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**Newly proposed procedure for works completion
acceptance – highlights**



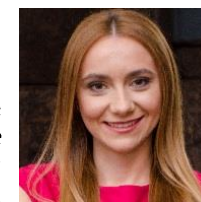
Newly proposed procedure for works completion acceptance – highlights

*The Ministry for Regional Development and Public Administration has published a draft of a new Regulation concerning the reception (i.e., works completion acceptance) of buildings (the “**Draft Reception Regulation**”) which, if approved, will replace the current Regulation for the reception of construction works and related installations approved through the Government Decision no. 273/1994, as further amended (the “**Current Reception Regulation**”).*

You may find below a comparative synopsis highlighting the main changes brought by the Draft Reception Regulation versus the Current Reception Regulation.

Certainly, there is no assurance this will be the final form of the regulation when approved, but it does offer a glimpse into the regulator intentions. The public consultation period for this draft regulation has elapsed and it is unclear when or whether this will be approved by the Government.

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However, according to Law no 177/2015 (which amends Law no. 10/1995 on quality in constructions) as subsequently amended through Law no. 163/2016, the Government should revise and update accordingly the Current Reception Regulation within one year and five months as of the entry into force of said law, respectively until 31 January 2017.



Highlights

No	Current Reception Regulation	Draft Reception Regulation
Commissioning		
1	<p>Construction commissioning takes place if and when the reception protocol (Romanian language: <i>proces verbal de receptie</i>) is signed by the relevant parties.</p>	<p>Construction commissioning takes place if and when:</p> <ul style="list-style-type: none"> ◆ the works completion acceptance (Romanian language: <i>receptia la terminarea lucrarilor</i>) is acknowledged by the investor; ◆ the construction was taken over by the owner; and ◆ all necessary authorizations have been obtained by the owner as required by the law.
Partial completion of the construction		
2	<p>The hand-over protocol for a part of the construction does not value take-over protocol for that part of the construction.</p> <p><i>We note this provision was implicitly made inapplicable by a change in Law no. 7/1996 on immovable property publicity dating back to 2010, which permitted the registration in the land book of a part of a construction based on the handover protocol over the respective part.</i></p>	<p>The protocol ascertaining the stages of construction (which is to be concluded in case the investor/owner decides to take over a part of a construction in execution stages) will be the basis for the registration with the land book of the ownership right over the construction in execution stages.</p>
Participants to work completion acceptance		
3	<p>It is mandatory for a member of the State Inspectorate in Constructions (ISC) to be part of the reception commission, in case of:</p> <ul style="list-style-type: none"> ◆ buildings from the category of exceptional importance considering the degree of risk in terms of safety, destination, usage, complexity and volume of works. 	<p>It is mandatory for a member of the State Inspectorate in Constructions (ISC) to be part of the reception commission, in case of:</p> <ul style="list-style-type: none"> ◆ the works completion acceptance (Romanian language: <i>receptia la terminarea lucrarilor</i>) is acknowledged by the investor; ◆ constructions financed partially or totally from public funds;



No	Current Reception Regulation	Draft Reception Regulation
Participants to work completion acceptance		
		<ul style="list-style-type: none"> ◆ new constructions included in the following importance categories: A - "exceptional" and B - "special", and the intervention works to these types of buildings, regardless of their funding sources; ◆ buildings used for housing or office purposes with a height regime of groundfloor+8 floors and the intervention works to these types of buildings, regardless of their funding sources; and ◆ intervention works for buildings mentioned in the list of historical monuments, categories A and B, regardless of their funding sources.
4	<p>It is mandatory for a representative of the territorial inspectorate from the Fire Commandment Troops (currently ISU) to be part of the reception commission in case of:</p> <ul style="list-style-type: none"> ◆ buildings with: a height of over 28 m, crowded rooms, capacity of more than 150 people; ◆ hotels; ◆ hospitals; ◆ homes for children or elderly peoples; and ◆ other buildings for people who are not able to exit the premises by themselves. 	<p>It is mandatory for a representative of the Inspectorate of Emergency Situations (ISU) to be part of the reception commission in case of buildings, as well as of intervention works to these buildings, classified according to the Code for Seismic Design P 100-1 in:</p> <ul style="list-style-type: none"> ◆ Class I of importance - buildings with essential functions for which the integrity during earthquakes is vital for civil protection; and ◆ Class II of importance - buildings posing a major threat to public safety in case of crash or serious damage. <p><i>Please note that according to Law no. 307/2006 concerning fire protection, it was already mandatory for a person from ISU to participate at the reception of constructions related to high and very high civil buildings with crowded rooms, having “exceptional” or “special” importance category, production and / or storage buildings, with developed area of over 5,000 square meters and having high or very high fire risk, shopping centers with developed area of over 2,500 square meters, car parks with more than 100 parking spaces, tourism buildings with capacity of over 50 beds, hospitals, homes for children and the elderly, or other buildings for persons that cannot evacuate themselves.</i></p>



No	Current Reception Regulation	Draft Reception Regulation
Participants to work completion acceptance		
5	N/A	The site manager (in Romanian: <i>dirigintele de santier</i>) is a member of the reception commission and will act as secretary of the commission, drafting to this extent all reception documents.
6	<p>The representatives of the constructor and designer are guests to the works completion acceptance (<i>i.e.</i>, they are not members of the reception commission).</p> <p>The absence of the constructor from the reception of the constructions is not a reason for postponing or refusing acceptance of the works.</p>	It is mandatory for the representatives of the constructor and the designer to be present at the works completion acceptance, as guests (<i>i.e.</i> , they are not members of the reception commission).
Additional documents for works completion acceptance		
7	N/A	<p>The reception commission must review the following documents in addition to the ones regulated by the Current Reception Regulation:</p> <ul style="list-style-type: none"> ◆ the existence of general cost estimate updated on completion of works and/or of documents certifying the construction value calculated by local public authority which has issued the building permit for regularization of the authorization fee, showing the final amount of the investment; and ◆ the existence of the energy performance certificate.
Decisions of the reception commission		
8	<p>The reception commission will recommend the postponement of the work completion acceptance in case of:</p> <ul style="list-style-type: none"> ◆ missing or incomplete works affecting the safe operation of the construction; 	<p>The reception commission will decide to suspend the work completion acceptance in case of:</p> <ul style="list-style-type: none"> ◆ objections which are not capable of affecting the construction in accordance with its intended use;



No	Current Reception Regulation	Draft Reception Regulation
Decisions of the reception commission		
	<ul style="list-style-type: none"> ◆ defects requiring a time-consuming remedy which, absent, would greatly diminish the utility of the works; ◆ existence of justified doubts concerning the quality of work and additional time being necessary for clarifying of such; and ◆ the proving documents for the payment of the fees to the State Inspectorate in Constructions were not shown to the reception commission. 	<ul style="list-style-type: none"> ◆ missing, incomplete improperly executed works; ◆ defects requiring a time-consuming remedy which, absent, would greatly diminish the utility of the works; ◆ the designer has not shown to the reception commission the reports concerning his/her point of view on the execution of the construction; ◆ existence of justified uncertainties or suspicions concerning the quality of the works and additional time being necessary for clarifying of such; and ◆ the reception commission has had fewer members than the minimum number regulated by law.
9	<p>The reception commission will recommend the acceptance of the works in case:</p> <ul style="list-style-type: none"> ◆ there are no objections; or ◆ the existing objections do not affect the use of the construction in accordance with its destination. 	<p>The reception commission will propose the acceptance of the works in case:</p> <ul style="list-style-type: none"> ◆ there are no objections; or ◆ the objections for which the reception was suspended have been remedied.
10	<p>The reception commission will recommend the rejection of the works in case of:</p> <ul style="list-style-type: none"> ◆ defects that cannot be removed and which ,by their nature, preclude the achievement of one or more essential requirements and, therefore, require additional expert assessment, redesign, restoration or other works. 	<p>The reception commission will propose the rejection of the works in case:</p> <ul style="list-style-type: none"> ◆ the constructor does not remedy the causes for which the reception was suspended in the given term; ◆ the measures provided in the fire permit and the technical documentation for fire prevention and extinguishing were not performed;



No	Current Reception Regulation	Draft Reception Regulation
Decisions of the reception commission		
		<ul style="list-style-type: none"> ◆ there are defects that cannot be removed and which ,by their nature, preclude the achievement of one or more essential requirements, in which case the are necessary expertise, redesign, restoration works etc; ◆ the designer, in the presentation report, underlines serious infringements to the execution documentation and /or the building permit, performed during the execution of works; and ◆ one of the members of the reception commission, as the case may be, the representative of the public authority which issued the building permit, the State Inspectorate in Construction or the inspectorates for emergency situations proposed the rejection of the reception.
Date of the final acceptance		
11	<p>The date of the final acceptance of the works (Romanian language: <i>receptia finala</i>) is the date of the notification by the investor of its decision (i.e., acceptance, rejection or postponement of the acceptance).</p>	<p>The date of the final acceptance of works is the date of the minutes for the final reception.</p>

Note: This publication should be used as an initial source of general information only. It is not intended to give a definitive statement of the law. For the specific applications of the law, professional advice should be sought.

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