

Chapter 9

Territorial planning and construction permits in Lithuania

This chapter examines the reform aimed at simplifying construction permits and the extent to which this reform fits the overall regulatory policy and administrative simplification agenda.

The importance of efficient territorial planning, urban zoning and construction permits

What is a construction permit and what is it there for?

A construction permit implements an administrative decision to protect minimum safety and health standards and property rights. As a rule, the permit is granted by public authorities upon an explicit application, following publicly announced administrative procedures, and on the basis of both the presentation of a specific building plan and the existence of preliminary zoning document.¹ The permit grants legal permission to start construction of that specific building project. They are typically required for new buildings; structural additions; renovations; demolitions; temporary buildings; electrical, plumbing, heating, ventilating systems, etc. Hence, the permit is the final administrative authorisation to start work on a concrete building project, and one of the last steps before actual construction work starts.

Works for which no permit is required will generally be rather limited. For this reason, the governance of construction permit is likely to impact the overall economic development of a given territory. At the same time, building permits usually allow municipalities or relevant local authorities to enforce a building code that has been adopted as part of a broader construction law.

The regulatory purpose of a building permit is primarily to enforce important policy objectives enshrined in construction law, mainly focusing on maintaining minimum safety and health standards, and ensuring that construction does not adversely affect third parties. Building permits are also used by local authorities to verify that a new construction fulfils broader urban planning and zoning requirements (IFC, 2009, p. 13).

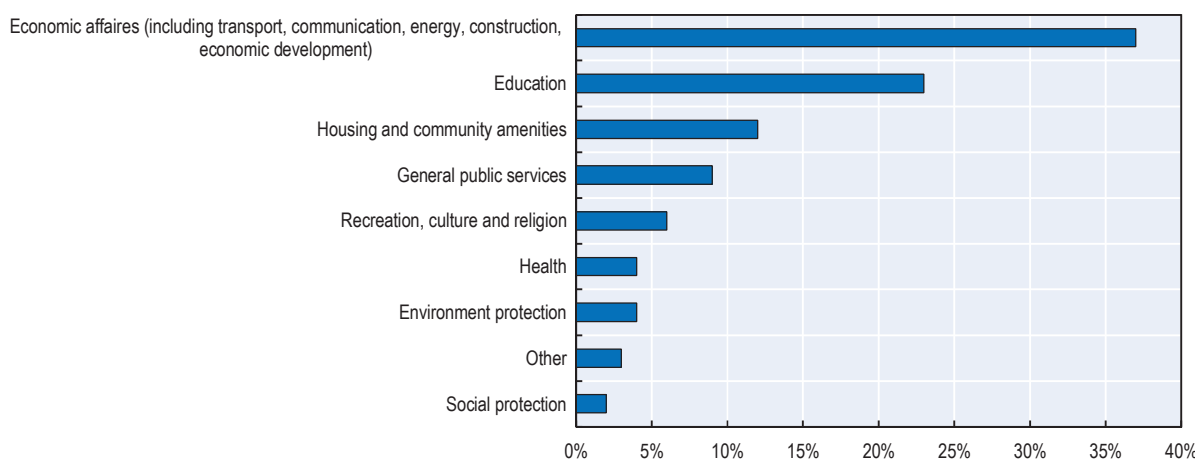
Territorial planning and construction permit procedures are integral part of urban governance. They have become a critical factor for leveraging a city's comparative advantages. This has become particularly relevant in modern economic globalisation and the subsequent intensification of inter-city competition for domestic and foreign investments. On the one hand, linkages must be ensured between issuing construction permits and planning territorial development, or achieving energy saving targets through more efficient buildings, for instance. On the other hand, construction permits often also constitute a significant source of revenue for local authorities – both directly and indirectly, which needs to be rationalised and made proportionate. Many entrepreneurs attach particular weight to the type and quality of construction regulation before taking investment decisions – both in transition and advanced economies. If designed well, construction permit reforms stimulate construction work, whose benefits extend beyond the sheer increase in number of workers employed in the sector. Construction related materials and services are purchased, often from local suppliers, local jobs are created, generating thereby greater spending and purchasing on the territory. It has been estimated that for every 10 jobs directly related to a construction project, another 8 jobs are created in the local economy (PriceWaterhouseCoopers, 2005).

Construction and territorial planning in a dynamic context

The 2008 financial crisis and consequent recession in many OECD countries have forced regional, metropolitan and local entities to re-adjust to the new economic conditions. Cities in particular are focusing on the best ways to attract corporate and institutional investment anew.

Most of the sub-national public investment goes to areas of critical importance for future economic growth, sustainable development and citizens' well-being. In terms of total investment by sub-national governments across the OECD, 37% is allocated to economic affairs, including construction (besides transport, communications, economic development, energy, etc.) (Figure 9.1).

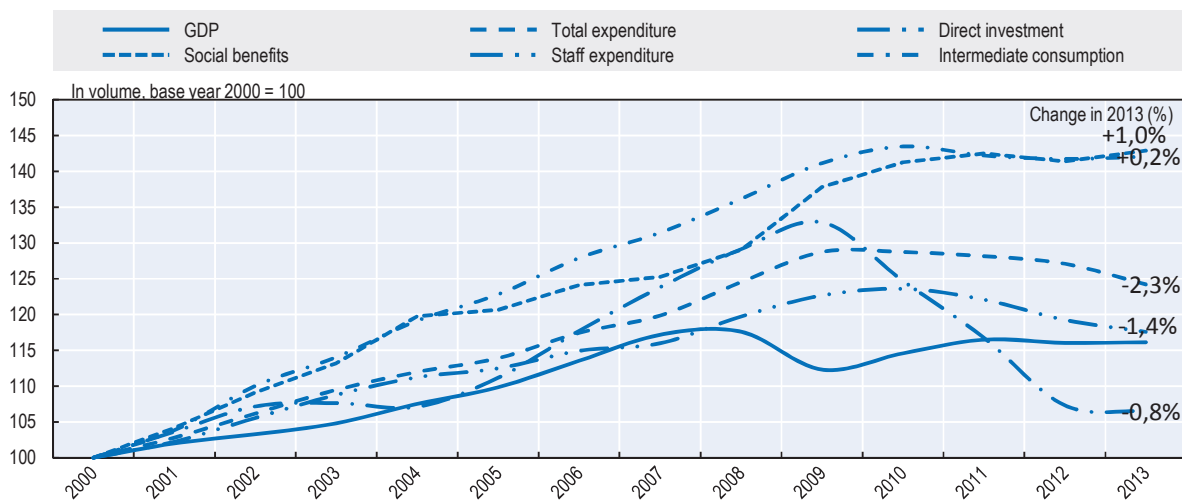
Figure 9.1. **Share of direct public investment by economic function undertaken by sub-national governments, 2011**



Source: OECD (2014), "Recommendation on Effective Public Investment across Levels of Government", p. 5, www.oecd.org/gov/regional-policy/recommendation-effective-public-investment-across-levels-of-government.htm.

The impact of the 2008 crisis has however had a dramatic repercussion on the allocation of direct sub-national public investment (Figure 9.2).

Figure 9.2. **Change in sub-national government expenditure in the EU (2000-2013)**



Source: OECD calculations based on Eurostat National Accounts data, http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=gov_10a_main.

The quality of the “business and investment climate” becomes a precondition in such a quest for new investments and plays a fundamental role in economic development, new job creation and capital attraction. A change in policy formulation and strategies is necessary, also and especially because grand state aid, transfer payments, tax revenues or debt re-financing are no longer channels of investment in the same scale – if at all (OECD, 2013a). Cities have recognised that they need to “become more focused on the conditions that will attract investment and secure business expansion and growth. They have to become both more investment-ready and more business-friendly and, if they can do so, then they can learn to use these new flows of investment to achieve wider social and other goals.” (Clark, 2014, p. 3)

A paradigmatic shift is required – from “managerialism” to “entrepreneurialism”. There is evidence that although national frameworks remain significant enablers and disablers of business activity, the majority of attributes required for business-friendliness success can and are regularly influenced by the action of local leaders at the city level (Clark, 2014). Public authorities are called upon to go beyond the sheer provision of social welfare services to citizens and embrace strategic and pro-active approaches to economic growth, risk-taking, innovation and an orientation toward the private-sector (Box 9.1).

Box 9.1. Main elements of the “urban entrepreneurialism”

The new approaches in urban spatial development, commonly referred to as “urban entrepreneurialism”, have some distinctive characteristics:

- **from passive to positive planning** – because it ultimately aims at fostering and encouraging local economic development, it is intrinsically initiatory and pro-economic growth, trying to initiate economic growth rather than control and manage it;
- **from public-based to private-oriented and market-driven** – while the previous approaches were basically led by the public sector, the new approaches aim at making full use of market mechanisms to achieve public goals with less public intervention. This triggers also forms of collaboration combining private resources and expertise; and
- **from traditional to corporate business values** – entrepreneurial planning tends to embrace characteristics once distinctive to private businesses, such as risk-taking, inventiveness, promotional and profit motivation.

Initial common areas where such urban entrepreneurialism emerged pertained to cultural policy and event hosting initiatives. Progressively, the potential of the new approaches has been applied to policies for building and housing, which form the physical fabrics of urban space. Finally, the full paradigm shift occurs when the new mode to stimulate private innovation and strengthen market functioning affects regulatory design and organisational and procedural arrangements. This implies relying on a variety of actors within formal governments, and between formal governments and the economy and civil society. Territorial and urban development “governance” replaces the notion of government for managing space.

Source: OECD (2007), *Competitive Cities: A New Entrepreneurial Paradigm in Spatial Development*, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264022591-en>.

This is translated into initiatives that seek the creation of new industries and jobs by attracting investment and an economically active population instead of targeting more and more public resources to meet “special” or “additional” needs. There is increasing awareness of the fact that direct and indirect costs of doing business, the efficiency of the

local and national frameworks, and the ways that regulations are designed and enforced, together make an important difference to how territorial development is achieved. Such entrepreneurial approach towards urban zoning has been dominant in former industrial cities that were struggling to restructure their economic base and it becomes particularly relevant also for transition economies (OECD, 2007).

In OECD countries, territorial development over the past decades has tended to emerge in metropolitan regions. There is a positive correlation between metro-regions' size and income, especially when they concentrate over 20% of national GDP. However, the growth capacity of metro-regions should not be overestimated as metro-regions are not always synonymous with success. An OECD study provided evidence that this correlation becomes negative at around 6-7 million – although this thresholds varies from country to country, suggesting diseconomies of agglomeration due to congestion and other related costs (OECD, 2006). The combination of economic advantages and difficulties posed by the rise of metro-regions presents a number of strategic choices or dilemmas that confront policy makers (Box 9.2).

Box 9.2. Challenges in designing and developing metro-regions

In OECD countries, territorial development policies are increasingly intertwined with urban – and in particular, metropolitan – governance. This presents a number of trade-off and challenges, including:

- **Positive or negative spill-overs?** Are metro-regions the cause of economic growth or its consequence? If the former, they need to be encouraged; if the latter, does their tendency to attract resources away from other regions do more overall harm than good?
- **Which public strategic vision in a market context?** A strategic vision is required to pursue the competitiveness of metro-regions. But can public authorities do this without attempting direct substantive economic planning which cannot work in a dynamic, changing economy?
- **Economic dynamism or liveable city?** Concentration of population, which partly account for metro-region's dynamism, causes also congestion, poor environment, housing shortages and the formation of ghettos. Is there a choice between economic dynamism and having a liveable city?
- **Appropriate scale or closeness to citizens?** The need for strategic visions and overall infrastructural planning in metro-regions, suggests some need for a relatively autonomous public authority at the appropriate geographical level. But this level will be remote from many citizens' local concerns. How can these tensions be balanced?
- **Metro-regions versus central/state government?** Autonomous public authority at the metro-regional level may seek devolved powers priorities whilst the higher levels of government (central or state government in federal countries) still want to maintain control on large cities. Where is the balance between these to be found?
- **Participation of private sector actors in metro-regions' governance?** Public authorities must involve the private sector in constructing regional partnerships for economic development. But can this avoid improper lobbying and a squeezing out of small and medium-sized enterprises by large corporations?
- **Unequal burdens or distorting subsidies?** The large spending needs of metro-regions create major fiscal challenges. At the same time, national goals – such as a demand for regional equity – might force metro-regions to contribute financially to the rest of the country. How can the right balance be found?

Source: OECD (2006), *Competitive Cities in the Global Economy*, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264027091-en>.

The impact of public investment thus depends to a significant extent on how governments manage it. Both policy makers and economic operators are increasingly aware of the fact that the business and investment climate is likely to be successful only if it is tackled as it is – a complex and multi-dimensional phenomenon. To that end, a more refined, strategic and targeted approach at both national and local level is required, which accounts of the disparate needs, demands and supplies that a varied private sector expresses. This very much applies also to investment in territorial development, through policy instruments such as territorial planning, infrastructural design, urban zoning and construction permit procedures.

OECD evidence suggests that systemic challenges to the multi-level governance of public investment can hinder the achievement of best possible outcomes (OECD, 2013b). Challenges are to be faced in terms of:

- **Co-ordination** – while there is mutual dependence across levels of government, cross-sector, cross-jurisdictional and inter-governmental co-ordination are difficult in practice. The constellation of actors involved in policy design, public investment allocation, management and audit is large and their interests need to be aligned;
- **Capacity** – empirical evidence suggests that public investment and growth outcomes are correlated to the quality of government, notably at the local level. Recurring capacity bottlenecks particularly affect strategic planning, co-operation with private actors, long-term impact and risk assessment, capabilities for public procurement, etc.; and
- **Framework conditions** – these refer to the recurrent mismatch between budgetary frameworks, procurement requirements, regulatory and fiscal systems across jurisdictions.

To tackle these challenges and avoid dis-functionalities, the OECD (2014) has issued a *Recommendation on Effective Public Investment across Levels of Government*.² In this context, “administrative burden reduction is important at all levels of government. In some cases this can require the revision and simplification of formalities such as licences, permits and authorisations that are required for the development of public investment projects at the different levels of government (i.e. construction licences, transit permits, expropriations, among others).” (OECD, 2014, p. 24)

Against this background, the legal, organisational and procedural framework related to construction permits constitutes an important governance element. Over the years, the World Bank’s Doing Business reports have consistently emphasised the extent to which building permits continue to be a significant obstacle to investment and business formalisation across economies. While one first, noticeable concern relates to informality, a further factor of inefficiency refers to what has been defined as the “gate-keeping function” of construction permits (see Box 9.3).

Box 9.3. The consequences of poor construction permit governance: Informality and the “gate-keeping factor”

There is general evidence that complex, costly, bureaucratic, and discretionary building procedures are associated with higher levels of informality. Corruptive practices can nest beyond these procedures and take massive proportions within issuing and enforcement agencies, adding risks to the community in terms of safety as well as significant costs to investors. Analysis of

Box 9.3. The consequences of poor construction permit governance: Informality and the “gate-keeping factor” (*cont.*)

World Bank Enterprise Survey data shows that the share of firms expecting to give gifts in exchange for construction approvals is correlated with the level of complexity and cost of dealing with construction permits (World Bank, 2009).

Besides “cow-boy building” and the related potential loss in human lives, informality generates costs because officially granted permits enable the formal registration of assets in public registries as property assets. Such registration leads to greater access to finance, and greater opportunity to invest in the formal sector.

Other challenges are triggered by a second type of governance problems – the so-called “gate-keeping function” of many authorities intervening in the construction permit procedure. In many countries, building laws include provisions requiring compliance with other requirements before construction can begin. In fact, pre-approvals from authorities other than those granting the building permit are always needed. These other approvals are often referred to by the generic term “applicable law,” which is to say another law that is potentially applicable to building construction projects.¹

For building permitting authorities, the withholding of a building permit is therefore the way to ensure compliance with such laws; hence building permits play a gate-keeper role to preserve a range of other public goods. In addition, “pre-approvals” generally include the obligation for investors and developers to confirm that they have legal title to the land, and that the proposed development is within the boundaries of the same property.

In short, multiple public agencies use the building permit process as one of their regulatory tools (or a “hook”) to enforce their own public good. While this is a widespread practice in building permitting systems across the world, it creates the danger of building an insurmountable bureaucracy that is likely to discourage investment.

1. Concretely, “applicable laws” include laws, regulations, and bylaws which would prohibit construction unless complied. For example, an ‘applicable law’ could include provisions that: prohibit high-rise buildings in certain locations near runways and airports; a law that regulates construction in floodplains or agricultural areas; or a law that prevents the construction of commercial buildings, factories, or hotels near national heritage areas. For an investor or developer to meet these requirements, it is usually a precondition of applying for a building permit. The process of complying with relevant applicable laws involves obtaining ‘pre-approval clearances’ typically from agencies operating in land use planning; utilities; national or world heritage issues; environment; civil aviation; etc. [and] ministry of agriculture (in some cases) (IFC, 2009, p. 14).

Source: World Bank (2009), *Doing Business 2010: Reforming through Difficult Times*, World Bank Group, Washington, D.C.; IFC (2009), “Reforming Building Permits: Why Is It Important And What Can IFC Really Do?”, The World Bank Group, Washington DC., pp. 14-15.

If excessively complex or burdensome, the procedure inverts what is the actual main objective of building permits – to ensure the health and safety of the community. This has important implications for policy-makers who need to strike the right balance between the cost imposed on private operators and the real benefits in safety and health standards.

Construction permits thus form part of those public services that are delivered by public authorities on the territory, and which have direct impact on both the actual efficiency of the procedural arrangements and the perception that economic operators have thereof. It is hence fundamental that any reform of the construction permit legal and procedural framework be linked to overarching public service and policy considerations.

As it was also noted (IFC, 2009, p. 15): “For reformers showing a strong interest in process simplification and streamlining, the “gate-keeper” role of the building permit process is often at the heart of the reform effort. While it can be relatively easy to reform the building permit process within a single municipality, it is always more complex to succeed in consolidating and simplifying multiple *ex ante* requirements from different public agencies.”

The construction and real estate sectors in Lithuania

The economic size of the construction and real estate sectors in Lithuania is considerable. According to a recent study, the construction industry accounts on average for 6.5% of GDP in OECD economies (OECD, 2010, pp. 156-157). In Lithuania, that percentage (including connected sectors) approaches 10-13% of the national GDP for the construction sector and 5-6% of GDP for the real estate sector, according to data from related business associations.

In 2013,³ investment in tangible fixed assets amounted to 16.6 LTL billion, registering a 12.3% growth compared to 2012. Almost 55% of all investments in 2013 were made in the construction of buildings and civil engineering structures (+8.5% compared to 2012). In terms of construction volume, domestic construction equalled LTL 7.3 billion (+11.3% compared to 2012) while investment abroad amounted to LTL 505 million (+11.1). The share of civil engineering infrastructures (mainly road and street construction) was 52.8% in 2013 (+8% compared to 2012).

In the second quarter of 2014, the volume of construction work carried out increased by 16.8% compared to the same period of 2013, amounting to LTL 2.2 billion (EUR 637 million). The share of construction of civil engineering structures accounted for 52% of total construction work carried out within the country and amounted to LTL 1.1 billion (EUR 318.6 million), i.e. 13.9% more than in the second quarter of 2013. The share of construction of non-residential buildings accounted for 36% of total construction work carried out within the country (a 12.5% increase against the same 2013 period), while residential buildings accounted for 12% of total construction work (some 70.2% more than in the second quarter of 2013.⁴

Statistics indicate that the great majority of the building activity and related investments are concentrated in the three main cities. In 2013, Vilnius accounted for 33.7% of the total annual construction work, followed by Kaunas (17.5%) and Klaipeda (14.1%). Even higher percentages are registered for dwellings: almost 58% of them were completed in the Vilnius county (41% on the City of Vilnius alone), 17% in Kaunas and 14% in Klaipeda. In the third quarter of 2014, 59.9% of all dwellings completed were located in the Vilnius county; 19.6% in the Kaunas county; and 9.5% in the Klaipeda county. When it comes to non-residential building, the largest proportion of those completed in the third quarter of 2014 fell within the Vilnius county (34.3%), with the Kaunas and Klaipeda counties following at 14.1% each.⁵ This confirms the driving role that urban centres nowadays play in the economic development of the territory. Most construction work in Lithuania is related to new buildings (44%), with the rest almost equally shared between reconstructions (30%) and repairs and other interventions (26%).

Over the past months, nonetheless, the number of dwelling building construction permits issued has constantly decreased. On the basis of data from Infostatyba, the overall number decreased by 4.7% in the third quarter of 2014 compared to the same period of 2013. The construction of individual houses will remain predominant in the country as it accounts for 99% of all the dwelling building construction permits issued. In the third

quarter of 2014, 561 building permits were issued for the construction of non-residential buildings, which is by 6.7% less than in the third quarter of 2013. Over the first three quarters of 2014, the number of non-residential building construction permits issued decreased by 16.9% compared to the same period of 2013, while the number of non-residential buildings whose construction was authorised decreased by 11.4%.⁶

Modernising construction permit and territorial planning procedures in Lithuania

Drivers for change

The reform of the construction and territorial planning procedures is firmly grounded in the government programmatic priorities. The improvement of the framework conditions for doing business in Lithuania have been a constant priority of the government. The government programme outlining the strategic objectives for the mandate 2012-16, adopted in December 2012,⁷ pledges for job creation, industrial development and higher foreign investment. To achieve these goals, the government commits to, among other:

- investing State resources into infrastructure projects;
- renovating and modernisation public and residential buildings; and, notably in the “Improvement of the business conditions” chapter, to
- restoring trust between the authorities and business entities; reducing administrative and regulatory burdens in particular in relation to issuing licences and permits; and improving, accelerating and promoting territorial planning processes.

The government announced upfront the intention to “extend the list of cases where detailed plans are not necessary and simplify the procedures for the amendment of a detailed plan. We will reduce the abuse of the protection of the public interest. We will improve the procedures of land acquisition, alteration of the purpose of land, registration of construction, redemption of land for the purposes of the state and others.”⁸

Not only were the objectives of the reform explicitly mentioned. Also the participatory approach to designing and implementing the reform was defined, calling for co-operation with “associated business organisations and other social partners in addressing issues relevant to the state and business as well as in drafting new laws and discussing them.” A paradigm shift was furthermore announced with regard to the supervisory institutions, which “should, first of all, become business consultants and only in cases of deliberate abuse – punishers.”⁹

Such a strong political commitment mirrors government external concern and evidence. Stakeholders’ feedback and international comparisons are the main sources for action. From a business perspective, regulatory bottlenecks negatively affect investment decisions. Evidence from several investment consulting organisations indicate the relative weight that challenges linked to the regulatory and administrative framework in general, and the construction permit procedures in particular, plays in the private developers’ decisions to invest in Lithuania and the overall region.

The relative importance of the regulatory environment as a factor for investment decisions has been highlighted by a survey carried out by a private consulting firm (Table 9.1).

Table 9.1. Key criteria for building new manufacturing facilities in the CEE region

Category	Weight	Sub-category	Weight
A Labour pool	25%	A1 Overall level of competencies	25%
		A2 Availability of labour force	25%
		A3 Experience with specific products	15%
		A4 Productivity	15%
		A5 Flexibility	15%
		A6 English language skills	5%
B Labour market regulation	15%	B1 Level of inclusion in trade unions	40%
		B2 Number of work councils	30%
		B3 Regulation of hiring/firing workers	30%
C Risk	15%	C1 Political risk	33%
		C2 Economical risk	33%
		C3 Financial risk	33%
D Proximity	15%	D1 Proximity of markets	35%
		D2 Proximity of resources	35%
		D3 Proximity of infrastructure (roads/railways/shipping lanes)	30%
E Infrastructure/building	15%	E1 Available buildings	60%
		E2 Regulatory environment	40%
F Easiness of implementation	15%	F1 Easiness of business functioning	60%
		F2 Easiness to get permits	40%

Source: Buck Consultants International (2011).

On the other hand, the attractiveness of the region suffers from the current quality of regulation and governance. Data related to companies investing in eleven manufacturing sectors between January 2010 and November 2014 indicate that regulatory or business climate related considerations ranked only fifth among the motivations for business to invest in the Central and Eastern European (CEE) region (Table 9.2).

Table 9.2. Motives for investing in CEE countries (2010-14)

Motive	Projects	% of FDI Projects	Companies	% of companies
Skilled workforce availability	37	47.4	34	45.9
Infrastructure and logistics	25	32.0	25	33.8
Lower costs	16	20.5	15	20.3
Proximity to markets or customers	15	19.2	15	20.3
Regulations or business climate	14	17.9	14	18.9
Domestic market growth potential	11	14.1	10	13.5
IPA or government support	10	12.8	10	13.5
Industry cluster/critical mass	4	5.1	4	5.4
Presence of suppliers or JV partners	3	3.8	3	4.0
Universities or researchers	2	2.6	2	2.7
Other motive	7	9.0	7	9.4

Source: fDi Markets, a service from The Financial Times Limited 2015. All Rights Reserved.

On the basis of this evidence, a number of complaints were reportedly conveyed to the attention of the government by various Lithuanian trade and professional business organisations. Concern was expressed especially in relation to the excessive length and complexity of the permit procedures. The cumbersome interplay of several authorities

across various levels of government allegedly contributed to the perception of disproportionate transaction costs. In addition, the business community's distress also referred to complications in the process of verifying decisions by the public administration related to issuing the permits. Sub-optimal accountability arrangements and emergence of politicisation in interpreting and abiding with the procedures were mentioned as further elements of concern. Finally, the provisions regulating Environmental Impact Assessment (EIA) were pointed out as specific challenging areas.¹⁰

The Investors' Forum, Lithuania's association reuniting the largest investing organisations in the country,¹¹ for instance, identified land and territorial planning as the first of its "key proposals" to the government in 2013. Their specific demands (Investors' Forum, 2013, p. 14) were:

- “ensure existing legal instruments would not allow manipulating with public interests;
- improve territorial planning and construction procedures and increase transparency;
- develop industrial areas; and
- revise the proposed Environmental Impact Assessment Act and other legislation governing EIA and Strategic Environmental Assessment (SEA) procedures.”

Another one-stop shop organisation promoting (foreign) investment in the country, InvestLithuania,¹² provided the OECD review team with anecdotal own evidence that issues linked to territorial planning and infrastructure are mentioned as problematic by up to 90% of the respondents (foreign investors) to internal questionnaires.

The OECD review team was reported that these and similar other statements have been consistently voiced by various private sector stakeholders. While no structured initiatives were launched to collect such complaints, informal and ad hoc meetings have contributed to set the reform's agenda.

Table 9.3. Lithuania's Doing Business construction permit index (2006-2013)

Year	DTF	Procedures (number)	Time (days)	Cost (% of warehouse value)
DB2006	79.38	11	148.5	0.5
DB2007	79.48	11	148.5	0.4
DB2008	79.51	11	148.5	0.4
DB2009	79.73	11	147.5	0.4
DB2010	79.77	11	147.5	0.3
DB2011	79.71	11	147.5	0.4
DB2012	81.83	11	125.5	0.4
DB2013	83.28	11	111	0.3

Note: No Doing Business ranking is reported for the country's performance before 2014.

Source: www.doingbusiness.org/Custom-Query/lithuania (consulted 23 March 2015).

Besides the complaint channel, the World Bank's Doing Business index has been explicitly and directly used by the government to prioritise reforms. Until 2011, the eleven procedures that had to be followed when dealing with construction permits required up to 147.5 days on average – a value which was initially reduced to 125.5 days in 2012. On average, such procedures caused an administrative cost fluctuating between

0.5% and 0.4% of a warehouse value. According to the Doing Business calculations, this performance positioned Lithuania at 79.71 “distance to frontier” (DTF) points (Table 9.3).¹³

By definition, Doing Business indexes are comparative and it is hence critical to appraise one economy’s performance both in absolute and in relative terms. Compared to 13 neighbouring economies, in 2013 Lithuania equalled Finland as fifth-sixth best performing country, lagging some ten points behind leading Denmark and almost six points behind Germany, which is just behind Denmark (Table 9.4). Such a situation was considered by the government as relevant to trigger simplification initiatives in the sector.

Table 9.4. **Doing Business construction permit index 2012 (Lithuania and 13 neighbouring countries)**

Economy Name	DTF	Procedures (number)	Time (days)	Cost (% of warehouse value)
Denmark	91.59	7	64	1.3
Germany	87.27	8	96	1.2
Sweden	84.29	7	117	2.6
Estonia	84.04	11	103	0.3
Lithuania	81.83	11	125.5	0.4
Finland	81.53	15	64	0.9
Belarus	76.06	15	123	0.8
Latvia	70.14	15	191	0.4
Hungary	69.46	23	91	0.2
Slovak Republic	68.18	10	286	0.1
Czech Republic	63.15	24	143	0.2
Poland	60.64	20	213	0.8
Russian Federation	26.20
Ukraine	21.18	18	374	16.9

Source: Doing Business data, www.doingbusiness.org/ (consulted 23 March 2015).

Design and objectives of the construction permit framework reform

The government spelled out action points through which it intended to implement its regulatory quality and simplification commitments through a number of resolutions and other legal acts.¹⁴ With regard to the construction permit simplification, the following sources are relevant:

- Government Resolution No. 4 of January 2012¹⁵ details the methodology to identify and measure administrative burdens on businesses;
- Law (XI-2386) of November 2012¹⁶ sets out the general concept of reducing administrative burdens at all levels of government and establishes the Better Regulation Supervisory Commission;
- Government Resolution No. 228 of March 2013¹⁷ allocates main responsibility for the permit reform to the Ministry of Environment (Action 47);
- Government Resolution No. 931 of October 2013¹⁸ stresses among other also the importance of improving energy saving and efficiency standards in residential buildings; it also sets the explicit target to increase the percentage of remote construction permit applications via the official information system Infostatyba from 36% (value in 2013) to at least 47% in 2014; and
- Government Resolution No. 964 of October 2013¹⁹ establishes the main principles pertaining to evaluating the justification of a licensing system referring

to any economic activity; to preparing draft laws that regulate licensing of specific economic activities and draft licensing rules, models of issuing licences; and to the definition of terms and criteria for evaluating legal regulation efficiency. The Ministry of Economy is made responsible for the screening process of the licensing framework.

These legal acts intervened within the framework of the Construction Law as this was progressively amended since 2010.²⁰

- Reduction in the number of cases for which it is mandatorily required to prepare the full-scale design of the structure (Article 20, 1 January 2014);
- Integration under the Infostatyba system (and digitalisation) of the procedures for document presentation and performance verification (Article 12, part 1, par. 12, and Article 23, p. 31, 1 January 2014);
- Introduction of the right for the builder (client) to choose the service provider, engineering networks and communications owner or operator (Article 20, part 4, 1 January 2014);
- Simplification of the procedure for legal recognition of the right to carry out activities by non-resident persons (Article 18, 1 January 2012); and
- Introduction of the right for architects and construction engineers to manage the design, construction, project supervision, engineering supervision of a simple and ordinary (not exceptional) structure without certification. Their qualification requirements are established by the government authorised institution (Article 10, p. 9, 1 January 2010).

The government focused on incremental administrative improvements rather than radical change. It did not deem necessary to modify the overall allocation of responsibility among the actors participating in the various stages of the construction permit procedures. The government hence embarked in the reform with the following main objectives:

- Reducing the number of institutions issuing and verifying specific requirements;
- Reducing the quantity of mandatory documentation necessary to obtain a permit;
- Shortening the length of administrative decision-making;
- Clarifying the overall process and the individual underpinning criteria and requirements; and
- Enhancing transparency, accessibility of documents and accountability.

Simplification of procedures to obtain construction permits

To achieve the objectives, the reform was conceived to unfold along several strands of action, which are partly still under consideration and partly already accomplished. The latter were mainly centred around:

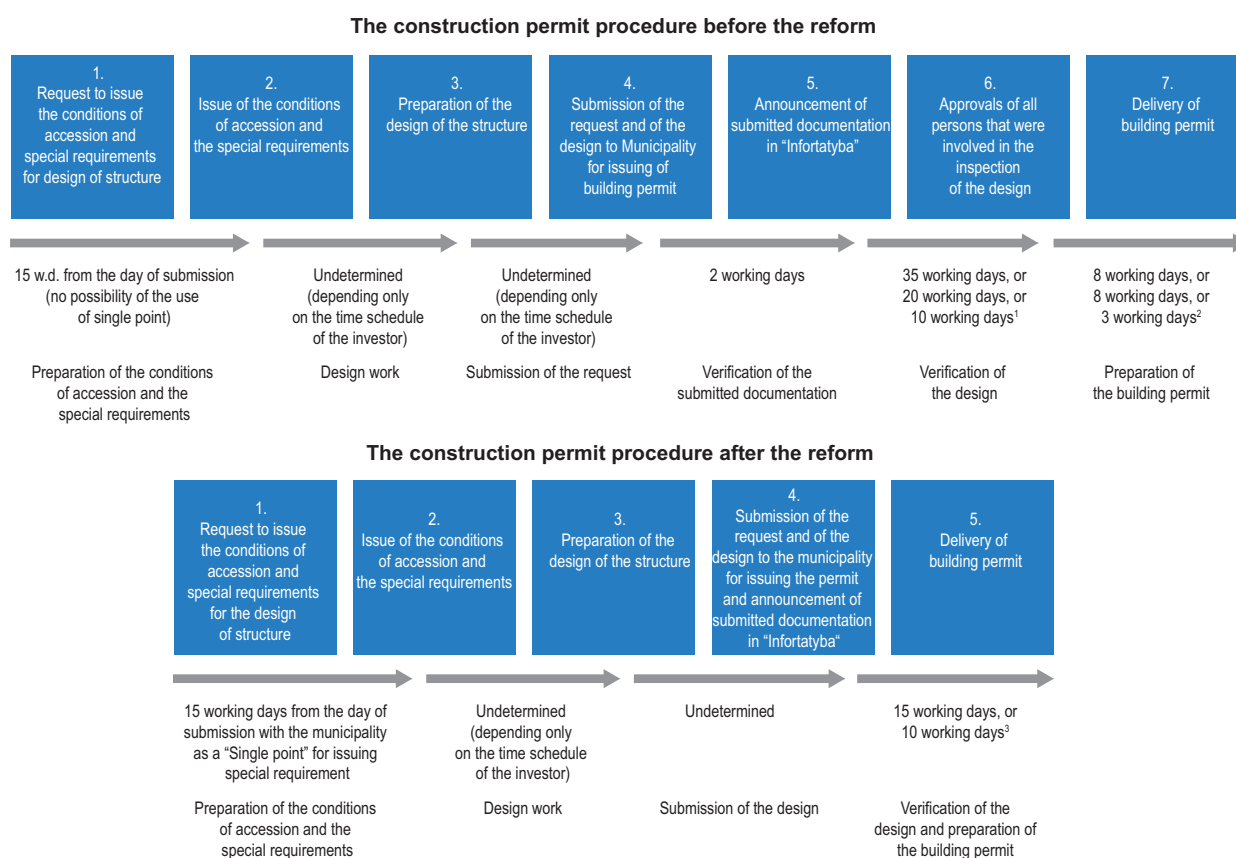
- Reducing the maximum number of days allowed to public administrations to complete the procedures;
- Clarifying the building categorisation and reducing the number of authorities required to issue certifications; and

- Promoting the digitalisation of the procedures, notably through an upgraded version of the portal of the information system Infostatyba.

Discussions are by contrast still ongoing about intervening on other fronts, including a reform of the liability and insurance regime; the rationalisation of the inspection policy; and the possibility to revising dispute settlement mechanisms.

A first regulatory intervention sought to reduce the length of the construction permit procedures. Reportedly upon consultation with municipalities and stakeholders, the Ministry of Environment set the new deadlines for the overall construction permit procedure by reducing the number of procedural steps from seven to five and setting the maximum period for the verification of the design and the preparation of the construction permit to 30 working days for a permit to construct or reconstruct a specific structure and 25 days for a permit in all other cases (Figure 9.3).

Figure 9.3. The simplified construction permit procedure in Lithuania



Notes:

1) 35 working days for a permit to construct or reconstruct a specific structure; 20 working days for a permit to construct or reconstruct a new ordinary structure; 10 working days for other cases.

2) 8 working days for a permit to construct or reconstruct a specific structure; 8 working days for a permit to construct or reconstruct a new ordinary structure; 3 working days for other cases;.

3) 15 working days for a permit to construct or reconstruct a specific structure; 10 working days for other cases.

Source: Information provided by the Ministry of Environment, January 2015.

Lithuania strengthened these simplification measures by introducing the “silence-is-consent” principle, according to which a permit is considered automatically granted if the public authorities do not provide a (negative) response by the expiration of the deadlines set in the law. Disagreement with the authorisation to grant a permit must be provided explicitly.²¹

A second strand of interventions referred to streamlining the risk-based approach to certification and control. Specific emphasis was put on clarifying the criteria for assigning a building project to exceptional categories that require dedicated certifications either because of specific preservation purposes or determined levels of risk. Such categories were allegedly excessively wide and prone to various interpretation and discretion. Not only were the definitions spelled out better. Also the number of such categories has been reduced from 15 to only seven. The reform also reduced the number of cases that require the involvement of all possible certifying authorities foreseen by the law (Box 9.4).

Box 9.4. Lithuania’s new building categorisation

Further to the reform, all structures are divided into structures of exceptional, non-exceptional significance and simple.

The list of exceptional significance structures is reduced and includes buildings as laid down in the Law on Construction (Article 2, paragraph 3). Those are structures:

- in which hazardous materials are used or stored (according to their set limits);
- in which there is potentially dangerous equipment or potentially hazardous work is carried out;
- for which a public use of the building is foreseen with more than 100 people;
- that constitute high rise (more than 5 floors) apartment houses;
- that are registered as cultural heritage buildings; or
- that are characterised by complex design and sophisticated technology structures (according the consequences of the application classes of structural failure).

Source: Government of Lithuania (2015), January; and http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=468095&p_tr2=2.

Such clarification efforts clearly reflect good international practice (Box 9.5).

Box 9.5. Classifying buildings to rationalise control: Australia and France

Facing increasingly tight resource constraints, many government have embarked on so-called risk-based approaches to regulation. Such approaches seek to allocate resources rationally and efficiently, often there where the risk of infringements is higher or the magnitude of adverse impacts is greater.

Providing clearly defined categories of buildings for which various levels of screening are required is one application of such risk-based approaches. Often, countries have linked the classification of the buildings with the organisation (frequency and stringency) of the subsequent inspection policies.

Box 9.5. Classifying buildings to rationalise control: Australia and France (*cont.*)

Australia has developed a rather detailed classification system with up to nine building categories. Each category is linked to the use of the building and a level of risk associated to it. This allows for refinements. For instance, if an office building has one floor with residential apartments, that floor will be classified differently and different scrutiny and inspection criteria apply.

In France, the building classification is primarily based on occupancy and use, though height also plays a role. Accordingly, only non-residential buildings that receive visitors (such as malls, office buildings or movie theatres) and residential buildings up to 50 meters tall are categorised. Mandatory inspections are required for those buildings that host 300 people or more, and inspections may in turn relate to the whole building structure or to a specific part of the building such as framing, roofing or thermal performance.

At European level, a system of ten European Standards (EN 1990-EN 1999) provides a common approach for the design of buildings and other civil engineering works and construction products. They contribute to an integrated approach of European policies for the construction sector and ensure uniform levels of safety. As such, they are mandatory for Member States, although a margin for applying innovative risk-management policies is allowed and indeed incentivised (according to Article 9 of the Law on Construction).

Source: World Bank (2014), “What role should risk-based inspections play in construction?”, in *Doing Business 2014*, The World Bank Group, Washington DC, pp. 46-51;
<http://eurocodes.jrc.ec.europa.eu/showpage.php?id=1>; <http://eurocodes.jrc.ec.europa.eu/>.

A further measure sought to improve the performance of the Infostatyba, the digital support to the official information system governing the construction permit and State supervision procedures. Formally introduced in November 2003,²² Infostatyba started being operational several years later after a series of tests and upgrades. The system is managed by the State Territorial Planning and Construction Inspectorate (STPCI) under the Ministry of Environment, which is responsible also for its further development and maintenance. The modernisation process of Infostatyba was carried out by external contractors. The government is considering the opportunity to further expand over the next months the operation of Infostatyba to also safety standard procedures.

Infostatyba works as both a front-desk and back-office interface with the support of the STPCI. While managed centrally, it is operated mostly by the staff of individual municipalities and it connects in real time all the public authorities that are to be involved in each permit application case. Training to operate the upgraded system has been provided by the STPCI to municipal staff. The STPCI also issued a system user manual which was circulated among municipalities with a description of the main functions step by step. Finally, the STPCI serves as a help desk office for any sort of questions and open issues related to Infostatyba. In 2014, the STPCI’s IT department carried out about 4 500 consultations on the tool, mainly through phone assistance. The consultations were given for various users groups, ranging from public authorities dealing with remote procedures to designers, builders, inspectors etc. In addition, the Strategy and Analysis department of the STPCI provides legal advice – some 13 300 in 2014 alone.

Besides upgrading the application and validation software, changes to the Infostatyba web portal concerned also enhanced information to the publication at large. Statistics and accounting pages are regularly updated and individual citizens can now get information on the status of permits online.²³

Leveraging on digital one-stop shops is considered to be international good practice and as such it was particularly welcomed by stakeholders. OECD countries widely recognise that the implementation of ICT and e-government forms to the construction permit framework brings several benefits (Box 9.6). It significantly contributes to meeting set deadlines and signalling possible delays or mistakes. This enhances the overall transparency and accountability of the regime, providing at the same time higher legal certainty to the applicant. For the public administration, the full digitalisation of the procedure allows precise performance tracking, which can yield more accurate feedback statistical data on where procedural or organisational bottlenecks nest.

Box 9.6. Digitalising the construction permit procedures

Building Information Modelling (BIM) technologies can play a decisive role in improving building code compliance strategies, significantly contributing to streamlining the design process, reducing time and costs. BIM systems manage essential building design, construction, maintenance, and overall project data in digital format throughout the building life cycle. This digital information, in its simplest form, is a three-dimensional representation of the building and its hidden specification details.

The *DesignCheck* programme is a case in point. Developed in Australia as a BIM providing an automated code-checking tool, designers can use this programme to check the code requirements at different stages of project design. Compliance consultants and building authorities can get automated data from architects, and basic checking and building-code compliance tests can be done rapidly and automatically, allowing those responsible for building compliance to focus on higher-risk features (World Bank, 2013, p. 19).

A further important contribution that ICT can make to administrative simplification relates to the creation of efficient one-stop shops. While the advantages are well documented, at present only 37 economies around the world have some kind of one-stop shop for construction permits. Since 2009, 17 economies have successfully implemented one-stop shops for permit applications (World Bank Group, 2014).

Source: World Bank (2013), *Good Practices for Construction Regulation and Enforcement Reform. Guidelines for Reformers*, Investment Climate / The World Bank Group, Washington D.C., p.19; World Bank Group (2014), *Doing Business: Measuring Business Regulations*, “Dealing with construction permits – Using one-stop shops to improve co-ordination”, www.doingbusiness.org/data/exploretopics/dealing-with-construction-permits/good-practices#using.

Against the clear progress achieved so far, the digitalisation and modernisation of Infostatyba as a fully-fledged, well-performing one-stop shop still presents some margins for technical improvement and capacity-building. Issues that deserve further attention in the near future are mainly of technical nature. They include the overall limited size of the files that can be uploaded to the system; the impossibility to use the certified electronic signature; as well as the fact that the applicant has to restart the application anew if s/he made a mistake or wants to upload modified information. Limited funding is reported to be one main cause for postponing further technical upgrading.

A second category of challenges limiting the full exploitation of the one-stop shop refer to capacity-building in the public administrations. The actual application of Infostatyba is reported to be satisfactory, with some municipalities for instance reporting not to have needed extensive new training and staff re-conversion because an equivalent IT system was already in place. Some other municipalities, however, still face challenges in both re-organising staff in accordance with the new procedures and getting familiar with the latest ICT components. Two practices de facto have tended to coexist in the first reform months, with the formal procedures formally kicked off by the Infostatyba interface with the applicant but the actual back-office administrative interplay remaining largely paper-based. Both the STPCI and the business representatives interviewed by the OECD review team acknowledged this and attributed it to the natural transition that each reform of this type implies for public administrators.

The construction permit reform is not fully achieved and discussion is ongoing on various issues. One of those relates to the merit to revisit the insurance requirements for the sector, with in particular the idea of introducing mandatory insurance. The current regime in Lithuania foresees only the voluntary stipulation of insurance contracts between builders and owners of buildings. While the idea of generalising the principle and making it mandatory found initial resistance by some circles in the insurance industry, such stance no longer appears to reflect majority. A debate is currently ongoing in Lithuania on the opportunity to introduce mandatory insurance requirements.

Box 9.7. **Generalising insurance and liability throughout the construction chain: France**

In France, the principle of liability and insurance in the construction sector was enshrined in the Napoleonic Civil Code in 1804 already. It was nonetheless only through the so-called *Spinetta Law* of 1978 that all actors participating in the construction industry chain – not only architects and builders, but also owners (or contracting authorities) – have to hold insurance against potential faults in construction. The core of the system is indeed to rely on insurance companies to settle claims between themselves (avoiding litigation as much as possible) and to enforce some “discipline” on construction professionals in the form of higher premiums for those with a poor track record.

By so doing, the logic of the reform process has been to transfer responsibilities for compliance on private actors. This has not meant de-regulation, though; and the State has the power to enforce them through the court system. However, day-to-day control is carried out by mandatory technical control, performed by third parties (not the State). Construction permits require only basic plans and no detailed technical specifications. The liability of private contractors, the mandatory insurance and technical controllers are the three elements which ensure compliance. The progressive reform of the construction sector along these axes has allowed France to reconcile the two fundamental objectives of the reform – simplifying the procedures and ensuring quality and safety.

Source: Le coin du droit de l’urbanisme, “Évolution historique du permis de construire”, www.coin-urbanisme.org/autorisations/permis/introduction/historique.html (consulted 23 March 2015).

International experience suggests that such a principle is particularly effective to avoid market and regulatory failures related to liability enforcement. Typical problematic instances are those where owners or developers are left with no recourse in case of building faults if builders/contractors went bankrupt in the meantime, or simply had insufficient resources to cover the damage. In other cases, even when builders were

adequately insured, owners often have a difficult time getting the insurance to pay up, requiring lengthy and costly court cases to succeed. A formal and binding general requirement for liability and insurance for all actors involved in the construction process is likely to address similar situations (Box 9.7).

Rationalising the inspection regime is a further channel for additional reform contemplated by Lithuania. The insurance dimension mentioned above is one of the possible avenues that allows permit reformers to leverage the power of the market to achieve change efficiently. A further dimension that can be exploited relates to the inspection regime. Leveraging the interface between public and private actors responsible for enforcement control bears considerable potential. In the case of the liability and insurance, the triggering logic is provided by the fact that “bad” contractors have difficulty to insure themselves, or end up doing so at a higher price, only – what may constitute a stronger incentive than the fear of fines or sanctions.

Reviews of systems based on frequent controls by State or public authorities suggest that they are not always effective (VROM, 2009; Van der Heijden, 2009; and Visscher and Meijer, 2005, pp. 644-655). Because the construction process and sites progress every day, it is impossible for inspectors to be always present everywhere. Recurring to private (certified) partners to enforce construction safety regulation often constitutes a superior solution to state-based inspections (Blanc, 2012). A number of countries have introduced mixed or fully private-based approaches to inspection and enforcement (Box 9.10).

Box 9.10. Delegating inspection functions to the private sector: experiences in Europe

The Czech republic provides an example of a transition economy that pivoted its construction permit reforms around the introduction of a new independent profession which did not exist before – the “authorised inspector”. The new Czech building code adopted in 2007 allows developers to either rely on the public building office to handle the entire permitting process or to contract out specific tasks to a private inspector. That inspector goes through the project’s documentation to assess if it accords with the territorial plan and the relevant building regulations. Cutting the lengthy back and forth between builders and building offices, the authorised inspector can help builders address discrepancies between the design plans and the required standards right away.

At the end of the process the authorised inspector issues a certificate that the designed structure can 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. Authorised 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. The most important inspiration came from England (where private inspectors can replace public buildings proceedings) and Bavaria (where private inspections complement public building proceedings).

In Germany, local building control contracts out many checking and inspection activities to specialised and recognised engineering firms. The check engineers (*Prüfingenieure*) are independent, freelance, fully qualified, legal persons with proven knowledge of static and structural problems. They are specialised, recognised, have to comply with heavy demands to qualify and are liable for the quality of their certification.

The United Kingdom also established a classification of buildings based on risks. Unlike many other countries (such as New Zealand) where the enforcement of risk management relies

Box 9.10. Delegating inspection functions to the private sector: Experiences in Europe (cont.)

on the individual risk profile established by each building designer, the UK system requires the automatic application of certain provisions of the State building code if the project exceeds certain risk thresholds in terms of size and complexity, and the control authorities, whether public or private, keep the upper hand and carry out more traditional checks and inspections.

Norway and Sweden have a control system based on self-confirmation. The applicant is always responsible for the execution of the plan checks and site inspections. Local building control authority checks the control plan in which the applicant indicates how all the necessary inspections – during design and on-site – are provided for. The local authority decides whether the guarantees presented by the applicant are satisfactory or whether an independent inspection by a specialised inspection body is necessary. A complex, risk-based classification system guides the degree of self-enforcement granted to the applicant.

Far from deregulating, best-practice countries have all introduced a measure of private sector solutions at the different process stages regulatory control chain, with the goal of increasing efficiency and providing consistent, high-quality services and delivery.

Source: World Bank (2008), “Creating a new profession from scratch: Doing Business Case Study: Czech Republic”, in *Celebrating Reform 2008*, The World Bank Group, Washington DC, pp. 28-33; Visscher, H.J. and F.M. Meijer (2005), “Enforcing building regulations: Private versus public responsibilities”, in the *Proceedings of W099 4th Triennial International Conference: Rethinking and Revitalizing Construction Safety, Health, Environment and Quality*, 17-20 May, Port Elizabeth (South Africa), pp. 644-655.

Streamlining permit disputes through swifter administrative and judicial appeal procedures or alternative settlement mechanisms is a further reform area under discussion. There is no evidence so far that the simplification measures introduced to date are going to significantly impact on the current redress system. Statistics referring to 2014 indicate that regional administrative courts received 333 cases regarding zoning, planning and construction and the average term to solve a case was 5.18 months. The Supreme Administrative court was seized 37 times in 2014 in relation to zoning, planning and construction and the average term to solve a case was 7.57 months (if it is normal appeal) and 2.42 months (if it is a separate request).²⁴ In broad terms, the whole litigation process for construction permits usually takes up to 8-12 months, while it can be longer (take up to 2 years) for cases related to zoning and planning disputes.

Such performance is generally not considered as particularly problematic, but the salience of disputed cases remains an open issue because of interpretation challenges. The stakeholders met by the OECD review team acknowledged that, while speedier procedures are always welcomed, the governance of litigation does not appear to be a strong priority for reform in the construction sector. A decreased number of complaints about procedural delays or appeals to technical permit decisions is on the other hand considered by the government as a significant indicator of the progressive optimisation of the process.²⁵ The issue of disputed cases remains nonetheless topical because of the allegedly frequent difficulties faced by even specialists in municipalities and other affected institutions in interpreting legal provisions.

The Construction Law already provides forms of alternative dispute settlements, but their effectiveness is questioned by a number of stakeholders. Should one or more certifying authorities disagree with issuing a permit authorisation, the municipality summons a meeting with the applicant, all the affected administrations and the head of

the administration(s) in disagreement, with a view to explain the respective stances on the basis of technical design. This does not preclude any right by all parties to appeal to courts.

The STPCI also plays a role in arbitrating disagreements as it may be seized to screen the decision made by a municipality. However, not only is the opinion of the STPCI not binding on the municipality, but the STPCI is not obliged to issue such an opinion. This appears to trigger irregular interventions by the STPCI as a mediating instance, thereby also undermining the relevance of the right granted to the STPCI to bring the disputed case in front of the relevant court. Chapter 7 provides further details on the role of the STPCI and the questions it raises.

Besides addressing the complaints it receives, the STPCI has the faculty to proceed to randomised screenings of municipalities decisions. The Inspectorates reviews about 500 of such decisions each year, on the basis of a risk management system that considers the track record of municipalities, architects, building companies and other actors intervening in the chain. Evidence from such reviews over the past years indicates that some 30% of all construction permit decisions by municipalities present one or more problems, among which the most common are delays in meeting procedural deadlines and inconsistencies with territorial planning documents.²⁶

Considering that one case review can take between two and three days to be processed and that the STPCI is staffed with five,²⁷ the resulting 250-300 days / year that each inspector must devote to this specific task raises the question of its actual efficiency. The decision to proceed to 500 randomised reviews in one year is also debatable if in Vilnius alone some 60 applications for construction works are filed every week, and considering that more than 18 800 construction permits were issued in Lithuania in 2014.

Reform achievements to date

The measures introduced over the past two years have produced immediate impacts on the construction permit legal framework. Positive results have for instance been recorded by the related Doing Business index, both in absolute and relative terms. In the Doing Business 2015 report, the simplification measures introduced in the construction permit framework contributed to improving the related index ranking by ten positions – bringing Lithuania to occupy the 15th rank (out of 189 economies) compared to the 25th rank in 2014.

Also relative performance has improved. Compared to the same 13 neighbouring countries considered above, Lithuania has stepped up three positions within two years and in 2015 comfortably featured third behind Denmark and Germany. The performance is particularly noteworthy if considered in relative terms, as Lithuania has gained 3.44 DTF points compared to only 0.15 DTF points by Germany and even a -1.75 DTF points regression by Denmark over the same period. As a result, the distance from the regional leader has been shorted from 9.6 to 4.6 DTF points (Table 9.5).

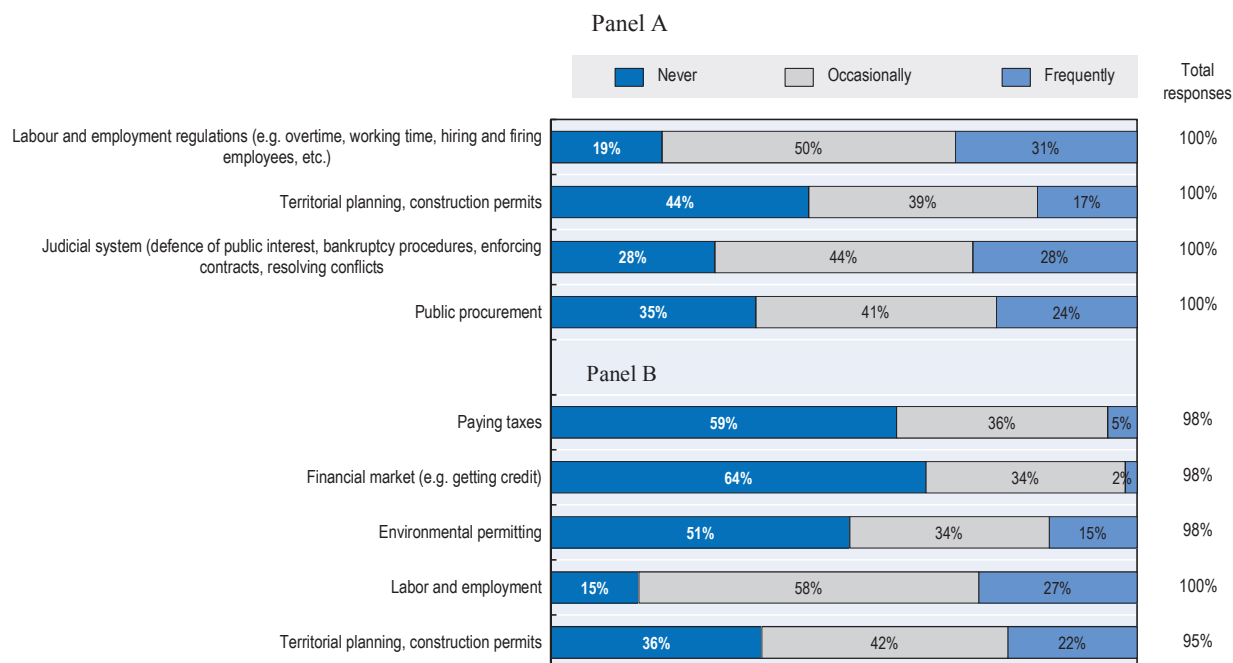
Also specific digitalisation targets have been met. In 2014, both the Lithuanian municipalities and the STPCI received a cumulated 75 139 applications related to a construction process – 46 931 of which (about 62.5%) were submitted through Infostatyba.²⁸ The applications to permits specifically pertaining to construction works were 45 424, of which 31 667 (69.7%) through Infostatyba. Both largely overcome the target of 47% for the same year set by the government.²⁹

Table 9.5. **Doing Business construction permit index 2015**

Economy name	Rank	DTF	Procedures (number)	Time (days)	Cost (% of warehouse value)
Denmark	5	89.84	7	64	2.3
Germany	8	87.42	8	96	1.1
Lithuania	15	85.27	11	91	0.3
Sweden	18	84.73	7	116	2.4
Estonia	20	84.18	11	103	0.3
Finland	33	81.61	15	64	0.8
Latvia	47	78.38	12	149	0.3
Belarus	51	78.20	14	114	0.8
Ukraine	70	75.29	8	64	10.2
Hungary	103	69.37	23	91	0.2
Slovak Republic	110	68.19	10	286	0.1
Poland	137	62.97	19	212	0.3
Czech Republic	139	62.91	24	143	0.3
Russian Federation	156	56.70	19.8	238.4	1.9

Source: Doing Business data, www.doingbusiness.org/ (consulted 23 March 2015).

Such achievements have been broadly welcomed by the Lithuanian business community at large, although possible initial implementation bottlenecks might delay the concrete realisation of simplification benefits. The simplification efforts were valued also because the government signalled the intention to proceed to a progressive yet comprehensive revision of the overall legal framework affecting territorial development related investments (see below the section on putting the reform in context and reaping the full benefit potentials).

Figure 9.4. **Frequency of obstacles to daily operations**

Source: Investors' Forum (2014a), *Investor Confidence Index for Lithuania 2014*, Q2 (Issue 1), Vilnius, p. 9; and Investors' Forum (2014b), *Investor Confidence Index for Lithuania 2014*, Q4 (Issue 2), Vilnius, Table 12, p. 5.

Findings from the Investors' Forum's *Investor Confidence Index 2014* nonetheless suggest a more unhurried reaction by entrepreneurs.³⁰ Asked twice during the year to identify how frequently they perceive to encounter problems in various day-to-day activities, the surveyed managers indicate little improvement in the field of territorial planning and construction permits. This ranks as the second largest troubling area also several months after the implementation of the changes. Twenty two per cent of companies participating in the survey report to face obstacles frequently against some 42% occasional challenges. Six months before, these figures were less negative (Figure 9.4).

Effective gains and saving are still to materialise. While the Forum's *Confidence Index* does not define in details the nature and scale of the challenges mentioned by the surveyed companies, it is imaginable that difficulties and possible delays have emerged in the initial transition and implementation phases of the simplified procedures. This may well still affect the perception of investors.

A further possible reason for the sober results may lie with the fact that no structured measurement of the actual administrative burdens imposed by the permit procedures was carried out (Box 9.11). The Ministry of Environment carried out the simplification exercise without relying on this cost assessment methodology. Because of the lacking evidence, it is possible that developers and operators in the construction sector incur in equivalent levels of administrative burdens despite the reduced number of days formally allowed to issue a permit.

Box 9.11. Simplifying through measuring construction permits administrative burdens: Italy

In Italy, the construction sector is an area of shared competences between the State, the regions and local authorities. Because of its strategic importance and its economic significant, it has been selected by the government as one of the priority simplification areas to be subject to administrative burden measurement, as a part of the "Simplify Italy" government decree.¹

The measurement exercise was carried out in 9 of the 21 Italian regions, covering almost 600 municipalities, upon an intensive programme of computer-assisted telephone interviewing with more than 2 700 professionals (mainly architects and surveyors). Subsequent national and regional focus groups with representatives of affected business associations were organised to validate the findings and consider the experience with one-stop shops. Six related procedures were screened, related to: the permit application; the certified notifications of construction start (so-called "SCIA" and "super-DIA"); the communication of the works' start and termination; and the issuance of the certificate of use and occupancy.

According to the measurement related to the years 2011 and 2012, the estimated annual total burdens generated by administrative procedures pertaining to the construction sector in Italy amounts to EUR 4.4 bn. The findings notably indicate that the correct use of the one-stop shop can potentially reduce the procedure's cost by up to 19% and the time by almost 26% for non-residential building permits. Such findings allowed for priority and targeted simplification measures, such as the upgrade of the competence of the one-stop shop (transforming it from an information-collecting to a decisional platform).

1. www.funzionepubblica.gov.it/lazione-del-ministro/tagli-alla-burocrazia/presentazione.aspx.

Source: Ministero della Funzione Pubblica (n.a.), "I risultati della misurazione nel settore edilizia", www.funzionepubblica.gov.it/media/1066310/edilizia_dossiermoa.pdf (consulted 23 March 2015).

Putting the reform in context: Reaping the spill-over potentials

Public sector reforms are likely to be most effective if they are designed and implemented as a function of broader and concomitant structural reforms. They are a tool to achieve further priority policy objectives of governments. Reforms of construction permits and the construction law in general do not make an exception. The often technical simplification changes brought about by the simplification packages need to be fine-tuned to further regulatory policy initiatives and with a revision of the way the (urban) territory is organised and managed, if economic growth and development are to be achieved.

Against this backdrop, this section contextualise the construction permit reform in Lithuania by considering measures taken by the government notably in relation to its territorial planning reform and the infrastructure law. In both cases, streamlined construction permit procedures help achieving spill-over and multiplying effects.

The reform of territorial planning in Lithuania

The contribution of zoning and territorial planning to development and life quality

Quality of life and economic growth largely depend on territorial planning policies. In an urban context, zoning is an essential administrative tool to stimulate development. Getting zoning right is a key element yielding to effective framework conditions for economic and social activities (Box 9.12).

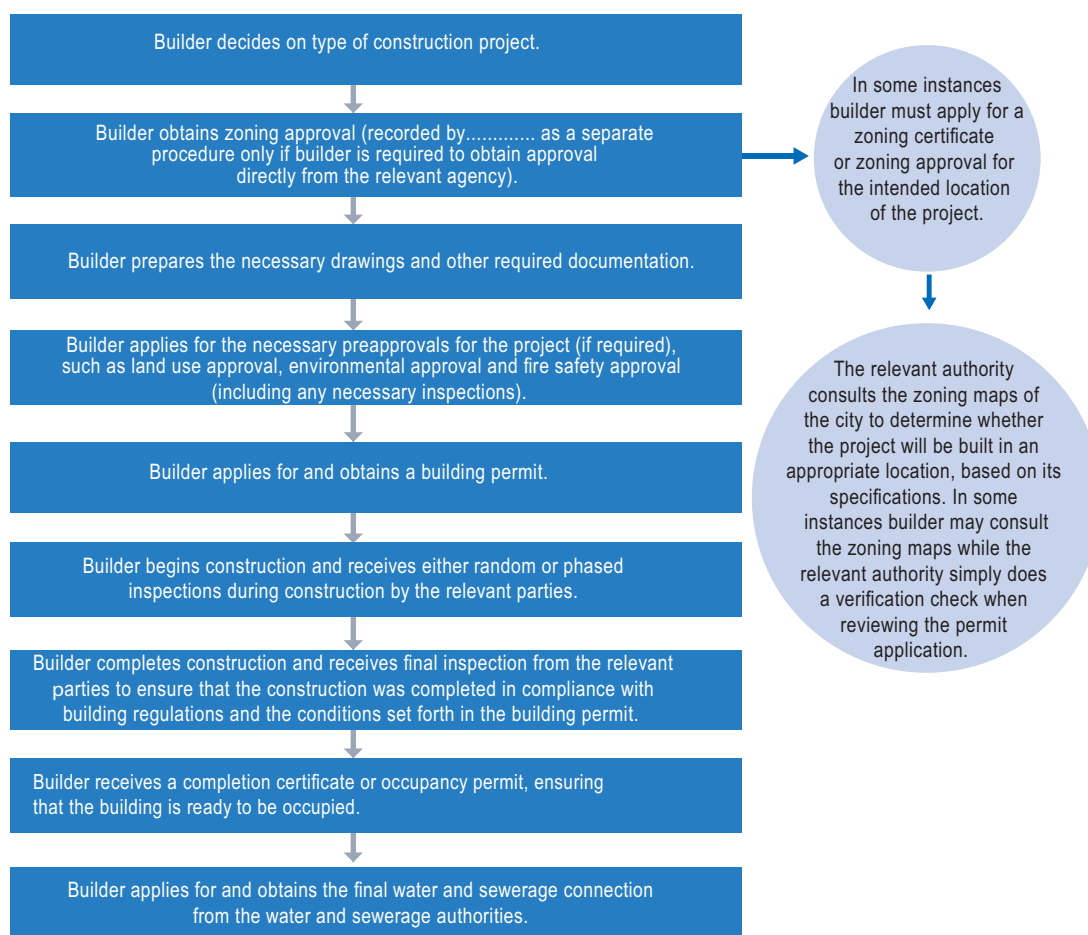
Box 9.12. Correct zoning contributes to territorial development

Zoning is about mapping the territory into different areas based on the types of the desired purposes. Possible zone uses may range from residential or commercial, to industrial, public buildings, or parks and green purposes. As a norm, more or less detailed plans define the main characteristics of each zone and the rules governing activities and development there. Specific ordinances are usually issued to determine such factors as building size, height, shape and colour; building location; and urban densities.

Zoning is not only concerned with defining each individual area; it is also used to avoid the mixing of incompatible land uses and maximise economies of scale. This triggers economic, social and environmental benefits:

- economically, well-designed zoning mitigates or fully avoids the negative external effects associated with the proximity of incompatible land uses, thereby incentivising greater overall economic efficiency than would occur in the absence of regulation;
- social benefits are triggered when zoning helps ensure an adequate supply of safe clean water and the suitable disposal of waste; when it promotes gentrification, facilitates access to schools or hospitals; or when it reduces social ghettoisation; and
- from an environmental perspective, a good zoning plan can help reduce greenhouse gas emissions – for instance by reducing (private) vehicle travel through higher-density cluster development and concentration of residential settlements near job-intensive centres. A further means through which zoning can contribute to green policies is by rationalising and streamlining public transport networks.

Figure 9.5. Enhancing the synergies between construction permit procedures and zoning



Source: World Bank (2015), *Doing Business 2015: Going Beyond Efficiency*, The World Bank Group, Washington, D.C., p. 54, Figure 6.1.

Disproportionately complex or restrictive zoning design, by contrast, rapidly produces negative impacts on the supply of residential and non-residential building as well as on their prices. In Sweden, for instance, designing or modifying a detailed development plan is required for more than half of all construction projects – a process that lasts 18 months on average, according to estimates from the municipality of Stockholm, and in 20% of cases it can take up to four years. Studies show that administrative barriers to new construction are one of the two main factors that have led to a housing shortage in Sweden over the past decade – the other being rent control policies (World Bank, 2015, p. 55).

Zoning and construction permit procedures mutually reinforce each other. Such a synergy enhances transparency, inter-agency co-ordination, predictability and efficiency. If well designed, zoning regulations specify the most appropriate location for individual projects, granting certainty about the framework within investors and developers may apply for their construction permits. Similarly, local authorities and municipalities can better structure and justify their decisions about approving or rejecting construction proposals thanks to clearly defined and transparent zoning regulations. This contributes to strengthening transparency and predictability (Figure 9.5).

Doing Business measurements show that the process for obtaining a construction permit takes 19 fewer days on average in those OECD high-income economies where the process includes synergetic zoning procedures, compared to those where it does not. This occurs because such synergetic approach “avoids back-and-forth interactions between the permit-issuing agency and the architect or even outright rejection of the project because of non-compliance.” (World Bank, 2015, p. 56)

Territorial planning reform in Lithuania

Lithuania uses two main types of planning documents: so-called master plans and detailed plans. The first generally determine what purpose and use each land plot should be attributed – be that industrial, commercial, agriculture, residential, open space etc. The determination of such plans is mandatory and has been rather prescriptive also after the regime change in the 1990s. Master plans also provide the general framework on the transport system and on other public service and utility supplies; and they give indications for quality of living conditions. Detailed plans by contrast refer to individual land parcels and regulate the engineering details for infrastructure connections. They outline specific development applications of new estate areas.

The government embarked on a major revision of the 1995 Law on Territorial Planning after several years of expert discussions but also stalemates. A new law was adopted in January 2014³¹ to incentivise investment and foster territorial development. As such, it was welcomed by both private sector and academic circles. A number of factors triggered such positive reaction, not least the increased and explicit conferral of more political and technical responsibility upon the municipal authorities. The following changes brought about by the new Law are believed to (among other):

- facilitate and accelerate the implementation of a construction project by abolishing the requirement to prepare a detailed plan if the project is intended to be carried out in urbanised areas or areas being urbanised where no detailed plans exist, or in non-urbanised areas provided the project complies with the master plan;
- provide more options for land holding projects without the need to present a detailed plan, if these correspond to the master plan, while at the same time defining the planning document scales more clearly in terms of the planning levels. In particular, the master plans cover a wider territory and allow for combined uses so as to achieve better targeted and more suitable activity mixes;
- allow for newly introduced graphic drawings requirements;
- allow to implement master plan solutions through the issuance of a construction permit, even if detailed plans or land holding projects are not processed; and
- clarify dispute settlement procedures.

Two further amendments introduced by the new Law on Territorial Development met with stakeholders demands. They both relate to accountability and transparency, and have positive implications also on the overall efficiency of the process. The first innovative element refers to the implementation of a digital supervisory information system processing territorial planning and zoning documents (TPDRIS),³² which contributes to reduce time and costs because of easier technical adjustments. TPDRIS is accessible only by public administrations. At the same time, the Law simplified the procedures for the publication of specialised planning documents. A dedicated website for already prepared

zoning documents is operational.³³ While these systems are reported to be operated below their actual potential, stakeholders believe current bottlenecks are likely to smooth over time and the systems constitute a solid step forward towards fully digitalising and publicising the construction permit administration.

The second innovative element introduced by the new Law on Territorial Planning refers to the attribution of the right of final decision to the Director of the municipal administration – theoretically an administrative and technical and not political office. The Law obliges all municipalities to adopt a master plan and, subsequently, prepare the implementing strategies and action plans. These determine the sequence and pace of implementation of the framework guidelines provided for in the master plan. To a large extent, drawing up such implementation action plans and above all ensuring their correct application are technical and not political tasks. The regime introduced by the 2014 Law allocates full responsibility for such tasks to the head of the municipal administration, while previous Council's boards are now excluded. Such change seeks to minimise the interface with political considerations in executing the plans; avoid blame-shifting and horse-trading; and increase transparency.³⁴

The debate on the new Law on Infrastructure

The macro-economic impacts of good infrastructure

Providing and efficiently maintaining adequate infrastructure is a core task of economic and social governance. Infrastructure elements – communication and transportation axes (roads, railways, airports and harbours), water supply, sewers, energy grids and pipelines (electricity, gas, oil), and telecommunications – functionally facilitate the production of goods and services and allow markets and society to function. Infrastructure yields indirect benefits through the supply chain, land values, private sector (small business) development, consumer sales, access to opportunity and ultimately societal welfare. As such, infrastructure features among the twelve pillars of competitiveness – the latter being defined as “the set of institutions, policies, and factors that determine the level of productivity of a country.” (World Economic Forum, 2009, p. 4)

The impact of infrastructure on territorial development and economic growth is significant and should trigger strategic public-private co-ordination. Recent studies point out that reducing supply chain barriers can increase global GDP up to 6 times more than removing all import tariffs (World Economic Forum, 2013).³⁵ Poor infrastructure features alongside other critical barriers to trade and growth (Table 9.6). Infrastructure investment and management is thus part of the strategic assets of an economy and most OECD countries have developed governance frameworks to foster economic growth and prosperity.

In the EU, stimulus efforts to incentivise infrastructure improvements are considered a fundamental means for economic recovery after the crisis. The European Commission indicates that besides investing in research, innovation and ICT, Europe should upgrade its energy and transport infrastructure to consolidate the integration, performance and competitiveness of the EU internal market. An assessment of the recent infrastructure-related investment patterns in the EU confirms the positive relationship between transport and electricity infrastructures and growth in the long term, although the empirical findings are disputed in the literature. The assessment also highlights the persisting general gap in infrastructure provision between the so-called “new” Member States and the EU15 group (European Commission, 2014) (Box 9.13).

Table 9.6. Illustrative direct consequences of barriers on costs, delays, volume and risk

	Costs		Delay		Volume	Risk
	Increased operation- al costs	Increased investment / working capital	Increased average delay	Increased variable delay (unpredict- ability)	Decreased volume	Increased (political) risk (unpredictability)
Domestic and foreign market access	●	-	●			
Efficiency of customs administration	-		●	●		
Efficiency of import-export procedures	-		●	●		
Transparency of border administration	-		●	●	-	●
Availability and quality of transport infrastructure	●	●	●	-		
Availability and quality of transport services	●	●	-	-		
Availability and use of ICTs	-	●	-	-		
Regulatory environment	●	●	●	-	-	●
Physical security	●	-				
Potential implications			<ul style="list-style-type: none"> ● Increased buffer stock ● Increased stock transit ● High depreciation/scrap rate ● Customer satisfaction/opportunity costs/ lawsuits ● Increased FX risk ● Increased theft/breakage 			<ul style="list-style-type: none"> ● Incurred risk or insurance costs (i.e. hedging or spreading risk) ● Higher return on investment required
● most likely - potentially						

Source: World Economic Forum (2013), *Enabling Trade: Valuing Growth Opportunities*, in collaboration with Bain & Company and the World Bank, Geneva, p. 12, http://www3.weforum.org/docs/wef_sct_enablingtrade_report_2013.pdf.

Box 9.13. Pursuing infrastructure investment in the EU

Growth is hampered by both lack of investment and over-investment. Reviewing recent investment patterns in the EU Member States is hence critical to appraise the capacity to recover from the economic crisis.

While EU aggregate data indicates that compared to other sectors, investments in energy and transport have slightly decreased after the crisis, disparities exist across Member States. In road infrastructure, for instance, there are indications of underinvestment in the Euro Area during the post-crisis period. This is likely to reflect an adjustment following the construction-focused investment boom in the pre-crisis years. By contrast, the other two Member States groups (New Member States and Rest of non-EA), display investment above the predicted rate during the post crisis period, following underinvestment in the preceding period. This pattern is most pronounced in the New Member States group, where it is linked to the sustained increase in the investment rate throughout the period under consideration. This reflects a catch-up effect in combination with increasing EU funding, which has been provided in the context of the cohesion policy. The assessment also suggests that overinvesting in new infrastructure is associated with underspending on maintenance, and vice versa.

As to the energy sector infrastructure, the analysis does not indicate underinvestment in the post-crisis period. The infrastructure investment rate in energy has generally increased since the turn of the century in all Member State groups, in part reflecting increasing investments in renewable energy infrastructure.

Current macro-economic conditions combined with the EU policy agenda provide opportunities to increase investment in infrastructure. However, this should be done in an appropriate way, taking account of the individual situation of economies in terms of infrastructure stock, transport and electricity demand as well as other parameters such as fiscal space and cost-benefit analysis of projects.

Source: European Commission (2014), “Infrastructure in the EU: Developments and Impact on Growth”, *Occasional Papers 203*, December.

Towards a revised infrastructure law framework in Lithuania

Lithuania is currently working on revisiting the framework governance of infrastructure development and a new dedicate law is expected to be adopted in the course of 2015. This is considered a parallel policy dossier that is nonetheless closely linked to both the reform of construction permits and territorial planning and development in general. The new law is expected to regulate the development of infrastructure management and the related regulatory framework; as well as the rights, duties and responsibilities of all the persons involved in it.

One of the main challenges that the law should solve relates to the redefinition of the burden to be borne for connecting to the common infrastructure and network. At present, budgetary constraints prevent municipalities from providing common infrastructure to all the zones under development across their territory, notably peripheral zones where the return of investment is potentially higher. Municipalities are also reported to face difficulties in strategically designing and mapping their infrastructure strategies and priorities, failing to achieve economies of scale and effectively providing public services. As a result, the costs of connecting new constructions to the common infrastructure are both disproportionately high and allegedly misallocated.

It shall be noted that the municipalities of Vilnius and Klaipėda raise an informal levy³⁶ upon developers and builders (including private citizens) to feed an infrastructure fund that is supposed to finance infrastructure work. This practice is contested not only because of the burden placed on the developers. It is also ineffective because the levy's revenues are not earmarked. The money paid by a developer is not necessarily invested in providing the required infrastructure connecting the project to the existing network. A second dysfunctional feature of the current system refers to the disproportionate and inequitable allocation of the burden. The levy is paid by the “first” developer in need for infrastructural connection, where any subsequent neighbouring developers are exempted from it because the connection is in place. A further source of concern about the current infrastructure legal framework relates to the allocation of the costs of maintaining the connecting infrastructure, which are currently variously split between the network operator and the private users. Despite contributing to such costs, the latter are not exercising any right or control over the infrastructure. The future new Law on Infrastructure is expected to address these failures so as to avoid free riding and grant equal rights to and among developers; promote public strategic planning and stimulate investment.

Putting reforms in the context of progressive infrastructure development is therefore key. An example of the synergies that should be leverage in Lithuania is provided by the electricity sector. While the government has focused on shortening and simplifying construction permit procedures, the country's performance in other public service delivery indicators is more mixed. Doing Business data indicates that connecting to the electricity network takes on average 137 days and involves five different procedures for business customers. This generate a costs equalling 45.5% of income per capita, placing 105th in the ranking of 189 economies on the ease of getting electricity. In relative terms, Lithuania lags some 27 “distance to frontier” (DTF) points from the regional leader (Germany). Evidence from previous Doing Business reports suggests that Lithuania made getting electricity more difficult in 2012 by abolishing the one-stop shop for obtaining technical conditions for utility services (World Bank, 2015).

A further avenue to reap spill-over potential refers to the energy efficiency policy promoted by the government and enshrined in the Law on Construction. It is required that from 31 December 2020 onwards all new constructions built in Lithuania shall allow limited consumption of energy, as outlined through the energy classes and the deadlines established by the law.³⁷ Developing “green construction permits” is widely considered as one of the means to achieve energy saving efficiency besides financial incentives such as subsidies and fiscal facilitations (Box 9.14). At the same time, the message that energy efficiency is good for business is gaining momentum across the real estate and construction sectors. A recent survey indicates that more quickly delivered construction permits for energy efficient buildings were the third most common form of incentive used by companies after tax rebates and direct grants. The same preferences were expressed in terms of the most influential form of incentive that companies consider when deciding on a new building investment (Economist Intelligence Unit, 2012, pp. 24; 25).

The government is actively promoting green building. Over the period 2014-20, LTL 1.3 billion are foreseen to be invested in the support of owners of multifamily buildings for the implementation of energy efficiency measures.

Box 9.14. Green building and renovating through regulatory instruments

Green building is defined as building activities complying “with several sustainability criteria over the life-cycle of a building: energy efficiency, water efficiency, good indoor air quality, use of environmentally sustainable materials, and use of the building lot or site in a sustainable manner” (World Bank, 2010, p. XVI). It reflects the rising interest in the potential of applying technical and technological innovation in building design and construction.

In Canada, the City of Vancouver is working to reduce the amount of energy consumed by the city's new homes 33% by 2020, with the goal of making all new buildings “carbon neutral” by 2030. It also committed to reduce greenhouse gas emissions from existing buildings by 20% over 2007 levels. The City is implementing a wide range of green building programs and policies to help reach this ambitious target, including the Green Homes programme. One of the measures consisted of amending all relevant regulation implementing the building code by introducing requirements directed at reducing the environmental impacts of new dwellings.

In the EU, a series of legal acts address energy efficiency in the building sector. They include among others the Energy Performance of Buildings Directive (EPBD); the Renewable Energy Directive (RED); the Energy Efficiency Directive (EED), as well as standards for Ecodesign and Ecolabelling. With regard to the construction sector, the aim is to reach the “near zero energy” standard for all new public buildings by 2018 and all new residential and commercial buildings by 2020.

Sources: World Bank (2010), Mainstreaming Building Energy Efficiency Codes in Developing Countries. Global Experiences and Lessons from Early Adopters, Working Paper 204, Washington DC, City of Vancouver, “Building and renovating”, <http://vancouver.ca/home-property-development/building-and-renovating.aspx> (consulted on 25 February 2015).

Notes

1. Zoning is one element of construction, infrastructure and territorial development regulation. It regulates the location and use of certain types of buildings within a city or a given territory.
2. See www.oecd.org/gov/regional-policy/recommendation-effective-public-investment-across-levels-of-government.htm.
3. Statistics reported below were provided by the government of Lithuania (Ministry of Environment) in January 2015.
4. See <http://en.delfi.lt/lithuania/economy/volume-of-construction-work-in-lithuania-up-168-percent.d?id=65563448>.
5. See <http://osp.stat.gov.lt/en/informaciniai-pranesimai?eventId=28161>.
6. See <http://osp.stat.gov.lt/en/informaciniai-pranesimai?eventId=28161>.
7. Seismas of the Republic of Lithuania, Resolution No. XII-51 on the Programme of the Sixteenth Government of the Republic of Lithuania (2012-2016), Vilnius, 13 December 2012.
8. Ibid. p. 16.
9. Ibid. p. 16.
10. These sources of concern were reported to the OECD review team both in the official questionnaire answered by the Government and in the conversations held during the fact-finding mission to Vilnius.
11. See www.investorsforum.lt/.
12. See www.investlithuania.com/.
13. The distance to frontier score benchmarks economies with respect to regulatory practice, showing the absolute distance to the best performance in each *Doing Business* indicator. An economy's distance to frontier score is indicated on a scale from 0 to 100, where 0 represents the worst performance and 100 the frontier.
14. See Chapter 2 for an exhaustive list.
15. Government Resolution No. 4 of 11 January 2012 on “Regarding Adoption of Methodology for Identifying Administrative Burden for Businesses”, <https://www.e-tar.lt/portal/lt/legalact/tar.134272d720df>.
16. Lithuanian Republic Law (XI-2386) of 8 November 2012 on “Administrative Burden Reduction”, <https://www.e-tar.lt/portal/lt/legalact/tar.de127819ae22>.
17. Government Resolution No. 228 of 13 March 2013 on “Adoption of priority measures for the implementation of the Government of the Republic of Lithuania Programme for the years 2012-2016”, accessible at <https://www.e-tar.lt/portal/lt/legalact/tar.26da62d7e9f4>.
18. Government Resolution No. 931 of 9 October 2013 on “Government's 2014 annual priorities” accessible at”, <https://www.e-tar.lt/portal/lt/legalact/tar.0f673b2d9bed>.
19. Government Resolution No. 964 of 23 October 2013 on “Amendment of the 18 July 2012 Government Resolution No. 937 on adopting a description of the licensing framework”, accessible at <https://www.e-tar.lt/portal/lt/legalact/tar.62b1abb28b06>.

20. The law can be accessed at http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=454053.
21. Law on Construction (Article 23.20), http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=454053.
22. See www.planuojustatyti.lt. Further to Government Resolution No. 1468 of 25 November 2003 on “Approving the Concept of e-government implementation measures”, http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=273447.
23. See https://planuojustatyti.lt/infostatyba_isorine/apskaita-ir-statistika.htm.
24. Data retrieved from <http://liteko.teismai.lt/>.
25. Lithuanian government, answers to the OECD Questionnaire, January 2015.
26. Information from the State Territorial Planning and Construction Inspectorate during the OECD fact-finding mission, January 2015.
27. Information from the State Territorial Planning and Construction Inspectorate during the OECD fact-finding mission, January 2015.
28. Data from the State Territorial Planning and Construction Inspectorate, January 2015.
29. Government Resolution No. 931 of 9 October 2013 on “Government’s 2014 annual priorities” accessible at <https://www.e-tar.lt/portal/lt/legalAct/TAR.0F673B2D9BED>.
30. The *Investor Confidence Index* reflects the Investor Forum’s commitment to improving the business environment and investment climate in Lithuania. It reports a series of surveys carried out among top executives and senior officers of the country’s largest foreign capital firms. The purpose of this index is to provide an alternative tool with which to assess the business conditions and investment climate in Lithuania, as well as to indicate the expectations of market participants for the short-term future. See www.investorsforum.lt/en/publications.
31. See www.infolex.lt/ta/Default.aspx?Id=7&item=doc&SubMenu=3&aktoid=77961.
32. See www.tpdri.lt/en_US/web/infoplanavimas-en/home, and <https://map.tpdri.lt/tpdri-gis/index.jsp?action=tpdriPortal>.
33. See www.tpdr.lt/en_US/web/tpd-registras-en/home; and <https://map.tpdr.lt/tpdr-gis/index.jsp?action=tpdrPortal>.
34. See the Law on Territorial Planning (Chapter 27, Article 4).
35. Specifically, “if every country improved just two key supply chain barriers – border administration and transport and communications infrastructure and related services – even halfway to the world’s best practices, global GDP could increase by USD 2.6 trillion (4.7%) and exports by USD 1.6 trillion (14.5%). For comparison, completely eliminating tariffs could increase global GDP by USD 0.4 trillion (0.7%) and exports by USD 1.1 trillion (10.1%).” World Economic Forum (2013), *Enabling Trade: Valuing Growth Opportunities*, in collaboration with Bain & Company and the World Bank, Geneva – here quoted here at p. 13.
36. In the case of the Vilnius municipality, such a levy may amount to up to 4 EUR/sq.
37. See Law on Construction, Art. 43-1, Chapter 5; as well as STR 2.01.09:2012, “Utility of Energy of Buildings – Certification of the Utility of Energy”.

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