Ukraine: new approach to classification of construction works

Ukraine has made a step forward in bringing construction standards and regulations closer in line with EU standards. On 17 January the Parliament of Ukraine amended a law which improves the classification of buildings and structures from a construction perspective and which consequently influences the procedure for obtaining construction permits (the “Law”).

Before the Law was amended, the buildings and structures were classified in five categories determined by their complexity, where simple buildings and structures were assigned to category I and the most compound objects to category V. Commencement and commission of the buildings and structures in categories I – III was carried out on a declarative principle by means of submission of a respective declaration. At the same time, developers who constructed buildings and structures falling under categories IV – V had to first obtain a construction permit and certificate for their commission upon completion of construction. Designer organisations and developers determined the category of the object’s complexity.

Such classification was not in line with settled EU practice, where the system of construction permits is based on risk management principles, and where the level of governmental control depends on the degree of possible negative consequences, rather than the complexity of the works.

The Law replaces the five categories of an object’s complexity with the following three classes of consequences:

- **CC1** – lower class of consequences which replaces categories I – II of complexity;
- **CC2** – medium class of consequences which replaces categories III – IV of complexity; and
- **CC3** – high class of consequences which replaces category V of complexity.

The concept of the above classification is not a complete novelty for Ukrainian legislation, since it is already established in a respective Ukrainian technical standard and has been applied for the purposes of determining the correct classification for buildings and structures.

Project design organisations, with the approval of developers, will determine the object’s classification based on criteria specified in the Law, as well as relevant construction standards and regulations. For determination of the object’s classification, the following characteristics will be considered:

- possible consequences for health and life of persons who are staying permanently or temporarily at or outside the construction object;
- quantification of possible material losses; and
- possibility of losing a cultural object or transportation infrastructure.

The Law also amends the procedure for obtaining construction work permits, requiring a notification to be submitted in order to commence construction works and the commission of objects falling into classification CC1. In turn, the construction of compound objects falling under classifications CC2 and CC3 require a construction permit in order to commence construction works and a certificate for the buildings and structures commissioning.
It is clear that the Law establishes a new approach for the construction classification of buildings and structures and amends the system of obtaining permits for objects’ construction and commissioning. It will certainly complicate the construction of some compound objects, in particular those which previously fell under category III, since a construction permit and certificate confirming commission will now be required.

Declarations on the commencement of construction works, registered before the date when the Law enters into force, are valid until their completion. Developers will not be required to determine an object’s classification because the categories of complexity shall be deemed to be classes of consequences according to the above mentioned correlation from the date when the Law becomes effective.

The Law will become effective in four months after it is signed by the President of Ukraine and is subsequently promulgated.

**Legislation:** draft law No. 4733-1 On amendments to certain legislative acts regarding improvement of urban construction activities dated 17 January 2017.

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