



Increased exchange in the Building Sector

Comparison of Building Legislation in the Northern Dimension region

Sidsel Jerkö

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Preface

This report is a contribution to the program 'Northern Dimension – Increased exchange in the Building and Construction Sector', funded by the Nordic Council of Ministers as well as nine co-operating countries in the Northern Dimension region.

The report comprises a comparison of the building legislation in those co-operating countries: Five Nordic countries, three Baltic countries, and Poland. The comparison is mainly based on two earlier reports aiming at an understanding of the complete systems of the building legislations in the countries. The information is updated, and in addition, we have carried out a case study on control systems.

Two earlier reports were written in different languages, on different times, and published in different ways. Thus, it was difficult to see the complete "picture" for all the nine countries through these earlier reports. This new report focuses on the similarities and main principles, and point out deviations from general patterns. The sources for information for the comparison are interviews of public officers on ministry level, as well as document studies.

A case study on control gives a closer picture of the practice of control systems. Issues of special interest have been specific actions of each actor, and documentation of both project and process, related to formal system requirements. On a superior level the balance between private and public sectors regarding control regime has been in focus. Sources for information have been group interviews of public officers at building control offices mainly on municipality level and group interviews with representatives for the private construction sector in all the countries.

We are very grateful for help and support in all the countries, and will by this give our very best thanks to all the interviewed persons. We will also give special thanks to Senior Advisor Egil Stabell Rasmussen at the Norwegian Ministry of Local Government and Regional Development, for taking part in most of the interviews.

Architect Sidsel Jerkø at SINTEF Building and Infrastructure has been project leader and main author of the report. In addition, Senior Advisor Thorbjørn Ingvaldsen has taken part in the case study, and chapter 4 has been written by Thorbjørn Ingvaldsen and Sidsel Jerkø together. Chapter 5 was written by Senior Advisor Torer F. Berg, and he has been a quality securer of the report as well. Thorbjørn Ingvaldsen and Torer F. Berg both work at SINTEF Building and Infrastructure.

Oslo in December 2008:

Sidsel Jerkø

Project leader

Summary

Introductions

The building legislation is primarily meant to function within each country, and must be seen as a complete system for each country. Taking one single element and just compare this element between different countries will not give a justified picture. The challenges are not the same in all the countries, but the main elements in the legislation are the same – just given different weight and attention.

In this comparison we have tried to find the main pattern for the most important elements by focusing on similarities. And for each main issue we are looking for deviations from the main pattern.

The histories of the involved countries display tight connections between all the countries – not only between a) the Nordic countries and b) the Baltic countries/Poland, but also connections crossing the Baltic Sea – with Sweden as the most active country in such relations.

The five Nordic countries display a wide variety both in political history, way of income, and of structure/challenges for the construction sector. The scope and focus of the building legislation then also display wide variety – from the dialogue-based focus in the Danish legislation, to the focus on strong public control in the Icelandic legislation.

The three Baltic countries have had a more similar recent history, all being a part of the former Soviet Union since the WW2 and until 1991. But after the liberation, they were looking to their earlier histories, and the new building legislations are based on different models, reflecting their different earlier historical connections. Estonia used the Finnish legislation as model, Lithuania used the German/EU-legislation, and Latvia has converted the Soviet legislation more gradually.

Poland has been under strong influence of the former Soviet Union until the liberation in 1989, but they did not adapt the Soviet legislation directly. Their current building legislation from 1994 is based on the law of 1974, and there have been several amendments of the legislation. The Building Act is now like a patchwork, and there are political promises on a new law.

Today the multi-national ties are stronger: all the countries are parts of the EU/EEA. The free-trade principles within the EEA encourage construction sector to cross borders (not only between these 9 countries). All the countries are now working on converting technical requirements into functional requirements, and they all work on implementing new EU-directives. Thus, the legislations are getting closer, and in all countries, the amendments made after 2000 also focus on simplifications and more flexible handling procedures.

The planning and building legislations are administered differently in the countries. Of nine countries, five of those have one common law for plan -

ning and building, while four have separate laws. All the three Baltic countries and Denmark have separate laws, while the rest of the countries have joint laws. There is no 'general pattern' regarding the link and/or division between the planning and the building legislations.

The administration of the building legislation displays the diversity of the aspects of the building activities – in the major part of the countries, the building legislations are closely connected to housing policy (Lithuania, Iceland, Finland, Norway and Sweden), in the minor half (Denmark, Estonia and Latvia), the building legislations are connected to the economic policy. And in Poland, the focus is on built environment in general.

Most of the countries have delegated the implementation of the building legislation to special agencies.

Planning is providing the most important frames for building activity, since all of the countries proclaim that an approved local plan is the most important element for approval of an application for a building permit. Formally and theoretically, this is similar in all the countries.

The planning hierarchy and degree of predictability deriving from plans as a frame for building activities may differ between the countries. This may be due to differences in the types of plans and their degree of legal binding – from practically no planning hierarchy at all (Sweden) to a strict and legally binding planning system (Denmark, Iceland, Lithuania and Poland). The remaining countries have binding planning hierarchies only as soft obligations; a plan must observe the superior plan, and in a way the systems are interactive. Strong and hierarchic planning systems provide a high level of predictability for building activity – but at the same time new challenges related to use of land may be more difficult to handle.

In case of lack of approved plans, the planning system as a frame for building activity also may differ due to different strategies. Lack of approved plans is a challenge especially in Poland (where the Mayor decides the procedures in such cases), and partly in the Baltic countries (where their different strategies are stated in the legislations). The Nordic countries also have procedures in case of lack of plans.

Interpretation of the planning content may also be an issue in some of the countries, especially in the Nordic countries. The aesthetic dimension or other questions related to the interpretation of a plan will most often be evaluated by the public officers as a part of the handling procedures of an application for a building permit. But in the Nordic countries, the interpretation of plans and aesthetic development/ guidelines is a matter of interest, and they have much focus on handling procedures to take care of this – by visualization plans, property plans, mandatory or voluntary early dialogues and more. Development agreements represent another type of challenges.

Verification of the ownership or other rights to the construction site is also important in Poland and some of the Baltic countries.

Responsibilities/requirements on actors

Division of responsibility between public and private parties is based mainly on the same principles in the countries. Defining design criteria and requirements for a project is a part of the planning process, and thus a responsibility of the planning authorities – even where private actors may also produce Local plans.

Providing adequate technical infrastructure (transport, energy, water supply etc.) is normally a responsibility of the authorities, and also normally public property. But in Latvia and Poland, these structures are often undertaken by private actors, and the local authorities have only supervisory functions. And in other countries, the cost of these structures is a matter of negotiations between the developer and the local authorities. In Finland, this is even used as a factor to force clients to complete their construction works – Formally, the clients will need a completion certificate to connect to permanent electricity and water supply.

Democracy in the planning processes is a responsibility of the local governments in all the countries. All the countries state that building permits must be in compliance with an approved local plan – and then the democracy processes are taken care of by the planning process. But Finland and Norway hold the basic view that neighbors and other stakeholders have a right to express their opinions also in building projects as a part of the case handling for building permits – mainly related to aesthetical issues.

The control systems display a variety of division of responsibilities.

The Client formally has complete liability towards the authorities in all the countries. And there are no qualification requirements on the Client in any of the countries.

However, in Norway the Client does not have this liability alone – there are several other actors with direct liability towards the authorities, and the authorities may use penalty reactions directly towards these actors in case they do not fulfill their liabilities. And in most of the other countries, there are other actors mentioned as mandatory actors to help the client to fulfill his obligations – in the Nordic countries (except Denmark), this will most often be persons related to the project management, and in the Baltic countries/Poland, this will most often be persons related to the control systems for the projects. The actors mentioned in the legislations and their responsibilities are both defined and described more detailed in the report.

Qualification requirements and accreditation systems related to actors vary between the countries, due to the differences in responsibilities.

In general, the countries have qualification requirements on the central actors that are mentioned directly in the legislation. In addition, all actors even if they are not mentioned directly, must perform according to professional standards for the work they carry out.

And in general, the countries have some kind of accreditation systems on the actors mentioned with qualification requirements in the legislations.

But this is not always the case. On the one hand, we have Denmark, holding the basic view that the client has complete liability – then the au-

thorities would neither need to have qualification requirements nor accreditation systems or -registers. On the other hand we have Norway, holding the basic view that the client cannot fulfill all obligations by himself (except for very small projects) – then they have laid both direct responsibility towards the authorities and qualification requirements on all the actors. And then they would also need to follow up by having approval systems and registers held by the authorities.

In between, all the countries have qualification requirements on some or all of the actors, even if the client has complete liability towards the authorities – either to help the client fulfilling his tasks, and/or to secure high quality in the projects. But the consequences of this differ, regarding approval systems and/or public registers.

In each country, there is an inner logic related to the issue.

Quality in built environment

High quality in built environment is one of the major goals for the legislation in all the countries. To obtain this, they all (in principal) use both requirements on the projects, requirements for quality systems, and other requirements mentioned in related legislation.

Requirements on the projects are mainly given in local plans, which will provide utility criteria, design criteria, requirements and restrictions. Some of the criteria are measurable, and must be fulfilled to get a building permit. But other requirements are not so precise.

Aesthetical development is the most complex issue. In most of the countries the building legislation comprises general formulations about aesthetical development – but these formulations are not precise, and aesthetics is considered to be a planning issue, to be taken care of by the design criteria – and in Denmark, this is also followed strictly as a principle. But in Finland and Norway, aesthetics is one of the most common issues for public reactions/complaints, and may be proved by public/political boards or by court. In Lithuania, aesthetics is considered to be a professional issue to be judged by people with special knowledge (architects) in case of protests. The view that aesthetics should be a matter of the design professions is also held by Latvia and Poland, where they want to enforce the importance of the issue by giving the designer (author/architect) some extended authority in such matters. However, in Estonia and in Iceland, the building legislations do not mention aesthetics, except for general terms as a part of the intentions.

In most of the countries, the general opinion seems to be that they want to have a stricter regime on aesthetical matters, but that they until now do not have sufficient tools to practice stricter control on this.

Cultural heritage is primarily protected through other laws. But planning shall observe this, and follow up by criteria for this in local plans.

Sustainability and environmental issues according to directives given by EU must be followed up in all the countries – related both to criteria given in local plans, and to technical requirements given in prescriptions.

Technical/functional requirements are important elements in the building legislations, and most often they are drawn out of the legislation text, and placed as prescriptions in separate documents – which will make them easier to change faster, when development is needed or in case of innovation of solutions. They may also be placed in a separate law (Sweden) or in separate building regulations (Denmark).

The use of functional requirements leads to some new challenges, because it is not so easy to tell if a solution is good enough. A system based on functional requirements will then also need a set of pre-accepted solutions, documentation from the client, or an independent part to evaluate the solutions. There are several processes on interpretation of the functional requirements going on in most of the countries.

Securing of quality in built environment may be done by requirements on quality systems on the process by the companies/actors.

Building faults and building errors are not easily measured, as none of the authorities in the countries keep any statistics for the amount of building faults and building errors – even if they try to monitor the development in the field in several ways, and have great focus on the issue.

By this, and by the general impression, they conclude in all the countries that a relatively high number of faults and errors in the construction works are caused by faults and errors made by the designers. Then there are high numbers of damages caused by moisture due to a badly organised work process. Many damages are also caused by climate, or may be normal faults and errors made by the construction companies.

In addition, the legislation in Lithuania and Poland comprise separate chapters on procedures for handling severe accidents of construction works.

Requirements on quality systems vary between the countries. In all the countries, the client is obliged to have his own system for quality control, initially done by stating the clients' complete responsibility.

In Denmark, this is regarded as formally sufficient. In the three Baltic countries and Poland, they hold the same basic view, but quality control is regarded as closely connected to competence, and then the requirements on actors are the most important parts of this. In Finland, Norway and Sweden, they also have requirements on control plans. The control plans shall perform documentation on how the owner's supervision will be performed. In Iceland, they have extended public control.

In principle, the clients must have their own quality systems in all the countries, but they may perform this the way they want.

Universal design/accessibility for disabled people is in focus in all the countries, and the issue is mentioned in general terms in the legislations in all the countries, and the issue is given attention in the technical/functional requirements. In most of the countries they are working on guidelines and/or prescriptions on this issue.

Maintenance of construction works is in general regarded as a matter of the clients' own interests. The authorities/building control offices can normally only demand repair works if the construction is dilapidating or in so bad shape that it is representing a danger to third parties. However, mainte-

nance is an issue with increased focus, and some of the countries mention this in the legislation. In Latvia, the local authorities may adopt local guidelines for maintenance. In Finland, the client must present use and maintenance instructions for facility management prior to the issuing of completion certificate, and in Poland, a separate chapter only concerning maintenance has been taken into the Construction Law. A mandatory building structure log is then needed to prove that the obligations for maintenance are being kept.

Security and health of workers is not a part of the construction law in any of the countries, but is normally a part of other legislation.

Insurance of construction works are in all the countries regarded as a matter of private interests, and there are no formal requirements on insurance except for an insurance on the companies in case of damages on third parties or on workers. However, in Denmark, the focus on building faults and building damages have resulted in changes of the requirements on insurance of construction works, and they have tried out solutions with mandatory funds to secure the interests of the third party.

Handling procedures

Handling procedures may be described in very detailed manners. This comparison is meant to focus on superior similarities and differences, and therefore it will be difficult to give detailed descriptions in a summary.

Basic conditions (types of procedures and more)

All the countries have simplified procedures for very small buildings, where building permit will not be needed, and where notifications to inform the authorities will be sufficient – but the definitions of very small buildings differ between the countries.

Two parallel procedures for building permits are part of the system in some of the countries, due to the planning system or to the structure of the legislation and/or authorities. This may be caused by other procedures in case of lack of approved Local plans (Estonia and Poland). This may also be caused by variations between the municipalities because of the degree of local democracy (Denmark and Finland). And in Sweden, the applications for building permits shall be evaluated according to two different laws (the Planning and Building act – PBL, and the Law on Technical Requirements for Construction Works – BVL).

Early steps in the procedures are given special attention in most of the countries, and they may have several steps in the application procedures – even if the types of steps differ quite a lot. In some countries, the first step may be a visualization plan more similar to a detailed plan, in other countries, the project documents may be handled in several steps. In some of the countries, it may be a combination. And in some of the countries, there will be mandatory early meetings between the client (and other important actors) and the authorities.

Electronically handling and possibilities for digital applications are either already introduced or coming soon in almost all the countries.

Time limits for handling procedures are valid in most of the countries – sometimes rather detailed, and in other countries not detailed at all.

Procedures to obtain a building permit

In all the countries, an approved Building Permit compliant with the approved local plan is mandatory for all building activity. But the criteria for obtaining this differ. Elements that may be required in applications are:

- Verification of ownership to the construction site,
- Design documents (drawings and descriptions),
- Names, qualifications or certificates on central actors/companies,
- Certificates on central actors,
- Verification of listing of companies in Merchant Registers, and
- Control plans for actors and/or owners' supervisors.
- Documents about infrastructures around the property.

The importance of these elements differs a bit between the countries.

Dialogue between the client and the building control authorities

In all the countries, the dialogue between the client/developer and the building control authorities is very important – with Denmark as the most extreme. Some parts of the dialogue are mandatory in some countries.

Such dialogue basically comprise following possible elements:

- Clients take early informal contact to get information about the site
- Early meetings for defining requirements, start-up of design
- Collaboration meeting after application, start-up of handling
- Start-up meeting for the construction work
- Dialogue/contact in the construction period
- Dialogue related to completion of the building process

Following-up during the construction period/control system

The handling procedures for following-up of the construction works in the construction period are closely connected to the core activities of a control system. The practice in the countries differs from almost no contact (Norway), to a tight almost day-to-day follow-up (Iceland) – and several in-between solutions. In some of the countries the contact is based on construction site inspections, while in other countries the dialogue or the Diary is the main tool for control in this period.

Procedures to obtain a completion certificate

In all the countries, as-built-documentation is needed to apply for a completion certificate. In some of the countries, additional requirements are needed, and these may differ. Additional elements could be a final construction site inspection (Iceland, Estonia, Finland, Latvia and Poland), approved control plans (Finland, Norway and Sweden), plans for maintenance (Finland), or other conditions given by the local municipality councils (Denmark and Finland).

Summing up

In principle, all the countries use more or less the same elements in the different parts of the handling procedures, but their focus may differ a lot.

In Denmark, the dialogue is the most important element, used both in the pre-phases and design process, in the handling procedures and in the follow-up of the construction sites. In addition to the elements directly mentioned above, they also focus widely on support elements like guidelines, information meetings, personal support and more.

In Iceland, the strong public control is the most important element in the handling procedures – both document control and construction site inspections, and lately also more focus on control of the competence of the actors.

In Norway and partly Lithuania, the strong responsibilities laid on each of the actors are the main element in the handling procedures. The focus is then on control of the actors' competences and of their own control plans/control routines.

The rest of the countries have combinations of elements from these three poles in different ways. In Estonia, Finland and Sweden, owners' supervisors are mandatory, and in these countries the follow-up in the construction period is not as close as in Latvia and Poland, where the public control is stronger.

1. Introduction

1.1 Background

This report is funded by the Nordic Council of Ministers (NCM) and 9 co-operating governments in the Northern Dimension region as a part of the programme 'Northern Dimension – Increased Exchange in the Building and Construction Sector'. The report is based on two earlier reports concerning comparison of building legislation.

In the first report the building legislation in the five Nordic countries were compared. This report was funded by NCM and published as a book in Norwegian language in 2004, titled 'Bygningslov for bedre bygg? Sammenligning av bygningslovgivningen i Norden' ('Building legislation for better buildings?', TemaNord 2004:526, author: Sidsel Jerkø at the Norwegian Building Research Institute).

In the second report the building legislation in the three Baltic countries and Poland were compared. This report was funded by NCM as a part of the same programme as this report, and is published in English on their website, www.norden.org ('Increased exchange in the Building Sector – Building Legislation in Balticum and Poland', TemaNord 2008:578. Author: Sidsel Jerkø at SINTEF Building and Infrastructure).

In this current report, the building legislations in all the nine countries are to be compared and the information updated. The general patterns and the similarities between the countries are focused. In addition, we have carried out a case study for the control systems, as the Steering Group considered this to be an issue of high importance and with a wide range of varieties in main principles. In addition, many of the countries are currently working on improvements of the control systems.

1.2 Goals

This project will contribute to the main goal of the programme – increased exchange in the construction sector – by increasing the understanding of the legislations of the countries. By pointing out the main pattern and similarities and differences related to this pattern, especially concerning control systems, some of the hindrances related to cross-border activity may be easier to overcome.

The project may also be helpful for further development of the building legislation in each country, and for possible harmonising.

1.3 Short comments on the two earlier reports

The two earlier reports on comparison of the building legislation are already mentioned regarding formal information. We will also give a short comment on the focus and content in these reports, as they showed that focus was slightly different in these two regions.

1.3.1 Comparison of building legislation in the Nordic countries

The five Nordic countries have had a parallel development of their building legislation. All the countries got their first planning and building acts covering the whole country in the period around 1960 (1958–1965). They were focusing on harmonising their building legislation in a period from approximately 1980 until medium 1990's through the Nordic Council of Ministers. But afterwards, they all again focused on more national issues combined with a harmonisation to EU-legislation and EU directives.

In all the countries, the legislations initially were based on specific technical instructions and requirements. This has gradually changed to functional requirements in all the countries. But there are some differences in how these requirements formally are related to the Building Act: The main principle is that the functional requirements are given in prescriptions to the laws (in slightly different ways), but in Sweden they are given in a separate law (BVL) and as prescriptions to this.

All the countries except Denmark has joint Planning and Building Acts. In all the countries, the Planning Acts were all administrated by the Ministries of Environments. Administration of the Building Acts shows a greater variety, reflecting different focus in the legislation (regarded mainly as a tool for housing policy, for the construction sector policy, for economical policies or environmental issues).

All building activities must be based on approved local plans in all the countries. However, in all the Nordic countries, the 'democracy' connected to the procedures for approvals of building permits was an important issue, and was discussed with the intention of securing/improving the rights of the neighbours and the interests of the society.

In addition, the interface between the Planning Act and the Building Act regarding the procedures for approvals of building permits was also given attention. In most of the countries, there were extra planning levels or other 'tools' established just to help the process by transforming a spatial plan to a construction/building in line with the intentions of an approved local plan. This issue was connected to the degree of legal bindings of the planning hierarchy, and was discussed mainly related to newer collaborative contract models.

The report also discussed similarities and differences in the responsibilities and requirements on the actors, control systems, handling procedures, sanctions and complaint possibilities. These issues will be focused on also in this report.

1.3.2 Comparison of building legislation in the Baltic countries and Poland

The three Baltic countries have also had a parallel development of their building legislation. They were all a part of the Soviet Union (USSR) and thus they had the same building legislation in this period, from WW2 until 1991. And all three countries were members of the EU from 2004. However, the histories of the three countries before WW2 show distinct differences, and after 1991 their building legislations have developed in rather different directions, reflecting their earlier histories. Poland had got a looser connection to the Soviet Union since 1945 to 1989 when they regained full independence. Poland was a member of EU in 2004. Their current building legislation is based on the former, but has gone through several changes, and a major revision is now needed.

The Sovietian building legislation was dominated by a lot of very specific technical requirements (app. 1.200 'SNIP's'), but all the countries have changed these into functional requirements after 1991. Estonia was then looking to Scandinavian/Finnish legislation while Lithuania was looking to EU/Germany, and in both countries they approved a completely new building legislation. Latvia was changing the law more gradually by converting each SNIP into Latvian legislation, and the process is now completed. The technical requirements in the Polish legislation is also gradually converted into functional requirements.

All the three Baltic countries have separate acts for planning and building, but administrated by different ministries. Poland has a similar system, administrated by the Ministry of Construction.

In all the countries, all building activity must be based on an approved local plan, and all prescriptions for the new building will be given by the plans – which are approved by the Municipal Councils after public display. The general view in these countries is that the democracy is taken care of by the planning process. The democracy connected to approval of building permits is then concentrated on information to neighbours in different ways.

The interface between the Planning Act and the Building Act regarding approvals of building permits is simple: If the project fulfils the requirements given by an approved local plan, the project will be accepted – there is then no need for any 'tool' to help the transforming of the intentions of a plan into a concept for a construction.

The report also discussed the similarities and differences regarding all the main subjects of the legislation, following the same concept as the report on the legislation in the Nordic countries.

1.4 Content of this report

1.4.1 Structure of the report

Basically, the report has three main sections:

- Comparison of the legislation in each country .
This part starts with a description of the building legislation in each country (chapter 2), and then the comparison with focus on similarities and deviations from the overall picture (chapter 3). The building legislation may be seen as a complete system within a country – they may focus on different parts of the legislation, and to compare the systems of several countries, it will be vital to also see the complete system in each country.
- Case study of ‘control systems’
Here, we focus on one part of the legislation, to get a deeper insight in the issue with greatest variety between the countries (chapter 4).
- Attitudes, on-going processes related to building legislation
The Steering Group also wanted to relate the building legislation to the cross-border building activities, and to get an overview on on-going processes related to development of the building legislations. Such issues are not ‘scientific’ not ‘facts’. But in the interviews in the countries, we asked all informants of their opinion on these issues. The questions of cross-border activities (chapter 5) and of development of the legislation (chapter 6) are commented, with a focus on similarities and deviations in the views on these issues.

1.4.2 Limitations of the content

There has not been any dramatic changes in the building legislations in any of the countries since the last two reports were written. The descriptions of the legislations are based on the former reports, aiming at a similar lay-out and up-dated information – and pointing out main principles. But for nine countries, the descriptions could not be as detailed as they were in the last reports – the main pictures would then not be pointed out clearly.

For more detailed information, we will recommend the former reports.

1.5 Methods

1.5.1 Comparison of building legislation

The comparison is basically based on document studies of previous reports, but updated with new interviews with public officers on ministry level and additional document studies.

We have divided the information in two sections: first a short description of main principles in each country (see chp. 2), and then the comparison (see chp. 3).

1.5.2 Case study on Control Systems

We have carried out an explorative case study based on interviews. In each of the countries, we have interviewed 1) Public officers at an office for ‘the first level of public control’ (most often at municipality level), and 2) Representatives for the private construction sector. (See chp. 4.), most often from a national parachute organisation for the sector.

1.5.3 Comments on cross border activities and development of legislation

The Steering Group also wanted some comments on experiences with cross border building activity, and on views for further development of the building legislation in the countries.

Questions about these issues were then added both in the interviews for the case study and in the interviews at ministry level for the updating of the building legislation. See chp. 5 about cross border activity, and chp. 6 about views on further development of the building legislation.

2. Building legislation – Main principles in each country

2.1 Introduction

In this chapter we will give a short description of the building legislation in each country. The intention is to highlight the main principles in each country. In each country the historical context, the structure of complete legislations, the planning hierarchy and other framework for building activities, the structure of construction sector and the political choices are background elements for the legislation. Building legislation may use several ‘tools’ to obtain their goals, and the choices of tools reflect the challenges and background elements in each country. We will discuss the ‘tools’ in chapter 3 as an introduction to the comparison – here we will focus on the legislation as a ‘complete system’ in each country.

2.2 Denmark

2.2.1 Basic information and historical context

Constitution: Monarchy, member of EU since 1973.
Population: Nearly 5.5 mill. pr. 2007
Currency: Danish crowns (kroner) (DKK)

Administratively, the country is now divided into 5 regions and 98 local authorities (municipalities). This is a result of a major structural reform of the administrative regions from 01.01.2007, aiming at bigger administrative units – until then, the country had 13 regions and 270 municipalities. In addition come the Faroe Islands and Greenland. There is a strong political will to delegate power to the local democracy.

There are separate laws for planning and building. The Planning Act is administrated by the Ministry of Environment, while the Building Act is administrated by the Ministry of Economic and Business Affairs. The executive authority for building legislation is delegated to Danish Enterprise and Construction Authority (EBST).

Historically, Denmark was a great power i periods, when they were not invilved in civil wars. They were a leading power in the viking period, and the center of the ‘Kalmar Union’, comprising all of Scandinavia. This Union ceased in 1521 to be replaced by the Danish–Norwegian Union (including Iceland, Greenland and Faroe Islands) which lasted until 1814. Greenland

and Faroe Islands are still autonomous regions of Denmark, but Iceland got independence in 1918.

Denmark's economy is very strong. Agriculture is providing the most important export articles, and is also the basis for most of the industry developed since 1960's. In addition, they export oil and gas, and have other industry. A former underbalance in export has been converted to surplus within the last decade.

The first Building Act covering the whole country was from 1960, and the current Building Act is from 1998, with a number of later amendments. The Building Act is focusing on handling procedures. Technical requirements are given mainly in two sets of 'Building Regulations' – one valid only for small housing projects, and the other covering all other building constructions including multifamily housing projects, working place buildings and more. These Building Regulations were initially specific and concrete technical requirements, but are gradually changed to functional requirements. However, they still comprise some concrete technical requirements and instructions for exploitation, safety and health aspects, as 'minimum standards' if approved local plans do not provide more detailed requirements.

The challenges related to the building legislation the last decade are mainly connected to faults/errors in construction, to the priorities in the handling procedures in the municipalities and to further development of the requirements from technical to functional ones. Regarding faults/errors, the last amendment (June 2008) of the Building Act was articles demanding mandatory insurance for building damages, to protect buyers from the costs connected to this. Regarding the two other aspects, several options to improve the legislation are currently debated.

The building activities are gradually more dominated by developers using newer contract models, as Public-Private Partnership, development contracts and more, and the building legislation have also recently adapted articles for better regulations between the parties in such agreements, and for better flexibility in the handling procedures to meet these challenges.

2.2.2 Planning as framework for building activity

Denmark has a strong hierarchy in planning, with legal binding between the planning levels, defined by the Planning Act.

On a national level, the National Plan is strategic and without a spatial planning part. On a regional level, regional plans are strategic plans with spatial development as a main part, focusing on infrastructure. On the municipality level, they have comprehensive plans focusing on the main structure for strategic and spatial goals for use of land, and local plans which are the legal basis for building activities including technical and design requirements and formal instructions.

As agriculture traditionally is the most important element in the Danish economy, protection of agricultural land has been very important. To do so, they already in 1970 divided the country in 'zones' through a special law.

There are three types of zones: ‘land zones’, ‘city zones’ and ‘summer house zones’. Approximately 88% of the land areas is defined as ‘land zone’ (and app. 60% of the country is defined as agricultural land). Changing status of land (ex: from ‘land zone’ where building activities are almost forbidden to ‘city zone’) is very strict and difficult. It has to be done through local plans, but the new use of land must be linked to a possibility in overlaying plans. In such cases the value of the agricultural ground is much increased when converted to a construction site, so there is also a special (and high) ‘liberation fee’ to be paid by the developer.

They also have ‘Visualisation Plans’, which are not mentioned in the Planning Act. These plans may be seen as ‘tools’ to facilitate discussions between a developer and the public officers (and so sometimes general opinion) about the interpretation of the local plan by up-start of design processes for new buildings. Such plans are then a link between the planning process and the building process, and thus helping flexibility and communication. They are also suitable for negotiation planning and new contract models – but they are not legally binding neither for planning processes nor for building applications, they are just early ‘illustrations’.

Summing up, there is a strong hierarchic planning structure, with the local plan as the most important plan, and this plan is also legally binding for building activity. If regional plans are followed, the municipalities have complete political authority.

2.2.3 Neighbours and public opinion

Local plans are the legal basis for all building activity. If approvals for building permits are compliant with the local plan, they will be approved by the public officers. If not, the projects must be changed, or the local plans must be changed and approved once more following democratic procedures.

Warning of neighbours is then normally not a part of the handling procedures for building applications – neighbours should have made their points in the planning process. However, neighbours rights will follow other legislation if formal procedures are not followed.

2.2.4 Responsibilities and qualification requirements

The Client has complete liability towards the authorities, including responsibility for fulfilling all technical and functional requirements on the building. However, there is a legal possibility for other actors to be punished directly in case of severe errors – but most often the Client will have to pay (both for errors and fees), and then seek economical regress.

There are no competence requirements on the Client, or on other actors. The Client has the responsibility, and must then hire ‘competent actors’ to do the work.

There are no central registers for approval of actors, or listing of their competence. The authorities do not see this as their responsibility.

2.2.5 Quality in built environment

The Client is responsible for having a quality system to prohibit faults and errors, but there are no guidelines for this, nor formal requirements.

The authorities do not keep any statistics for the amount of faults and errors. However, this is regarded as a big challenge, and the insurance companies try to keep statistics. Several reports and analyses have been produced by the authorities and others on this issue, and in June 2005, the EBST issued a report on 'what to do' with this. The initiatives comprise better contracts, focus on the construction process, and on better education and lowledge.

Denmark has since early 1990's had two different 'Building Damage Funds', to cover the costs if 'third parties' would have to pay for faults. One of the funds covers social housing/non-profit-market or with public clients, the other covers renovation projects. But this is not regarded as sufficient, and in June 2008 a new Law on Mandatory Building Damage Insurance was approved, covering the interests of the 'third party' regarding constructions not covered by the two funds.

The significance of the Completion Certificate is regarded as high, and is the basis for use of the building. However, the requirements that have to be fulfilled to obtain the Certificate are given by local authorities, and thus differ between the municipalities, but a main issue in all municipalities will be to fulfill requirements given in the local plan.

There are no requirements or claims for mandatory maintenance.

Requirements for Universal Design are integrated in the Building Regulations as functional requirements.

The Planning Act (article 2) has formulations about aesthetical focus and development, but does not provide instructions for implementation of this. If an application for a building permit concerns a building with 'not satisfactory aesthetical dimensions', the public officers may refuse approval, but they must then forward a new local plan with more detailed instructions on this issue, within a year.

Denmark has a separate Law on Cultural Heritage, and a focus on protection of this heritage through the planning process.

2.2.6 Handling procedures

The focus on the importance of 'local democracy' leads to a different practice between the municipalities, regarding the administrative organisation. Most often, the building applications are issued by the Planning Office to secure the compliance with the local plan, but not always. And most often, the Planning Office and the Building Control Office are located in the same building to secure good communication and flexibility, but not always.

The basis for the specific handling procedures are given in the two 'Building Regulations' (see 2.2.1), and the specification given there to divide the constructions into categories: a) where applications are needed, and b) smaller constructions where only notifications are needed.

However, the considerable degree of municipal freedom of choice consequently leads to few formal requirements in the handling procedures of an application for a building permit. They emphasise the relationship with the plan foundation, and a certificate of practical completion is of major importance. This means that the formal requirements and procedures for a building permit differ between the municipalities.

The authorities also emphasise flexibility and communication, and they encourage mandatory early meetings as an important part of the procedures. And the municipal officers shall co-ordinate approvals from other authorities. They are working on systems for digital applications.

There are no formal time limits for handling of applications, due to the municipal freedom to prioritise means. Still, there are time limits for handling of applications for single-family houses according to the 'Building Regulations for small housing projects' and for notifications.

2.2.7 Control System

The main principle is that the general own quality control is performed by the Client, on his own terms and without public supervision of this.

The public Building Control concentrates on the issues of public interest. The officers are performing the control based on dialogue and construction site inspections including document control.

The control systems are the objectives of the case study carried out as a part of this project, and for more detailed information, see chpt. 4.

2.2.8 Sanction and complaints

Sanctions in case of illegal building activities will be handled by the police. The law opens for demolition of illegally built construction, but the most common reaction is penalty fees.

Complaints are possible both for planning and building processes, especially in case of formal deviations from procedures, but there is no possibilities to complain on the public judgement.

2.3 Estonia

2.3.1 Basic information and historical context

Constitution: Republic, member of EU since 2004.

Population: Approximately 1,3 mill. pr. 2007, and
deminishing

Currency: Estonian crowns (korunas) (EEK)

Administratively, the state level is divided in central authority and 15 counties. The counties are divided in several 'city municipalities' (39) and small 'rural municipalities' (202), altogether 241 municipalities.

There are separate laws for planning and building. The Planning Act is administrated by the Ministry of Internal Affairs, while the Building Act is administrated by the Ministry of Economic Affairs.

The history of Estonia displays a strong Scandinavian influence, together with influence from Germany and Russia. They have been ruled by other nations most of their time of history, except for a period as independent country 1918–1940. Latest they were occupied by the Soviet Union since 1944, until they in 1991 declared independence and became a democratic republic. The ‘golden age’ of Estonia is held to be the Swedish period of 150 years (1561–1710), and therefore the Scandinavian influence is still strong.

The Estonian economy is one of the strongest of the ‘new’ EU-members. The rapid growth was caused by internal demands and low interest rate, and the basis for the economy is oil transit, a strong IT-sector, wood and paper. Low unemployment today, but now the market is slowing down.

Being a part of the Soviet Union, they had the Sovietian building legislation until 1991. After the liberation, they chose to change the legislation completely, and the new Planning and Building Act came into force in 1995, followed by a separate Planning Act in 2003. The Building Act has used Scandinavian and partly German legislation as ‘models’ – mainly the Finnish legislation.

The challenges related to the building legislation were mainly connected to handling of private ownership, preservation of the houses, to a lack of plans on the municipality level and lack of competence on planning. In the first period after independence, public participation and democracy in planning were also a challenge.

2.3.2 Planning as framework for building activity

After the liberation from USSR, there was a lack of planning hierarchy in all aspects; there were no planning authorities and democratic procedures to make plans, and no approved plans suitable as framework for building activity according to the new building legislation. Now, almost all of the country is covered by approved local plans – worked out by public officers in the cities, and by consultants in rural areas.

On the national level, the National Plan is strategic and without a spatial planning part. County plans are also strategic plans, but they comprise direction for the spatial development and location of main infrastructure, and they may even be prepared as thematic plans. On the municipality level, comprehensive plans establish the principles for the spatial development, where all interests are balanced; environmental obligations, cultural heritage, contradictory views of stakeholders and more. Detailed plans (= local plans) are the plans legally binding for building activity, giving the specific project criteria and requirements.

On the one hand the planning system is hierarchic, i.e. the more detailed plan has to observe the valid more general plan. On the other hand the system is interactive, i.e. if a more detailed plan requires modifications of a more general plan, the necessary change comes into effect with enforcement

of the more detailed plan. The Planning Act underlines the agreement nature of plans and the mandatory co-operation requirement in all phases of the planning. However, the procedures for approving a local plan not compliant with the valid comprehensive plan are very strict. And if there is no approved local plan in urban areas, a detailed plan covering the construction site and neighbouring plots must be forwarded, to be handled democratically as a local plan. In rural areas, comprehensive plans may be legally binding for building activity if there is no approved local plan.

The private ownership represents challenges to building activity. Private ownership has been encouraged and now the governments (state or local) only own 5–10% of the ground. The owner's legal rights are very strong, and the legal basis for expropriations is weak. This situation represents some problems in development of urban areas, connected to technical infrastructure. In fact, an owner can stop the construction of this by denying use of his property for such purpose, and there is no legal way to force them to accept. In addition, most of the technical infrastructure is on private hands, and the clients (public and private) must pay rental costs for use of it.

2.3.3 Neighbours and public opinion

The Building Act does not mention public display of applications for building permits, but a project must be in accordance with an approved local plan (which has been on public display). If there is no approved local plan, a detailed plan must be forwarded and handled according to procedures for democratic planning processes.

In applications for building permits, the design documentation of the project must be in compliance with the conditions given in the local plan. There are no claims for the client to have a public display or hearing of the project connected to the application procedures, unless the project will be of significant importance to the environments.

According to the law, the information contained in building permits shall be published on the web site of the state register of construction works – that is when the application for a building permit is approved, but before the actual construction works starts.

Complaints are often forwarded because neighbors are not aware of a building activity before it starts up – and then they disagree.

2.3.4 Responsibilities and qualification requirements

The Client has complete responsibility towards the authorities. Everyone has the right to be a client, and there are no qualification claims on the client (owner).

But the client must hire a professional supervisor to perform 'owner's supervision'. This supervisor must be listed in a Central Register, the same register as designers and contractors must be listed.

In addition, the Building Act mentions a number of other activities that shall be performed by actors with competence requirements (to build, de-

sign, conduct investigations, perform expert assessment of design documentation, evaluate construction works, and to perform project management. The qualifications of those actors must be in compliance with a commercial code for the relevant profession (if not, he must have a contract with a person who does, for controlling). In case of public buildings, a separate and professional external supervisor with a proof from the local authorities is needed.

All the actors mentioned above (except the client) have to be listed in a State Register of Construction Works. In this register the companies are approved through persons, and the accreditation follows the persons if they change to another company. The Register is web-based, and is updated once a year – all persons have to apply for renewal/prolonging of their listing in the Register. The accreditation of the persons is not related to any on-going projects.

To be registered, the actors must have documentation on their professional education their professional experience listed and verified by the authorized processor of the Register. Registering may be refused or deleted, if the given information is incorrect, or if the actor has performed irregularities in the last period.

2.3.5 Quality in built environment

The Building Act states that the Client has responsibility to secure a high quality of the construction works, in accordance with all technical standards. But there are no formal requirements on his systems.

The Permit for Use is formally an important document, because it is supposed necessary to have this document to get the building insured, and to get electricity and water on a permanent basis. Buildings for workplaces will suffer severe consequences for the workplaces if the buildings are not registered as legal buildings.

Still; in real life only half of the building permits have ended up with permits for use, and there is a high number of formally 'not finished' living houses. This may be explained by a slightly liberal practice and by fundraising problems by clients followed by a high number of 'self-builders' with rather slow progression. The level of property taxes is also very high, and there are no property taxes on a construction site, so there are few incentives to finish the house. In addition, it is not difficult to get formal permission to prolong the building period, and the insurance companies are often willing to sign for insurance as long as the client pays for it, even if there is no Permit for Use.

Quality in built environment also comprises other important factors, such as accessibility for disabled people, aesthetic dimensions and sustainability, but these factors are not mentioned especially in the Building Act. Obligation to maintenance of construction works is considered to be mostly in the client's own interest and then his responsibility.

Cultural Heritage is taken care of by other legislation, and so are also aspects connected to security and health of workers.

2.3.6 Handling procedures

The Ministry is dividing the construction works into two categories; whether or not detailed plans are mandatory (see pt. 2.3). In areas where detailed plans are mandatory, these plans will provide more detailed design criteria. In areas where detailed plans are not mandatory, the Comprehensive plans are legally binding and the detailed design criteria will be defined by the local government (by Mayor). The conditions are mandatory, and by the legislation, there are no possibilities to depart from these directions or to obtain dispensations.

An approved building permit is mandatory for all building activity, except for small constructions (less than 20 sqm). For small constructions there is a claim for a written consent.

An application for a building permit must comprise documentation both on the skills of the appointed 'owner's supervisor', and on the building design. The latter must verify that the project is compliant with the requirements given in a plan or by the Mayor. The owner supervisor's role is important, because the role of a private client is rather new.

The handling procedures for an application often start with an early conference between the designer/architect and the local authority. This meeting is voluntary, but regarded as very useful.

Handling of an application comprises check of compliance between project documentation and design requirements, and of the competence documentation on the actors including their listing in the Central Register and the Merchant Register. Before approval, the public officers also check if the building fulfills all technical requirements.

During the construction period, the local authorities normally perform physical inspections on each building site 2–3 times; as a minimum, they inspect the foundations and the completed construction works (before issuing of completion certificates), and often they in addition will have an inspection to supervise the completion of the waterproof construction.

The client must apply for a completion certificate and pay a fee, and the demands for obtaining this, is 'as-built' documentation, a document certifying that technical inspection has been performed.

There are time limits on all stages of the handling procedures. Applications for building permits may be performed by electronic means.

2.3.7 Control and supervision

The control system is based on three pillars: Owner supervision for own quality control and to secure that the building will be in compliance with the building design documentation, Construction supervision (building control) performed by the local governments, and State supervision performed by the Technical Inspectorate.

The Construction supervision has the authority to issue building permits, and completion certificates.

The control systems are the objectives of the case study carried out as a part of this project, and for more detailed information, see chpt. 4.

2.3.8 Sanction and complaints

In principle, the public interests and the democracy are taken care of in the planning processes. There are no claims for the client to have a public display or hearing of the project connected to the application procedures, before he forwards an application for a building permit, unless the project will be of significant importance to the environments. But publishing on the web site of the State Register is mandatory, after approval but before the start of construction works.

Complaints are often forwarded because neighbors are not aware of a building activity before it starts up – and then they disagree.

A complaint is first handled by the local governments, to try solving the case there. The handling body is the same office as the one who was handling the building permit, and the complainer can go to these offices. The next step is then to take the case to court – this implicates that the way to the court is rather short, and the cases are often brought into court even if the case may not be of a serious character.

Illegal building activity occurs – this may be building activity where the project is not in compliance with the building permit. But building activity without a building permit is a more common problem. Most often this occurs because the self-builders of own dwellings do not have knowledge of the formal procedures, and the authorities then try to guide them through the paperwork.

In case of illegal building activities, the most common sanction is penalty fees. However, the Client may also be ordered to forward a new Local Plan to be handled according to procedures for planning, or he may be ordered to change or demolish the building. According to the Building Act (§ 40), dangerous construction works or construction works erected without building permit shall be demolished, even if practice is more liberal.

2.4 Finland

2.4.1 Basic information and historical context

Constitution: Republic, member of EU since 1995.

Population: App. 5,3 mill. pr. 2007

Currency: Euro (EUR)

Finland has 2 tiers of governance: State and Municipalities. There are 348 (2009) municipalities, and the number is diminishing. In addition, there are some intermediate levels. Municipalities co-operate in seventy-four sub-regions and twenty regions, which are governed by the member municipalities, but have only limited powers. The state organization is

divided in six administrative provinces (*lääni*). The Ministry of Environment also have 13 'regional environment centres' which perform, among other things, the task of mentoring and guiding plans and building control.

Finland has a joint law; the Planning and Building Act (Land Use and Building Act), administrated by the Ministry of the Environment.

Finland was historically part of Sweden, and from 1809 an autonomous Grand Duchy within the Russian Empire. Finland's declaration of independence in 1917 from Russia was followed by a civil war, war against the Soviet Union and Nazi Germany, and a period of official neutrality during the Cold War. Finland joined the United Nations in 1955 and the EU in 1995 and participates in the Eurozone.

Finland has a highly industrialized free-market economy with an output equal to the dominating countries in EU, and has been ranked as the second most stable country in the world, in a survey based on social, economic, political, and military indicators. The largest sector of the economy is services, followed by manufacturing and refining, and the largest trade flows are with Germany, Russia, Sweden, and more distant countries.

The current planning and building legislation (MRL) 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.

2.4.2 Planning as framework for building activity

Land Use and Building Act refers to 3 main types of plans, and the plan hierarchy is now considerably stricter than before 2003. They have:

- Regional plans, i.e. inter-municipal binding, strategic plans,
- General plans (and rarely used: Common general plans), strategic plans covering the whole or parts of the municipality. These plans are normally not binding, but legally binding may be agreed to by the municipal council.
- Detailed plans (= local plans) are drawn up by the municipality (often in co-operation with the developer, sometimes by the developer alone). They comprise specifically defined areas, and are legally binding.

2.4.3 Neighbours and public opinion

In Finland there is a fundamental view that neighbours are entitled to protest against an activity if they have a justified reason – which may relate to unclear aspects of the Local Plan. This focus leads to an attitude of great importance to the ‘democratic rights’ of the neighbours, and that these are best ensured by a total public handling of neighbour notifications as a part of handling procedures.

2.4.4 Responsibilities and qualification requirements

The Client, a party engaging in a building project, has complete liability towards the authorities, and the building legislation does not mention any other mandatory roles with direct responsibility towards the authorities.

There are no formal requirements on the Clients. However, there are formal competence requirements on two other actors: the Principal Designer, other designers and the Site Manager (the requirements are personal, not on the companies). The Client must have hired those before the handling of the building application, and competence will be approved, related to each project.

There is no central public register for qualification on actors, but there is a voluntary private register, and the actors normally prefer to be listed.

2.4.5 Quality in built environment

Finland has two basic principles to secure high quality in built environment: 1) there are competence requirements on central actors, also to be fulfilled to get a building permit, and 2) a demand for site inspections – carried out by the public control or delegated to the client, or an independent controller.

To focus on quality in built environment and point out that this is not only a matter of design in new constructions, Finland has established requirements for a plan for facility management and maintenance of a building, to be in place prior to the issuing of completion certificate.

Aesthetic qualities are considered most efficiently ensured through specific requirements forwarded in the Local Plans, and is considered to be a ‘planning issue’, even though the building legislation comprises general terms on aesthetic qualities. A lack of aesthetic qualities is also an object for possible reactions from neighbors. However, such qualities will be evaluated by the public officers, and their conclusions may be proved by court in case of complaints.

Finland does not keep official statistics on faults in construction works, but a private company supported by authorities is keeping "the Construction fault Bank".

Cultural heritage is taken care of by other legislation.

2.4.6 Handling procedures

In the building legislation of 2000, new handling procedures for building applications were introduced, aiming at better and earlier dialogue between the developer and the authorities. A (voluntary) early meeting was introduced, a possibility to send early applications to define the amount of needed documentation in the final application.

A Building Permit is the legal basis for all building activity, the projects must be compliant with the local plan, and the Completion Certificates verify that the building is built according to the requirements. In Finland, the significance of the Completion Certificate is focused and demanded as a basis for connection of the new construction to the local public water and sewage service.

By approval of the applications for building permits, deviations from the technical requirements may be allowed, but not deviations from the requirements given in a local plan.

The legislation does not give any time limits for handling procedures.

Finland focuses on electronic case handling.

2.4.7 Control and supervision

Finland has formally placed the responsibility for sufficient control onto the client shared with public authorities. 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 ("the party engaging in a building project") while public control concentrates on the supervision processes within the mandatory building inspection report,

For more detailed information, see the case study on control, chpt. 4.

2.4.8 Sanction and complaints

The possibilities to complain are extensive, and there are even possibilities to complain on aesthetical issues after a building permit is issued. Both the complaints and the evaluations of the complaints may be taken to court.

2.5 Iceland

2.5.1 Basic information and historical context

Constitution: Republic, not member of EU – but member of EEA

Population: Nearly 0,3 mill. pr. 2007

Currency: Icelandic crowns (kroner) (ISK)

Iceland has 2 tiers of governance: State and municipality. But administratively, there has recently been a major structural change, from app. 220 small municipalities (2004) to 78 municipalities (2008).

Iceland today has a common Planning and Building Act, but in 2008 there will be forwarded a proposal to split the legislation into two separate acts, and also to reorganise the complete administration connected to the planning and building legislation, see chpt. 6.

Today, the common Planning and Building Act is administered by the Ministry of Environment, and so will probably also the proposed new Building Act – but they also propose the main part of the administration delegated to a new Directorate, co-ordinated with other acts and regulations relevant for building activity..

The new proposal will also comprise other major changes, and the description of the present building legislation of Iceland will be kept on an ‘overview level’. In the later comparison part (chpt. 3), we will try to comment both current legislation and the possible changes.

Short outline of history: The settlement of Iceland began in 874, when Norwegian vikings settled – and later also other Nordic and Gaelic people came to settle. Iceland was from 1262 to 1918 a part of the Norwegian and later Danish monarchies. Today, Iceland is a member of UN, NATO, EFTA, EEA and OECD, but not EU.

Iceland has a high level of economic and civil freedom, and has been ranked by the Gini coefficient as one of most developed and egalitarian countries. Until the last century, the Icelandic population relied mainly on fisheries and some agriculture. But Iceland's economy and welfare system developed quickly the last century, and in the recent decades they implemented free trade in EEA and diversified from fishing to new economic fields like finance and various industries – which also made the country more economic vulnerable.

The current planning and building act (SBL) is from 1998, and the main purpose of that law was to ensure a stronger planning hierarchy. Important principal changes were made, but mainly in the planning part of the legislation, and the building part is not sufficiently harmonised with the planning 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 and construction sites. However, the competence is presently increased both within the projecting and the executing actors.

2.5.2 Planning as framework for building activity

The plan hierarchy went through major alterations in the Planning and Building Act (SBL) of 1998, with much emphasis on a stricter hierarchical binding between plans and building applications.

The Act now refers to 3 types of plans:

- Regional plans, which are strategic and co-ordinating plans covering more than one municipality,
- Comprehensive municipal plans. They cover a whole municipality and are legally binding for building activity if there are no local plans, and
- Detail plans (= local plans), legally binding for building activity and with detailed requirements for the buildings.

2.5.3 Neighbours and public opinion

The basic view is that the rights of neighbours should be ensured through the planning process, and when a plan is approved, only deviations from this will constitute a cause for neighbour to protest. The sending out of neighbour notifications is then a part of the duties of the public officers, and protests are handled by the planning office

2.5.4 Responsibilities and qualification requirements

The Client has the formal responsibility towards the authorities. But since there traditionally are high numbers of non-skilled one-time clients and even self-builders, the system provide several tools to support the clients.

First, there is a very strong public control, working on a more detailed level than building control offices in other countries – and the intention is to support the client. See point 2.5.7 and chapter. 4.

Secondly, by a mandatory engagement of a ‘building director’ (project manager) with professional skills, to be responsible for the quality of the building both towards the authorities and to the client. He must be insured against possible faults, but it is the clients responsibility to correct fault discovered by the public control. The economical responsibility for the ‘building director’ has not been proved in court yet.

The client is responsible for hiring competent actors. The actors with competence requirements according to the proposal for a new law will be designers (personal), site managers (both personal and for the company), and the ‘Master Builder’ (personal). All these actors (including the client) must have a system for own quality control, and they must have experience from building in Iceland to be approved by the Ministry of Environment. The approvals are related to each project.

2.5.5 Quality in built environment

Securing of high quality in built environment is primarily taken care of by a) the competence requirements on the actors, and b) an extended public control. Still, they look for improvements in the proposals for a new law.

There are no public statistics on faults and errors in built constructions. But historically, this has been a big issue on Iceland, with imported building materials not fit for the climate on Iceland, and in addition to a rough

weather, they have a very harsh chemical climate due to the volcanic activities. These challenges have contributed to the system with specific and concrete technical requirements, the claim for local experiences and the strong public control. Due to the public control system, the authorities have a rather detailed picture of the amount of faults, even if they do not have public statistics.

In the current building legislation, there are general requirements on aesthetic dimensions. But more specific requirements shall and will be given in local plans.

2.5.6 Handling procedures

Iceland has restrictive and detailed formal requirements including time limits for all steps in the handling procedures.

A description of the case handling performed by the Building Control Office will comprise a first check of all documentation on both project and actors, then a meeting with all public authorities (regular meetings once a month are stated in the law), followed by a meeting in a political committee, and then the client must pay the fee to get the Building Permit. During the construction period, the BC Office follows the project closely, and normally performs app. 10 construction site inspections.

The Completion Certificate will be issued after a final site inspection and document control, but this document has little significance – even if it has become more important the last years, especially for working place buildings and for insurance purposes.

2.5.7 Control and supervision

The control system is based on strong public control – both of design documents, of the competence on the actors, construction site inspections and as-built documentation – even if clients have the formal responsibility. The system represents an answer to some major challenges, mentioned above: lack of professional skills in the sector, harsh climate in all aspects, lack of suitable building material, and small companies.

For more detailed information, see the case study on control, chapter 4.

2.5.8 Sanction and complaints

In case of illegal building activities, penalty fees are the normal reaction.

There is not a general possibility to complain. To complain, the person must be a direct stakeholder, and the issue must be related to if the project complies with the approved local plan, or to errors in the formalities. Aesthetic issues may not be an issue for a complaint. However, neighbours may have remarks/complaints to a project as a part of the handling procedures for a building permit.

2.6 Latvia

2.6.1 Basic information and historical context

Constitution: Republic, member of EU since 2004.
 Population: App. 2,3 mill. pr. 2007 and diminishing
 Currency: Latvian Lats (LVL)

Latvia has 2 levels of authorities: State authority and local governments (municipalities). The State level is divided in the central government and 5 District regions, where the Riga region comprises almost half of the population of the country. The local government level comprises 525 municipalities, where 33 of those have a regional or district function (26 called 'counties' and 7 cities).

Currently, the Ministry of Regional Development and Local Governments has elaborated a reform concerning administrative-territorial division. This project foresees that current administrative system will be transformed into 9 cities and 103 local governments. The reform is supposed to be completed by January 1st, 2009.

The Planning Act and the Building Act are two separate laws, and they are administrated by two different ministries. The Planning Act is administrated by the Ministry of Regional Development and Local Governments, while the Building Act is administrated by the Ministry of Economics.

The history of Latvia is dominated by occupations from neighbouring countries because of their strategic position regarding both trade and military purposes (good access to the Baltic Sea). The population comprises diversity: historically 4 Baltic tribes with different languages and histories, added with a significant Russian population.

One of the main earlier influences has been from Germany, since Riga became a Hansa League city, and the Germans were established as the superior class. After periods ruled by Poland-Lithuania and the Sweden, they were a part of Russia until 1918, independent until the WW2, and a part of the Soviet Union until the liberation in 1991.

The general state economy is rather strong with a high growth rate, but there is a rather low living standard for ordinary people, even if there is low unemployment. The state economy is based on banking and trade.

Being a part of the Soviet Union, they had their building legislation until 1991. After the liberation, they chose to keep this legislation with its 1200 strict technical building codes (SNIP's), and then gradually replace the SNIP's with a new Latvian legislation (1995) with functional requirements – an expert-driven process which is now completed.

Lack of competence is a major challenge connected to the Building Act. This leads to a need for having the building codes very clear, formal and specific even if they are functional requirements. In addition, private ownership and access to necessary area for technical infrastructure is a challenge, as in Estonia. Illegal building activity along the coastline is another challenge demanding resources from the building control offices.

2.6.2 Planning as framework for building activity

There are four planning levels – two on the state administrative level: The National Plan and regional plans, and two local administrative levels: District plans and local plans.

On the State level, the National Plan is a pure strategic plan, but it also comprises some concrete regulations for land use in case of purposes of national interest (as the Coastal Zone). Regional plans are strategic plans as well, but have special sections for spatial plan for the region, with the intention of showing possibilities and restrictions.

On local level, the district plans co-ordinate planning interests in spatial planning, while the local/detailed plans are performing all requirements for building activities and are legally binding. Detailed plans cover a smaller area, and replace a local plan if this is lacking.

The planning system is hierarchic; the more detailed plans have to observe the valid and more general plan. The new Planning Law also emphasizes public discussion on every planning level, but due to lack of competence and capacity, there may still be some lack of (regional) plans.

2.6.3 Neighbours and public opinion

Under the Soviet period, the planning had been more or less a ‘secret procedure’, and there were no traditions for public discussions. Guidelines for the planning procedures were important to secure the democracy, and this caused several amendments of the planning part of the legislation, and the system is now rather strict.

Lack of skills and capacity by the planning office lead to a lack of plans, and the developers increased a production of private plans, and negotiation planning. The authorities are responsible for the democracy in planning, and possible ‘hearings’ in case of options.

Normally, when developers present building plans to the local administration, the latter either accept the plans and give the acceptance directly, or they disagree and forward the plans to State level. In both cases, the local democracy may be challenged.

As a part of the handling procedures for a building permit, the authorities must send notifications to the neighbours and stakeholders, and in case of buildings of ‘great significance or public importance’, they must arrange hearings before approvals.

2.6.4 Responsibilities and qualification requirements

The Client has complete responsibility towards the authorities, but there are no qualification requirements on the Client. The Client must hire a qualified Project Manager to be responsible for ‘correct building’.

In the Building Act, other actors are also mentioned with competence requirements, for research, design and construction works, and construction supervision.

All actors mentioned must have certificates, proving that they are professional actors, and there may be severe qualification requirements on the actors to get those certificates.

The certificates are personal; they last for 5 years and are not connected to projects. Competence Certificates of civil engineers and designers are listed in a register for professional certificates (the Profession Register) based on their formal qualifications.

In addition, construction companies must be listed in the Construction Merchant register. This is not in any way an approval for qualifications – it is just a list of information about the company. The information in this Register is available on internet, and the authorities plan to open a new Register in 2011.

2.6.5 Quality in built environment

The Building Act states that the client has responsibility to secure a high quality of the construction works, in accordance with all technical standards. All competence requirements on actors are regarded as the most important tool to secure high quality.

It is stated that the Ministry of Economics shall monitor and control compliance with requirements for the accessibility of the environment in public buildings and structures.

Aesthetic qualities are handled by giving the designer (author) some extended authority in these matters, by obligation on the client to consult him in case of changes. But aesthetics is not a big issue – it is seldom a reason for complaints, not regarded as the responsibility of the Inspectorate (it is a part of the design criteria given by the local plan), and the neighbors don't care unless it is a very big, very ugly and very important project.

Environmental qualities are including protection of cultural heritage. Buildings older than 50 years are regarded as 'protected', and the Ministry of Culture has a mandate for supervision. There are instructions for frequently inspection of those buildings, and the State Building Inspectorate may carry out this on behalf of the Ministry.

The Building Act is not very specific on the issue of maintenance. There are no specific general requirements, but the local authorities may adopt local guidelines for maintenance, and instruct in case of danger.

The Inspectorate of Cultural and Heritage Protection has strong legal protection of their interests, and these aspects are good taken care of.

2.6.6 Handling procedures

All construction work must have a Building Permit, or a Written Consent, which is sufficient for smaller constructions. There is not mentioned any classification of the building structures.

The significance of the Completion Certificate is high. This document is necessary to register the new property, and for sale of the property, and for legal use of workplaces.

The Building Inspectorate shall carry out a construction site inspection before issuing a Completion Certificate.

Then; today it is possible to blame the authorities if they have approved a building with severe faults. In grave cases this can end up in court, and the authorities may pay large compensations. This may be a problem – especially as the building site inspections is just a visual check. The Inspectorate can ask for an expert (paid by the client) if they suspect some kind of ‘disorder’.

2.6.7 Control and supervision

In principle, the control system is based on a strong public supervision, on two levels – Local Building Inspectorates, and State Building Inspectorate.

The Local Building Inspectorates are dealing directly with all the building projects, and issue Building Permits based on design criteria given in the Local Plans, carry out construction site inspections, and issue Completion Certificates based on compliance with the permit.

The State Building Inspectorate conducts supervision of the Local controlling body, and may also supervise construction sites.

Owner supervision is not requested according to the Building Act, but the clients normally have their own quality systems. In some cases the Local BC Office can request owner supervision (for example if there is used a design-&-build concept or the building is financed by the state).

For more detailed information, see the case study on control, chpt. 4.

2.6.8 Sanction and complaints

Neighbours have possibilities to send protests both in the planning process and after received notifications for applications for building permits. They also have a possibility to complain later in the process.

All complaints must first be sent to the local administration, and then there are two different procedures: Complaints from a stakeholder on public officers or case handling are forwarded to the state level or to the administrative court. Complaints on illegal building activities will be submitted to civil court.

Illegal building activity (especially in the Coastal Zone) is a challenge. The building legislation opens for demolishing of illegally built constructions, but the most common reaction is penalty fees.

2.7 Lithuania

2.7.1 Basic information and historical context

Constitution: Republic, member of EU since 2004

Population: App. 3,4 mill. pr. 2007 and diminishing

Currency: Lithuanian Litas (LTL)

Lithuania has three levels of administration: In addition to the state level, the county level covers 10 counties, and there are 60 municipalities at the municipality level.

The planning and building legislation is divided into two separate laws (the Planning Act and the Building Act). Both laws are administrated by the Ministry of Environment, but by two different departments. The Planning Act is administrated by the Territorial Planning Department. The Building Act is administrated by the Construction and Housing Department.

Lithuania is a former great kingdom/principality, as a part of the former Polish–Lithuanian Union. This union lasted approximately 400 years, and ended 1795, and through this period they developed strong connections to Poland and other Central-European countries.

After that, the former union was divided in three parts, and Russia got hegemony to app. 90% of the area – the rest was divided on Germany (Prussen) and Austria. Lithuania was independent between the two world wars, and was later a part of the Soviet Union until 1991.

The State economy is rather strong, with a high growth rate – primarily due to trade with EU. But the wages are low compared to the old EU-members – and emigration to other EU-countries is a main explanation on the reduced number of inhabitants. The country has full employment.

Lithuania had the Soviet building legislation until 1991. After the liberation, they were looking to central Europe and EU to seek ‘models’ for the new Building Act, and to harmonize to the main EU systems. The focus has been to establish systems for democratic processes. Simplifications were also an important issue.

2.7.2 Planning as framework for building activity

The planning hierarchy comprises: General plans, special plans and detailed plans. General plans and special plans shall be worked out on all the three administrative levels: state level, county level and municipality level. The hierarchy is strict and directly binding for the next underlying level for both types of plans. But none of these plans are providing a legal basis for building activity.

General plans are strategic and comprehensive master plans, balancing all issues on the level they are operating. Special plans are strategic plans for special purposes of public interest or public functions (forest and water resources, social, cultural and economic activity, infrastructure, protected territories and more).

On municipality level, detailed plans (= local plans) must incorporate all directions given in both general and special plans. Local plans then states the requirements and design criteria.

Developers, land owners, land users and managers may initiate and design local plans. But all plans both designed by authorities and by developers must be approved by the Municipality Council. Building Permits must be compliant with approved local plans, and if there is no such plan, they must propose one.

However, the lack of money and/or capacity to make plans is a challenge. So is also dealing with private ownership to construction sites.

2.7.3 Neighbours and public opinion

Democracy and public hearings have great focus (also because of the monitoring of this from EU), and it can not be given dispensation from the claims for public hearings. All plans are put on public display for one month. After this period, plans shall be approved if there are no complaints or obstacles. Applications for building permits shall be approved if the project is compliant with the Local Plan and if there are no complaints or obstacles. If not, the application will not be approved, and the applicant must either change the project or ask for a change of the plans (with full procedures for a planning process) and come back with a new application.

2.7.4 Responsibilities and qualification requirements

The Client has complete responsibility towards the authorities. Everyone has the right to be a client, but the client must prove his ownership or other right to the construction plot. There are no qualification requirements on the client.

The client is obligated to hire competent actors on both design process and construction works, and he must hire a controller for each project. There are requirements on qualifications on all those, and on some other actors: investigator, technical supervisor, supplier, and even on supervisor for territorial planning. The requirements are on persons, and construction companies must be registered with the qualification on the actors.

There is no State central register for the attestations required. But voluntary associated organizations, as Builders Association, Designers Associations, Architects Associations and etc. have certification systems on both architects and construction companies. These lists of specialists, which are voluntary, are published in Lithuanian Official Journal 'Valstybės Žinios', and on the web page of the responsible body – www.spsc.lt.

2.7.5 Quality in built environment

The Client shall secure fulfillment of all technical requirements through his own quality system, but there are no formal requirements on this.

Aesthetic qualities

Design conditions shall be drawn up by the municipal mayor within 10 days of the reception of an application for a building permit. Architects must be the head of the design processes, and for residential buildings also the head of the project. For evaluation on design works, the general attitude is that this should be judged by people with special knowledge on aesthetic in the building control office, and not politicians. The law does not provide instructions on this matter.

Major faults

The Construction Law comprises a separate chapter on procedures for handling an accident of a construction works.

Accessibility, Environmental qualities and Health & security aspects.

These aspects are not mentioned directly in the building legislation, but all these issues are covered by other legislation, and should only regulate one place.

2.7.6 Handling procedures

An approved Building Permit is mandatory for all building activity, except for small constructions (less than 80 sq m) and routine repairs. For small construction the authorities must have a notification, which shall be approved by an institution authorized by the Government. Presence of documents proving the client's ownership or other right to the construction plot is mandatory for applying for a building permit. Classification (hierarchy) of buildings or civil engineering works is: Important, not important and simple constructions.

The Completion Certificate is of rather high significance. This is needed to get the building registered as Immovable Property, and then to be insured and purchased. But the insurance companies are not very rigid if the client pays.

The design process for a building project starts with a mandatory early stage conference between the client and the local authorities. At this conference, the client presents an early sketch or concept, and the authorities define specific design conditions for his project.

Further handling of an application for building permit mainly comprises check of documentation on the client's ownership or other right of the construction site, of the compliance with the given design requirements, of the Local plan requirements, and of the documentation on competence of relevant heads.

Where examinations of design and of construction works are mandatory, the owner supervisor's reports shall be supervised by the public supervision.

There are time limits for parts of the handling procedures.

2.7.7 Control and supervision

The Territory Planning and Building Inspectorate under the Ministry of Environment (State Building Inspectorate) is a state institution, operating on national level. The State Building Inspectorate is primarily making the guidelines, but they may also perform supervision. They are also handling complaints and carry out the Public Client role. The Building Inspectorates on the county level (County Building Inspectorates) are the 'first line' of authorities' supervision. They issue building permits and completion certificates. They also perform construction site inspections randomly.

In Lithuania, there are no building supervisory functions on the municipality level. But owner supervision is mandatory.

The mandatory owner supervision is obliged to have systems for fulfilling all technical requirements on the construction according to building codes and more.

For more detailed information, see the case study on control, chapter. 4.

2.7.8 Sanction and complaints

Complaints are being handled first by the first level of building control (County Building Inspectorate), and second complaints or complicated cases will be forwarded to the State Building Inspectorate.

Illegal building activity most often occurs in restricted areas (coastal zone). Earlier there were possibilities to make these buildings legal afterwards after paying a penalty fee, but this is not possible any more.

2.8 Norway

2.8.1 Basic information and historical context

Constitution: Monarchy, not member of EU – but member of EEA.

Population: App. 4,4 mill. pr. 2007

Currency: Norwegian crowns (kroner) (NOK)

Norway has 3 tiers of governance: State, county and municipality levels. The state also exerts its mandate on two levels; central authorities and county offices, which represent a 'regional state authority'.

Norway has a common Planning and Building Act, but the law is administered by two different ministries. The Planning part of the act is administered by the Ministry of Environment, while the Building part of the act is administered by the Ministry of Local Government and Regional Development (KRD). In addition, for the building legislation, two additional instances have important delegated authority roles: 'National Office for Building Technology and Administration' (BE) and the 'State Housing Bank'.

The history of Norway displays the tight bindings between the Nordic countries: Norway was a great power in the Viking period, and Iceland and Faroe Islands was a part of Norway until Norway became a part of the Kalmar Union of all the Nordic countries. Then, there was more than 400 years of Danish sovereignty (1523–1814), before Norway was in Union with Sweden until 1905. Norway has had sovereignty over Svalbard since 1920, and was occupied by Germany under WW2.

Since WW2 Norway has experienced rapid economic growth, and is now amongst the wealthiest countries in the world per capita. Fisheries (and earlier: shipping) have always been important elements in the Norwegian economy, but now petroleum industry is the most important. Tourism is

increasing, and Norway has rich resources of fish/seafood, hydropower, minerals and more.

The first Planning and Building Act covering the whole country was from 1965, and the current Act from 1997. Still, the basis and structure of the law dates from 1924. The focus on the new amendments from 1997 was to find a model for new distribution of responsibility for the various roles involved in the building process – due to the character of the construction sector and building activity in Norway, with several non-professional one-time builders, and a huge amount of small (and middle-sized) companies. According to the current legislation, the actors in the building process are directly responsible for the quality of their own work.

2.8.2 Planning as framework for building activity

The Planning Act is dealing with three types of plans (in addition to nationwide policy specifications regarding a few, prioritised land-use issues):

- Regional plans are primarily strategic, they are not obliging, and do not always include spatial zoning.
- Municipal plans are strategic, comprehensive plans with area-designation. These are normally not legally binding, but they can be made so by the Municipal Council.
- Development plans (= local plans) comprise specific zoning, and are legally binding for building activity.

In addition, there are visualization plans, which might be produced prior to the handling of building application, in order to visualise the local plan, and to be an instrument for dialogue.

The spatial plan hierarchy in Norway is not legally binding. The system is recently revised, and a new act is passed by the Parliament. There are no changes concerning the legal binding, but the roles in the planning process between the area decision plans (which is the responsibility of the municipality) and the more detailed project plans (which is the responsibility of the developer) has been clarified. As yet, in Norway the majority of the local plans are proposed by the developers.

2.8.3 Neighbours and public opinion

In Norway, as in Finland, there is a fundamental view that neighbours are entitled to protest against an activity if they have a justified reason – which may relate to unclear aspects of the local plan. But in Norway, this leads to other solutions for handling procedures: Norway places the responsibility of neighbour notification with the builder/owner. They also put the builder/owner to be the receiver of protests, assuming that this arrangement will lead to a better dialogue between builder/owner and neighbours. The neighbours may also choose to send their protests directly to the municipal building authorities. So far, the system seems to be working well.

2.8.4 Responsibilities and requirements

The Client has the formal responsibility towards the authorities. But according to the current legislation, all other actors in the building process have responsibility for the quality of their own work – not only to the Client, but also directly towards the authorities.

There are competence requirements on all actors (except the Client), related to their role in the projects: designers, contractors, controllers of both design and construction works, and of site managers. The competence requirements are also related to the complexity of the projects: all projects are classified regarding size and complexity, and there are three 'complexity classes' based on complexity and on risk of consequences by defaults. The competence requirements comprises both education and relevant experience.

The Building Control Office must approve the competence according to two sets of handling procedures. a) The actors may be given 'local approval' only valid for a specific project as a part of the handling procedures for building permits or b) The actors may apply to central authorities (BE) for a general approval valid related just to the complexity classes. The approvals are then for companies, and an important criteria is the standard of the quality system for the company, combined with the qualifications of the professional administration within the company. This central approval is voluntary, and in all cases, the companies must have a local approval to get responsibility in the actual project.

Central authority (The National Building Authority, BE) keeps a register for all central approved certificates, and mainly, the local approvals are kept in the municipalities as information on the specific project. Withdrawals of approvals are possible for both central and local approvals.

2.8.5 Quality in built environment

The competence requirements on all actors are regarded as one of the most important tools to secure high quality in the built environment. This is meant to work together with a general focus control systems within all companies and requirements for control plans for all activities.

In spite of this, there are still challenges related to quality in built environment – especially for climate damages (wind, snow, water etc.), but also for general faults and errors made by designers and contractors. There is no central register on numbers/value of damages, but the Norwegian Building Research Institute (now a part of SINTEF) has archive files on type of reported damages dating back to 1950's.

The focus on aesthetics was strengthened in 1997. But this is a difficult issue, and there must be precise requirements approved in the Local Plans – and if so is the case, this is a challenge because of the diversity in the existing built environment and in views on how to understand the requirements. The municipal administrations are putting lots of effort in to 'guidelines' for aesthetic development in their regions.

The Ministry also have focus on accessibility/universal design and both-prescriptions, guidelines and requirements are made to secure this.

In the current legislation, there is no specific demands on maintenance unless the building is dangerous to third parties.

Cultural heritage and environmental issues are taken care of by other legislation.

2.8.6 Handling procedures

The normal procedure is in two steps; first a contextual approval (Frame permission) where the project is evaluated in relation to the valid local plan, and subsequent a building permit (Starting permit), approved on the basis of technical requirements and the competence of the actors responsible for different aspects of the design and construction. The two steps may be combined in a one-step procedure by choice of the applicant, and this is normal for simpler building projects.

It is possible to handle the cases in several steps, i.e. issue approvals for parts of the buildings or steps in the process. For very small projects not comprising living area or working places, it may be sufficient to send a notification.

In the normal procedures, the first step of approval comprises handling of neighbour complaints, classification of the project, requirements on actors and to control systems. The second step comprises approval of the design documentation according to the requirements, and approval of the competence of the actors.

Normally, the handling procedures start by the start of the design work, with a voluntary early meeting. The purpose of the meeting is to establish a dialogue, and define the frames, classifications and requirements for the project. It is mandatory for the Building Control Office to arrange (if desired by the applicant) and take minutes from the meeting, but this is not binding for later case handling.

After receiving of an application for a building permit, the Building Control Office has time limits for all further steps in the case handling, and if they exceed the time limits, the client may pay a lower fee. For small projects claiming to be according to plans and regulations, exceeding the time limit (3 weeks) means that the project can be started.

According to normal procedures, the client must have two permissions: A concept approval, and later a permission to start construction works.

During the construction period, the Building Control Office normally does not follow the project, but they may inspect if they want to do so.

To issue completion certificates, the Building Control Office need to have as-built documentation, and control declarations where the project manager and the controllers sign that they have conducted control and that the building is finished – and a report of deviations from the application, if so is the case. The significance of the completion certificate is most economical reasons, but for most reasons a preliminary certificate is used, both

to convert the building loan into permanent loans, for sale and insurance, and for take-over according to the contract.

Electronic handling of cases is possible – this is well developed, and is now in use by approximately half of the municipalities.

2.8.7 Control and supervision

The municipal building control was formally phased out in 1997, and was replaced by private control and a municipal building inspection. The present municipal Building Control Office is dealing with approval of applications – in terms of how the construction affects the adjacent buildings, the technical quality, the competence of all actors involved, and their plan for controlling themselves. There has been an assessment program of whether this system works as intended, and the result is that this system will be changed in the next amendment of the law, which is a part of the proposition the Parliament is handling at the moment.

For more detailed information, see the case study on control, chapter. 4.

2.8.8 Sanction and complaints

In principal, the possibilities to complain follows other legislation, but it is regarded to be rather wide opportunities to complain. However, there are time limits to put a complaint forward related to when the object of the complaint was discovered.

The complaints shall first be handled by the municipal Building Control Office, but will then be forwarded to the county level.

In case of illegal building activity, this will be a police matter. The legislation opens for demolishing, but the most common reaction will be penalty fees.

2.9 Poland

2.9.1 Basic information and historical context

Constitution: Republic, member of EU since 2004

Population: App. 38,1 mill. pr. 2007

Currency: Polish zloty (PLN)

Poland has four levels of administration: The country is divided in 16 administrative regions ('voivodeships'), and these are divided in 379 counties ('poviats'). These are again divided in 2.478 municipalities ('gminas').

Before WW2 there was one common law for planning and building, but now the issues are divided into two acts. The law on "Spatial Planning and Management" and the 'Law on Construction' are administrated by the Ministry of Infrastructure, which has several departments. The planning part of the act is administrated by the Department of Real Estate and Spatial Plan-

ning, and the building part of the act is administrated by the Department of Construction, Market and Technology.

The controlling tasks are conducted by independent offices (agencies) underlaying the Ministry of Infrastructure. These are the General Inspector of Building Control with General Office of Building Control, and region (voivodship) and county(powiat) inspectorates of building control.

Poland is a former great kingdom/principality, as a part of the former Polish-Lithuanian Union. This union lasted approximately 400 years, and ended 1795. After that, the former union was divided in three parts, and Russia got hegemony to app. 90% of the area – the rest was divided on Prussen (east part of Germany) and Austria. Poland was then divided and not a state for 123 years, until they declared independence in 1918 – which they lost again under WW2, and became a (theoretically) autonomous country within the Soviet Union. Poland declared independence in 1952 and got their own constitution, but they were still controlled by the Soviet Union until 1989, when the trade union ‘Solidarity’ won the election and they broke the political ties.

Poland has had a turbulent history, but their will to be a part of the Western European society is strong, and they have adapted well to the economical system of EU. Now, Poland’s general economy is strong and stable. They had a ‘shock therapy program’ during the 1990’s, when they converted from planning economy to free market economy, and restructured and privatized the transport and energy sectors. The private sector is now strong. The most important ‘pillars’ for the economy, is clothes, IT/electronics, technology/machines and medicines. They also have a large agricultural sector, but this is under-invested. The country has middle unemployment; a lot of people immigrated to the EU states.

The current Construction Law is dated July 7, 1994. This law was based on former law from 1974 without major changes, but during the years since the law was confirmed, there has been made approximately 40 changes in the law – initiated politically when ‘Solidarity’ came in position.

The statute regulating spatial planning in Poland is the Spatial Planning and Management Act of 27 March 2003.

The first planning and building legislation in Poland – the Construction Law and Settlement Building – as provision was signed by the President of the Republic of Poland on February 1928.

Before 1994 the issues for construction and physical planning were dealt with in different laws, and these issues were changed separately in the same year. The architectural and design acts are in some ways related to the content in the Planning Act in other countries, but the law on Spatial Management is dealing with most of the issues of planning acts, while the Construction Law is corresponding to the content of the building acts in other countries. The legislation for land management is not fully approved.

There has been a lot of minor amendments of the building legislation since 1994, but also some public criticism saying that there have not been as many or as major as they hoped for. The Building Act is now a bit like a patchwork, and there are political promises on a new law.

2.9.2 Planning as framework for building activity

The Planning system consists of three levels – related to the four levels of administration, but without the county level: The national level, the regional level and the local level.

On the national level, the National Plan is a strategy plan, covering the all territory of country. On the regional – province level (the voivodeship government – Marshal's Office), the voivocier plans define directions for spatial planning, and co-ordinate major interests. On the county (powiat) level, the administration prepares only development studies and analysis covering the private territory needs. On the local level, the "gmina" administrations prepare studies of the characteristics and trends of spatial development and next the local development plan, studies and analysis. Province plans are similar to municipal comprehensive plans in other countries, giving more specific directions for disposition of spatial area. On the local/municipality level, the legally binding community plans are similar to local plans in other countries, providing requirements for building activity.

There is not a legal binding between the levels within the planning hierarchy, but there is a kind of softer obligation to provide a direct corresponding to a superior plan. But building activity must be in accordance with an approved local plan. A challenge is then that there is a major lack of approved local plans, and also a lack of obligations to make such plans. In case of lack of plans, the Mayor must provide a decision on conditions of build-up and land development and conformity with the requirements for environmental protection.

2.9.3 Neighbours and public opinion

The Construction Law does not mention public display of applications for building permits, but a project must be in accordance with an approved local plan (which has been on public display).

But the local authority shall in each case verify the possession of needed opinions, and the Construction Law comprises handling procedures for complaints.

2.9.4 Responsibilities and requirements

The Client has the complete responsibility towards the authorities, including fulfillment of all technical requirements and safety and health protection. There are no qualification demands on the client, but the client must prove his ownership to the construction plot.

The Client is also responsible for hiring actors with appropriate professional qualifications, adequate education and certificates. He must organise owner supervision, as a function separated from the function of the construction site manager, as the combination of those two roles is not allowed. In principle, all actors except the client are undertakings.

There are formal competence requirements only on two functions: Design activity, and Managing of construction works. These actors must have a building license to document the professional skills.

However, the competence requirements are not directly mentioned in the Building Act – they were so earlier but are now taken out of the legislation – but the practice is still as if this was a part of the law. Then they also demand licenses on other actors, like supervisors and heads of construction companies. The certificates are personal, and do not follow the company.

The authorities keep a Central License Register, especially for design competence. The Construction Law also states that the authorities shall have a list where all types of education is compared, and harmonized with educations in other countries.

2.9.5 Quality in built environment

In general terms, the Construction Law states that the client has responsibility to secure a high quality of the construction works, in accordance with all technical standards.

Accessibility for disabled is mentioned in articles 5, 9 and 36a, where there is stated that the built environment – public buildings and habitable multi-family buildings must not cause any limitations for disabled people, in sites where there shall be public access.

Aesthetic qualities are handled by giving the designer (author) some authority in these matters. The designer has the right to admittance to a construction site and to the building log, and to suspend execution of construction works if he discovers departures from the accepted design. The client may also oblige the designer to perform author's supervision, and this may as well be a request from the authorities.

Maintenance – The Construction Law has a separate chapter (6) only concerning maintenance. Here, the owner or administrator of a building structure is obliged to maintain and use a building structure in accordance with its intention, and this obligation is lately strengthened for security issues. The owner or administrator is obliged to keep a 'building structure log' over major repairs, which is a document intended for the Inspectorate to control this. The competent authority may forbid use of the building, if irregularities are discovered, until these are removed.

Major faults – The Construction Law also comprises a separate chapter on procedures for handling an accident of a construction works.

2.9.6 Handling procedures

All building activity shall be conducted in compliance with an approved community plan (covering a municipality). Such plans will provide design conditions for the building activity, and these are legally binding.

All construction works including demolishing must have building permits, and the clients must have documentation proving their right to dispose

the property. Building structures specified in the law (special functions and less than 25 sqm) only need notifications.

Technical requirements differ with the size and complexity of buildings, and these requirements are partly listed in the Law, with references to an appendix with a list of categories of building structures.

In cases of complex construction works or construction works that will have influence on the environment or neighboring plots, a demand for a development plan is the first step in the handling procedures for a building permit, and such a plan shall be handled with public hearings or at least with the plan on public display. The developer must apply for a building permit in addition to this plan.

If there is no approved plan, the Mayor shall within 30 days give design criteria for the construction works, after an application for such.

The normal procedures will be an application for a building permit. The requirements for a complete application are: compliance with the Local Plan, documentation on the ownership to the plot, complete project documentation on the project, the actors must have appropriate licenses for their work in the project including the controller/supervisor. In addition, the authorities may demand extended documentation on chosen issues when they want, and the developer may see this as unpredictable.

The Completion Certificate is theoretically of high importance in Poland. It is not legally possible to use the building until the completion certificate is issued. The Completion Certificate also proves that the building is completed and in order, and that the client is the legal owner of the building – and the building may be purchased.

There are time limits for the handling procedures, but this will be prolonged if the authorities ask for extended information. For issuing of completion certificates there is a time limit of 3 weeks, but the handling may take long time – up to several months.

2.9.7 Control and supervision

By law, the control activities are performed by the state authorities (the General Inspector of Building Control) on three administrative levels, i.e. all levels except the municipality level. On the national level, there is one administration, but on each of the two other levels there are two authorities:

- Architectural-building administration is handling building permits, and
- Inspectors are handling control tasks and issuing of completion certificates.

In principle, the national level issue guidelines, while the Voivodeship level handle complaints, provide supervision, assists the Poviats level, and issue completion certificates. The Poviats level (county level) is the working level of the case handling, and issue building permits.

There are no formal requirements to have owner supervision, or any request for private control – such supervision is looked upon as a matter of their own economical interests.

For more detailed information, see the case study on control, chapter. 4.

2.9.8 Sanction and complaints

In principle, the public interests and the democracy are taken care of in the planning processes.

The local authority shall in each case verify the possession of needed opinions, and the building act comprises handling procedures for complaints. It seems as if it is a responsibility of the client to get hold of public opinion when this is needed, but there are normally no claims on the client to have a public display or hearing of the project connected to the application procedures, unless the project will be of significant importance to the environments. Only stakeholders can make notes. Neighbors are stakeholders, but they are not automatically warned, which often leads to protests too late; this may cause considerable delay.

In case of illegally built constructions: If there is an approved Local plan for the area, the construction may be made legal by sending in a 'postponed' application for building permit in compliance with the Local plan, and also (if necessary) change the project so that it in the end will be so. And if there is no Local plan for the area, or if it is not possible to change the project to accomplish the conditions given in the Local plan, the Mayor may approve the project himself. This opens for a practice of illegal building activity, which later is made legal: Some investors calculate with a 'postponed permission' and may start building activities without any formal procedures at all. Most often this kind of illegal building activity is connected to dwellings.

If a construction is built up without a building permit, there are two options: Either the construction has to be demolished, or the construction has to be made legal – after the client and/or the developer/construction company have paid a penalty fee. The most common penalty reactions are penalty fees.

The Construction Law does not comprise obligations on insurance or guarantee grants.

2.10 Sweden

2.10.1 Basic information and historical context

Constitution: Monarchy, member of EU since 1995.

Population: App. 9,1 mill. pr. 2007

Currency: Swedish crowns (kroner) (SEK)

Sweden has 2 tiers of governance: State and municipality level. The state governs in two tiers: the central authorities and the level of regional state authority (Länsstyrelsen).

There is one common law, the Planning and Building Act, administrated by the Ministry of the Environment. Implementation of the Act and inspection of the municipalities are delegated to the National Board of Housing, Building and Planning (Boverket).

Sweden also has a proud history. After the Kalmar Union (1397–1523), Sweden emerged through the 16th century, and in the 17th century they became a great empire covering Finland, parts of Balticum and more. But most of the territories outside the Scandinavian Peninsula were lost again during the 18th and 19th century. After losing territories including Finland to Russia in 1809, they forced Norway into a personal union in 1814, and this lasted until 1905. Sweden was neutral through both world wars.

The Swedish economy was based on agriculture. Even when Denmark and Western European countries began to industrialize, Sweden remained with a nearly entirely agricultural economy, but based on new products and innovation. After WW1 they started their industrial revolution. They stayed neutral in WW2 and kept the industry intact, and today this is a strong sector, after a strong modernisation in the 1980's. After a bursting real estate bubble, they went through a fiscal crisis in the early 1990's and reorganised financial sector and tax policy. Now the economy is strong.

Sweden has one common Planning and Building Act (PBL), dated 1987. But the content was substantially changed in 1994, when a new law – The Law on Technical Requirements for Construction Works (BVL) – was approved. This law contains the technical/functional requirements on buildings, and is then closely connected to the Planning and Building Act – which then no longer specify the requirements on buildings. There are ongoing processes for a major revision of the legislation, and a report on this issue was put forward 2007.

Parallel to the changes in the PBL/ BVL in 1995, 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 – there are objective and measurable criteria in the PBL/BVL, while the criteria in MB is based on a subjective conception of environmental issues.

2.10.2 Planning as framework for building activity

The Planning and Building Act deals with four types of plans and the municipalities are responsible for the planning work for all of them.

Regional plans should be drawn up through inter-municipal work with the intention to co-operate stakeholders and interests in the region, but as there is no formal demands for them, they are rarely used. General municipal plans are strategic and comprehensive plans covering a whole municipality, but not legally binding. Detailed plans (= local plans) are defining the purpose of land use for a smaller area and requirements for the building

activities, are legally binding. In addition, there are property plans, defining the division between purposes, but these plans are rarely used.

The planning hierarchy is rather weak. There are no national plans, and the regional plans are rarely used and not binding. The general municipal plans (comprehensive plans) are not binding, but the Local plans should observe the intentions of those plans, and they are binding. However, if there is no local plan, there may be worked out "regional requirements" which will be legally binding for building activity. The binding between the planning levels are now debated.

2.10.3 Neighbours and public opinion

In general, the 'democracy' is taken care of in the planning process.

The municipal Building Control Office has the responsibility to send warnings to neighbours connected to applications for building permits, but this is in general not mandatory. The local plan will through whether or not neighbours must be warned.

Neighbours must send their notifications to the Building Control Office, and they are also entitled to complain if they are not content with the answer or result.

2.10.4 Responsibilities and requirements

The Client has complete and direct responsibility towards the authorities.

In the PBL-reform in 1995 the owner/builder was given both the total responsibility for fulfilling all requirements on the building, and to carry out a mandatory internal quality control. At the same time 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.

Still, the quality of the constructions primarily depended on specifications given by the owner – and there were no requirements on the qualifications of the client. To help the client fulfilling his responsibilities and to ensure the quality, a new role with independent responsibility towards the building authorities was introduced, a Quality Responsible Person (Kvalitet-sansvarig – KA).

2.10.5 Quality in built environment

Despite of efforts to improve the quality, an increased standard of the constructions has not been achieved. Most of the errors are caused by errors in design, and related to moisture. The amount of faults is an important issue to be debated in further development of the legislation.

The most important tools in Swedish construction industry, is a) the mandatory owner's supervision and owner's declaration that he has performed such control, and b) the establishment of the independent role of the 'Quality Responsible Person' (KA), with responsibility for the requirements

of public interest and for being a guarantee for performed internal control. But the KA-role is difficult in several ways, and in practice he can not fulfil his responsibilities.

Aesthetic qualities – General requirements are mentioned in the legislation text. But in principal, the requirements given in the Local Plans will be legally binding and most important, and there are no possibilities to give dispensations from these requirements. In case of disagreements on aesthetic matters, a board consisting of architects and public officers will decide. In case of complaints, lawyers and politicians will decide.

2.10.6 Handling procedures

An approved building permit is mandatory for all building activity, except for small constructions where a notification is sufficient. But in Sweden, an approval of a building pronouncement will also be needed, that means that there are two parallel application procedures.

The handling of applications for a building permit according to the Planning and Building Act (PBL) is initially assessed in relation to approved local plans – and so is the case for construction works not being buildings: Parks, sports arenas etc. However, an approved building permit is not sufficient to start construction works.

All building activity must, still according to the PBL, also confirm how the project will fulfil requirements given in the BVL. The Client must then send a building pronouncement to the Building Control Office, which will then decide what to be controlled or to be documented in the process. Still, this is not sufficient permissions to start work.

Permissions from other authorities are also needed. To get necessary permissions from those, the Building Control office invites the other relevant authorities to participate in the mandatory Early Co-ordinating Meeting, and the needed procedures will be concluded. The mandatory Early Co-ordinating Meeting is a meeting to be held after approval of the two parallel applications are approved, but before construction works can start.

If the Client wants a Completion Certificate, he must ask this when the construction work is finished. He must then document that the Owner's supervision has been performed, and both the Client and the controller (KA) must sign the documents, even if the KA does not have obligations to inspect the construction site himself.

To issue the Certificate, the Building Control Office performs a check of the as-built documentation and of the signed control plans – they do not carry out a final construction site inspection.

The significance of the Completion Certificate is rather low. It is only a confirmation of a document check of fulfilment of the requirements given in the local plan and in PBL/BVL, but still approvals from other authorities may lack, and they may refuse the use of a building according to other legislation. However, the Certificate may be of interest to insurance companies. And by this document, the responsibility of the KA ceases, and in case of public subsidising, that money can be paid.

Time limits for handling of cases are not a part of the building legislation, and they have just started electronic case handling.

2.10.7 Control and supervision

Formally, control of construction works is the responsibility of the Client, and he may hire professional actors to perform this on his behalf.

The Building Control Office performs supervision, and may then also carry out random site inspections.

For more detailed information, see the case study on control, chapter. 4.

2.10.8 Sanction and complaints

In general and similar to the situation in the other Nordic countries, only stakeholders may put forward a complaint, but voluntary organisations and the like are considered 'stakeholders', and there is also a possibility to complain on the legal 'platform'.

However, the possibilities to complain are a bit more restricted in Sweden than in the other Scandinavian countries, because there are no possibilities to complain if an issue has been proved and settled earlier. But there are several ways to put forward a complaint.

In case of illegal building activities, the most common reaction will be penalty fees, even if there is a formal possibility to demand demolishing.

3. Building Legislation – A comparison

3.1 Introduction

3.1.1 Introduction to a comparison of the building legislation

In principle, the building legislation is meant to function within each country, and all the elements adding up to a complete ‘building legislation’ will primarily follow a logic in each country, and must be seen as a complete system for each country. Taking out one single element and just compare this element will not give a justified picture.

The challenges are not the same in all the countries. The history, the political priorities, the structure of the construction sector and of the clients – all these and more elements have influence on the legislation, which is supposed to give solutions in difficult matters.

Still, the main elements are the same in all countries – they are just given different weight and attention. Some countries may focus on the clients’ responsibilities and the private actors’ own interest and then let dialogue and random inspections be the most important elements in their legislation. Other countries may focus on the general interest of the society for having high quality in built environment, and use public control and strict formalities as the most important tools. And they all will more or less focus on documentation of both project, actors and the clients’ own control system.

In this comparison we will try to find the ‘main pattern’ for the most important elements, and focus on the similarities. And for each main issue we will also look for the deviations from the ‘main pattern’.

3.1.2 Historical context

The histories of the involved countries display tight connections between all the countries – not only between a) the Nordic countries and b) the Baltic countries/Poland, but also connections crossing the Baltic Sea.

The Nordic countries were all unified in the Scandinavian ‘Kalmar Union’ (1397–1523); Finland then as a part of Sweden, Iceland as a part of Norway, and Denmark as the leading country. After the cease of this union, Norway was ruled by Denmark for more than 400 years and then by Sweden for 100 years, and the country had lost its importance – until the economic growth based on fish and oil the last 50 years. Iceland was still a part of Denmark until WW1, and their economy is now based on fish and finance. Denmark’s economy is based on agriculture and agricultural based industry. Sweden (with Finland) emerged as a great power even comprising

parts of the Baltic countries during 16th and 17th century, but declined and lost their territories outside the Scandinavian Peninsula through 18th and 19th century. The Swedish economy was also based on agriculture, but after a late industrial revolution and some structural reorganisations, the economy is now good and stable. Sweden lost Finland to Russia in 1809, and Finland declared independence in 1917 – but there was a civil war, and unstable conditions until after WW2. Now Finland's economy is based on service, manufacturing and refining.

The Baltic countries have had more different histories than expected – being called 'Baltic countries' as if this was a unit. Estonia has been a part of Sweden in 150 years (1561–1710), and then occupied by Russia before declaration of independence 1918. Latvia was never really unified; Riga was a Hansa League City dominated by Germans, there were 4 different tribes outside Riga, and after the Hansa-period the country was occupied by Poland–Lithuania, Sweden and then Russia until they declared independence in 1918. Lithuania and Poland have a common history as a super-power as parts of the former Polish–Lithuanian Union. This union lasted approx. 400 years and ended 1795. After that, Lithuania was occupied by Russia until 1918, while Poland was practically wiped out of the map and divided between Russia, Prussia and Austria.

All the four countries were independent between the two world wars; they were occupied during the WW2, and became a part of the Soviet Union after WW2. Poland declared independence in 1945, but they were controlled by the USSR until 1989. The three Baltic countries remained parts of USSR until 1991, and today they are four independent republics with stable economies. The economy of Estonia is mainly based on oil transit and IT-technology and of Latvia on banking & trade. In Lithuania and Poland, there is a greater combination of economical platforms.

In the earlier history, Sweden has been the key to the common parts of the histories between all the nine countries in the Northern Dimension, and Sweden is still the country initiating programs to improve the contacts between the countries around the Baltic Sea on national levels.

However, today the multi-national ties are stronger: all the countries are parts of the EEA (European Economical Area), and all except Iceland and Norway are members of EU. Denmark has been a member of EU since 1973, Sweden and Finland joined in 1995, and the three Baltic countries and Poland have been members since 2004.

The free-trade principles within the EEA encourage construction sector to cross borders – but not only between these 9 countries. This project is then aiming at re-enforcing the ties between these 9 countries, in order to serve as a 'northern region' within the EEA. This may be a challenge, as long as they all have different currencies (Finland is the only one using Euro), and the building legislations are not harmonized.

3.1.3 Historical development of the building legislations

The development of the building legislations reflects both the histories and the challenges of each country. In spite of common histories, the challenges have been different, and the development of the legislation and choices of focus in the legislations differ now more than expected.

All the Nordic countries got their first planning and building legislation covering the whole countries approximately in the 1960's – before that, they only had requirements and restrictions for building activities in cities (due to fire protection and more). In all the countries, the first building acts comprised specific technical requirements. During the 1970's, planning was given more attention, and in most of the countries the responsibility for planning legislation was transferred to ministries of environment – in Denmark even enforced by division of the legislation into two separate laws, in Finland by taking responsibility for the complete legislation, and in Norway by splitting the responsibility for the common law on two ministries. During the 1980's, the focus was back on the building legislation, and harmonisation between the countries, initiated by the Nordic Council of Ministers.

But the challenges differed between the countries, and they were looking in different directions to seek co-operation outside own borders: Denmark had interests on the continent (Germany), Finland had connections to Russian construction industry, Iceland imported building materials most from Canada, Norway did not have much building activity crossing borders, Sweden was interested in the markets in the Baltic countries/Poland, and Poland had interests in Austria and Germany.

Within their own borders, the challenges also differed: Denmark still put much strength in protection of agricultural land because of its importance for the whole economy, and this could best be done by a strong planning legislation. Focus for the building legislation would then be securing the fulfilling of plans without deviations, and they chose system based on close dialogues with the clients. The qualities of the buildings were regarded as a matter of the clients' own interests. Finland, Iceland and Norway had a structure of the construction sector with many small construction companies, often with lack of skills. They had to focus on good public building control to support the actors and to help them to fulfil their obligations – Iceland more extreme than the two other countries (and also with the weakest competence among the actors). Sweden had a construction sector with a few big and strong construction companies dominating the market – even if they also had smaller companies. The industrial sector was also strong, and there was a political will to support innovation in the construction and industrial sectors. Then, they did not want to lay unnecessary restrictions on the construction sector – neither in planning nor in public control systems. In 1987, they split the technical requirements from the building legislation into a new Law on Technical Requirements for Construction Works (BVL). Sweden has been a leading country in focusing on functional requirements.

During the 1990's, the work with harmonisation ceased, and the countries developed their legislations in line with their own priorities. But in all

countries, they were now working on converting technical requirements into functional requirements. In addition, they all had to implement new EU-directives – and thus, the legislations are getting closer again. In addition, the amendments made after 2000 have in all countries focused on simplifications of handling procedures. Finland got a completely new law in 2002, aiming at a stronger planning hierarchy and more flexible handling procedures.

The three Baltic countries had common building legislation as a part of the Soviet Union from the WW2 until their liberations in 1991. Planning was in the former Soviet Union not a matter of public interest – planning was conducted as a part of (partly military) strategic development of the countries, and was provided by state planning offices without democratic processes or a separate ‘planning legislation’. The building legislation was concentrated on specific technical requirements, and there were approximately 1.200 specific regulations/prescriptions, called ‘SNIP’s’. Poland differs since they had their own legislation since 1945 (even if it was under strong influence from the Soviet Union), and they got their independence in 1989. But their planning and building legislation until 1989 did not deviate much from the legislation in Soviet in major issues.

After the liberations, the countries were seeking their own identities also in the planning and building legislations, and in this process they were influenced by the differences in their histories. Estonia displayed the strong Scandinavian influence, and used the legislation in the Scandinavian countries – especially Finland – as model for the new legislation. Latvia, having a weaker history as a unified nation and stronger influence from the earlier Russia/Soviet Union, chose to change the legislation more gradually by converting the ‘SNIP’s’ into Latvian legislation step by step. Lithuania’s history as a part of a former great Central European power contributed to their choice of seeking directly to EU-legislation, especially German legislation. Poland has had a more turbulent history, and they did not carry out thorough changes – they got a new legislation of construction and spatial planning in 1994, but this was based on the legislation dated 1974 (again based on the former), and they afterwards made several amendments of this law. Today, the legislation appears with similarities to a patchwork.

But also in these countries, they have been working on converting technical requirements into functional requirements since they established own legislations. In addition, they are all members of EU and must implement new EU-directives – and thus, the legislations are getting closer again. Also in these countries, the amendments made after 2000 focused on simplifications of handling procedures.

In spite of different histories of both countries and legislations, we can see some common elements. The Nordic countries and the four countries in south were closer to each other in the 1970’s and partly the 1980’s – even if it was in two separate blocks. After a period with ‘individual’ developments, they are now developing in the same directions again. This is partly because of the common EU-legislation, and partly because they all must meet the same challenges in the market: They must all have a stricter prac-

tice related to fulfilling planning requirements due to environmental challenges, they must meet the new structures of the construction sectors by having functional requirements, and simpler and more flexible handling procedures.

For further development of the building legislation, see chapter 6.

3.1.4 Administration of the building legislation

First, the administrations of the building legislations are put together in a tabular form:

Table 1. Administration of the building legislation in a tabular form

Country	Structure	Planning Act	Building Act
Denmark	Two laws	Ministry of Environment and Energy	Ministry of Economy and Business Affairs
Estonia	Two laws	Ministry of Internal Affairs	Ministry of Economic Affairs and Communications
Finland	One law	Ministry of Environment	
Iceland	One law	Ministry of Environment	
Latvia	Two laws	Ministry of Regional Development and Local Governments	Ministry of Economics
Lithuania	Two laws	Ministry of Environment Territorial Planning Department	Construction and Housing Department
Norway	One law	Ministry of Environment	Ministry of Local Government and Regional Development
Poland	Two laws	Ministry of Infrastructure Department of Real Estate and Spatial Planning	Department of Building, Market and Technology
Sweden	One law + BVL & MB	Ministry of Environment	

The tabula displays a variety of ways to administrate the legislations.

Of nine countries, four of those have one common law for planning and building, while five have separate laws. All the three Baltic countries, Poland and Denmark have separate laws, while the rest of the countries have joint laws. In one of the countries with separate laws, the two laws are administrated by the same ministry (Lithuania), and in one of the countries with one joint law, the two parts of the law are administrated by two different ministries (Norway). There is no 'general pattern' regarding the link and/or division between the planning and the building legislations.

In all the Nordic countries, the planning legislations are administrated by the Ministries of Environment. So is also the case in Lithuania. But in Estonia, the planning legislation is administrated by the Ministry of Internal Affairs, in Latvia by the Ministry of Regional Development and Local Government, and in Poland by the Ministry of Infrastructure. Placing this responsibility by the ministries of environment may be seen as a statement of the significance of the spatial planning regarding sustainability, environmental issues and use of natural resources. The responsibility for planning

in Estonia and Latvia is placed by the ministries responsible for co-ordination of major interests in the countries, and this may also be a statement of the knowledge of the importance of spatial planning. But in Poland, the name of the ministry indicates a more limited power, even if the Ministry of Infrastructure has delegated this responsibility to the Department of Real Estate and Spatial Planning.

The building legislations are even more differently administrated. In more than half of the countries, the building legislation is related directly to housing policy – so is the case in Lithuania, where the building legislations are administrated by the ‘housing department’ within the ministry of Environment. So is partly also the case in Iceland, Finland, Norway and Sweden, where the administering departments have extended responsibilities for housing policy and subsidising of vulnerable – even if they in Finland, Iceland and Sweden do this as a part of the ministries of Environment (related to ‘built environment’), and in Norway do this being the Ministry of Local Government and Regional Development (which is close to being a ministry of internal affairs with wider perspectives). Such administrations give signals that building activities are mainly related to the purposes – to ‘what they are building’.

The minor half of the countries connects the building legislation to the economic policy. In Denmark the legislation is administrated by the Ministry of Economy and Business Affairs, in Estonia by the Ministry of Economic Affairs and Communications, and in Latvia by the Ministry of Economics. This organisation of the administration is mainly related to construction industry, to economical parameters, and subsidising of vulnerable. This organisation may give signals that the building activities are mainly related to the construction sector related to employment, business and economical factors.

In Poland, the building legislation is administrated by the Ministry of Infrastructure, delegated to the Department of Building, Market and Technology. This seems to put emphasis on the responsibility the construction sector has in creating built environment.

These different ways to administrate the building legislation display the diversity of the aspects of the building activities. In practice, we suppose that all countries handle all the aspects of this – here we have just been pointing out what the organisation may tell about the main focus.

Most of the countries have delegated the implementation of the building legislation to special agencies. To look for more detailed information about this, we will recommend the two reports mentioned earlier, about comparison of the building legislations in a) the Nordic countries and b) in the Baltic countries and Poland.

3.1.5 Structure, content and objects of the building legislations

The more detailed structures and objects of the legislations, and the more detailed information on responsibilities for implementation will not be commented in this report. We will hereby refer to the two earlier reports.

3.2 Frames for building activity

3.2.1 *Planning as a frame for building activity*

Planning is providing the most important frames for building activity, since all of the countries proclaim that an approved local plan is the most important element for approval of an application for a building permit. Formally and theoretically, this is similar in all the countries.

In practice, the planning hierarchy and degree of predictability deriving from plans as frame for building activities may differ between the countries. This may be due to differences in the types of plans and their degree of legal binding, due to different strategies in case of building activity where there are no approved local plans, and/or due to differences in the interpretation of the planning content.

On a national level, some of the countries have national plans. These are strategic plans, most often without spatial planning. These countries are the three Baltic countries, Poland and Denmark. Coincidentally, these also are the countries with separate planning and building legislation. Since these plans are not spatial, they may be regarded as strong and political will regarding the physical development of the country.

On a regional level – between the national level and the municipalities – all the countries have regional plans/ county plans covering a region or at least more than one municipality. These plans are strategic plans including spatial planning, aiming at defining the main structures for infrastructures, and also to point out possibilities and restrictions in use of land. Normally, these plans are worked out by an administrative level between state and municipality, and they then serve as a tool for implementation of a national strategy. However, in Finland, Iceland and Sweden, these plans are worked out by inter-municipal groups – in Finland and Iceland under surveillance of state authorities. In Sweden these plans are voluntary, they are not binding, and they are just rarely used.

On the municipality level, all the countries have both comprehensive plans for spatial planning, and local plans legally binding for building activity and with requirements for this.

Two countries must be mentioned separately because of deviations from this main pattern of planning system, Lithuania and Denmark.

In Lithuania, there are two parallel types of plans – general plans and special plans (see pt. 2.7.2) – and both types of plans are worked out on three levels: state, regional and municipal levels. But none of those are legally binding for building activity: legally binding local plans (detailed plans) based on those plans and with requirements for building activity must be worked out by the municipalities and be approved.

The state authorities of Denmark introduced zoning of the country already in the 1970's. That is; they divided the land area in three zones: urban zones, rural zones, and summer house zones. The spatial planning worked out on the regional levels could have great freedom in doing so, but changes of zone characteristics would be very difficult, and would need approval of

state authorities. This zoning was of vital interest in protection of agricultural land. Today the agricultural land still is under pressure, and in case of converting from 'rural zone' to one of the other zones, the developers must pay a rather high fee.

The zoning policy represents a spatial planning on a national level, and most of the countries have elements of this even if they don't have national spatial plans: They have areas with restriction given by state authorities on special areas – coastal zones, national parks/water resources or other purposes.

The binding between the planning levels differ. In all the countries, only the Local Plans are actually legally binding. But in some of the countries, the planning system is regarded as a very important tool to secure vital interests related to use of land. Thus, Denmark, Iceland, Lithuania and Poland regard the planning hierarchy as binding. On the other hand, Sweden has practically no binding, and especially Sweden does not use the planning system as an instrument of implementing state policy. In between, the remaining countries (Estonia, Finland, Latvia and Norway) have binding planning hierarchies only as soft obligations; a plan must observe the superior plan, and in a way the systems are interactive.

However, strong and hierarchic planning systems provide a high level of predictability for building activity – but at the same time new challenges related to use of land may be more difficult to handle.

As stated, the local plans shall provide the necessary requirements for the building activities – but in some cases and for different reasons, there are no approved local plans. The countries then have strategies for handling the situations where the local plans are lacking.

In the three Baltic countries and partly Poland, there were no public and democratic planning traditions developed in the Soviet period, and after the liberations (1989 and 1991), they first had to define the planning system, educate/recrute planners, establish administrations and work out plans – on all levels. For several years, lack of plans represented a huge challenge. Now, nearly all area in the three Baltic countries are covered by local plans – even if lack of capacity and competence has been and still is a challenge to keep up with all planning tasks. Poland still has a huge challenge connected to lack of plans, and also to a lack of obligations to make plan. Related to this are severe obstacles for building activity, and great political discussions on improvement of the legislation for dealing with spatial management within a system based on a free market. And as far, proposals for new legislations are not approved and they operate without the appropriate formal local legislation.

In the Nordic countries, all except Denmark have scattered population, large areas, small municipalities, and in some cases low building activity in the rural parts of the countries. Also in these countries there might be lack of approved local plans – or plans being too old for practical use.

The strategies for coping with lack of plans differ. In the three Baltic countries, they chose three different solutions:

- In Estonia, the superior planning level could serve as a local plan.
- In Latvia a more detailed and limited plan on a lower level could serve as a local plan if the democratic procedures had been followed.
- In Lithuania a local plan had to be worked out and handled according to the ordinary planning procedures. In all these countries, securing of the democracy in planning was important.
- In Poland, the Mayor of "gmina" would have to decide the procedures or define the requirements on the possible construction site.
- In the Nordic countries (except Denmark), the main strategy is as in Lithuania (and partly Estonia). They would have to work out a local plan to be handled according to the normal planning procedures. But for some building projects they may accept deviations from this, by accepting the use of superior plans combined with public hearings or other processes to secure public opinions and democratic processes.

The next challenge connected to planning as a frame for building activity is the interpretation of plans. Again – In all countries it is stated that local plans provide all requirements for building activities. The plans are results of democratic procedures, and in Denmark, the Baltic countries and Poland, an application for a building permit compliant with an approved Local Plan must be approved, and democratic procedures connected to this is not regarded as necessary – warning of neighbors to inform that construction works will start is sufficient. In the other Nordic countries, applications for building permits may be objects for public hearings and other democratic processes before issuing of building permits. This is most often related to aesthetic dimensions but not always.

This leads to the issue: interpretation of plans. In the three Baltic countries and in Poland, this seems to be a matter without much focus, and with no problems. The aesthetic dimension or other questions related to the interpretation of a plan will be evaluated by the public officers as a part of the handling procedures of an application for a building permit.

Table 2. Tools for interpretation of planning intent.

Country	Planning hierarchy	Tool for interpretation
Denmark	Very strict hierarchy	Visualization plans for discussion
Estonia	Softly binding	
Finland	Not binding, soft	Early stage meetings
Iceland	Strict (but newly)	
Latvia	Rather strict	
Lithuania	Strict and special	
Norway	Softly binding	Early stage projects/meetings. Frame application for building permit
Poland	Not binding, (lack)	(Some kind of visualization plans)
Sweden	Weak hierarchy	Early stage meetings. Property plans. Permit according to PBA.

In the Nordic countries, the interpretation of plans and aesthetical development/guidelines is a matter of interest. All these countries, except Iceland, have procedures or special types of plans to help a dialogue between the planning authorities, building control authorities, developers and clients in this interpretation. In Denmark, they have visualization plans – Not being a part of the planning system, but a part of the procedures for obtaining a building permit in big or complicated projects, and being a tool for a good dialogue between the stakeholders and the authorities, and also for a mutual understanding between the planning and building authorities. In Norway, they also have visualization plans, but here these plans must follow the planning procedures to secure the democratic rights. In addition, Norway, Finland and Sweden practice handling procedures for building permits where early stage projects will be discussed and/or evaluated – see chapter 3.5. In Sweden, the authorities may demand property plans as a first stage in the handling procedures for building permits, and these will also serve as a tool in the interpretation of a plan and to secure the dialogue as described. In some of the countries (especially Norway), requirements for aesthetic development in local plans have represented challenges.

These tools for interpretation of plans are put together in a tabular form (Table 2). The tabular displays that interpretation of planning content has more focus in the Nordic group of countries (except Iceland), than in the Baltic group – even if the countries have chosen different tools.

Development agreements represent another challenge. In such agreements, private developers work on planning and design of the building structures in parallel processes. Now, all the countries have focus on their legislation to secure the democracy in these processes. Norway has legal regulations on such agreements as a part of the Planning and Building Act since 2006.

3.2.2 Other frames for building activity

In the three Baltic countries and in Poland, the client must verify that the construction site really is his property, before an application for a building permit will be handled. In Lithuania and Poland, this is even mentioned directly in the Building Acts as a responsibility of the client.

But private ownership to territories has a short history in modern times, and proving the ownership of plots may be a challenge – not only to the client, but also to the authorities. Some responsibility rests also on the authorities for such verifications, and the authorities are still working on this on a general level in all the four countries. Such verifications may also take time – and thus represent an obstacle for building activity.

3.3 Responsibilities/requirements on actors

3.3.1 Division of responsibility between public and private parties

Defining design criteria and requirements for a project is a part of the planning process, and thus a responsibility of the planning authorities. However, private actors may also produce Local plans, theoretically in all the countries, and private developers may there define the design criteria. But these private plans must be approved by the municipalities, and thus be a part of the responsibility of the local governments – including for objects being a part of development agreements.

Verification of the ownership of a property is by law the responsibility of the client in the countries having this as a requirement, but in practice the authorities must share this with the clients, see pt. 3.2.2 above.

Technical infrastructure (transport, energy, water supply etc.) is usually public property, and to provide adequate infrastructure is normally a responsibility of the authorities unless the local government and the client/developer have agreed otherwise. Securing of the infrastructure is a task for the planning system already at the regional level, and normally land for utility networks can be expropriated from private owners. In Finland, this is even used as a factor to force clients to complete their construction works: formally, the clients will need a completion certificate to connect to permanent electricity and water supply.

However, In Latvia and in Poland these structures are often undertaken by private actors, and to connect to the utility networks a client will need a contract with those private actors – the local governments responsibilities are then reduced to a supervisory function. And in Latvia, the utility networks may cause other problems – the legal basis for expropriation in case of owners not willing to sell is rather weak, and sometimes the solutions then cannot be optimal.

Democracy in the planning processes is a responsibility of the local governments in all the countries. All the countries state that a building permit must be in compliance with an approved local plan – and then the democracy processes are taken care of by the planning process.

However, in Finland and Norway the basic opinion is that neighbors and other stakeholders have a right to express their opinions also in building projects as a part of the case handling for building permits. This may be related to issues not sufficiently defined in the local plans, or it may be aesthetical issues. But they have two different models: in Finland, warning of neighbors and commenting their response are responsibilities of the authorities, and in Norway this is the responsibility of the client or applicant.

In Poland, the local authority (or the mayor) shall in each case verify if public opinions are needed and provide instructions for the procedures, and the responsibility for this may be placed by the client.

In all the remaining countries, the neighbors must be informed before the construction works starts – most often by public announcements. And if neighbors/public opinions are needed because of the size or significance of the building projects, getting hold of those opinions is a responsibility of the local authorities.

The control systems display a greater variety regarding division of responsibilities, and this will be commented in chapter 4.

3.3.2 Definitions of private actors

Before discussing the responsibilities of the actors, we need to define the actors (as used in this report):

- Client means a natural or legal person who invests funds into construction and performs functions of a client (builder), or transfers
- such functions to any other natural or legal person.
- Investor invests funds into constructions, but do not perform the function of a client (he would normally use a developer to do so).
- Developer has the functions of a client in big projects, but most often he does not invest funds himself – he will operate on behalf of an investor. And he will often also perform planning tasks, making ‘private local plans’ connected to the projects. But versus building legislation, he will normally be the person to fulfill the client’s responsibilities.
- Investigator means a registered enterprise which provides 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 (researches).
- Designer of construction works means an enterprise, natural person or other entities, preparing a design documentation of a construction works, hired by a client.
- Manager of a construction site means a person hired by the client, to provide the co-ordination on the construction site, and sometimes also conduct the clients’ own control (or supervision).
- Contractor means an enterprise, natural person or other entities carrying out the construction work, hired by a client.

There are lots of other private actors and the list could be long. The actors mentioned above are the actors most relevant to have roles towards the building legislation. In addition, there will be mentioned more actors connected to the systems for control, see chapter 4.

3.3.3 *The Client*

In all the countries, the Client has complete liability towards the authorities. And there are no qualification requirements on the Client in any of the countries.

However, in Norway the Client does not have this liability alone – there are several other actors with direct liability towards the authorities, and the authorities may use penalty reactions directly towards these actors in case they do not fulfill their liabilities. This will be further commented in pt. 3.3.4 below.

And in Iceland, the Client formally has complete liability, but since the authorities have the direct responsibility for the control, the authorities share some parts of this liability with the Client.

In addition, in some of the countries there is a common understanding that the Client will not be competent to fulfill all his liabilities by himself. In most of the countries, it is mandatory for a client to hire a person to help him fulfilling his liabilities, and then there will be qualification requirements on these helpers – and the actual liability of the Client is then to hire professional actors with relevant qualifications, and to pay for a project with quality sufficient to meet all requirements.

Such ‘helpers’ are especially mentioned in Finland, Iceland, Norway, Poland and Sweden. In Finland and Iceland this person is called a mandatory building director, in Norway he is called a mandatory coordinator and in Poland he is called a mandatory manager. In these four countries this helper is actually a mandatory, professional project manager with qualification requirements mentioned in the legislation, and these persons are directly involved in the projects through responsible positions. In Sweden, this helper is called a quality securer (KA) which is not actually a controller nor an owner’s supervisor, but a person responsible for checking if the other actors have carried out control on the issues related to the interests of the society, mentioned as requirements in the local plan, and with qualification requirements mentioned in the legislation. The KA does not have a clear position in the projects, and the role may suffer some difficulties.

In addition, the Client must organize owner’s supervision in most of the countries, see chapter 4.

3.3.4 *Qualification requirements and accreditation systems*

The countries have to a varying degree established formal requirements of the competence for the actors.

Regarding qualification requirements: in general, the countries have qualification requirements on the central actors in a building process men-

tioned directly in the legislation. In addition, all actors even if they are not mentioned directly, must perform according to professional standards for the work they carry out.

Regarding accreditation systems: in general, the countries have some kind of accreditation systems on the actors mentioned with qualification requirements in the legislations.

But this is not always the case, and the most relevant way to compare this will be to give a short description of the situation in each country:

- Denmark. The client has complete liability. His responsibility to hire competent actors is also 'for his own benefit', and there are no formal qualification requirements on the actors. Then, there is no accreditation system held by central authorities – for them, there is no need for it.
- Estonia. The client has complete liability. But to help the client and ensure that he hires competent actors, there are competence requirements on all other actors (mentioned: builder, designer, conductor of investigations, the owner's supervisor, and for expert assessment of design documentation, evaluation of construction work and project management). All these actors must verify qualifications according to a commercial code related to each project. They must be listed in the State Register of Construction Works, and in the Merchant Register – both registers held by the authorities. In case of not qualified actors, the client must hire qualified controllers.
- Finland. The client has complete liability, even if he must hire a qualified manager. But to help the client in hiring competent actors,
- there are qualification requirements on the main designer and the main contractor. Then, the actors must verify their qualifications related to each project. But the authorities do neither have accreditation system nor keep any central register. But there is a voluntary register, held by the sector organisations.
- Iceland. The client formally has complete liability, even if he must hire a qualified manager and the authorities perform the control tasks. There are qualification requirements on the manager, on the designer and on the contractors. Since the Building Control Office performs the actual control tasks, there are qualification requirements also on public officers. There is no accreditation system, but the actors mentioned must verify their qualifications related to each project. However, the central authorities keep a Central Register.
- Latvia. The client has complete liability. To help the client, there are qualification requirements given in the legislation on all other actors (mentioned: Research, design, construction expert-examination, c.w. management, and c. supervision). There are accreditation systems only for the designers, and their profession certificates are personal and valid for 5 years. The designers must be listed in the Professional Register (where certificates are needed), and all actors must be listed in the Merchant register.

- Lithuania. The client has complete liability, and he must prove ownership to the construction plot. To secure high quality, there are qualification requirements on all other actors (mentioned: Investigator, designer, contractor, technical supervisor and supplier). The requirements are personal, on the heads of the building process activities: project manager, head of the building process, experts etc. There is no accreditation system, but the actors mentioned must verify their qualifications related to each project. However, there is a Certification system held by voluntary building trade organisations.
- Norway. The client has complete liability, but the other actors also have direct liability towards the authorities. There are then formal qualification requirements on all other actors (mentioned: the applicant/coordinator, the designer, the contractors and the controllers). There are accreditation systems based on qualifications for all these actors – divided in two possible accreditations. The actors may have Central Licenses listed in a Central Register kept by central authorities, and this is both personal and on companies, and valid if they are not later proved incompetent. The actors must in addition have Local Approvals, approved by the municipalities – and formally, these are related to each project. Actors with central approval must also have local approval, but for these companies the local approval process is much easier.
- Poland. The client has complete liability, and he must prove ownership to the plot. To secure high quality, there are formal qualification requirements on the most important actors (mentioned: design activities and construction management). There is an accreditation system for designers, providing Building Licenses, which are personal. The designers must in addition be listed in the Central License Register for Design, kept by central authorities. All actors must be listed in the proper self government organisations.
- Sweden. The client has complete liability, but he is obliged to hire a quality responsible person (KA). There is qualification requirements only on the KA, and if needed, on an independent expert. However, there are no central accreditation systems. But there is a voluntary and private Register for KA's.

In addition, in some of the countries there are additional and more detailed qualification requirements on actors carrying out construction works for public clients. We have tried to put this information together in a tabular form.

Table 3. An overview of requirements on actors, and of accreditation systems and registers.

Country	The actors	Requirements	Accreditation	Register
Denmark	Client	No requirements	No accreditation system	No register
Estonia	Client	On several actors	Related to projects	State register
Finland	Client/building director	On some actors	Related to projects	Voluntary private register
Iceland	Client/building director	No requirements	Related to projects	State register
Latvia	Client	On all actors	For designers, general & personal	State register
Lithuania	Client/some actors	On some actors	Related to projects	Voluntary private register
Norway	Client/all actors	On all actors & On companies	General, and related to projects	State register
Poland	Client/site manager	On most actors	Personal	State register
Sweden	Client/(KA)	On KA	No accreditation system	Voluntary private register.

As we can see from this review (and the tabula), the basic view on the need, functions and inner logic for qualification requirements and accreditation systems differs between the countries.

On the one hand, we have Denmark, holding the basic view that the client has complete liability – then the authorities would neither need to have qualification requirements nor accreditation systems or – registers.

On the other hand we have Norway, holding the basic view that the client cannot fulfill all obligations by himself except for very small projects) – then they have laid both direct responsibility towards the authorities and qualification requirements on all the actors. And then they would also need to follow up by having approval systems and registers held by the authorities.

In between, all the countries have qualification requirements on some or all of the actors, even if the client has complete liability towards the authorities – either to help the client fulfilling his tasks, and/or to secure high quality in the projects. But the consequences of this differ.

In Latvia and Poland, these requirements on the actors are related to their education and professional experience in practice and not (merely) related to specific building projects. As a logical consequence, these countries have accreditation systems and issue certificates on persons, and they keep central registers on this.

In the rest of the countries, these requirements are to be verified by the actors related to each building project. But there are two different basic views on the consequences of this. a) When the actors must verify their competence related to the size and complexity of each project, the authorities do not need to have accreditation systems – nor central registers. This view is held by Finland, Lithuania and Sweden. But in all these countries, the construction sector then follows up by establishing voluntary and private registers, held by some of the trade organizations. b) When the actors must verify their competence in each project, the authorities will have to control the information as a part of the handling procedures related to each building

project. The remaining countries (Estonia and Iceland) are then holding the view that the best way to do so, is to keep a central register held by the authorities. The consequence is that they also must have an accreditation system, as entrance to the register.

In each country, there is an inner logic related to the issue.

3.4 Quality in built environment

3.4.1 Requirements on the projects

Requirements given in local plans

In all the countries, all building activity must be based on a building permit compliant with an approved Local Plan. The Local Plans are legally binding, and the plans shall provide design criteria, requirements, purposes and other restrictions.

The most important requirements given by the Local Plans are utility criteria. They may define the purpose, height, size, volumes and even materials in the new buildings. Such criteria are regarded as measurable, and must be fulfilled in the projects to get a building permit.

Aesthetics

In most of the countries the building legislation also comprises general formulations about aesthetical development – but these formulations are not precise, and aesthetics is considered to be a planning issue, as aesthetic qualities are considered most efficiently ensured through specific requirements forwarded in the Local Plans. In Lithuania and in Poland, the municipal mayor also draws up design criteria related to applications for building permits. But aesthetics is not a simple matter. All the countries are more ambitious regarding the possibilities to govern aesthetical development than they really manage to follow up in practice.

In Denmark, aesthetics is considered almost completely as a planning issue. In case of complaints on aesthetical matters, the building control office will send the ‘case’ back to the planning office to be handled as a planning issue, and follow the democratic planning procedures.

In Finland and in Norway, aesthetics is one of the most common objects for possible reactions or complaints related to applications for building permits. In case of reactions or complaints, in both countries the initial handling of this will be public officers at the building control office evaluating the projects and the aesthetic qualities. In Finland, their conclusions may be proved by court directly. In Norway, their conclusions may be proved by a political board – and the conclusions will be proved by court only if there are second complaints.

In Lithuania, aesthetics is considered to be a professional issue. Architects must be the head of the design processes, and for residential buildings also the head of the project. For evaluation on design works, the general

attitude is that this should be judged by people with special knowledge on aesthetic in the building control office, and not politicians. But the law does not provide instructions on this matter.

The view that aesthetics should be a matter of the design professions is also held by Latvia and Poland, where they want to enforce the importance of the issue by giving the designer (author/architect) some extended authority in such matters. In Latvia, they put obligations on the client to consult the designer in case of changes, even if 'aesthetics' is not a big issue. In Poland, the designer is given the right to admittance to a construction site and to the building log, and to suspend execution of construction works if he discovers deviations from the accepted design. The client may even oblige the designer to perform an 'author's supervision', and this may also be a request from the authorities.

However, In Estonia and in Iceland, the building legislations do not mention aesthetics, except for general terms as a part of the intentions.

But in most of the countries, the general opinion seems to be that they want to have a stricter regime on aesthetical matters, but that they until now do not have sufficient 'tools' to practice stricter control on this.

In Norway, a stricter regime has been tried. In the revision of the building legislation in 1997, the state politicians wanted stronger emphasis on aesthetical matters, and some new articles were approved. This led to a larger focus on the issue, and most of the municipalities started working on 'guidelines for aesthetical development based on the local building traditions' in each region. This again led to a discourse on the balance between traditions/adjusting to existing buildings versus innovation and creation of new architecture – held up against the legal possibilities to refuse obvious 'ugly projects'.

The conclusion so far is that aesthetics represent a complex issue.

Cultural heritage

In all the countries, the cultural heritage is primarily protected through other laws. But planning shall observe this, and protect the cultural heritage by criteria given in the Local Plans.

Environmental issues

In all the countries, they must observe all directives given from EU about sustainable buildings, and all of the countries are working on the issue on their own terms – related to technical requirements given in prescriptions. But related to requirements given by local plans, such issues are 'individual cases' and will not be commented further here.

Requirements given as technical/functional requirements

In all the countries, there is a development from specific technical requirements to functional requirements.

However, it should be mentioned that many of the countries point out that this is not as easy as initially thought of. When they had specific technical requirements, it was easy to tell if the solution was good enough. But with only functional requirements, they needed a) a set of 'pre-accepted solutions', or b) documentation from the client that the chosen solutions could meet the functional requirements – but then, the local authorities had problems evaluating the solutions. A third way: c) to have an independent part to evaluate the solutions could solve this. But then, they are close to pre-accepted solutions. There are several processes on interpretation of the 'functional requirements' going on in most of the countries.

The technical/functional requirements are most often drawn out of the legislation text, and placed in separate documents – which will make them easier to change faster, when development is needed or in case of innovation of solutions.

In Sweden, these requirements are placed in a separate law; the Law on Technical Requirements for Construction Works (BVL).

In Denmark, the basic requirements are given in separate Building regulations, which are issues in to volumes: for family houses, and for summer houses. If a local plan does not provide more detailed requirements, these regulations are legally binding for building activity. In addition, they also have technical/functional prescriptions.

In the rest of the countries, technical/functional requirements are given as prescriptions – and in all countries, they are constantly improved, both because of innovation and because of adjustments to new EU-directives and more.

3.4.2 Securing of quality in built environment

Building faults and building errors

The state authorities do not keep any statistics for the amount of building faults and building errors in any of the countries.

Nevertheless, all the countries have great focus on this, and try both monitor the development of this in some way, and to develop/improve the systems to prevent this.

In Iceland, this has historically been a big issue, with imported building materials not fit for the climate on Iceland, and in addition to a generally rough weather, they have a very harsh chemical climate due to the volcanic activities. These challenges have contributed to the system with a strong public control, and due to this public control, the authorities have a rather detailed picture of the amount and character of faults, even if they do not have public statistics.

In Norway, as in the other countries, there are no central state statistics on numbers/value of damages. But the Norwegian Building Research Institute (now: SINTEF Building and Infrastructure) has archive files on type of registered damages dating back to 1950's, which is helpful.

In Denmark, building faults and building errors are regarded as a big challenge, and the insurance companies try to keep statistics. Several reports and analysis have been produced by the authorities and others on this issue, aiming at making programs for improvements. The initiatives comprises better contracts, focus on the construction process, and on better education and knowledge. They also have a special insurance for diminishing the consequences of faults and errors for third persons.

In spite of lack of public state statistics, in all the countries they have a general picture of the cause of faults and errors, based on those sources mentioned above, and on general impressions. They all conclude that a relatively high number of faults and errors in the construction works are caused by faults and errors made by the designers. Then there are high numbers of damages caused by moisture due to a badly organised work process. And many damages are caused by climate (wind, snow etc.). Normal faults and errors made by the construction companies are of course also still present and in high numbers and a great variety.

From time to time, major faults or catastrophies may occur. In Lithuania and in Poland, the legislations comprise separate chapters on procedures for handling of severe accidents of construction works.

Requirements on quality systems

In all the countries, the client is obliged to have his own system for quality control, to prevent and prohibit faults and errors and secure high quality in built environment. This is initially done by stating the clients' complete responsibility.

In Denmark, this is regarded as formally sufficient. When the client has the complete liability, he must find his way to fulfill his obligations.

In the three Baltic countries and Poland, they hold the same basic view, but they regard high competence by the actors as being a very important condition to fulfill these obligations. The issue of the clients' own quality control is then connected to the requirements on actors, described above. By stating the obligations of the client and having qualification requirements on actors, and especially owners' supervisors, the client must hire actors able to fulfill the obligations.

In Finland, Sweden and Norway, they want to ensure even better that the clients take this responsibility seriously. In addition to requirements on qualifications on actors including an owner's supervisor, they have requirements on control plans. The control plans shall perform documentation on how the owner's supervision will be performed, and what they actually will supervise. These control plans will be a part of the documentation to be evaluated to get a building permit.

In Iceland, the actors will have a responsibility to carry out their work according to all professional standards, and they have qualification requirements on the actors. But instead of demanding control plans for the design and construction works, they have an extended public control.

In principle, the client and the actors must have their own quality systems in all the countries, even if only Finland, Sweden and Norway actually

have formal requirements on this and check this out prior to issuing building permits. But in none of the countries, the central authorities have issued guidelines for the control plans. In Norway, control plans must be integrated in the company's quality assurance system, and there is also a legal requirement for special control plans for important and critical issues. The clients may perform their control work the way they want. But the sector organizations most often provide guidelines for control work to help their members.

3.4.3 Other obligations

Quality in built environment deals with more than the technical solutions for the building. In addition, there are other important obligations that are given attention related to the quality in the built environment, but in a less specific manner.

Universal design

Universal design/accessibility for disabled people are in focus in all the countries. The issue is mentioned in general terms in the legislations in all the countries. In most of the countries this issue is given attention in the technical/functional requirements, and in most of the countries they are working on guidelines and/or prescriptions on this issue.

In Denmark, requirements for universal design are integrated in the Building Regulations as functional requirements.

In Poland, the text formulations in the Construction Law on this issue are wider, but in principle stating that built environment must not cause limitations for anyone, by referring to regulations, technical-building requirements and technical knowledge principles on such issues.

In Latvia they even state that the authorities must control this explicit.

In Estonia and in Lithuania, this is covered by other legislation.

Maintenance

Maintenance of construction works is in general regarded as a matter of the clients' own interests. The authorities/building control offices can normally only demand repair works if the construction is dilapidating or in so bad shape that it is representing a danger to third parties.

However, maintenance is an issue with increased focus. This may be related to increased focus on all types of facility management, to do this in a more efficient way and prevent diminished value of real estates. It may also be related to increased focus on sustainability, cultural heritage and other issues pointing out the importance of taking care of the existing built environment. In almost all the countries, there are discussions on how to encourage better systems for maintenance/facility management.

In Latvia, the local authorities may adopt local guidelines for maintenance, and instruct the clients in case of danger.

In Finland, they have established requirements for a plan for facility management and maintenance of a building, to be in place prior to the issuing of completion certificate.

In Poland, this issue has been given much attention. A separate chapter only concerning maintenance has been taken into the Construction Law, stating that the owner or administrator of a building structure is obliged to maintain and use the building structure in accordance with its intention. As in Finland, the client must work out a plan for facility management prior to the issuing of a completion certificate. This obligation is lately strengthened for security issues (fire, gas, electricity), and there will be inspections by the authorities at least every 5 year periodically. For the purpose of inspections, the owner or administrator is also obliged to keep a 'building structure book'/'log' over major repairs, periodically maintenance works and more.

Security and health

Aspects related to security and health of workers is not a part of the construction law in any of the countries. This is normally a part of other legislation, concerning workers' conditions.

Insurance

Insurance of construction works are in all the countries regarded as a matter of private interests, and there are no formal requirements on insurance except for an insurance on the companies in case of damages on third parties or on workers.

However, in Denmark, the focus on building faults and building damages have resulted in changes of the requirements on insurance of construction works. Denmark has since early 1990's had two different Building Damage Funds to cover the costs if third party would have to pay for faults. One of the funds covers only social housing/non-profit-market or projects with public clients, the other covers only renovation projects. But now, this is not regarded as sufficient, and in June 2008 a new Law on Mandatory Building Damage Insurance is approved, covering the interests of the third party regarding construction faults not covered by the two funds.

3.5 Handling procedures

3.5.1 Introduction

Handling procedures may be described in very detailed manners. This comparison between four countries is meant to focus on the more superior similarities and differences, and therefore it will be difficult to give detailed descriptions of all handling procedures in all the countries – and in addition, this may lead to less focus on the main aspects.

Most of the central issues are also treated and commented in other parts of this report, and this chapter is also to be kept down to avoid unnecessary repeating.

The main elements in a chapter on handling procedures could be:

- Basic conditions – one or two procedures, several categories etc.
- Procedures to obtain a building permit
- Dialogue between the client and the building control authorities
- Following-up in the construction period/control system
- Procedures to obtain a completion certificate

Most of these aspects are described for each country in chapter 2, where those descriptions also comprised sub-point on handling procedures. For even more detailed description, this is described in the two earlier reports. Here in this chapter, we then only make the comparison.

3.5.2 Basic conditions (types of procedures and more)

Notifications

All the countries have simplified procedures for very small buildings, where building permit will not be needed, and where notifications to inform the authorities will be sufficient.

However, the definitions of very small buildings differ between the countries, both regarding types of such structures and the size of them. The criteria for using only notifications are most often that the construction shall not comprise any housing functions or workplaces. The attitude to agricultural buildings differs. The structures must be small, and the limits for being 'small' differ from 20 sq m (most common) up to 80 sq m (Lithuania). In addition, these structures must be in accordance with approved Local Plans – or at least not oppose to any plan.

Parallel procedures for building permits

Some of the countries have two parallel procedures, due to the planning system or to the structure of the legislation and/or authorities.

In Estonia and in Poland, they have different procedures if there is an approved Local Plan covering the construction site or not. See chap. 3.2.1. If there is no approved Local Plan, the developers must apply for design criteria as a first step in the procedures, and the procedures will deviate.

In Sweden, the applications for building permits shall be evaluated according to two different laws (the Planning and Building act – PBL, and the Law on Technical Requirements for Construction Works – BVL). To obtain permits to start construction works, the applicants must have both an approval according to PBL and an approval according to BVL – and in addition, approvals from other authorities according to a list given on the Early Conference between the applicant and the authorities.

In Denmark and Finland, the procedures may differ between the municipalities, because of the degree of local democracy, where the municipalities may adopt their own formal procedures. We could mention that this is regarded a challenge/problem by actors in the building sector.

Early steps in the procedures

Most of the countries have several steps in the application procedures. The division in steps, and what types of steps differ quite a lot. In some countries, the first step may be a visualization plan more similar to a detailed plan, in other countries, the project documents may be handled in several steps. In some of the countries, it may be a combination.

Visualization plans may be demanded from the developers by the authorities in Denmark and Poland, related to big projects. The intention is to discuss the construction plans at an early stage – to have a better discussion tool on the interpretation of the approved local plan. In Norway, they also have such plans, but there they must be handled according to the planning procedures, and as such, they are parts of the planning system – not of the procedures for building applications. Visualization sketches may also be demanded in other countries, but then not as a part of the ordinary system.

Application for design criteria by starting the design work is a first step in all the three Baltic countries and in Poland (not only in Estonia). In Finland, they have a similar procedure, slightly different, but still called application for design criteria.

Applications just for acceptance according to the approved local plans represent a Step-1-application in Norway (called Frame application/Frame approval). In Sweden, the application for approvals according to the PBL is rather similar – the projects are primarily evaluated for compliance with the local plans.

Verification of ownership to the construction site is also mandatory in Lithuania and in Poland, due to their history for private properties.

Summing up, all countries except Iceland have procedures handling the early stages, to secure the compliance with the local plans. In Denmark, this procedure is a tool for a dialogue between the applicant and the authorities (in line with their dialogue-based system). In the main part of the countries, these procedures are formal applications which will need formal approvals – and the main purpose is to help the interpretation of the local plan.

Electronically handling

Most of the countries have already introduced electronically handling procedures and possibilities for digital applications and the rest of the countries are working on such procedures. In this field, the development is rather quick, and any specific description will probably not be valid for a long period. However, leading countries in this development are Finland, Norway and maybe Lithuania.

Time limits for handling procedures

In most of the countries, there are time limits for the handling procedures, and sometimes rather detailed in different operations.

Countries without such time limits are Finland and Sweden, and in Denmark there are time limits only for summer houses/small buildings.

3.5.3 Procedures to obtain a building permit

In all the countries, an approved Building Permit is mandatory for all building activity. But the criteria for obtaining this differ. The elements that may be required in applications are:

- Verification of ownership to the construction site
- Design documents (drawings and descriptions)
- Names, qualifications or certificates on central actors/companies
- Certificates on central actors
- Verification of listing of companies in Merchant Registers
- Control plans for actors and/or owners' supervisors

In short: The authorities will have to evaluate all documentation required for the applications. I.e.: If certificates on actors are required, then these must be approved by the authorities prior to issuing of building permits, etc.

Verification of ownership to the construction site

Such verifications are needed by law in Lithuania and in Poland. In Estonia, this may be requested by the authorities in case of doubt about the realities. Such verifications are not needed in the other countries.

Design documents (drawings and descriptions)

Such documents are mandatory (core documents) in all applications for building permits in all the countries. However, in many countries, the amount/number/degree of details/special needs for investigations or documentations may be discussed and defined in the Early Meetings.

Names, qualifications or certificates on central actors/companies

In almost all of the countries (formally except Denmark, but in practice also there), there are requirements on some or all of the actors, and sometimes also requests for documentation of competence in the companies. See chpt. 3.3 on requirements on actors.

Verification of listing of companies in Merchant Registers

Such verifications are not related to the competence on the actors or in the companies, but to their economy, tax-paying, legal work staff etc. Almost all countries check such information, and in some of the countries these requirements are taken directly into the legislation. Sometimes this is regarded as one of the aspects to be evaluated as requirements on actors (heads or companies), and not specified further.

However, in all the countries, there is an increased focus on black market/black workers, social dumping and more, and requirements on this kind of information is regarded as a tool in this work.

Control plans for actors and/or owners' supervisors

In most of the countries, the control system is evaluated in some way related to the handling of building applications. In Norway and Sweden, they demand specific control plans as a part of the documentation in an application for a building permit.

The needed documentation in applications for Building permits are put together in a tabular form.

Table 4. Possible needed documentation for Building permits.

Possible requested documentation	Actual countries
Verification of ownership	By law: Lithuania, Poland On request: Latvia, Estonia
Design documentation – drawing and descriptions	All countries
Names, qualification documentation and/or certificates on actors	All countries except Denmark
Qualification certificates on companies	Norway
Verification of listing in Merchant registers	All, more or less
Control plans for actors and/or supervisors	Norway, Sweden

3.5.4 Dialogue between the client and the building control authorities

In all the countries, the dialogue between the client/developer and the building control authorities is very important – with Denmark as the most extreme. Some parts of the dialogue are mandatory in some countries.

Such dialogue basically comprise following possible elements:

- Clients take early informal contact to get information about the site
- Early meetings for defining requirements, start-up of design
- Collaboration meeting after application, start-up of handling
- Dialogue/contact in the construction period
- Dialogue related to completion of the building process

In addition: other types of informal dialogue during the process.

Clients take early informal contact to get information about the site

In all countries and in all projects, the client has to gather facts and information about the possible construction site, and this will be the first contact between the client (or his parties) and the authorities. But this is just informal contact.

However, possible requests from the authorities on further investigations, consequence analysis, geological investigations, archaeological investigations, demands for infrastructure and more may be clarified at this stage.

Early meetings for defining requirements, start-up of design

In some of the countries, the Early Meetings are mandatory – and the exact time of such meetings may differ between the countries. In some of the countries, this type of dialogue is related to Visualization Plans.

As mentioned before under Early steps procedures, visualization plans as tools for such early dialogue are often used in Denmark, and there, the dialogue is thoroughly followed up. Such plans are also used in Sweden and in Poland – and maybe in other countries, less formalised.

Mandatory early meetings, very early in the design process is used only in Lithuania. But voluntary early meetings are used in most of the countries (only not mentioned in the Icelandic legislation), more or less formalised and to some extent with slightly different content in the meetings. In Finland and Norway, in case of meetings, it is mandatory for the authorities to take minutes, to be enclosed to the application. Most often these meeting is used for clarification of all requirements on an application for building permit.

Collaboration meeting after application, start-up of handling

Collaboration meetings are meetings after the authorities have received an application for a building permit as up-start meetings for the case handling. In some countries the client is present, in other countries these are only for internal co-ordination between different authorities

In Denmark, Finland and Sweden the client is present, and here he may explain the project, and the authorities can decide if additional material has to be delivered.

In Iceland, they have meetings at the same stage in the case handling – but the meetings are only for co-ordination of all authorities involved (building, roads, fire etc.).

This type of mandatory internal meetings may be a part of ordinary case handling also in the other countries, even if it is not mentioned in the legislation.

Dialogue/contact in the construction period

The dialogue during the construction period is closely connected to the control system, and will be commented as such.

Dialogue related to completion of the building process

Dialogue related to completion of the building processes are not mentioned in any of the legislations, and not a part of the ordinary handling procedures – even if meeting may be held.

The dialogue based tools are put together in a tabular form.

Table 5. Dialogue-based tools in the handling procedures.

Possible dialogue-based tool	Actual country
Clients take early contact to get information	All. Authorities may claim investigations
Early meetings for defining requirements – By start-up of design	Mandatory: Lithuania Voluntary: almost all
Collaboration meetings after application, – By start-up of handling	Denmark, Finland, Sweden: w/client Iceland (+ the rest): Internal
Collaboration meetings after issued permit, – By start-up of control work	Denmark, Sweden, Finland, Estonia.
Dialogue/contact in construction period	See control system
Dialogue related to completion certificates	Not in legislations

3.5.5 Following-up in the construction period/control system

The handling procedures for following-up of the construction period are closely connected to the core activities of a control system. The control systems will be more detailed commented in chapter 4 – the case study on control systems, and then only short commented here.

The practice in the countries differs from almost no contact (Norway) to a tight almost day-to-day follow-up (Iceland) – and several in-between solutions. Some of the countries use more or less regular construction site inspections; others have dialogue or Diary as the main tool in this period.

3.5.6 Procedures to obtain a completion certificate

In all the countries, as-built-documentation is needed to apply for a completion certificate. In some of the countries, additional requirements are needed, and these may differ.

A final construction site inspection is needed in Iceland, Estonia, Latvia and Poland, carried out by the building control officers.

Control Plans confirming that control has been effected and that the building is completed and in order, signed by the client and his controller, are mandatory in Finland, Norway and Sweden.

Plans for maintenance of the buildings are needed in Finland.

And in Denmark, the conditions to obtain completion certificate may be adopted by the local municipality councils, and may thus vary between the Danish municipalities.

3.5.7 Summing up – similarities and differences

The handling procedures may comprise a huge amount of information, but here simplifications and ‘main principles’ have been in focus. In chapter 2, the principles in each country were described, and here in chapter 3, comparisons are in focus. Summing up may be fragmented.

In principles, all the countries use more or less the same elements in the different parts of the handling procedures, but their focus may differ a lot.

In Denmark, the dialogue is the most important element, used both in the prephases and design process, in the handling procedures and in the follow-up of the construction sites. In addition to the elements directly mentioned above, they also focus widely on support elements like guidelines, information meetings, personal support and more.

In Iceland, the strong public control is the most important element in the handling procedures – both document control and construction site inspections, and lately also more focus on control of the competence of the actors.

In Norway and partly Lithuania, the strong responsibilities laid on each of the actors are the main element in the handling procedures. The focus is then on control of the actors' competences and of their own control plans/control routines.

The rest of the countries have combinations of elements from these three poles in different ways. In Estonia, Finland and Sweden, Owners' supervisors are mandatory, and in these countries the follow-up in the construction period is not as close as in Latvia and Poland, where the public control is stronger.

Finally, we have put the main characteristics together in a tabular form.

Table 6. Main characteristics of approach to handling procedures.

Main characteristics of approach	Actual countries
Dialogue-based procedures	Denmark
Strong public control	Iceland
Strong responsibilities laid on actors	Norway, partly Lithuania
Combinations of approaches	The rest (Estonia, Finland, Latvia, Poland, Sweden)

4. Control systems

4.1 Introduction

4.1.1 Introduction to the case study

In accordance with the Steering Group's task description, we have conducted a case study of the control systems in the nine countries. For this purpose we have had group interviews of building control officers at local level in each country, and likewise group interviews with representatives of the national associations of building and construction or other central representatives for the construction industry.

The aim of this case study is to learn about the control system(s) in each of the nine countries and try to identify significant similarities and differences, with the intention to support general understanding of 'own' and other countries' control systems.

However, we must point out that even if the interviews carried out mainly were group interviews, the number of interview objects in each country is limited, due to both practical limitations and time limits for a study covering nine countries. For practical reasons, the case interviews were mainly located in the capitals, and large practical variations between the capitals and the minor municipality in any of the nine countries must be anticipated. Thus, the study will not make a complete presentation of the control systems in nine systems – and consequently not a satisfactory picture of similarities and differences. However, the examples and generic considerations may form a basis for further studies on the field.

4.1.2 Clarification of words and phrases

Most all communication is disturbed by lack of common understanding of key words and phrases. Within the field of construction there are many sources for misunderstanding and asymmetric communication, despite lots of different efforts to avoid this. On the field of planning and building legislation the possibilities for misunderstandings are many, especially when those to communicate are individuals from nine different countries. We therefore commence the reporting of the study by putting attention to some words of general importance in this context.

Control system

By control system we hereby understand all activities undertaken to ensure that constructions are properly designed, produced and completed.

In general, and stated by law in all the countries in the Northern Dimension, it is the responsibility of an owner to ensure himself and all other parties affected by his construction initiative, that the result will be in accordance with the national regulations.

However, due to general public interests (compliance to local plans, safety regulations etc.) and traditions on this field, the public authorities also perform its own control of construction projects. This type of activity varies from country to country and overlaps in different degree the control activities of the owner and his suppliers.

The more or less parallel control activities by the owner and the public authority call for an emphasizing of the phrase control system: There are in fact two systems, e.g. the public control system and the private control system. However, the two systems always co-operate, and some most interesting questions are how and to which degree.

Control – inspection – supervision

Control, inspection, supervision are frequently used in connection to building control. A common understanding is crucial for communication based on this case study.

By definition, inspection is the most precise of the three words. Inspection is defined as Examination of a product design, a product, [...], and determination of their conformity with specific requirements or, on the basis of professional judgement, general requirements (EN 45004:1995). The title building inspector, which is the since long established (historical) title of the public representatives that follows the site production in most of the nine countries, is telling us that the work of this public officers was/is, by own capacity, to investigate if a certain part of the building-to-be corresponds with drawings and other specifications/requirements. The importance of site inspections, carried out by public employed professionals, is envisaged by the fact that the term (Building) Inspectorate is used for the public institution/authority that administers this activity, i.e. where this (still) is the situation.

In the private sector, the word inspection is not so often used, even if it is normal that for example the contractors have or hire professionals to inspect their production to ensure correlation with specifications. In private sector the word building controller seems to be the most frequent denomination, partly and gradually replaced by quality controller.

The word supervision has come to use in connection with public control of construction activities, probably due to the emerging change in the way the public control is carried out – from thoroughly inspection of performed work to quality surveillance, i.e. checking the control documents for the project – as frequent as recommended due to significance of the project and the capacity of the public resources.

By the word supervision used as a part of or related to the control systems in Norway and partly some of the other Nordic countries, is the understood as a system for control of the control.

Normally, the owner of a construction project does not take part in the construction process himself. Instead he has an own employee or a hired

representative that follows the process to ensure that the product will become as defined/specified through the contract(s). This kind of representative is in the Baltic countries and Poland denominated the owner's supervisor. In all these countries it is mandatory to have this function in any building project, though with exceptions for smaller ones. The public inspectors communicate with and define the owner's supervisors as the responsible person at the site. The owner's supervisor is normally the one responsible administrator of the Diary, see below.

In the legislation of the five Nordic countries, this function is not usual. On the other hand, most owners in these countries have connected an owner's project manager to his project, and in Finland and Iceland this is even mandatory. His tasks are not the same as the owner's supervisor when it comes to the day-to-day production at site. However, there are similarities that certainly are of interest when it comes to the understanding of the management of the building process and how legislative requirements are taken into account.

The Swedish term quality securer (KA) mentioned in the legislation, is neither parallel to the owner's supervisor nor to the owner's project manager, as he has no direct responsibilities on the construction sites.

Based on the discussion above, we claim that all controlling activities are covered by the word control (or quality control). Furthermore, that inspection and supervision are specifying words that have their individual (historical) background. They may clarify the content and degree of the actual control activities, but may as well cause confusion in the general communication.

Constructions – Buildings

The word construction is often used to describe all kinds of construction activity in connection with exploitations of land for different public and private purposes (roads, harbours, industrial plants, energy plants, [...], administration buildings, schools, homes etc).

At the same time the use of the word is limited to the specific kind of construction work that not compiles buildings of any kinds, i.e. civil engineering/infrastructure (roads, bridges, tunnels, [...]).

The other interesting word in this context is building. This word covers all types of construction that 'envelope human activities', i.e. homes, offices, factories, schools, hospitals, public and private administration buildings etc.

The planning legislation in most countries covers the total, i.e. both infrastructure and buildings. The plans are defining how all types of constructions are – and are going to be – arranged in the landscape. The plans are worked out or administered by the planning offices at state, county and/or municipality levels in each country.

The building legislation covers the huge number of private initiatives (and rather numerous public, too). The building legislations handle all the formal procedures related to all parts of the building processes, including the involved actors and existing buildings. These processes are administered

by the public function in the municipalities that in most of the countries are named Building Control Offices (BC Office).

The public control shall ensure that a building is designed and produced in compliance with Local plans and other public requirements. This control is most often taken care of by the Inspection Office or the BC Office in the municipality. In some countries the Inspectorate at region/district/county level takes care of this function, see 4.1.4. Furthermore, interesting differences exist between the countries when it comes to the extent of the field of inspection, see 4.1.4.

Conclusion: In this case study we are addressing buildings and the public control of building projects. However, as the word construction to some degree also is used in building contexts, e.g. construction site rather than building site, this word will also often appear in the text.

Building Control Offices – Inspectorates

The administration of the public control may be organised differently, and also denominated differently in a confusing way.

In many of the countries, the inspection functions are separated from the issuing of building permits. In these countries, the office issuing building permits are closely connected to the planning sections, while the public control carry out controls and inspections. This division of tasks underlines that the most important aspect of the building permit is the surveillance of the compliance between the project and the approved local plan. However, the offices issuing building permits are named differently within these countries.

In Denmark, Iceland, Latvia and Poland, the tasks are divided as described above. In Denmark, Iceland and Latvia, the offices issuing building permits are closely connected to or part of the Planning Administration on the municipality level. But the public bodies performing controls and inspections are in Denmark, Iceland and Poland denominated Building Control Office, while they in Latvia (Riga) are named Building Inspectorates (and it may even be named differently in other cities in Latvia).

In Poland, the division is similar, but the public body issuing building permits are not a part of the planning offices, but a separate type of administration: the Architectural-Building Administration. The control tasks and issuing of completion certificates are performed by the Building Control Offices. The first line of control is not conducted at the municipal level, but at the District level. The two types of offices are divided also on State and Province levels – e.g., it depends on the importance of objects whether the first line of control is conducted at the County ('poviat') – or Province ('gmina') level.

In Estonia, Finland, Lithuania, Norway and Sweden, both issuing of building permits and performing of control tasks are conducted by the same, common offices. But as a contribution to the confusion, these are denominated differently. In Lithuania, these common offices are denominated Building Inspectorate. In Finland, the tasks are divided in two different sections within the Building Control Office. In Estonia the offices are parts of the local (municipal) governments – called Building Control Offices, but on

a superior level administered by Technical Inspectorates. And in Norway and Sweden, all tasks are conducted by Building Control Offices.

In the earlier reports, this information is put together in tabular forms, and even more detailed information is given.

The use of the term building control office may then mean:

- Only control tasks,
- Only issuing of building permits, or
- All tasks.

The use of the term inspectorate may then mean:

- Only control tasks,
- All tasks, or
- The supervisor body on a superior level.

In this case study, we will use the term building control office to describe the public body performing control tasks. In case of need for more specific information, this will be mentioned especially.

Size–Significance–Classification

The size of the country has impact on the organisation of the control systems, e.g. the larger countries (Poland, Lithuania) have inspection functions at more (and higher) levels than smaller countries.

The *sizes* of the building projects may vary from huge objects (hospitals) to small objects (refurbishment of a single family house), and this is another issue when it comes to the public building control. In some of the countries there is a rather distinct classification of constructions, based on *size* (area; very small, normal, big objects).

The complexity (simple, normal, complex) and public significance and importance (private/ordinary, prestigious buildings or heavy construction works) are normally aspects evaluated when the public control resources are spread. In some of the countries these classifications are less formal, though existent through priorities of public officers' attention and time.

In most of the nine countries there are also a class of objects that are given low (no) attention in relation to the public building control. Such objects will normally not need building permits, only notifications.

Examples: Remedy on own homes, smaller remedy and rebuilding work in general, adding small areas/volumes to own home, construction of small not-for-living buildings at own ground, etc.

The Diary

Registration of formalities (weather, temperature, number of workers on site, etc), key actions, decisions, incidents, accidents and other events during the production of a building is important as verification of the development

of the process. The tradition with a strict system (book for day-to-day registration) is known in all nine countries.

However, it seems as if this instrument today is a far more formal instrument in the communication between the site team and the public inspector in the Baltic countries and Poland than it is in the Nordic countries. In the first group of countries, the diary is a mandatory part of the regulatory claims. The owner's supervisor is responsible for the establishment and use, whereas the site manager is to administer the use from day to day.

The use of and the character of the Diary will for this reason be of special interest in the case study.

As a summary, the significance of the used terms/words is put together in a tabular form.

Table 7. Important terms: An overview of different interpretations

Control system	Actually two systems: Private control (and quality system) and Public control (and supervision)
Control – Inspection – supervision	Inspection = most precise, Supervision = 'control of Control', while 'Control' is more difficult
Constructions – buildings	'Construction' both wider (covers all), and more narrow (cover all except buildings)
Building Control Offices – Inspectorates	BC Offices: 1) Only control tasks, 2) Only building permits, 3) All tasks. Inspectorates: a) Only control tasks, b) All tasks, c) Supervisor body
Size – significance – complexity	Terms relevant for classification of buildings, related to procedures/permits
The Diary	a) Log/registration of formalities, b) Tool for documentation of process, c) Tool for dialogue

4.1.3 Qualifications

The Planning and Building Acts/Codes are addressing all types of construction works and all types of owners. The main group of owners are not professionals, i.e. people that are approaching the construction authorities for the purpose of building an own home, a cottage, etc. This type of owners is estimated to represent $\frac{3}{4}$ of the cases handled by the Building Control Offices.

In a similar way $\frac{3}{4}$ of the actors in the construction industry are small. Example: In Norway 80% of the construction companies have less than 10 employees. Size doesn't explain all, but indicates the challenge of the industry – and of the lawmakers, who shall take all such differences into account.

To some extent, this has been done thoroughly in all nine countries when it comes to qualification of the professionals in the projects of which the owner has applied for permit to build. There are two main paths here, as well: 1) Qualification of individuals, i.e. persons that by profession are going to serve in one of the key functions in a project-to-come. Example: In Finland the owner has to hire a site manager, classified by the authority, for his project. 2) Qualification of companies, i.e. companies that through the competence of the company, is defined as qualified for the actual project (or in general). Example: In Norway, the owner has to organize his project with companies, both for the design and the production, that are accepted by the

authority as qualified, based on an examination of the education and job experience of dedicated individuals (preferably in the management) and the managerial system (quality system) of the company.

The variations in qualification concepts are wide.

Lithuania has a concept, where the BC Office evaluate named:

- Head person in the design company,
- The head person in the construction company,
- The site manager
- The owner's supervisor for certification after the permit to build is issued (even more functions/ persons when the project is important, see below).

Poland has a similar, but easier concept, where the owner has to inform the BC Office about the name of key companies and key persons in the site organisation, and as well hand over the licence for the site manager. Iceland has a system where all actors in the project must have an approval by the BC Office.

Denmark and Sweden seems to follow neither the one nor the other path mentioned above, but a third, where the high attention is put on the quality of the owner's control plan and less on the formal qualification of companies or individual professionals (though in Sweden, the owner's choice of project quality surveillance officer/quality securer (KA), is an issue of interest to the BC Office).

4.2 The control systems in each country

The control systems are described in the two earlier reports, based on information and documents given by officers at the Ministry levels in all the countries. The descriptions of the complete building legislation including control systems in chapters 2 and 3 in this report, is also based on this information, but updated where amendment have been made.

In this case study, interviews with public officers at the Building Control Offices were carried out in all countries except on Iceland. There, we had rather thorough interviews with the Building Control Office in 2004, and no changes had been made since that. 2004. In addition, the Ministry in Iceland is preparing a completely new legislation these days.

In this case study, we also carried out interviews with representatives from the construction sectors in all the countries.

The focus for the interviews in this case study was the practice of the building control – and then we also asked all the informants of a description of their control systems. The pictures emerging from those interviews are filling out the basic information given in the earlier reports and in chapters 2 and 3 in this report and we will first describe the control systems in the nine countries.

The control tasks are closely linked to the handling procedures and the descriptions thus also comprises these practical parts.

Information on numbers, resources, fees and more were also given.

4.2.1 Denmark

Handling of building permits are done by the City Plan Office. They primarily look for the compliance with the approved local plan, but they also consider the architecture and the technical solutions (not in detail). They often issue the building permits in stages; first a principal accept for the concept, then for the foundations etc. Before issuing the building permit, there is a mandatory start meeting (early collaborating meeting) where the planning office, the client, the designers and some representatives from the Building Control Office are participating, to be informed about the project.

After the building permit is issued, the Building control office organize a start-up meeting with the client and his site manager (for all cases). Most often, the client requests the meeting, but this is a duty for the BC Office, and mandatory for them to take minutes from the meeting – and these minutes are public property. At these meetings, they agree on what/which subject the client must keep documentation on, or supervise. Here, they also agree on frequencies (and subjects) for inspections on the construction site. The costs for such meetings are covered by a fee.

The client has complete responsibility towards the authorities, and he may fulfill his obligations the way he finds suitable. There are no qualification requirements on the client, nor to his organization (except for construction calculations for safety reasons, and for El, gas etc.).

There are no formal requirements for own control performed by the client or his organization. But they have some voluntary certification systems for companies, helping the clients' quality checks.

The Building regulations cover the whole country, but due to a wide practice of local democracy, there may be deviations in the Local plans.

The control of the BC Office is concentrated on the performance of the construction works. They carry out (many) inspections at the construction sites: they then warn that they will come – and at the site, they primarily check the documents and the control systems, and they also have meeting where technical solutions are discussed on site.

They follow the same procedures for all type of projects regardless of size and complexity. They do not split between control and supervision. According to their system, the control is a duty of the client, and the BC Office just check if this is performed well.

In the Building Regulations, there is a claim for completion certificate, but this may be based on documentation only, not any inspections. However, this may be demanded by the municipality councils – which are the case in Copenhagen.

The representatives from the construction basically supported the general description of the system, and gave their opinions on different parts of it. Seen from their point of view, the dialogue-based system is working well.

The informants represented a huge project, and to help the dialogue with the authorities, they established a special contact group. They pointed out that a good relationship to the local BC Office was of vital interest of them, because all case handling was quicker, and they were warned early in case of obstacles.

4.2.2 Estonia

The BC Office is handling both issuing of building permits, but the office is divided in two sections – one for compliance with the local plan, and the other for all other requirements given by central or local authorities, as competence by the construction companies and certificates on actors. This sector also performs the control tasks. The system is the same in all municipalities.

The control differs between projects, related to size and complexity. They have an ‘up-start-meeting’ after issuing of the building permit, and at this meeting, the client has to display all contracts. They perform public inspections connected to the foundations, and when finished (then the fire department also participate). For office buildings, multifamily houses and bigger/more complex buildings, they demand private control (owner’s control), in addition to the public control.

They see as a tendency that the use of independent controllers is increasing on voluntary basis.

The control system is based on three levels:

- Internal control in the companies (= owners’ quality systems only in their own interest),
- Specialized control in the companies, performed by independent building experts,
- Municipal control performed by the BC office (= control of the controllers).

The client must keep a mandatory Building Diary, where each stage of the projects must be documented, the documents must be signed by the client and the controller, and the BC Office checks that this is done – by demanding the control plans on display..

To get a Completion certificate, the client has to ask for it. Then they will have a final inspection on site, and documentation.

The informants from the construction sector completed the description, and gave more detailed information on the content of the Diary, on the requirements and tasks of the independent controllers and of the differences between large and small projects.

They normally have contact with the BC Office in following stages: connected to applications for building permits, control of foundations, requested controls agreed on at the up-start-meeting, and related to the application for completion certificate.

4.2.3 Finland

The BC Office is handling both issuing of building permits, but the office is divided in two sections – as for Estonia, as they in Estonia used Finland as a model for their legislation.

The informants have given much information about requirements and handling of applications for building permits, but even if this is relevant to the control system, it will not be described in detail here. Primarily, they check compliance with plans and technical requirements and competence on actors (against a voluntary register).

Approvals can be divided in stages in big or complicated projects, and the BC Office then define the stages.

The control work is regarded to start with the up-start meeting after issuing of the building permit, and participants at this meeting is the BC Office, the site manager, and the main actors for design and construction. The site manager shall present a control plan, but this plan is not to be approved by the BC Office, even if it is attached in the memo of the start-up meeting. This plan is used for defining milestones where new meeting and site inspections will be carried out.

Private control performed by the client is not mandatory. But this may be done as an addition to the control by the BC office (then in the client's own interests) – or as an alternative to the public control, but in such cases the controller must be approved by the authorities for each project (not FISE). These controllers may then be persons or companies, and they should/must be independent. In addition, the actors must carry out their own quality control.

The BC Office always carries out a site inspection before issuing of a completion certificate, even if there is private control. If they have trust in the actors, this is easily done, if not: this is a thorough inspection. They also demand a declaration from the site manager to tell that all is finished and in order. And they demand final documentations on the project in the building inspection report.

The informants from the construction sector points out that they on voluntary basis more often use private and independent controllers. In addition, they always have photo documentation of hidden installations.

4.2.4 Iceland

The BC Office formally issues building permits, but the handling of the applications are divided between the planning office (controlling compliance with the local plan), and the BC Office for all other aspects – technical requirements and requirements on actors. The two sections has regularly meetings.

The procedures are the same for all kind of projects.

The control system has two main elements: the owner's supervision, and the public control, and they do not distinguish between control and supervision.

The public control is real and they use much resources on this. The control comprises both real document control and site inspections – and ther

are normally approximately ten site inspections on a private living house, and for other types of building there are many more – but formally, the client has the responsibility for faults and errors..

The private control of own work is mandatory. However, most of the private actors are not sufficiently skilled, and the authorities demand this part performed by independent control. The most common solution is to have a contract with the BC Office, and then let them carry out also the private part of the control work (for a rather low fee).

In addition, most companies have their own quality systems, but they do not perform any control required by the authorities, and the BC Offices will check closely themselves anyway.

The BC Office carry out a final site inspection before issuing completion certificates, and this inspection is rather thorough, and they then also check the photo documentation of hidden constructions.

The BC Office are checking some special issues more closely on Iceland: earth-crack protection, salt exposure related to temperature, rain/wind protection and large glass constructions.

4.2.5 Latvia

Completion certificates are formally issued by the BC Office, in some cases in commissioning participate the state Inspectors, but the BC Office issue both building permits and they perform the control tasks.

The application procedures are based on two-step handling procedures, where the first step is a project acceptance for compliance with the local plan and technical requirements, and the other step is a construction permit where location on the construction site also is checked. For complicated projects, more stages of permissions are possible; for parts of the buildings, or for stages of the construction works.

There are no mandatory meetings during the handling procedures or connected to up-start procedures, but the BC Office check legal issues several times in a project, by site inspections.

The BC Office perform both document control for detailed compliance with all requirements, and construction site controls – normally 2–3 per construction period, but this may differ. These inspections are combinations of physical inspection, control of the mandatory Diary/documents and of the systems for the owners' supervision.

The client has the right (but in the cases provided for by the General Construction Regulations the duty) to invite during construction the author (authors) of the building design to follow the course of the building design implementation – to perform supervision by the author.

If construction is carried out for State or local government funds, the relevant builder shall invite a building supervisor.

Before issuing of completion certificates, the client must declare all work for finished and in accordance with the requirements, and hand over as-built documentation and the Diary.

The informants from the construction sector find the Diary very useful, and they most often on their own initiative keep three different Diaries: one for design issues, one for technical issues, and one for logging (which is the mandatory one).

4.2.6 Lithuania

The State Building Inspectorate at the County level is both issuing building permits and completion certificates, and performs the control tasks. The State level of the Inspectorate performs supervision (random site inspections and control of control), while the municipality level actually do not perform any control.

Control activities are regarded as important, in general. And important construction works are then controlled often (by the county level) – after every stage of production.

The owner's supervision is mandatory. The quality of the owners' supervisors is important, and the requirements are equal for all supervisors. But for all other actors, the requirements will differ with the complexity of the projects.

Approval of actors is a part of the procedures for a building permit, and certifications on qualifications of central actors are mandatory. The approval of the actors is done for each project.

All approvals must be kept on the construction site, together with a mandatory Diary.

The control tasks performed by the Inspectorate (county level) comprise construction sites inspections, where they check the documentation and approvals kept at the site, and if the constructions comply with the approvals. They also check the mandatory Diary, which is actually a log.

4.2.7 Norway

The BC Office at the municipality level issues both building permits and completion certificates, and they perform the control tasks. The control system is based on private control, either performed by controllers hired by the client or by internal control within the performing design or construction company, and with mandatory control plans to be checked by the BC Offices. As a consequence of this, the public building control was built down approximately ten years ago. The intention was that the control tasks should be converted to control of control and random inspections, but because of the work load related to the major revision of the system, the BC Offices did not have resources for these activities.

Issuing of building permits now comprises check of compliance with the local plan and technical requirements, check of the certificates and competence by the actors, certificates for companies, check of control plans, and handling of comments from neighbors.

The handling procedures and the control tasks are closely connected. The authorities define conditions in the Early Meetings prior to approval of the

first step of the approval procedures. There are (if wanted by the client or applicant) two stages in the approvals of building permits: a) approval of concept according to local plans (frame approvals), and b) the construction work permit – where the detailed requirements on project, actors companies are approved, and control plan checked and approved. This is a voluntary division of the process, the steps may also be combined in one step, and this is up to the choice of the client or applicant.

The BC Office does not perform construction site inspections.

4.2.8 Poland

The building authorities in Poland are divided in two parallel systems working from State level through Region level (Voivodeships) and County level (Poviats), but not on municipality level ('gminas'). The one system is Architectural-Building Administrations, with responsibility for compliance with plans – and they issue building permits, including check of documents and actors' competence (Region or County levels). The parallel system is Building Control Offices, where the Region or County levels perform the control tasks and issue completion certificates.

The application may follow two different procedures: if there is an approved local plan or not.

As basic parts of the control system, the control tasks shall be performed in two categories: normal procedures, and complicated cases with obstacles. Since 2004, the handling procedures comprise mandatory controls throughout the project period, carried out by the authorities, including a final Completion Inspection. They may also carry out random inspections.

The handling procedures are the same regardless of size and complexity. The first contact between the client and the control authority is after the Architectural-Building Administration Office has issued the building permit, and the BC Office receives all documents from them. They do not have meeting connected to this. Before the client can start construction works, the BC Office must check licenses and qualification on actors with such requirements. The BC Offices carry out a mandatory Final Inspection before issuing of completion certificates, and there is a long list of conditions to be fulfilled to obtain the certificate – comprising as-built documentation, Diary, protocol for all acceptances, list of changes in the project signed by the designer and more (but not photo documentations).

4.2.9 Sweden

The Building Control has their main tasks connected to the handling of applications for building permits – as Building Control office they do not focus on the construction period.

The control of the construction works is performed by the actors themselves. The supervision of the authorities is primarily a control of the documentation of the control performed by the actors – but the BC Office do not do this often, and they could not give a precise description of their handling

procedures of this. The authorities do not perform any inspections on the construction sites.

There is no normative system for the control performed by the actors. The actors will have to make their own systems/routines for this kind of work – based on the demands of the Client (responsible towards the authorities).

The authorities shall approve the project related to PBL (compliance with the approved Local plan), and related to the technical requirements in BVL. In addition, they shall approve the pointed KA and his qualifications, and possible Experts or independent Controllers.

There are two mandatory collaborating meetings in normal projects: a) one early meeting by start of the design process, where the compliance with the approved local plan is the main issue, and b) one meeting after the building permit is issued, where the authorities primarily is defining the requirements for the control system of the client.

In this (second) meeting, the authorities and the client will discuss the complexity of the project and the client's own plan for a control system. In complex projects, the authorities will demand that the client hire a Quality Securer (KA, an independent and qualified person to perform control of matters of special interest for the authorities), and/or an expert (on special important issues).

The client may build up his control system in the way he will find suitable (and there are no normative ways to do it), but the client must verify how he will fulfill the requirements of the authorities regarding matters of public interest.

In big or complicated projects there may also be Production Collaborating Meetings to follow the development of the project.

The authorities will not give any formal approval of the client's control system. But they may claim more detailed verifications on his system, or even demand an independent Controller.

The system with these kind of meetings is regarded as good and positive. But the KA-role is complicated and debated.

4.2.10 Summing up: Different approaches

The general impression from the case study is that public building control in the nine countries differs with reference to the degree of overlapping between the public and private systems.

In Poland and the Baltic countries, they in general have both mandatory owner's supervisors, and public building control performing reel document controls and site inspections, i.e. a rather high degree of overlapping, even if the character of both types of control may differ within the group.

In the Nordic countries, they have a wider spectre of systems regarding overlapping, but in general, they have a low degree. In Norway and in Sweden, the basic principle is based on mandatory private control performed by controllers hired by the client, and as a consequence, they have none or almost none public control, i.e. a low degree of overlapping.

In Finland and in Iceland, the systems formally comprise both mandatory private control and real public control with site inspections – but in both countries, the practice does not comply with the formal system. In Finland, private controllers may perform the public control on behalf of the BC Office (but paid by the client), which may contribute to an impression of a system with primarily private control. In Iceland, the BC Office may perform the mandatory owner's supervision on behalf of the client (paid by the client, but for a very low price), which may contribute to an impression of a system with primarily public control. Formally, these countries have overlapping in their systems, but practice is undermining this, so they appear less overlapping.

In Denmark, they actually have no formal mandatory private control, but most clients have private independent controls on their own initiatives. They have public control carrying out site inspections based on dialogues. Formally, they are not overlapping, but in practice they are.

It must again be emphasized that there are severe variations within the models. Furthermore, neither of the models is superior to the other. But the different approaches all have advantages and disadvantages, as do each of the nine national systems. And this situation makes the Northern Dimension a learning laboratory. The possibility to exchange of experiences in the wide group of countries can accelerate learning and improve each of the systems in the most suitable and effective way.

As a summary, the different approaches are put together in a tabular form (Table 8).

Table 8. An overview of degree of 'overlapping' of public and private control systems

	Mandatory client control	Public site inspections
Denmark	No, (but practised voluntary)	No, but in practice (& dialogue)
Estonia	Yes	Yes
Finland	Yes (and on behalf of BC)	Yes (may be delegated to private)
Iceland	Yes (may be performed by BC)	Yes (even real control, for client)
Latvia	Yes	Yes
Lithuania	Yes	Yes
Norway	Yes	No
Poland	Yes	Yes
Sweden	Yes	No

The main characteristics of the two approaches could also be summed up in the following way:

- Strong public control at the construction site
 - May be due to culture and tradition
 - May be due to lack of competence in parts of the sector
 - Real inspections carried out by specialized inspectors (many)

- Actors' licenses may be withdrawn based on improper behavior
- Diary is mandatory in many of those countries
- Thrusting the actors and their own control
 - May be due to pressure from private parties/market economy
 - May not even visit the construction sites
 - Focus on the actors' control plans and control system
 - Should be combined with random inspections
- New trend from both sides: Independent control

4.3 Public control related to the construction process

4.3.1 *The need for public control*

History has shown a need for public ruling when individuals are about to put living quarters or other constructions on the piece of land they possess. Today it is impossible to imagine a society without legislation on the field of construction and a skilled public bureaucracy controlling how construction activities correspond with the national planning and building legislation.

In general, most of the persons involved in construction initiatives understand and respect the idea of public control, both the application element and the subsequent investigation of how the construction work is performed and completed. However, the understanding and respect from owners seems often to have evaporated when it comes to his own case, i.e. illegal behaviour occurs too often.

The illegalities may be of different kind and significance, most often related to building without application and/or approval, building different from what was approved, neglectance of technical regulations, building too high or too big area, black economy, etc. The motive seems in most cases to be profit in a longer or shorter term. This behaviour seems present in all the nine countries (but maybe with different profiles), regardless the type of public control system.

A very close, day-to-day follow-up of each and every construction case by public inspectors should theoretically eliminate the illegalities. However, the costs and other challenges by such heavy public control would be deemed unproportionately in all countries. Instead, the focus is set on responsibility and qualification of all the parties involved in the construction process, though in different degrees and ways.

The basic intention of the legislation and the way it has been operationalised through the bureaucratic structures is to define and ensure legal behaviour in the sector. However, the development of open (cross country) economies has brought another dimension into the public service on the field, i.e. to assist and serve construction initiatives (as important elements in national growth) to succeed from a commercial point of view. The chal-

challenge for any national planning and building legislation, and subsidiary administration, will be to balance all these issues.

4.3.2 Comments on the stages of the building process

In the following sub-chapters we discuss the construction process in general, as we put highlight on the main checkpoints of public control.

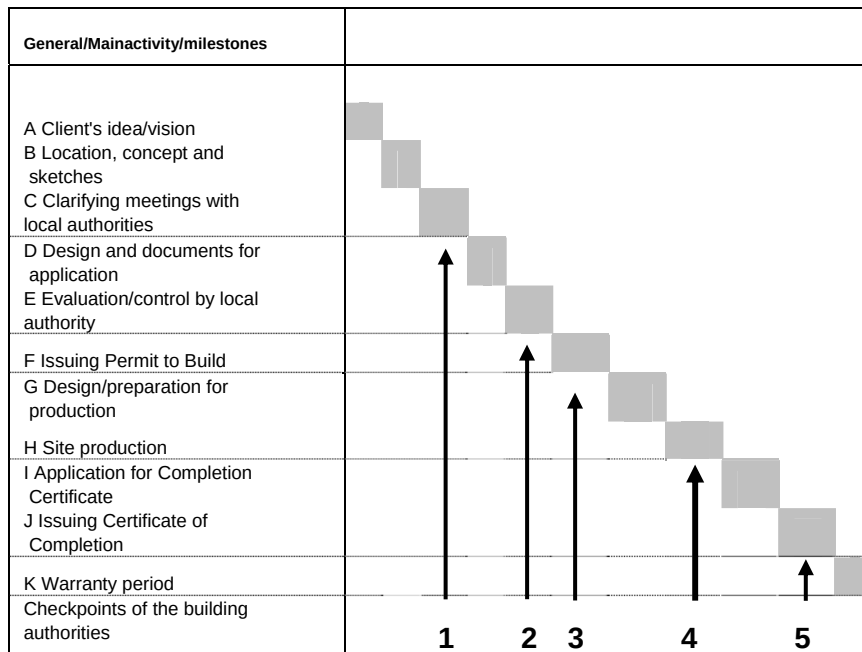
The figure (Figure 1) describes the basic elements in the building process, highlighting the stages where checkpoints for building control are most common or obvious. These checkpoints are given letters according to the schedule for the projects.

Initiative, location, concept development (Step A and B)

A construction project normally begins with an owner's idea/vision about to build something (A). During this early phase, location, ground utilisation, numbers of floors, connections to public infrastructure etc. are the predominant issues for clarification (B). In this process, where the owner normally use some few own employed or hired professional(s), he/they need to communicate with local public offices, first of all the local public planning office. This kind of communication is not part of the formal process for application for building permits.

However, this may be the case in practical life, especially in smaller municipalities, or when the project is a big, complex, prestigious or public owned object. For these types of projects it seems to exist individual designed communication and application processes in most countries.

Example: The reference project for the case study in Denmark is the huge, new, 130,000 m² building for Denmark Radio. For this project a 'Contact group', compiling owner, planning office, BC Office, and a long list of other authorities and involved parties.

Figure 1. The construction process and main public building control issues ('checkpoints')

Owner – Local BC Authority meeting (Step C)

When owners have come to a more distinct idea about what to build, possibly with some sketches and figures, they normally feel the need to discuss this with the public representatives that in due course will process (handle) the application for building permit.

In Norway this communication is formalized in the way that the law invite the owner (his representative) to ask for a meeting where the actual project idea is discussed in light of the regulatory possibilities and limitations (preapplication-consultation or preliminary conference). Among the issues of the meeting, the possible control system for the actual project normally is discussed. In Norway, minutes from this type of meeting are mandatory – and consequently constitutes the first document in a file for an upcoming application for permit to build.

In Sweden and Denmark, though slightly different, Start meetings/ Collaboration meetings are mandatory. They are scheduled to be a) one before the permit is issued with focus on design and compliance with plans and b) one right after the issuing of the building permit, focusing on production and control.

In Finland and Estonia, too, there are 'start-up meetings' at site as an early activity after issued permit. In Estonia the owner has to present all the contracts for the project in this meeting.

These types of meetings are (of course) of more practical importance for planning of big, prestigious and complex projects than for planning of a single-family-house. However, under certain conditions also small projects can benefit on such early contact with the public BC Office.

Also the BC Offices will benefit on such early contact, because of the possibilities to be informed on coming projects, and to have influence on the interpretation of the approved local plans.

Where pre-application meeting is part of the formal procedures, this can be defined as Public checkpoint no. 1, see figure 1.

Preparation for submitting the application (Step D)

Based on the general information and perception of the owner and his design team, or information gained in the pre-application meeting, the owner/his team will produce the documents underpinning the application for building permit. Most countries have guidelines for proper production of applications (how to fill in forms, which documents to attach, etc.), aiming to ease the public processing and make the waiting time for permit to build as short as possible.

We have not registered how much of the drawings and other specification for production that is claimed completed before issuing of the permission to build. This may be an interesting issue for a future investigation/discussion.

Control of application and issuing building permits (Step E and F)

The first control activity performed by the local BC Office is checking the quality of the received documents as such, i.e. all forms properly filled in, all required documents attached, etc. When this is found to be as requested, the control of the core information starts.

A main control issue is to verify that the actual project is in compliance with the Local Plan. Another main issue is control of the qualifications of involved professionals and/or companies. A third issue is compliance with technical (and other) requirements with relevance to the public. How deep the public control of technical issues are varies between the different countries.

The Baltic–Poland group of countries seems (but in different degree) to serve the projects with rather deep, professional examination of the drawings and specifications, whereas the Nordic group of countries provides a lower degree of such assistance, except for Iceland. However, in Sweden and Norway much attention is put on control of design, though by demanding the owner and designers to emphasize this themselves.

When the control of the application document is completed and compliance with the Local plan and other requirements are confirmed (Public checkpoint no. 2, see figure 1), the building permit is issued.

There are details of difference between the countries, regarding additional informations either about actors, fulfilling of technical requirements or of further design, or of the time schedule for the project.

Design for production (Step G)

The requirements given in the nine countries may differ when it comes to how complete the documentation attached to the application for permit is (drawings, calculations and other specifications).

In for example Norway permit can be issued based on rather general drawings (1:100), as long as the compliance to Local plan is indisputable. This implies that design and calculation for (the first part of) the production must be completed before start of production. In Denmark this stepwise approach is the general rule, i.e.: First the BC Office handle the concept, next the ground and fundametns, next the basic structure, etc.

For bigger projects, some countries (Latvia, Norway) have rules that allow stepwise approval of drawings for production: After having issued a general approval mainly based on control of compliance to the Local plans, the more detailed handling/control of the project is done in sequences. This enable the owner/contractors to start the ground- and foundation work when local authority still is addressing the the drawings and specifications for other parts of the construction.

It is established that a severe part of the building failures are produced during the design and engineering process. This is presumably the reason why the public control offices in some countries (still) conduct control of the drawings and calculations. The cost (and unclear responsibility) by this service have down-scaled this part of the public control. However, in the countries without very detailed public control, there are regulatory claims about written verification of project internal control, either performed by the designers and engineering companies themselves (simple constructions) or by other, project independent professionals (complex, big, prestigious constructions) – all for the cost of the owner.

Whether the public control is typical detailed examination/inspection or a typical surveilling approach (supervision by BC Office), this can be defined as Public checkpoint no. 3, see figure 1.

Site production (Step H)

As pointed out above, public (and private) control of construction activities starts long time prior to the physical operations at the construction site. Despite this, the phrase building control is by many associated with the site production.

The classical model of public control, where contractors/owners and public inspectors are conducting (more or less) overlapping control are practiced in some countries, though not as strict as it once was. This is probably mainly due to lack of capacity at public level, but also a consequence of modern thinking about suitability and effectiveness.

In the modern model there are less, or even none, public control at the construction site. To compensate for the higher degree of public absence from the site, the legislations claim the owners and/or their contractors to verify that he/they have conducted proper control. A condition for this liberty is the public authority's evaluation of the performing companies' qualification (licensed companies and/or licensed professionals), and to some extent quality audits (supervision) in companies and/or at the construction site. Regardless if the public control may be classified as classical or modern, this can be defined as Public checkpoint no. 4, see figure 1.

The modern type of public control approaches must be understood as a consequence of the quality control philosophy.

Which public control system is the most effective? This question is disputable. Both public officers and trade representatives in each country evaluate the amount of building defects to be too high. Consequently the conclusion must be that the optimal control system is not yet developed.

Certificate for completion (Step J)

When the site work is declared to be completed by the contractor(s) and the owner agrees on this, it is time for the public authority to issue the Certificate of Completion. Most often it is the BC Office that administer this important operation, though with some deviations, see 4.3.3.

The handover from the contractor(s) to the owner is a delicate step, implying transfer of rather high economical risks and legal responsibility towards the public authorities. The practice are slightly different among the nine countries. The control before issuing the completion certificate, should be defined as Public checkpoint no. 5, see figure 1.

The warranty period (Step K)

Normally, the public file for a specific construction project is closed when Completion certificate is issued. This is today common for all the nine countries. However, there are ongoing discussions in some of the countries about public surveillance performed by the BC Offices in the first few years after completion, due to the fact that much of the failures committed during the planning, design and production of a building are observed as building defects in the first years of use. To support the owner and to take care of public interests in case of irregularities, an argument in the discourse is if the construction authorities should take an active role also in these phase.

As a summing up, we have also put the control checkpoints together in a tabular form (Table 9).

Table 9. An overview of control checkpoints and central control activities.

Initiative, concept	BC also get early information – claims for investigations, interpretation of plans and more
Early meeting	Voluntary, (Mandatory in LT): Design criteria, all kind of requirements may be defined or given
Preparation of application	Contact helps the case handling, define stages
Control of application	A core activity, with checking for compliance with building regulations and more. In 3B/PL + IS: Professional control Rest: Just formal checks, but control of clients own control. FIN: BC also checking compliance of design with building regulations for safety (accordingly to design scale; 1:100).
Design for production	Gradually: In steps parallel to production
Site production	Real and regular public site inspections, Random site inspections, checking documents on site, or None
Completion certificate	Several important procedures
Warranty period	Cases closed. But some on-going initiatives to discuss public control activities also in this phase. FIN: obligation on proper maintenance/possible repair order by BC

4.3.3 Other types of public control

The public control in accordance with the building legislation in each country is not the only public control related to construction initiatives. Other laws and requirements are also affecting the construction activities.

The health and safety of workers (in all trades and industries) is intended secured by certain regulation in each of the countries, much based on the EU Directive 89/391. Specialized inspectorates/inspectors are taking care of this issues, also when it comes to the construction industry and building sites. Statistics show that construction is among the industries that causes most casualties. Visits by Health and Safety Inspectors is one of the public efforts for a safer (and better) working environment in the construction sector. However, regulation for health and safety of the completed construction is incorporated in the building regulation, in most of the modernized laws as guiding principle.

Constructions need access to public or private infrastructure (water, electricity, roads etc). For specialized work connected to this, most of the countries have separate regulations and control systems. These type of public inspections are included in the totalty of the public control of building project through logging in the Diary or similar control logging documents.

Fire is a certain topic of the building process in all countries. Aiming at preventing weak/hazardious solutions with respect to initiation and/or diffusion, and to establish effective solution with respect to escape and extinguish work, the fire authorities act as stakeholders in building cases.

This is just one example of 'other types of public control of building cases'. When addressing special types of buildings there are many others, i.e. hospitals/health-care authorities, schools/school authorities, nutrition authorities etc. The co-ordination and co-operation of the traditional public building control (the BC Offices) and all other types of public control is a challenging task. It would require another case study to make a satisfactory discussion of all this.

4.4 Control systems and practice

4.4.1 Introduction to the practice of control

The nine countries in the Northern Dimension varies widely in size and population, with Iceland as the smallest and Poland as the biggest one. These factors, and many others (culture, history, traditions, economy, political structures, etc) explain the differences in the planning and building legislations. The same factors may also explain wide variety in the structures established to administer the law, day by day.

Despite this, the similarities are obvious, both in the legislation and on an operative level. Due to continuous changes within and around any country, the planning and building legislations have been thoroughly modernized during the last two decades in most of the countries.

As shortly mentioned in 4.2.10, the general observation is that there are two different approaches to control systems, though not very consistent as such.

The one approach is found in Poland, the three Baltic countries and Iceland, and is characterised by a rather strong public control at the construction site. Due to strong growth in economy in the four countries in south, their capacity to perform this type of control (inspections) is diminishing. As a consequence of this, there are changes going on in all of these four countries, especially for practical adjustments (less site inspections, more attention to risk aspects of the project, more practical co-operation with site management, etc). Iceland intend to keep their strong public control, due to lack of competence in parts of their construction sector.

A crucial point in the Baltic countries and Poland seems to be that key functions in the project shall be licenced by the relevant professional authority (usually the trade associations). The license (personal and based on education and relevant experience) seems to be of more (economical) significance to the individuals in these countries than in the Nordic countries. To get a license withdrawn based on improper professional behaviour in a project (revealed by the inspector), does matter.

The other approach appears in the Nordic countries except Iceland, and is characterized by trusting the actors and their own control. These countries have met the pleasure and challenges of the open economy far earlier than the four others in south. When it comes to control systems, these four countries have chosen slightly different approaches, but the common principle seems to be based on the slogan let the private do what the private can, but let them prove to the BC Offices that they are doing it well. To reduce the risk by this more liberal approach, the countries emphasize requirements on the owner's control plans including obligations to verify that control has been performed according to the control plans, and the accreditation of qualification requirements of the owner's hired professionals, as for the first group.

A legal right for the public control bodies to do randomly quality audits is possible in all the countries. However, in the four countries in south, this is normally performed by the second step of control (most often county levels), as the first level of control perform ordinary site inspections. Random inspections may also comprise supervision – control of the control in all countries.

As figure 1 indicates, the public control of construction projects can be sectioned into five, or in fact three main steps (Checkpoint 1, the pre-application meeting, is not an item in the legislation of all countries, and Checkpoint 3 is an emphasizing of the finishing aspect of the public paper control before issuing the permit). In the three following sub-chapters we will discuss these three main control issues, focusing on the control on the construction site.

4.4.2 *Control of application documents (Project acceptance)*

By this, we mean the document control of the information in each application for building permits, leading to approval or rejection of the suggested utilisation of a piece of land.

The control is mainly a comparison of written information with all regulatory requirements, but can also comprise closer examination of the content of plans and drawings. This part of the control system is totally taken care of by the BC Office alone. It seems rather similar in all the countries in the Northern Dimension. Typical public control activities in this phase are:

- Checking the compliance with the local plan
- Checking if chosen solutions satisfy all technical requirements
- Checking the qualification of the persons and/or companies that are going to produce the project (in some countries this is done after permit to build is approved).
- Checking location/corners and height(s) (in some countries this is done after permit to build is approved).

However, in some countries there are some additions and deviations from the typical activities in this phase:

- Compliance with the local plan may not be sufficient: In Poland, a major part of the land area still is not covered by approved local plans. In such cases, the client has to negotiate or ask the Mayor/local authority for design criteria – and they must give an answer within 10 days.
- In case of incomplete local plans, the client must solve the parking challenge (part of the local plan, but still challenging; in Poland there are requirements on keeping up the % of bio-surface).
- Ownership/other rights to the construction plot must be verified in Poland, Lithuania and Latvia, and in Finland proof that the applicant is the titleholder of the building site.
- Taking contact with all affected owners (the surrounding lots, roads, water supply and more)
- Have acceptance for owner's supervisors and possible sub-inspectors.

In Lithuania, the first challenge is to document ownership to the site/plot, next to have the project acceptance (by the Planning office), then answer all requirements (technical, infrastructural, certification of actors) before having the Permit of construction. The process in Latvia is similar to this. In Denmark the Building Regulations require complete calculations of the structure attached to the application.

As pointed out before, there are variations in how applications are processed, and also in how the control activities are carried out, dependant on size and type of the project. These qualifications of projects seem to be more systemized in the Baltic countries, whereas such approach in the Nordic countries more or less is objects for judgements within the staff.

As examples of division in categories, we mention Latvia, where the objects are divided into three categories:

- Simple objects, exemplified by single-family houses
- Normal buildings, exemplified by multi-family houses, workplace/office buildings and other objects of public significance
- Special constructions, exemplified by objects of importance to the environment and objects of cultural heritage (and for such objects, there will also be added control by the State inspection for cultural heritage).

Lithuania, with a similar differentiation, but with following groups:

- Simple objects defined to be buildings less than 80 m².
- Normal objects are called Not important objects.
- The third group is called Important objects, which is defined as height > 30 m, span (of beams) > 12 m, and with space/area for more than 100 individuals.

Norway also has three categories. The three categories are precisely described, related to size and complexity, but just referred to as Project class 1, Project class 2 etc.

Estonia has listed similar (but still simpler) differentiation in 2 groups:

- Single family houses and
- Other projects.

In general, the main principle for approval of project documents prior to issuing of Building permits, seems to be that there are two public offices involved: An application processing office (closely connected to the planning office), and an Inspection office. The application processing by the first office also comprises close co-operation with the Inspection office.

In Sweden the Building permit doesn't allow the owner/contractor to start the works, but claims for additional permissions from other public entities, e.g. road administration, fire authorities etc.

The Diary

Registration of formalities (weather, temperature, number of workers on site, etc), key actions, decisions, incidents, accidents and other events during the production of a building is important as verification of the development of the process. The tradition with a strict system (book for day-to-day registration) is known in all nine countries.

However, it seems as if this instrument today is a far more formal instrument in the communication between the site team and the public inspector in the Baltic countries and Poland than it is in the Nordic countries. In the first group of countries, the diary is a mandatory part of the regulatory

requirements. The owner's supervisor is responsible for the establishment and use, whereas the site manager is to administer the use from day to day.

All information of importance shall be written in the diary, such as the result from measurement of compliance (signed by the site manager and others responsible for the actual work), minor changes (signed by the responsible designer), etc. The public inspector is checking and commenting the written information (OK/signature). The inspector can write questions or claims, which again the responsible actor have to respond to in due cause. The diary is one of the items/documents to be forwarded to the BC Office when completion is sought/accepted by the public authorities. Later it will rest as part of the public files as valuable source for possible recapitulation of the process for years to come.

Surveillance (supervision) of the mandatory logging in the project's diary is a part of how public control is performed in Baltic countries and Poland. It is a prominent element in the site inspection. In the Nordic countries this is a far less part of public building control today, though with Finland as an exception.

As long as there is no comparison (benchmarking) of the effect of the different approaches of public building control, it is hard to deem the one way of public control to be more suitable and/or effective than the other.

However, the concept of Diary seems to emphasize the responsibility of the different individuals in the project management, and should by this reason be evaluated as an item in any control system.

On the other hand, the concept of Control plans, which is mandatory documents in connection to the application for Building permits in Estonia, Norway and Sweden, is the other way of encouraging the owner and his professionals to produce buildings in accordance with regulations and requirements of relevance.

Which is the better approach: The check-after-produced or up-front – assurance, is dependent on many issues and for each nation to decide.

4.4.3 Control of site production

In 4.2 we have had an initial discussion of the control of the compliance between the production on site and the approved drawings/specifications. This phase (the site control phase), is where the difference between the two typical groups of countries are striking. First of all: the organisation of the control – where the Baltic countries, Poland and Iceland still are serving the projects with site inspections (to a different degree), whereas the rest of the Nordic countries rely on the private actors (though in different ways and with different success).

As stated in 4.1, we claim there are two different ways of conducting the public control on the site:

- The Baltic/Polish/Icelandic model, where specialised inspectors carry out site inspections

- The Nordic model (minus Iceland) where the building control officers are surveilling (supervising or monitoring) the private performed control activities

In practical life there are obviously degrees of overlapping between these two systems. Our observations indicate that the ongoing legislation work in the Baltic countries and Poland tends to adjust the public control systems in these countries towards models for control systems already present in the Nordic countries (more or less).

Example: In Estonia the owners of larger projects are obliged to hire independent specialist(s) to perform independent control, which also is the concept in some Nordic countries.

Our general impression is that in the Baltic countries, Poland and Iceland, the public inspectors still play a key role in the site production phase, even if there are mismatches between number of projects and number of inspectors. This reality is affecting the actual number of site visits and how the time is spent on site. But in most countries the number of inspections also is affected of how the neighbors to the construction site react on the process; i.e. complaints from neighbors – or the citizens in general – result in more frequent inspections.

Example: In Latvia, the Inspector visit the construction site normally 2–3 times during the construction period. The time is spent half on inspection of documents (the Diary) and half on inspection of the construction work (casting forms, reinforcements, measurements etc).

The Diary may be an instrument for communication between the client and the inspector – mandatory in some countries.

Example: In Latvia, the law claims that the owner's supervisor is responsible for the proper, daily reporting of progress, incidents, control actions etc. Furthermore, deviations from approved drawings have to be handled carefully through the Diary: Small changes shall be approved by the responsible designer (architect or engineering consultant) and logged by him/her. When there is a need for major changes (facades etc.), this must be communicated with the building officer prior to construction (and normally treated through a new application for Building permit).

There are differences in the practice of construction site controls between the Nordic countries as well, and these are seemingly even larger:

In Denmark, where dialogue is the key approach, the visit of the building control officers at the construction site is frequent, and their procedures are independent of the size of the object. They inspect the performance as well as the documents (logging of how the private control is conducted) – aiming at establishing a dialogue with the site management on how to succeed with the project in total.

The system in Finland is close to that of Poland and the Baltic countries, i.e. the BC Office compiles inspectors that visit the objects between 3 times

(single family houses) and 15 times (objects with high risk, technical and/or human). The frequency is defined in the mandatory start meeting between BC Office and the client/his team after issued Building permit. The public inspection can be replaced by private control, when the BC Office find this appropriate. During the visit both performed work and actual documents are addressed. The diary, however, has not same position/status as in the Baltic countries and Poland.

In Iceland the legislation claims independant control – and this is often performed by public professionals (inspectors) hired and paid for by the client (and this represent, practically speaking, a strong public control with frequent inspections at the sites).

In Norway the client initially must present his (or his professionals') quality plans as a part of the application documents. Next, in connection to the request for completion certificate, he must confirm that the control has been performed in compliance with the requirements.

In Sweden there is one mandatory meeting (of two, in total) before the site work commence, where the topic is how the control system of the client/contractor is going to be. In this meeting, the public authority may claim the client to hire a professional quality controller (quality securer, KA) to ensure that the performance complies with requirements in the legislation/Local plans. The authorities may also claim additional expertise connected to the project, if the meeting reveals the need of this. Furthermore, the client/contractor must account for how the requirements will be met (plans and procedures).

The conclusion on this prominent part of the construction process might be that the basic principle is equal: The public – by a qualified bureaucracy – want to control the performance and behaviour in the construction sector in all parts of the country, i.e. in each of the municipalities. There are significant differences in how the control is performed in different countries, and further studies could be important and interesting sources for learning more about own and others' control systems.

4.4.4 Control of the completed work

The final inspection of the compliance between the approved drawings/specifications and the completed construction work, as basis for issuing Completion certificate, is important – both for the clients and for the public authorities. Also for this part of the public control works, the systems may be divided in two typical groups (with variations). Some examples.

In Latvia the procedure for the final inspection is stated by the Cabinet of Ministers (Regulation No 299). This procedure comprises that acceptance of a structure for service is proposed by the client. When doing so, the client must submit following documents to the respective building authority:

- Confirmation of readiness of a structure for service;
- Opinions of the institutions (State Fire fighting and Rescue Service, Public Health Agency, Regional Environmental Board, State

Inspection for Heritage Protection or other authorities if they have issued technical or special regulations in accordance with the architectural and planning tasks);

- A construction design approved in accordance with specified procedures;
- The construction permit;
- Final survey of the engineering and communication systems and the opinions of the service organisations regarding the readiness of the communications provided for in the construction design;
- Documents of acceptance of the construction work log-book, and of significant constructions and hidden work;
- Examination protocols and documents of acceptance of the technological equipment, special systems and equipments, as well as confirmation of conformity if the necessity of such are determined by regulatory enactments regarding the safety equipment;
- A journal of supervision by the author if the supervision by the author is carried out during the construction work in accordance with the procedures prescribed in regulatory enactments; and
- A construction inventory file prepared by the regional office of the State Land Service.

A building's structure then is accepted for service by a commission. The Commission consists of:

- A local government building inspector (chairperson of the Commission),
- A local government architect,
- The owner or his/her authorised representative,
- The author of the construction design if there is no supervision by the author carried out in the object,
- A State building inspector if the construction is fully or partially financed from State or local government funds or if a socially significant construction or construction with a complicated engineering is to be accepted for service.

The task of the Commission is to evaluate the readiness of the structure for service. The Commission draws up a report of the acceptance of the structure for service. A responsible official of the local government approves the report signed by the Commission within five working days. The structure shall be considered as accepted for service on the day of the approval report. Following documents:

- a written declaration from the owner confirming the compliance between the produced work and the approved documentation,
- the Diary (construction log),
- as-built-drawings and specifications,

All signed by three parties (the owner's supervisor, the responsible designer and the responsible contractor), shall be in the hand of the BC Office before

the City (Municipality) Council can handle the case of a Completion certificate, based on the suggestion from BC Office. This must be in order before the owner can take the building into use.

In Poland, the client has to claim for the mandatory, final inspection based on following, dispatched information:

- As-built documents, verified with the site managers signature,
- The Diary,
- A protocol confirming the compliance at field of the technical works (El, HVAC, [...]),
- Confirming documents (from land measuring office) regarding the location of the building, including confirmation of registration in public files (Land register),
- Statements by the designers that minor changes are accepted and incorporated in the as-built drawings.

To receive the Permission to Use, the fire authority and the health and safety authority also have to approve the completed building.

Estonia has a similar rule, (and in addition, an early mandatory inspection, of ground/fundaments).

In Finland there is a claim of i) declaration of site manager about completed as designed, ii) a final inspection by the public inspector(s) before the Completion certificate may be issued.

In Iceland there are also an final inspection, together with declaration of the contractor and the designers.

In Norway, one of the seemingly most liberal countries in this context, the procedure to obtain a Completion certificate starts with the presentation of verified control plan(s) from each of the responsible professionals (general contractor, HVAC contractor, Electrical work contractor and other specialists). Next, with reference to the existence of these verified plans, the client's representative (responsible applicant) shall ask for the Completion certificate – or for Permission to provisional use if there are some minor, pending actions to be carried out soon. It is verified that more than 50% of the objects that are taken into use have no Completion certificates, or only a Preliminary certificate for use, which is much used. The Norwegian authorities have defined this as a problem.

In Sweden, the Completion certificate seems to have no importance.

4.5 Conclusions

As stated above, we believe that wide differences in size and population, together with many other factors (culture, history, traditions, economy, political structures, etc) explain rather wide differences in legislation and the structures established to administer the control systems in the nine countries in the Nordic Dimension.

The picture of two typical groups of countries regarding control systems, as discussed in 4.2.10, was expected. However, we have seen many similarities, and willingness to build on common experiences in different efforts to improve national laws.

Of course, the memberships in EU (and EEA for Iceland and Norway) are gradually affecting the legislation in all the countries, though seemingly still with the distinctive characters of each nation as predominant impression. However, the open economical system of Europe (and beyond, see for example the trade of construction materials and components), will presumably have its strong influence on the development. The driving forces at the field of construction and public control in this respect are:

- Growth in economy (increasing construction activity),
- Increasing public cost on the field of construction control,
- Recruitment to the inspector function is declining (better wages in private sector),
- Owners, general contractors and all other groups of professionals in the construction sector have established capacity to perform construction control (= quality control) to the benefit of own economies, i.e. to avoid contractual claims due to incorrect professional behaviour.

Legislations and systems have taken into account these topics and are about to establish new approaches to public control in construction, based on more distinct definition of responsibility and co-operative ideas.

4.5.1 Public control – Private control

As the quality control theory (subsequent the quality management theory) emerged through the 1970^{thies} and 1980^{thies} (ISO 9000 standards), the understanding and performance of systematic quality control in construction followed. Planning and documentation of quality control at all critical stages of the construction work, performed by the responsible supplier and followed up (supervised) by other suppliers dependent of the quality of the actual piece of work, has in general added a pyramid of supervising to the inspection that each supplier (more or less systematically) always has done on his own work.

In this ISO 9000-context, the client (the top of the pyramid), performs his control by supervising (checking) the control documents of the supplier(s) next to the top (the general contractor and possible side contractors), trusting that the given information about compliance with requirements is true.

When clients can have confidence in this pyramid control system, and when time has shown that it is a suitable and cost efficient way to keep non-conformances at a low level in general, why should not also the public control authority benefit on a such approach? The fact is that they do, in both the two typical groups of public control systems (4.2.10).

In Norway and Sweden, the public authorities are in general not even visiting the construction sites, but trust that the received, filled out and

signed control plans from the quality controller (Sweden) and the responsible suppliers (in Norway), are receipts on correct performed work. In Denmark, Finland and Iceland the practice are still containing site inspections in some ways, see 4.2.

Even in the group of countries where public control has had a stronger tradition and where the principles are public inspectors regularly on the site (Poland and the Baltic countries), it seems to be given gradually higher priority to the checking of the project log (Diary), and lower priority to the inspector's own, professional examination of the performed site work.

Trust is the core word of the contemporary way of construction control. If the construction industry don't live up to the standard established by this, i.e. the ISO 9000 quality theory, the public control system (also) will fail. The systems of Poland and the Baltic countries contain items that presumably will prevent this, as the licence for professional individuals are a quality assuring arrangement in this respect.

Some of the Nordic countries have (in different ways) developed similar arrangements to ensure that the systems will be effective, despite the reduced existence of public inspection on site, as there are some kinds of accreditation of the industry (the companies).

4.5.2 Measuring the effect of legislation and public control

The core intention of public building control is to ensure that the construction initiatives correspond to the Local plans and public interests in general. In some of the countries, the legislation states that the intention also is to keep the amount of building defects at an acceptable, low level.

Concerning the compliance with local plans and planning and requirements in general, there may be enough available information to measure and make statistics (number of conflicts, number of observed illegal behaviour, number of third party/neighbor complaints etc, etc). We have not asked specifically if this kind of statistics is established in any of the nine countries, but it has not been mentioned by anyone.

The generic amount of building defects in a country is not studied in many countries during modern time. However, in Norway and Denmark some studies are performed, showing that such kind of statistics can be developed and may assist lawmakers in their evaluations and priorities.

With no comparison (benchmarking) of the effect of the different approaches of public building control (which is a rather challenging effort), it is hard to deem the one way of public control to be more suitable and effective than the other. It might be a valuable effort in the collaboration of the Northern Dimension (as a pilot in European context) to establish some kind of benchmarking of the performance on this area.

4.5.3 Public building control – challenges and possibilities

The public authorities in each country want to control the performance and behaviour in the construction sector. Today this is performed in different

ways, probably mainly due to different historical/economical development in the countries. As long as the economy expanded slowly (i.e. the 1970^{es} in the countries of highest economical prosperity, and appr. the 2000^{es} in those countries which have experienced this more lately), there was a balance between the activity in the different construction sectors and the capacity of technical skilled inspectors in the countries. To some degree the inspectors have acted as valuable consultants to the site managements, at least as long as the buildings were less complicated than they are today.

With the economical growth, an imbalance emerged between capacity of the traditional public inspection service and the need of such (higher construction activity, reduced number of inspectors due to better paid jobs in the private sector etc). Parallel to this, the systems for private control (ISO 9000 standards) emerged too, and opened the possibility to combine the public and the private control systems to the benefit of the public budgets. Due to different national traditions, and different skills and wills in the construction industry to apply to the new regime, their legislative and operational development have taken different paths. As experience is gained in each country, the exchange of facts and thoughts between professionals can help each country to make their own system more suitable and efficient than it is today.

5. Cross-border activities

5.1 General introduction

The cross-border activity perspective is not directly connected to the rules, regulation and control items. However, cross-border activities are increasing worldwide and the situation in and between these countries are of interest. Therefore the questions of cross-border activities, hindrance etc are put forward to the representative for the local government (the building control) the central government and the trade (contractors and builders). What is written in this chapter must not be taken as representative for activities in the nations, more as an indication of interesting experiences of the respondents.

5.2 Cross-border activities – The different countries

In Denmark they only have a small number of foreign companies or subsidiaries, but these companies normally have Danish management or representatives. Therefore the local authorities in general do not see differences between these and the domestic companies, and the projects they put forward are handled in the same way as every other.

However some differences and lack of experiences in Danish craft and tradition can be observed and if these result in faults and errors, the companies/projects are followed up more closely – but this also the practise with domestic companies.

Representatives from the construction sector had both good and bad experiences with subcontractor and suppliers from a broad; problems with salary and wages, working conditions and the trade unions, but not the quality of work related to the control and building codes.

In Estonia all communication with the authorities must be in Estonian language and this is a hindrance in cross-border activities. The foreign companies often buy Estonian companies and use their staff in handling domestic local matters, the applications for building permits contact with the local authorities etc.

Estonian companies have also tried to do projects in Finland, but find it hard because of the prescriptions and regulations differ from the Estonians. They also find Finland rather protective and that they prefer Scandinavian companies. This is due to trade unions 'fighting against' the low salaries for workers from Estonia. The Estonian companies are bidding on public projects abroad due to the strong competition and low prices on private projects.

Finland has some negative experiences with foreign contractors, builders and workers. They are regarded as less structured, neglecting safety at work, often operating in the black market. The trade organisations in Finland try to

stop this activity, which is performed by small companies. The larger foreign companies behave and run their activities similar to the domestic companies. Some of the large Scandinavian/Swedish companies like Skanska, NCC operate in Finland, but with domestic management and workforce.

Finland lost skilled managers and many skilled workers in the recession after the perestroika in the Soviet Union and the reduction of the export activities. Now, however, both Finland and Russia experience a building boom with shortage of skilled workers. Finish craftsmen take jobs in Russia for better salaries. In general, Finish companies and workers look to the East, not to the West, nor to the Baltic countries.

In Finland the language and culture also hinder cross-border activity from foreign companies. Therefore they hire Finish people in key positions. It is done in the same way for Finish companies in Russia.

Small companies coming from the Baltic countries and Poland have problems with the language and culture differences, communication and quality of work. Now the companies are arranging language courses and the problems are decreasing.

Finland tries to reduce the activity in the black market. Introduction of ID-card for workers and management in building projects in collaboration with the tax authorities is one effort. However, the demand for works still makes this a problem.

Cross-border activities for the Icelandic companies are not significant. There have been some activity in Hungary, and in the same way as for the other nations, they hire local expertise when applying for permissions and when contacting authorities.

Icelandic companies also have had projects in Germany, Denmark and China, using the same approach.

No foreign construction companies are active in Iceland for the time being. Foreign designers and consultants are doing some projects for Icelandic clients, but they also hire local expertise due to the demand for experience and authorisation with the necessary approvals in Iceland. To be a site manager, minimum 3 years of practice within the construction sector in Iceland is needed in addition to the 'ordinary' qualification requirements. These personnel are in contact with local authorities, making the building permits etc.

95% of the building activity in Latvia is performed by Latvian companies. There are only a few foreign companies. It is more common with foreign workers in Latvian companies.

The few foreign companies use local people in contact with the authorities – using the Latvian language. English is a kind of foreign 'façade' while the real communication is in Latvian. Some of the foreign companies have also problems with the 'two-step' building permits concept.

The foreign companies mainly come from Scandinavia and are competing for public contracts, roads and buildings.

The Latvian language is used in descriptions, bill of quantities etc., in the application and in communication with the authorities – and will not be changed.

Latvian companies have also tried to go into Scandinavia, with the level of cost and salary as a competition advantage. But they meet hindrance in the trade agreements which are used by the trade unions to block the access (accused for social dumping). Once, a Latvian company took this to court in Brussels and won the case – but the expenses made the company bankrupt.

The companies are gaining experience and skill when going abroad, to the benefit of the Latvian construction and building sector when coming back.

The language is one of the major problems for foreign companies in Lithuania. It seems that the will to learn the language not always are present. If the companies come from EU-countries (and EEA) and have necessary domestic qualifications, they may work in Lithuania with no additional approvals. But coming from countries like Belarus, Ukraine etc., they must have Lithuanian approvals.

Some Lithuanian companies go abroad particularly to Russia, where they construction market is good, but also to Latvia and Belarus.

However, the market in Lithuania is also good (a building boom) so there is no need for going abroad. The few companies going abroad often have high and specialised qualifications. For these companies the foreign language may be a problem – but they handle this by using English.

Lithuania have had national growth rate of roughly 20 % a year – the normal earlier was 5 to 6 %. It is still difficult to accomplish construction work, due to lack of capacity.

The qualification of the workers was a problem – but this is now being better.

Foreign companies operating in Lithuania do not represent particular problems.

You don't meet many foreign companies in building and ordinary civil engineering projects in Norway. But there are a lot of foreign workers, some ten thousands. Without this workforce lot of construction works in Norway could not be accomplished. The foreigners are spread all over the country.

There have been some problems with products like prefabricated modules etc. followed by assembly operators which do not have the adequate knowledge in Norwegian regulations and practise.

Most foreigners in Norway come from Sweden (and Denmark) with small or no cultural and language problems. For other foreigners, people from Finland in the 1990th and Poland the last 4 – 5 years, the language may be a challenge. But due to the long tradition with foreign companies in off-shore activities, English is used and understood by both in the trade and by the authorities.

Norway also has problems with social dumping and black labour. Some of the work done with foreign black labourers are done with lack of knowledge or in a simple and easy way, and now has to be repaired, redone with heavy loss for the clients/employers.

A lot of the companies both consultants and contractors in Norway are subsidiaries or part of Swedish companies. Therefore the projects are done with local staff and workforce. Some time foreign companies ask why lo-

cal/national and not international standards are used, but this is gradually changed now due to EU and international harmonisation. In Norway this is done to open for import and export of goods, companies and expertise/craftsmen.

In Poland an increasing number of foreign companies are operating in construction and building. They mostly come from Ukraine, Belarus and China. The building boom in Poland continues, with great demand for construction and building capacity. With this demand, the Polish companies and workforce returning to Poland – more skilled and better trained. This also leads to higher prices and demand for loans and credit. Leaseholders and tenants (ordinary people) more often have problems with the rent, and the credit institutions now have restrictions on loans.

Some of the Polish companies turn to Russia and Ukraine, with even a better market than the Polish. Poland also experiences problems with ‘social dumping’ from the Chinese companies...

The local government and inspectors do not experience differences between large domestic and large foreign companies. They all have quality systems and skilled management. The smaller companies more often have problems with fulfilling the contracts and demands in laws and regulations.

The clients will have penalty fees if there are found deviations in the final inspections – and they will also suffer ‘contractual penalty fees’. The clients will often resist paying the final fee if major deviations are discovered.

In case of severe conflicts with foreign companies involved, Polish experts are used and/or with professional translation into English.

Sweden also experienced a large foreign workforce more than foreign companies. However, foreign companies use Swedish site management and -staff in key positions.

The Quality Advisor hired by the client is responsible towards the authorities – and the authorities only relate to them. In case of foreign companies, the companies don't even meet at the collaborating meetings.

Some difficulties can occur when a foreign client expects that the legislation and praxis in Sweden is similar to those in his homeland.

These are some of the common challenges with foreign companies:

- They lack knowledge in the Swedish legislation system and regulations.
- Language can be a problem – and special construction terms.
- Different technical requirements, when these differ from general EU requirements.

In general, there are no problems for Swedish companies to go abroad. Both the large and smaller companies (consultants and subcontractors) often accomplish projects outside Sweden. If necessary they hire qualified staff in the actual country to handle all contact with the authorities, the same way as foreign companies operate in Sweden. The difficult part is the planning and the design process – including all contacts with local operators and actors, public processes etc. In these matters local knowledge is required.

Private clients do not often buy from foreign companies – they prefer companies they know.

Public clients are obliged to have a competition with announcement abroad.

But in any case, the chosen model for the enterprises will have greater impact on the relations between the actors and the authorities: The clients will have different types of power to perform management in different enterprise models, but the client will have the complete responsibility towards the authorities in all cases.

5.3 Cross-border activities – Summary

The countries do not report severe problems with the companies and firms coming from abroad. The foreigners either know the legislation, language and tradition, or hire skilled local management and staff.

Some of the countries have experienced problems with social dumping, but this is mainly sorted out on the salaries and working conditions adjusted to the local conditions. Foreigners working in the black market have been and still are a challenge.

Workers crossing the border have been and still are common and very important for the demand for work/workers in the Scandinavian and European construction industry and later also in Russia.

The planning and building legislations are domestic oriented and not adapted to cross border activities. However, the activities the last decade confirm this is no severe problem.

Both the authorities and the professionals report no differences between domestic and foreign larger companies in their way of operation. Smaller companies may have problems with adapting domestic rules, regulations and traditions.

The language however, summarise as the main hindrance for cross-border activity. But English are more commonly used, even though so far not in applications and communication with the authorities.

Some nations report problems with the skills and experiences of the workers from the former East European/Soviet Union, but this has now been normalised.

Cross-border activities between the countries in Scandinavia have been common practice from the 1990th and onward, particularly in Norway, but now Poland has a large workforce in Norway.

The trade unions have been sceptic to cross-border activity and using union membership etc. as a hindrance. However, the working conditions, salaries etc. now are being harmonised.

After being some years abroad, the craftsmen return to their homeland more skilled and experienced, adding knowledge to the domestic trade.

6. Further development of the Building Legislation

6.1 General introduction

The Steering Group was interested in some comments on the current legislations and on the directions of on-going processes for development of the legislations. Based on this request, the case study on control systems also comprised questions aiming at getting hold of the informants' views on the current legislation.

What is written in this chapter must then not be taken as representative views of the nations, but may be regarded more as indications of opinions on the current legislation.

6.2 Views on current legislation

6.2.1 *The views in each country*

The views on the current legislations are then not based on big surveys nor on a representative selection of interview objects, but are based on additional questions in the case study. For this reason, the views will not be representative for all municipalities or parts of the construction sectors, but may only give indications on general views. However, in case of largely compliance in views among the informants in the same country, we may assume that this is rather representative views. In case of deviations between the informants from the same country, we will only have indications on issues that ought to be debated.

Denmark

The best part of the system of today is held to be the 'dialogue-based' principle. The Building Control Offices point out that the dialogue based systems makes it possible for them to be a 'positive office': to show tolerance, to discuss and agree, and to be flexible. They "feel themselves wanted", and this makes the BC Offices to an attractive place to work.

The construction sector also appreciates the dialogue-based system, and they state that by this, the BC Offices are adding value to the projects, and the sector considers the BC Offices to be a 'positive force'. They also regard the system to be good and to have a high efficiency.

Both parties comment that a system based on positive tools is working well for the clever ones, and for the big ones.

On the other hand: The BC Office comments as a weak point of the same dialogue-based system, that difficult situations may occur if/when errors are discovered. Then they have to use formal arguments, and that is difficult when all dialogue till then has been based on positive communication.

The system is also difficult when to actors does not want the dialogue. The BC Office misses clearer and better possibilities for sanctions. They ought to consider irregularities as police matters, but as such, they take too long time to handle.

According to the opinion of the construction sector, the system makes it difficult to get the completion certificates, especially the permanent ones, because improvements always could be possible. And there are no time limits in handling of cases by the BC office.

Estonia

The construction sector regard the focus on the actors' competence as good, and points out that the license system is good for stimulation of better education in the building sector.

But both the BC Office and the construction sector also see some problems related to the focus on actors. There is now a confusion of roles between clients/owners and construction companies/developers, likewise between developers and the controlling bodies. This is a problem leading to a situation where the client finds the cheapest way to get the control done (which again leads to less strict control and to lower quality). In addition, the owner/client and the controller/supervisor sometimes is the same person, and then the control is too weak – the client may sometimes have economical interests in not having high quality.

Independent control is then a matter of discussion. The BC Office hopes for a new law where they can demand independent control also of the client's responsibilities. And this view is shared by the construction sector, which also want the authorities to carry out stronger control, or have stronger requirements for independency of the 'owner's supervisor'.

The sector also ask for more strict and more often use of sanctions from the authorities. If a building structure now collapses, the responsibility is on the client, and only by him, but the sector wants the authorities to have some more responsibility in such cases. They want a new discussion about the distribution of responsibilities., and they then also want the responsibility of the designers to be discussed.

The BC Office also hopes for a control system which does not differ between different types of buildings, to simplify the handling procedures.

Today, the authorities are not controlling the physical requirements in design – they only control if the licenses are OK, if the planned procedures are OK, and checks the documentation/the diary. But the design and the product are not controlled. The building permit relates to the approved local plan, and (theoretically) to the technical requirements, but the sector thinks that also the 'products' should be controlled better.

In general, the construction sector regards the control system to be a weak part of the legislation, even if they regard parts of the system to be

good. But some of the actors do not understand the system clearly. And they want the clients to check the references and the licenses on the companies (not only the persons) they want to hire, before they do so – this may be done very quickly at internet, but it is not mandatory today.

Finland

In Finland it is the same BC office handling building applications and controlling construction on the site, so sometimes even same person in smaller organisations! So there are no breaks on the data transmission between permit- and construction procedures.

The BC office has already in the approval phase focus on fulfillment of the technical requirements. This is also regarded as good by the sector.

The construction sector also appreciates the inspection meetings and the demands for photo documentation as a part of the control system, and point out that this also works as education for the actors.

When asked about the weak parts of the legislation, both the BC Office and the construction sector first mention conditions related to the requirements on actors.

The BC Office would prefer the licenses to be mandatory for both designers and workers, and public – not voluntary. They explain the current situation by high resistance on making this mandatory due to the tradition of self-builders, but see that the system today is too weak on the possibilities to exclude bad actors even if there are too many faults and errors related to lack of competence on the construction workers.

The construction sector also wants the certifications to be mandatory. They use the membership in voluntary organizations (RALA/FISE) in PR-work, and with a mandatory system with possibilities to withdraw the licenses this could work better. They also find it unfair that foreign companies don't need memberships, and that the lowest-bidder-system is not valuating their workplace security and their competence.

The sector wants high quality as a better reason for getting projects – and they see that private clients now use this more than public clients. But in spite of much focus on quality control, there are lots of errors – this may be caused by: a) foreign workers, b) small companies with low skills, c) the system with lowest bidders.

As obstacles for the construction sector today, they also point out issues also related to the planning system: Too many possibilities for neighbours and others to complain even on old cases, a lack of prepared plans of construction sites (especially close to Helsinki), and that building costs are increasing too rapidly due to steadily increasing ambitions in the technical requirements. They would like simplifications.

On the other hand, the BC Office regards the possibilities to use sanctions as too weak. Today, the BC Office can only threaten with 'enforcements' – but penalty fees are a police matter.

In addition, the sector wants focus on the practice of the municipalities. All the building legislation, prescriptions and guidelines are clear and gen-

eral. But the municipalities may adapt different prescriptions due to local democracy, and these will then vary between the municipalities. Such different rules are regarded as a problem, as many companies work in several municipalities. They think this is linked to the system of 'function-based requirements' – which may not be clear enough. These variations also comprise the way they adapt new directives from EU. The variations between the municipalities lead to very different requirements for the documentation – they have to do it in different ways.

The lack of competence of the public officers in the BC offices in small municipalities is also regarded as a problem. They lack the competence to give instructions, and to judge technical solutions. The clients must have building permits to start all building, even for summer cottages, and the sector agrees on the principle that the technical solutions should be discussed before building permit is issued, but then the BC offices must have better systems for using the competence of others if they don't have it themselves. The handling procedures may also take too much time in some municipalities.

Iceland

The best part of the legislation today is regarded by both construction sector and authorities to be the strong public control, with many physical inspections on construction sites and also a thorough document control.

The strong public control is especially regarded as good for the small construction companies not having sufficient competence themselves. The construction sector also comments that the system with public control is economically good for the clients – even if they get a bill from the authorities, this is cheaper than the real costs. The system seems to be working effectively, but the sector questions if they really find all errors.

The weak part of the legislation today is also regarded to be the strong public control. The system demands many resources and public officers, and it is difficult to secure good control on all subjects not being at the construction site almost every day. The public officers may be present 1–2 hours at each inspection – their possibilities to discover errors are limited. If errors occur, the client will have to pay anyway. To have good systems for client's own control will then be in the client's own interest.

Because of that, the construction sector would like a system based on private control performed by independent controllers (paid by the client). But this needs to be complimented by strong public supervision – they think just owner's control without public supervision will not work.

Latvia

The BC Office pointed out the strict concept of the control system to be the best part of the legislation. The BC offices have possibilities to check at any time and any aspect they want and to give instructions to the owner's supervisor – and every part of the process is open and on display. The Diary is the main tool for this, and also the final documentation. When all involved parties do as they are supposed to, and keep the Diary in order, the system works well (and this is for the majority). The Diary also makes communica-

tion/information easy on the construction site, since every aspect should be written down in the Diary – and this is open to all.

However, the BC Office do not have capacity to perform inspections on site more than 2–3 times per project, and the construction sector reports on many errors, in spite of the control systems. But the BC Office point out that even if all documents are well prepared, there may be hidden defects, and the actors must take this responsibility on them.

The system also refer to expert specialists as a part of the quality system of the legislation, but the construction sector finds that there is a lack of such specialists (even if ca 8.700 such certificates are listed).

The construction sector reports on developers who wants easy money/profit/lowest bidders, and that these actors destroy the reputation for the rest of the construction sector. The sector then opposes to the lowest bidder-obligations. In addition, they would like a guarantee/warrant period for a longer period than today, to focus on quality.

Lithuania

As a strong point of the legislation, the BC Office at the country level point out that the new amendments with the statement that illegally built constructions shall be demolished, is good – and that it is no longer possible to make illegally built constructions legal postponed.

The qualification requirements of the heads of important roles in the building process is also a good part of the legislation, but the construction sector point out that the educational system should be improved. Today, lack of competence on new solutions (isolation, energy-directive, noise protection etc.) is a problem.

In addition, the EU-directives are approved, but not implemented. They then have no certified system in the market (for energy etc.), but still the result/output shall be measured before the construction company gets a certificate that the building is OK – this may be a problem.

Low salaries in the construction sector is pointed out as a problem both by the public and private sectors. The private sector point out that the Owner's supervisor does not always work very thoroughly because of too low salary for this kind of job. This may rely on the owners, who often do not see the value of a good control system (and that this is in their own economical interest), and the problem is most often related to 'not important' buildings, because these tasks are more obvious important in bigger projects. Low salaries to the public officers/inspectors leads to a situation where the clever people go to private sector, or they go abroad. Better salaries could increase the number of inspectors, and this could meet the main problem. Today, the inspectors have good qualifications, but the number is not satisfactory.

The State Inspectorate also regard the balance between the state level and the county level within the Inspectorate as not good. The State Inspectorate has no strong tools and not enough power – they can only speak to the counties.

Norway

The positive aspects of the current system pointed out by the BC Office, is that responsibilities are laid on the actors – and the big/professional actors now know the requirements and act according to that. The clients hire competent persons, and they emphasize claims given in contract documents – this gives the client better legal ways to control the actors. Seen from the BC Offices, this leads to a better situation when it comes to use of their resources.

However, the system of requirements of the projects may not work perfect. This may be related to the functional based requirements, combined with insufficient guidelines or pre-accepted solutions – this may be a problem for critical elements as fire protection, but more common related to functional requirements and universal design and usability. The municipal BC Offices do not have the competence to evaluate proposed solutions, but have no tools to demand other solutions.

In such cases, it happens that not even central authorities can help in evaluating the solutions. This leads to a situation where big actors may dictate the solutions even if the BC Office suspect that the solutions are not fulfilling the requirements. And further on, this may have impact on the safety and protection of properties for third parties.

Poland

The BC Office regards the strong control system as efficient, related to the number of people and money spent, and amount of much control work performed. But they also state that with more money, they could have been even better, and then even the developers could see that good control also would be to their benefit.

The BC Office also feels that they are needed. They see that a large number of neighbors and other citizens come to them, having great faith and confidence in them and the public control system.

But at the same time, this aspect is also pointed out as the difficult part seen from the construction sector: Getting a Building Permit may take *very* long time – especially if there are any complaints from neighbors.

The BC Office suffers under lack of people in their offices/Inspectorates, and claim that they cannot compete in salaries. The lack is related to the number of officers, not the quality of the working inspectors. The new graduates now go private after seeing the complexity of the tasks compared to the salaries in the public offices.

But also the private sector points out lack of qualified engineers as a problem. They need people with good qualifications to perform good site management, economy management and supervision located on-site, but such people are not easy to find.

As private developer, our informant hires these important supervisors by quality – not by price. If they do a poor job, they will have their reputation destroyed, and they will have difficulties with having new jobs – but public must hire those by price, and then they may have a problem.

Developers focusing on high quality should pay better for good skills, as they regard this more important for high quality than paper control systems. The site manager relates to ISO etc., but they do not think this system is very good because of the amount of paper work related to the (little) effect on the performed work.

The control system may be a good support for the developers/investor – but according to the private sector, the public building control is not to any help for discovering defects. This must be done by the owner's supervisor – as the person being on site.

Sweden

Both the BC Office and the construction sector are considering the system with mandatory collaborating meetings is very good. The sector points out the positive aspects of the obligations to talk to the authorities (even if this is working best for clever actors wanting show-off), and the BC Office points out that since the client will have to pay for each meeting, this part of the system also has enough resources.

In addition, the complete responsibility of the Client is regarded as a clear and strong principle.

But the role of the Quality Securer (KA) is rather unclear. He does not know the project well enough to secure any quality, nor does he have a real chance to take care of any responsibilities – and the client has the formal responsibility. KA is then just a person sorting out paper-work, maybe sitting in another city, but having some formal responsibilities.

The complete legislation system is regarded too complicated by both the public and the private informants. The construction sector points out that it is difficult to understand; especially when you can get a building permit but still are not allowed to start your construction works because you don't have approvals from other authorities.

This is also pointed out by the BC Office: Today there are two ways into the systems for building applications and permits – two systems regulated by two separate laws – the PBA and the BVL (on more specific technical matters). The public informants actually wanted back the system where they should only relate to PBA (that means to one law and one system).

The BC Offices also regret that they today not actually perform supervision or any kind of inspections on site. In addition, they do not have enough resources to carry out what they think is needed of other control activities, and cannot claim fees to increase the resources.

Both public and private informants point at the weak position and low status of the completion certificates as a problem – and these are even voluntary by law. Making them mandatory would support the clever and serious actors – but the informants know of some resistance to such a proposal.

6.2.2 A summary of the views on current legislations

In all the countries, both public and private sectors have been informants on views on the current legislations. The first remarkable aspect, is the agree-

ment in the views within each country. Both parties in each country in general focus on the same aspects of their legislation – especially regarding strong aspects, but also regarding weak aspects.

The only place where different views on important matters were reported was in Poland, where the views on strong public control differed between the public and private parties.

In general, the aspects of the legislation that had been focused during the most important periods of the development of the legislations, also were regarded as the strongest aspects in the different countries.

Where the legislation was based on mandatory dialogue as one of the most important parts of the legislation, this was also regarded as the strongest part of it – valid for Denmark, Sweden and Finland.

Where the basic concept of the legislation was strong public control systems, this was in general also regarded as the strongest parts – valid for Iceland and Latvia, but maybe more debated in Poland.

Where requirements and responsibilities/competences of the actors were the focused parts of the legislations, these aspects also were regarded as the strongest parts – valid for Estonia, Lithuania and Norway.

However, the views on the weaker parts of the legislations displayed a wider range of comments and even motives.

From the initial views on the strongest parts of the legislations, the weak parts of the legislations where improvements were wanted could be: either a) a request for improvements of the parts not being in focus (better complementary tools); for example a wish for strong public control where system was based on dialogue, etc.; or b) a request for even better support of the already strong parts (more of the same medicine), by pointing out weaknesses of the strong aspects or proposals for improvements of these already focused parts.

And in all countries, elements of all these three mentioned major focus-areas are present, and the comments on improvements will then most often cover more than one aspect.

In fact, in the majority of the countries (in six out of nine), the informants were holding the view that improvements basically should be (b): more of the same medicine – but sometimes with additional elements.

In all the three countries with highest focus on requirements and on responsibilities/competence of the actors, the informants wanted improvements of their systems that could support this basic idea.

As basic parts of the legislation in Lithuania focus on persons, the comments were also related to persons; the informants wanted better education and better salaries. However, these issues are not a part of the legislation, only related to the construction sector in real life. But they also mentioned better systems for the technical requirements, and this issue is related to the legislation.

In both Estonia and in Norway, requirements on project and actors also are focus-areas. And in both these countries, they focus on improvements in these fields – combined with improvements of the control systems. In Estonia, they want better clarifications between the roles, and independent pri-

vate control with focus on competence on this independent controller. In Norway, they point out possible improvements of the technical requirements – but as for Estonia: combined with better and independent control.

In two of the three countries with focus on strong public control, the informants wanted that further development of the legislation should be based on the same principles, and also two of the three countries are working on new laws.

In Latvia, their comments focused on the possibilities for the public officers to perform the control tasks better – by better resources. But as additional element, they wanted large improvements of the requirement systems – both on the projects and on the actors, and related to this: also better systems for education.

In Iceland, they are working on new legislations – see pt 6.3 below. The informants there want the new legislations to be based on the same basic principles – still a strong public control.

In Poland, the views of the informants differ a bit more, especially regarding the need and efficiency of the strong public control. In any case, they wanted improvements of the requirement systems, as for Latvia. Here, they are also working on a new legislation – see pt. 6.3.

In the three countries with focus on dialogue-based systems, the informants in only one of the countries mainly wanted more of the same medicine, while in the two other countries they focused on better complementary tools.

In Denmark, the informants wanted the dialogue-based system to be enforced by combining with better sanction tools in case of actors who actually did not want this dialogue, or in case of revealed irregularities.

In Finland, the informants pointed out a need for better requirement systems on both projects and actors.

In Sweden, the informants wanted to keep parts of the dialogue-based concept, but actually, they primarily wanted a completely new legislation – they regarded their current legislation to be too complicated.

In at least two of the countries (Finland, Norway and maybe Sweden), the functional based requirements on buildings seems to be a challenge. The evaluation of solutions proposed by developers in small municipalities represents a task where they do not have sufficient skills and capacities. In fact, the informants wanted back a system with a larger number of pre-accepted solutions.

In some of the countries, the comments were related to issues not being a part of the building legislations; improvements of education systems, capacity at the BC Office, salaries, lowest bidder-system, structure and power of municipalities and more. These aspects will not be commented further here.

6.3 Development of the legislation – main directions

6.3.1 General comments on 'up-dating'

The comments on further development of the building legislations are mainly based on interviews with public officers at the ministries levels. However, information about documents not yet made public available could not be presented. This part of the chapter may then for many of the countries only describe initiatives and on-going processes, not the actual content of these processes.

According to the Steering Group, this report also should comprise updating of the legislations since the two earlier reports were published (2004 and 2008).

For the three Baltic countries and Poland, the last report was finished half a year ago, and there has not been any major changes or revisions since this report was published. However, there has been some minor amendments, and these are integrated in the descriptions before.

For the five Nordic countries, there could have been possibilities for more changes – and there have been some revisions. But less than expected, since many of those countries are working on new laws or major revisions not yet published or approved by the authorities.

For some of the countries working on the legislations, we have received a lot of information. But since this is not yet debated by the politicians nor approved, we here just comment the focus-area and main directions, we do not describe the new proposals in detail.

6.3.2 On-going processes – Development in each country

Denmark

The most important amendment of the legislation the last five years has been the law on mandatory insurance to cover the costs of faults and errors if third party or his estate is injured.

Parallel to the development of the legislation, they are working on several levels to improve the quality in built environment – through better education, guidelines and more.

In addition, they focus on more flexibility in handling procedures.

Estonia

The ministry is now working on the final draft for a new proposal for amendments of the current legislation, but this will only comprise corrections to the existing legislation, mainly to make some clarifications and get a better structure of the text.

There are the on-going processes aiming at better interaction between the planning and the building legislations, and between these legislations and other legislations.

There are also on-going processes with focus on a wide spectrum of amendments to improve the distribution of the responsibilities of the roles in the build process – especially between the client and his supervisor, but also on certification systems and certification registers, abuse of the system, and implementing of EU-directives – in sum, requirements on projects and actors.

In these on-going processes, they look a bit to Finland and the rest of Scandinavia, but there is no co-operation with the other Baltic countries.

The Ministry hopes for a discussion in the Parliament the autumn-08 or the spring-09.

Finland

In general, the system has not been changes much the last years. But they adopted some amendments in 2007, even if these were mainly technical prescriptions.

They now prepare for changes in 2008, with a wider scope of functional and technical requirements and prescriptions, related to handling procedures with electronically handling (and electronically communications) of building applications and simplifications, on technical requirements as consequences of new EU-directives (energy and more), and on functional requirements as universal design.

They also want to make some clarifications between the responsibilities of the actors within the private sector.

They also want to strengthen the building control by having annual inspections of risky buildings (first voluntary), and by stimulating use of private controllers in addition to the public control performed by the BC offices. But a major change in strengthening the building control, will be to introduce simplifications in the administration and big-municipalities where the competence of the public officers could serve a wider area as a pool of specialized public officers.

They have had focus on maintenance already since the last new Building Act of 2000. Since then, they have published a bestseller-book on maintenance of normal houses, and they have several on-going processes to improve this focus-area.

Iceland

In Iceland, the Ministry is just going to announce a proposal for a new Planning and Building Act. They propose a splitting of the legislation – from one Planning and building act to two separate laws: One Planning Act and one Building Act.

In addition, they want to reorganize the administration of the construction sector, by establishing a kind of new directorate with the responsibility for safety, requirements, research, market surveillance and approvals of solutions connected to the construction sector.

On a local level, there will be a common committee for planning and building in the big-municipalities, but the BC Offices will remain based on the existing system – even if there will be minor adjustments.

However, they have registered some municipal resistance to the new proposals – regarding both the splitting of the laws and on this new institute. The resistance may be related to an on-going process with re-organizing of the municipal sector into bigger units.

Regarding approval of actors, they will also put forward new proposals. They already have established a formal Register on designers, but in the proposal, they want competence requirements on several more actors, and then the register also must comprise those actors (site manager, master builder, owner's supervisor and more). The Site Manager cannot be a part of the design team or construction team – he must be hired directly by the client and represent him.

Latvia

The development of the legislation since 1995 has focused on converting the earlier Soviet SNIP's gradually into Latvian Building Codes, and now this process is completed. Parallel to this, they also had to implement EU directives, as the national codes must not be in conflict with EU legislation – even if there still are requirements not in compliance with the EU standards. This will be completed before 2010.

Now, they are working on coming amendments regarding more general aspects of the legislation. The next amendments will focus on:

- More responsibility to the client/private actors, also for control,
- Better public control with production of single family houses,
- Simplifications of the legislation and handling procedures,
- In general: seeking inspiration from Scandinavian countries, more than Germany or the other Baltic countries.

According to their current legislation, the client has complete liability towards the authorities. Now, the Ministry want to involve other persons more directly in formal responsibilities, especially related to the process of issuing completion certificates.

Co-ordination between different authorities is a challenge they are working on. Caravans used as permanent houses also represent a challenge they focus on.

The Builders' Association want to have focus on better education of specialists on all levels, followed by more responsibilities on the actors.

Lithuania

There has been one major revision of the Building Act since the last report was written. At that time, it was possible to build illegal and then make it legal postponed – now this is made impossible. In addition, now the authorities may even demand an illegal built construction demolished.

Except for this, the development of the legislation the last year have mainly focused on improvements of the technical requirements/civil codes/EU-codes, and simplifications of procedures for small buildings.

Related to the building legislation, the law on 'farmer's land' also has been changed, in the direction of making it easier to build on agricultural land for tourist purposes, aiming at giving the farmers better income. But the Ministry already see risks of abuse of this just for building houses.

In Lithuania, there are now on-going processes on the control system and on the sanction possibilities. The new Minister wants to restrict the control system, and make it easier to punish better. The weak part of the control system of today, is the possibilities to 'go around' the system. Some of these possibilities are mentioned already, but there are others as well – and the changes will aim at stopping illegal building activities. An other part of the control system that will be looked closer on, is the impact of complaints, and handling of those.

They also focus on the administrative structures, to get a better power balance between the different levels of administrations, especially regarding the Building Inspectorates and the control issues.

In addition to processes on the development of the building legislation aiming at improvements of the built environment, there is an on-going process to improve the certification system, aiming at better control on black market, social dumping (mainly by worker/companies from China, but also possibly from Belarus and Ukraine), and taxes in general.

Norway

In a revision of the building legislation in 2003, time limits 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.

There has also been implemented legislation (in 2006) concerning restrictions and clarifications regarding developmental agreement and improved co-ordination between the planning specifications and the building project.

In the further revision work on planning and building legislation, there is new legislation concerning the planning hierarchy, aiming at better binding between the planning levels.

For the building part of this legislation, there is an on-going process on a major revision, with a proposition which has been passed to the Parliament by the government, and which is expected to be passed by the Parliament during spring 2009 and put into force in 2010. This revision will focus on the control system, as an important element to improve the quality of buildings. The revision will also comprise further simplifications and better efficiency in the handling of building applications, and focus on maintenance.

However, the changes of the control system is the most important part of this revision, and the direction of this will be to focus on requirements for independent private control – not a system based on the actors' own internal control of own work and signed control plans, as today. The possible sanctions related to a new control system are still debated, and the criteria for being 'independent' may need clarifications.

Poland

There has been no major renewals of the building legislation the last two years, but there has been a number of small changes in the direction of simplifications. In addition, there are on-going processes on implementing the new EU-directives.

The most important on-going process, is a major revision of the planning part of the legislation, aiming at better co-ordination between the planning legislation and other legislation related to physical planning. They also want to improve the planning legislation regarding their obligations to provide conditions for building activities. Today, they miss local plans, but they have comprehensive plans in most districts.

A proposal for simplifications of the handling procedures for building permits has been forwarded, but has not yet been approved.

A major challenge is a need for more building activities, especially on the housing sector, where urgent lack of houses is a problem. Due to this, there has been focus on ways to make it easier to invest in construction projects. To increase the speed in building of houses, they will need both foreign companies and own companies in the market, and also increase use of PPP contracts. Funding is then also a challenge.

To meet these challenge, they want to make it easier to get building permits (they would only need compliance with draft plans, not approved plans), by simplifications of the procedures and on the requirements – and rely on the competence of the designers/actors to a greater extent (by stronger control of licenses and more), to keep the project compliant with all requirements.

The construction sector is maybe a bit worried that the simplifications and the eager to encourage construction activities may go a bit too far; that the market will be opened for more speculative developers.

However, the law on competition makes it more difficult for public clients to purchase for public procurement with simplified procedures.

There are also on-going processes on improvements of self-governance in the regions/districts.

They look to Denmark as model for their changes, but they regard the German legislation to be more similar to the Polish one today.

Sweden

There was a major revision of the planning and building legislation in 2003, and they are now working on a new revision. The Ministry had hoped to put this forward in the spring–08, but due to several complicated issues related to the new proposals, they are delayed.

One of the intentions of this revision is to strengthen the system for the control system, by major changes. But because of the complexity of the issues, the Ministry cannot give further information about the content of the coming proposals. But in principal, they think that an independent ‘controller’ will be an important step to strengthen the control system. This must be a private actor, hired by the client – not public.

Despite of efforts to improve the quality, an increased standard of the constructions has not been achieved. For this reason, they now investigate other factors affecting the building activities, to see if additional proposals could be made.

6.3.3 Summing up – Main directions for further development

The building legislations are in constant development in all the countries, both improvements of technical requirements for implementing of new EU-directives, and for other more nationally based reasons.

However, three of the countries have on-going processes on major revisions of their building legislations, or even completely new laws.

In Iceland, they are preparing a completely new Building Act. The proposal implies a division between the planning and the building legislations, a completely new governance of the legislations, and major changes of practically all important parts of the content of the building legislation – except for the control system.

In Norway and in Sweden, they are preparing major revision, and in both countries, the control systems are the focus of the revisions.

Still, in all the countries, there is development, and first we will see if this development is working in directions co-operating with the directions pointed out as wanted by the informants in the case study on control.

In Denmark, the informants wanted basically some support for the dialogue-based systems, and focused on better possibilities for sanctions if the dialogue did not work out well. Here, the directions of the amendments is based on further development of the dialogue-based system – but the directions of the amendments are more flexibility, and efforts on additional issues, like guidelines, education and more.

In Estonia, the informants wanted better clarification of the roles and their responsibilities including independent control, and stronger sanctions in case of bad quality. Here, the directions of the amendments are clarification of the roles and responsibilities, and more flexibility between the planning and the building part and towards other legislations.

In Finland, the informants wanted better focus on requirements both on actors and on constructions, and they also pointed out that the possibilities for neighbour to complain were too wide. In addition, they pointed out that the differences between the procedures on the municipality level were a problem to the construction sector. Here, the directions of the on-going processes are better focus on all types of requirements, and on increased use of independent private controllers. In addition, they prepare major changes in the governance of the municipalities, by proposing big-municipalities.

In Iceland, the informants wanted to keep the strong public control, but they also wanted improvements of this system, by complementary private control. The proposals for the new planning act are still based on strong public control, and improve the system by complementary private control. In addition, the new proposal emphasizes better requirements on actors and

better administration of the legislation on all levels, including establishment of big-municipalities to improve the competence of the public officers.

In Latvia, the informants wanted more resources to the public control offices, to enable them to perform even better. Here, the directions of the amendments are more responsibilities to client/private actors, also for control activities – even if they at the same time will strengthen the public control on single family houses. In addition, they seek simplifications of the handling procedures.

In Lithuania, the informants wanted focus on the requirements on actors, to encourage better education (and also better salaries) to improve the quality of built environment. In addition, they wanted improvements in the administration of the public control. Here, the focus in on-going processes primarily is improvements of the control system and the sanction possibilities, to stop illegal building activities. They also have on-going processes on administration of the control system, on certification systems, and on other issues to stop 'social dumping'.

In Norway, the informants wanted improvements on the requirements on the project – more in direction of requirements *less* functional based, because of lack of competence on public officers to evaluate solutions. Here, the major revision mainly focuses on the control system, focusing on independent private controllers. In addition, it will focus on maintenance and flexibility in handling procedures.

In Poland, the informants wanted the control system debated, and they wanted improvements on the requirements on actors. Here, the amendments are aiming at simplifications of the handling procedures combined with less requirements on the buildings and more requirements on the actors.

In Sweden, the informants wanted simplifications of the complete legislation system, and they wanted focus on the control systems. Here, they will propose a major revision of the complete legislation, and this will comprise focus on control and on an independent private controller.

Summing up this, most of the countries fulfill the wishes from the informants in the case study. But in some cases, the authorities provide other answers to the same problems as the informants describe, and in other cases, they have additional solutions. The countries getting more answers than they asked for, are mainly Denmark, Latvia and Norway.

However, in Poland, the informants wanted a stricter system, but the amendments are in direction of a less strict regime – due to the challenge of an urgent need of getting new houses built, and thus encourage developers to start construction works.

The next aspect will be if they all are developing their building legislation in the same direction. And on a superior level, they do so.

Most of the countries focus on control systems in their amendments, and most of them also want solutions based on independent private controllers – both the countries currently having systems based on extreme private control and on extreme public control.

In addition, most of the countries focus on improvements on the requirements on actors, even if they already have good systems for this.

In the countries where handling procedures are focused, they all want simplifications and more flexibility. And in the countries where they need changes in the administrative systems, they seem to go in the same direction: big municipalities or better co-operation between municipalities, to secure better competence on the public officers, and better possibilities to specialize this competence.

The last aspect to be commented, is the basic question for the programme Increased exchange in the construction sector in the Northern Dimension: Do they harmonize their building legislation within this region?

None of the countries have any intention of harmonizing their legislation with the other countries in the region – with the intention of increasing the interaction between the countries regarding building activities.

However, they partly look to each other when they are developing their legislations, and especially the Baltic countries and Poland are looking to the Scandinavian countries for inspirations – Estonia more to Finland, and Poland more to Denmark (even if the Finnish and Danish legislations differ rather much). And as concluded above, they all develop their legislations in the same direction.

Sammendrag

Introduksjon

Bygningslovgivning er primært beregnet på å virke innenfor hvert enkelt land, og må sees som et system innenfor dette landet. Å ta ett enkelt element ut og sammenligne dette med tilsvarende fra andre land vil ikke gi et riktig bilde. Utfordringene kan være ulike fra land til land, men de viktigste elementene i lovgivninga er de samme – men de kan få ulik vekt.

I denne sammenligninga har vi forsøkt å finne 'hovedmønsteret' for de viktigste elementene i lovgivninga, og fokusere på likhetene. Deretter har vi sett på avvik fra dette 'hovedmønsteret'.

En gjennomgang av landenes historie viser at det er tette bånd mellom alle landene – ikke bare mellom a) de nordiske land og b) de baltiske land/Polen, men også forbindelser som krysser Østersjøen – med Sverige som det mest aktive landet i slike relasjoner.

De fem nordiske landene har store ulikheter både mht. politisk historie, næringsgrunnlag og struktur/utfordringer for byggesektoren. Hovedgrep og fokus i bygningslovgivningen gjenspeiler dette, med store ulikheter – fra et dialogbasert fokus i den danske lovgivningen til et system med streng offentlig kontroll i den islandske lovgivningen.

De tre baltiske landene har hatt større likheter i nyere historie, ettersom alle tre landene var en del av tidligere Sovjetunionen fra 2. verdenskrig og fram til 1991. Men etter frigjøringen har de søkt tilbake til sine tidligere historiske røtter, og deres nye bygningslover er basert på ulike modeller som reflekterer ulikhetene i deres historiske forbindelser. Estland har benyttet finsk lovgivning som modell, Litauen har benyttet tysk lov/EU-lovgivning, og Latvia har konvertert den sovjetiske lovgivningen til latvisk lov gradvis.

Polen har vært under sterk innflytelse av tidligere Sovjetunionen fram til frigjøringa i 1989, men de benyttet ikke sovjetisk lov i denne perioden. Nåværende bygningslov fra 1994 er basert på loven av 1974, og det har vært foretatt en rekke justeringer og lovendringer. Den nåværende bygningsloven ligner nå et lappeteppe, og det er politiske løfter om en ny lov.

I dag er de multi-nasjonale båndene sterkere: alle landene er medlem av EU/EØS. Frihandelsparingsoppavertene innenfor EU/EØS oppfordrer byggesektoren til aktivitet over landegrensene (og da ikke bare innenfor de 9 landene vi omhandler her). I alle landene jobbes det nå med konvertering fra tekniske krav til funksjonskrav, og alle jobber med implementering av nye EU-direktiver for byggesektoren. I tillegg har det i alle landene vært et fokus på forenklinger og mer fleksible byggesaksreglement i endringene etter ca 200, og på denne måten blir bygninglovene nå mer lik hverandre.

Plan- og byggningslovgivningen blir administrert ulikt i landene. I de ni landene har fem av dem en felles lov for planlegging og bygging, mens fire har separate lover. Det er da separate lover i alle de tre baltiske landene og Danmark, mens resten av landene har en felles lov. Det er ikke noe klart 'hovedmøster' for oppbygning av plan- og byggningslovgivningen.

Administrasjonen av byggningslovgivningen avdekker også ulikheter mht. vektlegging av ulike aspekter av byggeaktivitetene – i de fleste av landene er byggningsloven tett knyttet til boligpolitikken (Finland, Island, Norge, Sverige og Litauen), i noen av landene (Danmark, Estland og Latvia) er den knyttet til økonomi, og i Polen er fokuset bygmiljø generelt.

I de fleste landene er implementering av byggningsloven delegert til spesielle kontorer/'underliggende etater' til ministeriene.

Plangrunnlaget utgjør den viktigste rammen for byggeaktiviteten, ettersom alle landene har overensstemmelsen med en godkjent reguleringsplan som den viktigste forutsetninga for å gi byggetillatelse. Formelt og teoretisk er dette likt i alle landene.

Planhierarkiet og grad av forutsigbarhet i hht. planene (som grunnlag for byggeaktivitet) kan i midlertid variere mellom landene. Dette kan skyldes ulikheter i typen planer, og deres grad av formell binding – fra praktisk talt ikke planhierarki i det hele tatt (Sverige) til et strengt og juridisk bindende plansystem (Danmark, Island, Litauen og Polen). De resterende landene har 'bindende' planhierarki bare som en mykere forpliktelse; dvs. at en plan bør følge overordnet plan og denne kan evt. justeres ved behov; dvs. en form for interaktivt plansystem. Et strengt og hierarkisk plansystem gir god forutsigbarhet for byggeaktivitet – men på samme tid kan nye utfordringer knyttet til arealbruk være vanskeligere å håndtere.

I tilfelle godkjent reguleringsplan mangler, vil plansystemet som grunnlag for byggeaktivitet variere, pga. ulike strategier i landene. Mangel på godkjente planer er en utfordring spesielt i Polen (hvor Borgernes-terren i så fall skal avgjøre prosedyrene i hvert enkelt tilfelle), og delvis i de baltiske landene (hvor forskjellige strategier er nedfelt i loven). De nordiske landene har også fastlagt spesielle prosedyrer i tilfelle godkjente planer mangler.

Tolkning av planenes innhold er også viet oppmerksomhet i noen av landene, spesielt i de nordiske land. Den estetiske dimensjonen eller spørsmål relatert til tolkning av planer generelt vil generelt bli vurdert av saksbehandlere på byggesakskontorene, som en del av prosedyrene for å utstede byggetillatelse. Men i de nordiske landene er tolkning av planinnhold og 'estetisk utvikling/veiledning' av spesiell interesse, og i disse landene er det stort fokus på rutiner for å ivareta dette – ved visualiseringsplaner, eiendomsplaner, obligatorisk eller frivillige forhåndskonferanser eller annet.

'Utbyggingsavtaler' representerer en annen type utfordring.

Dokumentasjon på eierskap eller andre typer rettigheter til å bygge på en eiendom er også et viktig tema i Polen og i noen av de baltiske landene.

Ansvar/krav til aktørene

Deling av ansvar mellom offentlig og privat sektor er basert på de samme prinsipper i alle landene. Defineringskrav til utforming og de sign og andre krav til prosjektet er en del av planprosessen, og dette er der med planmyndighetenes ansvar – selv de r private aktører utarbeider private reguleringsplaner.

Utbygging og drift av teknisk infrastruktur (transport, energi, vann, avløp osv.) er normalt et offentlig ansvar. Men i Latvia og Polen er disse strukturene ofte eid av private aktører, og de lokale myndighetene har bare tilsynsfunksjoner. Og i andre land er kostnadene til infrastruktur gjenstand for forhandlinger mellom utbyggere og myndigheter. I Finland er tilknytning til infrastruktur til og med brukt som en faktor for å 'tvinge' byggherrene til å ferdigstille byggeprosjektene, ettersom ferdigmelding er en forutsetning for at prosjektene kan knyttes til permanent strøm og vannforsyning.

Det er i alle landene de lokale myndigheters ansvar å sørge for at det er demokrati i planprosessen. I alle landene fastslås også at byggetillatelser må være i overensstemmelse med en godkjent reguleringsplan – og dermed er 'demokratiske prosesser' ivarettatt via planprosessen også for byggesakene. Men i Finland og Norge er det et grunnleggende syn at naboer og andre berørte parter kan få uttale seg og så om byggesakene, som del av den ordinære saksbehandlingen for bygge tillatelser – hovedsaklig gjelder dette estetiske problemstillinger.

Kontrollsystemene viser at det er store variasjoner mht. hvordan ansvaret er delt mellom de øvrige partene i byggesaken.

Byggherren har formelt 'fullt ansvar' overfor myndighetene i alle landene. Og ingen av landene har kvalifikasjonskrav til byggherren.

I Norge har imidlertid ikke byggherren dette ansvaret alene – det er en rekke andre aktører som også har direkte ansvar overfor myndighetene, og myndighetene kan benytte straffereaksjoner direkte overfor disse aktørene dersom de ikke oppfyller sine forpliktelser. Og i de fleste av de andre landene er det nevnt aktører som byggherren er pålagt å engasjere for å 'hjelpe byggherren med å oppfylle sine forpliktelser' – i de nordiske landene (minus Danmark) er dette oftest personer knyttet til prosjektledelsen av prosjektene, og i de baltiske landene/Polen er dette oftest personer knyttet til kontrollsystemene. Aktørene som er direkte nevnt i lovgivningsteksten og de forpliktelsene disse har er definert og beskrevet mer utfyllende i rapporten.

Kvalifikasjonskrav og godkjenningssordninger knyttet til aktørene er svært ulike fra land til land, hovedsakelig fordi aktørenes ansvar er ulikt.

I hovedsak er det kvalifikasjonskrav på de sentrale aktørene som er nevnt direkte i lovgivningen med særlig ansvar. I tillegg skal aktørene i alle landene uansett om de er nevnt spesielt eller ikke, utføre sitt arbeid i overensstemmelse med profesjonelle standarder.

Og i hovedsak finnes det også godkjenningsordninger for de aktørene som er nevnt i lovteksten med kvalifikasjonskrav.

Men dette er ikke tilfelle i alle landene. På den ene siden har vi Danmark, hvor det grunnleggende synet er at byggherren har det komplette ansvar – og da er det ikke behov for myndighetene verken å ha kvalifikasjonskrav til aktørene, godkjenningsordninger eller registre over godkjente aktører. På den andre siden har vi Norge, hvor det grunnleggende synet er at byggherren ikke kan oppfylle sine forpliktelser alene (utenom i meget små prosjekter) – og dermed er det lagt direkte ansvar på alle involverte aktører, og det er kvalifikasjonskrav på disse aktørene. Dermed har myndighetene også behov for å følge dette opp ved å godkjenne aktørene via en godkjenningsordning og å føre et offentlig register for dette.

Mellom disse to ytterpunktene har alle landene kvalifikasjonskrav på en eller flere av aktørene, selv der hvor byggherren har 'det komplette ansvar' overfor myndighetene – enten for å sikre at aktøren kan hjelpe byggherren med å oppfylle sine forpliktelser, og/eller for at aktøren skal sikre høy kvalitet på prosjektet. Men konsekvensene av å ha kvalifikasjonskrav varierer også, mht. godkjenningsordning og/eller offentlige registre.

I hvert land er det en form for 'indre logikk' for det valgte systemet.

Kvalitet i bygd miljø

I alle landene er å sikre høy kvalitet i det bygde miljøet et av de viktigste målene for bygningslovgivningen. For å oppnå dette, benytter alle landene (i prinsippet) både krav til prosjektene, krav til kvalitetssystemene, og andre typer krav nevnt i andre aktuelle lover.

Krav til prosjektene er hovedsaklig gitt i reguleringsplanene, som angir krav til arealutnyttelse og formål, utformingskrav for prosjektet, og eventuelle begrensninger. Noen av disse kravene er målbare og må være oppfylt for å kunne få byggetillatelse. Men andre krav er ikke fullt så presise.

Estetisk utvikling er det mest komplekse saksfeltet. I de fleste av landene inneholder bygningslovgivningen generelle formuleringer om estetisk utvikling – men disse formuleringene er ikke presise, og estetikk er også ofte ansett for å være en 'plansak' som blir ivarettatt via utformingskravene i en reguleringsplan – og i Danmark følges dette strengt som et prinsipp. Men i Finland og Norge er estetikk et av de mest vanlige temaene for naboklager og andre reaksjoner fra tredjeparter også i byggesaker, og tvister om estetikk/utforming kan bli prøvet for et eget politisk organ,

eller for retten. I Litauen er estetikk betraktet som en profesjons-sak som bør vurderes av personer med spesiell kunnskap om estetikk (arkitekter) i tilfelle det er protester på en byggesak. Det synes at estetikk er et profesjonstema som bør vurderes av profesjonelle aktører deles også av Latvia og Polen, hvor de ønsker å styrke vektlegginga av estetikk ved å gi designeren (arkitekten) noen utvidete fullmakter på området. Men i Estland og Island nevnes ikke estetikk i bygningsloven utenom i helt generelle vendinger, som del av lovens intensjon.

Det ser ut som om man i de fleste landene ønsker å ha et strengere regime for estetiske saksområder, men at de ennå ikke har funnet et tilstrekkelig egnet 'verktøy' for å kunne praktisere strengere kontroll her.

Kulturarven er primært beskyttet gjennom andre loven. Men planlegging skal ta hensyn til kulturarven, og følge opp med reguleringsbestemmelser.

Bærekraft og miljøtemaer i hht. EU-direktiver må følges opp i alle landene – både i reguleringsbestemmelser, og i tekniske krav/forskrifter.

Tekniske/funksjonelle krav er viktige elementer i bygningsslovgivningen, og disse er oftest trukket ut av selve lovteksten og lagt i forskrifter – noe som medfører at de kan endres enklere og raskere, dersom dette er nødvendig for å gi rom for innovative løsninger. De tekniske/funksjonelle kravene kan også være trukket helt ut i en egen lov (Sverige) eller i et separat 'byggereglement' (Danmark).

Overgangen fra tekniske til funksjonelle krav leder til noen nye utfordringer, fordi det ikke alltid er så lett å avgjøre om en løsning er 'god nok'. Et system basert på funksjonelle krav vil derfor ha behov for en rekke 'preaksepterte løsninger', dokumentasjoner fra byggherren, eller en uavhengig part som kan evaluere foreslåtte løsninger. Det pågår mange prosesser rundt tolkninger av 'funksjonelle krav' i de fleste landene.

Sikring av kvaliteten i det bygde miljø kan gjøres via krav til byggherrene/aktørene om kvalitetssikring av prosessene.

Byggskader og byggfeil er ikke enkelt å måle, og ingen av landene har noen form for offentlige statistikker om dette – selv om de forsøker å overvåke utviklingen på dette feltet på flere måter, og har stort fokus på det.

Ut fra forsøkene på å overvåke dette, hjulpet av et mer generelt inntrykk, konkluderes det i alle landene med at et relativt høyt antall av feil og skader skyldes prosjekteringsfeil. Deretter er det et høyt antall fuktskader på grunn av dårlig organisert byggeprosess. Mange skader skyldes også klimapåkjenninger, eller kan karakteriseres som 'normale byggfeil' gjort av de utførende foretakene.

Utover dette inneholder bygningslovene i Litauen og Polen egne kapitler om prosedyrer for håndtering av alvorligeulykker/katastrofer i byggeprosjekter.

Krav til kvalitetssystemer varierer mellom landene. I alle landene er byggherren pålagt å ha egne systemer for kvalitetskontroll, i utgangspunktet er dette gjort ved å understreke byggherrens totalansvar.

I Danmark er dette ansett for å være tilstrekkelig. I de tre baltiske landene og i Polen har de prinsipielt samme syn, men kvalitetskontroll er ansett for å være tett knyttet til kompetanse, og de ser derfor på kompetansekrav til aktørene som det viktigste tiltaket for å oppnå god kvalitetskontroll. I Finland, Norge og Sverige har de også krav om kontrollplaner for aktørene. Kontrollplanene skal dokumentere hvordan byggherrens egenkontroll vil bli utført. I Island har de utvidet offentlig kontroll for å ivareta kvalitetssikringen.

I prinsippet må byggherren ha sitt eget kvalitetssikringssystem i alle landene, men de kan utføre dette på den måten de selv ønsker.

Universell utforming/tilgjengelighet for funksjonshemmede er også et fokusområde i alle landene, og temaet er gitt oppmerksomhet i de tekniske/funksjonelle kravene. I de fleste landene jobber de med veiledninger og/eller forskrifter på dette området.

Vedlikehold av eksisterende bygg er generelt sett betraktet som noe som primært er i byggherrens egen interesse. Myndighetene/kontorene for bygningskontroll kan normalt bare kreve utbedringer dersom bygningssmassen er i så dårlig forfatning at den representerer fare for sine omgivelser. Likevel er vedlikehold et tema med økende fokus, og i noen av landene nevnes dette i lovteksten. I Latvia kan de lokale myndighetene vedta lokale anbefalinger for vedlikehold. I Finland må byggherren presentere en vedlikeholdsplan før ferdigmelding kan utstedes, og i Polen er vedlikeholdsplikt tatt med som et eget kapittel i loven. Der er det da pålegg om en obligatorisk 'byggningslogg' hvor alle opplysninger om utført obligatorisk vedlikehold må noteres ned.

Helse, miljø og sikkerhet for arbeiderne er ikke del av bygningsloven i noen av landene, men dette er normalt medtatt i andre lover.

Forsikring av byggearbeidene er i alle landene sett på som en privatsak i byggherrens egen interesse, og det er ingen formelle krav om forsikring utover foretakenes ansvarsforsikring som skal dekke skader på tredje part eller på ansatte. I Danmark har likevel fokuset på byggefeil og skader ført til endringer i krav til byggeforsikring, og de har forsøkt løsninger med obligatoriske fond for å sikre interessene til tredje part og/eller sluttbruker.

Byggesaksbehandling

Regler for byggesaksbehandlingen kan bli beskrevet meget detaljert. Men denne sammenligninga er ment å ha et overordnet perspektiv på likheter og ulikheter, og det vil derfor være vanskelig å gi detaljerte beskrivelser i denne oppsummeringa.

Grunnleggende forutsetninger (ulike typer prosedyrer m.m.)

I alle landene finnes det muligheter for forenklete prosedyrer for svært små eller meget enkle tiltak ('notifications') hvor det ikke vil være nødvendig med byggetillatelse, og hvor det er tilstrekkelig at myndighetene varsles om tiltaket – men definisjonene på hva som er 'svært små byggetiltak' varierer mellom landene.

To parallelle prosedyrer for behandling av søknader om byggetillatelser er del av det ordinære systemet i noen av landene, enten på grunn av planhierarkiet eller på grunn av strukturen på lovverket og/eller myndighetene – og byggesøknadene behandles da normalt etter bare en av prosedyrene. En mulig årsak til dette kan være at det er fastlagt egne prosedyrer dersom godkjent reguleringsplan mangler (Estland og Polen). Det kan og så være forårsaket av ulikheter mellom kommunene på grunn av utvidet lokaldemokrati, hvor kommunene kan vedta egne prosedyrer (Danmark og Finland). Og i Sverige må søknadene om byggetillatelse bli behandlet etter to ulike lover (Plan- og bygningsloven – PBL, og Byggnadsverklagen – BVL), dvs. at søknadene her må følge begge prosedyrene.

Tidligfasene for byggetiltakene er gitt spesiell oppmerksomhet i flere av landene, og dette kan medføre at det er flere trinn i søknadsbehandlingen – og slik inndeling i ulike trinn kan ha svært ulik karakter. I noen av landene kan 'første trinn' være en visualiseringsplan som har likhetstrekk med reguleringsplanene men viser hvordan den er tenkt å realiseres, og i andre land kan det være at prosjektdokumentasjonen vil bli behandlet i flere trinn. I noen land kan det være en kombinasjon av disse to tilnærmingene. Og i noen av landene kan det være krav om tidlige/forhåndskonferanser mellom byggherren (og/eller flere sentrale aktører) og byggesaksmyndighetene.

Elektronisk saksbehandling og muligheter for digitale søknader er allerede introdusert eller vil komme i nær framtid i nesten alle landene.

Tidsfrister i byggesaksbehandlingen finnes i de fleste landene – i noen land svært detaljert, i andre land ikke detaljert i det hele tatt.

Prosedyrer for å få byggetillatelse

I alle landene er en byggetillatelse som ikke strider mot bestemmelsene i en godkjent reguleringsplan en forutsetning for all byggeaktivitet. Men kriteriene for å oppnå slik byggetillatelse varierer. Elementer som kan kreves i søknadsdokumentene, er:

- dokumentasjon på disposisjonsrett til byggegrunnen,
- prosjektdokumenter (tegninger og beskrivelser),
- navn, kvalifikasjoner (klassifikasjon) eller sertifikater på sentrale aktører (foretak),
- sertifikater på sentrale aktører (personlige),
- dokumentasjon på registrering i handelsregister, og
- kontrollplaner for aktører og/eller byggherrens kontrollansvarlige.

Viktigheten av de ulike typer dokumenter varierer en del mellom landene.

Dialog mellom byggherren og bygningsmyndighetene

I alle landene er dialogen mellom byggherren/utbyggeren og bygningsmyndighetene ansett som viktig – med Danmark som det mest ekstreme. Deler av denne dialogen er obligatorisk i noen av landene.

Slik dialog omfatter i prinsippet følgende mulige hovedelementer:

- Byggeren tar tidlig uformell kontakt for å innhente opplysninger om tomta m.m.
- Tidlige møter ved oppstart av prosjekteringen, for å definere alle krav til utforming av prosjektet.
- ‘Samrådsmøter’ etter at søknad om byggetillatelse er sendt inn, ved oppstart av byggesaksbehandlingen
- Dialog/kontakt i byggefasen
- Dialog i forbindelse med ferdigstillelse av byggeprosessen

Oppfølging i byggefasen/kontrollsystem

Saksbehandlingsreglene for oppfølging av prosjektene i byggefasen er tett knyttet til kjerneaktivitetene i et kontrollsystem. Praksis i landene varierer fra nærmest ingen kontakt (Norge) til en tett neste dag-til-dag-oppfølging (Island) – og mange mellomløsninger. I noen av landene er denne kontakten basert på inspeksjoner byggeplassene, mens det viktigste ‘verktøyet’ for slik kontakt i andre land kan være obligatorisk dialog, eller at det er innsyn i ‘byggeloggen’ (og det kan da være flere forskjellige ‘logger’: en tradisjonell for vær, bemanning osv., en for materialleveranser og tekniske endringer, og en for endringer i design).

Prosedyrer for å utstede ferdigattest

I alle landene er ‘as-built’-dokumentasjon nødvendig for å kunne søke om ferdigattest. I noen av landene er det også flere andre krav for å kunne søke om dette, og disse tilleggskravene kan variere. De kan for eksempel være en gjennomført sluttbefaring med bygningsmyndighetene (Island, Estland, Latvia og Polen), ‘godkjente kontrollplaner’ (Finland, Norge og Sverige), ‘vedlikeholdsplaner’ (Finland), eller andre betingelser gitt av lokale kommunale myndigheter (Danmark og Finland).

Oppsummering

I prinsippet har alle landene mer eller mindre de samme elementene i sine prosedyrer for byggesaksbehandling, men fokus kan variere svært mye.

I Danmark er dialogen det viktigste elementet, og blir brukt både i tidligfasene, i søknadsbehandlingen og i byggefasen. I tillegg til det som er nevnt over, fokuserer de også i stor grad på støtte til aktørene, gjennom veiledningsmateriell, informasjonsmøter, personlig oppfølging m.m.

I Island er streng offentlig kontroll det viktigste elementet i byggesaksbehandlingen – både dokumentkontroll og inspeksjoner på byggeplass, og i det siste også større fokus på kontroll av aktørenes kompetanse.

I Norge og delvis Litauen er stort direkte ansvar på hver enkelt aktør ett av de viktigste elementene i byggesaksbehandlingen. Fokus blir da kontroll av aktørenes kompetanse og av deres kontrollplaner og kontrollrutiner.

I de øvrige landene er det på ulike måter kombinasjoner av elementer fra disse tre 'polene'. I Estland, Finland og Sverige er byggherren forpliktet til å engasjere egen kontrollansvarlig, og i disse landene er oppfølging i byggefasen ikke like tett som i Latvia og Polen, hvor den offentlige kontrollen er sterkere.