

Maintenance and use of building structures in the light of the Building Law

Owners and managers of buildings are frequently unaware of the wide range of responsibilities placed on them in connection with the obligation to keep buildings in the proper technical condition. However, only exercising the right level of care of building structures can be raised to avoid liability in the event of occurrences resulting in personal injury or damage to property but also liability in connection with monitoring of compliance with the guidelines on the proper maintenance and use of buildings.

The Building Law regulates a diverse range of real estate-related issues, which include the obligation to maintain and use building structures in the appropriate manner. Pursuant to Art. 61 of the Act of 7 July 1994 – the Building Law (hereinafter referred to as the Building Law), the owner or manager of a building structure is required to use it in accordance with its intended purpose and the applicable environmental protection requirements and to maintain it in the proper technical condition and maintain its appearance while avoiding excessive deterioration of the structure's functional properties and technical performance. The legislator imposed on the entities referred to above the obligation to maintain building structures in the proper technical condition, in particular with respect to the compliance with requirements specified in Art 5.1.1-Art. 5.1.7 of the Building Law, including those relating to structural safety, fire safety, safety of use; ensuring proper conditions of health and safety and environmental protection; ensuring operating conditions consistent with the intended purpose of the building (including the supply of water, electricity, heat and fuel); removal of wastewater, storm water and waste; ensuring access to telecommunications services, in particular broadband Internet; adapting the building for use by disabled, in particular wheelchair users, and other requirements specified in the Building Law.

Furthermore, owners and managers shall ensure, with the exercise of due care, that the structure is used in a safe manner in the event of external factors which may impact on the structure that are connected with human agency or natural forces, such

as: lightning, seismic shock, strong wind, heavy rainfall, landslide, fire or flood, which may cause damage to the building structure or pose a direct threat of any such damage, and may endanger human life or health, the safety of property or the natural environment. Accordingly, the scope of obligations imposed on the competent entities is extensive and, moreover, these responsibilities apply to a wide range of building structures.

According to the legislator, a building structure is defined not only as the building itself, but the term also encompasses the associated systems and technical equipment; structures that constitute independent units in terms of its technical parameters and usability, including the associated systems and technical equipment (e.g. airports, bridges, viaducts, tunnels, culverts, etc.); landscaping features, including small-sized buildings of religious worship (wayside shrines and crosses); statues, fountains and other garden landscaping features as well as utility structures used for leisure activities and maintenance of order (sand boxes, swings, ladders and dustbins). Therefore, it is necessary for the obligation to maintain and use building structures in the proper condition to be applied to all types of structures referred to above.

In order to ensure that the condition of building structures is compliant with the requirements specified in the Building Law, they should undergo periodic checks by their owners or managers. Thus, elements of buildings, building structures and installations exposed to adverse weather conditions and the negative impact of factors which occur when the work is used should be checked at least once a year (this obligation does not

apply, among others, to owners and managers of single-family residential houses; other categories of entities exempt from the obligation are specified in Art. 62.2 of the Building Law); environmental protection systems and facilities as well as gas systems and flue pipes (smoke, flue gas and ventilation). The technical condition and usability of building structures, as well as the appearance of the structure and of its surrounding area should be checked periodically as well, at least every five years. The check should also include tests of the electrical system and lightning protection system in terms of efficiency of connections. Heating systems and cooling systems should also be checked periodically, depending on efficiency. It is required to notify the competent authority of checks that have been completed. Although the legislator stipulates that building structures should be checked by their owners or managers, it should be borne in mind that checks that involve specialist expertise should be carried out by individuals holding building qualifications in a given field.

The above obligations apply only to the maintenance and use of building structures. However, the owners and managers of building structures are also expected to perform other activities, the wide range of which is presented in, for example, the Building Law, regulations issued pursuant to the provisions of the Building Law and other specific laws.

Legal basis:

The Act of 7 July 1994 – Building Law.

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