

## constructions - legal changes published in January 2020

**Law no. 7/2020 for amending and supplementing Law no. 10/1995 regarding the quality in constructions and Law no. 50/1991 regarding the authorization of the execution of the construction works was published in the Official Gazette, Part I no. 8 of January 8, 2020 and is applicable as of January 11, 2020.** The law amends the provisions of art. 37 paragraph (6) of Law no.

50/1991, the main novelty consist in the possibility to register in the Land Book the ownership right on the basis of a certificate attesting the construction of the building, even for constructions built without a building permit, but for which the 3-years period covering the right to impose administrative offences and to apply fines has passed. The certificate regarding the building's construction may be issued by the local authority on the basis of the following documents: (i) the technical opinion regarding compliance with the applicable fundamental requirements regarding the quality in construction and (ii) the cadastral documentation.

Until now, the constructions built without a building permit were considered unfinished and, consequently, they could not be registered with the land book, not even by invoking in the courts the real estate accession procedure of acquisition, taking into account the aspects retained by the Romanian High Court by Decision no. 13/08.04.2019 through an appeal in the interest of the law: *"the lack of the building permit or the non-observance of its provisions, as well as the lack of the minutes of acceptance at the completion of the works represent impediments to the judicial recognition, within a declaratory action of the right of ownership on a construction realized by the owner of the land."*

Another amendment aims to remedy the legislative inconsistency introduced by Law 193/2019 which provided that the building or demolition permits issued with violation of the legal provisions can be canceled by the prefect, following the control activity of the State Inspectorate for Construction - ISC. Thus, the new regulation stipulates that the building or demolition permits issued with violation of the legal provisions can be canceled in courts based on the action submitted by the prefect, following the control activity of the State Inspectorate in Construction. The current wording still can raise further discussions as it can be interpreted that the building permits can be canceled only after the prefect has introduced the action.

Last but not least, the new provisions establish that the acceptance minutes at the end of the construction works for all types of buildings will no longer be possible without the finalization of the connections to the technical-public infrastructure. Moreover, it is forbidden to use the building until the acceptance at the completion of the works and commissioning of authorized and definitive connections to the public utility networks.

**Order no. 3454/2019 for amending and supplementing the Methodological Norms for the application of Law no. 50/1991 regarding the authorization of the execution of the construction works, approved by the Order of the Minister of Regional Development and Housing no. 839/2009 was published in the Official Gazette, Part I no. 4 of January 6, 2020.**

One of the most important changes introduced by the new provisions aims to regulate the provisions of article 59 from the old implementing rules approved by Order no. 839/2009, from the "Entry into legality" to "Construction works

executed without a building permit or without observing its provisions” and repealing par. (3) in art. 59, the content of which was:

*“(3) If the construction executed without a building permit meets the zoning conditions of integration within the pre-existing built-up surroundings, the competent local public administration authority may proceed with the issuance of a building permit in order to make the construction legal, in conjunction with taking the legal measures required, only on the basis of the conclusion of a technical opinion for the essential requirement of quality “mechanical strength and stability” regarding the state of the supporting structure in the physical stage the construction is at, as well as for the essential requirement of quality “fire safety”, only after issuing the Environmental Agreement, according to the law”*

Thus, the only regulation regarding the authorization of construction works for entry into legality (art. 59 paragraph (3) of the Norms) was repealed with the consequence that this procedure of entry into legality no longer exists in the applicable law at this date, being replaced by the provisions of art. 37 paragraph (6) of Law no. 50/1991, analyzed above, in the sense that there is the possibility to register in the Land Book constructions built without building permits, based on a certificate attesting the building’s construction, but only for the buildings for which the limitation period has elapsed.