Measurement of Risks Arising from Issuance of Building Permits, Design Permits and Construction Supervision Permits

Compendium of the Audit Operations

State Audit Office performed an audit operation to learn whether the activities and procedures of state agencies issuing the entrepreneurs permits for building, designing buildings, completing the expertise of the designs and construction supervision (henceforth building) permits (licenses) -Ministry of Economy, Ministry of Agriculture and Road Administration, Heritage Conservation Board[1] and Railway Administration - are understandable and regulated well enough for the management of possible risks.

The license requirement established by the state sets certain limits for the participation in business: persons having obtained the license are provided certain advantages compared to those with no license. This advantage is only granted provided the respective person has proved his competence and trustworthiness in licensed area, as a rule, the state must also paid some monetary fee for granting the license.

In case the decisions to grant or deny the license depend upon the subjective attitude of the official responsible - even to the smallest extent possible - or if taking of such decisions is not regulated accurately enough in time, the whole process of license issuance involves the risk that the officials fail to treat all the applicants in accordance to the same criteria, abuse their position in their own private interests or simply fail to fulfill their tasks well enough.

The issues related to construction activity license (henceforth building license) were chosen as the object to be audited because of the relatively large number of entrepreneurs operating in this area (at the moment, the number of valid activity licenses or permits amounts to approximately 3,500). State Audit Office has also come to an opinion that in several institutions the issuance of activity licenses is not regulated well enough on legal basis.

When planning the audit, State Audit Office established the objective of making well-justified and acceptable recommendations to the state agencies, based on the audit evidence and conclusions, aimed at:

- harmonization of the requirements and procedures established for granting the activity licenses and establishment of required legal grounds;
- better organization of the assessment of the main criterion for granting or denial of the building license - competence of the applicant.

Main Conclusions

The procedures related to provision of activity licenses and permits are regulated in detail and all the respective regulations are available and understandable for all the applicants.

The auditors did ascertain no cases of unequal treatment of the license applicants or submission of unnecessary demands to the applicants. All the decisions concerning the applications for licenses and permits were taken within the time limits arising from legal acts.

Nevertheless, the Ministry of Economy and Ministry of Agriculture and Heritage Conservation Inspectorate had no sufficient legal grounds for the provision of building licenses[2]. State Audit Office has also come to a conclusion that the requirements in force, the compliance of which both the Ministry of Economy and Ministry of Agriculture failed to check when handling the applications for activity license, do not provide grounds to believe that only the enterprises having the required competence are operating in the sphere of construction. The Ministry of Economy has asked the persons applying for activity licenses to pay illegal fees for remuneration of the experts reviewing the applications and for keeping the activity licenses registry.
The Ministry of Economy has also issued licenses to persons who have failed to pay the state fee for the license (in accordance to the procedures presently in force the officials handling license applications are not expected to check the actual income of the fee).

Opinion of the Bodies Audited About the Conclusions Made by State Audit Office

The bodies audited agreed with the most important conclusions pointed out in the Control Act. The Ministers of Economy and Agriculture announced that the provision of activity licenses shall be terminated as the new Building Act, presently proceeded by the Parliament, shall enter into force, as expected, on 01.01.2003 and as the new Amelioration Act, devised by the Ministry of Agriculture, shall enter into force, respectively. The Secretary General of the Ministry of Economy also informed State Audit Office that the ministry shall apply additional measures to check the income of the state fees.

Recommendations Made by State Audit Office

Based on the current decision, State Audit Office recommends the Ministers of Economy and Agriculture to terminate the provision of activity licenses for building as there are no sufficient legal grounds to support and regulate respective activities.

State Audit Office also stresses the need for new provisions in legal acts regulating the granting of building licenses (registration, approval, etc.), requiring the professional qualification in engineering from the applicant (in the meaning of Professions Act) or making the applicant responsible for using engineers with respective qualification. The requirements for granting activity licenses should establish more specific requirements for regular in-service training of specialists with higher education, lacking the professional certificate, the content of the programs for such training and working experience required from such specialists for the period the number of qualified engineers is not sufficient to satisfy all the demands.

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