

The long-awaited amendments to construction law – the good and the bad

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For years now a reform of the Romanian Construction Law¹ has been demanded to achieve the simplification, speed-up and digitalization of the much too formal and bureaucratic building permit procedure. Changes have now come at last.

Context

It was the beginning of 2018 when the Romanian Government first started the public debate on a new law to replace the current Construction Law. This law has still not yet been adopted. In fact, the Chamber of Deputies of the Romanian Parliament adopted on 30 October 2019 a new law² (the „**Law**“) by means of which fundamental aspects of the current Construction Law were amended and supplemented.

Besides certain positive novelties of the Law, there are, however, important changes less favourable in practice.

The good side

The following aspects are among the most important positive amendments and supplementations of the Law:

- (i) the urbanism certificate (*certificat de urbanism*) that provides information about the requirements of a building permit and represents a condition for obtaining such permit will now be issued within 15 business days (instead of 30 calendar days); the issuance will be made either in physical or digital form accompanied by an electronic signature;
- (ii) only authorizations and approvals that are strictly required from a technical and legal point of view for the construction to be approved shall be requested via the urbanism certificate;
- (iii) the local authorities on certain county and city level (*județe și municipii reședință de județ*) must organize single approval committees (*comisii pentru acord unic*) to be responsible for obtaining on behalf of the applicant all approvals and authorizations necessary in the building permit procedure;
- (iv) such approvals and authorizations will be valid both for the execution of the main construction works and for the connection works to the public supply networks (no double authorizations/ approvals required);
- (v) the time limit for issuing the building permit in emergency procedure (on request, in justified cases) was shortened from 15 calendar days to maximum 7 business days;

¹ Law No. 50/ 1991 on the authorization of the execution of construction works.

² Law No. 193/ 2019.

- (vi) the approvals for existing supply networks (*avizele/ acordurile referitoare la rețelele tehnico-edilitare*) will now be issued within a shortened time limit of 5 business days (otherwise delay penalties amounting to RON 5,000/ day shall be applied);
- (vii) construction works aimed at changing the internal partitioning of a building (*compartimentari interioare*) will be approved based on a simplified building permit documentation;
- (viii) if a new building is to be erected in place of a building to be demolished, from now on only one permit will be issued both for the demolition and the construction works; in this case, only the fee for the building (construction) permit will be charged.

The bad side

Less favourable are the following changes:

- (i) the installation of roof photovoltaic systems is no longer exempted from the obligation to obtain a building permit; this exemption was introduced by the legislative body this year, at the end of July; why the lawmaker has opted for such a U-turn is totally unclear;
- (ii) building permits may be annulled not only by the administrative courts of law, but also by prefects as a result of a control performed by the State Construction Inspectorate (*Inspectoratul de Stat în Construcții*); the general lawfulness of this novelty (and in particular its constitutionality) is in our opinion highly questionable;
- (iii) except for approvals regarding existing supply networks, all other approvals and authorizations required in the building permit procedure will now be issued within 15 business days (instead of calendar days); an exception from this rule is the approval of the Ministry of Culture, that will now be issued within a new (very long) time limit of 30 business days;
- (iv) the extension of the validity of the building permit will now have to be requested at least 15 business days (instead of calendar days) before expiry.

Conclusion

Generally speaking, the amendments brought by the Law No. 193/ 2019 to the building permit procedure are positive. Rather unfortunate are however other new regulations such as the necessity to obtain a building permit for the installation of roof photovoltaic systems or the annulment of building permits by the prefects. In our opinion, these changes are just an accidental slip of the legislative body; they are likely to be eliminated in practice either through new amendments of the lawmaker or by court decisions.

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