

REVISION OF THE LEGAL REGIME FOR CONSTRUCTION AND LAND DEVELOPMENT

PUBLIC LAW

Decree-Law no. 136/2014, 9 September, added several amendments to the Legal Regime for Construction and Land Development (approved by Decree-Law no. 555/99, 16 December, hereafter referred to as RJUE).

One of the most significant changes is the new configuration given to **prior communications**.

Indeed, **prior communications for urban operations are now simple declarations addressed to the mayor, which, if provided with the necessary documents, allow the applicant to proceed with the execution of the works**, once he has made payment of the fees due to the municipality.

Therefore, **urban operations subject to prior communications**, such as works preceded by favourable prior information and urbanisation and construction works in an area covered by an allotment operation, **do not require prior approval**, expressed or implied, by the respective municipality.

However, such urban operations will be subject to a verification of the works by the inspection services of the municipality that are required to terminate the respective works whenever they conclude that the rules and the applicable legal and regulatory conditions are not met.

Another novelty of Decree-Law no. 136/2014 is the creation of a special legal regime for the **legalisation of illegal urban operations**.

The essential features of such legal regime stated in Article 102-A of this law are the following:

- i) The legalisation procedure starts with the notification of the interested party by the respective municipality, that sets a deadline to apply for the legalisation of the works;
- ii) There can be an exemption from complying with the technical standards of construction in accordance with certain assumptions;
- iii) Given that this regime is applicable to works already carried out, the presentation of various documents is also waived, including an insurance policy for building, an insurance policy to cover liability for reparation of damages as a result of a work accident, a work's book and a safety and health plan;

*New configuration
of prior communications
for construction works*

- iv) If the interested parties do not proceed with the legalisation of urban operations carried out by them within the deadline set by the respective municipality, the municipality may *ex officio* promote their legalisation by requiring the owners to pay the fees due;
- v) Municipalities are required to adopt the necessary regulations for the implementation of procedures for legalisation.

Furthermore, it should be acknowledged that Decree-Law no. 136/2014 **has strengthened the regime of liability of the various parties of urban operations.**

Thus, i) the holder of a singular governing body which practiced illegal acts; ii) members of collegial bodies who voted in favour of illegal acts; iii) employees of a municipality who have provided favourable information for the adoption of illegal acts; iv) municipality members who do not stop the performance of urban operations that do not comply with legal and regulatory standards are all jointly liable for damages caused by improperly licensed works.

On the other hand, a new Article 100-A is inserted which states that **promoters, authors, project coordinators, work directors, and supervisory directors shall be jointly and severally liable** for damages caused to third parties while executing urban operations i) in breach of a license, prior communication or authorisation; ii) without having been preceded by a license or authorisation; iii) or failure of compliance with the conditions stated for an exemption of a license, prior communication or authorisation.

Finally, it should be noted that Decree-Law no. 136/2014 will only enter into force 120 days after its publication, i.e., on **9 January 2015**.

*Special regime
for legalisation of illegal
urban operations*

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