SIMPLIFICATION OF LICENSING IN THE SCOPE OF URBAN PLANNING, LAND USE PLANNING AND INDUSTRY

On the last January 8th, Decree Law No. 10/2024 was published, which reforms and streamlines licensing within the scope of urban planning, spatial planning and industry, known as SIMPLEX.

In this context, several legal diplomas are amended, such as the Legal Regime of Urbanization and Building (RJUE), the General Regulation of Urban Buildings (RGEU), the Legal Regime of Territorial Management Instruments (RJIGT), the General Bases Law of Public Soil Policy, Spatial Planning and Urban Planning and the Legal Regime of Urban Rehabilitation.

Main changes:

1) In terms of urban planning, the need to obtain urban planning licenses is eliminated, creating, for this purpose, new cases of prior communication and exemption from prior control: Cases in which urban planning licenses or other acts of prior control, with only a non-binding opinion being issued by the competent municipality.

2) Simplification of procedures for obtaining urban planning licenses:

- On the one hand, a tacit approval regime for construction licenses is approved, allowing the individual to carry out the intended project if the decisions have not been adopted within the due deadlines.
- On the other hand, the construction license permit is eliminated, which is replaced by the receipt of payment of fees due.
- Several rules are also adopted to make counting deadlines more transparent.
- Additionally, it is determined that, if there is no preliminary rejection or invitation to correct or complete the request or communication, it is considered that the request or communication is correctly prepared, and the request cannot be rejected based on its incompleteness instruction.
- The validity period of prior favourable information is extended from one to two years, without the need to request extensions.
- The deadline for execution of works is allowed to be extended without the current limits, which can only occur once and for a period not exceeding half of the initial deadline.

3) Measures adopted to prevent unjustified and asymmetrical treatments: It is expected that municipal regulations can only cover certain types of matters, and cannot, for example, address matters relating to administrative procedures or instructional documents, thus seeking to harmonize procedures in the various municipalities in the country. Furthermore, municipalities are prevented from requiring additional instructional documents compared to those provided for in the law and in an ordinance specifically designed to identify these documents. Therefore, for clarification purposes, a non-exhaustive list of documents that cannot be required, neither by the aforementioned ordinance nor by the regulations or practice of municipalities, is adopted.

4) Mandatory use of the Urban Procedures Electronic Platform: Some municipalities already have their platforms, so they may continue to use them. Thus, this platform allows, among other features, to submit requests online; consult the status of processes and deadlines; receive electronic notifications; obtain certificates of exemption from urban planning procedures; standardize procedures and documents required by municipalities; and a new feature, which is the future submission of requests in Building Information Modelling (BIM) format, with automation of verification of compliance with applicable plans. This Platform will be mandatory for municipalities to use from January 5, 2026.

5) The powers of cognition of municipalities in the exercise of prior urban control are clarified, especially with regard to issuing licenses: It is not up to the municipality to assess issues relating to the interior of buildings or matters relating to specialties (water, electricity, gas, etc.).

6) Certain excessive requirements in terms of prior urban control, provided for in the General Regulation of Urban Buildings (RGEU), are eliminated: For example, the mandatory existence of bidets in bathrooms is eliminated; it is allowed that there may be a shower in bathrooms, instead of bathtubs; and the use of solutions for kitchens such as kitchenettes or walk-through kitchens is possible. Simultaneously, the revocation of the RGEU is approved with effect from June 1, 2026.

7) The application for a construction license can now cover the occupation of public space and the construction license will cover, in these cases, the possibility of occupying that space to the extent necessary to carry out the work.

8) Elimination of authorization for use and other formalities:

- Authorization for use is eliminated when there has been a work subject to prior control, replacing this authorization with the mere delivery of documents, with no possibility of rejection. When there is a change of use in a project not subject to prior control, a prior communication must be submitted with a period of 20 days for the municipality to respond, considering the request for authorization of use to be accepted if the municipality does not respond.
- Regarding the formalities related to the purchase and sale of the property, at the time of signing the contract, the display or proof of existence of the housing technical file and authorization for use or demonstration of its non-enforceability are eliminated.

9) Simplification in terms of spatial planning: The process of reclassifying rustic land into urban land, for industrial, storage or logistics purposes, is simplified.

When do these changes come into force and to whom do they apply?

The changes introduced by decree law no. 10/2024, come into force on March 4, 2024, except those that already came into force on January 1, 2024 and which concern, in particular, the "elimination of the obligation of presentation of the authorization for use and the housing technical form when transferring ownership of urban buildings"; "the expansion of the set of urban operations considered of little relevance and considered exempt from licensing or prior communication"; "changes to the RGEU"; "the reduction of situations subject to a prior binding opinion from Cultural Heritage, I.P. or the Regional Coordination and Development Committees"; "Elimination of the need for authorization from the condominium assembly to change the use of autonomous units for the use of housing" and apply to all procedures initiated before its entry into force, except with regard to the formation of tacit approval in urban planning procedures.

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