

Since the construction law stipulates solar thermal collectors do not require a building permit, it is likely that the General Building Inspectorate will take a similar position with PV: that solar PV panels on rooftops won't need a building permit.

MACIEJ KRUS, SSW

The installation of facilities taller than 3 metres on top of buildings is an exception that requires filing a notification

PICTURE: SSW

SSW: solar rooftop PV projects will not require a building permit

Solar photovoltaic (PV) projects, while relatively simple to carry out, can stall or fail altogether if investors don't take care about two seemingly straightforward legal issues.

First, the regulations that specify whether a project needs an environmental impact assessment don't really say whether a PV project needs one or not.

According to Polish law, projects need to obtain an environmental decision if their impact on the environment is significant or at least potentially significant. A Polish government decree from 2010 that lists such projects doesn't refer to PV installations.

However, the General Directorate of Environmental Protection tends to interpret existing regulations on environmental impact assessment in a way that installation of a photovoltaic park potentially may have a significant impact on the environment, thus requiring an environmental decision.

The directorate points to the fact that PV installations may require similar land transformation as in the case of other types of structures listed in the decree, for example industrial or warehousing structures covering at least 0.5 hectare or 1 hectare (depend-

ing on the extent of environmental protection methods in a given area).

The second issue concerns siting and building permits. Investors need to be aware that some types of PV installations don't require notification with building authorities, while others require going through the full construction permit procedures.

The construction law stipulates that the installation of rooftop solar thermal collectors do not require a building permit. So it is likely that the General Inspector of Building Control will take a similar position with PV - that like solar thermal collectors - solar PV panels on rooftops won't need a building permit.

The installation of facilities taller than 3 metres on top of buildings,

however, is an exception that requires filing a notification with a relevant authority.

Notification must be filed prior to the scheduled start of construction works. Construction may start as long as the relevant authority (such as the local construction inspectorate) has not decided against it within 30 days from the filing date. The investor has 2 years to start construction works, following the start date specified in the notification.

One should also remember that according to construction law, projects carried out on the basis of notification only, are subject to cross-check for compliance with the local area development plan. If not compliant, such projects will be stopped. ■

In the case of installation of stand-alone photovoltaic systems, a building permit is required. In such a case, one should check if the proposed investment project is in line with local area development plan.

PIOTR SPACZYŃSKI, PARTNER, ATTORNEY AT LAW, SSW LAW FIRM
MACIEJ KRUS, SENIOR ASSOCIATE, ATTORNEY AT LAW, SSW LAW FIRM