

Newsletter



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Decision of Council of State 1616/2025 Unauthorised Constructions in Common Areas

The Plenary Session of the Council of State has issued a landmark decision ruling on property rights and condominium governance, clarifying that unauthorised constructions in common areas of buildings governed by horizontal or vertical ownership cannot be regularised without the unanimous consent of all co-owners when no condominium regulation exists.



Background

An apartment owner sought to regularise unauthorised extensions on the ground floor of a block of flats, specifically, the enclosure of the pilotis, under Law 4014/2011, through transfer of the application to Law 4178/2013. The building lacked a condominium regulation defining the use of common areas. Relying on majority consent, the owner proceeded with the regularisation.

A co-owner challenged the move before the competent Regional Councils for Urban Planning and Disputes (ΣΥ.ΠΟ.Θ.Α.), arguing that the constructions were made in a common area without his consent. The latter rejected the appeal, citing that majority consent was sufficient under Law 4178/2013.

The Administrative Court of Appeal overturned this decision, ruling that the actions violated property rights protected by article 17 of the Constitution, as they effectively annexed common



areas. The case was then referred to the Plenary Session of the Council of State due to constitutional concerns.

The Court's Reasoning

The Council of State reaffirmed fundamental principles of condominium law:

- Each co-owner may use common parts of the building, carry out repairs, and make alterations only if such actions do not change their usual purpose, harm other owners' rights, or compromise safety and aesthetics.
- Whether a change infringes on co-owners' rights or alters the usual purpose of common areas must be assessed case by case, considering the smooth functioning of the condominium relationship.
- Uses that prevent or excessively hinder other co-owners' enjoyment of their property or the common parts are deemed harmful. A change in the usual destination occurs when the use alters the purpose of common areas as defined by law or by common experience in condominium operation.

These principles are consistent with prior Supreme Court decisions.

Key Ruling

The Plenary of Council of State confirmed that regularisation of unauthorised constructions in common areas requires unanimous consent of all co-owners when no condominium regulation exists. Majority approval is insufficient, as Law 4178/2013 cannot override property rights. Unauthorised construction in common areas without unanimous consent infringes on co-owners' rights and cannot be regularised.



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