

Newsletter



24 October 2025

Council of State: Approval of the environmental equivalent mechanism of the New Building Regulation (NOK)

With processing minutes number 135/2025, the Fifth Department of the Council of State confirmed the legality of a draft presidential decree issued following Plenary Decisions 46-149/2025, which found the New Building Regulation (NOK) incentive system to be unconstitutional.



Scope of building permits covered

The draft decree has been prepared pursuant to Article 68 of Law 5197/2025, which introduces an environmental equivalent mechanism to address the use of incentives and surcharges applied to building permits issued prior to the Court's annulment decisions. This mechanism covers, in particular, building permits that have either been annulled by a court decision or were under legal challenge up to 11.12.2024 and are therefore affected by the Court's findings of unconstitutionality. It also applies to building permits financed by the Recovery and Resilience Fund and the Regional Development Partnership Agreement.

Special Urban Environmental Equivalent Upgrade Plan - Environmental pre-assessment requirement

The mechanism provides for a Special Urban Environmental Equivalent Upgrade Plan, funded through environmental equivalent payments made by the interested parties, as well as the re-issuance of building permits through a process that varies depending on whether the load-bearing structure of the building has already been completed. It also includes the selection of appropriate environmental equivalent measures, as provided for in Article 68 of Law 5197/2025, either at municipal-unit level or, at municipality for the metropolitan regions of Athens and



Thessaloniki, based on an environmental screening or, where required, a strategic environmental impact study.

Legislative power to re-regulate adjudicated legal relations

The Fifth Department of the Council of State, reaffirming the case law of the Supreme Special Court, confirmed that even where legal relationships have been irrevocably adjudicated, the legislator may introduce new provisions to regulate these relationships, provided such rules are general in nature and do not target specific cases. Accordingly, the mechanism described above—introduced after the Court’s annulment decisions—was deemed constitutionally compliant, as the potential re-issuance of the affected building permits will fall under a new and distinct legislative regime. This regime does not aim to resolve a particular dispute, but rather to establish a general and abstract framework, based on objective criteria (such as the completion status of the load-bearing structure). However, it was clarified that the re-issuance of such permits requires the completion of an environmental pre-assessment of the relevant plan at local level or, where necessary, a strategic environmental impact study.

Clarifications on proof of commencement of works

Finally, it was held that aerial photographs not issued by an authorised body do not constitute lawful proof of commencement of construction works before 11.12.2024. Moreover, “commencement of construction works” includes, *inter alia*, the conduct—before 11.12.2024—of archaeological trial trenches carried out under a valid building permit.

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