

Tax & Legal Weekly Alert

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Real Estate

Amendments to the legal provisions regarding fire safety authorization

On January 20, 2014, Government Decision no. 19/2014 (the "**Decision**") amending and supplementing Government Decision no. 1739/2006 approving constructions and establishments that are subject to fire safety approval/authorization procedure ("**G.D. no. 1739/2006**") was published in the Official Gazette no. 44.

According to the provisions of the Decision, the criteria to be met for approval/authorization have been changed for the following categories of buildings:

- buildings or places established within mixed-use buildings, with trade production or storage destination, with a developed area bigger than or equal to 400 sq. m., thus decreasing the volume of the developed area from 600 sq. m.
- spaces established within collective residential buildings for trade purposes and which have a developed area bigger than 50 sq. m., or for production or storage purposes regardless of the size of area;
- tourist accommodation structural buildings with more than 3 rooms or 6 places for accommodation such as : hotels, apartment hotels, motels, hostels, mini-hotels, villas, bungalows, chalets, hunting cabins, fishing cabins, holiday villages, camping houses, urban and rural guesthouses, farmhouses, apartments and rooms for rent, including alimentation in their premises;
- buildings or places established in buildings with health and care destination,] with inpatient beds, regardless of the area or dispensaries, as well as clinics with total developed area bigger than 400 sq. m.;
- buildings or temporary establishments for shows or meetings with a capacity bigger than or equal to 200 seats or which have commercial destination with a developed area/area bigger than or equal to 2,500 sq. m.;
- liquefied petroleum gas stored in fixed tanks/containers with an individual maximum capacity of 5,000 l or groups of fixed tanks/containers with a total capacity of maximum 30,000 l water volume afferent to laboratories - health , schools and others – buildings with production and technologic streams, central and local heating systems for hot water and food production, consumer supply systems;
- public distribution stations of fuel for automobiles, with a maximum storage capacity of 300 cm for petroleum liquids, greater than or equal to 3 cm water equivalent for liquefied petroleum gas and transportable fuel distribution stations for motor vehicles with storage/ depositing ability bigger than or equal to 30 cm;
- buildings or established spaces within buildings with public parking and/or maintenance and repair destination for over 10 vehicles, thus decreasing the number of vehicles, from the previous one of 20 cars;
- buildings, farms and agro-zoo technical establishments with a built-up area greater than or equal to 600 sq. m. continue to be subject to the approval/authorization procedure. The Decision introduces an exception with regard to metal silos, greenhouses, sunbeds, growth rooms and mushroom farms.

The Decision has also newly introduced certain categories of constructions/establishments to be subject to approval/authorization for fire safety:

- recreational center with indoor and outdoor pools, seating and body therapy services, massage, hydro massage, wraps, herbal baths, dry sauna cabins, chromo-aroma-therapy and steam rooms, squash courts, aerobic halls, fitness, billiards, table tennis and mechanic soccer, tennis courts, softball and soccer with related locker and similar buildings with a developed area bigger than or equal to 600 sq. m.;
- storage and distribution stations for compressed natural gas used as fuel for vehicles (CNGV);
- buildings or spaces established within cultural buildings with a developed area bigger than or equal to 600 sq. m.;
- existing or new collective residential buildings with a height equal to or bigger than P+3E, for which an attic or penthouse are managed or developed;
- new works, alterations and renovations of extinguishing, detection, fire alarm signaling for existing buildings covered by G.D. no. 1739/2006;
- population delivery points of liquefied petroleum gas storage capacity / storage cylinders with a maximum capacity of 1,250 kg LPG ;
- medium and large deposits for transportable cylinders of compressed, liquefied or dissolved under pressure gas, except LPG .

For all the buildings and establishments that fall under the provisions of art. 1 of G.D. no. 1739/2006 (as it will be amended), the designer must also prepare the fire safety scenario. In case of non-compliance with this obligation, as well as with the obligation of the administrator or leader of the institution to obtain the fire safety approval/authorization, the applicable law establishes a penalty consisting of a fine between RON 2,500 and RON 5,000.

We are at your disposal for identifying and finding solutions for any matters that may affect your company.

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Public Sector

New EU-Directives on Public Procurement

The new EU public procurement Directives were adopted by the European Parliament on 15 January 2014. The new rules replace Directive 2004/18/EC on public works, supply and service contracts and Directive 2004/17/EC on procurement in the water, energy, transport and postal services sectors.

The new Directives introduce a number of simplified rules and procedures. The key changes are described below.

1. Standardised European Single Procurement document

The documentation required for a procurement procedure is reduced through a standardised *European Single Procurement Document*. This means that only the winning bidder will have to submit formal evidence (certificates and attestations). Consequently, the minimum deadlines to submit tenders are shortened.

2. Mandatory use of electronic communication

Electronic means of information and communication exchange will become mandatory in procurement procedures as this can greatly simplify the publication of contracts and increase the efficiency and transparency of procurement processes. The deadline for the mandatory use of electronic communication is 54 months (transposition deadline of 24 months + 30 months).

3. More possibilities for negotiation

The new public procurement Directives will abolish the current standard negotiated procedure and replace it with a new procedure called the *competitive procedure with negotiation*. The new procedure will be very similar to the Competitive Dialogue. The main difference for the competitive dialogue will be that tenders are submitted from the beginning, are then subject to negotiation and then resubmitted to finalise positions.

4. Facilitating access for small and medium sized enterprises (SMEs)

In order to facilitate the participation of SMEs, contracting authorities are now encouraged to divide large contracts into lots through the '*apply or explain*' principle. This means that where the contracting authority decides that it would not be appropriate to divide the contract into lots, the individual report or the procurement documents should indicate the main reasons for the contracting authority's choice. Also, as far as the proof of the economic operator's financial capacity is concerned, when a minimum turnover requirement is set at a higher level than twice the estimated contract value, the individual report or procurement documents should indicate the main reasons for the contracting authority's choice.

5. Innovation partnership

A new partnership procedure, the innovation partnership, will be foreseen in the Directives. The innovation partnership will aim towards the development of an innovative product, service or works and the subsequent purchase of the resulting supplies, services or works, if they correspond to the agreed performance levels and maximum costs.

6. Blacklisting of companies

The new Directives also allow public authorities to effectively blacklist companies and prevent them from bidding for public contracts. This action would be justified where for example the economic operator has shown significant or persistent deficiencies in the performance of a substantive requirement under a prior public contract.

7. Strategic use of public procurement

The new Directives focus on achieving the objectives of the Europe 2020 Strategy for sustainable growth, environmental, social and innovation procurement. Consequently, contracting authorities can now determine the most economically advantageous tender and the lowest cost using a *life-cycle costing approach*. The notion of life-cycle costing includes internal costs and cost imputed to environmental externalities (including the CO2 footprint) linked to the product, service or works during its/their life cycle.

In their award decisions, contracting authorities may also require that works, supplies or services bear specific labels certifying environmental, social or other characteristics. In addition, contracting authorities can take into account criteria linked to the production process of the works, services or supplies to be purchased such as the inclusion of vulnerable and disadvantaged people or the use of non-toxic substances.

However, it should be stressed that no general mandatory requirements for environmental, social and innovation procurement were set.

8. Introduction of a simplified regime

In the new Directives, the distinction between the current A ('*priority*')-services and B ('*non-priority*')-services will be abolished. The current B-services will be subject to the full set of rules in the Directives, unless listed in the 'new simplified regime' annex. All services not explicitly listed fall under the full regime in the Directives.

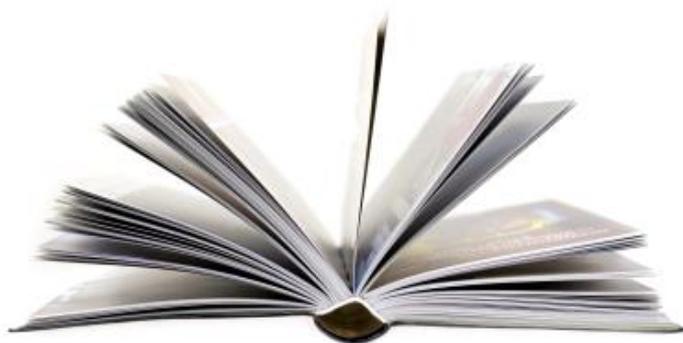
9. Next steps

After their publication in the Official Journal of the European Union, the Directives will enter into force within 20 days. After this date, Romania will have 24 months to implement the provisions of the new rules into national law.

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