



## LATVIJAS REPUBLIKAS SAEIMA

### **Final report of the Parliamentary Committee for Investigating the Actions Taken by the State of Latvia in Assessing the Causes of the Tragedy in Zolitūde on 21 November 2013, Improving the Legislative Framework and Practical Measures to be Taken by the Public Administration and Municipalities in Order to Prevent Recurrence of Similar Tragedies, as well as Mitigating the Consequences of the Tragedy.**

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## Abbreviations

**Construction Agency** – National Construction Control Agency

**KNAB** – Corruption Prevention and Combating Bureau

**Committee or Inquiry Committee** – Parliamentary Committee for Investigating the Actions Taken by the State of Latvia in Assessing the Causes of the Tragedy in Zolitūde on 21 November 2013, Improving the Legislative Framework and Practical Measures to be Taken by the Public Administration and Municipalities in Order to Prevent Recurrence of Similar Tragedies, as well as Mitigating the Consequences of the Tragedy, established on 11 November 2014

**Supermarket** – building owned by SIA *Homburg Zolitude* and SIA *Tineo* on 20 Priedaines Street, Zolitūde district, Riga, and rented by SIA *Maxima* Latvija for *Maxima xx* retail outlet until its roof caved in on 21 November 2013

**Talsi tragedy** – Tragedy that took place on 28 June 1997 during Fire Fighting and Police Day of the Ministry of the Interior when the basket of the State Fire and Rescue Service truck-mounted crane collapsed under the weight of the people, mostly children, causing nine deaths and injuries to 21 other individuals.

**Economic Affairs Committee** – Economic, Agricultural, Environmental and Regional Policy Committee of the Saeima

**SFRS** – State Fire and Rescue Service

**The Zolitūde tragedy or the Tragedy** – the tragedy that occurred on 21 November 2013 at 20 Priedaines Street, Zolitūde district, Riga. *Maxima xx* roof caved in, killing 54 people and leaving 59 people injured

## **A. Introduction**

On 21 November 2013, at 20 Priedaines Street, Zolitūde district, Riga, *Maxima xx* roof collapsed, killing 54 people and leaving 59 people injured<sup>1</sup>. In terms of casualties, this is one of the biggest peace-time tragedies in Latvia.

The Zolitūde tragedy entailed the largest rescue operation in the Republic of Latvia. More than 192 fire fighters, 17 ambulance cars and teams, 215 state police officers, 46 Riga municipal police officers and 110 soldiers of the National Armed Forces and National Guard were involved in rescue operations during the first 14 hours following the accident. Rescue operation continued for the total of four days or 94 hours.<sup>2</sup>

The magnitude of the Zolitūde tragedy and the resulting public dismay prompted the government to establish a Zolitūde tragedy public inquiry committee just weeks after the accident on 11 December 2013. The role of the committee would involve assessment of direct and indirect causes of the Tragedy, evaluation of rescue operations and the way aftermath of the Tragedy was handled, capacity of responsible agencies and officials, and efficiency of legal framework for construction sector, public procurements and civil defence.<sup>3</sup> Just days after the establishment the public committee demanded expensive office equipment and accused charity foundation *Ziedot.lv* of not having sufficient capacity.<sup>4</sup> These statements caused a heated public debate and raised doubts about the ability of the committee to conduct a proper investigation. Committee dissipated with the loss of public confidence. The government worked hard for 12 months on mitigating the consequences of the Tragedy, and changing the legal framework and practices of government agencies.<sup>5</sup> On 11 November 2014, the newly elected members of the 12<sup>th</sup> convocation of Saeima voted in favour of establishing *Parliamentary Committee for Investigating the Actions Taken by the State of Latvia in Assessing the Causes of the Tragedy in Zolitūde on 21 November 2013, Improving the Legislative Framework and Practical Measures to be Taken by the Public Administration and Municipalities in Order to Prevent Recurrence of Similar Tragedies, as well as Mitigating the Consequences of the Tragedy*.<sup>6</sup>

### **1. Mandate and functions**

**1.1.** According to Article 26 of the Constitution of the Republic of Latvia (Satversme)<sup>7</sup>, the *Saeima* shall appoint parliamentary investigatory committees for specified matters if no less than one-third of its members request it. The Inquiry Committee in question was established following a request signed by 36 MPs. Work of inquiry committees is regulated not only by Article 26 of

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<sup>1</sup> Valsts policijas Galvenās kriminālpolicijas pārvaldes priekšnieka A.Grišina sniegtā informācija. Sk.: Komisijas 20.04.2015. [sēdes protokols](#) Nr.16, 3.lpp.

<sup>2</sup> VUGD priekšnieka vietnieka K.Eklona sniegtā informācija. Sk.: Komisijas 20.04.2015. [sēdes protokols](#) Nr.16, 5.lpp. Detalizētāku informāciju par glābšanas darbiem sk.: Pārresoru koordinācijas centra [informatīvais ziņojums](#) "Par Zolitūdes traģēdiju un tās seku novēršanu".

<sup>3</sup> Ministru kabineta 11.12.2013. [rīkojums](#) Nr.612 "Par sabiedrisko komisiju 2013.gada 21.novembra Zolitūdes traģēdijas apstākļu izvērtēšanai".

<sup>4</sup> LTV: Zolitūdes izmeklēšanas komisijas pirmā vēstule – fondam "Ziedot.lv".

Pieejams: <http://www.irir.lv/2013/12/17/ltv-zolitudes-izmeklesanas-komisijas-pirma-vestule-ziedot-lv>.

<sup>5</sup> Valdības paveiktais apkopots [Pārresoru koordinācijas centra informatīvajā ziņojumā](#) "Par Zolitūdes traģēdiju un tās seku novēršanu".

<sup>6</sup> Saeimas priekšsēdētājas I.Mūrnieces 11.11.2014. [paziņojums](#) par Zolitūdes traģēdijas parlamentārās izmeklēšanas komisijas izveidi.

<sup>7</sup> Latvijas Republikas Satversme: pieņemta 15.02.1922. (spēkā no 07.11.1922.)// Likumu un Valdības Rīkojumu Krājums, 1922, 12.burtņīca, Nr.113; Latvijas Vēstnesis, 01.07.1993., Nr.43.

Satversme, but also the Parliamentary Inquiry Committee Law<sup>8</sup> and the Rules of Procedure of the Saeima.<sup>9</sup>

**1.2.** According to legal acts **inquiry committees have the following rights:** 1) request all relevant information and expertise from members of the Cabinet of Ministers and executive departments, municipalities and other public institutions; 2) invite any individual to participate in the committee meetings; 3) request audit of state and local public and other institutions; 4) submit legislative proposals to the Saeima; 5) prepare conclusions and proposals that are taken into consideration or incorporated into legal acts by the government and the parliament.

**1.3.** As with any other Saeima committee, parliamentary inquiry committee primarily works through its meetings. All findings and discussions of the inquiry committee are compiled into a **final report** on investigation. Once approved by the absolute majority vote of the committee members, this report represents key information on the committee, its findings and conclusions, and contains recommendations on the needed corrective actions. The final report is presented and discussed at a sitting of the Saeima, and it is also published in the official journal *Latvijas Vēstnesis*.

**1.4. The Committee operates according to the Parliamentary Inquiry Committee Law and the following principles:**

**1.4.1. Parliamentary inquiry.** An inquiry committee conducts **parliamentary investigation** which is different from investigations led by law enforcement agencies. Parliamentary investigation aims to establish the actions of the executive branch in specific circumstances that point to government negligence or lack of capacity to perform certain responsibilities. Although a committee may give a political assessment of law enforcement agency actions, parliamentary inquiry is not a pre-trial investigation that leads to court proceedings and prosecution;<sup>10</sup>

**1.4.2. Presumption of innocence.** All democratic countries with rule of law rely on the presumption of innocence: no one is considered guilty of committing a crime until proven guilty in due process of law.<sup>11</sup> The Inquiry Committee abides by this principle and none of the findings covered in the report are to be construed as presumption of anybody's guilt. Presumption of innocence is a binding and overriding principle of the Committee and all public officials who have been involved, are involved or will be involved in examination of the Zolitūde tragedy. As a principle in criminal law, presumption of innocence has to be treated as separate from the Committee findings. Findings of the Committee are not meant to indict anyone *per se*. However, evidence collected during the parliamentary inquiry may be used by law enforcement agencies in criminal investigation or lead to administrative proceeding by a government agency;

**1.4.3. Neutrality and bias.** All members of the Committee must sign a conflict of interest declaration regarding their duties as members of the Committee to clear them of any and all suspicion regarding possible influence on Committee decisions. Members must also confirm that Article 10 of the Code of Ethics of Members of the Saeima does not apply to them, i.e. MPs refrain from joining parliamentary inquiry committees that aim to investigate areas or time periods in which they have been involved;

**1.4.4. Good governance and feedback.** According to the Parliamentary Inquiry Committee Law, the final report and its findings/recommendations shall be circulated among the Saeima committees, the Cabinet of Ministers, as well as ministries and other public institutions responsible for implementation of the recommendations. Moreover, the Law contains a **feedback requirement**,

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<sup>8</sup> Parlamentārās izmeklēšanas komisiju likums: pieņemts 08.05.2003. (spēkā no 01.06.2003.)// Latvijas Vēstnesis, 22.05.2003., Nr.76.

<sup>9</sup> Saeimas kārtības rullis: pieņemts 28.07.1994. (spēkā no 01.09.1994.)// Latvijas Vēstnesis, 18.08.1994., Nr.96.

<sup>10</sup> Balodis R. Status of Parliamentary investigatory committees and their role in the state administration. Jurista Vārds, 12.05.2015.,Nr.19. [http://zolitude.saeima.lv/attachments/499\\_499\\_PIK%20raksts%20eng.pdf](http://zolitude.saeima.lv/attachments/499_499_PIK%20raksts%20eng.pdf)

<sup>11</sup> Latvijas Republikas Satversmes komentāri, VIII nodaļa. Cilvēka pamattiesības. Autoru kolektīvs prof. R.Baloža zinātniskā vadībā. Latvijas Vēstnesis, 2011, 144.–148.lpp.

which obligates the responsible bodies to evaluate and decide on the practical implementation of recommendations. It is not only the quality of the final report and the persuasion skills of the Committee that determine the extent to which the Committee's conclusions are taken into consideration; it is also the political will and desire of the majority in the Saeima and the government to improve the governance and ensure the safety of the citizens;

**1.4.5. Transparency and openness.** Even though there are inquiry committees that, due to the nature of the subject matter of their investigation, are not allowed to disclose the information they have obtained and must hold meetings behind closed doors, the investigation of the Zolitūde tragedy was conducted openly. Immense public interest and desire to follow the proceedings of the Committee led to a decision to broadcast the Committee proceedings live. This was the first time in the history of the Saeima when regular live broadcasts of any committee's meetings were provided. Around 3,000 viewers followed the proceedings live. Considering the population of the country, which is around two million, the number of viewers is an excellent indication of the high public interest in the matter. Viewership was four times the average for the Saeima sittings in 2015, with the exception of the presidential vote of 3 June 2015, which attracted around 7,000 live viewers.<sup>12</sup> A special section on the Saeima website, <http://zolitode.saeima.lv/>, was created to ensure greater transparency of the Committee's work. Not only does it detail the work of the Committee and compile the correspondence between the Committee and public institutions, municipalities and NGOs, but also provides unlimited access to the video and audio archive, as well as minutes of the Committee meetings. By September 2015, the number of Committee's webpage visitors reached 26,640 since its launch in February 2015. A video blog of Artuss Kaimiņš, one of the members of the Inquiry Committee, detailing the progress of the inquiry, reached the total viewership of 483,000, with the average of 37,154 views per episode. Parliamentary inquiry committee dealing with the Zolitūde tragedy was the first ever parliamentary investigation committee which created its own webpage. Only four out of sixteen standing committees of the Saeima have their own websites.<sup>13</sup>

## 2. Aims and tasks

The **aim** of the Committee is to identify and assess the flaws in the public and municipal administration, as well as the legal framework that led to the Zolitūde tragedy. Committee must also identify the public officials responsible for the shortcomings and suggest regulatory improvements, as well as ways of promoting better work of state and municipal institutions. Due to the fact that the case was also in pre-trial criminal investigation and prosecution opened by the State Police and Prosecutor's Office at the same time as the Committee conducted its investigation, according to Article 396 of the Criminal Procedure Law<sup>14</sup>, Committee was not allowed to access the evidence and confidential information.<sup>15</sup> During the Committee meeting on 15 December 2014, Ēriks Kalnmeiers, Prosecutor General, advised the Committee members to focus on flaws in the regulatory and governance system without getting involved in the investigation led by the law enforcement agencies, to which Committee members agreed. The Inquiry Committee was given the **task** of investigating the causes of the Zolitūde tragedy. The task would primarily include a review of construction monitoring framework in force at the time of the construction and operation of the Supermarket and the assessment of response to the Zolitūde tragedy by state and municipal

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<sup>12</sup> Pēc Google Analytics statistikas datiem.

<sup>13</sup> Savas mājaslapas ir Aizsardzības, iekšlietu un korupcijas novēršanas [komisijai](#), Mandātu, ētikas un iesniegumu [komisijai](#), Pilsonības, migrācijas un sabiedrības saliedētības [komisijai](#) un Ilgtspējīgas attīstības [komisijai](#).

<sup>14</sup> Kriminālprocesa likums: pieņemts 21.04.2005. (spēkā no 01.10.2005.)// Latvijas Vēstnesis, 11.05.2005., Nr.74.

<sup>15</sup> Ģenerālprokuratūras Krimināltiesiskā departamenta virsprokurora A.Kalniņa sniegtā informācija. Sk.: Komisijas 01.12.2014. [sēdes protokols](#), 2.lpp., ģenerālprokurora Ē.Kalnmeiera sniegtā informācija. Sk.: Komisijas 15.12.2014. [sēdes protokols](#) Nr.4, 3.lpp.

services, as well as their input in improving regulatory framework and governance practices to avoid similar disasters in future.

### 3. Structure

**3.1.** According to the Parliamentary Inquiry Committee Law, each political group represented in the Saeima has a right to appoint proportionally the same number of its members to inquiry committee as other political groups. The Committee is comprised of 12 MPs representing all six political parties elected in the 12<sup>th</sup> Saeima: Ringolds Balodis (to Latvia from the Heart, FHL), Ints Dālderis (Unity, U), Artuss Kaimiņš (Latvian Regional Alliance, LRA), Kārlis Krēsliņš (National Alliance, NA), Aleksejs Loskutovs (U), Inguna Rībena (NA), Kārlis Seržants (Union of Greens and Farmers, UGF), Inguna Sudraba (FHL), Mārtiņš Šics (LRA), Zenta Tretjaka (Concord, C), Juris Vectirāns (UGF), Igors Zujevs (C).

**3.2.** Ringolds Balodis (FHL) was elected the Chair of the Committee, and Ints Dālderis (U) was chosen as the secretary of the Committee. On 29 October 2015 members of the Committee dismissed Ints Dālderis from the position and elected Kārlis Krēsliņš as the new secretary of the Committee.

**3.3.** Initially, from 27 November 2014 until 7 May 2015, Regīna Ločmele-Luņova (C) was also a member of the Committee and its Deputy Chair. Later on she was substituted by Igors Zujevs (C) who was approved for this position by the rest of the Saeima.

**3.4.** Sandra Notruma was the consultant of the Committee from 5 January 2015 until 31 May 2015, but was later substituted by Krišjānis Bebers. Asnāte Streļča served as the Technical Secretary of the Committee from 1 June until 24 September 2015.

### 4. Experts

**4.1.** In its first meeting, pursuant to Article 8 of the Parliamentary Inquiry Committee Law, the Committee unanimously decided to include a representative of the Prosecutor General's Office. Prosecutor General responded to the decision by appointing Arvīds Kalniņš, Chief Prosecutor of the Criminal Law Department and his substitute Ivo Ivanovs, Prosecutor of the Pre-trial Investigation Unit of the Criminal Law Department.

**4.2.** After interviewing several witnesses regarding donations from a number of construction companies to organisation *Ascendum*, owned by the wife of Juris Pūce, former State Secretary of the Ministry of Economics, the Committee concluded that this may constitute a case of corruption in the sphere of construction regulations. In the light of the discovery, the Committee decided to contact KNAB on 15 January 2015 and urged the Bureau to nominate its representative to the Commission. Ilze Jurča, Deputy Head of the KNAB, was appointed to this position and represented KNAB in the Committee from 19 January 2015 until 2 March 2015.

**4.3.** Article 169 of the Saeima Rules of Procedure enables the Committee to involve various **experts**, both on permanent and temporary basis. The involved experts who may have had conflict of interest due to the obligation to testify or give expert opinion on issues considered by the Committee had to sign a **statement** confirming that they are aware of the Article 11 of the Parliamentary Inquiry Committee Law, which states that deliberate misleading or misrepresentation of facts to the Committee is subject to criminal prosecution. To achieve its goals, the Committee also invited various industry experts. The responsible state and municipal officials, as well as witnesses were also invited to the Committee meetings.

**4.3.1.** Experts/representatives from the following non-governmental organisations were attracted to the Committee: Latvian Association of Architects, Construction Industry NGO Coordination Centre, Latvian Association of Civil Engineers, Latvian Association of Power Engineers and Energy Constructors, Latvian Construction Contractors' Association, Latvian

Council of Sworn Advocates, Latvian Criminal Bar Association, Fund ‘Centre for Public Policy PROVIDUS’, Latvian Fire Protection Association, Transparency International Latvia DELNA, Latvian Corporate Security Association, Latvian Security Business Association, Latvian Bar Association, Latvian Trade Association, Organization of People with Disabilities and Their Friends *Apeirons*, Latvian Association of Local Governments, Latvian Association of Event Centres, Latvian Association of Large Cities, Charity Organisation “Ziedot.lv”, Latvian Red Cross, the Evangelical Lutheran Church of Latvia and The Roman Catholic Church of Latvia, and *Zolitūde 21.11*, an NGO representing the victims of the Tragedy.

**4.3.2.** Representatives of the following **state and municipal institutions** participated in the Committee meetings: State Chancellery, Cross-Sectoral Coordination Centre, State Audit Office, Ombudsman’s Office of the Republic of Latvia, Latvian National Accreditation Bureau, Ministry of Economics and its agencies: National Construction Control Agency and Consumer Rights Protection Centre, Ministry of Finance and its agencies: Procurement Monitoring Bureau, Ministry of the Interior and its agencies: the State Police and State Fire and Rescue Service, Ministry of Defence, National Guard, Ministry of Health and its agencies: State Emergency Medical Service, Ministry of Education and Science and its agencies: National Centre for Education, Ministry of Welfare and Ministry of Environmental Protection and Regional Development. Representatives of Rīga, Liepāja, Jelgava, Jūrmala, Daugavpils, Ventspils, Ogre and Tukums municipalities have taken part and presented their opinions at different meetings.

**4.3.3.** Committee meetings have also been attended by **MPs who are not members of the Committee**, including Inesis Boķis, Aleksandrs Kiršteins, Māris Kučinskis, Juris Šulcs, Ivars Zariņš, and **Chairs of the standing committees**: Ainars Latkovskis, Chair of the Defence, Internal Affairs and Corruption Prevention Committee, Aija Barča, Chair of the Social and Employment Matters Committee, and Romāns Naudiņš, Chair of the Economic, Agricultural, Environmental and Regional Policy Committee.

**4.3.4.** Representatives of the University of Latvia, Riga Technical University, Business College *Turība* and National Defence Academy also took part in Committee meetings.

**4.3.5.** The **following officials and individuals were interviewed** by the Committee: Valdis Dombrovskis, the former Prime Minister, Nils Ušakovs, Mayor of the Riga City, Rihards Kozlovskis, Minister of the Interior, Artis Kampars and Daniels Pavļuts, both former Ministers of Economics, Vjačeslavs Dombrovskis, Chair of the Economic, Agricultural, Environmental and Regional Policy Committee during the 11<sup>th</sup> Saeima and former Minister for Economics, Juris Pūce, former State Secretary of Ministry of Economics, Ilma Čepāne, Chair of the Legal Affairs Committee during the 11<sup>th</sup> Saeima, Edgars Pastars, former Legal Advisor at the Legal Bureau of the Saeima, Elita Dreimane, Head of the State Chancellery, Pēteris Vilks, Head of the Cross-Sectoral Coordination Centre, Ivars Svilāns, Head of Corporate Affairs at SIA *Maxima Latvija*, Andrejs Šteinmanis, Head of Legal Department at SIA *Maxima Latvija*, Sergejs Gridņevs, CEO of SIA *Tilts* (in charge of SIA *Tilts* machinery used during the rescue operation) and victims of the Tragedy or relatives of the deceased: Valērijs Sliņko, Aļona Burve-Želudkova, Imants Burvis and Marija Mizula.

**4.3.6.** The Committee also involved other experts and advisors on individual basis, including anti-corruption expert Juta Striķe and legal expert specialising in construction Jānis Bramanis.

## **5. Progress**

**5.1.** The Committee has met 27 times and more than 160 different individuals in total have taken part in the meetings. On 7 September 2015, members of the Committee went on a field trip to *Gaiļezers* in-patient treatment ward of the Riga East University Hospital to observe an on-site inspection of the old hospital block and see the Construction Office staff in action. Parliamentarians were accompanied by four employees of the Construction Office and several well-known



construction experts from the Latvian Association of Civil Engineers.<sup>16</sup> The Committee has interviewed the total of more than 70 witnesses and public officials. Experts of more than 30 construction, civil defence, fire safety, security business and other non-governmental organisations expressed their opinions in the Committee meetings.

**5.2.** On top of its regular meetings, the Committee also actively exchanged letters with state and municipal institutions, experts and private individuals. The Committee also sought written advice from the Ministry of Economics and the National Construction Office; Valdis Dombrovskis, former Prime Minister and the current European Commissioner (European Commission Vice-President) for the Euro and Social Dialogue; Laimdota Straujuma, the current Prime Minister; the State Chancellery; the construction boards and municipalities of Ādaži, Aizkraukle, Carnikava, Cēsis, Daugavpils, Dobele, Garkalne, Grobiņa, Gulbene, Ikšķile, Jēkabpils, Jelgava, Jūrmala, Ķekava, Liepāja, Limbaži, Ogre, Olaine, Rēzekne, Rīga, Salacgrīva, Sigulda, Talsi, Tukums, Valmiera and Ventspils; the Ministry of the Interior and its agencies: the State Police and the State Fire and Rescue Service; the Latvian National Armed Forces; the Ministry of Health and its agencies: the State Centre for Forensic Medical Examination of the Republic of Latvia, the State Emergency Medical Service, the Riga Psychiatry and Narcology Centre, the Riga Stradiņš University Department of Psychosomatic Medicine and Psychotherapy, and Association *Skalbes*. The former Minister of Economics, Artis Kampars, Professor Ilma Čepāne from the Faculty of Law of the University of Latvia and former Chair of the Legal Affairs Committee during the 11<sup>th</sup> Saeima, Riga Construction Board and the Latvian Association of Local and Regional Governments provided written opinions on the Tragedy on their own initiative.

**5.3.** In the course of the investigation, the Inquiry Committee received significant public support from the invited experts and the interviewed witnesses. It must be pointed out, however, that the Riga Stradiņš University was rather reluctant to provide the expected support and take part in the Committee's meetings. More than 30 private individuals, NGOs and officials from the Latvian Association of Local and Regional Governments, the Centre for Public Policy PROVIDUS, Transparency International Latvia DELNA, the Consumer Rights Protection Centre, the Construction Industry NGO Coordination Centre, the Latvian Association of Architects, the Latvian Council of Sworn Advocates, the Faculty of Law of the University of Latvia, legal expert specialising in construction, Jānis Bramanis, and others provided written suggestions for the final report. Most of the suggestions were included in the final report. Besides, more than 200 letters were received from private individuals.

**5.4.** During its meetings the Committee **examined the following issues:**

**5.4.1.** Reasons for dissolving the State Construction Inspection Office and its impact on efficiency of construction supervision system;

**5.4.2.** Changes in the legal framework for construction sector approved from 1 January 2008 to 21 November 2013, and implementation of the State Audit Office recommendations of 26 November 2010 by the Ministry of Economics;

**5.4.3.** Quality of the new legal framework for the construction sector in comparison to the previous laws and regulations;

**5.4.4.** Political doctrine of the Ministry of Economics before and after the Zolitūde tragedy and ministry's capacity for general supervision and coordination of construction industry;

**5.4.5.** Need to establish Construction Agency, the adequacy of allocated resources and responsibilities;

**5.4.6.** Construction supervision at the municipal level;

**5.4.7.** Use of public buildings during construction works and supervision of construction material market;

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<sup>16</sup> Sk.: Lasmanis J. Būvniecības uzraugiem instrumentu vietā publicitāte. Neatkarīgā Rīta Avīze, 08.09.2015. Pieejams: [http://zolitude.saeima.lv/attachments/499\\_nra%2008.09.2015.pdf](http://zolitude.saeima.lv/attachments/499_nra%2008.09.2015.pdf); Rīga Tv 24 sižets par Komisijas izbraukuma sēdi. Pieejams: <http://goo.gl/vXzMfa>



- 5.4.8. Implementation of construction information systems and e-services;
- 5.4.9. Quality of construction engineering education and certification system;
- 5.4.10. Public procurement of construction works;
- 5.4.11. Accountability of construction design developers and experts;
- 5.4.12. Activities of the Ministry of Economics to encourage reporting on construction standard violations, whistleblowing statistics and the response of public institutions to complaints received from the people;
- 5.4.13. Competence of security corporation employees and ability to put the knowledge to practice in emergency cases;
- 5.4.14. Possible closing of public buildings in case of a security risk;
- 5.4.15. Cooperation between rescue services and municipalities in emergency situations, coordination of emergency response and mitigation of accident impact, resources of the responsible services;
- 5.4.16. Civil defence planning and government role in coordinating the response to crisis situations;
- 5.4.17. Progress of the investigation led by the State Police;
- 5.4.18. Involvement of NGOs in emergency situations, in organising social support;
- 5.4.19. Emergency social care package offered by the state and municipalities;
- 5.4.20. Empirical evidence of the capacity of the Construction Office to perform the functions assigned by the Construction Law (collected during the off-site meeting).

## **6. The Committee's views on the investigation conducted by the State Police and the construction supervision by Riga municipality**

**6.1.** Many people think that the investigation of the Tragedy has been slow, therefore the Committee considered its duty to assess whether that is the case. After investigation, when the case was handed over to the prosecutors, Andrejs Grišins, Head of the State Criminal Police Office, came to the 20 April 2015 meeting of the Committee to present the findings of the investigation into the Tragedy. Additional information regarding the progress of the investigation was also provided by Ints Ķuzis, Head of the State Police. The Committee carefully studied the police information and information collected from public sources and concluded that:

**6.1.1.** Shortly after the Tragedy, on 21 November 2013, police opened criminal investigation into the case based on Article 239.2 of the Criminal Law<sup>17</sup> for construction law infringements that have led to severe consequences. 251 individuals were found to have suffered from the wrongdoing and the total amount of damage caused was estimated at 98 387 732 euros. Initially an investigation team of 47 investigators was created, and at times up to 100 police officers worked on the case. 249 days of the investigation were spent on examining the accident site alone. During the investigation, additional charges were added based on Article 319.3 of the Criminal Law for negligence on part of public officials that has led to severe consequences. More than 6 months later, on 7 April 2015, the criminal case was handed over to the prosecutors and 8 individuals were indicted: five individuals were charged with violation of Article 239.2 and three individuals were charged with violation of Article 319.3 of the Criminal Law. Criminal investigation costs have run up to 1.3 million euros. Case materials handed over to the prosecutors were comprised of 56 volumes, and the total number of procedural documents reached more than 14 000 pages;<sup>18</sup>

<sup>17</sup> Krimināllikums: pieņemts 17.06.1998. (spēkā no 01.04.1999.)// Latvijas Vēstnesis, 08.07.1998., Nr.199/200

<sup>18</sup> Valsts policijas priekšnieka I.Ķuža un Valsts policijas Galvenās kriminālpolicijas pārvaldes priekšnieka A.Grišina sniegtā informācija. Sk.: Valsts policijas 09.06.2015. [vēstule](#) Nr.20/2/618949, Komisijas 20.04.2015. [sēdes protokols](#) Nr.16, 3.–4.lpp.; Valsts policijas Galvenās kriminālpolicijas pārvaldes priekšnieka A.Grišina [sniegtā informācija](#) plašsaziņas līdzekļiem, Valsts policijas 16.04.2015. [preses relīze](#).

**6.1.2.** The guilt of those responsible for the Tragedy cannot be proven without examination conclusions. Therefore, it was a logical step for the police to order a full construction investigation in early 2014. The examination was undertaken by a team of 10 local construction experts. The examination was expected to be completed by the end of October or early November. However, on-site examination began with discovering significant evidence that led to additional expert tasks formulated in August, which delayed the examination completion until the end of the year. Examination included two investigative simulations. First simulation conducted on 15-17 April 2014 was designed to test the tensile strength of girders by applying compression force. The other simulation conducted on 27 May 2014 was intended to determine the impact of fire on roof structure by means of controlled combustion. (Around two years before the Tragedy fire had broken out on the roof of the Supermarket.) All experts on the team were paid for the work they did in 2014, and the total cost of the examination reached 180 thousand euros;<sup>19</sup>

**6.1.3.** State Labour Inspectorate conducted an investigation of circumstances that led to the Tragedy and death or injury of the Supermarket employees as a result of the roof collapse. The State Labour Inspectorate investigation concluded that some employees of the company might have committed a crime that led to the Tragedy. Findings of the State Labour Inspectorate prompted another criminal investigation based on Article 146.2 of the Criminal Law for violation of occupational safety standards that has led to death or severe injury of several individuals. Case was open on 9 June 2014. One individual has become a suspect in the criminal case that was handed over to the prosecutors on 15 April 2015;<sup>20</sup>

**6.1.4.** The police and prosecution were conducting a pre-trial investigation into the criminal case and formulating the charges at the same time as the Committee examined the case. Therefore, according to Article 396 of the Criminal Law, the Committee was not allowed to access any of the classified evidence or information collected by the investigators to assess the efficiency of investigation conducted by the State Police.<sup>21</sup>

**6.2.** To assess the efficiency of investigation in Latvia, the Committee analysed practices of similar construction tragedy investigation in other countries, for example, Poland, Germany and Canada.

**6.2.1.** On 28 January 2006, the roof of one of the buildings at the Katowice International Fair (Międzynarodowe Targi Katowickie) collapsed, possibly due to the weight of snow on the building. 170 people were injured and 65 killed in the accident, including 13 foreign nationals, making this the biggest construction disaster in Europe over the last couple of years.<sup>22</sup> Investigation was personally supervised by Lech Kaczyński, President of Poland, and a criminal case was opened right after the tragedy. **First arrests were made three weeks after the accident** and first suspects were charged six months later. 12 individuals were indicted and in July 2008 sentenced to 8-12 years in jail.<sup>23</sup> The decision was appealed<sup>24</sup> and only one of the accused has been sentenced so far.

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<sup>19</sup> Valsts policijas priekšnieka I.Ķuža un Valsts policijas Galvenās kriminālpolicijas pārvaldes priekšnieka A.Grišina, kā arī valdības sniegtā informācija. Sk.: Valsts policijas 09.06.2015. [vēstule](#) Nr.20/2/618949, Komisijas 20.04.2015. [sēdes protokols](#) Nr.16, 3.–4.lpp., Pārresoru koordinācijas centra [informatīvais ziņojums](#) “Par Zolitūdes traģēdiju un tās seku novēršanu,” 19.–20.lpp.

<sup>20</sup> Valsts policijas priekšnieka I.Ķuža un Valsts policijas Galvenās kriminālpolicijas pārvaldes priekšnieka A.Grišina sniegtā informācija. Sk.: Valsts policijas 09.06.2015. [vēstule](#) Nr.20/2/618949, Komisijas 20.04.2015. [sēdes protokols](#) Nr.16, 3.–4.lpp.

<sup>21</sup> Ģenerālprokuratūras Krimināltiesiskā departamenta virsprokurora A.Kalniņa sniegtā informācija. Sk.: Komisijas 01.12.2014. [sēdes protokols](#), 2.lpp., ģenerālprokurora Ē.Kalnmeiera sniegtā informācija. Sk.: Komisijas 15.12.2014. [sēdes protokols](#) Nr.4, 3.lpp.

<sup>22</sup> Kapitāls. Kā Polijas varas iestādes rīkojās pēc *Maxima* traģēdijai līdzīgās 2006.gada janvāra traģēdijas Katovicē. 25.11.2013. Pieejams: <http://goo.gl/VCWrCe>.

<sup>23</sup> Kodis. M Speciāli no Polijas: Pēc izstāžu zāles sabrukšanas jau astoņus gadus turpinās tiesvedība. 01.12.2013. Pieejams: <http://goo.gl/vo7WoD>.

<sup>24</sup> Turpat.

The remaining 11 cases are under appeal.<sup>25</sup> In 2007, due to the tragedy, the Polish Sejm introduced changes to existing laws. Under the new law, houses are inspected twice a year: before and after the winter season. Fines or even prison sentences are applied depending on the severity of irregularities.<sup>26</sup> Swift response of the agencies in charge of the investigation was decisive in the case of Katowice International Fair. Although the criminal case was opened shortly after the collapse, *International Katowice Fair*, the company that owned and managed the building, attempted to destroy most of the documents, including computer files that were later recovered, to escape the imminent charges for gross negligence of safety standards that were later brought against it and proven.<sup>27</sup> Arrest of the company management was considered to be a preventive measure as well, so as to avoid the possibility of influencing the potential witnesses.<sup>28</sup> **The investigation experts concluded that the main cause of Katowice disaster were mistakes in the building design that was changed numerous times in order to bring down the costs.**<sup>29</sup> Latvian mass media have reported that in January 2014 Latvian police officers went to Katowice to draw on the experience of the Polish investigators.<sup>30</sup>

**6.2.2.** A similar tragedy of a roof collapsing under the weight of snow took place only a few weeks before the Katowice disaster. On 2 January 2006, the collapsing roof of *Bad Reichenhall* Ice Rink in Germany took away lives of 15 people, mainly children, and left 34 people heavily injured.<sup>31</sup> It took one-and-a-half years to press charges against five individuals<sup>32</sup>, most of whom were cleared, except a construction engineer who was sentenced to 18 months in prison.<sup>33</sup> The other engineer charged with criminal offence approved the safety report and checked the structural integrity of the building two years earlier, but was acquitted for the second time in 2011 after the appeal hearing.<sup>34</sup> German mass media accused the prosecution of reluctance to identify the responsible officials and hesitancy to name the suspects and prosecuting them.<sup>35</sup>

**6.2.3.** The third investigation case studied by the Committee was the collapse of the *Algo Centre Mall*, legally Eastwood Mall from 2005, in Elliot Lake, Ontario, Canada, on 23 June 2012. The tragedy took lives of two women and injured 19 other people.<sup>36</sup> After 48 hours the rescue operation was suspended due to safety concerns. It resumed later and was finished on 27 June when remains of the two dead women were unearthed from the rubble.<sup>37</sup> It took two years for the investigation committee to finish the report, which contained a detailed study of the 33-year history of the mall, most of which were spent struggling against various structural defects in the building.<sup>38</sup> The investigation that lead to indictment of the former engineer of the mall on 31 January 2014<sup>39</sup>

<sup>25</sup> Valsts policijas Galvenās kriminālpolicijas pārvaldes priekšnieka A.Grišina sniegtā informācija. Sk.: Komisijas 24.08.2015. [sēdes protokols](#) Nr.20, 4.lpp.

<sup>26</sup> Kapitāls. Kā Polijas varas iestādes rīkojās pēc *Maxima* traģēdijai līdzīgās 2006.gada janvāra traģēdijas Katovicē. 25.11.2013. Pieejams: <http://goo.gl/VCWrCe>.

<sup>27</sup> Turpat.

<sup>28</sup> Turpat.

<sup>29</sup> Turpat.

<sup>30</sup> Kasjauns.lv. Polijas ģenerālprokurors: "Latviešiem Zolitūde ir tas pats, kas mums Smolenskas traģēdija." 02.01.2014. Pieejams: <http://goo.gl/RQzoGs>.

<sup>31</sup> *Die Welt*. Falscher Leim verursachte Einsturz. 20.07.06. <http://goo.gl/prcCMd>.

<sup>32</sup> Wedemeyer G. Wer hat Schuld am Tod meiner Mutter? *Stern.de*, 28.01.2008. <http://goo.gl/kUWWB4>.

<sup>33</sup> Gunkel C. Und wo sind die Mitschuldigen? *Frankfurter Allgemeine*, 18.11.2008. <http://goo.gl/jAUfn1>.

<sup>34</sup> *Sueddeutsche Zeitung*. Freispruch für den "Statikpapst". 27.10.2011. <http://goo.gl/bsqFwu>.

<sup>35</sup> Stübinger S. Neuer Freispruch im Fall Bad Reichenhall 2:1 für Traumstein gegen Karlsruhe. *Legal Tribune Online*, 27.10.2011. <http://goo.gl/UdpMal>.

<sup>36</sup> Bélanger, P. *Report of the Elliot Lake Commission of Inquiry, Executive Summary*. October 2014, p. 3 [http://www.attorneygeneral.jus.gov.on.ca/inquiries/elliottlake/report/ES/ELI\\_ES\\_E.pdf](http://www.attorneygeneral.jus.gov.on.ca/inquiries/elliottlake/report/ES/ELI_ES_E.pdf).

<sup>37</sup> *Ibid*.

<sup>38</sup> Eliotleikas izmeklēšanas komisijas ziņojums divās daļās un ziņojuma kopsavilkums pieejams: <http://www.attorneygeneral.jus.gov.on.ca/inquiries/elliottlake/report/index.html>.

<sup>39</sup> *The Canadian Press*. Robert Wood, Elliot Lake mall inspector, charged with criminal negligence. 31.01.2014. <http://goo.gl/o8l7RB>.

and civil claims brought against 13 other defendants are still in progress. The case involves more than 300 compensation claims.

**6.3. The Committee takes a cautious stance regarding the speed of the investigation. The magnitude of criminal cases pertaining to the Tragedy, the need to ensure a thorough and legitimate examination, has led the Committee to believe that right now the criminal investigation conducted by the Police is proceeding at an appropriate pace. The investigation required significant financial and human resources. If the Police had given in to the pressure of the general public and politicians, there would be a greater chance of a hasty investigation and the case falling apart in court. The quality of the investigation can only be determined after the court case.**

**6.4.** As mentioned previously, inquiry committees are not entitled to conduct investigations that fall within the competence of law enforcement agencies.<sup>40</sup> Moreover, according to Ints Kuzis, Head of the State Police, disclosure of evidence collected during the criminal investigation may have adverse effect on the outcome of court proceedings.<sup>41</sup> The Committee's meetings are open, and even if the Committee decided to review the Tragedy behind closed doors, it would be hard to protect the information from being leaked, and testimonies, as well as other **information provided** by the employees of the Riga City Construction Board, **might be used to defendants' benefit. At the time when the Supermarket was designed and built, the Riga City Council was the only public institution responsible for ensuring compliance of construction projects in Riga City with applicable legislation.** It is up to the court to decide whether the Riga municipal **officials** complied with all the relevant legal standards in monitoring the construction of the Supermarket. The court decision will depend on whether officials from the Construction Board have neglected their duties. However, irrespective of the guilt or guiltlessness of specific officials for the Tragedy, the Committee must assess whether the construction control system created by Riga City Council was efficient and in line with requirements of the State Administration Structure Law<sup>42</sup> (hereinafter, the SASL).

**6.5.** Riga City Council has set up a **Riga City Construction Board** (hereinafter, the Construction Board or Riga Construction Board). At the time of the construction of the Supermarket, the Construction Board and its construction inspectors were tasked with specific responsibilities. They also had quite extensive rights in exercising those duties. Rights and obligations of other parties responsible for construction industry do not release the municipality and the Construction Board from responsibility of assuring the legal compliance of construction works.<sup>43</sup> Some construction supervision duties are shared between the Construction Board and **the Riga City Council City Development Department** (hereinafter, the Department) and **Riga City Architect's Office**. According to by-laws of the Riga City Council<sup>44</sup>, acts and decisions of the Construction Board may be appealed in the City Development Department by addressing the appeal to its Director. It must be noted, however, that the Construction Board is subordinated to the Mayor of the City. **Review of the functions of these institutions by the Committee has identified the following weaknesses in the institutional framework for the construction monitoring created by the Riga City administration:**

**6.5.1. Appeals procedures** regarding acts and decisions of the Construction Board are **in conflict** with Article 19.2.3 of the by-laws of the Riga City Council, namely requirements concerning accountability of the Construction Board (the Board is subordinate to the Mayor), and Annex 2 of the Riga City Council *Management Structure*. According to Annex 2 and the

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<sup>40</sup> Sk.: Galaziņojuma 1.4.1.punktu.

<sup>41</sup> Komisijas 24.08.2015. [sēdes protokols](#) Nr.20, 5.lpp.

<sup>42</sup> Valsts pārvaldes iekārtas likums: pieņemts 06.06.2002. (spēkā no 01.01.2003.)// Latvijas Vēstnesis, 21.06.2002., Nr.94.

<sup>43</sup> Augstākās tiesas Senāta Administratīvo lietu departamenta 01.07.2010. [spriedums](#) lietā Nr.SKA – 107/2010.

<sup>44</sup> Rīgas domes 01.03.2011. [saistošie noteikumi](#) Nr.114 "Rīgas pilsētas pašvaldības nolikums" (spēkā no 05.03.2011.).

institutional hierarchy, the Department is answerable to Deputy Mayor of Riga City, whereas Riga City Construction Board is an institution with special status and accountable directly to the Mayor of the City;

**6.5.2.** The Department has no right to issue orders to the Construction Board. The lack of a hierarchical link between the two precludes the Department from issuing orders in cases of unlawful inaction either, thus contradicting Article 5.7 of the SASL. The Department cannot use any of the powers of higher institution that the SASL provides: right to request information of Article 34, right to initiate disciplinary action of Article 35, right to initiate disciplinary investigation of Article 36 or right to take over the functions of Article 37. In other words, there is **no special control system** over the Construction Board **created by the Mayor of the Riga City**. The Department is not entitled to control it, so there is no higher institution that would control the Construction Board;

**6.5.3.** Not incorporating the Department, Riga City Architect's Office and Construction Board, institutions whose functions belong to the same line of work, into one hierarchical system or a rational system with levels and subsidiarity, and formally keeping them under the direct oversight of the Mayor, implies the informal power and political influence of the Mayor. However, it does not create a legitimate indirect public administration system of independent public bodies under constant oversight, with efficient practices, subsidiary structure and ex-ante/ex-post checks, thus deviating from the legal purposes of Article 10 of the SASL.

**6.6.** That said, the Committee finds **construction supervision system of the Riga City administration**, which existed at the time of the Tragedy, **inefficient and needlessly fragmented**. This in turn means that political and moral responsibility for the Tragedy lies with the Mayor of the Riga City, Nils Ušakovs, elected on 1 July 2009, and Inguss Vircavs, Head of the Riga City Construction Board from 7 March 2012. The public demands moral and political responsibility for the Tragedy, and it lies on the shoulders of Nils Ušakovs and Inguss Vircavs. Flaws in the Riga City construction supervision system led to the Tragedy.

**6.7.** The Committee believes that construction oversight in Riga City is weakened by the existing framework of the SASL. Article 76 of the SASL provides that internal regulations and rules of indirect public administration bodies and their management are approved and endorsed by its supervising direct administration bodies. In this case, it is the City Council. So, hypothetically, such arrangement may lead to a system that produces hundreds of regulations and rules with diverse functional and institutional settings, as well as approval, validation and enforcement procedures. This not only contradicts the legal principles of Article 10 of the SASL, but also the basic right to know one's rights established in *Satversme*, the Constitution of Latvia. **Therefore, there is an urgent need to amend Article 76 of the SASL and introduce uniform procedures for drafting internal rules and regulations, and if possible provide conditions and common procedures for validating such rules and regulations. This would enable the Ministry of Justice exercise methodological oversight of rules and regulations adopted by indirect public administration bodies.**



## **B. Regulatory framework and supervision practices in the construction sector**

### **7. Deregulation: lifting of the state construction supervision**

One of the tasks of the Committee was to establish the causes of the Tragedy that took place on 21 November 2013. Therefore, the Committee analysed the reasons for and consequences of the dissolution of the State Construction Inspection Office, and identified the institutions responsible for the decision.

**7.1.** After regaining independence, the construction supervision system in Latvia was created based on the inherited Soviet legal framework and experience.<sup>45</sup> Realising the necessity to develop its own legal framework, in 1992 the government of Latvia adopted the National Construction Standards Framework that paved the way for the new national legislation.<sup>46</sup> On 10 August 1995, the Saeima adopted a new Construction Law,<sup>47</sup> which *inter alia* delegated construction control to municipalities and the State Construction Inspection Office. However, the system began working properly only in 1998 when the State Construction Inspection Office was established.<sup>48</sup>

**7.2.** The new supervision system, enforced both by the state and municipalities, existed until 1 July 2009 when the Construction Law was changed<sup>49</sup> and the State Construction Inspection Office was dissolved. In fact, it led to a complete deregulation of construction supervision across the country. Now it was up to municipalities, namely their respective construction boards, to monitor the construction industry.

**7.3.** The state has an obligation to implement laws and regulations and other administrative measures that minimise threats to a person's life and ensure personal safety in public spaces.<sup>50</sup> The Zolitūde tragedy drew attention to the government responsibility for the construction sector, and the obligation to ensure construction oversight in particular. In the context of the Tragedy, several construction experts have pointed out that the dissolution of the State Construction Inspection Office and the following deregulation of construction supervision has had an adverse impact on construction control, and that construction oversight at municipal level was not enough.<sup>51</sup>

**7.4.** The Inquiry Committee analysed the circumstances and consequences of the dissolution of the State Construction Inspection Office over the course of several meetings, for example, on 12 January and 19 January, on 16 February and 16 March 2015. The officials partially responsible for the dissolution of the State Construction Inspection Office, that is, Artis Kampars, the former Minister of Economics, and Valdis Dombrovskis, the former Prime Minister, have been interviewed by the Committee.

**7.4.1.** Statements by Artis Kampars and Valdis Dombrovskis express their belief that the dissolution of the State Construction Inspection Office had no effect on the quality of construction control, since all functions of the State Construction Inspection Office were handed off to other public authorities.<sup>52</sup>

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<sup>45</sup> Bramanis J. Būvniecības tiesību attīstības problemātika Latvijā. [Promocijas darbs](#). 2013.

<sup>46</sup> Turpat.

<sup>47</sup> Būvniecības likums: pieņemts 10.08.1995. (zaudējis spēku)// Latvijas Vēstnesis, 30.08.1995., Nr.131.

<sup>48</sup> Latvijas Valsts arhīva [informācija](#).

<sup>49</sup> Grozījumi Būvniecības likumā: pieņemts 12.06.2009. (zaudējis spēku)// Latvijas Vēstnesis, 26.06.2009., Nr.97.

<sup>50</sup> Eiropas Cilvēktiesību tiesas 19.04.2012. spriedums lietā Nr. 49382/06 *Gorgiev v former Yugoslav Republic of Macedonia*, 43.punkts; Eiropas Cilvēktiesību tiesas 30.11.2004 spriedums lietā Nr. 48939/99 *Oneryildiz v. Turkey*, 89.punkts.

<sup>51</sup> Latvijas Būvzinieņu savienības valdes priekšsēdētāja M.Straumes, Latvijas Būvzinieņu savienības valdes loceklis un Valsts būvinspekcijas vadītāja L.Jākobsona, Būvniecības biroja vadītāja P.Druka paustie vērtējumi par Valsts būvinspekcijas likvidāciju. Sk.: Veģe I. Būvinspekcijas vadītājs: pamatā veicām fiziskas pārbaudes. Neatkarīgā Rīta Avīze Latvijai, 11.12.2013. Pieejams: <http://goo.gl/ISmmHn>, Kalaus M. Būvzinieņu savienības vadītājs: Likvidējot būvinspekciju, likvidēta būvprojektu valsts ekspertīze. Nozare.lv, 25.11.2013. Pieejams: <http://goo.gl/olK0jl> Dziedulis Z. Valsts sāc uzraudzīt būvniecību. Latvijas Avīze, 01.07.2015. Pieejams: <http://goo.gl/4VRSVC>.

<sup>52</sup> Komisijas 16.02.2015. [sēdes protokols](#) Nr.10, Komisijas 16.03.2015. [sēdes protokols](#) Nr.13.



**7.4.2.** Several construction experts, including Mārtiņš Straume and Leonīds Jākobsons, President and Member of the Board of the Latvian Association of Civil Engineers respectively, as well as Valdis Birkavs, Chair of the Presidium of Construction Industry NGO Coordination Centre, have made it clear to the Committee that the dissolution of the State Construction Inspection Office was a mistake.<sup>53</sup>

**7.4.3.** When asked about the circumstances behind the dissolution of the State Construction Inspection Office, the Ministry of Economy sent the Committee a letter indicating that the initial plan was to centralise the construction supervision and control by integrating the inspectors of the municipal construction boards into the State Construction Inspection Office structure. However, the centralisation idea was abandoned because of stern opposition from the Latvian Association of Local and Regional Governments. Later, when the financial crisis hit and wide budget consolidation took place, it was decided to close the State Construction Inspection Office.<sup>54</sup>

**7.4.4.** Committee also consulted other sources of information, including State Audit Office report *Implementation of construction supervision and control after restructuring of the State Construction Inspection Office*. This report shows that construction supervision in the country has diminished after the dissolution of the State Construction Inspection Office.<sup>55</sup>

**7.5.** Based on the information collected and analysed, **the Committee has come to the following conclusions:**

**7.5.1. Need to restructure the State Construction Inspection Office appeared in as early as 2008** when the Ministry of Economics completed and submitted to the government Construction Sector Development Guidelines for 2009-2013.<sup>56</sup> According to the Guidelines, one of the main reasons for restructuring the State Construction Inspection Office was its **overlapping functions** with municipal construction boards;<sup>57</sup>

**7.5.2.** Instead of dissolution, the Ministry of Economics initially intended to strengthen the State Construction Inspection Office and proposed to integrate the municipal construction board inspectors into the structure of the State Construction Inspection Office.<sup>58</sup> However, the Latvian Association of Local and Regional Governments was absolutely against the idea, and the centralisation idea was abandoned;<sup>59</sup>

**7.5.3.** At the end of the 2008, in the wake of sharp economic decline, the government signed international loan programme. The programme envisaged extensive budget deficit cuts. Many decisions were made in a rush and without due consideration.<sup>60</sup> Austerity measures implemented by the government led to Construction Law amendments on 12 June 2009 that dissolved the State Construction Inspection Office. These changes were part of the 2009 budget law amendment package which envisaged budget deficit cuts of 500 million lats.<sup>61</sup> Documents available at the

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<sup>53</sup> Komisijas 12.01.2015. [sēdes protokols](#) Nr.5, 5.–6.lpp., Komisijas 19.01.2015. [sēdes protokols](#) Nr.6, 5.lpp., Komisijas 16.03.2015. [sēdes protokols](#) Nr.13, 5.lpp.

<sup>54</sup> Ekonomikas ministrijas 08.01.2015. [vēstule Nr.1-1-150](#) par atbildēm uz Komisijas 29.12.2014. [vēstulē Nr.233.9/18-14-12/14](#) uzdotajiem jautājumiem, 1.–3.lpp.

<sup>55</sup> Pieejams: <http://goo.gl/zJVU4b>.

<sup>56</sup> V.Dombrovskā 12.03.2015. [vēstule](#) par atbildēm uz Komisijas 16.02.2015. [vēstulē Nr.233.9/18-27-12/15](#) uzdotajiem jautājumiem, 1.lpp. Komisijas 16.02.2015. [sēdes protokols](#) Nr.10, 3.–4.lpp.

<sup>57</sup> Būvniecības nozares attīstības [pamatnostādņu](#) 2009.–2013.gadam projekts (informatīvā daļa), 16.lpp.

<sup>58</sup> Ekonomikas ministrijas 08.01.2015. [vēstule Nr.1-1-150](#) par atbildēm uz Komisijas 29.12.2014. [vēstulē Nr.233.9/18-14-12/14](#) uzdotajiem jautājumiem, 2.lpp. Ekonomikas ministrijas sagatavotā likumprojekta (VSS-1706) “Grozījumi Būvniecības likumā” [anotācijas](#) I sadaļas “Kādēļ normatīvais akts ir vajadzīgs” 3.punkts, III sadaļas “Kāda var būt normatīvā akta ietekme uz valsts budžetu un pašvaldību budžetiem” 6.punkts.

<sup>59</sup> V.Dombrovskā 12.03.2015. [vēstule](#) par atbildēm uz Komisijas 16.02.2015. [vēstulē Nr.233.9/18-27-12/15](#) uzdotajiem jautājumiem, [vēstules 2.pielikums](#), Komisijas 16.02.2015. [sēdes protokols](#) Nr.10, 3.–4.lpp.

<sup>60</sup> Balodis R., Pleps J. *Financial Crisis and the Constitution in Latvia*. Grām. *Constitution in the Global Financial Crisis. A Comparative Analysis* (Ed. Xenophon Contiades). Centre for European Constitutional Law. Greece, ASHGATE 2013. p.115.–140.

<sup>61</sup> Saeimas likumprojektu datubāze. Pieejams: <http://goo.gl/gokxIF> (Nr.1319/Lp9).

Saeima highlight two reasons for dissolving the State Construction Inspection Office: avoidance of overlapping functions<sup>62</sup> and generation of budget savings.<sup>63</sup> The Committee believes that the State Construction Inspection Office was dissolved as **a quick way of generating budget savings, no matter what. Avoidance of overlapping functions was just a secondary argument with no decisive weight.**<sup>64</sup> When an inquiry committee of the 11<sup>th</sup> Saeima requested the Cabinet of Ministers a written reply to the request to restore the State Construction Inspection Office based on public demand, the Cabinet explicitly stated that **“restructuring of the State Construction Inspection Office was driven by reduction of budget expenses, as proposed in the 2009 budget consolidation plan.”**<sup>65</sup>

**7.5.4.** Although respected industry experts, such as Mārtiņš Straume and Leonīds Jākobsons, President and Member of the Board of the Latvian Association of Civil Engineers respectively,<sup>66</sup> have dismissed the overlapping functions argument as invalid, the Committee cannot deny that there was no clear separation between functions of the State Construction Inspection Office and municipal construction boards. Two types of institutions regulating the actions of private individuals and having no hierarchical link between them led to legal uncertainty for private citizens.<sup>67</sup> **However, this matter could have been resolved by changing the legal framework rather than reckless dissolution of the State Construction Inspection Office;**

**7.5.5.** Following the dissolution of the State Construction Inspection Office, some of its functions were relegated to the Consumer Rights Protection Centre, the Public Utilities Commission, the Ministry of Economics, and the Ministry of the Interior.<sup>68</sup> However, the main function of the State Construction Inspection Office provided by Article 29 of the Construction Law – to verify whether municipalities comply with the law and other regulations regarding construction supervision, and provide directions to municipal construction boards for eliminating construction irregularities and oversee their implementation – **was not assigned to any institution. It was now up to municipal construction boards** to implement the construction supervision at full scope;

**7.5.6.** The core responsibility of the State Construction Inspection Office was the oversight of municipal construction boards. The Inspection Office examined the compliance of construction board decisions with applicable legislation, as well as the quality of their supervision practices.<sup>69</sup> For instance, controls performed by the State Construction Inspection Office in 2008 showed that in 14.4% of cases contractors have failed to regularly update construction progress reports, in 14.1% of cases design supervision logs were missing from the site, in 13.1% of cases contractors were missing documents regarding completed sections of projects, and in 7.3% of cases technical

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<sup>62</sup> 12.06.2009. pieņemtā likuma “Grozījumi Būvniecības likumā” likumprojekta [anotācijas](#) I sadaļas “Kādēļ normatīvais akts ir vajadzīgs” 2.punkts.

<sup>63</sup> Turpat, III sadaļas “Kāda var būt normatīvā akta ietekme uz valsts un pašvaldību budžetiem” 6.punkts.

<sup>64</sup> Ekonomikas ministrijas 08.01.2015. [vēstule Nr. 1-1-150](#) par atbildēm uz Komisijas 29.12.2014. [vēstulē Nr. 233.9/18-14-12/14](#) uzdotajiem jautājumiem, 2.lpp. Komisijas 12.01.2015. [sēdes protokols](#) Nr.5, 3.lpp., Grozījumi Būvniecības likumā: pieņemts 12.06.2009. (zaudējis spēku)// Latvijas Vēstnesis, 26.06.2009., Nr.97., [anotācija](#).

<sup>65</sup> Latvijas Republikas 11.Saeimas Pieprasījumu komisijas sarakste pamatdarbības jautājumos [(2012.gada janvāris-decembris). 07.08.2012. Ministru kabineta atbildes vēstule Nr.18/TA-1471 uz Pieprasījumu komisijas vēstuli Nr.9/11-2-n/45-11/12.] Pieejama: Saeimas arhīvā.

<sup>66</sup> Komisijas 16.03.2015. [sēdes protokols](#) Nr.13, 5.lpp., Komisijas 12.01.2015. [sēdes protokols](#) Nr.5, 5.lpp.

<sup>67</sup> 11. Saeimas Juridiskās komisijas vadītājas, Latvijas Universitātes profesores dr. iur. I. Čepānes un Latvijas Pašvaldību savienības padomnieka tehnisko problēmu jautājumos A. Salmiņa sniegtais viedoklis par galaziņojuma projekta secinājumiem. Sk.: Komisijas 24.08.2015. [sēdes protokols](#) Nr. 20, 6.lpp., I. Čepānes 29.08.2015. [vēstule](#) Izmeklēšanas komisijai, 3. lpp.

<sup>68</sup> Ministru kabineta 29.05.2009. [rīkojums](#) Nr.352 “Par Valsts būvinspekcijas reorganizāciju”.

<sup>69</sup> Bramanis J. Būvniecības tiesību attīstības problemātika Latvijā. [Promocijas darbs](#). 2013. Komisijas 12.01.2015. [sēdes protokols](#) Nr.5, 5.lpp.

designs lacked the expert analysis required by laws and regulations.<sup>70</sup> **The high rate of irregularities means that municipal construction boards were failing to provide maximum control. On the other hand,** the position of the Ministry of Economics in this regard in 2010 was **vague and in contradiction with the standards of good governance.** Juris Pūce, the State Secretary of the Ministry of Economics, must have been aware of the deep problems in construction supervision. However, in response to the findings of the State Audit Office regarding the consequences of the dissolution of the State Construction Inspection Office, he referred to the political stance of the then minister, Artis Kampars: “[...] The dissolution of the State Construction Inspection represents the opinion of a specific minister (*Artis Kampars*) that municipalities should be given more flexibility in implementing their power. Concerning this particular function, the minister’s stance is that municipalities are more aware of the risks that may affect construction process;”<sup>71</sup>

**7.5.7. Dissolution of the State Construction Inspection Office increased the likelihood of conflict of interest,** especially in cases when construction projects were initiated by municipalities themselves.<sup>72</sup> There is little doubt that inspectors, as municipal employees, could not ensure full neutrality when inspecting construction sites for municipal projects. After the dissolution of the State Construction Inspection Office, there was no supervision over the local construction boards, which had negative effect on independence of the construction board inspectors. **Expert review of technical designs, implemented by the State Construction Inspection Office, were no longer conducted, and buildings of public importance were no longer checked,**<sup>73</sup> including the Supermarket. **According to the general Construction regulations,<sup>74</sup> the State Construction Inspection Office was also authorised to initiate expert review** of technical designs to make sure they comply with applicable laws and regulations, as well as technical standards. **Therefore, the dissolution of the State Construction Inspection Office meant a lost opportunity to implement a consistent national construction policy.**<sup>75</sup>

**7.6.** The amendments to the Construction Law dissolving the State Construction Inspection Office were submitted to the Saeima by the Cabinet of Ministers. The decision on dissolving the State Construction Inspection Office was made at the Cabinet of Ministers meeting of 29 May 2009.<sup>76</sup> Not all ministers supported the decision. Raimonds Vējonis, then Minister of Environment, expressed the following opinion: “This is not a wise decision in the area of construction supervision,” stating that an effective tool for enforcing national construction policy would be lost.<sup>77</sup> The Latvian Association of Local and Regional Governments, just as other social partners, did not object to the dissolution of the State Construction Inspection Office, although noted that there is a need for state regulatory function in the area of expert examinations and pointed out potential conflicts of interest.<sup>78</sup> At the Saeima, the draft law was handed over to the Budget and Finance

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<sup>70</sup> Valsts kontroles 26.11.2010. [revīzijas ziņojums](#) Nr.5.1-2-7/2010 “Būvniecības uzraudzības un kontroles funkciju īstenošana pēc Valsts būvinspekcijas reorganizācijas”, 143.–144.punkts.

<sup>71</sup> Valsts kontroles padomes 15.12.2010. [sēdes protokols](#) Nr. 69, 9.lpp.

<sup>72</sup> Valsts kontroles 26.11.2010. [revīzijas ziņojums](#) Nr.5.1-2-7/2010 “Būvniecības uzraudzības un kontroles funkciju īstenošana pēc Valsts būvinspekcijas reorganizācijas”, 14.punkts.

<sup>73</sup> Latvijas Būvinženieru savienības valdes priekšsēdētāja M.Strauces sniegtā informācija. Sk.: Kalaus M. Būvinženieru savienības vadītājs: Likvidējot būvinspekciju, likvidēta būvprojektu valsts ekspertīze. Nozare.lv, 25.11.2013. Pieejams: <http://goo.gl/olK0jl>.

<sup>74</sup> Ministru kabineta 01.04.1997 noteikumi Nr.112 “Vispārīgie būvnoteikumi” (zaudējis spēku)// Latvijas Vēstnesis, 04.04.1997., Nr.88.

<sup>75</sup> Šādu viedokli ir pauduši Būvindustrijas nevalstisko organizāciju koordinācija centra Prezidija priekšsēdētājs V.Birkavs, Ekonomikas ministrijas valsts sekretāra vietnieks J.Spiridonovs. Sk.: Komisijas 12.01.2015. [sēdes protokols](#) Nr.5, 3.lpp.; Komisijas 19.01.2015. [sēdes protokols](#) Nr.6, 5.lpp.

<sup>76</sup> Ministru kabineta 26.05.2009. sēdes protokols Nr.33. Pieejams: <http://likumi.lv//ta/id/192627?&search=on>

<sup>77</sup> Ministru kabineta 26.05.2009. sēdes [audioieraksts](#), 2:49:00 – 03:03:00.

<sup>78</sup> Latvijas Pašvaldību savienības 03.09.2015. [vēstule](#) Nr. 0820152693/A1815,2.-3.lpp.

(Taxation) Committee as the responsible committee, and the Economic Committee.<sup>79</sup> Both committees decided to support these amendments without any additional discussions or proposals; the only proposals submitted for the second reading were submitted by the Legal Bureau of the Saeima.<sup>80</sup> The Saeima adopted these amendments on 12 June 2009 with all of the MPs present from both the coalition and the opposition voting in favour.<sup>81</sup> The analytical work turned out to be the week point in the work of the Saeima. The Latvian parliament seems to be the only legislature among the Western democracies without even a small unit tasked with gathering relevant information. It is possible that having a unit responsible for analyses, reports and research would have prevented the dissolution of the State Construction Inspection Office.<sup>82</sup> Dr. iur.h.c. Egils Levits has pointed out that in essence the Tragedy is a direct result of ill-considered legislative changes.<sup>83</sup> The opinion of the Committee: **The dissolution of the State Construction Inspection Office significantly reduced construction supervision, thus increasing the possibility for the Zolitūde tragedy to happen. Responsibility for dissolving the State Construction Inspection Office must be shared by the 9<sup>th</sup> Saeima and the government it approved, and especially the Ministry of Economics, which, being responsible for the construction sector, initiated the dissolution of the State Construction Inspection Office .**

**7.7.** The Zolitūde tragedy is a catastrophic incident for which the society demands political and moral responsibility from officials in charge of the construction sector. Unlike criminal liability, political and moral responsibility cannot be attributed to the motivation of the officials in question or the technical causes of the Tragedy. The political and moral responsibility pertains to the relationship between the state authorities and the society which demands moral responsibility for the incident. However, responsibility can only be demanded from individuals who are in a position to make decisions. Therefore, regardless of motivation, political and moral responsibility can only be assumed by public officials. Taking into account the opinion of the construction sector representatives, with reference to the aforementioned report of the State Audit Office, as well as considering that the decision on reorganisation (liquidation) of the State Construction Inspection Office was taken by officials, the political and moral responsibility for the Zolitūde tragedy and its consequences must be assumed by the following former members of the government: Valdis Dombrovskis, former Prime Minister who was in office when the state supervision of the construction sector was revoked by dissolving the State Construction Inspection Office on 1 July 2009; Artis Kampars, former Minister of Economics who was in office when the state supervision of the construction sector was revoked; Anrijs Matīss, State Secretary of the Ministry of Economics who worked under the supervision of Artis Kampars. Daniels Pavļuts took the office of the Minister of Economics from 25 October 2011 to 22 January 2014. Juris Pūce was in the position of State Secretary of the Ministry of Economics from 8 February 2010 to late November 2013; he resigned right after the Zolitūde tragedy, because it became known that the organisation *Ascendum*, managed by his wife, had received donations from RE&RE. Neither Daniels Pavļuts, Minister of Economics and the state official responsible for the construction sector, nor Juris Pūce, State

<sup>79</sup> Saeimas likumprojektu datubāze. Pieejams: <http://goo.gl/gokxIF> (Nr.1319/Lp9).

<sup>80</sup> Latvijas Republikas 9.Saeimas Budžeta un finanšu (nodokļu) komisijas sēžu protokoli ar tiem pievienotajiem materiāliem (Nr.241-267), 2.sējums, 2009.gada 1.aprīlis–12.jūnijs. Latvijas Republikas 9.Saeimas Tautsaimniecības, agrārās, vides un reģionālās politikas komisijas sēžu protokoli ar tiem pievienotajiem materiāliem (Nr.66–70), 13.sējums, 2009.gada 2.–4.jūnijs. Pieejami: Saeimas arhīvā.

<sup>81</sup> Balsošanas rezultāti. Pieejami: <http://www.saeima.lv/steno/Saeima9/090612/Balsoj/075.htm>.

<sup>82</sup> **Remark:** as regards the dissolution of the State Construction Inspection Office, the State Audit Office has noted: “**In taking the decision to reorganise the State Construction Inspection Office, the impact that the planned reorganisation would have on the control over the construction process was not considered.** The audit found deficiencies in legislation and the actions of the responsible authorities, which affected consumer safety.” Paragraph 12 of Audit Report No. 5.1-2-7/2010 “Supervision and Control of Construction after Reorganisation of the State Construction Inspection Office” of 26 November 2010 of the State Audit Office of the Republic of Latvia.

<sup>83</sup> E. Levita 24.08.2015. [vestule](http://www.vestule.lv) Izmeklēšanas komisijai.



Secretary of the Ministry of Economics, took any action to reinstate and strengthen the supervision of the construction sector.

The government, led by Valdis Dombrovskis, then Prime Minister adopted several declarations (on 11 March 2009<sup>84</sup>, 3 November 2010<sup>85</sup>, and 25 October 2011<sup>86</sup>) that contained paragraphs on the government's commitment to draft and adopt a new Construction Law, as well as to ensure competent supervision of a safe, healthy and environmentally friendly construction sector. However, the new Construction Law was adopted by the government as late as 12 April 2011, and it did not contain any provisions regarding reinstating state supervision of the construction sector, which means the government failed to ensure that the construction sector guarantees safety for the public and environmentally friendly structures. During the term of these government declarations the construction sector and hence implementation of the declared tasks was the responsibility of the aforementioned five state officials.

It is specifically due to the aforementioned considerations that the Committee has concluded that the political and moral responsibility for the Zolitūde tragedy must be assumed by Valdis Dombrovskis, former prime Minister, and the other officials mentioned in this Paragraph. The society demands moral and political responsibility for the Tragedy from Valdis Dombrovskis, Artis Kampars, Anrijs Matīss, Daniels Pavļuts and Juris Pūce. The political promises and commitments were broken and as a result the unsupervised and insufficiently regulated construction sector lead to the Zolitūde tragedy.

**7.8. In the Committee's opinion, a unit should finally be set up within the Chancellery of the Saeima, which would be tasked with compiling and analysing information with the goal of improving the quality of the legislature's work. This analysis would include an *ex ante* and *ex post* assessment system. This would improve the quality of work done by the authors of draft laws, as well as increase the legislature's responsibility for the effectiveness of the adopted legislation. Establishment of such a legislative analysis unit would strengthen parliamentarianism in Latvia and prevent national risks and tragedies. Legislative analysis would also improve the system of division of power and reduce the influence of the civil service/bureaucracy over the decisions of the representatives elected by the people thus restoring public trust in democracy and parliamentarianism in general.<sup>87</sup>**

**7.9.** It must be pointed out that along with weakening of the construction supervision system, also the accountability of all parties involved in the construction process was considerably reduced. The amendments to the Criminal Law of 13 December 2012, <sup>88</sup> specifically Section 239(2), regarding serious consequences caused by a violation of construction provisions, the applicable punishment – imprisonment – was reduced from the maximum of **8 years to 4 years**.<sup>89</sup> According to Section 5 of the Criminal Law, these provisions are retroactive and thus applicable to the officials who are defendants in the criminal case of the Zolitūde tragedy.

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<sup>84</sup> [Deklarācija](#) par Valda Dombrovskā vadītā Ministru kabineta iecerēto darbību (12.03.2009.–02.11.2010.), 7.5.1.punkts.

<sup>85</sup> [Deklarācija](#) par Valda Dombrovskā vadītā Ministru kabineta iecerēto darbību (03.11.2010.–25.10.2011.), 11.32., 11.33.punkts.

<sup>86</sup> [Deklarācija](#) par Valda Dombrovskā vadītā Ministru kabineta iecerēto darbību (25.10.2011.–22.01.2014.).

<sup>87</sup> Eiropas Savienības tiesas tiesneša E. Levita, valsts kontrolieres padomnieka juridiskajos jautājumos E. Pastara, Valsts prezidenta konstitucionālo tiesību padomnieka J. Plepa, Latvijas Universitātes asoc. profesora D. Auera, 12. Saeimas priekšsēdētājas biedres I. Lībiņas – Egneres paustie viedokļi. Sk.: E. Levita 24.08.2015. [vēstule](#) Izmeklēšanas komisijai; Komisijas 24.08.2015. [sēdes protokols](#) Nr. 20, 5.-6.lpp.; Latvijas Radio 1 raidījuma "Krustpunktā" [intervija](#) ar J. Plepu; Auers D. Parlamentārās izpētes kapacitātes salīdzinājums Baltijas jūras reģionā. Grām.: Priekšlikumi Latvijas publiskās varas pilnveidošanai. Ekspertu grupas pārvaldības pilnveidei materiāli. Rīga: Latvijas Vēstnesis, 2015, 159.lpp. Vai Saeimai nepieciešams likumdošanas analīzes dienests. [Jurista Vārds, 20.10.2015., Nr.41](#), 12.-21.lpp.

<sup>88</sup> Grozījumi Krimināllikumā: pieņemts 13.12.2012. (spēkā no 01.04.2013)// Latvijas Vēstnesis, 27.12.2012., Nr.202

<sup>89</sup> Trešā lasījuma balsošanas [rezultāti](#).

**7.10.** The Committee shares the opinion of the Criminal Law Department of the Faculty of Law, University of Latvia that by **adopting the amendments to Section 239 of the Criminal Law, the 11<sup>th</sup> Saeima** has insufficiently considered the impact of the violations in question, and has not duly assessed the potential of multiple deaths caused by collapsing buildings or parts thereof.<sup>90</sup> The parliament has recognised the mistake and on 25 September 2014 supplemented Section 239 with Paragraph 4,<sup>91</sup> which stipulates that in case a violation of construction provisions has resulted in the death of two or more human beings, the applicable punishment is imprisonment for a term up to 8 years, with a prohibition to engage in specific activities or to take up specific positions for a period up to 10 years.

## **8. Restoration of state control over construction and the current construction supervision system**

**8.1.** In its declaration on intended action, the Cabinet of Ministers, which was approved on **12 March 2009** and headed by Valdis Dombrovskis, resolved to elaborate and adopt a new Construction Law.<sup>92</sup> Two years later, on 12 April 2011, the Draft Construction Law prepared by the Ministry of Economics was supported by the Cabinet of Ministers and submitted to the Saeima.<sup>93</sup> The Saeima examined this draft law for two years until **9 July 2013** when the current version of the Construction Law was approved.<sup>94</sup> The initial version of the Law did not provide for state involvement in construction supervision, delegating this task to municipalities and building authorities.

**8.2.** Although the original wording of the Construction Law did not include provisions reinstating state supervision of the construction sector, the possibility to provide for such supervision was considered during the Saeima discussions. The Economic Committee had considered establishing a State Construction Inspection Office that would take over all the functions delegated to municipalities in the area of construction.<sup>95</sup> Likewise, establishment of regional Building Authorities in each planning region was considered.<sup>96</sup> Some MPs also proposed reinstating of the State Construction Inspection Office that would work in parallel with the municipal branches.<sup>97</sup> Vjačeslavs Dombrovskis, Chairman of the Economic Committee responded to initiatives regarding reinstating of the State Construction Inspection Office by several MPs (Ingmārs Līdaka, Raimonds Vējonis and Andris Bērziņš) in a plenary sitting of the Saeima, stating that the Economic Committee had reached a unanimous agreement on the need to renew the State Construction Inspection Office. Dombrovskis argued that “It (the renewal of the State Construction Inspection Office) has been supported by both the working group and the committee. However, it is a question of fiscal and budgetary nature, since it would cost 2 million lats.”<sup>98</sup> The proposals regarding the renewal of the State Construction Inspection Office were rejected on the basis of shortage of funds.<sup>99</sup>

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<sup>90</sup> Latvijas Universitātes Juridiskās fakultātes Krimināltiesisko zinātņu katedras 20.09.2015. [vēstule](#).

<sup>91</sup> Grozījumi Krimināllikumā: pieņemts 25.09.2014. (spēkā no 29.10.2014.)// Latvijas Vēstnesis, 15.10.2014., Nr.204

<sup>92</sup> [Deklarācija](#) par Valda Dombrovskā vadītā Ministru kabineta iecerēto darbību (12.03.2009.–02.11.2010.).

<sup>93</sup> Ministru kabineta 12.04.2011. sēdes protokols Nr.24. Pieejams: <http://likumi.lv//ta/id/228801?&search=on>.

<sup>94</sup> Būvniecības likums: pieņemts 09.07.2013. (spēkā no 01.10.2014.)// Latvijas Vēstnesis, 30.07.2013., Nr.146.

<sup>95</sup> Bijušā ekonomikas ministra D. Pavļuta un bijušā ministrijas valsts sekretāra J. Pūces sniegtā informācija. Sk.: Komisijas 16.02.2015. [sēdes protokols](#) Nr. 10, 4;6.lpp.

<sup>96</sup> Priekšlikumu [tabula](#) likumprojektam “Būvniecības likums” uz otro lasījumu (Priekšlikums nr. 50).

<sup>97</sup> Turpat, (Priekšlikums nr. 79.-80.).

<sup>98</sup> Latvijas Republikas 11. Saeimas ziemas sesijas 2013. gada 14. marta sēdes (11.sēde) [stenogramma](#).

<sup>99</sup> Bijušā ekonomikas ministra D. Pavļuta, 11. Saeimas Tautsaimniecības komisijas priekšsēdētāja Vj.Dombrovskā, Ekonomikas ministrijas Būvniecības un mājokļu politikas departamenta direktores I. Ošas sniegtā informācija Sk.: Komisijas 16.02.2015. [sēdes protokols](#) Nr.10., 4.lpp.; Komisijas 19.01.2015. [sēdes protokols](#) Nr. 6, 5.-6. lpp.



**8.3.** Only after the Zolitūde tragedy and in reaction to the categorical demands of the public to increase construction supervision did the Saeima include in the new Construction Law a norm<sup>100</sup> by which state control over construction was **reinstated**. Section 6 of the Construction Law was supplemented with Paragraph 7, and a new Section 6<sup>1</sup> was included envisioning construction control implemented by the Construction Office.<sup>101</sup> **Thus state control over construction was introduced alongside the construction control done by municipalities. Conditions were created to ensure that tragedies like the one in Zolitūde would never happen again due to insufficient control. The public was given the impression that control over construction has been improved significantly.**

**8.4.** In construction control the **functions of the state and municipalities are separated**. The Construction Office under the Ministry of Economics is responsible for supervising the construction process and safety of use for certain categories of buildings, organising technical inspections of construction designs in cases stipulated by law, as well as certifying construction experts. Municipal building authorities are responsible for supervising the construction and safety of use of all other buildings, as well as deciding issues pertaining to intended construction.

**8.5.** The Parliamentary Inquiry Committee examined the issue of municipal construction control at its meeting on 26 January 2015, which was attended by representatives of the building authorities of Latvia's largest municipalities. Building authorities from 25 municipalities were asked to submit written statements about their cooperation with state institutions, including the Ministry of Economics, and about measures taken in regard to construction supervision following the Zolitūde tragedy, as well as control of construction designs and their technical assessment.

**8.5.1.** The responsibilities of municipal building authorities regarding construction control stipulated in the Construction Law and General Construction Provisions<sup>102</sup> are, in effect, bureaucratic procedures, which mainly consists of **document reviews**.<sup>103</sup> **Building authorities do not verify calculations in construction designs, and the control over construction works carried out by construction inspectors is not equal to that performed by construction supervisors.**<sup>104</sup> After the Zolitūde tragedy people are worried about the safety of public buildings (shopping centres, concert halls, schools, institutions etc.) and are dissatisfied with the existing system, thus forcing politicians to consider expanding the functions of building authorities. Even though the public attitude is understandable, in order to strengthen municipal control over construction it would be necessary to significantly increase the number of construction inspectors and other specialists employed by building authorities. This is practically impossible, as there is already a **shortage of specialists willing to work as municipal construction inspectors**.<sup>105</sup> The Zolitūde tragedy proved beyond any doubt that economic efficiency cannot be valued higher than safety in construction; that being said, tasking building authorities with calculation verification in

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<sup>100</sup> Grozījumi Būvniecības likumā: pieņemts 24.04.2014. (spēkā no 01.05.2014.)// Latvijas Vēstnesis 30.04.2014., Nr.84.

<sup>101</sup> Būvniecības birojs savu darbu uzsāka 01.10.2014. līdz ar jaunā Būvniecības likuma spēkā stāšanos.

<sup>102</sup> Ministru kabineta 19.08.2014. noteikumi Nr.500 "Vispārīgie būvnoteikumi" (spēkā no 01.10.2014.)// Latvijas Vēstnesis, 26.09.2014., Nr.191.

<sup>103</sup> Būvniecības tiesību eksperta J.Bramaņa 25 Latvijas pašvaldību sniegto atbilžu analīze. Sk.: [J.Bramaņa 01.06.2015. vēstule](#).

<sup>104</sup> **Remark.** Section 19.6 of the Construction Law stipulates: "A construction supervisor shall be responsible for supervision of the whole construction work at large and control of every stage specified in the plan of construction supervision at the construction site within the time periods provided for in the relevant plan, as well as for conformity of the structure or its part, during construction of which the building supervisor carried out his or her duties, with the building design and the requirements of the commissioning party, this Law and other laws and regulations."

**Construction supervisors are not employed by public institutions, they are contracted by the commissioning party.**

<sup>105</sup> Uz būvinspektoru trūkumu esošo funkciju ietvaros ir norādījusi **Rīgas** dome, **Tukuma** novada būvvalde, **Olaines** novada būvvalde. Sk.: Komisijas 26.01.2015. [sēdes protokols](#) Nr.7, 5.lpp., Tukuma nov. būvvaldes 17.04.2015. [vēstule Nr.6-2/1721/1603](#), Olaines nov. būvvaldes 15.04.2015. [vēstule Nr.7.3./1574](#).

construction designs **would disproportionately prolong the construction process.**<sup>106</sup> In light of the aforementioned considerations, the Committee supports the opinion<sup>107</sup> voiced by several municipalities that comprehensive state and municipal control in **all** stages of the construction process **will not guarantee** safety, as this **will only be guaranteed by a reasonable balance between state and municipal control over construction and the responsibility and competence of all construction process participants.** The Committee is unanimous in its opinion that, **within the existing system, the capacity and authority of municipal building authorities need to be improved without attempting to broaden their functions. In addition, thought needs to be given to how to reinforce the responsibility and competence of all construction process participants.**

**8.5.2.** Applying the same legislative standards to the same conditions, municipal building authorities ought to arrive at the same interpretation of legislative norms. However, answers supplied by municipalities show that construction legislation is applied differently in each municipality<sup>108</sup> and, furthermore, municipalities commit violations due to incompetence.<sup>109</sup> Such a situation has arisen because municipalities lack the financial and human resources necessary to provide professional interpretation of legislation and, furthermore, construction legislation is complicated and has come into force relatively recently.<sup>110</sup> **Therefore the Inquiry Committee backs the opinion that it is necessary to improve the methodical support provided to municipal building authorities by the Ministry of Economics in the area of construction legislation, and the task of the government and the Saeima is to allocate the funding necessary for increasing this support.**

**8.5.3.** Sections 7 and 12 of the Construction Law oblige all municipalities in Latvia, either individually or together with other municipalities, to establish a building authority employing at least one architect and one construction inspector. In 2014, there were 86 building authorities in Latvia's 119 municipalities employing 144 construction inspectors, issuing a total of 9110 building permits and performing 13 100 inspections.<sup>111</sup> According to the Ministry of Economics data for 2014, 14 building authorities had issued 30 or fewer building permits.<sup>112</sup> In addition, it has been mentioned several times at meetings of the Committee that **small municipalities** lack the capacity

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<sup>106</sup> Uz to, ka būvprojekta pārbaude būtu ļoti laikietilpīga, ir norādījusi **Rīgas** dome, **Rēzeknes** novada būvvalde, **Tukuma** novada būvvalde, **Liepājas** pilsētas būvvalde, **Ikšķiles** novada būvvalde, **Ķekavas** novada būvvalde. Sk.: Komisijas 26.01.2015. [sēdes protokols](#) Nr.7, 5.lpp., Rēzeknes nov. būvvaldes 16.04.2015. [vēstule Nr.1.7.1.46.](#), Tukuma nov. būvvaldes 17.04.2015. [vēstule Nr.6-2/1721/1603.](#), Liepājas pils. būvvaldes 18.02.2015. [vēstule Nr.24643/2.2.1./322860.](#), Ikšķiles nov. būvvaldes 18.04.2015. [vēstule Nr.6-20/80.](#), Ķekavas nov. būvvaldes 16.04.2015. [vēstule Nr. BŪV/4-12.1/15/66.](#)

<sup>107</sup> Drošas būvniecības kontekstā būvniecības procesā iesaistīto atbildību un kompetenci ir uzsvērusi **Rēzeknes** novada būvvalde, **Jelgavas** pilsētas būvvalde, **Liepājas** pilsētas būvvalde, **Ķekavas** novada būvvalde, **Gulbenes** novada būvvalde. Sk.: Rēzeknes nov. būvvaldes 16.04.2015. [vēstule Nr.1.7.1.46.](#), Jelgavas pils. būvvaldes 18.02.2015. [vēstule Nr.26/4-3.](#), Liepājas pils. būvvaldes 18.02.2015. [vēstule Nr.324643/2.2.1./322860.](#), Ķekavas nov. būvvaldes 16.04.2015. [vēstule Nr. BŪV/4-12.1/15/66.](#), Gulbenes nov. būvvaldes 15.04.2015. [vēstule Nr. BV 2.11./15/23.](#)

<sup>108</sup> Uz atšķirīgu normatīvo aktu piemērošanu dažādās pašvaldībās ir norādījusi **Cēsu** novada būvvalde, **Ķekavas** novada būvvalde, **Ikšķiles** novada būvvalde, **Gulbenes** novada būvvalde. Sk.: Cēsu nov. būvvaldes 16.04.2015. [vēstule Nr.4/1368.](#), Ķekavas nov. būvvaldes 16.04.2015. [vēstule Nr. BŪV/4-12.1/15/66.](#), Ikšķiles nov. būvvaldes 18.04.2015. [vēstule Nr.6-20/80.](#), Gulbenes nov. būvvaldes 15.04.2015. [vēstule Nr. BV 2.11./15/23.](#)

<sup>109</sup> Riekstiņa M. Visvairāk sūdzas par vietējās varas lēmumiem. Diena, 04.08.2015. Pieejams: [http://zolitude.saeima.lv/attachments/534\\_Diena%2004082015.pdf](http://zolitude.saeima.lv/attachments/534_Diena%2004082015.pdf).

<sup>110</sup> Latvijas Zvērinātu advokātu padomes priekšlikums palielināt metodiskās palīdzības apjomu pašvaldību būvvaldēm un Latvijas Universitātes Juridiskās fakultātes atzinums par šo priekšlikumu. Sk.: Latvijas Zvērinātu advokātu padomes 27.02.2015. [vēstule Nr.1-31-630.](#), Latvijas Universitātes Juridiskās fakultātes 06.07.2015. [vēstule Nr.2020/V10-138.](#)

<sup>111</sup> Ekonomikas ministrijas 18.06.2015. [vēstule Nr.412-1-5018.](#)

<sup>112</sup> Izsniegto būvatļauju skaits administratīvo teritoriju būvvaldēs: Viļakas nov. – **25**, Tērvetes nov. – **19**, Sējas nov. – **15**, Rugāju nov. – **7**, Rucavas nov. – **28**, Mālpils nov. – **19**, Līgatnes nov. – **21**, Kandavas nov. – **24**, Jaunpils nov. – **11**, Ērgļu nov. – **14**, Dundagas nov. – **24**, Alsungas nov. – **11**, Alojas nov. – **21**, Aizkraukles nov. – **30**. Sk.: Ekonomikas ministrijas 18.06.2015. [vēstule Nr.412-1-5018.](#)

to control more complicated projects.<sup>113</sup> **In the Committee's opinion, the administrative division in Latvia has created a situation where the existence of a separate building authority in several municipalities is not practical and therefore the Ministry of Economics must devise measures that would promote creation of joint building authorities. By merging building authorities and thus reducing their number, the workload and salaries for construction inspectors would increase, and that, in turn, would allow to increase the number of construction inspectors and expand the job requirements. Furthermore, it would eliminate the disparity between the capacities of building authorities of small municipalities and other municipalities.**

**8.6.** Issues pertaining to the Construction Office were examined by the Committee in its meetings on 2 February and 20 April 2015, and in addition the Ministry of Economics also submitted information on funding of the Construction Office. Having examined this information, as well as that obtained from other sources, the Committee has come to the following **conclusions** regarding the functions of the Construction Office established within the Construction Law:

**8.6.1.** Prior to the establishment of the Construction Office municipal building authorities also had to inspect construction designs submitted by the municipality itself. Thus **a conflict of interest** was inevitable, as there was a possibility that the employees of the building authority would have to take a negative decision regarding the municipality, whilst being on its payroll. **The number of such cases would be significantly reduced** by stipulating in Section 6<sup>1</sup> of the Construction Law that the Construction Office performs construction control and puts buildings in operation in cases where the construction conception has been submitted by a municipality and the construction costs exceed EUR 1.5 million;

**8.6.2.** Many municipalities lack the competence and capacity to oversee complicated projects. The Committee is of the opinion that **the state has been correct** to stipulate in Section 6<sup>1</sup> of the Construction Law that the Construction Office is responsible for supervising the construction and putting into operation of public buildings. Furthermore, this will ensure a unified practice of supervision of public buildings throughout the country;

**8.6.3.** Having examined this and other<sup>114</sup> functions of the Construction Office established in the Construction Law, as well as the nature of municipal construction supervision, the Committee has to agree with the opinion of the Centre for Public Policy PROVIDUS that **the functions of the Construction Office** as laid down in the Construction Law **are aimed at ensuring meaningful and effective supervision of the construction process.**<sup>115</sup> **Therefore, it is unacceptable to reduce the responsibilities of the Construction Office.** Quite the opposite – the Committee **calls on the Ministry of Economics and the Saeima to broaden the functions of the Construction Office** within the next two to three years by appointing the Office to serve as the institution for pre-court settlement, thus reducing the number of court cases filed regarding construction issues. Furthermore, the Construction Office should also be tasked with organising regular training for

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<sup>113</sup> Uz to ir norādījis Latvijas Pašvaldību savienības padomnieks A.Salmiņš un Sabiedriskās politikas centra PROVIDUS pētniece, būvniecības jomas eksperte A.Lešinska. Sk.: Komisijas 16.02.2015. [sēdes protokols](#) Nr.10, 10.lpp., Komisijas 27.04.2015. [sēdes protokols](#) Nr.17, 9.lpp.

<sup>114</sup> **Remark.** Apart from the aforementioned, the Construction Office performs the following functions: 1) provides methodological assistance within its area of expertise; 2) informs certification institutions about violations committed by construction specialists; 3) organises expert examinations in construction in cases stipulated by the Construction Law; 4) organises cooperation between the supervising authorities and NGOs in the construction sector; 5) examines submissions about major violations of legislative requirements in construction; 6) maintains the Construction Information System; 7) will perform certification of construction experts as of 01.01.2016. See Section 6<sup>1</sup> and Section 6.7 of the Construction Law.

<sup>115</sup> Sabiedriskās politikas centra PROVIDUS 27.04.2015. [vēstule Nr.2015/AL-008.](#)

municipal construction inspectors and possibly also certification of construction inspectors, thus strengthening municipal building authorities.<sup>116</sup>

**8.7.** In regard to the funding of the Construction Office, the Committee **has concluded the following:** the budget for the Construction Office for this year is EUR 1 629 684, of which 80% is intended for employee salaries, but for the next two years the annual budget of the Construction Office is planned to be EUR 1 902 123, of which 82% is intended for employee salaries. It is planned that the Construction Office will have 63 employees.<sup>117</sup> **Pēteris Druķis, Head of the Construction Office, has stated that the Construction Office is short on funds** for purchasing equipment, and that the number of employees may not be sufficient.<sup>118</sup> **The Committee calls on the Cabinet of Ministers and the Saeima to significantly increase funding for the Construction Office within next year's budget. Otherwise the functions of the Construction Office stipulated in the Construction Law will only exist on paper and the establishment of the Office will merely be a political "check-box filled" aimed at placating the public and creating a false sense of construction safety.**

**8.8.** Formation of the Construction Information System (hereinafter – Information System) will finally<sup>119</sup> be completed by October of this year.<sup>120</sup> At the moment there are four registries<sup>121</sup> available on the [www.bis.gov.lv](http://www.bis.gov.lv) portal, and two more<sup>122</sup> are planned to be added by October along with four e-services.<sup>123</sup> The Information System is needed because until now circulation of information regarding construction took place only at local level in the form of paper documents thus limiting the number of people who had access to this information, which, in turn, encumbered opportunities for the public and the state to take part in the construction process and control thereof.<sup>124</sup> **The Committee is of the opinion that in its current state of development the Information System does not provide information (type and amount of construction works planned, general contractors, deadlines for launching construction etc.)<sup>125</sup> on buildings under construction, therefore there is an immediate necessity to allocate resources for further development of the Information System.** Further development of the Information System will reduce bureaucracy and make the work of supervising authorities more efficient. Therefore, **the Ministry of Economics must draw up a plan for the further development of the Information System, while the government and the Saeima must allocate adequate funding.**

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<sup>116</sup> Sabiedriskās politikas centra PROVIDUS 27.04.2015. [vestule Nr.2015/AL-008](http://vestule Nr.2015/AL-008).; Būvniecības biroja 09.09.2015. [vestule Nr. 10-2.1-15/70](http://vestule Nr. 10-2.1-15/70)

<sup>117</sup> Ekonomikas ministrijas 15.01.2015. [vestule Nr.1-1-428](http://vestule Nr.1-1-428) par atbildēm uz Komisijas 29.12.2014. [vestulē Nr.233.9/18-14-12/14](http://vestule Nr.233.9/18-14-12/14) uzdotajiem jautājumiem, 19.–21.lpp.

<sup>118</sup> Būvniecības biroja 09.04.2015. [vestule Nr.1-1/139](http://vestule Nr.1-1/139), Dziedulis Z. Valsts sāk uzraudzīt būvniecību. Latvijas Avīze, 01.07.2015. Pieejams: <http://goo.gl/4VRSVC>.

<sup>119</sup> Jau 30.08.2002. Ministru kabineta apstiprinātajā Būvniecības nacionālajā programmā tika uzsvērtā nepieciešamība izveidot Būvniecības informācijas sistēmu. Sk.: Ministru kabineta 30.08.2002. rīkojums Nr.478 "Par būvniecības nacionālo programmu", 4.1.6.–4.1.7.punkts. Pieejams: <http://likumi.lv/doc.php?id=65990u>.

<sup>120</sup> Būvniecības informācijas sistēmas mājaslapā pieejamā informācija. Pieejams: <https://goo.gl/GY5rdd>.

<sup>121</sup> Tie ir Būvkomersantu reģistrs, Būvspeciālistu reģistrs, Būvinspektoru reģistrs un Dzīvojamo māju pārvaldnieku reģistrs.

<sup>122</sup> Būs pieejams Neatkarīgu ekspertu ēku energoefektivitātes jomā reģistrs un Ēku energosertifikātu reģistrs.

<sup>123</sup> Tiks nodrošināti šādi e-pakalpojumi: būvniecības ieceres izskatīšana, būvatļaujas izsniegšana, vienkāršotas rekonstrukcijas vai renovācijas saskaņošana un būves nodošana ekspluatācijā, kā arī elektroniskas pieteikšanās formas reģistros.

<sup>124</sup> Noteikumu projekta "Būvniecības informācijas sistēmas noteikumi" [anotācijas](http://anotacijas) I sadaļas "Tiesību akta projekta izstrādes nepieciešamība" 2.punkts. Pieejams: <http://goo.gl/fhC6Wx>.

<sup>125</sup> Patērētāju tiesību aizsardzības centra priekšlikumi būvuzstādājumu tirgus jomā un Ekonomikas ministrijas atzinums par tiem. Sk.: PTAC 01.07.2015. [vestule Nr.4.2.-5/477](http://vestule Nr.4.2.-5/477), Ekonomikas ministrijas 22.07.2015. [vestule Nr.1-1-6097](http://vestule Nr.1-1-6097).



## 9. Assessment of the current construction legislation

**9.1.** The legislative system governing the construction sector consists of the Construction Law and regulations passed by the Cabinet of Ministers based on this Law, including the General Construction Provisions, as well as special construction provisions and construction standards.<sup>126</sup> On 1 October 2014 the new Construction Law replaced the previous Construction Law, also rescinding all Cabinet regulations attached to it.<sup>127</sup> For this reason, new Cabinet regulations for the construction sector were also drafted and adopted upon the adoption of the new Construction Law.

**9.2.** The Latvian Association of Architecture and the Latvian Association of Civil Engineers have pointed out that **proposals from non-governmental organisations** were often ignored during the drafting of the new Construction Law.<sup>128</sup> Those involved in the construction sector emphasise that **proper research on problems in the construction sector has not been carried out, nor have objectives of the new regulation been defined** in drafting the new legislation. Furthermore, the Ministry of Economics has never performed an in-depth and systematic analysis of construction regulations in other countries.<sup>129</sup> **The Inquiry Committee views these allegations as justified**, as the policy planning documents for the construction sector – The Development Guidelines for the Construction Sector for 2009-2013 and 2011-2015 – were never adopted by the Cabinet of Ministers. Furthermore, the drastic change of opinion following the Zolitūde tragedy and the introduction of amendments to the recently adopted Construction Law indicate a lack of proper analysis during the drafting of the new regulation. It can be assumed that the Ministry had problems with good governance at the time.<sup>130</sup> **Those involved in the construction sector<sup>131</sup> say that the new regulations are of poor quality, contain contradictory rules and have been made artificially complicated, thus posing risks to public safety.**

**9.3.** The Ministry of Economics has now drafted amendments to the General Construction Provisions<sup>132</sup> and the Construction Regulations for Buildings,<sup>133</sup> which will resolve some of the inconsistencies and problems in the new legislation. Amendments to the Rules on Civil Legal Liability Insurance of Construction Specialists and Construction Companies are also being drafted

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<sup>126</sup> **Remark.** The General Construction Provisions deal with issues that apply to the construction process regardless of the type of building, while the special construction provisions apply to specific types of buildings, for example, railroad buildings or hydro-technical buildings at ports. Construction standards establish technical requirements for buildings and elements thereof, as well as accessibility requirements. See Section 5 of the Construction Law.

<sup>127</sup> Saskaņā ar Būvniecības likuma pārejas noteikumu 2.punktu līdz aizvietojošo Ministru kabineta noteikumu spēkā stāšanās dienai, bet ne vēlāk kā līdz 01.07.2015. spēkā ir uz iepriekšējā Būvniecības likuma pamata izdotie būvnormatīvi.

<sup>128</sup> Komisijas 16.03.2015. [sēdes protokols](#) Nr.13, 9.lpp., Komisijas 16.02.2015. [sēdes protokols](#) Nr.10, 8.lpp.

<sup>129</sup> Latvijas Arhitektu savienības 16.02.2015. [vēstule](#) Izmeklēšanas komisijai, J. Bramaņa 01.06.2015. [vēstule](#) Izmeklēšanas komisijai, Komisijas 16.02.2015. [sēdes protokols](#) Nr.10, 8.lpp., Lešinska A. Par politikas veidošanu būvniecības nozarē. Pieejams: <http://providus.lv/article/par-politikas-veidosanu-buvniecibas-nozare>.

<sup>130</sup> Disciplinārlietas izmeklēšanas komisijas 01.07.2015. atzinums par disciplinārpārkāpumu konstatēšanu lietā, Nr.1-19-1274, “EXPO Milano 2015”. Sk.: Ekonomikas ministrijas 09.07.2015. [vēstule](#) Nr. 1-1-5797

<sup>131</sup> Negatīvus vērtējumus par jauno Būvniecības likumu un tam pakārtotajiem Ministru kabineta noteikumiem ir pauduši Latvijas Arhitektu savienība, Būvindustrijas nevalstisko organizāciju koordinācijas centrs, prof. I. Čepāne, PROVIDUS pētniece, būvniecības jomas eksperte A. Lešinska, būvniecības tiesību eksperts J. Bramanis, Ķekavas un Ventpils būvvaldes u.c. Sk.: Latvijas Arhitektu savienības 16.02.2015. [vēstule](#) Izmeklēšanas komisijai, J. Bramaņa 01.06.2015. [vēstule](#) Izmeklēšanas komisijai, Komisijas 16.02.2015. [sēdes protokols](#) Nr.10, 8.lpp., Lešinska A. Par politikas veidošanu būvniecības nozarē. Pieejams: <http://providus.lv/article/par-politikas-veidosanu-buvniecibas-nozare>. Ķekavas nov. būvvaldes 16.04.2015. [vēstule Nr. BŪV/4-12.1/15/66.](#), Ventpils pils. būvvaldes 23.03.2015. [vēstule Nr. 9-11/167.](#) Čepāne I. Jaunā Būvniecības likuma kropļības. Jurista Vārds, 08.04.2014., Nr.14., Kesnere R. Nozare ar jauno regulējumu nav apmierināta. [Diena, 22.10.2015.](#)

<sup>132</sup> Noteikumu projekts “Grozījumi Ministru kabineta 2014.gada 19.augusta noteikumos Nr.500 “Vispārīgie būvnoteikumi””. Pieejams: <http://tap.mk.gov.lv/lv/mk/tap/?pid=40350435>.

<sup>133</sup> Noteikumu projekts “Grozījumi Ministru kabineta 2014.gada 2.septembra noteikumos Nr.529 “Ēku būvnoteikumi””. Pieejams: <https://goo.gl/j0brvl>.

and a working group is being set up to address several problems raised by the Latvian Association of Local and Regional Governments. Furthermore, this year funds have been allocated to revise five Latvian construction standards<sup>134</sup> with the remainder planned to be revised over the next several years.<sup>135</sup> A plan for improving the Eurocode standards has been elaborated.<sup>136</sup> However, the Committee's opinion is that there is little hope for improvement in the sector unless the Ministry of Economics significantly improves its decision-making culture by performing analysis and hearing out NGOs before drafting regulations. The poor quality of the recently adopted construction regulations proves this. **Finally, a policy planning document for the nearest future needs to be drafted in cooperation with NGOs and experts of the construction sector. Without such a document development of the sector will continue to be chaotic. In search of solutions for improvement of the sector, other countries' construction legislations must also be examined, meaning that systematic and comprehensive analysis thereof should be carried out, rather than continuing the method employed by the Ministry of Economics in previous years to only examine individual aspects of foreign regulations and disregard the broader system**<sup>137</sup>.

**9.4.** Having collected and analysed opinions of non-governmental organisations, the Inquiry Committee proposes the following:

**9.4.1.** Section 2 of the Construction Law states that "the purpose of the Law is to create a living environment of good quality, determining efficient regulation of the construction process in order to ensure sustainable State economic and social development, preservation of cultural and historical and environmental values, as well as rational use of energy resources". Even though the section on the purpose of the Law does not contain directly applicable rules, it still plays an important role in the interpretation of the Law. **Therefore the Economic Committee of the Saeima must draft and the Saeima must adopt amendments to Section 2 of the Construction Law, which would stipulate that ensuring safety of use is an objective of the Law. Furthermore, the scope of application of the Law set out in Section 3 also needs to be updated by adding a reference to building maintenance supervision;**

**9.4.2.** Legislation regulating the construction sector does not give municipalities the right to prohibit proposing or continuing construction on a piece of land on ethical grounds. Immense public resentment, especially among those directly affected by the Zolitūde tragedy, has arisen due to the desire of the owners of the collapsed shopping centre to proceed with the construction of the apartment building adjacent to the site of the tragedy.<sup>138</sup> The Committee believes that erecting a building on the spot where 54 people lost their lives is disrespectful to the victims of the tragedy. **The Inquiry Committee calls on the Economic Committee of the Saeima to examine the proposal of the Riga City Building Authority to amend the Construction Law, providing municipalities with the right to prohibit proposing or continuing construction on a piece of land on ethical grounds;**<sup>139</sup>

**9.4.3.** According to the legislative acts in force at the time, an expert examination of the supermarket design had to be performed. Expert examinations of construction designs are carried out prior to commencing construction works in order to assess the compliance of the technical

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<sup>134</sup> Latvijas Būvniecības padomes 27.04.2015. [sēdes protokols](#) Nr.6.

<sup>135</sup> Ekonomikas ministrijas Būvniecības un mājokļu politikas departamenta vadītājas I.Ošas sniegtā informācija. Sk.: Komisijas 19.01.2015. [sēdes protokols](#) Nr.6, 7.lpp.

<sup>136</sup> Plāna projekts. Sk.: <http://goo.gl/9Fyb9Q>.

<sup>137</sup> Latvijas Arhitektu savienības Sertificēšanas centra vadītājas E. Rožulapas sniegtā informācija Sk.: Komisijas 16.02.2015. [sēdes protokols](#) Nr. 10, 8.lpp.

<sup>138</sup> Kozlovskā A. Ja Priedaines ielas dzīvojamās ēkas īpašnieki piekritīs zemes maiņai, tiem ēka būs jānojauc. LETA, 05.06.2015. Pieejams: <http://goo.gl/bgEWYA>.

<sup>139</sup> Priekšlikumu iesniedza Rīgas pilsētas būvvalde, norādot, ka šādu lēmumu pašvaldība varētu pieņemt, pirms tam rīkojot publisko apspriešanu (konsultatīvos nolūkos, bet ne kā publisko apspriešanu par būvniecības ieceri). Sk.: Rīgas pils. būvvaldes 01.06.2015. [vēstule Nr.BV-15-7423-nd](#).



solutions of the design to legislative and technical requirements.<sup>140</sup> This ensures that the four-eye principle is adhered to, meaning that someone other than the designer re-checks the project. There is a high probability that the expert examination of the supermarket design was performed only formally, as the previous legislation outlined the formal side of the examination stating that an examination must be performed and that an expert must provide **an opinion on the construction design at hand, yet the content of the actual examination was not specified. This problem still has not been addressed in the General Construction Provisions, which were adopted after the Tragedy and are currently in force. Therefore, the Committee proposes that the Economic Committee of the Saeima considers amendments to the Construction Law tasking the Cabinet of Ministers with drafting a separate Cabinet regulation on the procedures for expert examinations and explicitly prescribing procedures for the calculations to be performed and filing of relevant documents.**<sup>141</sup>

**9.4.4.** At the moment the Construction Law stipulates the obligation to inform the public about the issuance of a construction permit, **but it does not envision such an obligation regarding the fulfilment of the conditions contained in the permit**, even though fulfilment of the conditions is the prerequisite for commencing construction. In reality most disputes are related to the actual fulfilment of the conditions set in the construction permit. Although case law on appeals of construction permits according to the new regulations is only emerging, it is quite possible that natural persons will have the right to request a court to verify whether the commissioning party has fulfilled the conditions of the construction permit correctly. **Therefore, the Economic Committee of the Saeima must draft and the Saeima must adopt amendments to the Construction Law stipulating an obligation to inform the public about the fulfilment of the requirements of construction permits;**<sup>142</sup>

**9.4.5.** There are many buildings in Latvia built 20 – 30 or more years ago that are being used but have never been properly put into operation, or the documents proving it have been lost. **This is a public safety concern** as it is unknown how the construction process of these buildings took place and whether they are safe to use. **Therefore, the Economic Committee of the Saeima must draft and the Saeima adopt amendments to the Construction Law tasking the Cabinet of Ministers with the responsibility to elaborate regulations for safety inspections of previously erected buildings;**<sup>143</sup>

**9.4.6.** The warranty for construction works is the period during which the commissioning party can request the contractor to rectify free of charge any defect that has become known after the building has been put in operation.<sup>144</sup> Until 1 October 2014 the minimum warranty was 2 years, but as of 1 October 2014 the minimum warranty for Group 3 buildings is 5 years. The warranty period begins when the building is put in operation. Therefore, the warranty takes effect when the certificate of commissioning is signed by the building authority. Prior to the new regulations coming into force many construction contracts were signed between construction companies and

<sup>140</sup>Vispārīgo būvnoteikumu 2.5.punkts.

<sup>141</sup> Priekšlikumu iesniedza viens no vadošajiem būvniecības jomas uzņēmumiem AS *LNK industries*, norādot, ka eksperta aprēķini ir obligāti pievienojami eksperta atzinumam un būvprojektam. Sk.: AS *LNK industries* 18.02.2015. [vēstule Nr.37/02-2015.](#)

<sup>142</sup> Priekšlikumu iesniedza Latvijas Zvērinātu advokātu padome, bet Latvijas Universitātes Juridiskā fakultāte, Būvniecības birojs un Ekonomikas ministrija aicina to atbalstīt. Sk.: Latvijas Zvērinātu advokātu padomes 27.02.2015. [vēstule Nr.1-31-630](#), Latvijas Universitātes Juridiskās fakultātes 06.07.2015. [vēstule Nr.2020/V10-138](#), Būvniecības biroja 30.06.2015. [vēstule Nr.1-1/380](#), Ekonomikas ministrijas 22.07.2015. [vēstule Nr.1-1-6098](#).

<sup>143</sup> Priekšlikumu iesniedza Latvijas Zvērinātu advokātu padome, bet Rīgas Tehniskā universitāte, Būvniecības birojs, Latvijas Universitātes Juridiskā fakultāte un Ekonomikas ministrija aicina to atbalstīt. Sk.: Latvijas Zvērinātu advokātu padomes 27.02.2015. [vēstule Nr.1-31-630](#), Latvijas Universitātes Juridiskās fakultātes 06.07.2015. [vēstule Nr.2020/V10-138](#), Rīgas Tehniskās universitātes 04.06.2015. [vēstule Nr.0400-2.2.1/57](#), Būvniecības biroja 30.06.2015. [vēstule Nr.1-1/380](#), Ekonomikas ministrijas 22.07.2015. [vēstule Nr.1-1-6098](#).

<sup>144</sup> Ministru kabineta 02.09.2014. noteikumu Nr.529 "Ēku būvnoteikumi"176.punkts (spēkā no 01.10.2014.)// Latvijas Vēstnesis, 01.10.2014., Nr.194.

commissioning parties stipulating a warranty period of less than 5 years. This is also true for public procurements where tenders were submitted before 1 October 2014, even if the contracts were signed after this date. Several legal disputes have already arisen in relation to this issue and many more may be expected. **Therefore, the Cabinet of Ministers must include a transition period in the Construction Regulations for Buildings, which would apply to the aforementioned cases, stipulating that warranty periods are not to be changed;**<sup>145</sup>

**9.4.7.** The new construction regulations divide buildings into three groups. The strictness of the supervision of the construction process depends on the group that the building belongs to. According to the General Construction Provisions, Group 3 denotes public buildings intended for more than 100 people simultaneously. Supervision of such buildings is to be performed by the Construction Office (all other buildings are inspected by municipalities). There have been a number of claims that, in practice, it is difficult to identify which buildings are public<sup>146</sup> and that the criterion of 100 people depends on what is indicated in the project design. There have already been cases where the designs indicate that there would be less than 100 people in the building at any given time, even though it is obviously not so.<sup>147</sup> **Therefore the Cabinet of Ministers must draft amendments to the Cabinet regulations pertaining to the Construction Law to clarify the definition of public buildings;**

**9.4.8.** The new Construction Law established a new function for municipal building authorities and the Construction Office, i.e., building service supervision. However, it is not even theoretically possible to employ enough construction inspectors to fully inspect all buildings. Some municipalities are already performing this function only in response to complaints.<sup>148</sup> Therefore, it is the Committee's opinion that it makes sense to increase the responsibility of the owner of the building for the safety of the building during its use. Paragraph 191 of the Construction Regulations of Buildings stipulates that the owner of a Group 2 or Group 3 building shall perform a technical follow-up of the building no less than once every 10 years, and in the event of finding significant damages, the owner „undertakes all necessary measures to rectify” the situation. **The Cabinet of Ministers must establish in Cabinet regulations pertaining to the Construction Law the procedure by which a construction expert, upon finding significant damages during the technical follow-up, shall inform the municipal building authority or the Construction Office (whichever applies), which will then supervise the fulfilment of the owner's obligations;**<sup>149</sup>

**9.4.9.** According to the Construction Law all construction specialists are obliged to insure their professional activity, but discrepancies between the Construction Law and Cabinet Regulations No. 502 on Compulsory Professional Indemnity Insurance of Construction Specialists and Builders<sup>150</sup> create legal issues that need to be eliminated. **The Inquiry Committee calls on the Ministry of Economics to work together with the Economic Committee of the Saeima to clarify the**

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<sup>145</sup> Priekšlikumu iesniedza neatkarīgi viena no otras Būvindustrijas nevalstisko organizāciju koordinācijas centrs un Latvijas Zvērinātu advokātu padome, bet Latvijas Universitātes Juridiskā fakultāte un Būvniecības birojs aicina to atbalstīt Sk.: Latvijas Zvērinātu advokātu padomes 27.02.2015. [vēstule Nr.1-31-630](#), Būvindustrijas nevalstisko organizāciju koordinācijas centra 09.02.2015. [vēstule Nr.BKC 12/01](#), Latvijas Universitātes Juridiskās fakultātes 06.07.2015. [vēstule Nr.2020/V10-138](#), Būvniecības biroja 30.06.2015. [vēstule Nr.1-1/380](#).

<sup>146</sup> Uz publiskas ēkas jēdziena neskaidrību norāda Būvniecības biroja vadītājs P.Druķis, Ogres novada būvvalde, Latvijas Pašvaldību savienība. Sk.: Komisijas 23.03.2015. [sēdes protokols](#) Nr.14, 11.lpp., Valtmane E. LPS norāda uz nepilnībām sabiedrisko ēku uzskaitē. LETA, 03.02.2015. Pieejams: <http://goo.gl/YtxEa1>, Ogres nov. būvvaldes 14.04.2015. [vēstule Nr.1-10.1/82](#).

<sup>147</sup> Būvniecības biroja vadītāja P.Druķa sniegtā informācija. Sk.: Būvniecības biroja 09.04.2015. vēstule Nr.1-1/139. Dzedulis Z. Valsts sāk uzraudzīt būvniecību. Latvijas Avīze, 01.07.2015. Pieejams: <http://goo.gl/4VRSVC>.

<sup>148</sup> Uz to, ka ekspluatācijas uzraudzības funkcijas izpilde prasa pārāk lielus resursus un līdz ar to funkcija tiek izpildīta, atbildot tikai uz sūdzībām, norādījuši Liepājas pilsētas būvvalde. Sk.: Komisijas 26.01.2015. [sēdes protokols](#) Nr.7, 6.lpp.

<sup>149</sup> Sk. Komisijas 02.02.2015. [sēdes protokols](#) Nr. 8, 5.lpp.

<sup>150</sup> Ministru kabineta 19.08.2014. noteikumi Nr.502 “Noteikumi par būvspeciālistu un būvdarbu veicēju civiltiesiskās atbildības obligāto apdrošināšanu” (spēkā no 01.10.2014.)// Latvijas Vēstnesis, 02.09.2014., Nr.172.

**construction legislation on issues pertaining to the role and responsibility of various legal entities in the construction process, as well as to eliminate any discrepancies in the regulations construction insurance;**

**9.4.10.** Paragraph 49 of the General Construction Provisions lists the documents to be submitted by the entity requesting the expert examination to the entity performing it, however these only pertain to the structural examination of the building. As the expert examination covers other spheres as well, the documents to be submitted need to be divided by construction subsector and design section;<sup>151</sup>

**9.4.11.** Paragraph 28 of the General Construction Provisions stipulates that the designer shall elaborate the construction design in compliance to legislative requirements, the contract for the design and best professional practices. It is necessary to define what constitutes best professional practices;

**9.4.12.** Paragraph 95 of the General Construction Provisions establishes the obligation of the construction manager to guarantee that the quality of work performed is in line with that envisioned in the construction design. The quality of the construction design must be defined in the special construction provisions;

**9.4.13.** Rules regarding the author supervision plan must be included in the General Construction Provisions stipulating that the author's supervisor is present when covered works are accepted for service;

**9.4.14.** Paragraph 125.9 of the General Construction Provisions must stipulate rules regarding the absence of the construction manager;

**9.4.15.** Paragraph 125.20 of the General Construction Provisions must stipulate which documents shall be considered proof of records;

**9.4.16.** Paragraph 127.1 of the General Construction Provisions establishes that, based on the specifics of the building, the construction supervision plan shall initially contain information about the necessary number and extent of inspections to be performed. Minimum requirements for these inspections need to be set;

**9.4.17.** Paragraph 129 of the General Construction Provisions stipulates that "prior to putting a building in operation the construction supervisor shall submit to the commissioning party and the building authority or the Construction Office a report on timely completion of the actions defined in the construction supervision schedule and shall attest that the building has been constructed according to construction quality and legislative requirements". The content of this report needs to be elaborated.

**9.5.** Having considered the regulatory framework on the accountability of the individuals involved in the construction process, the Committee has made the following conclusions:

**9.5.1.** Sections 19(2) and 19(3) provide for the accountability of the owner of the land as limited to responsibility for choosing appropriate construction specialists, as well as responsibility for the commencement or performance of construction work without a construction permit and for any activity before a note has been made in the construction permit. Likewise, Section 19 provides for the accountability of the building technical designer, building expert, performer of construction work and construction supervisor. **It can be concluded that Section 19 of the Construction Law lacks consistency - certain natural entities (construction supervisor and construction expert) and certain legal entities (building designer and performer of construction work);**

**9.5.2.** The Construction Law and the related Cabinet of Ministers regulations currently use the term "person who proposed construction" (the initiator) as well as "commissioning party" without providing definitions and explaining differences or relationships, if any, between the two entities. Likewise, the law contains terms "owner" and "person who has been issued a construction permit".

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<sup>151</sup> 9.4.10. – 9.4.17. punktā minētos priekšlikumus iesniedza Būvindustrijas nevalstisko organizāciju koordinācijas centrs. Sk.: Būvindustrijas nevalstisko organizāciju koordinācijas centra 09.02.2015. [vēstule Nr.BKC 12/01.](#)

The Construction Law and the related Cabinet of Ministers regulations have loosely defined several rights and obligations of these entities;

**9.5.3.** Construction is performed in the interests of the owner/holder/commissioning party/initiator, and at their expense, which means they have considerable impact on the quality of the building design and the quality construction works. Therefore it is unacceptable that the current wording of the Construction Law considerably reduces the responsibility of the owner/holder/commissioning party/initiator, limiting it to the areas of responsibility set forth in the Construction Law, the General Construction Provisions and the Civil Law.<sup>152</sup> Furthermore, the provisions of the law are difficult to enforce, if the owner is not competent to assess the risks associated with the building design and the relevant solutions;

**9.5.4.** The lack of the owner's knowledge/competence in the construction process leads to a need to adjust the building design, relevant solutions and also costs at later stages of construction. In light of the tight schedules, it drastically increases the risk of errors made by authors/construction supervisors. The limiting and reduction of the owner's responsibility along with the lack of statistical data on the costs and timeframe of construction works also lead to errors in financial and timeframe planning. Furthermore, it leads to a situation where the crediting/financing institutions in question may intervene and put pressure on the costs/quality and timeframe of the design and construction works purely based on their interests. It is essential to ensure collection and availability of unbiased statistical data, especially for the purpose of public procurements.

**9.6.** Taking into account the aforementioned (Paragraph 9.5.), the Saeima, the Cabinet of Ministers, The Economic Committee of the Saeima, as well as the Ministry of Economics must introduce the following improvements to the Construction Law and the relevant Cabinet of Ministers regulations:

**9.6.1. The Construction Law should clearly stipulate that the owners have the obligation to commission services from appropriate consultants - construction supervisors, building designers and construction companies which provide service according to the procedures prescribed in the applicable laws and regulations;**

**9.6.2.** The definitions of the various parties/entities involved in the construction process and consistent use of precise terminology must be ensured in the relevant laws and regulations;

**9.6.3.** More specific responsibilities of the legal and natural entities involved in the construction process must be defined based on common principles, while taking into account their rights, obligations and competences;

**9.6.4.** The General Construction Provisions must be supplemented with clearly defined duties of the legal and natural entities involved in the construction process, including the owner/holder/commissioning party/initiator;

**9.6.5.** Responsibility must be assigned for arbitrary works performed after a note is made regarding compliance of the construction works in question with relevant requirements;

**9.6.6.** It must be stipulated that in the designing stage the owners of group 3 building projects have the obligation to ensure commissioning of services from appropriate specialists who are authorised to approve the solutions used in the design.

## **10. Procedure for evaluating competence and quality of higher education of construction specialists, and monitoring of their practice (certification)**

**10.1.** In relation to the Zolitūde tragedy, on 7 April 2015 the State Police requested the Prosecutor's Office to begin criminal proceedings against five construction specialists, who were

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<sup>152</sup> Civillikums: pieņemts 28.01.1937.( spēkā no 01.01.1938.; atjaunots spēkā ar 14.01.1992 likumu)// Latvijas Republikas Augstākās Padomes un Valdības Ziņotājs, 1992, Nr. 4/5

charged under Paragraph 2 of Section 239 of the Criminal Law – violation of construction provisions leading to grievous consequences.<sup>153</sup> In light of this, as well as taking into account criticism heard at several meetings of the Committee regarding the procedure for evaluation of competence and the quality of higher education of construction specialists and monitoring their practice<sup>154</sup>, the Committee demanded that special attention be given to these issues and has arrived at the following conclusions and proposals.

**10.2.** In order to establish individual practice in the area of engineering research, design, construction management, construction supervision or construction expert-examination, a certain level of higher professional education is required; currently the required qualifications can be obtained from the Riga Technical University (hereinafter RTU) and the Latvia University of Agriculture. Having heard the opinions of experts and examined other relevant information, the Committee has identified several problems in the area of higher education of construction specialists, and has devised the following proposals:

**10.2.1.** The Cabinet of Ministers regulations on the standards of 1<sup>st</sup> and 2<sup>nd</sup> level higher professional education<sup>155</sup> stipulate that in each study programme at least 20 credit points must be acquired in general study fields, which consist of humanities and social sciences. Taking into account that the Bologna declaration limits the paid contact classes to 20 credit points per semester, the non-specialty subjects are taught at the expense of the specialty subjects, which prevents higher education establishments from providing construction specialists with comprehensive knowledge in their respective fields.<sup>156</sup> **Therefore, the Cabinet of Ministers must amend its regulations on the education standards, reducing the proportion of non-specialty subjects in both mandatory and optional blocks of study programmes;**

**10.2.2.** In recent years, as a part of the state budget consolidation measures, allocations for the RTU Faculty of Building and Civil Engineering had been considerably reduced. Currently these allocations constitute only 25% of the funding allocated in 2008, and they are even below the level of funding in 2005, although the workload of the teaching staff has increased by 20% since 2005. Currently the average gross monthly remuneration of the teaching staff of the RTU Faculty of Building and Civil Engineering is EUR 560. Therefore highly qualified specialists with doctoral degrees are leaving the RTU, and it is virtually impossible to attract new teaching staff, which poses a considerable risk of failing to ensure continuity of the academic personnel.<sup>157</sup> In light of the financial situation, the Committee considers it unacceptable that the Faculty of Building and Civil Engineering receives less than half of the allocations earmarked for it, while the difference is used to cover the administrative costs of the RTU.<sup>158</sup> **The Ministry of Education and Science together**

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<sup>153</sup> Valsts policijas Galvenās kriminālpolicijas pārvaldes priekšnieka A.Grišina sniegtā informācija. Sk.: Komisijas 20.04.2015. [sēdes protokols](#) Nr.16, 3.lpp.

<sup>154</sup> RTU Būvniecības un rekonstrukcijas institūta direktora L.Pakrastiņa, Latvijas Arhitektu savienības pārstāvja U.Baloža un Latvijas Arhitektu savienības Sertificēšanas centra vadītājas E.Rožulapas sniegtā informācija. Sk.: Komisijas 26.01.2015. [sēdes protokols](#) Nr.7, 8.lpp.; Komisijas 02.02.2015. [sēdes protokols](#) Nr.8, 9.lpp.; Komisijas 02.03.2015. [sēdes protokols](#) Nr.11, 4.–6.lpp

<sup>155</sup> Ministru kabineta 20.03.2001. noteikumi Nr.141 "Noteikumi par pirmā līmeņa profesionālās augstākās izglītības valsts standartu" (spēkā no 05.04.2001.)// Latvijas Vēstnesis, 04.04.2001., Nr.54; Ministru kabineta 26.08.2014. noteikumi Nr.512 "Noteikumi par otrā līmeņa profesionālās augstākās izglītības valsts standartu" (spēkā no 12.09.2014.)// Latvijas Vēstnesis, 11.09.2014., Nr.179.

<sup>156</sup> Uz humanitāro un sociālo zinātņu priekšmetu īpatsvara samazināšanas nepieciešamību ir norādījuši RTU programmas "Būvniecība" metodiskā komisija (asoc. prof., Dr. sc. ing. M.Vilnītis, M. sc. D.Brence, prof., Dr. sc. ing. A.Korjajins, prof., Dr. sc. ing. A.Čate, asoc. prof., Dr. sc. ing. K.Bondars, prof., Dr. sc. ing. L.Pakrastiņš, prof., Dr. sc. ing. M.Dobelis, doc., Dr. sc. ing. L.Gaile, R.Kalderauskis), Latvijas Arhitektu savienības Sertificēšanas centra vadītāja E.Rožulapa. Sk.: RTU programmas "Būvniecība" metodiskās komisijas 12.12.2014. [vēstule](#); Komisijas 09.03.2015. [sēdes protokols](#) Nr.12, 9.lpp.

<sup>157</sup> Komisijas 02.03.2015. [sēdes protokols](#) Nr.11, 4.–5.lpp.; RTU programmas "Būvniecība" metodiskās komisijas 12.12.2014. [vēstule](#).

<sup>158</sup> Turpat.



**with the Education, Culture and Science Committee of the Saeima must be tasked with establishing a mechanism that would allow to limit the administrative costs of the higher education establishments;**

**10.2.3.** Apart from mandatory study subjects, the construction-related professional bachelor's study programmes include mandatory optional study subjects with a theoretical possibility of specialising in a specific field. In practice students tend to choose subjects from all fields of specialisation, therefore it is not possible to have construction specialists in a specific field of construction, e.g. design. In other words, currently construction engineers have no specialisation.<sup>159</sup>

**The Ministry of Education and Science together with the Education, Culture and Science Committee of the Saeima must be tasked with ensuring that students are required to choose optional study subjects in a specific field of specialisation.** Furthermore, the relevant authorities should consider introducing procedures that would require the certification institutions to issue certificates in specific fields of specialisation based on the accomplished study courses and grades received.

**10.3. Construction specialists, who have acquired higher education, undergo certification procedure, which determines the level of competence of architects, civil engineers and electrical engineers is assessed, a licence to practice is issued<sup>160</sup>, and monitoring of professional activity is implemented** (hereinafter – certification procedure). According to Paragraph 3 of Section 13 of the Construction Law certification of construction specialists is done by the **state**. The Ministry of Economics<sup>161</sup>, which is responsible for the construction sector, enters into delegating contracts based on which **this task is delegated to non-governmental professional organisations**. Currently the task of certifying construction specialists has been entrusted to the Latvian Association of Architecture, the Latvian Association of Civil Engineers, the Railwaymen Association of Latvia, the Latvia Society of Heat, Gas and Water Technology Engineers, the Latvian Association of Power Engineers and Energy Constructors, the Latvian Maritime Union, as well as the Latvian Association of Drainage Engineers (hereinafter – certifying institutions).<sup>162</sup>

**10.4.** Drawing on the information provided at Committee meetings by experts and competent institutions, the Inquiry Committee concludes that **several significant flaws existed in the certification procedure** in force during the construction of the supermarket **which gives reason to believe that this procedure did not properly guarantee that construction specialists were performing work of the highest quality and in compliance to all safety standards**. The deficiencies were as follows:

**10.4.1.** All violations in the practice of construction specialists, regardless of severity, carried the same penalty – cancelation of the certificate, thus excluding the possibility of differentiating sanctions;

**10.4.2.** It was virtually impossible for certifying institutions to cancel certificates in cases when a construction specialist had committed grave professional violations which could cause public harm;<sup>163</sup>

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<sup>159</sup> RTU Būvniecības un rekonstrukcijas institūta direktora L.Pakrastiņa [prezentācija](#) “Par izglītību un profesionālo kompetenci būvniecības procesā iesaistītajam personālam”, RTU programmas “Būvniecība” metodiskās komisijas sniegtā informācija. Sk.: Komisijas 02.03.2015. [sēdes protokols](#) Nr.11, 4.–5.lpp.; RTU programmas “Būvniecība” metodiskās komisijas 12.12.2014. [vēstule](#).

<sup>160</sup> Ilustrētā svešvārdu vārdnīca. Rīga: izdevniecība “AVOTS”, 2005 (šķirkļis – sertifikācija).

<sup>161</sup> Saskaņā ar Valsts pārvaldes iekārtas likuma 45.panta pirmo daļu par deleģēšanas līguma slēgšanu uz laiku līdz trim gadiem lemj Ministru kabineta loceklis, kura padotībā atrodas līgumu slēdzošā iestāde, bet par līgumiem, kas tiek slēgti uz ilgāku laiku, lemj Ministru kabinets.

<sup>162</sup> Ekonomikas ministrija deleģēšanas līgumus ar minētajām organizācijām saskaņā ar Ministru kabineta 14.04.2015. rīkojumiem Nr.181,182,183,184,185,186 un 31.07.2015. rīkojumiem Nr.419, 420 ir noslēgusi uz nākamajiem pieciem gadiem, kas ir iespējamais maksimālais termiņš.

<sup>163</sup> Uz minētajiem trūkumiem (10.4.1. un 10.4.2. punkts) norāda Latvijas Būvzinieņu savienības valdes priekšsēdētājs M.Straume un Latvijas Arhitektu savienības Sertificēšanas centra vadītāja E.Rožulapa. Sk.: Komisijas 02.02.2015.



**10.4.3.** There was no separate certificate for construction specialists working in the area of expert examinations, therefore expert examinations were not regulated, which resulted in poor quality.<sup>164</sup>

**10.5.** The previous certification procedure was greatly improved with the coming into effect of the new Construction Law and Cabinet Regulation No. 610 on Assessing Competence of Construction Specialists and Rules for Monitoring Practice<sup>165</sup>. Now there are differentiated sanctions for professional violations and the definition of professional practice has been broadened allowing certifying institutions to perform professional supervision more effectively.<sup>166</sup> It is planned that as of 1 January 2016, when more stringent qualification requirements for applicants will come into effect, certification of performers of expert examinations will commence, which will partially address quality issues regarding expert examinations. Many more improvements<sup>167</sup> have been made, alongside the aforementioned most important ones, therefore the Inquiry Committee agrees with the opinion expressed by the Certification Centre of the Latvian Association of Architects<sup>168</sup> - that **the current certification procedure is significantly better** than the previous one.

**10.6. That being said, in examining the current certification procedure the Committee has still identified some faults and deficiencies, therefore it proposes to the government and the Saeima the following changes:**

**10.6.1.** Paragraph 45 of Cabinet of Ministers Regulation No.610 on certification explicitly lists instances when certifying institutions have the right to cancel a construction specialist's certificate. A certifying institution may cancel a construction specialist's certificate for professional violations which have endangered human life, health or the environment only upon receiving a court decision, which finds such a violation to have taken place and has come into force. Hence, in cases when a certifying institution discovers a violation on its own, it does not have the right to cancel the specialist's certificate, should it be necessary. This is unacceptable, as the majority of such violations will never come to the attention of the courts, whereas the certifying institutions are the first to receive information about possible violations, and, furthermore, are best qualified to decide on such issues. **The Cabinet of Ministers must amend Cabinet Regulation No. 610 on Assessing Competence of Construction Specialists and Rules for Monitoring Practice granting certifying institutions the right to cancel certificates upon encountering grave professional violations;**

**10.6.2.** Paragraph 43 of the General Construction Provisions stipulates that „expert examinations are compulsory for construction designs of **group 3** buildings”. The expert examination of a construction design is performed prior to beginning construction works in order to assess the compliance of the technical solution of the construction design to legislative and technical requirements.<sup>169</sup> This ensures adherence to the four-eye principle meaning that someone other than the designer re-checks the design. In the Latvian construction system group 3 buildings

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[sēdes protokols](#) Nr.8, 10.lpp.; Komisijas 09.03.2015. [sēdes protokols](#) Nr.12, 11.lpp.; Komisijas 02.03.2015. [sēdes protokols](#) Nr.11, 10.lpp.

<sup>164</sup> Uz būvekspertīžu zemo kvalitāti ir norādījuši Latvijas lielāko pilsētu būvvalžu pārstāvji. Sk.: Komisijas 26.01.2015. [sēdes protokols](#) Nr.7, 6.lpp.

<sup>165</sup> Ministru kabineta 07.10.2014. noteikumi Nr.610 “Būvspeciālistu kompetences novērtēšana un patstāvīgās prakses uzraudzības noteikumi” (spēkā no 15.10.2014.)// Latvijas Vēstnesis, 14.10.2014., Nr.203.

<sup>166</sup> Latvijas Arhitektu savienības Sertificēšanas centra vadītājas E.Rožulapas prezentācija “Arhitektu un būvinženieru prakses regulējums”. Sk.: Komisijas 02.03.2015. [sēdes protokols](#) Nr.11, 9.–11.lpp.

<sup>167</sup> Ekonomikas ministrijas rakstiski sniegtajās atbildēs ietvertais uzlabojumu uzskaitījums, salīdzinot spēku zaudējušo regulējumu ar spēkā esošo. Sk.: Ekonomikas ministrijas 15.01.2015. [vēstule Nr. 1-1-428](#) par atbildēm uz Komisijas 29.12.2014. [vēstulē Nr. 233.9/18-14-12/14](#) uzdotajiem jautājumiem, 21.–23.lpp.

<sup>168</sup> Latvijas Arhitektu savienības Sertificēšanas centra vadītājas E.Rožulapas prezentācija “Arhitektu un būvinženieru prakses regulējums”. Sk.: Komisijas 02.03.2015. [sēdes protokols](#) Nr.11, 9.–11.lpp.

<sup>169</sup> Vispārīgo būvnoteikumu 2.5.punkts.

are the technically most advanced structures, such as buildings intended for more than 100 people at a time or production premises exceeding 1000 m<sup>2</sup> in floor space. Taking all of this into consideration, the Committee's opinion is that **the Cabinet of Ministers must amend Cabinet Regulation No. 610 on Assessing Competence of Construction Specialists and Rules for Monitoring Practice, stipulating that performers of expert examinations of construction designs must have experience in designing buildings for which expert examinations are compulsory, as well as establishing a requirement for a clean history of professional activity and no prior ethics violations.**

**10.6.3.** When entering in delegating contracts with certifying institutions on certification of construction specialists the Ministry of Economics considers several criteria. The Ministry assesses, inter alia, the competence of the organisation and the likelihood of the certifying institution to encounter a conflict of interest. However, the assessment of these criteria is not compulsory for the Ministry of Economics and is left at the discretion of civil servants. Therefore, it is possible to create a certifying institution, which certifies specialists only based on conditions beneficial to the institution itself, rather than based on the competence and responsibility of the specialists. Furthermore, Paragraph 5 of Cabinet Regulation No. 610 stipulates the maximum duration for a delegating contract to be five years. This means that delegating contracts are regularly signed anew, which does not promote continuity of certification.<sup>170</sup> Due to the aforementioned reasons the **Economic Committee of the Saeima must draft and the Saeima must adopt amendments to the Construction Law directly delegating the task of certifying construction specialists.**

Both the current and the previous legislative framework on certification of construction specialists provide that a person who has obtained a construction specialist's certificate has the right to perform their services at all types of construction projects. However, the previous procedure for certification of construction specialists afforded the certifying institutions the right to limit the area of competence, in which the certified specialist was allowed to work. This right was widely used in cases when the specialist was competent enough to work in a specific area, yet their qualification did not permit them to work in any other areas under the certificate. For example, the Latvian Association of Civil Engineers issued certificates for designing building structures to fire safety specialists with a note that the permissible area of operation is designing of fire safety structures. However, such a mechanism no longer exists, because the delegating contracts between the Ministry of Economics and certifying institutions prohibit it. This means that many specialists **will now have to stop working in the specialised areas in which they have years of experience.**<sup>171</sup> Therefore, in implementing the Inquiry Committee's proposal to delegate certification of construction specialists by the Construction Law, certification institutions should also be given the right to limit the area of competence of certified specialists. This would also require statutory criteria and procedures based on which certification institutions would narrow the fields of practice.

## **11. Market surveillance of construction products**

**11.1.** Following the Zolitūde tragedy public suspicions have been raised about the quality and correct usage of the construction products used in the construction of the supermarket.<sup>172</sup> Because of these suspicions and the large number of violations in the market surveillance of construction

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<sup>170</sup> Latvijas Arhitektu savienības Sertificēšanas centra vadītājas E.Rožulapas prezentācija "Arhitektu un būvinženieru prakses regulējums". Sk.: Komisijas 02.03.2015. [sēdes protokols](#) Nr.11, 11.lpp.

<sup>171</sup> Latvijas Būvinženieru savienības valdes priekšsēdētāja M.Straumes sniegtā informācija. Sk.: Komisijas 02.03.2015. [sēdes protokols](#) Nr.11, 9.lpp.

<sup>172</sup> Z.Mače. *Maxima* lietas pirmais izrāviens. Žurnāls "Ir", 22.01.2015., 21.lpp. Pieejams: [http://www.saeima.lv/zolitude/publikacijas/IR\\_22012015.pdf](http://www.saeima.lv/zolitude/publikacijas/IR_22012015.pdf).

products<sup>173</sup>, the Committee has examined the efficiency of the construction products market surveillance system and has come to several conclusions and proposals.

**11.2.** A construction product is any product or industrially produced structure that is intended to be incorporated into a building.<sup>174</sup> The market surveillance of construction products is primarily regulated by [Regulation No. 305/2011](#) of 9 March 2011 of the European Parliament and of the Council<sup>175</sup>, as well as Cabinet of Ministers Regulation No.156 “Procedure for the Surveillance of the Market of Construction Products”.<sup>176</sup> Market surveillance of construction products in Latvia is performed by the Consumer Rights Protection Centre (hereinafter – CRPC), the Construction Office and municipal building authorities. In turn, the participants of construction works are obliged to select construction products of adequate quality.

**11.3.** In 2013 the CRPC tested 243 construction products and found 130 samples of (53%) to be non-compliant with legislative requirements. In 2014 the CRPC tested 582 construction products and found 277 non-compliant samples (47%). An expert examination was performed on 22 construction product samples, and non-compliances to the declared features were found in 10 cases. Of the construction products checked at construction sites 150 samples did not have a manufacturer’s declaration, leading to the conclusion that the participants of the construction works have not verified the operational features of the construction products and their compliance with requirements stated in the design.<sup>177</sup> Annual reports of the CRPC show that there has also been a high percentage of non-compliances in previous years<sup>178</sup>, and experts have already previously pointed to problems in the market surveillance of construction products.<sup>179</sup> **The Inquiry Committee concludes that neither at the time of the supermarket construction, nor today the system for market surveillance of construction products ensures building safety. The Committee believes that a series of improvements are necessary in this respect.**

**11.3.1.** In the construction process the main contractor and the main construction manager **must ensure** that only construction products, whose compliance to requirements is documented, are used. In turn, the construction supervisor **must verify** that this obligation is met. Construction inspectors of the relevant building authority or the Construction Office **must check** that the documentation proving the adequacy of the construction products is available on site and inform the CRPC of any non-compliances found, while the CRPC must verify the **validity** of the documents proving the adequacy of construction products. This division of functions leads the **Committee to conclude** that while state institutions perform on-site control of the compliance of

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<sup>173</sup> Ekonomikas ministrijas 15.01.2015. [vēstule Nr. 1-1-428](#) par atbildēm uz Komisijas 29.12.2014. [vēstulē Nr.233.9/18-14-12/14](#) uzdotajiem jautājumiem, 16.–17.lpp.

<sup>174</sup> Būvniecības likuma 1.pantā ietvertā jēdziena “būvizstrādājums” legāldefinīcija.

**Remark.** Based on applicable standards and necessary documents proving compliance, construction products can be divided into three groups: 1) construction products subject to [Regulation No. 305/2011](#) of 9 March 2011 of the European Parliament and of the Council ([Regulation No. 305/2011 applies to construction products that are subjected to harmonised technical specifications, i.e., harmonised standards or European Assessment Documents](#)); 2) construction products subjected to Latvian national standards; 3) all other construction products. For further information see <http://www.ptac.gov.lv/lv/content/informacija-profesionalim>.

<sup>175</sup> Eiropas Parlamenta un Padomes 09.03.2011. regula Nr.305/2011, ar ko nosaka saskaņotus būvizstrādājumu tirdzniecības nosacījumus un atceļ Padomes direktīvu [89/106/EEK](#).

<sup>176</sup> Ministru kabineta 25.03.2014. noteikumi Nr.156 “Būvizstrādājumu tirgus uzraudzības kārtība” (spēkā no 01.10.2014.)// Latvijas Vēstnesis, 27.03.2014., Nr.62.

<sup>177</sup> Ekonomikas ministrijas 15.01.2015. [vēstule Nr. 1-1-428](#) par atbildēm uz Komisijas 29.12.2014. [vēstulē Nr.233.9/18-14-12/14](#) uzdotajiem jautājumiem, 16.–19.lpp.

<sup>178</sup> PTAC 2011.gadā pārbaudīja 354 būvizstrādājumu modeļus, 240 modeļiem konstatēja neatbilstības normatīvo aktu prasībām. PTAC, 2012.gadā pārbaudot 27 siltumizloācības modeļus, 15 gadījumos konstatēja neatbilstības normatīvajiem aktiem. Pārbaudot logus un gājēju zonas ārdurvis, 42 procentos gadījumu konstatētas neatbilstības normatīvo aktu prasībām. Sk.: PTAC 2011.gada pārskats, 32.lpp., PTAC 2012.gada pārskats, 38.–39.lpp. Pieejams: [http://www.ptac.gov.lv/sites/default/files/docs/publiskais\\_parskats\\_2012.pdf](http://www.ptac.gov.lv/sites/default/files/docs/publiskais_parskats_2012.pdf).

<sup>179</sup> Dzedulis Z. Ieved sliktus būvmateriālus. Latvijas Avīze, 29.02.2012. Pieejams: <http://www.la.lv/ieved-sliktus-buvmaterialus%E2%80%A9/>.

construction products to legislative requirements, **proper use of construction products remains unchecked.** In this respect the CRPC has proposed the legislative requirements to stipulate that construction inspectors of the relevant institution not only verify that the documents proving the adequacy of construction products are available on site, but also that the products comply with the intended use and requirements of the design.<sup>180</sup> However, in order to introduce such a requirement it would be necessary to significantly increase the number of construction inspectors, and in order to be able to take full responsibility the inspector would, in effect, have to be on-site at all times<sup>181</sup>. Therefore, to improve the quality of market surveillance of construction products, it is first and foremost necessary to reinforce the responsibility of the construction process participants.

**11.3.2.** Although the obligations and responsibilities of the participants of construction works have been stipulated, **it is unclear who is primarily responsible** for using an inadequate construction product in the construction process. **The Committee is of the opinion that the Construction Law must state that the main responsibility lies with the performer of the construction works (the general contractor), therefore the Economic Committee of the Saeima must draft and the Saeima must adopt relevant amendments to the Law.**

**11.3.3.** In order to reinforce the responsibility of the construction products market players, the Legal Affairs Committee of the Saeima must draft and the Saeima must adopt amendments to the Latvian Administrative Violations Code<sup>182</sup> **envisioning administrative liability for:** 1) offering on the market construction products without information required by law on their technical and physical specifications; 2) offering on the market construction products whose technical and physical features have not been determined according to applicable technical specifications; 3) offering on the market construction products whose actual operational features do not comply with those declared.

**11.3.4.** In cases when the CRPC finds that a merchant has put inadequate construction products in circulation, it is crucial to limit the further delivery of these products, as well as to inform those who have already received deliveries. This information would most efficiently be distributed by the supplier, **therefore the Economic Committee of the Saeima must draft and the Saeima must adopt amendments to the Construction Law stipulating that in such cases the CRPC has the right to place an obligation on the supplier to inform the buyers of the construction product about the non-compliance found and the related risks.** Furthermore, this would increase the responsibility borne by the supplier.

**11.3.5.** Paragraph 6<sup>1</sup> of Section 18 of the Construction Law stipulates that if a construction inspector detects non-compliance to legislative requirements at the construction site, the inspector is entitled to stop the construction works. The building authority may decide to permit the works to be resumed **after having received information from the CRPC regarding elimination of deficiencies**, but in cases when the building authority has been assigned to evaluate the impact of the non-compliance of a construction product with essential requirements put forward for a structure - an evaluation is also necessary. According to Subparagraph 5<sup>2</sup> of Paragraph 3 of Section 12 of the Construction Law, upon receiving information about a construction product that does not comply with legislative requirements the building authority is free to decide whether to oblige the submitter of the construction intention to assess the impact of the non-compliance on major requirements for the building. **The CRPC has stated that it is not possible to receive a positive CRPC opinion** for construction products which the CRPC has deemed non-compliant to legislative requirements, for example, if the CRPC has found that the manufacturer has not introduced a

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<sup>180</sup> PTAC priekšlikumi būvizrādājumu tirgus jomā. Sk.: PTAC 01.07.2015. [vēstule Nr.4.2.-5/477.](#)

<sup>181</sup> Ekonomikas ministrijas un Latvijas Pašvaldību savienības viedoklis par PTAC priekšlikumiem. Sk.: Ekonomikas ministrijas 22.07.2015. [vēstule Nr. 1-1-6097.](#), Latvijas Pašvaldību savienības 31.07.2015. [vēstule Nr. 0720152471/A1683.](#)

<sup>182</sup> Latvijas Administratīvo pārkāpumu kodekss: pieņemts 07.12.1984. (spēkā no 01.07.1985.)// Ziņotājs, 20.12.1984., Nr.51.



production process control system. Introduction of a production process control system is to be considered a remedial action by the manufacturer. Only the construction products produced and put on the market after the introduction of the said system shall be considered compliant, but this will not apply to previously delivered products.<sup>183</sup> Non-compliances of various kinds are possible and each has a different bearing on the fundamental requirements set for buildings. Therefore, upon receiving information about a construction product that does not comply to legislative requirements, the authorities responsible for controlling construction works must assess the impact that the non-compliance has on the fundamental requirements for the building, because otherwise it is not possible to check whether the materials used have any impact on the safety of the building. **The Committee supports the proposal from the CRPC<sup>184</sup> to amend Paragraph 6<sup>1</sup> of Section 18 of the Construction Law and Subparagraph 5<sup>2</sup> of Paragraph 3 of Section 12 stipulating that the building authority may decide to allow to continue construction works after any negative impact of the non-compliance on the fundamental requirements for the building has been eliminated or prevented, also stipulating cases in which an assessment is compulsory. Such rights should also be given to the Construction Office.**

**11.3.6.** Market surveillance of construction products is carried out by **four officials at the CRPC**, who are also responsible for surveillance of other markets. Market surveillance is carried out at points of sale and manufacturing, on the state border and at construction sites.<sup>185</sup> The CRPC itself has pointed out that it has a wide scope of responsibility covering various technically complicated areas and, in combination with its small number of employees, this **causes a risk of insufficient surveillance**.<sup>186</sup> The Committee asserts that, considering the high incidence of violations, **the capacity of the CRPC regarding market surveillance of construction products must be increased by increasing financing for expert examinations and possibly also for more employees, therefore the Cabinet of Ministers and the Saeima must increase the financing allocated to the CRPC.**

**11.3.7.** Due to the complexity of Regulation (EU) No. 305/2011 of the European Parliament and of the Council, it is difficult for those involved in construction to determine by themselves which construction products are covered by the regulation. This is one of the factors behind the high incidence of violations in the construction products market. **Therefore there is an immediate necessity for the Ministry of Economics to set up an on-line database, which would provide information about documentation proving adequacy of construction products, criteria for assessing this documentation, as well as any other relevant information. The government and the Saeima must accordingly allocate financing for the creation of this database.**<sup>187</sup> Such a database could possibly be set up within the framework of the Construction Information System.

## **12. Public procurements in construction sector**

**12.1.** One component of safe construction are high quality construction materials. Following the Zolitūde tragedy public suspicions have been raised about the quality of the materials used in the construction of the supermarket, and it has even been suggested that this might have been the cause of the Tragedy.<sup>188</sup> Public procurements constitute a large part of the construction market – in 2014 there were 2652 public procurements in construction totalling EUR 898 million, which

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<sup>183</sup> PTAC priekšlikumi būvuzstrādājumu tirgus jomā. Sk.: PTAC 01.07.2015. [vēstule Nr.4.2.-5/477](#).

<sup>184</sup> Turpat.

<sup>185</sup> Ekonomikas ministrijas 15.01.2015. [vēstule Nr.1-1-428](#) par atbildēm uz Komisijas 29.12.2014. [vēstulē Nr.233.9/18-14-12/14](#) uzdotajiem jautājumiem, 16.lpp.

<sup>186</sup> PTAC darbības stratēģija 2014.–2016.gadam, 24.lpp. Pieejams: <http://www.ptac.gov.lv/lv/content/ptac-strategija>.

<sup>187</sup> PTAC priekšlikumi būvuzstrādājumu tirgus jomā. Sk.: PTAC 01.07.2015. [vēstule Nr.4.2.-5/477](#).

<sup>188</sup> Mače Z. *Maxima* lietas pirmais izrāviens. Žurnāls “Ir”, 2014.gada 20.–26.novembris, Nr.47, 21.–22.lpp. Pieejams: [http://www.saeima.lv/zolituede/publikacijas/IR\\_22012015.pdf](http://www.saeima.lv/zolituede/publikacijas/IR_22012015.pdf).



constituted 32% of all public procurements.<sup>189</sup> Due to the fact that materials for the construction of the majority of publicly important buildings are purchased through public procurement procedures, the Committee examined public procurement procedures in depth and analysed the relevant legislative framework.

**12.2.** Public procurement procedures are regulated by the Public Procurement Law<sup>190</sup>, the Law on the Procurement of Public Service Providers<sup>191</sup>, as well as the Law on Procurements in Security and Defence.<sup>192</sup> In 2014 three new directives<sup>193</sup> were adopted regarding public procurements which have to be integrated into Latvian legislation by April 2016.<sup>194</sup> This means that the Public Procurement Law must be amended to not only include principles on reducing the impact of the shadow economy, but also to improve supervision over subcontractors and, most importantly, to ensure a higher level of performance quality monitoring.<sup>195</sup> The new directives call for a shift in priorities in the Public Procurement Law reducing the role of the lowest price and focusing more on social, environmental and labour issues.<sup>196</sup> The numerous amendments<sup>197</sup> to the Law so far have had little effect on the archaic practice of state and municipal institutions to favour the financially most advantageous tender, holding the cheapest price as the main criterion.<sup>198</sup> It must be noted that the latest amendments<sup>199</sup> to the Public Procurement Law came into force on 1 August 2015 and reinforce the procuring agency's obligation to assess whether the tendered price is not unreasonably low, as well as to analyse whether any exclusion criteria apply to the applicants or their subcontractors. Likewise the procuring agency is also obliged to request a verification from the State Revenue Service on the compatibility to the sector average of the hourly rates indicated by the general contractor and subcontractors.<sup>200</sup> The practical implementation of these amendments is also crucial for construction safety, as they should prevent situations where cheaper materials or unreasonably cheap labour create risks to building safety. There are some concerns that these amendments may extend the time needed for examining tenders, escalate risk of corruption and increase the administrative burden for applicants and municipal procurement committees.<sup>201</sup>

**12.3.** The Public Procurement Law provides two selection criteria: the economically most advantageous tender, or the tender with the lowest price. Although there are cases when a known applicant is selected in order to avoid a situation where products of dubious quality are purchased

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<sup>189</sup> Iepirkumu uzraudzības biroja mājaslapā pieejamā informācija. Pieejams:

<http://www.iub.gov.lv/lv/mekletiepirkumus>.

<sup>190</sup> Publisko iepirkumu likums: pieņemts 06.04.2006. (spēkā no 01.05.2006.)// Latvijas Vēstnesis, 25.04.2006., Nr.65.

<sup>191</sup> Sabiedrisko pakalpojumu sniedzēju iepirkumu likums: pieņemts 25.08.2010. (spēkā no 04.09.2010.)// Latvijas Vēstnesis, 03.09.2010., Nr.140.

<sup>192</sup> Aizsardzības un drošības jomas iepirkumu likums: pieņemts 13.10.2011. (spēkā no 16.11.2011.)// Latvijas Vēstnesis, 02.11.2011., Nr.173.

<sup>193</sup> Eiropas Parlamenta un Padomes direktīva 2014/24/ES (26.02.2014.) par publisko iepirkumu. Pieejams: <http://goo.gl/jd0FCu>; Eiropas Parlamenta un Padomes direktīva 2014/25/ES (26.02.2014.) par iepirkumu, ko īsteno subjekti, kuri darbojas ugunsdrošības, enerģētikas, transporta un pasta pakalpojumu nozarēs. Pieejams: <http://goo.gl/JkFbFt>; Eiropas Parlamenta un Padomes direktīva 2014/23/ES (26.02.2014.) par koncesijas līgumu slēgšanas tiesību piešķiršanu. Pieejams: <http://goo.gl/B6XRSw>.

<sup>194</sup> Iepirkumu uzraudzības biroja mājaslapā pieejamā informācija. Pieejams: <http://www.iub.gov.lv/node/57>.

<sup>195</sup> Pārresoru koordinācijas centra vadītāja P.Vilka sniegtā informācija. Sk.: Komisijas 09.03.2015. [sēdes protokols](#) Nr.12., 6.lpp.

<sup>196</sup> Būvindustrijas nevalstisko organizāciju koordinācijas centra Prezidija priekšsēdētāja V.Birkava sniegtā informācija. Sk.: Komisijas 09.03.2015. [sēdes protokols](#) Nr.12, 4.lpp.

<sup>197</sup> Publisko iepirkumu likums kopš tā pieņemšanas 2006.gadā ir grozīts 12 reizi.

<sup>198</sup> Būvindustrijas nevalstisko organizāciju koordinācijas centra Prezidija priekšsēdētāja V.Birkava sniegtā informācija. Sk.: Komisijas 09.03.2015. [sēdes protokols](#) Nr.12, 4.lpp.

<sup>199</sup> Grozījumi Publisko iepirkumu likumā: pieņemts 02.10.2014. (spēkā no 16.10.2014.)// Latvijas Vēstnesis, 15.10.2014., Nr.204.

<sup>200</sup> Raudzeps R, Repšs A. Jauni grozījumi Publisko iepirkumu likumā. *Sorainen*: Oktobris, 2014. Pieejams: <http://www.sorainen.com/UserFiles/File/Publications/lv.HTML>.

<sup>201</sup> Latvijas Pašvaldību savienības 21.04.2015. [vēstule Nr.0420151227/A789](#), 2.lpp.

for the lowest price<sup>202</sup>, the majority of public construction contracts are awarded to the applicant tendering the lowest price. This practice is rooted in fear of losing European Union co-financing<sup>203</sup>, getting caught up in legal disputes or being reprimanded by the State Audit Office.<sup>204</sup> Thus the market is distorted as the highest quality materials and the best contractors are not selected.<sup>205</sup> Essentially, **by selecting the applicant with the lowest price, the possibility of obtaining quality results is *a priori* forfeited.** The Committee agrees with the opinion of the Coordination Centre of Construction Sector NGOs that **the Public Procurement Law ought to be amended to eradicate the predominance of the lowest price as the main selection criterion.**<sup>206</sup> **Selection of the economically most advantageous tenders needs to be promoted in order to eradicate the lowest price principle in construction procurements, which hinders obtaining results of the best quality. The Ministry of Economics should work together with experts of the sector to draft guidelines and criteria for determining the economically most advantageous tender, taking into consideration not only the price, but also construction completion deadlines, the warranty and defect correction periods etc.**<sup>207</sup>

**12.4.** The Committee must also point out another important problem pertaining to procurement procedures, namely, the large quantity of complaints contesting procurements submitted to the Procurement Monitoring Bureau (hereinafter - PMB), as well as appealed PMB decisions submitted to courts. This considerably hinders the process of public procurement not only in construction, but across all sectors.<sup>208</sup> Municipalities have also indicated<sup>209</sup> that **the large quantity of unsubstantiated complaints to the PMB must be reduced by means of introducing a security deposit for appealing procurement regulations or procedure, which is reimbursed only in cases where the complaint is duly substantiated.**<sup>210</sup> Although the requirement to cover a submission with a security deposit was deemed disproportional by the Constitutional Court (judgement in case No. 2009-77-01 of 19 April 2010), **the PMB should draft proportional criteria for introduction of such security deposits. This would be an indispensable tool in reducing the number of unsubstantiated submissions that currently account for half of all submissions to the PMB.**<sup>211</sup>

**12.5.** On many occasions members of the procurement committees lack the required knowledge<sup>212</sup> to perform in-depth evaluation of the proposals, based not only on the price, but also the proposed solutions, materials, the qualification, experience of the involved experts, and other criteria. **Improvements could be achieved by developing methodological recommendations that would increase the procurement specialists' understanding of the procurement**

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<sup>202</sup> Gailīte D., Litvins G. Publiskais iepirkums Latvijā: starp “gandrīz labi” un “ļoti labi”. Lietpratēju diskusija žurnāla “Jurista Vārds” redakcijā. Jurista Vārds, 30.06.2015., Nr.25, 9.lpp.

<sup>203</sup> Latvijas Pašvaldību savienības padomnieka tehnisko problēmu jautājumos A.Salmiņa sniegtā informācija. Sk.: Komisijas 09.03.2015. [sēdes protokols](#) Nr.12, 6.lpp.

<sup>204</sup> Būvindustrijas nevalstisko organizāciju koordinācijas centra Prezidija priekšsēdētāja V.Birkava sniegtā informācija. Sk.: Komisijas 09.03.2015. [sēdes protokols](#) Nr.12, 4.lpp.

<sup>205</sup> Gailīte D., Litvins G. Publiskais iepirkums Latvijā: starp “gandrīz labi” un “ļoti labi”. Lietpratēju diskusija žurnāla “Jurista Vārds” redakcijā. Jurista Vārds, 30.06.2015., Nr.25, 9.lpp.

<sup>206</sup> Būvindustrijas nevalstisko organizāciju koordinācijas centra 09.02.2015. [vēstule Nr.BKC 12/01](#), 5.lpp.; Kriviņš A. Korupcijas novēršana un apkarošana publisko iepirkumu jomā. Rīga: “Izdevniecība Drukātava”, 2015, 44.lpp.

<sup>207</sup> Latvijas Pašvaldību savienības 21.04.2015. [vēstule Nr.0420151227/A789](#), 1.–2.lpp.

<sup>208</sup> Biedrības “Latvijas ceļu būvētājs” izpilddirektora Z.Brunava sniegtā informācija. Sk.: Komisijas 09.03.2015. [sēdes protokols](#) Nr.12, 7.lpp.

<sup>209</sup> Salaspils novada domes 14.07.2015. atbildes vēstule Nr.ADM/1-18/15/1685.

<sup>210</sup> Latvijas Būvinženieru savienības valdes priekšsēdētāja M.Straumes paustais viedoklis. Sk.: Komisijas 09.03.2015. [sēdes protokols](#) Nr.12, 4.lpp.

<sup>211</sup> Gailīte D., Litvins G. Publiskais iepirkums Latvijā: starp “gandrīz labi” un “ļoti labi”. Lietpratēju diskusija žurnāla “Jurista Vārds” redakcijā. Jurista Vārds, 30.06.2015., Nr.25, 13.lpp.

<sup>212</sup> Publisko tiesību institūta direktora A.Dravnieka sniegtā informācija. Sk.: Komisijas 09.03.2015. [sēdes protokols](#) Nr.12, 7.lpp.

procedure and prevent errors in the process of drafting procurement documents.<sup>213</sup> These recommendations (including standard contracts and guidelines) should be developed in close cooperation between the PMB and experts from relevant fields.

**12.6.** In order to win tenders, construction companies, as well as companies from other sectors (for instance, security companies) apply as subcontractors of a general contractor. The official applicants comply with the set requirements and procurement documentation. As soon as they are selected, the documented qualifications are disregarded and actual works are performed by subcontractors with staff members who fail to comply with the set requirements.

**12.6.1.** According to the existing legal framework, an applicant may submit documents indicating specialists with appropriate qualifications, while actual works are performed by other personnel without the required qualifications or training. **Although the Public Procurement Law sets forth requirements applicable to subcontractors, in practice the control mechanism is non-existent, i.e. it is impossible to ensure that general contractors only use the services of subcontractors indicated in the tender documents.**<sup>214</sup> It is necessary to strengthen statutory control mechanisms that would prevent circumvention of the set requirements and substitution of the selected applicants with different contractors.

**12.6.2.** The Public Procurement Law stipulates that the commissioning has the right to unilaterally withdraw from a contract and exclude a candidate or tenderer from further participation in a procurement procedure, if the candidate or tenderer had previously failed to meet its contractual obligations or agreements with the commissioning party in question.<sup>215</sup> The option of excluding a candidate from a public procurement should only be acceptable if such provision is explicitly included in the procurement regulation,<sup>216</sup> furthermore, it must comply with the grounds for exclusion defined in the European Union directives, as well as the case law of the Court of Justice of the European Union.<sup>217</sup> Current legal framework does not require evaluation of applicants' reputation, history of violations or the quality of previously performed works delivered also to other commissioning parties. It means that companies with a history of building regulation violations or substandard quality works are allowed to participate in public procurement, as long as these violations had not been committed against the commissioning party in question. **By supplementing Latvia's national law with the provisions of the directive 2014/24/EU, Article 101, unqualified or unreliable economic operators could be excluded from procurement based on their failure to fulfil their obligations under contracts concluded with other commissioning parties as well.**<sup>218</sup> The Latvian Association of Local and Regional Governments agrees with this approach and proposes to supplement Section 46(1)1) of the Public procurement Law with the following wording: "[...] experience, qualification of personnel".<sup>219</sup>

**12.7.** The signing of a procurement contract is often followed by modifications to the terms and conditions of the contract, which, according to the law, would require announcing a new call for proposals; however, in practice this requirement is often disregarded, furthermore, the PMB is prohibited from intervening with procurements after the contract is signed. However, applicants

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<sup>213</sup> Turpat, 10.lpp.

<sup>214</sup> Latvijas Būvnieku asociācijas prezidenta N.Grinberga sniegtā informācija. Sk.: Komisijas 09.03.2015. [sēdes protokols](#) Nr.12, 4.lpp.

<sup>215</sup> Publisko iepirkumu likuma 39.<sup>2</sup> panta pirmā daļa.

<sup>216</sup> Gailīte D., Litvins G. Publiskais iepirkums Latvijā: starp "gandrīz labi" un "ļoti labi". Lietpratēju diskusija žurnāla "Jurista Vārds" redakcijā. Jurista Vārds, 30.06.2015., Nr.25, 13.lpp.

<sup>217</sup> Turpat.

Eiropas Savienības Tiesas spriedums lietā C-465/11 *Forposta SA pret Poczta Polska SA*, kurā noteikts, ka par pretendenta izslēgšanas pamatu var būt tikai iepriekš izbeigts līgums ar konkrēto pasūtītāju, kurš nav pildījis savas līgumsaistības.

<sup>218</sup> Gailīte D., Litvins G. Publiskais iepirkums Latvijā: starp "gandrīz labi" un "ļoti labi". Lietpratēju diskusija žurnāla "Jurista Vārds" redakcijā. Jurista Vārds, 30.06.2015., Nr.25, 14.lpp.

<sup>219</sup> Latvijas Pašvaldību savienības 21.04.2015. [vēstule Nr.0420151227/A789](#), 1.lpp.

may submit such cases to a court and request the contract to be rendered null and void.<sup>220</sup> **In order to ensure transparency of the procurement procedure, the procurement contracts along with their modifications should be made public on the PMB website. This would reduce the risk of litigation based on the aforementioned circumstances.**<sup>221</sup>

**12.8.** The requirements applicable to the European Union structural funds are degrading the construction sector, since they set extremely short deadlines, thus obstructing development of quality technical designs.<sup>222</sup> Quite often calls for proposals under the European Union funded projects are announced at the last minute, and, as a result, tenders are required to be submitted within a couple of months, during which state and municipal authorities not only have to adopt the most appropriate public procurement procedure for the selection of the technical designer, but also develop the technical design itself. **Projects financed from the European Union funds should be allocated sufficient time to develop quality designs, as well as arrange for the most appropriate procurement procedure.**

**12.8.1.** Centralised procurement institutions should be established that would be in charge of public procurements above a specific monetary threshold. Introduction of a centralised public procurement procedure would ensure that in cases of large-scale construction projects appropriate procurement experts are engaged, which is not always the case in municipalities with limited resources.

**12.9.** Amendments to the Public Procurement Law of 1 August 2015 put domestic companies in an unfair competitive situation, since they do not provide for an opportunity to verify hourly rates of foreign companies operating within the sector in question.<sup>223</sup> **The legal framework should stipulate that the essential works pertaining to the safety of a structure must be performed by the general contractor, preventing them from outsourcing such works to subcontractors without appropriate experience and qualification, thus ensuring fair competition among the applicants.**

**12.10.** When drafting the new Public Procurement Law, an option of separating procurement in the construction sector from general procurement provisions (introduction of a separate chapter dedicated to the construction sector) should be considered.<sup>224</sup>

**12.11.** The lack of procurement specialists' professional qualifications, as well as their inability to justify decisions made as a part of a procurement procedure is attributable to the nonexistence of professional training programmes within the education system of Latvia.<sup>225</sup> **It is advisable to consider introduction of an education programme dedicated to procurement, and thus ensure assignment of appropriately qualified specialists capable of preparing quality procurement documentation at least to the large-scale procurement projects.**

### **13. On the need to introduce ID cards for construction workers**

**13.1.** The General Construction Provisions set forth the obligation of the general contractor and the construction manager to employ only appropriately qualified personnel, which applies to practically everyone employed at a construction site. However, this obligation is just a declarative

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<sup>220</sup> Gailīte D., Litvins G. Publiskais iepirkums Latvijā: starp “gandrīz labi” un “ļoti labi”. Lietpratēju diskusija žurnāla “Jurista Vārds” redakcijā. Jurista Vārds, 30.06.2015., Nr.25, 15.lpp.

<sup>221</sup> Turpat.

<sup>222</sup> Latvijas Arhitektu savienības Sertificēšanas centra vadītājas E.Rožulapas sniegtā informācija. Sk.: Komisijas 09.03.2015. [sēdes protokols](#) Nr.12, 4.lpp.

<sup>223</sup> Latvijas Pašvaldību savienības padomnieka tehnisko problēmu jautājumos A.Salmiņa sniegtā informācija. Sk.: Komisijas 09.03.2015. [sēdes protokols](#) Nr.12, 6.lpp.

<sup>224</sup> Latvijas Pašvaldību savienības 21.04.2015. [vēstule Nr.0420151227/A789](#), 1.lpp.

<sup>225</sup> Gailīte D., Litvins G. Publiskais iepirkums Latvijā: starp “gandrīz labi” un “ļoti labi”. Lietpratēju diskusija žurnāla “Jurista Vārds” redakcijā. Jurista Vārds, 30.06.2015., Nr.25, 8.–9.lpp.; Kriviņš A. Korupcijas novēršana un apkarošana publisko iepirkumu jomā. Rīga: “Izdevniecība Drukātava”, 2015, 295.lpp.



requirement which is rarely adhered to in practice due to lack of a control mechanism.<sup>226</sup> In practice, given the situation in the labour market, anyone can find a job in construction regardless of their qualifications or skills. This means that one of the phases of the building process – actual construction works – remain largely uncontrolled. These circumstances go hand in hand with the large share of shadow economy in the building sector (up to 48.9% in 2014).<sup>227</sup> **As long as the aforementioned problem remains unsolved, reoccurrence of disasters similar to that in Zolitūde cannot be excluded.**

**13.2.** Introduction of ID cards to be held by all personnel employed in the sector is one of the solutions.<sup>228</sup> Such cards would enable the competent authorities to set appropriate requirements and effectively supervise compliance, thus excluding unqualified workers from the labour market. Establishing ID cards as mandatory for all personnel employed in the building sector would considerably reduce the share of shadow economy in the sector.<sup>229</sup> Introduction of ID cards would also reduce the role of the lowest bid criterion in procurement, since it would effectively prevent cases where applicants include appropriately qualified specialists in their bids, while in practice employing unqualified personnel.

**13.3.** Experience of other countries shows that introduction of ID cards has contributed to compliance with professional qualification, health and safety requirements, as well as overall reduction of shadow economy and number of accidents within the building sector. ID cards or similar solutions in the building sector have been introduced in Spain, Italy, Lithuania, the UK, Luxembourg, Sweden, Denmark, Finland, Romania, France and Belgium. **It must be noted that all these countries have developed and have been managing their ID card systems either with direct involvement or in close cooperation with construction sector.**<sup>230</sup>

**13.4.** Based on these considerations, the Committee has come to the following conclusions: **The Economic Committee of the Saeima must be tasked with drafting amendments to the Construction Law to be adopted by the Saeima. The amendments must include introduction of ID cards in the construction sector, as well as a task for the Cabinet of Ministers to adopt relevant Cabinet regulations stipulating that the introduction and maintenance of the ID card system is delegated to the nongovernmental organisations within the construction sector, as well as setting specific deadlines for each phase and completion of the introduction process. Both government and the Saeima must allocate funds for these purposes.**

## **14. Accessibility requirements for persons with disability**

**14.1.** Apart from the aforementioned proposals for improving the legislative framework governing the construction sector the Committee has concluded that accessibility and evacuation procedures for people with disabilities also need to be improved. The accessibility requirements are set forth in Section 4 (6) of the Construction Law; more detailed accessibility requirements are provided in construction standards.<sup>231</sup> However, none of the laws and regulations prescribe procedures for evacuation of people with disabilities, which means that current regulatory framework requires improvements.

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<sup>226</sup> Būvindustrijas nevalstisko organizāciju koordinācijas centra 09.02.2015. [vēstule Nr.BKC 12/01](#).

<sup>227</sup> Putniņš T., Sauka A. Ēnu ekonomikas indekss Baltijas valstīs 2009.–2014. (SSE Rīga Ilgtspējīga biznesa centrs.) Pieejams: [http://www.sseriga.edu/files/content/sseriga\\_enu\\_ekonomikas\\_indekss\\_2009\\_2014.pdf](http://www.sseriga.edu/files/content/sseriga_enu_ekonomikas_indekss_2009_2014.pdf).

<sup>228</sup> Būvindustrijas nevalstisko organizāciju koordinācijas centra 09.02.2015. [vēstule Nr.BKC 12/01](#).

<sup>229</sup> Ārvalstu prakse par identifikācijas kartēm būvniecības nozarē apkopota ziņojumā *Social identity cards in the European construction industry*, kurš tika sagatavots Eiropas būvniecības nozares sociālo partneru veiktā projekta ietvaros. Pieejams: <http://www.fiec.eu/en/cust/documentview.aspx?UID=c6c28629-f220-4072-ac77-c5fe4cecef91>

<sup>230</sup> Turpat.

<sup>231</sup> Ministru kabineta 30.06.2015. noteikumi Nr.331 "Noteikumi par Latvijas būvnormatīvu LBN 208-15 "Publiskas būves"" (spēkā no 01.07.2015.)// Latvijas Vēstnesis, 30.06.2015., Nr.125.



**14.2.** Having examined the shortcomings of existing crisis management and civil defence systems, as well as taking into account expert opinion from “Apeirons”, an NGO for people with disabilities and their friends, the Committee has concluded that there is a need to introduce a mandatory requirement to coordinate all new regulations regarding the rights of people with disabilities with NGOs representing the interests of people with disabilities.<sup>232</sup> The Committee shares the opinion of “Apeirons”, namely, that in addition to existing accessibility requirements, liability and sanctions should be introduced for violating accessibility requirements at all stages of construction.<sup>233</sup>

**14.3.** In case of emergency it is equally important to ensure that evacuation procedures provide for measures that enable people with impaired hearing or vision to recognise alarm and follow understandable instructions.<sup>234</sup> Furthermore, regulatory framework should stipulate the information to be intelligible to people with intellectual development disorders.<sup>235</sup> The needs of people with disabilities should be taken into account when drafting new fire safety regulations and the subordinated fire safety instructions<sup>236</sup>, including appropriate evacuation routes and assistance. Furthermore, health care institutions are obligated to comply with the accessibility requirements stipulated in the Regulations on mandatory requirements for health care institutions and their branches, so that people with disabilities can receive immediate medical care in emergency situations as well.<sup>237</sup>

## **15. On the need to introduce regulatory framework for lobbying**

**15.1.** The opinions expressed by the public officials involved in drafting of the new Construction Law, representatives of NGOs in the construction sector,<sup>238</sup> as well as the donations from construction companies received by the foundation *Ascendum* which is managed by the wife of Juris Pūce, former Secretary of State of the Ministry of Economics<sup>239</sup> have lead the Committee to conclude that the drafting of the new Construction Law has been subject to pressure from a very strong construction sector lobby.

**15.2.** The draft Lobbying Transparency Law developed by the Corruption Prevention and Combating Bureau (KNAB) offers the following definition of lobbying: “Lobbying is intentional communication with a public official aimed at swaying the official’s actions in the process of initiating, drafting, developing, coordinating, adopting or proclaiming of a document in the interests of a private entity.”<sup>240</sup> **In a democratic state that is subject to the rule of law lobbying is a**

<sup>232</sup> Invalīdu un viņu draugu apvienības “Apeirons” 18.05.2015. [vēstule](#), 1.lpp.

<sup>233</sup> Turpat.

<sup>234</sup> Invalīdu un viņu draugu apvienības “Apeirons” vadītāja I.Baloža sniegtā informācija. Sk.: Komisijas 27.04.2015. [sēdes protokols](#) Nr.17, 8.lpp.

<sup>235</sup> Invalīdu un viņu draugu apvienības “Apeirons” 18.05.2015. [vēstule](#), 2.lpp.

<sup>236</sup> Ministru kabineta 17.02.2004. noteikumi Nr.82 “Ugunsdrošības noteikumi” (spēkā no 21.02.2004.)// Latvijas Vēstnesis, 20.02.2004., Nr.28, 10.9.6.punkts.

<sup>237</sup> Ministru kabineta 20.01.2009. noteikumi Nr.60 “Noteikumi par obligātajām prasībām ārstniecības iestādēm un to struktūrvienībām” (spēkā no 12.02.2009.)// Latvijas Vēstnesis, 11.02.2009., Nr.23, 3.2.punkts, 4.punkts.

<sup>238</sup> Uz to, ka jaunā Būvniecības likuma izstrādes laikā ir bijusi lobiju ietekme, norāda Sabiedriskās politikas centra PROVIDUS pētniece, būvniecības jomas eksperte A.Lešinska, bijušais (19.01.2010.–27.11.2013.) Ekonomikas ministrijas valsts sekretārs J.Pūce, Būvindustrijas nevalstisko organizāciju koordinācijas centra Prezidija priekšsēdētājs V.Birkavs, 11.Saeimas Juridiskās komisijas priekšsēdētāja I.Čepāne, bijušais Saeimas Juridiskā biroja juridiskais padomnieks E.Pastars. Arī pašreizējais Saeimas Tautsaimniecības komisijas priekšsēdētājs R.Naudiņš norādījis, ka būvnieku spiediens uz Saeimas deputātiem un ministriem ir liels. Sk.: Komisijas 16.02.2015. [sēdes protokols](#) Nr.10, 5., 10.lpp., V.Birkava 09.07.2015. sniegtā informācija Latvijas Radio 1 raidījumā “Pēcpusdiena.” Pieejams: <http://goo.gl/PGUxgO>; I.Čepānes 03.12.2013. sniegtā informācija Latvijas Radio raidījumā “Krustpunktā”. Pieejams: <http://goo.gl/78uX9d>; Komisijas 15.12.2015. sēdes stenogramma, 33.lpp.

<sup>239</sup> Komisijas 16.02.2015. [sēdes protokols](#) Nr.10, 6.–7.lpp.

<sup>240</sup> Lobēšanas atklātības likumprojekts. 2014.gada 13.janvāra redakcija. Pieejams: <http://goo.gl/9VLuUI> un <http://goo.gl/ljtQRg>.

**natural and even beneficial phenomenon that contributes to drafting quality pieces of legislation, on a condition that the lobbyists' arguments are properly considered in a transparent and fair manner.**<sup>241</sup> Otherwise lobbying may have a negative impact on the content of the law or regulation in question, serving the interests of a narrow group rather than general public, as in the case of the Construction Law, the Committee believes.

**15.3.** The Defence, Internal Affairs and Corruption Prevention Committee of the Saeima should draft and the Saeima should adopt the Lobbying Transparency Law, thus making the first steps towards combating unfair lobbying<sup>242</sup> and improving the transparency of law-making.<sup>243</sup> **A public lobbyist register should be introduced**, for instance, in the format of a journal, which would list lobbyists and the organisations they represent.<sup>244</sup> The proposed register would serve as a point of reference when enquiries are made about draft laws adopted contrary to the agreements made in the relevant parliamentary committees and contrary to the expected outcome.<sup>245</sup> Introduction of a regulatory framework for lobbying would contribute not only to an improved transparency at all stages of legislative process, but also increasing the legislator's accountability for the adopted amendments in legal acts.<sup>246</sup>

**15.4.** Taking into account several interrelated factors in the construction process, such as the large financial turnover, the complicated procedures, involvement of multiple legal entities and financial institutions, undeclared labour, ambiguous legal framework and the weak control over the officials in charge of organising construction processes, the construction sector in Latvia is exposed to a high level risk of corruption.<sup>247</sup> Therefore it is imperative to take measures aimed at strengthening the independence and personal responsibility of the individuals involved in the construction process, especially construction supervisors, construction work performers and construction design experts, while also preventing conflicts of interest and promoting transparency. Furthermore, it is necessary to supplement the relevant laws and regulations with to definitions of specific criteria for experts' and construction supervisors' independence, since current definition of experts' independence is excessively vague (see Paragraph 42 of the General Construction Provisions), while in the case of construction supervisors they are non-existent. In addition, the Committee believes the State Revenue Service should be tasked with putting extra effort in addressing the widespread shadow economy in the construction sector.

**15.5.** Until now there have been no proactive action (based on the initiative of enforcement agencies rather than reacting to complaints) taken to combat corruption in Latvia's private sector. Likewise, no systematic investigative action is taken to identify and solve criminal activities committed by construction designers, construction design experts, construction supervisors, construction work performers (both general contractors and subcontractors), and other entities.<sup>248</sup> Taking into account the challenging nature of solving these latent crimes, and considering that the KNAB specialises in solving cases related to corruption, the Committee proposes to assign the KNAB as the authority in charge of combating corruption in the private sector as well, and to

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<sup>241</sup> Kalniņš V. Parlamentārā lobēšana starp pilsoņa tiesībām un korupciju. – Rīga, 2005. Pieejams: <http://goo.gl/EwLX8W>.

<sup>242</sup> Ķirsons M. Lobisma jomā spiež uz deputātu godaprātu. Dienas Bizness, 06.07.2015., 7.lpp.

<sup>243</sup> KNAB 10.09.2015. [vēstule](http://www.knab.lv/vestule) Izmeklēšanas komisijai.

<sup>244</sup> Komisijas priekšsēdētāja R.Baloža 09.07.2015. sniegtā informācija Latvijas Radio 1 raidījumā "Pēcpusdiena". Pieejams: <http://goo.gl/PGUxgO>.

<sup>245</sup> Sabiedrības par atklātību "Delna" direktora G.Jankova 09.07.2015. sniegtā informācija Latvijas Radio 1 raidījumā "Pēcpusdiena". Pieejams: <http://goo.gl/PGUxgO>.

<sup>246</sup> Ķirsons M. Lobisma jomā spiež uz deputātu godaprātu. Dienas Bizness, 06.07.2015., 7.lpp.

<sup>247</sup> Korupcijas novēršanas un apkarošanas speciālistes J. Striķes, biedrības „Sabiedrība par atklātību „Delna”” direktora G. Jankova sniegtā informācija. Sk.: Komisijas 21.09.2015. [sēdes protokols](http://www.knab.lv/sedes_protokols) Nr. 24, 5.-6.lpp.

<sup>248</sup> Turpat.

amend the Law on Corruption Prevention and Combating Bureau<sup>249</sup> and the Criminal Procedure Law accordingly.

**15.6.** Although the Law on Corruption Prevention and Combating Bureau stipulates that the KNAB is responsible for developing methodology for corruption prevention in the private sector, the KNAB has not carried out planned corruption prevention measures in the private sector, including the construction sector. Therefore the Cabinet of Ministers must task the KNAB with implementing corruption prevention measures in the construction sector, as well as engaging in educational activities aimed at the entities involved in the construction process on the risks of corruption and the requirements of minimising corruption risks stipulated in the OECD Anti-Bribery Convention.

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<sup>249</sup> Korupcijas novēršanas un apkarošanas biroja likums: pieņemts 18.04.2002. (spēkā no 01.05.2002.)// Latvijas Vēstnesis, 30.04.2002., Nr.65

## **C. Emergency preparedness of the national and municipal services**

### **16. Evaluation of the actions and technical capabilities of the State Fire and Rescue Service (SFRS) in connection with the Zolitūde tragedy**

**16.1.** The rescue operation in connection with the Zolitūde tragedy relied not only on the human resources of national and municipal institutions and services, but also materials and equipment owned by private companies. Furthermore, assistance was kindly offered by other countries (e.g. Estonia, Lithuania, and Russia). **The Committee believes that the rescue operation in the Zolitūde tragedy was conducted in a timely manner; however, the Committee notes that the tragedy has revealed several shortcomings in Latvia's civil defence system, as well as in coordination between the relevant services.** Likewise, the tragedy has revealed what immediate improvements are needed in the relevant laws and regulations. The Committee has identified the specialised equipment that has to be urgently procured in order for the rescuers to perform even better in case of emergency.

**16.2. The Talsi tragedy** in 1997, when 9 children died during the demonstration of the SFRS equipment, **is one of the most tragic events in the history of the SFRS, which revealed and highlighted several problems within the service – shortage of staff, low remuneration, as well as outdated and worn-out technical equipment.** On 2 October 2010 Kristaps Streičs, a film director, died in a glider crash outside Daugavpils city only because he did not receive timely assistance.<sup>250</sup> This case demonstrated that people in distress often are unable to precisely convey their exact location, thus revealing **the need to introduce a positioning system<sup>251</sup> that automatically generates the exact location of an accident, as long as the person in need has enabled this function.** Likewise, the SFRS should put a stronger emphasis on training in special skills, e.g. climbing, underwater search, etc. Apart from appropriate training of rescue specialists, it is equally important to maintain and improve the acquired skills through regular theoretical and practical courses. Furthermore, it is of paramount importance to retain such specialists with the service on permanent basis, since firefighters/rescuers tend to leave the service due to the low salary, leaving many positions vacant. Both the Zolitūde tragedy and the fire in the Riga Castle, the official residence of the president of state, which took place on 20 June 2013<sup>252</sup> demonstrated that the SFRS is capable of successfully coordinating and managing large human resources from a variety of different emergency services, likewise, the SFRS is capable of managing and assigning a large quantity of sophisticated equipment based on the situation in question. However, the aforementioned disasters also revealed that the technical equipment at the disposal of the SFRS are mostly outdated and run-down, and the SFRS is not able to renew them due to limited budgetary allocations.<sup>253</sup> Clearly, procuring state-of-the-art equipment will not prevent occurrence of tragedies, but the fact that the service time of most equipment is swiftly approaching its end cannot be ignored.

**16.3.** Currently the SFRS has 92 fire depot buildings, out of which only 2 meet all contemporary requirements.<sup>254</sup> The 2 depots are located in Cēsis (2014) and Valka (2015), in Vidzeme region. Both were built with co-financing from the European Union funds. Most of the remaining 90 depots are underequipped and in poor condition. Majority of these depots (65%) were

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<sup>250</sup> TVNET/De Facto. Kā patiesībā notika režisora Kristapa Streiča glābšana. 09.10.2011. Pieejams:

<http://goo.gl/WMvQK>.

<sup>251</sup> Latvijas Juristu biedrības prezidenta A.Borovkova sniegtā informācija. Sk.: Komisijas 30.03.2015. [sēdes protokols](#) Nr.15, 7.lpp.

<sup>252</sup> Delfi. Prezidents: jautājums par VUGD tehnisko nodrošinājumu ir primāri risināms. 24.07.2013. Pieejams: <http://goo.gl/Whnwdf>.

<sup>253</sup> VUGD 10.08.2015. [vēstule Nr.22-1.22/1227](#), 12.lpp.

<sup>254</sup> VUGD 10.08.2015. [vēstule Nr.22-1.22/1227](#), 8.–9.lpp., Iekšlietu ministrijas 12.08.2015. [vēstule Nr.1-28/1896](#), 6.lpp.

built during the Soviet occupation, and only 2% of fire depots have been built anew or renovated after the regaining of independence. A third (33%) of all depots were built before World War II.<sup>255</sup> The distance between these mostly underequipped and worn-down buildings is 30-50 kilometres, which means that rescuers are not always able to respond in a timely manner, especially to calls from remote areas. This means noncompliance with the Cabinet of Ministers Regulation No 61 On procedure for conducting and managing firefighting and rescue operations by the SFRS of 3 February 2004,<sup>256</sup> which stipulates specific rescuers' response times.<sup>257</sup> Therefore, there is a risk of delayed response to various events (fires, traffic accidents, etc.) in violation of the aforementioned Regulation. The conclusion is that **the quantity of the SFRS depot buildings is insufficient and the government must allocate funds from the state budget for construction of 15 new depots (replacing existing depots), reconstruction of 32 existing depots, and renovation of additional 40 existing depots.**<sup>258</sup>

**16.4.** The Committee has received information that **most of the vehicles at the disposal of the SFRS (83 vehicles manufactured in 1984 or older, 141 – manufactured between 1984 and 1993, and 162 manufactured between 1994 and 2003),<sup>259</sup> are exceeding the statutory 10 year service time stipulated in the Cabinet of Ministers Regulation No 1486 of 15 December 2009 On procedure for accounting in state budget funded institutions.<sup>260</sup> The number of specialised vehicles required for performance of the SFRS functions (729 vehicles<sup>261</sup> or 39.4%) is insufficient to meet the number (1850 vehicles<sup>262</sup>) stipulated in the Cabinet of Ministers Regulation No 458 of 21 July 2011 On specialised technical equipment and appliances to be used by the SFRS in firefighting and rescue operations.<sup>263</sup> The fact that on 9 April 2015 62 SFRS vehicles were undergoing repairs illustrates the situation quite precisely.<sup>264</sup> It must be pointed out that the use of predominantly old vehicles leads to frequent repairs, thus increasing the load on the remaining units of transportation. Furthermore, the service time of the specialised SFRS vehicles is shorter than that of regular vehicles used for administrative purposes, namely, approximately 5 years, since they are used 24 hours a day, including use in off-road conditions.<sup>265</sup> According to the plans of the Ministry of the Interior and its budget for long-term liabilities, until 2018 EUR 36 286 423 are earmarked for the procurement of specialised firefighting and rescue vehicles. However, these plans will not cover all the needs of the SFRS.<sup>266</sup>**

**16.5.** Although representatives of the Ministry of the Interior and the SFRS have assured the Committee that the capacity, technical equipment and human resources of the SFRS are sufficient

<sup>255</sup> Pielikums Iekšlietu ministrijas 08.05.2014. rīkojumam Nr.1-12/1047. VUGD darbības stratēģija 2014.–2016. gadam, 6.lpp. Pieejams: <http://www.vugd.gov.lv/files/textdoc/VUGDSt2014.pdf>.

<sup>256</sup> Ministru kabineta 03.02.2004. noteikumi Nr.61 “Kārtība, kādā Valsts ugunsdzēsības un glābšanas dienests veic un vada ugunsgrēku dzēšanu un glābšanas darbus” (spēkā no 07.02.2004.)// Latvijas Vēstnesis, 06.02.2004., Nr.20, 5.–6.punkts.

<sup>257</sup> Iekšlietu ministrijas 28.04.2015. [atbildes vēstule Nr.1-28/1130](#) uz Saeimas Aizsardzības, iekšlietu un korupcijas novēršanas komisijas 01.04.2015. vēstuli Nr.9/6-142-52-12/15, 1.–2.lpp.

<sup>258</sup> VUGD 10.08.2015. [vēstule Nr.22-1.22/1227](#), 9.lpp.

<sup>259</sup> Iekšlietu ministrijas 28.04.2015. [atbildes vēstule Nr.1-28/1130](#) uz Saeimas Aizsardzības, iekšlietu un korupcijas novēršanas komisijas 01.04.2015. vēstuli Nr.9/6-142-52-12/15, 3.lpp.

<sup>260</sup> Ministru kabineta 15.12.2009. noteikumi Nr.1486 “Kārtība, kādā budžeta iestādes kārtu grāmatvedības uzskaiti” (spēkā no 01.01.2010.)// Latvijas Vēstnesis, 28.12.2009., Nr.203.

<sup>261</sup> Iekšlietu ministrijas 28.04.2015. [atbildes vēstule Nr.1-28/1130](#) uz Saeimas Aizsardzības, iekšlietu un korupcijas novēršanas komisijas 01.04.2015. vēstuli Nr.9/6-142-52-12/15, 3.lpp.

<sup>262</sup> Turpat.

<sup>263</sup> Ministru kabineta 21.06.2011. noteikumi Nr.458 “Noteikumi par Valsts ugunsdzēsības un glābšanas dienestam ugunsgrēku dzēšanai un glābšanas darbiem nepieciešamajām iekārtām, speciālo un tehnisko aprīkojumu, kā arī tā normām” (spēkā no 29.06.2011.)// Latvijas Vēstnesis, 28.06.2011., Nr.98.

<sup>264</sup> Iekšlietu ministrijas 28.04.2015. [atbildes vēstule Nr.1-28/1130](#) uz Saeimas Aizsardzības, iekšlietu un korupcijas novēršanas komisijas 01.04.2015. vēstuli Nr.9/6-142-52-12/15, 3.–4.lpp.

<sup>265</sup> Turpat, 4.lpp.

<sup>266</sup> Iekšlietu ministrijas 12.08.2015. [vēstule Nr.1-28/1896](#), 7.lpp.



to ensure adequate performance of rescue operations,<sup>267</sup> **the Committee has concluded that it is necessary to urgently renovate the fire depot buildings, to systematically procure or rent<sup>268</sup> new and modern specialised vehicles, as well as ensure appropriate remuneration, and training of rescuers.**

**16.6. Issues pertaining to the emergency medical assistance were also raised in the meetings of the Committee.** Following the Zolitūde tragedy, the presence of medical personnel in the danger zone during rescue has been brought to attention. **According to the relevant laws and regulations, the SFRS manages and performs rescue operations. Rescuers are trained and qualified to also provide first aid, but medical care falls outside their scope of competence.<sup>269</sup> The Committee proposes to task the Ministry of Health together with the Ministry of the Interior with developing of guidelines for strengthening cooperation between the medical personnel and the rescuers from the SFRS, as well as considering the possibility of providing rescuers with remote video instructions in case of emergencies similar to the Zolitūde tragedy.<sup>270</sup>**

## **17. Improvements made to laws and regulations on fire safety and civil defence following the Zolitūde tragedy**

**17.1.** It must be acknowledged that the Zolitūde tragedy has affected the work of the Ministry of the Interior and the SFRS, i.e. both institutions have taken measures aimed at strengthening fire safety and civil defence efforts. Several draft laws and regulations have been elaborated to promote training and education of fire safety specialists, steps are being made to upgrade equipment of services under the supervision of the Ministry of the Interior, preventive measures are being developed in the area of fire safety and civil defence, and remuneration system applicable to specific ranks under the Ministry of the Interior is being improved.<sup>271</sup> Current regulations stipulate that retail establishments with 10 and more staff members or the capacity of simultaneously serving 10 or more customers are required to assign personnel responsible for fire safety, who, along with other staff members, are required to undergo fire safety training.<sup>272</sup> The newly developed draft fire safety regulation<sup>273</sup> stipulates that the person in charge of fire safety training is required to undergo vocational training or a specialised course on fire safety,<sup>274</sup> as well as provides for updated evacuation procedures.<sup>275</sup> **The draft regulation stipulates that all individuals must evacuate buildings or structures as soon as fire alarm is activated.** Furthermore, additional provisions have been elaborated on the use of fire safety signs and the maintenance of fire safety systems. The regulation also prohibits the use of buildings for purposes other than those indicated in the design,

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<sup>267</sup> VUGD 24.04.2015. [atbildes vēstule Nr.22/1.22/564](#), 8.–9.lpp., Iekšlietu ministrijas 14.04.2015. [atbildes vēstule Nr.1-28/978](#), 1.lpp.

<sup>268</sup> **Remark.** The Ministry of the Interior and the SFRS have indicated that five-year rental is the most economically sound approach to provide for the necessary number of the specialised fire-fighting and rescue vehicles. Sk.: Iekšlietu ministrijas 28.04.2015. [atbildes vēstule Nr.1-28/1130](#) uz Saeimas Aizsardzības, iekšlietu un korupcijas novēršanas komisijas 01.04.2015. vēstuli Nr.9/6-142-52-12/15, 4.lpp.

<sup>269</sup> Biedrības “Zolitūde 21.11.” pārstāves R.Ločmeles-Luņovas sniegtā informācija. Sk.: Komisijas 30.03.2015. [sēdes protokols](#) Nr.15, 8.lpp.; ugunsdrošības un civilās aizsardzības eksperta V.Zaharova sniegtā informācija. Sk.: Komisijas 20.04.2015. [sēdes protokols](#) Nr.16, 8.lpp.; Iekšlietu ministrijas 14.04.2015. [atbildes vēstule Nr.1-28/978](#), 5.lpp.

<sup>270</sup> Turpat.

<sup>271</sup> Iekšlietu ministrijas paveiktās un turpmākās darbības normatīvo aktu sakārtošanā minētas 12.08.2015. vēstules pielikumā. Sk.: Iekšlietu ministrijas 12.08.2015. [vēstule Nr.1-28/1896](#), 2.lpp.

<sup>272</sup> Ministru kabineta 17.02.2004. noteikumi Nr.82 “Ugunsdrošības noteikumi” (spēkā no 21.02.2004.)// Latvijas Vēstnesis, 20.02.2004., Nr.28, 8.1.punkts.

<sup>273</sup> Noteikumu projekts “Ugunsdrošības noteikumi”. Pieejams: <http://goo.gl/OZhXtc>.

<sup>274</sup> Noteikumu projekta “Ugunsdrošības noteikumi” anotācijas I sadaļas “Tiesību akta projekta izstrādes nepieciešamība” 2.punkts. Pieejams: <http://tap.mk.gov.lv/lv/mk/tap/?pid=40340907>.

<sup>275</sup> VUGD 10.08.2015. [vēstule Nr.22-1.22/1227](#), 13.lpp.

defines unacceptable risks and sets a requirement to install autonomous smoke detectors in residential premises.

**17.2. The Zolitūde tragedy has also triggered the development of a new draft law on Civil defence and emergency management.**<sup>276</sup> The new provisions stipulate **the responsibility of the relevant ministries and municipalities, as well as their role in coordinating emergency measures**, define obligations of the owners or holders of the infrastructure in question, and provide for civil defence planning based on risk assessment data.<sup>277</sup>

**17.3.** Emergency cooperation and coordination procedures between institutions have been defined in the National Civil Defence Plan and the municipal civil defence plans based on a tree tier principle (site of incident, municipal level and national level), as well as in external regulatory acts pertaining to civil defence.<sup>278</sup> At the municipal level there are 71 civil defence committees that act as advisory and coordinating bodies, while at the national level the advisory and coordinating functions are assigned to the Crisis Management Council.<sup>279</sup>

**17.4.** In addition, each regional SFRS station maintains a list of all specialised vehicles and equipment potentially available within the fire service area. The list also contains technical specifications and contact details. The list is available at the SFRS, as well as the civil defence committee of the relevant fire service area.<sup>280</sup>

**17.5.** Until the Zolitūde tragedy, the National Civil Defence Plan only referred to building collapse risks as a potential outcome of an earthquake. After the tragedy, building collapse risks have been reclassified in a separate chapter of the National Civil Defence Plan and supplemented with detailed procedures for all relevant institutions.<sup>281</sup> **The Committee approves of the fact that the National Civil Defence Plan has been supplemented with a new appendix (Appendix No 32) on collapse of buildings and structures, which prescribes preventive measures, preparedness and response requirements, procedures for mitigating the consequences of an emergency, as well as assigns competent institutions and defines chain of command, responsibilities, and a timeframe for each task to be delivered.**<sup>282</sup>

## **18. Introduction of a single early warning system and modernisation of the civil defence alert system**

**18.1.** In case of threats, the general population is warned by means of alarm and public announcement systems. Since its introduction, the alarm system has been activated only once in 2005, when there was a real emergency.<sup>283</sup> In 2013 the Secretariat of the Crisis Management Council together with the SFRS and the marketing and public opinion research centre SKDS surveyed the effectiveness of the public announcement system, concluding that the existing system

<sup>276</sup> Likumprojekts "Civilās aizsardzības un katastrofu pārvaldīšanas likums". Pieejams: <http://goo.gl/2azwvG>

<sup>277</sup> Likumprojekta "Civilās aizsardzības un katastrofu pārvaldīšanas likums" anotācijas I sadaļas "Tiesību akta projekta izstrādes nepieciešamība" 2.punkts. Pieejams: <http://goo.gl/2azwvG>.

VUGD 10.08.2015. [vēstule Nr.22-1.22/1227](#), 10.lpp., Iekšlietu ministrijas 12.08.2015. [vēstule Nr.1-28/1896](#), 4.lpp.

<sup>278</sup> VUGD 10.08.2015. [vēstule Nr.22-1.22/1227](#), 4.lpp.

<sup>279</sup> Turpat.

<sup>280</sup> VUGD priekšnieka vietnieka K.Eklona sniegtā informācija. Sk.: Komisijas 20.04.2015. [sēdes protokols](#) Nr.16, 7.lpp.

<sup>281</sup> VUGD priekšnieka vietnieka K.Eklona sniegtā informācija. Sk.: Komisijas 20.04.2015. [sēdes protokols](#) Nr.16, 6.lpp. un Komisijas 11.05.2015. [sēdes protokols](#) Nr.18, 4.lpp.

<sup>282</sup> Grozījumi Valsts civilās aizsardzības plānā: pieņemts 14.10.2014. (spēkā no 14.10.2014.)// Latvijas Vēstnesis 17.10.2014., Nr.206.

<sup>283</sup> **Remark.** The system was activated in 2005, when a gas main exploded near Valmiera city; the system is tested twice a year, as stipulated in the Cabinet of Ministers Regulation No [530](#) On the Procedure for Developing, Operating and Financing of the Civil Defence and Public Announcement Systems. Sk.: Šaboha I. Ja skan trauksmes sirēnas. Latvijas Vēstneša portāls par likumu un valsti, 06.09.2012. Pieejams: <http://www.lvportals.lv/visi/skaidrojumi/250740-ja-skan-trauksmes-sirenas/>.

needs to be improved. Only 50% of the surveyed residents had noticed the alarms and only 65% knew about the steps to be taken in case of an emergency.<sup>284</sup> The existing alarm system has several substantial deficiencies: the long activation time (29 minutes),<sup>285</sup> the limited operating hours of radio and television broadcasters, the need for regular maintenance and testing, and the incomplete coverage in the rural areas.<sup>286</sup>

**18.2. The Committee urges the government to modernise the existing public announcement system and to introduce a cell broadcasting<sup>287</sup> system to spread information about emergency measures to be taken, as well as to amend the Electronic Communications Law accordingly.<sup>288</sup>**

## **19. On the need to develop informative and educational materials about retail workplace safety**

**19.1.** The Zolitūde tragedy will be remembered for the large number of deaths and injuries. Among the 54 deceased there are 4 staff members of the Supermarket.<sup>289</sup> The tragedy has revealed that the retail staff lack the knowledge of safety measures to be taken in emergency situations;<sup>290</sup> besides there are no comprehensive guidelines in place on how to act in the event of threats to one's health and safety at the workplace.<sup>291</sup> **Retail accounts for 20% of overall employment in Latvia, while the other 80% use the services of the retail companies. This means that most of the population is exposed to risks while in retail establishments.<sup>292</sup>**

**19.2.** The Committee has held several meetings dedicated to identifying shortcomings in crisis management and civil defence systems, where *inter alia*, discussions have taken place about the obligations of owners, managers and tenants of public buildings, specifically the obligation to suspend the use of the building and/or initiate evacuation in the event of safety risks. The Committee, in agreement with the opinion expressed by the Traders Association of Latvia, has concluded that **the Cabinet of Ministers needs to develop comprehensive mandatory guidelines for actions to be taken by staff members in case of threats to life and health at workplace.**

**19.3.** Employers are not the only ones responsible for the safety of staff members in emergency situations. Proposed amendments to the civil defence laws and regulations provide for personal liability for violation of safety requirements.<sup>293</sup> The proposed amendments stem from the need to establish specific procedures for situations where the safety of retail staff members is compromised. The Cabinet of Ministers Regulation On Labour Safety in Workplaces does not

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<sup>284</sup> VUGD. Iedzīvotāji atzīst medijus par visefektīvāko veidu apziņošanai civilās trauksmes gadījumā. 12.06.2013. Pieejams: <http://goo.gl/rgDc5L>.

<sup>285</sup> Iekšlietu ministrijas 28.04.2015. [atbildes vēstule Nr.1-28/1130](#) uz Saeimas Aizsardzības, iekšlietu un korupcijas novēršanas komisijas 01.04.2015. vēstuli Nr.9/6-142-52-12/15, 9.lpp.

<sup>286</sup> VUGD 10.08.2015. [vēstule Nr.22-1.22/1227](#), 5.lpp.; Iekšlietu ministrijas 14.04.2015. [atbildes vēstule Nr.1-28/978](#), 12.lpp., Sk.: VUGD. No 148 pārbaudītajām trauksmes sirēnām darbības traucējumi konstatēti 16 sirēnām. 04.06.2015. Pieejams: <http://goo.gl/SbTzY1>.

<sup>287</sup> **Remark.** Cell broadcasting is a system which utilises the infrastructure of mobile network operators and mobile telephones to cover exclusively the affected areas by means of sending messages or informing about the testing of alarm systems. Sk.: Bērtule A. Apsver iespēju mainīt trauksmes sistēmu Latvijā. LSM.lv, 12.06.2013. Pieejams: <http://goo.gl/3PCfqM>.

<sup>288</sup> Elektronisko sakaru likums: pieņemts 28.10.2004. (spēkā no 01.12.2004.)// Latvijas Vēstnesis, 17.11.2004., Nr.183.

<sup>289</sup> Pārresoru koordinācijas centra [informatīvais ziņojums](#) "Par Zolitūdes traģēdiju un tās seku novēršanu", 18.lpp.

<sup>290</sup> Latvijas Tirgotāju asociācijas izpilddirektors Z.Štolceres sniegtā informācija. Sk.: Komisijas 30.03.2015. [sēdes protokols](#) Nr.15, 5.lpp.

<sup>291</sup> Latvijas Tirgotāju asociācijas 03.12.2014. [vēstule Nr.ak-120301](#), 1.lpp.

<sup>292</sup> Latvijas Tirgotāju asociācijas izpilddirektors Z.Štolceres sniegtā informācija. Sk.: Komisijas 30.03.2015. [sēdes protokols](#) Nr.15, 5.lpp.

<sup>293</sup> VUGD priekšnieka vietnieka K.Eklona sniegtā informācija. Sk.: Komisijas 30.03.2015. [sēdes protokols](#) Nr.15, 6.lpp.

include provisions on retail staff members' safety in emergency situations.<sup>294</sup> **The Tripartite Cooperation Subcouncil on Labour of the National Tripartite Cooperation Council has adopted the Labour Safety Standards for Retail Sector,<sup>295</sup> which is aimed at simplifying the application and ensuring of conformity with the labour safety regulations. These standards include all the mandatory requirements applicable to retail workers, as well as examples of best practice in application of these requirements, which also includes instructions regarding emergency situations. The Committee calls on all retail enterprises to adhere to these standards and to ensure appropriate safety and health protection measures at their workplaces.** Taking into account that these standards mainly apply to the health and safety specialists who are responsible for training and instructing staff members on labour safety, the use of personal protective equipment, as well as emergency protocols, the Committee proposes that similar educational materials are disseminated among staff members as well. **Therefore the Ministry of Welfare should be tasked with elaborating informative and educational materials (such as posters and instructional videos) with a focus on emergency protocols to be adhered to, thus promoting staff members' awareness of safety considerations.**<sup>296</sup>

## 20. Response to emergencies at the national and municipal level

**20.1.** Having analysed disaster management and coordination in the case of the Zolitūde tragedy, the Committee has identified several issues pertaining to cooperation and distribution of responsibilities among the relevant national and municipal institutions. The response to the Zolitūde tragedy clearly demonstrated the need of **close cooperation between the national institutions, the SFRS and municipalities in preventing disasters of local scale.**<sup>297</sup> In case of the Zolitūde tragedy Riga City Council took an active part in the rescue operation by providing the necessary technical equipment such as motor cranes, front loaders, a multipurpose excavator, tractors and lorries, as well as by assigning 46 municipal police officers to patrol the area. Likewise, the city council mobilised the work of its Social Service and Welfare Department to ensure social assistance to the injured and families of the victims.<sup>298</sup> However, problems with coordination are clearly illustrated by the instance of several officials independently calling the person in charge of assigning busses to the area of the tragedy and thus causing confusion regarding the actual number of busses needed.<sup>299</sup>

**20.2.** In comparison with the SFRS, municipalities have rather limited scope of responsibilities in case of emergencies.<sup>300</sup> In the area of civil defence municipalities provide only support functions<sup>301</sup> acting under direct orders of the Cabinet of Ministers and the SFRS.<sup>302</sup> Currently the legal and organisational aspects of the response to disasters and tragedies are regulated by the Civil Protection Law. The cooperation between the SFRS and municipalities is based on the civil

<sup>294</sup> Ministru kabineta 28.04.2009. noteikumi Nr.359 "Darba aizsardzības prasības darba vietās" (spēkā no 01.01.2010.)// Latvijas Vēstnesis, 06.05.2009., Nr.69, 3.punkts.

<sup>295</sup> Nacionālās trīspusējās sadarbības padomes Darba lietu trīspusējās sadarbības apakšpadomes 10.12.2014. sēdē apstiprinātais "[Darba aizsardzības prakses standarts mazumtirdzniecības nozarei](#)".

<sup>296</sup> Latvijas Tirgotāju asociācijas 03.12.2014. [vēstule Nr.ak-120301](#), 1.lpp.; Labklājības ministrijas valsts sekretāres I. Jaunzemes sniegtā informācija. Sk.: Komisijas 31.08.2015. [sēdes protokols](#) Nr. 21, 8.lpp.

<sup>297</sup> Vietēja mēroga katastrofas ir katastrofas, kuru radīto postījumu apjoms nepārsniedz vienas pašvaldības administratīvās teritorijas robežas un skartās pašvaldības administratīvajā teritorijā esošie resursi ir pietiekami katastrofas pārvaldīšanai. Sk.: Civilās aizsardzības likums: pieņemts 05.20.2006. (spēkā no 01.01.2007.)// Latvijas Vēstnesis, 26.10.2006., Nr.171, 3.panta otrās daļas 1.punkts.

<sup>298</sup> Pārresoru koordinācijas centra [informatīvais ziņojums](#) "Par Zolitūdes traģēdiju un tās seku novēršanu.", 4.–9.lpp.

<sup>299</sup> Rīgas domes deputāta D.Turlā sniegtā informācija. Sk.: Komisijas 11.05.2015. [sēdes protokols](#) Nr.18, 4.lpp.

<sup>300</sup> Civilās aizsardzības likuma 9.pants.

<sup>301</sup> Rīgas domes deputāta D.Turlā sniegtā informācija. Sk.: Komisijas 11.05.2015. [sēdes protokols](#) Nr.18, 4.lpp.

<sup>302</sup> Civilās aizsardzības likuma 6.pants.



defence plans developed by each municipality. As mentioned above, at the municipal level there are 71 civil defence committees acting as advisory and coordination bodies. Due to the large number of these committees, disaster management is rather fragmented<sup>303</sup> and **currently there are considerable differences between municipalities in terms of their financial capacity. The Committee shares the opinion of the SFRS that reduction of the number of civil defence committees should be considered, thus optimising the use of resources and improving their performance.**<sup>304</sup>

**20.3.** Having identified several deficiencies in the civil defence system and following the opinion of the Latvian Association of Local and Regional Governments, the Committee has come to conclusions regarding not only the response to the Zolitūde tragedy but also various aspects of disaster management at local level.<sup>305</sup> Current regulatory framework does not authorise municipalities to declare state of emergency within their administrative territories. Therefore, in cases where state of emergency is not declared, the laws and regulations prevent municipalities from adjusting their actions to the need of protecting the residents' safety, security, health, life or property by means of immediate response to the threats, and taking appropriate action to mitigate the consequences.<sup>306</sup>

**20.4. The Committee believes it is imperative to considerably increase the role of municipalities in the process of eliminating the consequences of disasters;** furthermore, municipalities should be authorised to declare state of emergency based on the statutory levels of threats within their administrative territories.<sup>307</sup> Although the Ministry of the Interior has indicated that the scope of rights of a municipality in case of an emergency has been defined in the Civil Protection Law,<sup>308</sup> the Committee proposes **to specify the division of competences and the hierarchy of the national and municipal institutions**, thus clearly defining immediate actions to be taken by municipalities in emergency situations. Municipalities are urged to maintain emergency funds to be used for disaster response, in order to prevent situations where in case of an emergency municipal budget is drained and social services, kindergartens, etc. are left without appropriate funding.<sup>309</sup> The Committee approves of the provisions of the draft law on civil defence and disaster management, according to which municipalities are authorised to use the resources of private entities to respond to disasters and consequences thereof.<sup>310</sup>

**20.5.** Taking into account the aforementioned considerations, the regulatory framework for civil defence needs to be supplemented with provisions that would **extend the duties of municipalities:**

**20.5.1.** The draft Law on Civil Defence and Disaster Management should be supplemented with a chapter on the scope of competence of municipalities, effectively expanding their authority in the area of civil defence.<sup>311</sup> Current wording of the draft law only provides for a right of a municipality to approach the prime minister with a request to grant the authority to manage a disaster within its territory;<sup>312</sup>

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<sup>303</sup> VUGD 10.08.2015. [vēstule Nr.22-1.22/1227](#), 5.lpp.

<sup>304</sup> Turpat, 10.lpp.

<sup>305</sup> Latvijas Pašvaldību savienības pārstāvja E.Bartkeviča sniegtā informācija. Sk.: Komisijas 11.05.2015. [sēdes videoieraksts](#). 00:35:00 min.

<sup>306</sup> Latvijas Pašvaldību savienības 22.04.2015. [vēstule Nr.0420151250/A801](#) par pašvaldību tiesībām izsludināt ārkārtējas situācijas, 2.lpp.

<sup>307</sup> Turpat, 1.lpp.

<sup>308</sup> Civilās aizsardzības likums, 9.panta trešās daļas 3.punkts. Sk.: Iekšlietu ministrijas 12.08.2015. [vēstule](#), 1.lpp.

<sup>309</sup> Latvijas Pašvaldību savienības pārstāvja E.Bartkeviča sniegtā informācija. Sk.: Komisijas 11.05.2015. [sēdes protokols](#) Nr.18, 5.lpp.

<sup>310</sup> Iekšlietu ministrijas 12.08.2015. [vēstule Nr.1-28/1896](#), pielikuma 2.nodaļa, 4.lpp.

<sup>311</sup> Likumprojekts "Civilās aizsardzības un katastrofu pārvaldīšanas likums". Pieejams: <http://goo.gl/2azwvG>.

<sup>312</sup> Iekšlietu ministrijas 12.08.2015. [vēstule Nr.1-28/1896](#), 1.–2.lpp.



**20.5.2.** The draft Law on Civil Defence and Disaster Management should be supplemented with provisions on exceptional situations, where municipal civil defence committees are authorised to decide on declaring state of emergency within their territory in case of a disaster and to decide on evacuation of residents from the affected areas or areas at risk, as well as to ensure registration of the affected residents, provide temporary accommodation, social and medical care.<sup>313</sup> Furthermore, they should be authorised to decide on the procedures for coordinated mandatory evacuation.

## **21. On the need to improve the training and certification of security staff**

**21.1.** At the moment of the roof collapse there were three employees in the Supermarket who were considered to be security guards, out of which one was certified and listed as a member of the internal security personnel, while the other two were hired as supervisors of the building and the surrounding territory.<sup>314</sup> The concerns about the professional qualification of security staff raised after the Zolitūde tragedy<sup>315</sup> are based on the fact that the security guards in question did not evacuate people from the supermarket upon hearing the alarm (verbal announcement communicated through the PA system). The Committee has examined the actions/inactions of the security guards and scrutinised the efficiency of their training and certification procedures.

**21.2.** The profession of security guards is regulated by the Law on Security Guards,<sup>316</sup> the Cabinet of Ministers Regulation No 742 On Certification of Security Guards,<sup>317</sup> as well as the Regulation on the Classification of Professions, Basic Tasks and Requirements, and the Procedure for the Use and Updating of the Profession Classification System, where security guards are included in Chapter 5.13.4.<sup>318</sup> Section 16 (1) of the Law on Security Guards stipulates that a training programme based on set professional standards has to be completed in order to qualify as a security guard. Certification of security guards is conducted by the State Police, which tests the practical skills of the applicants.<sup>319</sup> The applicants are immune to the limitations applicable to the certification procedure.<sup>320</sup> The transitional provisions of the law provide for a procedure for issuing security guards' certificates until 1 July 2017, when the professional standards applicable to security guards come into force.<sup>321</sup>

**21.3.** Having reviewed the statutory provisions on the actions to be conducted by security guards in emergency situations upon sounding of the alarm, the Committee has concluded that **the existing legislation does not provide for any obligations or responsibilities in emergency situations.**<sup>322</sup> Basically, the scope of responsibilities of a security guard is only regulated by the internal procedures of each institution.<sup>323</sup>

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<sup>313</sup> Latvijas Pašvaldību savienības 22.04.2015. [vēstule Nr.0420151250/A801](#) par pašvaldību tiesībām izsludināt ārkārtējas situācijas, 2.lpp.

<sup>314</sup> Iekšlietu ministrijas 18.03.2015. [atbildes vēstule Nr.1-28/752](#), 3.lpp.

<sup>315</sup> Tiesībsarga J.Jansona 23.02.2015. [atzinums](#) pārbaudes lietā Nr.2013-159-22, 1.lpp. Delfi. *Maxima* apsargi nestrādā, profesionāli paziņo bijušais drošībasnieks. 25.11.2013. Pieejams: <http://goo.gl/HrORaB>.

<sup>316</sup> Apsardzes darbības likums: pieņemts 13.02.2014. (spēkā no 20.03.2014.)// Latvijas Vēstnesis, 06.03.2014., Nr.47.

<sup>317</sup> Ministru kabineta 02.12.2014. noteikumi Nr.742 "Apsardzes sertifikātu izsniegšanas noteikumi" (spēkā no 12.12.2014.)// Latvijas Vēstnesis, 11.12.2014., Nr.247.

<sup>318</sup> Ministru kabineta 18.05.2010. noteikumi Nr.461 "Noteikumi par Profesiju klasifikatoru, profesijai atbilstošiem pamatuzdevumiem un kvalifikācijas pamatprasībām un Profesiju klasifikatora lietošanas un aktualizēšanas kārtību" (spēkā no 01.06.2010.)// Latvijas Vēstnesis, 28.05.2010., Nr.84, 5.13.4.nodaļa.

<sup>319</sup> Tiesībsarga J.Jansona 23.02.2015. [atzinums](#) pārbaudes lietā Nr.2013-159-22, 2.lpp.

<sup>320</sup> Apsardzes darbības likuma 15.pants.

<sup>321</sup> Apsardzes darbības likuma Pārejas noteikumu 7.punkts. Vairāk par apsardzes standartu sk.: Iekšlietu ministrijas 17.06.2015. [atbildes vēstule](#) Nr.1-28/1481 uz Saeimas deputātu 11.06.2015. jautājumu Nr.73/J12, 1.lpp.

<sup>322</sup> Apsardzes darbības likuma 18.pants.

<sup>323</sup> Tiesībsarga J.Jansona sniegtā informācija. Sk.: Komisijas 23.03.2015. [sēdes protokols](#) Nr.14, 7.lpp.

**21.4.** At the time of the tragedy the Supermarket employed its internal security service. All of the security guards had been appropriately certified.<sup>324</sup> The Law on Security Guards regulates not only security companies (providing outsourced services), but also internal security (dedicated units within a company that apart from security function quite frequently also ensure data processing and internal investigative functions). **The Committee urges the government to establish universal requirements applicable to all security service providers (including physical, technical security and cash collection services)** <sup>325</sup>**regardless of whether these services are provided by an outside company or internal security department, as well as specific statutory requirements applicable to all service providers.**

**21.5.** The Committee has considered the issues related to the procedure of certification of security guards, concluding that the main emphasis of the certification is put on attack prevention and arresting tactics. **It implies that the existing certification system is inefficient, as it is merely a formal procedure which does not reflect the applicant's actual preparedness.**<sup>326</sup> Although training includes an overview of the applicable laws and regulations, the types of buildings/areas to be guarded, general procedures, technical equipment, etc., **apart from the universal training programme security guards require tailored training that covers the specifics of each workplace.**

**21.6.** Currently not all security companies are capable of hiring certified security guards,<sup>327</sup> according to the survey conducted by the State Police in 30 shopping centres, where 42 out of 112 outsourced security guards did not have appropriate security certificates.<sup>328</sup> Employers are required to instruct and train their security guards on the specifics of the building/area in question. Therefore the police and the Ministry of the Interior has pointed out that **the certification procedures need to be simplified for the providers of basic security services**, so that security guards are familiar with at least the minimum of the applicable laws and regulations, **and to avoid situations where security companies prefer applicants without appropriate certificates.**<sup>329</sup> The proposal to introduce different levels of security guards' certification would lead to preferential treatment of those complying only with the minimum requirements. Besides, it would require differentiation between the guarded buildings/areas as well.<sup>330</sup>

**21.7.** The Committee agrees with the opinion of the Ombudsman that there is a need to establish **universal statutory provisions regarding the actions of security guards taken in emergency situations in public spaces**, as well as **the obligation to immediately evacuate all those within these public spaces.**<sup>331</sup> At the same time, it must be noted that certain public buildings/spaces, such as small retail establishments, cafes, barber shops or production sites, etc., may have no security guards. Therefore, health and safety specialists may be in charge of the safety of employees and their evacuation. Furthermore, according to the Fire Safety and Fire Fighting Law, as well as the Cabinet of Ministers Regulation No 82 on Fire Safety, the persons in charge of fire safety may include the owner of the land plot or the building, as well as the tenant of the property in question, depending on the terms and conditions of the land lease contract.<sup>332</sup> The

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<sup>324</sup> Iekšlietu ministrijas 18.03.2015. [atbildes vēstule Nr.1-28/752](#), 3.lpp.

<sup>325</sup> Apsardzes darbības likums, 3.panta pirmā daļa.

<sup>326</sup> Latvijas Drošības biznesa asociācijas 19.05.2015. [vēstule Nr.10/15](#), 2.lpp.

<sup>327</sup> Iekšlietu ministrijas 17.06.2015. [atbildes vēstule Nr.1-28/1481](#) uz Saeimas deputātu 11.06.2015. jautājumu Nr.73/J12, 3.lpp.; Stepiņa K. Policisti stutē apsardzi. Dienas Bizness, 06.10.2015.

<sup>328</sup> Iekšlietu ministrijas 12.08.2015. [vēstule Nr.1-28/1896](#), 11.lpp.

<sup>329</sup> Iekšlietu ministrijas 17.06.2015. [atbildes vēstule Nr.1-28/1481](#) uz Saeimas deputātu 11.06.2015. jautājumu Nr.73/J12, 3.lpp.

<sup>330</sup> Turpat, 2.lpp.

<sup>331</sup> Tiesībsarga J.Janona sniegtā informācija. Sk.: Komisijas 23.03.2015. [sēdes protokols](#) Nr.14, 8.lpp.

<sup>332</sup> Ugunsdrošības un ugunsdzēsības likums: pieņemts 24.10.2002. (spēkā no 01.01.2003.)// Latvijas Vēstnesis, 13.11.2002., Nr.23, 9.pants; Ministru kabineta 17.02.2004. noteikumi Nr.82 "Ugunsdrošības noteikumi" (spēkā no 21.02.2004.)// Latvijas Vēstnesis, 20.02.2004., Nr.28.

relevant laws and regulations cannot impose an obligation to hire security guards or to prescribe a number of security guards to conduct appropriate evacuation. **In these situations employers themselves are responsible for the safety of their employees.**<sup>333</sup> The Committee agrees with the Ministry of the Interior and concludes that it is necessary to consider to supplement the Labour Protection Law with provisions on the obligation of employers to ensure evacuation not only of their staff members, but also all other people within the building/area.<sup>334</sup>

**21.7.1. The Ministry of the Interior, the State Police and the SFRS must engage in the improvement of the contents of the chapter “Security Guards’ Actions in Emergency Situations” of the programme “Security Guards.”**<sup>335</sup>

**21.7.2.** In order to ensure a uniform certification of security guards, prior to the introduction of the professional standards in 2017, the State Police in partnership with NGOs should **develop a pilot project for approving the professional security guards’ training programme and a testing system that would correspond to the standards (currently in development) applicable to the profession of a security guard.**<sup>336</sup>

**21.7.3.** The government should consider the possibility to provide for professional training and tertiary education programmes to follow up the introduction of the professional standard, while establishing an obligation for employers to ensure continuous training of their employees, as in other European countries.

## **22. On the need to introduce legal protection of whistle-blowers**

**22.1. It is essential for the safety of the society as a whole and individuals in it to ensure that individuals who have identified potential threats report their observations to the institutions or officials in charge.** Therefore, the discussions of the Committee on the civil defence and disaster management systems also covered the issue of legal protection of whistle-blowers.

**22.2.** There is a system in place for reporting violations of construction regulations. They are accepted at the web site [www.mazaksslogs.gov.lv](http://www.mazaksslogs.gov.lv) developed by the State Chancellery and the Ministry of Economics. All reports are guaranteed anonymity.<sup>337</sup> The web-site has already assisted in identifying not only signs of building violations, but also several cases of undeclared construction activities.<sup>338</sup> It must be noted that **although the competent institutions are obliged to ensure anonymity of persons reporting violations, a criminal case cannot be initiated on the basis of an anonymous report.**<sup>339</sup> Section 157 of the Criminal Law sets forth liability for defamation of a third person.

**22.3.** Having reviewed the proposals of the Transparency International Latvia<sup>340</sup> on the need to introduce legal protection of whistle-blowers and establish such protection at the legislative level, the Committee, **after consulting municipalities and the responsible institutions, has concluded the following:**

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<sup>333</sup> Darba devēja pienākums nodrošināt nepieciešamos evakuēšanas pasākumus un norīkot darbiniekus, kuri ir apmācīti nodarbināto evakuācijas pasākumu veikšanā, ir noteikts Darba aizsardzības likuma 12.pantā. Sk.: Darba aizsardzības likums: pieņemts 20.06.2001. (spēkā no 01.01.2002.)// Latvijas Vēstnesis, 06.07.2001., Nr.105.

<sup>334</sup> Iekšlietu ministrijas 18.03.2015. [atbildes vēstule Nr.1-28/752](#), 6.lpp.

<sup>335</sup> Tiesībsarga J.Jansona sniegtā informācija. Sk.: Komisijas 23.03.2015. [sēdes protokols](#) Nr.14, 8.lpp.

<sup>336</sup> Latvijas Drošības biznesa asociācijas 19.05.2015. [vēstule Nr.10/15](#), 2.–3.lpp.

<sup>337</sup> Ekonomikas ministrijas 30.07.2015. [atbildes vēstule Nr.411-1-6295](#), 1.lpp.

Informatīvi materiāli par trauksmes celšanas iespējām ir pieejami arī interneta vietnē [www.celtrauksmi.lv](http://www.celtrauksmi.lv) un Ministru kabineta mājaslapā: [http://www.mk.gov.lv/sites/default/files/editor/infografika\\_trauksmes\\_celeji\\_final\\_0.pdf](http://www.mk.gov.lv/sites/default/files/editor/infografika_trauksmes_celeji_final_0.pdf).

<sup>338</sup> Ekonomikas ministrijas 30.07.2015. [atbildes vēstule Nr.411-1-6295](#), 1.lpp.

<sup>339</sup> Valsts policijas 22.07.2015. [atbildes vēstule Nr.20/2-23002](#), 2.lpp.; Kriminālprocesa likuma 369. panta trešā daļa.

<sup>340</sup> Biedrības “Sabiedrība par atklātību – Delna” 01.07.2015. [vēstule Nr.4.4/21](#).

**22.3.1.** Internationally, whistle-blowing refers to disclosure of information that leads to identification of alleged violations or laws and codes of conduct within national, municipal or private establishments that pose threat to the society as a whole or a group within it.<sup>341</sup> Currently the procedure for submitting claims and grievances is governed by the Law on Submissions,<sup>342</sup> the Freedom of Information Law,<sup>343</sup> the Labour Law,<sup>344</sup> the Ombudsman Law,<sup>345</sup> the Construction Law, the Personal Data Protection Law,<sup>346</sup> etc. The system for protection of whistle-blowers cannot be applied to the military sector, where providing of relevant information is an obligation stemming from subordination rather than an expression of free will.<sup>347</sup> On 20 January 2015 the State Chancellery of the Republic of Latvia, the Prosecutor General Office of the Republic of Latvia, the Corruption Prevention and Combating Bureau, the Latvian branch of the Transparency International signed a four-sided memorandum of understanding on the introduction of a mechanism for the legal protection of whistle-blowers, agreeing on a draft law that would establish such mechanism by the end of the year.<sup>348</sup>

**22.3.2.** Having considered the opinion of municipalities on the need to improve protection of whistle-blowers, the Committee agrees that **the existing laws and regulations provide for a sufficient division of competences between the relevant institutions, and believes that there is no need for a separate law to be drafted.**<sup>349</sup> According to the surveyed municipalities, most of the submitted complaints can be regarded as feuds between neighbours rather than substantiated concerns about the safety of the buildings in question.<sup>350</sup> Therefore, the results of inspections conducted by the responsible institutions are often used as a tool to attain personal goals,<sup>351</sup>

**22.3.3.** The system for the protection of whistle-blowers should be centralised, with a single institution tasked with accepting and reviewing complaints.<sup>352</sup> The system should equally protect both private and public entities; furthermore, reviewing applications submitted by public officials should be granted the status of urgency, since applications from public officials often lead to discovery of systemic violations.<sup>353</sup>

**22.3.4.** The mandate of the Construction Bureau must be expanded, taking into account the objectives defined in Section 2 of the Construction Law, tasking the Construction Bureau not only with examination of submissions on construction violations, but also with revoking

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<sup>341</sup> Biedrības "Sabiedrība par atklātību – Delna" sniegtais trauksmes cēlēju jēdziena skaidrojums. Pieejams: <http://www.celtrauksmi.lv/kas-ir-trauksmes-celsana.html>.

<sup>342</sup> Iesniegumu likums: pieņemts 27.09.2007. (spēkā no 01.01.2008.)// Latvijas Vēstnesis, 11.10.2007., Nr.164, 9.pants.

<sup>343</sup> Informācijas atklātības likums: pieņemts 09.10.1998. (spēkā no 20.11.1998.)//Latvijas Vēstnesis, 06.11.1998., Nr.24, 11.panta sestā daļa.

<sup>344</sup> Darba likums: pieņemts 20.06.2001. (spēkā no 01.06.2002.)// Latvijas Vēstnesis, 06.07.2001., Nr.105, 9.pants.

<sup>345</sup> Tiesībsarga likums: pieņemts 06.04.2006. (spēkā no 01.01.2007.)// Latvijas Vēstnesis, 25.04.2006., Nr.64, 23.panta trešā daļa.

<sup>346</sup> Fizisko personu datu aizsardzības likums: pieņemts 23.03.2000. (spēkā no 20.04.2000.)// Latvijas Vēstnesis, 06.04.2000., Nr.123/124.

<sup>347</sup> Nacionālo bruņoto spēku 23.07.2015. [atbildes vēstule Nr.02-940](#), 1.–2.lpp.

<sup>348</sup> Liepājas pilsētas domes 23.07.2015. [atbildes vēstule Nr.334907/2.1.9./334150](#), 1.lpp., Leitāns I., Roķis K. Regulējumu trauksmes cēlēju aizsardzībai apņemas izstrādāt līdz gada beigām. 20.01.2015. Pieejams: <http://goo.gl/ilu4tF>.

<sup>349</sup> Daugavpils pilsētas domes 15.07.2015. [atbildes vēstule Nr.1.2.-4/1627](#); Ventspils pilsētas domes 22.07.2015. [atbildes vēstule Nr.1-08/2823](#); Salaspils novada domes 14.07.2015. [atbildes vēstule Nr.ADM/1-18/15/1685](#); Rēzeknes pilsētas domes 17.07.2015. [atbildes vēstule Nr.3.1.1.18/1127](#); Jūrmalas pilsētas domes 22.07.2015. [atbildes vēstule Nr.11-18/3068](#), 1.–2.lpp.; [Rīgas domes 27.07.2015. atbildes vēstule Nr.RD-15-1872-nd, 1.lpp.](#)

<sup>350</sup> Cēsu novada pašvaldības 28.07.2015. [atbildes vēstule Nr.4/2795](#); Rēzeknes pilsētas domes 17.07.2015. [atbildes vēstule Nr.3.1.1.18/1127](#), [Rīgas domes 27.07.2015. atbildes vēstule Nr.RD-15-1872-nd, 2.lpp.](#)

<sup>351</sup> VUGD 17.07.2015. [atbildes vēstule Nr.22-1.22/1121](#), 2.lpp.

<sup>352</sup> Ogres novada pašvaldības 23.07.2015. [atbildes vēstule Nr.1-10.1/252](#), 1.lpp.; [Rīgas domes 27.07.2015. atbildes vēstule Nr.RD-15-1872-nd, 2.lpp.](#)

<sup>353</sup> Būvniecības biroja 22.07.2015. [atbildes vēstule Nr.1-3/504](#), 2.lpp.

or annulling relevant decisions, as well as tasking the Building Authority with either reevaluating the submitted administrative cases or ensuring rectification of the identified violations;<sup>354</sup>

**22.3.5. Public institutions must ensure the application of the “one-stop-shop” principle, so that informants have to submit information only once,** while the responsible institutions should ensure further examination of the submitted information and decide on appropriate actions, preventing the issue from being forwarded from one institution to another, thus burdening the informant;<sup>355</sup>

**22.3.6. notwithstanding the progress in drafting provisions on the legal protection of whistle-blowers, secure and confidential channels for submitting information must be ensured, an improved database of complaints from whistle-blowers must be established, a system for covering of costs arising from ungrounded reports must be established, a list of institutions authorised to accept whistle-blowers’ reports should be defined in the legislation, and detailed procedures for reviewing the submitted data should be established, ensuring state-funded legal assistance to whistle-blowers.**<sup>356</sup> In addition to the aforementioned tasks, public awareness campaigns should be organised on the possibilities to submit information safely.<sup>357</sup> Furthermore, assessments should be made whether the introduction of the aforementioned system would considerably increase the workload of the competent institutions,<sup>358</sup> which would entail granting additional resources to these institution in order to ensure appropriate implementation of these functions.

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<sup>354</sup> Turpat, 3.lpp.

<sup>355</sup> Biedrības “Sabiedrība par atklātību – Delna” direktora G.Jankova sniegtā informācija. Sk.: Komisijas 23.03.2015. [sēdes protokols](#) Nr.14, 10.lpp.

<sup>356</sup> Talsu novada pašvaldības 03.08.2015. [atbildes vēstule Nr.12-31/3543](#); Jēkabpils pilsētas pašvaldības 16.07.2015. [atbildes vēstule Nr.2.7.29./149](#), 1.lpp.

<sup>357</sup> Ķekavas novada domes 21.07.2015. [atbildes vēstule Nr.1-7/15/1737](#).

<sup>358</sup> Rīgas domes 27.07.2015. [atbildes vēstule Nr.RD-15-1872-nd, 1.-2.lpp.](#); Limbažu novada domes 20.07.2015. [atbildes vēstule Nr. 4-13.3/15/815](#); Salaspils novada domes 14.07.2015. [atbildes vēstule Nr.ADM/1-18/15/1685](#).



## **D. Response to the Zolitūde tragedy**

### **23. On the social services provided to the victims of the Tragedy**

**23.1.** On the day following the Zolitūde tragedy (22 November 2013), an extraordinary meeting of the Cabinet of Ministers was convened to discuss **the state of affairs regarding the Tragedy at the supermarket on 20 Priedaines Street, Riga, and measures taken to respond to the disaster**. In the meeting the relevant ministries were given tasks and instructions on the measures to be taken in order to mitigate the consequences of the Tragedy and to provide appropriate assistance to the victims of the Tragedy.<sup>359</sup> In the first months following the tragedy, the government was reluctant to contact the families of the victims and the injured;<sup>360</sup> however, after publishing of an open letter signed by those affected by the disaster and following the personal initiative of Laimdota Straujuma, Prime Minister of the Republic of Latvia, in the period between 11 March 2014 and 26 March 2015 the Cabinet of Ministers has convened five meetings<sup>361</sup> and implemented several measures<sup>362</sup> aimed at providing the affected parties with support, information, social services, benefits and compensation.<sup>363</sup> Furthermore, several laws and regulations were amended regarding the social benefits for public officials and the construction sector. Several draft laws were prepared in order to strengthen the area of fire safety and civil defence. These initiatives included legislative improvements in the area of health and safety at a workplace, amendments to the Social Services and Social Assistance Law<sup>364</sup> and the Law on State Social Allowances,<sup>365</sup> as well as development of the Psychologist Law.<sup>366</sup>

**23.2.** The state budget allocations in response to the Tragedy from 21 November 2013 to 1 October 2014 constitute approximately 4.2 million euros. Concurrently, the charity web site “Ziedot.lv” had collected 1 462 131.48 euros for the survivors and the relatives of the victims of the tragedy as of 10 July 2014.<sup>367</sup> Substantial amounts were donated also through other charity channels registered in Latvia, as well as to the bank account specifically opened by the Riga City Council. The Orthodox Church of Latvia must be listed among the donors.<sup>368</sup> However, the results of an inspection conducted by the State Audit Office show that the state budget allocations earmarked for ministries for elimination of the consequences of the tragedy have not been used in the most efficient manner.<sup>369</sup>

**23.3.** Response to the Zolitūde tragedy has highlighted the need to improve coordination of the social assistance provided to the victims and their relatives within the first hours of a disaster. The lack of coordination between the institutions involved in responding to the tragedy in Zolitūde resulted in disproportionate distribution of resources and assistance, i.e., several victims received

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<sup>359</sup> Pārresoru koordinācijas centra [informatīvais ziņojums](#) “Par Zolitūdes traģēdiju un tās seku novēršanu”.

<sup>360</sup> Biedrības “Zolitūde 21.11.” 20.07.2015. [vēstule](#) “Par traģēdijā cietušo sociālo atbalstu”.

<sup>361</sup> Ministru kabineta mājaslapā [pieejamā informācija](#).

<sup>362</sup> Pārresoru koordinācijas centra [informatīvais ziņojums](#) “Par Zolitūdes traģēdiju un tās seku novēršanu”.

<sup>363</sup> Turpat.

<sup>364</sup> Sociālo pakalpojumu un sociālās palīdzības likums: pieņemts 31.10.2001. (spēkā no 01.01.2003.)// Latvijas Vēstnesis, 19.11.2002., Nr.168

<sup>365</sup> Valsts sociālo pabalstu likums: pieņemts 31.10.2002. (spēkā no 01.01.2003.)// Latvijas Vēstnesis, 19.11.2002., Nr.168

<sup>366</sup> Ar Zolitūdes traģēdiju un tās seku novēršanu saistīto tiesību aktu vai to projektu [saraksts](#), 12. Saeimas Sociālo un darba lietu komisijas priekšsēdētājas A. Barčas sniegtā informācija. Sk.: 18.05.2015. [sēdes protokols](#) Nr. 19, 4.lpp. Likumprojekts „Psihologu likums”, pieejams: <http://goo.gl/vuhZVD>

<sup>367</sup> Valsts kancelejas sagatavotā [informācija](#).

<sup>368</sup> Biedrības “Zolitūde 21.11.” pārstāves R.Ločmeles-Luņovas sniegtā informācija. Sk.: Komisijas 18.05.2015. [sēdes protokols](#) Nr.19, 4.–5.lpp.

<sup>369</sup> Valsts kontroles 30.04.2015. [revīzijas ziņojums](#) “Par Veselības ministrijas 2014.gada pārskata sagatavošanas pareizību”, Valsts kontroles 07.08.2015. atbildes vēstule 9.-3.5.4.1/343, 2.–3.lpp.

assistance from a variety of institutions, while others received no assistance at all, as the responsible institutions lacked information about them.

**23.4.** The tragedy also revealed the lack of clear guidelines on providing assistance to affected individuals and defining responsibilities. Self-organisation of the general population must be held in high esteem, as it provides the most immediate forms of assistance in situations where the state has no clear guidelines on provision of assistance or distribution of emergency funds. The contribution of the charity foundation “Ziedot.lv” and other NGOs (Red Cross Latvia, Skkalbes, Resource Centre Marta, and the Samaritan Association of Latvia) in effectively mobilising their members and general public in responding to the Tragedy is highly commendable. Support to the victims’ relatives and the injured was provided not only by NGOs but also volunteers, medical personnel, as well as chaplains from the National Armed Forces and churches of various denominations. Religious services were held across Latvia and spiritual help was made available at the site of the tragedy, in hospitals, as well as homes of the mourning relatives.<sup>370</sup> Furthermore, the Zolitūde tragedy led to an unprecedented unity and activity of Latvian people in protecting their rights and interests through the association “Zolitūde 21.11.”, which is the first organisation of this kind in the Eastern Europe. In Scandinavia a similar organisation was established after the terrorist attack carried out by Breivik.<sup>371</sup> However, the work of the civic investigation committee was unsuccessful and short-lived. Therefore it is important for the state to coordinate the activity of various NGOs to avoid overlapping and interfering with the work of other organisations that are already working closely with public authorities.<sup>372</sup> Unlike in the case of the Talsi tragedy, where litigation about financial and moral damages continued until 2013<sup>373</sup> and several compensations were only paid from the state budget for 2014<sup>374</sup>, in case of Zolitūde the work of NGOs and self-organisation of the general public ensured that assistance was provided to the victims and their relatives without delay. **Based on the lessons learned from the Zolitūde tragedy, the Committee proposes that the Register of Enterprises and the State Chancellery coordinate and methodologically assist founding an association for the victims of the Talsi tragedy.**

**23.5.** The Committee has concluded that considerable improvements are necessary in the laws and regulations that govern the work of medical service providers that respond to emergencies; furthermore, legal framework needs to be established for psychologists (who are currently excluded from the register of medical support personnel<sup>375</sup>) and services they provide to victims, stipulating specific tasks, duration and the scope of the rendered services. Likewise, it has been concluded that also the training, especially in the area of responding to emergencies, has to be improved among medical personnel and psychologists; for instance, in the recent five years specialists from the State Centre for Forensic Medical Examination have not received any training on the tactics of forensic examination and cooperation with other services in case of emergencies with a large number of deceased;<sup>376</sup> however, specialists from the State Centre for Forensic Medical Examination have gained experience performing forensic medical examinations in their daily work, as well as in emergencies with multiple victims, such as the Talsi tragedy, the fire in the retirement home “Reģi”, traffic accidents, etc. The State Centre for Forensic Medical

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<sup>370</sup> Sk.: <http://goo.gl/JpCZOJ>, <http://goo.gl/ECH738>, <http://goo.gl/ZE84nW>.

<sup>371</sup> Biedrības “Zolitūde 21.11.” pārstāves R.Ločmeles-Luņovas sniegtā informācija. Sk.: Komisijas 18.05.2015. [sēdes protokols](#) Nr.19, 4.–5.lpp. Vairāk par 2011.gada 22.jūlija teroraktu Norvēģijas galvaspilsētā Oslo un jauniešu nometnē Utejas salā, kur kopumā dzīvību zaudēja 77 personas, sk.: <http://goo.gl/yKGImD>.

<sup>372</sup> Fonda “Ziedot.lv” vadītājas R.Dimantas sniegtā informācija. Sk.: Komisijas 18.05.2015. [sēdes stenogramma](#), 4.lpp. Vairāk par sabiedriskās izmeklēšanas komisijas izjukšanas iemesliem sk.: <http://goo.gl/tkJY5g>.

<sup>373</sup> Delfi.lv. VUGD: Noslēgušās gadiem ilgās tiesvedības Talsu traģēdijas upuriem. 01.08.2013. Pieejams: <http://goo.gl/r9pVBd>.

<sup>374</sup> Delfi.lv. Piešķir līdzekļus kompensācijas izmaksai Talsu traģēdijā cietušajam Ručevskim. 14.01.2014. Pieejams: <http://goo.gl/MOU5Ro>.

<sup>375</sup> Rīgas psihiatrijas un narkoloģijas centra 19.05.2015. [atbildes vēstule Nr. 01-09/8193](#), 2.lpp.

<sup>376</sup> Valsts tiesu medicīnas ekspertīzes centra 12.05.2015. [atbildes vēstule Nr. 409-2015/L8.-5](#), 2.lpp.

Examination experiences shortage of equipment and its infrastructure needs to be improved. Taking into account the possibility of incidents with multiple victims who have suffered various injuries, including gunshot and explosion wounds, examination of which requires radiology equipment, **it is necessary to procure appropriate radiology equipment in order to reduce the length of each forensic medical examination.**<sup>377</sup> Also the autopsy rooms urgently require repairs and renovation. The Committee urges the Ministry of Health to develop a national plan for providing medical and psychological services to a variety of groups of disaster survivors and relatives of the deceased, as well as create a list of specialists that could provide such medical or psychological assistance not only in the capital city but also across the country.<sup>378</sup> The plan would include guidelines for defining and coordinating the number and range of the required specialists, including psychotherapists, psychologists, etc. **The Committee welcomes the fact that the Latvian Medical Association has initiated the drafting of the Mental Health Law, which, *inter alia*, aims to stipulate procedures for ensuring access to high quality mental health care.**

**23.6.** The Committee agrees with the foundation “Ziedot.lv” and the association “Zolitūde 21.11.” that **the national or municipal authorities should assume the role of coordinators in emergency situations, while maintaining close cooperation with NGOs and volunteers, preventing overlapping of functions and inaction in situations where social assistance is required.**<sup>379</sup> The response to the Zolitūde tragedy and provision of social assistance was a collective effort of several public institutions and NGOs. The Committee has discussed the challenges faced by the relevant institutions in performing their tasks in compliance with the personal data protection regulations.<sup>380</sup> **The Ministry of Justice in collaboration with the Cross-sectoral Coordination Centre must be tasked with adjusting relevant laws and regulations on personal data protection for cases of emergency.**

**23.7.** When assessing the financial contribution of national and municipal institutions, a distinction must be made between the initial financial support for the survivors, provided by the Riga City Council, and compensations to the relatives of the deceased and the benefits to the severely injured. Although the assistance provided by the state to the injured and the affected families is commendable, the effect must be evaluated of the precedent it sets regarding compensations to be provided to families of the deceased in future cases, outside the context of large scale tragedies. **Specific provisions are needed to define circumstances in which individuals are eligible to receive state-funded compensations and social assistance, as well as the amount of these compensations.**

**23.8.** Finally, principles must be defined according to which other groups of individuals, such as the victims of the Talsi tragedy, would be eligible to receive the same tax exemptions as the injured and the relatives of the deceased in the Zolitūde tragedy, as stipulated by the amended Section 109 of the Law on Personal Income Tax.<sup>381</sup>

## **24. Challenges identified by the services and organisations involved in managing the consequences of the Tragedy and the proposed national level solutions**

**24.1.** The issue of social guarantees examined in the previous Chapter, as well as the necessity to strengthen the coordination of the crisis management system discussed in Paragraph 23.3. have

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<sup>377</sup> Valsts tiesu medicīnas ekspertīzes centra 12.05.2015. [atbildes vēstule Nr.409-2015/L8.-5.](#)

<sup>378</sup> Rīgas Stradiņa universitātes Psihosomatiskās medicīnas un Psihoterapijas klīnikas 19.05.2015. [atbildes vēstule Nr. 06-4/2015.](#)

<sup>379</sup> Fonda “Ziedot.lv” 21.07.2015. [vēstule Nr.6.4/15/89](#), 1.lpp.

<sup>380</sup> Rīgas domes Labklājības departamenta direktores I.Kondrātes sniegtā informācija. Sk.: Komisijas 18.05.2015. [sēdes protokols](#) Nr.19, 4., 6.lpp.

<sup>381</sup> Grozījumi likumā “Par iedzīvotāju ienākuma nodokli”: pieņemts 28.11.2013. (stājas spēkā 30.11.2013.)// Latvijas Vēstnesis, 29.11.2013., Nr.234.

also highlighted the need for an in-depth approach to implement national level measures aimed at improving cooperation between various services and organisations. According to the State Centre for Forensic Medical Examination, the **State Police** assumed the role of the coordinating body within its scope of competence, i.e. made arrangements for identification of the bodies in the premises of the State Centre for Forensic Medical Examination in presence of representatives of the National Armed Forces and volunteer psychologists. Currently there are no regulations that would outline the involvement of psychologists to provide support to relatives during or after the process of identification of bodies. **The Committee believes there is a need for a new regulatory framework or methodological guidelines regarding assigning of psychologists in case of disasters.**

**24.2. The Committee supports the proposal from the Riga Psychiatry and Narcology Centre to create a list of relevant specialists to be assigned in case of emergency situations, and to provide training to the specialists included in the list. Where necessary, cooperation agreements could be concluded in order to define the terms and conditions of such cooperation and the capacity of relevant organisations to assign specialists.**<sup>382</sup> The Riga Psychiatry and Narcology Centre is currently working on establishing a unit for providing emergency psychological assistance; however, appropriate training has not been provided to the specialists due to lack of funding for this purpose.

**24.3. The Riga Stradiņš University (RSU) Clinic of Psychosomatic Medicine and Psychotherapy engaged in providing assistance to the victims of the Zolitūde tragedy and their relatives on its own initiative. Neither the RSU Clinic of Psychosomatic Medicine and Psychotherapy nor the Association of Psychosomatic Medicine and Psychotherapy were involved in the analysis of the management of the consequences of the Tragedy or consulted regarding proposals on eliminating the identified deficiencies and streamlining the procedures.**<sup>383</sup>

**24.4. The Crisis and Counselling Centre “Skalbes” engaged in the managing of the consequences of the Tragedy based on the cooperation agreement with the Department of Welfare of the Riga City Council; however the functioning of the centre itself is based on the principle of voluntary work. In case of an emergency the centre has the capacity to assign properly trained voluntary specialists. Psychotherapeutic and psychological support at the site of an incident is a specialty field that requires qualified psychotherapists and psychologists trained in appropriate crisis management methods. The Committee has concluded that appropriately trained psychotherapists and psychologists must be assigned to provide assistance in emergency situations. The Crisis and Counselling Centre “Skalbes” has pointed out that there is a need for a regulatory framework and/or guidelines or recommendations on the procedures regarding when and how psychologists are assigned to provide support during the identification of bodies.**<sup>384</sup>

**It must be noted that according to the existing legal framework, psychologists’ assistance is excluded from social services and therefore not eligible to be covered from the state budget as a part of rehabilitation programmes.** Currently rendering of health care services is limited to medical personnel and medical support personnel, while the rest of specialists, including psychologists, are only assigned when necessary.

Currently the Saeima is considering the **draft Law on Psychologists**, aimed at regulating professional psychologists’ services. At the same time, the Ministry of Health is drafting the Mental Health Law. **The Committee urges the government to address the issue of some municipalities that due to various reasons are unable to provide psychological assistance in**

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<sup>382</sup> Rīgas Psihiatrijas un narkoloģijas centra 19.05.2015. [atbildes vēstule Nr.01-09/8193](#).

<sup>383</sup> Komisijas 27.04.2015. [vēstule Nr.233.9/18-80-12/15](#) Rīgas Stradiņa universitātes Psihosomatiskās medicīnas un psihoterapijas klīnikai.

<sup>384</sup> Krīžu un konsultāciju centra “Skalbes” 07.07.2015. [atbildes vēstule Nr.44](#).



**case of emergencies with a large number of victims, and proposes to establish a centralised mechanism for providing assistance in case of disasters with a large number of victims.** The aforementioned laws will resolve the problems identified after the Tragedy, as well as eliminate the controversies regarding organising and providing psychological assistance, as well as training of the relevant specialists and reacting to emergencies.

According to the Social Services and Social Assistance Law each municipality is responsible for providing appropriate social services and assistance to all individuals registered in their administrative territory.<sup>385</sup> Current provisions prohibit victims of the Zolitūde tragedy to receive social assistance from the Riga City Council if they reside outside Riga but still require social assistance, for instance, because their wallet and documents were lost under the debris, even though the tragedy occurred within the administrative territory of Riga. Such absurd situations where social assistance is denied to victims of a disaster must be averted.

**In addition, there is a need to establish a centralised rehabilitation system that would provide services to all rescuers and other specialists who are involved in responding to a disaster regardless of the sector/field they represent.**

**24.5.** The Committee acquainted themselves with a presentation submitted by the Riga East University Hospital in which the hospital had listed all the identified internal and external problems and uncertainties related to exchange of information with various institutions, as well as the timeframe and authorisation to provide information about the victims, their personal data, diagnoses and condition.

**24.5.1. The Committee has concluded that there is a lack of a common approach and regulatory framework in the area of provision (or withholding) of information in cases of emergency (including disasters and outbreaks of dangerous infectious diseases).** In light of uncertainty regarding public announcements about the deceased and injured, precise procedures must be established for distribution of such information, defining the entities authorised to disclose certain information, the range of the information to be provided and the appropriate information channels for that. Therefore all relevant laws and regulations must be amended accordingly, or a separate law or regulation must be adopted in order to set procedures for timely public announcements about human casualties. For instance, currently, if someone calls the State Emergency Medical Service (SEMS) and enquires about their relatives, the SEMS is not authorised to disclose the medical institution to which the person in question has been admitted. Instead the SEMS suggests to call all the hospitals in order to locate a specific person, which is time-consuming and inefficient.

**24.5.2.** The response to the Zolitūde tragedy has also revealed problems related to the external exchange information:

- initial information about the disaster was received from the mass media, and only later information from the Riga City Senior Doctor on Duty of the SEMS was received;
- it was not clear who is the official contact person of the SEMS;
- the SEMS (just as the rest of the involved institutions) failed to inform that no new arrivals of the injured were to be expected.<sup>386</sup>

**24.5.3. Therefore the Committee once again emphasises the need to substantially improve communication, coordination and exchange of information between the services, institutions and organisations involved in the joint action to respond to the consequences of a disaster, as well as dissemination of information to the mass media and the general public.** During the Zolitūde tragedy the general public and also institutions obtained more timely, unbiased and analytical information from the mass media – television, radio and news portals, rather than from

<sup>385</sup> Sociālo pakalpojumu un sociālās palīdzības likuma 9.pants.

<sup>386</sup> Rīgas Austrumu klīniskās universitātes slimnīcas pārskats (prezentācija) par gūto pieredzi Zolitūdes traģēdijā.

Pieejams: <http://zolitude.saeima.lv/raksti/522-27042015-sdes-prezentcijas>



official statements from the rescue services and the responsible municipal institutions. The information hotlines of the relevant services were overloaded and incapable of processing the large number of incoming calls. Already during the initial response to the Zolitūde tragedy the general public actively engaged in discussions and exchanges about the disaster and came up with proposals on how to address the identified deficiencies in social networks and other contemporary platforms of communication.

Following the Zolitūde tragedy the Riga City Council did not convene a meeting of the Riga municipal Civil Defence Committee, and the composition of the Committee was not announced either. In spite of the large-scale disaster with catastrophic consequences, also at later stages the Civil Defence Committee did not convene for meetings. The statutory functions and tasks of the Civil Defence Committee were partly performed by some of the city council officials and representatives of some services on their own initiative. The members of the municipal Civil Defence Committee had not been trained and educated on their tasks and functions before the Zolitūde tragedy. Nowadays such training is provided by the SFRS on regular basis, and the Inquiry Committee welcomes this effort.

**24.6.** Having heard the opinion of the SEMS (and following notifications from the Committee about A. Ploriņš, Director of the SEMS, avoiding Committee meetings and delaying submission of the requested information), **the Committee has concluded that the SEMS had provided timely, comprehensive and quality emergency medical assistance; however it failed to ensure the registration of all the victims of the Tragedy.** In breach of regulations, starting from the ninth body retrieved from the debris, medical examination and the prescribed medical documentation was discontinued. The following procedures were violated: “prehospitalisation triage at the location of a disaster or emergency medical situation”, “assigning of the chief medical officer and performance of their duties at the location of the incident” and “coordination of the SEMS teams in emergency situations with multiple victims”. **The Committee also identified deficiencies in the work of the SEMS, namely, a failure to notify and assemble the members of the response team coordination group, a failure to ensure timely and comprehensive notification of all the medical institutions about the incoming victims, a failure to notify the relevant hospitals about the termination of the state of heightened readiness, as well as a failure to notify the Ministry of Foreign Affairs about the hospitalised foreigners.** After the Tragedy, the SEMS has reviewed its performance; nevertheless, it has not prepared and submitted on time proposals for the required amendments to The Cabinet of Ministers Regulation On the Response of Medical Institutions to Disasters,<sup>387</sup> the National Plan for Medical Response to Disasters, the National Civil Defence Plan, and the Personal data Protection Law.

**24.7.** Based on the information from the SFRS, due to shortage of funds the internet portal “112” has not been launched yet. The portal is intended to serve as an online source of emergency information and advice for both local residents and foreign tourists. It was planned to use the portal for dissemination of educational materials and information on emergency protocols and notification of the general public about emergencies. **The portal must be developed with the most up-to-date solutions that allow for cooperation and integration of the NGO sector and mass media,** taking into account that following the Zolitūde tragedy the websites of the State Police and the SFRS went offline due to the overload caused by the large number of visits.<sup>388</sup> The function of these two websites was overtaken by the nongovernmental organisation “Nekropole.info”, which posted the relevant information on its website.

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<sup>387</sup> Ministru kabineta 13.12.2011. noteikumi Nr.948 “Katastrofu medicīnas sistēmas organizēšanas noteikumi” (spēkā no 17.12.2011.)// Latvijas Vēstnesis, 16.012.2011., Nr.198.

<sup>388</sup> Delfi. Finansējuma trūkuma dēļ neveido portālu krīžu situācijām “112”, 24.10.2014. Pieejams:

<http://goo.gl/rF2UJE>.

**24.8.** The Committee has learned that the Faculty of Law of the RSU no longer offers state scholarships for extramural and master's students, although the RSU was awarded a tender on police officer training. After the closure of the Police Academy, the RSU is the only university in Latvia that offers a study programme dedicated to operational investigative work. Furthermore The RSU offers a study programme dedicated to crisis communication. **The Ministry of the Interior and the Ministry of Education and Science should be tasked with providing at least a fraction of the law enforcement staff with state paid higher education, which would be an important contribution to the qualification and the prestige of the law enforcement profession.** Having examined the preparedness of the relevant services for emergency situations, **the Committee has concluded that colleges and other institutions of higher education, especially those offering study programmes for law enforcement and administration specialists, should consider introduction of study programmes dedicated to procedures in emergency situations, management of the consequences of disasters, crisis communication, etc.**

**24.9.** The Committee has established that not all educational institutions comply with the provisions of the Civil Protection Law according to which civil defence training must be provided.<sup>389</sup> In order to promote public awareness on the procedures to be followed in emergency and disaster situations, a state secretary meeting was held on 16 June 2014, during which the Ministry of Education and Science presented its report on the costs of a study course dedicated to civil defence and the potential timeframe for implementing such a course in general and vocational educational institutions. According to the report, it is planned to introduce a course on human security by 2018, which is aimed at raising public awareness about appropriate reaction to emergencies.

**24.10.** The Committee shares the opinion of some experts who argue that the government decision to transfer the leadership of the civil defence system, which is part of the national security system, from the direct supervision of the prime minister to a department of an institution that only reports to one ministry was a mistake. **The Civil Defence Department of the SFRS under the supervision of the Ministry of the Interior only has a handful of staff members with no direct communication or access to the minister of the interior, not to mention the prime minister.** The Department has no authorisation to perform control over other ministries, mayors at the municipal level or the relevant state officials regarding their state of preparedness.

**24.11.** The Committee has concluded that no state budget allocations have been granted since 2009 to organise comprehensive national level civil defence training. Likewise, no training has been planned or provided to the relevant ministerial and administrative personnel. **The responsible officials from ministries tend to delegate lower ranking civil servants to attend training organised by the Ministry of Defence, and the Headquarter of the National Armed Forces, and as a result the managerial staff at the ministries has poor understanding and preparedness for emergencies and management of disasters. It is imperative to organise training on the management of emergencies and disasters for all the ministries and municipalities, ensuring that all the relevant officials actually undergo training, based on the best practices across Europe and worldwide.**

**24.12.** In order to promote public awareness about the steps to be taken in case of emergencies and disasters, as well as to ensure professional management of such incidents, the Ministry of Education and Science must be tasked with increasing the number of state scholarships for higher education in such areas as internal security and civil defence, which would contribute to achieving the goals defined in the national civil defence strategy. The need to increase the number of state scholarships is also supported by the fact that this year 21 instead of 15 students enrolled in the Riga Technical University professional bachelor's study programme in Safety Engineering (even in the current demographic situation with steadily decreasing number of students), which is indicative

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<sup>389</sup> Rīgas Tehniskās universitātes Darba un civilās aizsardzības institūta sniegtā [informācija](#).

of an increased interest and understanding of this field in Latvia.<sup>390</sup> Furthermore, the Committee urges the Ministry of Defence to intensify its efforts aimed at promoting the NATO annual crisis management training among general public and the relevant civil services.

## 25. The moral aspects highlighted by the Tragedy

**25.1.** In the conclusion the Committee would like to underline that the causes of the Zolitūde tragedy are of moral nature. The Tragedy occurred as a result of deliberate and officially accepted human action without any implications of force majeure, natural disasters or uncontrollable risk factors.

**25.2.** The numerous deficiencies in the existing laws and regulations, as well as in the practical application thereof identified and listed herein by the Committee illustrate that the moral defects protractedly accepted in our society affect not only on the construction sector but also the legislature, the executive power and the civil service. Moral crises are not as easily spotted as the economic ones. An ongoing process of demoralisation has penetrated the entire Latvian society and ultimately reached a level at which it poses threats to human life not only today but also in the future. Unfortunately, the suicidal nation-wide practice of theft, corruption and lying so far has been immune to the countermeasures attempted by the institutions of democratic governance.

**25.3.** Therefore the Committee emphasises that appropriate changes in the regulatory framework alone will not resolve the overarching problems that reach much farther than the Zolitūde tragedy. Unless we change the generally accepted understanding about moral and universal human values and their impact on the material reality, we remain at risk of experiencing similar senseless tragedies caused by incompetence of the decision-makers in the construction or any other sector. The prevailing of the law over money depends on the stance of the society itself; however, traditionally in Latvian culture safeguarding of the moral values is entrusted to individuals rather than the legal system. Unfortunately, today a large part of Latvian society has yielded to the dictatorship of the institutionalised corruption, and their very existence depends on the corrupt practices.

**25.4.** Recurrence of similar tragedies can only be averted if the society as a whole changes its mind-set and attitude towards moral values which is translated into a social agreement on accepting and adhering to a common set of sound principles, rules and values. Then we will be able to ensure smooth operations and functions that only formally require external supervision and control.

**25.5.** The overarching goal of nurturing morally wholesome individuals who are, *inter alia*, intimately familiar with the concept of ethics must become the main driving force for reforming the education and upbringing system. A human's physical body together with *ego* grows and develops on its own; however, the spiritual body requires much investment or else it may become disfigured. Human beings require much more investment from the state and the society than the legal framework. A society that does not want to raise its moral standards is forced to raise the number of prisons. The latter usually proves to be much easier. **History has proven that an extended demoralisation of society leads to the demise of the state.**

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<sup>390</sup> Rīgas Tehniskās universitātes Darba un civilās aizsardzības institūta sniegtā informācija.  
Pieejams: [http://zolitude.saeima.lv/attachments/499\\_Jemeljanova\\_priek%C5%A1likums.pdf](http://zolitude.saeima.lv/attachments/499_Jemeljanova_priek%C5%A1likums.pdf)

## **Summary**

Having examined the irregularities in the work of the relevant state and municipal institutions, as well as the deficiencies in the regulatory framework, the Committee has concluded that the following consequences of the construction policies developed and implemented by the state and municipal institutions may have led to the Tragedy:

- The dissolution of the State Construction Inspection Office considerably weakened supervision of the construction sector and made it impossible to implement uniform national construction policy. Supervision at the national level was only resumed after the Zolitūde tragedy, when the National Construction Control Agency was established. Before the Tragedy all attempts to reinstate supervision at the national level were unsuccessful due to the lack of funding;
- The construction supervision system established at the Riga municipality was ineffective and excessively fragmented;
- The system for certification of construction specialists and monitoring of the construction product market could not ensure safety in the construction sector;
- The laws and regulations had several irregularities regarding the responsibility of the individuals and entities involved in the construction process, as well as in the area of ensuring effective supervision on the part of the relevant institutions;

The Committee has formulated several legislative proposals aimed at improving the work of the relevant national and municipal institutions:

- A multiannual construction policy planning document has to be developed by the Ministry of Economics in collaboration with the relevant NGOs to ensure efficient management of the construction sector;
- Amendments to the Construction Law have to be developed and adopted to reinforce the requirements regarding experts' opinions on construction designs, safety of structures, as well as to increase the responsibility of the involved parties throughout the construction process. The Construction Law and the related Cabinet of Ministers regulations have to be supplemented with a more precise definition of a public building, as well as with provisions on the requirement to inform the general public about compliance with the terms and requirements of the construction permit. Furthermore, terminological imprecisions have to be rectified and several other improvements have to be made to the aforementioned regulatory documents;
- It is imperative to stipulate that the performer of construction works (general contractor) is the entity that assumes responsibility for using inadequate construction products in the construction process. Administrative liability must be imposed for failures to comply with certain requirements. Furthermore, a procedure must be introduced for allowing to continue construction works after building authority has suspended them. An online data base should be developed, which would provide information about documented evidence of construction products' conformity, about the relevant compliance criteria, etc. Also, the capacity of the Consumer Rights Protection Centre must be increased;
- The procurement procedure excessively relies on the criterion of the lowest bid, which in conjunction with hiring unqualified subcontractors to meet the procurement requirements, as well as the illegal modifications made to the procurement contract after awarding of a tender considerably undermine the quality and safety of the commissioned buildings. The Committee proposes the following: to develop guidelines for selecting economically most viable tenders, to improve the qualification of the procurement specialists and to introduce security deposits for submitting complaints to the Procurement Monitoring Bureau.

Establishment of centralised procurement institutions is recommended for large-scale procurements;

- Current construction information system does not provide information about ongoing construction projects, therefore resources should be allocated for immediate upgrade and further development of the information system, which would allow to reduce bureaucracy and ensure efficient work of the relevant control institutions;
- It is necessary to reduce the proportion of non-specialty subjects in the professional higher education study programmes, to introduce a mechanism for reducing administrative costs of the higher educational institutions, and to stipulate that students are required to choose optional courses in a specific field of construction specialisation;
- Certification of construction specialists must be delegated according to the Construction Law rather than on the basis of delegation agreements. Certification institutions must have the authority to revoke certificates in cases of serious violations. It must be stipulated in the relevant laws and regulations that experts on construction design are required to have appropriate experience in evaluating construction designs of buildings which require mandatory evaluation. Furthermore, experts must be required to have no history of professional and ethics violations;
- The scope of competence of the National Construction Control Agency established after the Zolitūde tragedy must be expanded along with providing it with additional funding;
- Capacity of the municipal building authorities must be increased and their scope of competence expanded without adding excessively large number of new functions. Establishment of joint building authorities must be promoted, and municipal building authorities must be provided with methodological support;
- Liability and sanctions must be incorporated in the existing legislative framework for violating accessibility requirements at all stages of construction;
- A law on lobbying transparency must be developed and adopted to ensure transparency and level playing field, also a public register of lobbyists must be introduced, which would contribute to drafting higher quality legislative acts. The Corruption Prevention and Combating Bureau must be tasked with combating corruption also in the private sector. ID cards must be introduced for all construction specialists and workers, thus improving compliance with safety requirements and reducing the spread of undeclared labour in the construction sector;
- An analytical unit must be established at the Saeima, which would be responsible for *ex ante* and *ex post* assessment of the laws considered and/or adopted by the Saeima;
- Clear procedures and guidelines must be established for coordinating disaster management efforts between national and municipal institutions, setting a clear structure of subordination, and broadening the scope of responsibilities at the municipal level;
- It is necessary to optimise the number of municipal civil defence committees, thus reducing financial pressure and improving the municipalities' capacity to respond to disasters;
- The State Fire Fighting and Rescue Service is poorly equipped. It is necessary to urgently renovate and modernise several fire departments, as well as the specialised equipment. Likewise, it is necessary to keep records of specially trained personnel in order to efficiently assign them to rescue operations. Also the civil defence alarm system requires modernisation, i.e. introduction of the cell broadcasting system for distributing public announcements in cases of emergency;



- A system must be put in place that would enable reporting on identified infringements of rights and codes of conduct, which entails setting up effective mechanisms for legal protection of whistle-blowers. For this purpose the relevant public authorities must be tasked with setting up a system that complies with the principle on one-stop-shop, ensures confidentiality, stipulates procedures for examining reports and complaints, promotes public awareness about the available whistle-blowing opportunities, and provides appropriate legal protection and assistance, while guaranteeing appropriate response to each complaint. There is no need for a separate law to ensure protection of whistle-blowers;
- Clear guidelines for ensuring social assistance in cases of emergency must be developed. Coordination of social assistance must be ensured at the national level, thus providing for complete coverage of all those in need and preventing overlapping of functions and coverage. The Ministry of Health must be tasked with developing a national level plan for providing medical assistance to victims of accidents and disasters, providing for action-plans tailored to specific conditions and number of victims. Furthermore, a list of qualified crisis management specialists must be compiled. The Ministry of Justice must be tasked with drafting amendments to the relevant laws and regulations to achieve a sound balance between personal data protection requirements and the need to disseminate information in cases of emergency. In addition, there is a need for the Ministry of Welfare to define principles according to which, for instance the injured and the relatives of the deceased as a result of the Talsi tragedy, may apply for tax reliefs;
- Unless the society changes its understanding of morality, the generally accepted human values, and their impact on the material reality, we remain at risk of experiencing similar senseless tragedies caused by incompetence and dishonesty of the decision-makers in the construction or any other sector.

Having examined the State Police investigation, the Committee has concluded the following:

- At this stage of the criminal proceedings there are no grounds for accusing the State Police for delaying the investigation. The quality of the investigation will be assessed after the litigation is concluded.

According to the Section 13(2) of the Parliamentary Inquiry Committee Law we, the undersigned, hereby, confirm that this document is the final report of the Committee adopted on the Committee meeting of 27 October 2015 with eight votes for (R. Balodis, I. Rībena, I. Sudraba, K. Krēsliņš, K. Seržants, J. Vectirāns, M. Šics, A. Kaimiņš), two votes against (I. Dālderis, A. Loskutovs), and two members of the Committee abstaining (Z. Tretjaka, I. Zujevs).

R.Balodis, Chairman of the Committee

K. Krēsliņš, Secretary of the Committee

## Separate opinion of the Committee member Ints Dālderis

To mass media

28 October 2015

Ints Dālderis, Secretary of the Parliamentary Committee for Investigating the Actions Taken by the State of Latvia in Assessing the Causes of the Tragedy in Zolitūde on 21 November 2013, Improving the Legislative Framework and Practical Measures to be Taken by the Public Administration and Municipalities in Order to Prevent Recurrence of Similar Tragedies, as well as Mitigating the Consequences of the Tragedy (hereinafter – the Committee)

Information for Dr. iur. Ringolds Balodis, Chairman of the Committee

Dear Mr Balodis,

Hereby I inform you that **I am not prepared to sign the Final Report of the Committee** in its final wording as adopted by the vote. Therefore I submit a separate opinion as per Section 13(3) of the Parliamentary Inquiry Committee Law

Allow me to quote the Corresponding Member of the Latvian Academy of Sciences, former Chair of the Constitutional Law Department of the University of Latvia, professor and doctor of legal science Ringolds Balodis on the commentaries regarding the Constitution of the Republic of Latvia: “Presumption of innocence is an underlying principle of any democracy and a cornerstone of the rule of law. This means that everyone charged with an offence shall be presumed innocent [...] until proven guilty according to law” (Official journal *Latvijas Vēstnesis*, 2011, p. 144-148).

Furthermore, the draft report of the Committee also states that “the Inquiry Committee abides by this principle and none of the findings covered in the report are to be construed as presumption of anybody’s guilt. Presumption of innocence is a binding and overriding principle of the Committee and all public officials who have been involved, are involved or will be involved in examination of the [...] tragedy.” In the beginning of the Committee’s work it was decided that the Committee will look into the regulatory framework and effectiveness of public administration rather than responsibility of specific officials.

Hereby I would like to express my political conviction that the Committee failed to adhere to this principle by proclaiming specific politicians guilty without appropriate substantiation. In light of the tragic and far-reaching consequences of the Tragedy, I personally believe that **these unsubstantiated accusations violate the ethical principles generally accepted in the Latvian society.**

For more than twenty years since the Rules of Procedure of the Saeima were reinstated, Article 163 clearly stipulates that the minutes of legislative committees and other standing committees shall be signed by the person chairing the meeting and the secretary. However, a parliamentary inquiry committee is not a standing committee of the Saeima.

A report by a parliamentary inquiry committee is a type of document that is completely different from the minutes of a standing committee. According to Section 13(1) of the Parliamentary Inquiry Committee Law it must contain not only the established facts but also evaluation, conclusions and political proposals. The wording of Section 13(2) of the Parliamentary Inquiry Committee Law that was valid from 2003 to 30 September 2015 included a provision according to which final reports are to be signed by all members of the relevant committee, while the former wording of Section 13(3) stipulated that committee members who disagree with the final report have the right to supplement it with written separate opinions. However, the Saeima has established a practice of only adopting reports that are signed by all members of a parliamentary inquiry committee. At the same time it must be noted that the post of the secretary of a parliamentary inquiry committee had not been specifically mentioned in the law until 30 September 2015.

The wording of Section 13(2) of the Parliamentary Inquiry Committee Law adopted as of 30 September 2015 substitutes signing of final reports with the absolute majority vote, which proves that it was in 2015 when the legislature legitimised the procedure of adopting a parliamentary inquiry committee's final report based on Section 13(1) of the Parliamentary Inquiry Committee Law. If previously final reports were validated by signatures of a specific group of members of the parliament, the same approach should be adopted with the current wording of the law, which would mean narrowing the scope of the signatories.

I believe the work of the Committee has not followed the defined objectives, has been conducted in violation of the indirectly applicable provisions of the Rules of Procedure regarding convening of meetings without prior announcement, the Committee's conduct has been biased, and it is my political conviction that I cannot sign evaluation and conclusions that are contrary to facts and have been devised with the sole purpose of pursuing political vendetta against a specific person, who is no longer a state official but the Vice-president of the European Commission – Mr Valdis Dombrovskis. Besides, the findings of the Committee indicate that he cannot be legally responsible for the disaster, since the identified irregularities pertain to the work of completely different institutions and officials.

The Parliamentary Inquiry Committee Law does not stipulate procedures for electing the secretary. If majority of committee members believe that the work of the secretary has suddenly become unsatisfactory, **a committee may re-elect the secretary**. However, according to Section 13(2) of the Parliamentary Inquiry Committee Law the chairperson of a parliamentary inquiry committee may not refer to Article 16(1) of the Rules of Procedure, which stipulates cases in which minutes of a meeting may be signed by another member of the committee thus substituting the secretary's signature, since a more recent and specifically developed provision exists regarding the work of parliamentary inquiry committees.

I would like to apologise to the society and the relatives of the victims of the Tragedy for the stance of Artuss Kaimiņš and certain other members of the parliamentary committee, whose selfish and politically motivated conduct insults the suffering of the injured and the memory of the deceased.

Yours truly,

Ints Dālderis

## **Separate opinion of the Committee member Zenta Tretjaka**

October 2015, Riga

### *A separate opinion*

The Parliamentary Committee for Investigating the Actions Taken by the State of Latvia in Assessing the Causes of the Tragedy in Zolitūde on 21 November 2013, Improving the Legislative Framework and Practical Measures to be Taken by the Public Administration and Municipalities in Order to Prevent Recurrence of Similar Tragedies, as well as Mitigating the Consequences of the Tragedy (hereinafter – the Committee) adopted its Final Report on 27 October 2015.

As a member of the Committee I support the Final Report in general terms; however, I cannot agree with the following paragraphs of the Final Report: 6.5.1., 6.5.2., 6.5.3., 6.6., 7.4. and 7.7., which is why I abstained from voting for the adoption of the Final Report and, pursuant to Section 13(3) of the Parliamentary Inquiry Committee Law, I supplement the Final Report with this separate opinion.

I believe that the Committee has not duly examined the analysis of Ints Dālderis, member of the Committee, which served as a basis for the Committee's proposal to supplement the Final Report with the aforementioned Paragraphs.

In Paragraph 6.5.1. and 6.5.2. the Committee identifies an irregularity, i.e. that the Riga City Construction Board is concurrently subordinated to two entities – the Riga City Council Development Department (hereinafter the Department) and the Mayor of the City. According to the State Administration Structure Law subordination may take two forms – institutional (hierarchical relations between public institutions) and functional (hierarchical relations between public institutions in performing public administration functions). Furthermore, subordination is implemented in the form of control or supervision. Control means the rights of higher institutions or officials to issue orders to lower institutions or officials, as well as to revoke decisions of lower institutions or officials. Supervision means the rights of higher institutions or officials to examine the lawfulness of decisions taken by lower institutions or officials and to revoke unlawful decisions, as well as to issue an order to take a decision in case of unlawful failure to act. According to the by-laws of the Riga City Council the Riga City Construction Board is functionally subordinated to the Department and institutionally to the Mayor of the City. The Department exercises subordination in the form of supervision, while the Mayor - in the form of control. Although in most cases institutional and functional subordination coincide, it is not always the case.<sup>1</sup> For instance, according to Article 15 of the Cabinet of Ministers Regulation No 962 On the By-laws of the State Environmental Service<sup>2</sup> of 23 November 2004 the State Environmental Service is an institution of direct administration under the supervision of the minister of environmental protection and regional development, while the administrative acts issued and actions taken by the officials of the State Environmental Service may be appealed to the State Environmental Bureau, with the exception of cases referred to in Article 16 and 16.<sup>1</sup> of the Regulation. This means that the State Environmental as the Riga City Construction Board, is institutionally and functionally subordinated to two different entities. The fact that the two forms of subordination do not coincide cannot on its own be used to determine the ineffectiveness of the Riga City Council's construction supervision system.

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<sup>1</sup> Administratīvā procesa likuma komentāri, A un B daļa. Autoru kolektīvs Dr.iur. J.Briedes zinātniskajā redakcijā. Tiesu namu aģentūra, 2011, 21.–23.lpp.

<sup>2</sup> Ministru kabineta 23.11.2004. noteikumi Nr.962 “Valsts vides dienesta nolikums” (spēkā no 01.01.2005.)// Latvijas Vēstnesis, 30.11.2004., Nr.189.

I can only partly agree with the conclusion made in Paragraph 6.5.2., namely, that there is no higher institution that would control the Riga City Construction Board. According to the by-laws of the Riga City Council the administrative acts and actions of the Riga City Construction Board may be appealed by natural persons to the Department, and the Department's decisions may be appealed at a court, which means there is a functioning judicial control over the administrative acts and actions of the Riga City Construction Board.

According to Paragraph 6.5.3. the Department, the Riga City Architect's Office and the Construction Board are institutions whose functions belong to the same line of work, and should be aligned into one hierarchical system or a rational system with levels and subsidiarity. I disagree with this position of the Committee, since the Department only performs the obligation of a local government as per Section 7(1) 1) b) of the Construction Law,<sup>3</sup> which may be delegated to another official or structural unit (other than construction board) of a local government pursuant to the Construction Law, the Administrative Procedure Law and the State Administration Structure Law. According to Section 7(1) 3) cities are tasked with employing an architect who monitors the conformity with the principle of architectonic quality. Each local government may at its own discretion decide on the architect's form of employment (hiring of an individual or setting up of a specialised institution). According to Article 4.7. of the Riga City Architect's Office by-laws, the Riga City Architect's Office is tasked with developing requirements and drafting opinions on architectural projects within their scope of competence and jurisdiction. Furthermore, the requirements are mostly applied to various municipal institutions and structural units of the Riga City Council rather than natural persons. Upon making decisions in various stages of construction process, the Riga City Construction Board takes into account the opinion of the Riga City Architect's Office regarding conformity with the principle of architectonic quality,<sup>4</sup> however, the Riga City Architect's Office does not perform the duties of a construction board as stipulated in the Construction Law. This illustrates that each institution has its own scope of competence and their functions do not overlap.

Taking into account the aforementioned considerations, I believe that the conclusion made in Paragraph 6.6. of the Final Report, namely, that the construction supervision system of the Riga City administration, which existed at the time of the Tragedy, is inefficient and needlessly fragmented, which led to the Tragedy, is incorrect and made without duly considering the analysis by Ints Dālderis.

Taking into account the principle of division of power as per Section 1 of the Constitution of the Republic of Latvia,<sup>5</sup> parliamentary inquiry committees are not authorised to perform the tasks of the executive power and the judicial power. As pointed out in paragraph 1.4.1., the Committee adheres to the basic principles of parliamentary inquiry, primarily focusing on establishing parliamentary control over the actions of the executive branch, leaving the burden of proof regarding guilt and violations to the competent law enforcement agencies. The Committee has not discovered any violations on the part of specific individuals that would require reporting to the relevant law enforcement agencies. Likewise, representatives of the KNAB and the Prosecutor General's Office who participated in the Committee's meetings have not identified such violations. Taking into account these considerations and without prejudice to the Committee's conclusions regarding the dissolution of the State Construction Inspection Office, I believe it is unacceptable that Paragraphs 6.6. and 7.7. of the Committee's Final Report lists individuals to be held responsible for the Zolitūde tragedy. **Responsibility shall be decided only by court.**

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<sup>3</sup> For enforcement of the Law the local government shall ensure the rule of law of the construction process by taking decisions on contested administrative acts, actual action and decisions of the building authority of the local government, to be contested in accordance with laws and regulations.

<sup>4</sup> Rīgas pilsētas būvvaldes 09.09.2015. vēstule Nr. [BV-15-12576](#)-nd *Par deputāta I.Dāldera priekšlikumiem*, 4.–5.lpp.

<sup>5</sup> Latvijas Republikas Satversmes komentāri. Ievads. I nodaļa. Vispārējie noteikumi. Autoru kolektīvs prof. R.Baloža zinātniskā vadībā. Latvijas Vēstnesis, 2014, 193.–196. lpp.



Member of the Committee Zenta Tretjaka