

What impact will the new Czech Construction Act have?

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The new Construction Act has been adopted in its 3rd reading by the Chamber of Deputies of the Czech Parliament in the wording of a comprehensive amendment submitted by Mr. Kolovratník. The unified state building administration should therefore be put into effect next year and the new act as a whole will become effective from 1.7. 2023 (if also approved by the Senate and signed by the President). It is not clear at this moment if the Senate will return the Act back with amendments and in such a case there may not be enough time (and potentially votes) to pass it through Parliament before the elections which will take place this autumn. If this occurs there would not be any new Construction Act and the legislative process will have to start again from the beginning. The state building administration change is so revolutionary that it may cause disruption in the construction sector in the short term. On the other hand, the overall impact of the new law could potentially be positive for development projects in the Czech Republic.

City planning

It is important to note that if changes to existing zoning planning documentation were started before the date of entry into force of the respective provisions of the Act, they must be completed in accordance with the existing legal regulations. The completion of the long-awaited Prague Metropolitan Plan should therefore not be jeopardized. Municipalities will generally not be entitled to set requirements for the location of buildings that deviate from the implementation regulations in the zoning planning documentation. Only the Capital City of Prague, the Statutory City of Brno and the Statutory City of Ostrava may lay down detailed requirements for the delimitation of land, requirements for the location of buildings and technical requirements for buildings by way of derogation from the general implementing regulations. This is contained in the so-called “Prague building regulations”, which have not been repealed and will continue to apply.

Contentious issue among MPs

There was a lively debate and a lot of excitement in Parliament over the lighting and ventilation requirements for residential rooms. It was finally agreed that ventilation and lighting do not have to be direct ventilation and daylight. This can be especially practical for reconstructions and development in city centers. This does not necessarily have to lead to a deterioration in the quality of construction. Despite limited supply of affordable residential development and the very high demand for flats, I do not think that residential rooms without daylight and direct ventilation would become a standard.

Speeding up the process?

Although the main argument for the new Construction Act was the need to speed up the construction process, the new Act does not contain any truly effective tool against delays in procedure before the relevant building authority. The enforceability of the deadlines set in this act is therefore questionable. The following options were discussed: automatic attraction (mandatory transfer of decision-making to the superior authority), the fiction of issuing a positive decision upon expiry of deadline (with subsequent review by the superior authority) or a lump sum compensation of one thousand CZK per day in case of delay. However, none of these options are included in the approved act. The fiction of issuing a positive decision applies (with certain exceptions) only to the statements, including the coordinated statements, of the authorities concerned, not to the issuing of a building permit itself.

Positives of the new legislation

On the positive side, the new legislation regulates the conclusion of planning agreements between investors and municipalities (or regions), which are used in practice. Good legislation can further support their use. However, their approved regulation has its problems. I do not consider it appropriate for disputes arising from them to be decided by the Supreme Building Authority and not by a court.

A much needed change was approved with respect to the judicial review of building permits. Both were in the amendment proposed by MPs. The position of the constructor is to be strengthened because he will always be a party to the court proceedings, therefore he will be equal in relation to the building authority. If the court grants a suspensory effect to the action, it is obliged to decide on the action itself with the utmost speed, which I hope will lead to acceleration of the litigation and a really careful consideration by the court if suspensory effect to action is granted in individual cases

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National Law Review, Volume XI, Number 154

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