

In comparison with the first three quarters of 2010, the overall value of construction and assembly output has risen in all voivodships with the exception of Opolskie, which saw a dip of 2.2%. The highest growth, of 38.7%, was seen in the Malopolskie voivodship, followed by Dolnoslaskie, with 36.5%, and Lubuskie, with 34.1%.

Output in residential construction has fallen in five voivodships: Lodzkie (-31.4%), Malopolskie (-7.9%), Pomorskie (-6.8%), Warminsko-Mazurskie (-10.1%) and Zachodniopomorskie (-8.2%). The highest

growth in construction and assembly output in the residential sector came in Dolnoslaskie – 49.7%.

In the case of non-residential buildings construction and assembly output value fell in three regions: Opolskie (by 7.4%), Swietokrzyskie (-8%) and Zachodniopomorskie (-15.4%). The Pomorskie voivodship saw the highest increase in construction and assembly output in the non-residential category, of 53.2%.

Construction and assembly output in the civil engineering segment also fell in three

voivodships: Opolskie (-2.2%), Podlaskie (-11.6%) and Warminsko-Mazurskie (-9.2%). The highest growth was seen in Lubuskie: 69.6%.

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New timeshare act to come into force in Q2 2012

Next year (on 27 April) an act recently signed by the president comes into force, introducing new regulations for timesharing. The timeshare act of 16 September 2011 (Journal of Laws 2011 no. 230, item 1370) implements the protection guaranteed to consumers by the directive of the European Parliament and of the Council 2008/122/EC of 14 January 2009 on the protection of consumers in respect of certain aspects of timeshare, long-term holiday product, resale and exchange contracts (Official Journal of the European Union L 33 of 03.02.2009 p. 10).

The English “timeshare” has not yet found a functional translation into Polish. The legislator also uses the foreign term, thus bringing the word “timeshare” definitively into the legal vocabulary.

Timesharing is a tourism product that debuted on the Polish market in the 1990s as an alternative to the costs involved in purchasing and maintaining summer residences in attractive tourist resorts. In effect, by entering into a timeshare agreement, the consumer does not obtain the ownership rights to the property, and thus does not have to bear the purchase costs. The contract simply furnishes the client with the recurring right to use a given tourist facility for a certain period within a given period of time (i.e. in specified weeks of the year). In recent years this service has become increasingly popular, and is used by an estimated 6.4 million people all over the world.

In the past timesharing was fraught with potential dangers for its users. The first providers on the Polish market were aggressive organisers not overburdened by a sense of integrity, who imposed unfavourable contractual terms on their would-be clients. A rather frequent practice was imposing limitations on terminating contracts, in the form of clauses that stipulated very high resignation fees, or otherwise significantly restricted the period during which termination was possible. Moreover, such contracts were often formulated very vaguely.

Up to now, only some aspects of timesharing were regulated under Polish law, which was reflected in the act of 13 July 2000 on the protection of those obtaining the right to use of a building or residential space at a specified time each year and on amendment to the Civil Code and Code of Offences acts, and the act on land registers and mortgages (Journal

of Laws 2000, no. 74, item 855 as amended), which implemented the regulations in the previous directive, Directive 94/47/EC of the European Parliament and of the Council of 26 October 1994 (Official Journal of the European Union L 280 of 29.10.1994, p. 83). This act is not exhaustive, however, and the lack of clear regulations providing sufficiently unequivocal definition of the way in which this type of contract should be concluded continued to be exploited by dishonest entrepreneurs, a fact that was stressed repeatedly during work on the new act by the president of the Office for Protection of Competition and Consumers. The new regulation is designed to guarantee emphatic change to this practice by extending the scope of legal protection guaranteed to consumers.

The new regulations implement a clear definition of a timeshare contract, which is to be construed as a contract concluded for a period of more than a year, on the basis of which the consumer, for a fee, obtains from the entrepreneur the right to use, for more than one period, at least one accommodation facility. Thus the new regulations extend the scope of applicability of the institution of timesharing. The new definition provides that timeshare contracts shall apply to all types of residential space (including accommodation on passenger ships or caravans), i.e. no longer only real property, as was characteristic for the previously binding regulations. Under the currently binding law, the minimum contractual period for a timeshare is three years. The new act will apply to timeshare agreements concluded for a period of over one year.

Aside from the new regulations on timeshare agreements, the act also implements regulations applicable to other types of se-

rvices whose status was not clearly regulated in Polish law to date: long-term holiday product contracts (granting the consumers the right, accrued for a fee, to obtain discounts, reductions or other benefits connected with accommodation), timeshare or long-term holiday product resale contracts, and exchange contracts (which allow the consumer, for a fee, to enter their timeshare title into an entrepreneur's exchange scheme).

The terms of the new act impose on the entrepreneur above all the obligation to provide the consumer, free of charge, with pre-contract information, i.e. the information that the client needs in order to conclude a contract. This information should be expressed in clear, comprehensible form, in writing or other permanent medium, using standardised information forms (appropriate to each of the four types of contract covered under the new regulations), which are included as annexes to the act. Significantly, pursuant to EU regulations, these forms implement standardisation of information provision across the EU, which ensures that the rules are the same in all member states. Pre-contract in-

formation must be provided in the official language of one of the EU member states, whichever one the consumer wishes, or of the state of which the consumer is a citizen, or where they are resident. The wherewithal to make changes to the pre-contract information is restricted exclusively to cases where the consumer has granted their express consent to such changes, or in case of force majeure. Under the terms of the act, the pre-contract information is an integral part of the contract. Appropriate sanctions for failure by the entrepreneur to adhere to the above requirements have been added to the Code of Offences.

This regulation system, which comes into force in the second quarter of next year, provides for extension of the window for rescinding from the contract by the consumer without obligation to supply a reason (i.e. cooling-off period) from 10 to 14 days. This period is counted from the date on which the contract is signed, or from the day on which the consumer received the contract. One fundamental change in the new regulations is the ban on burdening the consumer with any

costs whatsoever should they take advantage of the right to rescind the contract within the period set down in the act. Also importantly, the entrepreneur will not be able to accept any of the forms of remuneration stipulated in the contract (including deposits, bank guarantees or insurance) prior to the expiry of the contract rescinding window.

The rationale behind this bill was, by implementing these new solutions, and above all providing consumers with clear, honest and fuller information about these contracts, to help increase consumer confidence in this type of service and consequently not only to increase the number of contracts concluded but also to boost this entire sector of the economy. The impact of the thrust of these changes on the timeshare institution will doubtless become clear in time.

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