

New Building Act – Part 3

July 2024

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The new Czech Building Act (Act No. 283/2021 Coll., the Building Act, as amended (NBA)) became effective on 1 January 2024 and gradually replaces legislation set forth primarily in Act No. 183/2006 Coll., on zoning and building regulations (Building Act), as amended (OBA).

On 30 June 2024 the transitional period under the NBA ended and on 1 July 2024 (with a few remaining exceptions) the processes (including the new information systems) under the NBA were fully launched.

In part three of our overview of changes likely to impact you, we present the new regulation of the unified environmental statement and new developments in the legalization of “black buildings”, the validity of building closures and new implementing regulations. We also recognize the end of the transitional period with a look at the current situation in the field of digitalization.

Unified Environmental Statement

The Unified Environmental Statement (in Czech: *Jednotné environmentální stanovisko*), known as a JES, is a new integrated tool for assessing the environmental impact of construction projects. The legal provision for the JES is found in a separate act, Act No. 148/2023 Coll., on the Unified environmental statement. The JES integrates into a single administrative act some 26 binding opinions, decisions and statements of individual administrative authorities responsible for environmental protection issues (in particular under the Geological Works Act, the Nature and Landscape Protection Act, the Air Protection Act, the Water Act or the Waste Act).

A JES is issued in the form of a binding statement in respect of all projects requiring a project permit under the NBA.

A number of authorities are responsible for issuing a JES, depending on the circumstances. In principle, this rests with the municipal authority with extended competence. In selected cases it is the regional authority (e.g., if the project affects an agricultural land fund with a land area of more than 1 hectare). Finally, the Ministry of Environment is the competent authority in exceptional cases (e.g., for projects for which the Ministry of the Environment is competent for the EIA, or for energy security constructions under the Act on Accelerating the Construction of Strategically Important Infrastructure).

The JES aims to facilitate the project permit process, which previously involved the submission of multiple individual applications to different authorities. In addition to being able to apply for a JES from the competent administrative authority itself, the builder should now also be able to submit an application for project permit directly to the building authority and rely on the building authority's obligation to request a JES from the competent administrative authorities in such a case without the builder's participation.

The JES will not cover all administrative acts issued by environmental protection authorities (e.g., administrative acts of environmental protection authorities in special protection areas, in European sites of European importance and in protected areas for birds). That said, it should simplify the process while also easing the burden on the builder (e.g., the need to obtain a large number of individual opinions and statements).

The JES does not replace the EIA process (and the EIA process does not replace the JES). If a project is subject to the EIA regime, it is possible to submit a combined procedure to obtain a JES and EIA opinion (resulting in a single opinion).

Building closures

Building closures (as one of the instruments of zoning planning) are measures that restrict or prohibit construction activity in a defined area to the extent necessary. However, unlike other zoning planning instruments, existing building closures do not, in principle, remain under the NBA in force indefinitely.

Restrictions included in building closure measures that are not in accordance with the NBA will be disregarded from 1 July 2024.

As of 1 July 2024, building closures that were issued under Act No 50/1976 Coll. (Building Act, effective until the end of 2006) in order to prevent a respective area from being made difficult or impossible to use in the future, in accordance with the zoning planning documentation under preparation automatically ceased to have effect.

Building closures that were adopted under the OBA—i.e., from 1 January 2007 to 30 June 2024—must be verified by the competent land-use planning authority no later than by 1 July 2025 in terms of their timeliness and compliance with the NBA. The information about this verification must then be entered into the national geoportal for zoning planning (in Czech: *Národní geoportál územního plánování*).

If the competent authority finds that the building closure does not comply with the NBA or is not up to date, it will cancel the building closure, meaning it will cease to have effect. If the competent authority does not enter the information on the verification of the building closure into the national geoportal for zoning planning within the specified time limit, even if it has verified the building closure, the building closure automatically ceases to be effective as from 1 July 2025.

According to the timetable published on the website of the Ministry of Regional Development (the "**Ministry**"), the national geoportal for zoning planning should have been effective from 1 July 2024. As of this date, the national geoportal for zoning planning has not been launched, the decree on the details of the national geoportal for zoning planning has not yet been adopted nor has a draft of the decree been published.

Legalization of "black buildings"

"Black buildings" are constructions carried out without a decision required under the OBA, or under the NBA, or in contradiction with such decision.

According to the NBA, such black buildings can be subsequently permitted if the owner of the black building, or the builder, demonstrates that three conditions have been simultaneously met:

- i. The black building is not located in contravention of planning instruments (i.e., e.g., the municipality's zoning plan, building closures), nor in contravention of previous decisions in the area where the black building is located;

- ii. The black building was not constructed on land on which a specific legal regulation prohibited or restricted;
- iii. The black building was not constructed in violation of general building requirements, or a public interest protected by special legislation.

According to the NRC as currently in force and effect, the builder must meet four conditions for legalization:

- i. The builder submits an application for an additional building permit within 30 days from the commencement of the proceedings for the removal of the building;
- ii. The builder shows that construction meets the conditions for authorization of the project, i.e. the conditions that would be considered by the building authority when authorizing the relevant project (e.g. compliance with the planning documentation);
- iii. The builder properly pays the fine for carrying out the relevant black building (if imposed);
- iv. The development does not require authorization of any of the exemptions under relevant legislation, other than an exemption from siting requirements (for example, conditions in relation to hygiene standards, noise or fire safety).

According to the NBA, a black building also becomes a project for which a project permit has been issued, where its implementation has started during the period of validity of the respective project permit, but the project has not been completed within 10 years from the date of legal validity of the project permit or the decision on the extension of the validity of the project permit.

New implementing regulations

The adoption of the NBA is also connected with the need to adopt new implementing regulations that will replace the implementing regulations under the OBA. In this respect, the NBA provides for a special transitional period until 1 July 2027. During this period the implementing regulations to the OBA should be followed until the end of the transitional period or until the new respective implementing regulation has been issued.

Thus, as of 1 July 2024, only some implementing regulations come into force, for example, the [Decree on Construction Requirements](#), the [Decree on Documentation of Buildings](#), the [Decree on Spatial Analytical Documents, Spatial Planning Documentation and Uniform Standard](#), and the [Decree on Designation of Municipal Construction Authorities](#).

The new Decree on Construction Requirements is generally based on existing legislation, however, it promises a comprehensive regulation and unification of the fragmented regulation of building requirements into one single regulation. It newly regulates, for example, how to assess the amount of daylight in rooms and requirements for barrier-free access to selected buildings.

The Decree on Documentation of Buildings contains the documentation requirements for the project permit and “framework permit” (in Czech: *rámcové povolení*), as well as what documentation is needed for a permit to change the use of land, for execution of a construction, for removal of a construction, for supplementation of selected documentation, for passport of construction, and the content requirements and method for keeping a construction diary and a simple construction record.

Prague Building Regulations

The Prague City Council adopted new Prague Building Regulations (the “PBR”) in June, which should ensure continuity with the previous wording of the previous Prague Building Regulations, while adapting to the new terminology of the NBA. The PBR came into force along with the Decree on Construction Requirements on 1 July 2024.

In addition to Prague, the statutory cities of Brno and Ostrava are authorized to adopt their own building regulations. Brno has issued its building regulations, as has Prague, with effect from 1 July 2024, while Ostrava is still preparing its building regulations.

Digitalization

The new information systems, with the exception of the national geoportal for zoning planning, were launched on 1 July 2024. At the same time as the launch of the information systems, the Ministry established a call center for building administration information systems. The call center operators provide basic support to builders and authorities in case of queries and problems in (with) the information systems and, where necessary, contact with the technical staff of the information systems.

While the building authorities, various experts and also some of the builders have been quick to criticize the functioning of the information system, the Ministry has praised it and denied that any system-wide failures have occurred. Prior to the launch of the information systems, the Ministry had already published the [training record](#) and [presentations from the training](#). Moreover, instructional and educational videos are also available on the [Ministry's YouTube channel](#). According to the Ministry, the information systems currently include all the functionalities required by the NBA, and it has planned to implement additional functionalities (not required under the NBA) that will increase the user's comfort experience.

The initial shortcomings, however, have been far from marginal. The key information system for builders is the [builder's portal](#). In particular, the builder's portal is used by builders to submit (i) applications for project permits, (ii) applications for changes to the construction before its completion, (iii) applications for an occupancy permit or (iv) permission for early use of the building. However, logging into the builder's portal is currently only possible through a National Identity Authority ID (NIA ID), which can only be obtained by natural persons. Therefore, applications on behalf of corporate builders must (for the time being) be submitted by natural persons (usually employees or agents). Access to the submitted applications, procedures and documentation is (for the time being) only possible via the account of the natural person who originally submitted the application (in extreme cases this could be, e.g., an ex-employee or someone who is out on extended sick leave). The Ministry is reportedly aware of this problem and is working to resolve it.

Under the NBA it is also possible to submit an application for a project permit in paper form; however, project documentation for projects that require a designer (for example, detached (family) houses or garages, buildings for family recreation, designated buildings, such as power generation plants and highways or other buildings, such as for apartments and condominiums, office buildings or warehouses) must be uploaded by the builder into the electronic documentation register. Thus, practically speaking, it is generally impossible to submit a complete application for planning permission in paper form only without using information systems.

At the same time, under the NBA, the planning and building administration authorities shall only carry out its filing service (in Czech: *spisová služba*) digitally, so viewing (new) files will also only be possible electronically. Moreover, the information systems are not linked to the existing filing services and there are no plans to link them—the register of construction procedures registers (new) documents separately.

The information systems were launched on 1 July 2024. This came on the heels of the dismissal at the end of May by the chairman of anticompetition authority (in Czech: *Úřad pro ochranu hospodářské soutěže – ÚOHS*) of appeals filed by the Ministry and the supplier of the information systems against an application to ban performance of the contract for the implementation project, development and implementation of information systems for the digitization of construction proceedings. ÚOHS thus confirmed the correctness of its first-instance decision (issued in March 2024) which was challenged by the appeal. ÚOHS initially found that the aforementioned contract was concluded in breach of the law and imposed a ban on the performance of the contract with a four-month suspension from the date on which the decision becomes final. The suspensive effect will expire in September/October 2024.

Should the ban on performance under the contract come into force, the information systems would have to be shut down almost immediately, regardless of ongoing proceedings and applications registered in the information systems. We believe that the Ministry will undertake all necessary legal steps to prevent such negative outcome.

We will continue to monitor the situation and update our findings as appropriate.

In conclusion, we would like to remind you that for all proceedings initiated under the Building Code of the NBA, the deadlines for issuing decisions under the NBA are doubled. At the same time, building authorities are currently struggling with an unexpected number of applications submitted under the OBA in June this year, prior to the end of the transitional period (e.g. some authorities have received 18 times more compared with June 2023).

If you need assistance in proceedings under the NBA, or if you have any questions regarding the NBA, please do not hesitate to contact us.

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