

Important changes in building inspection regulations by Oana Someșan, Avocat (attorney at law RO)

On 30th May 2017, the government published a replacement* of a rule on building inspection and the related installations, concerning the acceptance of the services rendered; this will come into force on 29th July 2017. However, the new regulation will not apply to construction works inspected before 29th July this year; for these works, the previous regulation will still apply. The new regulation has important new implications for building inspection and registration.

Inspection of individual parts of a certain building possible

A very welcome amendment will make it possible to organise inspections at the end of construction work on individual parts of a certain building – parts which are independent from a functional and physical point of view.

Under the existing regulation, a building inspection is only possible at the end of the whole project as specified in the building permit.

From a practical point of view, this amendment will make it possible to request a single building permit for large projects consisting of several buildings. Even if the project is constructed in several stages, each building can be separately inspected, registered in the land register and put into service.

Clear provisions for the partial inspection

The possibility to organise a partial inspection is explicitly stated in the new regulation. By means of such inspection, the physical status of each building will be determined and the official registration of the property can take place by stages. The parties will conclude a partial inspection and approval certificate, whose format is predefined. However, the partial inspections will be organised by the investor only where justified.

Important changes regarding inspection and approval at the end of construction works **Structure of the inspection committee**

The inspection committee would usually consist of 3-5 members, including a representative of the investor and a representative of the authority issuing the building permit. The rest of the members (none of whom will have taken part in the planning and execution phase) will be appointed by the contracting authority.

Depending on the building category, the inspection committee will be complemented with the following members:

- A representative of the building supervisory authority for the buildings classified under A, B and C;
- A representative of the Inspectorate for Emergency Situations for the building categories regulated by the Law No. 307/2006 regarding fire prevention;
- A representative of the Directorate for Culture, for heritage buildings.

The representatives of the administrative authority, the building supervisory authority, the Inspectorate for Emergency Situations and the Directorate for Culture each has a right of veto within the inspection committee; approval of the construction work cannot be given if one of these members makes use of the veto right. This is an innovation in construction planning law.

Notes

* Government Decision No. 343/2017 concerning the amendment of the Government Decision No. 273/1994

** The amendment is an adaptation of the provisions regarding the inspection to the one stipulated in the Land Register Act (No. 7/1996), which provided the possibility of preparing certificates determining the realisation level of a certain building.

The representative of the contractor and of the project operator will be invited to take part in the inspection. The authorised construction supervisor (*Ro. diriginte de şantier*) will not be a member of the inspection committee but will be appointed as secretary of the committee.

Acceptance/refusal/suspension of the inspection

The inspection committee checks will include the completion of all construction works stipulated in the contract or which are part of the inspected part of the building; the technical construction accounting report including the updated technical project 'as built'; the payment of all regulation taxes, and the existence of the energy certificate. Acceptance of the construction work cannot be made without these documents.

The acceptance of construction work can, according to the new regulation, be made, refused or suspended. The postponement of the building inspection, provided by the previous regulation, is no longer applicable.

The acceptance of the construction work will be denied for reasons such as:

- deficiencies which cannot be repaired
- failure to take the measures provided by the agreement regarding fire prevention
- failure to respect the stipulations of the building permit.

The acceptance of the construction work will be denied for reasons such as:

- identification of deficiencies which affect the use of the building
- identification of deficiencies whose repair needs more time to affect.

The date of acceptance is that on which the acceptance protocol is signed by the investor.

Important changes regarding the final acceptance

The final acceptance will be still being organised when the guarantee period expires. The inspection committee for the final acceptance will usually consist of 3-5 members, including a representative of the investor/contracting authority and a representative of the owner. The rest of the members will be specialists appointed by the owner but who have not been involved in the planning or execution procedures. The representative of the administrative authority issuing the building permit, as well as the representative of the authority taking part in the inspection at the end of construction works (the building supervisory authority, the Inspectorate for Emergency Situations, the Directorate for Culture) will no longer be members of the inspection committee for the final acceptance. Just as for the inspection at the end of the construction works, the final acceptance can be approved, denied or suspended.

Conclusion

The new regulation includes important changes in the field of inspection and acceptance of construction works. The stipulations adopted are very welcome as, in practice, the previous regulation no longer complied with new circumstances.

The legal organisation of the work's inspection is of great significance, as the acceptance protocol, together with the building permit, is a necessary element for the registration of the building in the land register. Without a properly organised inspection and acceptance process of the construction work, the building cannot be registered and put into service.

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