



The "Plaza Ban" regulation in Hungary

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In August 2018, the Hungarian government adopted Government Decree No. 143/2018 (VIII. 13) on the detailed rules applicable to the change of designated purpose procedure, which further strengthened the regulation known as the "Plaza Ban." In particular, it extended the scope of the strict rules prohibiting shops and shopping malls (referred to collectively here as "retail buildings") with a gross floor area of over 400 sq.m.

As a consequence, the owners of retail buildings with a gross floor area of over 400 sq.m. face a new permitting procedure in case of those (minor) alteration works which were previously not subject to any permits. Additionally, owners are not allowed to change the designated purpose of office buildings, storage or other premises with the intention of expanding the area of their retail buildings, without seeking a permit from the competent authority.

Legislative background

The rules of the construction, alteration and expansion of retail buildings with a gross floor area of over 400 sq.m. and the change in the designated purpose procedure known as the "Plaza Ban" law are contained in the laws listed below:

- Chapter No. IV/A of Act LXXVIII of 1997 on the Formation and Protection of the Built Environment (the Act) (last amended in August 2018).
- Government Decree No. 143/2018 (VIII. 13) on the detailed rules applicable in the change of designated purpose procedure (the Government Decree), which came into force in August 2018.
- Government Decree No. 5/2015 (I. 29).

Before the recent amendment of the Act and the adoption of the Government Decrees, only the construction, alteration and expansion works carried out in retail buildings with a gross floor area of over 400 sq.m were subject to the "Plaza Ban" rules. As from August 2018, however, there are further restrictions on the owners of larger retail buildings, such as, for example, the requirement of government approval for even minor alteration works.

The rules of the "Plaza Ban" where a building permit is required

As noted above, the affected properties are retail buildings with a gross floor area of over 400 sq.m., where the owner intends to conduct construction, alteration or expansion works.

The Act defines retail buildings as shops and shopping malls, and refers to Act CLXIV of 2005 on Trade, which provides more details. Under the Act on Trade, "shops" are such buildings, independent sections of buildings, or areas constructed or used for trading activities where trading activities are pursued. Shopping malls are multi-purpose buildings or multiple buildings consisting of a complex of commercial units, mostly shops, which represent permanently established merchandisers of different types and offer various types of entertainment and leisure services to visitors.

Owners of retail buildings submit their application for a building permit to the local building authority. The local building

authority has 75 days to grant the building permit to the applicant.

Within this time limit, it is obliged to obtain prior approval from the government office, which must consider any detrimental impact of the retail building in terms of the local environment, transportation and urban development, and must decide whether that impact outweighs the potential advantages of the construction, expansion or alteration of the retail building.

Before making its decision on the approval, the government office is obliged to discuss its assessment with a committee made up of delegates from the competent ministries. The committee's opinion must be taken into consideration, although it is not binding on the government office.

Before submitting an application for a building permit, the owner has the opportunity to ask for prior approval of the government office by contacting the office directly. If such prior consent is granted, the owner may initiate the building permit procedure, and the local building authority will not have to obtain the approval of the government office. The owner has one year to make use of the prior approval once it has been granted.

Changes in designated purpose procedure

The activities which are subject to the new permitting procedure are as follows:

- a) Changing the function of buildings with a gross floor area of at least 400 sq.m. to retail purposes.
- b) Minor alteration of a retail building — where a building permit is not required — where the alteration expands the gross floor area of the building to exceed 400 sq.m.
- c) Minor alteration of a retail building with a gross floor area of over 400 sq.m. — where a building permit is not required.

In relation to point (a), it is no longer possible, without the approval of the government office, to build retail units in buildings with a gross floor area of 400 sq.m. by changing the function of the existing building for retail purposes. So if, for example, the owner of an office building (with a gross floor area of over 400 sq.m.) wishes to convert that into a retail building, they must now initiate the change in the designated purpose procedure.

The change in the designated purpose procedure also governs situations where a retail building is expanded so that its gross floor area will exceed 400 sq.m. (point (b)).

In relation to point (c), it should be noted that a retail unit of a shopping mall does not constitute an independent retail building, thus any minor alteration works carried out in a retail unit will result in the shopping mall being required to initiate the change in designated purpose procedure.

Government Decree No. 253/1997 (XII. 20) on the national settlement planning and construction requirements provides the definition of "alteration works." These are defined as construction works carried out in order to alter the floor plan or external appearance of an existing building (or part of a building) without expanding the internal volume.

The rules of the change in designated purpose procedure apply, for example, if the owner intends to erect, or take down an internal partition wall or change the location of a fitting room inside a retail unit.

Under the Government Decree, the owner (prior to starting any of the above activities) must submit its application for a permit to the local government. The notary will forward the application to the government office, which has 60 days to grant its approval. Unlike the building procedure, the local notary does not decide whether the permit should be issued or not, as this falls within the competence of the government office. However, the same administrative deadline applies (75 days from receiving the application) and the notary has to obtain the government office's approval within this period.

As noted above, the change in designated purpose procedure covers activities which were not previously subject to any permitting rules. Under the Government Decree, if any of these activities are undertaken without a permit, the owner of the building may be fined or prohibited from using the premises as a retail building.