INCREASING THE EFFICIENCY OF THE LITHUANIAN CONSTRUCTION SUPERVISION SYSTEM

Summary of recommendations
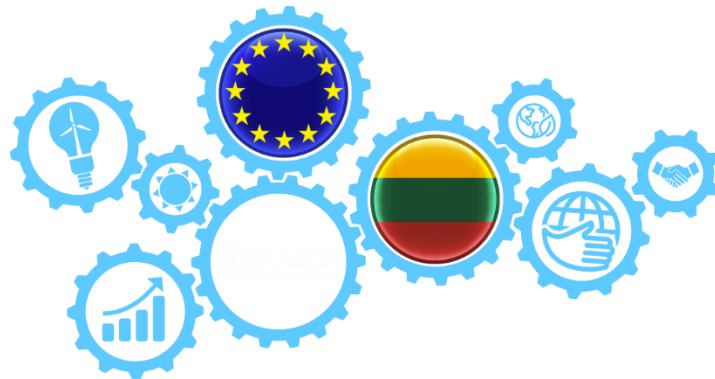
Summary of results

The general objective of this project was to address the key existing problems in the construction supervision system, which strongly affect the Lithuanian construction sector and the environment. For public servants, the system, by dispersing limited resources on too many tasks of limited relevance, and giving insufficient clarity and direction, has often resulted in discouragement and induced a defensive position. For citizens, the limited effectiveness of the system and insufficient positive impact on safety and social welfare has led to an increasing lack of confidence towards authorities, and therefore an overall lower trust in the State.

The final output of the project was a series of recommendations. This summary outlines selected recommendations.

Governance arrangements

Continuing the review and adjustment of VTPSI competences to ensure an adequate risk management.

- Broadening the category of low-risk construction activities (including simple repairs) not requiring a permit and/or entrusting certain tasks to municipalities;
- Continue engaging with the municipalities as the increased quality of their services, transparency and professionalism may also free up the VTPSI's from some permit-related work and complaints investigation;
- Consolidating the internal VTPSI reform aiming to unburden highly qualified inspectors from complaints investigation;
- Granting the inspectorate more flexibility to dismiss low-risk complaints, based on transparent criteria;
- Considering the option of further shortening the respective time periods to submit complaints (concerning for example, the legality of a building permit and/or legality of construction);
- While the applicable rules provide for several situations in which the inspectorate may choose not to investigate a complaint (no possibility to verify its authenticity, incomprehensible contents etc), a clear communication of the inspectorate concerning grounds for non-investigation could be an important tool not only to ensure transparency yet also to manage public expectations.

Enabling risk-based inspections with a clear goal to reduce potential hazards.

- Besides checking compliance with documentary requirements, allowing inspections to assess potential hazards and actual practices/safety management/compliance commitment where appropriate;(this may include some weighing of issues reflecting the most important hazards);

Setting up the right framework for coordination with professional bodies and associations

- Ensure coordination between the state authorities and the professional bodies, including a swift exchange of relevant information (e.g. risky companies, recurrent complaints, etc.).
- Design a proper framework for professional bodies to be able to expand supervision activities, including accountability measures, financial independence to avoid conflicts of interest, and technical skills and infrastructure.
- Continuing increasing professionalism of construction professionals, who could also be encouraged to advise their clients as to requirements of insurance early in the process;
- Continuing information and communication work concerning insurance to ensure legal requirements are met in practice.

Enhance a risk-based approach for regulatory oversight of construction activities

- Define principles for risk-based considerations.
  - *Risk* should be the fundamental guiding principle for determining the state's involvement in the construction permitting. These need to be connected to clear public interests and should be clearly spelled out for ensuring clarity among stakeholders.
- Use a risk lens throughout the construction regulatory cycle – from permitting to inspections and enforcement .
  - Risk can be identified and should be used to inform the classification of buildings, permitting, inspections and enforcement. A sharper risk focus helps to prioritise the state's efforts throughout the regulatory cycle.
  - The risk model used for the classification of buildings and for determining the operator risk needs to be continuously updated based on new information.

Improve data sharing and integration among regulatory services

- Conduct a survey to identify the software used by municipalities in support to their construction permit issuing, as well as the potential needs and interest for a new Infostatyba module that would share the risk management criteria with municipalities to inform permit issuing decisions and facilitate in-use phase inspections;
- Assess any pre-existing software and data present in some municipalities that could potentially be integrated to enrich historical data in Infostatyba and RVIS.
- Develop a data-sharing strategy and action plan to enable better identification and assessment of risks through the systematic exchange of data between VTPSI and other state services, both under the Ministry of Environment and beyond (e.g., SSVA, municipalities, Cultural Heritage Institution, Tax, etc.)
- Improve two-way integration of processes and systems with municipalities to ensure more real-time verification of permitting process conformity and facilitate more effective supervision of ongoing construction by the VTPSI.

Permitting measures

Permitting framework

- Shift the focus of building regulation from specification of rules to performance targets
  - o The new building code could evolve from prescribed rules to performance objectives that directly reflect risks and public interest. Authorities can allow market participants more flexibility to comply with performance requirements. This would bring greater innovation and could reduce the cost of compliance.
- Improve efficiency of the permitting process
  - o Introduce a re-engineering of the process to reduce redundancies and unnecessary interactions with the authorities. The reform proposed by the MoE is in the right direction of streamlining the early stage of the permitting process which currently requires an additional detailed project description.
  - o Enhance IT applications to introduce machine reading to review documents. Following the practice of other countries, Lithuania could introduce IT applications to review documents in the permitting process to reduce the cost and time spent in reviewing. This can also reduce mistakes and provide more coherence.
- Embed the risk categories in an interface that is user-friendly for market participants
  - o Introduce an interface that allows market participants to understand the permitting process and requirements given the characteristics of the project. After submitting the main characteristics of the project, participants could receive a centralised resource with all the requirements and the process to follow.
  - o Authorities should ensure market participants are applying to the correct types of permits according to the building classification.

Post-permitting

- Streamline the completion procedure by introducing earlier checks and enhancing risk-based proportionality
  - o Revise the completion requirements to reduce the documentation that should be checked earlier or does not provide significant information on potential risks at that stage. Refine the risk-based approach to prioritise the review of completion documents for riskier building projects.
- Leverage data from the construction and use of buildings stages to improve the risk model
  - o Expand the data strategy to collect and analyse data from construction journals, operators' performance, and quality of materials. This could eventually improve the risk model.

Update the classification of buildings

- Upgrade the building classification system by clearly stating multi-dimensional risk criteria
  - o Authorities need to distinguish between intrinsic risks, i.e. are inherent to the building project and apply mostly to classify buildings, and dynamic risk, which are related to the operator and its overall capacity (e.g. performance, compliance track record etc.);

- o Lithuania could define detailed risk criteria for determining the building classification covering four main dimensions: location, intended use, size and architectural complexity of the building project;

Cultural heritage protection

- Define cultural heritage protection categories and regulate accordingly
  - o Define three tiers of cultural heritage protection according to the level of priorities. Design a process for priority landmarks that would require substantial review from the Ministry of Culture and other stakeholders. For middle-level priority protected /objects introduce an additional check of the Ministry of Culture, on top of the 'regular' permitting process. For minor work and low-priority objects provide standard prescriptions.

Improving the overall effectiveness and efficiency of the certification system

- Simplify the existing certification scheme for construction professionals
  - o This includes merging/aggregating certain roles in construction to reduce the number of categories of architects and engineers subject to different requirements.
  - o The guiding principles for such simplification could be stricter requirements for roles which imply supervision, verification or (technical) control tasks, and lighter requirements for activities not implying such tasks.
- Review and transform the examination requirements
  - o Transform the contents of examination to make it more practice-oriented and updated in light of new emerging risks.
  - o Consider the option to gradually phase out or abolish the additional (legal) examination requirements.
- Shift from 'paper-checks' towards an 'auditing approach' of certified legal entities
  - o Envisaging a shift towards an 'auditing' approach of the attested legal entities by the SSVA

Compliance promotion

- Improving the interinstitutional cooperation and joint planning of relevant institutions and reaching out to business associations
  - o The cooperation between relevant actors (VTPSI, SSVA, Chamber of Architects) could be aimed at promoting compliance culture, reviewing the effectiveness of applicable policies, and/or launching a far-reaching awareness campaign.

Making enforcement measures more coherent and effective

'Two-stage' enforcement: the complex between the VTPSI and the certifying authorities

- Improve the communication process between the VTPSI and the certifying authorities and consider granting the VTPSI direct powers to suspend certificates
  - o In the short-term, focus on the strengthening the communication process concerning certificate suspension and revocation

- o Over the long-term, granting VTPSI direct powers to suspend persons' (legal and natural) certificates to avoid inefficiencies of the two-stage process

Certificate suspension and revocation

- Making certificate suspension and revocation a credible enforcement option and providing guidance to authorities on discretionary decision-making
  - o This would include the development of a methodology concerning the concept of 'risk of harm' within the context of certificate suspension/revocation; and
  - o increasing the professionalism of the supervising personnel to ensure consistency of suspension/revocation decisions

Public procurement

- Exploring the potential of public procurement law in achieving high quality construction services
  - o This includes making use of exclusion grounds, increased professionalisation in public procurement, as well as according a greater weight to the quality of tenderers and the appropriate price/quality ratio
  - o improving the utilisation and the interconnectedness between the existing 'black lists' and relevant registers operated by the Lithuanian Public Procurement Office, the SSVA and the Chamber of Architects;

Exploring the potential of additional tools and sanctions

- Considering introducing new 'incapacitative' sanctions to deal with 'bad actors'
  - o Exploring whether the introduction of such sanctions aimed at banning or 'disqualifying' persons (including company directors) from engaging in certain economic activities, to be imposed by the VTPSI, is feasible and desirable
- Improving interconnectedness with regard to beneficial ownership ('connecting the dots')
  - o It may be considered whether introducing a new offence (of administrative of criminal nature) of re-entering the market after exclusion through the 'backdoor' of beneficial ownership is feasible and desirable