

CMS | Bucharest Tribunal rules against the city's main zoning plan



On 24 June 2022, the Bucharest Tribunal, as the initial court, ruled for the cancellation of Bucharest's general zoning plan (Planul Urbanistic General or PUG), which is the main zoning document of the city, instituting buildable limits and the regime and functions of each part of the city in terms of what can be built there and in what parameters.

Zoning documentation that regulates sectors of the city or single developments depart from the PUG or from existing zoning documents, which in their turn departed from the PUG.

Hence, the Bucharest Tribunal's decision could have significant consequences in the future if the upper court where an appeal is pending maintains the Tribunal's decision. At least for now, however, real estate projects should go their course despite this potentially worrying decision due to three considerations.

Firstly, although cancelled, the PUG continues to be in force until and unless a final binding decision of the Bucharest Court of Appeal upholds the cancellation decision of the Bucharest Tribunal.

Secondly, investors may query the actual impact of the cancellation decision on existing, pending and future zoning documentation and on the industry. However, the following points should be clarified:

- Zoning documentation that is issued and still within its validity period on 24 June 2022 will remain unaffected.
- All zoning documentation pending approval on 24 June 2022 will remain unaffected on the basis of the PUG and will be issued irrespective of the existing Tribunal decision or the outcome of the current appeal.
- All documentation for which the planning and permitting procedure is initiated after 24 June 2022 will continue to be issued on the basis of the PUG (or existing zoning documentation, which in their turn departed from the PUG) until the Court of Appeal upholds the PUG cancellation. Note that the first hearing has not yet been communicated publicly.

Thirdly, in relation to the final point above, if the PUG remains cancelled following a binding decision of the Court of Appeal, the question will be: which zoning plan will be applicable to Bucharest for any new real estate developments?

The merits of this case and the reasoning of the Bucharest Tribunal's decision have not yet been made public. Hence, CMS Bucharest is not in the position to have an opinion on the potential outcome of the case before the Court of Appeal. So, if the current decision is not overturned, until a new PUG is enacted to replace the cancelled PUG, permitting will be performed on the basis of the General Urbanism Regulation (Regulamentul General de Urbanism) and PUZ (local zoning plan) to be passed by the Bucharest General Council in accordance with the law.

Given that at the level of Bucharest City Hall, according to public information, all building permits issued in the last two years were based on the PUG and no PUZ has been passed during this period, the likelihood that new PUZs will be issued, in the mentioned scenario on the basis on the General Urbanism Regulation, is slim. In addition, the General Urbanism Regulation was enacted in 1996, and is a tool that requires updating.

Conversely, even if maintained, the current PUG has been extended for more than ten years and needs a heavy alignment with Bucharest's new real estate landscape. However, it is unlikely that before the Court of Appeal rules on this matter, the current PUG situation will be addressed. According to the estimates of the Bucharest Mayor, a new PUG could be in force no earlier than 2024 although such an estimate may be too optimistic.

Hence, absent a serious and coherent intervention of the administration in terms of general zoning matters, Bucharest is now in the position of relying for its development on a PUG that is outdated and facing court annulment.

In the context of the recent Bucharest districts PUZ cancellations, even if the current PUG seems far from an ideal tool for investors in the capital, defending its cancellation in the on-going dispute is still preferable to the alternative of having to rely solely on the general urbanism regulation of 1996 and the hope that the Bucharest General Council will soon resume PUZ approvals.

For more information on zoning regulations in Bucharest, contact your CMS client partner or local CMS experts: **Roxana Fratila** and **Alexandru Trandafir**.