

EGO 7/2016 AND AMENDMENTS TO THE CONSTRUCTION LAW AND THE PLANNING LAW

Emergency Government Ordinance no. 7/2016 *on several measures for acceleration of the implementation of trans-European transport infrastructure projects, as well as for the amendment and supplementation of certain legislation* ("**EGO 7/2016**") entered in force on 18 March 2016.

EGO 7/2016 brings significant changes to: **(i)** Law no. 350/2001 on zoning and town planning (the "**Zoning Law**"); **(ii)** Law no. 50/1991 on construction (the "**Construction Law**"); as well as new provisions on **(iii)** the procedure for the removal of lands from the agricultural and forestry circuit; and **(iv)** the payment mechanism of amounts awarded under FIDIC contracts, as a result of dispute adjudication boards decisions.

The stated purpose of EGO 7/2016 is to accelerate the implementation of **trans-European transportation infrastructure projects** and to remove some of the legislative obstacles frequently encountered during the issuance of building permits for these projects.

The preamble of EGO 7/2016 explicitly states that the process for the issuance of building permits for transport infrastructure projects is heavily delayed by the administrative procedures carried out with various public authorities. This further leads to delays in project finalization, thus impacting the Romanian State's ability to use the EU grants of roughly EUR 6.8 billion, allocated to Romania by the European Union. Another aspect taken into account is the substantial delay penalties applied by contractors under FIDIC contracts as a result of non-compliance with contractual deadlines for permitting.

The scope of EGO 7/2016 is limited to trans-European transport infrastructure projects which are specifically defined as road, public railway, airport and naval transport, located on the trans-European (TEN-T) central (Core) and global (Comprehensive) network, as defined by EU Regulation no. 1.315/2013¹.

Please find below a summary of the main amendments and updates brought by EGO 7/2016:

1. Changes to the Zoning Law

For trans-European transport infrastructure, the local zoning plan (PUZ) must be drafted only if the project affects the built-up area of cities (*intravilan*). Therefore, a local zoning plan is no longer mandatory for the development of **every** trans-European transport infrastructure. The reason given in EGO 7/2016 for this amendment is that the procedure for the preparation of a local zoning plan is lengthy and often does not add value to a

¹ of the European Parliament and of the Council of 11 December 2013 on Union guidelines for the development of the trans-European transport network and repealing Decision No 661/2010/EU Text with EEA relevance

certain project, since EU Regulation no. 1.315/2013 has already predetermined the routes of trans-European transport networks.

2. Changes to the Construction Law

By way of EGO 7/2016, the process for issuance of a building permit for a trans-European transport infrastructure project is simplified, being issued only based upon preliminary approvals required by the planning certificate, approval/decision from the Environmental Protection Agency and approvals **in principle** (for the removal from forestry land) **and/or conditional setup approvals** (for the relocation of utilities networks located on the expropriation corridor). EGO 7/2016 provides that the required in principle/conditional approvals are to be issued by the competent authorities within a **maximum of ten (10) days** from the submission of a request. The beneficiary has time to obtain the final approvals after the initiation of the construction works, until the signing of the handover minutes upon termination of the works.

Building permits, planning certificates and preliminary approvals are valid for the entire duration of the authorized construction works, until the finalization of the works and the signing of the final handover minutes.

Other significant amendments include:

- the possibility of partial authorization of the project on plots, sections and sectors;
- the granting of certain powers to the Ministry of Transportation to check compliance of the authorized construction works and to apply sanctions (including fines and demolition).

3. Removal from agricultural or forestry lands

Agricultural lands subject to the Government Decision for expropriation necessary for the development of a trans-European transport infrastructure project are removed from the agricultural circuit by the effect of EGO 7/2016, after the transfer of ownership has taken place and the expropriation indemnity has been registered on behalf of the former owners. Separate provisions are applicable to those works located in areas with land improvements.

Formerly, the procedure for the removal from the agricultural circuit could not begin until the expropriation corridors were registered with the Land Registry and the indemnities were registered. This leads to delays of 3 - 6 months in the building permit issuance process. The provisions of EGO 7/2016 aim to remove these delays and avoid further negative impact on the projects.

Moreover, the in principle approval for the removal from forestry lands is issued within ten (10) days from the submission of the application.

A further analysis on the payment mechanism of amounts awarded under FIDIC contracts, as a result of the decisions of dispute adjudication boards will follow shortly.

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If you would like to know more about the topics covered in this memorandum or our services in general, please get in touch with the contacts listed above, or with:

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