

Legal Alert

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Amendment to the Construction Law – significant changes for investors

Legislative work is currently underway in the Sejm on a draft amendment to the Construction Law Act ("**Construction Law**"), also referred to as the "deregulation bill" (Sejm print no. 1379). The proposed changes primarily aim to simplify and expedite construction procedures while reducing the regulatory burdens imposed on investors.

The amendment is intended to shorten investment construction timelines and lower associated costs. At present, the draft has been referred for its first reading in parliamentary committees.

New definitions

The draft amendment will introduce a series of definitions into the Construction Law for concepts that have, so far, lacked a statutory definition, or were defined only in executive regulations. Many of these terms have also been interpreted in administrative court jurisprudence or by legal scholars, resulting in many inconsistencies.

The draft provides numerous definitions specifying various types of buildings, for example:

- "**residential building**" – a multi-family residential building and a single-family residential building; and
- "**outbuilding**" – a building intended for non-professional workshop activities and for the storage of materials, tools, equipment, and agricultural produce, serving the occupants of a residential building, collective residential building,

or individual recreational building, as well as their surroundings; in farmstead development, the term also encompasses the storage of agricultural production means, equipment, and produce.

The draft also introduces definitions of a "single-family development" and a "farmstead development" which are particularly significant for the investment and construction process. The proposed definitions read as follows:

- "**single-family development**" – a single-family residential building or a complex of such buildings, together with garages or outbuildings; and
- "**farmstead development**" – single-family residential buildings and farm or livestock outbuildings associated with agricultural production on an existing homestead plot, within family agricultural, breeding, or horticultural holdings, as well as in forestry holdings.

Extension of the catalogue of "notifiable" structures

A key simplification the draft proposes is to extend the catalogue of structures which construction may proceed based on a mere notification to the competent office (i.e. without the need to obtain a building permit). This amendment will accelerate the investment and construction process for the specified structures. From the date on which the competent authority receives the notification, it has only twenty-one (21) days to issue an objection. If no objection is raised within that period, the investor may commence construction works.

Under the draft, the following structures may, among others, be built upon notification:

- **detached, auxiliary protective structures** located on a residential plot, with a surface not exceeding 35 m² (if the external walls are not altered),
- **detached public utility buildings** (e.g. local kindergartens, community centres, libraries, health centres, and places of worship) with a net floor area not exceeding 200 m²,
- **telecommunication containers and communication facilities** – containers up to 35 m², and communication installations up to 3 m in height,
- **sports fields and courts**, and
- **covered residential terraces** – terraces with a canopy area exceeding 35 m² but not exceeding 50 m² may be built upon notification; for terraces with a canopy area of up to 35 m², no notification will be required.

Simplified validation

The amendment aims to extend the simplified validation procedure. The principal justification for this change is to incentivise the prompt adaptation of existing structures so as to ensure their safe use. Below are the time limits after the expiry of which, the simplified validation procedure may be invoked:

Type of investment	Current regime	Amendment
Buildings significantly deviating from the determinations and conditions in the building permit decision, the site or plot development plan, or the architectural and construction design	20 years from the date of completion of the construction works	10 years from the date of completion of the construction works
So-called old unauthorised constructions (e.g. buildings constructed without a building permit)	20 years from the date of completion of the construction works	unchanged

“Yellow card” mechanism for investors

The draft also aims to introduce a “yellow card” mechanism - the construction supervision authority will be entitled to issue a formal warning to an investor if unlawful, significant deviations from the approved project documentation occur. The investor will have to undertake the corrective measures required by law.

Under the current regime, if a deviation from the project documentation is identified, the authority must initiate onerous administrative proceedings, frequently accompanied by an order to suspend construction works. The proposed “yellow card” mechanism is intended to give the investor an opportunity to rectify the non compliance (by eliminating the deviation) prior to the administrative proceedings starting. Proceedings will begin if the investor fails to implement the necessary corrections within sixty (60) days from the date of notification.



How can we assist you?

- Legal advice at every stage of the investment and construction process,
- Assistance in preparing the documentation required to obtain a building permit or to file a construction notification, and
- Appeal administrative decisions (e.g. refusals to grant a building permit).

Contact us!



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