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Regulation of Concessions in Lithuania: Managerial or Political Approach?

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The purpose of the article is to analyse the regulation of concessions in Lithuania through the managerial and political approaches of public administration and within the context of the New Public Management theory. The article considers the problem of the regulation of concessions within the context of such disciplines as Public Administration and Law. Since the EU law is a constituent part of the legal system of the Republic of Lithuania, the paper also discusses the Community legislative framework with regard to the regulation of concessions. Further, it provides an overview of the regulation of concessions laid out in the Law on Concessions of the Republic of Lithuania. The goal is to determine which approach – managerial or political – has been dominating in the regulation of concessions in Lithuania and which approach would be more effective. Preliminary findings are in favour of the managerial approach with regard to regulation of concessions in Lithuania.

Raktažodžiai: *viešasis administravimas, naujoji viešoji vadyba, politinis metodas, vadybinis metodas, koncesijos, viešasis interesas.*

Keywords: *public administration, New Public Management, political approach, managerial approach, concessions, public interest.*

Introduction

The way a state is governed depends on the laws it has and how those laws are implemented. The drafting, explanation and interpretation, enforcement of the laws as well as protection of individual rights would be within the scope of the discipline of law, while the application of the law in the governing of the state is within the field of study of public administration. Nevertheless, it could be said that public administration also involves the drafting, interpretation and enforcement of the laws. When the government is authorized by the law of the Parliament, it can pass decisions, various government agencies may be authorized to pass various rules and regulations. Further, it could be said that unofficial interpretation of the law is done by each public servant before applying it, while some government agencies may be authorized to perform the enforcement of the laws. Consequently, this demonstrates the interrelatedness of the disciplines of law and public administration and the need to analyse certain aspects of state government within the context of both of these disciplines.

Both from the theoretical and the practical aspects the regulation of concessions in Lithuania is a rather new issue. Although Lithuania had the *Law on Concessions* from 1996 not a single concession was granted for over eight years. This demonstrates that the *Law* was not effective. It was passed just for the sake of having it, probably because some politician heard that it was a good idea. Theoretically speaking, there was just a formal legal framework regulating concessions, but the institutional framework was absent. Further, there was neither any policy nor mechanism for the implementation of the existing *Law*. The *Law* did not work in practice.

The passing of a new drafting of the *Law* gave hopes that it will be "alive". Since according to the

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evaluation of the European Bank for Reconstruction and Development the new drafting was evaluated as the "best drafted law in the region" it was expected that it will stimulate the cooperation between the public and private sectors and attract investment to Lithuania. However, the first attempts with concession projects were not as successful as expected due to the lack of experience in implementing it, absence of the vision and policy with regard to concessions and failure to educate the public about this new way of public-private partnerships. All of these aspects prompt to look for deeper reasons than just the imperfect law or lack of experience in implementing it. The issue should be considered within a broader context of state governance and the management of business matters of the public sector.

Thus, the scientific problem raised in the article concerns the regulation of concessions Lithuania viewed from the perspective of two disciplines – law and public administration with particular attention to the analysis of the problem through managerial and political approaches in public administration.

Concessions alone are a rather new subject in Lithuania. There are few research publications on concessions apart from several conference presentations analysing more practical aspects of their application and some articles in the press. Moreover, there are no publications presenting an interdisciplinary view on concessions. All of these reasons constitute the novelty of the scientific problem analysed in this article.

The aim of the article is to analyse the regulation of concessions in Lithuania through the managerial and political approaches of public administration and within the context of the European Union (EU) legislative framework and the New Public Management theory. The aim of the article is achieved by systemic analysis of the research literature, the EU and Lithuanian laws, and by analysis of the surveys concerning the object of the article.

Theoretical perspectives of the managerial and political approaches in public administration

According to Rosenbloom there are three approaches to studying public administration – political, legal and managerial (Rosenbloom, 1986, p. 13-14). More recent studies in the discipline distinguish one more – occupational approach. Public administration must be studied from the political perspective because in essence it cannot exist outside of its political context, because that is what makes it different from business administration. Further, every act of the state must be backed by and performed further to the provisions of the law. Public administration could not exist without its legal basis. However, all the laws of the state would not be worth much without the managerial skills in state management (Shafritz, 2007, p.13). As in most private bodies the state also applies principles of management in taking care of its public business matters. Finally, occupational approach concerns public administration as an occupation, a field where one may seek a career, or it may mean work in the academic field of study (Shafritz, 2007, p.23–28).

For the purposes of this article only managerial and political approaches to public administration will be discussed in more detail.

Managerial approach

Defined in managerial terms public administration is practically the same as running a business. The same managerial principles and values are applicable and the distinction between the public and private administration is considered to be minimal. The managerial approach originated in the nineteenth century when the civil service reformers in the United States suggested it for the proper organization of civil service. Since the appointment of people to public service based on their political loyalties led to corruption and inefficiency, the reformers argued that appointments had to be made based on the efficiency and performance of public servants. According to the reformers the government had to perform its management functions, especially those related to the business part of the government, in a proper businesslike way. Consequently, such businesslike public administration was expected to maximize effectiveness, efficiency and economy and eventually it became a standard way for running public service (Rosenbloom, 1986, p. 14-15).

Today the same expectations are valid when public administration is implemented through managerial approach. Public administration is management. The concept of management here covers the management of people, resources and processes. There are two types of managers – top management and middle management. Top managers are politicians who have been elected or appointed to the office. They are the ones who take big decisions although seldom are professional managers or consider themselves management experts. Thus, the efficiency of contemporary public service relies on the body of middle management who are professional public administrators and who are actually responsible for the interpretation and implementation of top management policies (Shafritz, 2007, p. 20-21).

Managerial approach promotes a bureaucratic organizational structure, which is associated with specialization (division of labour), hierarchy (chain of authority) and emphasis of formal criteria in all its functions. As a result of that the view of any individual (employee, client, person aggrieved by public agency) in managerial approach is highly impersonal. The essence of the bureaucratic organization is dehumanization, disposing of irrational emotions that may interfere with the efficient performance of bureaucrat's job. In terms of clients addressing bureaucratic organization, they are never persons but only "cases". In order to be serviced in a bureaucratic organization the person must qualify as a "case". The worst scenario is in case of persons aggrieved by public administrators. These victims may be depersonalized to such an extent that they would no longer be considered human. This may be especially commonplace in mental health facilities, prisons and police functions (Rosenbloom, 1986, p. 16-18).

Political approach

Differently from the managerial approach where the emphasis was on how public administration should be reformed, the political approach evolved from the observation and study of the existing facts and day-to-day activities of the reality. There are many aspects of the political approach to public administration. It could be simply said that public administration is what government does in direct (government employees provide services to the public) or indirect (when government outsources goods and services through contracting with private parties) way for public interest (Shafritz, 2007, p. 9). It may sound like management, which is the object of the managerial approach; however, the political approach emphasizes the fact that the management is affected by the cultural norms, beliefs and political views of the people who implement it. Further, public administration may be seen as a phase in the public policy making cycle. There are just two types of decisions that the government is always considering – to do or not to do something for the public interest. Such decisions are taken by the politicians who are in power (the top management) and implemented by the administrative officers of the bureaucracy (Shafritz, 2007, p. 10).

Responsibility to popular control is another aspect of political approach that was emphasized by Wallace Sayre stating (in Rosenbloom, 1986, p. 18):

> *Public administration is ultimately a problem in political theory: the fundamental problem in a democracy is responsibility to popular control; the responsibility and responsiveness of the administrative agencies and the bureaucracies to the elected officials (the chief executives, the legislators) is of central importance in a government based increasingly on the exercise of discretionary power by the agencies of administration (Sayre, 1978).*

Thus, viewed as a highly political engagement, political approach promotes different set of values from those of managerial approach. If managerial approach stresses effectiveness, efficiency and economy, the political approach is based on such values as representativeness, political responsiveness and accountability to people who elected the public administrators. These values are considered higher than those promoted by the managerial approach because they are considered to be at the core of the concept of government and the maintenance of constitutional democracy. Further, it should be noted that the values associated with the political approach to public administration often clash with those of managerial approach. Efficiency in the sense of managerial approach may be in tension with accountability in the sense of political approach. For example, the fact that public administrators will be exposed to public scrutiny in implementing certain regulation may discourage them from taking action although those actions could be the most efficient, or a certain public service agency may not be the most efficient because the duties of representativeness and accountability may be costly and time-consuming (Rosenbloom, 1986, p. 19).

In terms of the organizational structure managerial and political approaches are opposed as well. If the managerial approach is associated with bureaucratic organization, which represents strict specialization, hierarchy, unity, order and impersonal and politically neutral body, the political approach rests on the idea of political pluralism within public administration. According to Seidman "[e]xecutive branch structure is in fact a microcosm of our society. Inevitably it reflects the values, conflicts, and competing forces to be found in a pluralistic society" (Rosenbloom, 1986, p. 20). The lower branch structures such as administrative agencies and bureaus also both are politically influenced and exert political influence due to the diversity of people who work there. The administrative branch is central in the government policy making and its diversity helps to be represented of the variety of organized political, economic and social interests that exist in a society. Thus, different

groups of the society seeking the representation in the administrative structure make the organizational structure politicized (Rosenbloom, 1986, p. 21).

As for the view of the individual the political approach does not depersonalize it as does managerial. Rather it groups into categories individuals with similar or identical social, economic or political interests. For example, government action may be directed towards such specific society groups as women, handicapped people, gays and lesbian, farmers, etc. Thus, the political approach does not ignore the individual but refers to it in collective terms (Rosenbloom, 1986, p. 21).

New public management and the emergence of public-private partnerships

Twenty first century among other things brought changes in the public sector management. The changes that occurred both in the theoretical approach to public sector governance and in real life public institutions demonstrated that the old ways of governance promoted by traditional public administration are no longer effective and they simply do not work. The insights about the new ways of public sector governance are organized under the theory of New Public Management (NPM). It rests on the ideas from the disciplines of law and economics. The introduction, development and implementation of NPM reform was particularly influenced by the institutional economic theory that emphasized the rationalization of public sector activities (Zarco-Jasso, 2005; Lane, 2001, p. 324 - 337). The origins of NPM go back to 1980s Anglo-America dominated by neo-liberal governments (especially Thatcher and Reagan). The emergence of NPM was strongly promoted by such world's financial institutions as the World Bank and the International Monetary Fund and its dominance in the public sector governance reached its peak in the early 1990s (Drechsler, 2005).

NPM means the adopting of business and market principles and management techniques from the private into the public sector. NPM emphasizes that more market orientation in the public sector will lead to greater cost-efficiency for governments, with limited side effects for other undertakings. The goal of outcomes and efficiency is sought through elevation of economic and leadership principles, better management of public budget, decentralization of management within public services (e.g., the creation of autonomous agencies and devolution of budgets and financial control), increasing use of markets and encouraging competition between public sector organizations as well as promoting contracting-out of public sector works and services. According to NPM, beneficiaries of public services are customers while citizens are the shareholders. These characteristics demonstrate a lot of parallels with the private sector, especially competition and treatment of beneficiaries (Drechsler, 2005; Larbi, 1999; Lane, 2000, p. 147-160).

Viewed from the perspective of managerial and political approaches to public administration, NPM clearly could be more associated with the managerial approach rather than political because it emphasizes economic efficiency. However, political approach cannot be considered as completely non-existent. Commenting on several studies of contractual arrangements between the public and private parties Zarco-Jasso provides an interesting insight that focusing just on governance and economic efficiency many advocates of NPM fail to notice other important factors dependent on such institutional elements as political influence and interest group competition, which are clearly within the scope of political approach (Zarco-Jasso, 2005).

As a result of NPM reform not only business and market principles were transferred to public sector but also the public and private sectors were brought closer to each other. The new public sector management practices and arrangements necessarily prompted the formation of public-private partnerships (PPP). The concept of a public-private partnership covers cooperation between the public and private sector under management, lease, utility services, concessions and other contracts. Thus, the object of this paper – regulation concessions – should be analysed in the broader context of public-private partnerships. However, neither the Community, nor the Lithuanian Law lay down any special rules covering the phenomenon of PPPs.

Speaking about PPPs within the NPM reform it should also be taken into consideration that there are huge cultural and institutional differences between the public and private sectors. Thus, the successful transfer of the business and market principles and management techniques to public sector as well as the success of PPPs depends on the availability of the suitable institutional infrastructure corresponding to market requirements. As Zarco-Jasso noted:

At a minimum, this institutional infrastructure includes effective laws and the legal institutions to implement them. If markets are to work effectively, there must be well established and clearly defined property rights; there must be effective competition, which requires antitrust enforcement; and

there must be confidence in the markets, which means that contracts must be enforced and that antifraud laws must be effective, reflecting widely accepted codes of behaviour (Zarco-Jasso 2005).

The availability of a suitable institutional infrastructure, namely, effective laws and the legal institutions, is particularly important in developing countries and countries in transition. Lithuania probably could still be referred to as a country in transition although already a member of the EU. Thus, the following sections focus on the analysis of the concept of concessions as they are understood in the EU as well as the discussion of the regulation of concession in Lithuania.

Legislative framework governing concessions in the EU

The Constitutional Act of the Republic of Lithuania on Membership of the Republic of Lithuania in the European Union of 13 July 2004 provides that the norms of the European Union law are a constituent part of the legal system of the Republic of Lithuania and they should be applied directly, while in the event of collision of legal norms, they have supremacy over the laws and other legal acts of the Republic of Lithuania. Therefore, first of all it is necessary to discuss the legislative framework governing concessions in the EU.

There is no definition of concessions in the Treaty establishing the European Community. Only Directive 93/37/EEC on public works contracts contains specific provisions for works concessions. Service concessions, however, are subject to the rules and principles of the EC Treaty.

Works concessions. According to Directive 93/37/EEC a works concession differs from a public works contract in the way that the concessionaire is granted the right to exploit a construction because it has built it. Determining factor is the existence of an exploitation risk related to the made investment. Besides the right of exploitation the concessionaire may also receive partial payment but it should not be as high as to allow the concessionaire to dispose of the risk inherent in exploitation because if the risk is eliminated the concession might be reclassified as a public works contract.

By giving the right of exploitation the grantor transfers to the concessionaire such responsibilities of operation as technical, financial and managerial aspects of the construction. This means that the concessionaire is under obligation to make the necessary investments to ensure good conditions and availability of the construction to users. He bears the burden of financing the construction as well as the risks associated with the construction, management and use of the facilities but benefits from the payments of those who use the structure erected and/or tolls or fees.

However, Directive 93/37/EEC as well as later Directive 2004/18/EC talk about concessions in very general terms. More specific rules are laid out only in Article 3(1) of Directive 93/37/EEC and Articles 56 to 59 of Directive 2004/18/EC concerning certain advertising obligations to ensure competition of potential concessionaries, and an obligation concerning the minimum period of time for turning in applications. All the other matters associated with the concession, including the selection of a private partner, are entirely within the discretion of the grantor to the extent that they do not violate the principles and rules of the Treaty (Green Paper, 2004).

Service concessions. Directive 92/50/EEC concerns public service contracts but it does not define service concessions. However, they are defined in the new Directive 2004/18/EC as contracts of the same type as a public service contract except that the concessionaire is entitled to the right to exploit the service or this right along with remuneration for the provision of services. The key for determining a service concession is the risks to which the concessionaire is exposed in establishing and exploiting the service. As an operator of the service the concessionaire receives income from users, particularly by charging fees. Similarly as with works concessions, transfer of responsibility for exploitation characterizes the service concessions. However, these rules with regard to service concessions in the Directive are not detailed. Therefore, additionally the principles and rules of the EC Treaty should be applied.

Both works and service concessions are subject to Articles 28 to 30 and 43 to 55 of the Treaty establishing the European Community. Commenting on these articles, in the Green Paper (2004) the Commission provides the following summary of the obligations that constitute the rules with regard to works and service Concessions:

> *Fixing of the rules applicable to the selection of the private partner, adequate advertising of the intention to award a concession and of the rules governing the selection in order to be able to monitor impartiality throughout the procedure, introduction of genuine competition between operators with a potential interest and/or who can guarantee completion of the*

tasks in question, compliance with the principle of equality of treatment of all participants throughout the procedure, selection on the basis of objective, non-discriminatory criteria (Green Paper, 2004).

Finally, there are a couple more directives related to the regulation of concessions, namely, Directive 89/665/EC on review procedures for public works contracts applies to works concessions, and Directive 93/37/EEC on works concessions establishes specific advertising rules.

The need for more clarity with regard to concessions resulted in the publication by the Commission of the Interpretative communication on concessions under Community law (2000) as well as Green paper on public-private partnerships and Community law on public contracts and concessions (2004). The Commission noted in the Green Paper (2004) that although the Interpretive Communication (2000) to a certain extent discussed the obligations of public authorities when selecting the economic operators to whom concessions are granted, it still lacked clarity. In particular interested groups stressed the lack of certainty with regard to impact on the contractual relationship by the private party chosen as a concessionaire or a party to any other type of PPP (Green Paper, 2004).

To sum up, it must be stated that the legislative framework of the EU with regard to concessions is rather general and has no significant impact on national legislations of the Member States or intention to coordinate or control it in any way. Moreover, the Commission points out in the Green Paper (2004) that there are just a few Member States that chose to adopt detailed regulation of concessions. Due to this fact it may be stated that the criteria for the selection of a private party for the works or service concession may differ case by case provided they do not violate the Treaty and secondary legislation. However, the Commission also expresses a concern that the absence of detailed regulation and the lack of coordination of national legislation may undermine the aim of making some concession type projects truly international as well as increase the costs of organizing them (Green Paper, 2004).

Regulation of concessions in Lithuania

The first Law on Concessions in Lithuania was passed on 10 September 1996 and it contained just principal rules without entering into details. A new drafting of the Law was passed by the Parliament on 24 June 2003 and came into force on 1 October of the same year hoping that the new legal framework regulating concessions will be more attractive to the private sector and will add flexibility to administrative rules governing concession granting, negotiation and implementation. Although Lithuania had the Law on Concessions for eight years before the new drafting was passed, there was not a single concession granted in that period (EBRD, 2003).

The comparison of definitions alone in the two versions of the Law demonstrates that the Law of 2003 is much more comprehensive. For example, the Law of 1996 defined concessions as “the right to use the existing state-owned or municipal property or property that is to be created, which is granted under contract for the performance of certain business activity”, while the Law of 2003 provides a much broader and more detailed definition. According to it "Concession" means:

the authorisation granted by the awarding authority to the concessionaire in compliance with the concession contract under the terms and conditions set forth therein to engage in the economic and commercial activity connected with the design, construction, development, renovation, transformation, repairs, management, use and/or maintenance of infrastructure objects, to provide public services, manage and/or use state-owned, municipal property (including the exploitation of mineral resources) where the concessionaire assumes under the concession contract all or part of the operating risk and undertakes the relevant rights and duties, while the consideration of the concessionaire for the activity consists solely of the granting of the right to engage in the relevant activity and income from the activity or the granting of the right and income from the activity together with a consideration paid to the concessionaire by the awarding authority in light of the risk assumed by the latter.

It should be mentioned that the preparation of the new Law was financed by the European Bank for Reconstruction and Development (EBRD) and its drafting was assisted by its specialists (EBRD, 2003). Its provisions correspond to the EU legislation and recommendations on concessions as well as to UNCITRAL[1] legislative guide on privately financed infrastructure projects (EBRD, 2003). Thus, it may be said that legislative framework for

[1] United Nations Commission on International Trade Law

concessions in Lithuania exists; the question is where the Lithuanian Law stands compared to concession laws in other countries.

In 2005 EBRD performed an evaluation of concession laws in each of the countries of its operations using best international practice as a benchmark. Lithuanian Law on Concessions was evaluated as the best drafted Law in the region due to its "very high compliance" to international standards (EBRD, 2005). Compared to the Law of 1996, besides a much more detailed definition, it introduces a new concept of service concessions, clearly identifies entities that may be involved and sectors where concessions are possible, many of them new as, for example, education, health care and prison sectors. Differently from the earlier Law the list is open-ended. The provisions assuring fair and transparent selection process were present in the earlier Law, but in the new one they are much more detailed. This part of the Law was expanded the most compared to the Law of 1996. If there were only a few requirements for the concession agreement in the old Law directing the parties to use a typical concession contract approved by the Government, the new Law indicates much more of the recommended items to be included in the concession agreement but leaves the list open allowing the parties to freely negotiate its terms. Further, the new Law includes new provisions such as awarding concessions without tendering procedure, notice of the decision to award a concession contract as well as indicating specific features of public works concessions.

Since the Law of 2003 is more comprehensive and corresponds to international standards it demonstrates the managerial approach of the Government in setting up a legal framework for regulations of concessions in Lithuania. Within the context of New Public Management the proper legal framework is one of the important elements ensuring successful public-private partnerships for the development of infrastructure and providing public services. Another element is the policy framework. However, policy is already within the scope of political approach to public administration. According to EBRD report, not even a general policy framework for improving the legal environment and promoting PPPs has been identified in Lithuania in 2005. Moreover, EBRD also indicated the lack of practical experience in the implementation of the Law (EBRD, 2005), which is probably the result of the absence of policy with regard to its implementation.

The fact of the absence of policy framework and the lack of practical experience in the implementation raises the question as to the effectiveness of the existing Lithuanian Law on Concessions. In 2006 EBRD performed Legal Indicator Survey on concessions, the purpose of which was to measure the effectiveness of concession laws in the transition countries. Case studies for the award and implementation of a concession were presented to lawyers in each country. The case studies had to be analysed considering the four areas of the legal and institutional framework for concessions, namely, presence (examples of successful of implementation or lack thereof), process (fairness, transparency, possibilities of challenging), implementation (fairness and transparency in terms of compliance to agreement terms or lack thereof and possible remedy) and termination (recovery of investment in case of early termination). The legal specialists in each country were asked a number of questions about how the legal and institutional framework in their country would operate in a situation described in the case study. After processing the replies EBRD pointed out that Lithuania, along with Bulgaria, Romania and Slovenia received a high effectiveness rating. Thus, although concession implementation in Lithuania started quite recently, according to the results of the EBRD survey there was no indication of encountering difficulties with the implementation of the Law on Concessions (EBRD, 2006).

The above survey of EBRD, however, presents a rather formal point of view as to the effectiveness of the Lithuanian Law on Concessions. Theoretically difficulties should not be encountered. The stories in the media in the last couple of years about the first unsuccessful attempts to implement concession projects, however, draw quite a different picture as to the effectiveness of the Law. Since concession projects usually are big, significant and attractive, they draw a lot of public attention. Due to the facts that it is a rather new undertaking both for the public and private sectors, there is a lack of experience in implementing concession projects and the concept of concessions is little know to the public, the public attention to some concession projects in Lithuania in the past couple of years turned into scandals. There was a suspicion that public officials are catering to the interests of certain private sector interest groups. As a result of that, the implementation of some projects was discontinued; others came under detailed scrutiny by controlling institutions and the media. The public, however, is right in demanding accountability (explanation of the policy and actions) from public officials who are in charge of concession projects given

that the idea of the concession the government engages in is gaining benefit for public interest.

From the point of view of public officials, however, it may be said that the conservative attitudes of people and the fear of changes frequently cause unsubstantiated scandals, often blown up to unreasonable proportions by the media, and create obstacles for the successful cooperation of public and private sectors. Moreover, since there is a tendency to look for the conflict of interests or corruption of the public officials implementing concession projects, the public sector is very careful and shows little initiative. The private sector, on the other hand, is sceptical due to insufficient results of such cooperation implemented in a very tense atmosphere and possible complications with the media. Thus, Lithuania has the best drafted Law in the region but it is not effective due to the lack of policy framework and experience in implementing it.

From the point of view of managerial and political approaches it may be stated that managerial rather than political approach is dominating in the regulation of concessions in Lithuania. There are good rules for the management of concessions, there are institutions to implement them, but there is lack of political will to do so because of the fear of accountability. This demonstrates that the political approach is also important because policy framework is among the key elements for the successful regulation of concessions in Lithuania.

Conclusions

The analysis of the problem concerning the regulation of concessions in Lithuania within the context of the disciplines of law and public administration led to the following conclusions:

1. Concessions ought to be analysed within the context of public-private partnerships, which emerged due to the New Public Management reform. Since the idea behind the NPM is bringing business and market principles into public sector governance, it clearly demonstrates that regulation of concessions is more within the scope of the managerial approach rather than political;

2. The EU law, which is applied directly in Lithuania and is above the Lithuanian law, does not lay down any detailed provisions concerning concessions nor attempts to coordinate or control the national legislation on concessions. The regulation of concessions in the EU is subject more to the general practice that formed over the years and the policy recommendations of the Commission that could not be considered legislation. Thus, it could be concluded that political rather than managerial approach is dominant in the regulation of concessions in the EU;

3. Taking into consideration the foreign experience in the regulation of concessions, Lithuania is taking leading position in terms of legislative framework because it has the best drafted Law on Concessions in the region. The presence of a good legislative framework for the regulation of concessions demonstrates managerial approach;

4. Although the EBRD survey showed that the implementation of the Lithuanian Law on Concessions is effective, the reaction of the public to the first attempts with the concession projects demonstrated that implementation is difficult and its effectiveness is questionable in the absence of policy framework. This demonstrates that the regulation of concessions in Lithuania applying only managerial approach is not efficient. The implementation of the Lithuanian Law on Concessions would be more effective if both managerial and political approaches were integrated;

5. Balance needs to be found between the managerial and political approaches in the regulation of concessions in Lithuania, because to much emphasis on the accountability of public officials, which is the element of political approach, may discourage them to show initiative in implementing concession projects.

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Koncesijų reglamentavimas Lietuvoje: vadybinis ar politinis metodas?

Santrauka

Šio straipsnio tikslas - išanalizuoti koncesijų reglamentavimą Lietuvoje, pasitelkiant vadybinį ir politinį metodus, naudojamus viešajame administravime bei atsižvelgiant į Naujosios viešosios vadybos teorijos koncepcijas. Koncesijų reglamentavimo klausimas straipsnyje analizuojamas per dviejų disciplinų – viešojo administravimo ir teisės – prizmę. Kadangi Europos Sąjungos teisė yra sudedamoji Lietuvos Respublikos teisinės sistemos dalis, straipsnyje taip pat aptariama Bendrijos teisinė bazė, susijusi su koncesijų reglamentavimu. Toliau pateikiama koncesijų reglamentavimo Lietuvos Respublikos koncesijų įstatyme apžvalga. Straipsnyje siekiama nustatyti, kuris metodas – vadybinis ar politinis – dominuoja reglamentuojant koncesijas Lietuvoje, bei kuris iš šių metodų yra efektyvesnis. Preliminariai nustatyta, kad pirmumas teikiamas vis dėlto vadybiniam metodui, kuris ir laikomas efektyvesniu reglamentuojant koncesijas Lietuvos Respublikoje.