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Joint and several liability of the investor for the payment of compensation for building works

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Abstract:

The article is an analysis of joint and several liability of the investor for the payment of compensation for building works, based on both the art. 647(1) of the Civil Code and the provisions of the Act - Public Procurement Law. In principle, having regard to the process of building and emerging issues related to payments, these regulations have the solution to the increasingly frequent examples of the lack of settlement of liabilities in the context of a relationship of subcontracting. This institution makes many questions of a constitutional, theoretical and practical nature. The question is whether law, which so far protects the subcontractor, is justified or requires the investor obligations which have no justification. If the answer is positive, very important is to analyze the basis of investor's liability for the contractor's obligations, because the incorrect interpretation of the rules can result in excessive extension of that responsibility. There is very important role of the provisions of the Act - Public Procurement Law, because every major investment, in which public resources are involved, is performed in the system of subcontracting under this Act.