



## LEGAL BRIEFING – Real Estate

by [Helen Alexiou](#) – Managing Partner

### The provisions for construction in non-urban areas in the Spatial and Urban Planning bill

On 24 November 2020, the much-debated Spatial and Urban planning Bill was submitted to Parliament. The said bill promises to radically overhaul and modernize the existing legislation regarding, inter alia, the issue of construction in non-urban areas. The relevant provisions are included in Chapter C of the Bill.

In the name of this endeavor, the Bill draws – for the first time – a distinction between:

- plots outside of city and settlement boundaries, for which any urban planning is completely absent and which, for ease of reference, will be hereinafter referred to as “*plots in stricto sensu non-urban areas*”, and
- plots outside of city and settlement boundaries, for which land uses, construction conditions and restrictions have been fixed through first-level urban planning tools, i.e. Special Spatial Development Plans for Public Property (ESCHADA), Special Spatial Development Plans of Strategic Investments (ESCHASE), Local or Special Urban Plans set out in art. 7 and 8 of Law 4447/2016 as they stand, and which, for ease of reference, will be hereinafter referred to as “*regulated plots in non-urban areas*”.

As far as “plots in stricto sensu non-urban areas” are concerned, the Bill explicitly provides that these are not, in principle, destined for construction, hence, environmental charges are imposed for the issuance of building permits thereon.

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

With regard to the applicable building terms, the regulations currently in force, i.e. Presidential Decrees of 06.10.1978 (Government Gazette Vol. D' 538) and 24.05.1985 (Government Gazette Vol. D' 270) are still applicable, to the extent that they do not run counter to the provisions of the Bill. This being said, the Bill brings about significant amendments to the provisions of the aforementioned Presidential Decrees (reduction of maximum building coefficient from 0.2 to 0.18, reduction of buildable area of residential buildings, raise of the minimum size for the buildability of touristic establishments from 4,000 to 8,000 sq.m. etc.).

For the “regulated plots in non-urban areas”, a regulation is reserved in the Bill, pursuant to which the first-level urban planning tools may determine more favorable building terms than those applying to “plots in stricto sensu non-urban areas”, with the following two restrictions:

a) the building coefficient, the coverage, height and volume may be set as more favorable in comparison with “plots in stricto sensu non-urban areas” only by 10% and

b) building terms set for “regulated plots in non-urban areas” may not render construction thereon easier than those applying to urban areas, areas inside of settlement boundaries and inside of regulated forms of development or the surrounding area, or de facto lead to the creating of new settlements without an approved urban plan.

In respect of the buildability of plots in non-urban areas, the minimum size remains, in principal, at 4,000 sq.m.. At the same time, a time restriction is established for the filing of applications for building permits for plots which are buildable by derogation: these may be filed until the approval of a Local or Special Urban Plan for their area or, in any event, within 2 years of the enactment of the proposed Law.

Furthermore, the Bill attempts to reform the legal framework surrounding the touristic establishments in non-urban areas. More specifically, the building coefficient of Integrated Touristic Resorts (Syntheta Touristika Katalymata) is raised from 0.15 to 0.2, the concept of Small-Scale Mixed Tourist Resorts, which in reality constitute Integrated Touristic Resorts on smaller plots, is established, and the criteria for the construction and upgrade of touristic resorts are specified, whose fulfillment is a prerequisite for the endowment of said resorts with more favorable building terms.

Despite the undeniably positive governmental intent of modernizing the legislative framework of construction in non-urban areas and the fact that Chapter C of the Bill entails some particularly innovative provisions, it cannot be overlooked that the proposed provisions create considerable ambiguities and overlaps. To be more specific, given the absence of a regulation regarding the provisions repealed and the mention that the Presidential Decrees of 06.10.1978 and 24.05.1985 are still applicable to the extent that they do not run counter to the provisions

of the Bill, the process of deriving the right solution for each case is rendered immensely challenging for the interpreter.

Unfortunately, the aforementioned equivocal issues are not clarified by the Explanatory Report of the Bill, as this appears to have been incorporated in the Regulatory Impact Analysis and is extremely frugal.

Finally, the following issue should be addressed: the Bill does not tackle the chronic ills of the construction system in non-urban areas, the clearest example of this deficiency being the effacement from the Bill, as submitted for public consultation in August, of the regulations relating to the characterization of roads throughout the country with a Presidential Decree. This is a problem created by the settled, now, jurisprudence of the Council of State, according to which the plots in non-urban areas are only buildable if they have a frontage on a road, which has been characterized as public with an act of the state and more specifically, a Presidential Decree, and which is not resolved in the Bill. As a result, even after the enactment of the proposed Law, insecurity around the legality of building permits for plots situated in non-urban areas will persist, as for the vast majority of non-urban areas no Presidential Decrees characterizing the road network as public have been issued.

