

## **ANALYSIS AND ECONOMIC SUBSTANTIATION OF THE MAIN DISADVANTAGES OF THE STATE REGULATION PROCESS OF THE CONSTRUCTION INDUSTRY AS A GUARANTEE OF STATE BUILDING AND ARCHITECTURAL CONTROL IMPROVEMENT**

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**Introduction.** State regulation of the construction industry is primarily aimed at ensuring the sustainable development of the country's economy and as a consequence of improving state construction and architectural control. The construction industry regulation system requires a comprehensive development of instruments (technical, legal, economic) aimed at stabilizing and developing the economy by increasing revenues and reducing state budget revenues. Taking into account the foregoing significant significance, the analysis, revealing and economic justification of the disadvantages of the process of state regulation of the construction industry becomes a pledge of improvement of state building and architectural control.

The study of state regulation of the construction industry has given attention to a significant number of scientists, in particular: O. Semko, O. Amosov, L. Stroozhenko, Yu. Alekseeva, O. Voznesenskaya, A. Degtyar, Yu. Kovbasiuk, M. Latinin, S. Mastro, V. Pashkov, S. Ralchenko, L. Shutenko and others. At the same time, insufficient attention has been given to the analysis and the search for flaws in the process of state regulation of the construction industry as a guarantee of improvement of state construction and architectural control.

The purpose of the article is to analyze the current state of state regulation of the construction industry, to identify and economically substantiate its disadvantages, according to the results of the analysis, to propose ways of adding state building and architectural control.

**Main body.** The leading role in the economy of any leading state is occupied by the construction industry. Today, the construction industry requires constant state control, which must play a major role in the regulation of the construction process through the provision of effective state building and architectural control. However, the current state regulation of the construction industry has significant disadvantages, which create obstacles to the development of the industry and in turn negatively affect the economy of the country impede the effective implementation of state construction and architectural control.

Hence, the efficient functioning of the construction industry can only be achieved through effective analysis, detection and economic justification of the disadvantages of state regulation of the industry, which will make it possible to improve state construction and architectural control.

State regulation is a set of tools by which the state sets requirements for enterprises and citizens. It includes laws, formal and informal regulations and auxiliary rules established by the state, as well as non-governmental organizations or self-regulatory organizations to which the state has delegated regulatory powers; - is a set of measures implemented by state structures aimed at controlling the behavior of individuals or groups that fall under the control of these structures. It includes laws and auxiliary instruments created by the state, as well as rules established by state and non-state agencies within the framework of delegated powers.

There are two areas of state regulation:

- tariff (price) regulation covering economic aspects that directly affect market decisions;
- non-tariff (non-price) regulation covering social and administrative aspects.

Tariff regulation is aimed at creating economic mechanisms, which are used mainly as a reaction to external factors that affect the market situation. These mechanisms are a means of "internationalization" of the associated costs taken into account when deciding on the problems of production and consumption. The purpose of tariff regulation is to create an economic mechanism that influences the behavior of the market by changing the ratio of product prices. Tariff regulation is implemented through taxation and pricing systems,

through customs duties. For example, it can be implemented through the direct setting of prices or tariffs, maximum and / or minimum prices.

Non-tariff regulation is aimed at protecting life, health, property, environmental protection, as well as establishing ways to organize or conduct activities, licensing rules, place and time of activities, volume of production or provision of services, etc. The most important element of non-tariff regulation is also control and oversight functions. In the field of technical regulation, non-tariff regulation covers both aspects of the establishment of mandatory requirements for products and processes, as well as rules for implementation, inspections and measures in case of violation [1].

The role of the construction industry in the national economy is determined by the fact that construction products are the basis of the economic growth of the state. Economic growth is the main goal of the economic policy of any modern state. The condition of economic growth is an expanded reproduction, which is impossible without additional investment in the construction of new production facilities and facilities.

For years, Ukraine was between two diametrically opposed methods of regulating the construction industry - from rigid bureaucratic control to extreme liberalism. The main goal of effective state regulation has always been to guarantee the legality and reliability of construction work, while not burdening citizens with unnecessary permitting procedures.

In order to achieve the above-mentioned January 17, 2017, the Parliament adopted in the second reading a bill that resolves this, it would seem, an insurmountable contradiction and introduces a new compromise permit system.

Classes of consequences (responsibilities) of buildings and structures are determined by the level of possible material losses and (or) social losses associated with the termination of operation or loss of the integrity of the object.

Possible social losses from refusal should be evaluated depending on such risk factors as:

- Danger to health and life of people;
- Sharp deterioration of the ecological situation in the adjacent to the object of the territory (for example, in the destruction of storage of toxic liquids or gases, the refusal of sewage treatment facilities, etc.);
- Loss of monuments of history and culture or other spiritual values of society;
- Termination of functioning of systems and networks of communication, energy supply, transport or other elements of life support of the population or security of society;
- Inability to organize assistance to victims in accidents and natural disasters;
- The threat of defensive capacity of the country.

Prior to the adoption of the Law, all construction objects were divided into five categories of complexity in accordance with the Law of Ukraine "On Regulation of Urban Development". However, in parallel, the concept of the class of consequences (liability) of the construction object, which was divided into objects with minor (SS 1), average (SS 2) and significant (SS 3) consequences, was introduced in the GCN C.1.2-14-2009. The result of this policy was the discrepancy between the two classifications.

Upon entry into force of the Law, the concept of the category of complexity of construction is canceled. From now on, the objects of construction of the 1st and 2nd categories of complexity will belong to objects which, according to the class of consequences (responsibility), belong to objects with minor (SS 1) consequences, III and IV complexity categories - to objects with average (SS 2) consequences, V categories of complexity - to objects with significant (SS 3) consequences. The assignment of construction objects to one or another class of consequences will be carried out by the project organization in agreement with the customer of the construction, as was the case with the categories of complexity.

The construction object assigns the highest category of complexity to certain categories, taking into account the following provisions:

1) for a construction object consisting of several separate buildings, buildings or structures (complex), the category of complexity is determined separately for each house, building, structure. In the case if the complex includes buildings and constructions of IV-V categories of complexity, for examination the project documentation is provided in full for the entire complex of facilities;

2) an object of increased danger, identified in accordance with the law, is classified in category V of complexity;

3) buildings of the cultural heritage of national or local significance are included in the relevant State Register of immovable monuments of Ukraine.

The boundary between 3 and 4 categories is rather thin, which creates the space for maneuvers for offenders. Huge residential complexes are divided into separate buildings and declared as the third category.

During checks GACI fixes violations and punishes the developer, but investors are not easy: the money is invested, and the prospects of building acceptance are foggy.

The preparation and construction of sites with minor (SS 1) implications will be based on notifications of the performance of preparatory and construction works, and the construction of objects with average (SS 2) and significant (SS 3) consequences - after obtaining a permit, as will be discussed further.

In this way, the double classification of construction objects is canceled. The proposed classification by the legislator will simplify further legislative regulation of the urban development industry.

The abolition, to a certain extent, of artificially introduced five categories of complexity will lead to the fact that objects of medium and large class of consequences (LCD, office centers, multistory buildings, industrial buildings) will now be built only on the basis of permissions. That is, the risk of entering inaccurate data into documents is completely eliminated.

Buildings of a small class of consequences (private houses, utility buildings, country houses), on the contrary, can be built on the basis of messages. And this means that the start of construction work will be possible the day after the submission of documents on the beginning of construction work. Thus, the problem of the possible return of documents for finalization is finally removed.

A very important bonus for builders in the new law is the streamlining of the procedure for the issuance of urban planning conditions and restrictions imposed by local authorities. Now there is a clear list of reasons for refusals to developers, which will make it impossible for the officials to arbitrarily.

The law cancels the declaration on the beginning of construction work, which previously built objects I-III categories of complexity. From now on, the right to perform construction works of objects with minor (SS 1) consequences will arise in the subject of urban development after the submission of a notice on the start of construction work.

Thus, only declarative or, already, informational, only objects with minor (SS1) consequences will be built, and the permissive approach will be extended not only to objects with significant (SS 3) consequences, but also to objects with medium (SS 2) consequences, including those that were previously built on a declarative principle.

The new permissive system changes the philosophy of relations in the triangle of the state - the developer - a citizen. The organs of the State Architectural Inspection at the stage of obtaining a permit for the execution of construction works are, first of all, service departments which are called to provide the necessary services to people as quickly and efficiently as possible. Issues of registration of permits, registration of declarations, reception of announcements about the start of construction of the GACI and on-site inspections will, above all, be a friendly partner.

At the same time, the new law creates powerful filters that will not miss the construction scammers and adventurers and block their activity at an early stage. As a result, investors will get additional confidence that if they invest in construction, then it is truly legal and has all the necessary permissions.

The State Architectural and Construction Inspection of Ukraine (GACI of Ukraine) is the central executive body that implements state policy on state architectural and construction control and supervision. A significant drawback of our system is the division of the construction industry management between the two ministries: the Ministry of Economic Development is responsible for capital investments, and the Ministry of Regional Development and Construction is responsible for capital investments. Applying this approach, the authorities consider the single process of investing, building and exploiting the building as unrelated stages. Because of this, they are governed by different rules that complicate construction and increases corruption risks.

In its activity, the State Architectural Inspection is guided by the Constitution and laws of Ukraine, decrees of the President of Ukraine and resolutions of the Verkhovna Rada of Ukraine, adopted in accordance with the Constitution and laws of Ukraine, acts of the Cabinet of Ministers of Ukraine, and other legislative acts.

GACI of Ukraine carries out its work on several main directions, each of which is strategically important for the construction industry in Ukraine:

- Architectural and building control.
- Permit and registration functions.
- Licensing.

Architectural and building control. GACI of Ukraine exercises state control over observance of legislation in the field of urban development activities, project documentation, construction norms, state standards and regulations, etc.

In cases determined by law, the State Architectural Inspection conducts inspections of construction objects regarding the conformity of preparatory and construction works, materials, products and structures

applied, with the requirements of state construction norms, standards and regulations, as well as technical specifications approved by project requirements and decision. In addition, DABI Ukraine has the functions of checking the proper execution of normative and technical and project documentation.

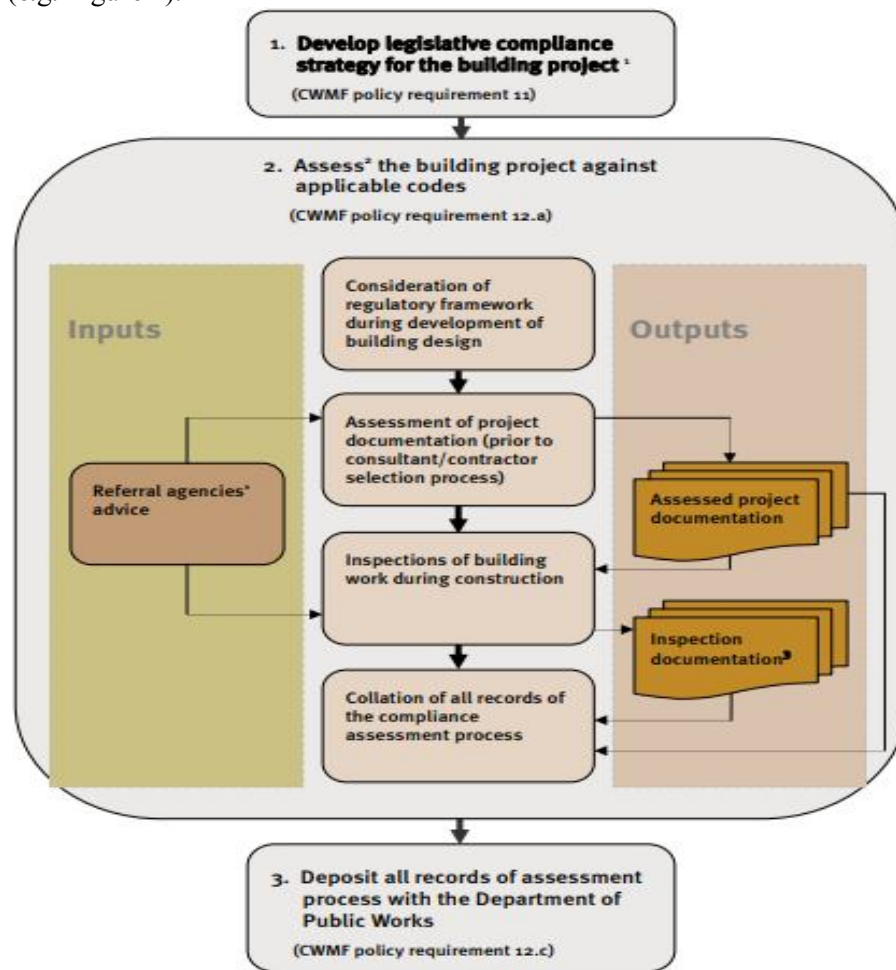
An important aspect of the control function of the State Architectural Inspection is the observance of the procedures for the acceptance into operation of completed construction of objects, the inspection of objects and the implementation of measures to ensure reliability and safety during their operation.

Inspectors of Ukraine's DABI and territorial inspections record violations of legislation, in accordance with the law, draw up protocols on offenses in the field of urban development and impose penal sanctions. In cases stipulated by law, preparatory and construction works are stopped.

In order to remove existing risks and make the construction process as public as possible, it is essential to radically change the approach to the concept of control.

If the licensing system really works today and the number of illegal construction works is reduced at times, then at the time - a change of control. We propose a phased overview of the work to be performed at certain stages to check the facility for durability, reliability, and compliance with the design decision.

A 'legislative compliance strategy' is a document that identifies all building regulatory requirements that apply to a particular government building project, and outlines a process to ensure compliance with these requirements. The strategy must be developed during the project evaluation phase of the capital works management process, as an integral component of the project feasibility study. It is particularly important that departments identify the requirements of state/local government planning instruments (and begin consultation with the relevant government stakeholders) early in the planning stages of a government building project. Ideally, consultation with stakeholders regarding the impact of planning instruments should be completed prior to development of the legislative compliance strategy, as the consultation outcomes will impact available compliance options (e.g. Figure 1).



<sup>1</sup> Includes identification of applicable state/local government planning instruments and consultation with relevant government stakeholders

**Fig. 1: Process for achieving compliance with building regulatory requirements**

A legislative compliance strategy should include the following: • scope of the project • background information to the project, including:

- details / confirmation of land ownership/tenure and any encumbrances on the land (e.g. easements; statutory covenants; estates or interests)
- physical properties of the site that could impact the positioning and design of the building (e.g. historical flood levels for the site; location of the site in a bushfire zone; potential for landslip or subsidence)
- confirmation of essential services to the site (e.g. sewerage, water, electricity) • applicable provisions of the building regulatory framework (i.e. requirements of state/local government planning instruments and applicable codes) • outcomes of consultation with government stakeholders regarding the impact of state/local government planning instruments • options for compliance, including: - delegation of responsibility for implementing the compliance process
- level of qualifications / experience required of officer(s) implementing the compliance process
- risk analysis (including risk mitigation strategies) for each option • preferred compliance option (and justification for same).

In accordance with the current procedures, when the plan of inspections is formed for a year, in fact, verification of the object by the authorities of the architectural control can take place only once during the entire construction period. At the same time, works can be found both in the initial and final stages.

As a result of amendments, in particular to the Law of Ukraine "On Responsibility for Offenses in the Sphere of Urban Development", the responsibility for:

- Preparatory work without notice (10 minimum wages instead of 5);
- construction without notice of the commencement of construction works on objects belonging to the class consequences of SS1, as well as their exploitation prior to putting into operation (36 minimum wages instead of 18 and 36),
- construction without permission of objects that previously belonged to the 3rd category of construction, and operation to putting into operation (now their responsibility is unified with sanctions for the whole class of averages consequences (CC2), that is, those that are valid for objects of category IV difficulty - 370 minimum wages boards).

Today, the elimination of the main shortcomings of the state regulation of the construction industry by streamlining the norms of the current legislation makes it possible to improve the state architectural and construction control and obtain the following results:

- Replaced the declarative principle with the message principle.
- Objects that previously belonged to the 3rd category of complexity will now require permission.
- The procedure for obtaining city-planning conditions and restrictions has been regulated.
- A list of expert organizations was introduced.
- The state architectural and construction control and supervision are more detailed.
- Increasing responsibility for violations of city planning legislation.

**Conclusions.** The situation that has developed today in the area of construction of the region (decline in production, lowering the pace of development, reducing investment activity, underdevelopment of market infrastructure, etc.) requires a well-grounded one approach to the selection of forms and methods of state regulation with a view to solution of problems of management of construction enterprises.

Thus, state regulatory bodies in the field of construction should not be simply re-tested. They need to be reformed on a new basis that would regulate the construction process from investing to exploitation and aim at maximizing the effectiveness of both specific construction objects and capital investment in general.

To do this, you need to change the design of the design documentation. It should be aimed at modeling the whole life cycle of the object and its evaluation.

Improvement of the system of state building and architectural control is to revise the concept of control over the construction process and ensure the decentralization of building control bodies.

Thus, the constant work of the state authorities on the identification of problems of state regulation of the construction industry will allow a flexible response and timely improvement of the activities of control bodies in the construction process.

#### **REFERENCES:**

1. Yu. V. Kovbasiuk (chairman) and others "Encyclopedia of Public Administration: 8 t. T. 4: DEPARTMENT OF MANAGEMENT." (2011) K.: NAPA, Odesa Regional Institute of Public Administration of the National Academy of Public Administration under the President of Ukraine. pp. 225-226.

2. O. O. Faniran, P.E.D. Love, J. Smith. Effective front-end project management – a key element in achieving project success in developing countries. Available from: <<http://citeseerx.ist.psu.edu/viewdoc/download?>>, 2000.

3. "Construction" def. 1.a. 1.b. and 1.c. Oxford English Dictionary. Second Edition on CD-ROM (v. 4.0) © Oxford University Press 2009

4. Queensland Department of Housing and Public Works Building Regulatory Requirements (2010). pp. 11-21.

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**Філонич Олена Миколаївна**, к.е.н. Полтавський національний технічний університет ім. Юрія Кондратюка. **Аналіз та економічне обґрунтування основних недоліків процесу державного регулювання будівельної галузі як гарантії державного будівництва та вдосконалення архітектурного контролю.** Розглянуто концепцію державного регулювання будівельної галузі. Проаналізовано й економічно обґрунтовано основні недоліки процесу державного регулювання будівельної галузі. Досліджено шляхи вдосконалення державного будівельно-архітектурного контролю та визначено перспективи розвитку будівельної галузі. Державне регулювання будівельної галузі в першу чергу спрямоване на забезпечення сталого розвитку економіки країни і, як наслідок, вдосконалення державного будівництва та архітектурного контролю. Система регулювання будівельної галузі потребує всебічної розробки інструментів (технічних, правових, економічних), спрямованих на стабілізацію і розвиток економіки за рахунок збільшення і скорочення доходів державного бюджету. Беручи до уваги вищезазначене, аналіз, виявлення та економічне обґрунтування недоліків процесу державного регулювання будівельної галузі стає запорукою поліпшення державного будівництва та архітектурного контролю. Ситуація, що склалася на сьогодні в галузі будівництва регіону (зниження виробництва, темпів розвитку, інвестиційної активності, недорозвиненість ринкової інфраструктури і т. д.), вимагає обґрунтованого підходу до вибору форм і методів державного регулювання з метою вирішення проблем управління будівельними підприємствами. Таким чином державні регулюючі органи в галузі будівництва не повинні піддаватися повторній перевірці. Їх необхідно реформувати на новій основі, яка б регулювала процес будівництва від інвестування до експлуатації і прагнула максимально підвищити ефективність як конкретних об'єктів будівництва, так і капітальних вкладень в цілому.

**Ключові слова:** державне регулювання будівельної галузі, державне будівництво та архітектурний контроль, категорії складності будівельних об'єктів, рівні відповідальності за будівництво.

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**Olena Filonych, PhD (Economics).** Poltava National Technical Yuri Kondratyuk University. **Analysis and Economic Substantiation of the Main Disadvantages of the State Regulation Process of the Construction Industry as a Guarantee of State Building and Architectural Control Improvement.** The article deals with the concept of state regulation of the construction industry. It is analyzed and economically substantiated the main disadvantages of the process of state regulation of the construction industry. The ways of improvement of state building-architectural control are investigated and prospects of development of construction industry are determined.

**Keywords:** state regulation of the construction industry, state building and architectural control, categories of complexity of construction objects, levels of responsibility for construction

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**Филонич Елена Николаевна**, к.э.н. Полтавский национальный технический университет им. Юрия Кондратюка. **Анализ и экономическое обоснование основных недостатков процесса государственного регулирования строительной отрасли как гарантии государственного строительства и совершенствования архитектурного контроля.** Рассмотрено концепцию государственного регулирования строительной отрасли. Проанализировано и экономически обосновано основные недостатки процесса государственного регулирования строительной отрасли. Исследованы пути совершенствования государственного строительного-архитектурного контроля и определены перспективы развития строительной отрасли.

**Ключевые слова:** государственное регулирование строительной отрасли, государственное строительство и архитектурный контроль, категории сложности строительных объектов, уровни ответственности за строительство.