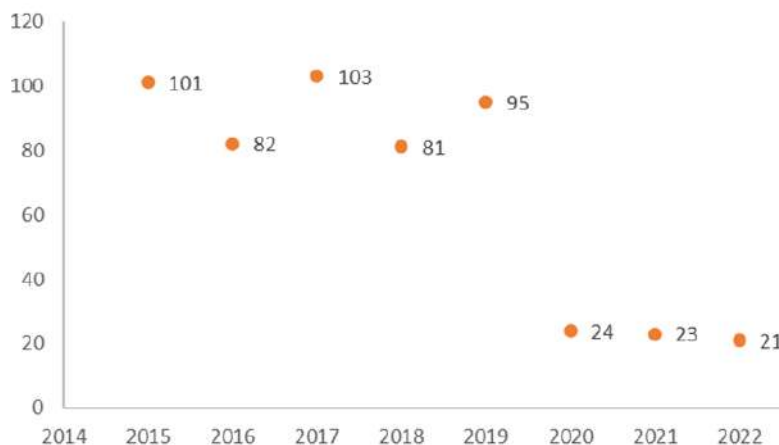
Analyzing historical performance of the National Cadaster Agency

In a new phase of institutional transparency, the National Agency of Cadaster started publishing in 2020 performance statistics providing to the general public information on the progress achieved over time. In this section, our focus will be around key performance indicators related to the work of the agency and outline potential areas for improvement.

State authorities dealing with property rights, over the years, have gone through numerous structural changes that have also influenced the pace of work as well as time to delivery of services. Another issue has also been the low utilization of technologies to accelerate the

process and paper based records which made it more difficult to optimize the performance. However with the passing of years, still issues remain. Back in 2015, it took 101 days for one service to be delivered by the cadaster agency, making it very difficult for the institution to commit to faster processes. IN 2022, this time was brought down to 21 days per service which is considerable improvement compared to what it was in the past, however again in a time when most of processes are backed by dedicated systems through the e-Gov platform, re-engineering of main processes would help to shorten further the time to delivery from nearly one month it is now.

Graph 2: Cadastral service time to delivery, avg says



Source: National Cadaster Agency

³https://neighbourhood-enlargement.ec.europa.eu/albania-report-2023_en

Another indicator which shows a continuous improvement of the agency's performance over the past decade is the number of applications

without an answer, received in the course of a year but that did not receive a response.

Graph 3: Number of applications not processes, *within the year*



Source: National Cadaster Agency

Still in 2022 around 2000 cadastral application filed during the same year did not receive an answer, showing for still a level of inefficiency in the institution and processes that are not designed to ensure that every citizen is served.

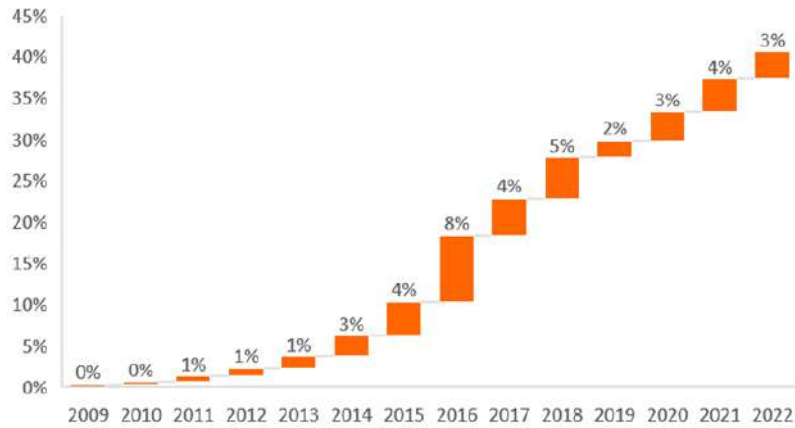
effect of this inefficiency, the volume of unresolved cases piles up putting more pressure on the agency's stretched resources while openness to the public is still very limited not allowing for creating synergies with external stakeholders that could support the process.

Taking into account the cumulative

Source: National Cadaster Agency

³https://neighbourhood-enlargement.ec.europa.eu/albania-report-2023_en

Graph 4: Progress in the legalizations process over the years, % of the total cases



Source: National Cadaster Agency

At a very slow pace, the normalized average of legalization cases solved in the period 2006-2022 is around 2.9 percent of the total of legalization cases in waiting for a response. Still today, around 60 percent of legalization files haven't been processed and hundreds of thousands of families without a clear

answer. If the Cadaster Agency is to process the remaining cases with this pace, the process will take another 20 years to be finalized, a disturbing reality that requires immediate institutional attention to improve the prospects of a stagnating never-ending saga.

Source: National Cadaster Agency

³https://neighbourhood-enlargement.ec.europa.eu/albania-report-2023_en

Lessons from developing countries

It is public knowledge since the great Adam Smith put it in writing in 1776 that the wealth of nations is to a high degree dependent on the quality of their institutions. A century before, John Locke the influential British philosopher would elaborate that governments are obliged to secure the citizen's right to life, liberty, and property. And of course, institutions have to set a system of rules that by implementation serve as the best remedy for the intrinsic issues that a nation might have, digging deeper into the DNA of the problem rather than simply adjusting regulations to best foreign laws that are designed for other realities targeting different audiences and aiming for a different complexity of solutions needed.

Now in the fourth decade of the post-communistic unresolved saga of property rights, Albania struggles to overcome the ever-growing obstacles that have piled up through tens of thousands of unresolved cases since 1992. And of course it is not an isolated case, as many similar stories come from developing countries that have gone through same barriers being lead by a virtuous institutional leadership willing to provide final solution to the property ownership issues. Hernando De Soto, is a

world famous economist who has dedicated his life to studying citizens struggles for property rights in many developing countries around the globe. To put his work in perspective and draw parallels from lessons learned, some important findings are further analyzed as follows.

In some Latin American and Eastern European countries high administrative costs of the registration process tend to make it difficult for thousands of households in the poverty line to access the legal process making it nearly impossible to be solved without the support of international development agencies. Institutional coalitions between public and international ones ought to be created in order to create opportunities for poor people to claim their fundamental right to own a property and escape the poverty trap.

However, lessons from African countries, Tanzania, Benin, Papua New Guinea, Egypt and Zambia show that inefficiencies are met also in the implementation of major supporting programs backed by international financial institutions Even in programs implemented in the 1990's aimed to help the poor

in different developing African countries, expected results were not achieved because of existing systemic bottlenecks. The key point is that formalization does not occur in an institutional vacuum; it is deeply influenced by the interaction with informal rules already in place. Cases of authoritarian regimes in South Asia, Cambodia and Vietnam prove that institutional land reforms have to follow local realities, as government led reforms that are not accepted by the population could be perceived as collectivization tentative and face backlash from the population, hence undermining the good intentions behind the reforms and create societal divide that would null chances for success in land reforms deepening confusion rather than providing clarity.

Institutional transparency and fairness is another precondition for a widely accepted land reform. In a number of developing countries, expropriation of land owners for urban development projects doesn't take into account those families or individuals who find themselves under prolonged bureaucratic legalization processes, hence depriving them from the only hope to become homeowners.

Albanian reality is similar to a large extent with other developing countries despite differences in local contexts, and it is of a paramount importance authority to learn from others lessons in order not to repeat same mistakes at the expense of poor families in desperate need of a legal title.

Recommendations

The interplay of state agencies involved in issuing legalization permits is still unclear to hundreds of thousands of families scattered throughout Albania hoping to obtain their ownership title, hence creating confusion that translates into additional costs and further delays in seeking their own right. Digitalization of cadastral services could be considered an important positive development in a long-term horizon; however, the transparency and enhancement of citizens assistance remains key to avoid the asymmetry of information that continues to be disturbing and a systemic risk for desired outcomes of the legalizations process.

The digitization of a process enhances the autonomy of the process from the human factor in favor of systems' efficiency, but if there is no alignment of system algorithms with a clear administrative rationale to facilitate the institutional coordination of all operational teams involved in the process with clear and respectable deadlines, the risk of inefficiencies remains high, while the problems of

property rights still unresolved. Building capacities and digital skills in the National Cadaster Agency regional dedicated teams in charge of processing legalization files would allow for a harmonic distribution of the workload and consolidate the performance of the institution as well as time to delivery.

Introducing a binding legal time-frame for assessing every legalization case and real time tracking functionalities to the new digital cadastral system remains of paramount importance for a new momentum in the process and faster progression of thousands of pending legalization cases. Optimization of the process and higher efficiency in the back-office would result in a faster pace of the legalization process.

Establishing a new relationship of trust with citizens by providing solutions and information in real time is a prerequisite to finalize a process that has been extended for three decades and keeps pending substantial amounts of capital from entering the economic cycle.

¹<https://www.atlanticcouncil.org/wp-content/uploads/2023/06/FP-2023.pdf>

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