



PUBLIC LAW

New rules for enforced works

Decree-Law no. 66/2019 of 21 May was published recently to amend the rules on summonses to execute maintenance, rehabilitation or demolition works, and on their enforced execution. This legislation is part of the wider strategy of the New Generation of Housing Policies (NGPH), approved by Resolution of the Council of Ministers in May 2018. In accordance with the introductory text, the aim of the NGPH is to ensure "adequate and appropriate housing, which implies, among other factors, the guarantee of minimum conditions of habitability, in particular of safety, health and comfort". This aim is to be achieved by combating "progressive degradation of the housing stock". This degradation is noted as being "in part a consequence of the administrative constraints imposed on the value of the rents, the lack of financial capacity of owners to complete necessary conservation works, and the lack of significant support for the rehabilitation of the housing stock."

Among others, this law introduces changes to the Legal Framework of Urban Development and Construction, approved by Decree-Law no. 555/99 of 16 December, and to the Legal Framework of Urban Rehabilitation, approved by Decree-Law no. 307/2009 of 23 October. One of the most problematic aspects of these legislative changes is the introduction of the possibility for the municipal council to register at the land registry the summons against the owner of the property in question to perform maintenance, rehabilitation or demolition works. This registration of the summons is carried out of the municipal council's own motion, so it need only issue a certificate for this purpose. The registration is cancelled by (i) a certificate, once again issued by the municipal council, that confirms the completion of the works (in the case of a summons to perform works of maintenance or rehabilitation) or the demolition of buildings (in the case of a summons for demolition), or (ii) the later filing of a use permit issued in the meantime.

Thus, the law seems to introduce a registration burden on the property subject to the summons for works or demolition. As a result, the publicity of the summons associated with the property, in the person of its owner, is ensured. However, there is some doubt as to the effectiveness or practical consequence of this publicity, particularly when it comes to potential third-party purchasers of a property subject to a summons that has still not been complied with. The question is, when the summons for works (or demolition) served on the owner has been registered, and the property in question has been transferred to a third party (aware of the existence of the summons because of its registration), will that purchaser be bound by the obligation to carry out the works ordered by the municipal council? This doubt is even greater when the original owner (served with the summons) has not properly exercised their means of defence against the summons before transferring the property. This is because such a situation could raise issues of constitutionality.

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