

## ABOUT THE AUTHOR

**MILOSTAV PAVLIK**

is a construction engineer and the Chairman of the Coordination Committee which was tasked with the implementation of the new profession of authorized inspectors. He is also Vice-Rector of Construction and Investment Activity at the Czech Technical University in Prague. Mr. Pavlik would like to thank Carolin Geginat and Jana Malinska for their help in researching this SmartLesson.

# IFC SmartLessons

*real experiences, real development*

## How International Experience Helped the Czech Republic Reform Construction Permits

*Over the last decade, building control systems in Europe have undergone significant changes. Many countries have introduced private elements in their building control process. This SmartLesson highlights some of the choices that the Czech government had to make when trying to privatize building control activities.*

### Background

With the Czech construction market booming since the country obtained European Union membership in 2004, public building officers in Prague have been swamped. Projects were becoming bigger and more complex by the day, and the building officers who had to approve them often felt they lacked the experience to do so.

The officers' only opportunity for a breather was when, say, the applicant forgot a stamp or a document in the application. The officer interrupted the process, notified the applicant, and put the project back at the bottom of the pile until the application was resubmitted. The result was that builders faced long waits for approval, and building officers were frustrated because the pile of applications in front of them never seemed to shrink.

As of 2007, the IFC's Doing Business Report recorded that it took 36 procedures and 251 days, and cost the equivalent of 18.5 percent of the per capita gross national income, to obtain all the approvals to build a simple new warehouse in Prague. This SmartLesson shows how the Czech Republic examined and incorporated best practices from other European countries to ease the pressure on building officers.



### A new player – the authorized inspector

The 2007 building code sought to turn things around. At its center was an entirely new profession for the Czech Republic—the authorized inspector—along with more efficient building control processes. These were introduced to privatize parts of the building control procedures and to speed up the licensing process.

The new law stipulates that developers can choose between asking the public building office to handle the entire permit process and contracting a private inspector. That inspector goes through the project's documentation to find out if it accords with the territorial plan and the relevant building regulations. Cutting the lengthy back-and-forth process between builders and building offices, the authorized inspector can help builders address discrepancies between the design plans and the required standards right away. Reformers hope that wait times will fall as a result.

At the end of the process, the authorized inspector issues a certificate allowing the designed structure to be built. Although the certificate and the relevant documentation still have to be sent to the public building office, the builder can start construction immediately. Authorized inspectors can also issue the basic approval document at the end of construction, allowing builders to put the building into use. Inspections during construction are still carried out by the building offices, but they follow a schedule established by the inspector during the initial assessment.

## Looking at the experience of others

In January 2007, the task of implementing the new profession fell to two professional chambers: the Czech Chamber of Architects and the Czech Chamber of Authorized Construction Engineers and Technicians. By creating the new profession of authorized inspectors, the Czech Republic decided to follow other countries in Europe that have privatized parts of their building permit process. A survey carried out by the Consortium of European Building Control in 2006 found private control elements in nearly all 21 responding countries in Europe.

The Coordination Committee, charged with overseeing implementation of the new profession, decided to engage in deeper dialogues with professional peers from England and Bavaria (Germany) to design a workable solution for the Czech Republic. This is illustrated in the following examples.

### **Should the building office and the private inspector offer the same services, or should they split responsibilities?**

In England and Wales, private inspectors are called approved inspectors and can effectively take over the entire building permit process from the building officers. Builders can choose to never interact with the building office and instead contract a private inspector who sees the project through the whole process. The approved inspector not only monitors the project through inspections and provides technical advice; he also licenses the construction. Only in those cases where the approved inspector cannot enforce the necessary standards might he transfer the project back to a local building office.

In Bavaria, instead of competing for projects, the private inspector and building officer work hand in hand. The legal responsibility for the building control proceedings as such remains in the hands of the state. Private inspectors are only involved as third-party assessors of constructions where structural and fire safety is a concern.

**Lesson:** *An advantage of having only some private elements (like in Bavaria) is that building officers do not have to cede their ultimate decision-making power. This means less resistance from the building officers to be overcome during the reform<sup>1</sup>. On the other hand, where private inspectors compete directly with public building officers, the public building officers might have more incentives to streamline their processes. In England, where approved inspectors can work anywhere in the country, the private alternative of approved inspectors became particularly interesting for big construction firms. In order not to lose this important part of the market, some local public building officers responded by partnering with building officers elsewhere in the country to offer similar services. This kind of innovation is less likely to happen in a system like the Bavarian one.*

In the Czech Republic, we decided to emulate the English rather than the Bavarian system. As in England, the Czech authorized inspector is an alternative to the public building

<sup>1</sup> In Bavaria, building offices in fact had to cede power as a consequence of the building code reform of 1994 and its subsequent versions. However, their loss of power was more attributable to the introduction of “approval free” building categories than to the utilization of private party assessments for structural and fire safety.

process, not a complementary service as in Bavaria. The inspector chaperones the builder from the beginning of the proceedings to the end, ensuring all the documentation for approval is in order and offering advice, if needed, on how to address discrepancies.

But unlike England, the Czech authorized inspector does not carry out the technical controls during construction. The building offices remain responsible for inspections during construction, following the schedule of the authorized inspector. That’s the reverse of the approach in Bavaria, where the permit is issued by the public building office and inspections are delegated to the private inspector. In the Czech Republic the authorized inspector issues the permit and “tasks” the public building office with the inspections.

### **Who should task the private inspector, the public building office or the builder?**

**Lesson:** *From a public safety point of view, we have to worry about the enforcement of adequate building standards. An important decision in this regard is whether a private inspector should remain accountable to the public building office or not.*

An inspector who is tasked by the builder himself and not by the public building office might be tempted to enforce standards less stringently if this could ensure that he keeps a difficult but important client. Such adverse incentives exist in a system like the one practiced in England and Wales, where the inspector is directly appointed and paid for by the constructor.

In Bavaria, this potential conflict-of-interest problem has been mitigated by having different rules for different types of buildings. In construction cases where structural and fire safety are of particular concern, such as for buildings destined for public use (e.g., hospitals, schools or amusement parks), a private engineer/inspector (here called “Pruefingenieur”) is tasked by the building office itself and not by the builder. For projects where safety concerns are not as pronounced, structural safety assessments can be carried out by a private engineer/inspector (here called “Pruefsachverstaendiger”), who is tasked by the builder himself.

Here again, we decided to follow the English approach: authorized inspectors are tasked and paid for by the builder, not by the building office. However, in order to counter the incentive problem, the Czech law obliges the inspector to provide expert cooperation to the public building office if required to do so. And the minister for regional development has the right to revoke the certification of an authorized inspector for repeated or material breaches<sup>2</sup>. This is similar to the way England and Wales address this incentive problem<sup>3</sup>.

However, where private inspectors are supposed to be supervised by public building officers and where public building officers also carry out the necessary controls, it is

<sup>2</sup> Article 144, section 2 of the Building Code. Other reasons to revoke the certification are if the authorized inspector ceases to be a person without a criminal record, or if he has been inactive in his function as an authorized inspector for longer than 3 years.

<sup>3</sup> Recently, the English Government also created a Building Control Performance Standards Advisory Group. The Advisory Group has formulated performance standards to avoid that building control standards might be driven down by the competition between building offices and private inspectors.

essential that staff in building offices have the relevant skills to be able to assess the work done by the inspector. An important implication is that the wage differentials between the private inspectors and their peers in public building offices cannot be too high. Otherwise it will be difficult to keep qualified staff in building offices from “migrating” to the newly created profession of private inspectors.

This is something we have to watch in the near future. Currently the average gross monthly salary for a building office employee is about \$1,000. Authorized inspectors on the other hand hope to earn around \$50 an hour. With an authorized inspector able to earn in just 20 hours as much as colleagues at the building office earn in a month, qualified staff will likely migrate from the public sector to the private. Consequently, the public building offices might find themselves incapable of fulfilling their supervisory role, both in terms of the number of staff and the qualifications of the remaining staff.

### **Who should carry the legal liability?**

The question of who tasks the inspector also has a direct bearing on the question of who carries the liability if a building is damaged and the inspector did not ensure adequate standards. In the Bavarian differentiated risk model, an inspector who is tasked by the building office only has liability in cases of severe and intended damage. In those cases where the inspector is tasked by the builder himself, the inspector carries the full responsibility. The same is true in England if the builder opts for the “approved inspector” instead of the building officer. Consequently, inspectors in England and Wales and “inspectors” in Bavaria who are tasked by builders are required by law to take out special insurance that protects them and their clients against big liability cases<sup>4</sup>.

The level of liability deferred from the public building office to the private inspector naturally has an influence on the size of the insurance coverage that private inspectors have to take out. Consequently, in England and Wales, where “approved inspectors” are responsible for more than just the structural safety of the building, insurance coverage is much higher than in Bavaria (and Germany in general). In England, the law prescribes a minimum coverage of €1,000,000 (US\$2,000,000) per claim; in Bavaria only

€500,000 (US\$800,000) per claim is required<sup>5</sup>. In addition, in England the insurance coverage has to extend 10 years beyond the cessation of the annual coverage (i.e., private inspectors are liable until 10 years after their last contract). In Bavaria, such a rule does not exist. It is left to the builder to inquire about the type of insurance taken out by the inspecting engineer.

Whether the safety controls are carried out by the building offices or the authorized inspectors, Czech authorized inspectors are fully liable for damages—because they draw up the schedule of needed inspections<sup>6</sup>. Consistent with this liability arrangement, the new building code foresees that authorized inspectors have to ensure adequate insurance coverage. The details of the insurance coverage, however, have yet to be worked out. Today, unlike in England and Germany, there is no minimum coverage required. Instead, the law simply stipulates that the insurance is based on an agreement with the builder contracting the authorized inspector.

**Lesson:** *Based on experiences abroad, it might take a while for insurance companies to adequately price the risks associated with the new profession. In England it took 12 years before the central government approved the insurance schemes and insurance coverage became readily available. In Bavaria the insurance market was better prepared because “approving engineers” already existed, introduced in 1942 because wartime scarcities forced policymakers to look for alternatives to support understaffed public building offices.*

### **Conclusion**

Implementation of the building code in the Czech Republic is ongoing. The two chambers in charge of the implementation of the new profession have established an expert exam commission and set the terms and conditions for exams, with the first exams held in June 2007. In December 2007 the first group of 23 successful candidates was appointed as authorized inspectors by the Minister of Regional Development. As of October 31, 2008, an additional 45 have been appointed.

<sup>5</sup> These are only legal minimum requirements. In reality, the insurance coverage taken out is significantly higher in both countries.

<sup>6</sup> The builder remains responsible for the building as a whole, and the project designer assumes responsibility for the accuracy of the plans and most of the design and technical aspects of the building. The authorized inspector is materially responsible for his work and carries the legal liability for the building together with the builder and the project designer. In the case of a construction failure, an examination will have to take place to establish if the documents approved by the authorized inspector were right and if the designer, the builder, or the authorized inspector is responsible for the failure.

<sup>4</sup> In England, this is spelled out in the Building Act of 1984; in Germany the relevant law is the “Verordnung über die Prüfingenieure, Prüfämter und Prüfsachverständigen im Bauwesen” (PrüfVBau) from 29 11 2007 (§ 5 Abs. 1 Satz 4 Halbs. 1).



#### **DISCLAIMER**

IFC SmartLessons is an awards program to share lessons learned in development-oriented advisory services and investment operations. The findings, interpretations, and conclusions expressed in this paper are those of the author(s) and do not necessarily reflect the views of IFC or its partner organizations, the Executive Directors of The World Bank or the governments they represent. IFC does not assume any responsibility for the completeness or accuracy of the information contained in this document. Please see the terms and conditions at [www.ifc.org/smartlessons](http://www.ifc.org/smartlessons) or contact the program at [smartlessons@ifc.org](mailto:smartlessons@ifc.org).