

New Publicity Rules for Granted Building Permits

Law 102/2023 for the amendment and completion of Law no. 50/1991 regarding the authorization of construction work, of Law no. 554/2004 on Administrative Litigation, as well as for completing Art. 64 of Law no. 350/2001 regarding territorial development planning and urban planning – CHANGES IN CONNECTION WITH THE PUBLICITY OF BUILDING PERMITS AND DEROGATORY DEADLINES FOR THE BENEFIT OF SOCIAL ORGANIZATIONS CLAIMING AN INTEREST IN APPEALING RESOLUTIONS APPROVING LAND USE AND URBAN PLANNING DOCUMENTATION

Law 102/2023 for the amendment and completion of Law no. 50/1991 regarding the authorization of construction work, of the Administrative Litigation Law no. 554/2004, as well as for completing Art. 64 of Law no. 350/2001 regarding territorial development and urban planning ("Law 102/2023") was published in the Official Gazette on 18 April 2023, and entered into force on 21 April 2023.

Scope of Application

The law introduces several new provisions in relation to the publicity of granted building permits, with the aim of providing more effective information for interested persons.

According to Law 102/2023, once a building permit is granted and prior to the commencement of the work, the holder of the permit has to fulfil the following:

- a) register the building permit in the relevant Land Registry;
- b) publish in a widely-circulated newspaper the number and date of the building permit, as well as the commercial name of the investment objective – as the law does not specify whether the newspaper must be national or local, we believe it is sufficient to publish the aforementioned information in a widely-circulated local newspaper; and
- c) place the investment notice board in a visible place on the construction site.

In addition to these forms of publicity undertaken at the expense of the building permit holder, the issuing authority is obliged to publish, within 30 days from the date the building permit is issued, several pieces of information with respect to the main urban planning conditions necessary to be met by the authorized project:

- POT (land occupancy percentage),
- CUT (land use coefficient),
- built-up areas,
- whether the pre-approval of the competent authority for the protection of cultural heritage or the opinion of the competent authority for the protection of the environment has been requested/obtained.

Access to information regarding terms of building permit

According to Law 102/2023, interested persons and interested social organizations have the right to consult, at the premises of the issuing authority, information on the main conditions for the execution of the construction work in question, alongside any additional documents having a public character.

Date when building permit is deemed to have become public

The content of the building permit shall be deemed to have been made available to interested social organizations on the date the last publicity formality mentioned above has been completed, regardless of whether it is carried out by the authorization holder or by the authority.

Special deadlines for filing action for annulment of building permit

The provisions of Law 102/2023 lay down a special statute of limitations within which interested social organizations may bring an action for the annulment of a building permit, as well as accessory or main intervention claims in such disputes, as follows:

a) in a situation in which a preliminary complaint must be filed (i.e., in the hypothesis in which the building permit has not entered into the civil circuit and has not produced legal effects), interested social organizations must file the preliminary complaint *within 30 days from the date of the last publicity formality*.

Moreover, the time limit for filing an action for annulment, suspension, accessory or main intervention is *60 days from the date the response to the preliminary complaint was received/the expiration date of the legal deadline by which the authority should have formulated an answer*.

b) if the preliminary complaint is not mandatory (i.e., in a situation in which the building permit has entered the civil circuit and has produced legal effects), the deadline for interested social organizations to submit the abovementioned actions is *60 days from the date of the last publicity formality*.

New deadlines introduced in Law 350/2001 on territorial development planning and urban planning

Law 102/2023 amends Article 64 of Law 350/2001, by introducing a special prescription period **of 1 year** for filing an appeal against the decisions approving the land use planning and urban planning documents by the interested social organizations, starting **from the date of the approval of such documentation**.

This time limit derogates from the general time limit of 5 years from approval, provided by Art. 64 para. (3) of Law 350/2001.

When regulating these special time limitations, the Law expressly refers to the interested social organizations. Therefore, any other interested persons will be bound by the general time limits for administrative litigation, i.e., the general time limit laid down in Art. 64 of Law 350/2001 on appeals against decisions approving urban planning documents.

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