

Montenegro: New Act on Spatial

OCTOBER 2017

Development and Construction adopted

The Montenegrin Parliament adopted the new *Act on Spatial Development and Construction* on 30 September 2017. The new legislation introduces radical changes in the areas of spatial planning and construction.

Reduced number of spatial planning documents and centralized decision making

Under the previous legislation, the competence for enacting planning documents was divided between the state of Montenegro and local municipalities. This resulted in over 600 individual planning documents. In contrast, the new legislation provides for only two spatial planning documents, both to be enacted by the Parliament of Montenegro: (i) a 20-year *Spatial plan of Montenegro*, and (ii) a 10-year *Plan of general regulation*.

The *Spatial plan of Montenegro* is the highest-level planning document, laying out strategic principles and long-term spatial development guidelines. These strategic principles are to be further developed through the *Plan of general regulation*, which is to set out the conditions for development in particular areas covered by the plan. Finally, the Government may further elaborate the *Plan of general regulation* by adopting specific urban projects for complex or otherwise challenging developments, such as in the areas involving cultural heritage.

The new *Plan of general regulation* is to be adopted within the next 36 months. All currently valid spatial plans will remain in force until then.

Expropriation

There will be no longer any need to determine the existence of public interest for expropriation in separate proceedings. Public interest is deemed to exist by the mere fact that construction of the spatial planning document foresees specific type of construction in the given area.

Farewell to construction and operational permits

Construction permit is no longer a condition for commencement of construction works, and operational permit is no longer a condition for usage of the property, except with respect to "complex

engineering constructions" such as energy facilities, heavy industry facilities, and facilities which might endanger environment.

Residential and commercial buildings, villas and hotels, are under the permit-free regime. This means the investor may start construction once the main design is audited and the commencement of works is reported to the competent authority. This will significantly shorten the pre-construction phase.

A development may be put in use after it is registered in the cadastre.

Urban parcels

Creation of urban parcels for the purpose of construction has been a burning problem in Montenegro. Urban parcel often consists of two or more cadastral parcels. If these cadastral parcels have different owners, they all had to agree to develop the urban parcel. The new legislation allows the owner of the largest cadastral parcel to buy-out the remaining owners. If the owner of the largest parcel does not exercise this right, the right transfers to the owner of the next biggest cadastral parcel. If no owner buys out the other(s), and they do not reach an agreement on construction, each of them can build on his part of the urban parcel, as long as such construction is within the parameters prescribed by the *Plan of general regulation* or, as the case may be, specific urban project.

Communal equipping

The new legislation imposes obligations on the owners of construction land to pay monthly land development fee until the land is developed. Once the land is developed, the owner is obliged to pay monthly "city land rent". Each local municipality will determine the amount of the fees and payment dynamics.

Chief state/city architect

The notions of the Chief state architect and the Chief city architect are novel in Montenegro. The Chief state architect will have the authority to issue guidelines on legalization and certain authorities with respect to projects of national significance, while the Chief city architect will be in charge of approving concept designs of buildings, squares and other public areas in settlements, verifying compliance of concept designs with urban projects, and approving facades of temporary constructions.

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