



CONSTRUCTION CONTROL AS AN ECONOMIC FACTOR

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Abstract

Construction control has historically had an essential and decisive role in ensuring legitimacy of construction both in Latvia and also other countries. Although the content of construction control has been different in various periods of time, it has always existed at all policies and in all economic circumstances. If there was no control over the operation of the industry on the national level, a country would have to face a situation, which is best described by a famous saying "everything, which is not explicitly prohibited, is permitted". The legal qualification of construction law on a scientific level is not justified and clear. Still, in construction it would be desirable to follow the principles established in public law, in particular, "what is written, it is permitted" and not vice versa.

The present theme is topical now, at this very moment when the country and the global economy are facing the global "crisis" and when it is necessary to maintain the need for establishing and improving the control mechanism by developing new methods for ensuring control and construction control in particular.

The author has set the analysis of the existing economic factors in construction control considering foreign experience, like German, Estonian and Byelorussian valid guidelines on this issue, as the main task of the present report.

The author has selected the analysis of the economic factors of the Latvian construction control as the subject of his survey. Also historical aspects, the necessity of the cancelled competence of the national construction inspection and the present valid procedure in the area of construction control in general have been included in the report.

In the present report the author aims to prove that the state has suffered an essential loss by liquidating the national construction inspection and leaving the control under the competence of municipalities and not providing a new system for construction control.

The author would like to offer the establishment of a uniform construction control mechanism for all the Member States of the European Union as a solution. It would set uniform principle, methods of application and economic justification for ensuring this institution for everybody.

KEY WORDS: The historical aspect of construction control, Guidelines on construction control abroad, legal economic justification of construction control.

Introduction

Development of the construction industry, which has possibly slowed down in the context of the current global economic crisis, and the problems related to the construction industry and the relevant law have remained valid, including construction control. This situation can be used and irrespective of the slow-down of the construction industry there is an opportunity and necessity for increasing the administrative capacity of the construction control and improving the construction supervision and control system both at the stage of preparing construction and in the process of public procurement, as well as in the course of performance of construction works and operation of buildings. For the purpose of strengthening the capacity of the construction control it is necessary to strengthen the role and powers of the construction control by reviewing the organisation of the construction control in municipalities and stipulating the functions, which should be performed, in regulatory acts. It is necessary to establish the responsibility of supervisory and control institutions for compliance of the construction to the relevant requirements of territorial (detailed) planning. In the present report the author has selected the construction control, its historical factors in comparison to the modern

practice and the economically justified necessity to improve the construction control capacity as the subject for study. For the purpose of exploring the research subject the author has applied study methods like the theory of interest, subordination theory and the theory of subjects. The application of the above referred theories provided an opportunity for the author to make a comparison and to identify the best way for a correct distinction between the responsibility of the state and municipalities and the relevant obligations towards a natural entity. What is the scope of obligations and rights granted to parties of a construction process by means of the regulatory framework in the process of the construction control. In addition to the above referred methods the author will need to apply other recognised interpreting methods, like literal, systemic, historical and theological interpretation in the course of the research. In the present report the author will use the national law sources in the area of ensuring the construction control as the main source of law; and for the purpose of comparing their efficiency and usefulness also examples from established practices of other countries in ensuring the construction control will be used.

The historical factor of the construction control institution

Regulatory provision in Latvia from year 1869 to 1990

Initially the construction norms were developed by the Construction Board of the Ministry of Internal Affairs in consultation with the Ministries of Finance, Education, War, Traffic, Agriculture and the State Control. The norms were approved by the Minister of Internal Affairs. In compliance to the statement in "Valdības Vēstnesis" [Official Journal] No. 131 of June 14, 1935 certain parts of the Manual of Construction Norms issued in year 1869 and its supplements and amendments of year 1914 shall be repealed as from the date when the relevant construction norms approved by the Minister of Internal Affairs enter into force. The above notification was published in the Official Journal in Riga on June 4, 1935..

In compliance to the Law of July 16, 1919 on January 16, 1922 the Regulations "On management of construction and construction equipment (construction machinery)" were adopted. Article 6 of the above Regulations stipulates that „Only persons with higher education and at least 10 years experience related to machinery shall be permitted to serve as members of the board”, and Paragraph 9 of the Regulations stipulates that „The Construction Board shall have the following tasks: to manage construction and construction machinery affairs; to take care for the development of draft regulations and laws required for construction and construction machinery; to perform technical – police supervision over the activities of municipal and state institutions in compliance to the Construction Law; to inspect and approve departments construction projects, except constructions for guarding needs and those of the Ministry of Traffic and constructions of the Ministry of Finance in the area of ports; to inspect and approve private construction projects, the approval of which exceeds the competence of municipal institutions; to resolve appeals on resolutions of municipal institutions referring to rejecting private projects; to inspect and propose building place of cities, villages and other settlements to ministers”. The Russian Construction Law, Volume XII, Section One of year 1900 was repealed by the entrance into force of the present Regulations.

In year 1928 amendments to the above Regulations "On Management of Construction" were adopted. They included a new wording of Article 6, which now stipulated that „Technical management of construction affairs shall be the competence of the relevant institutions; such technical institutions shall be incorporated in: the Ministry of Traffic; the Ministry of War; the Ministry of Finance; the Ministry of Agriculture; the Ministry of Education; the Construction Board of the Ministry of Internal Affairs, as a separate construction department, besides, the latest of the above shall be entrusted the task of technical management of construction affairs for the needs of other state departments and institutions”.

For the purpose of ensuring further development of construction and separating the state administration functions from the economic management functions, as well as in compliance to the Law of the Republic of Latvia of May 11, 1990 "On the Composition of the Cabinet of Ministers of the Republic of Latvia" the Latvian Cabinet of Ministers decided that, first, it should be stipulated that the Ministry of Architecture and Construction of the Republic of Latvia shall be the central state administration body representing the state interests and responsible for capital construction, flats and utilities, as well as for the development of these areas.

Historically, this ministry was established by replacing the State Committee of Construction and Architecture of the Latvian SSR and by taking over its obligations. By a regulation also the Statutes of the Ministry of Architecture and Construction of the Republic of Latvia were adopted. The Resolution of the Council of Ministers of the Latvian SSR No. 581 of November 24, 1966 "On Approval of the Statutes of the Ministry of Public Utilities of the Latvian SSR" (Official Journal 1967) with all further supplements and amendments to the Statutes, Resolution No. 272 of August 18, 1988 "On the Organisational Structure of the Construction Board of the Latvian SSR" and the Resolution No. 56 of March 6, 1990 "On Approval of the Statutes of the State Committee on Construction and Architecture Affairs of the Republic of Latvia" were repealed.

In compliance to Paragraph 1 of the Statutes of the Ministry of Architecture and Construction of the Republic of Latvia „*The Ministry of Architecture and Construction of the Republic of Latvia is a central state administration body and shall be subordinated to the Cabinet of Ministers of the Republic of Latvia*". On May 16, 1990 the Supreme Council of the Republic of Latvia adopted the resolution on appointing the Minister of Architecture and Construction of the Republic of Latvia, and Mr. A. Prūsis was appointed to this position (<http://www.em.gov.lv>).

Based upon the above the author concludes that the control has always existed and it has been under the state supervision and competence. This issue has been reviewed on the state level, because construction as a branch of national economy certainly presents an essential support to the national economy and its existence. Therefore, there has been a clear regulation of construction control at all times.

Regulation in Latvia from year 1990 to 2009

In compliance to Paragraph 1 of Section 2 of the Construction Law the Construction Law (<http://www.likumi.lv/doc.php?id=75661>) shall define the mutual relationship among parties to construction, as well as their rights and obligations in a process of construction and liability for the compliance of the building resulting from construction to its intended task, economic profitability, intended life time and the relevant regulatory acts, as well as the competence of state administration and municipal institutions in the relevant

area of construction. From the above norm it follows that a building shall in any case comply with economic profitability and its intended task, and this is explicitly stipulated by the law. Although further norms do not provide an explanation of the economic profitability, the author considers that it is partially related to the implementation of this process in practice and the responsibility for ensuring the compliance to the stipulation in the law that the building shall comply with the economic profitability.

Until year 2009 the state construction control in Latvia was implemented by the National Construction Inspection under supervision of the Ministry of Economy in compliance to the Law on Construction. The National Construction Inspection implemented control over compliance to the requirements of laws and other regulatory acts relating to the quality of construction products, compliance of hydrotechnical structures of hydro power plants to the safety standards, inspected whether parties to the construction and officials and state administration and municipal institutions follow the requirements set by laws and other regulatory acts in relation to construction.

The National Construction Inspection also implemented control over compliance of construction materials and construction products to requirements of regulatory acts. It was performing also other tasks in compliance to the Statutes of the National Construction Inspection, regulatory acts and directions by the Ministry of Economy.

In compliance to Paragraph 14 of Section 15 of the Law "On Municipalities" ensuring of legitimacy of construction processes within the relevant administrative territory shall be an autonomous functions of the municipality. For the purpose of managing and controlling construction local municipalities shall establish Construction Boards within their administrative territories. Officials of Construction Boards shall be entitled to perform construction control within the administrative territory of the local municipality with the rights of construction control.

The National Construction Inspection was liquidated in compliance to the Ordinance No. 352 of May 29, 2009, and the control functions were transferred exclusively to construction inspectors of municipal construction boards. Thus, the supervision over this industry and also construction control was transferred under the competence of the Ministry of Economy.

Despite all the above described changes the state has maintained the additional supervisory institution – construction supervision. From the point of view of economic factors it can be disputed how much such a supervisory block in the process of construction is needed, when there is a state tool performing control functions. In compliance to Section 159 of the Regulations of the Cabinet of Ministers No. 112 "General Construction Regulations" a procedure is established according to which the Construction Board shall require appointment of a construction supervisor. Although the author has not set listing of all the stipulated procedures as his main task, it is regulated also by other regulations, for example, Regulations on the Latvian Construction Standard LBN 303 – 03 „Regulations on Construction

Supervision". The above Regulations basically define the cases when a customer is entitled to attract a construction supervisor when the Regulations of the Cabinet of Ministers No. 112 "General Construction Regulations" do not require it.

Historical overview of the construction control institution

Inclusion of this chapter means a logical necessity to analyse the historical perspective of the control institutions, because it is made topical by current amendments, which have been adopted by the legislator by disregarding the procedure of supervision and control, which has existed for centuries and by stipulating that the exclusive competence over this control institution is granted to a municipality and its construction inspectors (<http://www.periodika.lv>). The author considers that elimination of the national construction inspection, firstly, certifies incompetence of the legislator, and secondly, the low level of competence of this institution and lack of understanding of this section of law on the national level. According to the author's opinion this will cause instability for those implementing this law and for the national economy in general. In order to understand the importance of this institution historical aspects dating back to year 1878 when the regulations on commencing the operation of this control institution were issued should be studied.

Already in year 1878 when the regulations were adopted the construction board played an important role in the city administration because it supervised the major part of the city funding. The legal base of the construction board was based upon the regulations of the city council of year 1878.

From the viewpoint of structure the construction board was composed of a city representative acting as a chairman and six assessors in compliance to Paragraph 70. The structure of the construction board was established in compliance to Paragraph 71 and two sections were formed:

- 1) The Construction Police Section, which was chaired by a representative of the City Council assisted by two assessors;

- 2) The Municipality Construction Sites Section chaired by a representative of the City Council assisted by other assessors.

In compliance to Paragraph 72 of the Regulations the file keeping and management of the chancellery of both sections of the construction board shall be the responsibility of the secretary. The following technical officials worked for the construction board in compliance to the procedure established by Paragraph 73 for ensuring fulfilment of its functions: (1) an auditor of construction sites, who worked in the Construction Police Section; (2) the City Architect, City Engineer and his assistant, who worked mainly in Section 2, but who could be invited to meetings of Section 1 in case of necessity; (3) the City Auditor working under supervision of the Economy Board and his assistant, who participate in the work of either of the Sections in case of necessity.

The issue on the distribution of competence within the Construction

Board was solved in a simple way by establishing a construction police body, which operated under supervision of the Ministry of Internal Affairs in compliance to the procedure laid down in Paragraph 74. The competence of the construction police section included “compliance to the city plan, approval of construction projects in compliance to the construction rules, construction supervision, notification of violations of construction regulations to the responsible institutions, stopping construction works at the sites not compliant to construction regulations with the help of the police and closing the sites in case of necessity”.

The existence of municipalities and their role in ensuring the legal side of this activity has always been an indispensable tool for ensuring control. Paragraph 75 of the Regulations defines the competence of the construction sites section of municipalities and the existing elements in the following way:

1) technical supervision of public buildings and construction sites in compliance to the set terms or upon the request by the Economy Board performance of technical surveys of construction sites and necessary repair works;

2) development of all the architectural and engineering construction projects funded by the city, sketches of reconstructions and repair works, designs and costs calculations or provision of conclusions if the above has been prepared by another party; (a) supervision of the technical performance of construction of public buildings; (b) coordination and supervision of paving city streets, lighting, cleaning of streets and public squares, as well as review of the requests by managers of quarters.

For the construction board to be entitled to implement its rights not only based upon regulations it was permitted to adopt resolutions within its competence by summoning general meetings. Thus, in compliance to Paragraph 76 the general meeting of the construction board had to appoint representatives to the sanitary commission of the city and to the suburbs area commission, if any outside the structure of the municipal council. Both sections participated in joint meetings upon the request by the chairman or the city council.

In the first section, which was supervised by the construction police, the preparation of the works used to be in the competence of a single technical official – construction auditor, however, the control over the approval of this section and timely implementation of construction projects was exercised by 4 construction controllers, who were officials not specialising in technical matters.

When Riga was undergoing rapid development at the end of 1890-ies and the number of private construction sites increased at an unusual rate the board of local architects expressed a wish and identified a necessity to improve the operation of the construction police. In compliance to the resolution adopted by the city council meeting of March 9, 1898 three new construction auditors' boards were established. In the result construction in each of the 4 parts of Riga city was supervised by a technically trained auditor (architect or

engineer). At the same time positions of construction controllers were eliminated, the premises of the construction board were extended and improved.

Both Section 1 and Section 2 were initially managed by representatives of the city council. However, as the construction intensity increased a single person could not manage to comply with all the duties. In the result, the management of Section 2 was maintained by a representative of the city council, but for the management of Section 1 a new position was created, namely, a construction inspector, who was elected by the city council meeting in compliance to the procedure set by Paragraphs 77 and 78 (*Der Stadt Riga Verwaltung und Haushalt in den Jahren 1878 – 1900, Riga (1901)*).

The section of municipal construction sites was composed of the city architect and the chief city engineer, as well as two the so referred section engineers and the city machinery engineer. The city council did not have its own constructors' office. These were not very well paid positions and therefore the above technical officials were allowed to establish their private practices. In addition to the regular wage the city architect received a fee amounting to 50% of architect's and engineer's joint fee rate set in a special table for performance of all the duties (preparation of sketches, designing, construction supervision, management of construction works and commissioning of construction sites). The architect had to cover his office and other expenses from the above revenue.

As from May 8, 1923 the Regulations “On the procedure of performing new construction and repair works and their supervision at the state, public and industrial buildings” adopted in the meeting of the Technical Board on April 25 were valid (<http://www.periodika.lv>), and Paragraph 1 therein stipulated that „Commencement of works shall be permitted only after the approval of all the relevant designs and payment calculations in compliance to the regulations on developing and approving designs of state, public and industrial buildings”. Paragraph 2 of the Regulations stipulates that „Following the approval of the design and calculations, prior to the commencement of works the owner of the construction or the institution, for the needs of which the construction is performed, shall submit the approval signed by the responsible manager of works on undertaking management of the works to the institution, which has approved the design”. Only the persons, who have “construction rights” in Latvia and are registered with the construction board of the Ministry of Internal Affairs shall be allowed to act as managers of works. In compliance to Paragraph 3 of the Regulations „Technical police supervision over legal performance of construction works shall be under the competence of the construction board of the Ministry of Internal Affairs; therefore all the institutions and persons, who perform any new construction or reconstruction works at any state, public or industrial buildings, shall notify such works to the construction board of the Ministry of Internal Affairs, and the following terms of notification shall be followed: (1) following completion of construction of foundation; (2) following completion of construction of walls; (3) following completion of all the construction works”.

Reports on the condition of the construction and construction works shall be submitted by the responsible manager of works and shall be co-signed by the owner of the construction. The responsible person shall be brought to liability for submission of wrong reports in compliance to Paragraph 9. In compliance to Article 4 of the Regulations „Following the receipt of the report referred to in Paragraph 3 the survey of the construction works shall be performed by a representative of the construction board with the participation of the manager of construction and considering the approved drawings and other documents related to the construction works, which shall be maintained in proper order at the place of performance of the works; and act shall be drawn up on the results of the survey”; non-arrival of a representative of the construction board shall not serve as a reason for suspending the construction works. Paragraph 8 of the Regulations stipulates that „Following the completion of the construction works at public and industrial new constructions these shall be surveyed by a sanitary technical commission comprising representatives of the construction board, health department and local police; in case of industrial buildings also a representative from the industry department shall be involved”. Based upon the resolution of the above commission the construction board shall issue a permit for using the building. Note. The survey shall take place latest within 2 weeks as from the date of the receipt of notification on completion of the works. If the commission does not arrive within the set period of time, the building may be used until the survey and the construction board shall issue a temporary permit for it. Paragraph 9 of the Regulations stipulates that „In case after the receipt of the notification on the condition of the construction works in compliance to Paragraphs 3 and 8 the commission or a representative of the construction board do not establish that the building complies to the reported condition the owner of the building shall cover all the losses caused to the state due to this visit, including the daily allowance and other expenses corresponding to the norms set for the relevant category of state officials, by paying the relevant amounts to the cash desk of the Ministry of Internal Affairs”.

Starting from year 1927 the management of state buildings, performance and supervision of works in compliance to Section 5 of the Law “On Management of Construction” was under the competence of the relevant departments. In compliance to the stipulations in the law the technical management of construction affairs was under the competence of the relevant staff departments belonging to the following:

- 1) the Ministry of Traffic;
- 2) the Ministry of War;
- 3) the Ministry of Finance;
- 4) the Ministry of Agriculture;

5) the Construction Board of the Ministry of Internal Affairs as a separate construction department; besides, the latest of the above shall be entrusted the task of technical management of construction affairs for the needs of other state departments and institutions.

Major changes were made by amendments and supplements to the law on construction management of year 1935, where in Section 2 of the Law on Construction Management, in particular, in Paragraphs 3, 5 – 7 and

new Paragraph 11 and note to Paragraph 10 a new wording was included as Paragraph 11: „The Ministry of Internal Affairs shall be entitled to resolve appeals on resolutions by city municipalities in relation to private construction projects”, and in Section 14 it was stipulated that „Management of private construction in cities shall be in the competence of the Construction Board or the relevant city municipalities”, and in Section 17 it was stipulated that „In the area of agricultural construction it shall be a task of construction inspectors to supervise compliance to laws and construction regulations, as far as these refer to technical performance of construction”.

Foreign control mechanisms

Legal control provisions of the German construction regulations

The legal regulation of the German construction control is defined in the regulations of regulated construction of Federal Lands, which stipulate the basic requirements to the construction territory and the construction site, in particular. In addition, they contain regulations on compliance to the above legal norms and legal norms of city construction. The construction regulations include a description of the procedure regulation. These are regulations, which, besides the confirmation of the parties involved in the construction and their obligations, regulate the following areas: (a) construction supervision bodies; (b) a construction permit and its necessity; (c) the procedure of granting the construction permit; (d) construction supervision. Compliance to the Construction Regulations and related rules is within the competence of construction supervision bodies. Construction supervision is a matter of the state competence.

With the establishment of this type of supervision and control model a three step control system is prescribed. The lower level construction supervision bodies are under the full competence of a district, settlements equal to a city (not belonging to a district) and big cities of districts; they take over control functions according to an order or an ordinance. The lower level construction supervision bodies supervise and consult the local construction industry, however, primarily they deal with issuing construction permits or rejecting them.

On daily basis resolutions are taken by the lower level construction supervision institutions. The law provides for exceptional cases when a parish or a higher level construction supervision institution should interfere. In these cases a construction permit is issued based upon the multi-level transfer act. However, it does not change the external procedure according to which an applicant communicates with the construction supervision body only. The participation act is an internal procedure.

The higher level institutions of construction supervision usually are under the competence of the regional administrations, which are established for settlements with the status of cities (not belonging to a district) and big cities of the district. The Federal Land administration refers to the other bodies. At the same time it supervises the lower level construction supervision institutions, issues or rejects the issue of

permits for local construction projects, approves the cases of dispense, as well as issues construction permits to state construction projects. The higher level construction supervision institution is the Federal Land Ministry responsible for construction supervision.

Legal provisions of the control in Estonia

In the Estonian Construction Law the construction control is provided for in Chapter 6 "Construction supervision". Although from the point of view of concepts control is a different notion from supervision, the Estonian Construction Law does not provide for this distinction. Thus, when we speak of supervision, we should take into account that it might refer to control as well.

Section 59 of the Law defines construction supervision and its Paragraph 1 stipulates that „Construction supervision shall include the following: (1) verification of compliance of construction projects to the set requirements; (2) construction permits; (3) permits for operations; (4) construction inspection in relation to compliance to requirements; (5) checks in cases of accidents, which have happened in the result of construction". Construction supervision in the corresponding territories is ensured by municipal administrations, i.e. municipal construction boards.

Section 60 of the Law defines the competence and duties of persons, who are authorised to perform construction supervision. Paragraph 1 stipulates that „In the authorisation tasks for a person, who is granted the state or municipal rights in the area of construction supervision, the following shall be included: (1) inspection of compliance to the present Law.

Paragraph 2 of Section 60 of the Law stipulates that „Expenses related to an expertise, which is intended for determining the compliance to the construction project or requirements set for a construction part, shall be covered by the entity with construction supervision rights. In cases when it turns out that the construction projects or construction as a whole or any part of it is not compliant to the set requirements the entity performing the construction or the owner or the customer shall be obliged to reimburse the expenses of the expertise carried out for the above".

The state supervision is implemented by entities to whom the state supervision rights have been granted. Section 1 of the Estonian Construction Law stipulates that „The state supervision over compliance to the requirements is established by the present law and regulations issued on the basis of this law, according to which it is transferred under the competence of the Technical Supervision Inspection". In compliance to Section 2 of the Law „the Inspection shall be entitled: (1) to perform inspections without prior notification and participation; (2) to receive information required for ensuring state supervision, to review original documents and to receive copies; (3) to inspect the course of performance of construction works, the construction project and also the entrepreneur in compliance to the requirements set in Section 41 of the present Law; (4) to require performance of expertise of services for the purpose of determining whether they comply to the

construction, construction project and to inspect the entrepreneur's suitability for the performance of the construction works; (5) to inspect causes of accidents at the construction site; (6) to issue instructions and permits within the limits of its competence, etc.

Second parallel supervision is entrusted to the Technical Supervision Inspection. In particular, in compliance to Section 63 of the Law, which defines the obligations of the Technical Supervision Inspection, Section 1 stipulates that „The Technical Supervision Inspection shall have the following competences: (1) to verify compliance to the present law and requirements set for construction materials; (2) inspection of compliance to the present law in relation to fulfilled requirements, including an inspection without participation of representatives".

The author's conclusion on the control or supervision process of Estonia and related matters is a positive assessment. In particular, performance of expertise is an aspect, which could be considered as an example by other countries. Different to Latvia, where in cases when any of the parties wishes to perform a construction expertise of the works, this expertise and its process shall be agreed upon in a contract, in Estonia such an agreement is not required and performance of expertise is entrusted to the entity with construction supervision rights. The entity with construction supervision rights maintains responsibility over the necessity to perform an expertise.

The control mechanism of Byelorussia

In Byelorussia the legal regulation of construction is quite interesting and completely different from that of Latvia and other countries. The legal regulation of construction in Byelorussia serving as an "umbrella" law in construction is defined in Byelorussia Civil Code (Civil Code of the Republic of Belarus 1998), in particular parts of it, like Chapter 37 „General rules on performance of works". In this chapter for the purpose of regulating the procedure in construction sixty seven (67) legal norms are compiled, and they refer to general performance of works, rights and obligations of participants to construction; there are also specific parts relating exclusively to construction, namely, to construction supervision, guarantees of performance of works and compliance of materials, which is a specific element referring to construction only.

Section 703 of the Civil Code of Byelorussia provides for the Customer's control and supervision over performed works in compliance to a contract, where Paragraph 1 stipulates that „A Customer shall be entitled to carry out both control and supervision over activities and quality of performed works, compliance to the time schedule, quality of materials, as well as correct performance, however, shall not interfere with the activities of the Contractor". Paragraph 2 stipulates that „in cases when a Customer identifies any deviations and non-compliances which may impact quality of the works in the course of inspection, it shall notify the Contractor immediately. If the Customer has not notified such discovered deficiencies without any delay, it shall lose a possibility to refer to identified deficiencies and non-compliances at a later stage".

In the above chapter the major conclusions can be drawn based upon two aspects. First, the regulation of construction belongs to the part of private law, and second, the performance of control is entrusted according to a private procedure. Most burden in the course of construction is carried by the Customer, who is responsible for following all the performed works, their quality and general performance. The economic justification of the control and necessity of prevention is left to the private hands, and the author thinks that it can possibly yield varying results. First, the control is carried out more efficiently if the Customer has sufficient funds for it, second, a situation is possible when no control is carried out due to various reasons.

Economic aspects of the construction control

According to the official data thirteen (13) million people are employed in the construction industry in the European Union. Besides, it is admitted that this number can be higher than the official data indicate and correspond to approximately of 7.9% of the total labour in the EU. According to the estimates the annual turnover of this industry at the EU level amounts to 902 billion Euros ([http://data.csb.gov.lv/ Dialog/Saveshow.asp](http://data.csb.gov.lv/Dialog/Saveshow.asp)) 9. In compliance to the data of the Central Statistics Bureau ([http://data.csb.gov.lv/ Dialog/Saveshow.asp](http://data.csb.gov.lv/Dialog/Saveshow.asp)) in Latvia the turnover of construction industry in year 2007 amounted to approximately 3 990 098.00 LVL and the number of employed persons amounts to 85 624.

The regulations referring to the economic justification of construction can be found in the Regulations on the Latvian Construction Standard LBN 501-06 "The procedure for determining construction costs ". The Regulations are applied for determining the costs of constructions subject to the Law on Public Procurement or the Law "On Procurement for the Needs of Providers of Public Services ". With certain exceptions these Regulations can be applied also to construction projects, which have been submitted for acceptance according to the procedure set in the Law until December 31, 2006, or to projects, the technical economic justifications of which have been approved or accepted until December 31, 2006 and the economy part of which complies to the requirements of the regulatory acts valid during the relevant time period; re-working of documentation of these construction projects in compliance to the requirements of the Latvian Construction Standard LBN 501-06 „The procedure for determining construction costs“ is not mandatory.

Therefore in this chapter the author will try to analyse the chapters of these Regulations, which define their necessity and extent to be able to provide an economic justification of a necessity of construction.

The result of a construction process is a new, reconstructed or renewed building. For the purpose of establishing the related costs the volume of construction works must be identified. In compliance to Paragraph 1.1 of the Regulations the volume of construction works means the quantitative value of the construction works to be performed, which complies with the project documentation and which can be established following the completion of construction works by measurements or

calculations. In order to estimate the volume of construction works and to perform all the calculations the cost estimate is prepared. In compliance to Paragraph 1.5 of the Regulations a cost estimate is a calculation of projected costs of construction for implementing a construction project made by construction experts (according to the procedure defined in standards). Paragraph 1.6 of the Regulations lists the mandatory sections of a cost estimate to ensure its compliance to the regulations. Costs elements of cost estimates – construction materials, construction products, construction structures, wages and salaries, use of construction machinery and its costs, which are estimated in compliance to the construction production units and expressed in natural (physical) values or in conditional values (percentage, rates).

The volume of construction works is established in drawings of a construction design, lists of volumes and specifications of materials included in a construction design. In compliance to Paragraph 11 of the Regulations „Construction costs shall be grouped per types of construction works or types of works and structural elements. Cost estimates shall comprise the following groups of costs: (1) direct costs of construction works; (2) overheads; (3) profit. Other costs, which are related to construction, but are not considered construction works, shall be included as separate costs items only in the total construction cost estimate.

In compliance to Paragraph 17 of the Regulations for a cost estimate to be legal and for implementing it in practice the necessity for drawing it up shall be justified by the following: (1) the construction design and an attached list of volumes of construction works and specifications of the construction design; (2) information on the technology of performance of construction works, construction machinery and tools, which comply with the character, volume and quality requirements of the construction works; (3) costs elements of the cost estimates for the relevant types of works.

Irrespective of a construction idea, which is implemented in practice as a public or private project, in the initial stage all the required executive documents shall be prepared and serve as the basis for an economic justification. Construction of power plants and funding of this construction could be referred to as one of major construction projects. Construction of Ķegums Power Plant has been among the largest construction projects in this country, and this project presents also the largest work and contribution to the construction site, which is also one of our most important national economic and cultural features. This construction project, where state and municipal institutions, as well as private companies participated with their resources, was implemented over several years, and the achieved goal can be appreciated by us also now.

Construction has always created a very big demand for construction materials, and construction materials have always served as the corner stone for proper development of construction and healthy competition because the rapid fluctuations of prices disturb proper functioning of this industry.

If we look at it from the historical perspective, we can see that production of construction materials increased

rapidly in year 1937 (Official Journal 1935) mainly due to increase of construction volumes in comparison to year 1938. Large amounts of various construction materials were produced, like cement, bricks and many other. Historically provision of bank funding for construction projects produced a considerable impact and contribution; it promoted the general welfare of the society. The major difference from lending principles of that period was the necessity of homes as a place for living. Construction has created numerous new jobs and profit opportunities in construction, production of construction materials, transportation and sale of construction materials. Consequently, construction has improved the purchasing capacity of all the employed persons, and thus has had a positive impact upon economy.

Both from the historical perspective and also now construction has had a motivating impact upon our economic life and daily life for everybody. A historically important construction project which was referred to above is Ķegums Power Plant. Its construction was started in the autumn of 1936. The costs of Ķegums Power Plant amounted to 52 million Lats. Construction of this type plants produced not only expenditure, but also yielded long-term revenue for the state. Thanks to Ķegums Power Plant the generation of power could be tripled in comparison to the previously existing facilities. Completion of Ķegums Power Plant largely promoted and facilitated the use of electricity for various needs in industry, agriculture, households, lighting of premises. It means that the completion of this plant improved the daily life of everybody and provided economic guarantees to everybody. At that time people considered that Ķegums Power Plant would have a major impact upon the economy as a whole and provide benefit for all groups of society.

Year 1937 is of special importance for the Latvian state. It is marked by a rapid economic progress, by good harvests in agriculture, with a high increase of employment, growth of revenues and jobs in trade and transport. In year 1937 revenues of farmers, businessmen, traders and workers increased considerably. The amount of savings increased both as deposits in credit institutions and other. The total amount of deposits in all the credit institutions had increased by 100 million Lats from October, 1936 until October, 1937. The financial position of the country improved because there was progress in all the aspects of the economy, the state revenues also grew. The state debt in relation to the state property and state owned companies was low.

Major economic aspects of construction have always played an important role. For the construction industry to be able to develop in parallel it is related to bank loans issued for construction, including construction of new houses, bridges and arrangement of other buildings. If we look at an example from history when hydro power plants were constructed and when all the society was involved and reached their goals, the yields of these can be seen also now. The contribution of these sites is certified not only by creating of new jobs, but also generation of additional power, which can produce other new jobs. Nowadays there is no goal of building such constructions because they cause damage to the environment.

The author considers that for the purpose of ensuring the recovery of this industry on the state level there shall be a defined task to construct new production facilities, which would create new jobs and provide contribution to the Latvian national economy in general. Even if it is not a short-term contribution, it will certainly be a long-term contribution.

Conclusion

The necessity for the existence of the construction control nowadays is equally important to daily police control for the purpose of establishing the feeling of security among the public that built houses and bridges do not collapse after completion.

Although this is the period when the state administration is saving its funds and many institutions are eliminated, it shall still be among the state obligations to strengthen the control and supervision despite the existing difficulties and imposed burden.

Thus, it is necessary to think about ways for strengthening the capacity of the construction control by means of establishing an independent institution, which would ensure efficient control based upon well-established regulatory base.

A good example can be found by looking back at the history, when the construction control was a task of the Ministry of Internal Affairs and it was efficiently controlled by the Construction Control, which was authorised to react promptly in cases of construction violations.

The German practice in the area of the construction control can serve as a good comparison. In Germany there are provisions for a set of issues regulating resolution of disputes in cases of construction violations; the Construction Code establishes the regulatory framework for settlement of such cases.

The Estonian Construction Law defines clear responsibility and allows application of immediate penalties provided for in the Construction Law without searching for answers in any other regulatory framework opening up possibilities for unnecessary interpretation for those applying the rights.

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Summary

Construction control has existed always and it has always been under the state supervision and competence. This issue has historically been addressed on the state level because construction as a branch of the national economy provides essential contribution to the national economy and its existence. Therefore a clear construction control regulation has always existed.

The author's conclusion on the foreign control or supervision process and related issues should be assessed positively. One of the aspects, which could be useful as an example for consideration by other countries, is the Estonian approach to performance of expertise.

Transfer of control to the private sector could be one of the alternatives for consideration because it can provide considerable advantage for bringing more stability to this industry.

The major economic aspects of construction have always played an important role. For the construction industry to

develop in parallel it is closely related to bank loans issued for construction and including construction of new houses, bridges and arrangement of other buildings. There is an example from the history when hydro power plants were construction and all the society was involved for reaching the common goals, and it can be seen also now.

These construction projects have provided their contribution not only by creating new jobs. Additional power is generated and it can create again new jobs. Nowadays there is no goal of building such constructions because they cause damage to the environment.

The author considers that for the purpose of ensuring the recovery of this industry on the state level there shall be a defined task to construct new production facilities, which would create new jobs and provide contribution to the Latvian national economy in general. Even if it is not a short-term contribution, it will certainly be a long-term contribution.

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