

Creating a new profession from scratch

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With the Czech construction market booming, public building offices were swamped. Projects were becoming bigger and more complex by the day, and the building officers who had to approve them often felt that they lacked the experience to do so.

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

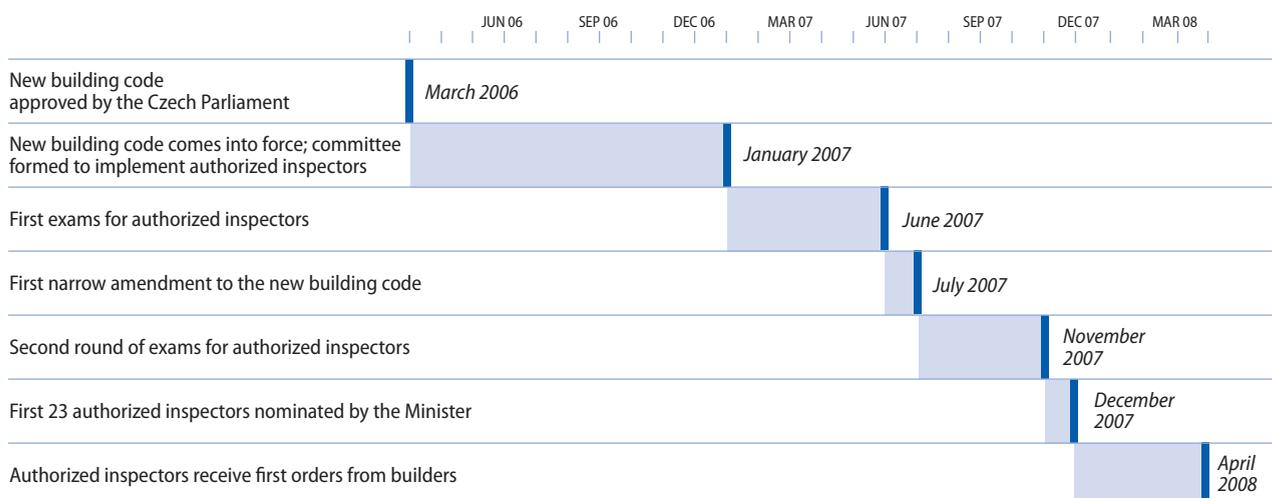
As of 2007, it took 36 procedures, 251 days, and costs equivalent to 18.5 percent of the per capita gross national income to obtain all the approvals to build a simple new warehouse and connect it to utilities in Prague.

The 2007 building code sought to turn things around. At its center was an entirely new profession for the Czech Republic: the authorized inspector. Did it work? It's too soon to tell. Important decisions have to be made on the role of inspectors in the building permitting process and implementation of the new profession is still on-going.

FIGURE 1

Timeline of building permits reform in the Czech Republic

Source: Doing Business database.



The legacy of a planned economy

Until 1 January 2007 all construction permits in the Czech Republic were governed by a 1976 law. As in many other Eastern European countries, land allocation and construction were, for half a century, based mostly on administrative decisions and a planned economy—not supply and demand. A private property and real estate market for businesses did not exist, and new developments in the construction industry were few.

To address the needs of the free market after 1989—and more recently, to implement European Union regulations—amendments to the 1976 Territorial Planning and Building Code introduced a new regime of town and country planning and construction permitting. In 1990 work officially started on a new code to replace the 1976 one.

The task proved complex—at the same time 51 other laws and regulations needed amending. The new building code concerned many players. And all wanted their voices heard, from the builders and construction firms, to the neighborhood associations, to lawyers, environmental activists, and local government officials. After long preparations and broad consultations, the new law was finally approved by the Czech Parliament in March 2006 and became effective in January 2007.

Initial opinions on the new code are varied, with the final impact as yet unclear. Instead of marking the end of a long reform process, the new law seems merely to have kicked off a second round of scrutiny. Parliament had already passed a first, narrow amendment to the new code in March 2008,¹ and a more far-reaching amendment is scheduled for 2009 to correct for any problems evident in the first 2 years.

A new player—the authorized inspector

A main innovation of the 2007 building code was the introduction of a new independent profession, the authorized inspector, along with the related shortened building control proceeding. These were introduced to privatize parts of the building control procedures—and to speed the licensing process.

The new law stipulates that developers may ask the public building office to handle the entire permitting process or may contract 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 authorized inspector can help builders address discrepancies between the design plans and the required standards right away. Reformers hope that wait times will fall as a result.

At the end of the process the authorized inspector issues a certificate 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. Authorized inspectors can also issue the basic approval document at the end of construction, allowing builders to put the building into use. Inspections during construction are still carried out by the building offices, but they follow a schedule established by the inspector during the initial assessment.

Creating a new profession from scratch

In January 2007 implementing the new profession fell to the 2 professional chambers: the Czech Chamber of Architects and the Czech Chamber of Authorized Construction Engineers and Technicians. A Coordination Committee, charged with overseeing implementation, engaged in dialogues with professional peers from England, Sweden, and Bavaria to design a workable solution for the Czech Republic. Early in the discussions it became clear that Sweden's privatization model went beyond what the reformers wanted. The most important inspiration came from England (where private inspectors can replace public buildings proceedings) and Bavaria (where private inspections complement public building proceedings).

For a reformer who must deal with politics, an advantage of having only some private elements (like in Bavaria) is that building offices do not have to cede their ultimate decisionmaking power. That means less resistance from the building offices to be overcome during the reform.² But where private inspectors compete directly with public building offices, the offices might have more incentives to streamline their processes—as in England, where approved inspectors can work anywhere in the country, making them particularly interesting for big construction firms. In response, some local public building offices started partnering with building offices elsewhere in the country to offer similar services.

Implementation in the Czech Republic remains ongoing. The two chambers established an expert exam commission and set the terms and conditions for exams, with the first exams held in June 2007. In December 2007 the first group of 23 successful candidates were appointed authorized inspectors by the minister of regional development.³ As of April 2008, another 34 had been appointed and the new inspectors have received their first orders.

The new system reflects choices about how best to manage the respective roles of the public and private sector players, including their responsibilities, accountabilities and liabilities.

Offer the same services or split responsibilities?

The Czech system is closer to the English than to the Bavarian. As in England, the Czech authorized inspector is an alternative to the public building process, not a complementary service as in Bavaria. The inspector chaperons the builder from the beginning of the proceedings to the end, ensuring that all the documentation for approval is in order and offering advice, if needed, on how to address discrepancies.

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

Who tasks the authorized inspector?

As in England, the authorized inspectors are tasked and paid for by the builder, not by the building office. But this can create adverse incentives because authorized inspectors are not accountable to public building offices. So, they might be tempted to enforce less stringent standards with important clients.

To counter the incentive problem, the Czech law obliges the inspector to provide expert cooperation to the public building office if required to do so. And the minister for regional development has the right to revoke the certification of an authorized inspector for repeated or material breaches.⁴

But the building offices' ability to intervene, where necessary, in cases handled by authorized inspectors depends on their retaining staff with qualifications equivalent to those of the authorized inspectors. An incentive problem looms because of the expected salary differentials between authorized inspectors and public building office staff. The average gross monthly salary for a building office employee is about \$1,000. Meanwhile, authorized inspectors expect their salary to be around \$50 an hour. With an authorized inspector able to earn in just 20 hours as much as colleagues at the building office earn in a month, qualified staff will likely migrate from the public sector to the private.

A first indication that this might occur is that, according to the chairman, building offices are already considering outsourcing the inspection part of the process to the authorized inspectors using a loophole in the law. If this were to happen, the Czech Republic might end up with an entirely privatized system after all.

Who carries legal liability?

Whether the structural safety controls are carried out by the building offices or the authorized inspectors, Czech authorized inspectors hold the liability for damages resulting from substandard building—because they draw up the schedule of needed inspections.⁵ Consistent with that liability arrangement, the new building code foresees that authorized inspectors have to ensure adequate insurance coverage. The details of the insurance coverage, however, have yet to be worked out. Today, unlike in England and Germany, there is no minimum coverage required. Instead, the law simply stipulates that the insurance is based on an agreement with the builder contracting the authorized inspector.

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

Conclusion

Over the last decade, building control systems in Europe have undergone significant changes. More and more countries have introduced private elements in their building control process. Some countries have gone further than others. Countries like the Czech Republic who have come late into the game can profit from the experiences of other countries like England or Germany. This case study highlighted some of the choices that the Czech Government had to make when trying to privatize building control activities. The newly appointed authorized inspectors have received their first orders recently. Practice will show if the authorized inspectors will really make a difference in the life of Czech builders.

Notes

1. The main changes contained in the amendment concern the approval of simple constructions such as garages. The amendment clarifies that if the garage forms a complex together with a house; only one building permit has to be obtained (jointly for the garage and for the house). As of April 2008, the first amendment is still awaiting the approval by the President of the Czech Republic.
2. In Bavaria, building offices in fact had to cede power as a consequence of the building code reform of 1994 and its subsequent versions. However, their loss of power was more attributable to the introduction of “approval free” building categories than the utilization of private party assessments for structural and fire safety.
3. Additional candidates have passed the exam but are still awaiting their appointment.

4. Article no. 144 section 2 of the Building Code. Other reasons to revoke the certification are if the Authorized Inspectors ceases to be a person without a criminal record or if he has been inactive in his function as an Authorized Inspector for longer than 3 years
5. The builder remains responsible for the building as a whole and the project designer assumes responsibility for accuracy of plans and most of the design and technical aspects of the building. The authorized inspector is materially responsible for his work and carries the legal liability for the building together with them. In the case of a construction failure, an examination will have to take place to establish if the documents approved by the Authorized Inspector were right and if the designer, constructor or the Authorized Inspector is responsible for the failure.