

constructions - legal changes published in November and December 2016

Government Emergency Ordinance no. 100 of December 15, 2016 amending and supplementing the Law no. 350/2001 on regional planning and the Law no. 50/1991 on authorizing the execution of construction works was published in the Official Gazette of Romania, Part I, no. 1052 of December 27, 2016.

The Emergency Ordinance was adopted due to the need to correlate and clarify some of the provisions of Law no. 50/1991 on authorizing the execution of construction works ("Law no. 50/1991"), Law no. 350/2001 on regional planning ("Law no. 350/2001") as a result of delays in implementing major investments in construction due to the existence of extremely long duration for obtaining permits and unrelated requests of the approvers.

Regarding the amendments to the Law no. 350/2001, out of the most important we mention: (i) clarifying the legal provisions according to which the public authority can condition, by the urbanism certificate, the approval of the proposed investment upon developing and approving a detailed zoning plan, (ii) maintaining the validity of landscaping and urban planning documentation, in the absence of an explicit term of validity, until the approval of other documents of the same or higher rank, amending or replacing the former ones, (iii) introducing the possibility of annulment of the decision approving a technical planning, adopted in breach of the law by administrative courts, including by request of the prefect or of the State Inspectorate in Constructions, following their own control activity.

Also, in order to increase the transparency of the decisions, local or county councilors will submit to the president of the court, in writing the reasons for their vote approving or rejecting, where applicable, landscaping or zoning documentation.

Following the above, the mentioned law aims to increase the quality of construction and to clarify the relationship between the project construction licensing, the technical project execution and the commencement of construction works. In this respect, GEO no. 100/2016 brings major amendments to Law no. 50/1991, such as:

- the authorization procedure for the construction works will not start with the application for issuing the zoning certificate, but upon obtaining the actual zoning certificate;
- in the case of administrative-territorial units where the single agreement commission is established, the permits and approvals established by the zoning certificate will be obtained directly by local government authorities through the single counter;
- the permits required by the zoning certificate will refer only to the type of works needed for the investment, being forbidden to request permits that are not relevant to the subject matter thereof;
- the validity of the permit shall extend throughout the execution of the works under the permit, from the date of commencement of works notified to the competent authorities; in the event of a failure of notification obligation, the execution period is calculated from the date of issuance of the building permit.

Law no. 197/2016 approving the Government Emergency Ordinance no. 22/2014 amending and supplementing the Law no. 50/1991 on authorizing the execution of construction works was published in the Official Gazette of Romania, Part I, no. 874 of November 1, 2016.

The law for approving GEO no. 22/2014 extended the scope of the ordinance, bringing significant changes to Law no. 50/1991.

Thus, building permits can be issued urgently within up to 15 days at the justified request of the beneficiaries, versus the standard term of 31 days. This legislative amendment was made to facilitate interventions in urgent

cases (ex. to strengthen buildings) and to increase the absorption of EU funds and to accelerate public investments that lead to increased quality of life, by transposing the provisions of delegated Regulation (EU) no. 1391/2013.

Regarding the land book registration of buildings, the legislature wished that this procedure be carried out under an administrative act by the competent authority to check compliance in construction, the establishment of additional re-certification and diminishing the risk of buildings erected without compliance with rules in construction. Consequently, construction can be registered in the land book, based on (i) a certificate of attestation confirming that the building construction was done according to the building permit and that there exists a take-over protocol upon completion, or, where appropriate, (ii) a certificate of building construction, issued by the competent local government authority, confirming the current legal situation of the construction and compliance with applicable regulations and a cadastral documentation.

Also, in order to correlate the legislative provisions in construction authorization with those in zoning, the following changes have been made:

- the zoning certificate shall include information on the zoning consequences of the legal operation, in case of sale or purchase of property;
- requesting the zoning certificate becomes optional when the operations of dismemberment or unification of plots after the output of joint ownership, except when the request is made for performing construction and/or infrastructure works;
- for ensuring that the zoning rules are binding towards third parties, after the approval in the local council of the local and regional zoning plan, the city halls must send the decision with the support documentation, in order to register in the land book the fact that mentioned property is subject to the afore-mentioned zoning regulations.

For additional details on this material, please do not hesitate to contact us.

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