

# New restrictive conditions for the development of real estate investment projects

The Romanian Government Emergency Ordinance no. 100/2016 ("**GEO 100**") which entered into force on 27 December 2016 brings significant changes to Law no. 350/2001 on urbanism and Law no. 50/1991 on construction works.

## Purpose of GEO 100

**The main purpose of GEO 100 is to impose more restrictive conditions for both investors and public authorities in the process of amending the zoning regime.**

Due to the absence of specific and/or coherent regulations, several questionable practices have been developed:

- Uncontrollable extensions of the *intra-muros* areas;
- Elaboration and approval of zonal urban plans (in Romanian, "*plan urbanistic zonal*" or "*PUZ*") regulating only the plot of land owned by the private investor;
- Ambiguity regarding the powers of local authorities and their coordination;
- Existence of a burdensome bureaucratic system that often leads to delays in obtaining the building permits.

## Main changes

### Restrictions concerning the elaboration of PUZ

**The prior legal regime allowed the elaboration of PUZ for singular plots of land.**

As a consequence, the applicable urban parameters (e.g.: maximum height allowed, land use coefficient - CUT, land occupation percentage - POT) could conveniently be modified by any private investor.

GEO 100 aims to prohibit such practices, allowing the elaboration of PUZ for an individual plot of land only if such plot is bordered by three public roads or by other natural elements.

### Limitations regarding the constructions in the *extra-muros* areas

**GEO 100 strictly regulates the special types of constructions that may be built in *extra-muros* areas, such as:**

- Railways;
- Road infrastructure;
- Agricultural constructions;

- Communication networks;
- Energy producers etc.

Constructions such as residential or vacation buildings, garages or other permanent constructions cannot be built in the *extra-muros* areas.

In order to prevent the use of questionable practices of increasing the *intra-muros* areas, GEO 100 establishes a minimum surface of 5,000 sqm of land that can be brought in the *intra-muros* area through PUZ and only if such surface is bordered by the *intra-muros* of the respective administrative unit.

Elaboration of a PUZ for the creation of secluded *intra muros* areas within the *extra muros* territory is allowed only by way of exception, namely when there is already an access infrastructure and the necessary utilities for the development of the respective investment project or these facilities will be performed along with such project.

### New provisions regarding the necessity of urbanism certificates

**In order to prevent the use of same urbanism certificate for multiple purposes (i.e., the same**

urbanism certificate required for obtaining the PUZ to be used for obtaining the building permit), GEO 100 requires expressly a new urbanism certificate to be obtained for the building permit, even if an urbanism certificate was issued previously for obtaining the PUZ. Nonetheless, the issuance of a new urbanism certificate is not required for the issuance of a building permit in case a detailed urban plan (in Romanian, "*plan urbanistic de detaliu*" "*PUD*") was previously issued.

### Clarifications concerning the modification of the land use coefficient - CUT

**GEO 100 contains an exhaustive list of cases in which the land use coefficient may be increased by a percentage higher than 20:**

- Industrial parks;
- Technological parks;
- Supermarkets;
- Hypermarkets;
- Commercial parks;
- Service areas.

### Clarifications concerning to the validity of urbanism documentation

**The previous provisions of Law no. 350/2001 were rather ambiguous with regard to the validity period of the urbanism documentation.**

GEO 100 brings further clarifications:

- Should the relevant public authority not establish a specific timeframe for the validity of the urbanism documentation, it will be considered valid until the approval of new urbanism

documentation amending or replacing it.

- The validity of the urbanism documentation shall extend for the period of the construction works should they started during the validity period of such urbanism documentation, the starting date of the construction works being the date when the urbanism certificate for obtaining the building permit was issued.
- Building permits are valid for a maximum period of 24 months, during which the investment project must start.

### Penalties

An increased sanctioning regime is introduced, as follows:

- As regards the fines provided by Law 350/2001, the minimum fine is increased ten times and the maximum fine is increased five times, now ranging from RON 10,000 to RON 50,000.
- As regards the statute of limitation period provided by Law 50/1991, such period is increased from three years to five years.
- The State Inspectorate for Constructions (in Romanian, "*Inspectoratul de Stat in Constructii*") has now the obligation to stop the construction or demolition works if irregularities are found.
- The suspension of urbanism certificates or building permits may be requested before the courts of law at the same time with the request for annulment of the urbanism documentation.

### Public transparency and bureaucracy simplification

According to GEO 100, public authorities must inform the general public not only with respect to the restrictions imposed by the zoning or urbanism documentation, but they must also publish the entire approved documentation, including on their web sites, such documentation being also available in original at the authorities' headquarters.

Apart from the environment protection approval, any other approvals and permits established by the urbanism certificate could be obtained, on the basis of certain documentation, directly from a *one-stop shop* organised by the local public authorities.

Moreover, within three years as of the enactment of GEO 100, local public authorities must ensure the adequate framework so that the relevant documentation for the issuance of the urbanism certificates and building permits could be requested online.

### Conclusion

GEO 100 was drafted in order to strengthen the limits for issuing certain urbanism and zoning documents (mainly as regards the PUZ), to bring more clarity as regards certain timeframes, including changes as regards the transparency and the simplification of the process of the issuance of such documents.

The Government is expected to issue methodological norms for the application of Laws no. 350/2001 and 50/1991 within 60 days after the entry into force of GEO 100.

## Key contacts



**Nadia Badea**

Partner

T: + 40 21 6666 102

E: nadia.badea

@cliffordchance.com



**Monica Andrei**

Senior Associate

T: + 40 21 6666 254

E: monica.andrei

@cliffordchance.com



**Marius Berariu**

Senior Associate

T: +40 21 6666 118

E: marius.berariu

@cliffordchance.com



**Lavinia Nucu**

Senior Associate

T: +40 21 6666 108

E: lavinia.nucu

@cliffordchance.com

This publication does not necessarily deal with every important topic or cover every aspect of the topics with which it deals. It is not designed to provide legal or other advice.

[www.cliffordchance.com](http://www.cliffordchance.com)

Clifford Chance Badea SPRL, Excelsior Center, 28-30 Academiei Street, 12th Floor, Sector 1, Bucharest, 010016, Romania  
© Clifford Chance 2017

Abu Dhabi ■ Amsterdam ■ Bangkok ■ Barcelona ■ Beijing ■ Brussels ■ Bucharest ■ Casablanca ■ Doha ■ Dubai ■ Düsseldorf ■ Frankfurt ■ Hong Kong ■ Istanbul ■ Jakarta\* ■ London ■ Luxembourg ■ Madrid ■ Milan ■ Moscow ■ Munich ■ New York ■ Paris ■ Perth ■ Prague ■ Rome ■ São Paulo ■ Seoul ■ Shanghai ■ Singapore ■ Sydney ■ Tokyo ■ Warsaw ■ Washington, D.C.

\*Linda Widyati & Partners in association with Clifford Chance.

Clifford Chance has a co-operation agreement with Abuhimed Alsheikh Alhagbani Law Firm in Riyadh.

Clifford Chance has a best friends relationship with Redcliffe Partners in Ukraine.