

Building Sector Regulations

A background to increased exchange
between countries in the Baltic Sea region

Bengt Nyman (editor)

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Nordic Co-operation in the Building and Housing Sector

Nordic Co-operation on the political aspects of building and housing is focussed on social issues in connection with housing, on a sustainable development within the Building and Housing Sector, and on urban policies. Through the Nordic Council of Ministers, the Ministers for Housing give financial support to – *inter alia* – research and conferences on political aspects of housing. The purpose of the co-operation is the exchange of know-how and the launching of initiatives that will secure the relations between a variety of interests in cities and towns and provide the framework for an – economically, commercially, socially and environmentally – sustainable development.

The Nordic Council of Ministers

was established in 1971. It submits proposals on co-operation between the governments of the five Nordic countries to the Nordic Council, implements the Council's recommendations and reports on results, while directing the work carried out in the targeted areas. The Prime Ministers of the five Nordic countries assume overall responsibility for the co-operation measures, which are co-ordinated by the ministers for co-operation and the Nordic Co-operation committee. The composition of the Council of Ministers varies, depending on the nature of the issue to be treated.

The Nordic Council

was formed in 1952 to promote co-operation between the parliaments and governments of Denmark, Iceland, Norway and Sweden. Finland joined in 1955. At the sessions held by the Council, representatives from the Faroe Islands and Greenland form part of the Danish delegation, while Åland is represented on the Finnish delegation. The Council consists of 87 elected members - all of whom are members of parliament. The Nordic Council takes initiatives, acts in a consultative capacity and monitors co-operation measures. The Council operates via its institutions: the Plenary Assembly, the Presidium and standing committees.

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Foreword

This report is a descriptive compilation of regulations in the building sector in eight countries around the Baltic Sea. The ambition is to provide a picture of the prospects for increased cross-border exchange between these countries for the purpose of increasing competition in the construction of housing in particular. The report will serve as a basis for a political action plan on how such an increased exchange can be facilitated. At the same time it is hoped that the report will in itself contribute to increased knowledge among the actors in the market in the Nordic and Baltic Regions and Poland and thereby stimulate them to try new markets in other countries.

The report is financed by the Nordic Council of Ministers and with special contributions from the governments in Denmark, Finland, Norway and Sweden. The descriptions of the regulatory systems, based on a questionnaire survey (Appendix A), have been prepared by persons in government offices and other state institutions in the participating countries. My contacts for this project in the different countries (Appendix B) are thus responsible, together with other unnamed co-authors, for the factual content of the descriptions. All of these persons have shown me the utmost generosity and considerable patience with my supplementary questions and viewpoints, for which I am very grateful. Without their cooperation it would not have been possible to produce this report.

I would also like to thank Sidsel Jerkø at the Norwegian Building Research Institute for her active participation in the discussions at the seminar arranged in Warsaw on 1-2 June 2004 concerning the background material for this report, and for having graciously allowed a summary of her own report (*Comparison of the Building Legislation in the Nordic countries*, TemaNord 2004:526) to be included in this report as well.

Last but not least I would like to thank Björn Wellhagen at the Ministry of Finance in Stockholm for his support and good advice during this entire project, as well as Inger Cirré and Ulrika Ljungdahl at the same ministry for their help in compiling and formatting the report.

Stockholm August 2004

Bengt Nyman

Summary

High housing costs are a problem in many countries today, not just in the Nordic countries. High production costs and building prices lead to higher housing costs, which means that weak groups in society cannot afford new housing. The causes of high costs may include insufficient competition for both contractors and materials due to various types of entry barriers to the market. It is therefore an important housing policy goal to eliminate existing entry barriers and to stimulate competition in order to reduce costs.

Entry barriers to new markets in other countries may have formal grounds and constitute actual trade barriers. The purpose of the EU's internal market is that goods, services, capital and people can move freely across the national borders. But in practice, the internal market is not yet fully implemented in all respects, and there are still many barriers, in the building sector among others, to free mobility between current member states, including signatories of the EEA Agreement.

The enlargement of the EU to include new member states in the Nordic region's adjacent area creates a potential for increased competition in the building sector within the entire region. A region consisting of the Nordic and the Baltic countries together with Poland has 70 million inhabitants today, distributed among more than 26 million households. Some 200 000 new dwellings are completed each year, and the production value of renovations in the housing stock amounts to about 17 billion euro. The value of all new construction and renovation of all kinds of buildings amounts to more than 70 billion Euro per year, of which housing represents nearly half.

The purpose of this report is to clarify whether national regulations for project development and construction can in themselves be perceived as a real barrier to an increased exchange between the Nordic countries and the new member states in their adjacent area. The report also describes to what extent building rules in the concerned countries are an integrated part of a larger whole in which other parts would also be affected by any changes.

The report from the pre-study of the project shows that other parts of the national regulations in the building sector can also comprise barriers to an increased exchange. This report will therefore clarify to what extent such barriers exist. Such measures can, for example, include national requirements for registration and authorization of companies and employees or national competency requirements on various actors in construction and property management.

Finally an important purpose of the report is to increase the knowledge among actors in the market about the conditions for acting in another country. In this respect the report will hopefully stimulate the actors in searching for new markets and so contribute to increased exchange over the borders between these countries.

The report is a descriptive summary of regulations in the building sector in eight countries in the Baltic Sea region. The ambition is to provide a picture of the prospects for increased cross-border exchange between these countries for the purpose of increasing competition in the construction of housing in particular. The report will serve as a basis for a political action plan on how such an increased exchange can be facilitated.

The descriptions of national regulatory systems contributed by the different countries comprise the basis for chapters 2 – 9 in the report. The descriptions pertain to Denmark, Estonia, Finland, Latvia, Lithuania, Norway, Poland and Sweden in that order and are intended to answer the questions that have been posed in the questionnaire in Appendix A. The purpose of the questionnaire has been that the answers should provide a description of what the legally regulated process for housing construction normally looks like in the different countries, what requirements are made on the actors in the process, and how housing construction is normally financed.

Each chapter is divided into the following four headings to facilitate comparisons:

1. The Building Process
2. Competency requirements and registration
3. Requirements on insurance and guarantees
4. Financing and subsidies

Chapter 10 is a summary of another recently published report on a closely related subject (*Comparison of the Building Legislation in the Nordic countries*, TemaNord 2004:526). It is a comparative description and analysis of the planning and building legislation in the Nordic countries. Many of the conclusions in that report are naturally also applicable to this study.

The countries participating in the project show considerable differences in terms of the conditions for the actors in the housing construction market and the environment they operate in. The differences in the detailed rules governing the construction process are particularly clear, where there is a conscious ambition in the Nordic countries to delegate responsibility for the individual parts to the builder and his co-actors, while other countries still try to impose government regulation and control over building.

One of the issues explored in this report is requirements on registration of companies and persons in key positions, as well as the competency requirements that are imposed on certain actors in the building process. Considerable differences exist here as well.

Insurance and guarantee conditions also differ. Some countries require that all actors involved have liability insurance or that the building object be insured. In other countries there are no regulatory requirements, but market conditions are such that the client or financial backer normally makes such requirements. In some countries the guarantee periods are not regulated. In a couple of cases there are far-reaching requirements on guarantee periods for housing construction.

The scope and focus of housing construction is controlled to a great extent by financing conditions and by the general or targeted subsidies provided in many countries. In the countries included in this project, financing conditions in terms of a well functioning credit market seem generally to be improving. Views regarding subsidies vary. In a couple of countries no subsidies are given to housing production, while others both give subsidies and permit tax deductions for the residents' interest expenses for their mortgage loans.

Sammanfattning

Höga bostadskostnader är problem i många länder idag, inte bara i de nordiska länderna. Höga produktionskostnader och byggpriser innebär att boendekostnaderna blir högre och att svaga grupper i samhället då inte kan efterfråga nybyggda bostäder i någon större omfattning. Orsakerna till höga byggkostnader kan bland annat vara otillräcklig konkurrens både för entreprenörer och material på grund av betydande inträdesbarriärer till marknaden i olika former. Det är därför en viktig bostadspolitisk uppgift att eliminera förekommande inträdesbarriärer och att stimulera konkurrensen i syfte att reducera byggkostnaderna.

Inträdesbarriärer till nya marknader i andra länder kan ha formella grunder och utgöra faktiska handelshinder. Avsikten med EU:s inre marknad är att varor, tjänster, kapital och människor fritt ska kunna röra sig över nationsgränserna. Men i praktiken är den inre marknaden ännu inte fullt ut genomförd i alla avseenden och det finns fortfarande många hinder bland annat på byggområdet mot den fria rörligheten mellan nuvarande medlemsländer inklusive de länder som är anslutna till EES-avtalet.

EU:s utvidgning till nya medlemsländer i de nordiska ländernas närområde skapar en potential för ökad konkurrens på byggområdet inom hela regionen. En region bestående av de nordiska och de baltiska länderna tillsammans med Polen har idag 70 miljoner invånare fördelade på drygt 26 miljoner hushåll. Årligen färdigställs cirka 200 000 nya bostäder och produktionsvärdet av renoveringar i bostadsbeståndet motsvarar ca 17 miljarder Euro. Värdet av all ny- och ombyggnadsproduktion av alla slags byggnader motsvarar drygt 70 miljarder Euro per år, där bostäder utgör närmare hälften.

Syftet med denna rapport är att klarlägga om nationella regler för projektutveckling och byggande i sig kan uppfattas som ett reellt hinder för ett ökat utbyte mellan de nordiska länderna och de nya medlemsländerna i närområdet. Rapporten beskriver också i vilken utsträckning byggregler i de berörda länderna är en integrerad del i en sammanhängande helhet, där även andra delar skulle komma att beröras av eventuella förändringar.

Rapporten från den tidigare förstudien visar att även andra delar i de nationella regelverken på byggområdet kan utgöra hinder för ett ökat utbyte. Denna rapport ska kartlägga i vilken utsträckning sådana hinder förekommer. Det kan t ex gälla nationella krav på registrering och auktorisation av företag och anställda eller nationella behörighetskrav på olika aktörer i byggande och förvaltning.

Slutligen, ett viktigt syfte med denna rapport är att öka kunskapen hos marknadsaktörerna om förutsättningarna för att verka i ett annat land. I detta hänseende kan rapporten förhoppningsvis stimulera aktörerna att söka nya marknader och därmed bidra till ett ökat utbyte över gränserna mellan dessa länder.

Rapporten är en beskrivande sammanställning av regleringar inom byggsektorn i åtta länder i Östersjöregionen. Ambitionen är att kunna ge en bild av förutsättningarna för ett ökat utbyte över gränserna mellan dessa länder i syfte att öka konkurrensen inom byggandet av framför allt bostäder. Rapporten kommer att utgöra underlag för en politisk handlingsplan om hur ett sådant ökat utbyte ska kunna underlättas.

De beskrivningar av nationella regelsystem som varje medverkande land själv har bidragit med bildar underlaget för kapitel 2 – 9 i rapporten. Beskrivningarna avser Danmark, Estland, Finland, Lettland, Litauen, Norge, Polen och Sverige i nämnd ordning och avses besvara de frågor som har ställts i enkäten i Appendix A. Enkätens syfte har varit att svaren ska ge en beskrivning av hur den lagreglerade processen för bostadsbyggandet normalt ser ut i respektive land, vilka krav som ställs på processens aktörer och hur bostadsbyggandet normalt finansieras.

Varje kapitel är strukturerat och redigerat under följande fyra rubriker för att underlätta jämförelser:

1. Byggprocessen
2. Kompetenskrav och registrering
3. Krav på försäkringar och garantier
4. Finansiering och subventioner

Kapitel 10 är en sammanfattning av en annan, nyligen utgiven rapport inom ett närliggande område (*Comparison of the Building Legislation in the Nordic countries*, Tema-Nord 2004:526). Där gör författaren en jämförande beskrivning och analys av plan- och byggnadslagstiftningen i de nordiska länderna. Många av slutsatserna i den rapporten är självfallet också hänförliga till denna studie.

De länder som medverkar i projektet uppvisar betydande skillnader när det gäller förutsättningarna för marknadens aktörer och den miljö som dessa verkar i vid bostadsbyggande. Särskilt tydliga är de skillnader som finns i detaljregleringen av byggprocessen, där det är en medveten strävan från de nordiska länderna att i så stor utsträckning som möjligt överlåta ansvaret för de enskilda delarna till byggherren och dennes medaktörer, medan andra länder fortfarande har stora inslag av myndighetsreglering och -kontroll av byggandet.

En av de frågor som särskilt belyses i rapporten är krav på registrering av företag och personer i nyckelbefattningar liksom de kompetenskrav som ställs på vissa aktörer i byggprocessen. Även därvidlag förekommer betydande skillnader.

Även försäkrings- och garantivillkoren är olika. I vissa länder finns krav på att inblandade aktörer är ansvarsförsäkrade eller att byggobjektet är försäkrat. I andra länder finns inga reglerade krav men marknadsvillkoren är sådana att uppdragsgivaren eller finansören normalt ställer sådana krav. I några länder är inte garantitiderna reglerade, men anges i standardavtal. I andra länder är minsta garantitider reglerade. I ett par fall är kraven på garantitider långtgående för bostadsbyggandet.

Bostadsbyggandets omfattning och inriktning styrs i väsentlig utsträckning av finansieringsförutsättningarna och av de generella eller riktade subventioner som förekommer i många länder. I de länder som omfattas av detta projekt tycks finansieringsförutsättningarna vad avser en väl fungerande kreditmarknad allmänt sett bli allt bättre. Synen på subventioner varierar. I ett par länder förekommer inga subventioner till bostadsproduktion medan andra både lämnar subventioner och medger skatteavdrag för den boendes räntekostnader för sina lån till bostaden.

1 Introduction

1.1 Background

High housing costs are a problem in many countries today, not just in the Nordic countries. High production costs and building prices lead to higher housing costs, which means that weak groups in society cannot afford new housing. The causes of high costs may include insufficient competition for both contractors and materials due to various types of entry barriers to the market. It is therefore an important housing policy goal to eliminate existing entry barriers and to stimulate competition in order to reduce costs.

Increased cross-border exchange leads to improved economic conditions in the local market. The development of the construction market in the Baltic countries in recent years shows how the presence of foreign companies in all segments can influence domestic competition. New knowledge, new work methods and new material and design solutions are being introduced to the market. Despite vigorous expansion and high wage cost increases in the Baltic countries, construction costs have not been increasing there faster than the generally low rate of inflation in recent years. The annual productivity increase in the construction companies is considerable.

However, a prerequisite for increased competition is the elimination of entry barriers. Entry barriers to new markets in other countries may have formal grounds and constitute actual trade barriers. The purpose of the EU's internal market is that goods, services, capital and people can move freely across the national borders. But in practice, the internal market is not yet fully implemented in all respects, and there are still many barriers, in the building sector among others, to free mobility between current member states, including signatories of the EEA Agreement.

The enlargement of the EU to include new member states in the Nordic region's adjacent area creates a potential for increased competition in the building sector within the entire region. A region consisting of the Nordic and the Baltic countries together with Poland has 70 million inhabitants today, distributed among more than 26 million households. Some 200 000 new dwellings are completed each year, and the production value of renovations in the housing stock amounts to about 17 billion euro. The value of all new construction and renovation of all kinds of buildings amounts to more than 70 billion Euro per year, of which housing represents nearly half. The economic value of the construction market is thus quite considerable, and a cost saving of, say, 3% in new construction and renovation of housing is equivalent to about 1 billion euro in the region every year.

There may also be entry barriers of a more informal character. Cultural differences in the form of different building traditions can of course inhibit interest among construction companies in establishing themselves in new and foreign markets. Similarly, the pre-study of this project seems to indicate that purchasing channels for building materials primarily follow linguistic and cultural ties between neighbouring countries. Other studies show that builders and construction companies are bound by tradition in their choice of material suppliers.

The accession of the new member states to the common market will, at least in the long term, reduce the tendency for cross-border trade to be limited by the constraints of language, culture and tradition. One way to stimulate and monitor economic integration in the building sector is for the concerned countries to jointly conduct surveys, share information and develop new knowledge in areas that show what increased exchange can mean for competition.

In summary, there is a considerable potential for increasing competition in the building sector by viewing the Nordic countries and the new EU member states in their adjacent area as a common region and market. But in order for this potential to be realized and competition to be stimulated, both formal trade barriers and other, more informal entry barriers to the market must be eliminated.

1.2 The purpose of this report

All countries have their own building rules, which are usually a product of local and national building traditions with a gradual adaptation to new experience and new-found knowledge. A new feature in recent years is the influence of the European harmonization work on national regulations. The national building rules are in many cases also a part of an integrated whole which as well includes national rules for supervision and inspection, competence requirements on different actors in the building process, and requirements on insurance for construction companies and projects, etc.

The rules that exist in each individual country comprise a logical structure composed of individual components which together create a whole – a strategy – for how the country in question intends to meet the political requirements on housing and other buildings produced in the country. A number of domestic factors influence the choice of this strategy. As a rule, the strategy represents a carefully chosen balance between freedom of the market on the one hand and the efforts of the government authorities to ensure that political requirements on the results are met on the other. The desire for a holistic approach also means that changes in the conditions for individual components can have consequences for other components. As a rule, the manner in which the authorities regulate the building process is rooted in how the planning work is organized in each country and to what extent there are local physical plans or detailed development plans already existing when planning new development projects.

The purpose of this project is to investigate the possibilities of taking into account not only domestic factors, but also the desire for increased cross-border exchange and devise a political action plan calling for measures to stimulate such exchange. These measures include making it easier for the market's actors to undertake assignments in other countries than those in which they normally do business. It is therefore inevitable that comparisons are made based on the view that it should be as easy as possible to enter the market in question, that the rules of the game are neutral and do not favour previous actors on the market, and that the rules are easy to understand and handle.

The purpose of this report is to clarify whether national regulations for project development and construction can in themselves be perceived as a real barrier to an increased exchange between the Nordic countries or between the Nordic countries and the new member states in their adjacent area. The report will also describe to what extent building rules in the concerned countries are an integrated part of a larger whole in which other parts would also be affected by any changes.

The report from the pre-study of the project shows that other parts of the national regulations in the building sector can also comprise barriers to an increased exchange. This report will therefore clarify to what extent such barriers exist. Such measures can, for example, include national requirements for registration and authorization of companies and employees or national competency requirements on various actors in construction and property management.

Finally an important purpose of this report is to increase the knowledge among actors in the market about the conditions for acting in another country. In this respect the report will hopefully stimulate the actors in searching for new markets and so contribute to increased exchange over the borders between these countries.

1.3 Outline and content of the report

As is evident from the purpose, the report is of a descriptive and clarifying character. It describes *how* the regulatory systems are designed, but does not answer the question of *why* they are designed in this way. It does not put the rules in their national context in the form of constitutional factors, economics, industrial structure, supply and demand for qualified technicians, educational levels or other aspects which may have influenced the design and scope of the countries' rules. It is therefore not possible to draw too far-reaching conclusions from comparisons between the countries.

The descriptions of national regulatory systems contributed by the different countries comprise the basis for chapters 2 – 9 in the report. The descriptions pertain to Denmark, Estonia, Finland, Latvia, Norway, Poland and Sweden in that order and are intended to answer the questions that have been posed in the questionnaire in Appendix A. The purpose of the questionnaire has been that the answers should provide a description of what the legally regulated process for housing construction normally looks like in the different countries, what requirements are made on the actors in the process, and how housing construction is normally financed. The chapters vary in scope, in part because the level of description differs but also because the scope of the regulations differs considerably between the countries.

Each chapter is divided into the following four headings to facilitate comparisons:

1. The Building Process
2. Competency requirements and registration
3. Requirements on insurance and guarantees
4. Financing and subsidies

Chapter 10 is a summary of another recently published report on a closely related subject (*Comparison of the Building Legislation in the Nordic countries*, TemaNord 2004:526). It is a comparative description and analysis of the planning and building legislation in the Nordic countries (including Iceland). Many of the conclusions in this report are naturally also applicable to this study.

1.4 Some brief conclusions

The countries participating in the project show considerable differences in terms of the conditions for the actors in the housing construction market and the environment they

operate in. The differences in the detailed rules governing the construction process are particularly clear, where there is a conscious ambition in the Nordic countries to delegate responsibility for the individual parts to the builder and his co-actors, while other countries still try to impose government regulation and control over building. In a simplified comparison between the countries, Denmark and Sweden have come farthest in deregulation and adaptation to the market, while Lithuania and Poland are among the countries with the strongest elements of public control. At the same time, however, in those countries with heavy government regulation, the authorities are required to act with certain deadlines so that the process will not be delayed.

One of the issues explored in this report is requirements on registration of companies and persons in key positions, as well as the competency requirements that are imposed on certain actors in the building process. Considerable differences exist here as well. In Denmark and Sweden, special competency is required for certain types of specialist construction work. In Finland there are competency requirements on consultants and supervisory personnel. In Norway, requirements are made on the education and experience of the supervisory personnel employed at the actors in the process, and the companies that are approved can register voluntarily. In Lithuania there are competency requirements for a handful of supervisory positions in the building process, and there is an official list of persons who have undergone examination of these competency requirements. In Estonia, companies who undertake contracting and consulting assignments are registered, as is the specialist in charge. In Latvia, certificates are required for architects and persons in charge at construction companies, and licences are given to construction companies with certified individuals. Licences are given to Latvian companies for a limited time, while foreign companies can get licences for a specific project. Finally, in Poland, requirements are made on the education and experience of a number of independent technical functions in the building process, and persons who satisfy these requirements can obtain a licence. Construction and contracting companies are registered in a court like other companies on businesslike grounds in order to prevent fraud.

Insurance and guarantee conditions also differ. Some countries require that all actors involved have liability insurance or that the building object shall be insured. In other countries there are no regulatory requirements, but market conditions are such that the client or financial backer normally makes such requirements. The size of the insurance amounts varies in relation to the cost of the project. In some countries the guarantee periods are not regulated, but standard contracts in these markets stipulate a guarantee period of at least 1-2 years. In other countries, the minimum guarantee periods are regulated, normally 2 years. In a couple of cases – Denmark and Finland – there are far-reaching requirements on guarantee periods for housing construction. In Finland, for example, a 10-year guarantee is required for construction of housing for sale.

The scope and focus of housing construction is controlled to a great extent by financing conditions and by the general or targeted subsidies provided in many countries. In the countries included in this project, financing conditions in terms of a well functioning credit market seem generally to be improving. This applies to the new member states in the EU as well, where new financial instruments contribute towards a more stable finance market. Mortgage loans or state-guaranteed loans are becoming increasingly common, which makes it easier for the builder or the home-buyer to foresee the financial consequences of a building project.

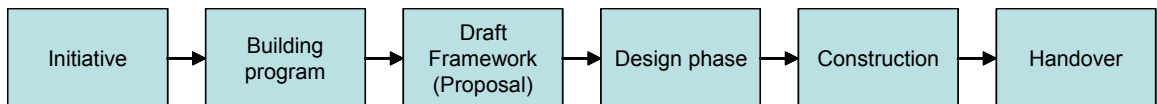
Views regarding subsidies vary. In Norway, for example, no general state subsidies are given to housing construction, but the Norwegian State Housing Bank offers loans to housing with good quality at interest levels that are slightly below the market rate. No subsidies are given in Latvia either, nor can home-owners deduct interest costs. In neighbouring Lithuania, however, both subsidies and interest expense deductions are granted. Denmark, Estonia, Finland, Poland and Sweden also have different forms of production support, above all for construction of rental housing.

2 Denmark

2.1 The Building Process

It is difficult to make generalisations on a building process for 30 flats per se. The total building time depends on several factors, some of which are mentioned below. The process of making a project might follow the steps shown in figure 2.1.

Figure 2.1 Different phases in a building project



The phases shown in this figure are the normal steps in the planning and construction of a building project. It is difficult to generalise about the time from the initiative of a building project till the finished flats are ready for moving in. But the first three phases from program to the end of the design phase normally take 6 months. After these phases the construction phase normally takes approximately 10 months.

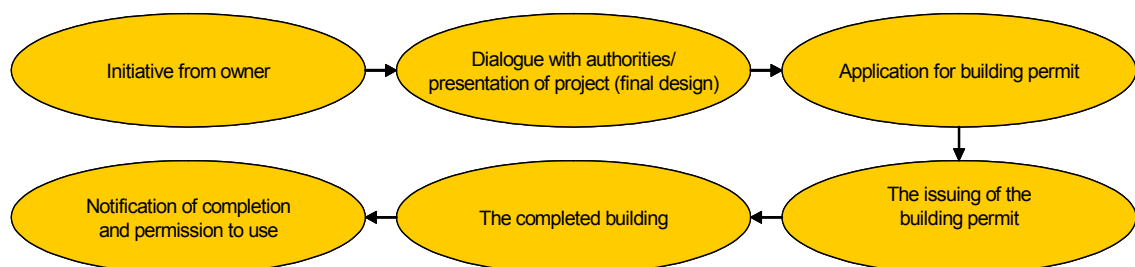
The shown phases in a building project have gained prevalence in Denmark since the 1970's. All the steps are normally not used in every building project. If the project is complicated, involving new building methods etc, some of the phases will be divided.

The owner systems can be either private, non-profit or based on shared ownership. For public sector projects there are rules regarding tendering procedures, which must be followed. These rules can be national and for projects above a certain economic limit, the rules can be European.

Not only public but often private building projects as well follow the agreed documents *AB 92*, *ABT 93* and *ABR 89*, which set up general conditions for the design and construction process. *AB 92* is about normal projects, where the owner is responsible for the design and the construction. *ABT* is for projects based on contracts comprising design and construction, where one company is responsible for the design and the construction. Lastly, *ABR 89* deals with technical counselling and design.

A building process can take place as shown in the figure below.

Figure 2.2 The Building Process according to the building regulations



Thus, figure 2.2 shows an example of how the building process could look like from the initiative of a building project has been taken till the building has been notified as completed to the municipality. More of the elements in the figure will be touched upon in the pages below.

2.1.1 Differences between modernization and new productions

Again it is difficult to say anything in these general terms. But if you look at a modernization project from the perspective of national building regulations, in the case of a small change, for example modernization of kitchens or bathrooms, a building owner will not need to apply for a building permit, because such modernization works is not covered by the *Building Act* (cf. Promulgation Order Consolidation Act no. 452 of 24 June 1998) unless the changes are essential due to requirements in the Danish building regulations. Again in the above mentioned examples of modernisation of bathrooms or kitchens, this work is not covered by the requirements in the buildings regulations.

2.1.2 The role of the government in the building process

It is for the municipal building authorities to asses whether the building project observes the following national regulations: *Planning Act*, *Act on protection of Nature*, *Act on Preservation of Ancient Buildings*, *Act on Forests*, *Act on Environmental Protection*, *Act on Waste Depositories*, *Working Environment Act*, *Act on Public Roads*, *Act on private Party Roads*, *Act on slum Clearance*, *Act on Urban Renewal*, *Heat Supply Act*, *Act on Temporary Regulation of Housing Conditions*, *Emergency Services Act*, *Act on Museums* and *Act on Compensation for Flood Damage*.

Building projects are often regulated by the Planning Act. This is the case, when the building site is covered by a *Local Plan*. In these cases the building project is not covered by the *Building Regulations*, except from the part 1 in the Building Regulations 1995 or chapter 1 in the *Building Regulations for Small Dwellings*.

The process for a specific flat building naturally depends on the time and resources the municipality has to use on the case, which can be influenced for example by the checking of relevant regulations.

2.1.3 The role of the national authorities

The Building Act, cf. Promulgation Order Consolidation Act no. 452 of 24 June 1998 lays down the legal framework for buildings in Denmark. The Building Act is framework document stipulating the authority of the minister. The Building Act also gives the minister legal authority to lay down administrative rules in Consolidation Acts for example to implement the Building Act.

In this respect The Building Regulations and the Building Regulations for Small Dwellings contain the requirements for buildings in terms of rules concerning safety, health etc. Since the entry into force of the Building Regulations in 1995 9 editions have been produced – and the latest 6th Edition entered into force on 1 April 2004. The Building Regulations for Small Dwellings entered into force in 1998 and today 5 editions have been published.

2.1.4 The role of the local authorities

The Building Act places much responsibility with the municipal authorities, where the official building authority is placed, i.e. section 16 A. The municipality then deals with planning control in relation to the concrete applications for building permits. Thus the municipal authorities decide on what, when and how people can build in line with the general rules laid down in The Building Act and in the Building Regulations plus other relevant legislation.

In this respect the local building authority has to take a stand on different kind of matters. One is the decision of where a building can be placed physically and the other is all relevant decisions concerning the technical assessment in the process of the planning control relating to the incoming building applications.

2.1.5 When and how to get a building permit

In section 16 of The Building Act and in part 1 in The Building Regulations the process of getting a building permit is described. There are different rules that need to be considered, for different types of building projects.

If you intend to build something very small, say an extension less than 10 m², you can build without notifying the authorities, and you don't need to get a building permit. If the work you are doing on a building concerns for example a garage, an outhouse or a roofed terrace with a maximum area of 50 m² you have to notify the local authorities before building. This kind of building project still does not require a building permit. A building permit from the municipality is only required, if the building is larger than 50 m². That could be in cases of larger buildings, a whole or new building or a multi storage building.

Thus it is forbidden to start a building without either notifying the local authority or before getting a building permit unless the building work concerns small buildings with an area of not more than 10 m², drying installations for grain, seed or other crops, LPD tanks of up to 1.000 kg, satellite dishes with a diameter of not more than 1.0 m. and CE-marked roof antennas and structures and works with functions of usability such as standards for information technology and parking meters.

2.1.6 Process for getting a building permit

The process for getting a building permit then is a matter for the municipality, and the actual process can differ from municipality to municipality and differ in respect to kind of building project.

If you take a case of a project of 30 flats, the municipality has to receive a written application. The application has to contain all relevant information, for the local authority to be able to make the proper assessment whether the project can be accepted or not. This information includes for example a clear description of the work to be performed, a listing of possible conflicts with provisions in the Building Act or the Building Regulations, intended use and so forth to name a few.

Typically a building project of 30 flats would include a mutual dialogue between the building owner and the building authority on the whole project or a specific part of it. This is a process, which can be arranged in one way or another as best suited for the

parties involved. The mutual dialogue seeks to avoid possible disagreements or misunderstandings during the building project.

Should an application on a building project be in conflict with no provisions in the Building Regulations and other relevant provisions the building authority is obligated to give the applicant the building permit after the local authority has dealt with the application.

Lastly the local authority must be notified when a building project has been completed, and buildings for which a building permit is required must not be taken into use without permission from the local authority.

2.1.7 Main features of national regulations

The first section in the Building Regulations contains a set of administrative rules, must importantly limitations of the scope of the Building Regulations, how to get a building permit, a listing of types of buildings that need a building permit, regulations regarding how and where to complain, fees, dispensation and penalties.

The rest of the sections in the Building Regulations concern the material and structural part of the regulations, where the more specific requirements are listed for example concerning heights and distances, provisions on accessibility for disabled persons, fire safety, indoor climate, provisions on insulation and so forth.

Apart from the Building Regulations there are a number of Consolidation Acts, which implement different aspects of the Building Act, for example the Consolidation Act on CE-marking and market control nr. 118 of 13 March 2002.

Denmark has implemented the *Construction Products Directive* (CPD) in Danish legislation by Consolidation Act nr. 118 of 16 February 1998. The national legislation contains technical specifications, which apply to construction products for their intended use in buildings.

2.1.8 Supervision and control

There is no public supervision or control system of housing projects in Denmark. According to the Building Act, paragraph 17, it is the responsibility of the building owner to follow the different requirements in the building regulations. It is his responsibility to keep himself updated on the development in the building regulations area. However the Building Act does provide the local building authorities with the possibility to do inspections on the construction site.

Yet another exemption from the general rule of no public supervision and control is when it comes to CE-marking. In the case of CE-marking there is regulation with a shared competence between the local building authority and the *National Agency for Enterprise and Housing* in order to check, that the rules on CE-marking is followed correctly. Thus Chapter 5, paragraphs 11-14, in Consolidation Act no. 118 on CE-marking and market control of construction products, which partly implements the Construction Products Directive in Denmark, regulates the field of CE-marking to be put on construction products covered by harmonized European specifications.

2.2 Competency requirements – authorisation and certification

In the guidance to the Building Regulations for Small Dwellings chapter 7.1.1 it is said, that construction works concerning installations of gas, water and outlets must only be carried out by persons or companies with the proper authorisation as laid down in Act, no. 206 of 27 March 2001 on the execution of installations of gas, water and outlets. In reality this passage also applies to electrical installations.

Consolidation Act no. 509 of June 1997 on the use of elevators under the jurisdiction of the *National Working Environment Authority* contains regulation concerning authorisations. According to § 30 in this Consolidation Act persons performing work on elevators has to be authorised by the National Working Environment Authority. Furthermore according to § 15 persons performing work in relation to elevators have to have a proper education and technical background to work in this field.

According to *Ministry of Labour Consolidation Act no. 660* of 24 September 1986 on asbestos § 37, subsection 3, persons, who work with demolition of materials and buildings with asbestos, are required to have a specific education – approved by the Directorate for the National Working Environment Authority – to be allowed to perform this kind of work.

Other relevant regulation concerning working environment could be found under the jurisdiction of the *Danish Ministry of Employment*, for example the *Act on Health and Safety at Work*, cf. *Promulgation Order Consolidation Act no. 784* of 11 October 1999, changed in Act no. 437 of 10 June 2002.

There are no systems for registration of consultants and /or contractors in Denmark.

2.3 Requirements on insurance and guarantees

Governmental authorities (clients) and authorities subsidized by the government must comply with a certain set of general conditions (“*agreed documents*”) for the provision of works and supplies within building and engineering. According to these conditions the client must take out the usual storm and tempest insurance.

Accordingly, a set of general conditions apply to the consultants.

In the general conditions a set of rules apply to defects and liability. The normal liability period is 5 years. This applies to the contractor and the supplier as well as the consultant.

2.4 Financing and subsidies

While the construction process is undertaken, the project is typically financed by a regular bank loan. However, neither any local nor central government authority has anything to do with this loan, and doesn’t issue any guarantee on such bank loan.

Concerning the long term, property is financed by mortgage loans. The mortgage loans are backed by issuing bonds on Copenhagen Stock Exchange. The lending limit varies for different categories of property, but generally public housing is financed by a lending limit of 80% (of the property value), which, however, has been raised to 91% until 31 December, 2005. In relation to new non-profit housing projects a local government guarantee is granted for the part of the loan that exceeds 65% of the property value.

2.4.1 Subsidies or tax relieves

The social housing sector accounts for almost 20% of the total housing stock. The sector is directly supported by a local government grant and a central government repayment subsidy, and indirectly by not having to pay property taxes (this also accounts for the co-operative housing sector).

The financing of social housing is constructed by a 91% mortgage loan (of the property value), 2% residents' deposit, and a 7% local government grant. The size of the local government grant and the lending limit of the mortgage bond are decided by the central government. This financial construction scheme accounts for all types of housing in the social housing sector. Further, a guarantee grant for the mortgage bond is given by the local government. The total support therefore amounts to app. 1/3 of the total financing costs. The owner-occupied sector is indirectly supported by deduction of interest rate expenses against the tax return.

The Danish government has aimed at increasing the number of private rented dwellings. This is promoted by taxable deduction for the investors, and currently the annual scheme is of 1 DKKbn (i.e. 135 EURm). The annual aim is to build 700 new apartments, and the tender contracts set the requirement of the largest number of apartments to be built.

The Danish tax system also contains rules that give citizens tax deductions. The tax deduction is given to citizens, who have loans in their private dwelling.

3 Estonia

3.1 The Building Process

3.1.1 Roles of the government, national authorities and local authorities

Currently, the legal regulation of the construction and housing sector is largely in place and has been continually updated. A basic tenet of the *Housing Law* has been to recognise the competence of the local government in managing housing matters in its territory. The state shall coordinate a specific sector through relevant policies, development plans, strategies and the preparation of legal acts. According to the constitution and the *Law of the Organisation of Local Government*, the local government is responsible for the organization of housing and community amenities on its administrative territory.

The *Dwelling Act* specifies the jurisdiction of local governments in regulating housing relations as follows:

- establishing the regime for keeping track of persons who do not own a living space or the right to its use, as well as of persons who require assistance in improving their housing conditions,
- establishing the regime for the possession, use and management of municipality owned living spaces, including the establishment of maintenance and repair regulations and
- deciding other issues that is, by law, in the local government's jurisdiction.

The local government ensures that in areas where the creation of a detailed plan is required, construction plans are prepared on the basis of an established detailed plan and in the manner prescribed in the *Building Act*. According to this law, construction must follow a construction plan, with the exception of small construction in situations specified by the Act. The construction plan must be drafted in such a way that the building constructed on the bases of the plan would meet the requirements set forth in the Building Act (mechanical strength and stability, fire safety, environmental safety, usage safety, noise protection, energy conservation and heat retention).

3.1.2 Different actors involved in the process

- Local government – application for written consent, building permit and permit for use of construction works,
- Design contractor - building design documentation,
- Building contractor – ensure that buildings is performed in compliance with the building design documentation,
- Undertaking exercising owner supervision – inspect the conformity of the building design documentation to the requirements and inspect the conformity of building with the building design documentation to the requirements.

There is no difference between a modernization project and new production as the process is the same. For both building design documentation, building permit and permit for use of construction works are needed.

There are many ways to describe the building process, but we divide this process into two categories (Figure 3.1 – Figure 3.4):

- I. Areas, where detailed plan is mandatory
- II. Areas, where the detailed plan is not mandatory

Following information constitutes the basis for building design documentation prepared for the erection of a construction:

1. An adopted detailed plan where preparation of a *detailed plan is mandatory* and also any supplementary architectural and structural criteria for construction works established by the local government,
2. If the preparation of a detailed plan is not mandatory, the *design criteria*.

3.1.3 How to get a building permit

Areas, where detailed plan is mandatory

A detailed plan is prepared for a part of the territory of a rural municipality or a city and it serves as the basis for building activities and land use in the short term. The objectives of a detailed plan are to:

- divide the areas being planned into plots,
- determine the building rights of a plot,
- delimit the area that can be occupied by buildings, meaning that share of a plot on which buildings permitted by the building rights of the plot may be erected,
- determine the areas and traffic management of streets and, where necessary, to declare an existing or proposed street located on land in the ownership of a person in private law as a public road pursuant to the procedure provided for in the Roads Act,
- determine the principles for planting vegetation and providing public services and amenities,
- determine clearances,
- determine the location of utility networks and technical infrastructure,
- establish environmental provisions for implementation of the plan and, where necessary, to designate buildings in the case of which the preparation of the building design documentation requires environmental impact assessment to be carried out,
- make proposals, where necessary, for specification, amendment or termination of the protection regime for areas or individual objects placed under protection,
- make proposals, where necessary, for placing areas and objects under protection,
- designate, where necessary, built-up areas of cultural and environmental value and to establish the conditions for their protection and use,
- establish the essential architectural requirements for buildings,

- determine the need for easements,
- determine, where necessary, land areas for national defense purposes,
- establish requirements and conditions to prevent the risk of criminal activity and
- determine the scope of other restrictions on immovable property ownership arising from Acts and other legislation in planning areas.

The preparation of detailed plans is mandatory for areas located in cities and towns and for existing or planned, clearly delimited built-up parts of small towns and villages in the following cases:

1. As the basis for the preparation of building design documentation for new buildings, except for outbuildings of detached houses, summer-houses, garden houses and other small buildings with an area occupied by buildings of up to 20 sqm, and as the basis for the erection of such new buildings.
2. As the basis for the expansion of the cubature above ground of existing buildings, except for detached houses, summer-houses and garden houses and their outbuildings, by more than 33 per cent and for the preparation of building design documentation for such work.
3. In the event of land areas being divided into plots. A plot is a land unit intended for building purposes and located in an area where the preparation of a detailed plan is mandatory. The building rights of a plot are defined as the intended use(s) of the plot, the maximum permitted number of buildings on the plot, the maximum area to be occupied by the buildings and the maximum permitted height of the buildings.

Figure 3.1 The Building Process – Areas, where the detailed plan is mandatory (all constructions except small constructions)

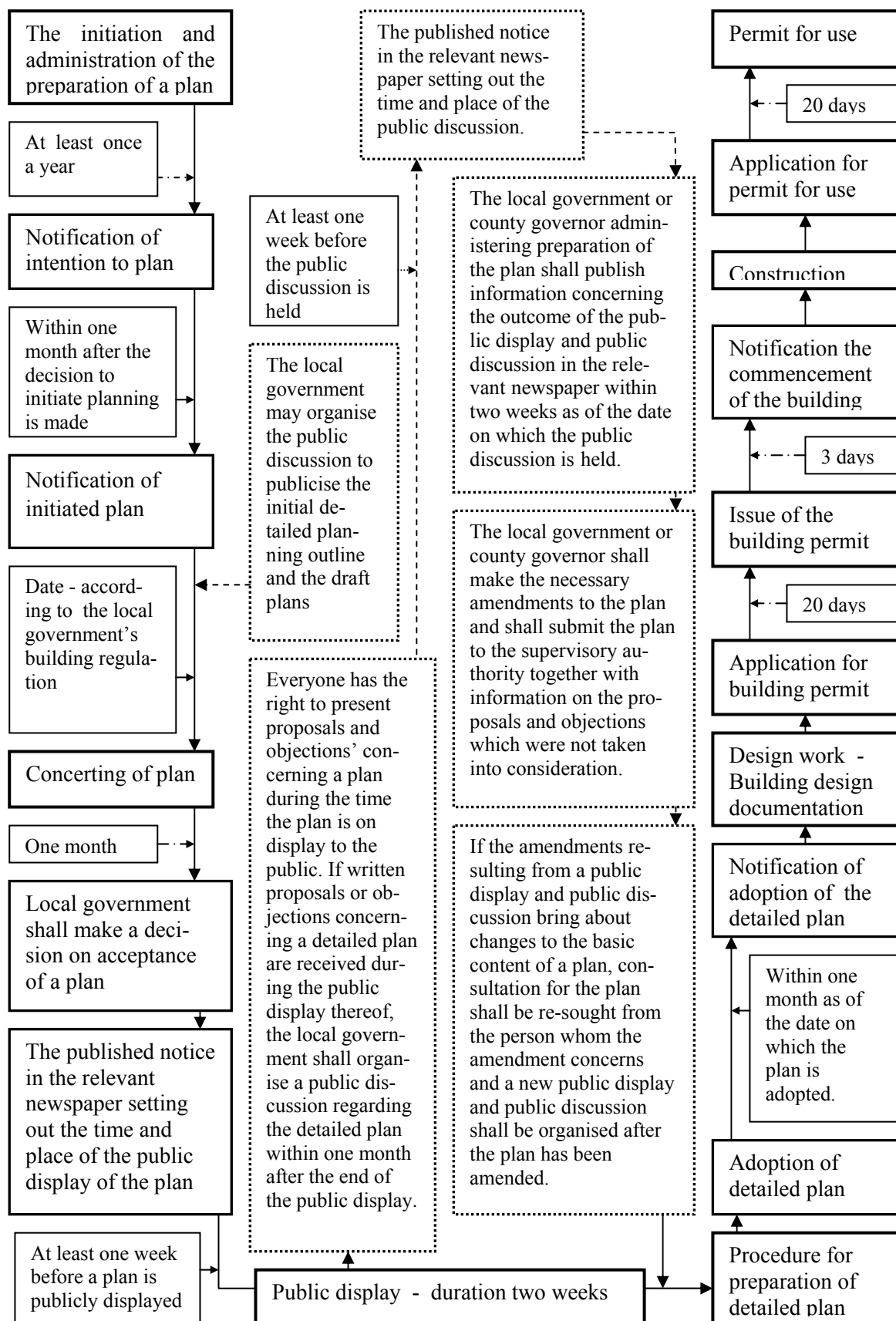
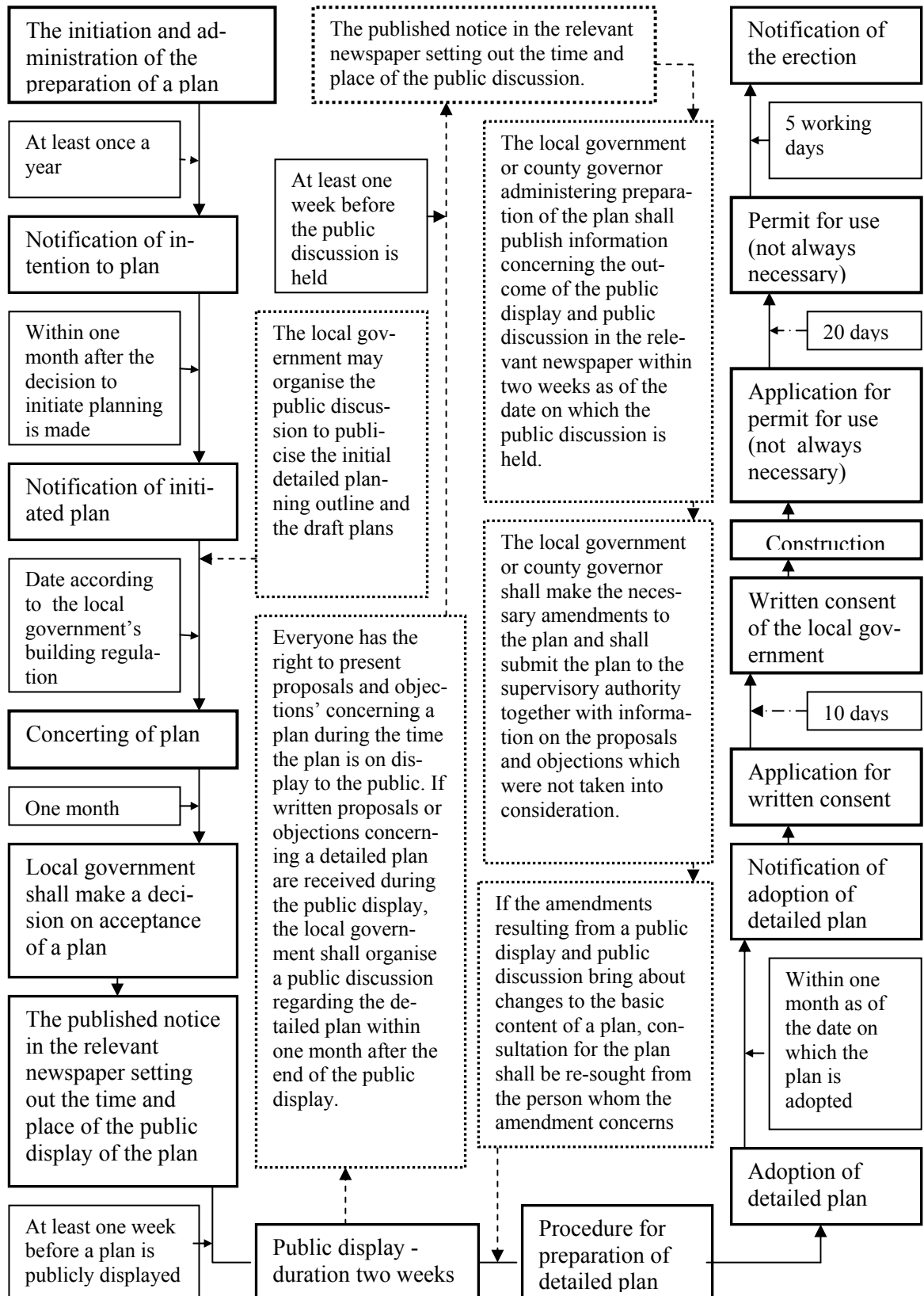


Figure 3.2 The Building Process – Areas, where the detailed plan is mandatory (small and temporary constructions)



Areas, where the detailed plan is not mandatory

Design criteria are the architectural and structural criteria for construction works, which are determined for a construction by an order of the local government issued within fifteen days as of the date on which the relevant application is submitted. Design criteria shall be prepared on the basis of a comprehensive plan if there is such a plan.

Small constructions

A small construction is one of the following situated on one registered immovable, having an area occupied by the construction of up to 60 sqm and being designed with a height of up to 5 m above ground level:

- a construction with no public functions,
- civil engineering works necessary to serve existing constructions, which are connected to a power line or a construction connected there which belongs to a network operator within the meaning of the Electricity Market Act or connected to a supply point which belongs to a water undertaking within the meaning of the Public Water Supply and Sewerage Act or connected to a line facility which belongs to a telecommunications service provider within the meaning of the Telecommunications Act.

Building design documentation is not required to build small constructions except in cases where a demand to submit the building design documentation precedes for the grant of the written consent specified in § 16 of Building Act, and where a permit for use is applied.

A temporary construction is a construction built for a limited period of time but not for longer than five years. In the event of the building of a temporary construction, the local government shall determine the period of use of the construction and set it out in the written consent or the building permit and the permit for use.

If a small construction which a permit for use is not applied for is erected within an area where detailed planning has been made mandatory, the owner of the construction is required to notify the local government thereof within five working days as of the erection.

Figure 3.3 The Building Process – Areas, where the detailed plan is not mandatory (all constructions except small constructions)

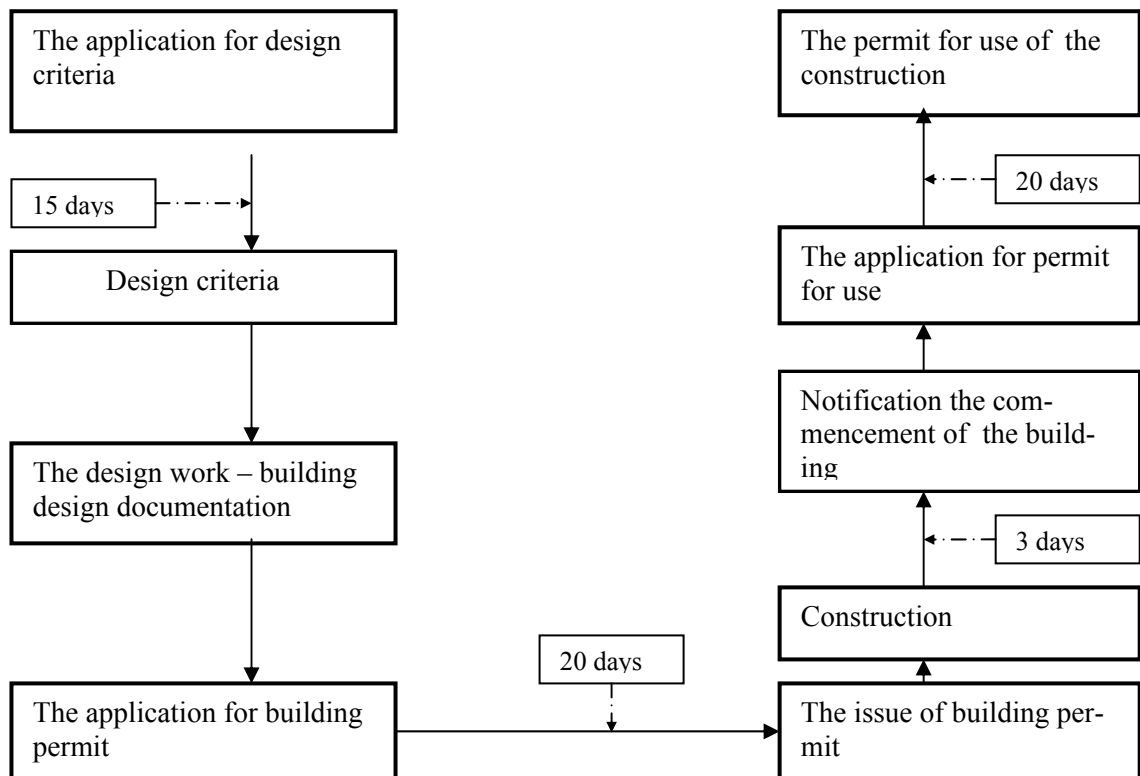
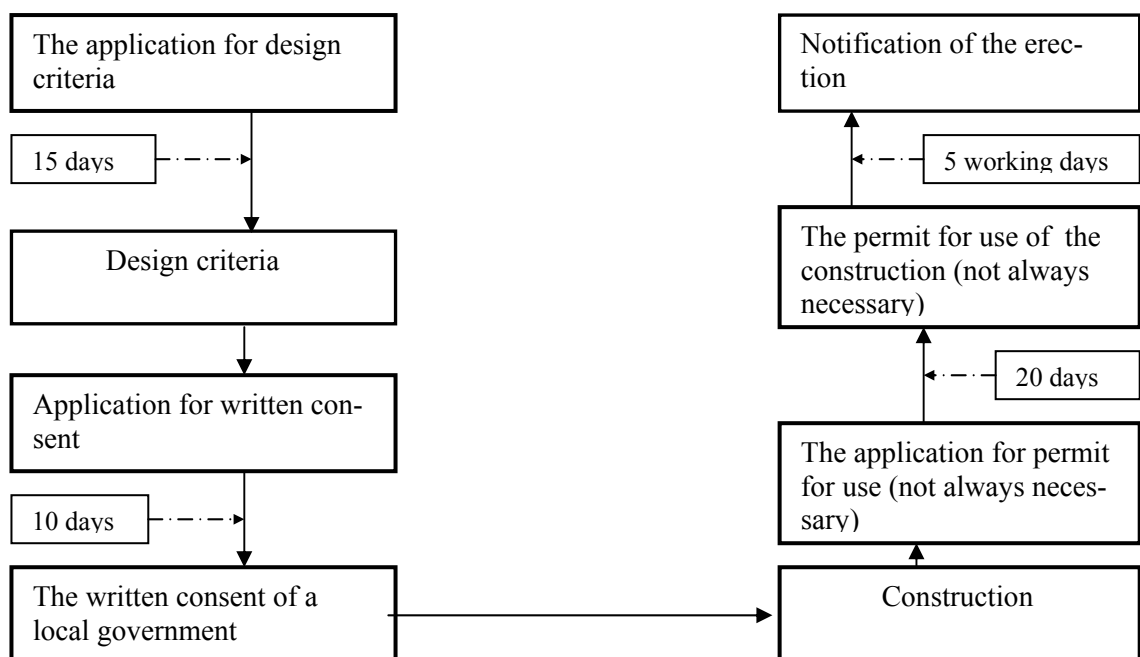


Figure 3.4 The Building Process – Areas, where the detailed plan is not mandatory (small and temporary constructions)



3.1.4 System for supervision and control of a housing project

The exercise of construction supervision on the territory of a local government is within the competence of the local government. Construction supervision is:

- inspection of the conformity to the requirements of building design and as-build drawings of constructions,
- the issue of building permits,
- the issue of permits for use,
- inspection of the conformity of constructions to the requirements,
- organization of the evaluation of constructions for the conformity thereof to the requirements being inspected,
- inspection of the conformity of undertakings specified in Building Act to the requirements,
- organization of investigations into the reasons for accidents involving construction works and
- the issue of precepts according to competence.

Competence and obligations of officials exercising construction supervision

An official of a city or rural municipality who exercises construction supervision is competent to:

- inspect compliance with the Building Act, including constructions under construction and parts thereof,
- inspect, without hindrance, compliance with the Building Act in constructions in use by giving at least twenty-four hours notice thereof to the owner,
- obtain information necessary for construction supervision, proceeding from the safety or purpose of use of constructions concerning the building, design, site investigations or owner supervision of the construction works, the expert assessment of building design documentation, the evaluation of the construction works and the use of the constructions from state agencies, local governments, owners of constructions, applicants for building permits or undertakings,
- examine the documents concerning the building, design, site investigations or owner supervision of construction works, the expert assessment of building design documentation, the evaluation of construction works, the safe use of constructions and the purpose of use thereof and to obtain transcripts of such documents, except for the documents concerning the cost of the work,
- monitor construction works, inspect the conformity of the building design documentation to the requirements, the detailed plan or the design criteria, and inspect the maintenance and use of constructions, proceeding from the safety and purpose of use of the constructions,
- request, in justified cases, the expert assessment of building design documentation or the evaluation of construction works and parts thereof,
- issue precepts according to his or her competence,

- prepare for the issue of building permits and permits for use,
- submit information to the state register of construction works,
- order expert assessment of building design documentation to verify the conformity thereof to the requirements, and to order evaluation of construction works and parts thereof to verify the conformity thereof to the requirements,
- verify the existence of building permits and the correctness of the information entered in the building permits and
- verify the existence of permits for use and the correctness of the information entered in the permits for use.

The costs of expert assessment or evaluation ordered to verify the conformity to the requirements of building design documentation or of a construction work and parts thereof respectively shall be borne by the authority exercising construction supervision. If it is established that building design documentation, a construction work or a part thereof does not conform to the requirements established there for, the owner of the construction shall compensate the authority exercising construction supervision for the costs of the expert assessment or evaluation ordered to verify conformity to the requirements.

An official exercising construction supervision is required to present identification when performing his or her duties and to ensure the confidentiality of business and technical information obtained in the course of construction supervision activities, unless the disclosure of such information is prescribed by law.

Owner supervision

Before building commences, the owner of the construction shall authorise a person who holds the right to exercise owner supervision to act as the person exercising owner supervision, and this person shall not be the person building the construction. The owner supervision may be exercised by the owner if the construction being built is a small construction such as a detached house, a summer-house, a garden house, a farm building, a civil engineering work necessary for servicing a construction, constructions related to state secrets or constructions related to national defence.

The objective of owner supervision is to ensure building according to the building design documentation, preparation of the technical construction documentation and the requisite quality of the construction.

Owner supervision shall be conducted from the time that building of the construction commences until a permit for use of the construction is obtained. The person exercising owner supervision has the right to inspect the conformity of the building design documentation with the requirements, to verify that the construction products used conform to the requirements, to inspect the maintenance of and safety to the surroundings of the construction and the land unit of its location and to verify that environmental safety is ensured.

The person exercising owner supervision has the right to demand:

- that the person who prepared the building design documentation bring the building design documentation into conformity with the requirements,

- that the building contractor submit the declarations of conformity and/or certificates of conformity and other necessary documents, for example letters of guarantee, instructions on maintenance or user manuals concerning construction products used and equipment installed,
- that a construction product used by the building contractor shall be replaced if it does not conform to the building design documentation or established requirements,
- that construction work which does not conform to the requirements shall be re-performed by the building contractor,
- that construction work which does not conform to the building design documentation shall be re-performed by the building contractor,
- that construction work shall be suspended in the event of an accident hazard arising, upon violation of the requirements provided for in construction legislation, upon failure to adhere to the conditions of the building permit or written consent and if building is not performed in conformity with the building design documentation and
- that the building contractor documents the building in a proper and timely manner.

The person exercising owner supervision shall adhere to the requirements established for the safety of the construction works and for building safety during the course of the building. The procedure for exercising owner supervision shall be established by the Minister of Economic Affairs and Communications. A person is permitted to build, design, conduct site investigations, exercise owner supervision, perform expert assessments of building design documentation, evaluate construction works and engage in project management if the person is an undertaker within the meaning of the Commercial Code and the person has a registration in the state register of economic activities and a corresponding legal relationship with a competent person specified in § 47 of the Building Act or, if the person is a sole proprietor, he or she must have the competence to act as a specialist in charge.

If a building contractor performs construction works only within the limits of a profession in which an employee thereof or, if the contractor is a sole proprietor, the contractor himself or herself holds a professional qualification within the meaning of the Professions Act which does not grant such person the right to organize the distribution of funds or the work of other persons and does not impose on him or her the obligation to be responsible for such work, the building contractor need not comply with the provisions set out in the rules.

State supervisory authority

State supervision over the requirements provided for in the Building Act and legislation established on the basis thereof shall be exercised by the Technical Inspectorate. The Technical Inspectorate has the right to:

- exercise supervision without hindrance and without giving prior notice,
- obtain information necessary for state supervision, examine originals of documents and obtain transcripts thereof,
- inspect the conformity of construction works, building design documentation, and construction products and of undertakings specified in § 41 of the Building Act to the requirements,

- order evaluation services and expert assessment to verify conformity to the requirements,
- conduct investigations into the reasons for accidents related to construction works,
- issue precepts and make decisions according to its competence and
- render mandatory the disclosure of information concerning any dangers related to construction works or construction products, or to disclose such information itself.

The Technical Inspectorate shall inform the local government of the results of state supervision.

3.1.5 The main features of national building rules and CPD

CPD is totally harmonized into Estonian legislation. Estonian national building rules do not constitute a barrier for foreign specialists and experts in building and housing field.

3.2 Competency requirements and registration

A person is permitted to build, design, conduct site investigations, exercise owner supervision, perform expert assessments of building design documentation, evaluate construction works and engage in project management if the person is an undertaker within the meaning of the Commercial Code and the person has a registration in the state register of economic activities.

An undertaking which wishes to build, design, conduct site investigations, exercise owner supervision, perform expert assessments of building design documentation, evaluate construction works or engage in project management shall submit an application to the register. A registration application shall contain:

- the name and registry code of the undertaking, the name of the corresponding register, and the address and other contact details of the undertaking,
- the area of activity, which the applicant wishes to operate,
- information concerning the specialist in charge in the undertaking who must meet the requirements prescribed for the desired area of activity if it is mandatory to have a specialist in charge,
- information concerning the qualifications of the building contractor and the document certifying such qualifications, if they exist and
- the name, official title and contact details of the authorised person of the undertaking who signs the registration application.

Information concerning the specialist is comprised of the following:

- name, and personal identification code or, in the absence thereof, date of birth,
- contact details,
- the profession and other essential information entered in his or her professional certificate if he or she has a professional certificate,
- in the absence of a professional certificate, the date of issue and the name of the issuer of the document certifying the professional education of the person and
- professional experience.

The person who submits a registration application shall be responsible for the correctness of the information submitted to the register. The requirements for the format of registration applications and applications for amendment of registration information and the procedure for submission thereof shall be established by the Minister of Economic Affairs and Communications.

A corresponding legal relationship with a competent person specified in § 47 of the Building Act or, if the person is a sole proprietor, he or she must have the competence to act as a *specialist in charge*. Specialist in charge is a person who is competent to manage and inspect building, design, site investigations, owner supervision, expert assessments of building design documentation, evaluation of construction works or project management activities and advises an undertaking in order to guarantee compliance with the requirements provided for in this Act and legislation established on the basis thereof.

In order to build, design, conduct site investigations, exercise owner supervision, perform expert assessments of building design documentation, evaluate construction works or engage in project management activities, a specialist in charge shall:

- hold professional qualifications within the meaning of the Professions Act which grants the person the right to organise the distribution of funds or the work of other persons and imposes on him or her the obligation to be responsible for such work and
- have completed higher education in an appropriate field and have three years' experience in work related to his or her profession.

3.3 Requirements on insurance and guarantees

There are no requirements on compulsory insurance of consultants and contractors, who have a registration in the state register of economic activities.

3.3.1 Guarantee of construction works

For the purposes of the Building Act, a guarantee is an obligation assumed by a building contractor to ensure that the work executed by the contractor complies with the conditions of the corresponding contract and that the construction being built or any part thereof will, if used for its intended purpose and properly maintained, retain its safety, usability and high quality for a set period of time so enabling the construction as a whole or any part thereof to be used.

The guarantee shall be granted for a period of at least two years as of the date on which building is completed, and that date shall be determined by the building contractor and the owner of the construction in a contract entered into between them. If the date of completion of building is not determined in a contract, the guarantee of the construction is deemed to begin as of the date on which the building contractor delivers the construction or a part thereof to the owner. The guarantee granted by the manufacturer of equipment incorporated in a construction in a permanent manner in the course of construction applies to such equipment and the duration of the guarantee granted to the equipment by building contractors shall not be less than six months.

Construction faults, which become evident during the guarantee period of a construction, shall be eliminated by the building contractor at the contractor's expense and within a reasonable period of time.

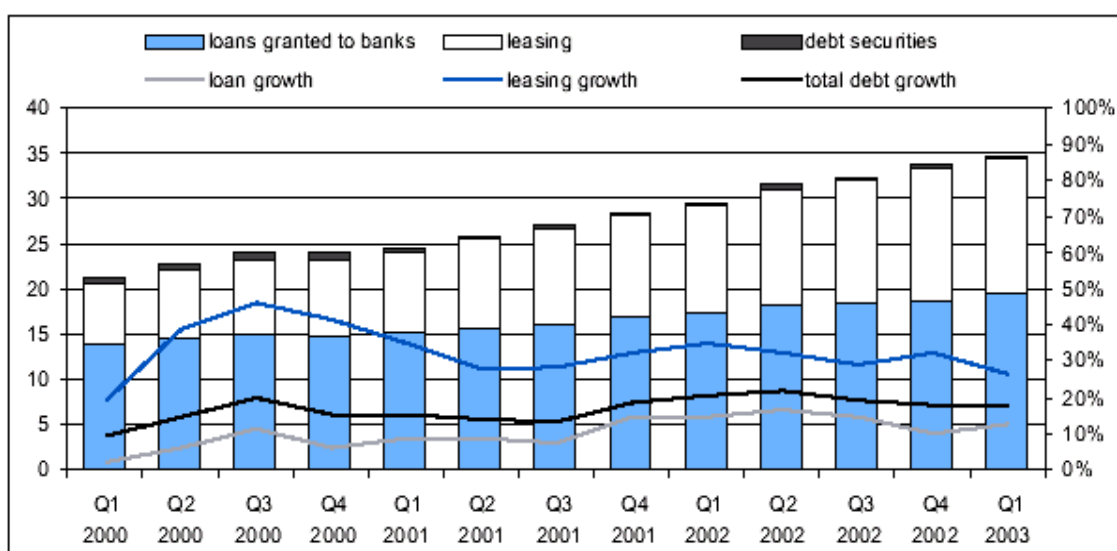
3.4 Financing and subsidies

Two years after the world economy entered into recession one can claim that Estonian real and financial sectors have not experienced major set backs so far: consistent growth in both corporate and private earnings has sustained credit quality. However, the developments on foreign markets have left a trace on the Estonian economy: the growth that has been mainly based on internal demand and low interest rate level as well as slower consumer price increase has affected the attitudes of economic agents towards lending and saving and resulted in deterioration of the external balance of the Estonian economy, thus contributing to the risk of vulnerability of the economy.

3.4.1 Financing

Although companies are still the principal drawers on bank loans and leasing facilities in the real sector, significant lending of private persons is starting to tip the scales. If at the end of March 2000 corporations accounted for some 78% of the total loan and leasing portfolio of the real sector, then by the end of March 2003 the indicator had declined to 66%. Annual growth in domestic corporate debt reached its peak of recent years in the middle of 2002, which was followed by stabilization to a certain extent. By instruments, bank loans (55%) account for the largest share of debt intermediated by the local financial sector, however, in some sectors (primarily in transportation and agriculture) leasing prevails (Figure 3.5).

Figure 3.5 Lending to domestic enterprises by instruments (left scale, EEK billion) and year-on year growth (right scale)



As a consequence of smaller external demand, economic growth during the past year has been faster in the branches oriented to internal demand. This in turn has dampened banks motivation to finance operations of export-oriented companies, which is mani-

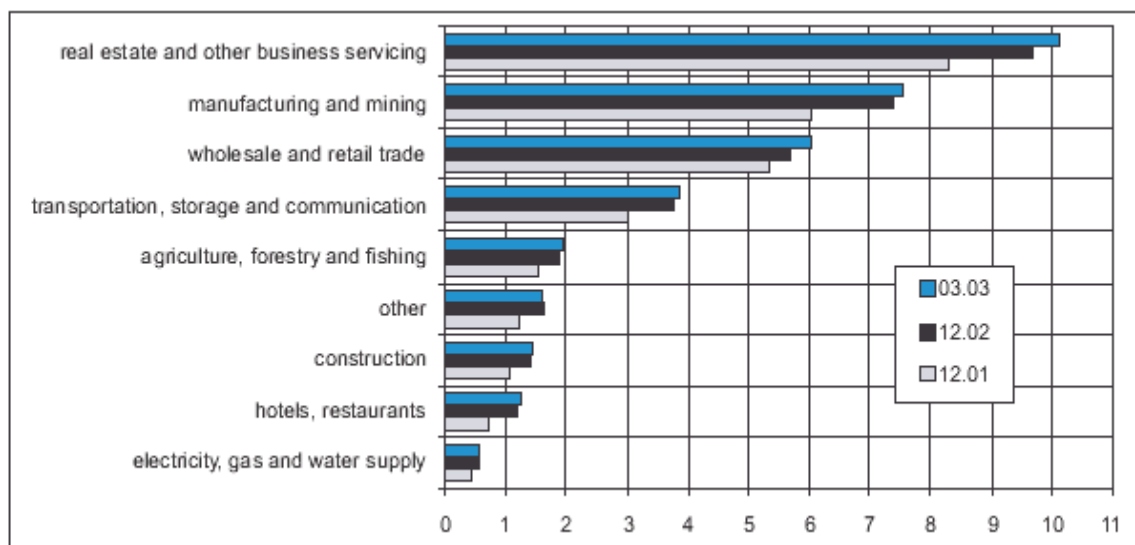
fested in faster debt growth in the areas that are targeted at satisfying internal demand. Credit supply has been wider than average in the real estate and other business servicing sectors (Figure 3.6)

Loan Servicing Ability

Regarding the loan servicing aspect, it can be said that the development in the overall corporate sector seen in 2002 is continuing also this year. Business confidence indicators as well as comparatively favourable turnover indicators create a largely neutral, if not optimistic, short-term outlook, provided that environmental conditions remain unchanged. Of individual branches, insecurity looms mainly in manufacturing, which is more reliant on the situation in the world economy.

The limits, banks have set on financing commercial real estate projects, most extensively funded by the local financial sector along with fulfilment thereof indicate that potential risks in this sector stem rather from existing projects. Increase in the respective risk position of banks can only occur in line with the overall growth in the loan portfolio. Hence significant demand for investment has boosted the supply of foreign capital in the commercial real estate sector. Meanwhile new projects undermine the competitiveness and earning capacity of the projects earlier financed by the local financial sector, thus increasing loan portfolio risks.

Figure 3.6 Undertakings' loan and leasing portfolio by sectors of economy (EEK billion)



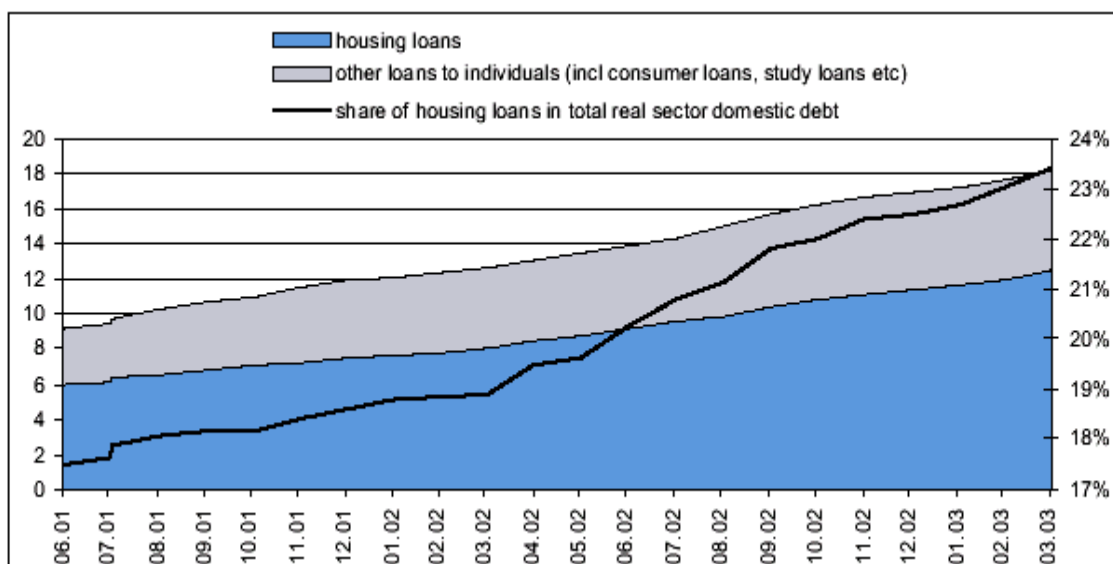
Financial Assets and Liabilities

In 2002 and during the first months of 2003, most indicators showed that earlier optimism of the households has been sustained. Growing incomes and favourable loan conditions tempt to prefer consumption and fast improvement in living conditions to saving. Besides, as a result of growing incomes the share of food and housing expenditure in the structure of expenses has decreased, which reflects broadening consumption opportunities and improved ability of borrowers to service loans. Record low interest rates and increase in incomes has boosted the growth in debt of private persons (Figure 3.7).

The loan market is normally quiet at the beginning of the year; however, in the first quarter of 2003 demand for housing loans exceeded the standard level. A contributing motivator was aggressive supply. Credits taken out to purchase or renovate residential lots account for some 70% of the loan stock of private persons.

Regarding credit supply in the context of low interest rates, it is very important for both households as borrowers and banks as lenders to adequately estimate the ability of borrowers to handle principal and interest payments should market conditions change or incomes decline. According to aggregate estimates, households spend around 11% of their net income on debt servicing. Thereby, creditworthy families with comparatively smaller incomes are significantly more sensitive to changes in either interest rates or income. Approximate calculations show that an interest rate increase of ca two percentage points might boost monthly loan payments of a family by some 13%, which will affect mainly the consumption behaviour of families with medium income.

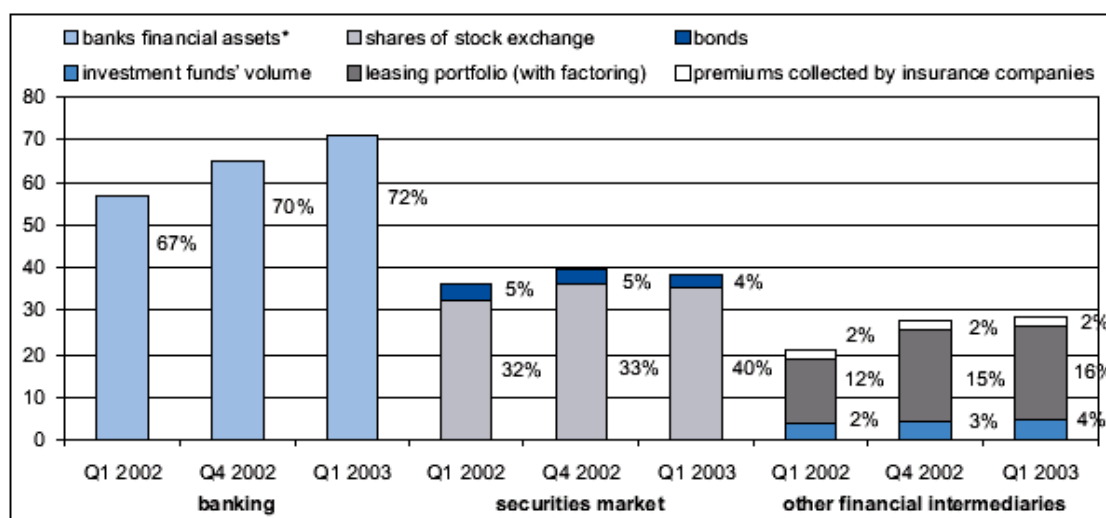
Figure 3.7 Lending to households (EEK billion, left scale) and share of housing loans in real sector domestic borrowing (right scale)



Structural Development of the Financial Sector

In 2002 and early 2003, rapid growth mainly occurred in the financial assets of the banks and leasing companies controlled by them, that intermediated loans to the real sector (Figure 3.8). The debt of the real sector to the domestic financial sector reached to 48.3% of the GDP at the end of the first quarter of 2003, having increased by 4.4% points year on year. Rapid growth in investment funds conspicuous in the financial markets in 2001 began to level off in the second half of 2002.

Figure 3.8 Estonian financial intermediaries (EEK billion and % of GDP)

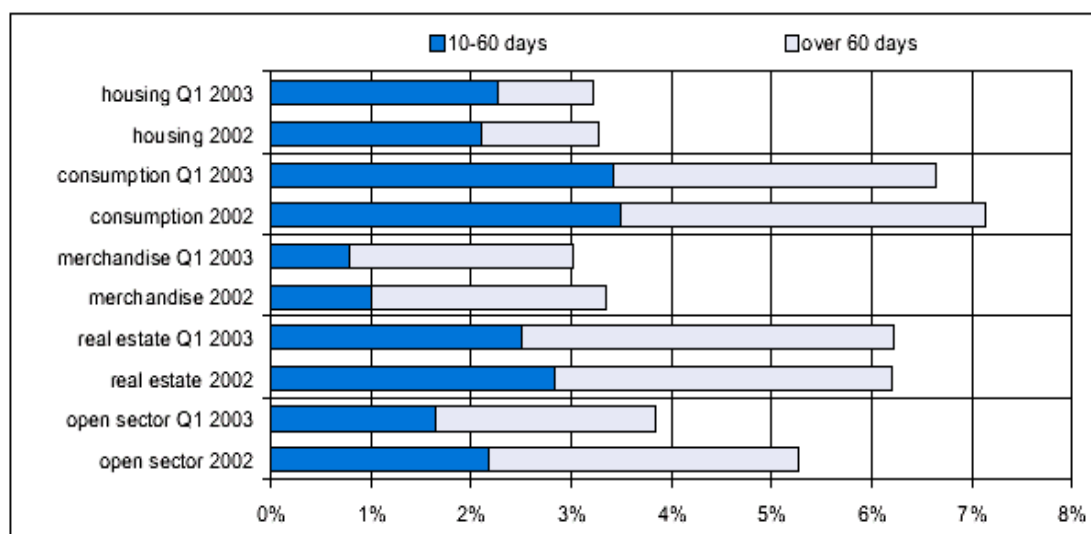


Versatility and Quality of the Loan Portfolio

The fastest growing segment in the loan and leasing portfolio of banks is real estate financing: over 40% of new loans have been directly channeled into financing housing and commercial real estate, and in some banks the indicator accounts for as much as 50-70%. While it is natural that banking and leasing operations focus on financing the real estate sector (including housing loans) in a transition economy, the overly fast growth rate witnessed since the second half of 2001 is starting to break the sustainable trend. If in Finland real estate loans account for 40% and in Sweden for 35% of the total loan portfolio of banks, in Estonia such level has already been attained or even overcome.

Real estate financing is becoming increasingly more significant also from the aspect of loan quality. Even though solid servicing of fast-growing housing loans has reduced credit risks, concentration of risks into the real estate sector is increasing the sensitivity of the economic sectors directly related to real estate along with other sectors to possible price changes. Meanwhile, fluctuations in real estate prices, in openness to market risks, might in turn lead to deterioration in loan quality. In commercial real estate financing overdue loans amount to more than 6% of loans outstanding (Figure 3.9). Trade financing has remained stable. All in all, one might say that portfolio concentration, not temporary and random fluctuations in overdue loans, is becoming a risk factor. In the total loan portfolio of the real sector loans overdue more than 60 days constituted an average of 1.9% in the first quarter. An average of 80% of the loans overdue more than 60 days have been written off.

Figure 3.9 Share of loans past due in real sector loan portfolio in 2002 and 1st quarter of 2003



3.4.2 The subsidies and tax relief system for housing production

The general purpose of state activity in the housing sector is to provide all Estonia's residents with an option to choose their place of dwelling. The main task is to create conditions in the housing market (legal regulation, institutional regulation and support measures) that would allow residential owners, tenants and citizen-initiated organisations in the dwelling sector to solve their problems independently and to carry out individual housing strategies. The state's housing development activities are based on the principles of balanced social and regional development.

Housing Development Plan

Based on the general purpose, the present development plan sets forth specific goals for the state's activities for the years 2003-2008. Ensuring the preservation of existing housing stock, improving the flexibility of regional housing markets and of the forms of dwelling, and improving housing-related financing opportunities, form the basis for solving urgent problems in Estonia's housing sector and for the sustainable development of housing.

This development plan will be carried out by the *Ministry of Economic Affairs and Communications*, and the *Estonian Credit and Export Guarantee Fund (KredEx)*, in co-operation with local authorities and non-governmental organisations in the housing sector. KredEx is a self-sustaining fund in the jurisdiction of the Ministry of Economic Affairs and Communications, whose goal is to support the development of enterprises, exports and housing. The Ministry of Economic Affairs founded KredEx in July 2000. However, the birth date of the organization is the 26th of February 2001 when KredEx united the Export Credit and Guarantee Foundation, Small Business Loan Foundation and the Estonian Housing Foundation. KredEx took over the assets and liabilities of the former foundations, discontinued issuing loans and concentrated on guarantee activities.

Based on the main goal, the Estonian Housing Development Plan sets specific goals for state activities for the years 2003-2008.

The goals of the development plan are:

- maintenance of the existing housing stock,
- increasing the flexibility of the housing market and diversification of the types of dwelling and
- mitigating problems with housing finance.

The housing development plan is targeted at broad population segments and at growing the middle class. To achieve higher effectiveness with limited resources, assistance is focused on specific target groups. *Target groups* are apartment unions, housing unions, apartment owners' alliances, young adults, young families, tenants of returned houses.

To achieve the set goals, it is necessary to prioritise the supporting of reconstruction of apartment buildings and enlargement of rental housing stock as well as securing mortgage loans.

To improve financing opportunities, the attainability of mortgage loans will be improved for the main target groups of the housing development plan. The following measures are to be used:

- loan security for an apartment union,
- loan security for a young family,
- loan security for a young adult's own home and
- loan security for tenants in returned houses.

Loan guarantee for young families

Purpose:

- acquisition of a dwelling (purchase and/or construction) or
- renovation of the current building.

This means that it is possible to purchase an apartment, residential building, plot or cottage. In that case, the purpose of the purchase of a plot must be construction of a dwelling and, in case of a cottage, reconstruction of the cottage to make it suitable for all-year-round living. The dwelling purchased using a young family loan guarantee does not have to be the first purchased dwelling, but one can have only one young family loan at a time. *Target group* is parents or a single parent raising a child under the age of 16 and being Estonian citizens or having a permanent residence permit in Estonia.

Loan conditions:

- minimum self-financing is 10% of the value of the collateral property,
- there are no limits to the loan amount,
- the re-payment period is up to 30 years and
- in the event of the birth of a child, a payment holiday of up to 2 years will occur.

The value of the collateral is determined in a valuation report prepared by a real estate company accepted by the bank. The valuation report can be up to 24 months old. It is

recommended to order the valuation report from a certified appraiser who belongs to the Association of Estonian Real Estate Appraisers.

The *guarantee amount* will be up to 24% of the value of the collateral property, but not over 400 000 EEK. The *guarantee fee* is 3% of the guarantee amount paid upon conclusion of the agreement as a one-time payment.

Refinancing is permitted if a new dwelling is purchased and the current housing loan is refinanced or if you already have a housing loan with a KredEx guarantee, but you want to transfer from one bank to another and use the KredEx guarantee there as well. Refinancing is not permitted if you have a regular housing loan and you want to refinance it with a young family or a young specialists own home loan from another bank. Refinancing is not limited.

To get a loan and an additional guarantee, you should address the bank (Hansabank, Eesti Ühispank, Sampo Bank, Nordea Bank, Eesti Krediidipank, Baltic-American Home Finances and Hansa Leasing Estonia). The lending bank arranges the receipt of a KredEx guarantee and later reporting.

Loan guarantee for young specialists

Purpose:

- acquisition of a dwelling (purchase and/or construction) or
- renovation of the current building.

This means that is possible to purchase an apartment, residential building, plot or cottage. In that case, the purpose of the purchase of a plot must be construction of a dwelling and, in case of a cottage, reconstruction of the cottage to make it suitable for year-round living. The dwelling purchased using a young specialists loan guarantee does not have to be the first purchased dwelling, but one can have only one young specialists loan at a time.

Target group is up to 35-year-olds who has higher or vocational secondary education and an effective employment or service contract, while the probationary period is over or is a sole proprietor who has been in business as such for at least 1 year. The applicant must be Estonian citizen or have a permanent residence permit in Estonia (the residence permit must be valid at least until the end of the loan term).

Loan conditions:

- minimum self-financing is 10% of the value of the collateral property,
- the minimum amount is 30 000 EEK,
- no upper limits to the loan amount,
- the re-payment period is up to 30 years and
- in the event of the birth of a child, a payment holiday up to 2 years will occur.

The value of the collateral is determined in a valuation report prepared by a real estate company accepted by the bank. The valuation report can be up to 24 months old. It is recommended to order the valuation report from a certified appraiser who belongs to the Association of Estonian Real Estate Appraisers.

The *guarantee amount* is up to 24% of the value of the collateral property, but not over 400 000 EEK. The *guarantee fee* is 3.5% of the guarantee amount paid upon conclusion of the agreement as a one-time payment.

Refinancing is permitted if anew dwelling is purchased and the current housing loan is refinanced or if you already have a housing loan with a KredEx guarantee, but you want to transfer from one bank to another and use the KredEx guarantee there as well. Refinancing is not permitted if you have a regular housing loan and you want to refinance it with a young family or a young specialists own home loan from another bank. Refinancing is not limited.

Loan guarantee for apartment associations

The *purpose* of the loan guarantee is to stimulate repairs/modernisation of the heating system managed by apartment associations, repairs of the roof, insulation of external walls, repairs of staircases, exchange/insulation of windows, exchange/repairs of communications, repairs of lifts and other constructions, maintenance and greenery work that improves the efficiency, security and quality of life of the dwelling. A loan issued for maintenance and greenery work is given a guarantee only if the association has previously performed the work increasing the buildings efficiency and security.

There are some *requirements to apartment associations* getting a loan guarantee. It shall be an apartment association founded in accordance with the Apartment Associations Act and registered not less than 6 months before submission of the application. Performance of the obligations by members of the association before the association with regard to payment of public utility payments, maintenance fees and earmarked payments can be observed at least 6 months before submission of the loan application to the bank. The 6-month average outstanding debt of the members of the association before the association must not exceed 10% of the total amount of one months payments. For the purposes of this section, outstanding debts are payments to the association that have been made within 1 month as of the due date.

There shall be a resolution of a competent general meeting about taking the loan, which has been passed by simple majority voting unless prescribed otherwise by the articles of association. At least 3 months must have passed from notification of the resolution of the general meeting to issuance of the loan and the resolution must not have been challenged in that time. If 100% of the apartment owners have voted in favour of the resolution, the loan can be issued before the end of the 3-month challenging period.

The construction company and the bid must have been chosen from among 3 bids at least, selecting the most optimal of them. The constructor must give at least a 1-year guarantee to the work performed.

The association must, to the knowledge of the bank, be able to duly fulfil its obligations arising from the Loan Agreement. The monthly loan amount shall not exceed 85% of the monthly net income remaining to the Association after payment of current costs. Upon application for the loan, the association shall not have any overdue payments before banks, leasing companies or other credit and financing institutions, the Tax Board and providers of public utility services. A financial statement of at least the last six months is to be presented.

By resolution of the general meeting, the association authorises the bank to file claims against a member of the association if the members debt before the association exceeds

the total amount of three months payments. The collateral agreement shall stipulate that upon realisation of the collateral, the claims of the association are transferred to a foundation.

The resolution of the general meeting of the apartment association shall stipulate that if the processed debt and default interest of the member of the association cannot be cancelled within 9 months as of the beginning of the proceedings for unforeseen reasons, the bank can claim, without the further consent of the association, that the debt of the default interest debtor is added to the debt of other members of the association and divided on a pro rata basis to the gross area of the building between other members of the association. The said procedure does not cancel the debt of the default interest debtor before the apartment association.

After receipt of the loan, the building must be insured against fire, water and storm risks.

Loan conditions:

1. The maximum loan amount is 5 EEK (incl. value added tax and interest) for one square metre of the total apartment area of the building per month. As an exception, the foundations management board can approve higher instalments, maximum 10 EEK for one square meter a month if the associations solvency is sufficient and has been confirmed by earlier experience and the associations financing plan has been approved at the general meeting.
2. The re-payment period is up to 7 years. As an exception, the foundations management board can approve a longer term, maximum 10 years, if the associations solvency is sufficient and has been confirmed by earlier experience and the associations financing plan has been approved at the general meeting.
3. Self-financing is not less than 10% of the cost of performed work.
4. The loan is paid out on the basis of the applicants application(s) to the extent of the invoice(s) of the construction company upon the existence of the corresponding instrument(s) of delivery and receipt. The prerequisite for disbursement of the loan amount is coordination of the agreement between the association and the constructor which stipulates the final price of the work. The bank has the right to refuse from coordination or present proposals for amendment/adjustment of the agreement.
5. The company performing the work receives the 10% self-financing for commencement of the work directly from the association and up to 20% of the loan.

The *guarantee amount* is up to 75% of the loan and it has been determined as a percentage of the loan balance. The guarantee is depreciated at the account of loan repayments on a pro rata basis to the loan balance. The *guarantee fee* is 1.5% of the guarantee balance a year. The *agreement fee* is 0.5% of the guaranteed amount.

To get the loan and an additional guarantee the apartment association addresses the bank (Eesti Ühispank, Sampo Bank, Eesti Krediidipank, Tallinn Business Bank or Hansa Leasing Estonia). The lending bank arranges the receipt of the KredEx guarantee and later reporting.

Loan guarantee for tenants of restituted buildings

Purpose:

- acquisition of a dwelling (purchase and/or construction) or
- renovation of the current building.

Target group is tenants of restituted buildings and the adult members of the family who are Estonian citizens or have a permanent residence permit in Estonia. The co-applicant of the loan may be the husband, the child or the husband of the child.

Loan conditions:

- minimum self-financing is 10% of the value of the collateral property and
- the re-payment period is up to 30 years but not longer than the applicant retires (becomes 63).

If the dwelling used on the basis of rent contract is not bought, the loan receiver and the people living together with him/her must free the dwelling during the period of 3 months after signing the loan contract. A written agreement has to be made between the owner of the dwelling, the tenant and all the members of the family living together with the tenant.

The *guarantee amount* is up to 24% of the value of the collateral property, but not over 400 000 EEK. The *guarantee fee* is 3% of the guarantee amount paid upon conclusion of the agreement as a one-time payment.

References

1. Ministry of Economic Affairs and Communications “Estonian Housing Development plan for 2003-2008”
2. Building Act, passed 15 May 2002 (RT¹ I 2002, 47, 297), entered into force 1 January 2003.
3. Planning Act, passed 13 November 2002 (RT¹ I 2002, 99, 579), entered into force 1 January 2003.
4. Eesti Pank publications: Financial stability (Monetary Developments&Policy Survey 06/2003).
5. www.kredex.ee

4 Finland

4.1 The Building Process

The central government authority in charge of developing and directing both land use planning and building activities is the *Ministry of the Environment*. However, the Ministry is not directly involved in directing or supervising building processes.

The Ministry issues technical and corresponding general regulations and instructions referring to building by decree. These are published in the *National Building Code of Finland*. The regulations in the Building Code are binding, while the instructions are not binding but present acceptable solutions. This means that the building regulations can be satisfied using approaches other than those suggested in the instructions. The regulations are largely worded as functional demands.

On the regional level there are *13 Regional Environment Centers* subordinate to the Ministry, and they direct the local authorities in matters related to land use planning and building.

The local authorities in Finland are in charge of land use planning within their respective areas. They are also independently responsible for drafting and approving master plans and local detailed plans, and they guide and supervise building within their areas. *The local building control authority* supervises building and it consists of a committee or some other multimember body, appointed by the local authority. The local authority must have a *building inspector* who advises in and supervises building issues. Adjacent local authorities may share a building inspector.

4.1.1 Building permit

The construction of a building is always subject to a building permit, which is issued by the local building control authority. For some types of building, the Regional Environment Centre has to issue a statement. The same regulations generally apply to new building as well as building repair. Neighbours have to be notified of building permit applications, unless notification is clearly not necessary. The local building control authority will approach the neighbours. In certain circumstances, construction work may start even before the building permit or the action permit has gained legal validity (Figure 4.1).

The preconditions for building vary according to the land use planning situation. There are specific requirements for building in a local detailed plan area or outside one, or an area in need of planning.

In an area covered by a *local detailed plan*, a building permit is granted under the following conditions:

- the building project is in keeping with the valid local detailed plan,
- construction meets the requirements laid down in the Land Use and Building Act,
- the building is appropriate for the location concerned,
- a serviceable access road to the building site exists or can be arranged,

- water supply and waste water management can be organized satisfactorily and without causing environmental harm and
- the building will not be located or constructed in a way that causes unwarranted harm to neighbours or hinders appropriate building on a neighbouring property.

In *areas not covered by a local detailed plan*, a building permit is granted under the following conditions:

- the building site meets the requirements for the purpose intended, is suitable for building and is of a sufficient size, at least 2000 square meters, and the building can be located at a sufficient distance from the borders of the plot, from public roads and from the neighbour's property, and there is no risk of flooding or earth slides on the building site,
- the building fits into the built environment and landscape and fulfils the requirements of beauty and proportions,
- the building meets the essential technical requirements applicable for the intended purpose,
- the building corresponds to its purpose and can be repaired, maintained and altered,
- the building fits the building site,
- there is a serviceable access road, or it can be arranged,
- water supply and waste water management can be organized satisfactorily and without causing environmental harm and
- the building will not be located or constructed in a way that causes unwarranted harm to neighbours or hinders appropriate building on a neighbouring property.

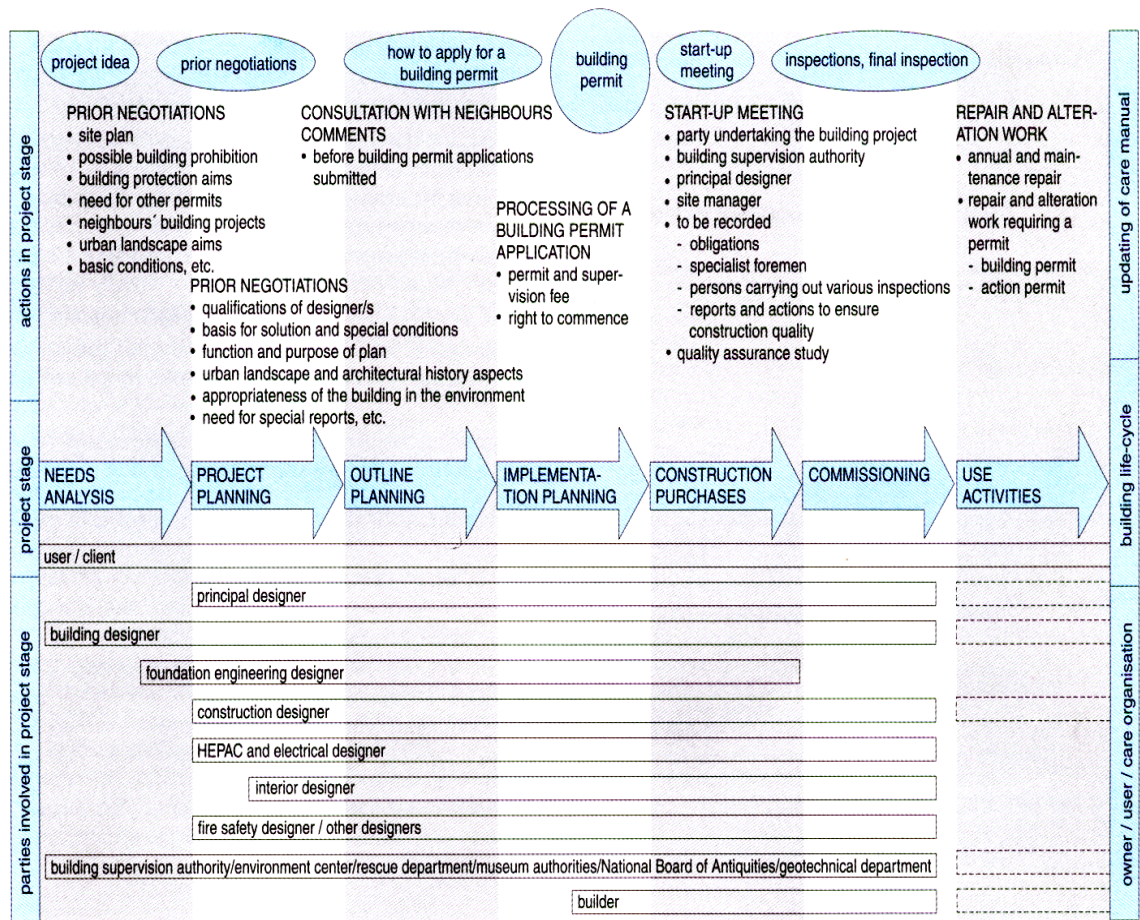
In addition, the following preconditions apply for granting a permit in *areas where planning is required*:

- construction must not hinder planning or other organization of land use,
- it must not lead to harmful community development and
- it should be appropriate with regard to the landscape and should not hinder preservation of the values of the natural or cultural environment, nor arrangements to meet recreational needs.

The local building authorities deal with the building permit application, see that the project complies with the regulations on land use pertaining to the building site, check that the planner has certified the correctness of the building master plan, inform the neighbours of the project and see that an environmental impact assessment has, where necessary, been made.

A building permit is also required for substantial alterations in the use of a building. For structures and installations such as masts, containers and smokestacks, for which the guidance of a building permit is not required, an action permit can be granted. There are special rules for any major alterations in the landscape (such as tree-felling or earth works).

Figure 4.1 Different stages and persons involved in projects requiring a building permit.



(Source: Building Information File RT 11-10781 en).

4.1.2 Applicable legislation

The *Land Use and Building Act* (132/1999) and the *Land Use and Building Decree* (895/1999) apply to any building construction work, as do the regulations of the *Building Code of Finland* and other pertinent legislation outside the scope of building construction. Good building practices are to be observed. Chapter 11 of the Land Use and Building Decree contains detailed regulations on the building permit process.

The regulations in the *Act on Approval of Building Products* (230/2003) and the *Ministry of the Environment's Decree on Approval of Building Products* (1245/2003) apply to the approval of building products.

4.1.3 The builder's duty to take care in building activities

The basic responsibility for any building project always rests with whoever commissions the building, or anyone initiating a building project. A party initiating in a building project must have the necessary competence to carry out the project, as required by its difficulty, and access to qualified staff. He must ensure that the building is designed

and constructed in accordance with building provisions and regulations and the permit granted. His duty also includes supervision of the construction and the control and verification of the stages of work, and the stating of the fitness of the construction products used.

The fitness of a construction product is shown by *type approval* or by *CE marking* in accordance with the *Construction Products Directive*, or guaranteed by means of the *supervision of the authorities*. The fitness may be demonstrated to the building control authorities by certified instructions for use, certification by a standardization organization, certificates on continued control by an approved body, or a test certificate from a certified testing body.

Finland has implemented all the six essential requirements on buildings based on the Construction Products Directive (see Land Use and Building Decree, Section 50). The technical regulations in the National Building Code of Finland refer to the construction of a building. Insofar as a product is subject to requirements, these expressly refer to the intended use of the product in construction.

The Construction Products Directive does not harmonize the requirement levels on construction determined by the member states. It does not stipulate that the characteristics demanded for the harmonized technical specifications should also be national requirements. The harmonized standards and rules for European technical approval are not automatically part of the Finnish norms for building. Consequently, it is not always possible to determine, on the basis of the CE marking of a product, whether it meets with the requirements on building in Finland. Nevertheless, CE marking always makes it easier to judge the fitness of a product for the use intended.

A CE-marked product satisfies however all requirements in Finnish regulations on the properties of a product as such. Requirements on products in addition to those mentioned in a European standardized specifications cannot be set locally, regionally or centrally in Finland.

A party initiating a building project must have sufficient competence, or access to qualified staff. Although many actors in the field of building, such as designers and foremen, all have their specific tasks, they work under, or have a contract with, the party initiating the project.

Persons drawing up a building design must be sufficiently qualified for the task, but there should always be a *principal designer* in charge of the design in its entirety.

There should also be a *site manager* in charge of the construction work, who will see to the carrying out of the work and its quality, and who ensures that the work is carried out according to the building provisions and regulations and the permit granted.

Where needed, *specialist foremen* should be responsible for water and waste water arrangements, or for difficult cement casting. The size and difficulty of the project may also require a specialist to taking responsibility for the ventilation arrangements.

4.1.4 Supervision by the authorities

The contribution of the authorities in a building project comes out in the permit procedure (building permit and other permits) and by inspections during construction (the setting out of the location and level and checking them after completion of the foundation work, and inspections during the course of the work).

The supervision of the authorities begins when construction is started according to the building permit, and ends when the final inspection has been made. There are considerable variations in the duration of the building process, depending on a number of factors. The building permit procedure for a medium size work lasts on average about 4 weeks. After a building permit has been granted, a year or a year and a half may elapse before the final inspection is made.

The control by the authorities mainly focuses on the placing and purpose of the building, the utilization of the building rights, and the impact on the environment. The building or structure must satisfy the minimum requirements set out in the building regulations with regard to the safety and health of the user.

The Regional Environment Centers have some involvement in the building permit procedure. Under the conditions stated in paragraph 60 of the Land Use and Building Decree, the regional environment centre will issue a statement on a building permit application.

Before a building permit is granted, a *start-up meeting* is to be held to clarify the tasks and division of tasks between the authorities and other parties in the execution and supervision of the project.

A party undertaking a building project organizes the start-up meeting. The start-up meeting must be attended by the party undertaking the project, representatives of the local building supervision authorities, the principal designer and the site manager.

The meeting will specify in writing the duties and competence of the parties concerned. The specified items include the responsibilities of the party undertaking the project, the name and tasks of the principal designer and other possible designers, the person or party in charge of different stages of the construction, and who will countersign the inspections on site.

The start-up meeting will also decide if *quality control investigations* are needed for various steps to safeguard the quality throughout.

A quality control investigation may concern the whole of the construction project, or a particular stage of it. The need for such an investigation is based on consideration of risks at various stages of construction for the safety, health properties and life-cycle characteristics of the building.

Before the construction work is started, a *notification on starting construction* is to be given.

Construction inspection documents are to be kept at the building site. They should cover all important work stages and be countersigned as agreed at the start-up meeting. This procedure is, in a way, a quality certification system. The construction inspection documents underline the responsibility of the foremen and the need for internal control.

The local building supervision authorities undertake the *inspections* specified in legislation. The building inspector sees to it that those responsible present the required documentation, and have it countersigned for the completed construction stages.

4.1.5 Developer supervision

Under given circumstances, the local authorities may allow the supervision of other than residential building construction to be assigned to the developer. The latter must see to

it that the approved supervision plan is followed. Developer supervision places high requirements on the competence of the participating enterprises and staff, and requires previous experience of similar projects.

4.1.6 Instructions for use and maintenance

Instructions for use and maintenance are generally required for buildings used as residences or to work in. The instructions are intended for the owner and should include basic information, aims, tasks and advice on the care, service and maintenance of the building as well as instructions for the residents and users of the premises. The instructions for use and maintenance must be at hand when the final inspection is made.

4.2 Competency requirements and registration

4.2.1 Competency requirements

The Land Use and Building Act lays down *requirements for the qualifications of designers and foremen*. The demands on education and experience are directly related to the difficulty of the project. A minimum requirement is that the person has the training and expertise required by the type of building project concerned.

The building supervision authorities decide on the difficulty of the design work in relation to the type of the project. The Ministry of the Environment *Decree on Designers of Buildings and Building Projects* (National Building Code Part A2) specifies the *classes and levels of difficulty* of different projects as well as the qualifications required (training, practical experience) for design tasks in each class and at each level.

In major projects it is customary to divide the design work between specialists, depending on the types of specialty required for the project. However, a qualified person, the principal designer, will always be responsible for the design in its entirety and its quality. In ordinary building projects, the competence of the principal designer must be at least at the same level as the one required for the most difficult design task in the project.

The site manager is responsible for leading the construction work, ensuring that provisions and regulations are followed, and that the building is in accordance with the permit. The site manager plays a central role in ensuring the end result and its quality.

Major building projects increase the responsibility of the site manager. In such cases it is necessary to divide the responsibility and to appoint foremen for specific areas. There are special requirements pertaining to responsible foremen for water and waste water arrangements and to cement working foremen Class I, which means demanding concrete work. In order to ensure good end results for ventilation arrangements, a foreman could also be appointed for this work, especially for projects whose size and difficulty so require.

The building permit may specify a need for foremen in other specialist areas, too, according to the size and difficulty of the project. This may be the case in major projects where the principal foreman may lack qualifications for guiding or performing specialist tasks in some area, or where building circumstances are exceptionally demanding, or where work within a particular field requires special know-how.

The requirements on site managers and foremen for specialist areas are indicated in the regulations and instructions of the Ministry of the Environment on supervision of construction work (Building Code of Finland, Part A1).

A site manager should have a construction-related university degree or a related degree stipulated by law, that is, the required examination and sufficient experience, appropriate to the type, difficulty and size of the project. The examination requirements have been adjusted to the training reforms undertaken by the building sector. The site manager should also have sufficient knowledge of provisions, regulations and instructions, in other words, the site manager must be sufficiently familiar with the pertinent official norms.

The appraisal of qualifications equally takes into account the practical experience of the person at least as much as his theoretical knowledge. A site foreman needs factual capacity to perform his work carefully. It is not always a question of theoretical qualifications versus practical experience, but the issue may be the resources available. An application to be accepted as site manager should always list all previous tasks which may be relevant to the work as site manager.

4.2.2 Registration

Finland has no compulsory system of registration for consultants or entrepreneurs.

The entrepreneurs have formed a registered association, *Rakentamisen Laatu RALA*, in order to promote quality. The association is based on voluntary membership and does not include all entrepreneurs engaged in construction work.

The consultants have their own interest organization, *Suunnittelu- ja Konsulttitoimistojen Liitto SKOL*, which is also a registered association based on voluntary membership. This means that not all consultants are members.

4.3 Requirements on insurance and guarantees

When a dwelling which is being built is sold, the *Housing Transactions Act* (843/1994) requires the developer to have an *insurance against building defects*, which will remain in force for ten years after the building is finished. To provide security, the entrepreneur may generally take insurance to cover his inability to pay, which will cover 25 percent of the sale price, and be adjusted according to the building cost index.

The Housing Transactions Act also has rules on security for fulfilling building agreements and agreements on purchase of housing. The *security for the construction stage* must cover at least 5 percent of the price of building, when the housing shares are first offered for sale. The security for the construction stage must, at each moment, correspond to at least 10 percent of the total amount of the purchase price of the shares sold.

When the security for the construction stage expires, it is to be replaced by a *security for the time after the construction stage*, and this corresponds to at least 2 percent of the total purchase prices for the shares sold. This security is in force until released, but always at least for 15 months after the building supervision authorities have approved the building for use.

In addition, there are *general contract rules for building projects*. These stipulate at least two years' guarantee for nearly all building activities, and a ten-year guarantee for

the main parts of a building project. The general contract rules apply to all building, including the building of rental dwellings and right-of-occupancy dwellings.

The main actors in the building sector have jointly approved *general agreements on requirements on consultancy work* (KSE 1995). It is recommended that these be followed. The particular recommendations with regard to the consultant's responsibility include the following:

1. The upper limit for the consultant's liability will be determined in the contract. If the contract does not include such a regulation, his liability can maximally be as large as his fee. The contract will also include an agreement on how other liabilities affect the compensation payable to the consultant, and how the consultant's responsibility will be covered by insurance.
2. The parties recommend that the consultant should have liability insurance. The bid for tender, the agreement with the consultant and his mandate should specify that the amount of the liability insurance should be at least as high as the fee agreed.
3. The general contract rules for building projects define the developer's duty to take out insurance on the building project.
4. The entrepreneur responsible for managing the work on site is liable to see that all the building products and other material used in the building project are insured at their retail value.
5. The insurance will cover damage caused by unforeseen events, for instance by fire or by mischief, including the costs of demolition and clean-up. Unless otherwise specified in the documentation, the self-risk under the insurance may not be more than 0.5 percent in excess of the price indicated by the entrepreneur.
6. An entrepreneur working on a building project should also have insurance to cover his personal responsibility for the work.

4.4 Financing and subsidies

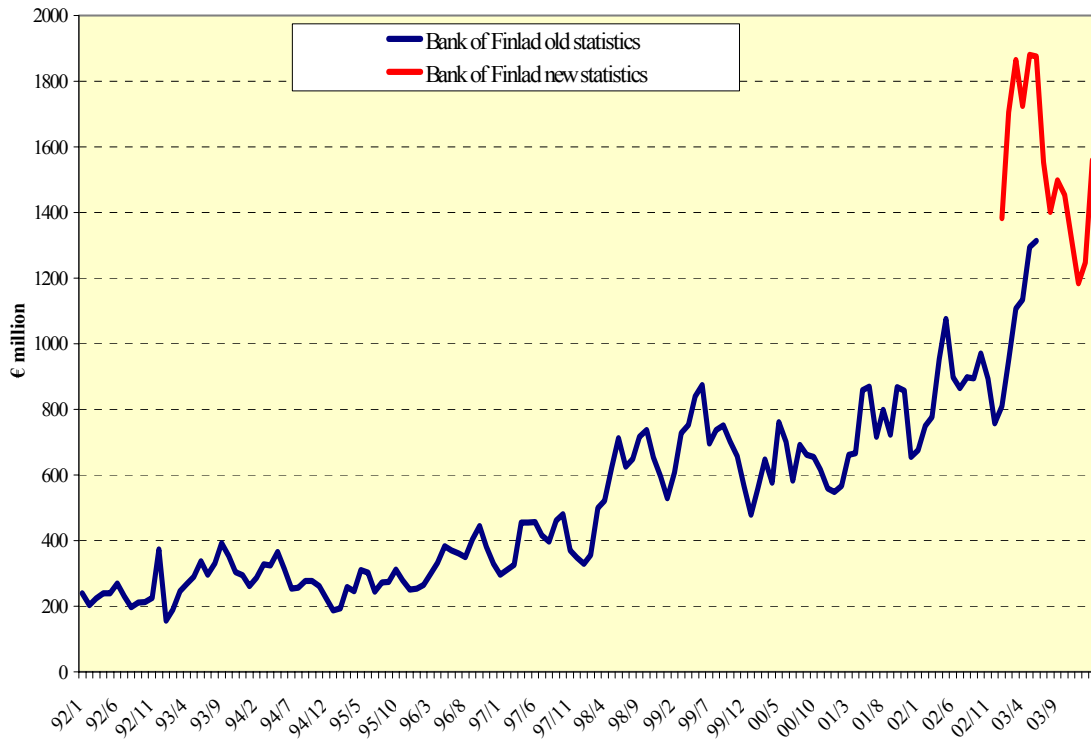
4.4.1 Finance

In 2003, the Finnish building market showed a slight decrease, which was due to the levelling of the economic growth. As regards other than residential building, the growth has stopped and, to some extent, there has even been a decrease. The only exception is the building of commercial and other business premises, erected by retail business in growing urban regions.

Nevertheless, the housing market remained active throughout the year. The factors contributing to the strong demand for housing were, one, the confidence felt by private households that their prospects were favourable, and two, the exceptionally low interest rate, which encouraged households to increase their purchases of consumption goods and private dwellings. People buying their first home and those moving from one dwelling to another were active on the market. The influence of the interest rate as a factor influencing housing demand in the short run is seen in the volume of housing loans granted in 2003 (Figures 4.2 and 4.3).

All in all, the building of approximately 31 400 new dwellings started in 2003. About 25 500 of these were financed by the owners with own capital and loans from banks and other financing institutions on market conditions.

Figure 4.2 New housing loans to households 1992/Q1 – 2004/Q2 (Years 2003 – 2004 preliminary values. New statistics includes non-profit institutions serving households)

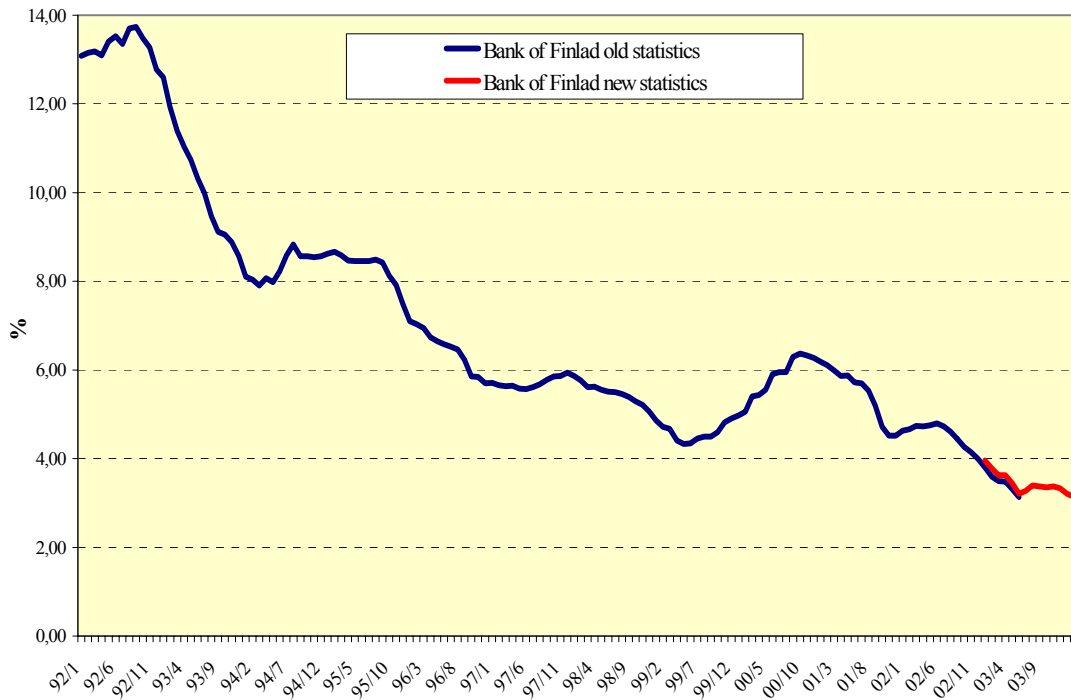


The expectations for an increase in the income of households, and for a slow increase in interest rates lead to the supposition that housing demand will remain at the present level throughout 2004.

The new situation on the finance market has prolonged loan duration, and loan management arrangements have become more flexible. The main security for a housing loan is the dwelling bought with the loan. The security value of the dwelling accepted by mortgage institutions may amount to 60% of the market price, and for deposit banks to about 70%. This means that reasonable price variations do not generally lead to a security deficit, which would increase the risk for over-indebtedness.

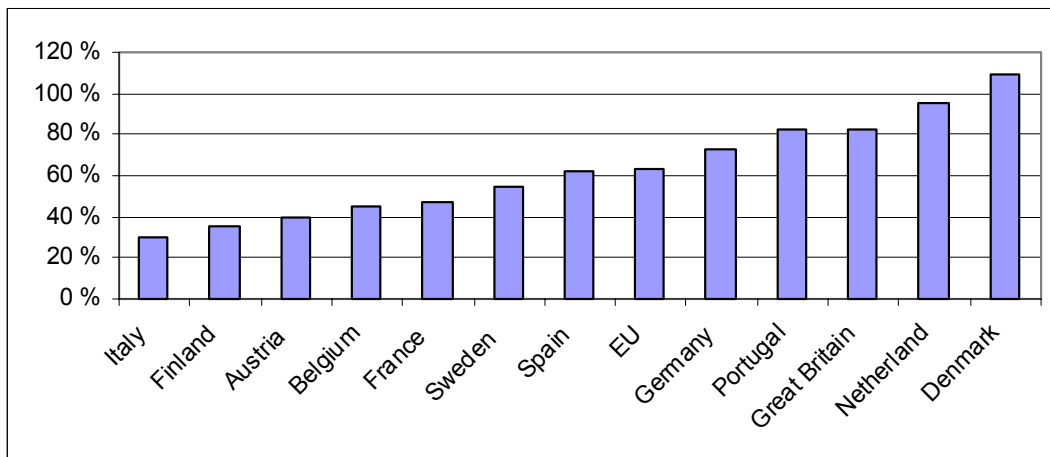
Many households have taken special insurance to protect themselves against insolvency. In spite of the voluminous lending, the prevailing finance market conditions have resulted in credit risks being mainly limited to debtors whose loans are exceptionally large.

Figure 4.3 Mean interest level in new housing loans 1992/Q1 - 2004/Q2 (See previous figure)



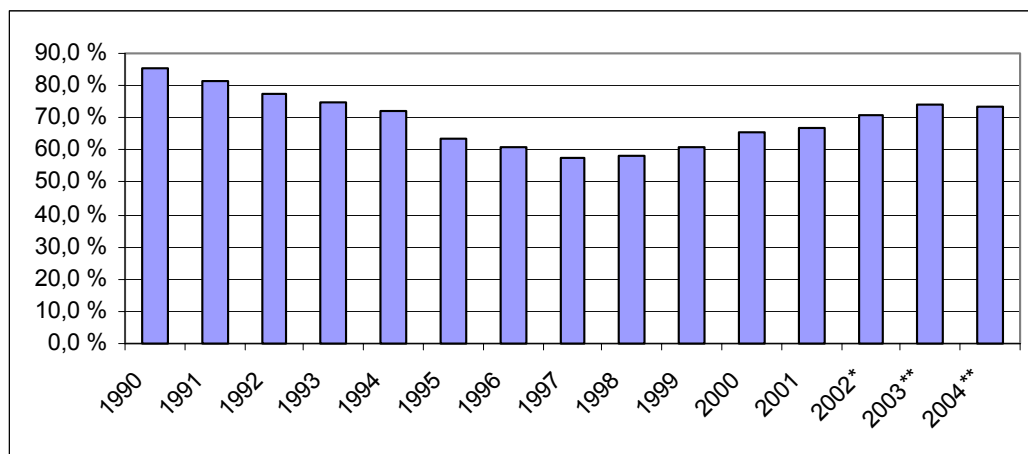
In comparison with other countries in the European Union, indebtedness in the household sector in Finland is still low in spite of increasing consumption and home acquisition, corresponding to about 40% of the total production, while the average the EU 15 lies above 60%. Although indebtedness in Finland will increase, partly on account of new housing loans, overall household indebtedness will remain among the lowest in the European Union during the next few years (Figure 4.4).

Figure 4.4 Households' debts in the EU



In relation to the income available, too, the rise in indebtedness has been relatively small (Figure 4.5).

Figure 4.5 Households' debts, percentage of disposable incomes



The main financiers in home acquisition remained credit institutions such as deposit banks, *Mortgage Society of Finland*, the *Municipality Finance Plc*, the *State Housing Fund of Finland*, and, in some cases, insurance companies. The activities of credit institutions in Finland are supervised by the *Financial Supervision Authority*.

The importance of the state as a housing financier has diminished. Nowadays, state housing loans are granted for building and repairing social rental dwellings and right-of-occupancy dwellings. The State Housing Fund decides on lending, supervises and guides building and plot costs, competitive biddings and the regional distribution, taking into account the situation on the housing market and the need for housing production.

4.4.2 Subsidies

The Government's program

The housing policy priorities and activities presented in the Government's program are of focal importance with regard to state subsidies. The Government has adopted a housing policy program for the years 2004 – 2006. The Government aims at balancing the housing market all over the country, and at improving the predictability of the housing policy.

The measures taken fall into three categories:

1. Promotion of housing production in growth areas,
2. Promotion of the maintenance of the existing housing stock, and
3. Alleviation of problems caused by diminishing housing demand.

The main priority is improving the functioning of the housing market in growth areas. By promoting housing production the government will make it easier for households to find either owner-occupied or rental housing on the market. The measures are especially aimed at making it easier for low- and average-income households to find a home. The

government also intends to promote social housing production by facilitating the work of non-profit housing organizations.

The ageing of the population, and of the housing stock, increases the need for repair and maintenance. Owners are encouraged to maintain their houses properly. The housing policy program also aims at promoting full utilization of available housing, alleviating economic problems, and decreasing the credit losses caused by state housing loans.

Housing support

The government's housing policy priorities also come out mainly in the revision of the preconditions for present housing subsidies. The State Housing Fund, working under the auspices of the Ministry of the Environment, is responsible for granting most of the subsidies, for issuing guidelines and for supervising in general.

The following is a brief presentation of the main forms of support regarding mainly to housing construction and repair activities.

State housing loans for the construction of rental and right-of-occupancy dwellings

Loans can be granted to local authorities and other public bodies, bodies fulfilling the requirements on non-profit housing companies and indicated by the State Housing Fund and limited companies owned by one of the above.

The maximum loan amount for rental housing is 90% of the approved building and plot costs, for plots owned by the builder, and 95% of the approved building costs on rented premises. For right-of-occupancy housing maximum loan amount is 85%.

The loan duration is approximately 40 years. The loan has to be paid off annually according to a set amortization schedule.

Alternatively, the borrower may choose to pay back in annual payments, amounting to 3.7% of the original amount of the loan for the first year after construction is completed. The amount for right-of-occupancy housing is 3.9%. The annual payment is increased every year by an amount corresponding to the change in the consumer price index. The annual payment includes both the interest payable and the amortization.

The state subsidy consists of the difference between the minimum interest payable (3.4%) and the interest on the government's 10-year obligations. Initially, the subsidized part amounts to 95% of the difference and it diminishes gradually during the 24-year period to zero. In the case of right-of-occupancy housing the subsidy span is two years shorter. The debtor also has to pay, at a maximum, an interest of 6%.

The loan is granted by the State Housing Fund or the local authorities.

Rental dwellings have to be used for rental purposes for 40 years. During this time, rents do not correspond to market rents but are calculated on the basis of actual costs for maintenance and loan expenditure. Residents are selected based on their need for housing and on social considerations. In particular circumstances, local authorities may allow a few dwellings to be used for other than residential purposes.

A building may only be handed over to the local authorities or a body named by them at a given price. The State Housing Fund may grant exceptions from the restrictions on use and transfer. In a rental building which is organized as a housing company, a tenant may later purchase his dwelling.

For right-of-occupancy dwellings, there are permanent restrictions on use and transfer laid down in law. Selection of occupants is subject to consideration of their financial circumstances, but there is no upper income limit.

The local authorities accept applications for loans. Building may only be started when the authority granting the loan has approved the building plans and costs.

Interest subsidy loans for building rental dwellings and right-of-occupancy dwellings

An interest subsidy loan may be granted to local authorities and other public bodies, non-profit housing companies nominated by the State Housing Fund and companies where one of the above has direct decision-making authority.

The loan amount is maximally 90% of the approved building and plot costs on land owned by the builder, and 95% of these on rented land. For right-of-occupancy housing maximum loan amount is 85%.

The loan duration is 40 years. The loan is paid back according to a set amortization schedule. Alternatively, re-payment can take the form of annual payments, which amounts to 3.7% of the original amount of the loan during the first year (for right-of-occupancy dwellings, 4.1%). The capital costs increase annually by an amount corresponding to the change in the consumer price index (right-of-occupancy dwellings, +0.6 percentage points added to this). The capital costs include both the interest payable and the amortization.

Interest subsidy loans are subject to competitive bidding (interest and other terms). The subsidy consists of the difference between the minimum interest (3.4%) and the market interest rate selected. Initially, the subsidized part amounts to 95% of the difference and it diminishes gradually during the 24-year period to zero. In the case of right-of-occupancy housing the subsidy span is five years shorter.

Additionally, there is a supplementary state guarantee on an interest subsidy loan, intended to cover the difference between the security value of the dwelling and the loan granted for it. No compensation is payable for the guarantee.

The loan is awarded by a financing institution (banks and the like), an insurance company, a pensions organization, or the local authorities. The interest subsidy is granted by the State Housing Fund, exclusively to projects recommended by the local authorities. The interest subsidy is paid by the State treasury directly to the body providing the loan.

The dwellings have to be used for 40 years as rental dwellings for residents selected according to social considerations. During this period the rents are based on the factual management and capital costs, in the same way as for other dwellings for which state housing loans are granted. A building may only be handed over to the local authorities or a body nominated by them against a separately determined price.

For right-of-occupancy dwellings, there is a permanent prohibition on other than residential use and on transfer. Residents are selected subject to consideration of their financial circumstances, but there is no upper income limit.

A prerequisite for approval of a loan as an interest subsidy loan is that the State Housing Fund has approved the building plans and costs before construction is started.

Interest subsidy loans for repairs on rental dwellings

This support is aimed at basic repairs on rental dwellings which are based on social considerations, if over 15 years have lapsed since the building was constructed or underwent basic repairs. The loan and support may be granted to local authorities or other public bodies, non-profit housing organizations nominated by the State Housing Fund and companies where one of the above has direct decision-making authority.

The maximum loan amount is 80% of the repair costs, and in special cases 95%. There is a limit on the amount in euros per square meter. The loan conditions have to be subjected to competitive bidding. The loan period is 30 years.

The loan must be paid back during each five-year period according to the principles guiding loans for the construction of rental dwellings. Alternatively, annual payments may be chosen, and the first year repayment amounts to 3.9% of the original loan amount. The annual increase of the capital costs corresponds to the change in the consumer price index +1.5 percentage points added to this. The capital costs include both the interest and the amortization.

The interest subsidy is determined according to the principles guiding loans for the construction of rental dwellings, but the support is less. Additionally, there is a supplementary state guarantee on an interest subsidy loan, similar to interest subsidy loans for the construction of rental dwellings.

When interest subsidy loans are granted for repair of dwellings, they have to be used for 40 years as rental dwellings for residents chosen according to social considerations. The rents are determined under the same principles as applicable when a new dwelling is subsidized.

The building may only be transferred at a fixed price to the local authorities or a body nominated by them.

Interest subsidy loans for acquisition of part ownership dwellings

The support is intended for construction of rental dwellings where the resident can obtain ownership by buying ownership shares.

The interest subsidy loan may be granted to local authorities or other public bodies, non-profit housing organizations nominated by the State Housing Fund and companies where one of the above has direct decision-making authority.

The maximum loan amount is 85% of the approved construction and plot costs. The resident's share initially amounts to 15%.

Loan conditions are subject to competitive bidding from financing institutions. The loan duration is 40 years. The loan has to be paid back according to the similar principles as those applied to construction of rental dwellings. Alternatively, annual payments, starting with 4.2% for the first year of the original loan amount may be chosen. The capital costs increase annually by an amount corresponding to the change in the consumer price index. The capital costs include both the interest and the amortization.

The loan subsidy is part of the difference between the minimum interest (3.4%) and the market interest chosen. At the beginning, the subsidized part covers 90% of the difference, decreasing over the 16-year loan period to zero. There is also a free supplementary state guarantee on the interest subsidy loan.

A precondition for the interest subsidy is that the local authorities are in favour of the project. The dwellings have to be used as partial ownership dwellings for residents chosen on social considerations. The rents are determined as explained above.

The residents have the right to acquire additional shares, or to buy all the shares, at the earliest within 5 years and at the latest within 12 years. The acquisition price is based on the original amount of the loan. After a dwelling has been bought it is no longer subject to restrictions as to use and transfer.

A precondition for the approval of a loan as an interest subsidy loan is that the State Housing Fund has approved the building plans and costs before construction begins.

Interest subsidy loan for repair of buildings owned by housing companies

The loans and supports are intended for housing companies referred to in the Housing Companies Act.

The maximum loan amount is 40% of the project costs. Loan conditions have to be reasonable as compared with the conditions for loans usually granted for similar purposes. The interest must not be higher than that for loans usually granted for similar purposes. The loan is granted by a financial institution, an insurance company, a pensions institution, or the local authorities.

There is no maximum or minimum duration set for the loans. The parties can freely agree on repayment except that after the eighth year, only 90% of the capital may remain, and after the fifteenth year, only 70%. Bullet loans cannot be accepted as interest subsidy loans.

The subsidy is paid as an interest subsidy for a maximum of 15 years. The interest subsidy amounts to 28% of the annually payable interest and is calculated on the remaining loan capital. The interest subsidy is granted by the State Housing Fund, and it is paid by the State treasury directly to whoever has granted the loan.

There are no restrictions as to the use and transfer of dwellings. The State Housing Fund has to approve the loan before construction begins.

Tax deduction for interest on loans for ownership dwellings in income taxation

Private persons can deduct part of the interest on their loans for acquisition of a permanent dwelling. The interest on loans taken to repair a permanent dwelling are also tax deductible. No subsidies are granted for minor repairs only.

The resident can acquire only partial ownership of his dwelling, or the right of occupancy of a dwelling. Interests on loans taken for these purposes are also deductible. The right to deduct interest only refers to personal loans.

The interests are primarily deducted from capital income, and the tax rate is then 29% of the interests paid. If there is no capital income, or if the amount is insufficient for the deduction, it may be deducted on the salary and pensions income. The deduction (tax subsidy) then amounts to 29% of the part of the interest which has not been deducted from the capital income. For first-home buyers the deduction is 30% during the first ten years.

When the deduction is made on salary or pensions income, there are annual maximum subsidy amounts depending on the size of the household living in the dwelling. For one

person, the deduction ceiling is €1400 ; for a couple, €2800. For families with one child the amount is raised by €350 and for two or more children by €700.

State guarantee for loans for ownership dwellings

Any private person acquiring a dwelling or building a home can obtain a state guarantee for his loan. This guarantee is intended to cover situations where the debtor's securities (the market price of the dwelling) is not sufficient as a guarantee for his bank loan. In general, the security value of a dwelling corresponds to 60–70% of its market value.

A loan for which a state guarantee is sought may amount to at most 85% of the acquisition price, or the estimated building costs. The amount of own financing has to be 15%. The amount of the state guarantee is a maximum of 20% of the loan and at most €25 250.

The primary loan security is the dwelling (or the shares entitling to the dwelling or property), the secondary security is the state guarantee. The security value of the dwelling is generally estimated at 70% of the acquisition price.

Banks will provide state guarantees in connection with their decisions on housing loans. The state guarantee need not be sought separately. The State treasury and the State Housing Fund supervise the guarantees granted by the banks.

For the state guarantee, the debtor will pay a fee which is at present 2.5% of the amount of the guarantee. If the debtor becomes insolvent, and the sales price for the dwelling for which the loan is granted does not cover the full loan amount, the state will pay the lender his legal guaranteed compensation.

This guarantee system has become very popular in Finland, because, with it, personal guarantees and other guarantee arrangements are no longer needed.

Investment support for investments in infrastructure in new residential areas

In order to promote housing production in growth areas, the Finnish government will, in 2005, expand the use of support for investments in infrastructure in new residential areas (streets, parks, water and sewage piping) from the Helsinki metropolitan area to other growth areas.

The local authorities will receive altogether €10 million annually to support the building of new residential areas and to speed up construction. Taking the share of the local authorities into account, this refers to investments totalling €125 million.

The State Housing Fund decides on these supports.

Investment subsidies for housing repairs

Subsidies are available for a number of purposes, such as:

- repair of the dwellings of old and handicapped people,
- installation of lifts into old residential multi-story buildings and repairs facilitating access and movement indoors,
- repairs to abolish sanitary or health inconveniences,
- promotion of repairs planning,
- improvement of the energy efficiency in residential housing.

The amount of the subsidy varies according to the steps taken and the amount of work to be done. Appropriations for investment repairs are decided annually in the state budget. In 2004, €70 million are available for the purpose.

Promotion of repairs planning

The subsidy is granted for costs for assessing the state of a residential building, for writing service and maintenance guides, and for planning basic repairs. The subsidy amounts to 30-50% of the planning costs. The subsidy may be granted to the owner of a residential building used for permanent housing.

Repair of the dwellings of old and handicapped people

The subsidy is granted on social grounds for basic repair of residential buildings or dwellings for old or handicapped people. The maximum subsidy is 40% of the approved repair costs and in exceptional cases, up to 70%. If the household includes a war veteran, an additional 30% may be approved. The subsidy may be granted to the owner of a residential building used for permanent housing.

Installation of lifts into old residential multi-story buildings and repairs facilitating access and movement indoors

The subsidy is granted for installation of one or several lifts, and for other steps which make it possible for a handicapped person to access or move around in his dwelling or in the building. The maximum subsidy amount is 50% of the costs. The subsidy may be granted to the owner of a residential building used for permanent housing.

Repairs to abolish sanitary or health inconveniences

The subsidy is granted on social grounds for basic repairs to alleviate health problems. The maximum subsidy is 40% of the approved repair costs.

Subsidy towards more effective waste water treatment

The subsidy is granted on social grounds to properties lacking a connection to public sewers. It has been estimated that present regulations will require more efficient waste water treatment on approximately 200 000 properties with permanent housing. The annual need for assistance may be estimated at 2 000 dwellings. This is a new subsidy introduced in 2004.

Improvement of the energy efficiency in residential housing

Investment subsidies are granted for inventorying energy use, repairing outer walls and roofs, improving ventilation arrangements and improving heating systems and utilizing renewable energy sources.

References

Land Use and Building Act, 132/1999

Land Use and Building Decree, 895/1999

Act on Approval of Building Products, 230/2003

The Ministry of the Environment's Decree on Approval of Building Products,
1245/2003

The National Building Code of Finland

Building Information Files (RT)

Bank of Finland

Bank for International Settlements (BIS)

The Finnish Association of Building Owners and Construction Clients (RAKLI)

The Finnish Bankers' Association

Ministry of the Environment. Subsidies information cards (in Finnish and Swedish)

Housing Fund of Finland

The National Board of Taxes

5 Latvia

5.1 The Building Process

5.1.1 Legal basis

The legal basis for the construction process in the Republic of Latvia is the *Building Law* accepted in 1995, as well as the Civil Law. The Building Law determines duties, responsibilities and rights of state and municipal institutions in respective branch of construction, legal principles of supervision of the construction process, as well as the mutual relations between participants of the construction process, their rights and obligations for accordance of the construction work with terms of reference concerning planning and architecture, planned utilization period and compliance with regulatory acts, as well as liability for the conformity of the structure which has emerged as a result of construction with the task thereof, economic viability, the intended lifetime and the relevant regulatory enactments.

The *General Construction Provisions* issued as Regulation of the Cabinet of Ministers No.112 from 1997 regulates the administrative procedure of the construction process in more details. The main procedures of the construction process are shown on the flowchart in Figure 5.1.

According to Article 4 of the Building Law the Ministry of Economics is responsible for general supervision and coordination of the construction process in the country. The management of the construction process is a competence of the local municipalities.

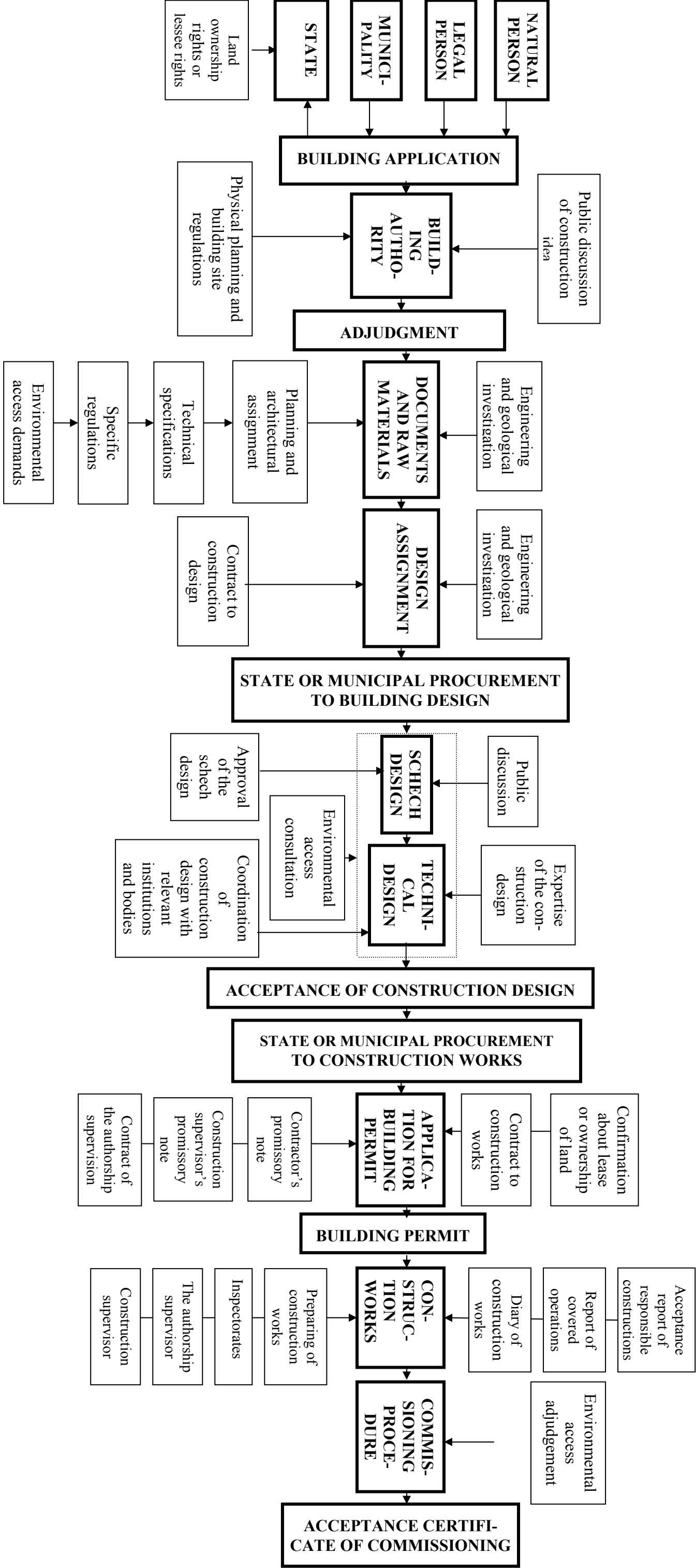
According to Article 7 of the Building Law the local municipalities shall set up building authorities to supervise and control the construction process on their governed territories.

The following is within the competence of local governments:

- to develop and approve the spatial plan, detailed plans of the administrative territory thereof and building regulations contained therein that are mandatory for all persons participating in construction and refer to all types of structures within the administrative territory of the territorial local government, as well as control and ensure performance thereof,
- to examine building designs and take decisions regarding them,
- to issue and register construction permits (including construction permits issued by other institutions) and
- to control how persons participating in construction comply with the requirements of this Law and other regulatory enactments regulating construction.

The local municipalities have some other duties partly concerned with the construction process following from other laws and regulations of the Cabinet.

Figure 5.1 The Construction Process



5.1.2 Construction application

The owner, lessee, user of the real estate, or an authorized person thereof as stipulated by the Building Law may propose the construction idea. Rights, obligations and responsibility of client determined by *General Construction Provisions* (GCP hereafter) are referable to this person as well.

The person proposing construction shall submit an application card for registration of the construction to the Building Authority of the respective administrative territory.

Construction preliminary plan is presented with the construction application. The Construction Board registers and examines the application card for registering of the construction proposal and within 14 days from the registration date it shall present a written opinion on the compliance of the construction work registered in the said card with the master plan, building provisions and the detailed plan, or it shall present a motivated refusal, except the cases, where public discussion of the said construction work in accordance with the Article 12 of the Construction Law is required. Public discussion of the said construction work may be hold either before the planning and architectural assignment is issued or before the draft project is coordinated. The construction application card form is shown as Annex 1 of the GCP.

Where a refusal from the Building Authority is received, the person having proposed the construction work shall be entitled to request the local government to review the decision made by the Construction Board. Where the Building Authority accepts the construction idea, then it shall issue the *Planning and Architectural Assignment* (PAA hereafter). The form of PAA is shown as Annex 2 of the GCP.

Signed positive opinion approved by the Building Authority and an issued PAA is the basis of the design process, whereas the said opinion presents no rights to start the construction work.

5.1.3 Construction design process

To commence designing the following documents and materials are required:

- the topography plan of the land plot to scale M 1:500 – M 1:1000,
- the site plan to scale M 1:2000 – M 1:10000,
- the inventory materials of the building if the construction plan is based on an existing building,
- terms of reference concerning planning and architecture and
- other materials and information required for designing.

Design order is an integral part of the contract of construction design. The client and the building designer have to sign the construction plan.

The main functions and parameters of the structure to be designed, the designing requirements of the territorial planning and service lines, as well as the number of stages of designing the construction plan, shall be specified in the design plan. Where appropriate, specific regulations (e.g., structures, materials and technologies) will be desired the regulations shall be specified.

The construction plan shall be developed for newly erected structures (structures built anew in accordance with the construction plan) and for renovation, reconstruction and restoration of existing buildings, as well as for service lines, roads and bridges, territorial organization of public services and amenities (roads and squares, paths, pavements, small architectural forms and sculptures, lighting facilities, the elements for visual information and public services in compliance with the construction plan), greening, re-cultivation, reclamation, as well as any other construction work on the building sites and territories of cultural, historic and architectural heritage.

In conclusion of the preliminary designing the client shall announce and hold a designing tender in compliance with the provisions of the Cabinet of Ministers on the procedure of organizing draft contests of construction plans and territorial planning projects and normative acts on state and municipal orders, where the funding of construction work fully or partly is covered by the state or self - government budget.

After the construction application - accounting card consideration, the Construction Board can determine and point at adjudgement of the PAA account of stages where construction projects have to be worked out. In case of an ordinary, technically simple building the construction plan may be developed in one phase – a technical project.

The designing process should be developed in two phases – the sketch design and the technical design – where the building to be erected is of public significance or technically sophisticated, as well as where it is erected in a specific building zone or in a zone of a historic significance and it may disturb the harmony of the historic landscape.

The sketch design shall comprise:

- the site (location) of the building,
- the organization of the plot of land,
- the floor plans of the building,
- the specific cross-sections of the building,
- the facades of the building and
- the explanatory notes.

The sketch design is to be coordinated with the Building Authority and it shall be the basis for the development of the technical design.

A technical design includes the following parts providing the respective information:

1. General information (documents and materials required for commencement of designing, engineering and geological research materials of the plot of land, explanatory notes and cost estimation or summary of the company business plan and the technical specifications of the building),
2. Architecture (i.e. territory architecture, equipment layout for public designs),
3. Engineering (i.e. building structures, water supply and sewerage, heating, ventilation and air-conditioning, power supply, heat supply, gas supply, telecommunications, alarm systems, automatic control systems of equipment, environment protection measures and other engineering solutions),

4. Technology (for design of production of buildings and structures, i.e. technological charts for the production process, layouts, schemes and descriptions of equipment, technical specifications or description of the production process) and
5. Economic evaluation of the project (for construction projects funded by the state or a local government, i.e. equipment, structures and materials, scope of the construction work, organization of the construction work, cost estimation).

The content of the technical design is specified by the designing assignment and the designing contract agreed mutually between the client and the designer taking into account the resolution of the Building Authority in the planning and architecture assignment issued.

Building designing may be managed only by a qualified building designer. In the moment the qualifying confirmation for a designer is a building practise certificate. Starting with 1st of May 2004 for citizens of other EU countries it will be a university diploma for architects or civil engineers.

The technical design shall be accepted by the Building Authority, where the construction work are provided, except for those buildings, for which the Cabinet of Ministers has stipulated special building regulations.

The original of the construction design submitted to the Building Authority for acceptance shall be completed in 3 copies (with the signatures of the responsible manager and the client agreements and seal on the sheet of the general plan drawing) and, if it is necessary, a resolution of the expertise of the construction design. One copy of the accepted construction design is maintained at the Building Authority.

For evaluation of the quality of the construction design or in controversial cases the client, the Construction Board or another competent institution is entitled to require the expertise of the construction design. A certified expert or a legal person can complete the expertise provided if the said person holds a licence for providing expertise of construction designs.

Where construction has not been started yet, the validity period for the accepted construction design will be at least two years.

5.1.4 Construction works

The client has to receive a building permit issued by the Building Authority before the construction work will start.

To receive the building permit, the client shall present the following documents to the Building Authority:

- building permit request,
- accepted construction design,
- obligations by the certified construction manager and the certified construction supervisor, where appropriate (the obligations shall be completed in 2 copies, one of them shall be kept with the person having submitted it),
- a copy of the agreement on authorship supervision and authorship supervision register, where authorship supervision is provided for,
- construction diary (log-book).

The term of validity for the building permit should not be less than one year. Where the client, the constructor or contractors are replaced, the building licence shall be reregistered at the Construction Board. The Construction Board may rule about changes in the term of validity for the building licence.

Where construction works are done by state or local municipality funds, tender have to be arranged for the construction works. Before the construction work will start, the client or an authorized person should:

- hand out to the general contractor a copy of the building permit,
- hand out to any sub-contractor a copy of the building licence, if the general contractor have a contract with them,
- appoint one or more labour protection coordinator(s) complied with the legal acts on labour protection.

A certified construction manager appointed by the general contractor or the client should manage the construction work.

Construction works shall be organized and performed in accordance with the construction organization plan which is a part of the technical project, as well as according to the individual construction workmanship plan.

A certified physical person or a licensed legal person shall develop the individual construction workmanship plan. Depending upon the construction scope and the duration of the said work as planned, the workmanship plan shall be developed for the building as a whole, or an individual part thereof or for a construction cycle (e.g. for the basement cycle, the surface cycle, the construction preparatory cycle, and for the section, span and floor of a building).

The individual construction workmanship plan is not mandatory for realization of the construction design, if the building comply at least with one of these conditions:

- not taller than two above-ground floors,
- the building area is not exceeding 1000 m^2 or
- the building volume is not exceeding 10000 m^3 .

If two or more contractors perform the constructions works at the construction site simultaneously, the construction manager of the general contractor is responsible for labour protection, whereas the managers of the contractors take the responsibility for particular types of work on the building site. The construction manager has to follow the conditions given by the coordinator responsible for labour protection.

The construction contractor shall be held responsible for the quality of the construction work. The construction quality must not be inferior than stated in the building codes, the building provisions and other normative acts stipulating the indices of construction quality.

Any construction company shall develop its own construction quality control system in accordance with its profile, type and scope of work to be performed. The construction quality control shall comprise:

- initial control of documentation of the construction, of construction materials, articles and structures supplied, devices, mechanisms and similar equipment,

- control of individual work operations or technological control of the working process and
- final control of the completed type of work or construction cycle (construction element).

Acceptance certificates approve the finished elements of major constructions and non-accessible work.

The client has the right to involve the author of the design to provide authorship supervision and the author of the construction design is not allowed to reject this invitation. Where construction works are financed by state or local government funds, the authorship supervision is obligatory. Authorship supervision should be performed on demand the Building Authority as well.

The Building Authority shall claim the authorship supervision:

- for all buildings erected in the central part and parts of historic significance pursuant to a city master plan,
- for public buildings and structures,
- for buildings to be renovated and reconstructed,
- for specialized buildings, where the respective ministry claims it according to Construction Law (Article 6),
- for residential buildings (except private houses) and
- for industrial buildings where authorship supervision is claimed by the regional environment board, or where the Construction Board deems it necessary.

Authorship supervision work is carried out according to Latvian Building code LBN-304-03.

The reason for authorship supervision is to provide the author's rights while implementing authentic construction design in reality, excluding the lawless deviates from the accepted construction design or normative acts and binding standards in order of the day.

After completion of the construction the building have to be commissioned. Before commissioning the client approves the technical readiness of the building and conformity to the accepted construction design and building codes in self-terms of reference by a written report. In 10 days term from the day when demand of adjudgement is received the client should get adjudgement about readiness of the building from the following bodies (if technical specifications are issued by them or if design is coordinated by them):

- State fire-fighting and rescuing service of Home Office,
- Environment and health care centre,
- Regional board of the environment, if the construction design has been determined ecological assignment according to legal acts,
- State Inspectorate of the protection of historic and cultural heritage, if renovation or reconstruction of a historical monument was carried out or if the building is situated within the protection zone of historic monuments,

- State Labour Inspection, where the construction or the processes in such a building are on its supervisory and
- Other institutions, from which the Building Authority has requested coordination of the construction design.

While initiating the commissioning of the building, the client shall submit the following documents to the Building Authority:

- the control report of the construction works or written confirmation from the client regarding readiness of the building for the commissioning, the guarantee period of the construction works and general information regarding building costs,
- a full set of the accepted construction design,
- the building permit,
- execution schemes of external utility service communication's and adjudgement of its readiness,
- the inventory plan of the building (certificate of registration) issued by the department of State Land service (Real estate estimation agency), which is terminable 6 months from the day when issued,
- the construction diary (log-book) and the register of special works (for example, welding, corrosion protection),
- the control reports on planned technological equipment pointed out in the construction design and the conformity certificates of specialised systems and equipment and
- the authorship supervision register, if such was performed.

Commissioning of the building is performed by the commission appointed by the local municipality on advice by the Building Authority. According to a decision by the local government this commission may act all alone or be created for a specific case not later than in 5 working days from the day when all documents received from the client are recorded at the Building Authority.

The building is commissioned, if all these documents are confirmed and signed.

5.2 Competency requirements and registration

If a natural person has received a relevant builder's or an architect's practice certificate, he or she shall have the right to independent practice in the following fields of construction:

- engineering research,
- design,
- construction expert-examination,
- construction works management and
- construction supervision.

Builder's practice or architect's practice certificates shall be granted, registered and cancelled in accordance with the procedures specified by the Cabinet.

Builder's practice or architect's practice certificates shall be granted for a period not exceeding five years.

If a person has received a relevant education and professional qualification in a foreign country and this education and professional qualification is approved in established procedure of the law on Approvals of the regulated professions and professional qualification, he or she shall have the same right to independent practice in construction as well as persons, who have received a relevant education and professional qualification in Latvia.

Legal persons have the right to carry out entrepreneurial activities in construction if they have received a licence in accordance with the procedures specified by the Cabinet.

Licences shall be issued for a period not exceeding five years.

Legal persons of other states have the right to carry out entrepreneurial activities in construction if they, in accordance with general procedures, have received a single licence for the performance of a specific work and if international agreements binding on Latvia do not specify otherwise.

The licence shall specify the field and types of permitted construction.

A legal person carrying out entrepreneurial activities in construction may be issued with a licence in those fields of construction in which the responsible building designers and construction work managers of this legal person have been granted a builder's practice or architect's practice certificate.

Just now there is a transition from licensing to the register. The register will be data based, where all certified specialists will be registered.

5.3 Requirements on insurance and guarantees

Each person participating in construction has a duty to enter into a civil liability insurance contract, which shall ensure compensation for losses that may come up to a third person as a result of action or failure to act (or consequences of such action or failure to act).

The civil liability insurance contract has to be in force all time, during construction work and the term of civil liability insurance contract may not be shorter than the guarantee time determined in GCP. The minimum guarantee period is 2 years. Normally parties agree on longer periods.

The limit of the civil liability insurance contract in the compulsory insurance of construction has to be sufficient, that in case it has to cover losses or intended harm that may come up to third person.

These demands will come into force on January 1, 2005.

5.4 Financing and subsidies

The most distributed (popular) practice for building projects is to get a credit or loan from a bank. Some banks give a credit for up to 30 years. An average interest rate at the moment is somewhere around 5-8% a year.

Housing projects are not yet under the subsidy and tax relief policy.

6 Lithuania

6.1 The Building Process

The normal building process in Lithuania for a housing project usually starts from getting the construction permission, which is possible to achieve only after the presence of the documents improving the ownership of the land.

A single construction permission is obligatory and is issued for all new structures, which are projected in a single structure's project and are located either at the structure's construction plot or beyond its limits (in accordance with the designing conditions for the projected engineering network and communications), including temporary structures, which are built for construction purposes, and all other types of construction, foreseen by the project (construction of new structures, reconstruction, capital repairs, pulling down and construction jobs, related to putting the immovable values of cultural heritage in order).

The permission for construction or reconstruction of the structure at the sea coastline and Kursiu Nerija is issued on the grounds of the Law of the Republic of Lithuania "Concerning the construction at the sea coastline and Kursiu Nerija of the Republic of Lithuania" and in accordance with the corresponding Governmental decision.

The construction permission is issued by:

- *the district head's (the county governor's) administration* - for a structure, which is located at a territory, managed by several municipalities and for a construction to be built by a builder, which is a municipality (its institution, an enterprise supervised by the municipality or other municipal administration objects),
- *the district head's administration* - for a structure at the sea coastline and Kursiu Nerija (except settlements located in Kursiu Nerija), taking into consideration proposals of the municipal executive institution and the Ministry of the Environment as well as the Government's decisions,
- *the Mayor of the Municipality*, by the administrator of the municipality, authorized by him, or by another officer from the municipal administration - for any other structure.

Before the start of land works at the plot, to which special land exploitation conditions are applied, and in the zones, which protect the engineering network and are located beside the plot, the Contractor (the Builder, if he carries out the construction by managerial method) should invite representatives of the enterprises, which exploit the engineering network (the utilities), to the place. The construction permission does not provide the right to start the land works. The land works are carried out in accordance with the *Regulations STR 1.07.02:1999 "The Land works"*.

The main areas of technical construction activities shall be as follows:

- construction investigation,
- design of the construction works and supervision of the implementation of the design documentation,

- expert examination of the design documentation of a construction works and of the construction works,
- construction operations and
- technical supervision of the construction .

In the case of construction of a new building (structure), reconstruction or capital repairs of existing buildings (structures), general and/or partly examinations of design and of construction works are obligatory.

Examination of construction works is carried out by a task, presented by a public administration, executing public supervision of the construction, to the client of examination. General or partly examination act is one of the documents, under which public administration subjects, exercising a public supervision have a right to suspend a construction under the procedures laid down in the Law on Construction.

The new building can be taken in use only in case of a successful examination of design and construction works, it's conformity to the six essential requirements and fulfilling the fitness to use this building according to the needs and tasks.

Reference to the main National legal act on construction is the *Law on Construction of the Republic of Lithuania, adopted on 8 November 2001 No. IX-583*.

6.1.1 The main actors involved in building process during different stages

Builder (Client) means a natural or legal person of Lithuania or a foreign state who invests funds into construction and performs at the same time functions of a builder, or transfers such functions to any other natural or legal person.

Investigator means an enterprise registered in the Republic of Lithuania which regulations provide for activities related to investigations (researches) of a certain field, or a natural person to whom this or other laws grant the right to carry out construction or other construction-related investigations.

Designer of a construction means an enterprise, a natural person or other entities, preparing the design documentation of the construction works, which are specified in paragraphs 1 and 2 of Article 14 of the Law on Construction.

Head of design of a construction means a natural person who, while representing the interests of the builder, organizes preparations and co-ordinates solutions and activities of heads of the parts of the design documentation, supervises and is responsible for the implementation in the design documentation of the requirements of laws, other legal acts, normative technical construction documents and normative documents related to the safety and purpose of the construction works as well as mandatory documents related to the preparation of the design documentation.

Architect of a construction means an author or designer of a construction as a work of architecture - a natural person, who independently creates the architecture, prepares the architectural part and the head of such part, works with a patent or in a design enterprise - a team of natural persons of a design enterprise, which is headed by the head of the architectural part of the design documentation of the construction works.

Designer of the design documentation of a construction means a natural person, who solely prepares the design documentation and is its manager, or a team of designers and specialists of a design enterprise, headed by a head of design, which consists of an ar-

chitect, heads and specialists of the parts of a design documentation of the construction works, subordinate to him.

Designer of a constituent part of the design documentation of a construction means a specialist, who solely prepares a constituent part of the design documentation and is its manager, or a team of specialists headed by the head of a part of the design documentation of the construction works.

Manager of design of a construction means an enterprise acting as an agent of the principal - the builder who manages design of the construction works, organizes works related to other main spheres of technical construction activities, which are done by natural or legal persons hired by him.

Contractor of construction (hereinafter referred to as the “contractor”) means an enterprise, natural person or other entities specified in paragraphs 1 and 2 of Article 15 of the Law of Construction.

Head of construction means a natural person, who, representing the contractor (when construction is carried out by contracting) or the builder (in the case of self-dependent construction) and implementing a design documentation from the beginning of construction to the acceptance of the construction works as fit for use, heads construction operations, at the same time being the head of general construction operations, co-ordinates the carrying-out of special construction operations and the activities of heads of such works, and, within his competence, is responsible for the standard quality of the built construction works.

Technical supervisor of construction means a natural person, who, representing the builder, heads technical supervision of construction, performs functions assigned to the head of general technical supervision of construction (general construction operations), co-ordinates special supervision of construction, activities of heads thereof, and, within his competence, is responsible for the standard quality of the built construction works.

Manager of construction means an enterprise acting as the agent of the principal - the builder (client), who manages construction, organizes construction operations and works related to other main fields of technical construction activities which are carried out by natural and legal persons hired by him.

Supplier means a natural or legal person - a producer of construction products and equipment, a distributor, an importer, an organization rendering services.

6.1.2 The process to get a building permit - Design conditions for construction works

Upon the receipt of the documents specified in the following, the Municipal Mayor shall within 3 days submit an application to prepare construction works design conditions laid down in paragraph 32 of Article 2 of the Law on Construction:

- to owners or users of engineering and utility networks and traffic routes,
- an institution of the environmental protection,
- an authorized institution responsible for the protection of immovable cultural heritage properties (design conditions are set to prepare a design documentation of construction operations pertaining to maintenance of immovable cultural heritage properties),

- an institution responsible for the protection of a protected territory (when design conditions are set to prepare a design documentation of a construction works which is being built in the protected territory),
- other institutions if this is established by laws.

Design conditions shall be drawn up within 10 days of the receipt of an application of the Municipal Mayor. The Municipal Mayor shall within the same time limit prepare design conditions which fall within the competence of a local authority.

The Municipal Mayor shall consider design conditions, harmonize them, propose their amendments (seeking to find a solution satisfying the interests of the builder, third parties, the public, local authority and the State) and approve them. Design conditions shall be included in the set of design conditions for a construction works. The Municipal Mayor shall, after consultation with owners (users) of engineering and utility networks and traffic routes and institutions as well as entities who prepared construction works design conditions, approve it and issue to the builder not later than 20 days after the receipt of his request (the time limit comprises 5 days designated to consult with owners (users) of engineering and utility networks and traffic routes as well as institutions) or within 15 days inform the builder about the reasons for refusing to issue a set of design conditions (Figure 6.1).

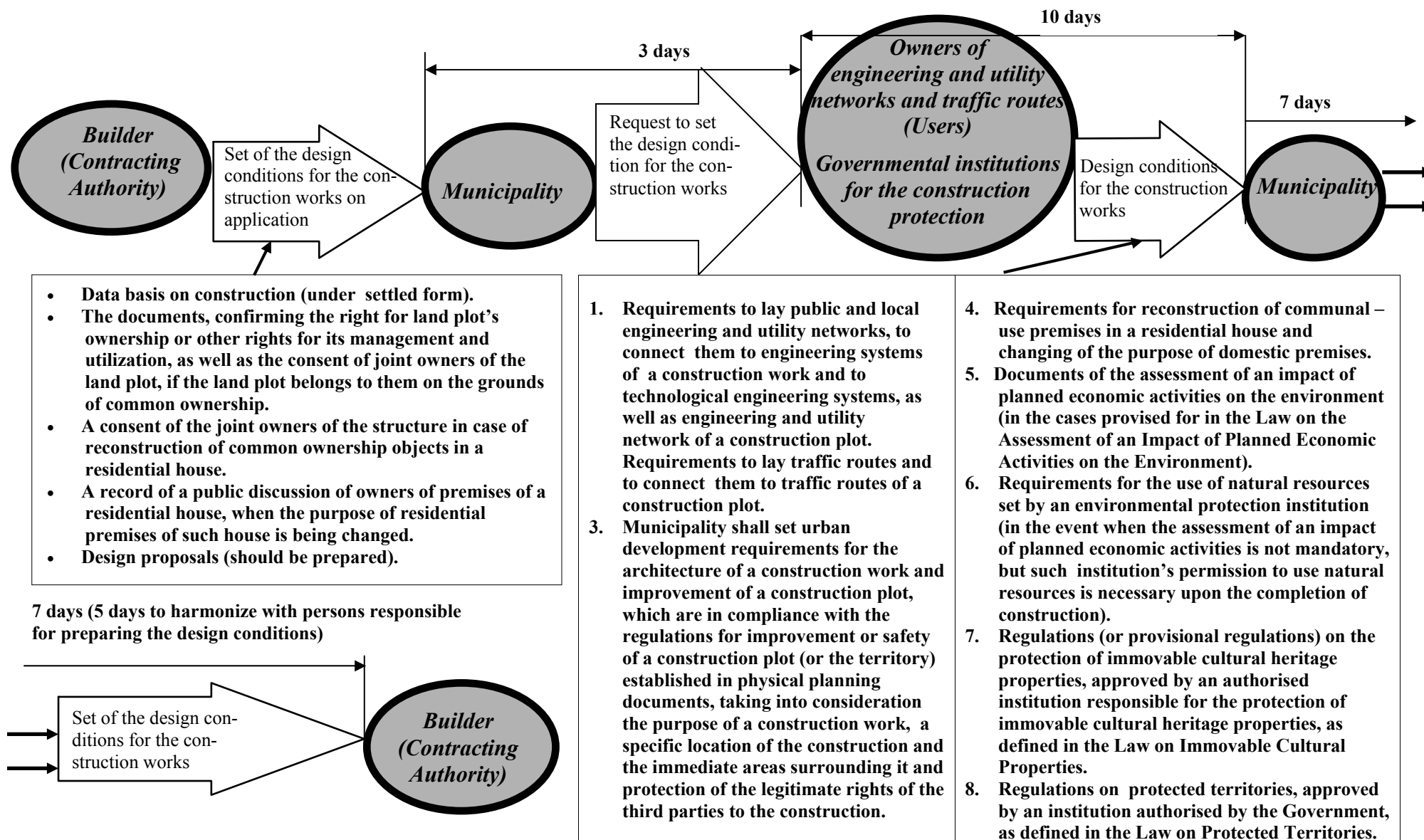
6.1.3 Permission system

A permit for construction of a new construction, reconstructing, repairing of a construction, and carrying out construction operations pertaining to maintenance of immovable cultural heritage properties shall be mandatory, except simple construction works on the list which is approved by an institution authorized by the Government and simple repairs. When carrying out simple repairs in a protected territory, a construction permit shall be required in the cases established by an institution authorized by the Government.

The cases when a construction permit for maintenance of immovable cultural heritage properties to prevent an accident and for repairs is mandatory, shall be established by an institution authorized by the Government together with an authorized institution responsible for the protection of immovable cultural heritage properties.

A permit to build or reconstruct nuclear facilities shall be issued in accordance with the procedure established by the Law on Nuclear Energy. A permit to build or reconstruct a construction in the coastal zone shall be issued in compliance with the Law of the Republic of Lithuania "Concerning the construction at the sea coastline and Kursiu Nerija of the Republic of Lithuania".

Figure 6.1 Design conditions for construction works according to the Law on Construction



In order to obtain a permit to construct (except demolish), the builder must submit the following documents to the Municipal Mayor, even in the event when such permit is issued by the county governor's administration (except construction permit for a construction designated to satisfy national defense needs):

- an application of an established form,
- documents specified in subparagraphs 2 and 3 of paragraph 2 of Article 20 of the Law on Construction,
- an agreement with the owner of land on temporary use of a plot of land during construction operations, regarding servitude of such plot of land when using a completed construction and compensation for the use of a plot of land and damage (if done) in the cases when, according to a set of design conditions for a construction, engineering and utility networks or traffic routes are planned to be laid in a plot of land which does not belong to the builder or it is planned to use a part of such plot of land to set a construction plot,
- a design documentation of the construction works,
- findings of expert examination of the design documentation (in the case when expert examination is obligatory according to paragraph 1 of Article 29 of the Law),
- a document of approval of the design documentation (when this is obligatory),
- a decision of a competent institution on admissibility of planned economic activities in a chosen locality from the point of view of an impact on the environment (when this is obligatory) in accordance with the Law on the Assessment of an Impact of Planned Economic Activities on the Environment,
- a document pertaining to the appointment of a head of technical supervision of the construction (when technical supervision is mandatory) and
- a certificate of cadastre measurements and legal registration of the construction works (when the construction is being reconstructed or major repairs are carried out).

Upon the receipt of a builder's application and other documents, the Municipal Mayor shall refer them to the Standing Commission on Construction which must check and establish whether the construction meets the requirements for the improvement of a construction plot laid down in physical planning documents as well as the requirements of a set of design conditions. The Commission shall document the results of checking of the design documentation in the form of a report, and recommend to the Municipal Mayor to issue or not to issue to the builder a construction permit requested by him.

The Standing Commission on Construction shall be set up by the Municipal Mayor from owners (users) of engineering and utility networks and traffic routes, who prepared the conditions for physical planning and design of a construction works, institutions, and representatives of the municipality who are authorized to make decisions on the issues specified. Model regulations of the Commission shall be prepared by an institution authorized by the Government.

When a construction permit is issued by the county governor's administration, the Municipal Mayor must, within 10 days of the receipt of the documents, refer to the said

administration report of the Standing Commission on Construction approved by the Municipal Mayor, as well as to the documents.

A construction permit shall be issued by the Municipal Mayor not later than within 10 days (a construction of exceptional significance - within 15 days) from the submission of the documents, and by the county governor's administration - within 7 days of the receipt of a report of the Standing Commission on Construction.

A construction permit for a construction works designated to satisfy national defense needs shall be issued in a manner prescribed by the Government.

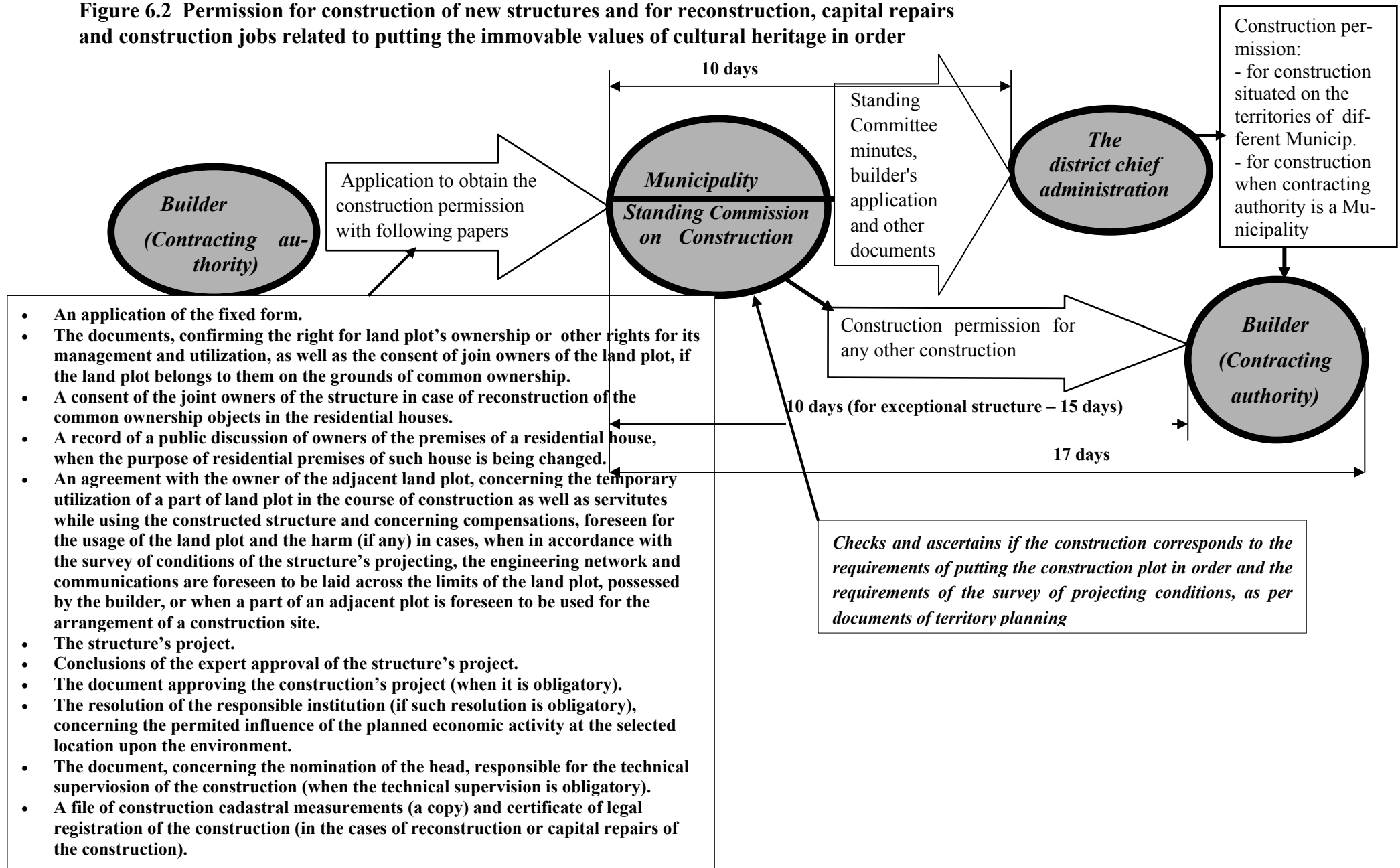
If a construction permit is issued by the Municipal Mayor, he shall within 3 days of the issuance of such permit, present a copy of the permit to the county governor's administration. When a permit is issued for carrying out construction operations pertaining to maintenance of immovable cultural heritage properties, its copy shall also be transferred to an authorized institution responsible for the protection of immovable cultural heritage properties. When a permit is issued for construction in a protected territory, a copy of the permit shall be transferred in a prescribed manner to the manager of the immovable property cadastre.

A single construction permit shall be issued for all construction works designed in one design documentation and situated either on a construction plot or outside its limits (engineering and utility networks and traffic routes designed in accordance with design conditions), including temporary construction works (built for construction purposes), as well as for all types of construction provided for in the design documentation (construction of a new construction, reconstruction, major repairs, demolition, construction operations pertaining to maintenance of immovable cultural heritage properties). A permit must contain technical data and purpose of each construction, established by normative technical construction documents.

If a construction permit is not issued, a State administration entity which is assigned to issue this permit, shall, within 10 days from the submission of builder's documents, inform the builder about this, indicating concrete reasons for refusing to issue a permit. If a permit has not been issued within a set time limit and the builder has not been informed about the reasons for refusal, the builder shall have the right to carry out construction without a permit. However, he must inform in writing a public administration entity which issues a permit, about this not later than within 5 days from the beginning of construction operations. A public administration entity which issues a permit, must register this document as a construction permit. Refusal to issue a construction permit may be appealed against by the builder in a manner prescribed by the Law on Administrative Proceedings (Figure 6.2).

A construction permit shall be valid for a period of 10 years (when constructing a temporary construction works - until the date specified in the permit which depends of the purpose of use of such construction works), and a permit to demolish for a period of 3 years.

Figure 6.2 Permission for construction of new structures and for reconstruction, capital repairs and construction jobs related to putting the immovable values of cultural heritage in order



Conditions to stop the validity of a construction permit

A construction permit shall become invalid when pursuant to a procedure established by law a plot of land (part thereof) is taken for public needs, by court decision or if the construction works has not been started within 3 years from the issuance of a permit or has not been accepted as fit for use within 10 years. A builder who wants to start or continue construction, must appeal to the institution which has issued a permit, regarding the issuance of a new construction permit.

The county governor's administration or a Government representative, or the State Territorial Planning and Construction Inspectorate under the institution authorized by the Government shall have the right to terminate the validity of a construction permit issued by the Municipal Mayor from the day of submission to the court of an application to revoke such permit until adoption of a decision by the court, if these public administration entities have appealed to the court regarding the revocation of a permit. The State Territorial Planning and Construction Inspectorate under the institution authorized by the Government shall have the right to terminate in the same manner the validity of a construction permit issued by the county governor's administration.

A construction permit to demolish a construction shall become invalid in the cases indicated and if during 3 years from the granting of such permit the construction has not been demolished. The builder who wishes to start or continue to demolish a construction, must apply to a public administration entity which has granted a construction permit, for renewal of the validity of such permit.

Forms of documents necessary for the procedure of issuance of construction permits shall be established by an institution authorized by the Government, and - of construction permits for construction operations pertaining to maintenance of immovable cultural heritage properties or of permits for construction in the territories of immovable cultural heritage properties - by an institution authorized by the Government in conjunction with an authorized institution responsible for the protection of cultural properties.

6.1.4 General provisions on national building's rules and national requirements

The Building Technical Regulation STR 1.08.02:2002 shall detail the provisions of the Law on Construction concerning construction, reconstruction, repair and demolition of buildings.

This regulation is an obligation for all construction participants, public administration subjects, owners (or users) of engineering nets and communication, as well as other juridical and physical persons whose activities in the field of construction are subject to the principles provided in the Law on Construction.

Building rules are the documents, adopted by the ministries, government agencies, other State institutions or legal persons and registered in an institution authorized by the Government in the manner prescribed by such institution, which specify the ways and methods of the implementation of building technical regulations. The building rules shall apply voluntarily, except for the cases when technical construction regulations or other legal acts indicate that it is obligatory to apply the said rules. The building rules to which reference is made in the design documentation or contracts, shall be binding to the parties to the concluded the contract.

There are no national requirements in addition to the CPD requirements. The Construction Products Directive 89/106/EEC is fully transposed to the National Law by the Law on Construction and by the Building Technical Regulations (STR).

The Council Directive of 21 December 1988 On the Approximation of Laws, Regulations and Administrative Provisions of the Member States relating to Construction Products (89/106/EEC) is implemented by:

- Law on Construction of the Republic of Lithuania
- STR 1.01.04:2002 “Construction Products. Attestation of Conformity and CE Marking” is the main document transposing the Construction Products Directive 89/106/EEC
- STR 1.03.02:2002 “Declaration of Conformity of Construction Products”
- STR 1.03.03:2002 “Technical Approvals. Preparation and Adoption”
- STR 2.01.01(1): 1999. Essential Requirements. Mechanical Resistance and Stability
- STR 2.01.01(2): 1999. Essential Requirements. Safety in case of Fire
- STR 2.01.01(3): 1999. Essential Requirements. Hygiene, Health and Environment
- STR 2.01.01(4): 1999. Essential Requirements. Safety in Use
- STR 2.01.01(5): 1999. Essential Requirements. Protection against Noise
- STR 2.01.01(6): 1999. Essential Requirements. Energy Economy and Heat Retention
- The List of Construction Products Subject for Regulation; updated annually, due to the requirements of the new Commission Decisions
- The List of Construction Products Resistance and Reaction to Fire; updated annually, due to the requirements of the new Commission Decisions
- STR 2.01.04:2004 Safety in case of Fire. Main Requirements

Lithuanian national requirements will not constitute a barrier for a consultant or a contractor from any foreign country. Each consultant or contractor from Lithuania or from abroad has equal conditions for the work.

The contractor (subcontractor) of the construction prepares the project for the construction works technology before the beginning of the construction works. It is obligatory to follow the building project, the solutions of the technical project, building technical regulations, the building rules of the enterprise and other normative documents that are in force while preparing the project for the construction works technology. The project for the construction works technology must contain the concrete solutions for the assurance of health and security of the employees.

6.1.5 Supervision and control system of a housing project

Institutions of State Supervision of requirements for the safety and purpose of construction works have a management power and carry out the activities within a certain field, established by laws and Government resolutions, or supervise of the construction operations related to the requirements for the safety and purpose of a construction.

Normative documents pertaining to the safety and purpose of construction works means documents which, on the basis of other laws and legal acts, sets requirements for the protection and safety of construction works, of people who use such construction works, of construction works' environment according to the spheres indicated in paragraph 1 of Article 6 of the Law on Construction, taking into consideration the purpose of the construction works (type of construction works) and activities planned in it. Such documents shall also set the following requirements for the purpose of construction works:

- calculation of dimensions of a construction (depending on the purpose of a construction),
- functional relations between the parts (premises) of a construction,
- serviceability, efficiency and safety of construction works, technological and energy equipment, technological engineering systems, technological and energy processes,
- water, waste water, energy carriers and the likes supplied by engineering and utility networks and used by engineering systems of a construction and
- soil humidity regime regulated by agricultural land improvement systems, and agricultural practices.

Duties and Rights of the Technical Supervisor of Construction

If the builder is a legal person, he shall, by order or another directive (established in the bylaws of an enterprise), appoint his employee as a technical supervisor of the construction works or hire a person who is not his employee to work as a technical supervisor under an employment contract. If the builder is a natural person, he shall hire a technical supervisor under an employment contract.

The technical supervisor must:

- monitor the compliance of construction with the design documentation, check the quality of construction products and equipment used during the construction, and prevent them from being used in case they do not comply with the design documentation, normative technical construction documents, normative documents pertaining to the safety and purpose of a construction, and if no documents in confirmation of the quality have been provided,
- check the quality of construction operations and the scope thereof and inform the builder about the carried-out construction operations which do not satisfy requirements for normative quality of a construction work,
- check and accept hidden construction operations and hidden structures of a construction, participate in testing and accepting as fit for use, engineering and utility networks, engineering systems, equipment and structures,
- jointly with the contractor prepare documents for accepting the construction as fit for use and participate during the acceptance of the construction as fit for use and
- perform functions of the head of general technical supervision of the construction (general construction operations), co-ordinate special technical supervision of the construction (special construction operations) and activities of the heads of such supervision.

The technical supervisor shall be entitled (upon making a relevant entry in the construction operations book) to demand that the contractor provides documents in confirmation of the quality of construction and assembling works carried out, construction products and equipment, corrects any violations of the design documentation of a construction, normative technical construction documents and normative documents pertaining to the safety and purpose of a construction and corrects violations of the normative quality of a construction work.

If the contractor fails to meet the referred requirements, the technical supervisor must inform a public administration entity, which carries out the State supervision of construction operations, about this and demand that the construction operations shall be suspended. If a construction work or construction operations pose a threat to people or the environment, the technical supervisor shall have the right to suspend the construction by himself and to appeal to a public administration entity so that the latter would adopt a decision confirming or revoking the demand of the technical supervisor.

The procedure of technical supervision shall be established by an institution authorized by the Government.

The technical supervisor shall also enjoy other rights and duties specified in the Civil Code and other laws. The technical supervisor shall, for non-performance of the duties or improper performance of such duties, be held liable under the Civil Code and the Code of Administrative Offence.

6.2 Competency requirements and registration

The main areas of technical construction activities may be directed only by heads who have undergone attestation (heads of design of a construction, heads of the parts of the design documentation, heads of supervision of the implementation of the design documentation, heads of the construction and heads of special works related to the construction, heads of technical supervision of construction, heads of general technical supervision and heads of special technical supervision, heads of expert examination of the design documentation and heads of expert examination of a construction). The mentioned heads must meet the qualification requirements approved by an institution authorized by the Government (education, work record, professional and legal knowledge) and, in a prescribed manner, get attestation documents.

The list of specialists, who have undergone attestation of qualification, which is voluntary - as well as the enterprises after their attestation - is published in *Lithuanian Official Journal "Valstybes Žinios"*. Additionally such data is located on the web page of the responsible body - www.spsc.lt (*English version - CCBP – Certification Center of Building Products*)

Reference to the Building Technical Regulation STR 1.02.06:2002 Qualification Requirements and Certification of Managers in the Physical Planning and main areas of Technical Construction Activities, adopted on 30 April 2002.

Lithuania has no legal-based system for registration of consultants or contractors. There are only voluntary associated organizations as Builders Association, Designers Associations, Architects Associations and etc.

6.3 Requirements on insurance and guarantees

The Civil Code of the Republic of Lithuania determines the duty to insure subject of construction, building materials or other building properties, which are usually used in construction process, or duty to insure civil liability for damages. The contract part, which have had the duty to insure construction subject or civil liability, should present the evidence of having the insurance policy, to present the name of the insurance company, to indicate the sum of insurance and the main conditions of insurance

All duties and responsibilities of the contractor are described in details in the Civil Code of the Republic of Lithuania.

The guarantee time on a housing project is established by the Law or by the Contract. If guarantee time is not established, the defects of construction works should be defined in the period no longer than two years.

6.4 Financing and subsidies

6.4.1 Financing

Since 1990 the residential construction investments have been decreasing and currently it accounts for ca. LTL 500mln. The reduction of residential construction is conditioned by the situation that over 90 percent of the investments into this sector are financed by owned or borrowed funds of the population. The share of private capital does not exceed 4-5 percent. The public investments into the housing sector account for only 5 - 6 percent and do not have major impact on the construction development. Lending to the private sector is sluggish though the commercial banks are capable to offer sufficient funding to small and medium-sized customers. Borrowing for the housing purposes is constrained very much by low income of the population and the absence of borrowing traditions (only 30 percent of those acquiring housing use services provided by the banks).

Recently the share of mortgage loans increased. In the second half of 2001 these loans accounted for 6 percent of the loans extended to the population. The *UAB Housing Loans Insurance Company* insures mortgage loans. In two recent years this company insured mortgage loans with value of LTL 244mln. Though the share of mortgage loans on the borrowing market is increasing the supply of new products on the financial market still remains not sufficient.

6.4.2 Improvement of efficiency of the housing credit market

The Lithuanian housing finance market has no deep-rooted traditions. Banks have adopted a number of requirements if buyer or constructor applies for bank funding. The housing loan opportunities may be taken by loan recipients, who are no less than 18 years of age and have citizenship of the Republic of Lithuania or by foreign citizens residing in the Republic of Lithuania and owning a valid residency permit, issued by the Migration Department of Lithuania. The age of the loan recipient at the end of the loan return period cannot exceed 65 years of age. The mortgage and life insurance are obligatory.

Income is the main factor of affordability. The affordability calculation is also based on the max effort ratio that households could spend on housing. For a buyer, the max effort

ratio is housing cost (interest payment and reimbursement of capital) and it must not be higher than 40 percent of disposable income (bank criteria for a loan). Affordability estimations must be based on official data.

For the client wishing to build a house it is enough to own a land-lot and even at the initial stage of construction of the house the loan recipient has a possibility to receive from the bank as much as up to 95 percent of funds calculated from the land-lot value. If a loan recipient has a possibility, he may mortgage other additional property, where is acceptable to the bank up to 95 percent of funds calculated from the value of the additionally mortgaged property value.

Currently, the Lithuanian banks provide credits to purchase, construct or renovate housing on very favorable terms and conditions, i.e. 5 - 6 percent interest rate for the term of 25 years, or up to 40 years in particular cases.

However, the existing market interest rate may change. Due to this it is important to find ways how to reduce crediting costs for housing acquisition and construction. One of the ways to reduce housing crediting costs is *issuance of mortgage bonds*. Aiming at this it is necessary to establish a legal basis.

Reduction of crediting costs and lowering the credit risk could be facilitated through the establishment of the *Credit Information Bureau* which would collect and process information of the clients, produce credit reports and provide them to the banks participating in the program of the bureau.

The Credit Information Bureau would be established upon the initiative by the banks, having drafted necessary legal and regulatory framework.

6.4.3 The expansion of new construction

The demand for new construction is formed by the newly established households (young families, etc.), domestic migration and immigration processes, average- and high-income households seeking to acquire or rent higher quality housing.

The development of new construction shall improve the management of land and urban infrastructure, ensure competitiveness and transparency of the construction market and reduce construction costs due to such measures. It is also necessary to improve the construction control.

The legal framework should be improved to encourage the residential construction based on cooperation principle of the population's funds through the establishment of cooperative construction associations or companies (non-profit organizations).

The main funding sources of the new construction shall be both the private sector, i.e. 95 - 96 percent of the demand, as well as funds from state and municipal budgets, i.e. 4 - 5 percent of the demand.

6.4.4 Financial support for housing acquisition to households with insufficient income

The household survey results demonstrate that about 40 percent of families or individuals can afford to acquire or rent housing suitable for them on the market without state support. It is necessary to continue the existing state support programs to acquire or rent housing in compliance with the provisions established the Law on State Support to Acquire or Rent Housing and the Law on Income Tax of Residents, i.e.:

- the insurance of mortgage loans providing the opportunity to borrow with a lower down payment compared to that established by the bank and coverage of the insurance premium or its part for the households with insufficient income or property.
- the coverage of the credit principal (up to 20 percent) to targeted groups with insufficient income or property, such as orphans and the disabled, families raising children and
- income tax deduction equal to the annual interest amount paid on housing loans.

However, the housing support programs should be better targeted to certain social groups and coordinated with other strategic goals and the housing subsidy system. It is expedient to constrain the tax deduction program in relation to the housing credit interest through introduction of the income and property criteria and/or certain duration of such deduction.

The saved funds of the budget could be used for the implementation of other programs such as the coverage of rental fee partly for low-income households which rent housing in the private sector (thus aiming at reduction of the social housing development) and funding of the social housing stock development.

The implementation of the latter programs above would increase the housing choice for low-income households.

6.4.5 Current programs for housing subsidies

Currently, six housing programs are funded from the state budget, and besides the commitments taken upon by the Government earlier and implicit subsidies exist which have an indirect impact on the *Housing Policy Implementation*. In 2001, the total share of the state budget expenditures for housing accounted for ca. 1,5 percent or 0,3 percent of the GDP.

The *Law on Provision with Housing of the Residents* established the compensation of the interest difference between the market rate and the interest rate of favorable loans. As the subsidies for bank interest have been foreseen for 10 years the budgetary allocations shall be extended until 2012. In 1998 - 2002, for the implementation of this program ca. LTL 16,5mln were used.

The Government has replaced the “soft loans” subsidy with new legislation permitting *Mortgage Interest Deductions* from taxable income. The implementation of the *Mortgage Interest Deduction Program* started in 2003 upon effectiveness of the *Law on Income Tax of Residents*. Income tax deduction is equal to 25 percent of the annual interest amount paid on the housing loans. All borrowers are eligible for the Mortgage Interest Deduction. The forecast includes lower collection level of taxes amounting to LTL 9 - 15mln in 2004, and LTL 250mln in the period until 2010.

The *Law on State Support to Acquire or Rent Housing* effective since January 2003 establishes additional support to the families growing children - the coverage of 10 percent of the housing loan principal amount. Also the coverage of 20 percent of the housing loan principal amount for the orphans, the handicapped of group I and II. State support can be provided for the people acquiring the first house. It is foreseen that in 2003 - 2010 for the implementation of this program the annual budget expenditure shall amount to LTL 20 - 25mln.

The program to subsidize the mortgage insurance of housing loans is being implemented together with the programs described above and aims at the reduction of the mortgage loan costs at the housing acquisition moment, i.e. to produce the down payment reduction up to the 5 percent level. The *Mortgage Insurance Premium Subsidy* has many desirable attributes for a homebuyer. The insurance of mortgage loans providing the opportunity to borrow with a lower down payment compared to that established by the bank and coverage of the insurance premium or its part for the households with insufficient income or property. This program is applied for the citizens acquiring their first house. The annual disbursements for the program vary from LTL 1 to 6mln.

The major share of subsidies include the disbursements to partially subsidize the *Heating and Domestic Hot and Cold Water Costs*, and these are applied to the biggest number of the support beneficiaries. Prior to 2002, these two figures increased fast. In 2001, 13,5 percent of the Lithuanian population received the subsidies, and the budget expenditures exceeded LTL 98mln. Urgent measures to constrain the budget expenditure for this purpose were introduced, though no impact of the new eligibility criteria has been known yet.

The subsidizing program for *Home Owner Associations (HOAs)* implementing energy efficiency projects include four components: loans to the homeowners and their associations with funding from the World Bank loan administered by the *Housing and Urban Development Foundation (Central Project Management Agency* since January 2, 2003), up to 30 percent grant to HOAs, support to the low-income families to repay their share of loans and the VAT rebate. The subsidies provided according to this program amount to LTL 2mln annually.

The *Social Housing Development Funding* is being implemented fragmentally. In 2000, LTL 5,5mln were used for the social housing sector, in 2001 – LTL 19,5mln in 2002 and 2003 - no allocations for the social housing sector were provided.

To apply for the housing program, a household must live in poor conditions, namely, in less than 10 sq. m. per person. Applicants to receive a soft loan should apply to the municipality. Municipality and bank make the final decision about credit. Maximum amount for the family is LTL 240 000 and LTL 120 000 for the individual.

The sales prices for new residential houses vary (for example: LTL 4700 per sqm. in Vilnius, LTL 3300 per sqm. in Klaipeda, LTL 2000 per sqm. in Kaunas and LTL 1600 per sqm. in Panevezys). It can be assumed that the prices for land and the price difference for labor force are the main factors influencing the price for new constructions.

Besides the above expenditure a sufficient share of subsidies includes the implicit subsidies which are not reflected in the Government programs, though do exist in the form of uncollected revenue to the budget (for example, uncollected amounts of rent from renting out state-owned or municipal housing at a lower than market rate). The annual value of explicit subsidies amounts to LTL 100 - 200mln.

The current programs are not sufficiently effective for the achievement of the strategic housing goals. Taking into consideration the commitments that have already been taken upon, the necessity to ensure the fiscal deficit control and the total macroeconomic stability in the country, there shall be no possibility to increase the budgetary allocations for housing in the nearest future. Thus, it is expedient to reorganize the existing programs addressing the poorest groups of the population.

6.4.6 Funding of the Housing Strategy Implementation

The Lithuanian Housing Strategy was prepared aiming at the implementation of the measures of the Republic of Lithuania Government Program 2001-2004. The goal of the strategy is to establish long-term housing policy objectives and priorities forming the basis for the improvement of the legal acts regulating the housing sector, the management and public communication/information system, to prepare and implement the housing development, rehabilitation and modernization programs and measures, as well as financial and social support programs and measures. The Strategy covers the period up to 2020 and includes four chapters:

1. Analysis of the housing situation in Lithuania
2. Goals and priorities of the housing strategy
3. Objectives and measures of the strategy implementation
4. Strategy implementation and supervision

The priorities of the Housing Strategy Implementation are related to the Republic of Lithuania Government Program 2001-2004, articulating for the period 2003 - 2004.

Funding of the Housing Strategy Implementation are provided according to the priorities, funding sources and preliminary demand of funds for the whole Strategy period and in annual average values.

Overall investments in the housing sector (including the state support) during 2003 – 2020 should amount to LTL 54 – 58bln. An average yearly investment would amount to LTL 3.2 – 3.6bln (it was around LTL 850mln in 2002), i.e. it would increase from the current 1.68% of GDP to around 2.5%.

Average yearly expenditure of the state budget would amount to LTL 664 – 775mln. Compared with the current situation (in 2002 around LTL 200mln were allocated) expenditures would increase 3.3 – 3.8 times. It is also expected to use the EU structural funds for renovation of housing and public information programs.

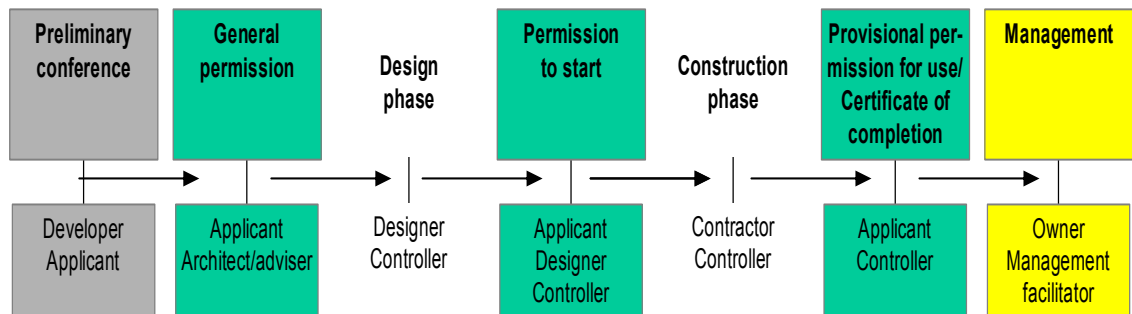
7 Norway

7.1 The Building Process

Any building project has to comply with planning constraints as approved by the local authorities. The planning process is regarded as a separate process and involves 3 to 4 different categories and levels of plans ranging from an overall plan for the municipality, down to local plans which will contain zoning details, building types, density, degree of utilization, height of buildings, car parking facilities and often details pertaining to the shape, size and aesthetic aspects of the structure. The planning process must be open allowing for public hearings, as there shall always be an opportunity for objections and appeals by affected and interested parties.

If the local authority should want to imply certain conditions with direct financial implications, such as number of dwelling units to be allocated to the local authority at a reduced price, or contributions to infrastructure or amenities relating to the development, this has to be done through a specific agreement (“development agreement”/“planning obligation”). These agreements are presently being reviewed as part of the amendments to the current *Planning and Building Act*.

Figure 7.1 The Building Process, the involved parties and responsible enterprises



Anyone may initiate a building process. In practical terms the initiator is most likely to be a property developer or a private land owner taking on the role as the client in the project.

The client has a responsibility to commission a competent professional team of advisors, normally comprised of an architect or consulting engineer or, in the case of a turn key project, a developer. This team would develop the concept.

To be permitted to perform a task in a building project, every company must obtain a separate approval for liability. Main contractors may be given liability on behalf of their sub-contractors, and, in that case, only the main contractors needs approval. The local authority will give approval to the company after assessing their qualifications against the nature (risk and complexity) of the project.

The concept is presented to the local authorities and may be the subject of a preliminary meeting with the building authorities. The request for such a meeting may be at the discretion of the client, but the local authorities are required to hold the meeting within 2 weeks of receipt of the concept if this is demanded by the client.

The object of the preliminary meeting is a presentation of the project/the ideas and for the local authority to gain clarity on the project and ensure that their requirements will be met and/or raise any additional requirements that need to be considered. The local authority is also obliged to give consistent information about the framework set out in plans, regulations, local practice etc.

Following the preliminary meeting, the architect and consultants may then proceed with the project design which, depending on the type of development and size of the development described, would normally require a building permit to be issued. This process can be divided into two stages, see below.

7.1.1 Conditions for getting a building permit

Conditions for getting a building permit are compliance with planning provisions, compliance with building regulations, compliance with other regulations and to some extent consent from other authorities and the approval of liable contractors.

In the case of a relatively straight forward building concept and design (i.e. where a simplified application applies, all conditions are complied with and all necessary documentation submitted) the local authorities are obliged to issue the complete permit within 3 weeks.

7.1.2 Application for a general permit and for approval of the professional team

The application must indicate the projects external and internal frameworks, placement, shape, facade, encroachment of the terrain, use of building, layout basis, compliance with other authorities and regulations, neighbour relation issues included.

Application for liability for the applicant and the professional team/architect must either contain an approval of the contractor from the national authorities (see below for further details) or documentation of the qualifications of the firm.

The applicant and the professional team will be liable to the local authority. The division and extent of liability will normally be captured in the contract with the client.

It normally takes between 8 and 12 weeks to obtain a general permit. Local authorities are obligated to issue the permit within 12 weeks.

7.1.3 Application for the start-up permit

When the project design is completed the applicant (normally an architect) applies for a start-up permit. Application for the building permit must contain documentation on compliance with building regulations from the liable professional team and those liable for controlling the design work. This application must also contain a control plan for the design, confirmed with control declarations, and a control plan for the construction phase. In Norway, responsibility for control of compliance with official regulations lies with the applicant and/or the building/designing companies themselves, not with the authority.

The local authority must execute the application within 3 weeks.

7.1.4 The construction period

During the construction period, quality control checks (building controls) are undertaken by the liable parties according to a building control plan. The building control plan describes the critical and important issues to be controlled, and who will execute the actual control. Deviations from the conditions of the permit are reported to the local authority. The local authorities may conduct inspections (undertake surveillance) to ensure that the building control plans are adhered to.

The project documentation, after the final inspection by the liable control parties, must show that the project has been inspected and found in compliance with the permit and the building regulations. This is forwarded to the local authorities.

The local authority will then consider the application and issue the permit for occupancy of the building within 1 week.

In the event of delays in the conditions or procedures leading up to the issuing of the completion certificate, the local authority may issue a permit of occupancy provided the premises are considered to be fit for occupancy particularly with respect to health and safety aspects.

7.1.5 The building control system

Public requirements of the building code are reflected in construction drawings and – documents. Consequently building control of the works with respect to public requirements is the inspection of conformity with the construction documents, product- and construction standards etc.

Agreement on the scope of inspection

In the application for a building permit, the liable applicant will have to submit a control plan and will be committed to have the design and the works verified with respect to public requirements as specified in the building permit. The control plan shall be approved by the local authority and will form an “agreement” between with the authorities on the scope of the verification to be exercised. All costs relating to compliance with the control plan (internal control or third party control) will be parts of the project cost. Building inspection may be performed either by third party inspection or by documented self-inspection. The choice of inspection form will be subject of approval of the authorities. In either case the result shall be documented and presented to the authorities in a summary with a statement of conformity with regulatory requirements.

Documented systems for verification

When called for, the designers’ and/or contractors’ ability to apply documented self-inspection, shall be documented. Confidence in the suppliers quality system and the projects’ reliability/risk with respect to protection of health, safety and environment will be the main considerations of the assessment. Complicated and vulnerable systems, with regard to structural safety, safety in case of fire, technical installations etc, may be exempted from self inspection and subject to third party inspection.

Self-inspection will have resemblances with design review and product verification as described in the Quality Assurance standards. Companies that seek approval to perform self-inspection as verification to the authorities are required to document their system and capability through the quality system requirement of the approval system.

The competence of any third party inspection body shall also be documented and approved.

The levels of responsibility in the building control

The local authorities will have an overall supervisory function in approving the control plan, in verifying that inspection has actually taken place and that it has been recorded in accordance with the control plan. This may comprise audits of documented self-inspection. The local authorities may also perform spot checks. As a sanction against insufficient or faulty control, the local authorities may impose third party control. They may also refuse to issue a completion certificate until verification of compliance with the regulations has been submitted.

The body performing inspection may, according to the chosen form of inspection, be either the designers/contractors themselves or a third party. In either case they have a responsibility to verify conformity with public requirements.

The designers and contractors will have the responsibility for the quality of design and construction respectively and the responsibility to fulfil public requirements. When self-inspection is chosen, the designers/contractors have a combined responsibility to comply both with the physical requirements in the plan and with the requirements for documentation in the new *Building Code*.

The control plan

There must always be an over all control plan to show compliance with the company's quality assurance system. For important and critical issues, a special control plan is required that shows:

- what is going to be reviewed/inspected,
- with respect to what and
- by whom .

System for documented self-inspection

The control plan will form the link between the liable inspection company and the building authorities. The control plan will be designed according to the criticality of the project and the knowledge of what may go wrong. The basic content of the inspection plan will be the same regardless of choice of inspection form (third party or self inspection). The plan for implementing the verification will however look different in the two options.

Where documented self-inspection is chosen the over all design review assumes that the designer follows an underlying system for discipline and inter discipline checks. Similarly overall construction inspection assumes that the contractor follows an underlying system for production and delivery control.

Over all design review or inspection will have to be described in procedures that will form part of the system for documented self-inspection. Internal audits of underlying system for discipline - and inter discipline checks and production control will then be necessary part of documented self-inspection.

The cost of third party inspection has made self-inspection very competitive. Systems for self-inspection may be tailored for any size and nature of companies and projects.

Documented systems for Quality Assurance may serve as documentation for self-inspection. This is one of the reasons why quality systems have been made part of the conditions in applying for approval.

7.1.6 Actors involved in the different stages

The local authority is acting as the building authority. Normally this is an administrative unit within the local authority with powers delegated by the council. The building permit is granted by the local authority. The local authority approves the liable contractors, and may decide on the type, method and level of inspection (self inspection/independent inspection).

The government and national authorities have no direct role in a building project. The national authorities provide the building regulations which all projects have to comply with.

The client can be the building owner or the developer or someone who on his behalf acts as the client.

Approved companies/consultants/professionals are liable to the local authority. The companies may be approved for 5 tasks. Within each task there may be companies liable for different parts of design or the works:

1. Applicant, whose task is to ensure that the application is complete with appropriate documentation. This is the central role in the application process, and the most important tie between the client and the building authorities throughout the whole building process
2. Designer for all disciplines within architectural, engineering and technical services
3. Control of all design disciplines
4. Execution (construction) of building and civil engineering works
5. Control of execution (construction)

The major criteria for approval is as follows:

- The existence of an operative quality system relating to the Planning and Building Act. This contains requirements for organization plans, identification of legal requirements, document handling and deviation handling.
- Professional qualifications of selected technical staff according to conditions for education set out in the regulations.
- Experience of qualified staff – the number of years of relevant experience in the field of work required is set out in the regulations. Reference should be made to previous projects of a similar nature.

To help the local authority, a voluntary central approval system has been established, whereby local authorities can relate the central approval to the project in question. This approval system is administered by the *National Office of Building Technology and Administration*.

7.1.7 The distribution of responsibility and powers between the different actors

Building control is executed by the private parties themselves whereas the local building authority has a responsibility of surveillance. The local authority shall ascertain that the Planning and Building Act is adhered to in the municipal area. It is responsible for planning and zoning in its area of jurisdiction, for judging and approving the competence of the operators, for approving the finished project and granting the completion certificate.

The building owner or developer is responsible for seeing to it that all major tasks in a building project are administered by competent persons and companies.

The consultants and the contractors are responsible to the building authorities for the part of the work for which they have been given liability. They have other responsibilities under private law, in the form of contractual agreements with the developer and between themselves.

There are five designated roles in a building project described in the *Competence Regulations*, that of the applicant for the project, the designer, the design controller, the contractor and the controller of the site work. These roles may apply to the project as a whole, to parts of it or specialised tasks. Large projects will have independent operators in all roles, in small projects like a one family house there may only be very few operators, like a builder, covering several tasks.

7.1.8 Normal time needed and time limits

Time taken to process the permit by the local authority adds up to 17 weeks for a general permit, start permit and occupancy permit. The quality of the application is often the determining factor. Planning and building time may vary. Normal time from the first concept through to when the building is taken into use may be approximately 6 - 8 months.

In the legislation there are time limits for application handling. The general time limit is 12 weeks, but 3 weeks for “straight forward projects” where all requirements are complied with. Permit for preliminary occupancy must be issued within 1 week, and permit for completion within 2 weeks. Preliminary meetings must be held within 2 weeks after the client has put forward his questions to the authority. Other authorities must give their remarks within 4 weeks.

Some of these time limits are followed by sanctions when exceeded. For example, if the local authority is overdue concerning the 12 weeks limit, they have to pay back the case-handling fee to the client with 25 % per week overdue. If the permit for preliminary occupancy is not issued within 1 week, it will be regarded issued, and the building can be taken into use. For other limits there are no legal sanctions, for example if the preliminary meeting is not held within the time limit, or the completion certificate is not issued.

7.1.9 Differences between refurbishment and new buildings

The building regulations, technical and procedural, also apply to refurbishment projects. However, they only apply to the project/part of the building that is undergoing refurbishment. Extensive modernisation that results in parts of or the whole building being

renewed requires full compliance with current building regulations for the whole building.

7.1.10 The appeal process

All decisions are subject to appeals. Depending on the level of delegated powers the appeal body may be the local council, or in most cases the County Governor. Appeal procedures are usually cumbersome and will cause delays.

7.1.11 Main features of the national building regulations in Norway

The *Technical Regulations* (1997) based on the Planning and Building Act (1985) contains the technical requirements for building works and for materials to be used in building works. They are formulated in performance based terms and are supplemented with guidance papers giving the required performance levels and also referring to standards and to acceptable solutions. The requirements to the buildings are to a large extent the essential requirements of the Construction Products Directive (CPD), but there are additional requirements. Requirements for construction products and materials and provisions for documentation and the use of CE-marking is also part of the technical regulations. Lifting appliances, HVAC appliances etc. as to their fitness for use in the completed building are also a part of this requirement.

The *Administrative Regulations* (2003) based on the Planning and Building Act contains rules for governing procedure (case handling) and rules for control of construction works. Rules concerning the granting of building permits, etc. are given here. The local authority is required to ensure that the Planning and Building Act and Regulations are complied with within its area of jurisdiction – the municipal area. This is just a matter of assurance – the responsibility of compliance lies wholly with the client and his helpers, the liable companies involved. The local authority does not itself perform building control, but shall see to it that such control is done, performing only the necessary surveillance of projects according to specified control plans. All building control is done by the companies involved in the project, or by other private companies. The private contractors on a building project have a direct responsibility for their own work under public law and may be prosecuted under the same law for non conforming.

The Technical Regulations of 1997 § 5 fully implement the requirements of the CPD. These requirements concern the documentation regarding all construction products and their fitness for use.

7.1.12 Specific national requirements

There are requirements in the Technical Regulations concerning the layout, accessibility to buildings and fitness for use for physically impaired users, and sustainability of the building and its components. There are also specific requirements in other sets of rules concerning the use of buildings according to legislation concerning health, education, nurseries, industries etc. By and large these requirements are harmonized with the Technical Regulations, but other authorities may imply these requirements on existing buildings to a larger extent than the building authorities, who mostly can imply requirements on new buildings.

In principle, no technical requirements may be added by the local authority.

7.1.13 Possible barriers in the national building rules

There are restrictions to trade in every country. Not, however, necessarily the traditional, technical barriers to trade. They could be said to be cultural, due to the fact that building is a local or regional activity with its own rules of language and use of materials and methods and cultural heritage. In addition, there may be problems due to not understanding the national administrative rules and systems of building control, as these are not harmonized across Europe.

7.2 Competency requirements and registration

The *Competence Regulations* (1997) under the Planning and Building Act contain rules concerning the approval of enterprises for responsibility. It governs the ability and competence of trades and professions involved in a building project in all cases where the firm is directly liable to the building authority. This is to ensure that their work shall comply with a building permit or similar. All firms liable to the building authority shall have local authority approval for the work they plan to carry out, and for each building project. Provisions governing a voluntary central approval system aimed at assisting local approval are also contained in these regulations.

Building works or parts of works are classified in three categories according to the complexity of the work to be done, and the consequence of faults. The required competence depends on the class, from one to three. The requirements regarding competence which specifies professional abilities, experience and knowledge of the building regulations are set out in the Regulations. There is also the requirement of an operational quality system. For instance, an architectural firm doing work on a building in class three, perhaps a complex office building, will have to employ a person with a university degree in architecture and at least six years of experience. The assessment of competence and subsequent approval is the responsibility and duty of the local authority if the company is not centrally approved.

This gives the following sum of requirements.

All companies which apply for liability, must have a technical staff which has relevant education and relevant practice. There are four levels of education, from professional training and up to university level. In combination with requirements for practice within a range from 2 to 8 years, the companies may qualify for design or construction of projects in the 3 classes of project types relating to complexity and risk (consequences of defaults), as set out in the left column in table 7.1 below. The more detailed requirements for type of education and length of relevant practice appears in the Competence Regulations.

All companies which apply for liability must also have a limited system for quality assurance, containing:

- organization plans, both for the company as such, and for project organization,
- system for identification of technical and procedural requirements relevant for the project,
- system for identification and handling of deviations,
- system for handling of documents and

- in addition, there is also a practice for a requirement of the handling of sub-contractors.

This application can be issued to the local building authority for each project, or to the national registration for a permanent certificate, value for 3 years.

Sub-contractors do not need to apply for liability, but are included in their main contractors liability.

7.2.1 Qualification systems

It is a clear commitment that companies shall be liable to the building authority for compliance with the building code for their separate part of the works, both for design and execution. Liability also extends to the control of works either by the designers or the contractors or by third party control bodies. This liability is generally limited to the companies having a separate contract with the client. This liability is both a right and an obligation.

All activities within a project, both for design and execution shall be classified according to one of three project classes levels. This being a function of complexity and consequence of failure (Figure 7.2).

Figure 7.2 Project Class as a function of complexity and consequence of failure

Project Class		
Degree of complexity	I Small	CLASS I
	II Medium	CLASS II
	III Large	CLASS III
		III Large II Medium I Small
Consequence of failure Re. Safety, Health & Environment		

Projects in class I may be small houses with up to four flats, uncomplicated store-houses etc. Class II will be e. g. ordinary blocks of flats, ordinary commercial buildings, smaller institutions etc. Class III will be very complicated or big buildings. A project can be divided into separate parts with different classes, for example when an uncomplicated building is located on a site with difficult ground conditions.

The liability is in turn closely linked to qualifications.

To be permitted to perform their task in the project the company shall have to obtain a separate approval for each project. Such approval shall be related to the project class and the task to be performed. The local authority will give approval to the companies after assessing their qualifications against the nature of the project. Approval is a condition for obtaining a building permit.

To help the local authority, a voluntary central approval system has been established, whereby local authorities may relate the codes for central approval to the project in question. This approval system is administered by the *National Office of Building Technology and Administration*, which is a government agency.

Table 7.1 Education and work experience needed for different tasks in Project Class 1-3

Class	Role as liable entity pursuant to §5	Education according to level set out in § 10	Work experience (number of years)
1	Applicant	Master builder certificate	4 years
1	Designer	Master builder certificate	4 years
1	Design controller	Master builder certificate	4 years
1	Contractor	Trades qualification	2 years
1	Execution controller	Trades qualification	2 years
2	Applicant	Master builder certificate	6 years
2	Designer	College degree	6 years
2	Design controller	College degree	6 years
2	Contractor	Master builder certificate	3 years
2	Execution controller	Master builder certificate	3 years
3	Applicant	University degree	8 years
3	Designer	University degree	8 years
3	Design controller	University degree	8 years
3	Contractor	College degree	5 years
3	Execution controller	College degree	5 years

Approvals are given for the same tasks as mentioned in 7.1.6. Approval is given to the company, not to the individual.

The criteria for approval are the same as for local liability.

There are no detailed requirements, but most quality systems will bear resemblance to the ISO 9000 series, although somewhat simplified.

Approval for architectural disciplines covers aesthetics and functionality. Technical design covers amongst others, structural design, building physics, acoustics and fire safety. In fire safety design it was found necessary to have two types of designers, the ones qualified for designing according to the pre-accepted solutions of the guidelines and those with the qualifications and experience necessary to perform alternative design of larger and more complex buildings.

Although mainly applicable to works within the scope of the Planning and Building Act, this approval system is also relevant for all types of civil engineering works and has replaced the former authorisation of contractors.

To clarify the system of qualifications the consideration of a project profile, defining the different tasks and relating these to the classes, would be useful. The following assessment may apply to a relatively uncomplicated block of flats. Particular aspects of complications (like in this instance geo-technical conditions) must be considered. The local authority may scrutinize such considerations (Table 7.2).

Table 7.2 Example of project profile for a block of flats.

<i>Role</i>	<i>Activity</i>	<i>Class</i>
<i>Applicant</i>	Overall project conception/ensuring that all activities are covered by a control plan	3
<i>Designer and design controller</i>	Architectural	3
	Building physics	2
	Structural	2
	Geo-technical	2
	Technical service	2
<i>Contractor and execution controller</i>	Digging, trenching	2
	Concreting	3
	Building works	2
	Sanitary & plumbing works	2
	Sprinkler	3
	Ventilation	1

7.2.2 National and local registration of consultants and contractors

The local approval is mandatory and is valid for the specific approved project only. There is a national, voluntary scheme aimed at assisting firms who are repetitively applying for building permit and with all local authorities. The central approval system will render the assessment of competence by the local authority unnecessary, but they will still have to consider the level of competence of the firm in relation to the class of the works.

7.2.3 The purpose and organisation of the system

The amount of building defects may in cost amount to as much as 5 % of the sectors' turnover, or approximately 10 billion Norwegian crowns a year. The procedural rules covering liability, qualifications and building control was created to come to grips with this problem. It is at the moment too early to say if it is a success. At present the whole system is being subject to a comprehensive evaluation.

The National Office of Building Technology and Administration (BE) is the organization responsible for administering the central approval system. BE is acting on behalf of the Ministry of Local Government and Regional Development. The scheme is voluntar-

ily, however all major firms accountable for more than 80 % of all building activities, are registered, at the moment about 12000 approvals.

There are three classes of complexity for construction works, two main activity sectors - buildings and building installations and constructions - and five roles of project activity, from designer to contractor, see above. There are in addition about fifteen key areas of specialisation, ranging from architecture to fire safety engineering. The firms are given their national approval based on the criteria from all these fields. The approval is valid for three years and shall be used as a basis by the local authorities when they consider their local, mandatory approval. All centrally approved companies are subject to audits by the central authority.

The local system has existed for many decades, and is designed to give the local authority a chance to live up to its responsibility as caretaker of the citizens' rights under the building and planning legislation.

7.3 Requirements on insurance and guarantees

7.3.1 Insurance

There are no general national or local requirements on insurance of the consultants or contractors in Norway. However, in the standard contracts, which are voluntary documents, but applied in most contractual situations, there are requirements on a general basis, such as requirements for liability insurance. The wide range of standard contracts are issued as Norwegian Standards by the National Standards Organisation.

7.3.2 Guarantees

When it comes to guarantees, there are requirements concerning dwellings in the Norwegian Housing Construction Act, depending on the ownership of the building site.

If a contractor builds on a site owned by the house buyer, and the where the buyer is obliged to make a down payment in advance, the contractor has to secure the buyer's down payment in form of a guarantee. In addition the contractor has to leave a 5 % guarantee for potential defects.

If the contractor builds on his own site, and the buyer has signed the contract before the building is completed, the contractor has to arrange for a 2 % guarantee for latent defects.

These rules are under revision and will be replaced by a general requirement for a 3 % guarantee, for all contracts. All guarantees run from the signing of the contract, and until delivery of the finished house.

In addition, there are requirements in the standard contracts for building that are not included in the Housing Construction Act, which mainly is a consumer protection act.

7.4. Financing and subsidies

7.4.1 Financing

Multi-family housing projects in Norway are financed in a two-step operation. First the developer applies for a long term mortgage at a private bank or the *Norwegian State*

Housing Bank (Husbanken). Once obtaining that, the developer applies for a short term bridging loan. The bridging loan is disbursed in stages by the developer to pay the contractor according to accumulated construction work completed. The disbursement process is normally controlled by the bank in question.

To obtain a first priority long term loan from the Husbanken the housing project must have some particular qualities – i.e. low costs, not too luxurious but still good quality etc.

When the project is finished and sold either as a housing co-operative or a condominium, the bridging loan is converted to a joint long term mortgage for the housing co-operative or paid individually by the owners of the flats in the Condominium. Members of the housing association will have to provide an equity contribution of approximately 20-40 percent of total costs.

Short term credits are normally more expensive than ordinary long term mortgages due to fees and provisions.

Interest rates are generally determined in the credit market, but the National Bank of Norway strongly influences the market. Interest rates have varied strongly during the later years and are at present historically low. In May 2004 short term credit interest rates on bridging loans were approximately 4 percent or less. There will normally be provisions and fees on such bridging loans as well. Interest rates in Norway have been volatile and have also differed substantially from interest rates in other European countries.

Long term loans are offered at floating as well as fixed interest rates. In May 2004 Husbanken was offering a floating interest rate on 3,1 percent and a fixed interest rate for five years on 4 percent. Both interest rates will decline in the next months due to the interest rates being determined in such a way that there is a time lag of 3-6 months in relation to current market rates.

Husbankens interest rates are computed on the basis of government bonds (floating interest rates on bonds with a remaining term of 0-3 months and fixed interest rates on papers with a remaining term of 5 years). There is also a fixed interest rate margin added on Husbankens interest rates set by the Parliament to 0,5 percent points.

The terms of these loans are normally 20-25 years. Husbanken might offer terms up to 30 years.

Particular to Norwegian long term mortgages is that the broad majority have floating interest rates. When taking into consideration the fact that about 75 percent of the housing stock is owned by individuals (directly or indirectly), it is obvious that Norwegian households are very exposed to risk.

7.4.2 No tax relieves – no subsidies for housing production

There are no kinds of tax relieves for housing production in Norway, however there is a general tax relief for interest paid on mortgages. Subsidies for housing production are limited to projects with special environmental qualities and social housing for targeted groups (refugees, homeless persons).

Husbanken is the government's main instrument for implementing the national housing policy. Husbanken is an institution under the Ministry of Local Government and Re-

gional Development. The Ministry in turn is responsible to Parliament which determines the Bank's yearly budget, including loans, grants and housing allowances. According to guidelines from Parliament and the Ministry Husbanken will determine the size of a subsidy.

A social housing project (dwellings for rent) will be given a subsidy mainly because it is targeted for special groups (e.g. refugees). These persons will often be entitled to housing allowances as well. There are no maximum prices for rents, on the contrary landlords (normally the municipalities) are encouraged to set rents to reflect the costs of the project. In order to receive a subsidy there are no special requirements when it comes to the number of dwellings. When it comes to technical standards in general these should be identical to other dwellings financed by Husbanken.

In February 2004, the Government submitted a white paper to Parliament on the housing policy in the future. It is a goal for the government that people own their dwellings. Consequently subsidies for social housing production will, by stages, be replaced by consumer subsidies.

8 Poland

8.1 The Building Process

8.1.1 The role of the government, national institutions and local governments

The grounds for the project development process are included in the respective Acts adopted by the Polish Parliament and the related executive regulations issued by the respective Ministers. The most important Acts that regulate any project development process is specified in the list of References.

The governmental body which deals with the whole of construction-related issues is the Ministry of Infrastructure. According to the laws in force, each project development process involves proper local government and central government authorities on various levels. An example of that principle is the scope of competencies related to the determination of land designation, including that related to construction projects (physical development plans) and participation of architectural and building administration authorities, as well as those of the building supervision, in all phases of the project development.

The land designation is specified by the local physical plan. The Act of 2003 concerning physical planning and development specifies the rules of physical development policy to be effected by local and state government bodies, as well as scopes and procedures related to allocating land for specific purposes and establishing the rules of its improvement and development.

The Act establishes three levels of physical planning:

1. *National level*

The president of the Governmental Centre for Strategic Studies, in coordination with the respective Minister of Building, Physical Economy and Housing, drafts the national physical development concept plan, which has to take account of the rules of the country's sustainable development, including the distribution of social, technical and transportation infrastructure, strategic water resources of international and domestic significance, basic elements of the national settlement network, environmental protection requirements, etc.

2. *Regional level (with regions being administrative units)*

The regional assembly adopts a resolution on the preparation of local physical plan and then adopts the plan, which specifies the physical development areas and problems, in accordance with regional needs and objectives,

3. *Commune level*

In order to establish the physical development policy of the commune, the commune council adopts resolution on the preparation of the study of conditions and directions related to physical development of the commune, and then adopts the local physical development plan.

The local physical plan specifies the basic decisions, requirements and conditions concerning the designation and boundaries of various designation areas, land improvement and development principles, including building lines, object outlines and development intensity indicators, rules of protecting and shaping of physical order, environmental protection, preservation of cultural heritage landmarks ,etc.

The approved local physical plan becomes a valid law, based on which land improvement and development conditions are determined.

In the event of the lack of local physical plans, the procedure of obtaining development conditions is complicated and time-consuming because then development conditions have to be specified based on specific rules.

8.1.2 Investor's obligations

The obligations of an investor under the project development process are regulated by Art. 18 of the Act of 7 July 1994 – *The Building Law*.

Those obligations include the arrangement of the building process, with the consideration of health and safety rules and, in particular, the provision of the following:

- preparation of the construction design and, when necessary, other designs,
- assumption of the project management by the project manager,
- preparation of the health and safety plan,
- performance and acceptance of construction works and
- supervision of construction works in instances justified by high complication level of construction works or by soil conditions.

Those tasks may be performed by the investor either by his own, or by hired, specialised persons or entities that are duly licensed to discharge independent technical functions in the construction industry.

The first stage of an investment procedure related to multi-family housing projects (the concept design) includes locating, that is selecting a place and obtaining the right to locate the project there, followed by the project marketing assessment, concerning the demand for flats with specific surface areas and finishing standards, as well as the determination of financial potentials. Next step of the potential investor depends on the requirements concerning the spatial planning aspects. In the event of a existing local physical plan the investor should apply for the Building Permit issued by the Starosta (local government representative on the powiat level). In the event of lack of a local physical plan the investment procedure must be handled in another way (Figure 8.1).

8.1.3 Lack of local physical plan

Application to the administration authority with a request to issue decision on development conditions

The request should include data about the boundaries of the area as covered by the request, shown on the base map copy or, in the event of the lack of such a map, on a cadastre map copy (1:500 or 1:1000 scales), as recorded in the state geodesy and cartography register. The boundaries should concern both the project area and the project impact area. The request should also include following project characteristics:

- specification of demand for water, energy, as well as the determination of waste discharge or treatment, as well as other needs related to technical infrastructure,
- planned area development method and specifications of area development, including the designation and overall dimensions of contemplated facilities, shown both in descriptive and graphic forms and
- determination of characteristic technical parameters, and data related to their environmental impact.

Issuance of the decision on development conditions

The decision on development conditions is issued by the village leader, town or city mayor upon coordination with the respective institutions of environmental protection, health and hygiene authorities, historic landmark preservation experts, etc.

The issuance of the decision is possible only in the event that the following conditions have jointly been fulfilled.

The area shall have access to a public road and at least one adjacent land plot, accessible from the same public road, shall be developed in the way which makes it possible to determine requirements related to the new facility as regards the function continuation, parameters, features and indicators of land development, including the overall dimensions and architectural form of buildings, the building line and land utilisation intensity.

The existing or contemplated utilities shall be sufficient for the construction project, or the provision of utilities shall be guaranteed through contracts to be concluded between the respective organizational units and the investor.

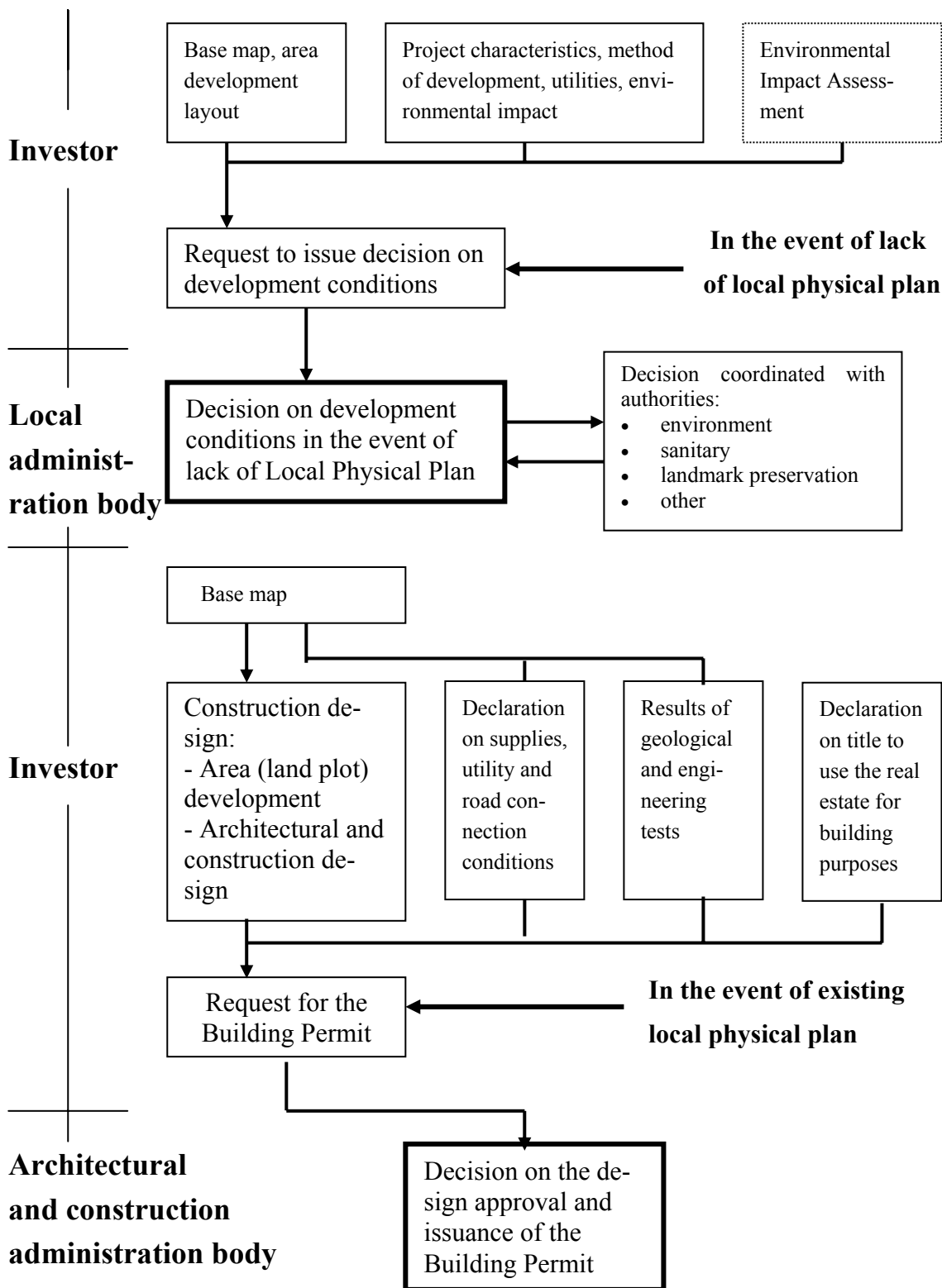
The area shall not require the permit to change the designation of arable and forest lands into non-arable and non-forest ones, or be covered by such a permit obtained while preparing previous local physical plans that are no longer valid.

The decision on development conditions shall be consistent with separate regulations.

Requirements concerning the new area development shall include (in the event of the lack of local physical plan) the determination of:

- building line,
- development surface area in relation to land plot surface area,
- width of front elevation,
- height of front elevation top edge, cornice or attic and
- geometrical data of the roof (inclination angle, roof ridge height and layout of roof slopes).

Figure 8.1 The Building Process (building facilities that require a building permit)
- The Design phase



8.1.4 Preparation of the construction design

A construction design should include a land plot or area development design, prepared based on a current map and specifying: determination of land plot or area boundaries, location, outlines and arrangement of existing and designed facilities, utilities, waste discharge or treatment methods, traffic and greenery layouts, with the indication of characteristic elements, dimensions, land survey data and mutual distances between objects in relation to both the existing and contemplated development of adjacent areas.

It should also include architectural and construction design, specifying the function, form and structure of the facility, as well as its power and environmental characteristics, and proposed indispensable technical and material solutions, displaying the principles of reference to the facility environment; in multi-family residential building projects also the specification of accessibility for the disabled.

Depending on needs, there should be the declarations by the respective organizational units concerning the provision of power, water, heat and gas, collection of waste, as well as conditions of connection to water, sewage, heat, gas, power, telecommunication services and to roads as well as results of geological and engineering tests and geo-technical conditions of the building foundation.

The construction design should comply with requirements set out in the decision on land improvement and development conditions, if such a decision is required under the regulations concerning planning and physical development.

The construction design is subject to approval under the Building Permit decision.

8.1.5 Request for the Building Permit

The Building Permit may be issued following the submission of a request, within the validity period of the development conditions decision, if such a decision is required under the physical planning and management rules, and following the declaration on the title to use the real estate for building purposes.

Attached to the request for the Building Permit there should be four copies of the construction design with all the necessary opinions, approvals, permits and other documents, as required under specific regulations, as well as certificates to confirm that the designer and the design verifier have been entered in the central register of persons holding building licences and in the respective professional chamber register.

There should also be a declaration on the title to use the real estate for building purposes (without the need to submit a document to confirm it) as well as land improvement and development conditions decision when such a decision is required under the physical planning and management law.

An expert's opinion is needed, issued by a natural person or by an organizational unit, indicated by the respective minister, concerning the designed facilities whose construction or utilisation may pose hazards to their prospective users, or whose designs provide for new technical solutions that have not been verified in domestic practice yet and are not supported by regulations and Polish Standards.

Attached to the request has as well to be a resolution on the coordination of the design solutions with the respective architectural and building administration authority in respect of building lines, elevations facing the road sides, road layout and characteristics,

as well as utilities and services. This provision applies to mining facilities, those located within closed areas, sea harbours and havens.

Finally a Power-of-Attorney granted to a person, acting on behalf of the Investor should be included.

8.1.6 Issuance of the Building Permit decision.

Prior to the issuance of the Building Permit decision or a separate decision on the approval of the construction design, the respective authority shall verify that the area development design is consistent with local physical plans and environmental protection requirements, *or in the event of the lack of local physical plan* with the requirements of the development conditions decision and other regulations, including the technical and building regulations.

They shall also verify that the construction design is complete and holds all the required opinions, approvals and verifications as well that it was prepared and verified by persons holding the required building licences.

In the event that any breaches have been found, the respective authority shall impose an obligation to correct the specified errors and shall set a term to do that. Upon the ineffective expiry of that term, the authority shall issue a decision on the refusal to approve the design and to grant the Building Permit.

In the event that the investor has fulfilled all the procedures as required under the law, the architectural and building administration authority is obligated to issue the Building Permit decision within two months from the request submission date. However, the Building Law provides that not all building facilities need to have their Building Permits. The Act lists several dozens of such facilities, including e.g. small farming buildings, summerhouses, sheds, small domestic pools, utility connections, etc. Also refurbishment works, construction of fences, installing bars and other appliances on buildings, as well as the construction of hard landscaping elements in public places do not require Building Permits.

Any construction activities or works that do not require Building Permits must be reported to the respective authority. The report should specify the type, scope and method of construction works, as well as the date of commencement thereof. The report should be accompanied by the declaration on the title to use the real estate and, depending on needs, by sketches or drawings, as well as permits, approvals and opinions, required under separate regulations. In the event of reporting the construction of a hard landscaping element in a public place, it is necessary to submit the planned plot or area development design, prepared by a designer who holds the required building licence.

One can commence construction works unless the respective authority has raised its objection in the form of a decision within 30 days from the notification submission date. In justified cases, the said authority may raise its objection or impose an obligation to obtain the Building Permit.

8.1.7 Notification on the commencement term of construction works

Following the obtaining of the Building Permit, the investor is obligated to notify the respective authority and the designer providing supervision over the project and its design conformity, at least 7 days in advance, of its intention to commence construction

works. Attached to the notification there should be a declaration by the site manager, confirming that the health and safety plan has been prepared, and that the site manager has assumed the responsibility to manage the project, supported by the certificate of entry in the respective professional chamber's register.

In the event that the investor's supervision has been provided, there should also be a declaration of the supervision inspector, with the same certificate.

Information should be given including data published in the announcement and concerning site health and safety issues if construction works are to last more than 30 working days and at least 20 workers are to be employed (Figure 8.2).

8.1.8 Collection of the Site Log

The Site Log is an official document of the progress of construction works, as well as events and circumstances that have occurred during the works. The Site Log is provided by the respective authority, against fee.

Prior to the commencement of construction works, names of persons responsible for the project management, supervision and technical control have to be entered in the Site Log. By placing their signatures, those persons have to confirm that they have accepted their functions.

The Regulation by the respective minister, responsible for building, physical economy and housing, specifies the way the Site Log has to be run, persons authorised to make entries in it, as well as data to be included in the site signboard, and announcement on data related to health and safety.

8.1.9 Site mobilisation

The project commences at the moment of initiating the site mobilisation works. Those works include the following: setting out of the objects, land levelling, site development and construction of temporary back-up facilities, connection of services and utilities for project needs. Such works may only be performed in the area covered by either the Building Permit, or notification.

8.1.10 System of construction project supervision and control

Under the national system of supervision and control of construction projects, the supervision tasks are performed by local/central government institutions of architectural and building administration, as well as by state building supervision authorities.

The tasks of architectural and building administration are performed by the County Manager, the Governor and the Chief Building Supervision Inspector.

The tasks of building supervision are performed by the County Building Supervision Inspector of the Governor, with the assistance of the Regional Building Supervision Inspector as the member of regional administration and the Chief Building Supervision Inspector.

The Chief Building Supervision Inspector is the central authority of the state administration in the field of architectural and building administration and building supervision. The Chief Building Supervision Inspector performs tasks specified in the Building Law, and, in particular discharges the functions of a superior entity, in the understanding of the Code of Civil Proceedings, in relation to governors and regional building su-

pervision inspectors, providing supervision over their activities as well as to self-government bodies in matters concerning building licences and professional responsibility in the construction industry. He also controls the activities of architectural and building administration bodies, as well as building supervision institutions and he keeps central registers

- of persons holding building licences,
- of building experts and
- of persons penalised in respect of their professional responsibility.

The basic tasks of architectural and building administration and building supervision bodies include supervision and control of compliance with the Building Law regulations, and, in particular:

- conformity of land development with local physical plans and environmental protection requirements,
- safety conditions in respect of solutions adopted in construction designs, in the course of construction works and maintenance of building facilities,
- conformity of architectural and building solutions with technical and building regulations and principles of technical knowledge,
- proper discharging of independent technical functions in the construction industry and
- introduction to the market and application of construction products, admitted to be generally or individually applied in the construction industry.

The tasks also include issuance of administrative decisions in matters determined by the Act.

The architectural and building administration bodies and those of the building supervision check if persons who discharge independent technical functions in the construction industry actually have valid licences to perform such activities.

When performing their statutory tasks, the architectural and building administration bodies may conduct control activities. Any reported findings made in the course of those activities are grounds for the issuance of decisions or implementation of other measures under the Building Law regulations.

The building supervision bodies or persons authorised by them have the right to enter the facility under construction, as well as the site, work places or areas where construction activities are conducted.

Control activities related to the enforcement of building supervision rights are conducted in the presence of the site manager or engineer, manager or authorised employee of the company, supplier of construction products (in the understanding of regulations concerning testing and certification) or a person authorised by it, or in the presence of the facility owner/manager, and, in residential premises, in the presence of a major tenant and the representative of the building administrator or manager.

The architectural and building administration and building supervision bodies may, when implementing their tasks under the Building Law, request the building process participants, owner or manager of the building, and supplier of construction products, to

provide information and make available documents related to the construction works, transfer of facility for use, maintenance and utilisation of the building, as well as the data which confirm that given building products were admitted to circulation and application.

In the event of justified doubts concerning the quality of construction products or works, as well as technical condition of a building, the architectural and building administration and building supervision bodies may impose, by means of a resolution, an obligation on persons as named above, to provide, within a specific term, the respective technical certificates or experts' opinions, at those persons' cost and expense.

In the event of a failure to submit the required opinions in the specified term or submission of opinions or certificates which are not sufficient to clarify the issue in question, the architectural and building administration and building supervision bodies may order such assessments and opinions to be provided or additional assessments and opinions to be prepared at the cost of persons originally obligated to submit them.

The tasks of the building supervision authorities include:

- to control the compliance with and application of the Building Law regulations,
- to control the operation of the architectural and building administration institutions,
- to investigate the reasons of building collapses and
- to cooperate with state control institutions.

The building supervision authorities are obligated to forward forthwith copies of their decisions and resolutions under the Building Law to the architectural and building administration bodies, to keep records of decisions, resolutions and notifications, to keep registers of building projects commenced and those transferred for use.

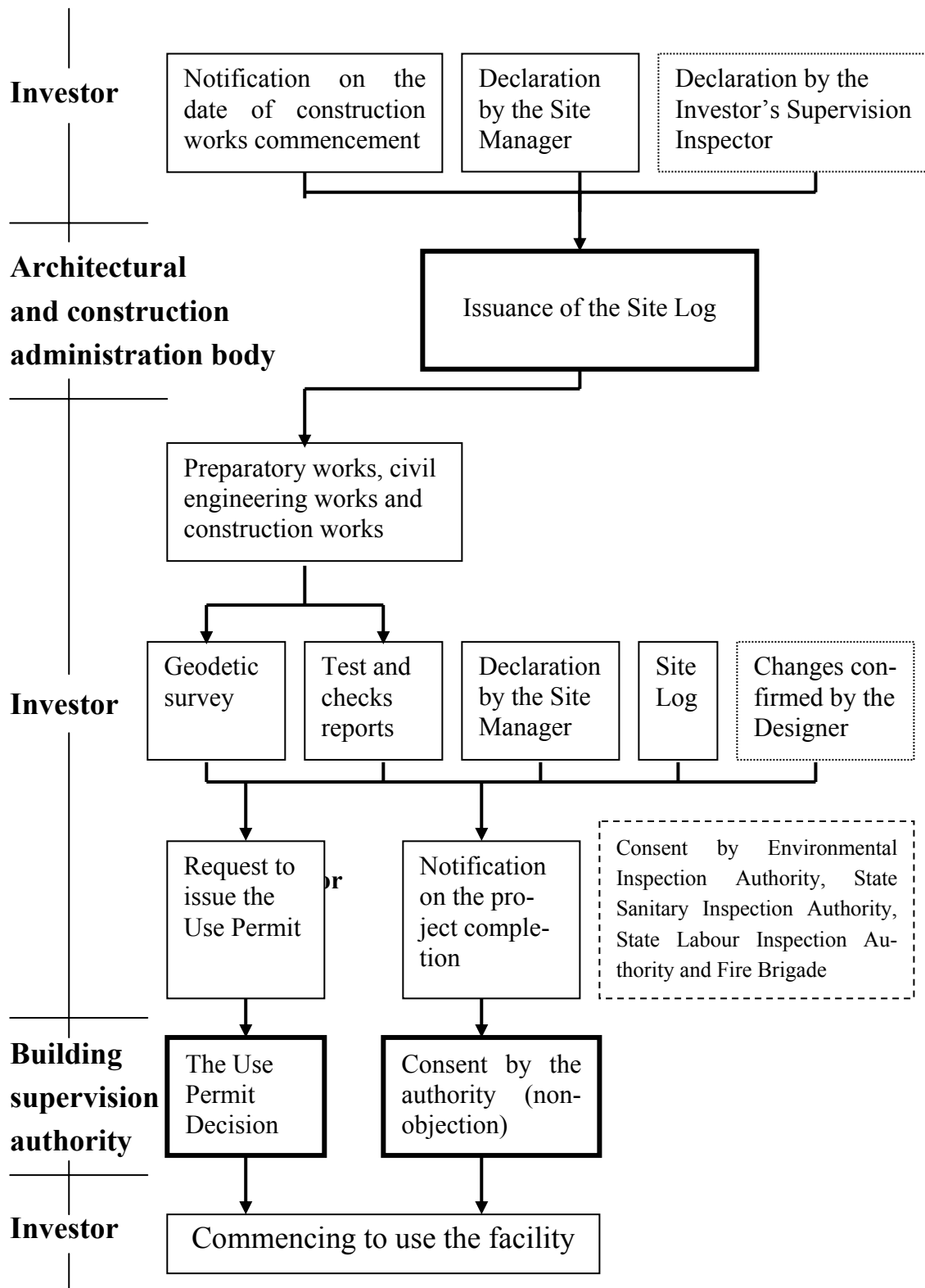
The control of the compliance with and application of the Building Law regulations includes the following:

- compliance of construction works with the Building Law regulations, construction design and conditions specified in the Building Permit decision,
- valid licences to be held by persons discharging independent functions in the construction industry and
- checking of the admission of construction products to be used in the construction industry.

Control over the activities of architectural and building administration bodies is effected by the Chief Building Supervision Inspector and by the Regional Building Supervision Inspector (the latter in relation to the County Manager).

Scopes of responsibilities of the remaining participants of the project development process, including those of contractors, result from the scopes of obligations imposed by the investor. Those matters are regulated under civil-law agreements (the Civil Code) concluded between the investor and the designer, the contractor, etc.

Figure 8.2 The Building Process (building facilities that require a building permit)
- The Construction works' phase



8.1.11 Changes in the course of project development

Changes of managing staff

The investor is obligated to notify the respective authority forthwith of the change of either the site manager, supervision inspector, or designer providing the design supervision, stating the date of change. The notification should be supported with declarations on assuming responsibilities by the replacement staff members.

Deviations from the design or any other conditions of the Building Permit

An essential deviation from the approved construction design or any other conditions of the Building Permit may be allowed only upon the obtaining of the decision to change the Building Permit. A deviation without the obtaining of the decision to change the Building Permit results in the Building Permit decision to be waived by the respective authority.

Necessity to occupy someone else's property

In the event that the site mobilisation works or construction works make it necessary to enter the adjacent building, premise or real estate, the investor is obligated to obtain, prior to the commencement of works, the consent of the owner (lessee) of the adjacent building, premise or real estate, and to agree the envisaged way, scope and terms of using those facilities, as well as a related potential compensation.

8.1.12 Transfer for use

A building facility which is subject to the Building Permit, may be used upon notification, made at least 21 days in advance of the intended use commencement, to the respective authority of the construction completion, provided that the said authority has not, within 21 days from the notification submission date, raised its objection in the form of a decision.

Obtaining of the Use Permit is required if the respective authority:

- has imposed such an obligation in the Building Permit,
- has found out that the facility, as reported by the investor, had been constructed contrary to the conditions, set out in the Building Permit,
- has issued a decision on the approval of construction design and granting a permit to resume construction works,
- has imposed an obligation to undertake specific actions in order to bring construction works to the legally compliant status, specifying the term of completion thereof.

Obtaining of the Use Permit is required also in the event that the commencement of use of the building or its part takes place prior to the completion of all construction works.

The notification on the project completion, or request to grant the Use Permit, must be accompanied by the following documents:

- the original Site Log,
- declaration by the site manager on the facility's conformity with the construction design and the Building Permit conditions, as well as the statement that the site has

been cleared (the same about clearing of the adjacent street, real estate, building or premise, if they were used),

- declaration on the proper development of the adjacent areas if the operation of the completed facility depends on the proper development of those areas,
- test and control reports,
- as-built land survey reports.

The investor which has been subjected to the obligation to obtain the Use Permit is obligated to notify, in accordance with specific regulations, the following institutions and organizations: Environmental Inspection Authority, State Sanitary Inspection Authority, State Labour Inspection Authority, and Fire Brigade on its intention to commence to use the facility. The said institutions have to give their opinions on compliance of the completed facility with the construction design.

8.1.13 Issuance of the Use Permit decision

Following the notification on the completion of construction, or following the submission of the request to issue the Use Permit, the respective building supervision authority carries out, at the investor's request, a mandatory inspection of the project, and, afterwards, issues the decision on the Use Permit.

The project inspection includes to check the compliance of the constructed facility with the area/land plot development design as well as with the architectural and construction design, in respect of the following:

- characteristic technical parameters: gross volume, gross surface area, length, height, width, number of storeys,
- quality of visible load-bearing elements of the facility's structure,
- geometric design of the roof (inclination angle, height of the roof ridge and layout of roof slopes),
- execution of building furnishings,
- essential elements of construction and service fittings which make it possible to use the facility in accordance with its designation,
- provision of conditions necessary for the use of the building by the disabled, especially those using wheelchairs and
- construction products that are critical for the structure safety and fire resistance.

The inspection also includes to check, in the event of an obligation included in the Building Permit, the demolishing of existing or temporary facilities, if the demolition deadline has expired. Included is to check the site clearance as well.

After the inspection, the respective authority may establish, in the Use Permit, conditions of using the facility, or condition the use thereof on the execution, within a designated term, of specific construction works.

In the event that the respective authority has established that the building facility fulfils the conditions for the issuance of the Use Permit decision, although part of finishing works or other works have not been completed yet, the said authority may specify, in the Use Permit, the term for the completion of those works. The investor shall be obli-

gated to notify the respective authority on the completion of those construction works, which have been conducted after the use of the facility had commenced, in accordance with the Use Permit.

Decision on the Use Permit is sent by the supervision authority forthwith to that authority, which had issued the land improvement and development decision.

In the event that the project or its part has been developed contrary to the building law regulations as an illegal undertaking, the procedures of project development and transfer for use become highly complicated and time-consuming.

8.1.14 National technical requirements and the Construction Products Directive

When Poland becomes the member of the European Union, all EU regulations concerning free movement of goods shall fully apply in Poland, and the same about construction products. The basic related regulation is Art. 10.2.3 of the Building Law which enforces the provisions of Directive 89/106/EEC. According to them, the following construction products will be admitted to circulation and application:

1. Those labelled CE which, in accordance with separate rules, were assessed in respect of their conformity with the harmonized European Standard, as introduced to Polish Standards, with the European approval certificate or a national technical approval certificate issued by a Member State of the EU and accepted by the European Commission to be consistent with the basic requirements.
2. Products from the list of products, as established by the European Commission, which are of minor significance to human health and safety, for which products declarations of their conformity with the accepted rules of good building engineering practice were issued by their manufacturers.

Detailed rules and mode of assessing the conformity of a construction product with the harmonized European Standard as introduced to the Polish Standards (PN-hEN) and with the European Technical Approval (EAT), as well as the way of affixing CE conformity marks to construction products, in accordance with the provisions of Directive 89/106/EEC, are set out in the Regulation of the Ministry of Infrastructure Concerning the Systems of Assessing the Construction Products' Conformity and the Way of Labelling Them with the CE Markings.

No additional requirements shall be provided for the CE-labelled construction products (this rule shall also apply to local authorities). Decision on the use of a given product shall be made by the building process participants (investor, designer, contractor), based on its specifications and application scope.

All European standards, which have been prepared based on the European Commission's mandates given to CEN/CENELEC and announced to be harmonized with Directive 89/106/EEC, are introduced to Polish Standards, on a current basis, by the Polish Standardisation Committee.

A Polish organization was appointed (Institute of Building Technology), which, after 1 May 2004, will become the real member of EOTA and will be authorised to grant European Technical Approvals (EAT).

There is an ongoing procedure of notifying the European Commission about those Polish entities, which will be authorised to assess the products' conformity and give grounds for their CE-classification.

On 12 March 2004, the Polish Parliament passed the Act Concerning Construction Products. The Act is in the final stage of its legislative procedures. It is expected that the Act will come into force in May 2004.

The Act will include all the existing regulations, concerning the placement of construction products on the market, as specified by the Building Law, and will introduce a coherent system of control and administrative procedures, related to the supervision of the construction products' market.

8.2 Competency requirements and registration

8.2.1 Independent technical functions in the construction industry

In the understanding of national regulations, functions performed under the project development process are jointly called the "independent technical functions in the construction industry." An independent technical function in the construction industry is any activity, related to the necessity to provide professional assessment of technical phenomena or independent solving of architectural and technical problems, and, in particular, any activity that involves:

- preparing designs, verifying architectural and construction designs, and providing design supervision,
- managing construction projects or works,
- managing and supervising fabrication of structural elements, or evaluating and examining the technical condition of those elements,
- providing the investor's supervision,
- providing technical control of building or facility maintenance and
- providing expert's opinions in the field of construction.

Independent technical functions in the construction industry, specified in Items 1-5 below, may be discharged exclusively by persons with proper technical education and vocational practice fit for the project type, complexity and other requirements, related to the given function, confirmed by the decision, or the "building licence," issued by the professional self-government body.

The building licence may concern design activities and managing of construction works.

Building licences are granted in the following disciplines:

- architectural,
- structural and construction,
- road construction,
- bridge construction,

- utilities as district heating, ventilation, gas, water and sewage systems, installations and equipment,
- utilities as power and power engineering systems, installations and equipment,
- other, as specified under separate regulations by the respective minister.

In order to obtain the building licence in any of the foregoing disciplines, a person must fulfil the following conditions:

1. Re: designing without limitations and verifying architectural and construction designs:
 - higher education, proper for the given discipline,
 - a two-year design internship,
 - a one-year site practice.
2. Re: designing in a limited scope:
 - secondary education, proper for the given discipline, or the related higher education,
 - a five-year design internship,
 - a one-year site practice.
3. Re: managing construction works:
 - higher education, proper for the given discipline,
 - a two-year site practice.
4. Re: managing construction works in a limited scope:
 - secondary education, proper for the given discipline, or the related higher education,
 - a five-year site practice.
5. Re: working as site foreman or managing works in the scope charged by the superiors:
 - at least basic education and the foreman's diploma in the proper building profession.

Passing an exam in legal regulations related to the construction process, as well as an exam in practical application of technical knowledge is another condition for the obtaining of the building licence.

Persons who discharge independent functions in the construction industry are obligated to discharge them in accordance with regulations and principles of technical knowledge, to show due diligence in the performance of work, its proper organization, safety and quality.

The basis for discharging independent technical functions in the construction industry is the entry, through a decision, in the central register and, following separate regulations, the entry in the register of members of particular professional self-government chamber, confirmed by the certificate, issued by that chamber.

The basic responsibilities of the *site manager* include:

- to take over the site from the investor, based on the hand-over report, and to properly secure the site,
- to keep the project documentation,
- to provide for the facility setting out, and to arrange and control the construction process in accordance with the design, the Building Permit and rules of law,
- to coordinate activities aimed at the compliance with the rules of safety and health protection as regards workers and third persons, as well as the project safety,
- to notify the investor on entries in the Site Log that suspend the works due to their non-conformance with the design,
- to carry out instructions as entered in the Site Log,
- to report to the investor the completed and vanishing works to be checked and accepted, as well as to provide the necessary checks and tests of installations and equipment,
- to prepare the as-built documentation and
- to report the facility for the acceptance through an entry in the Site Log.

The basic responsibilities of the *investor's supervision inspector* include:

- to represent the investor in site through the control of the project development's compliance with the design, the Building permit, rules of law and principles of engineering knowledge,
- to check the quality of completed works and that of the built-in construction materials,
- to accept the concealed or vanishing works, to participate in tests and technical acceptance of installations and equipment and
- to confirm the actually completed works and to remove defects, as well as to control the project settlement (upon the investor's request).

A person who fully exercises his or her civic rights, is a graduate of a higher education institution, a holder of a building licence without limitations and has served at least ten year internship after being granted the building licence, as well as has obtained positive opinions from two building experts of the given discipline, can become a building expert.

Following the request by the person concerned, the respective self-government body awards, through decision, the title of a building expert and determines, based on the opinion and internship record, the scope of activities in which the building expert's function may be performed. The scope cannot go beyond the technical and building discipline, covered by the building licence.

The basis for commencing the building expert's activities is the entry in the central register of building experts. A person may be deleted from the central register of building experts at his/her own request, upon deprivation of civic rights, upon deprivation of the building licence, or upon death.

8.2.2 Registration system of consultants/experts and construction companies

By "consultants" we mean here all persons (institutions) co-participating in the project development process as design advisers and coordinators, prior to the design approval. Such persons are classified as "experts" in Poland.

In Poland, there is a uniform, central system of registering people who advise and coordinate construction projects in their basic scopes.

The scope of valid opinions and approvals is specified in the Building Law (Act of 7 July 1994), while requirements concerning the consultants (or "experts" in accordance with the Polish terminology) are specified by ministers in their regulations. All experts are registered in central registers in particular central government offices. Accordingly, the Minister of Internal Affairs and Administration appoints experts in fire safety and protection, and provides them with their licence numbers; the Minister of Health appoints experts in sanitary and hygiene issues; the Minister of Economy, Labour and Social Policy appoints experts in labour health and safety; the Minister of Infrastructure appoints property experts, dealing with real estate evaluation, while Chief Building Supervision Inspector appoints building experts (various disciplines) who advise on designs, e.g. on the provision of mandatory insulation for buildings, access of natural light, etc.

The system operates in such a way that expert candidates, after having met all formal education and internship requirements, are subjected to examination in some disciplines and, upon being granted their expert licences, are entered in the central register. Those experts provide services, consisting in design advice and coordination, and usually act as business entities.

The goal of the system is to ensure proper professional level of consultants and, consequently, the quality of designs.

Part of consultants, e.g. those who are specialists in the preservation of historical landmarks, works on the local government level.

So far, the issue of appointing and certifying environmental impact assessment consultants has not been regulated yet. Such consultants participate in the preparation of reports and projections concerning environmental impact assessment of the design.

Contractors (building entrepreneurs) are subjected to mandatory registration in the National Court Register, while small and medium-sized business entities, may for the next two years continue to register in their communes. The government's plans provide for all business entities to be covered by the obligatory registration with the National Court Register.

In addition to the register of businesses, the National Court Register holds a register of insolvent debtors. The goal of that register is to protect investors against dishonest building companies.

8.2.3 Restrictions for foreign consultants and developers

The Building Law has introduced the idea of independent technical functions in the construction industry, including:

- to prepare designs, to verify architectural and construction design, and to provide design supervision,

- to manage construction projects or works,
- to manage and supervise fabrication of structural elements, or evaluate and examine the technical condition of those elements,
- to provide investor's supervision,
- to provide technical control of building maintenance and
- to provide expert's opinions in the field of construction.

Independent technical functions in the construction industry may be discharged exclusively by persons with proper technical education and vocational practice fit for the project type, complexity and other requirements, related to the given function, confirmed by the decision, or the "building licence," issued by the professional self-government body.

On the day of Poland's accession to the European Union, independent functions in the construction industry will also be available to persons from EU Member States, who:

- hold the right to conduct business activities in another country, equivalent to independent technical functions in the construction industry,
- have completed a course of foreign studies, acknowledged to be equivalent to the Polish ones,
- have served a two-year internship of design preparation or a site practice.

The respective body of professional self-government will be authorised to conduct verification procedures regarding those persons.

The law of Poland does not provide for licences to be granted to construction companies.

8.3 Requirements on insurance and guarantees

8.3.1 Insurance of the consultants

The problem of insuring consultants is partly related to their obligatory membership in professional chambers or associations (e.g. the Chamber of Architects, the Chamber of Urban Planners, the Chamber of Building Engineers, the Association of Real Estate Experts), which require their members to hold civil-liability insurance policies in relation to their professional activities. The consultants' clients themselves more and more often require such an insurance. This is becoming the growingly popular system of reducing the project development risks. The insurance requirement is set out as early as in the terms and conditions of the bidding procedure related to the provision of consulting services (for large capital investment projects).

The consultants themselves specify the amount of the insurance sum - sometimes the minimum amount is specified by the employers.

The insurance covers civil liability for damages caused as a result of the insured person's acts or omissions in the insurance coverage period, in connection with discharging independent technical functions in the construction industry and within the scope of the building licence granted.

The mandatory insurance scheme includes all persons who discharge independent technical functions in the construction industry. The insurance does not concern losses suffered by the insured person himself/herself but it indemnifies him/her against claims by the injured third persons.

The effectiveness of the insurance does not depend on the organisational and legal form of the insured person's employment (job contract, civil-law contract, one's own business). In the event of a business entity, all activities conducted by the insured person under the company's scheme of operation, as well as all actions and omissions by the workers employed by the insured person are protected with the insurance provided that the said workers are employed based on job contracts and work exclusively under the supervision and on behalf of the insured person.

According to regulations, the minimum insurance guarantee sum is equivalent to EUR 50 000 per single event. It is also possible to contract insurance policy for the guarantee sum in excess of EUR 50 000 (wide scope of business activities, additional requirements of the client). Additional liability limits are EUR 100 000 to EUR 500 000. The premium amount depends on the insuring company.

In the event of licences, e.g. to design and to implement projects or to provide supervision, the insuring company may request higher premiums to be paid.

8.3.2 Insurance of building contractors and developers

New insurance products, offered to building contractors, have been appearing on the Polish project and construction market for several years. Insurance companies offer the options of insuring almost any risk, related to the development of a capital investment project. Therefore, one can insure the risk of a delayed completion of a building, completion of works without proper quality (defects), the risk related to breaks in the construction works due to weather conditions or the lack of financial liquidity of the employer, construction collapses, accidents, etc.

The insurance policy may cover either the operation of the company itself (against fire, theft, accidents), without direct linking to the implementation of specific projects, or may be related to a specific project, e.g. a housing project.

Banks, which grant project loans, require housing projects to be insured, especially in case of those house builders who have just begun their business operation. This is especially the case when a company commences the building project without having at its disposal the relevant part of anticipated financial resources (20-30%), and when it has not concluded part of sale contracts concerning the completed flats (20-30%). This requirement puts developers in a difficult situation and increases the investing risk.

There are no direct legal grounds to specify both the required insurance amount concerning the construction works, and the insurance scope. As a result of foreign investors' entering the Polish construction market, the way of concluding contracts by them has forced the domestic building companies to insure their contractors.

Usually, in accordance with the contract, the cost of insurance is charged to the contractor, and the contractor, in turn, charges its particular sub-contractors with the costs of insuring specific types of works.

Generally, construction projects are insured at ca. PLN 500 000-1 000 000, although in the event of an additional project development risk, also higher amounts are possible.

The amount of the premium depends on the insurance scope and the insuring company selected.

Insurance policies for those undertaking housing projects (developers or building contractors who operate under the developer's scheme, that is at their own risk, without any external order) are, however, required by banks which provide loans for project purposes. It is expected that capital investment projects will be covered by the obligatory escrow account system. Under this system, the developers' clients would make payments for their ordered flats to banks or to some intermediary companies. The developer could get the amounts due only upon the project completion, followed by its formal and quality approval.

8.3.3 Guarantees

The scope of mutual parties' obligations is usually specified in detail in the contract for construction works and constitutes basic legal act that shapes cooperation between the employer and the contractor and provides grounds for the assessment of inadequate fulfilment of those obligations. In Poland, contracts for construction works are more and more often drafted based on FIDIC contract conditions (*Federation Internationale des Ingenieurs-Conseils*), together with sample quotations, detailed conditions and contract provision instructions.

In practice, when dealing with the development of construction projects, we have warranties and guarantees. The warranty period, in accordance with the Polish Civil Code, lasts 1 year (structures) and 3 years (buildings), but the law does not regulate the duration of the guarantee period. Different guarantee periods may be stipulated in contracts, but unless directly specified, they are deemed to last 1 year. If a 1-year guarantee period has been established in the contract, without specifying the warranty period, then the warranty period shall last 2 years upon the expiry of the guarantee period. The guarantee or warranty period commences on the date of the acceptance of works by the employer.

8.4 Financing and subsidies

8.4.1 Financing

Investor's approach – commercial housing construction

Till recently a widespread way of financing the housing construction has been a system of payments with a reasonable large deposit prior to commencement of construction works with the last instalment/tranche before completion of investment project. Yet the method of financing the housing construction is rapidly altering. Now more and more frequently the customer pays the first tranche after the construction commencement or upon acquisition of the completed dwelling /residential building.

Investor's approach – state supported social rental housing

One of the government housing policy priorities has been development of affordable rental housing co-financed by preferential credit granted from *National Housing Fund*

(further KFM) resources¹(Table 8.1). Long-term indexed mortgages at preferential interest rates (half of market levels) can be granted to housing cooperatives and social housing associations (non-profit developers) for building dwellings for income-eligible households.

The mortgage can cover up to 70% of the project value. Additionally, debt is reduced by 10% of the project value, when the project is successfully completed. The mortgage is double indexed, i.e. repayments in initial period do not cover 100% of interest due. The effective interest rate (including interest capitalization) is currently set at 4.5% per annum. The remaining 30% of the construction cost is usually raised in the form of in-kind contribution of a plot by the municipality or financial contributions of third parties (usually prospective tenant's family).

Table 8.1 Completed dwellings financed from KFM resources

Specification	1996	1997	1998	1999	2000	2001	2002	1-3 q. 2003
Completed dwellings financed from KFM resources Thereof:	24	417	1627	5048	8441	11755	6617	8098
Social housing assoc.	24	351	1156	3742	5707	8638	4846	6507
Housing coops	(-)	66	471	1306	2734	3117	1771	1591

Source: Bank Gospodarstwa Krajowego

Housing loans – banking system

Financing housing through commercial banking loans has been rapidly expanding recently. Housing loans outstanding included mortgage credits in the previous four quarters (third quarter-on-third quarter 2002 and 2003) increased by 40% (over 8 billion PLN). Corresponding amount as at the end of June 2003 was threefold higher than the outstanding debt in June 2000 (an up-rise by 16,2 billion PLN).

As at the end of third quarter 2003, outstanding debt for housing loans totalled over 36,0 billion PLN, with 26,8 billion PLN in private consumer housing loans. The remaining referred to housing credits granted to institutional bodies (Table 8.2). The majority of private consumer housing loans were denominated in foreign currency and at the end of third quarter 2003 the ratio of such loans amounted to circa 66% of total outstanding debt (17,7 billion PLN).

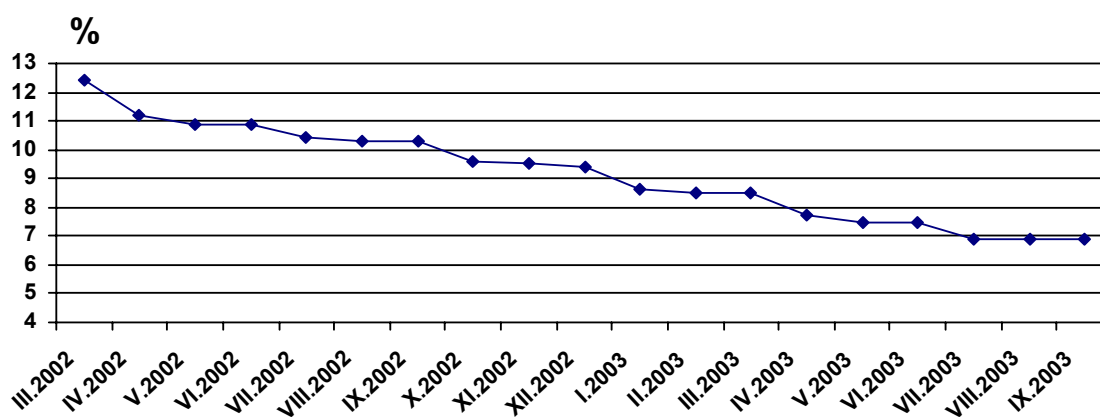
¹ KFM was located in a state-controlled bank – *Bank Gospodarstwa Krajowego*.

Table 8.2 Housing loans outstanding in 2002-2003 (millions PLN)

	quarters						
	I 2002	II 2002	III 2002	IV 2002	I 2003	II 2003	III 2003
housing loans	21 725,7	24 398,3	26 273,1	27 611,5	30 700,4	32 393,5	36 060,1
of which granted to:							
enterprises and state-owned companies	1 211,1	1 272,3	1 368,8	1 463,0	1 530,1	1 614,2	1 728,7
enterprises and private companies as well as co-operatives	5 711,1	5 758,6	6 047,1	6 116,2	7 071,8	7 134,8	7 411,9
private consumers	14 700,9	17 255,8	18 765,4	19 958,9	22 027,9	23 572,6	26 825,1
individual enterprises	102,6	111,6	91,8	73,4	70,6	71,9	94,4

Source: National Bank of Poland

In the years 1997 – 1998 interest rates on mortgage loans remained fairly stable at the level of 25%. They declined significantly in 1999 due to a very steep decreases of central bank rates and growing competition in the market. Average rates at that time varied between 16 and 18%. In 2000 The Council of Monetary Policy raised basic interest rates twice, which implied the growth of real interest rates in capital market. Because of inflation rate fall in 2001, Central Bank decreased interest rates by 750 basic points which pulled mortgage rates down by average 500 basic points. At present the market-driven interest rates on mortgage loans are circa 7,0% (Figure 8.3).

Figure 8.3 Average-weighted interest rate on housing loans with repayment performance more than 5 years

Source: National Bank of Poland

The recent development of lending for housing purposes is slowly reshaping the pattern of housing financing for individuals. Until recently housing construction was financed almost exclusively with cash (excluding subsidised loans of pre-transition years and early 1990s). In 1998 the share of credit in housing financing accounted for about 10%.

In 1999 the figure has risen to 15% while in 2000 and 2001 amounted to 17% and 21% respectively. In 2002 the analysed figure reached almost 26%.

Housing credits - mortgage banks

In 1997 the Act on Mortgage Bonds and Mortgage Banks was adopted. It introduced a German model of mortgage securitization - *Pfandbriefe*. Mortgage banks are specialised financial institutions with the right to issue mortgage bonds (*Pfandbriefe*) against the mortgages in their portfolio. Mortgage bonds, which are long-term safe capital market instruments, are supposed to provide suitable long-term financing for mortgage loans originated by mortgage banks and have positive impact on their interest and maturity. There are currently four mortgage banks in Poland - HypoVereinsbank, Rheinhyp - BRE Bank Hipoteczny, Śląski Bank Hipoteczny and Nykredit Bank Hipoteczny.

Table 8.3 Lending growth of mortgage banks compared to total banking sector (as at the end of period – accumulated in million PLN)

	2000	2001	2002	I półr. 2003
mortgage credit portfolio of mortgage banks	132,0	704,3	1 407,4	2 009,8
credit portfolio of mortgage banks (included other than housing credits) compared to total housing credits portfolio	1,4%	5,0%	5,1%	6,2%

Source: National Bank of Poland

In 2002 Parliament approved some legislative changes which are expected to spur the development of mortgage banks. They broadened the scope of the allowed operations as well as relaxed the parameters for credit offered by mortgage banks.

The majority of the housing loans currently offered by Polish banks are still funded with short-term deposits. It should be noted, however, that securitization will not instantly improve the affordability of mortgage financing. The spreads between rates on loans and deposits in commercial banks are still high enough to make alternative funding techniques non-competitive in final price of credit terms.

8.4.2 State subsidies related to housing

In the early 1990's a developed system of tax exemptions and relieves related to both direct and indirect taxes was introduced as a consistent component of the housing policy. Investments related to individual persons' own housing needs entitled to deductions from the taxable income (directly from the due tax after change of regulations). The Act on Personal Income Tax contained also regulations addressed to people who repaired their own housing units and buildings or made investments in dwellings for rent. Tax exemptions apply also to transfer of ownership title to a dwelling related to the transferring parties' own housing needs.

The Act on Corporate Income Tax provides for income tax exemptions for administrators of residential buildings if these incomes are spent on the building maintenance. The Act on VAT and Excise Tax provides for preferential VAT rates on housing construc-

tion. After taking into account the deductions from taxes (or tax base), and the preferential VAT rate applied to construction materials and services the below indices describing the direct national budget expenditures on housing should be at least doubled.

Social Housing Associations (TBS)

TBS are usually established as limited liability companies. Roughly 75% of all of them are municipal subsidiaries. TBS operate under separate legal regime - *the Law on selected forms of support for housing* (1995) – which directly defines eligibility rules. Household income cannot exceed 130% of regional average salary by 20% for single-person household and 80% for 2-person household (plus 40% for each additional person in a household). The income statement is delivered every 2 years. Such income ceilings point to the fact that TBS housing is not really meant for low-income households. More probable target group are young households on the threshold of their professional careers.

The rental rates in the TBS housing stock have a cap: yearly not more than 4% of current construction cost of a dwelling. The actual rent level has to be approved by the municipal council. Social housing associations usually require maximum allowed deposit (yearly rent but not more than 10% of the dwelling value).

The programme of preferential loans for these entities falls within the scope of state subsidies for new investments. Furthermore their activity can be considered as rendering of services of general economic interest (affordable housing with legally limited rent).

Low-interest loans for housing purposes program

The aim of the program is to cover loans for construction and purchase of dwellings as well as renovations of houses. Preferential credit duration will be up to 25 years. The role of the state is to subsidise the part of interest above fixed rate. The latter is determined at 6,5% now, whilst the market-driven interest rates on credits for housing purposes are circa 7,0% (*see housing finance construction*). There is a chance to lower the interest rate on preferential credit to 6% for subsequent loans if market-driven interest rates fall. The state subsidy lowers cost of credit to the final beneficiary and makes it affordable to a broader group of investors including individuals, communes, housing co-operatives and private investors. The whole program of granting preferential long-term loans will last up to 2005.

8.4.3 Taxation relieves

Taxpayer's right to deduct interest rate paid on a housing loan from taxable income

To be eligible for tax deduction a taxpayer must comply with several conditions. Housing loan or housing credit must be contracted following January 1, 2002² (previously the taxpayer or taxpayer's spouse did not need to use taxation relief for housing pur-

² Till 2002 a different kind of personal income tax relief was operated. A tax-payer had a right to deduct part of the cost of construction or acquisition of residential building/dwelling from his/her tax. That system was very poorly targeted as the tax-payers with high income who had purchased expensive residential buildings received as much or usually more support than the less affluent, who did not purchase dwellings expensive enough to use up all the limit (19% of the average price of construction of a 70 sq. meter of residential unit).

poses including contract saving system³). Interest on housing loan or housing credit contracted in commercial bank or in co-operative savings and credit union system (SKOK) must be intended for satisfying taxpayer's housing purposes. Credit or loan resources must be directed for one of the below mentioned purposes:

- construction of residential building (tax relief does not apply to the interest on credit or loan for acquisition of parcel or perpetual usufruct),
- providing a construction or housing contribution to co-operative⁴ in order to acquire the right to newly-constructed residential building or a dwelling in such a building,
- acquisition of newly-constructed residential building or a dwelling in such a building from municipality or developer or
- reconstruction or alteration of a unit or a building or a part of a building previously utilized as a non-for-housing into a residential one (such converted dwelling must comply with regulations stipulated in the *Building Law*).

In order to execute the right to deduct interest paid on a housing loan from taxable income, the credit supported investment must be completed within three consecutive years following the year of receiving the building permit yet not earlier than in 2002. First deductions are possible to make when all expenses related to the investment project are known which in fact means in the fiscal year when the investment is completed.

Annual taxable revenues are decreased by the amount of actually incurred interest expenses on housing loan or housing credit. The accumulated amount of interest which were paid in the period since 2002 till the year of investment completion is a subject of deduction in the first year of execution the taxation right or in the following year. The latter implies that deducted is only the difference between the sum of interest to be deducted and the amount of interest actually deducted in the prior year (the year of first deduction).

Deductions of interest are limited on credits or loans to the amount of which do not exceed the product of 70 square meters of a dwelling and a value of a square meter of usable floor which is set in order to determine the guaranteed bonuses for owners of saving-for-housing booklets. The basis for determination of such a limit is a value of a square meter set for third quarter of fiscal year in which an investment was completed⁵.

Last but not least there are no time-restrictions of execution the right to the tax relief. In fact it means that the taxpayer is in a position to deduct interest actually paid in a given

³ Till 2001 there were two different contract savings systems established by separate legal acts. First one is the Act of October 1995, which introduced the institution of *kasa mieszkaniowa* (KM). The other was the Act of June 1997, which regulates the operation of *kasa oszczędnościowo-budowlana* (KOB), modelled on contract savings systems existing in Germany and Austria (*bausparkassen*). The KOB system did not come in operation, due to the government's initiative (supported by the central bank) to stop the licensing process until the Law of 1997 is amended. In 2001 the system of *kasa oszczędnościowo-budowlana* was abolished.

⁴ Co-operative members awaiting for establishment of co-operative tenancy or co-operative ownership right to the residential unit or a proprietary residential unit right are obliged to participate in the construction outlays by the way of providing a construction or housing contribution or covering other liabilities related to construction works which stem from the resolutions of the co-operative statute.

⁵ Third quarter value of a square meter in 2003 was 2,117 PLN (the € exchange rate as at 30th September was 4.6435 PLN)

fiscal year on condition that the deductions does not exceed the amount of interest on limited credit (described above).

Taxpayer's right to deduct part of the expenditures for renovation and modernization

A taxpayer is in a position to decrease a tax due when incurred expenses for modernization and renovation of residential building or a residential unit the legal title of which belong to the him/her. Also the payments to a renovation fund of a condominium or a co-operative are subjects of deductions.

Since 1997 all sources of expenditure for modernization and renovation of a residential building or a residential unit are itemized in the ordinance on specification of expenditures for modernization and alteration of residential buildings and residential units by the amount of which a taxation due is reduced. Annexes to the ordinance enumerate the following expenditures:

- acquisition of materials as well as appliances,
- acquisition of services (expertise, opinion, delivery of materials and appliances etc.)
- hire of construction equipment and
- administrative expenses and others.

To execute the right to taxation relief the taxpayer must possess a legal title to a unit or to a building. It can be a:

- proprietary right,
- co-operative right under ownership,
- co-operative right under tenancy,
- municipal tenancy right,
- tenancy agreement,
- sub-tenancy agreement,
- leasehold agreement or an
- agreement of life-span utilization.

The expenditures must be invoiced and certified by a VAT taxpayer which does not utilize the right to exemptions or SAD evidenced in case of imported materials. Exempted are payments to a renovation fund (in this case expenditures are confirmed by the evidence of payment). The expenditures are subject to deductions only if they relate to units/buildings which are situated in Poland, they are not classified as cost of obtaining income and they are not distributed back to the taxpayer in another form.

The limit of deductions of expenditures is prolonged for three consecutive years. The maximum amount of expenditures to be deducted in each of three-year period depends upon the renovation of either a unit or a building. In each case the tax due is reduced by 19% of incurred expenses yet no more than:

- 2,5% of the amount equal to the product of 70 square meters of a dwelling and a value of a square meter of usable floor which is set in order to determine the guaranteed bonuses for owners of saving-for-housing booklets. The basis is for the first year of a three-year period – if expenses relate to a residential unit,

- 3% of the same amount – if expenses relate to residential buildings or payments to a renovation fund in a condominium or a co-operative.

Preferential rates of value added tax for selling dwellings as well as for construction services and construction materials

According to the Accession Treaty and draft bill on Value Added Tax, until the end of 2007 all of the housing sector will take advantage of reduced VAT rate (7%) on supply, construction, renovation and alteration of housing. With the date of Polish accession to EU, however, VAT rate for construction materials will rise up to a level of 22% (at present 7%). After 2007 the reduced VAT rate will only be allowed with respect to housing provided as part of a social policy.

Table 8.4 Direct budget expenditures on housing (PLN million)

<i>Type of allocation</i>	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004 (pr)
Total	2 349.9	1923.5	2 760.3	2 816.6	3 397.6	3 392.2	3 297.0	2 103.2	2 589.4	3 961.1	2 201.0	2 118.2	1 233.6
<i>Coop loans interest buy- down</i>	699.1	975.0	751.1	829.5	1 415.6	1 111.3	1 055.3	609.2	414.3	927.7	524.4	275.0	134.0
Coop loans payments	702.6	0.2		0.1			0.9						
<i>Guaranteed payments to housing savings booklets' owners</i>	264.3	261.7	1 404.6	1 125.7	817.7	908.0	1 213.0	911.4	1 368.4	2 227.0	760.3	730.0	610.0
Mortgage Fund		12.1	1.1	5.9	13.1	15.2	8.7	8.9					
National Housing Fund				58.7	342.0	220.0	332.3	150.0	242.5	248.9	472.5	450.0	450.0
Thermal Modernization Fund								5.0	12.0	3.0	36.8	5.0	39.6
<i>Subs. for int. on loans rel. to flood eff.</i>								1.2	3.2	4.5	7.0	3.9	
<i>Thermal modernization subs. to coops</i>				10.0	39.9	49.8							
<i>Fixed interest housing loan</i>												103.3	
<i>Subs. to municip. for hous. allowances</i>			38.9	229.7	265.3	324.3	456.2	416.9	549.0	550.0	400.0	551.0	
<i>Refunds to housing coop candidates</i>			25.1	31.7	44.8	274.3	2.3	0.6					
<i>Subs. to municip. for housing infrastr.</i>			89.9	89.6	55.0	90.0	39.9						
<i>Subs. to heat providers in housing sect.</i>							54.0						
Subsidies to housing coops	683.9	530.4	449.6	435.7	404.2	399.3	134.4						
Share of Central budget, %	6.1	3.8	4.0	3.1	3.1	2.7	2.4	1.5	1.7	2.2	1.2	1.1	
Share of GDP, %	2.0	1.2	1.3	1.0	0.9	0.8	0.6	0.3	0.4	0.5	0.3	0.3	

References

Regulation of the Minister of Finance of 11 December 2003 Concerning the List of Acts that regulate any project development process:

Act of 7 July 1994 – The Building Law

Act of 27 March 2003 Concerning the Physical Planning and Development

Act of 21 August 1997 Concerning the Real Estate Management

Act of 10 June 1994 on Public Procurements

Act of 23 April 1964 – The Civil Code

Act of 14 June 1960 – The Code of Civil Proceedings

Act of 6 July 1982 Concerning Land and Mortgage Registers

Act of 29 August 1997 Concerning Mortgage Bonds and Mortgage Bank

Act of 4 July 1994 Concerning the Copyright and the Related Rights

Act of 3 February 1996 Concerning the Protection of Arable Lands and Forests

Act of 26 November 1998 Concerning the Public Finance

Act of 27 April 2001 – The Environmental Protection Law

Act of 12 September 2002 Concerning the Standardisation

Act of 30 August 2002 Concerning the Conformity Assessment System

Act of 15 December 2002 Concerning Professional Self-Governments of Architects, Building Engineers and Urban Planners

Compulsory Civil-Liability Insurance of Architects and Building Engineers

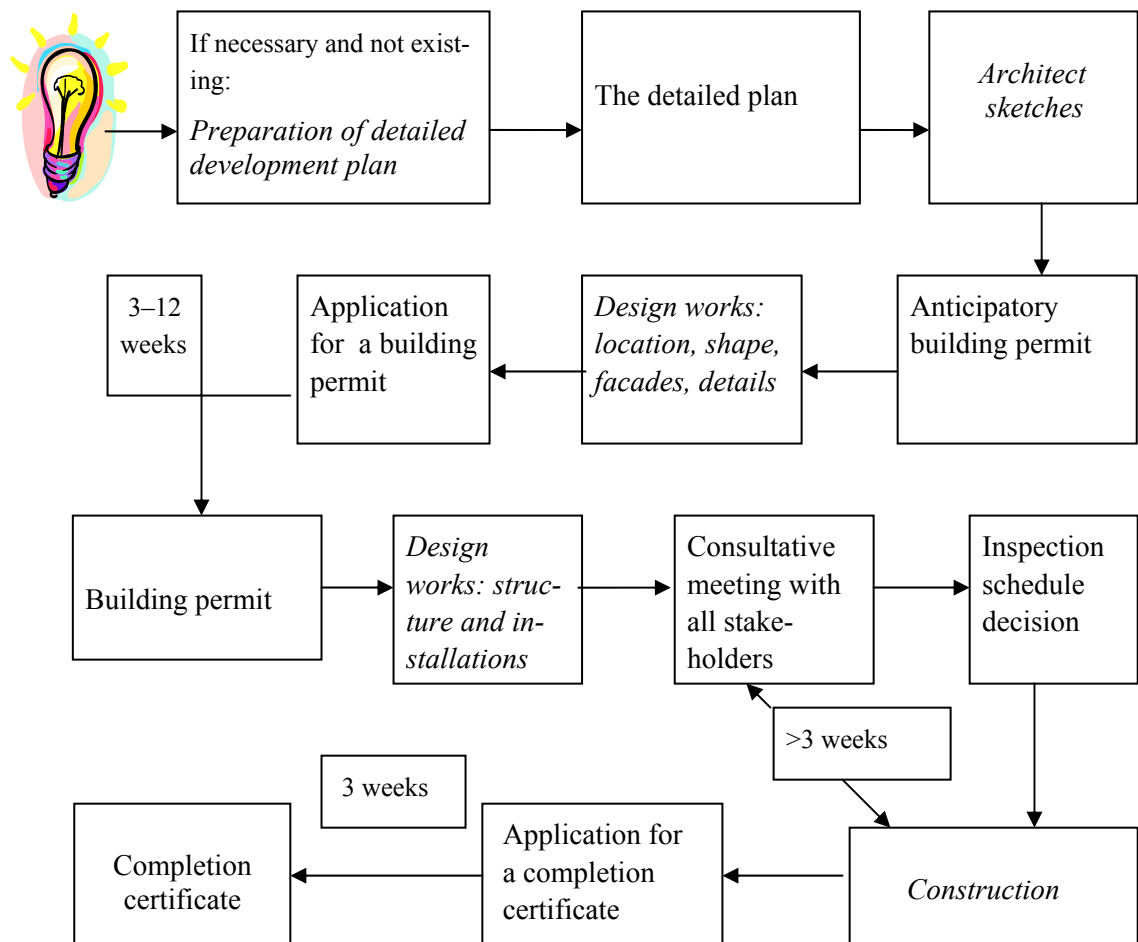
9 Sweden

9.1 The Building Process

9.1.1 Actors in the Building Process

1. Land and/or building owner – Responsible for the Building Process
2. Local government through the building committee and building inspectors – Detailed development plan, building permit, consultative meeting, inspection schedule, construction supervision and completion certificate
3. Designers such as architects and engineers, quantity surveyors
4. Quality Assurance Supervisor to handle the inspection plan
5. Contractors for different construction works
6. Ventilation inspectors

Figure 9.1 The Building Process



The scheme in the figure is also applicable when an existing building is extended or altered (reconstructed). It is also applicable for other types of constructions works and demolitions. It does not apply for maintenance and other types of renovations

9.1.2 Roles of the government, national agencies and local authorities

The construction process is mainly regulated by the *Planning and Building Act* (1987:10), *PBL*, and the *Act (1994:847) on Technical requirements for construction works etc, BVL*. The government specifies in the ordinance to each law, *PBF* and *BVF* respectively.

The *National Board of Housing, Building and Planning* has been authorised to give detailed regulations for construction works and these are to be found mainly in the *Building regulations, BBR* (BFS 1993:57) and the *Design Regulations, BKR* (BFS 1993:58). Other laws that can be applicable is the *Environmental Code* and regulations concerning workers health and safety. The latter is regulated by the *Swedish Work Environment Authority*.

Every area which have or will have a concentrated development must have a detailed development plan. The local government is responsible for making detail planning within their community. Mostly it is the *Building Committee*, which sees to this will be effectuated. The committee also assesses *building permits*, hold *consultative meetings*, issues *completion certificates* and have the overall *supervision* of the constructions and existing buildings in their jurisdiction.

9.1.3 National construction regulations and harmonisation

The Swedish regulations are totally harmonised with *CPD* in terms of expressing essential requirements on health and safety. On top of that we also have requirements on accessibility for disabled persons. The *Euro-codes* are implemented and will be able to use as soon as the standards are available. Health and safety in construction regulations are a national matter which means that all countries have different levels of protection. Local authorities cannot add requirements as regulations are interpreted and implemented by the builder himself. The main barriers for foreign consultants and contractors are probably the language and local building traditions as well as other market demands. To be aware of, though, is the collective labour agreements and that the Swedish national laws on occupational safety and health always is applicable.

There are no mandatory provisions for marking of construction products. Products with a CE-mark is directly fit for intended use and other products are allowed to be used if their performance can be proven in an other way, by special control at the building site, by certificates from other bodies or other declarations recognised by the building owner. Products that not yet are possible to CE-mark (harmonised technical specifications do not exist) can get an national type approval from a special approval body, that makes it easier to verify the product at the building site. This approval is not mandatory and is not valid when a harmonised technical specification is applicable.

9.1.4 Building permit and completion certificate

To start a building project the landowner makes an *application for a building permit* and goes to the local municipality and leave it to the *Building Committee*. The building committee assess the project to see if it fulfil the requirements in the detailed plan concerning location, shape, facades, detailing and, in some cases, intended use. If the committee finds everything in order, the project will receive a *building permit*.

Now, or more often in parallel with the architect work, the structural and installation designers start working and one or more contractor are asked for tenders. It is also time to choose a *quality assurance supervisor*. When all this is completed and contractors have been chosen, the construction works is ready to start.

At least three weeks before the start of the works the landowner (building owner) must send a *building notice* to the building committee. As soon as possible the committee calls for a *consultative meeting* with the building owner, the quality assurance supervisor and other important persons in the construction project. At this meeting an examination is made of the design and planning of the works and all the measures taken for inspection, supervision and other controls which are necessary in order that the building may be assumed to comply with the requirements of the building regulations. The building owner makes the *inspection schedule* and the building committee has to take a decision on that, either at the consultative meeting or shortly after.

When the construction works are completed, all obligations in accordance with the inspection schedule are met and the building committee has not found any reason to intervene as supervisory authority, the committee shall issue a *completion certificate*.

9.1.5 System for supervision and control of construction works

The system for the municipalities supervision and control is based on internal production control by each actor involved. The building owner has the main responsibility and must have a *quality assurance supervisor* to see that all controls are made to fulfil the municipality's demands, which includes all tests and inspections during the building process.

The local authority has a pure supervisory role and only decides upon the inspection schedule about what tests and inspections the builder has to carry out.

The inspections and controls can be made by the producer himself or in some cases by special experts depending on difficulties and risks of the work. If necessary, special experts can be asked to inspect certain difficult parts of the design or construction. Out of the approved inspection schedule the building owner has the responsibility to see that all inspections are fulfilled. The quality assurance supervisor will be to his help in this.

The private supervision and control to see that the building fulfils everything in the contracted works is mostly done parallel to the municipality supervision and when the building is completed a special surveyor (inspector) examines the whole contracted work and the contractors finalise the building according to the inspection protocol before the building owner can take over the building, get insurances and the long term financing.

Before using the building the building owner has to inspect the ventilation system by a *ventilation inspector*. Often this inspection is included in the inspection schedule and must be done before issuing the completion certificate. The inspector sets out a special

certificate that the ventilation is functioning as it was designed and a copy of the certificate goes to the local building committee which have a record on the inspections and functioning of ventilation systems. This inspection is mandatory for most buildings and must be done regularly after the first inspection depending on the type and use of the building and the ventilation system.

9.2 Competency requirements and registration

There are competency requirements on the Quality Assurance Supervisor in the building process. This supervisor must be certified by an accredited body or can be authorized by the local building committee for the individual project. For some competencies, such as fire issues, accessibility and other specialities, a special expert can be certified by an accredited body if he can prove his competence of the issue in question. To be able to inspect the ventilation according to the regulations on mandatory ventilation control, the inspector must be certified by an accredited body or authorized by the local building committee for the individual body.

Sweden has no special requirements on the competence for contractors in the building regulations and no systems for registration of architects, consultants or contractors. Special registers exist for quality assurance supervisors and for ventilation inspectors.

Electricians and electrical works are not included in the construction regulation and for that there are special competence requirements.

9.3 Requirements on insurance and guarantees

9.3.1 Insurance

There are no requirements on insurance of consultants in the Swedish regulations and not for other construction works but housing. Normally the different actors are covered by private insurances which is a criterion in the standard contracts in the building sector.

Housing projects must have a mandatory *Building Defect Insurance* which will guarantee the reparation of all severe defects.

Consumers who have a housing project for their own use must have an insurance that will guarantee the completion of the building and that will cover severe faults and failings for 10 years.

Recently the government proposed the parliament to adopt a new legislation aiming at a better consumer protection in the building sector.

9.3.2 Guarantees

All guarantees are regulated in the contract between the buyer and the contractor. Normally the guarantee will be for 2 years but discussions have started to get a longer guarantee period. Some projects have up to 5 years guarantee.

Except for the 10 year guarantee/insurance, mentioned above, the municipality has no other requirement for a special guarantee.

9.4 Financing and subsidies

9.4.1 Normal financing of housing

Since 1992 all loan financing of housing projects happens on the open credit and capital market for housing. The credit and capital market for housing offers construction loans during the production of the house. The construction loan is time-limited to the construction-time. Thereafter the construction loan will be placed in long-term loans (mortgage loans). The interest rate varies depending on the value of the collateral. Normally there is an interest rate margin between 75 percent of the value of the building and there over. The lending is mainly financed by bonds.

The state can provide credit guarantees for new construction of multi-family and single-family housing and for the renovation of multi-family housing (see below).

9.4.2 General subsidies to housing

Housing policy has a strong general character. The goal has been, and still is, good housing for all. The main focus has been on the supply of high standard affordable housing. The subsidy system has therefore mainly been supply-oriented with the goal of being neutral in relation to tenure and ownership. Property subsidies (i.e. interest subsidies) have been available for virtually all new production and rehabilitation. Since the year 2000 owner-occupied houses are excluded from property subsidies. The rent-setting system has also been an important component of the policy to make affordable housing to all.

An important aspect of the interest subsidies has been the parity principle, i.e., to ensure that capital outlays for new production should not be much higher than those for older properties of comparable quality.

A general subsidy is, since 1992, given to all new rented or co-operative owned housing production. The subsidy is 30 percent of the interests (a so-called *subventionsränta* which follows the bond market) counted on a standard-construction-cost and size of useful floor area (max 120 sqm per apartment).

9.4.3 Credit guarantees

Another national government agency, the *National Housing Credit Guarantee Board (BKN)*, administers governmental credit guarantee programs for housing development. The Board's role is to promote housing policy and to work for effective guarantee provision for financing of housing development by running its guarantee operations in a business-like way within existing regulations. BKN also has a responsibility for monitoring and providing information on developments in the credit and capital markets for housing. Governmental credit guarantees can be provided for loans advanced by financial institutions operating in Sweden (BKN guarantees the payment of the loans if something happens the borrower so he cannot pay).

BKN can provide credit guarantees for new construction of multi-family and single-family housing and for the renovation of multi-family housing. One condition is that interest subsidy has been granted for the investment. For owner-occupied housing completed after 1999, however, a guarantee can be provided even though no interest subsidy is available. To obtain a BKN credit guarantee the borrower must show a long-term capability to pay the costs generated by the property.

9.4.4 Demand-oriented subsidies

Housing policy has not, however been totally general. There are certain selective, demand-oriented subsidies such as subsidies for new construction of multi-family blocks and housing for students and for housing allowances.

Subsidies for new construction of multi-family blocks and housing for students are time-limited and is granted as a lump-sum. In areas with housing shortage one can receive between 90 000 SEK and 150 000 SEK per apartment, and in areas with both rapid growth of the town and housing shortage one can receive between 126 000 SEK and 210 000 SEK per apartment. The subsidies are conditional, for example there have to be a housing shortage in the construction area, the demands on accessibility and usability as well as the demand on sustainable housing must be fulfilled and housing costs have to be reasonable.

In 2004 a special subsidy (tax relief) will be introduced for maintenance and repairs of rented and co-operative owned housing and of owner-occupied houses.

Households of all tenure forms (rental, co-operative and owner-occupied) are eligible for housing allowances. If their income will be below a certain level the following groups are eligible: households with children, households without children if the applicant is between 18 and 29 years of age or pensioners. The level of allowance is dependant on the income of the individuals in the household, the housing costs and the number of children.

Finally there are special subsidies for special aims such as subsidies for decontamination of radon in owner-occupied houses and for installation of solar heat equipment.

10 Comparison of the Building Legislation in the Nordic countries

Summary and conclusions of a project for the Nordic Council of Ministers (Tema Nord 2004:526)

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The mandate of the project is to describe models for practical case handling according to the *Planning and Building Act (PBA)* in the Nordic countries, and the purpose is, among other things, to highlight the role of the public authorities in building control.

The task is commissioned by the *Nordic Council of Ministers*. The report is based on interviews with civil servants in central positions on ministry level in the respective countries. Debates around the principles of building legislation have therefore been carried out in all the countries, and we would presently like to express our gratitude to everyone who has participated in the talks and contributed to the quality of this report.

The report is initially covering the context in which the PBA is operating, and takes a closer look at the focal point of the Building part of the Act in each country. The second part proceeds to discuss specific subjects related to the PBA: distribution of authority and mandates, claims according to competence and certification of actors, enterprise quality systems, and a brief discussion of development agreements.

The comparison of handling of building applications, as well as systems for inspection and control, is treated as the main subject, while the summary contains only the most prominent features. Finally, insurance schemes and opportunities for complaints and sanctions are addressed.

10.1 The context in which the Planning and Building Act is operating in each country

In order to compare the legislation in the five Nordic countries, we have first reviewed the situation in each country regarding the context of the PBA such as tiers of governance, planning hierarchy and interface between the planning processes and handling of building applications within the frames of a plan. Then we have done a comparison of this.

All the Nordic Countries apart from Denmark have comprehensive, common PBA's that handles both the planning aspect of development control as well building technical aspects. Denmark operates with two separate laws.

The Planning part of the Act is subordinate to the Ministry of Environment in all the countries.

The Building part of the Act is also subordinated to the Ministry of Environment in Sweden, Iceland and Finland, although in Finland the Ministry is divided in two sections, and the Minister of Housing is responsible for the Building Act. In Norway, the

Ministry in charge of the Building part is the one of Local Affairs, and in Denmark it is the Ministry of Economy and Labour.

The legislation is under revision in Norway, Sweden and Iceland. Finland has recently received a new Act, which implies significant alterations to the previous Act, and which they are currently implementing. Denmark only considers adjustments in their Act.

The purpose of the alterations is to create changes which all point in the same direction:

- a stronger focus on the impact of specifications given in the superior plan in the handling of specific building applications,
- better co-ordination and flexibility between superior plans and building applications,
- a system that contributes to better quality in all buildings,
- simplifications.

In Denmark, the system has the strongest emphasis on zoning specifications in the superior plan, and focus for improvements are on better co-ordination and flexibility.

In all countries, the content of the PBA has developed from specific technical claims towards focussing on building functions. In addition, the technical aspects have increasingly been removed from the Act and enclosed in by-laws. However, there are differences between the countries: In Sweden, the technical specifications have been almost completely removed from the Act and introduced into a separate Act (1987) – the *Act on Technical requirements for construction works (BVL)*. In Norway and Finland, the technical specifications are primarily presented as by-laws of technical and functional specifications, whereas Denmark has kept some specifications as part of the Act, while others are presented as by-laws. Iceland has largely kept them as part of the existing Act.

Building permission is obligatory in all countries, but there are some differences regarding the object of assessment.

10.1.1 Norway

Tiers of governance

Norway has 3 tiers of governance: State, county and municipality. The state also exerts its mandate on to levels; central authorities and county offices, which represent a “regional state authority”.

For the Building Legislation, two additional instances have important roles: the *National Office of Building Technology and Administration (BE)*, is subordinate to the *Ministry of Local Affairs (KRD)*, and deals with the implementation of the Act, drawing up by-laws, standards, etc. The *Norwegian State Housing Bank (the Housing Bank)*, is also subordinate to KRD, and is responsible for the implementation of financial policy tools pertaining to housing policy and qualities.

Plan hierarchy

The Act is dealing with 3 types of plans (in addition to nationwide policy specifications regarding a few, prioritised land-use issues:

- *County plans* are drawn up the county, and are primarily strategic. They are not obliging, and do not always include spatial zoning.

- *Municipal Plans* are drawn up by the Municipality, and are strategic plans with area-designation. These can be made legally binding by Municipal Council.
- *Development Plans* (regulation plans with specific zoning specifications) are also a Municipal_responsibility. They deal with a smaller area and are legally binding.

In addition, there are some kinds of visualization plans that are more detailed than Developmental plan, as required in order to visualise the development plan, which might be produced prior to the handling of building application.

The spatial plan hierarchy in Norway is currently under revision, and the governmental committee have suggested considerable alterations to the structure of the planning part of the PBA.

The relationship between plans and building applications

The interface between spatial plans and building applications lies between the Development plan and the building application. There are two different procedures for building application. The normal procedure is in two steps - first a contextual permission where the project is evaluated in relation to existing superior plans, and subsequent a building permission, approved on the basis of technical claims and the competence of the actors responsible for different aspects of the design and construction. A one-step application can be used for simpler building projects. For very small applications it may be sufficient to send a notification of building activity.

10.1.2 Sweden

Tiers of governance

Sweden has 2 tiers of governance: State and municipality level. The state governs in two tiers, and affects the level of central authorities and the level of regional state authority.

In the authority of the PBA, substantial parts have been delegated from the Ministry of Environment to the *National Board of Housing, Building and Planning*, which is responsible for the implementation of the Act, the drawing up of by-laws, and the inspection of the municipalities.

Plan hierarchy

The law deals with 4 kinds of plans, all under the responsibility of the municipalities:

- *Regional plans*, drawn up through inter-municipal work with the intention to co-operate stakeholders and the interests in one region. However, there is no formal requirement for these plans, and they are therefore rarely used.
- *General or municipal plans*, also strategic, but not legally binding, affecting the local area of one municipality.
- *Development plans* which are detailed zoning plans, intended for specific areas. These plans are legally binding.
- *Visualisation plans* which are used to illustrate the details in the development plans. This type of plan is legally binding, but it is hardly ever used.

Superior plans and detailed plans are the two most important plans. Since the superior plans are not binding for the more detailed plans, there is in reality no binding plan hierarchy. It is currently being debated whether superior plans should be made binding.

The relationship between plans and building applications

The interface between plans and building applications is between the development plan and the building application, as the visualisation plan is mainly a specification of the development plan, most often related to a specific application.

There are two types of building applications: *permission* and what can be called *building announcement or notification (the Building Notice)*. The handling of applications is initially assessed in relation to superior plans and other societal claims, for building applications as well as for applications of other kinds of encroachments like parks, sports arenas, etc. However, any building activities must also, according to the PBA, be approved in terms of design, technical and functional specifications, according to BVL, and these permissions are given based on information in the building announcement.

In the Swedish system, the builder/owner must obtain separate approvals from other public authorities when this is relevant, (i.e. road authorities, health authorities, etc.). In such cases, the municipality is obliged to inform the builder/owner about the offices in charge of the necessary permissions.

10.1.3 Denmark

Tiers of governance

Denmark has 3 tiers of governance: State, county and municipality. The state is primarily a central authority, although there are also some state agencies at the regional level, but these do not cover the entire country.

For the Planning and Building Legislation, considerable portions of the authority are delegated from the Economy- and Labour Ministry to the *National Agency for Enterprise and Housing (EBST)*. The latter is responsible for the implementation of the Act, for drawing up by-laws and for certain economy policy tools related to social housing and urban renewal.

Plan hierarchy

On a superior level, the country is sectioned into 3 types of zones: *city zones*, *land zones* and *summer house areas*. No other country in this study has such zoning system. In order to protect agricultural interests, the restrictions are especially strong in the land zones (93% of the country), and alterations in zoning can only take place in political sittings. The alteration is then subject to a special fee.

The Act refers to several kinds of plans:

- *Land plan*, which is a strategic plan with no zoning decisions.
- *State specifications*, concerning protection and restriction in the coastal zones (3km), and a separate shore protection zone (300m), which means that building is prohibited.
- *Regional plans* are drawn up by the counties and are binding strategic plans which also include spatial development.

- *Municipal plans* are drawn up by the municipalities and are more detailed and restricted, as well as binding.
- *Local plans*, detailed and legally binding spatial plans for a limited area.
- *Visualisation plans* are not mentioned in the Planning Act, but are often drawn up by the municipality in co-operation with the developer in order to visualise a local plan. This plan has no legal binding.

The relationship between plans and building applications

The interface between plans and building applications lies between the Local plans and the Visualisation plans, since the latter can be viewed as an interpretation of how a Local plan materialises in a project.

Permission must be granted for all major building activities, and their relationship to the superior plans is the primary subject prior to approval. For smaller enterprises, that fulfil the requirements given in the superior plan, it is sufficient to send a building report, which automatically entitles one to build.

10.1.4 Finland

Tiers of governance

Finland has 2 tiers of governance: State and Municipality. *The Ministry of Environment* is the state authority for the Planning and Building Legislation. They have a separate regional level consisting of 13 *regional environmental stations* which perform, among other things, the task of approving plans.

Plan hierarchy

The Act refers to 3 main types of plans, with two variants of the general plan:

- *Regional plan*, consisting of binding, strategic plans produced by inter-municipal co-operating organs.
- *General plan* and *Common general plan*. The General plans are drawn up for the whole or for parts of the municipality, and are strategic plans. These plans are normally not binding, but legally binding may be agreed to by the municipal council. Common general plan is a corresponding inter-municipal plan (rarely or hardly ever used).
- *Detail plans* are drawn up by the municipality (often in co-operation with the developer, sometimes by the developer alone). They comprise a specifically defined area, and are legally binding.

The plan hierarchy and the restrictions connected to each plan level has undergone major changes in the new law, called the *Land Use and Building Act (MBL)* from 2002, which has made the present plan hierarchy considerably stricter.

The relationship between plans and building applications

The interface between plans and building applications lies between detail plan and building application.

Building application may be sent in the early stages of a project development process, providing the opportunity for a dialogue with the authorities and for clarification of the extent of material required for a final application for building permission.

10.1.5 Iceland

Tiers of governance

Iceland has 2 tiers of governance: State and municipality.

In order for the municipalities to co-ordinate their mutual interests, there are some municipal “clubs”, but these have no delegated formal authority.

The Ministry of Environment is responsible for the *Planning and Building Act (SBL)*, and their Planning Department is responsible for the implementation of the Act, drawing up of by-laws, providing guiding material and assistance for the municipalities, and for inspection of their practice.

Plan hierarchy

The Act refers to 3 types of plans:

- *Regional plans*, representing compulsory co-ordination between the municipalities in the same region. There is a separate type of regional plan for the internal areas of the country, which also serves as a protection plan with severe restrictions.
- *Municipal plans* which cover the entire municipality and are more detailed and binding strategic plans. These plans form the basis for the handling of building applications, if there is no detail plans.
- *Detail plans* deal with smaller sections of a municipality, and are legally binding.

The plan hierarchy has undergone major alterations in the new Planning and Building Act (SBL) of 1998, where the emphasis is on a stricter hierarchic binding between plans and building applications.

The relationship between plans and building applications

The interface between plans and building applications lies between detail plan and building application. It is assumed that a building activity is within specifications given in the detail plan, but at the moment, there is a lack of adequate adopted and approved plans for all current building areas in Iceland. There may therefore be extensive evaluations of building activities, according to claims and specifications stated in superior plans.

A building application also requires a thorough documentation regarding the construction, and the qualifications of those involved in the building process, and public authorities undertake a genuine investigation of these documents.

10.1.6 Final comments on the contexts in each country

There are many similarities between the countries, but also differences – and these are primarily related to the degree of bindings in the *plan hierarchy*.

Denmark has the most strict plan hierarchy, and this has been the case for quite a while. Finland and Iceland have recently introduced a stricter plan hierarchy. In Norway, this

issue is under consideration during the current revision of PBL, while Sweden has the weakest plan hierarchy today, and is considering a revision process.

1. On a regional level, all countries have a strategic plan, but in Norway and Sweden these plans are not legally binding, which makes them less important for practical planning. It should also be noted that Denmark again deviates by having had binding regional plans for a long time. In Finland and Iceland, binding was introduced relatively recently.
2. On a municipal level, all countries have plans which comprise the entire municipality, and which declares spatial developments and land usage. The difference concern binding, on this level as well. Denmark has a clear binding and Iceland has just introduced it. For the remaining countries, the municipal plans are normally not binding, although there are specific exceptions.
3. All countries have legally binding regulation plans that are drawn up for limited parts of the municipality. These plans constitute the lowest and most detailed level in the plan hierarchy against which the building applications are reviewed. However, Norway also has Visualisation plans which have the same legal status as the regulation plan, but these are drawn up only under special circumstances.
4. All countries except Iceland, have a more or less voluntary “middle level”, (i.e. Visualisation plans), between the adopted regulation plan and building application. But only Norway considers this in-between level with a separate formal approval. The remaining countries either have a visualised plan as the basis of debating further elaboration and alteration of a draft project, or another type of foundation as the point of departure in debating what requirements that must be forwarded to make a building application in accordance with the plan.

An approved building application of the building activities before the initiation of construction work is required in all countries, but certain differences should be pointed out. In Norway, Iceland and partly in Finland, both the design and the projecting must be approved, as must the competence of all actors. This must be approved prior to the initiation of construction work. In Sweden, the competence of the person in charge of the building quality must be assessed, while an approval of the building application does not necessarily imply initiation of the construction. This is because the constructor herself must obtain the required approvals from additional authorities prior to initiation.

It seems that the procedures for the handling of building applications corresponds to the level of plan hierarchy in that a strict plan hierarchy lessens the need for extensive procedures.

10.2 The intention of the Act

All countries want greater emphasis on the impact of plan decisions on building projects and a stricter binding between the different levels in the building control plan hierarchy. At the same time, they wish a more flexible and resilient way of handling building applications.

In all the countries the main goal for the building part of the Act has been (and is) to ensure high quality constructions. The superior goals, therefore, are to a large extent the same, but the countries have attached importance to different policy tools in order to

reach the goals. They are also operating in different stages in terms of revisions of the legislation.

In *Norway* it was considered important to make each of the actors in the building process more directly responsible for the quality of their own work, by claiming certification of competence to manage the work, and by requiring a plan to control the work, approved separately by the municipality. The current PBL is from 1997, and the focus of the reform in 1997 was a new distribution of responsibility for the various roles involved in the building process. This was also related to the character of the building activity in Norway, with several non-professional one-time builders. The main reason for this is the structure of the building industry, where in Norway, a great deal of all building projects are handled by individuals who are inexperienced with building activities, but who build their own house once in their life. The intention of the law is to relieve those builders/owners of the responsibility for the quality in design and construction work. This implied a new distribution of responsibility between the building controllers and the actors. The municipal building control is now formally phased out (after being a “sleeping activity” for many years), and is replaced by a municipal building inspection. The present municipal building control authority is dealing with approval of applications, both in terms of how the construction affects the adjacent buildings, in terms of technical quality, approving the competence of all actors involved, and approving their plan for controlling themselves. There is an assessment program going on of whether the new law has contributed to improve the quality of the building environment.

In a 2003 revision, dead-lines were introduced to the municipal building control authorities, as an attempt to contribute to the reduction of the current imbalance between supply and demand of houses by handling building applications faster.

In the further revision work on PBL the focus on plan hierarchy has been increased. In the Building Act Committee’s mandate, the central subject is the quality of buildings, and simplification and efficiency in the handling of building applications. Included in this is a special focus on developmental agreement and improved co-ordination between planning specifications and the building project.

In *Sweden*, assessments revealed that the quality of the constructions primarily depended on specifications given by the owner, and the current law – PBL of 1995 – focussed on giving the owner a complete and more direct responsibility towards the building and control authority. A new role with independent responsibility towards the building authorities was introduced, in order to ensure the quality, *Quality Assurance Supervisor (KA)*.

At the same time, the contents of the law was divided, and the technical claims separated into a special act – *BVL*. There was, however, another important purpose: to contribute to increased innovation within the building business. The law was based on functional claims with a minimal technical standard, and guidelines for workmanship were also kept to a minimum.

Parallel to the changes in the PBL/BVL, a new law to ensure sustainable development was passed, the *Environmental Code (MB)*. It is currently functioning as a parallel law to the PBL, where the same elements can be evaluated on the basis of different criteria. This creates an unclear interface.

The PBL-reform in 1995 implied a new distribution of responsibility between the building authority and the private actors; the *owner/builder* was given the total responsibility for the constructions in terms of coherency with prescriptions given by the law and the authority to perform internal controls. The public building control was simplified and focus was put on the handling of building applications in terms of technical solutions, along with the authority of inspection and sanctions.

Despite of efforts to improve the quality, an increased standard of the constructions has not been achieved. A new investigation of other factors within the building activity has just started, including the structure of the entire building industry, construction costs and competitive conditions. In the further revision of PBL, there is increased focus on binding plan hierarchy, and a clarification of the interfaces between the laws PBL, BVL and MB, as well as coherency between plans and building applications. Simultaneously, the focus is still on the quality management within the construction activity, and on routines for case handling as well as inspections and sanctions.

In *Denmark* a main goal for the building act was to co-ordinate everything that affected the design of all constructions and ensures that the buildings are in line with superior plans. The law therefore comprises specifications of height, density, and land exploitation rates, in addition to ordinary claims for design and rules on case handling. The law also emphasises the role of the local democracy, as it allows for local variations and discretion.

Revisions have been done in order to achieve a continually clearer distribution of responsibility. Therefore, the *builder/owner* was given the total responsibility towards the building authorities, concerning quality and control of the activities, while the building authorities have right of inspection, (not duty of inspection). There are, nevertheless, some obscurities in these relations of responsibility. There is a possibility that the actors may be directly penalised in cases of neglect, and the public responsibility related to the uncovering of deficiencies is not clear.

Extensive building defects and a lack of quality management now constitutes a major challenge, and this is being worked with on several levels – coaching for builders/owners, new requirements for quality management, financial means, etc., - but this work is not directly related to the building legislation. Neither is the extensive work which is done to ensure sustainable development.

The current building act dates back to 1975, and has been continually altered, last in 2002. There has been a separate Planning law since the beginning of the 1970's, with the emphasis on binding plan hierarchy. The current focus is on the interface between planning act and building act, and on the interplay between the rules in the building legislation, the case handling and the building process – and on the implementation of digital case handling.

In *Finland*, the most important activity to achieve better quality has been to place a clear responsibility with the *builder/owner*, both towards the building authorities and for the quality of the buildings in general. In addition, the quality should be ensured through formal requirements and through claims for competency on the part of the actors, and they have also aimed to focus on maintenance of existing buildings by requiring a maintenance and management plan for new buildings. It is assumed that the builder/owner performs internal control, but claims for inspection have been made. The responsibility

for control lies with the municipality, with a possibility for delegation to the builder/owner.

The current legislation (MBL) dates back to 2000 and was revised in 2003. It involved comprehensive alterations compared to earlier legislation, particularly in the planning part of the act. Democratic processes and better coherence between the superior plan and the building application have also been important issues. In the new act, new claims for initial meetings with the builder/owner and the authorities have been introduced, both when the design work starts and when the handling of the application starts. The securing of democratic processes was also in focus in the revision of 2003, which dealt with development agreements and sharing of costs between public and private parties for these agreements.

In *Iceland*, the current planning and building act (SBL) is from 1998, and the main purpose of the law was to ensure a stronger plan hierarchy. Important principal changes were made, which was a very demanding task, both in terms of the alterations and of the implementation. The building part of the act did not receive equal attention, and the goals for this part of the act was not sufficiently discussed or harmonised with the new plan system.

The objectives in the building part of the act reflect the challenges from an earlier period, when the competence in the building business was low, the number of inexperienced and non-professional builders high, and the local building materials were not suitable. The main aim was to ensure good quality through a strict public control of the building applications. However, the competence is presently increased both within the projecting and the executing actors. Even the clarification of how the new construction fits into the existing built up area has improved significantly. The current debate has opened up for a division of the law; to separate the planning act and the building act. At the same time, there is a wish to co-ordinate the building act with other acts and regulations concerning building design and joint it up into a common legislation.

The focus of a new building act will be to co-ordinate all regulations for buildings, transition to functional claims (in order to encourage innovation), simplifications in the public building control, and thereby also the quality management systems. New systems for case handling will also be a central subject.

10.3 Roles – responsibilities – authority

“Responsibility” for quality of design and technical aspects of the buildings is a common task for both authorities and actors in the building process. But when discussing the law, we here mean direct responsibility for making sure that the all activities and claims described in the law is carried out.

The division between public responsibility and the responsibility of the private actors is in all majorities similar in all the countries. However, there are a few, but distinct differences, and these must be commented separately.

Mainly, the responsibility for control is placed by the builder/owner, and the authorities carry out supervision.

In Norway, the responsibility for control is placed by the actors themselves, and by special “controlling actors” pointed out by the builder/owner. The public building control is phased out, and the authorities may only perform supervision.

Finland has placed the responsibility for sufficient control onto the public authorities, with a possibility for delegation to the builder/owner. The reason is to allow the authorities to take over the task if they consider it necessary. In practice, normal procedure is delegation to the builder/owner.

Sweden deviates from the remaining countries regarding the responsibility to gather permissions from other authorities than the building authority. Building permission merely implies an approval according to PBL and BVL, while the builder/owner must ensure permissions from other relevant instances, i.e. road authorities, labour inspection authorities, health authorities, etc. The building authorities are obliged to give out information concerning which instances that must give their approvals. For the rest of the Nordic countries it is a public responsibility to co-ordinate all public bodies, and to ensure that all the necessary approvals are given prior to the building permission.

Iceland stands out in terms of strict public control, where public authorities perform the actual control of the project work and the design work as well as the construction work itself. This principle is currently under debate.

10.3.1 Notification of neighbours – the interests of the general public

The protests and rights of neighbours involve two principally different approaches to the problem. Firstly, there are differing views regarding whether this should be part of a handling of the building application. Secondly, there is disagreement about the placing of the responsibility for the rights of the neighbours.

Sweden, Denmark and Iceland hold the basic view that the rights of neighbours should be ensured through a planning process, and when a regulation plan is passed, only *deviations* from this will constitute a cause for neighbour to protest. Denmark carries the consequences of this view the furthest; in case of a protest, the entire building application is transferred to the planning authorities for new handling according to the superior plans. In Sweden, neighbour might protest if the activity is considered hampering to them. The sending out of neighbour notifications is a part of the duties of the public in Sweden and Iceland – usually by, or in cooperation with the planning authorities, who also handles the protests.

Finland and Norway have the fundamental view that neighbours are entitled to protest against an activity, if they may have a *justified reason*. The reason may relate to unclear aspects of the regulation plan. However, Finland and Norway have differing views about the right of appeal. Finland attaches great importance to this rights and emphasis that the rights of the neighbour are best ensured by a total public handling. Norway places the responsibility of neighbour notification with the builder/owner. They also put the builder/owner to be the receiver of appeals, assuming that this arrangement will lead to a better dialogue between builder/owner and neighbours. As yet, no experience concerning this has been gathered.

10.3.2 The builder/owner and her helpers

The concept "builder/owner" should probably be better differentiated in the legislation. In all countries the building industry undergoes so many changes that the previous comprehension and definitions are no longer sufficiently adequate. The Swedish report "*Skärpning gubbar*" (SOU 2002:115) refers to an extensive structural change in favour of fewer and larger nation-wide enterprises. The contractors are to a great extent owners

of their constructions, while the formulations in the legislation are based on the assumption that builder/owner and contractor are two different parties. It is pointed out that there should be a distinction between non-professional “one-time builders” and professional builders/owners.

The builder/owner has been given an extended responsibility through the body of laws in almost all the countries, and the before mentioned Swedish report is pointing out that an incongruence has developed, between the builder/owner’s responsibility and her chances of fulfilling the tasks. The reason for this is that many organisations for professional builders/ owners are scaled down, while the contractors continually take over new roles and strengthen their position in the market. Therefore, strengthening the builder/owner’s position enabling her to fulfilling her responsibility is a major challenge.

Several of the countries have seen this problem and have introduced various types of new roles in their legislation; roles or functions that are to assist the builder/owner in fulfilling her responsibility. Through a comparison, we find that the countries which to a very small degree have placed the total responsibility with the builder/owner – Norway and Iceland – have tried to formalise a new role that holds an independent responsibility towards the building authorities. In both countries, this is necessitated by the high percentage of inexperienced, non-professional one-time builders. In Norway, this role is named *Responsible Applicant*, and in Iceland it is named *Building Director*.

Sweden has also introduced such a role. With reference to the incongruence pointed out in SOU 2002:115 between the weakened builders/owners and the strengthened constructors, and the division between professional and non-professional builders/owners, they have introduced a “helper-role” to strengthen the role of the builder/owner: *Quality Assurance Supervisor (KA)*.

Assessing the situation in each of the countries shows that Sweden, Norway and Iceland experience a somewhat unclear situation according to the responsibility of the “helper-roles”. All have signalled the need for a legal trial of the responsibility, to enlighten the economical aspects of these roles and to help defining their task-related responsibility.

10.4 Competence claims and approval procedures

The countries have to a varying degree established formal claims of competence for the actors. The report gives a review of how the act in the different countries handles claims of competence for actors involved in the building process, and of the *competence-task approval* procedures in each country.

The two countries that have delegated the responsibility for quality to separate parties, Norway and partly Iceland, make use of public competence validating bodies. Norway has the most detailed public competence validation with claims for each actor, while Iceland only has got a semi-public “list” of the competence of the actors.

Sweden and Finland have placed the responsibility for adequate competence clearly with the builder/owner, but have also established formal claims for other actors, as well as arrangements with voluntary registers of actors.

In Denmark, the responsibility is placed with the builder/owner, with no formal claims and consequently no competence approval procedures.

In addition, Iceland has established the same claims of competence and certification for the *public building inspectors* as for the work force contracted in private building activities, due to their considerable controlling task. In accordance with the law, the local building authority may, if necessary, buy inspection competence from private companies.

10.5 The issue of quality

Quality in the building environment, as mentioned in ch.8, has been the prime mover for the building legislation in all the countries. Still, the authorities in most countries have expressed that this area is filled with major challenges. The countries have chosen different instruments in the attempt to achieve high quality in their building environment.

10.5.1 Policy tools and systems for quality management

All countries have, to a greater or lesser degree, a legislation which is based on functional requirements, and these are either determined in the act itself (Finland and partly Denmark), in by-laws (Norway and Denmark), or in a separate legislation (Sweden). Iceland has a greater measure of specific technical claims in the act, but they want a change towards functional requirements in the next revision. Sweden and Denmark have the strongest emphasis on innovation in the building industry, and therefore less specified and concrete claims. Regardless of how the claims are made, the greatest challenge is connected to the ensuring of their fulfilment in practice, and to the improvement of quality and the reduction of damage.

To mention some of the policy tools for improving quality: Competence claims for the actors, internal control, public approval control plan for all activities, quality management by special actors and quality management documents, independent quality control, claims of competence transfer, financial means, claims of review of experiences, claims of maintenance, counselling and training, etc.

The countries have utilized various combinations of this many policy tools. For all the countries except Denmark, the most important tool is to establish claims for actors and control plans. Denmark makes the least claims, while they use financial tools most widely, and make claims for transfer and good training/counselling. Finland has, in its new legislation, established claims for a plan for management and maintenance of a site, to be in place prior to the issuing of certificate of practical completion. In addition to the mentioned policy tools, all countries are working to influence the attitude in order to place focus on high quality.

10.5.2 Aesthetics and discretion

General claims regarding aesthetic qualities are included in the building legislation of all the countries, more or less distinctly expressed, and are administered through discretion. However, aesthetic qualities are most efficiently ensured through specific claims forwarded in the regulation plans, and in some countries (Denmark and Finland), the matter is considered to be a “plan issue”.

10.5.3 Damages and errors

None of the countries have a public and complete statistic of building damages and errors.

In Sweden and Denmark, the insurance companies keep relatively good statistics, but the purpose of these are defined by the insurance business, and in Sweden they are not even publicly accessible. In Iceland, the authorities have, through the public building control, a relatively good picture of the development of damages. In Norway, a comprehensive work is being done to gather quantitative information regarding damages and building errors.

However, in spite of a lacking in good data on construction errors and damage development, there is, in all countries, a clear and pronounced opinion that there are too many building damages, and that preventive measures have a high priority.

10.6 Development agreements

In most countries there is a focus on different types of partnership and ways of cooperation between private developers and public authorities. The private actors are usually motivated by faster initiation of large development projects - typically production of new houses, but also for business activity. For the public authorities, the motivation is more differentiated. A common interest for both parties is to get building projects started, and to avoid delays due to i.e. lack of adequate infrastructure. The public authorities also have a genuine interest in getting the developer to finance a great share of the infrastructure costs caused by the development, as well as in achieving other kinds of developmental gains.

The issues of development gain and development agreement are not clearly outlined in the Planning and Building Acts. The laws merely present some principles for this kind of private-public partnership, and some principles regarding the right of the public to receive developmental gains.

Most countries are concerned with the concept of development agreements, and with the possible exception of Iceland, all countries wish to facilitate increased use of such agreements. However, the justification and contents of these agreements are different, and consequently, so is the opportunity of each country to utilise the agreements.

- In *Norway*, development agreements are used primarily in areas of high growth rates. The developers' interest in accelerating building projects, gives the municipalities occasion to demand increased contribution including infrastructure costs. The legal foundation for increased contributions is partly the succession of decisions in the regulation plan, and partly civil law-based "gain-agreement" exceeding this. Legal regulation of this is considered.
- In *Sweden* the largest developers use several different types of agreements to ensure the initiation of building projects in order to provide continuous employment in their companies. This contributes to faster building and building of more houses, which the public authorities find necessary. There are no other specific financial motives on the part of the municipality in these agreements.
- In *Denmark* the concept development agreements is used for several types of agreements. Development agreements for housing sites on *green field development* (not built up areas) will be relevant in the areas with development pressure, but that supposes the existence of a local plan that constitutes the basis for a change from rural zoning to urban zoning. The legal foundation for a demand for increased contributions from the developer/land owner then acts as a "liberation fee" for that par-

ticular rural zone area, referring to the considerable increase in marketability of the land caused by the rezoning.

Development agreements within the urban zones are seen primarily as a tool for more flexible handling of development projects and building applications. In these cases, the municipalities do not have authority in the law to claim additional financial contributions, but this is still done in practice. The municipalities have wanted additional contributions in areas of rehabilitation or transformation, but have not achieved political support for this.

- In *Finland* development agreements are used when the developers own the land and intend to build in larger not previous regulated areas. Finland has now introduced a considerably stronger plan hierarchy, and has a general building prohibition outside of regulated areas. The legal foundation for the demand for increase in marginal contribution is related to the change of zoning specifications into purposes that might increase the market value of the land. The “fee” should be kept within a marginal value of 60% of the estimated increase in value.
- In *Iceland* development agreements are relatively new, and for the time being limited to a few cases in the Reykjavik area, where the developers have purchased large land areas for field development. The discussion evolves mainly around the regulation process, and there is not yet any legal foundation for demanding marginal contributions from the developer.

The basis for the development agreements is that developer and municipality have a mutual interest in such agreements. For the municipality, it could be economic gain, an interest in faster housing development than they would otherwise not be able to facilitate, or that the agreements are mainly tools to implement decisions stated in the superior plan. As already suggested, there is a strong connection between the possibility of demanding marginal contribution and the superior plan, which may give a legal foundation for this. The countries have different models, and different foundations for regulation of cost distribution, partly even different motives, etc.

10.7 Application handling procedures

There are great variations in the countries regarding building application handling procedures, with Denmark and Iceland as the two extremes. In Finland and Norway, application handling procedures have recently been revised, and there are many common traits in these two countries. In Sweden, the focus is on revision of procedures, and their system is deviating some, compared to the remaining countries.

Denmark has a considerable degree of municipal freedom of choice, and consequently few formal claims in the handling procedure of the application. They emphasise the relationship with the plan foundation, and a certificate of practical completion is of major importance.

Iceland has restrictive and detailed formal claims for all steps in the case handling. They have a certificate of practical completion which is of little consequence, because the buildings may be put in use before it is approved, and because a considerable amount of unfinished houses is on the market – they have gone as far as to create a system of certificates for various degrees of completion.

Both in Finland and in Norway, considerable importance is attached to an early dialogue between applicant and authorities, and to early clarification of contexts and claims. The case handling varies, but in both countries the certificate of completion is important, and Finland even demands this as a basis for connection of the new construction to the local public water and sewage service.

In Sweden, the formalised meeting following the submission of application is an important part of the case handling. In principle, they have a divided handling, where the congruence – or lack of congruence – between the building application and the superior plan is handled, in the application for permission of carrying out construction. The competence of actor responsible toward the public authority and that the quality claims is attended to, is assessed in the *Building Notice*. Certificate of completion is of little value, since it is not linked to permit of using the new construction.

Only Norway has started an arrangement with electronic case handling, and Sweden, Denmark and Finland are debating this issue, which is a political ambition in all countries.

10.8 Control and inspection

All countries have public inspection, but the responsibility for controlling body is complex.

In Norway, Sweden and Denmark, the responsibility for control is placed with private actors. In Finland it is municipal, but can be relegated to private actors (and so is usually done), while control in Iceland is a clear municipal responsibility.

As for the application handling procedures, for control and inspection Denmark and Iceland then represent the extremes: Denmark has an arrangement with private responsibility for control which is not even re-examined by the public authorities. Iceland on the other hand, has a strict public control which can hardly be separated from the inspection. Norway and Finland have comparable systems, but Norway requires a control plan and a separate function, *Responsible for Control*. Sweden has much in common with this, but is also actively using the *Procedure Meeting* as a part of their inspection routines.

10.9 Insurance schemes

The main principle in all countries is that each actor insures her work during the building period, and the builder/owner takes over the responsibility for insurance at the time of completion – except for the obligations that is a part of the contract bond that the contractor has to furnish.

Insurance is primarily a matter considered as private-legal in all the countries. However, the authorities have in some countries tried to introduce additional insurance schemes, in order to protect house owners from disproportionate costs arising from the building process, which is not already covered by the construction contract bond guarantee arrangement.

In Sweden, this is done through an arrangement with *Building Defects Insurance*, and in Denmark through two different *Funds for Building Defects*. In Iceland, this type of protection is most needed by house owners related the extensive turnover of unfinished

houses, where the revealing of errors and defects may result in confusion with regards to the insurance, and even whether the relevant insurance is that of the owner or that of the contractor. The authorities have therefore, as mentioned earlier, introduced certificates for varying degrees of completion.

Arrangements equal to Sweden and Denmark have also been up for discussion in Norway and Finland, but as it is not viewed as the authorities' responsibility, there are no actual plans to establish any arrangements for this purpose.

10.10 Appeals

Right of appeals is, on a superior level, relatively similar in all the Nordic countries. There is a general admission to appeal for all involved parties, including groups and volunteer organisations that are directly affected. The application of the law may also be the subject of an appeal.

There are some differences in the right of appeal, where Iceland has the most limited admission of appeals – followed by Sweden, and where Finland has the most extended admission of appeals:

- In Iceland, there is in principle no right of appeal if the activity is in accordance with the superior plans.
- Sweden has a limitation in the right of appeals in that building permission cannot be subject to appeals concerning conditions that have been finally approved prior to the building permission. However, Sweden has more numbers of different appeal institutions.
- Norway and Iceland have limited right of appeal through the introduction of deadlines regarding the forwarding of appeals. Norway has a 3 week limit and Iceland 4 weeks.
- In Denmark and in Iceland, the admission is restricted concerning the application of discretion, i.e. aesthetic assessments.
- Finland has extended the admission of appeals, in that complaints concerning the contents of a requirement may also be admitted.
- Finland has also extended the admission of appeals, to include demolition cases and environmental issues, in that *everyone* may appeal, even individuals who are not involved in the case.

The extent of the admission of appeals, however, is a political subject of discussion in almost all countries, because the developers want restrictions that can act as protection against undue delays in a building process, while consideration of democratic rights points towards an extension.

The authority of appeals involves major principal differences between the countries:

- Sweden and Finland have special court of public administration issues, and the handling of building right appeals follows procedures like all other concerns for this court. Although in Sweden, this does not apply to the contents of spatial plans when the government is the superior body.

- In Norway and Denmark, the *regional state level* is in charge of the handling of appeals. In both countries the ministry may reconsider the decisions by the state regional level.
- In Iceland, there is a separate *state committee for handling of appeals*.
- The role of the municipality in appeals is different: In Norway and Finland, the municipality is the authority to which the appeals are forwarded, while in Denmark does the municipality not play any role in the handling of appeals, since the municipality has made the decisions that is appealed. In Sweden, the municipality only has a preparatory role, regarding formal aspects of the case, while appeals in Iceland are sent directly to the committee for handling of appeals.

Regarding differences between the countries, it should be mentioned that Norway and Iceland have introduced deadlines both concerning right of appeals and handling of appeals.

10.11 Sanctions

The possibilities of sanctions are principally the same in all Nordic countries. Permit of use may be denied, and fines may be issued when offences are revealed. Penalties will vary according to the size of the activities and the character of the offence, and most often this is a penalty fee. In severe cases, the planning authority (council meeting) can demand demolition of illegal constructions, but this is hardly ever done. In some cases, illegal conditions will be reported to the police, and then be followed up as a criminal case through the courts.

Appendix A Questionnaire about Building Sector Regulations

1. Describe briefly the normal building process in your country for a housing project of, say, 30 flats from the first idea about a project by a landowner until the building can be taken in use by the tenants or by a housing co-operative (housing association).

Which actors are involved during different stages of the process? What is the normal time needed? Are there any important differences between a modernization project and new production?

2. What is the role of the government and of national authorities in such a project? Which role has the local authority? What are the conditions to get a building permit? Please describe the process to get a building permit.

3. Describe briefly the main features of your national building rules. How are the technical requirements harmonized with the CPD requirements? Are there any national requirements in addition to the CPD requirements? Is it possible for a local authority to add any requirements?

Would you say that your national building rules will constitute a barrier for a consultant or a contractor from a foreign country used to other rules?

4. Describe your system for supervision and control of a housing project. What is the distribution of responsibility and powers between the local authority, the builder (client), the consultant(s) and the contractor(s)?

5. Are there any certain national competency requirements on any actor or on his/her employees during the building process? Has any actor during the process to be authorized or certified? If so, please describe the terms.

6. Do you have a system with national or local registration of consultants and/or contractors? What is the purpose of the system? How is it organized? Is it mandatory or voluntary?

7. Do you have any national or local requirements on insurance of the consultants and/or contractors or of the housing project? If so, please describe the system.

8. Do you have national requirements on guarantees to be left by the contractor in a housing project? If not, are there any normal terms agreed between the parties in a project about guarantees? What is the normal guarantee time?

9. What is the normal way of financing a housing project in short term credits and long term loans? What are the normal terms and conditions for credits and loans for the moment?

10. Do you have a system with subsidies or tax relieves for housing production? If so, please describe it briefly. Who will get a subsidy or a tax relief and who will decide about it? What is the normal size of it? What are the main conditions to get it (in size of flats, maximum price or rent for the flats, certain groups of customers which the flats will be intended for, certain technical requirements, etc.)?

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