

## It Is Not Always the Property Owner to Commission the Drafting of a Detailed Development Plan

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The amendments to the Spatial Planning Act of 26 November 2012 introduced a new Article 124a, specifying explicitly the list of the parties concerned eligible to request the drafting of a detailed development plan. The legal provisions read that the permission to draft a detailed development plan may be granted at the request and at the sole expense of the parties concerned as follows: (i) land owners; (ii) concessionaires; (iii) persons entitled to build in another person's property by virtue of law; or (iv) other persons as specified by law. Depending on the status of the property where works would possibly be carried out, the following authorities are competent to permit the drafting of a detailed development plan:

- the Municipal Council at the proposal of the Mayor of the municipality;
- the Mayor of the municipality at the proposal of the Chief Architect, where the detailed development plan is intended to cover a part of an urban area (except for communities of national importance) within a single neighbourhood or, in the case of the capital city or the other big cities subdivided into districts, within three neighbourhoods;
- the Regional Governor in cases where the detailed development plan is intended for the implementation of projects of regional importance or projects covering the territory of more than one municipality;
- the Minister of Regional Development and Public Works in cases where the detailed development plan would possibly cover territories located in more than one region or entails the implementation of projects of national importance.

It is interesting to examine the intention of the law-maker in the wording of item (iv) above, i.e. the permission to draft a detailed development plan may be granted also at the request and at the sole expense of "other persons as specified by law". The applicability of this provision depends on the existence of an explicit provision in a special law, which authorizes certain persons who are parties concerned and may commission the drafting of a detailed development plan. A special law in this sense is the Energy Act. It contains the explicit wording that the person who will build and operate energy facilities is a party concerned for the purposes of the drafting of a detailed development plan within the meaning of the Spatial Planning Act (SPA). The Energy Act makes reference to a repealed SPA provision to the same effect and therefore the relevant provisions of the existing Article 124a SPA apply by analogy.

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The authorization procedure for the preparation of a detailed development plan begins with the filing of an application for the granting of a permission to draft a detailed development plan supported by terms of reference. The permission specifies the scope, objectives and tasks of the project, the type of the detailed development plan, as well as the way in which the land property will be consolidated. Permissions are granted within a month of the date of the application and they are not subject to challenge. Permissions approve the terms of reference as proposed by the person commissioning the drafting of the plan. The terms of reference contain justification of the need for the plan and specify the requirements to the scope, time limits and implementation stages of the plan. They are supported by relevant information about the current condition and the existing development concepts, schemes and plans related to the respective territory.