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## CONTROL AS A SELF-REGULATORY TOOL OF THE CONSTRUCTION INDUSTRY

The article is devoted to the study of the features of the implementation of self-regulatory organizations of the control function, which is attributed by the author to the group of organizational and managerial means of self-regulation of economic activity in General and the construction industry in particular. Separately, the article examines the positive foreign experience (Germany, USA, Japan, etc.) of the implementation of control functions by self-regulatory organizations.

**Keywords:** self-regulatory organization, control, self-regulation of the construction industry, organizational and managerial means of self-regulation of the construction industry.

**Problem setting.** One of the main groups of means of self-regulation of the construction industry are organizational and management, which include control over the activities of members of the self-regulatory organization and the adoption of local acts of regulatory impact, the main purpose of which is the proper organization of the activities of economic entities of the construction industry by establishing its own rules, regulations, standards and restrictions for professional participants in this sphere and control over their compliance and execution.

The main tasks to be solved in this article is a study of what are the organizational and managerial means of self-regulation of the construction industry.

**Analysis of recent research and publications.** Problems of identification of means of self-regulation of the construction industry in the territory of modern Ukraine are researched rather fragmentary. Some aspects of self-regulation of economic activity were covered in the works of Atamanova Y.E., Bilousov E.M., Govorun, O. V., Pashkov V. M., Stryzhkova A. V., Filatova N. Y. etc. However, the means of self-regulation the construction industry is studied almost was not.

**Article's main body.** The analysis of the legislation of foreign countries and mechanisms of self-regulation of them is a very important stage for understanding how this mechanism should work in our country, but we can not talk about the full and categorical transfer of all the features and elements of foreign mechanisms of self-regulation to the domestic legal system, because it is unique with its inherent features, so the applicant faces the task only to adapt the properties of foreign mechanisms of self-regulation to the needs of the national legal system and to develop a new one, the unified and effective mechanism for the domestic construction industry of its self-regulation.

Various systems of control of construction activity are applied in practice of foreign countries (Germany, Finland, Australia, China, Japan, the Russian Federation, etc.), however all these States are United by one extremely important feature - in all foreign developed countries there are rigid systems of the admission of the construction organizations to the market and quality control of construction production. At the same time, the main principle is observed everywhere-control over the implementation of economic activities in the construction industry is not assigned to state regulation, but to the Institute of self-regulatory organizations. Of course, the mechanism of self-regulation of the construction industry after its development should be tested at different levels of the national economy, including in the construction sector, to be able to explore the effectiveness and quality of self-regulatory organizations in Ukraine, however, as evidenced by the positive experience of developed countries, such mechanisms have established themselves as a qualitatively new analogue of state regulation of the most important parts of the national economy.

It should be noted that in developed countries in General, the development of self-regulation of economic activities took place "from below": in some activities, mechanisms and tools of self-regulation were formed, which were tested over a long period of time. Today, self-regulation and state regulation of the market are carried out in parallel, mutually complementing and enriching each other. Bringing the experience of the interaction of segment management and the government that can be called co-regulation. Interesting for us is the positive experience of the USA, Japan, Germany, where the mechanism of "careful management" and "careful

construction” was introduced, thanks to which it became possible to identify a significant number of shortcomings in the construction industry by the American Magazine Lean Construction Journal, among the main ones were the following:

- about 60–85 % of the time in construction is spent on all kinds of “waiting” and Troubleshooting;
- the shortage of highly qualified specialists is growing more and more;
- average productivity for the Builder is about 40%;
- low quality of products, works and services provided;
- excessive changes in the cost and timing of work in the construction process [1].

This kind of problem is not spared and our state, and therefore we are increasingly faced with the question of how and how effectively this industry will be reformed, because the above-mentioned problems entails, including the emergence of life and health of the population, which is a potential consumer of the work performed or services rendered, and also leads to an increasing decline in one of the leading segments of the national economy.

Public authorities, which are responsible for the implementation of control in the construction industry today is no longer able to implement it effectively, because, at least, the decisions of most of them require individual control, such bodies can not physically provide. In this connection, it seems logical to borrow the experience of these States, the solution to these problems was entrusted to self-regulatory organizations, since the control that is carried out by them, acquiring features of a private-legal nature, allows to provide the fragmented control.

Of course, this kind of transformation will be extremely resource-intensive for our state and will require fundamental changes not only on the part of public authorities, but also economic entities engaged in economic activities in the construction industry. The outdated attractor of state regulation, excessive bureaucracy and corruption on the one hand entails the emergence of conformist and consummationist moods on the other hand (business entities), since the introduction of innovations in the sector of economic activity will ultimately lead to an increase in the cost of the product, complication of the usual procedures and, possibly, a decrease in the number of business entities for their non-compliance with the established requirements and the inability to obtain admission to the market of services and works.

In the context of the current economic downturn, an important task facing our state is to improve the quality of the leading sectors of the national economy, including the construction industry.

One of the most important tasks of the construction segment is the use of quality resources, ensuring compliance with international technological regulations and

standards, in order to increase the investment flow, bringing the domestic industry to the level of developed countries, attracting highly qualified and certified personnel. The implementation of these goals will ensure the formation of sustainable and dynamic development of the national economy, which will entail ensuring the improvement of the quality and standard of living of the population, as well as the creation of an appropriate safe environment in the construction industry.

The quality of the work performed or the service provided depends on a large number of factors, in particular, it is necessary to mention the quality of the involved technologies, personnel, organization of economic activities, control, etc.

In the system of measures aimed at achieving high quality of construction works, the crucial role is played by the quality control of construction, which provides for the verification of compliance with national and local regulations of construction materials and products, construction and installation works, etc.

The purpose of construction control is to ensure a high level of quality, reliability and durability of capital construction projects at all stages of implementation of investment projects – from design to commissioning – by creating and implementing a system of control measures in the areas of quality of design and working documentation, compliance of the work performed with the results of engineering surveys, the requirements of the urban plan of the land, the requirements of technical regulations, working and organizational and technological documentation, timely prevention, detection and elimination of defects, and the functioning of the quality management system, verification of compliance and quality of the material and technical resources used.

The main task of construction quality control will be to prevent, eliminate the causes, as well as deviations leading to marriage in construction. Marriage, which was discovered in time during the construction process, in many cases quite easily corrected at the lowest cost. The marriage, which was discovered after the completion of construction, is much more difficult to fix.

The dispersion of the state system in the field of control and supervision in the construction industry and in a number of other important industries, the lack of effective interaction of regulatory authorities in the construction industry with regulatory authorities in related areas, such as fire, environmental, industrial safety, etc., as well as the understaffed composition and non-compliance of the qualification of Supervisory authorities with modern requirements of supervision and control in the construction industry, along with the practical permissiveness and corruption of public authorities, whose competence includes the implementation of control in the construction industry., and there will be conditions of reformation transformations, in our opinion, those

fundamental bases of change of the existing regulating order and emergence in domestic legal system of the mechanism of self-regulation of construction branch with functions of control of economic activity in it that will become some kind of “evolution” which is inherent in all processes and phenomena.

The main task of the self-regulatory model of the construction industry is to ensure the safety of capital construction projects by monitoring organizations that perform work or provide services related to the creation of architectural objects – members of the self-regulatory organization. The structure of responsibility of these organizations should change itself with the advent of self-regulation. Self-regulatory organizations are empowered to carry out inspections and to impose disciplinary responsibility on their members. One of the requirements for a non-profit organization, acquires the status of a self-regulatory organization, is the creation of specialized bodies

The qualitative set of functions forms the features of the legal status inherent in self-regulatory organizations. Self-regulatory organizations are empowered to carry out inspections and to impose disciplinary responsibility on their members. One of the requirements for a non-profit organization, acquires the status of a self-regulatory organization, is the creation of specialized bodies, with the main competence to monitor compliance by members of a self-regulatory organization with the requirements of standards and rules, and bodies for consideration of cases on the application of disciplinary measures to members of a self-regulatory organization. Fixing of the mechanism of accountability of participants of the self-regulating organization, the internal structure of bodies of control and local documentation of the self-regulating organization forming the accurately structured scheme for this mechanism are means of implementation of control function of the self-regulating organization.

The control function which is carried out by the self-regulating organization together with standard-setting and disciplinary is a part of status functions that in total embody the purposes of activity of the self-regulating organizations as special subjects of the right. This does not exclude the allocation of derivative or secondary functions aimed at creating conditions for the implementation of status functions (arbitrability, representative, information security, property security).

The control function is implemented by establishing obligations for members of self-regulatory organizations to provide information on their activities in a self-regulatory organization, the right of self-regulatory organizations to require specified information, the responsibilities of self-regulatory organizations to conduct inspections of their members and the right of the latter to protect their interests.

The specified function is realized by carrying out control actions, is defined above by us as organizational and administrative form of implementation of control activity by means of which implementation of tasks, functions and powers of the self-regulating organization is provided.

Self-regulatory organizations are obliged to ensure the implementation of the control function through preventive control measures, as well as ongoing and subsequent checks.

Preventive control measures associated with checking the compliance of the subject who expresses the wish to engage in self-regulatory organizations, establish requirements for such membership, a discrepancy which is the basis for refusal of admission to membership of self-regulatory organizations. Current control is carried out continuously by analyzing the activities of members of a self-regulatory organization on the basis of information provided by them to such an organization. Follow-up is organized through scheduled and unscheduled inspections.

The implementation of the control function requires the disclosure of the results of control measures (placement on the website of the self-regulatory organization of verification materials within the framework of the possibility of dissemination of information fixed by the legislation), ensuring the elimination of the object, which was checked, identified violations, monitoring of actions taken by such object to eliminate violations.

Since the self-regulatory organization is a special form of consolidation of the part of the public that is active, first of all, in the field of market relations and seeks the most harmonious regulation of economic activity, the legal nature of the self-regulatory organization through the subordination mechanisms of the control function is controversial.

Public-legal signs are characteristic of the activities of those self-regulatory organizations that act not so much as a “club of interests”, as they exercise delegated authority to regulate relations in a particular area and the implementation of such activities is impossible without appropriate subordination

**Conclusions.** However, the control function in the field of self-regulation should not be limited exclusively to the members of the self-regulatory organization, since it is important for the system of self-regulation in the industry to evaluate the activities of both members and self-regulatory organizations themselves. In the latter case, the subject of control measures is: the state of regulated activities; organization and resource provision of activities; the work of auditors of a self-regulatory organization in this area. During the evaluation of the self-regulatory organization are determined: the presence of approved standards and rules of organization and implementation of control measures of the self-regula-

tory organization, their completeness and compliance with the objectives of the control function; compliance of the self-regulatory organization for the implementation of control measures with the approved rules of its

organization and conduct; security control system of the self-regulatory organization qualified personnel and financial resources; the state of control and other bodies of the self-regulatory organization and its effectiveness.

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#### КОНТРОЛЬ КАК СРЕДСТВО САМОРЕГУЛИРОВАНИЯ СТРОИТЕЛЬНОЙ ОТРАСЛИ

Статья посвящена исследованию особенностей осуществления саморегулируемыми организациями контрольной функции, которая автором отнесена к группе организационно-управленческих средств саморегулирования хозяйственной деятельности в целом и, в частности, строительной отрасли. Отдельно в статье рассмотрен положительный зарубежный опыт (Германия, США, Япония и др.) реализации контрольной функции саморегулируемыми организациями.

**Ключевые слова:** саморегулируемая организация, контроль, саморегулирование строительной отрасли, организационно-управленческие средства саморегулирования строительной отрасли.

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#### КОНТРОЛЬ ЯК ЗАСІБ САМОРЕГУЛІВАННЯ БУДІВЕЛЬНОЇ ГАЛУЗІ

**Постановка проблеми.** Однією із основних груп засобів саморегулювання будівельної галузі є організаційно-управлінські, до яких віднесено контроль за діяльністю членів саморегулювальної організації та прийняття локальних актів регулюючого впливу, основною метою яких є належна організація діяльності суб'єктів господарювання будівельної галузі шляхом встановлення власних правил, нормативів, стандартів та обмежень для професійних учасників цієї сфери та контроль за їх дотриманням та виконанням.

Головним **завданням**, яке має бути вирішено в рамках даної статті є дослідження, що собою представляє контрольні засоби саморегулювання будівельної галузі.

**Аналіз останніх досліджень та публікацій.** Проблеми ідентифікації засобів саморегулювання будівельної галузі на теренах сучасної України досліджено досить фрагментарно. Окремі аспекти саморегулювання господарської діяльності було висвітлено в роботах Атаманової Ю. Є., Білоусова Є. М, Говоруна О. В., Пашкова В. М., Стріжкової А. В., Філатової Н. Ю. та ін. Однак засоби саморегулювання конкретно будівельної галузі досліджено практично не було.

**Виклад основного матеріалу.** У статті оглядово досліджено одну із складових організаційно-управлінської групи засобів саморегулювання – контрольну функцію саморегулювальної організації, зокрема, авторкою надано визначення цієї групи засобів, проведено аналіз сучасного стану сфери державного контролю, наведено тезу щодо розпорошеності контрольної державної системи, надмірної бюрократизованості, корумпованості та фізичної неможливості органів державної влади, на яких покладено здійснення згаданої функції, забезпечувати в Україні ефективний та дієвий контроль за будівельною галуззю.

У рамках статті доведено, що впровадження саморегульованої моделі будівельної галузі дозволить забезпечувати вибірковий, фрагментарний, а тому більш точний, контроль за суб'єктами господарювання в будівельній галузі, оскільки одноположною ідеєю створення та функціонування саморегульованих організацій у будь-якій галузі (будівельна не є винятком) є саме забезпечення постійного регульованого впливу в усіх напрямках діяльності кожного її члена.

**Висновки.** Резюмовано, що контрольна функція в сфері саморегулювання не має замикатися виключно на членах саморегульованої організації, оскільки важливим для самої системи саморегулювання в галузі є оцінка діяльності як членів, так і самих саморегульованих організацій. В останньому випадку предметом контрольних заходів є: стан регульованої діяльності; організація і її ресурсне забезпечення. У ході оцінки діяльності саморегульованої організації визначаються: наявність затверджених стандартів і правил організації та здійснення контрольних заходів саморегульованої організації, їх повнота і відповідність цілям здійснення такої функції; відповідність діяльності саморегульованої організації по реалізації контрольних заходів затвердженим правилам організації і проведення; забезпеченість системи контролю саморегульованої організації кваліфікованими кадрами і фінансовими ресурсами; стан діяльності контрольних та інших органів саморегульованої організації та її ефективність.

**Ключові слова:** саморегульована організація, контроль, саморегулювання будівельної галузі, організаційно-управлінські засоби саморегулювання будівельної галузі.