



REGULATION OF THE REAL ESTATE INVESTMENTS MANAGED BY THE MINISTRY OF NATIONAL DEFENCE

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The construction sector is regulated at the national level to ensure a proper technical standard, as well as the coordination of spatial development at the local and national level. Real estate investments funded from the public budget are carried out in accordance with regulations regarding the design and execution of construction works, in addition to the clarifications from legislation regarding budget planning, public procurement, and the stages of development and approval of technical and economic documentation.

Real estate investments related to the defence infrastructure, which also includes investments for the Ministry of National Defence, represent a particular situation due to the obligation to comply with both national legislative frameworks and departmental regulations, ensuring both operational requirements and coordination of activities at the operational and tactical level.

By analysing the regulations applicable to real estate investments of the Ministry of National Defence, the article briefly presents the stages of making the investments, the institutions involved and their responsibilities, as well as some assessments regarding the opportunity to develop a code and a regulation dedicated to military constructions, which could contribute to the efficiency of military operations, thus ensuring the effectiveness and safety of military personnel, as well as saving of resources.

Keywords: defence infrastructure; specialised military construction; barracks; building legislation; military regulations;



THE COMPONENTS OF THE DEFENCE INFRASTRUCTURE

A component part of the national defence system, along with leadership, forces and resources, *the territorial infrastructure* (Legea nr. 45 din 1 iulie 1994, art. 20¹) contains all the constructions and landscaping that can be used for national defence purposes, respectively: the defence capabilities, the national shelter system and the specialised military constructions.

Defence capacities (Legea nr. 477 din 12 noiembrie 2003, sect. 4) are public or private constructions, necessary for the defence forces, which can be requisitioned in case of mobilisation or war. These facilities include industrial production lines and the related warehouses, transportation infrastructure, communication and information technology networks, buildings for health purposes, as well as warehouses for state and mobilisation reserves.

The national shelter system (Legea nr. 481 din 8 noiembrie 2004, art. 42) includes the constructions intended to protect the civilian population and the national cultural heritage. This includes the National Emergency Management System command points, public shelters and private ones made by the property owners. These constructions are designed according to technical norms approved by the Ministry of Internal Affairs (Ordin nr. 1.298 din 10 mai 2006).

Specialised military constructions (Legea nr. 50 din 29 iulie 1991, Anexa 2, pct. 8), represent the constructions, installations and landscaping built to support the activities of the institutions within the national defence, public order and national security system (SNAOPSN). These constructions are approved according to a common procedure by the authorities in the Ministry of Internal Affairs, the Romanian Intelligence Service, the Special Telecommunications Service, the Ministry of National Defence, the Ministry of Justice, the Foreign Intelligence Service or the Protection and Security Service, each institution approving the works from the real estate domain it manages.

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¹ Law nr. 45 of 1 July 1994, Art. 20.



Military facilities (Legea nr. 122 din 15 iunie 2011, art. 3, lit. h) are buildings and installations used in training activities or in combat actions of the army, that are under the administration of the Ministry of National Defence/MAN. These include barracks/military bases, military camps, shooting ranges and warehouses, military transportation infrastructure (train stations and railroads, ports, airports, airfields, hangars), as well as landscaping or fortifications. Some of the military facilities are represented by specialised military facilities (DDI-13 din 17 iunie 2022), namely the barracks that provide facilities for strategic leadership, information processing centres or warehouses for explosives, ammunition or toxic chemicals. For these bases, that are established by the Defence Staff/SMAN, due to their strategic importance or existing risks in their use, additional conditions are required for establishing the location, as well as for ensuring access and operation.

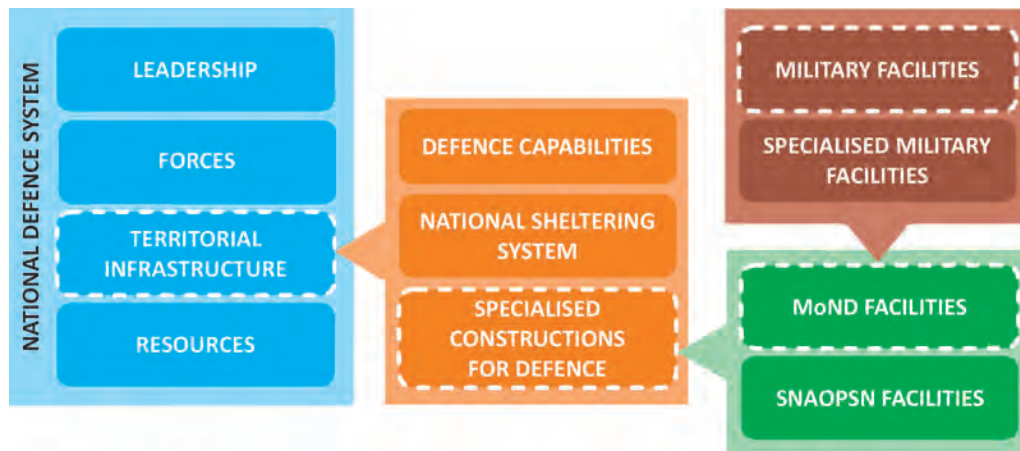


Figure 1: Defence infrastructure components (author's design).

Real estate properties in the military environment are the properties owned by the Ministry of National Defence or those in the public or private domain of the state that are under the ministry's administration. They are referred to as *military barracks/bases/installations* and consist of the land, constructions and facilities intended to provide temporary or permanent facilities for the accommodation, training, and preparation of one or more military units.



Military infrastructure is defined as the assembly of permanent constructions and installations that support military activities. Its development is based on operational requirements, depending on the complexity of the military activities carried out, and real estate investment projects.

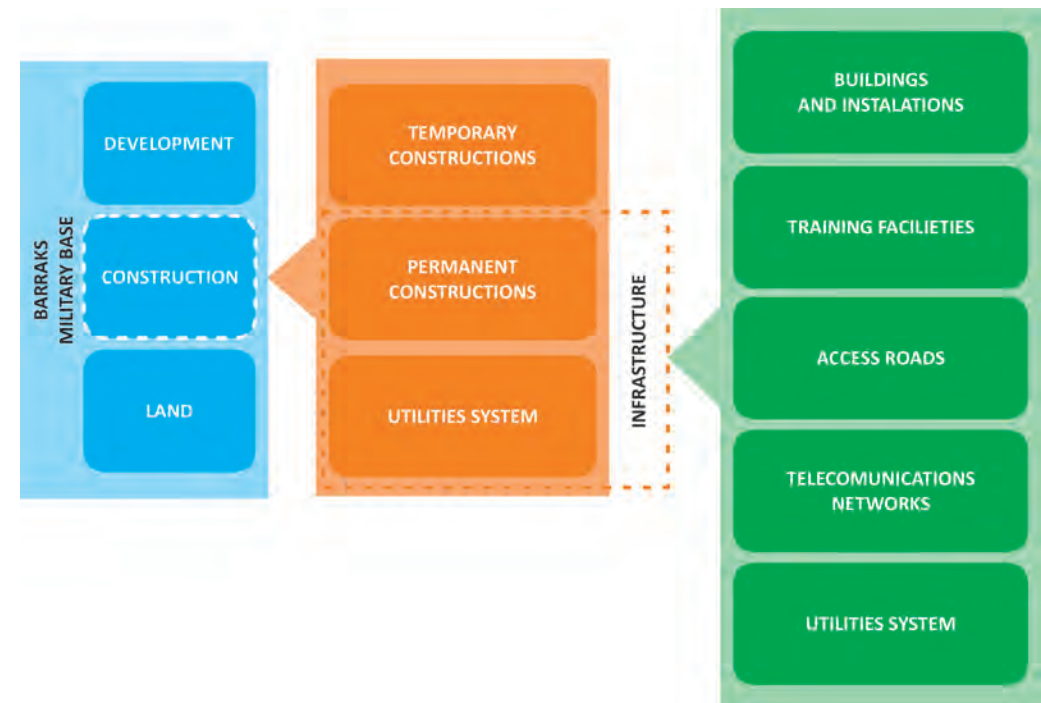


Figure 2: The elements of a military base (author's design).

Doing real estate investments for the military involves a series of stages established by laws and technical regulations that apply at the national level, as well as additional measures specified by orders and provisions specific to the military domain, aimed at ensuring the implementation of an appropriate operational standard. Listing the applicable regulations presents both the stages of building the infrastructure starting from the level of strategic planning to the implementation and use of constructions, as well as the responsibilities that various civil and military institutions have in this process.

The doctrine of the Romanian Armed Forces sets three levels of military activity that also apply to the stages of military infrastructure



The Territorial Development Strategy of Romania is a document that establishes the long-term directions of territorial development, over a period of 20 years or more, and provides the foundation for regional, national, cross-border, and transnational strategies, policies, and programs. The Ministry of Development, Public Works, and Administration is responsible for developing this document, under the coordination of the Prime Minister.

development: leadership/directing at the military-strategic level, respectively planning and execution at the operational and tactical levels (Chiriac, 2017). The categorisation into the three levels is based on the established objectives (Lexicon militar, 1994):

- The strategic level is subordinated to national and allied policies, directing/leading the operational and tactical level through an overall conception.
- The operational level, situated between the strategic and tactical levels, refers to the planning and coordination/management of the operations necessary to achieve the established strategic objectives.
- The tactical level is subordinate to the other two levels, involving the integration of tactical actions in an operational and strategic conception.

BUILDING REGULATION AT THE STRATEGIC LEVEL

Territorial Planning

The spatial management of the country's territory is carried out through spatial planning and urban planning activities, based on the *Territorial Development Strategy of Romania* (Legea nr. 350 din 6 iunie 2001, art. 2).

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Territorial planning is the activity through which all sectoral policies, including defence, are coordinated in an integrated manner. In this sense, the MDLPA develops territorial planning documentation at the national, regional, and local levels, outlining directions for spatial development. For the coordination of defence and territory management activities, the SNAOPSN authorities approve these documents in advance (Ordinul nr. M. 40 din 8 martie 2018, art. 6).

Defence Planning at the Political and Departmental Levels

The basic document for national defence planning (Legea nr. 203 din 16 iulie 2015) is the Romania's *National Defence Strategy*. This document is presented by the President of Romania for the duration of his mandate and is approved by both Chambers of Parliament. To fulfil the provisions of the Strategy, MApN develops the Defence White Paper (Hotărârea nr. 28/2021 pentru aprobarea Cărții albe a apărării), which outlines, among other things, the objectives, directions of action and major investment projects for developing the defence infrastructure.

To achieve the objectives set through the national defence policy, based on the *National Defence Strategy*, taking into account the Defence White Paper and considering the security and defence policies of the North Atlantic Treaty Organisation (NATO) and the European Union (EU), MApN designed the *Military Strategy of Romania* (Hotărârea nr. 832 din 11 august 2021).

In order to provide a vision of the defence objectives and resource allocation priorities, based on the *Defence White Paper*, the *Military Strategy of Romania* and the *framework letter regarding the macroeconomic context*, MApN develops the *Defence Planning Guideline* (Directiva de planificare a apărării pentru perioada 2018-2027, 6 februarie 2018)². The planning is divided into 11 major programs, each led by a program director responsible for managing resources to ensure specialised military capabilities. The *Defence Planning Guideline* covers a 10 years period and represents the main basis for harmonising policies, resources and capabilities. Based on this document, each program director establishes the necessary courses of action to achieve specific objectives, including objectives related to the maintenance and development of infrastructure.

Spatial Planning for National Defence

Preparing the territory for national defence (Legea nr. 477 din 12 noiembrie 2003, art. 34) includes the measures taken during peacetime to meet the operational needs of the national defence

² The Defense Planning Guideline for the period 2018-2027 was approved on 6 February 2018 by the Defense Planning Council.



ROMANIAN
MILITARY
THINKING

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system, to protect citizens, as well as for the protection of material assets of the national heritage.

For the protection of citizens, objectives³ such as civil shelters, alerting and warning systems, observation posts and command points are considered, while for the protection of goods, warehouses and loading-unloading points are provided.

The objectives set for assuring the operational needs of the defence system (Pigui, 2004) include the necessary works for the military activity, such as fortifications or command points, storage capacities, communication routes, including ports and airports or telecommunication lines, etc.

These works are carried out by including them in the *Program of objectives for the operational preparation of the territory for defence*. This program is carried out for a period of four years and is updated annually. Revisions are based on proposals submitted by the public institutions with responsibilities in the field of security and are approved by SMAp. For the implementation of the construction works, the projects are included and are given priority in the investment programs of the responsible authorities.

Directing Real Estate Investments at the Strategic Level

Regarding the defence infrastructure, the activities on the strategic level consist of coordinating defence policy with national spatial planning strategies. This is achieved by updating spatial planning documentations with the information related to SNAOPSN objectives and by the SNAOPSN authorities approving these documentations. Directing the operational level is carried out through the *Program of objectives for the operational preparation of the territory for defence*, which includes the investment objectives related to the preparation of the territory for defence, and through the *Defence Planning Guideline*, which ensures the financing of investment programs.

³ Civil protection works are carried out in accordance with Legea nr. 481 din 8 noiembrie 2004 privind protecția civilă and Hotărârea nr. 560 din 15 iunie 2005 pentru aprobarea categoriilor de construcții la care este obligatorie realizarea adăposturilor de protecție civilă, precum și a celor la care se amenajează puncte de comandă/Decision no. 560 of 15 June 2005 for the Approval of the Construction Types for which Civil Protection Shelters Are Mandatory, as well as those that Require the Setting Up of Command Posts.

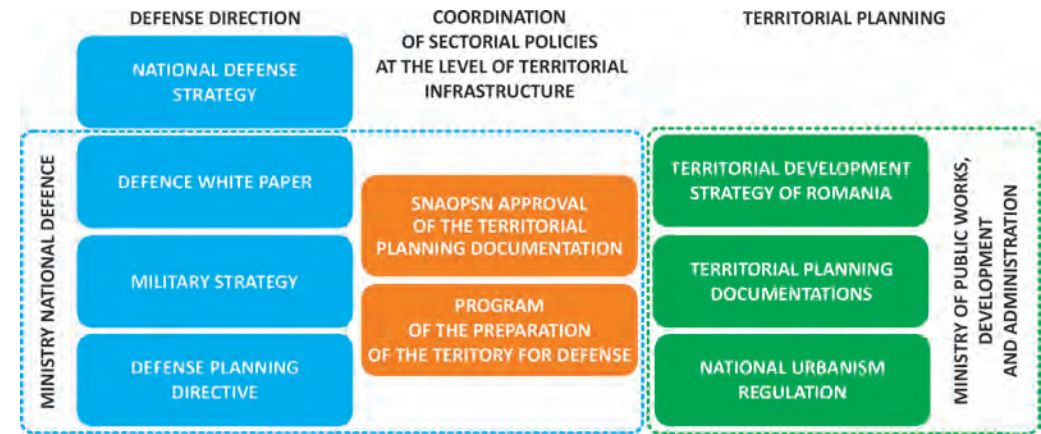


Figure 3: Defense policy coordination at the level of territorial infrastructure (author's design)

BUILDING REGULATION AT THE OPERATIONAL LEVEL

Urban Planning Activity

Urban planning (Legea nr. 350 din 6 iunie 2001, art. 4) represents the operational and normative activity through which the provisions of the territorial development plans are transposed at the level of administrative-territorial units through: the General Urban Plan and its corresponding local regulation, Zonal Urban Plans and their corresponding local regulations and through Detailed Urban Plans. In order to complete the urban planning documentation, the SNAOPSN authorities communicate to the local or county public authorities that are the areas with special destination and the protection zones of the areas with special destination for the objectives under their administration.

To comply with the conditions set out in the urban planning documents and inform the beneficiary about the legal, economic and technical regime concerning the properties and the necessary conditions for the building approvals, an urban planning certificate/ CU is required. The mayor, through the urban planning department led by the chief architect, ensures the development of urban plans for the territory they manage and issues the CU.

For defence-related investments, the CU is issued by the SNAOPSN authorities, based on and in compliance with the internal regulations applicable to specialised facilities (Ordinul nr. M. 40 din 8 martie 2018, art. 6).

Urban planning represents the operational and normative activity through which the provisions of the territorial development plans are transposed at the level of administrative-territorial units through: the General Urban Plan and its corresponding local regulation, Zonal Urban Plans and their corresponding local regulations and through Detailed Urban Plans.



To determine the specific urban planning requirements for the location and coordinate with the local regulations approved by the urban planning documents, technical support may be requested from the local public authorities, which are obliged to provide the requested data within 15 days.

The MApN Approval

In order to protect the real estate assets of the MApN, the construction works for properties located in the vicinity or in the protection zones of specialised military facilities are subject to obtaining the approval of SMAp (Hotărârea nr. 62 din 7 februarie 1996, anexa 1, pct. 4). The Domains and Infrastructure Division, the specialised department of the MApN in the field of property management, approves, at the request of the SMAp, the urban planning and territorial planning documentation for the location of new investments and the development of existing ones (DDI-13 din 17 iunie 2022).

Also, the approval of SMAp is necessary for a series of investment objectives, public or private, in order to analyse the opportunity of their inclusion in the infrastructure of the national defence system, as well as to coordinate new projects within the existing infrastructure.

Planning the Real Estate Investments for Defence

The defence objectives set at strategic level are planned and coordinated through major programs and annual plans (Legea nr. 203 din 16 iulie 2015, art. 9 și 10).

The major programs include the necessary resources and measures for modernisation, equipment, training, and logistical support. They are developed and implemented by the directors of the major programs, based on the resources and objectives outlined in the *Defence Planning Guideline*.

The founding of MApN activities is provided by the state budget and is subject to the regulations provided in *Legea nr. 500/2002 privind finanțele publice*, regarding the credit managers, public investment programs and approval of investment documentation.

The Minister of National Defence is the main credit manager (Legea nr. 346 din 21 iulie 2006, art. 19) and designates, by order, secondary

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and tertiary credit managers (Ib., art. 68) to ensure budget execution. The secondary credit managers are the directors of major program that are responsible for establishing, developing and maintaining capabilities.

The annual investment plans are prepared by the directors of major programs based on the measures outlined in the major programs, the funds allocated from the state budget for the respective year, the budget execution of the previous year and the program indicators.

Real estate programs represent a coherent set of projects or objectives that are carried out over a period of more than one year. DDI, the authority of the MApN that monitors and coordinates real estate investments in all stages of implementation, is responsible, through its subordinate units, for implementing the real estate programs.

Real Estate Investment Planning at the Operational Level

At the operational level, the necessary planning and coordination activities are carried out in order to achieve the strategic objectives. Regarding the real estate investments of the MApN planning is carried out through Investment Programs and Annual Plans. Coordinating new investments with the existing defence infrastructure is achieved through the Urban Planning Certificate and the MApN approval.

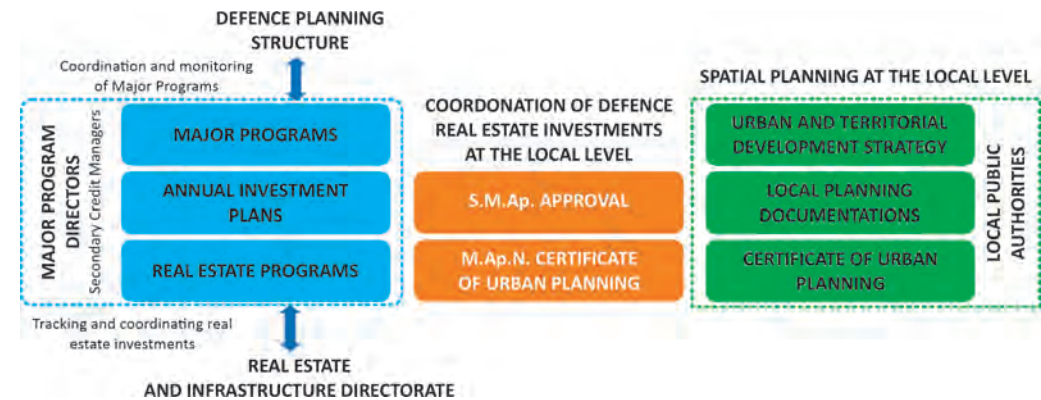


Figure 4: Planning of military real estate investments and their coordination at the local level (author's design)



BUILDING REGULATION AT THE TACTICAL LEVEL

The development and modernisation of real estate is carried out through real estate investment projects. These consist of the development of a new real estate property or the modernisation of an existing infrastructure and are carried out in compliance with the national legal framework regarding the stages of project approval, public procurement, planning application, and the execution of construction works.

The Ministry of Public Works, Development and Administration/MLPDA (Hotărârea nr. 477 din 16 iunie 2020) is the central public administration authority in the field of constructions, spatial planning, urban planning and architecture and is responsible for ensuring the regulatory framework related to these activities. The regulations issued are mandatory for all real estate investments, public or private, to ensure a corresponding technical standard established at the national level, as well as for coordinating the development of all administrative-territorial units, regardless of their size.

For the real estate investments for national defence, in order to detail the investment implementation procedures and establish a standard regarding the operational requirements, the Ministry of National Defence issues orders and instructions, while the heads of departments in the central structures issue provisions, according to specific competencies (Legea nr. 346 din 21 iulie 2006, art. 40).

The Domains and Infrastructure Division is the specialised structure of the MAPN authorised to develop regulations for the administration and development of military real estate (DDI-13 din 17 iunie 2022). Furthermore, DDI, through its subordinate units, is responsible for the implementation of real estate programs. The real estate management system consists of technical structures specialised in the zonal administration of real estate, called Infrastructure Centres, the Centre for Studies and Design of Military Constructions and the Centre for Intervention in Emergency Situations.

Stages of the Real Estate Investment Process

For the real estate investment objectives of the MAPN, given the fact that they are carried out from public funds, the measures provided by *Hotărârea Guvernului nr. 907/2016 privind etapele de elaborare și conținutul-cadru al documentațiilor tehnico-economice aferente*

*obiectivelor/proiectelor de investiții finanțate din fonduri publice*⁴ shall apply. The stages of development and approval of the documentation are as follows:

- 1st stage: development of the capability requirements and the design theme.
- 2nd stage: preparation of the pre-feasibility study, mandatory for real estate investment objectives whose total estimated total value exceeds the equivalent of 50 million Euros, and the feasibility study or, as the case may be, the approval documentation for the intervention works.
- 3rd stage: development of the project for utility permits and planning applications.
- 4th stage: preparation of the technical project for execution.

For the real estate properties managed by the Ministry of National Defence, the competences for initiating, approving and implementing real estate investment projects are established through military regulations. *Dispoziția șefului Direcției domeniului și infrastructurii nr. DDI-13 din 17 iunie 2022 pentru aprobarea Regulamentului proprietății imobiliare în Ministerul Apărării Naționale* details the process of real estate development and establishes responsibilities regarding the management of real estate properties in the MAPN.

Projects are initiated by promoting of the Capability Requirements by the administrator of the base in which the investment is implemented, and its approval by the director of program. The design theme is developed within the Military Construction Studies and Projects Center (CSPCM), the specialised technical structure subordinated to the DDI that provides technical and economic documentation for investment projects. After the approval of the Design Theme by the program director and the planning of the necessary public funds, the next step is the analysis of the technical and economic feasibility of the real estate investment. This stage is carried out by CSPCM, using its own specialists or through the acquisition of design services, depending on the priority tasks and the allocation of its own conceptual resources.

The competent authority to approve the technical and economic documentation is the Technical-Economic Council of the Ministry

⁴ Governmental Decision nr. 907/2016 on the Development Stages and the Framework Content of Technical-Economic Documentations regarding Publicly Funded Investment Objectives/Projects.



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The development of projects and their verification, the control of execution and the management of building works, as well as the Practical Completion certificate are carried out by certified specialists in domains/subdomains and specialties, in accordance to *Legea nr. 10 din 1995 privind calitatea în construcții și a reglementărilor tehnice în construcții*.

of National Defence. This organisation is regulated by *Ordinul M. 94 din 24 august 2017/Ordin pentru aprobarea Regulamentului privind organizarea și funcționarea Consiliului tehnico-economic al Ministerului Apărării Naționale*⁵. DDI is providing the permanent secretariat and the technical-economic analysis of the documentation.

The Capability Requirements and Feasibility Studies related to investments made from public funds are approved according to the estimated value of the investment by: the Government, for values exceeding 100 million lei, the Ministry of National Defence, for values between 10 and 100 million lei (*Legea nr. 500 din 11 iulie 2002, art. 42*), and the head of the Domains and Infrastructure Division for values up to 10 million lei.

After the approval of the technical and economic indicators, the implementation stage of the project follows, which includes the development of the technical documentation and its verification by certified personnel, the building permit and the construction of the building approved. This stage is carried out through the Domains and Infrastructure Centres (CDI), the specialised technical structures for the zonal management of real estate under the DDI's authority. For detailing the management activities and responsibilities in carrying out investments, the DDI issued the provisions *DDI-7/2020 Dispoziția șefului Direcției domeniului și infrastructurii privind managementul proiectelor de investiții, consolidări sau reparații capitale ce se implementează de structuri subordonate Direcției domeniului și infrastructurii*⁶ and *A 267/2019 – Atribuțiile managerilor de proiect*⁷.

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For investments of the MApN, the stages of project implementation and the procedure for the Practical Completion certificate are detailed

⁵ Order M. 94 of 24 August 2017/Order for the Approval of the Regulations on the Ministry of National Defence Technical-Economic Council Organisation and Functioning.

⁶ DDI-7/2020 Disposition of the Chief of Domains and Infrastructure Directorate on the Management of Investment, Consolidation or Capital Repairing Projects that are Implemented by Structures under the Subordination of the Domains and Infrastructure Directorate.

⁷ A 267/2019 – Project Managers Attributions.

by *Ordinul nr. 151 din 27 noiembrie 2017 pentru aprobarea Instrucțiunilor privind realizarea obiectivelor de investiții, recepția construcțiilor și stabilirea valorii finale a lucrărilor de construcții, cuprinse în programul de investiții al Ministerului Apărării Naționale* and by *Precizările șefului DDI nr. A 15816/2019 privind recepția lucrărilor de construcții și a instalațiilor aferente acestora, în Ministerul Apărării Naționale*⁸. The activity of checking the practical completion of the construction is the responsibility of CDIs, as delegated investors, and is carried out through the project manager. The committee for this activity includes the Deputy Chief of the DDI, as chairman, and as members: the Deputy Chief of the CDI, the representatives of the Project Coordination and Base Maintenance Office from DDI, the representative of the program director, the representative of the ISC MApN, the base commander of the user military unit and the head of the barracks formation.

Approvals and Permits Specific for the Defence Infrastructure

The technical documentation required for planning applications is prepared in accordance with the content provided in Annex no. 1 of *Legea 50/91*, based on the approvals and permits obtained and the urban planning certificate specifications. For works related to military objectives, some of the approvals are issued by the authorities within the MApN or, in certain situations, exceptions from obtaining them are provided.

Environmental Impact Assessment

According to *Ordonanța de urgență nr. 195/2005 privind protecția mediului*⁹, for projects and activities in military areas, MApN. develops norms and instructions for environmental protection, monitors compliance with these norms by applying sanctions in case of violations and ensures the assessment of the environmental impact through structures certified by the central public authority for environmental protection. In order to exercise the competencies conferred by law, the Minister of Defence issued the following orders: *M. 14/2008 pentru*

⁸ Order no. 151 of 27 November 2017 for the Approval of the Instructions on the Achievement of Investment Objectives, the Reception of Constructions and the Establishment of the Final Value of Construction Works, Included in the Investment Program of the Ministry of National Defence and The Stipulations of the Chief of DDI nr. A 15816/2019 on the Reception of Construction Works and Related Installations, in the Ministry of National Defence.

⁹ Emergency Ordinance nr. 195/2005 regarding Environment Protection.



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aprobarea Instrucțiunilor privind organizarea și desfășurarea activității de protecție a mediului în Armata României and M. 13/2000 pentru aprobarea Strategiei de Protecție a Mediului în Armata României¹⁰.

Regarding the environmental impact assessment for projects and activities in the military areas, according to art. 5 of *Legea nr. 292/2018 privind evaluarea impactului anumitor proiecte publice și private asupra mediului*¹¹, projects or parts of projects aimed at national defence may be exempted from evaluation. By analysing each case, the national defence authorities together with the central public authority for environmental protection determine whether carrying out the environmental impact assessment procedure would have a negative effect on these objectives. If the evaluation has a negative impact, the competent authority for environmental protection issues a decision exempting the project from the environmental impact assessment procedure.

State Inspectorate for Construction ISC – MAPN

According to *Legea 10/95 privind calitatea în construcții*, the State Inspectorate for Construction/ISC exercises state control over the application of provisions in the field of construction. However, for works related to military objectives, this activity is carried out by the internal control structures within the DDI. The roles and responsibilities of DDI in the field of state control of construction quality in the Ministry of National Defence are specified by the *Dispoziția șefului Direcției domeniului și infrastructurii nr. DDI-13 din 17 iunie 2022 pentru aprobarea Regulamentului proprietății imobiliare în Ministerul Apărării Naționale*.

For specialised military construction, the ISC approval is issued by the specialised structure within the DDI that is responsible for state control in constructions of the MAPN.

Fire Safety Certificate

According to art. 47 para. (1) from *Legea nr. 307/2006 privind apărarea împotriva incendiilor*, in the military units, the fire protection activities are carried out based on the norms approved by the respective

¹⁰ M. 14/2008 for the Approval of the Instructions regarding the Organisation and Implementation of the Environmental Protection Activity in the Romanian Armed Forces and M. 13/2000 for the Approval of the Environmental Protection Strategy in the Romanian Armed Forces.

¹¹ Law nr. 292/2018 regarding the Assessment of the Impact of Certain Public and Private Projects on the Environment.

structures. According to *Legea nr. 346/2006 din 21 iulie 2006 privind organizarea și funcționarea Ministerului Apărării Naționale*, MAPN is responsible for leading fire protection activities for the infrastructure it manages. To exercise the powers conferred by law, the Minister of Defence issued *Ordinul nr. M. 87/2021 pentru aprobarea Normelor de apărare împotriva incendiilor în Ministerul Apărării Naționale*¹², which specifies that the DDI issues the fire safety agreement and the fire safety certificate for specialised military constructions.

Public Health Certificate

The sanitary authorisation represents a mandatory procedure for facilities that could cause illness to the population and is issued according to *Ordinul nr. 1030/2009 privind aprobarea procedurilor de reglementare sanitară pentru proiectele de amplasare, amenajare, construire și pentru funcționarea obiectivelor ce desfășoară activități cu risc pentru starea de sănătate a populației*. The provisions of the order are implemented by the specialised departments within the Ministry of Health, and in the case of defence investments, by the medical services within the military health network of the MAPN (*Ordinul nr. 1030/2009*, art. 21).

According to *Ordinul nr. M. 110/2009 pentru aprobarea Instrucțiunilor privind asistența medicală și farmaceutică în Ministerul Apărării Naționale pe timp de pace*¹³, the health certificate and authorisation are carried out by the military units with preventive medicine activity.

Building Permit

The execution of construction works is permitted based on the building or demolition permit issued under the conditions of *Legea 50/91 privind autorizarea executării lucrărilor de construcții*. This law specifies the stages for approving construction works, as well as the technical documentation required for obtaining a building permit.

¹² Order nr. M. 87/2021 on the Approval of the Fire Protection Rules in the Ministry of National Defence.

¹³ Order nr. M. 110/2009 for the Approval of the Instructions on Medical and Pharmaceutical Assistance in the Ministry of National Defence in Peacetime.



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The implementation of approved real estate projects is carried out through the procurement of design services and execution works, separately or as a package. *Legea nr. 98/2016 privind achizițiile publice* regulates the procedures for awarding and executing the public procurement contract, specifying the rules for conducting the procedures. This law does not apply to contracts in the field of defence or national security where the contracting authority is required to award them by an international agreement or understanding.

The constructions, landscaping and installations made in order to support the specific activity of the institutions in the field of defence are referred to, under the law, as *specialised military constructions* (Legea nr. 50/91, anexa nr. 2) or constructions with special characteristics [Ib., art. 1, paragraph (3) and art. 43]. For these works, the building permit is issued by the institutions of SNAOPSN, not by local authorities, in accordance with *Ordinul nr. M. 40/2018 pentru aprobarea Procedurii comune privind autorizarea executării lucrărilor de construcții cu caracter special*.

The planning applications is only possible based on a real right over the building site. Exceptions are made for construction works carried out under treaties/agreements to which Romania is a party, regulated by the implementation memoranda of the respective treaties, provided that the technical documentation is approved in accordance with the current legislation.

Public Procurement

The implementation of approved real estate projects is carried out through the procurement of design services and execution works, separately or as a package. *Legea nr. 98/2016 privind achizițiile publice*¹⁴ regulates the procedures for awarding and executing the public procurement contract, specifying the rules for conducting the procedures. This law does not apply to contracts in the field of defence or national security where the contracting authority is required to award them by an international agreement or understanding.

Moreover, the law does not apply to contracts in the fields of defence and national security to the extent that the protection of the confidential nature of the information that needs to be made available to the participants cannot be guaranteed through the procedures. For these situations, the provisions of the *Ordonanța de urgență a Guvernului nr. 114/2011 privind atribuirea anumitor contracte de achiziții publice în domeniile apărării și securității*¹⁵ apply.

In addition to these regulations, for detailing procurement responsibilities in MApN the following ministerial orders are issued: *M. 216/2018 pentru aprobarea Îndrumarului privind încadrarea*

¹⁴ Law nr. 98/2016 on Public Acquisitions.

¹⁵ Emergency Government Ordinance nr. 114/2011 on the Attribution of Certain Public Procurement Contracts in the Fields of Defence and Security.

cheltuielilor Ministerului Apărării Naționale pe articolele și alineatele clasificăției economice and *M. 31/2008 Competențele de achiziție a produselor, serviciilor și lucrărilor în cadrul Ministerului Apărării Naționale*¹⁶.

In order to procure design services and related execution works for the real estate investments, *Hotărârea Guvernului nr. 1/2018 pentru aprobarea condițiilor generale și specifice pentru anumite categorii de contracte de achiziție aferente obiectivelor de investiții finanțate din fonduri publice*¹⁷ specifies as mandatory a series of provisions regarding the monitoring and completion of works. These measures are mandatory for investments whose estimated value is equal to or greater than 26,093,012 lei¹⁸, but the contracting authorities may use this agreement model also for projects whose estimated value is lower than the mentioned threshold.

Technical Regulations for Constructions

The technical regulations for constructions are organised in 29 chapters that include provisions regarding the design and execution of constructions, quality control and completion of works, energy performance of buildings, fire safety or the use and repair of building equipment. The technical regulations are approved by the Minister of Regional Development and Public Administration and are mandatory for all public or private works, in order to ensure the requirements applicable to constructions and a corresponding quality standard.

For the constructions of the MApN, the national technical regulations are supplemented with *Ordinul nr. M. 87/2021 pentru aprobarea Normelor de apărare împotriva incendiilor în Ministerul Apărării Naționale*, which present mandatory fire safety measures for the design of specialised military buildings, with *Dispoziția șefului Direcției domeniului și infrastructurii nr. DDI-13 din 17 iunie 2022 pentru aprobarea Regulamentului proprietății imobiliare în Ministerul Apărării Naționale* and *Ordinul nr. 151 din 27 noiembrie 2017 pentru*

¹⁶ M. 216/2018 for the Approval of the Guideline on the Classification of the Ministry of National Defence Expenses on Economic Classification Articles and Paragraphs and M. 31/2008 Competences for the Purchase of Products, Services and Works within the Ministry of National Defence.

¹⁷ Government Decision nr. 1/2018 for the Approval of General and Specific Terms for Certain Categories of Purchase Contracts related to Investment Objectives Financed from Public Funds.

¹⁸ The value threshold provided by art. 7 para. (1) lit. a) from *Legea nr. 98/2016 privind achizițiile publice*.



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Military infrastructure is developed in accordance with military orders and regulations that establish mandatory minimum requirements from a functional point of view, so that constructions meet their intended purposes. In the field of real estate, the Domains and Infrastructure Division is the specialised structure of the Ministry of National Defence authorised to develop specific regulations for the management and development of military real estate.

aprobarea Instrucțiunilor privind realizarea obiectivelor de investiții, recepția construcțiilor și stabilirea valorii finale a lucrărilor de construcții, cuprinse în programul de investiții al Ministerului Apărării Naționale, which details the procedures for quality verification and practical completion of the building, repairs, maintenance and post-use activities of constructions.

Regarding energy performance, a series of exceptions apply to defence facilities. According to article 6, paragraph (6), of *Legea nr. 121 din 18 iulie 2014 privind eficiența energetică*¹⁹, the renovation of national defence facilities is exempted from the obligation to comply with the energy performance requirements provided by *Legea nr. 372/2005 privind performanța energetică a clădirilor*²⁰. For the defence investments, the obligation to purchase only products, services or buildings with high-energy performance applies to the extent that they do not create a conflict in the performance of military activities.

Military Specifications for the Defence Infrastructure

Military infrastructure is developed in accordance with military orders and regulations that establish mandatory minimum requirements from a functional point of view, so that constructions meet their intended purposes. In the field of real estate, the Domains and Infrastructure Division is the specialised structure of the Ministry of National Defence authorised to develop specific regulations for the management and development of military real estate. The main provisions issued in this regard are: *Dispoziția șefului Direcției domeniului și infrastructurii nr. DDI-13 din 17.06.2022 pentru aprobarea Regulamentului proprietății imobiliare în MAPN*, which presents the elements of real estate and their fundamental characteristics, and the *Dispoziția șefului Direcției domeniului și infrastructurii nr. DDI-12 din 14.04.2022 pentru aprobarea Normelor tehnice de domeniul și infrastructurii*²¹, which presents the method of calculating the area of land and interior spaces required for military units, the provision of furniture, equipment, household inventory items and accommodation materials, ensuring the necessary supply of water, electricity, cleaning materials, and other fixed assets related to construction and accommodation.

¹⁹ Law nr. 121 of 18 July 2014 on Energy Efficiency.

²⁰ Law nr. 372/2005 on Building Energy Efficiency.

²¹ Disposition of the Chief of the Domains and Infrastructures Directorate nr. DDI-12 of 14.04.2022 for the Approval of the Technical Norms of Domains and infrastructures.

Specifications regarding the infrastructure conditions can also be found in orders and provisions regarding other military activities, besides construction, such as *Regulamentul de ordine interioară în unitate* or *Regulamentul serviciului interior*²². Both the representatives of the user unit through the Operational Requirements and the CSPCM specialists involved in the elaboration of the Design Theme must know and include in the technical documentation all the specifications from military regulations regarding the infrastructure.

Real Estate Investments at the Tactical Level

For the initiation of investments, the beneficiary unit promotes the Capability Requirements stating the necessity and opportunity of the construction works. After its approval and budgeting, CSPCM carries out the Design Theme and then the Feasibility Study. For establishing technical solutions, both the technical regulations in construction, with the exceptions specified for specialised military facilities, and the military orders and dispositions related to the infrastructure, are applied. The fire safety certificate and the building inspection approval are issued by the specialised offices within the DDI, while the public health certificate is issued by the military hospitals. Depending on the investment, the project may be exempted from the environmental impact analysis.

The approval of the technical and economic indicators is carried out by the Technical-Economic Council of the Ministry of Defence (CTE MAPN), and the approval of the Capability Requirements and Feasibility Study/Documentation for approval of the intervention works is carried out, depending on the value estimated of the projects, by the head of the DDI, the minister of defence or the government. The issuing the CU and building permit for construction or demolition works is carried out by the DDI, through its specialized structures.

The procurement of the technical project and the execution works is the responsibility of the CDIs, as delegated investors. The procurement is carried out based on *Legea nr. 98/2016 privind achizițiile publice* or, in the case of special military objectives, of *Ordonanța 114/2011 privind atribuirea anumitor contracte de achiziții publice în domeniile apărării și securității*.

²² Internal Order Regulation in the Unit or Internal Service Regulation.



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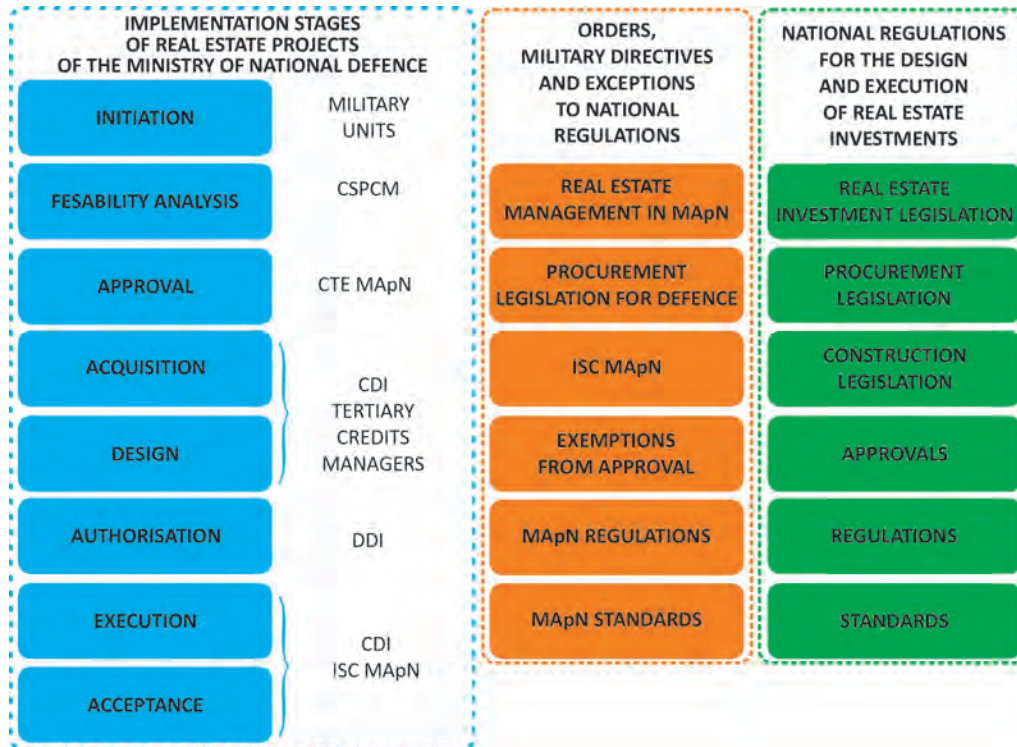


Figure 5: Implementation of real estate investments of the Ministry of National Defence (author's design)

The conditions for monitoring and billing the works are specified in *H.G. 1/2018 pentru aprobarea condițiilor generale și specifice pentru anumite categorii de contracte de achiziție aferente obiectivelor de investiții finanțate din fonduri publice*. The practical completion of projects involves structures within the DDI and is carried out based on the provisions of the head of the DDI.

In order to ensure quality within investments, in addition to the duties established at the national level for the specialists involved, the responsibilities of the project managers are detailed by provisions of the head of the DDI.

CONCLUSIONS

Considering the large number of laws, orders, and provisions applicable to the implementation of military infrastructure projects, following the research carried out, it appears opportune to create a *Military Construction Code* that details the regulation of the construction process and the responsibilities of the parties involved.

Furthermore, since numerous specifications regarding the military infrastructure are found in orders and provisions of other branches besides construction, in order to ensure the implementation of the corresponding operational standard in real estate projects, it is necessary to create a *Military Construction Regulation* that brings together all the specifications related to infrastructure from military orders and provisions, as well as relevant technical regulations from the national legislation. This regulation should consider aspects related to the design of the buildings such as location, materials used, type and size of spaces, as well as equipment necessary for the military activity, in order to ensure the efficiency and safety of the personnel involved.

In conclusion, we believe that the introduction of a dedicated code and regulation for military construction could contribute to the efficiency of military operations, ensuring the productivity and safety of military personnel, as well as the economy of resources.

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