



CONSTRUCTION PERMITS IN CEE

A COMPARISON & PRACTICAL GUIDE

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We are pleased to present “A Guide through Construction Permits” in five CEE countries: Czech Republic, Hungary, Poland, Romania and Slovakia.

This report not only summarises the interpretation of fundamental legal provisions of the planning, construction and accompanying by-laws, but we also wish it to be a functional, efficient and straightforward manual for those seeking information on the construction permit system in any of our countries.

The guide covers practical knowledge and experience gathered by our NGL Symbio Real Estate team, who have encountered all potential issues brought by their local regulations around construction permits.

This manual is helpful to anyone who wishes to understand the system for applying for construction permits efficiently and according to the applicable laws.



| | Czech Republic | Hungary | Poland | Slovakia | Romania |
|----------------------|--|---|---|--|--|
| Relevant legislation | <p>Act of 14 March 2006 on town and country planning and building code no. 183/2006 Coll.</p> <p>("Czech Construction Act")</p> | <p>Act No. LXXVIII of 1997 on the formation and protection of built environment;</p> <p>("Hungarian Building Act")</p> <p>Government Decree 312/2012. (XI.8.) on the procedures and inspections of the construction and construction supervision, as well as on official services for construction</p> <p>("Hungarian Government Decree")</p> | <p>Act of 7 July 1994 Construction law</p> <p>("Polish Construction Law")</p> | <p>Act No. 50/1976 on spatial planning and building regulations.</p> <p>("Slovakian Construction Act")</p> | <p>Construction Works Authorization Law 50/1991</p> <p>("Romanian Construction Authorization Law")</p> <p>Quality in Construction Law 10/1995</p> <p>("Romanian Construction Law")</p> <p>In addition to this mainstream legislation, there is a vast collection of implementation norms and technical guidelines that are also mandatory.</p> |
| Relevant authority | <p>Building Office (in Czech: <i>stavební úřad</i>) for general construction work, or specialized building offices with respect to certain specific construction works (e.g. railways, civil airports).</p> | <p>The Departments of Construction and Heritage Protection of the Government Offices of the Capital City Budapest and the Counties ("authority") (in Hungarian: <i>Fővárosi és Megyei Kormányhivatalok Építésügyi és Örökségvédelmi Főosztályai</i>).</p> | <p>The Head of the Province (in Polish: <i>starosta</i>) as a general rule or a voivode (in Polish: <i>wojewoda</i>) with respect to certain specific building works (e.g. wind farms, civil airports)</p> | <p>Construction Office (in Slovak: <i>stavebný úrad</i>). Construction offices for general construction projects are municipalities (in Slovak: <i>obec</i>), however the Slovakian Construction Act also recognises Special Construction Offices (in Slovak: <i>špeciálne stavebné úrady</i>) as well as Military and other Construction Offices (in Slovak: <i>Vojenské a iné stavebné úrady</i>). Special Construction Offices are relevant authorities for projects relating to the construction of airports, railways, highways, waterways, etc. Special Construction Offices are authorities performing state administration in the sector-specific area of administration.</p> | <p>The Mayor's Office for most construction works and the Office of the District Council President (Romanian: <i>Președintele Consiliului Județean</i>), usually for works exceeding the territorial limits of one city or commune (i.e. infrastructure works).</p> |

| | Czech Republic | Hungary | Poland | Slovakia | Romania |
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| Subject of the construction permit | <p>All Building objects in general; smaller building objects require consent issued by the Building Office on developer's notification.</p> <p>Permit is not required in the case of exceptions listed in section 103 of the Czech Building Act.</p> | <p>Except for the construction activities listed in Annex 1 of the Hungarian Government Decree and the construction activities subject to a simple notification procedure under the Hungarian Building Act, a construction permit (in Hungarian: építési engedély) must be obtained from the Authority.</p> | <p>Any building object excluding the exceptions listed in the Polish Construction law</p> | <p>Building objects of any kind as well as alterations to buildings (i.e. extensions).</p> <p>A permit is not required in the case of building objects listed in Section 55(2) of the Slovakian Construction Act (only notification of the Construction Office is necessary) as well as exceptions listed in section 56 of the Slovakian Construction Act (no permit nor notification are required).</p> | <p>All civil and military constructions are subject to authorization procedures, except for specific exclusions regulated under Article 11 of the Romanian Construction Authorization Law.</p> <p>For works on military facilities, the authorization procedure may not be public due to national defense restrictions.</p> |
| Main exemptions | <ul style="list-style-type: none"> greenhouses up to 40 m2 buildings up to 25 m2 adjacent to houses swimming pools up to 40 m2 road exits, etc. <p>Other (larger) buildings require at least planning consent, planning permission, consent with construction notification and/or a joint decision.</p> | <ul style="list-style-type: none"> construction of new residential buildings not exceeding 300 m2 of net floor space (notified in the simple notification procedure) conversion, renovation, restoration, modernisation and alteration of a building façade, etc. | <ul style="list-style-type: none"> terraces adjacent to houses with an area up to 35 m2 ATMs, vending machines no higher than 3 m fences not higher than 2.20 m | <ul style="list-style-type: none"> mining constructions overland and underground lines of electronic communication networks short-term portable devices such as stalls, structures and equipment for the ceremonial decoration and lighting of buildings construction of vineyards, etc. | <ul style="list-style-type: none"> only small-scale remedies redcoration works (As long as they are performed with the same type of materials and do not vary the shape or technical characteristics of the initial building.) |

| | Czech Republic | Hungary | Poland | Slovakia | Romania |
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| Who can apply? | <p>An investor (natural person or legal entity) that fulfils certain conditions.</p> <p>These conditions include in particular the necessity to submit a statement by the owner of the real property confirming that the investor has the right to use the real property for the development, statements from owners of concerned infrastructure and binding assessments of the respective authorities who protect public priorities pursuant to special regulations.</p> | <p>The contractor and the owner of the property affected by the construction activity is considered as a client in the construction permit procedure.</p> <p>The Authority always examines the legal status of the person whose right to the property or building affected by the construction activity has been registered in the land registry ("Client").</p> | <p>An investor (natural person or legal entity) that fulfils certain conditions.</p> <p>These conditions include in particular the necessity to submit a statement by the investor confirming that it has the right to use the real property (where the investment is to be implemented) for the purpose of implementing this development.</p> | <p>An investor (natural person or legal entity).</p> <p>These conditions include in particular the necessity to submit a statement by the owner of the real property confirming that the investor has the right to use the real property for the development, statements from owners of infrastructure concerned and binding assessments of the respective authorities who protect public priorities pursuant to special regulations.</p> | <p>An investor (natural person or legal entity) provided that it has a construction right over the property (i.e. most frequently in the form of ownership or right of superficies).</p> <p>The law does not recognise the right of the tenants to directly apply for a construction permit, with the sole exception of authorization of temporary works (i.e. logos/totems).</p> |
| Who can contest? | <p>A municipality; proprietary or other real rights owners of developed real property; persons whose proprietary or another real right to the neighbouring structures or neighbouring grounds or the structures built up on them may be directly affected by the construction.</p> | <p>The client may initiate administrative litigation against the final decision.</p> <p>The final decision of the authority may be contested within 15 days of the notification thereof.</p> | <p>Owners, perpetual usufructuaries and/or managers (i.e. the entities using the real properties on the basis of permanent management (in Polish: trwały zarząd), the relationship being a specific form of using the real properties by state or self-governmental entities) of the real properties located within the impact area of the building object</p> | <p>Municipalities, persons who have ownership or other related rights to land and buildings on such land (including adjacent land and buildings), if their ownership or other rights to these lands and buildings may be directly affected by the decision of the Construction Office; other persons for whom this position results from a special regulation (i.e. generally concerned public).</p> | <p>The Prefecture Office or any interested third party for breach of law during the authorization procedure.</p> |

| | Czech Republic | Hungary | Poland | Slovakia | Romania |
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| Length of the procedure | <p>60 – 90 days (administrative procedure on planning permission, for construction permit)</p> <p>30 days (for planning consent, construction notification)</p> <p>90 – 120 days (for joint decision)</p> <p>These deadlines are rarely met and these administrative procedures might take years.</p> | <p>25 days (from the date of the initiation of the construction permit procedure.)</p> <p>35 days (If another a competent authority (in Hungarian: <i>szakhatóság</i>) becomes necessary during the procedure.)</p> | <p>65 days (from the submission of the application.)</p> | <p>7 days (from the submission of zoning decision and/or building permit)</p> <p>30 days – 60 days (from the commencement of the proceedings of issuance of an administrative decision, the applicant is notified of decision delay)</p> <p>Overall: 37 days (67 days in complex cases).</p> | <p>5-6 months (in medium and small cities)</p> <p>12-15 months (It depends on the number of preliminary endorsements that needs to be obtained by the investor and also on the complexity of the works to be authorised.)</p> |

| | Czech Republic | Hungary | Poland | Slovakia | Romania |
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| Expiry | <p><u>Planning permission:</u></p> <p>2 to 5 years depending on the decision of the Building Office. (possibility of extension)</p> <p>The investor must apply for construction permit within this time period.</p> <p><u>Planning consent:</u></p> <p>2 years (no extension)</p> <p><u>Construction permit:</u></p> <p>2 years.</p> <p><u>Consent with construction notification:</u></p> <p>2 years (no extension)</p> <p><u>Joint decision:</u></p> <p>2 to 5 years depending on the decision of the Building Office. (possibility of extension)</p> | <p><u>Construction permit:</u></p> <p>4 years from the date on which it enters into force (no extension)</p> | <p><u>Construction permit:</u></p> <p>3 years since the date when the construction permit entered into force or was interrupted for a period longer than three years (if the construction has not started).</p> | <p><u>Zoning decision:</u></p> <p>2 years from the day it entered into force (unless the Construction Office has established a longer period), if the investor does not apply for a building permit.</p> <p><u>Building permit:</u></p> <p>2 years from the date of its entry into force (unless the Construction Office has established a longer period) if the builder does not commence the construction. (possibility of extension)</p> | <p><u>Construction permit:</u></p> <p>The investor is required to start the construction works 24 months from the issuance date.</p> <p><u>Construction permit (trans-European infrastructure projects):</u></p> <p>12 months after the construction permit issuance date.</p> <p>Works should then be completed, depending on the complexity of the construction works, between 12-36 months.</p> |

| | Czech Republic | Hungary | Poland | Slovakia | Romania |
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| Transferability | <p>Yes.</p> <p>All administrative decisions are transferrable as these decisions are rendered <i>in rem</i> for the real property.</p> | <p>Yes.</p> <p>The construction permit may be transferred by a resolution of the authority through a succession acknowledgement procedure.</p> | <p>Yes.</p> <p>The construction permit may be transferred for the benefit of another entity (subject to certain procedural requirements to be completed).</p> | <p>Yes.</p> <p>Decisions of the Construction Office are transferrable as these decisions are rendered <i>in rem</i> for the real property.</p> | <p>Yes.</p> <p>The construction permit may be transferred only upon the transfer of the ownership right over the property to the purchaser, after the issuance of the construction permit and before the completion of the authorised works.</p> |
| Cost | <p><u>Planning permit:</u> CZK 300 to CZK 20,000</p> <p><u>Construction permit:</u> CZK 300 to CZK 10,000</p> <p>(The administrative fee depends on the type of the building)</p> | <p><u>Construction permit:</u> free</p> | <p><u>Construction permit (business activity):</u> 1 PLN per sq meter of the usable area of the building <u>however</u> no more than 539 PLN</p> <p><u>Construction permit (buildings other than designated for business and agricultural activity):</u> 48 PLN</p> <p><u>Utilities networks and roads:</u> 2 143 PLN</p> | <p><u>Zoning decision for natural persons:</u> EUR 40</p> <p><u>Zoning decision for legal entities:</u> EUR 100</p> <p><u>Building permit:</u> EUR 50 to EUR 1,000 (depending on the type of the building)</p> | <p><u>Construction permit issuance tax:</u> 0.5% of the value of the construction works for residential buildings and 1% for all other types of buildings.</p> <p>When applying for the building permit, the investor declares the estimated value of the construction works that is subsequently adjusted, after the completion of the taking-over formalities with the authorities are performed, with the actual value of the performed works.</p> |

| | Czech Republic | Hungary | Poland | Slovakia | Romania |
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| Completion of the development | <p>Depending on the type of the building, the investor might have to apply for inspection approval consent or final inspection approval.</p> <p>The Building Office confirms that the building was constructed in accordance with the project and allows the building to obtain a registration number.</p> | <p>In order to use a building or part thereof for which a construction permit was granted, one of the following procedures must be carried out:</p> <ul style="list-style-type: none"> the contractor should obtain an occupancy permit (in Hungarian: használatbavételi engedély) as the basis for an occupancy permit procedure; or the contractor should only notify the authority about the completion of the building or a part thereof as the basis for an occupancy acknowledgement procedure. | <p>Depending on the type of the building works, an investor may commence to use the completed building or structure if:</p> <ul style="list-style-type: none"> the relevant construction supervision authority does not oppose use of the building object within 14 days upon receipt of the notification regarding completion of the building object or issues a certificate confirming lack of legal grounds to oppose using the building object within the same deadline; or an investor is obligated to obtain an occupancy permit and such decision becomes final. | <p>Depending on the type of the construction, the Building Office confirms that the building was constructed in accordance with the project documentation and conditions set out by the zoning decision and building permit.</p> | <p>Termination of the construction works is attested by the documents-below issued following on-site inspection from authorities:</p> <ul style="list-style-type: none"> the taking-over minutes upon the completion of the construction works are signed by representatives of the technical department of the municipality attesting to the compliance of the executed works with the terms and conditions of the construction permit; a certificate of construction completion is issued by the representatives of the construction inspection department of the municipality attesting to the compliance and legality of the above-mentioned taking-over procedure. This certificate is required for the registration of the construction in the land book. |

CZECH REPUBLIC

GENERAL OVERVIEW

The relevant legislation: the Act of 14 March 2006 on town and country planning and building code (Building Act) no. 183/2006 Coll., as amended, that addresses matters pertaining to the design, development and maintenance of building objects as well as the activity of public administration authorities in these areas.

The general principle: An investor may commence the building works upon obtaining a planning permit (or planning consent) and construction permit (or consent with construction notification), or a joint decision, i.e. administrative decisions issued by the relevant construction administration authority. The only exemptions to these requirements are some small-scale building works listed in the Building Act such as smaller greenhouses or swimming pools.

Exceptions: The necessary administrative decision or consent for specific building works differs by type of building works. Larger projects generally require both a planning permit and a construction permit (or a joint decision), smaller buildings might only require a planning consent and consent with construction notification, consent with construction notification alone or nothing at all. It always depends on the project type and scale.

CONSTRUCTION PERMIT - PROCEDURAL ASPECTS

The authority competent to issue a construction permit is the Building Office (in Czech: *stavební úřad*) for general construction work, or specialised building offices with respect to certain specific construction works (e.g. railways, civil airports).

The construction permit (as well as planning permit) is issued within the framework of administrative proceedings initiated based on the application of the investor.

Parties to the proceedings with respect to the planning permit and construction permit are the investor, municipality, proprietary or other real rights owners of developed real property, and persons whose proprietary or another real right to neighbouring structures or grounds or the structures built up on them may be directly affected by the construction.

CZECH REPUBLIC

The following (among others) should be attached to the construction permit application:

- a statement by the owner of the real property confirming that the investor has the right to use the real property for the development
- statements from owners of concerned infrastructure and binding assessments by the relevant authorities who protect public priorities pursuant to special regulations
- design documentation
- a planning permit, planning consent, public contract, if required by the Building Act

If the building works to be encompassed by the construction permit require consideration of environmental conditions (on the basis of the relevant environmental regulations), this environmental decision should be attached to the application for issuing the planning and construction permit.

If all the necessary conditions for obtaining the planning permit and construction permit by the investor are duly met, the authority should issue the decision.

TIME LIMITATIONS PERTAINING TO THE CONSTRUCTION PERMIT

The investor must apply for a construction permit within the validity period of the planning permit (generally 2 to 5 years since the planning permit entered into force). The construction permit expires if construction does not commence within two years after the entry into force of the construction permit unless its validity is extended by the Building Office.

TRANSFER OF THE CONSTRUCTION PERMIT

A construction permit may be transferred for the benefit of another entity as it pertains to the real property, not the investor.

COMPLETION OF THE DEVELOPMENT

Depending on building type, the investor might have to apply for inspection approval consent or final inspection approval (an administrative decision). The Building Office confirms that the building was constructed in accordance with the project and allows the building to obtain a registration number. The building might even be used prior the issue of the inspection approval consent or final inspection approval upon a justified application of the investor. After the consent or approval is rendered, it is possible to register the building with the municipality for an identification number.

HUNGARY

GENERAL OVERVIEW

The relevant legislation:

- Act LXXVIII of 1997 on the formation and protection of the built environment (hereinafter: the “Hungarian Building Act”), which provides the general rules regarding building authority proceedings (in Hungarian: *építésügyi hatósági eljárások*), and
- Government Decree 312/2012. (XI.8.) on official procedures and inspections for construction and construction supervision as well as on construction (hereinafter: the “Hungarian Government Decree”) which contains the detailed procedural rules for construction permit procedures.

The general principle: A constructor may commence the building works upon obtaining a construction permit from a statutory construction authority.

Exceptions: Construction activities listed in Annex 1 of the Government Decree and those subject to a simple notification procedure under the Building Act are exempted from the obligation to obtain a construction permit, e.g. construction of new residential buildings not exceeding 300 m² of net floor space (shall only be notified in the simple notification procedure); conversion, renovation, restoration, modernisation and alteration of the façade of a building; construction of a new independent flue with a height not exceeding 6 m; change in the number of individual accommodation units in a building; construction or extension of a building not intended for human habitation, the size of which does not exceed 100 m³ net volume and a height of 4.5 m after the construction activity; construction and extension of a greenhouse for crop production etc.

CONSTRUCTION PERMIT - PROCEDURAL ASPECTS

The competent authorities for issuing a construction permit are the Departments of Construction and Heritage Protection of Government Offices of the Capital City Budapest and the Counties (hereinafter: the “authority”) (in Hungarian: *Fővárosi és Megyei Kormányhivatalok Építésügyi és Örökségvédelmi Főosztályai*).

The construction permit is issued within the framework of administrative proceedings initiated based on the request of the Client.

A construction permit for a property is required with respect to all the construction activity carried out at the same time, with the exceptions stated in the Government Decree.

HUNGARY

The application for the construction permit should be initiated through an e-construction website or personally via an electronic medium, with the following content (among others):

- the address and topographical lot number of the property concerned by the construction activity, and in the case of an agricultural property, the topographical lot number of all the properties belonging to it
- the type of authorisation procedure applied for
- the subject of the application and a relevant brief description
- the list of annexes attached to the application (attaching the architectural - technical documentation is obligatory)
- declaration from the contractor or its proxy as to whether and how many copies are requested of the certified paper copy of the technical documentation with an enforcement clause accompanying the final permit, and
- the signature of the contractor.

If necessary, on the basis of the relevant regulations, the final environmental protection permit or a unified environmental permit, the forest authority permit, or in the case of an agricultural property the final decision authorising permanent use of the property for other purposes and a permit from a nature conservation authority should be attached to the application, or, if it is not available for the client, the authority shall acquire them.

If all the necessary conditions for obtaining the construction permit by the investor are duly met, the authority should issue the decision.

TIME LIMITATIONS PERTAINING TO THE CONSTRUCTION PERMIT

Unless a shorter period is established by the authority, the construction permit is valid for four years from the date on which it enters into force, and may not be extended. During the period of validity of the construction permit, if the construction activity has started, as evidenced by the opening of the construction log, the building must be ready for the granting of an occupancy permit or for the occupancy acknowledgement within six years of the start of construction activity.

HUNGARY

TRANSFER OF THE CONSTRUCTION PERMIT

A construction permit may be transferred by a resolution of the authority following a succession acknowledgement procedure.

COMPLETION OF THE DEVELOPMENT

In order to use a building or part of a building for which a construction permit was granted, one of the following procedures must be carried out:

- The contractor should obtain an occupancy permit (in Hungarian: *használatbavételi engedély*) as the basis for an occupancy permit procedure; or
- The contractor should notify the authority about the completion of the building or a part thereof, as a basis for an occupancy acknowledgement procedure (in Hungarian: *használatbavétel tudomásulvételi eljárás*).

The occupancy permit shall be granted if the building or part of the building has been constructed in accordance with the construction permit and it is in a suitable condition for proper and safe use.

POLAND

GENERAL OVERVIEW

The relevant legislation: the Act of 7 July 1994 Construction law („Construction Law”) addresses matters pertaining to the design, development and maintenance of building objects as well as the activity of public administration authorities in these areas.

The general principle: an investor may commence building works upon obtaining a construction permit i.e. administrative decision issued by the relevant construction administration authority. This requirement does not apply to some building works listed in the Construction Law, including e.g. water networks, detached residential buildings (the impact area of which is limited entirely to the plot or plots on which the building is to be developed) or fences higher than 2.20 m, which may be implemented if the relevant construction administration authority, upon notification of the building works by the investor, does not oppose its implementation.

Exceptions: some building works may be implemented without a construction permit or the obligation to notify the building works to the construction administration authority (e.g. terraces adjacent to houses with an area up to 35 m², ATMs, vending machines not higher than 3 m or fences not higher than 2.20 m).

CONSTRUCTION PERMIT - PROCEDURAL ASPECTS

The authority competent to issue a construction permit is the Head of the Province (in Polish: *starosta*) as a general rule or a voivode (in Polish: *wojewoda*) with respect to certain specific building works (e.g. wind farms, civil airports).

The construction permit is issued within the framework of administrative proceedings initiated based on the application of the investor. Parties to the proceedings regarding the construction permit are the investor and owners, perpetual usufructuaries and managers of the real properties located within the impact area of the building object. The impact area of the object is an area determined pursuant to separate regulations imposing limitations in the development of the area connected with this object.

POLAND

The following (among others) should be attached to the construction permit application:

1. three counterparts of the area development design and architectural-construction design together with all the opinions, settlements and permits required on the basis of the relevant regulations,
2. investor's statement on the possessed right to use the real property (where the investment is to be implemented) for construction purposes,
3. the zoning decision (or public purpose investment location decision) if there is no zoning plan in force for the investment site or if the investment site is situated within the borders of an area for which zoning plans have not been adopted pursuant to the relevant regulations.

If the building works to be encompassed by the construction permit require consideration of environmental conditions (on the basis of the relevant environmental regulations), this environmental decision should be attached to the application for issuing the construction permit.

If all the necessary conditions for obtaining the construction permit by the investor are duly met, the authority should issue the construction permit. If, despite fulfilment of the above-mentioned conditions, the construction permit is not issued within 65 days after submission of the investor's application, the superior authority imposes a penalty on the competent authority with respect to the construction permit amounting to PLN 500 for each day of delay in issuing the construction permit.

TIME LIMITATIONS PERTAINING TO THE CONSTRUCTION PERMIT

A construction permit expires if construction does not commence within three years of the date when the construction permit entered into force or if work has been interrupted for a period longer than three years.

Construction commences when preparatory works begin on the construction site. Pursuant to the Construction Law, preparatory works involve:

1. geodetic demarcation of the structures on the site,
2. execution of site levelling,
3. development of the construction site with the construction of provisional structures;
4. realisation of connections to technical infrastructure networks for the purposes.

POLAND

TRANSFER OF THE CONSTRUCTION PERMIT

A construction permit may be transferred for the benefit of another entity (subject to certain procedural requirements to be completed).

COMPLETION OF THE DEVELOPMENT

Upon completion of the building works, an investor should notify the completion to the relevant construction supervision authority.

Depending on the type of building works, an investor may use the completed building or structure if:

- a. the relevant construction supervision authority does not oppose use of the building object within 14 days of receipt of the above-mentioned notification or issues a certificate confirming lack of legal grounds to oppose using the building object within the same deadline, or
- b. if an investor is obligated to obtain an occupancy permit and such decision enters into force.

ROMANIA

GENERAL OVERVIEW

The relevant legislation: quality in the construction system is strictly regulated by Construction Works Authorisation Law 50/1991 and Quality in Construction Law 10/1995 together with a vast collection of implementation norms and technical guidelines, all of them regulating the design, authorisation, performance, taking-over of construction works and maintenance upon completion.

The general principle: An investor may commence construction works only upon obtaining a construction permit. However, the law does not recognise the right of the tenants to directly apply for a construction permit, with the sole exception of authorisation for temporary works (i.e. totem signs). More generally, fit-out works are authorised directly by the landlord and tenants are entrusted under lease agreements with the responsibility of obtaining on the landlord's behalf all required authorisations and performing construction works at their own liability and cost.

Exceptions: Small-scale renovation or redecoration works that do not require a construction permit, as long as they are performed with the same type of materials and do not vary the shape or technical characteristics of the initial building.

CONSTRUCTION PERMIT - PROCEDURAL ASPECTS

The authority competent to issue a construction permit is the Mayor's Office for most construction works and the Office of the District Council President (Romanian: *Președintele Consiliului Județean*), usually for infrastructure works exceeding the territorial limits of one city or commune (i.e. highways).

The construction permit is issued following 5-15 months of administrative proceedings initiated based on the application of the investor. The parties to the proceedings regarding the construction permit are any investor (natural person or legal entity) provided that it has a construction right over the property (i.e. more frequently in the form of ownership or right of superficies).

ROMANIA

Structurally, the authorisation is a complex process entailing various technical and administrative steps:

- design preparation: The investor prepares the design theme of the future investment with an authorised designer or design company, which is further submitted to the Mayor's Office;
- after reviewing the design issuance of the urbanism certificate theme, the Mayor's Office issues an urbanism certificate attesting to the list of preliminary endorsements that need to be obtained by the investor in order to obtain the construction permit;
- obtaining preliminary endorsements: This is the core section of the authorisation procedure, with the investor being required to obtain endorsements from the environmental, sanitary, construction and urbanism state authorities, as well as utility companies. In specific cases, even consent from the neighbours is required, provided that the envisaged construction works impact neighbouring properties that, in turn, would require certain protection measures during the execution of the construction works.
- issuance of the construction permit: based on the design theme and preliminary endorsements, the construction permit is issued by the Mayor's Office.

TIME LIMITATIONS PERTAINING TO THE CONSTRUCTION PERMIT

The investor has the obligation to commence construction works within 24 months of the issuance date of the construction permit. There are specific exceptions, such as for trans-European infrastructure construction works where the works should commence within 12 months following the issuance of the construction permit. But for private investment, the standard period is 24 months.

If, due to justifiable reasons, the investor is unable to commence works within the above-mentioned 24 months, the validity of the permit may be extended, only once, by another 12 months. The extension is not automatic and requires the investor to apply for an extension to the construction permit issuing authority.

Failure to commence works in the above-mentioned periods leads to the expiry of the construction permit.

ROMANIA

Subsequently, the period allotted for completion of the works ranges between 12-36 months following the commencement date, depending on the complexity of the authorised works. This period is expressly mentioned within the construction permit.

TRANSFER OF THE CONSTRUCTION PERMIT

A construction permit may be transferred only during the transfer of the ownership right over the property to the purchaser, after the issuance of the construction permit and before the completion of the authorized works.

COMPLETION OF THE DEVELOPMENT

Upon completion of the building works, an investor should notify the relevant construction supervision authority. Depending on the type of building works, an investor may begin using the completed building or structure if:

- a. the relevant construction supervision authority does not oppose the use of the building object within 14 days of receipt of the above-mentioned notification or issues a certificate confirming lack of legal grounds to oppose using the building object within the same deadline, or
- b. if an investor is obligated to obtain an occupancy permit and such decision enters into force.

SLOVAKIA

GENERAL OVERVIEW

The relevant legislation: Act no. 50/1976 on spatial planning and building regulations (Construction Act) that addresses matters pertaining to the design, development and maintenance of building objects as well as the activity of public administration authorities in these areas; and Act no. 145/1995 on administrative fees.

The general principle: The investor first has to obtain a zoning decision (in Slovak: *územné rozhodnutie*) issued by the relevant Construction Office, which relates to the placement of the building on a specific plot. After receiving the zoning decision, the investor can apply for a building permit (in Slovak: *stavebné povolenie*) that entitles him to commence construction works on the land approved by the zoning decision. In certain (less complex) cases, the Construction Office can merge these 2 administrative proceedings into a single administrative proceeding.

The building permit is required for all building objects, unless they fall within the exhaustive lists of exceptions within Section 55(2) and Section 56 of the Construction Act. Thus, the building regime in Slovakia operates on 3 pillars:

1. Permission-based constructions – a building permit is required for building objects of any kind, regardless of their complexity, purpose and duration; a building permit is also required for alterations to buildings, especially for extensions – Section 55(1) of the Construction Act.
2. Notification-based constructions – prior notification to the Construction Office is required for example, in the case of small buildings which fulfill an additional function to the main building and which cannot significantly affect the environment; in the case of building modifications that do not significantly change the appearance of the building or the method of use of the building; in the case of advertising buildings on which the largest information area is less than 3 m; etc. – Section 55(2) of the Construction Act.
3. Free constructions – the free construction regime is stipulated in Section 56 of the Construction Act and does not require any building permit or notification to the Construction Office and applies, for example, to mining constructions; overland and underground lines of electronic communication networks; short-term portable devices such as stalls, structures and equipment for ceremonial decoration, lighting of buildings and construction of vineyards, etc.

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Exceptions: Essentially, the only exceptions from the default permission-based construction proceedings are constructions that fall under the free construction regime (stipulated in Section 56 of the Construction Act) and/or notification regime [Section 55(2) of the Construction Act].

CONSTRUCTION PERMIT - PROCEDURAL ASPECTS

The authority competent to issue a zoning decision and building permit is the competent Construction Office (i.e. municipality) within separate (specific) administrative procedures commenced by the investor.

The parties to the proceedings concerning a zoning decision include: the municipality; the investor; persons who have ownership or other related rights to land and buildings on such land (including adjacent land and buildings); if their ownership or other rights to these lands and buildings may be directly affected by the zoning decision; other persons for whom this position results from a special regulation (i.e. the general public concerned).

The parties to the building permit proceedings are the investor; persons who have ownership or other related rights to land and buildings on such land (including adjacent land and buildings) if their ownership or other rights to these lands and buildings may be directly affected by the zoning decision/building permit; other persons for whom this position results from a special regulation (i.e. the general public concerned); the construction supervisor or qualified person and the project construction designer in the part that relates to the construction.

Attachments to the zoning decision application:

- a statement by the owner of the real property confirming that the investor has the right to use the real property for the development;
- project documentation relating to the intended construction (technical report, documentation indicating the original and proposed purpose of the intended construction) prepared by an authorised person;
- statements from owners of infrastructure concerned and binding assessments by the respective authorities who protect public priorities pursuant to special regulations; and
- other documents required by Construction Act, regulations or implementing regulatory standards.

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Attachments to the building permit application include:

- documents proving general information/facts stated in the application (i.e. title to the land; zoning decision on the use and placement of the building on the land, etc.); and
- project documentation prepared by an authorised person (varies depending on building type).

The building permit application shall state the purpose and manner of use of the building, the placement of the building and expected time needed for its completion and, in the case of buildings constructed for a definite period, the exact period of use of the building.

If the building works to be encompassed by the construction require consideration of environmental conditions (on the basis of the relevant environmental regulations), this environmental decision should be attached to the application for issuing the zoning decision as well as building permit.

TIME LIMITATIONS PERTAINING TO THE CONSTRUCTION PERMIT

The zoning decision expires within 2 years from the day it became valid (unless the Construction Office has established a longer period); if the investor does not apply for a building permit.

A building permit expires within 2 years from the date its entry into force (unless the Construction Office has established a longer period) if the investor does not commence construction. The validity period can be extended upon a justified application.

TRANSFER OF THE CONSTRUCTION PERMIT

A zoning decision as well as building permit may be transferred to third parties as they are administrative decisions having effects in rem.

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COMPLETION OF THE DEVELOPMENT (in Slovak: *kolaudácia stavieb*)

All constructions that have been subjected to the permission-based regime must be formally “approved” by the Construction Office that issued the building permit.

The participants in the construction approval procedure are the builder, the owner of the building (if he is not the builder), and the owner of the land on which the building is located. In the building approval procedure, the Construction Office examines in particular whether the construction was carried out according to the documentation verified by the Construction Office in the building permit procedure and whether the conditions specified in the zoning plan or the conditions specified in the building permit were complied with.

It further examines whether the actual construction or use of the construction will not jeopardise the public interest, in particular in terms of the protection of life and health of persons, the environment, occupational safety and technical equipment.

The Construction Office, by issuing the “construction approval decision”, authorises the use of the building for the intended purpose and, if necessary, lays down the conditions for the use of the building, too.

The administrative fee for issuing an “approval decision” for a constructed building by the Construction Office ranges from EUR 50 to EUR 660 (depending on the type of building).

MORE QUESTIONS?

We are happy to help.

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