



AmCham Czech Republic statement on the Construction Act proposal February 2023

The American Chamber of Commerce in the Czech Republic has long been creating a platform for communication between representatives of the private and public sectors in the Czech Republic and abroad with the aim of discussing and sharing best practice and expertise in the field of the construction process. The Real Estate Council of the American Chamber of Commerce in the Czech Republic pursues the principles of coordination, effective planning, and decision-making, as well as the digitization of the construction process. We believe that the real estate sector, including infrastructure such as technology parks, is among the key building blocks of an innovative economy.

The draft amendment to the Construction Act that is now in the Parliament (second reading) is not a victory of innovation and a pathway to innovative country with wages at the German level. It does not help the real estate sector and the construction market to facilitate transition to an innovative economy. It disintegrates the decision making on the potential impacts on the public interests by the construction projects and abolishes certain improvements to the land use planning and construction processes that are currently contained in the new valid but not yet fully effective Construction Act. The procedural improvements would apply under the news Construction Act to the major state and infrastructure projects, while for the rest that includes most development project ranging from residential to industrial development under the new Construction Act (as amended – if amended) would be impacted in the first stage by potential delays when the authorities would have to manage the transition of the change in law and procedures.

In Poland, the construction procedures reform took place in 2020 and its positive impact can already be seen today. These amendments included, among others, limiting the catalogue of construction works requiring a construction permit, simplifying the catalogue of construction works that do not require any formalities to satisfy practical needs and introducing more lenient regulations on significant deviations from a construction design. Most importantly, 2020 amendments to Polish construction law limited possibilities of invalidating construction or occupancy permits and shortened the time for invalidating construction and occupancy permits, which was aimed at increasing the confidence of investors and limiting risks for property purchasers.

Further, 2020 amendments to Polish construction law introduced simplified procedure for legalization of buildings completed more than 20 years prior the amendment becoming effective, modified the rules on penalties for the illegal use of a construction object as well as introduced provisions on easier access to the network connection conditions from the utility companies. Amendments to the Polish construction law that followed in 2021 further limited the catalogue of constructions works requiring a construction permit allowing to construct a standalone residential building with development area up to 70 sqm without a building permit on certain conditions provided for in the construction law.

Further, 2021 amendments to Polish construction law introduced electronic fillings in all construction related matters allowing to further simplify and speed-up proceedings in construction law related matters. All the above changes together with increase in demand of residential as well as warehouse-industrial buildings resulted in over 27% increase in the construction permits issued by Polish construction authorities for residential buildings in the first three calendar quarters of 2021 as compared to 2020. Meanwhile, the Slovak government is working on full digitization of the land use and permitting process.

According to latest World Bank brochure, Poland was on the 39th place in the length of permitting processes, whereas Czech Republic was on the 157th place.

In our opinion, the current further reform to the construction law does not foster the real estate development and help to attract investors to invest in innovative sectors of economy in the Czech Republic when it is clear that the real estate for such purpose is and cannot be ready in sufficiently short foreseeable future, neither does any such further reform offer any solution to the difficult residential market situation where the demand for housing exceeds the supply for already more than a decade.

We suggest not to concentrate too much only on the legal reform, and when considering the current amendment to make only such changes to the already valid Construction Act that are essential, but rather to use the endeavors in a different direction of more thought through planning, tax reform and providing for incentives to support the real estate development that we consider one of the key points for to facilitate economic growth and transition to innovative economy. In our view the key objectives and key principles to achieve for land use and construction processes help such progress include the following:

1. National strategic development plan

- The country needs national plan identifying key strategic development opportunities. Regions and municipalities shall be given space to detail the respective strategies.
- Cooperation across regions – in particular Prague and Central Bohemia, but also between cities and suburban regions, is a must.
- Not centralization but rather aligning of the interests of all involved.

2. Motivation for the key players

- The economic incentives for the regions and municipalities to support the national development plan, in particular by tax reform.
- The municipalities have power to stop further development while they have little incentives to support it and this needs to be changed in order to facilitate economic growth.
- The developers as well as local authorities to cooperate on the infrastructure needs for further advancement of development – in particular of the technology parks.

3. Quick and easy permitting

- Decision making whether the proposed construction project is or is not in accordance with land use plan must be quick and user-friendly (both for the authorities and the applicants).
- Quality land use plans, coordinated, consistent and non-conflicting must be adopted throughout the country. Permitting based on such plans, accorded with the national plan, will be swift and administratively less demanding.

4. Predictability of construction decision making processes with respect to both time and content

- We need tailored methodology, motivation and other support for the authorities and their personnel to enable them to decide properly and in time – digitalization may be one of the tools but several others including technical and material support from the central authorities is a must.
- The new construction law must be clear, predictable, and set the basis and responsibility for the construction permitting as straightforward as possible.
- Consideration of public interest that may be impacted by the project shall be as integrated as possible, if such integration is reasonably not possible, a necessary safeguard is needed that such consideration occurs within foreseeable time in order not to delay permitting process.

5. Open communication channel with the construction and land use planning authorities

- Digitalization is one of the key tools.



- Beyond legal regulation, the authorities and their personnel must be responsive and pro-active to make the permitting process user-friendly.

6. Reasonable permitting review processes

- Possibilities to challenge the permits and the underlying procedures shall be strictly concentrated and limited to review of legality of the decision within a foreseeable time.