



CONSOLIDATION OF INSTITUTIONS RESPONSIBLE FOR SUPERVISION OF ACTIVITIES OF ECONOMIC OPERATORS

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SUMMARY

The Relevance of the Audit

At the end of 2019, the activities of economic operators in Lithuania were supervised by 54 institutions, according to preliminary calculations, this supervision cost EUR 299.2 million. Whether bureaucratic barriers, redundant requirements, supervisory and other regulatory burdens on economic operators are reduced depends on the (business) supervision policy of economic operators and the activities of supervisory institutions. It is important to ensure that the supervision of the activities of economic operators contributes to the public well-being and ensures the protection of values important to the State.

In order to improve public administration, supervisory institutions have been consolidated more than once, however, public audit “Is the Lithuanian Business Monitoring System Effective” conducted in 2018 showed that the supervisory functions required by the State were not analysed, namely, what common values need to be protected and specific tasks set for supervisory institutions. This was also noted five years ago (in 2015) by the OECD which conducted a review of the Regulatory Policy in Lithuania.

In 2018, the Government adopted new consolidation decisions in line with public audit recommendations. The following consolidation objectives were set: to reduce the number of institutions supervising economic operators; to restructure the existing system of supervisory institutions by optimising the allocation and scope of supervisory functions; to reduce the supervisory burden on economic operators by increasing the quality of supervision and focusing the activities of supervisory institutions on business assistance; to increase the competence of the specialists of these institutions, the efficiency of the activities of supervision processes by implementing advanced methods and means of

supervision; to increase the efficiency of the use of budget funds allocated for the organisation of the activities of supervisory institutions; to develop official cooperation between these institutions. Accordingly, it was aimed to solve the problems of the supervisory system of economic operators, and the number of supervisory institutions was planned to be reduced to 47 by 2020 (by 8 institutions, or 15 per cent compared to 2018).

Decisions to reorganise the system of the supervisory institutions are vital, nevertheless, significant changes in this area have not been achieved. The Ministry of Economy and Innovation notes that the system of the supervision of economic operators still faces such problems as an excessive number of institutions responsible for the supervision of economic operators, inefficient, uncoordinated and overlapping supervisory functions, , low level of inter-institutional cooperation, lack of competencies in planning and organising supervisory processes, implementing advanced enforcement instruments, etc.¹

In order to assess the way the recommendations provided in 2018 have been implemented, whether the consolidation process of supervisory functions of economic operators optimises the supervisory functions, reduces the supervisory burden on economic operators, increases the quality of supervision and focuses the activities of supervisory institutions on assistance to economic operators, increases the efficiency of the use of budget funds allocated for the organisation of the activities of these institutions, the National Audit Office of Lithuania performed the audit on the consolidation of institutions responsible for the supervision of activities of economic operators.

The Objective and Scope of the Audit

The objective of the audit is to assess whether the decisions taken will ensure that the goals of the consolidation of the institutions responsible for the supervision of activities of economic operators are achieved.

The key audit questions:

- Does the consolidation process of the institutions supervising economic operators allow the goals, including to optimise the functions, reduce the supervisory burden, and increase the efficiency of the use of budget resources be achieved;
- are the supervisory activities of consolidated supervisory institutions improving;
- is the consolidation of supervisory institutions properly carried out.

Audited entities – The Ministry of Economy and Innovation, as it formulates the State policy (creation of a business-friendly environment, reduction of administrative and other regulatory burdens, business supervision) aimed at increasing competitiveness, and organises, coordinates, and controls its implementation ², and coordinates the implementation of the consolidation plan of institutions supervising the economic operators. The Ministries of Transport and Communications, Finance, Environment,

¹ Internet access (21/02/2020): <http://eimin.lrv.lt/lt/veiklos-sritys/verslo-aplinka/verslo-prieziuros-politika/prieziuros-instituciju-konsolidavimas>.

² Regulations of the Ministry of Economy and Innovation approved by Clause 7.2 of the Government Resolution No 921 of 23 July 1998

Education, Science and Sport, Health, Energy, and Justice – as they are responsible for the ongoing or performed consolidation of supervisory institutions in their respective areas.

Data was collected not only from ministries but also from the institutions supervising economic operators. Discussions were also held with the representatives of ministries and supervising institutions. We conducted a survey of economic operators in the fields of transport, tourism, audit, accounting, and bankruptcy administration.

Audited period – 2018-2019. In order to assess changes and compare data, in some cases, data was also used from previous periods.

The plan of measures for consolidation and optimisation of the institutions supervising the activities of economic operators and(or) functions has not been implemented within the set deadlines (until 01/01/2020), therefore, we could not assess the effectiveness of the consolidation of institutions supervising the activities of economic operators. Considering the situation, we have assessed whether the taken decisions would ensure that the goals of consolidating these institutions were achieved.

The audit has been performed in accordance with the Public Auditing Requirements and International Standards of Supreme Audit Institutions. The scope of the audit and the applied methods are described in more detail in Annex 2 “The Scope and Methods of the Audit” (p. 35).

Key Results of the Audit:

Despite the ongoing consolidation of the institutions supervising economic operators, it has not been assessed at the State level whether the supervisory functions performed by these institutions are still relevant and whether it is appropriate for the public institutions to continue performing them. It was also not assessed which functions would be more beneficial to delegate to the private sector, other organisations or municipalities, and which functions may be left for self-regulation. During the consolidation of the institutions supervising economic operators, administrative functions rather than supervisory are usually being consolidated. In addition, the coordination of the process lacks leadership, as a result, taken measures and decisions do not contribute to addressing the systematic issues in the area of the supervision of economic operators.

1. Decisions on the reorganisation of supervisory institutions must aim at improving supervisory activities

In 2018, the Government took the decision³ to consolidate the activities of the institutions supervising economic operators: envisaged 10 consolidation cases involving 18 supervisory institutions. Until 01/01/2020, the number of these institutions had to decrease from 55 to 47.

When making decisions on the consolidation of supervisory institutions, neither the Government nor the ministries in the area of regulation of which supervisory institutions operate have carried out a systematic assessment of the supervisory functions performed by these institutions. The attention was paid to the reduction of number of institutions not to reviewing supervisory functions. Therefore, no assessment was performed on the

³ Minutes of the Government Meeting No 55 of 12/12/2018.

supervisory functions that could be performed by the private sector, other organisations or municipalities rather than the State institutions supervising economic operators, and which functions may be left to self-regulation. The lack of such assessments is also shown by the fact that only one consolidation decision was implemented by 01/01/2020 (the State Energy Inspectorate and the National Commission for Energy Control and Prices were reorganised into the National Energy Regulatory Council). Other consolidation decisions are implemented not as it is envisaged in the Consolidation plan of institutions supervising the activities of economic operators:

- implementation of five consolidation decisions is delayed (in the areas of regulation of the Ministries of Environment, Health, Finance, and Agriculture);
- three consolidation decisions were abandoned (merging of the Service of Technological Security of State Documents and the Lithuanian Metrology Inspectorate, merging of the SE Lithuanian Assay Office and the Lithuanian Metrology Inspectorate, and the consolidation of the supervisory functions of the National Transplant Bureau and the State Health Care Accreditation Agency);
- one consolidation decision is not implemented (to consolidate the functions of supervising economic operators performed by the institutions operating in the area of regulation of the Ministry of Education, Science and Sport in one institution).

The consolidation of the supervisory institutions is to be assessed as one of the ways to ensure a more efficient supervision of economic operators. However, in taking such decisions the analysis must be performed and the assessment made whether the consolidation will not be a mere physical merger of these institutions, or whether it will create added value greater than the improvement of activities of the institutions themselves (introduction of innovative supervisory methods, technological solutions, etc.). In the absence of a systematic approach to supervisory functions, consolidation decisions may be considered insufficiently justified or even having negative consequences for the supervision of activities of economic operators. We have paid attention to it in public audit report “Is the Lithuanian Business Monitoring System Effective” issued in 2018 (Section 1, p. 14).

2. Indicators for assessing the achievement of consolidation goals of supervisory institutions need to be established

The supervisory burden on economic operators is not assessed

One of the goals of consolidating supervisory institutions is to reduce the supervisory burden on economic operators. In the legislation, unlike of administrative burden, neither the definition of the supervisory burden on economic operators nor the methodology for its estimation have been determined. The Law on Public Administration only mentions that the principle of a minimum supervisory burden must be observed. In none of the 10 consolidation cases provided for in the consolidation plan of the institutions supervising economic operators this burden was assessed. In the documents of the consolidated supervisory institutions, only abstract statements of the consolidation reducing the supervisory or administrative burden are mentioned. Therefore, there are no possibilities to compare either the changes in the supervisory burden on economic operators having

implemented the consolidation decisions or the scope of the burden between supervisory institutions (Sub-section 2.1, p. 20).

Greater attention needs to be paid to assessing the efficiency of the use of budgetary funds

The planned consolidation costs and benefits have not been estimated in six (out of 10) consolidation cases provided in the consolidation plan of institutions supervising economic operators. In consolidating supervisory institutions, savings of budgetary funds and potential merging costs are counted in two cases: in the areas of energy and agriculture. In the field of energy, savings of EUR 2.5 million are planned, merging costs – EUR 1.6 million, accordingly in the field of agriculture: EUR 0.1 million and EUR 2.8 million. Calculations have been made in two more cases of consolidation in the field of health care, however, due to the intention to consolidate institutions performing more than just supervisory functions, it is not possible to identify savings and potential merging costs.

One of the goals of consolidation is to increase the efficiency of the use of budgetary funds allocated to the organisation of activities of supervisory institutions. By our preliminary calculations, the cost of the supervision of economic operators' activities in Lithuania increased by 30 per cent (EUR 69.8): from EUR 229.4 million in 2016 to EUR 299.2 million in 2019. In general, the preliminary cost of the supervision of economic operators' activities, comparing to all State budget appropriations during 2016–2019, did not change and amounted up to 3 per cent of these appropriations. Taking decisions in this area, it is necessary to pay more attention to the goals or supervisory activities and the use of budgetary funds allocated to their achievement (Sub-section 2.2, p. 23).

3. The supervision of the activities of economic operators performed by supervisory institutions and the coordination of their activities need to be further improved

Two years ago (in 2018), we identified good practices in the business supervision system, however, there was a lack of attention paid by the Ministry of Economy and Innovation, supervisory institutions and ministries under which governance area they operate to the improvement of performance of these institutions. By implementing the recommendations, the Ministry of Economy and Innovation has developed a (scoreboard) Methodology for assessing the progress of supervisory institutions and by using it assesses the progress of these institutions, however, this assessment and the use of its results need to be improved (Sub-section 3.1, p. 26):

- Assessments of the progress of supervisory institutions do not reflect their actual activities – the preparation and availability of legal and methodological documents required for the implementation and use of advanced supervision measures are assessed, and senior supervisory institutions are not performing as well as they are assessed, as shown by our previous audits;
- the Ministry does not make recommendations on all the identified matters to be improved in activities of supervisory institutions: having identified the shortcomings related to 24 per cent (18 out of 76) of assessment criteria, 52 per cent (11 out of 21 analysed) of institutions were not made recommendations on how they should improve supervisory activities;

- the supervisory institutions, the progress (scoreboard assessment results) of which is assessed as the lowest, pay too little attention to the participation of their employees in training organised by the Ministry of Economy and Innovation. Counselling activities of 48 per cent (10 out of 21 analysed) of institutions were assessed as poor, of which six institutions (out of 10 or 60 per cent) paid too little attention to the professional development of supervisory specialists: specialists of three (30 per cent) institutions did not participate in training, the attendance of specialists of other three (30 per cent) institutions compared to the total demand ranged from 18 to 57 per cent. Four (40 per cent) institutions were active.

Publicly available data on the number of institutions supervising the activities of economic operators are different: Under the Government Resolution⁴, 54 institutions were approved, and in the assessment of the progress of supervisory institutions performed by the Ministry of Economy and Innovation in 2019, 48 institutions were assessed.

Seeking for better results of the activities of supervisory institutions, more attention should be paid to the development of their official cooperation. A tool for sharing good practice between supervisory institutions has been developed – the Commission of Experts for the Optimisation of the Supervisory Functions of Institutions, however, it does not include representatives of all supervisory institutions and one-third of the involved do not participate in the meetings. The development of official cooperation may contribute to the optimisation of administrative and supervisory burden on economic operators and the saving of the State resources (Sub-section 3.2, p. 30).

Recommendations

For the Ministry of Economy and Innovation

1. Aiming that decisions on the reorganisation of the institutions supervising economic operators would create preconditions for optimising the distribution and scope of supervisory functions and implementing measures to assess the current situation (what functions would be more efficient in the private sector, non-governmental or other organisations and which functions could be left to self-regulation, municipalities or public institutions; in addition, supervisory burden created by the institutions, goals set for supervisory activities of supervisory institutions, necessary budgetary resources to reach these goals, etc. should be assessed), as well as by considering the results, provide suggestions to the Government on the expediency and necessity of further reorganisation decisions based on the cost-benefit analysis (1 and 2 key audit results).
2. In order to reach the goal of consolidation of the institutions supervising economic operators and to optimise the supervisory burden for the economic operators (2 key audit result):
 - 2.1. to define supervisory burden and establish how it should be estimated;

⁴ According to the list of public administration entities supervising the activities of economic operators approved by the Government Resolution No 511 of 4 May 2010 (recast in force from 10/07/2019 to 01/05/2020).

- 2.2. to ensure that supervisory institutions would estimate it and the principle of minimal and proportional supervisory burden would be applied.
3. With the purpose of making the consolidation of supervisory institutions and/or their supervisory functions efficient, to periodically assess and supervise the consolidation results/achievement of goals of supervisory institutions of economic operators and/or their functions and if the results/goals are not achieved to inform the Government about it and provide suggestions for further actions (1 and 2 key audit results).
4. As a means to ensure constant improvement of supervision activities provided by institutions supervising economic operators and the fact that the performed assessment of the situation of the supervisory system would be as objective as possible in this way revealing the actual situation, to improve the (scoreboard) methodology for assessing the progress of supervisory institutions (clearly define the criteria allocation for assessment, ensure that not only identification of criteria would be assessed but also their implementation, while recommendations would be made to all supervisory institutions in which shortcoming of activities are identified) (3 key audit result).
5. In order to ensure a high level of supervisory specialists' competencies, to take measures supporting the development of the qualification of specialists working in the supervisory area. Priority measures should be primarily directed at those specialists of institutional supervision and those areas in which the progress is assessed as the poorest (based on the scoreboard assessment results) (3 key audit result).
6. In an effort to ensure that cooperation of institutions supervising economic operators, the spread of modern supervisory means and good practices of their application would be as wide and beneficial as possible, to take measures ensuring that all institutions are ensured conditions to participate in the cooperation groups (meetings) (3 key audit result).

Measures and deadlines for the implementation of recommendations are provided in the Section "Recommendation Implementation Plan" of the report (p. 33).