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**GENERAL PRINCIPLES OF ORGANIZATION OF THE SYSTEM OF
CONTROL BODIES IN THE FIELD OF CONSTRUCTION**

The article is devoted to the study of general principles of the system of bodies exercising control in the sphere of construction activity. The existing system of control bodies in this area was analyzed. The focus is on self-regulatory organizations, competency of the State Architectural and Construction Inspection of Ukraine and perspectives of its development. The directions of transformational processes of state architectural and construction control are defined.

Keywords: construction industry, control authorities, State Architectural and Construction Inspection, local authorities.

Problem statement. The construction industry is an important component of the economy of Ukraine. And in times of deepening economic crisis in the world and in our country, the conflicts of interests of builders and interests of society become aggravated, there is a need to create favorable conditions for the development of the construction industry, and in turn this encourages scientists to study ways to improve the situation in the construction industry, in particular, by means of administrative-legal regulation.

Also, in modern conditions there is a need for new approaches to the system of state control, the system of bodies of state control and its legislative support. The existence of such a system is explained by the fact that during the transition period, the company has not reduced the gap in the field of public administration, and management decisions have not become more efficient.

The state, using the capabilities of authorities and management, and the initiatives of the public, goes on way of building regulations improvement with the aim of balanced regulation in construction. Practical steps, made towards the solution of urgent problems concerning regulation of relations in construction activity, deserve a proper scientific analysis and generalization.

Study of the problems associated with the legal bases of the activity organization of bodies of control in the construction sector is important for several reasons. Firstly, it's topic in the context of legal reforms. Secondly, it's important in the context of the protection of environment, safe living space and the creation of safe living conditions for people. Thirdly, it should be done in the context of the effectiveness of law enforcement, continuous improvement of legislation to ensure its conformity with the realities of nowadays.

It must be born in mind that the construction industry is one of the driving forces in the economy as a whole. In support of this position it is possible to say that any activity of goods production begins from the process of construction. The construction sector is a consumer of a large number of goods and services of other related industries: materials construction, metallurgy, mechanical engineering, housing and communal services. It is statistically counted that each hryvnia invested in construction, as a result gives the chance to earn 5 UAH in other branches. In addition, for example, the construction is created the initial foundation for the material status of the family – house. Welfare of each family begins from own house. Therefore, the quality of the execution of all works in the construction industry in the future depends on a lot of factors: safety, cost and quality of the final product properties [1]. For this reason, special relevance is gained by a question concerning the appropriate functioning of governing bodies in the sphere of construction in modern conditions. The formation of effective mechanisms of quality control of construction activities (construction materials facilities, housing, etc.), development and implementation of an appropriate system of control at all stages of production, the creation of an effective system of bodies of control over the use of state standards in the construction industry are essential for the solution of problems in this area and the formation of the construction policy of the state.

The analysis of recent researches and publications. The theoretical base of the study consists of scientific works of Ukrainian lawyers such as O. F. Andriyko, I. L. Borodin, S. S. Vitvitsky, I. P. Golosnichenko, S. T. Goncharuk,

R. A. Kalyuzhnyy, V. K. Kolpakov, O. V. Kuzmenko, E. V. Kurenniy, V. M. Marchuk, O. I. Mikolenko, L. V. Nikolaeva, G. M. Ostapovych, and others.

In the scientific plan the works of scientists, which at various times investigated questions of legal regulation of construction activity, such as A. M. Abramowitch, A.B. Belomesiatsev, I. D. Braude, G.D. Denisova, L. S. Djomardjidze, N. O. Dotsenko-Belous, V. M. Kossak, E.B. Kubko, S. O. Kuznetsova, A. V. Matviychuk, I. M. Mironets, B. F. Movchanovskii, K. V. Pivovarov, V. A. Romas'ko, B. M. Semenko, A. P. Tkach, Z. V. Schepanovskiy, S. P. Yurkevich, and others also became valuable.

In most cases scientists focused attention on a question of control (supervision) of activity in the sphere of construction and through this prism lit the system of bodies of administrative and legal regulation. The problems of comprehensive development and functioning of control bodies in the sphere of construction are studied insufficiently. It should be noted that the Ukrainian researches related to the system of organs that control the construction industry are fragmented.

Paper purpose. In this article we propose to investigate the system of control bodies in the sphere of construction activity based on theoretical studies and the provisions of applicable law.

Paper main body. Construction management encompasses the implementation of a unified technical policy in the industry, planning and development of organizational and legal bases of design and construction, their logistical and financial support, regulation, staff management, organization, safety and health, interventions to improve the quality of architectural and construction works, supervision of compliance with building regulations, norms and standards, the preservation of traditional character of the environment of communities, etc.

An important component of the mechanism of management of the construction sector is the system of control authorities.

Legal and organizational bases of management of construction are fixed by amount of acts among which are main laws of Ukraine “About Regulation of

Urban Development” of 17.02.2011, № 3038-VI, and “About Architectural Activity” of 20.05.1999, № 687-XIV.

Analyzing the current legislation, it can be noted that the present system of bodies of administrative-legal regulation control in Ukraine in the sphere of construction activity consists of the bodies of a general and a special competence. It is possible to carry to the bodies of a general competence the Supreme Council of Ukraine, the President of Ukraine, the Cabinet of Ministers of Ukraine and other authorized bodies.

The Ministry of Regional Development, Construction and Housing and Communal Services of Ukraine (further - the Ministry of Regional Development of Ukraine), the State Architectural and Construction Inspection of Ukraine and its territorial authorities have special powers in the sphere of control of construction activity.

Territorial authorities of state architectural and construction control directly exercise control under the conducting construction of facilities, the production of construction materials and the observance of license conditions by subjects of construction branch, irrespective of forms of ownership, departmental submission and sources of financing with involvement, in case of need, of other bodies of state supervision.

At the same time the system of the bodies exercising the state control in the field of construction includes also other bodies authorized by the state on realization of control functions within their competence, in particular, the State Ecological Inspection [4], the Public Sanitary and Epidemiologic Service [5], the State Agency of Land Resources of Ukraine [6], the State Inspection of Agriculture [7], etc. [8, p. 123].

The state control in the sphere of construction in the system of executive bodies of the government is exercised by the Ministry of Regional Development of Ukraine. The activity of the Ministry of Regional Development of Ukraine is regulated by the Resolution of the Cabinet of Ministers of Ukraine "About the Ministry of Regional Development, Construction and Housing and Communal

Services of Ukraine" № 197 of 30.04.2014. This body is the central executive authority which forms and provides realization of a state policy including technical regulation of construction branch. The Ministry of Regional Development of Ukraine exercises control over the implementation of normative legal acts in the sphere of town planning through the State Architectural and Construction Inspection and its territorial authorities. The specified bodies are the main in the system of public authorities exercising the state control in the sphere of construction [9].

The implementation of the state architectural and construction control and supervision is conferred on the State Architectural and Construction Inspection of Ukraine and its territorial bodies.

The State Architectural and Construction Inspection is the central executive authority which activity goes and coordinated by the Cabinet of Ministers of Ukraine through the Minister of Regional Development, Construction and Housing and Communal Services of Ukraine. The powers and status of this body are defined by the "Regulations of the State Architectural and Construction Inspection of Ukraine", approved by Presidential Decree of Ukraine from the April 08, 2011 № 439/2011 [10]. The status of the territorial bodies of the State Architectural and Construction Inspection is defined by the Cabinet of Ministers of Ukraine Resolution "About Education of the Territorial Bodies of the State Architectural and Construction Inspection" of May 23, 2011 № 549 [11].

The State Architectural and Construction Inspection and its territorial bodies exercise the state architectural and construction control, and also register responsible technical officers of the construction, repair and construction, restoration, design organizations and the organizations of customers who perform directly management of construction works, technical and architectural supervision.

The State Architectural and Construction Inspection participates in the completed construction putting into service, as well as in the investigation of causes of accidents on construction. The functions on carrying out checks of

observance of requirements of the legislation when carrying out construction and hearing of cases on violations are also assigned to this body. The State Architectural and Construction Inspection, in addition to these functions, is responsible for licensing construction activities and monitoring compliance with license conditions. In scientific literature, the license is defined as a state document issued by the competent authority, which is the guarantor of its owner, and a license to carry out specified activities, performing certain actions or use rights [12, p. 57].

The Law of Ukraine “About Licensing Certain Types of Economic Activity” [13] defines as the license a state document that confirms the right of the licensee on the realization of the specified type of economic activity for a certain period subject to the fulfillment of license conditions. As the licensing, the law understands delivery, renewal and cancellation of licenses, issue of duplicates of licenses, conducting license affairs and license registers, control by licensees of license conditions as licensing, issue of orders about elimination of violations of license conditions, and also orders about elimination of violations of the law in the sphere of licensing [13].

The State Architectural and Construction Inspection, except the specified kinds of activity, is also authorized to conduct permission activity because the use of separate subjects, substances, materials, implementation of separate kinds of activity, productions, works of the increased danger requires the obtaining of official documents and the realization of control and supervising activity [14, p. 138].

In the licensing sphere the powers of the State Architectural and Construction Inspection changed in connection with the entry into force of the Law of Ukraine “About Regulation of Urban Development”. So, except for the issuance of permits for works on construction of objects of IV and V categories of complexity it gives the opportunity to work on objects of I–III categories of complexity after the registration of the declaration on the conduction of preparatory work and/or declaration of commencement of construction works. Among the innovations of

the above-mentioned law there is also an issuing of urban certificates for the construction of individual (garden) houses with an area up to 300 sq m and the issuance of initial data for the construction of other objects. Employees of the State Architectural and Construction Inspection have the right to the unimpeded access to the construction sites and enterprises that produce building materials, products and structures, regardless of ownership. The inspection in the activity interacts with other bodies of executive power, exercising control over observance of environmental, sanitary, fire protection norms, occupational safety and other requirements provided by law.

In 2014 the State Architectural and Construction Inspection had the opportunity to use the registry to check the reliability of the data of the construction activity. The Cabinet of Ministers of Ukraine adopted amendments to the Procedure of Licensing of Economic Activities Related to the Creation of Architectural Objects, which improved procedure for the issuance of such licenses, which normalized the ability of the State Architectural and Construction Inspection of Ukraine to use public registries to identify false information in the documents filed by a construction activity subject to obtain a license. These changes were made because the check could not fully provide implementation of requirements concerning ability of performance of construction works on construction objects which on class of consequences (responsibility), in the architectural and technical plan, are difficult, that is, create a threat to reliability, durability and safety of construction objects.

Regulatory activity of the State Architectural and Construction Inspection is conducted on the basis and to execute the Constitution and laws of Ukraine, acts of the President of Ukraine and Resolutions of the Supreme Council of Ukraine, accepted according to the Constitution and laws of Ukraine, acts of the Cabinet of Ministers of Ukraine, Activity Program of the Cabinet of Ministers of Ukraine, other legal acts, as well as on the initiative of State Architectural and Construction Inspection [15].

The State Architectural and Construction Inspection within its powers on the basis of and pursuant to legal and regulatory acts, issues orders, organizes and supervises their implementation. In the cases provided by law, the decisions of the State Architectural and Construction Inspection, taken within its competence, are binding for its territorial bodies.

Currently, the Government submitted to the Supreme Council of Ukraine a bill which provides for the decentralization of powers in the sphere of architectural and construction control and improvement of town planning legislation. The document envisages the possibility of creating bodies of the State Architectural and Construction Inspection in the composition with local governments and district administrations. With the adoption of this law, the authority to issue the permits, the implementation of state architectural and construction inspection and putting into operation of objects are transferred to the local level. The bill also improves the procedures for submission of declarations on the conduction of the preparatory and construction works by establishing an exhaustive list of the grounds for their return and reduces the time for issuance of technical conditions from 15 to 10 working days. There is an exhaustive list of documents submitted for putting into operation of completed construction projects. Also powers on registration of all property rights will be delegated to places [16].

It is possible to carry to bodies of special competence also the self-regulating organizations to which the part of powers of government of administrative and legal regulation of construction activity is delegated [17].

Self-regulatory organizations in the field of construction activities are non-profit voluntary associations of natural and legal persons engaged in professional activities in the field of construction, acquire the status of self-regulating organizations from the day of their registration by the central body of executive power on issues of construction, planning and architecture, and entering information about them into the state register of self-regulating organizations in the construction sector.

Self-regulatory organizations in the construction sector may under delegated powers be involved in licensing of economic activities of the members of the self-regulatory organization. The self-regulating organizations can carry out license expertise on the base of delegated powers from the State Architectural and Construction Inspection. The central organ of executive power on issues of construction, planning and architecture determines the order of registration of such organizations and monitors their activity [17].

In Ukraine process of creation of various self-regulating organizations in the sphere of construction activity began, and it evidences the change of strategy of the Ukrainian state in administrative and legal regulation in this sphere.

The All-Ukrainian Public Organization "Associations of Experts of Construction Branch" [18], the Public Organization "Guild of Technical Supervision Engineers behind Construction of Facilities of Architecture" [19], the All-Ukrainian Public Organization "Guild of Designers in Construction" [20] and others are able to be an example of the self-regulating organizations in Ukraine.

For the purpose of improvement of the existing system of administrative and legal regulation of construction activity it is necessary to fix the status of the self-regulated organizations not only in the architectural sphere, but also in construction activity in general, having added the Law of Ukraine "On Regulation of Town-Planning Activity" with the relevant provisions.

The system of state control is not limited and is not reduced to the system of organs control. It is much broader, as it includes either bodies, either entities for which control is not the main activity (and there are much more bodies of this type), and the various forms of its implementation. Thus, the system of state control in the sphere of construction includes the bodies and the officials, endowed by the state with supervisory authority with respect to the state administration bodies; the forms and the methods of control activities, the relationship between them.

Unlike system of the state control the system of bodies of the state control is a narrower concept as includes only government bodies for which the control is a

primary activity, and is carried out in the respective sphere or concerns certain functions, specific questions [8].

Centralization prevents to perform adequately the functions at the local level and infringes the system of local government. In this regard, the activity of local governments gets a great value.

Local authorities carry out their activities in the field of urban planning and architecture in accordance with the Law of Ukraine “About Local Self-Government in Ukraine” [21]. The powers of these authorities in this area are divided into own and delegated.

It is possible to carry to own powers of local self-governments: the organization at their own expense and on a proportional basis construction, reconstruction and repair of public utilities and social and cultural facilities, residential buildings, local roads; realization or delegation on a competitive basis to the general construction organization (contractor) of functions of the customer on building of objects of social and industrial infrastructure of municipal property; engagement on contractual basis of enterprises and organizations regardless of ownership forms to participate in the development of the construction industry and building materials industry, objects of the engineering usage; preparation of local planning programs, urban master plans, other urban planning documentation, etc.

In particular, it is possible to carry to delegated powers of local self-governments: putting into operation of completed construction projects; implementation in accordance with the established procedure of state control over observance of legislation, planning documentation in the planning and development of territories; suspension in accordance with the law, of the construction that is conducted with the violation of urban planning documentation and projects of individual objects or can cause damage to the environment.

It should be noted that gradually, in process of continuation of economic reforms, there will be a further redistribution of functions between the bodies of executive power, bodies of local self-government, enterprises, institutions and

organizations in the field of construction activities for the purpose of decentralization.

Conclusions. Thus, the efficiency of state control in the sphere of construction depends on legal acts, which regulate the urban development industry and a proper interaction between all elements of the system of state architectural and construction control.

An important component of state control in the sphere of construction is the interaction of bodies of state control with the public through civic organizations, associations of construction companies, mass media.

It is obvious that the system of control bodies must be brought into line with the realities.

The reform of the construction complex of Ukraine requires the coordination of many authorities and the transfer of implementation issues for local authorities.

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