



NEWSLETTER 2/2018

Amendment of Building Act 2018

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- **As of 1 January 2018** the **Amendment of Building Act**, i.e. the Act No. 225/2017 Coll., amending the act No. 183/2006 Coll., on town and country planning and building code (Building Act), became **effective**.
- **The main purpose** of the amendment is to **simplify** and **accelerate the planning permit procedure** in the Czech Republic. The **changes** relate to both, the area of zoning and building permit proceedings as well as to the area of municipality planning. Nevertheless, it is already obvious that the newly enacted law will not live up to the expectations.

I. Zoning and building permit proceedings

A. JOINT PROCEEDING

- The most significant change in this area is the introduction of **so-called joint proceeding** combining **both zoning permit and building permit proceedings**. The joint proceeding is aimed to issue only **one joint permit**, by which the construction will be located and at the same time permitted. This means that only one appeal or one administrative action can be initiated against the joint permit (if necessary).

- Joint proceeding may be also initiated in case of **larger and more complex constructions**, i.e. for connected structures (e.g. commercial/industrial area), which fall under the competence of more than one building authority. Such proceeding shall be governed by the building authority that is responsible for the **main construction** permitting. Other building authorities (responsible for permitting additional structures) shall be in a position only to issue binding assessments.
- In straightforward cases the building authority is obliged to make a decision **without undue delay** (maximum **period being 60 days for average constructions and 90 days for complex permits**) from the application. **The joint permit is valid for 2 years**, with the possibility to be extended to **5 years** by the building authority in justified cases.
- Joint procedure is not mandatory. It will still be possible **for the developers to apply for the existing zoning permit as well as the building permit** (held separately according to existing rules).

B. INTEGRATION OF THE ENVIRONMENTAL IMPACT ASSESSMENT (EIA)

- Another important change in the field of the permits procedures is the implementation of an option to integrate the environmental impact assessment (EIA) process (according to the Act No. 100/2001 Coll., on environmental impact assessment) either into the individual **zoning permit proceeding** or into **the above described joint proceeding**.

- The integrated proceedings will be governed by the building authority, which will communicate with both, the investor and EIA authority (i.e. Regional office or Ministry of the Environment). The integration means that the **EIA binding assessment** will be issued by the EIA authority **directly within the zoning permit proceeding or the joint proceeding** (i.e. not necessarily in a separate proceeding).
- Under the new legislation the **developer may select** one of the following options:
 - the zoning permit proceedings with EIA;
 - the joint proceeding with EIA;
 - the current EIA process (the EIA approval obtained prior to application for the zoning permit or the joint permit application).

C. LIMITATION OF RIGHTS OF ENVIRONMENTAL ASSOCIATIONS

- Environmental associations shall be newly entitled to take part in proceedings pursuant to Building Act only if the respective construction is subject to the mandatory **environmental impact assessment** – such as airports, oil refineries, motorways or disposal sites of dangerous waste.
- Furthermore, in order to be allowed to participate in the permitting process, the environmental association must exist for a minimum of **3 years period** (this is to limit prolongation of the proceeding by the tailored-made associations).

D. PROCESS SIMPLIFICATION FOR MINOR DEVELOPERS

- The most noticeable benefit for minor developers is the possibility to build **family houses** or family recreation structures **only based on a notification**, i.e. without an obligation to apply for a building permit – regardless of the size of the build-in area (until now there was a limit of 150 m²).
- Without any permit procedure with the building authority, i.e. **in so-called free regime**, it will be possible to construct:
 - **greenhouse** structures with build-in area of max. 40 m², the maximum height 5 m, minimum distance of 2 m from the land border and without any underground floor;
 - **swimming pool** structures with build-in area of max. 40 m², including its technical facilities, situated on the plot of land adjacent to a family house or a recreation structure;
 - **fences** up to the height of 2 m that do not border publicly accessible roads or public areas and are in a developed area;
 - **sale stands** structures, constructions and systems for festive decorations and lighting of buildings whose location does not exceed 30 subsequent days (short-term transferable systems serving namely for one-time events, e.g. markets, grape harvest, etc.).

E. OCCUPANCY PERMIT

- In the field of permitting the utilization of the completed structures comes to further **deregulation**, in particularly:
 - the developer's **obligation to notify** the building authority of the intention to commence the occupancy **is cancelled**. It means that simple structures (e.g. family houses), which subject to occupancy notification up till now, may be newly utilized **without any occupancy procedure**;
 - **the obligation to apply for an occupancy approval** remains, but will refer only to structures which were under this obligation already according to the existing law. Pursuant to the new legislation, the occupancy approval will be mandatory only for structures specified by Section 119 (1) of BA, which are generally determined as structures requiring higher protection because of public interest (e.g. hospitals, schools, commercial or industrial facilities, roads and etc.);
 - new legislation also **re-introduces an occupancy permit proceeding**, which will be applied only for constructions which require an occupancy approval and for which the building authority stated that the application was not complete or the conditions for issuance of the occupancy approval were not met. In this case the building authority may open an occupancy permit proceedings, followed by the issuance of the **occupancy permit**. Unlike the occupancy approval, the occupancy permit may include conditions for structures utilization (e.g. a period for small defects removal).

II. Municipality planning

- From the investor's point of view the main changes in this area are following:
 - **time restriction of implementation procedure of updates/changes planning documentation** (i.e. updates of development principles, changes in plans or regulatory plans), provided that it is not necessary to work out different solution variants in the territory;
 - **restriction of time period** for submitting a proposal for **cancellation of planning documentation** from 3 years to 1 years from its effectiveness date;
 - **planning study** (i.e. planning materials suggesting and considering possible solutions of selected problems within the area - such as public infrastructure or public space) might be newly elaborated also **upon request** (and costs) **of the developer** in order to accelerate territory preparation for the respective programme realisation;
 - better change for the developers to get easily acquainted with all municipality and country planning documents due to their **mandatory publication on the internet**, specifically on websites of particular municipalities or regions, whose authorities procure the respective planning documentation, and further on the municipality and country planning portal on the address: <http://portal.uur.cz/>.

We hope the above summary will ease your orientation in the new legislation. We are available for any of your additional requests or information or legal assistance in this area.

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