Special Report EE-AO 30/2026

British English translation

Are planning permits granted effectively by way of derogation from Development Plans?

Translation note. The source report's maps and charts are reproduced at their corresponding passages. Their English captions and explanatory keys are supplied below each image; text printed inside the original graphics remains in Greek.

Contents

- Preface by the Auditor General — iii
- List of abbreviations — iv
- 1. Summary of audit findings — 1
- 2. Introduction — 9
- 3. Analysis of findings and recommendations — 14
- 4. General conclusions — 49
- Appendices — 51

Preface by the Auditor General

The possibility of granting a planning permit by way of derogation was established as a mechanism for exceptional cases. It was not created to operate as a second, parallel planning system, or as a means of bypassing Development Plans. The findings of this Report, however, give rise to reasonable concern that the exception is gradually at risk of becoming the rule.

An exception becoming the rule

A derogation does not exhaust its consequences on the particular plot of land. It creates facts on the ground and expectations, and often sets a precedent for the next application. A single dwelling outside development limits can be used as an argument for a second and a third, until the planning framework established by the State is overturned—not through formal revision, but through the accumulation of exceptions.

Becoming a mechanism for legalising unauthorised development

The retrospective granting of permits for unauthorised development is even more troubling. When someone knowingly breaches the planning framework, creates a fait accompli, submits successive applications and, years later, succeeds in legalising what they built unlawfully, the message sent by the State is extremely dangerous. There is a risk that retrospective permitting will be seen as more favourable treatment for earlier non-compliance, undermining the credibility of the planning framework and equal treatment for those who comply from the outset.

The State’s sluggishness in enforcing the law

Significant delays make the problem worse. Instead of legality being restored promptly, illegal structures and uses can remain in operation for years, gradually taking on the character of an established fact. The State machinery thus becomes trapped in a lengthy process of managing unlawful activity, through successive applications and reviews, until, after years have passed, legalising the unauthorised development appears easier than restoring legality.

Undermining the strategic plan

The State also has a duty to protect the credibility of the rules it establishes. It is institutionally unacceptable to designate zones, devote public resources to developing them and then weaken them through decisions that lack rigorous reasoning. In particular, where the Planning Authority has already identified a conflict with the Plan’s strategy, any contrary conclusion must be adequately justified.

Derogations only in exceptional cases

The legislation provides for derogations in “exceptional cases”, a phrase that leaves considerable scope for interpretation. This discretion must not be used in a way that turns the exception into routine practice. We consider that derogations should be limited to genuinely exceptional cases and should not become a means of granting favours or legalising faits accomplis. Otherwise, we risk reversing the logic of planning: instead of development being adapted to Development Plans, planning decisions would be adapted to the aims of particular private individuals.

Andreas Papakonstantinou Auditor General

List of abbreviations

- **SIMEPA** — Council for the Study of Derogations
- **PA** — Planning Authority
- **DTPH** — Department of Town Planning and Housing
- **MoI** — Ministry of the Interior

1. Summary of audit findings

i. Derogation as an exception—and the risk that it becomes a parallel route to permission

The process for granting planning permits by way of derogation was established to address exceptional cases that are adequately justified and documented, where particular development problems cannot be dealt with under the applicable Development Plans, or where specific public-interest objectives are being pursued. The audit findings show, however, that the mechanism has significant weaknesses. These raise serious concerns about whether derogation still operates in practice as an exception, or instead as a parallel route to permission outside the provisions of the Development Plans, undermining equality before the law, fair competition and the broader principles of the rule of law.

ii. Unauthorised development first—permission afterwards

Of particular significance are cases in which the derogation process was used to grant retrospective permission for developments that had already been completed or were operating without the required permits. The audit found that, in specific cases, the Council of Ministers approved planning permits for unauthorised development following a recommendation from SIMEPA.

One notable case concerned premises in an industrial zone. They had been permitted as warehouses but were operating unlawfully as a supermarket. Earlier applications to change the use had been rejected in 2012 and 2014, and two enforcement notices had been issued. The Planning Authority again recommended rejection, pointing out that approval could be regarded as rewarding unauthorised development. SIMEPA also recorded that the development substantially affected the overall strategy of the applicable Development Plan, encouraged unplanned development and circumvented fundamental planning controls. Despite this, it recommended granting a temporary planning permit for four years. The Council of Ministers adopted that recommendation.

This case brings the audit's central concern into sharp focus: a development may be built and operated unlawfully, repeatedly refused and subject to enforcement measures, and considered to have a substantial impact on the Development Plan itself—a key reason for refusing an application—yet ultimately be approved by way of derogation. Indeed, by the date of this Report, the supermarket appeared to still be operating without the temporary planning permit having been issued, because the applicant had not completed the required actions.

Similar concerns arise in the case of a detached dwelling on high-quality agricultural land within an irrigation project in the Famagusta District. The Planning Authority recorded that earlier applications for a dwelling had been rejected; that the dwelling had already been built unlawfully; that the owners knew, or ought to have known, the development potential of the plot; and that the development conflicted with the strategic objective of protecting fertile, productive agricultural land.

It was also recorded that approval could set a bad precedent. Despite this, SIMEPA unanimously recommended approval, and the Council of Ministers approved it. The audit found no evidence that the critical claims relied on to justify the positive recommendation had been adequately examined.

For completeness, the Report also refers to a related case that was outside the scope of this audit. It concerned the construction of 20 dwellings outside a residential zone in the Limassol District, without the required permits. SIMEPA recommended approving the relevant applications subject to compensatory measures, and the Council of Ministers

approved the granting of a planning permit on 8 February 2023. On 27 June 2024, the Audit Office referred the case to the Independent Authority Against Corruption.

These cases objectively create a risk that the perception will take hold that prior compliance with the planning framework is not always a necessary condition for ultimately obtaining permission for a development. When the retrospective permitting of unauthorised developments is repeated, it weakens the effectiveness of enforcement and may create unfair competition at the expense of those who comply with the required procedures from the outset.

iii. Substantive requirements deferred until the end of the process

Another serious finding concerns a case in which SIMEPA completed its examination of an application and unanimously recommended approval before the required Environmental Impact Assessment had been submitted and evaluated. Under the Regulations, the examination should have been completed only after the environmental assessment had concluded and the relevant study had been submitted to SIMEPA. Instead, the environmental study was ultimately included as a condition to be satisfied later, and the Council of Ministers approved the application.

As a result, a substantive requirement for forming the recommendation was deferred to a later stage, after the decision in principle to approve had already been made.

iv. Different conclusions on the same facts

The audit also found significant differences between the recommendations of the Planning Authorities and those of SIMEPA. During 2020–2023, SIMEPA differed from the Planning Authority in 90 of 627 recommendations, or 14.35%. In 2023, the rate of disagreement rose to 21.4%.

A difference of opinion between two competent bodies is not, in itself, a weakness. However, where the final conclusion differs substantially from technical views that have been put forward, the administrative file should clearly show the reasoning behind the different assessment of the same facts and criteria.

Cases in which the disagreement concerned whether a development substantially affected the overall strategy of the Development Plan are particularly significant. The relevant Regulation provides that, in such cases, a planning permit by way of derogation must not be granted. Nevertheless, in six cases in the audit sample, the Planning Authorities concluded that the developments substantially affected the overall strategy and that the applications should be rejected, while SIMEPA recommended approval.

v. From “rejection” to “approval”, without a clear explanation of what changed

Even greater concern arises from cases in which the Council of Ministers referred applications back for reconsideration. A sample audit of five cases in which SIMEPA changed its original position following such a referral[1] found no recorded reasons or new material evidence in the files to explain the change.

There were therefore cases in which an initial recommendation to reject became a recommendation to approve, without the administrative file making clear what had materially changed between the two assessments.

The scope for such different approaches is also linked to the broad criteria set out in the Regulations. The audit found that these are expressed in general terms, meaning that their application depends to a significant extent on the technical judgement of the competent bodies. When that discretion is not accompanied by an adequate record of the reasoning, the risk increases that similar applications will not be assessed consistently.

vi. Institutional risk

Regardless of the individual cases examined, the Report highlights a broader institutional risk arising from the current framework governing SIMEPA. Its Chair and members are appointed by the Council of Ministers, and their terms may be renewed. At the same time, the Council of Ministers may refer a case back to SIMEPA for reconsideration.

Together, these arrangements may create a risk—or the perception of a risk—concerning the independence with which SIMEPA forms its recommendations, particularly when reconsidering cases. This observation relates solely to the

institutional structure of the mechanism, and not to any particular individuals, decisions or actions of the Council of Ministers or SIMEPA.

[1] In three cases, the position changed from negative to positive. In the other two, it changed from positive to negative.

vii. Detached dwellings: “special” cases on a large scale

The extent to which the mechanism is used for detached dwellings outside Development Limits reinforces the concerns described above. During 2020–2023, 259 of the 633 applications examined concerned detached dwellings, and 139 of those were approved.

In other words, about four in ten applications concerned a recurring category of development. This frequency raises a reasonable question as to whether a recurring issue can still be treated as a “special case”.

viii. The gradual loss of agricultural land

Particular concern arises from the use of the derogation process to build dwellings in agricultural and irrigated areas. In specific cases, the developments were found to be on high-quality, productive agricultural land, in conflict with the strategic objective of limiting urban sprawl and protecting fertile agricultural land.

One notable example is a case in the Famagusta District, where a detached dwelling was approved by way of derogation in Agricultural Zone Ga2 and within the Kokkinochoria Irrigation Project. This was despite the Planning Authority having pointed out that the development conflicted with the objective of protecting productive irrigated agricultural land, and that approval could set a bad precedent.

The gradual approval of such developments, particularly when repeated, affects more than individual plots. Cumulatively, it puts pressure on the available agricultural land, fragments cultivable areas and gradually limits their use for agricultural production. A series of “individual” derogations can therefore lead to the gradual loss and devaluation of agricultural land (see the photograph below), to the point where the area’s original agricultural character is substantially altered.

Illustration. The cumulative effect of detached dwellings in agricultural zones

English key: Process shown: application examined by SIMEPA and the Planning Authority; a positive assessment takes account of other detached dwellings; the Council of Ministers approves a derogation; a later applicant relies on the earlier approval. The resulting domino effect risks loss of agricultural land, fragmentation, pressure on infrastructure and changes to the planning framework.

Figure 3. Map of an area in the Larnaca District

English key: The map identifies the Protection Zone and nearby land parcels.

ix. Delays that allow faits accomplis to become entrenched

The overall picture is compounded by significant delays in the examination process. During 2020–2023, the average examination time ranged from 25 to 31 months. Although there was some improvement, the average in 2023 was still 25 months.

The differences between cases were particularly large: some were completed in less than three months, while others took more than ten years.

Summary of audit statistics and examination delays

English key: The graphic summarises 633 recommendations on 619 applications (403 approvals and 230 rejections); average examination time fell from 31 months in 2020 to 25 months in 2023; completion within two years rose from 49% to 66%; and about 10% of applications took over five years. Time bands shown are up to 1 year, 1–2, 2–3, 3–4, 4–5 and over 5 years.

One especially notable case concerned a higher-education college. An application for a derogation was submitted in 2010, partly because the development exceeded the permitted floor-area ratio and site coverage and had insufficient parking. The development included unauthorised alterations and interventions. Nevertheless, the competent Planning Authority took 11 years to submit its report to SIMEPA, and there is no indication that planning enforcement measures were taken against the unauthorised works in the meantime. The Council of Ministers approved the application in 2021, and the planning permit was eventually issued in 2023.

The length of time involved is not merely an issue of administrative efficiency. In cases of unauthorised or unpermitted development, years of delay allow the existing situation to continue and gradually acquire the characteristics of a fait accompli. There are also risks to public health and safety when unpermitted premises remain in operation.

The audit further found that there is no unified mechanism for tracking each application from the date it is submitted until a final decision is made. In practice, the process is treated as a series of separate stages handled by different bodies, without any overall monitoring of time taken or the causes of delay.

x. Compensatory measures without a clear method of calculation

Significant weaknesses were also found in the imposition of compensatory measures. The Regulations specify categories of measures but do not make sufficiently clear when each measure should be selected, what its scale or value should be, or what method should be used to ensure that it is proportionate to the derogation being approved.

This weakness is reflected in specific decisions. In two cases involving detached dwellings, a payment of €5,000 to the relevant Local Authority was recommended; in five other detached-dwelling cases, no equivalent financial measure was proposed. A payment of €5,000 was proposed for another development, while €70,000 was proposed for a change of use to a hotel. It was not possible to establish how SIMEPA arrived at these amounts.

The issue is not limited to the size of the payments. It is the absence of a clear, verifiable method that explains why a particular financial compensation is imposed in one case, a different amount in another, and none at all in a third.

1. Summary of audit findings

Similar ambiguity was found in the compensation required for exceeding the permitted floor-area ratio. In one case, compensation was provided through a legal commitment over 717 m² of another plot owned by the applicant, which remained in the applicant's ownership. The same area was also counted towards the required parking spaces, meaning it was used to satisfy two separate planning requirements.

xi. Uncertainties even in the operation of SIMEPA itself

Finally, weaknesses were also identified in the institutional framework governing SIMEPA. Uncertainties arose concerning the appointment, status and terms of office of members and alternates. In one case, an alternate member served for a short period beyond the prescribed six-year limit.

Although no indication of an actual conflict of interest was found, there were no documented procedures or records to show that members' potential conflicts of interest were systematically declared and managed.

xii. Conclusions

Taken together, the findings do not point to isolated administrative weaknesses. They reveal a system in which, under the current legislation, a derogation may be approved even for development that is already unauthorised; significant disagreements between the competent technical bodies may occur without the reasoning always being adequately recorded; recommendations may change after a case is referred back without new material evidence; compensatory measures may be imposed without a clear method; and cases may remain pending for years.

This overall picture points to the need for a thorough review of the derogation framework, with particular emphasis on dealing with existing unauthorised development, clarifying and consistently applying the criteria, documenting significant differences of opinion and changes of position, making compensatory measures transparent, and monitoring the process effectively.

The more widely derogations are used in practice, the less regulatory weight the Development Plan itself carries. And when unauthorised developments that have already been built can, after years have passed, end up being permitted by way of derogation, there is a risk that the mechanism is no longer dealing only with exceptional or special cases, but is adapting the planning framework to faits accomplis.

2. Introduction

2.1 Key information about the audited body

2.1.1 Role, responsibilities and administrative structure of SIMEPA

Under the Town and Country Planning Law (Law 90/1972), no development of immovable property may begin without prior planning permission from the competent Planning Authority. To grant planning permission, the Planning Authority considers whether the proposed development complies with the provisions of the applicable Development Plan.

The Law also empowers the Council of Ministers to grant planning permission by way of derogation from the applicable Development Plan in exceptional cases that are sufficiently justified and documented. These cases mainly concern

particular development problems that cannot be foreseen or addressed under the current Development Plans, or the pursuit of specific State objectives and policies intended to serve the wider public good and public interest.

The Council for the Study of Derogations (SIMEPA) was established to examine applications for derogations. It submits recommendations to the Council of Ministers through the Minister of the Interior.

SIMEPA has five members appointed by the Council of Ministers. Three are the President of the Union of Municipalities, the President of the Union of Cyprus Communities, and the President of the Cyprus Scientific and Technical Chamber, or their alternates. The other two are people of recognised standing and integrity, with knowledge of spatial planning, the environment and development, appointed on the recommendation of the Minister of the Interior.

The Council of Ministers appoints one member as SIMEPA's Chair and another as Vice-Chair. Members serve for three years, with the term renewable for one further term only. SIMEPA receives technical support from the Department of Town Planning and Housing and administrative support from the Ministry of the Interior.

2.1.2 Process for examining applications for planning permission by way of derogation from the applicable Development Plan

The process is set out in the relevant Regulations. It comprises successive stages for assessing the application and obtaining recommendations from the competent bodies, the Planning Authority and SIMEPA, followed by a final decision by the Council of Ministers. The main steps are as follows:

Assessment by the Planning Authority

- The application is submitted to the competent Planning Authority and the prescribed fees are paid.
- The application is checked, along with evidence that the applicant has carried out the required public notification.
- The Planning Authority prepares and submits a report to SIMEPA, with a detailed and substantiated recommendation on the application.

Reports from competent bodies

- The Local Authority, the District Officer, the Director of the Department of Town Planning and Housing (where that Department is not the Planning Authority), and other competent services or bodies submit reports to SIMEPA.

SIMEPA's examination of the application

- SIMEPA examines and assesses the application and may request further information or evidence.
- A public hearing is held where required by the Regulations or where SIMEPA considers it necessary.
- SIMEPA submits a reasoned recommendation to the Council of Ministers through the Minister of the Interior.

Examination and decision by the Council of Ministers

- The Council of Ministers examines the application and makes a decision.
- If it disagrees, wholly or partly, with SIMEPA's recommendation, it may refer the application back to SIMEPA for reconsideration.

Reconsideration by SIMEPA

- SIMEPA re-examines the application, taking account of the reasons for the Council of Ministers' disagreement.
- SIMEPA submits a new recommendation to the Council of Ministers, which then makes the final decision on the application.

Publication of the decision and right of appeal

- The Council of Ministers' decision is published in the Official Gazette of the Republic and sent to the House of Representatives for information.

Applicants may appeal to the Court if they are dissatisfied with the Council of Ministers' decision.

2.1.3 Criteria and principles for examining applications

The relevant Regulations set out the principles and criteria used to substantiate and explain the recommendations of the Planning Authority and SIMEPA, as well as the Council of Ministers' decisions on applications for derogations.

The criteria concern:

a) fulfilling the Republic of Cyprus's bilateral and international obligations under agreements;

b) implementing projects or programmes of national importance by public-sector bodies, including Local Authorities;

c) promoting and implementing general government policy adopted after publication of the applicable Development Plan;

d) promoting and implementing regional development policy or broadening the local economic base;

e) adapting the proposed development to the characteristics of the site where those characteristics could not be specified in detail in the applicable Development Plan;

f) improving a family's living conditions to an acceptable level without increasing the density of use;

g) achieving specific objectives, development programmes and projects, and resolving particular development problems;

h) improving the quality of public health, education, cultural, social infrastructure, sports and leisure facilities;

i) improving the appearance of the development itself or its built surroundings;

j) preserving architectural heritage and its immediate surroundings;

k) enabling the rational development of a plot that is difficult to develop in the usual way because of its size, shape, dimensions or other characteristics;

l) implementing development that contributes to the sustainability and vitality of urban areas, particularly central areas, where this could not have been foreseen in the applicable Development Plan and does not affect the amenities of the area.

The Regulations also provide that planning permission by way of derogation must not be granted for development that substantially affects the overall strategy of the applicable Development Plan. In such cases, SIMEPA must recommend rejection and inform the Planning Board so that it can consider whether the Development Plan needs to be amended.

2.2 Purpose of the audit

The purpose of this compliance audit was to examine whether the procedures followed by SIMEPA when considering applications for planning permission by way of derogation comply with the applicable legislative framework.

The audit also examined the extent to which SIMEPA's recommendations are used in the Council of Ministers' decision-making process.

The audit was based on analysis of information in SIMEPA's registers and a targeted sample audit of 17 applications whose examination by SIMEPA was completed during 2020–2023. Particular attention was paid to cases in which the Planning Authority and SIMEPA disagreed, and to applications referred back to SIMEPA by the Council of Ministers for reconsideration.

The examination and granting of planning permission require specialist expertise in the applicable planning framework, particularly in interpreting and applying the complex provisions of Development Plans. Accordingly, this audit did not examine technical planning matters or assess whether the competent authorities' planning decisions were correct.

3. Analysis of findings and recommendations

3.1 Significant delays in examining applications

Analysis of the information in SIMEPA's registers found significant delays in the application examination process, with a large number of applications remaining pending.[2] For this Report, the examination period is defined as the time from submission of an application to the Planning Authority until SIMEPA formulates its reasoned recommendation to the Council of Ministers. This period also includes the time needed for the authorities and services involved to submit the necessary information, views and recommendations.

This may adversely affect the effectiveness and smooth operation of the process. A backlog of applications increases the work needed to manage and monitor cases, delays services to the public and holds up planning for the developments concerned.

The Audit Office did not verify the accuracy of the application submission and examination dates, except for cases selected for sample testing. The findings below are therefore based on analysis of the data recorded in SIMEPA's registers.

Between 2020 and 2023, SIMEPA submitted **633 reasoned recommendations** to the Council of Ministers on **619 applications**.[3] [4] Of these, 403 recommended approval and 230 recommended rejection.

SIMEPA recommendations by year, 2020–2023

English key: Approvals and rejections respectively: 2020, 111 and 45; 2021, 98 and 42; 2022, 122 and 59; 2023, 72 and 84.

[2] According to information provided by SIMEPA during audit planning, 394 applications were pending as at 31 December 2023. [3] According to information provided by SIMEPA during audit planning, applicants submitted 645 applications during the same period. [4] The difference between the number of applications and reasoned recommendations is due to cases in which SIMEPA submitted a second reasoned recommendation on the same application after the Council of Ministers referred it back.

Applications examined by SIMEPA

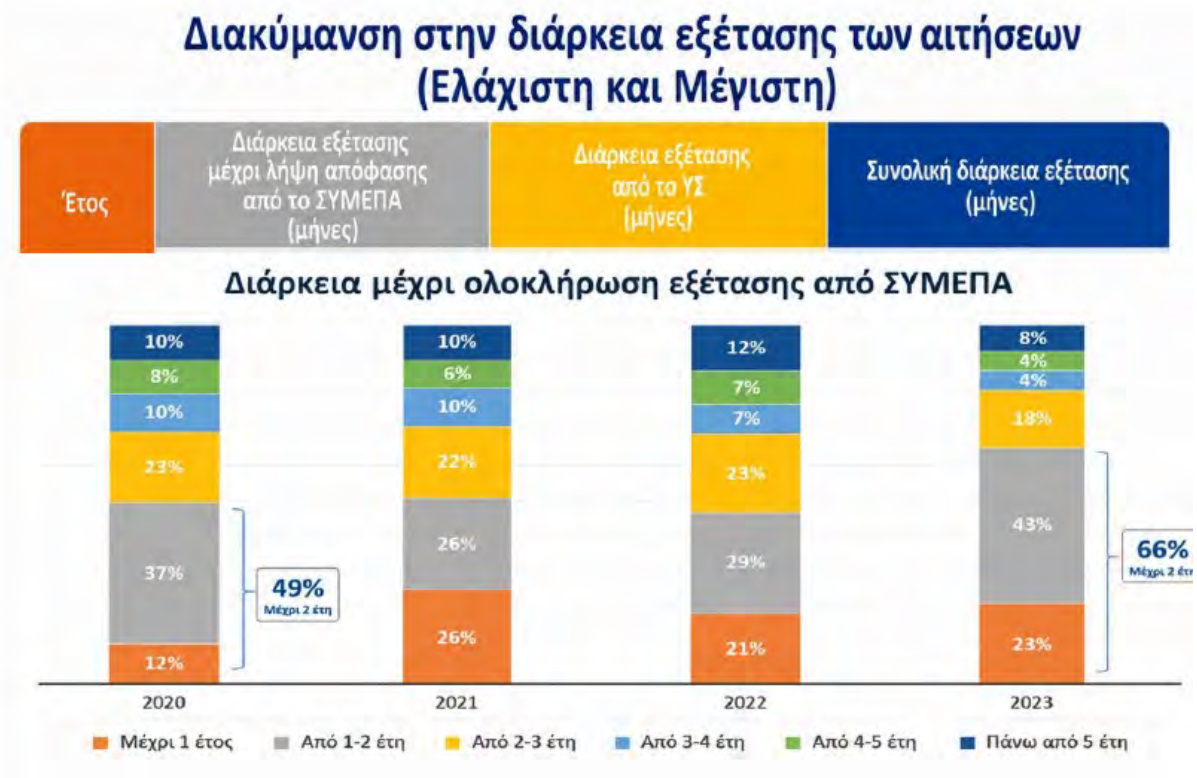
Processing the data on the applications above led to the following findings about the time taken:

Applications examined by SIMEPA, 2020–2023

English key: The annual totals shown are 156 in 2020, 140 in 2021, 181 in 2022 and 156 in 2023.

- The average examination time ranged from 25 to 31 months, or more than two years.
- The average examination period fell from 31 months in 2020 to 25 months in 2023. The proportion of applications completed within two years also rose from 49% to 66%. Despite this improvement, a significant number of applications are still processed with considerable delay, showing that the examination process remains particularly time-consuming.

There were substantial differences in examination times from one application to another. Some cases took more than ten years, while others were completed in less than three months. This may affect the equal and timely treatment of applicants.[5]



Variation in application examination times

English key: Stacked-bar percentages by time band (up to 1 year; 1–2; 2–3; 3–4; 4–5; over 5 years): 2020, 12/37/23/10/8/10%; 2021, 26/26/22/10/6/10%; 2022, 21/29/23/7/7/12%; 2023, 23/43/18/4/4/8%. The accompanying table gives time from application to SIMEPA completion / Council of Ministers decision / total, in months: 2020, 31/5/36; 2021, 30/4/34; 2022, 31/3/34; 2023, 25/3/28.

One example is an application[6] submitted in 2010 concerning additions to a building operating as a higher-education college. Its examination was completed in 2021, more than 11 years after submission.

The audit found that the competent Planning Authority—the Director of the Department of Town Planning and Housing—submitted its report to SIMEPA on 16 March 2021, 11 years after the application was submitted. The report recommended approval. SIMEPA completed its examination two months later and recommended approval on 21 May 2021. The Council of Ministers subsequently…

[5] The charts above show applications completed by SIMEPA in each year, irrespective of when they were submitted to the Planning Authority. [6] Application 8.

3.1 Significant delays in examining applications

The Council of Ministers approved the granting of planning permission on 30 July 2021. The permit was eventually issued on 7 December 2023.

The SIMEPA file contained correspondence between officers of the Department of Town Planning and Housing indicating that the applicants had not submitted further information requested from them. If the delay was indeed caused by the applicants' failure to provide the required information, the competent authorities would have been expected, within a reasonable period, to proceed with examining the application and, if appropriate, rejecting it.

However, the audit found no evidence explaining the long delay in submitting the Planning Authority's report, or showing that SIMEPA took further action with the Department beyond its initial letter in 2010. Further findings on this case are set out in section 3.6.4.

The Report then analyses the process for the 17 applications in the audit sample:

- **From application submission to the Planning Authority's report to SIMEPA:** in 12 of the 17 cases, the report was submitted within a year; in three, within one to two years; and in the remaining two, after more than two years.
- **From receipt of the last-dated report from the competent authorities[7] to SIMEPA's reasoned recommendation:** in 10 cases, SIMEPA completed its examination within four months; in five, within four to 12 months; and in two, it took between one and two years.
- **Overall, from application submission to SIMEPA's recommendation:** five cases were completed within a year; eight within one to two years; and the remaining four took more than two years.
- **From SIMEPA's recommendation to the Council of Ministers' decision:** the decision was made within four months in 15 cases; within four to six months in one case; and within six to 12 months in one case.
- **Overall, from application submission to the Council of Ministers' decision:** one case was completed within a year. The other 16 took more than two years.

In his reply dated 1 July 2026, SIMEPA's Chair stated that the time taken by SIMEPA to examine applications should be measured from receipt of the Planning Authority's report and all required views and consultations from the competent departments, authorities and services. According to the Chair, the views of the bodies involved are often received many months later. Once all the information has been received, examination is generally completed within two to four months. More time is needed in exceptional or complex cases, such as those involving a public hearing, meetings with services or several examination sessions.

Taking these points and SIMEPA's position into account, the Report concludes that the overall examination process is treated as a series of separate stages, with no unified mechanism for tracking applications and coordinating the bodies involved.

Audit Office recommendation: SIMEPA, working with the competent bodies, should assess the factors that contribute to delays and consider whether a unified mechanism is needed to monitor each application from submission through to the Council of Ministers' final decision. The registers should also contain the necessary information for every application in a structured format, so that data can be analysed, response times monitored and the causes of delay identified.

[7] The Planning Authority, the Director of the Department of Town Planning and Housing, the Local Authority and the District Officer.

3.2 Approval of an application for development that appears to substantially affect the overall strategy of the applicable Development Plan

The audit identified a case in which SIMEPA acknowledged that the development substantially affected the overall strategy of the applicable Development Plan, yet recommended that the Council of Ministers approve it.

The application was submitted on 30 March 2017. It concerned the legalisation of development already built in an industrial zone in the Larnaca District: additions and alterations to existing authorised warehouses, and a change of use to a supermarket and warehouse. The requested derogations concerned:

- locating a supermarket outside designated areas; and
- locating commercial development within an industrial zone.

Regulation 19(2) states: "Planning permission by way of derogation shall not be granted for development which substantially affects the overall strategy of the applicable Development Plan." In such cases, SIMEPA must recommend that the application be rejected and inform the Planning Board, so that it can consider whether the Development Plan should be amended under the prescribed procedures.

At the initial examination stage, the competent Planning Authority—the Director of the Department of Town Planning and Housing—recommended rejecting the application on 3 October 2019. Among other things, the Director noted that the development had already been built and was operating unlawfully, without the required permits. A similar application had previously been rejected twice, and proceedings to take measures against the development were pending before the Court. Approval, the Director said, could be seen as rewarding unauthorised development.

In its reasoned recommendation to the Council of Ministers, dated 10 June 2021, SIMEPA also stated that the development substantially affected the overall strategy of the applicable Development Plan, because it encouraged

unplanned development and circumvented fundamental planning controls. Despite this, SIMEPA recommended granting a temporary planning permit by way of derogation. The Council of Ministers adopted the recommendation on 30 July 2021.

SIMEPA based its recommendation on the criterion in Regulation 19(1)(g), concerning the achievement of specific objectives, programmes and development projects, and the resolution of particular development problems. Its reasoned recommendation stated that the temporary permit would run for four years and would not be renewable. This was intended to allow time for the business to cease operating and to find suitable premises to which it could relocate.

Further findings on this case are set out in section 3.6.1.

3.3 SIMEPA completed its examination before an environmental study was submitted

The audit identified a case in which SIMEPA examined an application and made a recommendation to the Council of Ministers before the required Environmental Impact Assessment had been submitted.

The application was submitted on 20 May 2020. It concerned the addition of an eighth-floor office and additions and alterations to the fifth floor of an existing building in the Nicosia District. The process took approximately 29 months, ending with the Council of Ministers' approval on 12 October 2022.

Under Regulation 15(1), when examining an application SIMEPA must take account of reports from:

a) the relevant Planning Authority;

b) the relevant Local Authority, if different from the Planning Authority;

c) the relevant District Officer, where the Local Authority is not a municipality;

d) any other service or body listed in Schedule 2 to the Regulations; and

e) the Director of the Department of Town Planning and Housing, where that Director is not the Planning Authority.

Under paragraph 21(c) of Schedule 2, if a development is one for which an environmental study or preliminary environmental assessment is required, SIMEPA must consult the Director of the Environment Department before making its recommendation. The Regulations expressly provide that, in such cases, SIMEPA may complete its examination only after the preliminary environmental assessment or environmental study has been completed, as applicable, and the study submitted to SIMEPA.

At the first stage of the examination, the competent Planning Authority—the Municipality of Nicosia—recommended rejecting the application in its report to SIMEPA dated 19 November 2020. Among other things, it pointed out that an Environmental Impact Assessment was required because the proposal exceeded the permitted number of floors. The Director of the Department of Town Planning and Housing agreed with the Planning Authority's recommendation to reject.

Despite this, SIMEPA completed its examination without the required environmental study having first been submitted and assessed. On 15 July 2022, it unanimously recommended approval to the Council of Ministers. It also recommended conditions and compensatory measures, including that the Environmental Impact Assessment be submitted later and assessed before the Planning Authority issued the planning permit.

On 12 October 2022, the Council of Ministers approved the application for planning permission by way of derogation in accordance with SIMEPA's recommendations, and authorised the Planning Authority to take the necessary action.

SIMEPA accepted that an environmental study was required for the proposed development. However, the reasons for proceeding with the examination before ensuring compliance with the Regulations are unclear.

SIMEPA's handling of the application also raises a question of unequal treatment. SIMEPA itself informed the Audit Office that a significant share of delays in examining applications was due to applicants or competent authorities failing to submit the required information or reports on time.

It also raises the question of whether SIMEPA had all the material information needed to make a full and substantiated recommendation without the environmental study having first been submitted and assessed.

Recommendation: Before examining applications, SIMEPA should ensure that all information and studies required by the applicable legal framework have been submitted and assessed, in order to uphold the law and the principle of equal treatment.

3.4 Criteria and principles for examining applications

The audit examined how the principles and criteria in the relevant Regulations were applied. It identified issues concerning:

a) the broad and unclear wording of the criteria; and

b) inadequate records of the reasons for differences between recommendations.

Under the Regulations, the Planning Authority must prepare a detailed, substantiated recommendation; SIMEPA must take account of reports from the competent authorities and bodies and make a reasoned recommendation to the Council of Ministers. In particular, a recommendation to grant a derogation must be justified by reference to the criteria and principles in Regulation 19. A derogation may not be granted for development that substantially affects the overall strategy of the applicable Development Plan.

The audit found that the criteria are expressed in broad and general terms, so their application depends to a significant extent on the technical judgement of the competent bodies. Such discretion is legitimate. However, when the reasoning is not adequately recorded, there is a risk that similar applications will not be examined consistently and that doubts may arise as to whether recommendations submitted to the Council of Ministers accord with the spirit of the Law.

The findings are set out in detail below.

3.4.1 Statistics on differences between Planning Authority and SIMEPA recommendations

When examining applications, SIMEPA is required under the relevant Regulations to take account, among other things, of reports from the relevant Planning Authorities.

Analysis of SIMEPA's registers shows that, during 2020–2023, SIMEPA sometimes recommended a different outcome from the relevant Planning Authority. Of 627 reasoned recommendations, the number of cases in which SIMEPA differed was:

- 22 of 156 recommendations in 2020 (14.1%);
- 17 of 137 in 2021 (12.4%);
- 18 of 180 in 2022 (10.0%); and
- 33 of 154 in 2023 (21.4%).

Overall, SIMEPA differed from the Planning Authorities in 90 of the 627 recommendations during the period (14.35%).

3.4.2 Broad and unclear principles and criteria for examining applications

3.4.2.1 Disagreement over whether development substantially affects the overall strategy of Development Plan

In six cases,[8] the Planning Authorities considered that the proposed developments substantially affected the overall strategy of the applicable Development Plans and that the applications should therefore be rejected. SIMEPA disagreed and recommended approval to the Council of Ministers.

Conversely, in two cases,[9] the Planning Authorities considered that the proposed developments did not substantially affect the overall strategy of the applicable Development Plans and that the applications should therefore be approved. SIMEPA took the opposite view. In one of these cases, although the Planning Authority recommended approval, the Director of the Department of Town Planning and Housing wrote to SIMEPA expressing serious concern about that recommendation.

3.4.2.2 Differences in how Planning Authorities and SIMEPA applied the regulatory criteria

The sample audit identified 14 cases[10] in which the Planning Authorities and SIMEPA reached different conclusions about how the principles and criteria in the relevant Regulations applied. As a result, SIMEPA did not adopt the Planning Authorities' views and submitted different recommendations to the Council of Ministers.

This does not mean that SIMEPA is bound by the views of other bodies or must always provide specific reasons for every difference. However, where its final conclusion differs substantially from technical views before it, the recommendation or case file should make clear the main reasoning used to assess the same facts and apply the regulatory criteria.

[8] Applications 4, 5, 9, 10, 11 and 16. [9] Applications 12 and 13. [10] Applications 1–5, 7, 9–16.

3.4.2.3 Inadequate recording of why SIMEPA changed its recommendations after referral by the Council of Ministers

According to SIMEPA's registers, during 2020–2023 the Council of Ministers referred 16 applications back to SIMEPA for reconsideration.

Under the relevant Regulations, if the Council of Ministers disagrees with SIMEPA's recommendation, it refers the application back for reconsideration after recording the reasons for its disagreement. SIMEPA then re-examines the application and submits a new recommendation; the Council of Ministers makes the final decision.

The audit sampled five cases in which SIMEPA changed its original recommendation after the Council of Ministers referred the application back. The files contained no recorded reasons or evidence explaining the change. Nor did it appear that any new material information had emerged that had not already been available to SIMEPA during its initial examination.

Three of those cases are described below. In each, SIMEPA changed its original recommendation to reject the application and instead recommended approval.

3.4.2.3.1 Applications to build two detached dwellings in the Larnaca District

The application, submitted on 10 December 2020, concerned two detached dwellings in an agricultural land consolidation area, within Protection Zone Z1 (irrigated agricultural land consolidation) in the area served by the Southern Conveyor Project in the Larnaca District.

The applicant relied on the criterion in Regulation 19(1)(f), which allows a derogation to be justified by "improving a family's living conditions to an acceptable level without increasing the density of use". The competent Planning Authority—the Larnaca District Officer of the Department of Town Planning and Housing—recommended rejecting the application on 30 June 2021.

SIMEPA initially decided unanimously to recommend rejection, on 29 October 2021. In its reasoned recommendation to the Council of Ministers, it recorded that the plot was in Protection Zone Z1 and within an area irrigated by the Southern Conveyor Project. The Department of Agriculture had objected on these grounds, consistent with its established position that agricultural land should be protected.

SIMEPA also noted that, according to Land Search Certificates, the applicant owned a residential plot in the same community. It therefore considered that the applicant did not meet the socioeconomic criteria. It further found serious planning reasons against granting permission and said that approval could set a bad precedent. SIMEPA considered that the proposed development substantially affected the overall strategy of the applicable Development Plan and did not meet any of the criteria or principles in Regulation 19(1) that could justify it.

The Council of Ministers referred the applications back to SIMEPA for reconsideration, taking account of information presented by the Minister of the Interior. This information suggested that some of the material submitted to SIMEPA about the proximity of the proposed developments to other detached dwellings might require further examination.

After the referral, SIMEPA reconsidered the application and unanimously recommended approval on 20 May 2022. Among other things, it stated that Land Search Certificates showed that the applicant, her husband and the intended occupants of the dwelling owned no other immovable property. It therefore considered that the socioeconomic criterion and the need for the development appeared to be satisfied, as there was no alternative location for it. SIMEPA also noted that there were other detached dwellings in the area, most of them authorised, and concluded that the proposed development did not substantially affect the overall strategy of the applicable Development Plan.

Under the Policy Statement, to build a detached dwelling outside Development Limits, the applicant and their family members must not own property within a designated residential zone in the community where the development is proposed, or in an adjoining community or municipality. The material in SIMEPA's file did not indicate whether it had

investigated how and when the applicant disposed of the residential plot which, according to the original Land Search Certificates, she owned.

For transparency and traceability, SIMEPA's recommendation or the file would also be expected to explain clearly why it reassessed the facts and reached a different conclusion. However, the audit found no adequate record explaining why SIMEPA changed its position and recommended approval on its second assessment.

3.4.2.3.2 Applications to build two detached dwellings in the Famagusta District

The applications concerned two detached dwellings proposed by the co-owners of a plot in Agricultural Zone Ga4, within an area designated for specialised development.

SIMEPA unanimously recommended rejecting the applications. Its reasoned recommendations stated, among other things, that the area had been designated for specialised development so that it could be reserved for large-scale developments of that type. SIMEPA considered that the proposed developments substantially affected the overall strategy of the applicable Development Plan and did not meet any of the criteria in Regulation 19(1).

The Council of Ministers referred the applications back to SIMEPA for reconsideration, taking account of information presented by the Minister of the Interior. The information suggested that some of the material submitted to SIMEPA about the proposed dwellings' proximity to other detached dwellings might need further examination.

After reconsideration, SIMEPA unanimously recommended approving both applications. Its reasoned recommendations stated, among other things, that the developments did not affect the overall strategy of the applicable Development Plan because the plot adjoined a residential zone and would not result in further scattered development.

The audit found no explanation substantiating why SIMEPA changed its original position that the proposed developments would substantially affect the overall strategy of the applicable Development Plan. Nor was it explained why that assessment was not adopted on reconsideration.

SIMEPA also relied on the criterion in Regulation 19(1)(f), concerning "improving a family's living conditions to an acceptable level without increasing the density of use". However, according to SIMEPA's own minutes, both applicants owned and lived in flats in the same municipality. This does not appear to substantiate sufficiently the need to apply that socioeconomic criterion.

These observations are not intended to assess the legal adequacy or extent of the reasoning in each recommendation, or to challenge SIMEPA's discretion to form its own technical judgement. They concern the need for the administrative file to adequately record the material reasons and facts behind these changes, so that the reasoning can be followed.

SIMEPA's Chair informed the Audit Office that, when Regulation 19(2) applies—that is, when a development is found to substantially affect the overall strategy of the applicable Development Plan—SIMEPA is not required to give reasons for rejecting an application. As for the criteria in Regulation 19(1), the Chair considered that they could be worded in greater detail but were, in general, sufficiently satisfactory to justify a positive recommendation.

Audit Office recommendation:

a) The need to revise and further specify the principles and criteria in the relevant Regulations should be assessed, so that they are clearer and more objective without unduly restricting the technical judgement required of the competent bodies. Greater specificity could support more consistent, uniform and transparent assessments.

b) The competent authorities should ensure that their recommendations or the relevant case-file material clearly record the material reasons, facts and criteria on which their conclusions are based, particularly where they:

- depart from an earlier position or recommendation;
- differ substantially from another competent authority's view on how the regulatory criteria apply; or
- reach a different conclusion about whether proposed development substantially affects the overall strategy of the applicable Development Plan.

The record should set out the material facts, the criteria considered and the main reasoning behind the recommendation or decision. This would support transparency, consistency and traceability, without requiring reasons beyond what the law requires.

3.5 Derogations for detached dwellings outside Development Limits

During 2020–2023, between 34% and 46% of the applications examined by SIMEPA concerned planning permission by way of derogation to build detached dwellings outside Development Limits.

Chart title: Applications for detached dwellings The chart shows the annual total number of applications and detached-dwelling applications, with the latter representing 34%, 38%, 46% and 44% in 2020, 2021, 2022 and 2023 respectively.

According to the Planning Control Handbook, revised by the Department of Town Planning and Housing in 2025, residential development is generally not permitted outside Development Limits. There are some exceptions under which a detached dwelling may be permitted, depending on the policy in the relevant Development Plan. For rural communities, the policy is set out mainly in the applicable Policy Statement for the Countryside or in a Policy Statement for a particular administrative area.

From 2020 to 2023, SIMEPA examined and made recommendations to the Council of Ministers on 633 applications. Of these, 259 concerned detached dwellings, and 139 were approved.

Detached-dwelling approvals by district

English key: Distribution: Nicosia 22%, Famagusta 17%, Larnaca 19%, Limassol 30% and Paphos 12%.

Detached-dwelling applications by district, 2020–2023

English key: The chart compares annual application counts across Nicosia, Famagusta, Larnaca, Limassol and Paphos.

Chart title: Approved applications for detached dwellings by district The chart shows the distribution as Nicosia 22%, Famagusta 17%, Larnaca 19%, Limassol 30% and Paphos 12%.

Chart title: Detached-dwelling applications by district, 2020–2023 The chart groups applications by year and district: Nicosia, Famagusta, Larnaca, Limassol and Paphos.

Derogations for detached dwellings in agricultural zones

Among applications for detached dwellings outside Development Limits, particular attention is warranted for those concerning plots in agricultural zones, because approvals may have a cumulative adverse effect on those zones and on planning.

The Unified Text of the Policy Statement for the Countryside 1996–2014, which applied during the audited period, states in its chapter on agricultural and irrigated areas, among other things, that:

- The growing demand in recent years for agricultural land to be used for development and purposes incompatible with agriculture has put considerable pressure on both the natural and built environment of the countryside and on agricultural activity more broadly. This pressure is due mainly to the continuing expansion of urban centres and rural settlements, as well as the construction of detached dwellings. It should be addressed through measures and policies intended to protect fertile, productive and irrigated agricultural land and encourage its use for agricultural purposes.
- Building and other development not directly related to activity in the broader agricultural sector will generally not be allowed on high-quality land—land irrigated by a government project or consolidated for agricultural purposes—unless it is proven to be absolutely necessary and does not substantially affect the area's prospects for agricultural use.
- In addition to applying the policy on detached dwellings, there will be a presumption against any other form of development in land-consolidation areas or land irrigated by a government irrigation project, unless it serves agricultural purposes.

The practice of approving detached dwellings outside designated Development Limits is associated with cumulative adverse effects on agricultural zones and planning.

The audit found, from the minutes of SIMEPA's meetings on the sampled cases, that the existence of other detached dwellings in an area is taken into account by SIMEPA and the Planning Authorities when examining applications, and tends to support approval. If SIMEPA and the Planning Authorities continue this practice, newly approved detached dwellings are likely to be treated as a positive factor when future applications for similar development are considered.

Moreover, even where SIMEPA recommended rejecting applications, the Council of Ministers sometimes referred them back for reconsideration, citing the proposed developments' proximity to other detached dwellings.

This practice creates a “domino effect” that appears capable of substantially affecting the overall strategy of Development Plans: zones intended for agricultural use are gradually converted into residential areas. It also increases the risk of piecemeal development without a comprehensive and coherent planning approach.

Dozens of detached dwellings have been built in agricultural zones, as shown in the maps. The construction of detached dwellings in agricultural zones appears ultimately to expand residential zones—even though, as the relevant map also shows, a substantial part of the existing residential zones remains undeveloped. This does not substantiate the need to expand them further.

Dozens of detached dwellings have been built in agricultural zones, as shown in the maps.

Figures 1 and 2. Maps of areas in the Famagusta District

English key: Map labels: Residential Zone, Residential Zone as at 2024, and Agricultural Zone.

The construction of detached dwellings in agricultural zones appears ultimately to expand residential zones—even though, as the relevant map also shows, a substantial part of the existing residential zones remains undeveloped. This does not substantiate the need to expand them further.

Derogations for detached dwellings in Protection Zones

The audit identified an application[11] for planning permission to build a detached dwelling in Protection Zone Z1, within an irrigated agricultural land-consolidation area. After the Council of Ministers referred the application back to SIMEPA for reconsideration, SIMEPA ultimately recommended granting permission. SIMEPA had initially recommended rejecting it.

During consultation, the Department of Agriculture wrote that it had serious grounds for opposing the permit because the proposed development was not directly related to any agricultural activity. The Department’s established position, it said, was that agricultural land should be protected and kept for agricultural use, given its significant contribution to rural development and food production.

The Department also pointed out that detached dwellings in areas with agricultural activity can lead to problems and disputes, because dwelling owners may regard agricultural activities as a nuisance.

[11] Application 3.

The map opposite shows the area in question, where other detached dwellings also appear to have been built. In addition to the State’s investment in irrigation through the Southern Conveyor Project, an agricultural land-consolidation scheme appears to have been implemented there.

Figure 3. Map of an area in the Larnaca District

English key: Protection Zone; irrigated agricultural land; the Southern Conveyor Project area.

These decisions reduce the value of significant infrastructure investments made at public expense, since, as the map shows, large plots of land have already been used for housing.

The Council of Ministers referred the application back because the proposed development was close to several existing detached dwellings. As noted above, this means that each new approval for a detached dwelling becomes a significant factor in the approval of further applications in the area.

SIMEPA's Chair informed the Audit Office that Development Plans provide for planning permission for detached dwellings and that, in his view, this does not necessarily undermine the coherence of planning, provided the relevant conditions are met. He added that assessments take account of factors such as the presence of other authorised detached dwellings in the area; the personal housing needs of vulnerable people, including cases where they own no other suitable property; and objectives relating to revitalising the countryside and retaining or increasing the permanent population of communities.

Nevertheless, each recommendation still needs to be substantiated against the criteria and principles in the Regulations and the facts of the particular application. This is especially important for applications in Agricultural Zones or Protection Zones. The file should adequately show that the proposed development does not substantially affect the overall strategy of the applicable Development Plan.

Audit Office recommendation: The policy for granting planning permission for detached dwellings outside Development Limits should be reassessed to protect agricultural land and ensure that development is approved as part of a comprehensive and coherent planning approach. The presence of existing detached dwellings in an area should not, on its own, determine the outcome of future applications—particularly where taking it into account could lead to a chain of further development and substantially affect the overall strategy of the applicable Development Plans.

3.6 Permitting unauthorised premises

The audit found that the derogation provisions were used in some cases to grant retrospective permission for unauthorised development.

Under section 26 of the Town and Country Planning Law, the Council of Ministers may grant planning permission by way of derogation from a Development Plan, whether or not the development has already been carried out, in exceptional cases

justified in the public interest or in other special cases prescribed by Regulations. Exercising its powers under this section, the Council of Ministers issued the Town and Country Planning (Derogations) Regulations 2005 (ΚΔΠ 309/99, ΚΔΠ 120/2005).

The audit identified cases in which the Council of Ministers, following a recommendation by SIMEPA under these Regulations, approved planning permission for unauthorised developments. The examination of these cases raised concerns about retrospective permitting, as set out below.

3.6.1 Approval of an application to change the use of a warehouse to a supermarket

This case concerns an application for planning permission by way of derogation to change the use of existing premises in an industrial zone in the Larnaca District from warehouses to a supermarket. It is also discussed in section 3.2.

In its report to SIMEPA, the Planning Authority—the Director of the Department of Town Planning and Housing—recommended that the application be rejected. The report noted, among other things, that:

- Planning permission had been granted in 2010 for three warehouses, but the development had been built and was operating unlawfully as a supermarket.
- Applications for alterations and a change of use to a supermarket had been submitted and rejected in 2012 and 2014.
- In 2012, the Department's District Office had served two enforcement notices: one concerning a breach of conditions relating to the Larnaca Water Board, and the other concerning the use of the premises as a supermarket, café and play area without the required permits.
- In 2015, following a complaint and an on-site inspection, the Planning Authority found that the development was still operating unlawfully as a supermarket. The Director of the Department of Town Planning and Housing served a further enforcement notice.
- The development continued to operate unlawfully as a supermarket. Areas that should have been provided and laid out as public green space and community facilities had instead been turned into parking for the supermarket.
- There were no special grounds, nor was this an exceptional case warranting an application for a derogation in the public interest. None of the criteria in Regulation 19(1) appeared to apply.
- Criminal proceedings had been brought against the applicants for allowing a building's use to be changed and continued without a permit from the competent authority, the Municipality of Aradippou.

The minutes of the SIMEPA meeting at which the final decision was made recorded, among other things, that:

- The development could not be considered essential to meeting the needs of the area.
- Objections had been submitted by owners of commercial businesses, the Cyprus Supermarkets Association and POVEK.
- Approval could encourage unfair competition with commercial developments in permitted zones, reward unauthorised development and set a bad precedent.
- The Planning Authority, the Department of Public Works, the Ministry of Energy, Commerce and Industry, and the Cyprus Tourism Organisation had all expressed negative views.
- The development was operating unlawfully and had far fewer parking spaces than required. The area that should have been laid out and provided to the public as green space and community facilities was being used for supermarket parking.
- The development substantially affected the overall strategy of the applicable Development Plan because it encouraged unplanned development and circumvented fundamental planning controls.
- As a last resort, the applicant asked for at least a temporary planning permit, to give the company operating the supermarket a reasonable period to find new premises and relocate.

SIMEPA unanimously decided to recommend that the Council of Ministers grant a temporary planning permit for four years. This would allow time for the business to cease operating and find suitable premises to relocate to. The permit would not be extendable.

Among the proposed compensatory measures, SIMEPA recommended that, within three months of the Council of Ministers' decision being notified to the applicant, the applicant should pay:

a) €400,000 to the Local Authority to address the burdens arising from the derogation, particularly through improvements to the area's road network; and

b) the amount required to remove encroachments on the public green space and restore it appropriately.

On 30 July 2021, the Council of Ministers approved the temporary four-year planning permit, subject to those conditions.

According to information from the Department of Town Planning and Housing dated 8 October 2024, the permit had not been issued because the applicant had not met the compensatory requirements: the €400,000 had not been paid, nor had the €97,615 cost of removing the encroachments on the green space.

The findings show that the development had operated for about ten years as a supermarket in an industrial zone, rather than as a warehouse. Applications to change its use had been rejected, and three enforcement notices had been served for breaches of the original planning permit. Almost all the competent departments had expressed negative views on granting permission. Nevertheless, SIMEPA recommended that the Council of Ministers approve a temporary planning permit, subject to conditions and compensation, to allow time for the development to relocate.

Although the planning permit had not been issued because the applicant had not met the requirements, the supermarket appeared to still be operating when this Special Report was issued.

This approach may give the impression that unauthorised development is tolerated, undermining compliance and encouraging similar breaches.

3.6.2 Approval of an application for alterations to an existing complex of serviced apartments and change of use to a hotel

This case concerns an application for planning permission by way of derogation for additions and alterations to an existing complex of serviced apartments and a change of use to a hotel in the Famagusta District.

In its report to SIMEPA, the Planning Authority—the Director of the Department of Town Planning and Housing—recommended approving the application. The report noted, among other things, that:

- The development had obtained several building permits, the most recent in 1977, for the construction of six blocks of serviced apartments.
- Applications submitted in 2012 and 2016 for alterations to the serviced apartments and a change of use to a hotel had been rejected by the Planning Authority.
- The earlier applications had been rejected for reasons including that the development had been built and put into use unlawfully, without the required permits; the plot was in a commercial zone; the proposal did not comply with specific provisions of the Policy Statement on Tourism Development and changes of use; and much of the development was located on a public cul-de-sac rather than meeting the minimum setback requirements. An unauthorised block had also been built and extended onto neighbouring plots. Its demolition had been requested, but no title deeds had been submitted.
- An on-site inspection on 20 January 2023 found that the development was operating as a hotel, including the unauthorised block.

SIMEPA's minutes recorded, among other things, that:

- The site was an existing, authorised tourist development of serviced apartments operating as a hotel. The proposed alterations would improve its quality and viability by allowing it to operate lawfully as a hotel. - All departments and services, as well as the relevant municipality, supported approval. - The application was justified under the following criteria in Regulation 19(1): - criterion (d): promoting and implementing regional development policy or broadening the local economic base; - criterion (g): resolving particular development problems; and - criterion (i): improving the appearance of the development and its built surroundings.

By majority, SIMEPA decided to recommend that the Council of Ministers grant planning permission subject to appropriate conditions and compensatory measures, including:

- Before the planning permit was granted, an official survey plan of the plot and existing structures had to be submitted to identify any encroachments onto other plots, in addition to the encroachment by one of the blocks.

- The existing unpermitted block that encroached on property not owned by the applicants had to be demolished before an application for a building permit was submitted.
- The applicants had to pay €70,000 to the Local Authority before the planning permit was granted.

On 11 January 2024, the Council of Ministers approved the planning permission by way of derogation in accordance with SIMEPA's recommendation.

By April 2025, however, the planning permit had not been issued. The audit found no indication of whether the conditions had been met. Although no planning permit had been issued for the development, it continued—and continues—to operate.

This case highlights the need to carefully assess whether applications should be approved while material matters remain outstanding, and the risk that doing so may create the impression that existing unauthorised development is tolerated.

3.6.3 Approval of an application for a detached dwelling

This case concerns an application for planning permission by way of derogation to build a detached dwelling in Agricultural Zone Ga2, within the Kokkinochoria Irrigation Project in the Famagusta District.

In its report to SIMEPA, the Planning Authority—the Famagusta District Officer of the Department of Town Planning and Housing—recommended rejecting the application. Among other things, it recorded that:

- The applicants had submitted an application for a dwelling in 2007, an application for additions and alterations to an authorised agricultural warehouse in 2017, and a further application for a dwelling in 2019. That last application had also been rejected.
- The dwelling had already been built unlawfully on the plot and was being used by the applicants, retired foreign nationals.
- When the applicants acquired the plot in 2017, its development potential did not permit a dwelling. They knew, or ought to have known, this.
- The proposed development on high-quality, irrigated agricultural land conflicted with the Local Plan's strategic objective of limiting urban sprawl outside designated Development Areas, and particularly of protecting fertile, productive irrigated agricultural land.
- Approval could set a bad precedent.

The Planning Authority also considered that the applicants had not substantiated their case and did not meet any of the criteria in Regulation 19(1).

In a letter to the Famagusta District Officer about the application, the President of the relevant Community Council opposed approval. Among other things, the President stated that:

- This was a clear attempt to bypass lawful procedures and knowingly circumvent laws and institutions.
- The dwelling had been built without planning permission on land outside a residential zone, purchased at an agricultural-plot price and with a permitted building density of 6%.
- The foreign nationals had been living in the dwelling for at least five years.
- Once the required permits were obtained, the applicants could sell the dwelling at a high price and make a financial gain when they returned to their country of origin.

SIMEPA's minutes recorded, among other things, that it should take account of the following:

- The applicants were retired foreign nationals. They had sold their property in their country of origin and bought this house from the original owner or developer as their permanent home in Cyprus.
- The owners had become caught up in the permitting problems, which were partly the result of the competent authorities' inability to control illegal building.

SIMEPA unanimously decided to recommend that the Council of Ministers grant planning permission by way of derogation under Regulation 19(1)(g), concerning specific development objectives, programmes and projects and the resolution of particular development problems.

Among the proposed compensatory measures were a condition prohibiting the transfer or rental of the property for ten years from the date the planning permit was granted, and a payment of €5,000 to the Local Authority.

On 11 January 2024, the Council of Ministers approved the planning permission by way of derogation.

The audit found no evidence that SIMEPA had adequately examined:

a) the claim that the applicants had sold all their immovable property in their country of origin;

b) the applicants' socioeconomic circumstances; or

c) whether the applicants had bought the house or whether it was built after they purchased the plot.

3.6.4 Approval of an application for additions and alterations to an existing higher-education college

This case concerns an application submitted on 27 May 2010 for additions to an existing authorised development operating as a higher-education college.

According to the Planning Authority's report—the Director of the Department of Town Planning and Housing—the development was built under planning and building permits granted in 2005 and 2006 respectively. However, unauthorised structures and installations had been added in the basement, which had been approved for parking, and in the open space on the property.

The Planning Authority also reported that a partially amended version of the application had previously been considered as part of the 2005 planning-permit process. The Council of Ministers had approved a derogation subject to conditions, including compensation for exceeding the permitted floor-area ratio by transferring development rights from an adjoining plot.

Because no agreement was reached on compensating for the excess floor-area ratio, a phased approach was accepted. A planning permit was issued only for the part of the building within the permitted ratio. The applicants were expected to return regarding the remaining part after meeting the condition to transfer development rights from another plot.

The applicants did not return within the period of validity of the derogation to arrange that transfer. They submitted the application under review in 2010 to obtain approval by way of derogation again. It concerned breaches involving the permitted floor-area ratio and site coverage, as well as insufficient parking.

As noted in section 3.1, the competent Planning Authority submitted its report to SIMEPA in 2021—11 years after the application was filed—recommending approval. SIMEPA recommended approval on 21 May 2021. The Council of Ministers adopted that position on 30 July 2021, approving the grant of planning permission by way of derogation. The planning permit was issued in 2023.

The application concerned a development open to the public, where unauthorised alterations and encroachments had taken place. The competent Planning Authority took 11 years to submit its report to SIMEPA. The file did not show that planning-enforcement measures had been taken during that period against the unauthorised alterations and encroachments.

As the Audit Office has stated in previous Special Reports, granting permits to developments that have already been built or are operating without the required permits creates unfair competition and weakens the effective application of the development-permitting framework.

The Report also notes that premises serving large numbers of visitors may operate without the required permits and therefore without a certificate of approval. This may affect compliance with public-health and safety requirements and warrants consideration and further examination by the competent State bodies.

Audit Office recommendation: The extent of unauthorised development—and of its retrospective permitting through derogations—should be assessed. Appropriate corrective and deterrent measures should then be considered, including revision of the relevant legislative framework, to strengthen development-control mechanisms.

3.7 Uncertainties in the institutional framework governing the appointment and terms of SIMEPA members

SIMEPA's composition is governed by Regulation 4 of ΚΔΠ 309/99, which provides, among other things, that:

SIMEPA consists of five members appointed by the Council of Ministers. Three are the Presidents of the Union of Municipalities of Cyprus, the Union of Cyprus Communities and the Cyprus Scientific and Technical Chamber (ETEK), or their alternates. The relevant body appoints each alternate immediately after the Council of Ministers appoints SIMEPA's members, Chair and Vice-Chair.

The other two members are people of recognised standing and integrity, with knowledge of spatial planning, the environment and development, appointed on the recommendation of the Minister of the Interior.

When performing their duties, members and their alternates act as independent individuals. They do not represent their respective bodies in any way and are not accountable to them.

Under Regulation 5(2), the Chair, Vice-Chair and members are appointed for three-year terms, which may be renewed for one further three-year term only.

The audit found that one SIMEPA member—an alternate—continued to attend SIMEPA meetings and public hearings for a short period after the end of the term set by the Council of Ministers, exceeding the prescribed six-year limit. On the basis of an opinion from the Attorney General of the Republic, it was concluded that there was no impediment to the member's participation in SIMEPA.

This case, considered alongside the current institutional framework, raises the following legal questions, which SIMEPA may need to examine further:

1. Regulatory questions

a) The Regulation provides that the Presidents of the Union of Municipalities, the Union of Cyprus Communities and ETEK are SIMEPA members. It is unclear whether their membership follows automatically from holding those offices, or whether the Council of Ministers must appoint them to formally confirm SIMEPA's composition.

b) The Regulation also says that SIMEPA members and their alternates act independently and do not represent or answer to their respective bodies. This raises the question of whether alternates also act independently of the member they replace.

c) It is also unclear whether the six-year limit on terms applies in the same way to alternates.

2. Questions about how the rules operate in practice

a) In practice, the three members from the Union of Municipalities of Cyprus, the Union of Cyprus Communities and ETEK—or their alternates—are appointed by the Council of Ministers.

Under Regulation 4, however, those three bodies appoint the alternates themselves, immediately after the Council of Ministers has appointed SIMEPA's members, Chair and Vice-Chair. It is therefore unclear why the Council of Ministers also appoints the alternates after the relevant bodies have designated them.

b) The Presidents of the Union of Municipalities, the Union of Cyprus Communities and ETEK serve on SIMEPA by virtue of their offices. Their terms are determined by their organisations' elections, which may take place at different times. This creates uncertainty about how the six-year term limit can be applied if they do not appoint alternates.

3.8 No documented procedures for declaring and recording conflicts of interest among SIMEPA members

The audit found no indication that SIMEPA members had conflicts of interest. However, it also found no documented procedures or records demonstrating that members declare potential conflicts of interest.

SIMEPA stated that, where a member has a personal interest in an application under examination, the member informs the other members and abstains from examining that application.

3.9 Uncertainties in imposing compensatory measures

Part VIII of the relevant Regulations provides for compensatory measures when planning permission is granted by way of derogation.

When recommending approval to the Council of Ministers, SIMEPA may also recommend that compensatory measures be imposed.

No clear criteria for choosing or calculating compensatory measures

Regulation 20 lists categories of compensatory measures, including road improvements, open public green spaces, organised parks, public car parks, improvements to the development itself, and community facilities or services.

This provides a general range of options, but does not clearly specify when each measure should be selected, its scale or value, or how to ensure that it is proportionate to the particular derogation and its effects.

The audit found cases in which SIMEPA recommended financial payments to the relevant Local Authorities:

- In two applications for detached dwellings,[12] SIMEPA recommended a €5,000 payment. In five other applications for detached dwellings,[13] it did not recommend a similar measure.
- For one application concerning an additional floor and alterations to an existing development,[14] it recommended a €5,000 payment.
- For another application concerning alterations to an existing development and a change of use to a hotel,[15] it recommended a €70,000 payment.

The audit could not establish how SIMEPA chose these measures or calculated their amounts.

Audit Office recommendation: To reduce the risk of unequal or favourable treatment, the framework for all compensatory measures should be clarified. Each decision should explain why a particular measure was chosen, which effects of the derogation it is intended to address, and how its value was determined.

[12] Applications 3 and 7. [13] Applications 4, 5, 9, 10 and 16. [14] Application 2. [15] Application 6.

Unclear conditions for using a legal commitment of development rights

Under Regulation 21(1), an excess over the permitted floor-area ratio should generally be compensated for by transferring development rights from another plot (the “donor plot”), which is transferred to the State, or from a listed building. If transferring the donor plot is objectively impossible, development rights may instead be transferred provided that the corresponding area of the donor plot is legally committed.

The Regulations do not adequately specify when such an objective impossibility exists, or what evidence is required for a legal commitment to be treated as equivalent to transferring the plot. This lack of clarity may lead to similar cases being treated differently: one applicant may have to transfer a plot to the State, while another applicant with a comparable excess may retain ownership of their plot by legally committing its development rights.

In the latter case, the State does not acquire the plot for use as public open space, such as green space, a car park, square, pedestrian area or playground. The owner retains practical and financial benefits from using the land—for example, as a private car park—and may also benefit from any future increase in its value.

The audit identified one case[16] in which the excess floor-area ratio was compensated for by a legal commitment over 717 m^2 of another plot owned by the applicant. The applicant retained ownership. The same plot was also counted towards the development’s required parking spaces, so the same land was used to meet two separate planning requirements.

Audit Office recommendation:

a) The Regulations should be reviewed to determine whether they need clear criteria for deciding when it is objectively impossible to transfer a plot to the State.

b) Any such decision should expressly explain why transfer was not feasible and how the legal commitment is ensured to carry equivalent financial and planning weight.

[16] Application 8.

3.10 Other matter: Retrospective permitting of residential development in the Limassol District

The Audit Office had previously examined a case concerning planning permission by way of derogation for 20 detached dwellings outside a residential zone in the Limassol District. A property developer had built the dwellings without the required permits and then sold them, in many cases to foreign purchasers.

As well as the houses and swimming pools, the development included roads, pavements and other infrastructure—features of an organised settlement created without prior permission.

SIMEPA said at the time that it had three options: reject all the applications so as not to reward unlawful conduct; approve all of them subject to compensatory measures; or approve only some of them. SIMEPA considered that rejecting the applications would leave the houses abandoned, although several were already occupied, and would adversely affect purchasers who had allegedly been misled about the legality of the developments.

SIMEPA ultimately recommended approving the applications subject to compensatory measures. Among its reasons were that the dwellings adjoined the residential zone, similar development had previously been approved in the area, and the competent authorities and relevant Community Council had made positive recommendations. Following SIMEPA's recommendation, the Council of Ministers approved the planning permission on 8 February 2023.

On 27 June 2024, the Audit Office referred the matter to the Independent Authority Against Corruption.

4. General conclusions

Development Plans form the basis for town and country planning and planning control. The process for granting planning permission by way of derogation is intended to be used only in exceptional or special cases, not as an alternative route to permission outside the provisions of Development Plans.

The audit of the process during 2020–2023 found, among other things, that:

- Applications were subject to significant delays, from submission to the Planning Authority through to completion of SIMEPA's examination, and examination times varied widely.
- In some cases, the process did not comply with specific provisions of the Regulations governing applications for derogations.
- The principles and criteria for assessing applications are expressed in general terms. This allows different interpretations and leads to differing approaches among the authorities involved.
- In some cases, the reasons for differences between the competent authorities' recommendations—and for changes to SIMEPA's recommendations—were not adequately documented.
- A significant number of applications concerned derogations to build detached dwellings outside Development Limits. This practice may affect the coherence of planning and the protection of agricultural land.
- In some cases, the derogation provisions were used to grant retrospective permission for unauthorised development. If this becomes common practice, it may create the impression that planning breaches are being rewarded.

Comments from the audited body

The draft of this Special Report was sent to SIMEPA on 8 June 2026, with a request for its comments and views for inclusion in the final Report. SIMEPA's full reply, dated 1 July 2026, is reproduced in Appendix III.

Where the audited body's reply refers to matters raised in the draft but not included in the final Report, the Audit Office considers that those matters were adequately answered or resolved by the audited body's reply.

Appendices

Appendix I: Legal framework governing the Auditor General's powers

The Audit Office's responsibility and safeguarding its independence

The Audit Office's Special Reports present the results of its audits of the policies and programmes of the Republic of Cyprus or other audited bodies; matters concerning their budgets or particular parts of those budgets; and the results of audits by private auditors commissioned by the Audit Office to audit the accounts of an organisation it oversees under the Law on the Submission of Data and Information to the Auditor General of the Republic (Law 113(I)/2002).

The Audit Office selects and plans its audits to achieve the greatest impact, taking account of risks to performance or compliance, the level of relevant revenue or expenditure, emerging developments and the public interest.

The Audit Office reports findings on the basis of the evidence made available to it.

Unless expressly stated, the absence of findings on particular aspects or matters within the scope of an audit does not constitute assurance, or imply that there are no weaknesses, errors or departures from the applicable regulatory framework. An external auditor cannot be expected to identify every such weakness, error or departure.

The Audit Office's recommendations are suggestions for addressing audit observations and findings. They must not be understood as affecting the Audit Office's independence as an external auditor, or as involving it in decisions made by the audited entity's management. The management of the audited entity remains solely responsible for making lawful and proper decisions on how to deal with audit findings and recommendations.

Nothing in this Report should be taken as an accusation that any person intentionally abused their authority or committed a criminal or other offence. Any such matters, if they exist, must be investigated by the competent authorities; only the competent courts can determine a person's guilt. The Audit Office's recommendations and findings concern the audited bodies. Any reference to other natural or legal persons does not imply that they have necessarily done anything wrong, since that falls outside the scope of this Report.

Auditor General's powers

The audit was carried out under the Auditor General's constitutional powers and the provisions of the Fiscal Responsibility and Budget Systems Law (Law 20(I)/2014).

Article 116 of the Constitution provides that the Auditor General, assisted by the Deputy Auditor General, audits on behalf of the Republic all receipts and payments, and all accounts of cash and other assets or liabilities incurred by or on behalf of the Republic. For this purpose, the Auditor General may inspect and audit all relevant books, records and statements, and premises where those assets are held. The Auditor General, assisted by the Deputy Auditor General, also exercises any other powers and performs any other duties assigned by law.

Under section 81 of the Fiscal Responsibility and Budget Systems Law (Law 20(I)/2014), the Auditor General conducts the external audit of the Republic's accounts.

Under the Law on the Accounting and Financial Management and Financial Control of the Republic (Law 38(I)/2014), the accounting officer responsible for each budget item must ensure that receipts and payments are proper and lawful, and that the relevant budget is implemented effectively, efficiently and economically, in accordance with the principles of sound financial management (sections 7(1) and 8).

To this end, the Audit Office carries out financial, performance and compliance audits of ministries, departments and services of the public service and the wider public sector.

The Law on the Submission of Data and Information to the Auditor General of the Republic (Law 113(I)/2002) gives the Auditor General clear powers to request data in any form, including electronic form, as well as explanations and information, written or oral, that the Auditor General considers may assist in carrying out the work.

Appendix II: Methodology

Auditing standards

Under section 81(2) of the Fiscal Responsibility and Budget Systems Law (Law 20(I)/2014), the Auditor General conducts external audits using internationally recognised auditing standards selected by the Auditor General.

As stated in the Audit Instructions issued by the Auditor General, the Audit Office conducts its audits in accordance with the International Standards of Supreme Audit Institutions (ISSAI), issued by the International Organization of Supreme Audit Institutions (INTOSAI). INTOSAI is an autonomous, independent and non-political organisation with special consultative status at the United Nations Economic and Social Council (ECOSOC).

The ISSAI Standards classify audits by Supreme Audit Institutions into three types: financial audits, compliance audits and performance audits. Some auditing standards apply across all three types; others are specific to a particular type.

This audit was governed primarily by the provisions of the following standards:

The fundamental INTOSAI-P1 standard reproduces the Lima Declaration, adopted by INTOSAI's International Congress in Lima, Peru, in 1977. The standard describes the Declaration as the "Magna Carta" of government external audit, because it laid the foundations for public auditing. The Declaration sets out the key audit points and principles for Supreme Audit Institutions needed to achieve independent and objective audit results. The principles in the Lima Declaration were recognised in United Nations General Assembly resolutions 66/209 of 22 December 2011 and 69/228 of 19 December 2014. INTOSAI-P1, together with INTOSAI-P10 (the Mexico Declaration), forms part of the EU acquis.

ISSAI 100 sets out the definition of public-sector auditing and its basic concepts, elements and principles. These include both general auditing principles and principles relating to the various stages of an audit, applicable to all public-sector audits.

ISSAI 400 defines compliance auditing as an independent assessment of whether a particular subject complies with the principles established as audit criteria. These audits assess whether the audited body's actions comply with the principles or rules governing it. Those principles and rules may concern compliance with relevant laws, regulations or agreements, or with general principles of sound financial management and conduct by public officials.

Quality management

As part of its commitment to quality and continual improvement, the Audit Office applies ISSAI 140, "Quality Management for Supreme Audit Institutions". This standard requires a structured approach to maintaining high-quality audit work by establishing and operating an effective Quality Management System, as described in detail on the Audit Office's website.

Audit approach

The audit was based on analysis of information submitted by SIMEPA, review of documents in SIMEPA's files, and information provided by the Planning Authorities.

It examined a targeted sample of 17 applications whose examination by SIMEPA was completed during 2020–2023, focusing on cases where:

a) the Planning Authority and SIMEPA disagreed;

b) the Council of Ministers had referred an application back; or

c) the application had taken a long time to examine.

The examination and granting of planning permission require specialist expertise in the applicable planning framework, particularly in interpreting and applying the complex provisions of Development Plans. Accordingly, this audit did not examine technical planning matters or assess whether the competent authorities' planning decisions were correct.

The audit findings were sent to SIMEPA for its comments and views. Where appropriate, SIMEPA's views have been incorporated into this Report.

Artificial-intelligence tools were used to create images and charts in this Special Report.

Personal-data references have been removed for publication, to ensure compliance with Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, without substantially limiting the communication of the Audit Office's findings and conclusions required under the applicable international standards.

Audit criteria

The following principles and rules were used as criteria for the compliance audit:

- The Town and Country Planning Law 1979 (Law 90/1972).
- The Town and Country Planning (Derogations) Regulations 1999 and 2005 (ΚΔΠ 309/99 and ΚΔΠ 120/2005).

Appendix III: SIMEPA's reply to the Audit Office Full translation of the scanned letter, dated 1 July 2026

To: Auditor General of the Republic
Subject: Special Report — Audit of the process for granting planning permission by way of derogation from Development Plans

With reference to the above matter and your letter dated 18 June 2026, we set out below SIMEPA's comments on the points raised, including matters discussed at the meeting held at your offices on 8 June 2026.

1. Delays in examining applications

SIMEPA's Support Service prepares a memorandum for members to examine each application. To do so, it must obtain the Planning Authority's report and the views of the competent departments, authorities and services concerned with the development.

Accordingly, the time SIMEPA needs to examine an application begins when it receives all the required consultations. In many cases, the views of the competent bodies arrive several months after the relevant request is sent. It is therefore inaccurate to state in the draft Report that the time required for SIMEPA's examination includes the entire period from the application's submission.

In general, SIMEPA examines applications within two to four months. Very exceptional cases may take around six months to complete, for example where a public hearing or meetings with departments or services are required, or where complex developments require more examination sessions.

Example: For one of the applications examined in your audit, the relevant dates were:

- Application submitted: July 2020
- Planning Authority's report: October 2021
- Local Authority's report, the last report received: April 2022
- Application examined by SIMEPA: June 2022
- Council of Ministers' decision: August 2022

2. Completion of the application

When examining an application under Regulation 15(1) of ΚΔΠ 309/99, SIMEPA takes account of the reports and views of the Planning Authority, the Local Authority, the District Officer and any other service or body specified in Schedule 2 to the Regulations. SIMEPA is not required to obtain the views of every department, authority or service.

Regulation 15(1)(δ) allows SIMEPA to proceed with examining an application if the departments, authorities or services do not submit their reports within one month of being invited to do so. The exception is where paragraph 21(c) of Schedule 2 applies, concerning developments for which an environmental study or preliminary environmental assessment is required.

In such cases, SIMEPA may complete its examination only after the relevant environmental assessment process is finished and the study has been submitted to SIMEPA.

3. Principles and criteria for assessing applications

Regulation 19(2) of ΚΔΠ 309/99 is mandatory and binding where SIMEPA finds that a development substantially affects the overall strategy of the applicable Development Plan. In such cases, the criteria in Regulation 19(1) are of secondary or supplementary importance. SIMEPA is not required to justify the rejection of an application in these circumstances.

Nor should rejection be regarded as adverse treatment of the applicant. Planning permission by way of derogation is granted not to satisfy a legal or individual right, but to serve the public interest, including considerations of expediency and wider development.

As regards the criteria in Regulation 19(1), SIMEPA considers that they are generally satisfactory and sufficiently comprehensive to justify positive recommendations for different developments.

4. Permitting existing unauthorised development

Section 26(2) of the Town and Country Planning Law allows the Council of Ministers to grant planning permission by way of derogation from the applicable Development Plan, whether or not the development has already been carried out, in exceptional cases justified in the public interest or in other special cases.

Accordingly, retrospective permission for unauthorised development is lawful where the case is substantiated and justified by reference to the principles and criteria in Regulation 19(1) of ΚΔΠ 309/99.

5. Enforcement notices for existing unauthorised development

Preparing and serving enforcement notices for existing unauthorised development, and for developments granted a derogation by the Council of Ministers for three years, falls within the responsibility of the Planning Authority under section 46 of the Town and Country Planning Law.

6. Detached dwellings

All Development Plans provide for planning permission for detached dwellings. It cannot therefore be assumed that granting such permission affects the coherence of planning, provided that the following significant conditions, among others, are met:

- There should be a sufficient number of authorised detached dwellings in the area, so that the character of the surrounding area is not altered and the concept of dispersed development is not undermined.
- The proposed development should meet housing needs and improve an individual's or family's living conditions without increasing the density of use.
- Land search certificates and tenancy information should show that applicants do not own other suitable immovable property or housing. Applicants should also have low to middle incomes, so that socioeconomic grounds support meeting their housing needs as a vulnerable group in the population.
- The proposed development should help achieve the State's basic objectives and policies for revitalising rural areas and retaining or, where possible, increasing communities' permanent populations, thereby strengthening their demographic composition.

7. Compensation without transferring the donor plot to the State

Regulation 21(3) of ΚΔΠ 309/99 states:

> *"The donor plot shall, except in exceptional cases where this is objectively impossible, be transferred to the State for the purposes of open public space (green space, square, pedestrian area, playground, public car park), where it lies within a Development Area, preferably close to the proposed development, and must be suitable for that purpose from a planning perspective."*

The Regulation further provides that, where transferring the donor plot to the State is objectively impossible, transferring development rights is permitted provided that the corresponding area of the donor plot is legally committed.

Regulation 21(4) states:

> *"The value of the excess floor area shall be compensated for by a donor plot of equal value, transferred or to be transferred to the State."*

Accordingly, excess development rights may be compensated for under the exception in Regulation 21(3) and Regulation 21(4) of the Town and Country Planning (Derogations) Regulations (Κ.Δ.Π. 309/99), before planning permission is granted, by transferring development rights from the donor plot. In that case, a restrictive covenant over the transferred development rights is registered against the title deeds of both the development plot and the donor plot.

In general, where parking spaces for a development are located on a separate donor plot, provided that the donor plot is close to or adjoining the development plot and the development plot is fully developed, development rights may be transferred from the donor plot to the State if the corresponding area of the donor plot is legally committed.

Signed: Chair, Council for the Study of Derogations

Copy to:

- Ministry of the Interior
- Director General, Ministry of the Interior
- Council of Ministers Secretariat
- Director, Department of Town Planning and Housing