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BUILDING PERMITS. DEFINITION. LEGAL REGULATIONS

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Abstract. Buildings, along with clothing and food, are part of the important human needs. The component elements of a building have the role of meeting the needs of those who exploit them. The quality of a building results from the extent to which the requirements of the users are met over the entire lifetime of the building.

For millennia, constructions were made according to empirical rules. However, for a long time, remarkable, lasting constructions have been made, some of them resisting to the present day.

Since ancient times, there have been rules for the construction of buildings. At present, these rules are laid down in the main normative acts governing the construction field, namely: the Law 50/1991 on the authorisation of construction works, the Law 10/1995 on quality in construction, the Law 350/2001 on spatial planning and urbanism, as well as and by the Law 215/2001 - the law of local public administration.

Keywords: building; authorisation; technical documentation; approvals; works.

1. Introduction

Building safety is a necessary and indispensable condition to ensure in order to avoid the collapse of buildings and it is provided by the compliance

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with the design and execution rules, with the quality and quantity of the materials covered by the technical documentation, etc.

Execution of construction works and their dismantling are governed by the provisions of the Law 50/1991, as subsequently amended and supplemented, according to which the execution of construction works is allowed only on the basis of a building permit or, as the case may be, of a dismantling permit. Civil, industrial, agricultural or any other kind of constructions may be carried out only on the basis of the building permit issued under the law.

2. Building Permits. Definition. Documentation Required to Obtain a Building Permit

The building permit is the authority act of the local public administration, on the basis of which the application of the measures stipulated by the law regarding the location, construction, exploitation and post-use of the constructions is ensured.

This type of permit is issued under and in compliance with the provisions of the urbanism and land planning documentation, endorsed and approved according to the law. The building permit or, as the case may be, the dismantling permit is issued at the request of the owner of the title to a real estate - land and/or construction - or of another document conferring the right to build, reconstruct, consolidate, modify, expand, adjust, repair or dismantle a building or a construction, under the stipulations of the Law 50/1991 on the authorisation of construction works. Acquiring this permit involves three main steps: obtaining the urbanism certificate, obtaining approvals as well as the building permit.

In accordance with art. 4 (1) of the Law 50/1991, the building permit shall be issued by the authorised persons at the level of each administrative-territorial unit.

In certain situations, namely for institutions with a special regime, the building permit for military constructions is issued by the ministries and other specialised bodies of the central public administration concerned, based on procedures established together with the Ministry of Regional Development and Public Administration, and for the constructions related to the road transport infrastructure of national interest it is issued by the Ministry of Transport through its specialised department.

Maximum term for the issuance of the building permit, according to art. 7 (par.1) of the Law 50/1991, is 30 days after the complete documentation has been submitted, which will contain the following documents:

a) application for the issuance of the full building permit with the identification elements and technical data according to the T.D.;

b) legalised copy of the proof of the title on the real estate, land and/or construction and, as the case may be, the up-to-date cadastral plan extract and up-to-date land registry extract, if the law does not provide otherwise;

c) the urbanism certificate;

d) the technical documentation (TD), which shall be drawn up in accordance with the framework content, in accordance with the requirements of the urbanism certificate, the content of the administrative act of the competent environmental protection authority, the approvals and agreements required by the urbanism certificate and shall be drafted, signed and verified, according to the law;

e) the approvals and agreements established by the urbanism certificate, the point of view of the competent authority for environmental protection and, as the case may be, the administrative act thereof; for trans-European transport infrastructure projects, the approvals/agreements established by the urbanism certificate, the point of view of the competent authority for environmental protection and, where appropriate, the administrative act thereof, the approvals/agreements of principle or, where appropriate, the approved location for the relocation of electricity/natural gas and oil transmission and distribution systems/networks, as well as of other utility networks located on the expropriation corridor.

f) proof of payment of the fees related to the urbanism certificate and building permit.

For constructions representing household annexes of agricultural holdings, the deadline for issuance of the building permit is 15 days from the date of registration of the application.

The issuing authority of the building permit shall establish a period of validity of no more than 12 months from the date of issue, the period during which the applicant is obliged to start the works. In this case, the validity of the permit shall be extended for the entire duration of the works stipulated by the permit, according to the technical design (Art. 7, par.5).

For trans-European transport infrastructure projects, building permits, urbanism certificates, approvals/agreements, as appropriate, site approvals shall remain valid for the entire duration of the project implementation until completion of the works for which they were issued, respectively up to the date of signing the minutes of the final acceptance of the works, provided the works commence within 12 months from the date of issuance of the building permit (Art. 7, par.5¹).

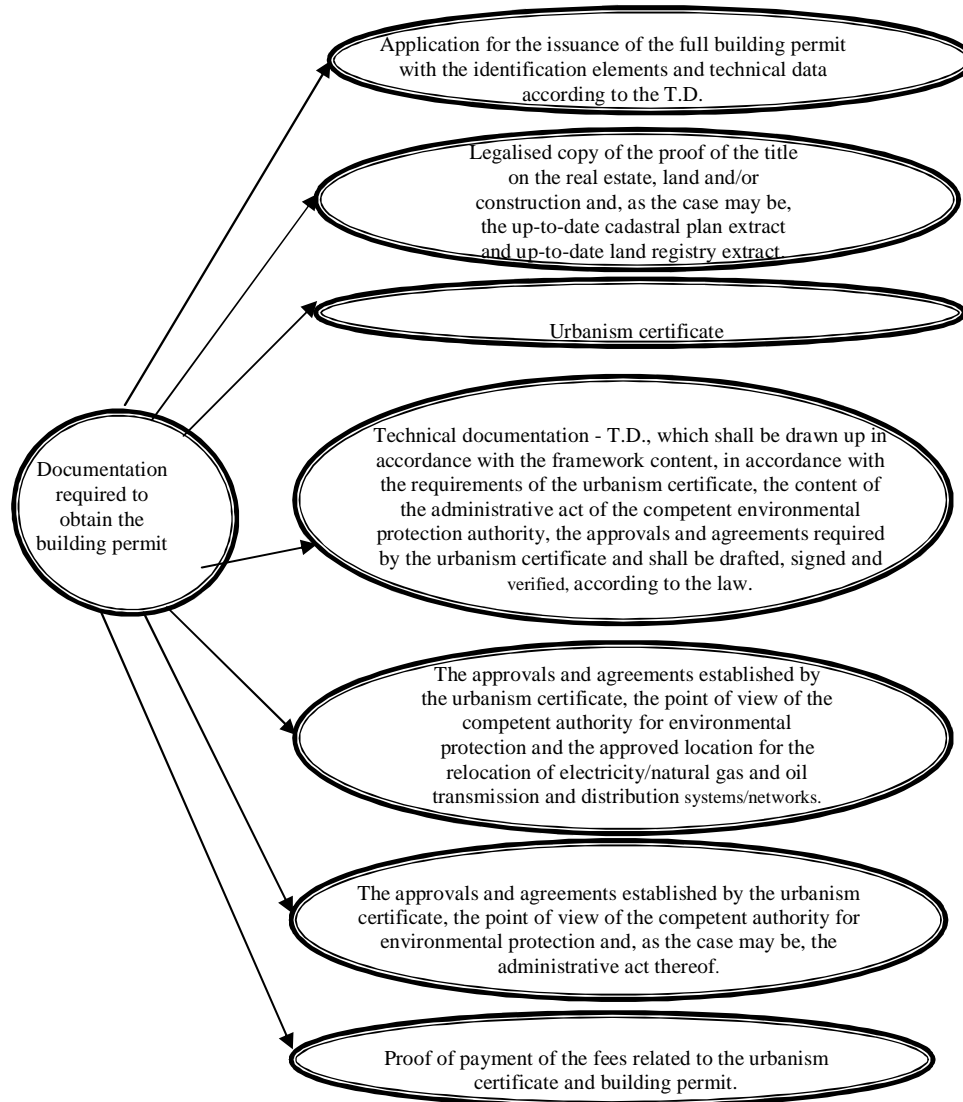


Fig. 1 – Documentation required to obtain the building permit.

3. Works for Which the Law Requires Obtaining the Building Permit and Works that Can be Executed Without Authorisation

Law no. 50/1991 on the authorisation of construction works execution, updated, stipulates, under art. 3 (par. 1), the categories of works that are authorised with the complete documentation, and under art.11 (par.1) the works

that can be executed without a building permit, *i.e.* those that do not change the structure of resistance and/or the architectural aspect of the constructions.

3.1. Works that are Authorised with Full Documentation

Civil, industrial, agricultural, technological equipment and facilities maintenance, infrastructure or any kind of constructions can only be carried out in compliance with the building permit, as well as with the regulations regarding the design and execution of constructions [art.3 (par.1)] for the following types of works:

a) construction, reconstruction, consolidation, modification, extension, rehabilitation, change of destination or repair of any kind of constructions, as well as of the related facilities;

b) works for construction, reconstruction, extension, repair, consolidation, protection, restoration, preservation, as well as any other works, regardless of their value, to be performed on all categories of historical monuments stipulated by law - monuments, groups, sites - including their annexes, identified in the same building - land and/or constructions, constructions located in protected areas of monuments and in protected built areas, established according to the law, or constructions of special architectural or historical value constructions, such as established via approved urban planning;

c) construction, reconstruction, modification, extension, repair, modernisation and rehabilitation works on roads of any kind, forestry roads, art works, networks and technical and municipal facilities, connections and connections to utility networks, hydro-technical works, water basin improvement, land improvement works, infrastructure works, works for new capacities for production, transport, distribution of electric and/or thermal energy, as well as rehabilitation and refurbishment of existing ones;

d) foraging and excavations necessary to carry out geotechnical and geological prospecting studies, designing and opening quarries and gravel sites, gas and oil wells as well as other surface, underground or under water exploitations;

e) cemeteries - new and enlargements.

3.2. Works Executed with Building Permits Issued on the Basis of Technical Documentations (TD) with Simplified Content in Relation to the Frame Content

In order to simplify the authorisation procedure, the building permit is issued on the basis of the technical documentations (TD) with simplified content in the case of temporary construction works execution:

- a) fencing and urban furniture, landscaping, parks, playgrounds and recreation areas, markets and other public works;
- b) organisation of tents, cottage or caravan camps;
- c) temporary construction works: kiosks, tents, booths, exhibition spaces, display structures and panels, banners and advertisements, roofs and pergolas located on public roads and spaces, household annexes, as well as household annexes of agricultural holdings located out of town.

3.3. Works for Special Constructions and Historical Monuments

For this type of works performed on buildings, as an exception from the provisions of art. 4 of the Law 50/1991, the authorisation for the execution of construction works is carried out as follows:

- a) for works performed on special buildings, the authorisation is conducted by the institutions of the defence system, public order and national security;
- b) for works performed on buildings located in protected areas of monuments and in protected built areas, established according to the law, or for constructions of special architectural or historical value, established by approved urbanism documentation, the authorisation shall be based on common procedures established together with the Ministry of Regional Development and Public Administration and with the Ministry of Culture, according to the law;
- c) for the works related to the transport infrastructure of national interest, the authorisation shall be issued by the Ministry of Transport, through its specialised department, in compliance with the legal provisions in the field of building authorisation (Art. 43).

3.4. Works that Can be Executed Without a Building Permit

According to art. 11 (par.1), the following works that do not modify the resistance structure and/or the architectural aspect of constructions can be executed without a building permit:

- a) repairs to fences, roofs, covers or terraces, when their shape and materials are not changed;
- b) repairs and replacements of interior and exterior carpentry, if the shape, the dimensions of the voids and the carpentry are preserved, including in the case where the materials from which the works are made are changed, except for the buildings declared as historical monuments, according to the law;
- c) interior painting and decor;
- d) exterior painting and decor, if the façade elements and the colours of the buildings do not change;
- e) repairs to indoor installations, to all connections and piping of any kind related to constructions, within the limits of ownership, the installation of

local heating and domestic hot water systems with approved boilers, as well as the installation of individual air conditioning and/or metering devices for the consumption of utilities;

f) maintenance works on communications and associated facilities;

g) investigations, research, expertise, preservation and restoration of the artistic components of the buildings referred to under art. 3 let. b) with the approval of the Ministry of Culture and Religious Affairs and of the county or local public administration authority, as the case may be;

h) geotechnical drilling and geotechnical surveys for buildings of significant or limited importance located outside the protection areas established for aquifers;

i) burial and underground funerary construction works, with the approval of the cemetery administration;

j) works for placement of sales points, covered or closed boards, intended for the distribution and sale of newspapers, books and flowers, which are located directly on the ground, without foundations and platforms, as well as without connections and/or piping to urban utilities, with the exception of electricity;

k) non-structural temporary division works.

4. Conclusions

Knowledge, appropriation and observance of laws is an important factor for the good functioning of social life, for the improvement of social relations, for strengthening social order, as well as for the prevention and removal of any kind of deviations.

The transformations that took place in Romania after 1990 led to the appearance of a large number of housing demands and construction of buildings with different destinations. This has led to the development of the construction sector at an accelerated pace, which has forced the development of legislation regulating this area.

Constructor's liability begins with the issuance of the building permit for the construction and has a duration of ten years from the date of receipt of the works. The execution of the reception at the end of the works is mandatory for all types of authorised constructions, including in the situation of carrying out these works personally, the reception being conducted in the presence of the representative of the public administration, designated by the issuer of the building permit.

Executing a construction without a valid building permit is sanctioned by a fine and, in some cases, by the penal law and the demolition of the construction, at the constructor's expense.

Concerning this aspect, article 24 of the Law 50/1991 provides that the following acts are punishable by imprisonment from 3 months to one year or by a fine: execution without building or dismantling permit, the continuation of the execution of the works after the order of their suspension by the competent control bodies. It is also an offence to draw up or sign the technical documentation - T.D. necessary for the authorisation of construction works execution, as well as of the technical projects and of the execution documentation, for specialties other than those certified by the university diploma of the person who draws up and/or, as the case may be, signs the documentation in question.

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- * * Legea nr.10/1995 privind calitatea în construcții.
- * * Legea nr.215/2001 Legea Administrației publice locale.
- * * Legea nr. 350/2001 privind amenajarea teritoriului și urbanismul.

AUTORIZAȚIA DE CONSTRUIRE. DEFINIRE. REGLEMENTARE JURIDICĂ

(Rezumat)

Clădirile, alături de îmbrăcăminte și hrană, fac parte din necesitățile importante ale omului. Elementele componente ale clădirii au rolul de a satisface exigențele celor ce leexploatează. Calitatea unei clădiri rezultă din gradul în care sunt satisfăcute exigențele utilizatorilor, pe întreaga durată de exploatare a acesteia.

Timp de milenii construcțiile se realizau după reguli empirice. Cu toate acestea, o lungă perioadă istorică s-au realizat construcții remarcabile, durabile, unele dintre ele rezistând până în zilele noastre.

Din cele mai vechi timpuri au existat reguli pentru realizarea clădirilor. În prezent, aceste reguli sunt prevăzute de principalele acte normative care reglementează domeniul construcțiilor, și anume: Legea 50/1991 privind autorizarea executării lucrărilor de construcții, Legea 10/1995 privind calitatea în construcții, Legea nr. 350/2001 privind amenajarea teritoriului și urbanismul, precum și de Legea administrației publice locale nr. 215/2001.