

Briefing

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New Rules on Reception of Construction Works

The Romanian Government has recently adopted a new regulation for reception of construction works ("**New Regulation**"), which will enter into force on 29 July 2017 and will replace the former regulation from 1994 ("**Former Regulation**"). A brief outline of certain key aspects is set out below.

TYPES OF RECEPTION

The New Regulation sets out two types of receptions of construction works, depending on the status of the works:

- (a) reception after completion of works, in two stages: (i) **reception at completion of works** and (ii) **final reception** upon expiry of warranty period. As a novelty, the New Regulation introduces the possibility for reception of parts of the construction project that have all been authorised under a single building permit, provided that they are distinct and independent from a physical and functional perspective - e.g. the project consists of several buildings authorised under a single building permit and the buildings are finalised at different times;
- (b) reception during the construction process, i.e. **partial reception** of the physical status of construction works for the sole purpose of registering the construction in stages in the land book.

RECEPTION AT COMPLETION OF WORKS

Responsible party. Under the New Regulation, the constructor is required to inform the beneficiary about the date of completion of construction works within the validity period of the building / demolition permit and should set the date for the reception. However, the New Regulation still does not clarify if the reception itself must be carried out within the validity period of the building / demolition permit.

Reception commission. The structure of the reception commission has been extended, by including the following additional members: (i) a representative of the State Inspectorate in Constructions, in case of B (special) and C (normal) importance category buildings; (ii) a representative appointed by the inspectorates for emergency situations, for the constructions falling under the Law no. 307/2006 on fire prevention; (iii) a representative appointed by the county / Bucharest culture departments, for constructions included in the list of historical monuments.

Site manager and technical book. As opposed to the former framework where appointing a site manager was, in practice, optional, under the New Regulation the existence of a site manager and technical book put together by the site manager are prerequisites conditions for the reception procedure.

Construction deficiencies. The New Regulation eliminates the procedure for postponing the reception in case of construction deficiencies, and introduces a new procedure of suspending the reception. The suspension is decided by the reception commission in case: (i) there are inconsistencies, noncompliance, flaws or shortcomings likely to impact the use of the construction; (ii) there are improper, unfinished or unexecuted works; (iii) there are flaws which require mandatory and long-lasting repairs; (iv) there are reasonable doubts regarding the quality of works and the necessity of additional technical expertise/trials/tests; or (v) the investor does not make available all required documents. The deficiencies must be remedied by the constructor (or the investor on the expense of the constructor) within the suspension period (which may be up to 90 days, and may be extended with up to 90 days in special cases) – otherwise, the reception will be rejected by the reception commission.

Approval/rejection of reception. Under the New Regulation, the decisions of the reception commission (to approve or reject a reception) are mandatory for the investor, as opposed to the Former Regulation when the decisions of the reception commission were mere recommendations for the investor. Further, the possibility for the investor to approve the reception of construction works with objections has been eliminated - the reception of the construction works may be either approved, rejected or suspended for remediation of deficiencies. The New Regulation provides additional grounds for rejecting the reception: (i) the commission could not directly examine the construction; (ii) the constructor does not remedy the deficiencies within the remediation period (suspension of reception); (iii) fire

security measures have not been observed; (iv) representatives of public authorities propose the rejection of the reception - veto right; (v) the works do not comply with the building permit.

The reception procedure is finalised by concluding the reception hand-over minutes - the investor cannot subsequently request repair works, penalties, decreases in value and other similar request, unless these are included in the reception hand-over minutes, with the exception of hidden and structural defects.

FINAL RECEPTION

Responsible party. The investor is in charge with organising the final reception, and should set the date for the commencement of the final reception within maximum 10 days as of the expiry of the warranty period - as opposed to the 15 days under the Former Regulation.

Reception commission. The New Regulation provides for a new and more detailed structure of the reception commission: (i) a representative appointed by the owner of the construction and a representative of the investor (if the investor and owner of the construction are different persons); and (ii) 1 to 3 specialists in constructions appointed by the owner. The representatives of the constructor and architect must attend the final reception, however only as guests.

Deficiencies. The New Regulation introduces the option for suspending the final reception, in case the reception commission discovers defects that have occurred during the warranty period and can be remedied, other than those resulting from inadequate use of the construction. During the suspension (up to 90 days, which can be extended with up to 90 days in special cases), the constructor (or the owner at the expense of the constructor) must remedy the causes which led to suspension of reception – otherwise, the final reception would be rejected.

Approval/rejection of the reception. As in the case of reception at completion of works, the decision of the reception commission is now mandatory for the owner, as opposed to the Former Regulation when the decision was a mere recommendation. The New Regulation expressly states that the final reception commission approves the final reception if there are no flaws, except those resulting from inadequate use or those that have been remedied. If the commission finds defects which cannot be remedied and lead to breach of fundamental technical requirements, it would decide to reject the final reception.

PARTIAL RECEPTION

Partial reception of the physical of construction works may be made for the sole purpose of registering the construction in stages in the land book. All minutes corresponding to partial reception(s) constitute part of the documentation necessary for the reception at completion of works.

The full text of the new Regulation can be accessed at: <http://lege5.ro/Gratuit/ge3demjyha3q/regulamentul-privind-receptia-constructiilor-din-18052017>.

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