

Legal opinion

End of implementation period concerning construction projects

Just over a year ago, on 19 September 2020, a wide ranging amendment to the Polish construction law aimed at expediting construction projects came into effect. The legislation – The Act of 13 February 2020 amending the Construction Law and some other acts (henceforth **Amendment**) – encompassed nearly 60 provisions which were aimed at e at simplifying and accelerating the investment and construction process. . We discussed key changes in a two-part legal commentary that was published in August 2020 and September 2020 issues of PMR Construction Insight: Poland. One of the most important changes concerned construction projects itself.

Pursuant to the Amendment, the new form of construction project consists of three parts: the site/plot development design, the architectural and building design, and the technical design. The technical design is no longer subject to approval of architectural and construction administration body as part of the building permit process, but as part of the occupancy permit process. The second significant change concerning the construction project is the limitation of the number of copies of the project attached to the building permit application from four to three.

Article 26 of the Amendment introduced a 12-month transition period during which it was up to the investor to decide at his own discretion whether he would prepare a construction project in accordance with the previous construction law wording or intend to take advantage of the amended provisions in this regard. . Importantly, the choice of form of the construction project also determined which regulations, the original or amended ones, would apply to the entire investment process (Article 27 of the Amendment).

This 12-month transition period expired on 19 September 2021. This means that from that date the investor no longer has a free choice in terms of the form of the project, and thus is obliged to apply the new provisions of the construction law, both in terms of the form of the project and the procedure for obtaining a building permit.

In practice, the overwhelming majority of investors decided during the transitional period to choose the previous form of construction projects and well-known regulations governing the course of the investment process.

Our experience also shows that the transitional period, which was intended to allow architectural and construction administration authorities to prepare to conduct proceedings based on new legal conditions and to develop consistent procedures and uniform interpretation of regulations, was mostly not properly used. A small number of administrative proceedings conducted under the new regulations and the ongoing pandemic, as a result of which public institutions were closed for some time and employees of administrative bodies could not participate in trainings, will obviously translate into the efficiency and duration of proceedings conducted under the new regulations .

Considering the end of the transition period, all investors who have so far applied the previous wording of regulation to construction projects should urgently familiarise themselves with the new regulations.

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