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“Suspension of works in the investment and construction process”

Summary

The central issue of the doctoral thesis is the institution of the suspension of construction works in the investment and construction process. The execution of works and their suspension draws a lot of interest. It is a fundamental matter for both current and future investors. The subject matter has so far been subjected to a concise analysis performed in relation to legal scope. Apart from commentary papers, one may encounter signal and synthetic discussion of the legal provisions that regulate the suspension of construction works. This study is the result of the need for a more extensive analysis of the institution taking into account its effect on the position of the investor in the investment and construction process.

The objective of this study is to present the suspension of construction works together with the analysis of the legal provisions regulating this institution, explanation of its effects and the diagnosis of its emergence and functioning, as well as indication of the directions for changes in the provisions of the applicable law.

The study poses a hypothesis that by accepting the regulatory and non-regulatory suspension of construction works, efforts must be made for their optimal execution in the investment and construction process, thus increasing the role of specialized participants of the process and expanding the scope of their responsibility.

The thesis consists of five chapters. Chapter One presents the historical background of the institutions of suspension of works. The formation of the above-mentioned regulation over the years and changes occurring in the construction law are analyzed here. Historical structure of the institution in question is compared to its current form regulated in the applicable Act on the Construction Law. Notions important for the mentioned subject matter, such as “construction works” or “investment and construction process” are also discussed in this chapter.

Chapter Two focuses on the position of the investor in the investment and construction process and its limitations. The area of the investor’s autonomy in this process is illustrated. Institutions that give the investor’s position its form, i.e. constitutional guarantees, the rules of the construction law, construction permit, among others, are discussed here. Chapter Two also covers the limitations, and the suspension of construction works may be seen as one of them. The division into regulatory and non-regulatory suspension of works is adapted. The

conditions for the regulatory suspension of works are discussed and non-regulatory suspension of works is described.

Chapter Three discusses the limitations of the investor's position in the investment and construction process. It is a continuation of the issue of limitations indicated in the previous chapter. The discussion revolves around the subjects and the actions they undertake within the suspension of works institution, which have an impact on the position of the investor. The chapter presents the competencies of the construction supervision authorities as the adequate authorities to implement regulatory suspension of works, regulated in the Act on the Construction Law. The rights and responsibilities of the specialized participants of the construction process are also discussed. Their powers in the scope of the suspension of works as well as their role in the investment and construction process are analyzed. It is also pointed out that the activities of those subjects have an effect on the correct execution of the process. Another important matter are the actions of the parties in a proceeding and plaintiffs using means of appeal, such as the institutions of the suspension of the execution of a decision in order to block the execution of the investment. The question of contractors and their position in the process is also presented.

Chapter Four is dedicated to the execution of the institution of "suspension" which has found implementation in various provisions of the substantive administrative law. Only in the Act on the Construction Law, the suspension has been given another function, for example, in the process of the legalization of real estate objects built without authorization, or in the proceeding regarding the change in the method of the utilization of real estate. Provisions where the institution of "suspension" is mentioned are, for example, those regarding: protection of historical monuments and care for historic monuments, or spatial planning and development, among others. The analysis focuses on the institutions of "suspension" which are related to the investment and construction process, the object or its part, or the installation. The form of the institution of the suspension of works in the project of the Urban and Construction Code is also discussed and the final part of the chapter contains conclusions and *lege ferenda* postulates.

The final chapter covers the consequences related to the execution of the order of suspension of works as well as the effects of not respecting the above order. Restrictions for the investor and specialized participants of the process are also presented. The chapter indicates legal and administrative, criminal, and disciplinary consequences. The latter ones concern people who perform technical functions in construction autonomously. Variants of

the completion of recovery proceedings conducted after the suspension of works are also presented here.

The dissertation closes with the recapitulation containing conclusions on the currently applicable regulations and suggestions regarding changes in the regulations related to the suspension of works.