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SECTION 8. Architecture and construction.

OFFERS ON LEGISLATIVE SETTLEMENT OF CONDUCTING TECHNICAL SUPERVISION ON HISTORICAL AND CULTURAL MONUMENTS

Abstract: *Technical supervision is an important element of repair and restoration works on objects of cultural heritage. The carried-out analysis of the legislation allowed to draw a conclusion on absence of the norms governing these relations. All documents are recommendatory documents of voluntary application. Authors offer the basic principles of carrying out technical supervision which have to be consolidated at the legislative level.*

Key words: *historical and cultural monuments, protection of monuments, technical supervision, restoration, licensing, legislation.*

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When conducting any activities related to objects of capital construction (construction and assembly and repairs and restoration works), it is very important to take care of work reliability [1] since life cycle of objects of capital construction may be very long, and the results of construction and assembly and repairs and restoration works are exploited for an extremely long time. To provide the needed quality of such works by contractors at construction sites, external supervision takes place to check that every norm and regulation envisaged for any particular kind of work is followed [2]. When construction is carried out in state interests in the territory of the Russian Federation, the provisions on the customer representing the state, as approved by the Resolution of the State Committee of the Russian Federation on Capital Construction and Utilities Complex (Gosstroy of Russia) of 08.06.2001, №58 [3], defined technical supervision as controlling the quality of every construction, repairs, assembly and testing and launching operations executed by contractor at specific construction site and their agreement with the design solutions adopted. The City Construction Code of the Russian Federation [4], that came into force in 2006 introduced a new concept of «construction control» instead of the term «technical supervision» used before. In 2010 the

Government of Russia streamlined the routines for executing construction control [5].

As for the monuments of history and culture, there is a special protective legislation in place in the Russian Federation, namely the Federal Law «On the Objects of Cultural Heritage (Monuments of History and Culture) of the Peoples of the Russian Federation» [6]. Instead of a classification envisaging new construction works, reconstruction and capital repairs adopted by the City Construction Code for new developments, monuments of history and culture may undergo capital repairs, restoration, conservation, re-establishment and adjustment to modern needs. Control over adherence to rules and regulations on doing repairs and restoration works at monuments of history and culture by contracting bodies is called «technical supervision» instead of «construction control».

Up till now no routines have been adopted that would stipulate executing technical supervision on sites of cultural heritage. In November 2014 the TK 082 «Cultural Heritage» Standardization Technical Committee headed by S.B. Kulakov, the Chief Architect of FSUE «Central Scientific Restoration Design Workshops» has designed, and the Federal Agency on Technical Regulation and Metrology has approved the national standard GOST R 56254-2014 «Technical Supervision on Sites of Cultural Heritage.



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Basic Provisions” [7]. However, upon the Federal Law “On Technical Regulation” [8] coming into force, various standards (GOSTs, etc.) became the documents of voluntary application, provided the Government of Russia does not stipulate otherwise to define them obligatory. The list of national standards mandatory for use that came into force on July 01, 2015, provided the basis for adhering to stipulations of the Federal Law “Technical Regulations on Safety of Building and Structures” [9]. However that law contains no references to GOST R 56254-2014. Therefore, persons executing technical supervision on sites of cultural heritage may refute using the said national standard in their work, but follow their own intra-company standards instead.

Experts point out the need to develop a non-contradictory logical legislative system in the area of technical regulation [10], where the issues of preserving the monuments of history and culture belong, including those of technical supervision thereon.

Since protecting the monuments of history and culture is one of the tasks following from stipulations of the Constitution of Russia, we believe that technical supervision routines should be uniform over the whole of the Russian Federation; therefore they should be set forth at the level of the Government of the Russian Federation.

An important issue subject to regulation at the level of the Government of the Russian Federation is qualifying requirements that a person executing technical supervision should meet. To pursue such activities on historical and cultural sites the performer should be licensed to preserve objects of cultural heritage [11]. Technical supervision is not identified as a type of activity needing a separate license. We believe this is quite adequate. The task of technical supervision consists in checking the proper execution of various separate types of activity. If one would try to separate technical supervision as a specific type of activity subject to licensing, then one would have to recognize that such a person would be qualified enough to execute every type of licensed activities belonging to it, which can hardly be the case.

In our opinion a more logical approach would give the right to control certain type of activity to a person having a license to that activity him- or herself. Actually we suggest charging a person fluent in the controlled activities with executing such technical control.

Surely, it shall not be one and the same person at one and the same site both doing the works and executing technical supervision over them.

GOST R 56254-2014 envisages that technical supervision is executed by an entity licensed to draft design documentation on conservation, repairs, restoration, adjustment to modern needs and re-establishment of objects of cultural heritage. In other

words, this concept suggests charging the design body with the task of technical supervision. We consider such an approach not to be founded too well. It is not always that the design organization is aware of fine details of certain kinds of restoration works. That is why design and production works at site of cultural heritage are always split apart. Design works stand apart (including the development of design documentation on conservation, repairs, restoration, adjustment and re-establishment of items of cultural heritage plus production of design documentation on engineering reinforcement of objects of cultural heritage, these two considered to be two different types of activities). Production works are still another set of activities (restoration and re-establishment of external and internal painting and artful decoration; restoration, conservation and re-establishment of architectural and stucco decor; repairs, restoration and re-establishment of roofing; repairs, restoration, conservation and re-establishment of basements and foundations; restoration, conservation and re-establishment of woodcarving; restoration and re-establishment of gilding; restoration and re-establishment of graphics, etc., 29 types of works total).

Design author is entitled to execute author's supervision of works conducted at construction site. In case of monuments of history and culture that becomes an author's obligation.

In case technical supervision would be the responsibility of the same entity that does author's supervision, the legislator would make no sense specifying these two processes separate from each other (“Works on preserving the object of cultural heritage included in the registry or an object of cultural heritage identified anew are conducted <...> also provided that technical, author's supervision and state supervision in the area of protecting objects of cultural heritage are executed” [6, Article 45]). We believe that since the Federal Law “On the Objects of Cultural Heritage (Monuments of History and Culture) of the Peoples of the Russian Federation” indicates author's supervision and technical supervision as two independent processes implemented in the course of works on preserving such monuments, that supervision should be executed by different entities.

Charging the entity that drafted design documentation with technical supervision does not devoid the latter of an authority to control the course of works. The right of project author to execute author's supervision is secured in the code of regulations “SP 11-110-99. Author's Supervision of the Construction of Buildings and Structures” [12], approved by the Resolution of Gosstroy of Russia of June 10, 1999 (This is confirmed in the approved by the Ministry of Capital Construction and Utilities of the Russian Federation of February 19, 2016 rulebook SP 246.1325800.2016 “Regulation on the



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supervision of authors for construction of buildings and structures”). Note that the author's and technical supervision do not duplicate each other there:

- in the course of author's supervision the agreement is checked of the actual works to design (production) documentation;
- in the course of technical supervision the agreement is checked of the actual works to technical regulations, codes of rules and technologies of restoration works.

Note too that the national standard GOST R 56200-2014 “Scientific Management and Author's Supervision in the Course of Works on Sites of Cultural Heritage. Basic Provisions” [8], recommended in 2012 by the letter of Deputy Minister K.G. Cherepennikov, on the “Provision on Scientific Management and Author's Supervision in the Course of Repairs and Restoration Works on Sites of Cultural Heritage (Monuments of History and Culture). SRP-2007.1.1.” [13], approved by the Federal Agency on Technical Regulation and Metrology is only of recommending nature, as noted before. Moreover, these were adopted by persons not duly authorized. According to the provisions of Part 2, Article 1294 of the Civil Code of the Russian Federation [14], routines for executing author's control and author's supervision are stipulated by the federal executive body on architecture and city construction. That body is the Ministry of Capital Construction and Utilities of the Russian Federation (in 1999 such a body was Gosstroy of Russia), and not the Ministry of Culture of the Russian Federation and not the Federal Agency on Technical Regulation and Metrology.

Since technical supervision on sites of cultural heritage is similar in nature with capital construction control, we assume that calculating customer expenses on the execution of technical supervision may be done using computational methodology

employed to retrieve customer's expenses on construction control [5].

Organizational and technical issues of technical supervision on sites of historical and cultural monuments, such as documentation forms, documentation running routines, etc. may be covered by the Ministry of Culture as the federal body treating the issues of preservation of objects of cultural heritage. The Provisions on the Ministry of Culture of the Russian Federation [15] authorizes the Ministry with adopting restoration norms and regulations (Clause 5.2.22) [16]. Therefore, documents that accompany the execution of technical supervision (logbook forms, prescripts, content of reports) may be approved by the Ministry of Culture within the scope of its authority and does not require amending the Provisions on the Ministry or allocating additional funding from the Federal Budget.

Restoration works may be executed on site as a stand-alone activity. In case the issue is capital repairs of a building or adjustment of a building to modern needs, construction and assembly works are added to restoration proper. Controlling the adequacy of the full set of works in that case belongs to the two separate processes: technical supervision covers repairs and restoration works while construction control oversees construction and assembly works.

Persons executing construction control would need to have their self-regulated organization authorized to conduct construction control [17]. Those charged with technical supervision at restoration sites would need no special authorizations [18].

In case the legal act we propose is adopted at the level of the Government of the Russian Federation to regulate procedures of technical supervision at restoration sites, it would permit providing access to control activities to persons qualified in restoration only, thus improving the quality of restoration works.

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