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THE CONSTRUCTIONS DOMAIN IS NOW SUBJECT TO TIGHTER REGULATIONS

Starting December 27th, 2016¹, new rules have entered into force as regards the drawing up of landscaping and urbanism documentation and the issuance of building permits.

New restrictions concerning the extension of the intraurban areas

The new provisions include more severe rules, such as the prohibition of approving the zonal urbanistic plans (PUZ) with the purpose of extending the intraurban area for areas smaller than 5,000 sq.m. Also, these provisions prohibit the establishment of isolated intraurban areas based on a PUZ, unless the access and utilities infrastructure necessary for the envisaged construction is pre-existent or the PUZ provides so and it is performed simultaneously with the contemplated construction.

Clarifications in relation to the urbanism certificate

An important clarification made by the new regulation refers to the necessity of obtaining a new urbanism certificate for the issuance of building permits, different from the one issued with the purpose of developing the zonal urbanistic plans.

The obligation of ensuring the access of the public to the documentation

The new regulation also brings amendments related to the advertisement and the access of the public to the zoning and urbanism documentation, expressly setting forth the obligation of the authorities to make the documentation available to the public, including by publishing its content on the website of the mayoralty and of the county council. Before this amendment, the law provided exclusively the obligation of publishing the restraints set out by the urbanism documentation.

New deeds that are sanctioned as administrative offences

In its new form, Law No. 350/2011 on zoning and urbanism includes a number of new deeds qualified as administrative offences, such as:

- the initiation and approval of urbanism documentation aiming for certain constructions erected without a building permit or without the observance of the provisions of the building permit to comply with the law;
- failure to comply with the terms regarding the submission for approval of the documentation;
- failure to comply with the provisions regarding public awareness and consultation.

¹ On December 27th, 2016, Government Emergency Ordinance No. 100/2016 for the amendment and supplementation of Law No. 350/2001 on zoning and urbanism, as well as of Law No. 50/1991 on authorising construction works has entered into force.

The above mentioned deeds shall be sanctioned with fines ranging from RON 10,000 to RON 50,000, unlike the former rules, according to which the fines ranged between RON 1,000 and RON 10,000.

Timeframe for obtaining the endorsements and their validity

The institutions/ economic operators authorized by the law to issue the endorsements requested by means of the urbanism certificate are obliged to issue such endorsements within maximum 15 days as of the date of registration of the complete specific documentation. Exceptionally, the endorsement of the Ministry of Culture or of its decentralized structures is issued within maximum 60 days and the competent authority for environmental protection and water management shall issue its standpoint/ administrative act with the observance of the specific applicable law. An essential amendment is represented by the fact that, unlike the former legislation, the new enactment no longer expressly sanctions the failure to comply with the aforementioned terms with the enforcement of the legal provisions regarding the silent approval.

A necessary amendment which shall improve the bureaucratic process consists in maintaining the validity of the endorsements during the entire period of the implementation of the investment, until the date of execution of the final takeover protocol, provided for the construction works to be initiated within the term set forth by the law. The only exceptions are allowed for the cases in which during the execution of the construction works new elements are identified, namely elements imposing the resumption of approval proceedings set forth by the law, unknown on the date of issuance of the endorsements/approvals, and/or imposing the amendment of the conditions that led to the issuance thereof, as the case may be.

Pursuant to these new amendments, the commencement of the construction works has to be notified both to the authority that issued the permit and to the State Inspectorate of Construction – I.S.C., including by sending the notice in electronic form via <http://www.edirect.e-guvernare.ro/>.

The amendment of the administrative fines

The amount of the administrative fines sanctioning the non-compliance with the provisions set forth by Law No. 50/1991 on authorising construction works has been changed mainly in terms of the minimum value and the criteria establishing the amount of such fines. An important amendment of the enactment is represented by the increase of the statute of limitation term of the right of enforcing the fines, from 3 to 5 years, which allows the authorities an even longer time frame in which they may perform the inspections and enforce the fines.

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