

REAL ESTATE & PLANNING

URBAN SIMPLEX

VdA EXPERTISE



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URBAN SIMPLEX

Decree-Law no. 10/2024 – the Urban Simplex – was published on 8 January 2024, reforming and simplifying licensing procedures concerning planning, zoning and industry. The statute aims to further simplify existing licensing procedures by eliminating dispensable or redundant licences, authorisations, acts and procedures in planning and zoning.

Given the impact of these measures on the real estate sector, particularly in terms of planning and zoning, we've highlighted below the main changes introduced by this statute, which we have broken down into two chapters:

- I. Simplification measures in planning;
and
- II. Simplification measures in zoning.

From a civil law standpoint, we highlight a relevant change to horizontal property (condominium): the statute amends the Civil Code to allow the title deed of horizontal property (condominium) to be changed without the authorization of the other owners in cases where the use of a certain unit is to be changed to residential. As a result, the relevant owner changing the use of the unit with the Town Hall are vested with the power of unilaterally introducing the relevant changes to the title deed of horizontal property (condominium).

As a whole, the statute comes into force on **4 March 2024**, without prejudice to any amendments that came into force on 1 January 2024 and others that will only come into force at a later point in time.

SIMPLIFICATION MEASURES IN PLANNING



SIMPLIFICATION MEASURES IN PLANNING

A. Less cases requiring licensing

1. New cases of prior communication

This statute provides for new cases of prior communication, with the consequent exemption from obtaining a planning licence. For example, the following are subject to prior communication:

- i. Allotment operations when there is a detailed zoning plan [*plano de pormenor* (PP)] or execution unit (UE) meeting certain requirements;
- ii. Urbanization works in an area covered by a PP or an UE meeting certain requirements;
- iii. Construction, alteration or extension works in an area covered by an UE meeting certain requirements.

Note that it is no longer possible to choose the licencing procedure when the law provides that the urban development operation at issue must be subject to the prior communication regime.

2. New instances of exemption from prior control

The statute provides for new instances of exemption from prior control (without a prior administrative control procedure). This is notably the case:

- i. When there is an increase in the number of floors without an increase in the height or

façade (interior floors or mezzanines);

- ii. When interior works affecting the stability structure are involved (provided that the qualified technician declares, by means of a statement of liability, that the works improve or do not adversely affect the stability of the structure in comparison with the former situation);
- iii. When prior information has been obtained that includes a set of requirements provided for by law;
- iv. For the replacement of stairwells with others that, by providing an identical exterior finish, promote energy efficiency.

3. Supervision

Supervisory powers to ensure compliance with the relevant regulations are kept in place and Municipalities will have conditions to hire supervisory services without having to wait for the relevant approval by a decree-law.

Supervision must be guided by strict legality criteria, and shall not scrutinize aspects pertaining to the convenience, merit or technical options of works carried out or in progress.

SIMPLIFICATION MEASURES IN PLANNING

B. Simplification of Administrative Procedures

1. Tacit approval

This statute approves a **tacit approval framework for construction licences**. Differently put, if the decisions have not been adopted within the relevant deadlines, the private person may proceed with the intended project (it will be possible to electronically obtain a document proving the vested right) and the payment of charges is not a condition for the licence to be effective.

This tacit approval rule exclusively applies to procedures initiated subsequent to the 4 March 2024.

2. Construction licencing permit

The construction licencing permit is eliminated and replaced by a receipt for payment of the charges due.

3. Rules for counting deadlines

New rules have been put in place to make the counting of deadlines more transparent:

- i. **Deadlines begin to run when the private person submits a request** (and not at a later point in time);
- ii. **Deadlines are only suspended if the private person takes more than 10 days to respond** to requests for information or documentation; and
- iii. It is only possible to ask for additional information or documentation **once** during the procedure.

Taking into consideration that the deadlines now

start when the application is submitted, the **legally provided for deadlines have been extended** (to 120, 150 or 200 days, depending on the planning operation / gross construction area of the property).

The statute further provides that if any rejection or invitation to correct or complete the application or communication is not issued, **the application or communication is deemed to have been duly submitted, and no corrections or additional information may be requested, nor may the claim be dismissed on the grounds that the application was incomplete.**

4. Opinion on cultural heritage

This statute removes the need for an opinion from the relevant cultural heritage authority in **several situations**. Thus, in the case of properties located in protection zones for properties in the process of being classified or properties classified as being of national or public interest, the relevant authority's opinion is waived for (i) works inside the property, provided they have no impact on the subsoil, or alterations to tiles, plasterwork, stonework, woodwork, carvings or metalwork; (ii) external conservation works; and (iii) the installation of advertising billboards, signs, canopies, terraces and street furniture.

The statute further stipulates that whenever the opinion of the relevant cultural heritage authority has been requested with respect to works on a classified building, councils are prevented from requesting other opinions on heritage matters, including from their internal services.

SIMPLIFICATION MEASURES IN PLANNING

5. Validity of favourable prior information and extension of deadlines for works

The period of validity of favourable prior information (PIP) is extended from one to two years, with no need to request extensions.

It is also possible to extend the deadline for works; existing limits (forbidding more than one extension and for a period not exceeding half of the initial deadline) are no longer applicable.

C. Standardization of Planning Procedures and Restriction of Municipalities' Prior Control Powers

In order to standardise planning procedures and prevent different practices and procedures across different municipalities, measures are adopted to prevent unwarranted and asymmetrical treatment.

Note that these measures are without prejudice to the possibility of each municipality having its own rules on zoning use and building conditions. These rules aim to prevent different rules across municipalities in procedural and formal matters.

1. Municipal regulations

The statute provides that municipal regulations can only cover certain types of matters, and cannot, for example, cover matters pertaining to administrative procedures or supporting documents.

2. Additional supporting documents

Municipalities are prevented from demanding additional supporting documents to those provided for by law and ministerial order.

For clarification purposes, the statute provides for a non-exhaustive list of documents that cannot be required (e.g. copies of documents held by the Town Hall; tax registry certificate; resubmitting an expired land registry certificate; scanned book of construction works).

3. Electronic Platform for Planning Procedures

The statute provides for an Electronic Platform for Planning Procedures, which will allow, among other functions (i) submitting requests online; (ii) checking the status of processes and deadlines; (iii) receiving electronic notifications; (iv) obtaining certificates of exemption from planning procedures; (v) standardising procedures and documents required by municipalities; (vi) in the future, submitting requests in Building Information Modelling (BIM) format, with automated verification of compliance with applicable plans.

This Platform will become compulsory for municipalities as from 5 January 2026 and municipalities will not be able to take procedural steps or request documents that are not provided for in it.

SIMPLIFICATION MEASURES IN PLANNING

4. Municipalities' powers of assessment

The statute clarifies the **powers of assessment of municipalities in the exercise of prior planning control**, especially with respect to the issuance of licences.

In general, the municipality is tasked with checking (i) the properties' insertion in the territory (monitoring compliance with plans, preventive measures, priority urban development and priority construction areas, administrative easements, public utility restrictions and the intended use); (ii) the exterior aesthetics and the insertion of the project in the landscape; and (iii) the sufficiency of infrastructures.

For clarification purposes, this statute provides for a non-exhaustive list of aspects outside the municipality's scope of **assessment**, (e.g. projects pertaining to works inside buildings or units; technical projects, notably regarding water, electricity, gas, etc.).

D. Simplification of the administrative procedure for the use of buildings and apartments

1. Elimination of the use licence

The use licence is **eliminated whenever the works have been subject to prior control**, and is replaced by the **mere submission of documents**, and cannot be refused or dismissed.

The documents to be submitted are:

- i. The statement of liability signed by the director of works or by the director

supervising the works, in which they must declare that the work has been completed and performed in accordance with the project;

- ii. The "as-built" plans, in the event of changes to the project, which must be duly indicated. The delivery of the "as-built" plans is intended to communicate the completion of the works and to be filed with the town hall.

The building or unit at issue can be used for the intended purpose immediately following the submission of these documents.

2. Prior communication when the work has not been subject to prior control

When the works are not subject to prior control, the use of the building or unit must be preceded by the submission of a **prior communication accompanied by a statement of liability** that declares (i) the conformity of the intended use with applicable laws and regulations, and (ii) the suitability of the building or unit for the intended purpose (mixed uses are permitted).

If the municipality fails to respond within 20 days (during that period the municipality may order an inspection), the building or unit may be used for the intended purpose.

SIMPLIFICATION MEASURES IN PLANNING

A similar procedure should be adopted if the private person wishes to **change the use** of the building or unit, or any information contained in the use permit.

3. Formalities for buying and selling property

The statute eliminates the need to, upon signature of the property purchase and sale agreement, **present, prove the existence of or demonstrate the inexistence of a duty to present:**

- i. The Housing Technical Sheet; and
- ii. Use licence.

In these situations, the notary should warn that the property may not have the necessary construction or use licenses.

E. Elimination of prior control requirements

1. Elimination of RGEU requirements

The statute repeals or replaces certain requirements of the General Regulations on Urban Buildings (RGEU).

For example:

- i. Bidets are no longer required in bathrooms;
- ii. Showers may replace baths in bathrooms;

- iii. Kitchen solutions such as *kitchenettes* or walk-through kitchens are now possible.

In addition, this statute repeals several rules of the RGEU that were more thoroughly set out in other legal statutes or that are not compatible with the simplification measures now being adopted.

On a different level, **this statute repeals the RGEU with effects as from 1 June 2026.** Until that date, the relevant professional associations shall set out the technical rules deemed appropriate, as part of the development of the so-called Construction Code.

2. Public space occupation

The statute further eliminates the need to **obtain a specific licence to occupy public space (OVP)** which is often necessary namely for construction works requiring rubble bins or scaffolding.

The application for a construction licence can now include the occupation of public space and the construction licence will, in these cases, cover the possibility of occupying that space to the extent necessary to carry out the works, thus waiving additional procedures and acts.

SIMPLIFICATION MEASURES IN PLANNING

3. Elimination of other requirements

This statute eliminates disproportionate and excessive requirements for letterboxes, as well as the municipalities' obligation to verify compliance.

As a last note on planning, the statute clarifies that requesting the presence of security forces and services at construction sites is optional and cannot be demanded of the developer by public bodies.

F. Simplification of the processes for receiving urbanization works

Assignment of the rights and obligations of the guarantee given by the contractor

Municipalities are now under the obligation of accepting the assignment of the bank guarantee provided by the contractor to the developer for the urbanisation works, eliminating the cost of issuing new guarantees.

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SIMPLIFICATION MEASURES IN ZONING



SIMPLIFICATION MEASURES FOR ZONING

1. Reclassification process from rural to urban properties

The process of reclassifying rustic to urban properties for industrial, storage, logistics or housing purposes is simplified (in the latter case, provided that such reclassification is provided for in a local housing strategy, municipal housing charter or housing stock exchange).

Pursuant to this simplified procedure:

- i. Only one public consultation is held (thus avoiding several public consultations with similar or overlapping subjects);
- ii. A single procedural conference is to be held, so that all organisations can voice their opinion at the same time;
- iii. The statute determines that the procedure will not stop during the public consultation period, but will continue running; and
- iv. The municipal assembly is tasked with approving it.

This procedure does not apply in sensitive areas or in areas of the National Ecological Reservation (REN) or the National Agricultural Reservation (RAN).

The process of reclassifying rustic properties as urban is also simplified for housing purposes, when the property is exclusively public and the property is adjacent to urban properties.

2. Approval of urbanisation plans and detailed zoning plans

The statute creates conditions to speed up approval procedures for urbanisation plans and detailed zoning plans by:

- i. Eliminating the monitoring of their preparation by the regional coordination and development commissions (CCDRs); and
- ii. Eliminating the coordination stage.

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