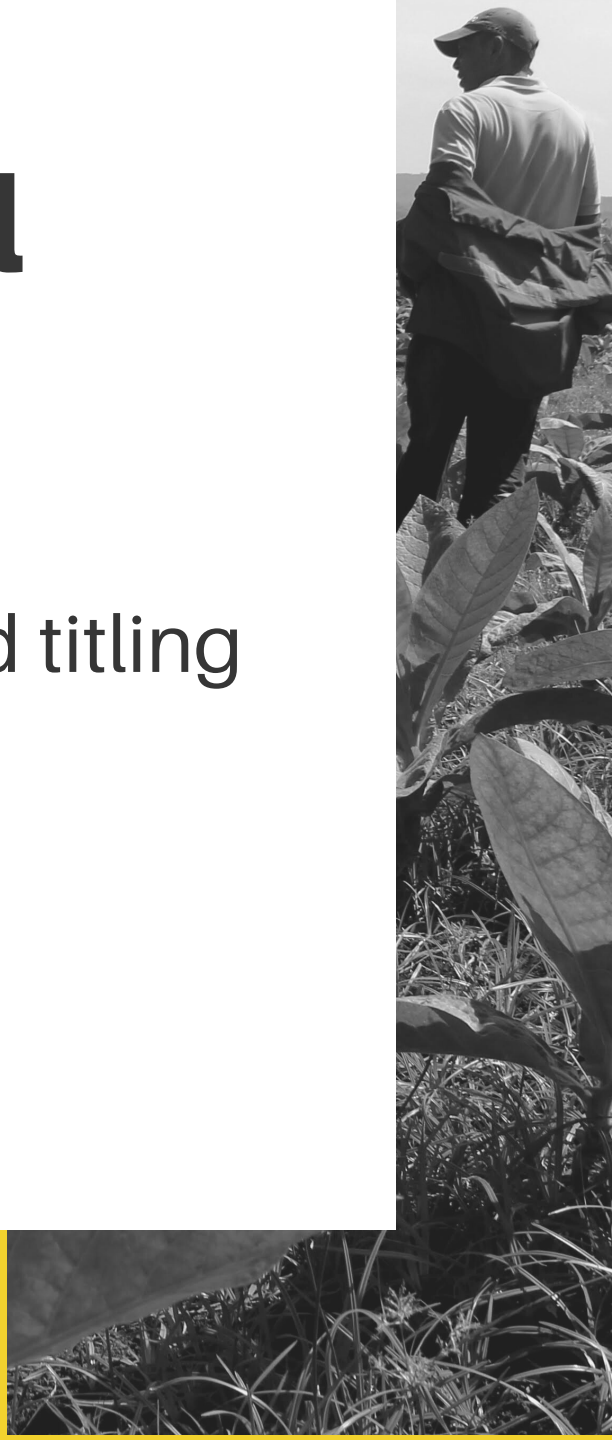
HALF YEAR REPORT

Institutional Maze

a critical review of land titling programs in Colombia



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COLCIENCIAS GOBIERNO DE COLOMBIA

OBSERVATORIO DE RESTITUCIÓN Y REGULACIÓN DE DERECHOS DE PROPIEDAD AGRARIA

Observatorio de Restitución y Regulación de Derechos de Propiedad Agraria

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COLCIENCIAS GOBIERNO DE COLOMBIA
OBSERVATORIO DE RESTITUCIÓN Y REGULACIÓN DE DERECHOS DE PROPIEDAD AGRARIA

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Glossary

ANT Agencia Nacional de Tierras (National Lands Agency)

IDB Inter-American Development Bank

DAPRE Departamento Administrativo de la Presidencia de la República (Administrative Department of the Presidency of the Republic)

DNP Departamento Nacional de Planeación (National Planning Department)

INCORA Instituto Colombiano de Reforma Agraria (Colombian Agrarian Reform Institute)

INCODER Instituto Colombiano de Desarrollo Rural (Colombian Rural Development Institute)

IGAC Instituto Geográfico Agustín Codazzi (Agustin Codazzi Geographic Institute)

MADR Ministerio de Agricultura y Desarrollo Rural (Ministry of Agriculture and Rural Development)

MinCIT Ministerio de Comercio, Industria y Turismo (Ministry of Trade, Industry and Tourism)

ORIPS Oficinas de Registro de Instrumentos Públicos (Public Instrument Registration Offices)

PETT Programa Especial de Titulación de Tierras (Special Land Titling Program)

Presidential Program Programa Presidencial para la Formalización de la Propiedad y la Modernización de la Titulación Predial (Presidential Program for the Formalization of Ownership and the Modernization of Property Titling)

National Program Programa Nacional de Formalización de la Propiedad de los Predios Rurales (National Program for the Formalization of Ownership of Rural Properties)

SNR Superintendencia de Notariado y Registro (Superintendence of Notaries and Registration)

UAF Unidad Agrícola Familiar (Family Agricultural Unit)

UPRA Unidad de Planificación Rural Agropecuaria (Agricultural Rural Planning Unit)

ZFM Zonas de Formalización Masivas (Mass Formalization Zones)

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1. Introduction

In the 1980s, the Inter-American Development Bank (IDB) began to finance land titling projects in several Latin American countries with the objective of reducing rural poverty, using natural resources in a sustainable manner, and promoting economic growth in the region (Echavarría, 1998). By the 1990s this policy was so widely accepted that the Summit of the Americas of 1998, held in Santiago de Chile, declared that one of the main tools for fighting poverty was property registration (Neva Diaz, 2014). Consequently, Latin American governments adopted a series of measures to simplify and decentralize property registration procedures and to reduce the cost of administrative fees to register and grant titles (Echavarría, 1998), making property titling and regulation one of the pillars of agrarian policies.

Colombia was no exception. Two national ownership land titling programs have been implemented between 1991 and 2015. The first, named the Presidential Program for the Formalization of Ownership and the Modernization of Property Titling [hereinafter, the Presidential Program] was implemented between 1997 and 2007 and its objective was to develop the market for land through titling of properties. The second, named the National Program for the Formalization of Ownership of Rural Properties (hereinafter, the National Program), was implemented between 2010 and 2015, and its purpose was to improve living conditions in rural areas through the formalization of ownership.

Both programs were aimed at consolidating individual ownership in the rural sector in order to increase productivity, and to this end the national administrations had to issue new regulations, assign resources and

readjust entities and their responsibilities.

However, to date there has not been a thorough assessment of the design and implementation of programs of this type (Acero and Parada, 2019). The studies available describe the problems found in terms of land distribution in the country and high levels of informality (Ibáñez and Velásquez, 2018; Misión para la transformación del campo, 2015), but no explanations are available as to why, despite efforts to formalize land tenure, the results have been so meager.

This study forms part of the research results of the project "Formalization of rural property ownership and (in)security: A two-way relationship?", financed by Colciencias, through which we intend to assess such programs based on their institutional designs, i.e. based on the rules and mechanisms through which they were implemented, in order to establish the progress made by the initiatives and their relationship with the overall agrarian policy.

During the study we compiled information on the documents that regulate such land titling programs and that govern their implementation, including laws, decrees, resolutions, national and international public policy documents and financing agreements for the programs, among others. We also carried out 143 interviews with national-level decision-makers of both programs, civil servants and implementers at the local level, program users and members of entities associated with the assignment and specification of property rights such as judges, Public Instrument Registration Offices (ORIPS, by the acronym in Spanish) and mayoralties 1 (see Annex 4).

This research report is divided into three sections. In the first we present the international context in which these programs were developed, the assumptions on which they were created, and the main shortcomings they experienced in different parts of the world. In the second section we provide a brief definition of what we mean by formalization and how it operates in Colombia, to then indicate the motivations for creating the programs and their respective objectives, to lastly describe the designs of both programs. In the third section we assess such programs, based on three analytical focus themes: i) the institutional arrangement under which they were created, ii) their relationship with overall rural development policies, and iii) the impact they had on reducing the level of informality in rural ownership. Lastly, we present reflections on the implementation of public policies of this type and their relevance for the country.

1. Due to lack of information on the municipalities where the Presidential Program was implemented (1995-2007), it was only possible to interview users of the National Program of 2010. These interviews were carried out in the municipalities of Santander de Quilichao and Buenos Aires (Cauca); Jamundí (Valle del Cauca); Ramiriquí (Boyacá); Andes (Antioquia); Urumita and Fonseca (La Guajira); and San Diego (Cesar)

2. Where did It All Begin?

Several approaches can be found in the academic literature on the recognition and definition of property rights, for example: the libertarian or solidarity-based approach (Alexander & Peñalver, 2012); the political approach (Sikor & Lund, 2009) and the economic approach. The latter approach has been most prevalent in recent years in the discourses on land ownership formalization and titling. From this outlook, property rights are understood as the means for one or several persons to exercise control over an asset and the manner in which they benefit from it (Vendryes cited in Acero & Parada, 2019). Such means translate into three basic rights held by the owner: "the owner's exclusive right to use the asset, the right to appropriate its economic value, and the right to sell or dispose of the asset" (Acero & Parada, 2019, p. 84).

From this outlook, private property arises when the benefits of ownership increase, or when the costs of establishing ownership decrease, in a given context (Fitzpatrick, McWilliams and Barnes, 2012). In other words, when resources are available to all and they can be used without imposing limits on other users of the asset, it is costly to establish property rights, but when the economic context changes, for example, due to population growth or when technical innovations increase the productivity of land, it is more efficient to establish property rights so that each owner can internalize the costs of maintaining and exploiting the asset (Acero & Parada, 2019). This reduces the costs associated with negotiations under conditions of uncertainty due to the absence of clear and uniform rules, while at the

same time reducing conflicts between individuals with competing claims over land (Fitzpatrick, McWilliams and Barnes, 2012).

Authors such as De Soto (2000) hold that "third world" countries failed to develop economically because a considerable proportion of the population did not have consolidated property rights; in other words, such rights had not been completely legalized, which produced legal and economic insecurity. According to the author, even though these populations did have economic assets, they were unable to fully capitalize or exploit them, and could not use them as collateral for financial, credit and trading purposes, because they were not registered in a recognizable formal system (De Soto, 2000). Consequently, when property rights are "solid and adequately executed, they can drive growth, reduce poverty, strengthen human capital, promote economic justice (including gender equality) and support overall social progress" (Bruce, 2006, p. 2).

The above economic perspective served as a platform to strengthen the idea that secure individual property rights could become an instrument to improve access to credit and increase the capacity of owners to invest in their lands, which would translate into increased productivity and economic growth (Ubink, 2009). During the 1990s, the above view led almost a dozen African and Latin American countries to initiate reforms aimed at assuring individual ownership, promoted by international cooperation agencies such as the World Bank and the IDB (Ayalew, 2014; Smith, 2003; Place and Hazell, 1993; Echeverría, 1998). Especially in Latin America, the IDB suggested that the slow growth of the rural sector was a central issue for the region's economic development (Vogelgesang, 1998), and as a result, starting in the first half of the 20th century, it has promoted strategies to reduce rural poverty, use resources in a sustainable manner and strengthen economic growth in the region through more efficient use of land (Echeverría, 1998).

According to Vogelgesang (1988), these strategies were materialized in programs that were financed by the IDB throughout Latin America, and which evolved in step with prevailing views on economic development in the region. From the 1960s to the mid-1980s, it was assumed that the main issue in the rural sector was the lack of availability of production factors, and consequently top priority was assigned to strategies aimed at distributing production resources, such as land (Vogelgesang, 1998). During this period, the IDB financed colonization programs in Chile, Paraguay, Venezuela, Dominican Republic and Honduras; small farmer settlement programs in Bolivia, Venezuela, Ecuador and Dominican Republic; an agrarian reform program in Chile, and a credit program for agrarian reform entities in Peru (Echeverría, 1998).

In the mid-1980s, in the context of economic adjustments and trade openness in the region,

the main focus of rural policy shifted towards establishing market mechanisms to enable freer access to resources (Vogelgesang, 1998). From this outlook, land is viewed as a production factor that is accessed through the market, and consequently the effective use of land requires conditions that facilitate the transfer of property rights (Álvarez Roa, 2012). These conditions refer to institutional reforms, which according to the IDB (Vogelgesang, 1998), require:

1. A property rights legal regime that offers guarantees and security.
2. An efficient legal system, i.e. one that is capable or resolving disputes in an equitable and timely manner.
3. Having a land information system in place that includes, among other aspects, aerial photographs, soil and natural resource studies, cadaster maps and information on landholdings by means of cadasters and records.
4. Efficient state entities responsible for gathering, organizing and processing information on lands.
5. Improved education for legal experts, civil servants and society in general on the benefits of formal property titles.

In order to promote these reforms, the IDB financed programs for property regularization in Brazil; titling of lands in Jamaica and Peru; lands management in Belize; and modernization of titling registration in Colombia (Echeverría, 1998). The latter, which we will discuss later, was the gateway for formalization initiatives in the country.

However, the international experience indicates that this relationship between individual tenure and productivity is not altogether clear (Ubink, 2009). The studies available suggest that there is no clear-cut relationship between the consolidation of property rights and efficiency in the use of resources and access to credit and investment. Studies on this matter indicate that the absence of a formal property rights system does not necessarily imply inefficiency in the use and assignment of resources, because traditional land tenure systems can also be fully functional in terms of efficiency. Additionally, it was not possible to establish a direct relationship between formal ownership and access to credit, because the inequality in access to markets may affect the impact of the formalization programs on investment and production (Acero & Parada, 2019). Lastly, even though there is evidence of the incentive to invest offered by land ownership, it does not fully explain the increase in capital and improvement in productivity (Lawry, Hall, Leopold, Hornby and Mtero, 2017).

As we will show below, the land titling experience in Colombia follows the path of the economic approach that assumes that security in individual property rights is a factor that increases productivity in the countryside and enables the economic development of the rural sector. However, the implementation of the programs has been disconnected from the rural development policies, which has prevented us from reaching the virtuous cycle of economic development and productivity that the international experience suggests.

3. Land titling the colombian way

Before discussing the programs that are the focus of this study, we provide a definition of formalization based on the main elements and characteristics that were found in Colombian law. Here we make a conceptual differentiation between the award of vacant lands as a mechanism to provide access to land, and formalization as a means for normalizing property rights on private lands, with the purpose of establishing the conceptual basis for the assessment of the design of the Presidential and National programs. This conceptualization enables us to differentiate between agrarian reform policies, which are aimed at providing access to land to small farmers who own no land or insufficient amounts of it, and the programs that focus on regulating ownership over private properties.

Afterwards, we reconstruct the manner in which both programs were designed. To this end, we present the way the international guidelines on formalization and their economic assumptions were adopted in the country. Additionally, we display the architecture under which both programs were deployed, and the respective regulations that created the programs and the entities responsible for their implementation.

3.1 How do We define land titling?

Formalization is the procedure of fulfilling certain legal requirements in order to consolidate ownership in the name of a title holder. In other words, the State has certain legal rules in place that persons must abide by in order to guarantee the title holder the exclusive right to exploit, use and transfer an asset (Acero and Parada, 2019). Under Colombian law, there are two mechanisms to regularize property rights: formalization and award. In order to determine the mechanism to be used, it is important to establish the type of real estate asset to be subject to the process.

The first type are government-owned public goods that are awardable, which include vacant lands and properties held in agrarian reform funds, which are regulated by special laws. 2 The second type are privately-owned real estate properties, which are primarily regulated by the Civil Code (Law 84/1873). In principle, the transfer in the market and use of these properties is not subject to any restriction, other than complying with environmental, urbanistic and social and ecological regulations on properties. 3

The only way a private individual can become an owner of awardable government-owned public properties is through a discretionary act of the State called an award. Such act declares that the property has been removed from government public ownership, and imposes a series of restrictions on the new owner aimed at preventing the concentration of land and its non-productive fractioning. 4 The award resolution must be registered in the ORIP of the area where the property is located. In the case of vacant lands that are inalienable (that cannot be sold by any private party), that cannot be encumbered and that are not subject to any statute of limitations (it is not possible to acquire ownership through passage of time), the only way a private party can become an owner is through an award. Here it is important to clarify that when the asset is vacant land, the first private owner is the beneficiary who appears in the award document.

Awards of rural properties are typical measures of agrarian reform policies 5. Depending on the modality of agrarian reform adopted, different types of assets may be awarded. The award of

2. Law 160/1994 and Decree Law 902/2017.

3. This notion, which was introduced for the first time in the 1936 constitutional reform, is the legal basis that authorizes the State to adopt measures of expropriation or confiscation of non-productive lands. This implies that ownership not only grants rights, but also imposes duties. This constitutional reform formed the legal basis for the agrarian reform enacted through Law 200/1936.

4. For example, the original design of Law 135/1961 imposes as condition for selling a property a previous written authorization from the Colombian Rural Development Institute (INCODER, by its acronym in Spanish), currently the National Lands Agency (ANT, by its acronym in Spanish), which is the entity responsible for implementing the agrarian reform and for awarding vacant lands.

of vacant lands is a typical measure of colonization programs, in which lands owned by the government are distributed. Instead, awards of properties that are part of the agrarian reform funds in Colombia are primarily a mechanism of negotiated agrarian reforms, under which private lands are acquired to be redistributed to the agrarian reform beneficiaries. These measures are specified in different regulations, such as the Fiscal Code (Law 110/1912) and the agrarian reform Laws 135/1961 and 160/1994. 6

In second place are the private real estate assets, ownership over which can be acquired through different mechanisms. Article 673 of the Civil Code establishes four paths or modalities to acquire property rights: 7 **(i)** accession, which is the result of natural phenomena that increase the size of a plot of land; **(ii)** transfer, which is performed through the transfer of a property title, 8 and which generally requires certain formalities such as public deeds; **(iii)** inheritance due to death, in which each heir is assigned a proportional part of the estate's assets; and **(iv)** by expiration of statutory limitations, which is a means of acquiring ownership over a private property based on the passage of time.

According to the above, whereas private properties can be acquired in different ways, the only way of acquiring ownership over vacant lands is through an award. In other words, the law prohibits acquiring government-owned properties through mechanisms such as the expiration of statutory limitations.

In this sense, formalization applies only to the case of real estate properties subject to the private property regime, and its purpose is to fulfill the requirements established by law to acquire the property rights over assets of this type. In this scenario, there are three types of cases in which formalization is applicable: expiration of statutory limitations, spurious transfers and non-settled estates, the particularities of which we explain below:

5. Awards of state assets are not exclusively for agrarian reform programs, because they can be awarded for other purposes, such as those specified for vacant lands in article 46 of Law 110/1912.

6. It should be noted that these reforms include mechanisms that belong to be three types of reforms mentioned. The differences are in terms of restrictions on the awarded assets, beneficiaries and institutional design.

7. We will not mention occupation because the code itself excludes this form of acquiring ownership over real estate properties.

8. Examples of transfer titles include purchase/sale agreements; barter transactions, donations or contributions to incorporate a company.

1. In the case of **acquisition by expiration of statutory limitations,** the law requires undergoing legal proceedings for ownership, which focus on determining whether the claimant fulfills the criteria for acquisition by expiration of statutory limitations over a private property. Such requirements are the passage of time and the disposition of lord and master, which means that the person acts as if he/she were the owner, without recognizing any other person as owner of the property (Mojica, 2011).
2. A **spurious transfer** is defined as a deal made between private parties in which ownership is not fully transferred because the transaction failed to fulfill all legal requirements. In these cases, formalization seeks to correct the flaws that prevent obtaining full ownership over the property rights on an asset. In this regard, article 2 of Law 1561/2012 mentions as possible causes for spurious transfers, among others: Selling someone else's property, i.e. disposal of a property that is not owned by the seller; incomplete or inadequate transfer of rights, for example when a heir transfers rights over a non-settled estate that includes real estate assets. In these cases, there are two routes for formulation: (i) to perform a notary procedure to fulfill the missing requirements and adequately complete the transfer, or (ii) to file an ownership claim in the type of legal proceeding described in the preceding paragraph.
3. Lastly, **in cases of non-settled estates,** informal agreements may be made between the heirs to distribute and take possession over the real estate assets of the estate. However, the heirs cannot be considered owners until the inheritance proceedings are completed. In order to resolve this problem, if all the heirs are in agreement, the settlement can be submitted to a notary or competent judge to conclude the inheritance proceedings. It is also possible that an inheritance has been assigned but has not yet been registered in the ORIP, in which case the appropriate registration must be made.

In practice, determining the private or public nature of a rural real estate asset has been a matter of constant debate in the proceedings, due to the lack of an updated cadaster that would clarify which lands are effectively owned by the State (Céspedes Báez, Peña Huertas, Cabana González and Zuleta Ríos, 2014). The way the government has dealt with this issue is through the establishment of legal assumptions that enable the authorities to determine in which cases an asset is deemed to be public or private. The first regulation that mentions such assumptions is Law 200/1936, which establishes that a property is assumed to be private when the land is being used by a private party, even when no prior record of registration exists. [9] This regulation, which is currently in effect in the Colombian legal system, has often been contested due to the conceptual vagueness of the term economic use. Jurisprudence issued by the Supreme Court of Justice has been required to interpret the legal

criteria to establish when a person has a right to own a property in dispute (Céspedes, Peña-Huertas and Cabana González, 2014).

However, the Constitutional Court, in ruling T-488/2014, [10] recently established that when the private nature of a property is not demonstrated through prior registration records or documentation that demonstrates improvements made to vacant lands owned by the nation, it shall be deemed to be public property, and the only way to demonstrate private ownership over such property shall be by an award issued by the State. The ruling fails to acknowledge the assumptions established in Law 200 and inverts the burden of proof, with the purpose of protecting vacant lands owned by the government to be used for agrarian reform. This is where the distinction between public and private properties is most relevant, because those in charge of public policies must determine the nature of the property in order to proceed to its formalization.

It should be noted that the situation created by the Peace Agreement has led to adjustments in the mechanisms for recognition of private ownership. For example, Decree Law 902/2017 establishes the possibility of filing an administrative claim before the National Lands Agency to formalize ownership in any of the aforementioned cases, whenever no pending litigation exists on the property; otherwise, the case must be presented to a Civil Judge. However, this regulation was only recently enacted, and therefore we will not make further reference to it, and the clarification made here is merely illustrative.

Based on the above, we will reserve use of the term award to the delivery of titles on awardable government-owned public properties, and the term formalization for the three cases mentioned above for private properties. Even though both are processes for the regularization and delivery of titles, it is important not to lose sight of the particularities we have described. In the case of

9. Article 1 of the law establishes that "it is assumed that plots of land held by private parties are not vacant lands, but private property, and such holding is held to consist in the economic exploitation of the land by means of positive actions carried out that are characteristic of an owner, such as plantations or crops, occupation by cattle or other uses of similar economic significance. Fencing and construction of buildings do not represent, per se, evidence of economic exploitation, but may be considered elements that complement such exploitation.The assumption established in this article also extends to non-planted plots that are deemed necessary for the economic exploitation of the property, or as a complement to improve its use, even when these lands are not a direct continuation of the property, or to expand the same enterprise. The size of such plots may be, in combination, equal to the planted area, and are deemed to be held in accordance with this article" (Law 200, 1936, art. 1).

10. This ruling has sparked a legal discussion on how to establish whether an asset is subject to the private or public regime. As of the date of this report, a proceedings are underway to issue a unified ruling by the Constitutional Court to establish clear rules on the matter.

an award, the title will always be an award resolution issued by the government entity that manages vacant lands, and it is a typical measure of agrarian reform policies. In the case of formalization, there are three possible types of titles: **(i)** public deeds **(ii)** court rulings declaring fulfillment of requirements for acquisition by expiration of statutory limitations or the settlement of an inheritance estate, and **(iii)** since the enactment of Decree Law 902/2017, a Resolution by the ANT.

Following this conceptual clarification, below we will discuss the origins of the land titling programs and their associated institutional designs.

3.2 The Landing of Land Titling

The IDB financed the first program of this type in Colombia, during the administration of former president Ernesto Samper (1994-1998), by means of a loan to the national government through agreement CO0157/1997 (IDB, 1997). Very much in line with the views at the time, the Presidential Program intended to carry out a titling campaign in urban and rural areas, to strengthen the cadaster surveying activities and registration of the intervened areas, and to develop an information system to facilitate monitoring of natural resources. It was also intended to promote access to credit and to enable long-term sustainable investment, as well as to create

> a new titling methodology based on the inclusion of the private sector in the processes of formalization and subcontracting of the field work of the Colombian Agrarian Reform Institute [INCORA, by its acronym in Spanish], in order to increase the efficiency of the processes. (IDB, 2014, p. 11)

According to the IDB's agreement CO0157, the program would facilitate access to the financial system for urban and rural owners and would stimulate production and investment to generate sustained economic growth and to strengthen the market for lands in the country (IDB, 1997). One senior government official involved in negotiating the loan agreement said the following:

> Our policy was not only to deliver titles, but it also included, if I recall correctly, updating and digitalizing the cadaster. In this sense it included a component to modernize the titling system, because the issue was that not only were there no titles, but that there was no way of granting the titles, because the cadaster was not updated or because it was not in digital form. Anyway, […] let's say it was like the start of an issue that is still a problem today (Decision-maker 115_Bogotá, interview March 22, 2018).

When the new administration of Andrés Pastrana took office (1998-2002), the program was restructured, and its approach and objectives were changed. The Presidential Program switched to focusing only on the modernization of the cadaster and registration, to which end investments worth USD 12,602,877.86 were made (Administrative appeal to the Public Finance Ministry 2-2017-027397, 2017) (see Annex 3), and it no longer focused on the titling drive, i.e. the land titling component (Decree 821/2000). Implementation of the program and

and the corresponding loan ended in 2007, during the administration of former president Álvaro Uribe (2002-2010) 11 (IDB, 2014).

In February 2010, the National Planning Department (DNP, by its acronym in Spanish) issued the document CONPES 3641, which establishes the public policy guidelines to consolidate the relationship between the cadaster and registration. This CONPES document rescued the initiative of the Samper administration financed by the IDB and its respective stages for implementation for the modernization of the cadaster and registration during the Pastrana and Uribe administrations, and recommended continuing such work in order to improve management and identification of all real estate assets in the country, because this task was still pending in Colombia (Conpes 3641/2010).

According to this document, the lack of consistency and coordination between the cadaster and registration systems had created "a situation of legal insecurity over real estate ownership that affects the possibility of consolidating and promoting growth of the land and real estate market in Colombia" (CONPES 3641/2010, p. 11). The CONPES document points out that this lack of consistency between the two systems was due to deficient information on the country's rural properties, the absence of a culture of registration by owners, the lack of consistency and weak enforcement of laws on this matter and an inadequate institutional infrastructure to manage rural information. These elements had already been identified by the IDB (in 1988) as a necessary condition to establish a market for land (Vogelgesang, 1998), and the CONPES document incorporated them to recommend policies that would enable the government to manage the country's real estate assets, including the formalization of rural ownership (CONPES 3641/2010).

Later, during the administration of former president Juan Manuel Santos (2010-2018), the Ministry of Agriculture and Rural Development (MADR, by its acronym in Spanish) issued Resolution 452/2010, creating the National Program in order to address the recommendations of CONPES 3641. The objectives of this program were to promote access to land ownership and improve the quality of life of small farmers; to promote and coordinate actions aimed at normalizing individual and collective tenure over the rural properties; to guarantee the property rights of small farmers; and to consolidate a culture of formality in rural ownership (Resolution 452/2010; Resolution 181/2013).

This National Program was conceived, designed and implemented during the first administration of Juan Manuel Santos (2010-2014), and the foundations for its future operation were

11. In this report we do not explore the policy to modernize the cadaster and registration system in the country, because this study focuses on the formalization of rural ownership.

established during his second term in office (2014-2018). This program´s operations began in 2013, when requests were received from several municipalities throughout the country (as we will discuss in the next section), and in 2015 it was assigned to the ANT, whose responsibilities also include the formalization and clarification of rural ownership (Decree 2363/2015, art. 4, paragraphs 21 and 22). As of the date of this report, the ANT was still working on the backlog of requests that had been received by the Ministry, and therefor had no intention of receiving new requests for formalization through the channels that had been initially established by the program (ANT, 2018).

Therefore, even though there is a 17-year difference between the design and implementation of both programs, their motivations were the same. Both the Presidential and the National Program practically copied and pasted the IDB's recommendations to establish a lands market as a means to promote the development of a market for lands and economic growth in the rural sector. For the Colombian governments, modernizing and updating the land information systems, normalizing ownership and even raising the population's awareness on the importance of formalizing land ownership in the countryside was a necessity, as stated in CONPES 3641/2010. This implied substantial institutional deployments to achieve these objectives, as will be discussed below.

3.3 The Institutional Pipeline

Both programs had an institutional design in place (which we will call the "institutional pipeline"), based on existing regulations on rural ownership.

Presidential Program

The Presidential Program had two components (CONPES 2736, 1994): development of a market for land and the formalization of urban and rural ownership. The former consisted in directly negotiating and acquiring properties, to be subsequently awarded to the beneficiaries of Law 160/1994, as one of the measures included in the Law to promote access to land. The latter consisted in facilitating the formalization of ownership for landholders who were not owners, through the normalization of "1.2 million urban properties and 1 million rural properties, titling of five million hectares of rural vacant lands and legalization of indigenous reservations" (CONPES 2736, 1994, p. 4).

Based on these recommendations, in May 1995 Decree 755/1995 of the Administrative Department of the Presidency (DAPRE, by its acronym in Spanish) was issued, whereby "the Presidential Program for the Formalization of Ownership and Modernization of Property Titling is created." The Decree assigned a Director of the Presidential Program in DAPRE, whose responsibilities consisted in establishing an operating plan to implement the projects that form

part of the Program, preparing the budget, and monitoring and assessment of the various stages of the project (Decree 755/1995).

To this end, the same Decree established an Advisory Committee to provide support the program's director, comprised by the Ministers of Justice and Law; Economic Development, Public Finance and Credit; and Agriculture and Rural Development; the Superintendent of Notaries and Registration, the chairman of the School of Notaries, the chairman of the Association of Municipalities and the director of the Agustin Codazzi Geographic Institute [IGAC, by its acronym in Spanish] (Decree 755/1995 of DAPRE). However, it did not clarify the type of support these entities and their respective leaders were to provide the program's director, or their respective responsibilities. In any case, according to a former senior official of the Samper administration, the Presidential Program had the capacity to "coordinate, and assist and propose, with the full powers of the Presidency to implement it, [...] so the organization basically consists of organizing committees, and the policies are decided on and executed here" (Decision-maker 115_Bogotá, interview March 22, 2018).

In June that same year, the Presidential Program was ratified as one of the components for the implementation of agrarian reform in Law 188/1995, which issued the National Development and Investment Plan 1995-1998. In this regard, the National Development Plan mentions that, during the Law's effective period, "one million hectares will be redistributed among 70,000 small farmer families; titles will be issued on five million hectares to benefit 178,400 families; and 3,500 improvements in indigenous reservations will be legalized" (Law 188/1995).

Also, on June 22, 1995, Presidential Directive 3/1995 was issued, which requests the entities that are members of the Advisory Committee to take immediate action on the Presidential Program. The Directive starts out by defining the two objectives of the Program.

> To formalize the property rights of 500,000 rural and urban properties that are occupied with no legal support [... and] design and establish a new titling and registration system to expedite the issuance of titles; to facilitate inquiries by the State and private parties; and improve the quality of the titles so that they clearly identify the property they represent. (Presidential Directive 3/1995).

However, neither Law 188/1955 nor the Presidential Directive are clear on whether such formalization relates to private properties, or whether they are actually awards to occupants. As mentioned earlier, this differentiation is essential in order to implement agrarian policies, as we will further discuss in the next section.

In order to achieve these objectives, the Presidential Directive ordered "the State entities responsible for designing policies, or performing titling tasks, or directing or managing the registration system, or providing support for titling and registration tasks through cartographic or cadaster tasks" (Presidential Directive 3/1995) to get involved in the tasks of the program. Such involvement refers, specifically to: **(i)** organizing

at each entity involved a task group to be exclusively devoted to the Program; **(ii)** assigning a coordinating committee for each task group that will report to the program director; **(iii)** transferring the contributions in money and in kind that are due to the nation to the program director, and **(iv)** registering the Presidential Program of each entity in the projects bank of the National Planning Department, in order to schedule the required allocations (Presidential Directive 3/1995).

According to the assessment made by the IDB (2014), the Presidential Program spent resources for the titling component from March 14, 1998 to May 2000, when the objectives were restructured (see Annex 5). When the new administration took office, and still during the term of the loan, the Program was transferred from DAPRE to the Ministry of Economic Development (Decree 821/2000), which reduced the scope of the rural titling component and concentrated efforts in the cadaster modernization component. Under these new guidelines, INCORA was assigned as the implementing body for the titling component; and IGAC was assigned the cadaster component, until the end of the program (IDB, 2014).

Table 1. Entities responsible for the Presidential Program

Regulation	Purpose	Entities Responsible
CONPES 2736/1994	Authorizes financing for the program	Ministry of Agriculture and Rural Development INCORA
Decree 755/1995 of DAPRE	Creates the program	DAPRE
Decree 2050/1997 of DAPRE	Amends the advisory committee	Ministry of Justice and Law Ministry of Economic Development Ministry of Public Finance and Credit MADR Superintendence of Notaries and Registration (SNR) School of Notaries Association of Municipalities IGAC
Decree 821/2000 of DAPRE	Cancels the program of DAPRE and assigns its responsibilities exclusively to the Ministry of Economic Development	Ministry of Economic Development
Decree 1292/2003 and Decree 1300/2003, both of MADR	Abolishes INCORA and assigns its responsibilities to INCODER	INCODER

Source: prepared by the authors based on the regulations of the Presidential Program

However, in 2002 the Ministry of Economic Development was split into two Ministries: the Ministry of Trade, Industry and Tourism (MinCIT) and the Ministry of Housing, City and Territory (Law 790/2002). In turn, in 2003 INCORA was liquidated and was replaced by INCODER, which took over its predecessor's responsibilities (Decree 1300/2003). Table 1 summarizes these institutional changes and the entities associated with the Presidential Program, according to the regulations that created and amended it, which had repercussions on performance, as we will discuss later.

National Program

The National Program was initially created by Resolution 452/2010 of MADR. It establishes a Coordinating Unit within the Ministry to head the program, and an inter-sectoral committee, with the Coordinating Unit acting as its technical secretary. However, it does not specify the entities that were to belong to the committee. The only provision related to the committee is contained in the first Methodological Guidelines for formalization of rural ownership by Property Sweep, which mentions the "inter-institutional groups, whose participants include MADR, IGAC, INCODER and the Superintendence of Notaries and Registration [SNR]" (Resolution 347/2013). However, it is not clear whether this is the same inter-sectoral committee mentioned in Decree 452/2010 of MADR. Said Resolution also indicates that the program was financed with resources from the national budget.

Three years later, Resolution 181/2013 of MADR specified that the program would be aimed exclusively at affecting private properties, "legalizing titles arising from spurious transfers and assisting those interested in performing any administrative, notary and registration procedures that were not performed in a timely manner" (Resolution 181/2013). This clarification is made for the effects of aligning the program with the provisions of Law 1561/2012, and it establishes rules to legalize spurious transfers of urban or rural properties of small economic entities.

In the case of rural properties, it establishes that in order to qualify for the special process provided for in the law, the property size must be equal to or smaller than one Family Agricultural Unit (UAF, by its acronym in Spanish). Its design assigns specific responsibilities for fulfilling the law's objectives, such as "drafting and signing the technical-legal reports, drawings and certificates of boundaries specified in Law 1561/2012" (Resolution 181/2013, art. 6, paragraph 6). Therefore, the intent of the design was for the National Program to be deployed in the territories through joint actions with the judges.

Resolution 181 also establishes the Mass Formalization Zones (ZFMs, by its acronym in Spanish), for which a rural cadaster must be prepared in order to identify the properties that could qualify for the program, excluding vacant lands. It grants MADR the freedom to select the municipalities in which to implement the program, as long as they fulfill the criteria established by the Agricultural Rural Planning

Unit [UPRA]. These criteria are: **(i)** high levels of informality, **(ii)** low levels of dispossession; **(iii)** areas facing risk of displacement where the population has not abandoned the properties ("resident population"); **(iv)** demand for formalization, and **(v)** municipalities that have a cadaster census in place or updated cadaster information (Resolution 112/2013).

Four months later, in October 2013, MADR issued Resolution 346/2013, whereby it adopts the Methodological Guidelines for Mass Formalization of Rural Ownership by Property Sweep, and Resolution 347/2013, which establishes the first ZFMs (see annexes Table 2). It also establishes an 18-month term to open and complete the program in the selected areas. In this way, Resolutions 181 and 347/2013 of MADR represent the formal launch of the program's activities.

These guidelines establish a 12-step procedure that calls for the involvement of the various entities, authorities and actors that participate in the judicial, notary and administrative procedures required for the formalization of ownership. In this regard, the program was conceived to be implemented in 12 steps grouped into three phases, as illustrated in Figure 1, which describes a process that seems straightforward and quick in theory, but that in practice faces shortcomings in terms of coordination with other entities and bottlenecks in completing the legal proceedings.

The first stage consists in disseminating the formalization program in the community and grouping the requests depending on the type of procedure to be carried out. The municipal and departmental administrations intervene in this stage to assist the program. However, the guidelines do not specify the roles to be played by each entity during the land titling process, but simply mention that there should be contacts with the territorial entities to provide support during the work in the field.

In the event vacant lands are found, the guidelines instruct that the file should be forwarded to INCODER, but it does not establish criteria for determining the nature of the properties. In other words, it simply mentions that "whenever there are indications that the identified areas may belong to ethnic communities, or that the properties are vacant lands or properties owned by the National Agrarian Fund, the file shall be forwarded to INCODER" (Resolution 347/2013, art. 12.4).

The second stage is the actual start of the formalization process, during which the documentation, the on-site visits and technical reports of the request are reviewed. This stage requires joint work by IGAC and UPRA, in order to prepare the documentation to process the case.

Lastly, during the last stage, the decision is made on the path to be followed, which may be either **(i)** submission of a claim before the municipal civil judges, who in turn must notify the Superintendence of Notaries and Registration (SNR) on the opening of the process, or **(ii)** a procedure at a notary. Once the ruling or the public deed has been issued, the transaction is recorded in the ORIP of each municipality.

Figure 1. Steps for Formalization under the National Program, Res. 346/2013

Steps for Mass Formalization		
0. Establish institutional agreements and the Mass Formalization Zones		
Stage 1	1. Organize the Technical Group for Formalization	2. Gather and systematize institutional information on the ZFM
	3. Communicate the Program to local authorities and community	
	4. Receive requests at community events	
	5. Classify the requests and prepare preliminary report	
Stage 2	6. Field work property by property and update information system	
	7. Prepare technical-legal studies and drawings for formalization	
	8. Public presentation of preliminary results	
	9. Create files and prepare documentation	
Stage 3	10. File claims and assist in legal proceedings	11. Assist in procedures with notaries and conciliation bodies
	12. Register titles/ Closing and advisory to municipality	
Source: National Rural Ownership Formalization Program		

One year later, without having completed the term to complete the program in the areas that were initially intervened, Resolution 327/2014 of MADR was issued, which establishes new ZFMs. A term of 18 months was also established for implementation and completion of the land titling process. The following year, by means of Resolution 98/2015 of MADR, the program included additional municipalities in the ZFMs (see Annex 1).

One year later, without having completed the term to complete the program in the areas that were initially intervened, Resolution 327/2014 of MADR was issued, which establishes new ZFMs. A term of 18 months was also established for implementation and completion of the land titling process. The following year, by means of Resolution 98/2015 of MADR, the program included additional municipalities in the ZFMs (see Annex 1).

Another milestone of the program is Resolution 147/2015 of MADR, which amends Resolution 452/2010 and the Methodological Guidelines of Resolution 347/2013. Said Resolution, issued in 2015, ordered the development of a joint procedure between MADR and INCODER to normalize rural ownership. The main change in this resolution is that it intended to include guidelines in the institutional design to align the formalization work of the Ministry with the award processes of INCODER. Article 2 establishes that the director of Rural Property Social Ordering may formulate jointly with INCODER "a comprehensive path for the formalization of rural ownership that includes assistance for awardable government assets, vacant lands, reserved vacant lands and private properties, in order to unify the methodology for mass land titling and land titling by Property Sweep" (Resolution 147/2015, art. 2). However, once again, the comprehensive route for land titling was not clarified, and the program continued to operate based on the initial Methodological Guidelines of MADR, adopted in 2013.

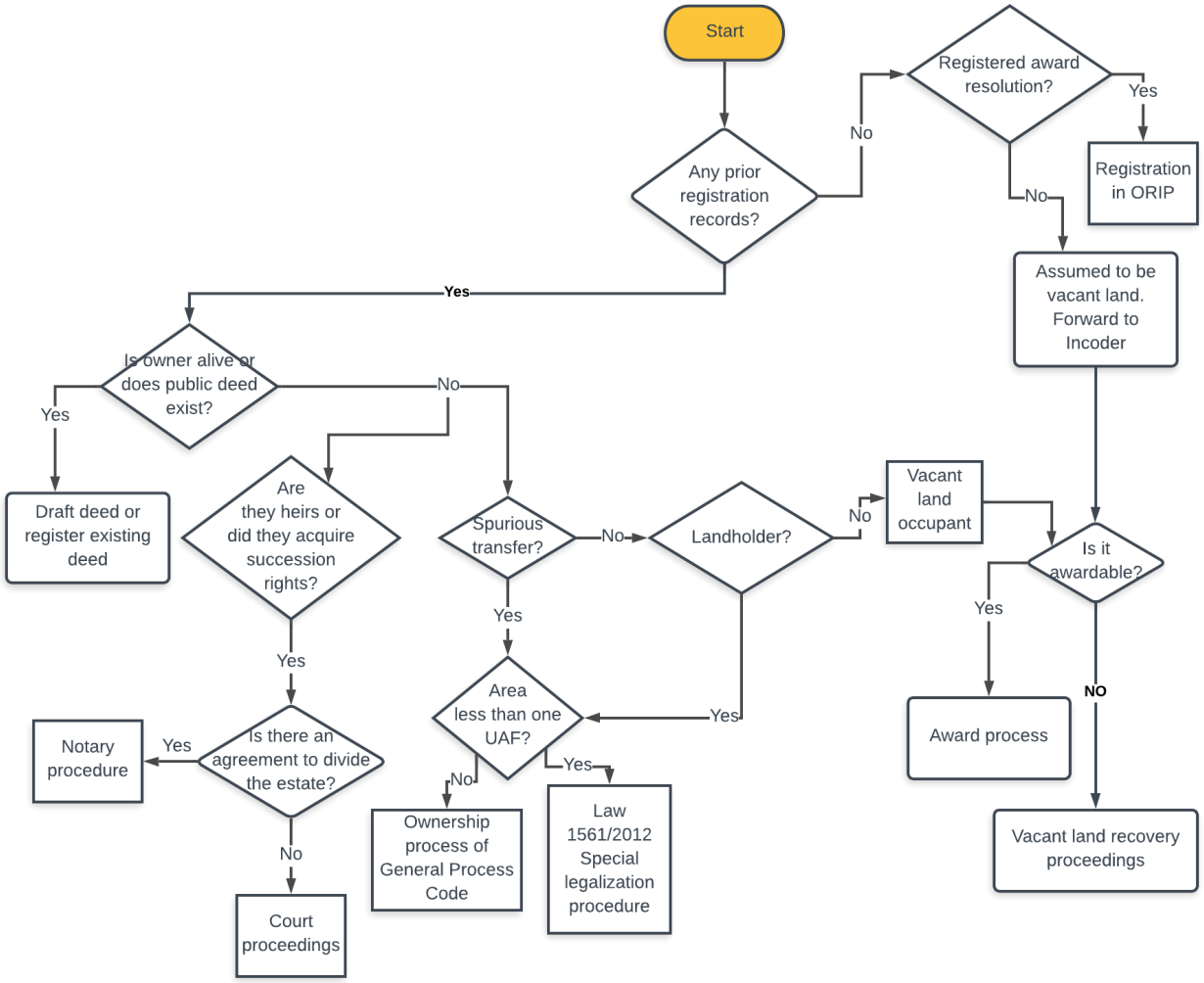
Lastly, the ANT was created in 2015 through Decree 2363/2015 of MADR, issued under special powers granted by Law 1753/2015, which assigns the new entity the land access functions that were previously assigned to INCODER. Such functions include that of issuing titles on vacant lands. It also orders the ANT to take over "starting on January 1, 2016, the implementation of the Program for Formalization of Rural Ownership [National Program], currently implemented by MADR, to which end all required budgetary and contractual transactions shall be performed" (Decree 2363/2015, art. 35).

This Decree represented progress in conceptual terms by clearly recognizing that formalization is different from the award of vacant lands. Paragraph 11 of article 4 assigns the entity the responsibility for performing "titling and transfers" of vacant lands owned by the nation, while paragraphs 21 and 22 of article 4 establish that the entity must promote, perform, manage and finance land titling processes on private lands and clarify property rights in order to guarantee legal security.

With the change of the entity responsible for implementing the program, new Methodological Guidelines for Mass Formalization of Rural Ownership by Property Sweep were issued (2016), which structurally changed the former guidelines and addressed the voids that existed in the former version. The new guidelines also incorporated the guidelines of ruling T-488/2014 and defined the procedure to be followed in the event it is found that a property in question is a vacant land property. The current formalization procedure specifies two stages and the arrangement of institutional agreements with the entities actively involved in the process: IGAC, SNR, mayoralties and governorships. The first stage covers four steps aimed at receiving requests and gathering information about the properties, with the purpose of determining the legal and physical nature of the property, in order to decide on the approach to be taken during the procedural stage. Unlike the methodological Guidelines adopted in Resolution 346/2013, all the steps of the new procedure are performed by the ANT.

The formalization procedure is performed in the second stage, depending on the legal status of the property. As displayed in Figure 2, there are four routes for formalization: **(i)** if effective property transfer title currently exists and the title holder is alive, the public deed is issued and registered in ORIP; **(ii)** settlement of an inheritance estate with no will through a notary or judicial proceeding; **(iii)** ownership proceedings pursuant to Law 1561/2012, if the property is equal to or smaller than one UAF; and **(iv)** ownership proceedings under the General Process Code for properties larger than one UAF. Given that the ANT is granted the power to issue a title through administrative channels, as long as no opposition exists, the fifth possibility is that of an administrative procedure.

Figure 2. Steps once the process to formalize property ownership has begun.



Source: prepared by the authors

4. The roadblocks in the design of the land titling program from a comparative perspective

The experience of land titling in the country indicates that there were gaps in the design of private property formalization programs, in that there were no unified goals and clear indicators to measure their implementation, and that no consolidated information was available on the progress made by the policy and its outcomes, and that coordination with other institutions involved in the regulation of property rights was weak. They were also isolated policies that were not accompanied by other rural development policies that, according to the literature, are necessary in order to produce the transformations that were intended through formalization (Deininger, 2003). Lastly, they did not produce a major change in the level of formality of property rights in the rural sector, as was intended, because the mechanisms were not in place to sustain the results over time; i.e. they do not guarantee that the formalized properties will not return to informality. Below we discuss each of these findings.

4.1 Cracks in the Design

The programs' design had certain gaps or cracks that became roadblocks for their implementation. We highlight three major issues in the Presidential Program. The first and most obvious is the inconsistency of the proposed goals and objectives according to the documents that created the policy. The second is that the constant shifting of the program between different entities prevented its continuity, which produced a loss of information on the program's implementation. And lastly, there is a lack of consistency in terms of the focus of the program itself, on whether it was interested in awarding or in formalizing, and the implications this difference represents.

Regarding the first aspect, on the lack of specific goals, all the documents that regulate the establishment of the program propose different targets in terms of the number de properties, hectares or families to be formalized. Table 2 displays the different figures published by the entities and documents that created the Presidential Program. They include information from Conpes 2736/1994, Presidential Directive 3/1995, the IDB report and the National Development Plan of the Samper administration. Here we see that each policy instrument establishes a different number of properties and hectares to be titled, which implies that there is no unified indicator to measure the program's scope. For example, the goal of Conpes 2736/1994 was to formalize 1,000,000 rural properties, whereas the Presidential Directive intended for formalize 500,000 rural properties. However, the IDB agreement and the National Development Plan do not refer to formalization, but to titling, and it is therefore not clear whether the target was in reference to awards, or also to the component of formalization of private property.

Additionally, the design did not specify the geographic limits of the municipalities where the program was to be implemented. Decree 755/1995 of DAPRE simply created the program and appointed the entities in charge of implementing it, but it did not establish clear guidelines for its implementation. Neither are such guidelines set in the Presidential Directive 3/1995, nor in the IDB loan, whose objectives are only to "issue titles for plots of vacant lands of the nation in 25 municipalities in the country" (IDB, 1997). This is of critical importance, because the results of the program presented by IDB (2014), which are summarized in Table 3, indicate the number of municipalities where award procedures were initiated, but none of the regulations of the Presidential Program establish any criteria for their selection.

Table 2. Targets of the Presidential Program

Document	Proposed target
CONPES 2736/1994	"Over the administration's four-year term in office, the program covers the formalization of holdings of 1.2 million urban properties and one million rural properties, titling of five million hectares of rural vacant lands and legalization of indigenous reservations."
Presidential Directive 3 of June 22, 1995	"This program's major objectives are to: 1. Formalize property rights for 500,000 rural and urban properties that are currently occupied without legal supporting documents. 2. Design and establish a new titling and registration system that expedites issuing of titles; that facilitates title searches by the state and individuals; and that improves the quality of the titles so that they clearly identify the property they represent."
Inter-American Development Bank CO0157	"(...) It was also expected to issue titles on government vacant lands in 25 municipalities throughout the country, a target that is considerably lower than that of the previous design (200 municipalities)".
Law 188/1995 National Development and Investment Plan	"(...) a mass rural ownership tiling program will be implemented with a target of five million hectares at 178,400 properties; collective titles will be issued for the territories of black communities, and efforts will continue to expand and clarify tenure at indigenous reservations."

Source: prepared by the authors based on the regulations of the Presidential Program

Table 3. Award resolutions issued since the reformulation of the project

Year	Department	Municipalities	Contracted titling procedures	Results		
				Draft award Resolution	Draft refusal resolution	Total performed
2001	Nariño	San Lorenzo	1192	668		668
2001	Nariño	Timitango				
2001	Nariño	San Pedro de Cartago				
2001	Bolívar	Simití	1034	702	225	927
2001	Antioquia	Andes	611	588	21	609
2001	Antioquia	Concordia				

2001	Cesar	Valledupar	288	89	36	125
2001	Cesar	Codazzi				
2001	Cesar	La Paz				
2002	Huila	Natagá	172	71	124	195
2002	Huila	La Argentina				
2002	Huila	La Plata				
2002	Cauca	Bolívar	1642	1047	235	1642
2002	Córdoba	Puerto Libertador	281	203	76	279
2002	Córdoba	Montelíbano				
2002	La Guajira	San Juan del Cesar	464	391	83	474
2002	Casanare	Paz de Ariporo	166	116	56	172
Total			5850	4235	856	5091

Source: Assessment by the Inter-American Development Bank (2014)

Regarding the second aspect, shifting of the program between different entities interrupted its continuity and prevented a proper assessment. During the Pastrana administration, the focus of the financed program shifted to modernization of INCORA rather than titling, which interrupted fulfillment of the initial objectives. This change included transferring responsibility over the program from DAPRE to the Ministry of Economic Development. But when this Ministry was liquidated, no proper transfer of the program was made to the successor entities (MinCIT and Ministry of Housing, City and Territory), given that, as indicated in their responses to administrative appeals, these entities did not have any information regarding the program's implementation or results.

Based on these administrative appeals submitted to DNP (File 20175600422901/2017), DAPRE and MinCIT (both under file E- 2017-613930 of the Administrative Attorney General (Procuraduría) of 2017) (see Annex 3), we were able to verify that none of the government entities involved in the program's design has any consolidated data on its implementation. These appeals were forwarded to other entities, including the Historical Archives, which also reported no information on file about the program, the Ministry of Housing (see Annex 3), which replied that it is not the competent authority to establish land titling policies and therefore has no information available in this regard. The same situation was found in the liquidation of INCORA and the creation of INCODER in 2003, which implied an interruption in the program's implementation and a change in the responsibilities for its

performance. The information INCORA had on this program is currently neither available at the Ministry of Agriculture nor at ANT.

Moreover, the only assessment we had access to, which was that performed by the IDB to follow up on the loan it had granted (2014), does not indicate the scope of the program in terms of its established targets, and is not consistent with the objectives set forth in the regulations that created the program. In fact, it makes no reference to the role played by the government entities in this regard, but only focuses on the outcome of the loan. The absence of a consolidated file on the steps for program implementation and the activities performed by each entity demonstrates a lack of monitoring by the government of the policies it designed and implemented. The responsibility for monitoring was left to the IDB (2014).

The third problem with the design of these programs is that they fail to differentiate between the legal arrangements for obtaining access to land. As indicated at the beginning of this report, in legal terms it is critical to differentiate between holders and occupants: whereas holders (of private assets) have the possibility of acquiring the asset due to passage of time or by means of acquisition by expiration of statutory limitations of ownership, occupants (of public assets) are not allowed this possibility. The program failed to make this differentiation.

The stated objective of Presidential Directive 3 of June 1995 is to "Formalize the property rights of 500,000 urban and rural properties that have been occupied with no legal grounds" (boldface added). On its part, agreement CO0157 with the IDB has the same confusion: even though paragraph 2.2 states that the objective is "i) to make progress in the formalization of ownership of rural and urban properties by means of titling and registration," paragraph 2.3 indicates that "registered property titles will be awarded on approximately 100,000 plots of rural vacant lands in 200 municipalities, and 150,000 urban properties in 50 municipalities." Even though both are normalization and titling processes, the applicable legal regimes differ substantially.

Even so, the program's results show that the intervention only focused on the award of vacant lands. Originally (Conpes 2736, 1994), this program was based on existing regulations to perform the ownership normalization process. In other words, it consisted in the application of the rules of the Civil Code to formalize ownership by small farmers, and of Law 160/1994 on agrarian reform to award vacant lands to their occupants. However, the program results prepared by the IDB (2014) only refer to the number of award resolutions delivered, initiated or denied in the municipalities where the program was implemented (see Table 3). Thus, only one component of the initial design was implemented, and it did not include coordination with other instruments required for the normalization of property rights, particularly of the provisions related to private property, such as the expiration of statutory limitations or spurious transfers.

Regarding the National Program, perhaps the most import flaw in its design was that it did not establish the rules of the game for formalizing rural ownership beforehand, but instead developed rules during the course of implementation. In other words, the program was structured on the go. This implies that at the outset no coordination mechanisms were established with the other entities involved in the assignment of property rights in order to have a clear idea of how the task was to be performed, which ended up producing delays in the formalization processes.

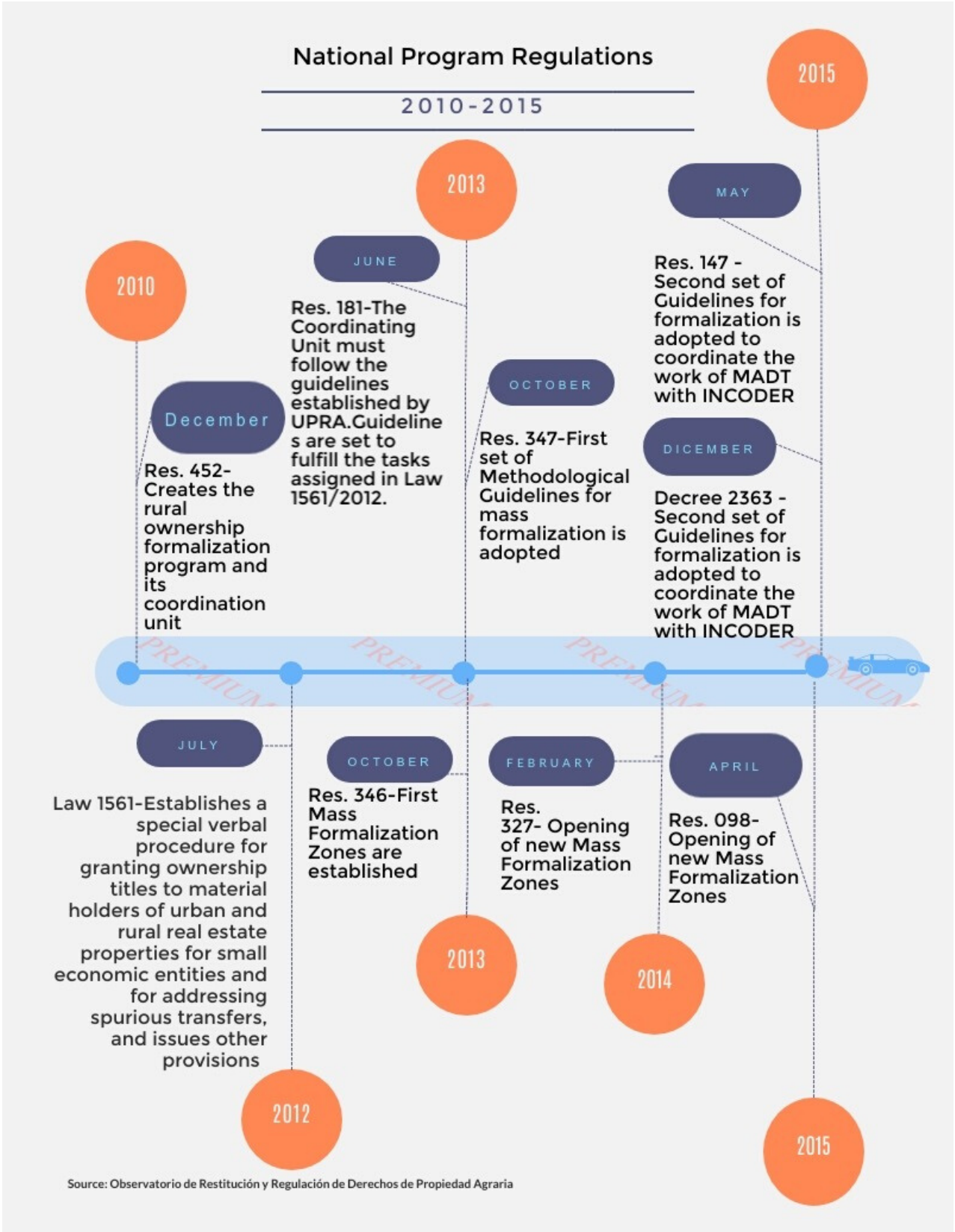
As shown in Figure 3, initially the program was created in 2010 by means of Resolution 452 of MADR, which only specified those responsible for its implementation. Three years later, the order is issued to coordinate the program with other entities in order to comply with the provisions of Law 1561/2012, and the first Methodological Guidelines were issued. In 2015, program implementation was transferred to the ANT, and as part of the transfer a second set of methodological guidelines was issued in 2016, following the criteria of ruling T-488/2014 in order to determine when a property is on vacant land. This indicates that over time, and through issuance of new regulations, new provisions and guidelines were added to the program, based on the needs of the time, depending the locations, the terms, the procedures to be followed and the entity to which the responsibilities were transferred (see Annex 2).

Similarly, as also illustrated in the Figure, even though the program was created in 2010, it only began to operate in 2013, once the requirements for the selection of formalization zones and the procedures to be followed by the civil servants had been established. In fact, the methodological guidelines adopted that year establish for the first time the procedures to be followed to receive and process formalization requests, for community events to publicize the program with support from the local authorities, for the classification of properties and the preparation of technical reports to review the titles.

Additionally, the program's design has two weaknesses that may affect its full operation. Firstly, as mentioned earlier, the program was created and developed by means of Resolutions issued by MADR, which established the duties of inter-institutional coordination with entities that were beyond the competencies of this ministry. However, the institutions that did not report to MADR had no obligation of participating, because the rules of this public policy were not binding for them.

In this sense, the participation of institutions such as IGAC or SNR in the Inter-institutional Group depended on the willingness of the entity's ruling bodies at the national and local level. Figure 4 displays the institutions that intervene in the process. The arrows indicate the hierarchy of the institutions in terms of the formalization procedure, while the red dotted lines represent the absence of links between the entities. Thus, the Figure shows that execution in the field was

Figure 3. National Program regulations.



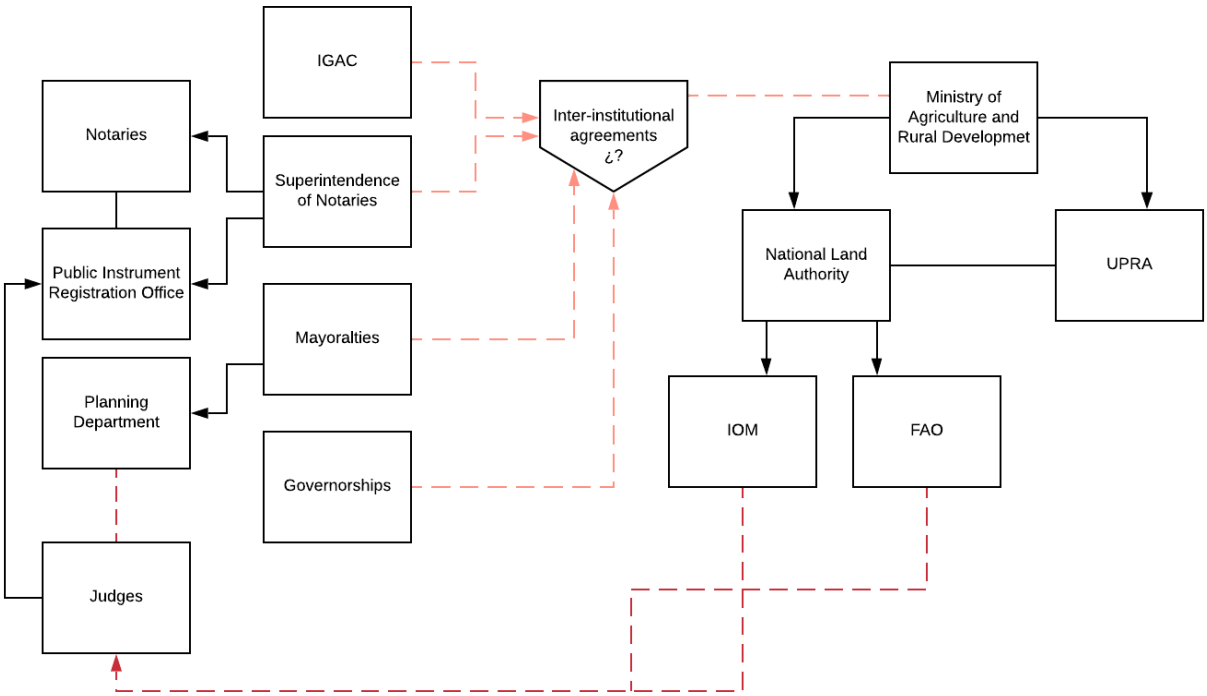
Source: prepared by the authors

performed by operators, and not directly by the civil servants who work for the ANT, and they were also the ones who interacted directly in the field with the lawyers responsible for filing the lawsuits in the respective jurisdictions.

Additionally, the municipal mayoralties were not included in the initial design of the formalization programs, but the functions of the mayoralties did actually affect program performance. For example, Law 1561/2012 establishes that the properties submitted to legal proceedings for clarification of ownership over rural properties cannot be located in areas defined as "non-mitigable high-risk areas" in the Territorial Ordering Plan (POT, by its acronym in Spanish). In our field work we were able to ascertain that in the case of Ramiriquí, the POT has identified high risk areas, but it does not indicate whether such risks can or cannot be mitigated. Consequently, the judges have been reluctant to process requests to clarify titles on properties that are in such areas, because the POT does not enable to clearly determine whether they are subject to the restrictions set forth in Law 1561.

Secondly, the program was dependent on external factors, such as the substantial judicial backlog that exists in the country. This is explained because in the cases in which the holder of the property rights had died and it was not possible to ratify the transaction in a public deed, or the heirs did not agree on the assignments from the estate, the program needed to go through the ownership judicial proceedings, the special verbal procedure established in Law 1561/2012, or inheritance proceedings

Figure 4. Organization chart of institutions currently involved in the National Program.



Source: prepared by the authors

Even though the design of the National Program established that it would be deployed in the territory through joint action with the judges, in practice the files piled up at the competent courts, creating a bottleneck by assigning more cases to an already overstretched judiciary workload. During the interviews, the judges expressed the need for more resources in order to carry out the task (Judge 60 Ramiriquí, interview May 29, 2018) and adequate presentation of the lawsuits, and follow-up on the proceedings in progress by ANT 12 (Judge 123_Andes, interview August 17, 2018; Judge 85_Urumita, interview June 1, 2018 and Judge 61_Ramiriquí, interview May 31, 2018). Properties that are larger than one UAF must also be processed through the courts, but the procedure is the one laid out in the General Process Code (Law 1564/2012), which establishes additional requirements and stages. Figure 2 displays the procedure's path, which highlights the importance of taking the judges into consideration when designing the policy.

An attempt was made to resolve this bottleneck by means of the responsibilities assigned to the ANT by Decree Law 902/2017 for the administrative proceedings for non-contested requests, i.e., those in which there is no litigation related to the property. In cases where there is litigation, the judges continue to be the only competent authorities. It should be highlighted that the interviewed legal operators viewed the implementation of the administrative procedure positively. One of them puts it this way:

> The only thing Decree 902 does is to relieve the congestion in the courts, especially because the aim of the Decree is to grant titles in cases where there is no dispute, in other words, there is no opposition, and it is not necessary to take it to court. So, in this context, I have 50 cases, of which only 5 have been contested, so look at all the progress that can be made in titling by the Agency (Judge 122_Andes, interview August 15, 2018).

Lastly, despite the amendments made to correct the program's operation and current implementation by the ANT, it can be said that the formalization program never moved beyond the pilot stage. Based on the evidence gathered during the study, several of the procedures initiated by the program in the first municipalities where it arrived in 2013 have not come to fruition. Even though throughout implementation results have been published in terms of titles delivered and beneficiary families, the constant changes made to the program over time have hampered effective and efficient processing of the requests. This is also partly due to the lack of coordination with other entities. Even though the current design (Figure 4) specifies the possibility of entering into inter-institutional agreements, such agreements depend on the willingness and cooperation of the various entities.

12. The processes that were initiated by MADS are currently managed by ANT, which is the entity responsible for continuing the operations of MADS, as defined in article 35 of Decree 2363/2015:"The National Lands Agency will take over, starting on January 1, 2016, implementation of the Rural Ownership Formalization Program (Resolution 0452/201, amended by 181/2013), currently managed by MADR, to which end budgetary and contractual transactions will be performed."

4.2 Land titling as an Isolated Policy

Even though a few success stories have been reported in terms of agricultural investment, in several countries no significant relationship has been found between land tenure regimes, security, use of credit and increase in productivity (Ubink, 2009). The international evidence indicates that security in land tenure through formalization does not directly increase productivity, unless it is accompanied by other inclusive policies that improve access to markets and farmers' income (Acero & Parada, 2019). The literature has pointed out that the consolidation of property rights must form part of a comprehensive rural development policy involving aspects such as access to credit, technical assistance, commercialization infrastructure and other elements required to make agricultural production sustainable (Deininger, 2003).

However, neither the Presidential nor the National Program made any reference to this aspect in the documentation of their creation. In fact, the objectives and goals laid out in the programs are based on recommendations made by agencies such as the IDB to develop a market for land, and they include consolidating accurate information about the conditions of the land, cadaster maps and updated records, and promoting education and training in all social sectors about the benefits of formal property titles (Vogelgesang, 1998).

In the case of the Presidential Program, the objectives were based on a narrative of developing a market for land through titling and modernization of the cadaster and registration. This program was aimed at supporting the legal, technological and procedural processes to enable linking the cadaster information of IGAC to the registration information of the SNR (IDB, 2014). On the other hand, the objectives of the National Program were only set in terms of titles delivered and number of hectares. Its objectives also included the consolidation of a culture of formality in rural ownership, which signifies generating the social basis for users to understand the importance of being owners and fulfilling the relevant legal procedures.

The fact that the programs focus on these objectives does not imply that there were no other programs that could provide assistance for formalization. However, such comprehensive assistance was not part of the plan of DAPRE nor of MADR. As we indicated in the section on the institutional pipeline, the design of both programs only took into consideration the entities that are related to the regulation of property rights (Table 1 and Figure 4), and did not include, or did not foresee, the coordination of this program with other policies related to the benefits of obtaining a registered title, such as access to credit.

In the National Program in particular, this shortcoming was recognized both by the civil servants of the program in the southern region, 13 and by the users themselves, who did not perceive any change in their living conditions following registration of their titles. On the one hand, in an assessment submitted by the South Regional Office (2014), the civil servants emphasized the difficulties in integrating the formalization effort with comprehensive institutional offerings in favor of the small farmers. The civil servants consider that the title can produce positive effects, "but it must be accompanied by improvements in production, security, marketing, technology, technical assistance, credit for development, etc." (South Regional Office PFPR, 2014, p. 12). To this end, they suggested creating links with other plans, programs and projects, particularly with rural housing, but no action was taken.

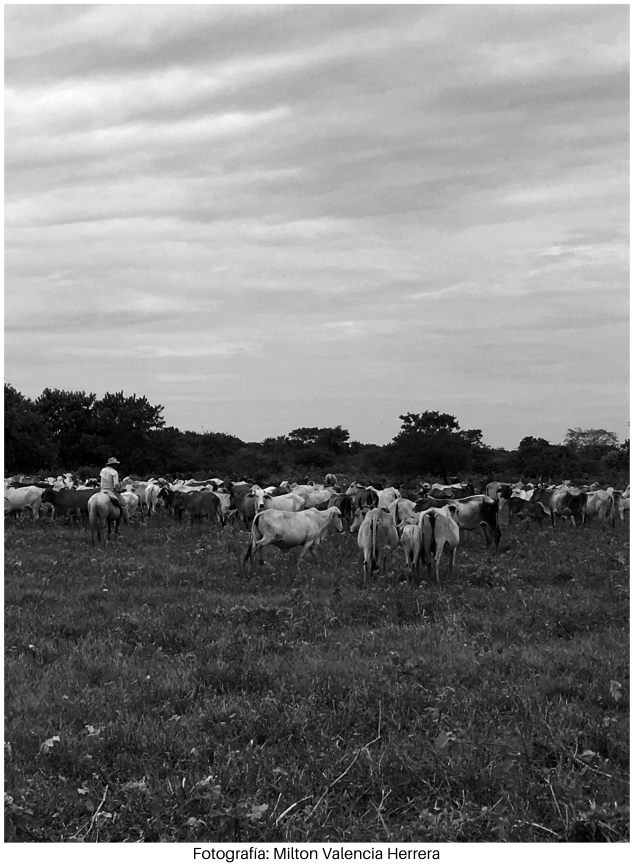
On the other hand, in the municipalities where interviews were made, the participants indicated that the title did not produce any change in terms of their access to goods and services, and that they did not receive any assistance from INCODER, which was supposedly in charge of implementing rural development policies. The interviewees did not display any interest in gaining access to loans or selling their properties, which are two of the most important premises for formalization, and others had already obtained loans even before formalizing their properties through institutions such as the National Coffee Growers' Federation, Banco de la Mujer or Bancamía. A user of the program in Urumita who has been working at a relative's farm for several years, told us how he obtained a loan even without having formalized the property:

> Yes, we took out a loan through the Committee, directly through the Coffee Growers' Committee, when we were replanting coffee, when we replanted coffee for the first time. They made it out in his name. We invested one part in his farm, and he gave me a percentage. They asked us for a purchase-sale agreement that he had signed with my mother. (Program User 78_Urumita, interview May 30, 2018).

Even though the program's objectives do not cover the development of economic policies for small farmers, the users' experience indicates that the formalization program can be pointless, in that it does not contribute to improving their living conditions. Given the meager coordination with other institutions responsible for regulating property rights and other policies aimed at improving the living standards of small farmers, the users' perceptions tend to be that even though the existence of the program is important, "the quality of life of those who hold titles is the same as those who do not" (Program User 100_Fonseca, interview June 3, 2018).

13. Which covers the municipalities of Popayán, Timbío, Morales, Piendamó, Caldono, Mercaderes, Buenos Aires, Padilla, Miranda, Santander de Quilichao in Cauca; Jamundí in Valle del Cauca; Pitalito and San Agustín in Huila; and La Unión and San Pedro de Cartago in Nariño.

This implies that due to the design and implementation of the program described in the previous sections, formalization is an isolated effort that has arrived too late, because the small farmers have made use of other means to acquire housing or productive land.



Fotografía: Milton Valencia Herrera

4.3 Land titling is not Sustainable over time

Regarding this last point of our study, we find that there are institutional conditions that prevent or create roadblocks for sustaining formalization over time. Even though programs of this type are not charged with developing structural reforms in the manner in which property rights are regulated in the country, the conditions required to formalize ownership in the rural sector prevent maintaining the formal status of the registered titles delivered by the program over time. This is due both to the time and costs required in order for a small farmer to register future transactions related to the property in the respective ORIP.

As displayed in Table 4, not all the country's municipalities, not even all those that were included in the formalization program, have an ORIP. People must travel to the respective registration office to report any subsequent transfers in ownership, which often implies several hours of travel. The calculations in Table 4 indicate the time it takes a person to travel by private transportation, assuming that the roads are in good conditions. Additionally, no calculations were made in the departments where there are no roads, due to lack of information on the various means of river transportation, as in the case of Amazonas or Chocó. When more than one road exists, an average of the time and distance is displayed.

In this manner we find, for example, that people in Vichada must travel an average of 7 h 14 min from the town centers to their assigned ORIP, followed by Meta (3 h 6 min), Arauca (2 h 51 min) and Bolívar (2 h 42 min). In the departments of Vaupés, Guainía and Amazonas there are no roads connecting the municipalities to their assigned ORIP. In the Pacific Coast region, on the other hand, there are 18 municipalities in Chocó, 10 in Nariño and 3 in Cauca that are not connected to their ORIP. An additional 8 municipalities in Bolívar, 2 in Antioquia, 1 in Putumayo, and 1 in Caquetá, respectively, do not have roads either. All the above calculations do not include the additional time it takes to travel from sometimes distant rural areas to the town centers.

Table 4. Public instrument registration offices and municipalities

Department	Number of municipalities with ORIPS	Total municipalities by department	Average from each municipality to the ORIP			Municipalities not connected to the ORIP
			Distance in Km	Time	Tolls	
Amazonas	1	11	No roads			10
Antioquia	30	125	32	53 min	18	2
Arauca	1	7	167.15	2 h 51 min	0	0
Atlántico	2	23	32	49 min	4	0
Bolívar	5	45	103.6	2 h 42 min	19	8
Boyacá	14	123	29.7	58 min	5	0
Caldas	10	27	22.3	40 min	3	0
Caquetá	2	16	63.4	1 h 47 min	0	1
Casanare	3	19	68.7	1 h 26 min	2	0
Cauca	8	41	45.5	1 h 21 min	2	3
Cesar	3	25	66.3	1 h 13 min	7	0
Chocó	3	31	44.9	1 h 17 min	0	18
Córdoba	6	28	39.8	46 min	7	0
Cundinamarca	16	116	33.5	57 min	34	0
Guainía	1	9	No roads			8
Guaviare	1	4	28.5	1 h 8 min	0	1

Huila	4	37	35.8	53 min	9	0
La Guajira	3	15	48.8	54 min	6	0
Magdalena	6	30	53.4	1 h 15 min	3	0
Meta	4	29	125.3	3 h 6 min	17	0
Nariño	8	64	29.5	58 min	5	10
Norte de Santander	7	40	38.3	1 h 14 min	2	0
Putumayo	2	13	57.6	1 h 54 min	0	1
Quindío	3	12	20.7	31 min	0	0
Risaralda	6	14	17.7	30 min	1	0
San Andrés	1	2	Islands			1
Santander	15	87	32	1 h 2 min	9	0
Sucre	4	26	46.1	1 h 1 min	1	0
Tolima	12	47	34	1 h	6	0
Valle del Cauca	8	42	23.5	36 min	4	0
Vaupés	1	6	No roads			5
Vichada	1	4	550	7 h 14 min	0	0

Source: prepared by the authors.

Note: The calculations in the Table were made based on Google Maps, from each town center to the corresponding ORIP.

Additionally, most small farmers are not fully aware of the procedure to register property ownership, and the cost of the procedure is too expensive for many of them. As explained in the first section of this text, formalization of ownership implies resolving legal issues of the properties, often in court when ownership is contested, which implies incurring costs such as notary fees, lawyer fees, and copies of documents, among others (Peña Huertas, Parada and Zuleta, 2014). A leader of a Community Action Board (JAC, by its acronym in Spanish) in Santander de Quilichao says the following in this regard:

You see, most of these properties are up for succession, and sometimes the inheritance proceedings cost more than the property, maybe about 5 or 6 million pesos. The process might be quicker, but it is not affordable for the people, because most of us are low-income people. [Government programs provided at no cost are important because] they facilitate the legalization of land for the people. A lot of people are negligent, and don't want to do it because they think it's not important, but I do recommend people to legalize their land in this manner. (Leader 5_Quilichao, interview April 10, 2018)

Another leader from the same municipality explains the problem as follows:

Yes, of course [I would recommend legalizing the property]. As I said before, the cost of the legalization procedure is the main barrier, especially because many residents of this rural district live on a day-to-day basis, and in order to legalize the property they would have to raise at least between 300,000 and 500,000 pesos for one property. [...] Because just traveling as such to take care of all the documentation takes at least one day, because even though the distances are relatively short, you might have to travel several times, so it is costly to travel. And you do have to work. So, you would only go through all the trouble when you really need the title, and then you do participate in the program as the only affordable way of carrying out the procedure, but other than that nobody is going to do it. So, all these talks we've had about formalization, nothing comes of it, because people just go to the meeting and training, but do not do the rest. If they only provided more, like if part of the government came here to do all the procedures and everything, but other than that, a small farmer is not going to travel two or three days and spend all that money just to get a title. (Leader 12_Quilichao, interview April 12, 2018).

Thus, if a person who received a duly registered property title through any of the two formalization programs decides to sell the property, the procedures must be carried out on his/her own account. The time and cost required for rural land titling makes this procedure particularly difficult for small farmers, because they do not have the economic means, as narrated by the users themselves. This represents a barrier for small farmers to comply with the requirements of the Civil Code (Law 84/1873) to materialize their property rights (Peña Huertas, Parada and Zuleta, 2014) and is a barrier for maintaining the formality of the registered titles delivered by any of the two programs.

Notwithstanding these difficulties, the users believe that formalization can improve their quality of life in terms of undertaking home improvements, not passing on problems to their children, avoiding conflicts with neighbors or people from other municipalities, and preventing dispossession or forced displacement (in the municipalities of Jamundí, Santander de Quilichao, Urumita and Fonseca). Additionally, for the users, formalization is a gateway for receiving other types of government benefits and assistance. The simple fact of joining the program creates expectations regarding participation in projects for productivity, housing, education, etc.:

Yes, there are other benefits, as I said, if you have a title you can participate in credit programs, in rural or urban housing projects when you have a title (Program User 103_Fonseca, interview June e, 2018).

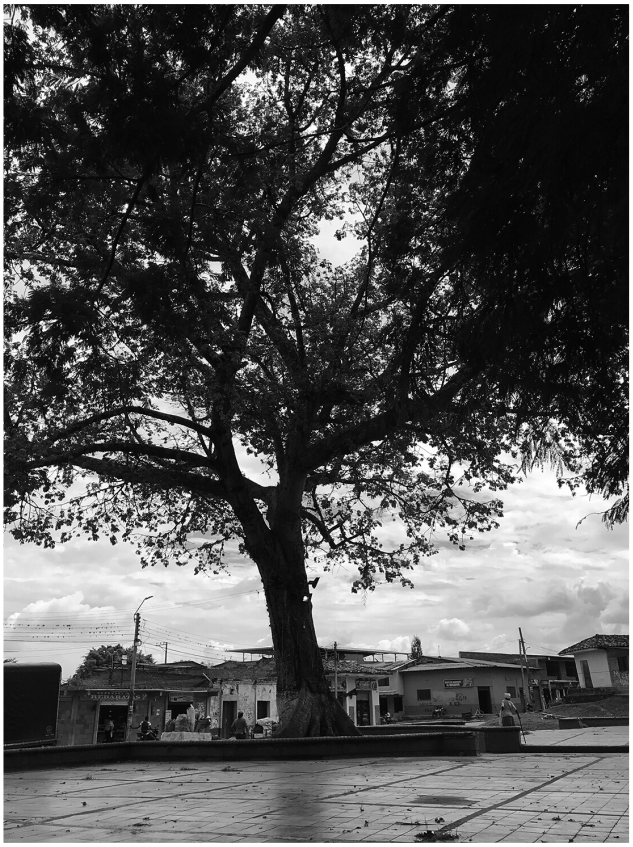
The thing is that nowadays you need to have the documentation for a loan. For any commitment from the government, you need to certify that you own the property. This is true for any subsidy. Look, like right now they are providing subsidies for bovine repopulation, and you need updated documents on the property; otherwise you will not get any subsidy.

I think even one for chickens who has come around is asking for property documentation (Leader 84_Urumita, interview June 2, 2018).

In addition to these government services, people appreciate the opportunity of maintaining the legality of their properties, and the possibility of doing so increases if an office of the program is available in the municipality.

No, look, it used to take about one or two years, but to date there have been no results. I would thank the government if they left an office here in Ramiriquí; even if everything were not for free, just to expedite all the procedures for us (Program User 64_Ramiriquí, interview May 30, 2018).

Therefore, for all users of the National Program, without exception, legalized ownership represents recognition by the government of their status as legitimate owners of the land they live or work on, before third parties, and enables them to pass on their land through inheritance to their relatives. For this reason, in the municipalities where this latest program has worked, such as Buenos Aires (Cauca) and Ramiriquí (Boyacá), the residents suggest that permanent offices of ANT should be set up at the offices of the local mayoralties, because it would help reduce the cost and facilitate the process of formalization.



Fotografía: María Camila Jiménez Nicholls

5. Conclusions

Despite these shortcomings, the rural populations appreciate and have a positive perception of the public policy initiatives that address this topic. This ratifies that the inclusion of formalization in the agenda of the latest administrations is a priority in order to improve the quality of life of small farmers. The commitment to continue implementing the formalization public policy was ratified in point 1 of the Peace Agreement, which declares that achieving a real structural transformation of the countryside requires promoting the formalization of land ownership. To this end, the government made a commitment to formalize 12 million hectares over the next 10 years from the date of the Agreement. The objective of formalization, as stated in the agreement of La Habana, is to guarantee the rights of small and medium-sized landholders, prevent the use of violence to settle conflicts over land and to provide guarantees against dispossession.

Besides considering that formalization is a means to prevent violence and dispossession, the Agreement also declares the intention of strengthening legal security through the establishment of clear rules for property transactions and access to ownership. Based on the commitments acquired by the government during these negotiations, Decree 902 was enacted in 2017, aimed at materializing the agreement on the topic of formalization and access to land. The design included in this decree for land formalization includes some innovations compared to the previous programs, which will require future studies on their performance and the results of this new policy.

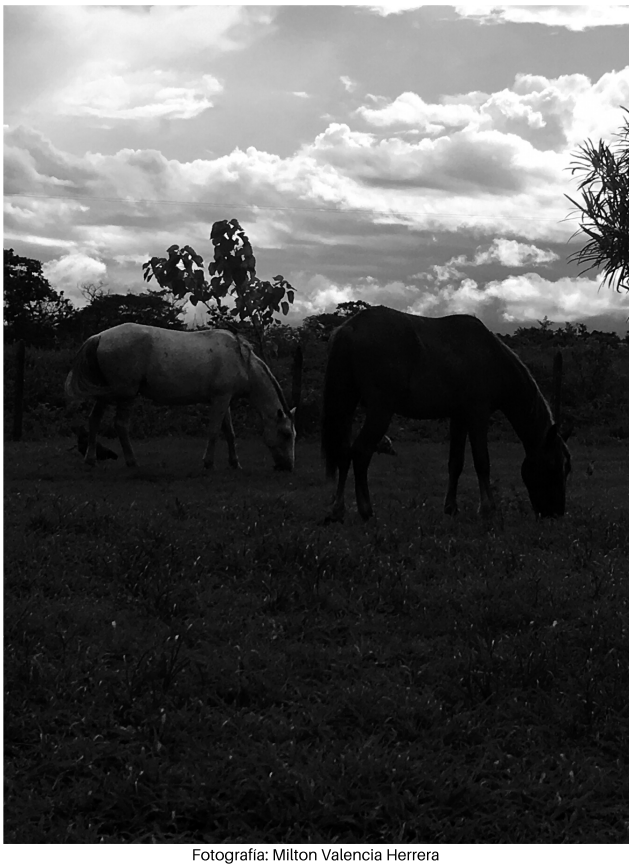
The current administration remains committed to the consolidation of property rights. On May 13 this year, President Iván Duque met with the United States Agency for International Development (USAID) to sign a joint statement on the finalization of the pilot plan for Mass Formalization of Lands and Cadaster in Ovejas (Sucre).[14] In his speech, the President thanked the US for the cooperation provided to Colombia to implement this program and declared that land titling is a mechanism to improve productivity and promote financial inclusion.

The above points to the continuity of the formalization programs in coming years. For this reason, based on the results of this report, we propose the following points to improve the implementation of the formalization policies:

- Considering the program's practical experience, regulatory instruments are required that cover all the entities related to titling of property rights. Inter-institutional agreements depend on the willingness of each entity, and MADR resolutions are only binding for the entities that are part of the agricultural sector. A regulation issued by the President of the Republic, as maximum administrative authority, would be the suitable instrument to establish binding obligations for entities such as IGAC and SNR. However, in order to assure the continuity of the policy and turn it into government policy, the most suitable instrument would be a law assigning clear responsibilities and ensuring budgetary allocations. In this way, future programs would no longer depend on the willingness of each entity to fulfill the program's implementation.
- It is crucial to update the cadaster. In some cases, the lack of consistency between the cadaster and the information recorded in the ORIPS has led to the rejection of registration of properties, because the boundaries of the properties do not match. It is also a tool for determining the legal status of the property (private property or vacant land) and the relevance of the program. This aspect, which was included in the National Development Plan - Pact for Colombia, Pact for Equity (2018-2022), is one of the major goals set by this administration as part of the Pact for Legality, aimed at the clarification of property rights.

14. Speech by President Iván Duque during an event with the United States Agency for International Development (USAID) to finalize the pilot plan for Mass Formalization of Lands in Ovejas (Sucre). Available at: https://id.presidencia.gov.co/Paginas/prensa/2019/190513-Palabras-Presidente-Ivan-Duque-durante-declaracion-Agencia-de-Estados-Unidos-Desarrollo-Internacional.aspx. Downloaded on 20/05/2019

- Our field work performed at seven municipalities throughout the country demonstrated that formalization is important for the rural population. However, the reasons they consider it important is different from the reasons set forth in the programs' design. Most users do not seek access to credit or to sell their properties, but to fulfill individual expectations, such as feeling that they own the land, or to avoid passing on problems to their heirs, and to establish a clearer relationship with the state. In practice, the title did not generate structural and/or long-lasting economic changes in the realities of the interviewed users. Based on the above, we believe that it is crucial to include local actors (local governments and community organizations, for example) and to take into consideration the territorial configurations in the policy's design to ensure the successful implementation of the formalization programs. The local arena is decisive –not secondary– for achieving the planned goals and to ensure formal land ownership that is sustained over time, accompanies by other policies that truly meet the needs of rural communities. Only by working directly and continuously in the local arenas will it be possible to recognize the existing needs, actors, interests and territorial configurations, in order to begin the implementation of the formalization programs.



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- Resolution 247/2015 of MADR (August 03). Amends Resolutions 327/2014 and 098/2015 and grants a new term for the formalization zones specified in Resolution number 0346/2013. Official Diary No. 49.594, August 4, 2015.
- Presidential Directive 3/1995 (June 22). Immediate actions for implementation of the Presidential Program for the Formalization of Ownership and Modernization of Property Titling. No Official Diary.
- Conpes 2736/1994 (October 12). Authorizes the Nation, through the Ministry of Agriculture and Rural Development, to take out an external loan with multilateral banks to finance the program to develop the rural land market and the formalization of rural and urban ownership. No Official Diary
- Conpes 3641/2010 (February 15). National policy to consolidate the interrelationship between cadaster and registration. No Official Diary.Ruling T-488/2014 of the Constitutional Court (July 09). Magistrate writing for the court Jorge Iván Palacio Palacio.

7. Annexes

Annex 1: Resolutions to create Mass Formalization Zones

Resolution	Municipalities	Program closing deadline
346/2013	**Boyacá:** Ramiriquí, Moniquirá, Villa de Leyva and Sáchica; **Caldas**: Manizales; **Cauca**: Popayán, Morales, Mercaderes, Timbío, Santander de Quilichao, Buenos Aires, Caldono, Piendamó, Miranda and Padilla; **Cundinamarca:** San Juan de Rioseco; **Huila:** Pitalito and San Agustín; **Magdalena**: Ciénaga; **Nariño**: La Unión; **Risaralda**: Pereira; **Valle del Cauca**: Jamundí.	18 months starting on October 8, 2013. Resolution 247/2015 grants an additional extension of 18 months. To date there is no specific report on the results of these ZFMs.
327/2014	**Antioquia:** Andes; **Boyacá:** Ventaquemada; **Caldas:** Neira; **Cauca:** Rosas; **Nariño:** San Bernardo and San Pedro de Cartago; **Tolima:** Chaparral; **Sucre:** Ovejas.	18 months starting on August 5, 2014. Resolution 247/2015 amended the original term and instead establishes a 36-month term for closing the program.
98/2015	**Antioquia**: Apartadó, Arboletes, Caldas, Carepa, Ciudad Bolívar, Chigorodó, Cocorná, Granada, Mutatá, Necoclí, Remedios, San Carlos, San Francisco, San Luis, San Rafael, Segovia, Támesis and Yarumal; **Boyacá:** Cómbita, Chivatá, Oicatá, Samacá, Zetaquira and Motavita; **Caldas:** Pensilvania and Samaná; **Cesar:** El Paso, La Paz and San Diego; **Cundinamarca:** Chocontá and Villapinzón; **Chocó:** Quibdó; **La guajira:** Fonseca, La Jagua del Pilar, San Juan del Cesar and Urumita; **Huila:** Isnos, Oporapa and Saladoblanco; **Magdalena:** Santa Marta and Zona Bananera; **Meta:** Acacías, Granada and San Juan de Arama; **Norte de Santander:** Gramalote and Silos in the department; **Risaralda:** Belén de Umbría, Santa Rosa de Cabal and Santuario; **Santander:** California, Charta, Matanza, Suratá, Tona and Vetas; **Sucre:** Caimito and San Marcos; **Tolima** Ortega.	36 months starting on April 22, 2015. Resolution 247/2015 maintains the established term and excludes the municipality of San Juan de Arama because "the rural part of the municipality of San Juan de Arama is classified as La Macarena Special Management Area (AMEM). In terms of the legalization of rural ownership, it is more important to consolidate the environmental management plan of DMI Ariari, Guayabero, which is currently in the preparation stage by the departmental environmental authority (Cormacarena), and consequently it is not considered viable at this time to begin the process of formalization of rural ownership in this municipality, and it is relevant to exclude it." Instead, the municipality of Turbo in Antioquia was included.

Sources: Resolution 346/2013 of MADR; Resolution 327/2014 of MADR; Resolution 98/2015 of MADR.

Annex 2: Evolution of the land titling program

Regulation	Purpose	Entities responsible
Resolution 452/2010	Creates the rural ownership formalization program and its coordination unit.	MADR Creates a Coordinating Unit within the Ministry and establishes an inter-sectoral committee.
Resolution 181/2013	Amends Resolution 452/2010 and issues other provisions.	MADR The Coordinating Unit must follow the guidelines established by UPRA. Guidelines are set to fulfill the tasks assigned in Law 1561/2012.
Resolution 347/2013	Adopts the Methodological Guidelines for Mass Formalization of Rural ownership by Property Sweep.	MADR
Resolution 147/2015	Amends Resolutions 452/2010 and 347/2013.	MADR Orders amendments to the Guidelines for formalization of rural ownership by Property Sweep to promote inter-institutional coordination with INCODER. Establishes the Mass Formalization Zones.
Decree 2363/2015	Creates the National Lands Agency (ANT) and defines its purpose and structure.	ANT will be the entity in charge of all matters related to formalization and clarification of private property and titling and transfers of government-owned vacant lands.

Prepared by the authors based on the regulations of the National Program. Source: Resolution 452/2010 of MADR; Resolution 181/2013 of MADR; Resolution 347/2013 of MADR; Resolution 147/2015 of MADR; Decree 2363/2015 of MADR.

Annex 3. Administrative appeals

Entity	Year	File	Legal Action
Presidency Administration Department	2017	AJN001	Lawsuit for the protection of constitutional rights File No. 11001225000201702382O1 Resolved by means of ruling dated November 7, 2017 of the Labor Chamber of the Appeals Court of Bogotá D.C. Appeal against ruling dated November 7, 2017 Resolved by means of ruling dated January 24, 2018 of the Labor Chamber of the Supreme Court of Justice.
Office of the National Planning Director	2017	20175600361831	Lawsuit for the protection of constitutional rights File No. 11001221500020170055700 Resolved by means of ruling dated November 23, 2017 of the Criminal Chamber of the Appeals Court of Bogotá D.C.
Office of the National Planning Director	2017	20175600317661	Lawsuit for the protection of constitutional rights File No. 11001220300020170271000 Resolved by means of ruling dated October 31, 2017 of the Civil Chamber of the Appeals Court of Bogotá D.C.
Ministry of Agriculture	2017	20174200095861	Lawsuit for the protection of constitutional rights File No. 11001221500020170068100 Resolved by means of ruling dated October 31, 2017 of the Criminal Chamber of the Appeals Court of Bogotá D.C. Incident of contempt in the proceedings of File No. 10012215000201700681O0 Resolved by means of writ dated January 9, 2018 of the Criminal Chamber of the Appeals Court of Bogotá D.C.

Annex 3. Administrative appeals

Ministry of Housing, City and Territory	2017	1-2017-007820	Lawsuit for the protection of constitutional rights File No. 110012215000-2017-00690-00 Resolved by means of ruling dated November 1, 2017 of the Criminal Chamber of the Appeals Court of Bogotá D.C. Incident of contempt in the proceedings of lawsuit for the protection of constitutional rights File No. 11001221500020170069000 Resolved by means of writ dated February 5, 2018 of the Criminal Chamber of the Appeals Court of Bogotá D.C. Lawsuit for the protection of constitutional rights against ruling dated February 5, 2018, issued during the proceedings of file No. 11001221500020170069000 of magistrate writing for the court Dr. Hermes Darío Lara Acuña. Resolved by means of ruling dated April 19, 2018 of the Criminal Chamber of the Supreme Court of Justice.
Public Finance and Credit Ministry	2017	1-2017-061694	N/A
Administrative appeals to 32 governorships	Nov 2017		No response given by the governorships of: Amazonas, Chocó, Guaviare, Guajira, Magdalena and Valle del Cauca.

Source: Presidency administration file AJN001 of 2017; Office of the National Planning Director file 20175600361831 and 20175600317661 of 2017; Ministry of Agriculture file 20174200095861 of 2017 Ministry of Housing, City and Territory file 1-2017-007820 of 2017; Public Finance and Credit Ministry file 1-2017-061694 of 2017. Administrative appeal to the 32 governorships in 2017

Annex 4. In-depth interviews

Interviewees	Number	Cities
Trial lawyers	1	Santa Sofia
JAC leaders	19	Santander de Quilichao, Andes, Jamundi, Ramiriquí, Urumita and Andes
Implementers	12	Santander de Quilichao, Jamundi, Ramiriquí, Urumita, San Diego, Valledupar, Andes and Popayán
Civil servants	12	Jamundí, Urumita, Santa Sofia, Andes and Ramiriquí
Judges	10	Ramiriquí, Tunja, Urumita and Andes
Leaders	3	Santander de Quilichao and Fonseca
Decision-makers	7	Bogotá
Program users	79	Santander de Quilichao, Jamundí, Ramiriquí, Urumita, San Diego, Fonseca, Santa Sofia and Andes
Total	143	

Prepared by the authors based on field work performed

Annex 5. Award resolutions issued prior to project reformulation

Regional Office	Municipality	Families benefiting from titles
Córdoba	San Bernardo del Viento	756
Magdalena	El Banco	369
Cesar	Valledupar	300
La Guajira	Urumita	170
Antioquia	San Francisco	360
Santander	La Belleza	380
Boyacá	Paipa	160
Meta	Puerto López	290
Valle del Cauca	Sevilla	230
Nariño-Putumayo	El Tambo	340
Total		3355

Source: Assessment by the Inter-American Development Bank (2014)