



Client Alert | Real Estate

Italy

“Decreto Cura Italia - Healing Italy Decree”: measures adopted and consequences in the real estate sector

March 2020

As is known, on 17 March 2020, Decree Law No. 18 (the so-called “Heal Italy” Decree) was published in the Official Gazette, Extraordinary Edition, No. 70.

Among the measures set out by the Decree, Article 103 provides for:

- the **suspension** of the time limits for the conclusion of administrative proceedings, providing that *“for the purposes of calculating directory, mandatory, preparatory, intraprocedural, final and executive time limits relating to the conduct of administrative proceedings, upon the request of a party or ex officio, **pending as of the date of 23 February 2020** or commenced thereafter, the period between said date and 15 April 2020 shall not be taken into account”*.
- the **extension** or deferral, for the corresponding time, of the time limits for formation of the final will of the Administration in the forms of significant silence.

Furthermore, *“all certificates, statements, permits, concessions, authorizations and licences, howsoever named, **expiring** in the period between 31 January 2020 and 15 April 2020 shall remain valid and effective until 15 June 2020”*, thus providing for an extension *ex lege* of their validity.

What are the concrete consequences of the above provision? In particular, what are the consequences in the real estate sector?

The above regulation has for example an impact on the statutory time limits for

- confirmation of the validity of the certified work commencement notice (**“SCIA”**);
- the validity of building permits;
- the exercise of the right of preemption of the Ministry for Cultural Heritage and Activities and Tourism;
- the approval of implementation plans or any variant thereof, etc.



Some concrete scenarios:

- **SCIA filed on 10 February 2020** concerning the execution of a **building** project.
Pursuant to Article 19, paragraph 3, of Law 241/1990, within 30 days of the receipt of the SCIA, the Administration may adopt “reasoned measures prohibiting the continuation of the activity and removing any harmful effects thereof”.
Pursuant to Article 103 of the Health Italy Decree, such term - originally expiring on 11 March 2020 - will expire on 3 May 2020.
- **Purchase and sale of a listed property of cultural interest under Legislative Decree 42/2004.**
The right of pre-emption may be exercised by the Ministry of Cultural Heritage and Activities and Tourism within 60 days from receipt of the notice of transfer, or within 180 days from receipt of late notice.
Well, assuming that the notice of transfer was given on 10 February 2020, the final deadline within which the Ministry may exercise the right of pre-emption – originally 10 April 2020 - will be 2 June 2020.
- **A building permit** in which the time limit for end of work set at 1 February 2020: such time limit is extended to 15 June 2020.
It should however be recalled that Article 15 of Presidential Decree 380/2001 provides for the possibility of granting an extension of the deadline for commencement or completion of work set out in the building permit, by a reasoned order, if a supervening event occurs beyond the permit holder’s control.
- A procedure for **approval of an implementation plan**, or a variant thereof, pursuant to Lombardy Regional Law No. 12/2005, for which the deadline for the filing of observations by interested third parties was 31 January 2020: the 60-day term within which the Public Administration must definitively approve the implementation plan - originally expiring on 31 March 2020 - will expire on 23 May 2020.

The provision specifies, however, that *“public authorities shall take all appropriate organisational measures to ensure a reasonable duration and prompt conclusion of the proceedings, with priority being given to those to be considered urgent, including on the basis of reasoned requests from the parties concerned”*.

This article is for information purposes only and is not, and cannot be intended as, a professional opinion on the topics dealt with.

It is also understood that the content of this document is not based on the ascertainment of the existence of the factual and legal conditions relating to the validity and effectiveness of building permits or town planning procedures.

Nctm



For further information, please contact your reference counsel or send an email to the following addresses:

- Real Estate Department: [Luigi Croce](#), [Christian Mocellin](#), [Rosemarie Serrato](#)
- Administrative Department: [Giuliano Berruti](#), [Marco Monaco](#), [Francesca Bonino](#)