



## LEGAL BRIEFING – Real Estate

by [Helen Alexiou](#), [Ariti Tsoukala](#) and [Persefoni Ntouchani](#)

### Just in – New provision on Unauthorized Constructions & Property Transactions

Unauthorized constructions have been a prominent issue in Greek reality for decades, leading to repeated legislative attempts to address it. Currently applicable legislation (law 4495/2017) provides for legalization of such unauthorized constructions, as well as arbitrary changes of use, subject to conditions and further to submission of statements, payment of fines, etc.

For those lucky enough not to have encountered relevant issues in real estate transactions: Unauthorized constructions are defined as any construction or installation that is or has been carried out without the required building permit or in excess thereof or in violation of the applicable planning provisions or on the basis of a permit that has been revoked or cancelled. Similarly, an arbitrary change of use is defined as any change of use for which the required building permit has not been issued.

Up until 10 days ago, article 82 of the said law stipulated that the establishment or transfer of a “right in rem” (such as ownership) on a property, in which an illegal construction has been carried out or an arbitrary change of use has been installed **is prohibited and considered as null and void**.

To ensure compliance with the above provision, pursuant to article 83 of the said law, any notarial deed pertaining to transfer of real estate rights must be accompanied by a solemn declaration of the owner and an engineer’s certificate, verifying that the property in question does not bear any unauthorized constructions (and/or arbitrary uses). Further to the introduction of the concept of “electronic identification” of

October 17, 2024



[h.alexiou@aklawfirm.gr](mailto:h.alexiou@aklawfirm.gr)

buildings on April 1<sup>st</sup>, 2022, the engineer's certificate has been replaced by the “Certificate of Completeness of the Electronic Identification of Building or Divided Property”.

The above provisions had a significant impact on transactions, resulting in submission of -new or amending- legalization statements, followed by repetitions of notarial transfer deeds, which in turn caused delays and frustration among investors. In an attempt to resolve this issue, article 16 of newly enacted law 5142/2024 provides that the nullity of transfers can be cured under the following conditions:

- (a) That the transaction concluded prior to 01.05.2024; and
- (b) That the unauthorized constructions and/or arbitrary uses are -and may be- legalized or regularized pursuant to law 4495/2017.

To further facilitate the implementation of this new provision, the law allows for the correction of the relevant notarial deed unilaterally by the current owner, thereby relieving sellers from any obligation to assist in the corrections required.

As stated in the accompanying explanatory report (in Greek, «Ανάλυση Συνεπειών Ρύθμισης»), the remedial actions required under the previous regime were often difficult, if not impossible, to complete for several reasons, such as challenges in locating the original parties involved and/or identifying their potential heirs, refusal on their part to assist, inability to gather the necessary certificates and documents for the repetition etc.. For this reason, it was deemed necessary to introduce a new system, which would allow current owners to overcome the difficulties described above. The good intentions of the legislator notwithstanding, it is unclear as to why May 1<sup>st</sup> 2024 was chosen as the cut-off date for rectifying such problematic deeds.

As usual, it remains to be seen how this provision will be implemented in practice, as well as how it will be interpreted by the competent courts. We will remain alert.

