

**Installation of Constructions without a Building Permit for which the Limitation of
Liability Regarding Illegal Execution of Construction Works has Expired, Act of
Celectionation by the Authorities**

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Page | 97

ABSTRACT

In this article, I wanted to highlight the problem of buildings that were built on the basis of the building permit, but were not completed and for which, according to the latest legislative changes, the property right can be tabulated, but not noted or at most registered provisionally, without holding the acceptance report upon completion of construction works, as well as constructions built without a building permit or in violation of its provisions and for which the three-year statute of limitations, provided for by Article 31 of Law no. 50/1991, no longer allows the application of the contravention sanction according to the provisions of art. 26 of the same law.

By reviewing some opinions from the specialized literature regarding the legal texts, on the interpretation of the provisions of art. 37, para. (6) of Law no. 50/1991 regarding the authorization of the execution of construction works, but also the problems that local public authorities encounter, in applying the provisions of the law, I proposed to argue the reasons why these provisions are lacunae and cannot be applied unitarily, becoming a issue of national interest, and due to the fact that it is not monitored and treated with due attention, it produces unwanted legal effects in the long term, thus introducing into the library of jurisprudence cases that bear the imprint of illegality and that have a negative impact on the development of society in general.

KEYWORDS: building permit, cadastre, land register, property right.

1. Introduction

According to the constitutional regulations, in Romania the right to property is guaranteed and protected by law, being one of the fundamental human rights. The right to property is classified as an economic right according to the Universal Declaration of Human Rights.¹

¹The Universal Declaration of Human Rights was adopted in Paris on December 10, 1948, by resolution 217 A at the third session of the United Nations General Assembly. Through a historic act, the Assembly asked all member countries to publish the text of the Declaration, which, subsequently, should be "distributed, exhibited, read and commented on in schools and other educational institutions, without distinctions regarding the political condition of the countries or territories ". The document has a preamble and 30 articles that define the main rights of the human being., Ona Nistor (13 January 2008 "60 years since the drafting of the Universal Declaration of Human Rights", accessed on 24.09.2022, time: 18 :04, at: <http://ziarullumina.ro/60-de-ani-de-la-adoptarea-declaratiei-universale-a-drepturilor-omului-62284.html>).



Pursuant to art. 37 para. (6) from Law no. 50/1991 regarding the authorization of the execution of construction works, republished, with subsequent amendments and additions, "The property right over the constructions is entered in the land register on the basis of a certificate/certificates of attestation, which confirms that the construction of the constructions was carried out according to the construction authorization and that there is a record of receipt at the end of the works, or as the case may be, of a certificate/certificate attesting the construction of the construction. In the case of constructions for which the execution of the works was carried out without a building permit, and the fulfillment of the prescription term provided for in art. 31 no longer allows the application of sanctions, the attestation certificate/certificate regarding the construction of the construction will be issued on the basis of a technical expertise regarding the compliance with the applicable fundamental requirements of approved urban planning, which confirms the current situation of the constructions and compliance with the relevant provisions and a documentation cadastral. In the situation where in the technical expertise it is found that all the fundamental requirements and those related to the inclusion in the urban planning regulations have not been fulfilled, the certificate/certificate regarding the construction of the building will not be issued."

In Romanian legislation, the general rule regarding the entry into legality of constructions is the obligation to authorize construction works, in accordance with the provisions of art. 1 of Law no. 50/1991² regarding the authorization of the execution of construction works, and the exception is the realization of conservation works or works for special constructions, regulated by the provisions of art. 1 paragraph 3 of the same law.

2. The legal provisions regarding the entry into legality of constructions built with or without a building permit and for which the fulfillment of the limitation period no longer allows the application of sanctions

The authorization of construction works is based on older provisions, which can be found in the provisions of Decree no. 144/29 March 1958³ regarding the regulation of the issuance of construction, repair and demolition permits.⁴

The methods of entry into legality and tabulation of constructions built without a building permit before 2020, specifying that they only concern constructions made after August 1, 2001,

²Law no. 50/1991 of July 29, 1991 (**republished**) regarding the authorization of the execution of construction works, published in M. O. no. 933 of 13 October 2004, accessed on 14.10.2022, time: 09:58, at <https://legislatie.just.ro/Public/DetaliiDocument/55794>.

³DECREE No. 144 of March 29, 1958 regarding the regulation of the issuance of construction, repair and demolition permits, as well as those related to the alienation and division of land with or without construction, published in the Official Gazette no. 15 of March 29, 1958, accessed on September 24, 2022, at 5:37 p.m., at <https://legislatie.just.ro/Public/DetaliiDocumentAfis/118>.

⁴Maxim/Associations, Progressive Legal Thinking, A new way of entering the legality of constructions, article accessed on 24.09.2022, time: 17:34. <https://www.maxim-asociatii.ro/ro/o- the new-method-of-entering-legality--199.html>.

the date on which Law no. 453/2001 for the amendment and completion of Law no. 50/199, were the following:

a) On the basis of an authorization to enter into legality a posteriori according to art. 59 para. 3 of the Norms for the application of Law no. 50/1991;

b) On the basis of a legal action with the object of ascertaining the access to the unauthorized construction;

c) By applying the contraventional sanction to the real estate developer/owner by the competent authority with the mention of entry into legality within a certain term and according to the conditions imposed by the contravention report.⁵

Currently, the authorization of construction works represents a special problem, both from the point of view of the legislation in the field, and "from the perspective of the possibility of the full exercise of the related property right by its owner (usus, fructus, abuses)".⁶

Until the entry into force of Law no. 7/2020, there were no legal provisions allowing the listing in the Land Register of buildings built without authorization, except by entering into legality on the basis of an authorization obtained after the building.

The legislation needed to be amended due to the large number of owners who filed actions in the courts with the object of artificial real estate accession in order to obtain proof of ownership and subsequently to be able to register in the Land Register the buildings built without a building permit. In this regard, Decision no. 13/2019⁷ of the High Court of Cassation and Justice decided that "The lack of a building permit or non-compliance with its provisions, as well as the lack of a reception report at the end of the works constitute impediments to the judicial recognition, in the framework of the action for ascertainment, of the right of ownership over a construction made by the owner of the land, with his own materials."⁸

The High Court of Cassation and Justice established that the ownership right over constructions built without a construction permit can be registered, depending on the time of construction of these constructions, according to the following 3 hypotheses:

a) For constructions completed before August 1, 2001, the right of ownership can be entered in the Land Register in the absence of a building permit, on the basis of the Fiscal

⁵Ibid.

⁶Ibid.

⁷Decision no. 13/2019 regarding the review of the appeal in the interest of the law declared by the Board of Directors of the Bucharest Court of Appeal regarding the "interpretation of the provisions of art. 37 paragraph (5) of Law no. 50/1991 on the authorization of the execution of construction works, republished, with the amendments and subsequent additions, in the sense of whether or not they constitute a legal impediment to the acquisition of ownership of the construction through the effect of artificial real estate accession", Text published in the Official Gazette, Part I no. 440 of 03 June 2019, in force from 03 June 2019, accessed on 24.09.2022, time: 19:35, at <https://lege5.ro/gratuit/gmztimzsgi2a/decizia-nr-13-2019-privind-examination-of-the-appeal-in-the-interest-of-the-law-declared-by-the-management-college-of-the-court-of-appeal-Bucharest-regarding-the-interpretation-of-the-provisions-of-art-37-paragraph-5-of-law-no.-50-1991->.

⁸Ibid.

Attestation Certificate and the cadastral documentation provided for in art. 37 of Law no. 7/1996 of the cadastre and real estate advertising.⁹

b) In the case of constructions built in the period between 01.08.2001 and 11.01.2017, the statute of limitations for the contravention is 3 years, calculated from the date of entry into force of Law no. 7/2020, for which the ownership right can be entered in the Land Register even in the absence of a building permit, in compliance with the provisions of art. 37 para. (6) of Law no. 50/1991.

c) Constructions built after August 1, 2017, for which the provisions of Law no. 50/1991 regarding the authorization of the execution of construction works, in which the application of the sanction of the fine and the abolition of the works executed without authorization is ordered, until the date of the expiry of the 3-year limitation period. For this situation, the existence of the benefit of the owner of the construction is foreseen, if in the interval of 3 years an infringement report is not concluded, to be able to request the issuance of a certificate/certificate attesting the construction of the construction according to the provisions of art. 37 para. (6) of Law no. 50/1991, on the basis of which it can be registered in the Land Registry.

This represents the context in which Law no. 7/2020 for the amendment and completion of Law no. 10/1995¹⁰ regarding quality in construction and for the amendment and completion of Law no. 50/1991 regarding the authorization of construction works, published in M.O. no. 8 of January 8, 2020, which made changes regarding the procedure regarding the registration of the ownership of buildings built without a building permit in the Land Registry, provisions entered into force on January 11, 2020.¹¹

Related to practice and not to doctrine, Law no. 7/2020 should have been accompanied by methodological rules of application, as this did not happen. The methodological norms for the application of Law no. 50/1991 (hereinafter referred to as the "Rules"), were amended by Order no. 3454/2019¹² for the modification and completion of the Methodological Norms for the application of law no. 50/1991 regarding the authorization of construction works, approved by Order of the Minister of Regional Development and Housing no. 839/2009¹³ regarding the authorization of the execution of construction works, but the amendments made to Law no.

⁹Negoitã, D.-M., Intabulation without construction authorization, accessed on 24.09.2022, time: 20:48, at <https://www.juridice.ro/674829/intabularea-fara-autorizatie-de-constructie.html>.

¹⁰LAW no. 10 of January 18, 1995 (*republished*) regarding quality in construction, Published in M. Of. no. 765 from September 30, 2016, accessed at <https://legislatie.just.ro/Public/DetaliiDocument/5729>, on September 30, 2022, at 1:41 p.m.

¹¹Negoitã, D.-M., Intabulation without construction authorization, accessed on 24.09.2022, time: 20:48, at <https://www.juridice.ro/674829/intabularea-fara-autorizatie-de-constructie.html>.

¹²ORDER no. 3,454 of December 31, 2019 for the amendment and completion of the Methodological Norms for the application of Law no. 50/1991 regarding the authorization of construction works, approved by Order of the Minister of Regional Development and Housing no. 839/2009, Published in M. Of. no. 4 of January 6, 2020, accessed at <https://legislatie.just.ro/Public/DetaliiDocumentAfis/221878>, on September 30, 2022, time: 1:13 p.m.

¹³Order no. 839 of November 12, 2009 for the approval of the Methodological Norms for the application of Law no. 50/1991 regarding the authorization of construction works, issuer, published in M. Of. no. 797 of November 23, 2009, accessed at <https://legislatie.just.ro/Public/DetaliiDocument/113600>, on September 30, 2022, at 1:19 p.m.

50/1991 through Law no. 7/2020, in order to make changes to the Methodological Norms for the application of the law.

The provisions of Art. 1, point 48 of Order no. 3454 of 31.12.2019, were amended, changing the name of article 59 of Order no. 839/2009, from "entry into legality" in "Construction works executed without a building permit or with non-compliance with its provisions" and was repealed para. (3) of art. 59. Thus, we find that the only regulation regarding the authorization of construction works for entry into legality has been repealed (art. 59¹⁴ para. (3) of the Norms). Therefore, at the present time, local public administration authorities are faced with a great challenge. It must resolve the factual aspects, which have not been regulated and which lead to the settlement in a discriminatory way, put into question, of the requests regarding the constructions built without authorization, but for which the limitation period has not been fulfilled and they cannot apply the procedure of entry into legality, because it has been repealed.

In accordance with the regulations described above, it can be issued pursuant to Law no. 50/1991, the affidavit/certificate attesting the construction of the construction, administrative documents that can justify the registration in the Land Register, according to the provisions of art. 857 of the Civil Procedure Code¹⁵, ensuring the acquisition of the property right, in accordance with the provisions of art. 557. (4)⁸ Civil Code¹⁶, thus coming as an addition to the assumptions regarding registration in the Land Register, although in the provisions of art. 586. (2)¹⁰ Civil Code¹⁷ states that good faith cannot be invoked, by the one who builds without holding a building permit or with non-compliance with the permits required by law. The provisions of art. 563 para. (3) of the Civil Code¹⁸ states that "The property right acquired in good faith, under the terms of the law,

¹⁴Art. 59 para. (3) In the situation where the construction carried out without a building permit meets the urban planning conditions for integration into the pre-existing built framework, the competent local public administration authority can proceed to issue a building permit in order to enter into legality, in conjunction with taking the legal measures that impose, only on the basis of the conclusions of a technical expertise report for the essential quality requirement – mechanical resistance and stability, regarding the state of the resistance structure in the physical stage in which the construction is located, as well as for the essential quality requirement – fire safety, only after issuing the Environmental Agreement, the conditions of the law", accessed on 14.10.2022, time: 10:01, at <https://isc.gov.ro/files/2016/Legislatie/ORDIN%20nr%20839%20din%202009.pdf>.

¹⁵Art 857 Transfer of property ownership *The Civil Procedure Code, an integral part of Law 134/2010*, accessed at <https://lege5.ro/gratuit/gyztaojty/art-857-transmiterea-proprietatii-imobilului-codul-de-procedura-civila?dp=g43temjxgq4dm>, at on 02.10.2022, at 00:16.

¹⁶Art 557 *Acquisition of property rights The Civil Code*, an integral part of Law 287/2009, accessed at <https://lege5.ro/gratuit/gi2tsmbqhe/art-557-dobandirea-dreptului-de-proprietate-codulcivil?dp=gu3dmnbygu3dg>, on 02.10.2022, at time: 00:19.

¹⁷Art 586 Good faith of the author of the work *The Civil Code*, an integral part of Law 287/2009, accessed at <https://lege5.ro/gratuit/gi2tsmbqhe/art-586-buna-credinta-a-autouruli-lucrarii-codul-civil?dp=gu3dmnbygu4yds>, on 02.10.2022, at 00:21.

¹⁸Decision no. 13/2019 regarding the examination of the appeal in the interest of the law declared by the Board of Directors of the Bucharest Court of Appeal regarding the "interpretation of the provisions of art. 37 para. (5) from law no. 50/1991 regarding the authorization of the execution of construction works, republished, with the subsequent amendments and additions, in the sense of whether or not they constitute a legal impediment to the acquisition of ownership of the construction through the effect of artificial real estate accession", ÎNCCJ, in force from June 3 2018, the consolidation of September 30, 2022 is based on the publication in M. Of., Part I no. 440 of June 3, 2019, accessed

is fully recognized". "Good faith is the subjective attitude of the interested person who carries out a certain approach or action, with legal effects, in the sense that he must, reasonably, diligently, ensure that what he does corresponds to the legality."¹⁹

However, in order to have the right of ownership over a building, to be recognized and enforceable²⁰ before third parties²¹, it must be registered, recorded and tabulated (registered in the land register).²²

3. Tabulation of constructions in the Land Registry

3.1. Land Registry

The land register is a document in which the material situation and the legal situation of real estate are publicly highlighted, by registering all the legal acts and facts related to these assets. Being a record kept on real estate, the land register constitutes a real (and not personal) advertising system. The term "Land Book" or "Land Book", a term used in Transylvania, originates in French (foncier) and Latin (fundus) respectively, and refers to "private ownership of land" or "real estate".²³

As a real estate advertising system, the land register fulfills a complex role in society through: ²⁴, a) the social function, since the owner of a registered right knows that he cannot be hindered in any way in the unhindered exercise of this right, and advertising, through its content guaranteed by law, it becomes a proving force that can prevent conflicts and facilitate their resolution; b) the economic function, generated by the safety and social tranquility that it ensures, a fact that allows a more efficient exploitation of the buildings by the owner, and loans, in turn, guaranteed by mortgages, are obtained more easily and lead to lower interest rates and implicitly to the increase in real estate value and c) the function of inventory of immovable goods, taken from the cadastre and own record of land rights and judicial reports, of land and buildings."

at <https://lege5.ro/App/Document/gmztimzsgi2a/decizia-nr-13-2019-privind-examinarea-recursului-in-interesul-legii-declarat-de-colegiul-de-management-of-the-court-of-appeal-in-Bucharest-regarding-the-interpretation-of-the-provisions-of-art-37-paragraph-5-of-law-no-50-1991->, on 04.10.2022, time: 14:17.

¹⁹Robert Bischin, Building authorization - entry into legality -, Beck Handbook, Publishing House C.H. Beck, Bucharest, 2018, page 103.

²⁰According to art. 25 of Law no. 7/1996, the effect of the transfer of the ownership right against third parties is produced from the date of registration of the registration request, <https://legeaz.net/spete-civil/drept-de-proprietate-inscriere-in-421-2007>, accessed on 21.11.2020, at 19:20.

²¹Person who does not appear as a party in documents, in litigation or in agreements either directly or through representation and against whom the legal act or the judgment pronounced in the case does not produce effects, accessed on 24.09.2022, time: 21:57 at: <https://dexonline.ro/definitie/ter%C8%9Be>.

²²According to DEX, the verb to intabula means "To definitively register a property right or a real real estate right in the land register", <https://dexonline.ro/definitie/intabulat>, accessed on 21.11.2020, at 19:25.

²³Boş, N. , Iacobescu, O., *Cadastral and Land Book*, Edition 2, Publishing House C.H. Beck, Bucharest, 2019, p. 311.

²⁴Ibid., pp. 311-312.

3.2. Types of registration in the Land Register and the effects produced

Enrollment in the Land Register is an entry made by a competent civil servant, whose purpose is to describe real estate, show real and personal rights, as well as facts and other legal reports related to them.²⁵

According to their content, the categories of entries in the land register can be classified according to: "a) their object (tabulation, provisional entry and notation), which is of particular legal importance; b) their nature (registration itself), by which a real real estate or personal right is acquired or modified and the rectification, respectively erasure, correction or mention of any operation, when the contents of the land register do not correspond to the real legal situation; c) their duration (definitive - perfect registrations), with effects from the date of registration of the request (tabulation, notation, rectification), or provisional (imperfect, conditional), which become opposable to third parties under the condition and to the extent of their justification; d) the legal effect, some ensuring opposition to third parties (tabulation, provisional registration and notation), or their information (notation of personal rights, status and capacity of persons, etc.); e) changes to the land parcel, aimed at the registration of a parcel that is added to a property block and the re-registration, when several parcels are combined into a parcel of land or when, through the dismantling of a building (plot, parcel of land), the resulting lots are transferred in the same book under a new topographic shoulder (independent land body or attached to an existing one); and f) the basic documents and the advertising regime in force, from this point of view the registrations can be definitive, in the areas with a land registry system and in the administrative territories that have new, definitive cadastral documentation, or non-definitive in the regions with registers of transcriptions, as well as in some cases of the land registry regime."²⁶

Entries in the Land Register are of three types²⁷: tabulation, provisional entry and notation. The tabulation has as its object the registration of real real estate rights, it produces immediate and definitive effects from the date of registration of the application for registration. Provisional registration (also known as imperfect tabulation), is the same as tabulation, but there is a difference regarding the moment of registration of the registration request, in the sense that there is uncertainty regarding the real real estate rights subject to registration, but later it is justified and acquires character . The notation concerns the registration of other acts, deeds, rights and legal relations related to the buildings registered in the land register. Provisional registration and grading, according to the provisions of art. 881 para. 3 of the Civil Code are made only in the situations specifically provided for by law.

²⁵Boş, N., Iacobescu, O., *Cadastre and Land Book*, Edition 2, Publishing House C.H. Beck, Bucharest 2019, p. 326.

²⁶*Ibid.*, p. 326.

²⁷See the provisions of art. 881 paragraph 1 of the *Civil Code*, an integral part of Law no. 287/2009, In force since October 1, 2011, accessed at <https://lege5.ro/App/Document/gi2tsmbqhe/art-881-felurile-inscrierilor-codul-civil>, on 28.09.2022, time: 12 :24.

3.3. The legal provisions regarding the registration of constructions in the Land Register

In July 2010, the first changes were made to the Land Registry legislation, when through the provisions of art. 55 para. 1 (2), after changes were made by Emergency Ordinance no. 64/2010 regarding the amendment and completion of Law no. 7/1996, that the property right over the constructions can be registered in the land register and on stages of execution, based on the construction authorization, of a report on the physical stage of the construction, approved by the representative of the public administration authority issuing the construction authorization building, and cadastral documentation.²⁸ Law no. 133/2012 for the approval of Emergency Ordinance no. 64/2012 regarding the amendment and completion of Law no. 7/1996, art. 55 para. 1 (2) has been amended, in the sense that the registration in the land book by stages of execution can be done on the basis of a certificate of attestation of the stage of construction, issued by the mayor of the administrative-territorial unit, of a record of findings regarding the stage construction and cadastral documentation. Thus, art. 55 paragraph 1 (2) became after the republication of February 2013, art. 36 paragraph (3).

The provisions of art. 37, para. 5 of Law no. 50/1991 according to which the constructions cannot be registered without a report of reception upon completion of the works and the provisions of art. 36 para. 3 of Law no. 7/1996, according to which the entry in the land register was considered a notation or a provisional entry in the land register, they were in force until November 2016. After this date, according to the special law, the entry in the land register at stages of execution could also be tabulated.

In the same vein, starting from August 2014, the Regulation on approval, reception and registration in the cadastre and land register came into force, which was approved by Order no. 700/2014²⁹. According to the provisions of art. 98 para. 3 the property right over the constructions can be registered in the Land Register and by stages of execution, based on the certificate of attestation of the construction completion stage, the record of findings regarding the construction completion stage and the cadastral documentation. Starting from January 2016, these provisions were modified³⁰, so that the ownership right over the constructions can be registered in the Land Register and at stages of execution.

On January 11, 2020, Law no. 7/2020 for the amendment and completion of Law no. 10/1995 regarding quality in construction and for the amendment of law no. 50/1991 regarding the

²⁸See the provisions of art. 55 of Law no. 7/1996, the cadastre and real estate advertising law, In force since June 24, 1996, the consolidated form dated October 14, 2022, is based on the republication (r3) of M. O., Part I no. 720 of 24 September 2015, accessed at <https://lege5.ro/App/Document/g44dcmjsge/publicitatea-imobiliara-lege-7-1996>, on 14.10.2022, time: 11:07.

²⁹ORDER no. 700 of July 9, 2014 (*updated*) regarding the approval of the Regulation on endorsement, reception and registration in the cadastre and land register records, (updated until November 6, 2014*), accessed at <https://legislatie.just.ro/Public/DetaliuDocument/162860>, on 30.09.2022, time: 15:22.

³⁰See the Annex to the Order of the general director of the National Cadastre and Real Estate Advertising Agency no. 1340/2015 regarding the amendment and completion of the Regulation on approval, reception and registration in the cadastre and land register records, approved by the Order of the general director of the National Agency for Cadastre and Real Estate Advertising no. 700/2014, of 26.11.2015

authorization of the execution of construction works. Thus, art. was amended. 37 para. (6) from Law no. 50/1991, in the sense that the possibility of issuing the administrative act was created, namely the Certificate/Attestation of the construction of the construction, called "CAEC"³¹, which is the basis of the entry in the land register of the construction. The issuance of a CAEC is based on a technical expertise regarding compliance with the applicable fundamental requirements regarding quality in construction, including the inclusion in the approved urban planning regulations, which confirm the current situation of the construction and based on a cadastral documentation, for those constructions in respect of which the execution of the works was carried out without a building permit, and the fulfillment of the three-year limitation period, provided by art. 31 of Law no. 50/1991 no longer allows the application of the specific contraventional sanction provided for the act prohibited by art. 26 para. (1) lit. a) of the same law.

Therefore, the lack of the Certificate of attestation of the building of the construction conditions the registration in the Land Register, being a mandatory operation, "whether we are talking about the real estate field with a view to handing over newly built homes, or personal projects addressed to the residential segment."³² Its purpose is to attest to the fact that "the construction of the buildings was carried out in accordance with the building permit and that there is a report of reception upon completion of the works, as well as the other legal provisions in the matter and a cadastral documentation."³³ By entering into legality according to the provisions of Law no. 7/2020, "it was intended to be an act of leniency on the part of the legislator to solve the problem of non-compliant constructions, aiming at the security of the civil circuit".³⁴

4. Tabulation of constructions based on CAEC or a Certificate according to the provisions of Law no. 7/2020

Scope of application of the provisions of art. 37 par. (6) from Law no. 50/1991 applies to the following situations: a) for the works that were carried out without a building permit, and here we have: (1. constructions that were carried out without a building permit, a category in which could also be included the buildings whose building authorization was canceled by the courts; 2. constructions that, although authorized, were not built in compliance with the authorization; and 3. constructions that did not perform the reception at the end of the works. b) For the works that were made without holding a building permit and which can no longer be penalized due to the

³¹CAEC – According to the provisions of Law no. 150/2015 related to the amendment and attestation of the Law on cadastre and real estate advertising no. 7/1996, the Certificate of attestation of the building construction, represents the individual administrative document required for the tabulation of the construction in the Land Register.

³²STARTCAD ADVISOR, Construction attestation certificate: necessary documents, article available at the following address: <https://startcad.ro/certificat-de-atestare-a-edificarii-constructiei-acte/>, accessed on 24.09.2022, time : 12:27 p.m.

³³Ibid.

³⁴Briciu, T., Founding Partner and Păcăleanu, A., Senior Associate, Legalization of illegal constructions - an act of leniency by the authorities, with a limited scope of application?, article available at the following address: <https://pbca.ro/news/the-legalization-of-illegal-constructions-an-act-of-leniency-of-the-authorities-with-a-limited-scope-of-application/>, accessed on 24.09.2022, time: 15:58 .

expiration of the 3-year statute of limitations, according to the provisions of art. 31 of Law no. 50/1991.³⁵

According to the Appeal Decision in the Interest of Law no. 16/2020, the High Court of Cassation and Justice established that the limitation period for contraventional liability runs from the date of completion of the construction, which is why depending on the moment of material completion of each individual building, the limitation period is concretely assessed

Page | 106

The procedure for issuing the Certificate/Attestation of the attestation of the building of the construction is conditioned by the cumulative meeting of two conditions, namely: 1. carrying out a technical expertise on the construction, which must be a double expertise: a) apart from an expertise in the matter of the quality of the construction, which certifies compliance with the applicable fundamental requirements regarding quality in construction (mechanical resistance and stability, fire safety, hygiene, health and environment, safety and accessibility to exploitation, protection against noise, energy saving and thermal insulation and sustainable use of resources natural); b) carrying out an expertise in the urban planning specialty, certifying that the construction falls within the urban planning regulations of the area; 2. creation of cadastral documentation, drawn up by a natural or legal person authorized by the National Agency for Cadastre and Real Estate Advertising, topographic survey in the Stereo 70 coordinate system, which includes the measurements and technical data of a building.

The law did not provide for other issues regarding the issuance of a Certificate/Attestation of the construction of the construction under these conditions, related to how the prescription can be proven and which documents can be taken into consideration to prove it. In practice, things are different, there are no two local public authorities that apply the provisions of the law in the same way.

Following the research carried out on the official websites of several public authorities (town halls): commune town halls, municipal town halls and sector town halls, regarding the manner in which the Certificates/Affidavits attesting the construction of the construction are issued, I found, that there is no uniform practice in applying the provisions of Law no. 7/2020, starting from the general framework of the file submitted in this regard and up to the settlement procedure. I was also able to ascertain the fact that at the level of the commune, the public authorities are somewhat more reserved in terms of issuing the Certificate of attestation of the construction of the staged construction and for constructions built without authorization, for which the 3-year statute of limitations, regarding the sanctioning of last. At the municipal level, there is more openness and commitment regarding the issuance of Certificates of attestation per stage and for constructions built without authorization, for which the 3-year statute of limitations regarding sanctioning has passed.

³⁵Ibid.

No. Crt	Name of the local public authority	Issuance of Certificate of attestation of construction	Issuing Certificate of attestation of the construction of the stadium construction	Issuance of a certificate of attestation of the construction for the constructions executed without authorization and for which the 3-year limitation period regarding sanctioning has passed.	SOURCE accessed
1.	Câmpina municipality	Yes	Not	Not	http://www.primariacampina.ro/informatii-publice/formulare-tip/serviciul-urbanism-si-amenajarea-teritoriului/ , http://www.primariacampina.ro/wp-content/uploads/2018/11/Hotararea-nr.-27-aprobare-Regulament-certificat-atestare.pdf
2.	Galați municipality	Yes	Not	N Not u	https://www.primariagalati.ro/portal/galati/portal.nsf/AllByUNID/institutia-arhitect-sef-0004a166?OpenDocument
3.	Tulcea municipality	Yes	Not	Yes	https://www.primariagalati.ro/portal/galati/portal.nsf/AllByUNID/certificatul-de-atestare-edificare-construcii-0001d2a6?OpenDocument , https://www.primariatulcea.ro/files/legislatie/hcl/2017/170.pdf
4.	Miroslava common	Yes	Not	Yes	https://www.primariamiroslava.ro/wp-content/uploads/2021/03/urbanism-procedura-eliberare-certificat-edificare-extindere-radiere.pdf
5.	Sector 2 Bucharest	Yes	Not	Not	https://www.ps2.ro/index.php/acte-necesare/urbanism/56-eliberare-certificat-de-atestare-a-edificarii-construciei-2
6.	Sector 5 Bucharest	Yes	Yes	Yes	https://sector5.ro/directia-urbanism-si-amenajarea-teritoriului/
7.	Sector 3 Bucharest	Yes	Not	Not	https://www.primarie3.ro/index.php/informatii_publice/detailu_act/eliberare-certificat-de-atestare-a-edificarii-cladirii/
8.	Sector 4 Bucharest	Yes	Not	Not	https://ps4.ro/formulare-online/
9.	Sector 6 Bucharest	Yes	Not	Yes	https://www.primarie6.ro/acte-necesare-formulare-directia-general-a-arhitect-sef/
10.	Cluj municipality	Yes	Not	Not	https://storage.primariacujnapoca.ro/userfiles/files/cerere%20eliberare%20certificat%20de%20atestare.pdf
11.	Sectorul 1 Bucharest	Yes	Yes	Yes	https://www.primariasector1.ro/descarcare-formulare.html , https://www.primariasector1.ro/download/hotarari-consiliu/2022/125.2022_Anonimizat.pdf , https://www.primariasector1.ro/download/hotarari-consiliu/2022/125.2022_Anonimizat.pdf
12.	Oradea municipality	Yes	Yes	Yes	https://www.oradea.ro/arhitectsef/servfrm.php
13.	Timișoara municipality	Yes	Not	Yes	https://www.primariatm.ro/formulare/
14.	Cornu common	Yes	Not	Not	https://primariacornu.ro/servicii-online/formulare-online/

We can conclude in a pessimistic way that it is practice that sets the direction of norms and not the other way around, as is normal and natural. Each individual local public authority sought to create its own tool (the perfect regulation) with which to apply the law as objectively and legally as possible.

After carefully analyzing the provisions of art. 37 para. (6) from Law no. 50/1991, as amended by Law no. 7/2020, certain legislative deficiencies can be observed, deficiencies that

make the concrete application of the law regarding this method of entry into legality very difficult for three major reasons: a) about how the inclusion is carried out and verified construction in urban planning regulations; b) about the content and conclusions of specialized expertise and c) about the non-correlation of the provisions of art. 37 para. (6) from Law no. 50/1991 and the provisions of art. 37 para. (1) from Law no. 7/1996.

5. Proving the prescription between theory and practice, between truth and legality

By Art. II point 17 of Law no. 7 of January 6, 2020, amended the provisions of art. 37 para. (6) from Law no. 50/1991, establishing the method of registering the right of ownership for a construction in the Land Register based on a certificate/certificate attesting the construction of the construction and in the case of constructions for which the execution of the works was carried out without a building permit. The issuance of a certificate/certificate attesting the construction of the building can only be issued if the 3-year limitation period for sanctioning the act has been fulfilled and if it meets the fundamental requirements regarding the quality in constructions, respectively the requirements regarding the inclusion in the urban planning regulations (the inclusion in the urban planning indicators foreseen by PUGs, PUZs). The execution of constructions without authorization constitutes, as the case may be, a crime and is punishable according to the law. The term until which the competent body can apply the sanction provided by law is 3 years from the date of the act.

The sensitive point, of major importance and not taken into account by the legislator until this moment, is the method of calculating the statute of limitations of the deed, namely the moment from which the statute of limitations begins to run, as well as how this can be proven. The following aspect should be mentioned, namely that the act of executing the construction work without holding a building permit is consumed continuously, through several acts of execution, and the limitation period runs from the date of termination of the act, as it appears from the provisions of art. 13 para. (2) from Ordinance no. 2/2001 regarding contraventional liability, as well as from the provisions provided in art. 154 para. (2) of the Criminal Code³⁶, regarding criminal liability.

In this regard, there is no unified practice either in doctrine or in the practice of the courts up to this point. Thus, in resolving an appeal in the interest of the law, the Supreme Court of Justice, by Decision no. VII of 20.11.2000³⁷, held that in applying the provisions of art. 26 and art.

³⁶See the provisions of art. 154 para. (2) of the Criminal Code, the 2009 Criminal Code, an integral part of Law no. 286/2009, in force since February 1, 2014, the consolidated form on September 28, 2022, which is based on the publication in the Official Gazette, Part I no. 510 of 24 July 2009, accessed at <https://lege5.ro/App/Document/gezdmnrzgi/art-154-termenele-de-prescriptie-a-raspunderii-penale-codul-penal>, on 28.09.2022, time : 12:36 p.m.

³⁷Decision no. 7/2000 regarding the application of the provisions of art. 26 and 30 of Law no. 50/1991 concerning the authorization of the execution of constructions and some measures for the realization of housing - UNITED SECTIONS -, Text published in the Official Gazette, Part I no. 84 of 19 February 2001, in force since 19 February 2001, accessed on 24.09.2022, time: 23:56, at <https://lege5.ro/Gratuit/gi3temjs/decizia-nr-7-2000-privind> - the

30 of Law no. 50/1991 regarding the authorization of construction execution and some measures for the realization of housing, republished. " 1. The right to ascertain contraventions and apply the fines provided for in art. 23 of this law is prescribed within 2 years from the date of the act. 2. In the case of constructions in progress, the date of the act is the date of the finding of the contravention, and in the case of completed constructions, the act is considered to have been committed on the date of completion of the construction. 3. Obtaining the building permit during the execution of the works or after their completion does not remove the illegal character of the deed, such a circumstance can only be taken into account when individualizing the contraventional sanction".

This problem was the subject of a notification directed to the High Court of Cassation and Justice, in order to rule with a preliminary decision, in order to resolve a question of law, but which was rejected and motivated by Decision no. 36 of 2019³⁸, being motivated by its lack of novelty. From the analysis of the aforementioned Decision, two important opinions of the courts are highlighted, as follows³⁹:

a) An opinion that is considered minority⁴⁰ and according to which the limitation period does not start to run in the situation where there is no record of reception upon completion of the works.

b) A majority opinion⁴¹ according to which the limitation period provided by the provisions of Law no. 50/1991 begins to run from the date of the actual termination of the construction works, without being conditioned by the existence or non-existence of a reception report upon completion of the works.

The final conclusion is the result of corroborating the provisions of art. 37 para. (5) from Law no. 50/1991 "Constructions carried out without a building permit or with non-compliance with its provisions, as well as those that did not perform the reception at the end of the works, according to the law, are not considered completed" with the provisions of art. 13 para. (2) of the 2001 Ordinance "In the case of continuous contraventions, the term provided for in para. (1) runs from the date of termination of the act" and with the provisions of art. 31 of Law no. 50/1991 "The right to establish contraventions and apply the fines provided for in art. 26 is prescribed within 3 years from the date of the act".

application of the provisions of art-26-and-30-of-law-no-50-1991-regarding-the-authorization-of-the-execution-of-the-constructions-and-some-measures-for-the-realization-of-housing-the-united-sections-.

³⁸See Decision no. 36 of 2019, published in M. Of. First part number 742 of 11 09 2019, accessed at <https://legislatie.just.ro/Public/DetaliiDocumentAfis/217890>, on 29.09.2022, at 14:20.

³⁹Negoitǎ, D.-M., *Intabulation without construction authorization*, accessed on 29.09.2022, time: 15:34, at <https://www.juridice.ro/674829/intabularea-fara-autorizatie-de-construire.html>.

⁴⁰See in this regard the Decisions mentioned in paragraph 37 of the Decision of the High Court of Cassation and Justice no. 36/2019, accessed at <https://legislatie.just.ro/Public/DetaliiDocumentAfis/217890>, on 29.09.2022, at 14:20.

⁴¹Ibid.

However, these opinions can be criticized for the following reasons: a) The Supreme Court of Justice, because on the date when Decision no. 7/202⁴² these provisions did not exist, being introduced later, it did not rule on the time of completion of the construction in relation to the provisions of art. 37 para. (2) "The right to ascertain contraventions and to apply the fines provided for in art. 26 is prescribed within 3 years from the date of the act" and para. (5) from Law no. 50/1991.

Referred to the minor opinion, in accordance with the provisions of art. 37 of Law no. 50/1991, in the case of the construction of constructions without authorization, the moment of the act is identified with that of the completion of the works. It is very important not to confuse the moment when the construction is finished, as an objective material fact, and the moment when the construction is completed, from a legal point of view, the moment after which it can be registered in the Land Register, becoming the right of ownership over the construction by third parties. According to the provisions of the civil law, at the time of the establishment of the prescription and its proof, the legislator must interpret it in the sense of its application and not in the sense of its non-application, must always have in mind the purpose, through a correct and continuous interpretation of the provisions provided for in art. 3 of Law no. 50/1991, respecting the general principles of their interpretation.

Thus, "with the expiry of the legal term, the holder of a right protected by law loses not the right to act, but the right to compel the debtor" to carry out his obligations, which may⁴³ consist in the execution of a benefit, in complying with a legal situation, in bearing a civil sanction".⁴⁴

According to the minor opinion⁴⁵, the term runs from the moment of the actual completion of the construction works or from the moment when the competent authority should have known about the building works of the construction without a building permit, regardless of the existence of the reception report upon completion of the works. Thus, referring to the opinions expressed regarding the moment at which the limitation period begins to run, we can conclude that we are witnessing non-unitary practices in the application and interpretation of the law, which allows the registration in the Land Register of buildings built without holding a building permit, only on the basis of a Certificate/Certificate attesting the construction of the building in compliance with the provisions of art. 37 para. (6) from Law no. 50/1991.

⁴²DECISION no. 7 of November 20, 2000 regarding the authorization of construction execution and some measures for the construction of housing, issued by the SUPREME COURT OF JUSTICE - UNITED SECTIONS, published in the OFFICIAL GAZETTE no. 84 of February 19, 2001, accessed on September 29, 2022, at 3:47 p.m., at <https://legislatie.just.ro/Public/DetaliiDocumentAfis/26770>.

⁴³Negoitã, D.-M., *Intabulation without construction authorization*, accessed on 29.09.2022, time: 15:34, at <https://www.juridice.ro/674829/intabularea-fara-autorizatie-de-construire.html>.

⁴⁴Ibid.

⁴⁵See in this regard the Decisions mentioned in paragraph 30 of the Decision of the High Court of Cassation and Justice no. 36/2019, accessed at <https://legislatie.just.ro/Public/DetaliiDocumentAfis/217890>, on 29.09.2022, at 16:10.

6. The rights granted to buildings built with a building permit and those without a building permit and for which the 3-year penalty period has expired.

The doctrine⁴⁶ highlights that the assessment of the effects of the building permit starts from the fact that the right to build is attached, mainly, to the property right (*ut sutendi*) over the land, but it is exercised in compliance with the legal regulations regarding the use of the soil, and the compliance of the construction project with the latter is controlled through the construction permit.⁴⁷ Consequently, the extent of the rights conferred must be taken into account, taking into account the fact that it is an authorization for carrying out works on a specific plot of land in accordance with urban planning rules and legal requirements regarding the quality of constructions.

According to the provisions of art. 31¹ para. (1) from Law no. 350/2001⁴⁸ regarding territorial planning and urban planning: "The right to build is granted according to the legal provisions, in compliance with the town planning documentation and the related local town planning regulations, approved."

Based on the provisions of art. 37 para. (6)⁴⁹ from Law no. 50/1991 regarding the authorization of construction works, republished, "the property right over the constructions is entered in the land register on the basis of an attestation certificate, which confirms that the construction of the constructions was carried out according to the construction authorization and that there is a record of receipt at the completion of the works, or, as the case may be, a certificate of attestation of the construction of the construction, issued by the competent local public administration authority, which confirms the current legal situation of the constructions and compliance with the relevant provisions and cadastral documentation"

In accordance with Art. 37 para. (6) from Law no. 50/1991, as amended by Law no. 7/2020 ". In the case of constructions for which the execution of the works was carried out without a building permit, and the fulfillment of the prescription term provided for in art. 31 no longer allows the application of sanctions, the attestation certificate/certificate regarding the construction of the construction will be issued on the basis of a technical expertise regarding the compliance with the applicable fundamental requirements of approved urban planning, which confirms the current situation of the constructions and compliance with the relevant provisions and a documentation cadastral. In the situation where in the technical expertise it is found that all the fundamental

⁴⁶Duțu, M., *Urban law*, op. Cit. , 2009, p. 213,

⁴⁷Duțu, M., Duțu, A., *Property rights and environmental protection requirements*, Ed. Universul Juridic, Bucharest, 2011, p. 129 et seq.

⁴⁸Law no. 350 of June 6, 2001 regarding territorial planning and urbanism, published in M.O. no. 373 of 10 July 2001, accessed at <https://legislatie.just.ro/Public/DetaliiDocument/29453>, on 14.10.2022, time: 11:58.

⁴⁹Law no. 50/1991 regarding the authorization of construction works, published in M.O., Part I no. 933 of October 13, 2004, in force since August 7, 1991, accessed at <https://lege5.ro/Gratuit/gy3dgmju/legea-nr-50-1991-privind-autorizarea-executarii-lucrarilor-de-constructii?d=2022-05-28>, on 16.10.2022, time: 15:51.

requirements and those related to the inclusion in the urban planning regulations have not been met, the certificate/certificate regarding the building of the construction is not issued".⁵⁰

From the analysis of the provisions of art. 31¹ para. (1) from Law no. 350/2001 regarding the development of the territory, to the provisions of art. 37 para. (6) from Law no. 50/1991 regarding the authorization of construction works, republished and according to the provisions of art. 37 para. (6) from Law no. 50/1991, as amended by Law no. 7/2020, we note the fact that, for constructions built in accordance with the building permit, the law is very strict, and on the opposite pole, for constructions built without a building permit and for which the 3-year penalty term has been prescribed, the same law is lenient. This indulgence is motivated by the lack of corroboration of the amendments brought by Law no. 7/2020 of the laws in the field of urban planning and cadastre, due to the lack of methodological rules for the application of these legislative changes, but also due to the fact that the local public administration authorities were tasked with resolving requests that are the competence of a judge and not a civil servant, being in the impossibility of a correct solution, according to all aspects regarding legality. When we refer to legality, we balance the sum of the principles that must not be violated, starting with the principles of public administration, the principles of urban planning authorization and the principles of the cadastre, land register and real estate advertising.

7. Conclusions

Consequently, it is impetuously necessary that the regulations of Law no. 7/2020 to be improved, given the fact that the general rule provided by law regarding the tabulation of a construction is conditional on obtaining the CAEC, and the exception provided by art. 37 paragraph (2) of Law no. 7/1996 is exceptionally applicable to "circumstances strictly delimited by the assumption of this rule, so that the existence of this provision leads to an exceptional situation, which cannot negate the rule (tabulation of constructions based on CAEC)".⁵¹

The property right over the construction is seriously affected in terms of the impossibility of obtaining the CAEC or the Certificate of attestation of the construction of the construction, in terms of the size of the provisions, both of the provisions of a material nature " (for example, for unlisted buildings, a building permit cannot be issued, necessary for some works to modernize the

⁵⁰Law no. 350 of June 6, 2001 regarding territorial planning and urbanism, published in M.O. no. 373 of 10 July 2001, accessed at <https://legislatie.just.ro/Public/DetaliiDocument/29453>, on 14.10.2022, time: 11:58.

⁵⁰Law no. 50/1991 regarding the authorization of construction works, published in M.O., Part I no. 933 of October 13, 2004, in force since August 7, 1991, accessed at <https://lege5.ro/Gratuit/gy3dgmju/legea-nr-50-1991-privind-autorizarea-executarii-lucrarilor-de-construcii?d=2022-05-28>, on 16.10.2022, time: 15:51.

⁵¹Orjan, M.-T., associate lawyer - Leroy si Asociatii SCA, When good intention in legislation is not enough: interesting and difficult to apply regulation contained in the second sentence of paragraph 6 of article 37 of Law no. 50/1991 regarding the authorization of the execution of construction works (II), Revista Construcțiilor, No. 193, July 2022, page 61, accessed at <https://www.revistaconstrucțiilor.eu/index.php/2022/07/01/atunci-cand-buna-intentie-in-legiferare-nu-este-suficienta-interesanta-and-difficult-applicable-regulations-contained-in-the-second-sentence-of-paragraph-6-of-article-37-of-law-no-50-1991-regarding-authors-2/>, on from 01.10.2022.

construction)⁵²" as well as the provisions of a legal nature "(as a rule, constructions not registered in the Land Register cannot be alienated through a sale-purchase, exchange, donation contract.)⁵³" . If the right of disposal over some constructions is limited, the property right is affected, with negative effects, both in particular for the owners of these constructions, and in general for the economy.

Against the background of these laconic regulations and uncorrelated with other normative acts, the competent public authorities," have the faculty to reject the request and the related documentation for the formalistic non-fulfillment of some practically impossible conditions"⁵⁴, but to the same extent, interpreting the provisions of art. 37 para. (6) from Law no. 50/1991 in a manner "that is intended to produce effects, for example accepting the realization of specialized works in the matter of urban planning or of technical expertise in architecture in the substitution of technical expertise in urban planning, however, this attitude remains at the discretion of the authority." ⁵⁵

From a theoretical point of view, there are no improvements to the criticized legal text, but practically, things are different and I am referring here to the non-unitary way in which the law is applied, to the unfair determination of the recipients of its benefits. The unavailability of the procedure for issuing a CAEC/Certificate of attestation of the construction of the construction has also beneficial effects, because in this way actions regarding construction without a construction permit or in deviation from its provisions are discouraged.

Therefore, it is recommended that the text of the law be perfected and come together with methodological norms for the application of the provisions of the normative act, for the creation of the legal framework regarding the entry into legality of the constructions built in illegal conditions and for which the local public authorities they don't have the best solutions. Through the amendments brought by Law no. 7/2020, the local public authorities are put in a difficult situation, to violate property rights, the principles of public administration and in particular the principle of legality which is the basis of issuing an administrative act, but also of the concrete performance of the activity of the local public administration. Thus, the public authorities are forced to meet this challenge with Regulations approved by Local Council Decision and operational procedures regarding the issuance of the Certificate/Attestation of the construction of the building which, although they receive the legality opinion from the Legality Service within To

⁵²Orjan, M.-T., associate lawyer - Leroy si Asociatii SCA, When good intention in legislation is not enough: interesting and difficult to apply regulation contained in the second sentence of paragraph 6 of article 37 of Law no. 50/1991 regarding the authorization of the execution of construction works (II), Revista Construcțiilor, No. 193, July 2022, page 61, accessed at <https://www.revistaconstrucțiilor.eu/index.php/2022/07/01/atunci-cand-buna-intentie-in-legiferare-nu-este-suficienta-interesanta-and-difficult-applicable-regulations-contained-in-the-second-sentence-of-paragraph-6-of-article-37-of-law-no-50-1991-regarding-authors-2/>, on from 01.10.2022.

⁵³Ibid.

⁵⁴Briciu, T. Founding Partner and Andreea Păcăleanu, Senior Associate, Legalization of illegal constructions - an act of leniency by the authorities, with a limited scope of application?, article available at the following address: <https://pbca.ro/news/the-legalization-of-illegal-constructions-an-act-of-leniency-of-the-authorities-with-a-limited-scope-of-application/>, accessed on 24.09.2022, time: 15:58 .

⁵⁵Ibid..

the institution of the Prefect, they come to decide and dispose of what the law should do, unitarily and by law.

Therefore, according to the provisions of art. 2 para. (1) lit. c from the Administrative Litigation Law no. 544/2004⁵⁶, with subsequent amendments and additions, public authorities issue administrative acts that are individual. The publication of administrative acts is the guarantee of compliance with the legality and transparency of the public administration, but under the condition that we find ourselves in the situation of a normative administrative act and not of an individual administrative act. It should be mentioned that in the case of constructions that were built without a building permit, the Certificate/Certificate of attestation of the construction of the building issued/issued for works executed without a permit does not take the place of a building permit, but is the basis of the construction's tabulation in the Land Register. In the event that the construction is not authorized, the prerogatives of the right of ownership over it cannot be fully exercised or it is exercised only truncated..⁵⁷

In accordance with Art. 1 paragraph (5) of the Romanian Constitution, it is mandatory to comply with the legislation in force, "which means that the local public authorities in Romania must function in accordance with the principle of legality"⁵⁸, complying ad letteram with the imperative provisions of the laws and without illegal derogation from these. According to the provisions of art. 6 of the Administrative Code⁵⁹, public administration authorities and institutions, as well as their staff, are obliged to act in compliance with the legal provisions in force.

There is an amendment, a proposal to change the current normative framework of Law no. 7/1996, the cadastre and real estate advertising law, a proposal already adopted by the deputies regarding "constructions completed before August 1, 2001 will be tabulated, in the absence of a building permit, on the basis of the fiscal attestation certificate proving the payment of state taxes , as well as the cadastral documentation (current provisions), provided that the holder of the fiscal role on the construction is also the holder of the real right or in his favor the possession of the land is noted."⁶⁰

⁵⁶Law no. 544/2004 administrative litigation law, published in M. O. no. 1154 of 7 December 2004, accessed at <https://legislatie.just.ro/Public/DetaliiDocument/57426>, on 14.10.2022, time: 13:05.

⁵⁷Art. 1. paragraph (5) In Romania, compliance with the Constitution, its supremacy and the laws is mandatory, the Constitution of Romania, published in M. O., Part I no. 767 of October 31, 2003, accessed at http://www.cdep.ro/pls/dic/site.page?den=act2_1&par1=1, on 01.10.2022, at 11:29.

⁵⁸Orjan, M.-T., associate lawyer - Leroy si Asociatii SCA, When good intention in legislation is not enough: interesting and difficult to apply regulation contained in the second sentence of paragraph 6 of article 37 of Law no. 50/1991 regarding the authorization of the execution of construction works (II), Revista Construcțiilor, No. 193, July 2022, page 61, <https://www.revistaconstrucțiilor.eu/index.php/2022/07/01/atunci-cand-buna-intentie-in-legiferare-nu-este-suficienta-interesanta-si-difficult-to-apply-regulations-contained-in-the-second-sentence-of-paragraph-6-of-article-37-of-law-no-50-1991-regarding-authors-2/> accessed on 01.10.2022.

⁵⁹The administrative code of 03.07.2019, an integral part of Emergency Ordinance 57/2019, published in the Official Gazette, Part I no. 555 of 05 July 2019, in force from 05 July 2019, accessed at <https://lege5.ro/gratuit/gm2dcnrygm3q/codul-administrativ-din-03072019>, on 01.10.2022, at 22:56.

⁶⁰DCBusiness Team, Cadastrare gratuită. Propunere adoptată privind soarta acestor terenuri, articol accesat la https://www.business.ro/cadastrare-gratuita-propunere-adoptata-privind-soarta-acestor-terenuri_648977.html?bclid=1wAE0MRS_m2dt5cTvm0, la data de 14.10.2022, la ora: 9:32.

At the present moment there is the possibility of effective results in mass, regarding the issuance of a Certificate/Affidavits attesting the construction of the construction for a construction built on the basis of a building permit, without a building permit, with or without compliance with it and for which the limitation period provided for in art. 31 no longer allows the application of sanctions. Therefore, as a pessimistic final conclusion, the property right over a construction, at this moment is not sufficiently protected in terms of the size of the material provisions and the legal dimensions on it.

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Page | 117

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