



INVESTMENTS AS A GOAL - REFORMS AS A MEANS

Guide through regulatory reform as a tool of economic development

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Publisher
OPTIMUS – Center for Good Governance

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Printed by
Digital Art Company, d.o.o.

First edition:
100 copies in English

ISBN 978-86-918877-1-1

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Belgrade, 2015

Preparation of this publication was supported by the Swiss State Secretariat for Economic Affairs (SECO) through the project "Improving Environment for Businesses at Local Level through Regulatory Reform".

1

INSTEAD OF INTRODUCTION 9



2

REGULATORY REFORM - CONCEPT, OBJECTIVES AND METHODS 10

2.1	The concept and purpose of regulatory reform	10
2.2	Regulatory reform objectives	12
2.3	Doing Business Report, methods of regulatory reform and other forms of improving the business environment	14
2.3.1	Doing Business (DB)	14
2.3.2	Regulatory reform methods	15
2.3.2.1	Guillotine	15
2.3.2.2	Cost benefit analysis	16
2.3.2.3	Regulatory impact assessment - RIA	16
2.3.2.4	Regulatory consultation	18
2.3.2.5	Standard Cost Model – SCM	18
2.3.2.6	E- government	19
2.3.2.7	Inspections reform	19
2.3.2.8	Regulatory governance	20

3

HISTORY OF REGULATORY REFORM AND PREVIOUS EXPERIENCE WORLDWIDE 20

3.1	Sweden	22
3.2	Netherlands	22
3.3	Portugal	23
3.4	Great Britain	24
3.5	Belgium	25
3.6	Estonia	25
3.7	European Union	26
3.8	United States (USA)	27
3.9	Australia	27
3.10	Mexico	28
3.11	Arab countries	28

4

REGULATORY REFORM IN THE WESTERN BALKANS 29

4.1	Regulatory reform and RIA at national level	30
4.1.1	Serbia	30
4.1.1.1	Comprehensive regulatory reform	30
4.1.1.2	Regulatory impact assessment introduction	30



4.1.1.3	Other initiatives	32
4.1.2	Bosnia and Herzegovina	32
4.1.2.1	Reforms at state level	32
4.1.2.2	Reforms at the entity level	34
4.1.3	Croatia	35
4.1.4	Montenegro	36
4.1.5	Macedonia	37
4.1.6	Albania	38
4.2	Regulatory reform on sub-national levels	38
4.2.1	IFC's "Sub-national Competitiveness Programme" in the Western Balkan countries	38
4.2.2	Continuation of commenced reforms at local level in Serbia – SCTM/OPTIMUS PROJECT	40
4.2.2.1	General goal	41
4.2.2.2	Project components	42
4.2.2.3	Vertical links local-national level in reforming the Law on Planning and Construction	47
4.2.3	Continuation of the initiated reforms on the local level in Bosnia and Herzegovina	48
4.2.4	Other initiatives on the local level in Serbia and Bosnia and Herzegovina	49
4.2.4.1	Serbia	49
4.2.4.2	Bosnia and Herzegovina	52



5

REGULATORY REFORM: ACTORS, CHALLENGES AND SUSTAINABILITYT 53

5.1	Regulatory reform actors	53
5.2	Challenges in implementing regulatory reform on the local level in the Western Balkans	55
5.2.1	Political support as a precondition for reform implementation	55
5.2.2	Employee motivation and change of their attitude and way of thinking in reform implementation	56
5.2.3	Sustainability of regulatory reform	58
5.2.4	How to connect the local with the national tier of government in a good quality way?	60



6

INSTEAD OF CONCLUSION ABOUT OPTIMUS BIBLIOGRAPHY 61

62 64

ACKNOWLEDGEMENTS

The authors of this publication and OPTIMUS - Center for Good Governance as the publisher express their sincere gratitude for the support in preparing this publication and active participation in drawing up chapter 4.1.2, 4.2.1, 4.2.3 to Tarik Šahović, Senka Eminagić and Mirjana Galonja from the International Finance Corporation (IFC), World Bank Group, in Bosnia and Herzegovina.

We are grateful to Mira Prokopijević and Bojana Tošić from the Republic Secretariat for Public Policy for their comments, information and materials contributing to the description of the regulatory reform implemented at the republic level in Serbia.

We cordially thank our project partners from the Standing Conference of Towns and Municipalities for useful information and comments: Đorđe Staničić, Zorica Vukelić, Ivan Milivojević and Darko Drndić.

Special thanks to Swiss State Secretariat for Economic Affairs (SECO) for its financial support for the preparation of the publication in the scope of the project "Improving Environment for Businesses at Local Level through Regulatory Reform".

LIST OF ABBREVIATIONS

- RIA** • Regulatory Impact Assessment
- AMA** • Agência para a Modernização Administrativa (Agency for Administrative Modernisation - Portugal)
- GDP** • Gross domestic product
- B&H** • Bosnia and Herzegovina
- BSCM** • Balkan Standard Cost Model
- DB** • Doing Business
- EU** • European Union
- GIZ** • Deutschen Gesellschaft für Internationale Zusammenarbeit (German Agency for International Cooperation)
- IFC** • International Finance Corporation
- IMF** • International Monetary Fund
- SMEEs** • Small and medium enterprises and entrepreneurs
- NALED** • National Alliance for Local Economic Development
- OECD** • Organisation for Economic Co-operation and Development
- SCM** • Standard Cost Model
- SECO** • State Secretariat for Economic Affairs – Switzerland
- SIDA** • Swedish International Development Cooperation Agency
- SCTM** • Standing Conference of Towns and Municipalities
- CRR** • Comprehensive Regulatory Reform
- UNDP** • United Nations Development Program
- USAID** • U.S. Agency for International Development
- VNG** • Vereniging van Nederlandse Gemeenten (Association of Netherlands Municipalities)
- OSCE** • Organization for Security and Co-operation in Europe



Start, be decisive, and try to be wise.

Horace, Roman poet

INSTEAD OF INTRODUCTION

The need for regulatory reform, simplifying administrative procedures and modernizing administration has been brought up in our surroundings more frequently and louder in past years. The European Union requirements for candidate countries are aimed at improving their national and local administrations as mechanisms that must be enhanced in order to continue in a better way to serve its purpose: the proper functioning of institutions, not for their own sake, but for citizens, businesses and other relevant subjects.

The administration must inevitably follow the path of reform for the sake of potential and existing investors. The goal of all goals is that investors choose this particular country, the region, the city or municipality for placing its knowledge, skills and capital. A key factor in selecting the location, in addition to political stability, geographical location and good infrastructure, is an attentive and efficient local administration which provides support to local and foreign investors. The hardest part is to ensure the first investment - therefore a satisfied investor is the best advertisement for each local self-government and its way to new investments .

Businesses and citizens, while addressing the national or local administration, often run through the bureaucratic labyrinth to collect necessary documents, obtaining partial, contradictory or incorrect information. Along the way from one to another "competent" authority, time and money are lost, but also confidence in the functioning of the system. An outdated, complex and dysfunctional mode of work, along with inadequate attitude and behaviour of a public employee, that represents a relic of another time and is certainly not a symbol of a modern public administration, is often to blame for that.

Can an administrative system operate better, and be more efficient and simple? Is it possible to offer to citizens, entrepreneurs, domestic and foreign companies quality solutions to existing problems, applying effective processing of requests, simple and harmonized rules that will not be time-consuming and thereby stimulate economic activity?

Our intention is to introduce and explain regulatory reform as an answer to these questions, its objectives and purpose, to give a brief historical overview and comparative experiences of its implementation, and the most important lessons that should be always borne in mind. Special emphasis will be given to regulatory reform at local level, the results achieved in Serbia and the Western Balkans region and the challenges their actors are facing. We hope that this overview will show a vision of the regulatory reform future, a process that is continuous and must not be finally finished, no matter how successful were its phases.



The administration must inevitably follow the path of reform for the sake of potential and existing investors. The goal of all goals is that investors choose this particular country, the region, the city or municipality for placing its knowledge, skills and capital.

I invest here because of profiting in an easier and faster way than elsewhere.





Reform is not pleasant but laborious; no person can change him- or herself without enduring and hard work, and even less a nation can do it.
Thomas Carlyle, Scottish philosopher and writer

REGULATORY REFORM - CONCEPT, OBJECTIVES AND METHODS

2.1 The concept and purpose of regulatory reform

Regulatory reform can be defined in various ways, but what is certain is that it is part of the public sector reform. The focus is on a set of various instruments used by public authorities in exercising their respective powers. These instruments can be widely and formally explained as defining of existing legal framework and its implementation, and practically and realistically as numerous laws and regulations in different spheres of society, the daily series of hundreds and thousands of received requests, adopted decisions and resolved contentious issues relating to everything – from change of personal names to the realization of multimillion investment projects.

The OECD (Organization for Economic Cooperation and Development) definition of regulatory reform

In the OECD publications, regulatory reform refers to changes that improve regulatory quality, i.e. improve results, cost-benefit ratio, or legal quality of regulations and related administrative formalities. The reform could mean amending regulation, removal and re-creation of the entire regulatory regime and its institutions or enhancing the process of creating regulations and managing reform.

Source: *Regulatory Reform: A Synthesis*, OECD, Paris, 1997, p. 11

Regulatory reform can be defined as a set of measures in response to the unsatisfactory situation of the legislative and general legal framework in terms of excessive, out-dated or unnecessarily costly regulation of actions of the national and local administrations towards businesses and citizens.

Good regulatory policy implies constant advancement of legal mechanisms and administrative capacity of the state which is, among other things, made by analysing and improving the current situation in a

particular field relevant to the economy and citizens, applying transparency procedure of passing regulations at all stages and finding alternative regulatory solutions that achieve specific objectives without the adoption of new regulations (market mechanisms, media campaigns, self-regulation, subsidies, etc.).

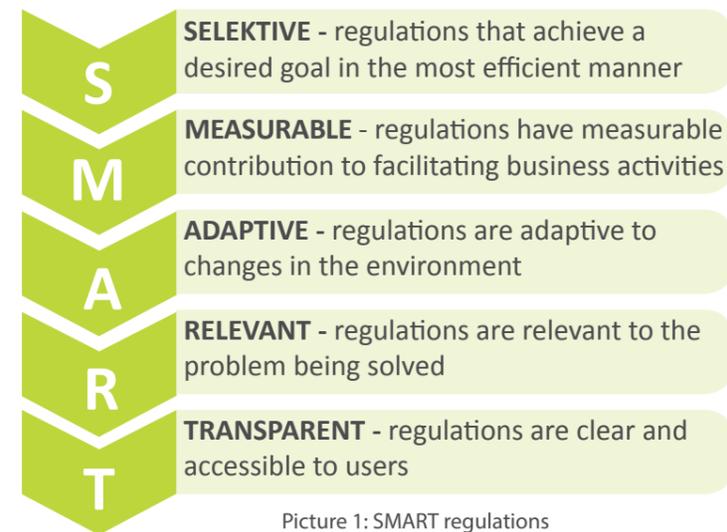
The reform therefore aims to make qualitatively better (so-called SMART, Figure 1), completely new or amended regulations, as well as to remove parts of the regulation that has proved harmful to citizens and the economy. More importantly, comprehensive regulatory reform aims to create a system in which high-quality, thoroughly and thoughtfully adopted regulations become the rule and thus eliminate the future need for reform interventions.

Since it is economically unsuitable to implement regulatory reform in all fields, mostly the following regulations are reformed:

- **Economic regulations** governing market operations of economic entities, competition, price and, in general, conditions where economic activities take place;
- **Social regulations** relating primarily to the field of social policy, the environment, human health and social cohesion;
- **Administrative regulations** governing the conduct of national authorities in their relation with a citizen and the manner of implementing procedures in exercising the rights, obligations or interests of citizens and businesses.

In the last two decades of the 20th century, regulatory reform has become increasingly important when, as a response to the accumulation of regulations stifling economic activity and state monopolies, deregulation or a mass abolition of regulations has emerged.¹

¹ OECD, *Regulatory Policy and Governance: Supporting Economic Growth and Serving the Public Interest*, 2011, p. 8.



Picture 1: SMART regulations

Deregulation is essentially the absence or abolition of any regulation in certain area, when the code of conduct is defined by non-legal mechanisms, in order to enhance the actual economic effects.

In this regard, countries throughout the world (including also many countries of the former Soviet zone of influence, after the fall of communism) came to the conclusion that regulatory reform can be a tool for the benefit of the economy, society and the environment.²

Regulatory reform may include all or some of the following:

- revision of the existing procedures;
- modernization of regulations and institutions applying them;
- improving mechanisms for adoption of regulations;
- deregulation.

Understanding the methods of regulatory reform has evolved over time, so the emphasis from deregulation eventually switched to a mixture of re-regulation and deregulation with particular attention to the effectiveness of existing regulations, not only their removal.³ Also, the perception of the frequency of reform has changed – from one-time episodic status in the beginning, to the reform today as a constant and dynamic process, integrated into regular adoption of regulations.⁴ This has largely contributed to the perception in advanced countries of regulatory reform as the cornerstone of broader processes – regulatory policy and regulatory governance – implying comprehensive efforts and various measures taken by public authorities to ensure that existing and future regulations are transparent, adjusted to efficient economic activity and created in consultation with all interested parties.⁵

² OECD, *Making Reform Happen: Lessons from OECD Countries*, 2010, p. 240.

³ Ibid.

⁴ Ibid.

⁵ OECD, *Regulatory Policy and Governance: Supporting Economic Growth and Serving the Public Interest*, 2011, str. 8 – 9.

“Regulatory reform can be defined as a set of measures in response to the unsatisfactory situation of the legislative and general legal framework in terms of excessive, out-dated or unnecessarily costly regulation of actions of the national and local administrations towards businesses and citizens.

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2.2 Regulatory reform objectives

The implementation of regulatory reform, either at central or local level, is a complicated process that requires significant investment of human and financial resources, overcoming entrenched resistance within administrative entities and a shift in thinking.

In order to assure success, the precise purpose and desired outcomes of reform should be determined and introduced to the general public, and brought as close as possible to those who are involved in the implementation of reforms.

In case of reform that involves reducing bureaucratic burden and administrative barriers, and introducing a system of making quality regulations in the future, the desired results would be:

- **increasing the economic efficiency** through savings in direct and indirect costs;
- **a constant process of consultations** of businesses and citizens with administration;
- **creating an optimal legal framework with the application of the principles of good governance** in order to prevent the adoption of burdensome regulations in the future;
- **increased transparency of regulation** as a contribution to reducing opportunities for corruption.

Direct costs are those directly borne by the economy through payments of various duties, fees and other costs of bureaucracy. Also, of the same importance are **indirect costs** that are reflected in the time (and time is money, modern business teaches us!) spent in waiting for responses due to rigid regulations and the slowness of the administration, thus hindering business operation and new employment.

Therefore, regulatory reform sets direct and indirect costs reducing as its target and strives to enable the economy to “start breathing” redirecting its resources, trapped in bureaucratic queues and loads of paperwork, to creating new employment possibilities, production and innovation. Efforts in this respect are not in vain - according to OECD, there are large and convincing evidences that the quality of the regulatory environment contributes **directly to the economic growth**.⁶ In particular, it is

⁶ OECD, Regulatory Policy and Governance: Supporting Eco-

estimated that economies with lower quality of the regulatory environment can have between 2% and 3% lower level of the economic growth than those with better quality regulation dedicated to a good business environment.⁷

An important aspect of reform is to improve the experience of entrepreneurs and citizens with national and local administrations. Their dissatisfaction with the slow and complicated administration is not only characteristic for the areas of Serbia and the Balkans, but is a far wider phenomenon. It has turned out that a key to improvement lies to a large extent in changing consciousness of public employees in terms of their position, responsibilities and relationship to citizens as clients.

Thus, primarily from the inside, a new system is created - *administration as a service for all*, and not a system where economy and citizens are viewed as a necessary burden of the administrative system. Changing the perception that certain measure of power has not been given to a civil servant for the sake of himself or for the sake of demonstration of the administrative apparatus power, but for the sake of helping the economy and citizens, is a difficult but necessary process if we wish real progress.

According to OECD (OECD, *Making Reform Happen: Lessons from OECD Countries*, 2010, p. 240) and despite the fact that regulatory reform is an integral part of government policy in almost all OECD countries, in these most developed countries of the world, however, there has still been some resistance to reforms by the public and (somewhat paradoxically) private sector, and the pace of regulatory reform often lags behind innovations in economy.

Finally, one of the objectives of a comprehensive regulatory reform is to prevent the need for itself in the future. Reform of a system with burdensome regulations and procedures will have only limited effect if the system arises again through the adoption of new regulations of the same kind. Therefore, the introduction of Regulatory Impact Assessment

conomic Growth and Serving the Public Interest, 2011.

⁷ David Parker and Colin Kirkpatrick, *Measuring Regulatory Performance - The Economic Impact of Regulatory Policy: A Literature Review of Quantitative Evidence*, OECD 2012, str. 18.



- RIA, the adoption of “smart” regulations and, in general, implementation of good governance principles aims to prevent negative consequences of adopted regulations, primarily for the economy.

This has also been illustrated in recommendations for enhancing the EU legislative process in 2012⁸ indicating the need for:

- introducing gradually the regulatory impact assessment wherever necessary,
- involving all interested parties in the process of adopting regulations, with active and timely preparation of bylaws that follow higher legal acts along with finding the most effective mechanisms for the elaboration and implementation of higher legal acts,
- establishing an appropriate process control of implementation of laws and other regulations, with monitoring “ex post” regulatory impacts,
- creating the conditions for a comprehensive, well-prepared and practicable (in the appropriate time period) public debate, and all that with defining the long-term Government plan relating to the legal regulation reform.

No matter how inevitable the constant influx of new regulations is, regulatory reform is there to ensure as much as possible the implementation of principles that are nicely described in the adage “measure twice, cut once.”

According to the view adopted by the European Union and Switzerland, the principles of good governance include:

- 1) accountability of government;**
- 2) transparency;**
- 3) efficiency;**
- 4) inclusion - participation, and**
- 5) non-discrimination.**

Applying these principles to the adoption and implementation of regulations has multiple positive effects on their quality and applicability.

⁸ European Commission, *Europe can do better: Best practices for reducing administrative burdens*, Luxembourg 2012.

“Regulatory reform sets direct and indirect costs reducing as its target and strives to enable the economy to “start breathing” redirecting its resources, trapped in bureaucratic queues and loads of paperwork, to creating new employment possibilities, production and innovation.

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2.3 Doing Business Report, methods of regulatory reform and other forms of improving the business environment

Although one can say that the objective of each regulatory reform method is similar - improving the legal and business environment in the broadest sense - various methods facilitate the implementation of reforms, including adaptation to the specific environment of a country and its available resources.

2.3.1 Doing Business (DB)

Before presenting the methods, a very important instrument for measuring the initial quality of the regulatory environment and potential success of implemented reforms should be described. It is, in fact, the Doing Business (DB) project initiated in 2002 by the World Bank and the International Finance Corporation - IFC, which is engaged in measuring regulatory impacts on enterprises through their "life cycle", from their inception until their termination. The objective of this project is to provide an objective basis for understanding and improving the business regulatory environment in the world. It involves collecting quantitative data for comparing regulation concerning the business environment, while encouraging the country to compete in the creation of effective regulation in the area of business operation. DB offers detailed reports containing information about the time, steps and costs of implementation of domestic

regulations in certain areas in the capital cities / economies of participating countries. Also, the DB report contains general ranking of the participating countries' economies, ranking participating countries by indicators and reforms, and provides recommendations for specific reforms for enhancing the business environment in certain segments.

Further, there are specific, regional and national DB reports, dealing with measuring business operation conditions in one region, for example DB report in South East Europe 2008, which included: Serbia, Bosnia and Herzegovina, Croatia, Montenegro, Macedonia, Kosovo and Albania, or the national DB, such as the one in Mexico that has reviewed the conditions for doing business in 31 Mexican state and Mexico City.

Doing Business report serves as a relevant re-

10 economies that improved the most in three or more areas, as measured by Doing Business in 2013/14												
	Country	DB ranking	Starting a business	Dealing with construction permits	Getting electricity	Registering property	Getting a credit	Protecting minority investors	Paying taxes	Trading across borders	Enforcing contracts	Resolving insolvency
1	Tajikistan	166	√	√			√		√			
2	Benin	151	√					√		√	√	
3	Togo	149	√			√		√	√			
4	Côte d'Ivoire	147	√			√	√	√		√		
5	Senegal	161	√	√		√	√	√	√			
6	Trinidad and Tobago	79	√				√					√
7	Congo, Dem. Rep.	184	√		√		√	√	√			
8	Azerbaijan	80	√			√			√			
9	Ireland	13				√	√				√	
10	United Arab Emirates	22				√	√	√				

Table 1: World Bank. 2014, *Doing Business 2015: Going Beyond Efficiency*. Washington, DC: World Bank. DOI: 10.1596/978-1-4648-0351-2. License: Creative Commons Attribution CC BY 3.0 IGO Illustration of DB indicators – 10 top reformers in 2013/2014



Countries of South Eastern Europe included in the DB report

source for investigating the business climate of selected economies. Selected cities can compare their own business environment with other cities and regions within all participating economies. It is relevant to note that the Doing Business has become not only a criterion, but also an inspiration and starting point for reform. Ranking cities/economies on the Doing Business list often points to the key areas where reforms are needed, and the success of reforms is often measured (and promoted by the authorities) through the progress on the DB ranking list. Termination of reform often leads to a drop in the DB list, because other economies have continued reforming, which also encourages politicians to systematically implement reforms.

2.3.2 Regulatory reform methods

Countries can in many ways approach regulatory reforms and improve their ranking on this and similar lists. Most frequently used methods are the following:

2.3.2.1 Guillotine

It is a kind of deregulation, i.e. reducing the number of regulations. It mainly relates to legislative reform, i.e. to laws and bylaws. However, it may be also applied to administrative procedures. The aim of the "guillotine" is to unburden business entities by eliminating and simplifying regulations and/or administrative procedures. The methodology examines each regulation/procedure in the context of its legality, necessity and adaptation to business operations.

Such guillotine contributes to the systematization of relevant regulations/procedures in one place and to legal certainty through the online registry of regulations/administrative procedures. The method of "guillotine" is considered to be a large and complex regulatory reform of existing regulation.



One of the essential conditions for the quality guillotine is appropriate measuring of the initial situation and results, and it is particularly important to apply relevant methodology for measuring, such as the Standard Cost Model, which will be discussed below. When there is a good view of the situation, reformers have more possibilities of the "guillotining", which can be used separately or, more often, in combination. In that way, one can distinguish a complete abolition of regulations

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in a particular area or only in some areas, regulation amendments limiting their scope, combining more regulations or simplification and harmonization of procedures and obligations of reporting to different authorities. The merger of different administrative entities responsible for the same or similar areas into the so-called one-stop-shop is a particularly popular form. The one-stop-shop is a place where businesses and citizens can at one place submit their request and receive a reply after the process is completed, where several different instances have been involved.



2.3.2.2 Cost Benefit Analysis

Cost benefit analysis is a method well known in developed economies, which is used primarily for investments in public and infrastructure projects (construction of roads, agricultural production increase, and education). It implies the assessment of community readiness to accept the size of the costs (damages) of one measure taken for the environment and at the expense of the environment, as compared to the benefits that this measure will have to society. So, the society should be willing to accept certain costs for benefits reported through the growth and development of the economy, employment, rising living standards, social product.

The essence of the introduction of cost-benefit analysis in the context of regulatory reform is directed towards the future. When adopting regulations and concrete decisions also, the authorities applying this analysis have insight into the change of the overall dimension of individual well-being, expressed in a monetary amount.⁹ In doing so, all measurable and non-measurable factors, the value of their impact and probability of formation are taken into account.

The advantage of this analysis is that it allows its

⁹ Raymond J. Kopp, Alan J. Krupnick, Michael Toman, *Cost-Benefit Analysis and Regulatory Reform: An Assessment of the Science and the Art*, Resources for the Future 1997, str. 53.

users to identify all costs and benefits, not relying on intuition and unreliable estimates. Its main feature is the economic efficiency. This type of analysis has entered into widespread use in the United States in the late nineties, primarily in the area of environmental issues.¹⁰ The pilot project was about the implementation in the sphere of regulation relating to carcinogenic and other toxic substances, so as the method would come into wider use in different American agencies as holders of administrative power at the federal level.¹¹ This example was followed by neighbouring Canada introducing, through its Government's directive of 2007, the cost-benefit analysis through the front door to their federal regulatory bodies, supporting it by a comprehensive training program and guidance on this topic.¹² Although it has been often applied in the North American practice as a complete separate method of regulatory impact assessment, today it is commonly used as part of a wider range of techniques for the regulatory impact assessment, which is discussed below.

2.3.2.3 Regulatory Impact Assessment - RIA

The regulatory impact assessment (hereinafter - RIA) is one of the instruments used in regulatory reform when adopting new regulations and amending existing ones. This model has been applied for a long time in the European Union countries and globally, with smaller or larger range of applications, partial or comprehensive approach and with relative success in improving regulation.

The purpose of the RIA is to adopt qualitatively better, so-called "smart" regulations through a systematic analysis of the advantages and risks of adopting the regulation and assessment of dam-



¹⁰ Ibid, ES-1 – ES-3.

¹¹ Ibid.

¹² OECD, *Regulatory Reform and Administrative Simplification: The Canadian Experience*, <http://www.oecd.org/site/govgfg/39610455.pdf>.

age and benefits, in case that regulation is not adopted. The aim of "smart" regulations, especially in the field of economy, is to create conditions for the better business environment, to attract investments, create new employment possibilities and to stimulate establishment and operation of small and medium enterprises. RIA also leads to harmonization of regulations and increasing responsibilities of the regulatory bodies in this process, thus providing qualitative enhancement and improvement of the administration's work. Regulation is simplified, along with reducing administrative burden on citizens and businesses. Preparing regulations requires the participation of different interested parties in their adoption, through a comprehensive process of consultations at all stages of drawing up regulations.

In the fight against corruption, RIA certainly represents one of the measures designed to reduce corrupt behaviour of decision-makers, prevent the possibility of favouring certain groups in society and to reduce the risk of subordinating the general interest to the private one. The adop-

The OECD Principles (OECD, *Regulatory Impact Assessment: Best Practice in OECD Countries, 1997*) are:

1. maximum political support to RIA;
2. careful distribution of responsibility for the RIA implementation;
3. training of regulators;
4. the use of a consistent but flexible analytical method;
5. development and implementation of a strategy for data collection;
6. targeted RIA efforts;
7. integration of RIA with decision-making processes at the early stages;
8. presentation of the results;
9. broad involvement of the public;
10. the application of RIA to existing and new regulations.

tion of regulations that are mutually incompatible and contradictory, with providing space to locate the so-called "loopholes" in the law, can be prevented by RIA which establishes a mechanism of control while drawing up regulations as well as in their adoption and implementation.

RIA, among other things, should answer the following questions: *What is the reason for adopting a regulation? To whom does it refer and what will be the impact of the adoption of regulation on the specific target group? What benefits, and what negative consequences and costs will business community have from the regulation adoption? Is the adoption of regulations necessary and only possible solution to change the existing situation or objective can be achieved in another way, by an alternative to regulation? And finally, what are the consequences of failure to adopt regulations for the specific target group, business community and society as a whole?*

In addition to including a quantitative assessment of the costs, RIA includes qualitative nature of the impact assessment on health, social groups, gender equality and the environment.

Historically, RIA was first introduced in the United States in the 70s of the 20th century, as a response to huge administrative burden on economy. This method gained its wider application when the *Organization for Economic Cooperation and Development* - OECD adopted a list of 10 principles on which the application of RIA is based.

The advantage of Cost Benefit Analysis is that it allows its users to identify all costs and benefits, not relying on intuition and unreliable estimates. Its main feature is the economic efficiency.

The purpose of the RIA is to adopt qualitatively better, so-called "smart" regulations through a systematic analysis of the advantages and risks of adopting the regulation and assessment of damage and benefits, in case that regulation is not adopted.

Today, RIA is one of the most popular models of regulatory reform. It has been intensively implemented in the EU countries since 2003, and its use has become increasingly frequent in the countries in transition.

Given that the RIA implementation cost may be significant, in some countries (e.g. Mexico) simplified variants, such as regulatory checklists, are also applied. This list contains a number of key questions about the effect of the proposed regulation, and "yes/no" answer should be given. In the case of a negative answer, it is necessary to give an explanation. Another variation is the insertion in these lists of additional answers that relate specifically to the impact on small and medium enterprises and entrepreneurs.



2.3.2.4 Regulatory consultation

Various forms of consultations with interested parties in the process of adopting new regulations fall within the regulatory consultation. The forms vary from informal comments made by associations of employers, consumers, trade unions, through formalized public discussions and consultative bodies established on a permanent basis, whose opinion may be a formal requirement for the adoption of regulations. The regulatory consultation process can be an independent form of enhancing regulation, and can be an essential addition to the above RIA method.

An example of regulatory consultation is an American site www.business.usa.gov, where, in addition to the abundance of information for the business community, you can find the possibility of commenting and giving proposals for improving regulation. A similar, and even more developed approach, has Australia (<https://consultation.business.gov.au/consultation/>), and that is not surprising when we take into account the achievements of this country in regulatory reform, which are discussed further in the publication.

2.3.2.5 Standard Cost Model – SCM

Standard Cost Model - SCM is a unique methodological framework for measuring administrative costs before and after (ex ante and ex post) changes made in the regulatory system in order to measure the effects of these changes. It is based on provable facts and empirical data from the practice, providing indicative information on the size of administrative burden. It is a method of measuring administrative burdens, arising from the regulations that are primarily related to economic entities.

SCM measures the time necessary for submitting a request for a particular procedure. This time is divided into 16 categories - from the time necessary for being acquainted with a request, for collecting documents, paying duties and fees up to waiting in line to submit the request. SCM relates both to existing and new regulations. It can calculate new regulatory solution impacts on economic entities in relation to the current situation, as well as whether the amended existing regulation will achieve the expected effect.

SCM has proven to be successful in most countries of the European Union. It is considered as one of the best models for measuring performance.

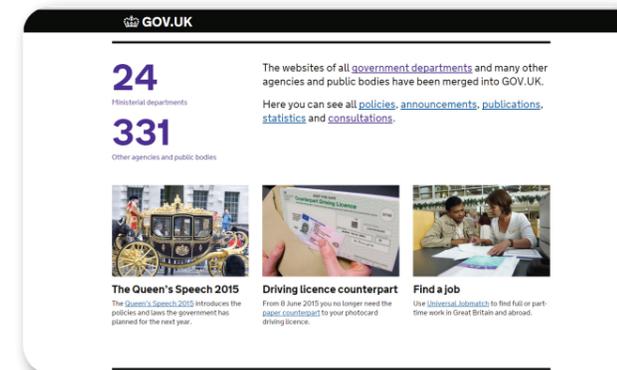
In the context of regulatory reform projects at the local level, implemented in South Eastern Europe, the SCM method has been adapted to the specific needs of these countries. The key adaptation is in respect of cost components: in addition to measuring time consumption, the adapted method calculates the total amount of: 1) costs of duties and fees - what are the obligations for each administrative formality that should be fulfilled; 2) costs of documents to be obtained and submitted together with a request for a certain procedure; 3) the time required for submitting a request, which is divided into 10 categories ranging from familiarization with the necessary ele-



ments, through filling out forms and paying fees until the final queuing; 4) the waiting time required to receive a response from the relevant institutions/authorities, acting upon the request. This extended model is colloquially referred to as the Balkan Standard Cost Model.

2.3.2.6 E-government

Different ways of strengthening the regulatory and business environment through the use of new technologies, primarily the Internet, and of ensuring transparency, are included in e-government. The emphasis of e-government is not so much to eliminate or modify existing regulations, but how to improve the transparency of those regulations, as well as the efficiency of procedures in accordance with them. The Internet enables the creation of consolidated databases of regulations and procedures, easy access to information and, in more advanced versions, the communication with national authorities, local self-governments and other organizations that are holders of public authorizations (public enterprises, cadastre, etc.). Thus a request and supporting documentation may be submitted electronically and in the same way get an answer or solve the case. This leads to many savings in costs and time, which is obvious, so it is not surprising that the introduction of various forms of electronic government is very popular as a form of reform. An excellent example of the e-government portal, which in a simple and comprehensive way provides access to information and at the same time allows initiating procedures in an electronic way, is the website of the UK government - www.gov.uk.



Picture 2: Great Britain administrative portal GOV.UK

2.3.2.7 Inspections reform

One of the forms of regulatory reform is the inspection system reform, which may involve substantial structural changes in the inspection system through changes of laws, various inspection procedures, technical regulations, institutional arrangements and others. The role of inspection, both the preventive and repressive in protecting the public interest, is of great importance. However, most businesses are of the opinion that the inspections have been a

Serbian companies dealing with the specific production of hazardous substances, because of uncoordinated work of 4 different inspections that conducted supervision, stopped many times such production for a period of 25 days, during which inspections were successively coming. The owner's estimate is that the costs of stopping production and lost profits are over EUR 15,000. This could have been avoided if the organization and coordination of the inspections' work had been better.

“ SCM has proven to be successful in most countries of the European Union. It is considered as one of the best models for measuring performance.

The emphasis of e-government is not so much to eliminate or modify existing regulations, but how to improve the transparency of those regulations, as well as the efficiency of procedures in accordance with them. The Internet enables the creation of consolidated databases of regulations and procedures, easy access to information and, in more advanced versions, the communication with national authorities, local self-governments and other organizations that are holders of public authorizations (public enterprises, cadastre, etc.).

With maintaining the high level of control and protection of the public interest, inspections reform in principle aims at reducing working days that businessmen spent on inspection visits and completing formalities in connection with them, which would result in an increase in productivity, which is (as in the case of some other forms of reform) entirely measurable.

hotbed of corruption and that they are not interested to protect the public interest, but to protect personal interests through finding failures of businessmen so as to sanction them or receive bribes. In the mass of regulations that are often contradictory, omissions occur, and no account is taken regarding the type of failures and intent of businessmen. Preventive function of inspection has almost completely disappeared. The authors are of the opinion that the role of inspections should be primarily preventive and not repressive. Also, penalties are very often inadequately high in relation to violation.

A special form of the reform is to establish the coordination of the work of various inspections, in terms of good planning and harmonization of the scheduled time for visiting businesses, in order to avoid frequent disruption of their work.

With maintaining the high level of control and protection of the public interest, inspections reform in princi-

ple aims at reducing working days that businessmen spent on inspection visits and completing formalities in connection with them, which would result in an increase in productivity, which is (as in the case of some other forms of reform) entirely measurable.

Various forms of inspections reform have been implemented throughout the world and are the subject of specific comparative study conducted by the World Bank, which can be found on:

<https://www.wbginvestmentclimate.org/uploads/inspection%20reforms%20paper.pdf>

2.3.2.8 Regulatory governance

Regulatory governance is a comprehensive method of “new generation” which aims to achieve the proper use and high quality of regulation. According to the latest guidelines and recommendations of the OECD, regulatory governance is a continu-

ous process in which governments, when identifying the desired goal, first make decision whether they will use new regulations as an instrument. In case of a positive decision, they approach the development of new regulation through a process based on an analysis of information, evidences and opinions of different actors.

In addition to combining methods of regulatory consultation and the ex-ante application of RIA, regulatory governance should include a rigorous ex-post RIA with the aim of drawing a lesson as to whether the use of regulation was necessary or the adoption process was flawed. In addition, regulatory governance would include a systematic review of existing regulations at fixed time intervals to avoid their expiration, which may include both larger and smaller scope of regulatory guillotine. Finally, the regulatory governance activities should include and elaborate communication strategy, which, in addition to elements of informing about successes, also has the purpose of mobilizing support for future projects in order to ensure regulatory quality.¹³ In fact, regulatory governance is a combination of various methods of regulatory reform, with an effort to make this combination be a manner of regulatory bodies in performing their daily activities, and not just sporadic and individual campaigns.

¹³ Ibid.

“Regulatory governance is a combination of various methods of regulatory reform, with an effort to make this combination be a manner of regulatory bodies in performing their daily activities, and not just sporadic and individual campaigns.”



HISTORY OF REGULATORY REFORM AND PREVIOUS EXPERIENCE WORLDWIDE

Regulatory reform first appeared in the 70s in the United States. It was based on an analytical approach in applying regulations and evaluation of their potential impacts, as well as on perceiving the overall benefits to the country as a whole and the costs that might incur (cost benefit analysis). Therefore, the RIA program was adopted on the basis of which the program of regulatory reform has been further developed, as part of the economic public policy of the USA. Regulatory governance in the USA has evolved from the process of deregulation and the beginning of regulatory reform. The basic idea is that assuring the quality of regulation is not to be a subject of episodic interventions, but to become an integral part of the public administration system.

OECD gave a new impetus to expansion of various forms of regulatory reform in the world, especially in the European Union. During the 90s, this organization became active in promoting improvement in the quality of the business environment through regulatory reform, in particular the incentive program for better regulation. Since 1990, within OECD, the Public Management Committee has operated, later renamed the Public Governance Committee, which has brought together senior officials of the central administration of the OECD countries. The

aim is to exchange experiences and advance skills, particularly in making contribution to better business environment by better governance.

Of great importance was the development of the OECD comparative report on regulatory reform in

The OECD Strategy, in addition to the recommendations that each country should adopt a national strategy for regulatory reform with an action plan, suggests that regulatory reform should be:

- directed towards clearly identified objectives and their efficient realization;
- directed towards a sound legal basis;
- directed to ensuring that the benefits justify the costs, taking into account the redistributive costs;
- directed towards minimizing the costs and market distortion;
- directed to promoting market facilities and target-based approaches;
- clear, simple and practical for users;
- consistent with other regulations and policies;
- compatible with competition policy and investment policy at the national and international level.

1997, where a synthesis of existing experiences and new recommendations provided a basis for developing individual strategies of the EU member states. Upgrading the already mentioned 10 principles, first presented in that report in 2005, the OECD adopted a new set of guidelines to enhance regulatory quality.

Inspired by the OECD efforts, the **European Union** has also adopted a strategic document for developing policy programs for better governance and better regulation. Regulatory reform has gained a special importance after the adoption of the Lisbon strategy for economic development of the EU, as well as the 2001 report of the so-called *Mandelkern Group on Better Regulation* in the European Union.

In the recommendations addressed to the governments of the EU Member States and the European Commission, the *Mandelkern Group* has emphasized **the principles of improving the EU regulatory framework**, which to a large extent lean on the OECD Strategy, particularly in the proposals for:

- consideration of relevant options by policy holders;
- RIA model, which effectively allows the policy-making and provides a framework to discuss and solve problems;
- consultation as an instrument, by which the process of adopting regulations is made public;
- simplification as a systematic, clearly targeted and long-term activity, which generates improvement and greater efficiency of regulations;
- accessibility of regulation to everyone it relates to, with the use of modern information technologies;
- establishment of appropriate organizational structure, which will be responsible for improving regulations and implementation of strategies for making the regulatory framework better.

Thus, regulatory reform, with the aim of reducing administrative burden on the economy in recent decades has become a global phenomenon.

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As for the EU, after the successful beginnings in Sweden, establishing a system for presentation of effects (primarily the Standard Cost Model - SCM) in the Netherlands, and after the elaboration of recommendations by the OECD, the trend of regulatory reform quickly engulfed a number of Member States that largely imitated the Dutch model. The expansion of this trend has been called the real boom of administrative simplification in Europe, wherein the European Union administration joined with its ambitious program for reducing administrative burden, which will be presented below.

Reforms are not in any case reserved only for the European continent and the United States. Mexico, Australia and the Arab countries are also examples where regulatory reform programs are actively implemented. Therefore, it is important to present comparative experiences on a global scale and thus further make clear the need for reform and the factors influencing its success.



3.1 Sweden

Sweden is one of the first countries where regulatory reform was comprehensively implemented, and is particularly significant as an example of a country

where a mass but targeted deregulation led to overcoming the economic crisis and increase in economic growth. In the late eighties and early nineties of the 20th century, Sweden faced a severe economic crisis and recession, which threatened to undermine the viability of social welfare. As a response, it was followed by a broad market deregulation in a number of areas, liberalization and increased competition to the detriment of parts of the semi-regulated economy.



It is estimated that deregulation as a characteristic of the Swedish economy contributed, in the period from 1988 to 2007, to the increase in economic growth of 0.45% per year, not counting the indirect positive effects.

In addition to deregulation, Sweden turned to other methods of regulatory reform. The use of RIA in the work of regulatory authorities dates back to the time of appearing two waves of reform, 1987 and 1995. In the second wave, the obligation of monitoring actual results of the adopted regulations was introduced. Finally, in line with European and global trends, in the second half of the nineties Sweden started its own program to reduce administrative burden through the regulatory "guillotine". According to the ambitious Action Plan adopted in 2007, administrative burden had to be reduced by 25% until 2010. Although the outbreak of the global economic crisis to some degree made achieving the objective more difficult, satisfactory results were achieved completing an image of Sweden as one of the leading countries in regulatory reform.



3.2 Netherlands

The Netherlands, quite rightly, has the reputation of a pioneer in the field of regulatory reforms aimed at reducing administrative burden. In addition to extensive reforms at the national level, the Netherlands can boast of a comprehensive reform program at the level of cities and municipalities.

Regulatory reform started in the second half of the nineties, with adopting a plan for decreasing administrative burden on the economy by 25% until 2002 compared to the level in 1994. Although the original plan proved to be too ambitious, and the deadline for achieving the objective was extended to 2006, the Netherlands showed its commitment to reforms and solid results from the beginning. A key role in that was the development of a methodology for measuring burdens - the *MISTRAL* system, from which the SCM Model was developed in 2002 and accepted throughout Europe.¹⁴ Hand in hand with the development of the methodology, the appropriate organizational structures to implement reforms were created. In addition to the special *Directorate within the Ministry of Economic Affairs* with the task of monitoring the implementation of reforms, the Netherlands has introduced an independent control body - *ACTAL*, which has an important advisory role and function of the "reviewer" of the achieved results. *ACTAL* also operates as a voice of the economy to the government by holding regular consultations with 500 Dutch enterprises of various sizes and industries.

¹⁴ The development of the *MISTRAL* methodology has been credited to Andre Nijssen, Dutch statistician and expert for the enhancement of regulation.



Picture 3: Internet site of Dutch ACTAL

The Netherlands is a good example of learning through practice. The original plan envisaged that most of the reduction of regulations and burdens is to be implemented only by the Ministry of Economic Affairs in its field. It turned out that the level of burden reduction that can be achieved only by one ministry is lower due to objective obstacles and that all ministries should be actively included in the process with their assigned tasks and reduction objectives. After that, the implementation of reforms was made significantly easier.

The Government of the Netherlands has also become aware of the need for introducing the RIA principles in order to prevent quashing reform impacts through new regulations. A comprehensive analysis of the proposed legislation, which covers not only the assessment of administrative burdens impact on the economy but on the environment as well, was conducted by an *inter-ministerial body* with broad powers to stop the adoption of regulations until their potential impact is investigated.

OECD marked the Netherlands as a country where the enhancement of regulations is "on a sustainable course, with new governments that take the initiative to expand the institutional and policy framework." Also, the Netherlands is "one of the most active participants in the development strategy for better regulations at the EU level."

The reform at the local level began in 2007 and a comprehensive program of the procedure simplification was completed in 2011, with smaller programs that have continued to present. In addition to the four major Dutch cities (Amsterdam, Rotterdam, Hague and Utrecht), which developed their own programs of regulatory reform in line with national goals, a motor of reform for dozens of small Dutch municipalities was *VNG - the Association of Netherlands Municipalities*. In addition to the successful simplification of procedures at the local level, *VNG* has developed a set of procedures (119) that municipalities can adopt as a model and thus "reap benefits" of the experience gained during the reform.



3.3 Portugal

Portugal is a good example of a country that has recognized the benefits of regulatory reform for citizens and the economy and did not hesitate to directly take over and apply all former positive experiences. The regulatory reform program at the central government level in Portugal, called *Simplex*, started in 2006 and has been implemented up to the present day, illustrating well the assertion that regulatory reform is a continuous and active process.

In line with the comprehensive approach, the reform includes both an "ex

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After the Portuguese Government demonstrated its seriousness that the planned measures are to be implemented, the business community has provided full support to the project, and a regular annual cycle was set - for each subsequent year of the reform implementation, the Government and the business sector shall carry out the plan and identification of priority measures.

ante" preventive component, and an "ex post" subsequent component of the simplification of regulations and procedures. Preventive component led to the introduction of the "Simplex Test" prior to adopting regulations at the level of central government, which was based on the RIA principles and Standard Cost Model, which have been adapted to the environment of Portugal. On the other hand, "ex post" component in the first phase envisaged 333 simplification measures, focused on six main areas, among which of a particular importance to the economy is the elimination of the necessity to obtain certificates, then the transition to electronic administration, the elimination of bureaucratic procedures and general deregulation in the sphere of permits and inspections.

After the Portuguese Government demonstrated its seriousness that the planned measures are to be implemented, the business community has provided full support to the project, and a regular annual cycle was set - for each subsequent year of the reform implementation, the Government and the business sector shall carry out the plan and identification of priority measures. By 2012, the number of implemented or initiated simplification measures exceeded 800. Two bodies are responsible for the implementation - *the Office of the Secretary of State for Administrative Reform*, in charge of broader strategy and providing political support and the *Agency for Administrative Modernization (AMA)*, which is responsible for the technical aspects and coordination with various national authorities.



Portugal is one of the countries that recognized the necessity for regulatory reform at the local level as well. Two years after the start of Simplex reform program, the *Simplex Autarquico Program* directed towards local self-governments was initiated. Cities and municipalities have voluntarily joined the program to the extent they found it beneficial, with the support of the Portuguese Association of Local Self-Governments which, in cooperation with the central government, joined the programme as well. The implemented reforms have primarily an "ex post" character in terms of simplification of existing regulations. For easier implementation, they have been grouped in a sort of "clusters", in order to achieve a specific goal, such as a group of measures for introducing electronic filing of documents by enterprises. Although in 2008 the program started in only 9 Portuguese municipalities, by 2011 this number grew to 125 by the "avalanche" effect, with as much as

748 various groups of measures that are available to cities and municipalities for adoption. *The Simplex Autarquico* is still being implemented, as well as the national *Simplex program*. On the basis of these reforms, the capital Lisbon has developed its own comprehensive program *Simplis*.



3.4 Great Britain

Great Britain is characterized by a strong commitment to ex-ante analysis and planning the adoption of regulations in a way that least burdens the economy, with the adoption of proven comparative methods for the simplification of regulations. The application of RIA is required for the adoption of all regulations relating to the economy, associations and charitable organizations, as well as those affecting the operation of schools and hospitals.

Especially important segment are small and medium-sized enterprises and entrepreneurs - consultation with them is required in the process of RIA, as well as publishing guidelines on the implementation of the future regulations, written in plain language and at least 3 months prior to the entry into force of the planned regulation.

A unique feature of Great Britain is the system of compensatory simplification - for adopting any new significant regulation it is necessary to simplify existing regulation and at the same time maintain administrative burden unchanged.

In the domain of "ex post" simplification, Great Britain started the application of proven solutions - even in the nineties the Dutch SCM methodology was adopted, and in 2005 and 2006 a comprehensive analysis of the initial condition was conducted, and widely implemented goal to reduce burden by 25% was determined. This goal was achieved by 2010, with total savings estimated at over 4 billion



pounds. A special inter-ministerial body was established to monitor and maintain the achieved results and new initiatives as well. Comprehensiveness and efficiency of the reforms have brought Great Britain recognition from the OECD, and the entire process has strong political support, regardless of the ruling party.

According to the OECD (OECD, *Reviews of Regulatory Reform: United Kingdom 2002*, p. 44), in this country "the wide scope of reforms is impressive", and the Great Britain presents "a stimulating contrast of tradition and modernity which is reflected in a mature but innovative regulatory system."



3.5 Belgium

Belgium is a good example of reforms aimed at improving the way of the adoption of regulations and cooperation with the economy in identifying problems. Regulatory reform in Belgium is symbolically called "Kafka" and includes several segments that commenced in 1998. That year, the key agency for implementing reform - Agency for Administrative Simplification (*Agence pour la Administrative Simplification*) was founded and the process of improving regulation started. The agency has a high degree of autonomy in its work and actually initiates, coordinates and measures the success of each of the concrete projects of regulatory reform. In the Agency Supervisory Board, which is not often the case with government bodies, representatives of associations of employers are also included.

Each proposal of regulation relating to the business community (which is about 20% of the total number of proposals) is subjected to a preliminary "Kafka" test, which is actually somewhat simplified RIA method applied in other countries.

To successfully pass this test is a necessary requirement to have a proposal put to the *Belgian Council of Ministers* to be further considered. Since 2003, reforms have expanded towards methods relating to citizens and in that sense a special Agency Department was formed.

Regulatory reform has been extended to the area of already adopted regulations through the adoption of "Kafka" plan aimed at 12 strategic areas. Every competent ministry received specific goals to be achieved, as well as concrete deadlines. About 200 reform initiatives were initiated on the basis of proposals and information received from the businesses and citizens, delivered through "Kafka" website (www.kafka.be), intended for communication with those to whom reforms mostly relate to.



3.6 Estonia

Estonia is perhaps the best example of a small and not very resource-rich country, which, primarily by means of the innovative usage of information technology with the aim of reducing bureaucracy, gained a reputation as one of the countries with the best business environment in Europe and globally.

After a complicated and challenging transition from the Soviet model of economy and administration of the nineties, at the beginning of the last decade Estonia started with progressive measures towards a better busi-

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In 2010, ESTONIA introduced a system of electronic submission of annual financial statements with the parallel legal ban on state authorities to require from a business entity to submit again any of the data already given in any other procedure. All collected data is automatically transferred into the statistics central data base, available to other organs at the same time. The European Commission declared such solution the best comparative practice and recommended its adoption to all EU Member States.

ness environment. To this end, Estonia was one of the first countries in the EU, which in 2005 accepted the mentioned SCM method of measuring administrative burdens and implemented it in the field of regulations pertaining to businesses. In 2008 this was followed by a comprehensive program of simplifying business regulations, introducing RIA for all significant legislation and targeted programs of reducing administrative burden in terms of 32 the most demanding procedures in 4 areas (licensing, construction, the environment and state benefit). As of 2010, biennial measurements of administrative burden trends have been conducting in these areas.

A real "crown" of Estonian reforms is e-government. Starting in 2000, Estonia has introduced dozens of various sites, portals, and in general, services intended for easing bureaucratic procedures and other activities for businesses and citizens. Thus, Estonia became the first country in the world to allow voting in the parliamentary elections by electronic means in 2005, and in 2011 a quarter of citizens who were voting in the elections voted in that way. E-government solutions are increasingly being transferred to the local level, particularly in the capital city of Tallinn and in Tartu.

In the area of business environment, a great example is the site www.eesti.ee, in which an economic entity can perform 80 different procedures electronically, and as the pinnacle of efficiency stands out the fact that the company may be established by electronic means for a total of 18 minutes!

It is no wonder that there are different recognitions addressed to the Estonian e-government system. In 2010, Estonia introduced a system of electronic submission of annual financial statements with the parallel legal ban on state authorities to require from a business entity to submit again any of the data already given in any other procedure. All collected data is automatically transferred into the statistics central data base, available to other organs at the same time. The European Commission declared such solution the best comparative practice and recommended its adoption to all EU Member States.



3.7 European Union

Efforts to reform the implementation of regulatory reform did not remain limited to the EU Member States. The EU as a unique supranational creation with extensive legislative powers is

also an extremely important player in terms of administrative burden on the economy. At the EU level, proposals for regulatory reform started in 2001, and in particular are connected with the work and principles of the so-called *Mandelkern Group*, which have already been discussed. The most important activities started in 2007 when the European Council made the ambitious Action Plan to reduce until 2012 administrative burden on the economy stemming from EU regulations, i.e. by around 31 billion euros. It is evident that the Dutch experience was the inspiration for the selected percentage of the desired reduction and planned application of the SCM methodology.



Implementation of reforms at the EU administration level is additionally complicated process in comparison with the national level, primarily due to the cumbersome, multi-national institutional structure and the need for recognition of a significant number of political influences and compromises. For the implementation of reform, it was necessary to adopt 72 different European legal acts in the five-year period, which was achieved, but a complicated political process also took a particular toll.

Results in EU: When the adopted measures are fully implemented in practice, achieved savings will be over 37 billion euros, which represents a saving of 30.5% of the initial burden. It has been also estimated that the adopted measures could in the future lead to a significant increase in the EU economic activity and thereby bring an additional 150 billion euros to the European economy.

According to the European Commission estimates, the political necessity of accepting the amendments in relation to the optimal suggested solutions reduced the total amount of planned savings by around 3 billion euros. Nevertheless, the reform achieved impressive success and exceeded its plan, noting at the same time that the full implementation of adopted solutions has still lays ahead.

Although this program of the EU reform has been to a great extent completed, there is no intention to finish the process of regulatory reform in the EU at that stage. The European Commission in this regard started the program "EU Regulatory Fitness and Performance" (REFIT) aimed at permanent monitoring of regulation and proposing new measures of simplification and savings.



3.8 United States (USA)

If the Netherlands is a pioneer in the field of "ex post" simplification of administrative procedures, the United States are a pioneer in the sphere of applying the smart regulation principles in the phase of their adoption. The emergence of the RIA principle is associated with the 1970's in the United States, whose legislative process up to present has been characterized by the rigorous application of cost-benefit analysis in the prepared laws and bylaws.

For example, the US pays special attention to avoiding the negative impact of administrative burden on small and medium enterprises. Thus, in 1980 *the Regulatory Flexibility Act* was passed, and according to this Act the federal agencies, which bring the largest part of regulation, are required to consider all potential economic consequences that certain proposed regulation may have on small and medium enterprises and entrepreneurs. In the same year, a body responsible for coordinating and monitoring efforts in the creation of smart regulation was established - *the Office of Information and Regulatory Affairs*, within the administration responsible for management and budget.

In line with global trends, initiatives to reduce the "ex post" administrative burden have been launched in the United States. Retaining on the example of small enterprises, in 2002 an act appropriately called - *Small Business Paperwork Relief Act* was passed. In addition to simplification of requests and forms, the federal agencies were instructed to develop a more advanced system for providing information to assist small businesses in meeting their obligations. Logically, Internet sites have a huge role in this and are especially prominent in accordance with the *Paperwork Reduction Act*. According to the official website of the US government www.howto.gov, those are, for example, the site of the *Office of Small and Disadvantaged Business Utilization* (www.osec.doc.gov/osdbu/), as well as a portal of the *US Environmental Protection Agency* dedicated to small enterprises (www.epa.gov/osbp/).



3.9 Australia

In Australia, we can identify three waves of reform: in the eighties, the legislative framework was promoted so as the economy could better cope with foreign competition; in the nineties, like in Sweden, there was a significant liberalization of competition in the internal market, and the first decade of the 21st century was marked by reforms aimed at reducing administrative burden on the economy.

Australia, according to the OECD, is one of the countries with the most mature system of regulatory governance and with an enviable tradition and results in improving the economy through regulatory reform.

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In the RIA domain, the OECD estimates that AUSTRALIA from all OECD countries has the most rigorous application of RIA system in practice. Besides its implementation at the federal level, RIA is implemented in all federal units, and the plan is that this assessment should be introduced in the practice of absolutely every authority that adopts legally binding regulations.

Estimates are that the strengthening of freedom of competition in the nineties in Australia brought on an average of app. 2.5% increase in GDP. With such successful results, the Australian Government, regardless of political option, has continued with various reform programs. In addition to efforts aimed at further strengthening of competition and the creation of single market (due to the division of Australia into federal units), programs for the RIA principles implementation and reducing administrative burden are particularly important. Apart from that, the most recent examples include introducing "one-stop-shop" system for the economy and various forms of e-government services for citizens.

In the RIA domain, the OECD estimates that Australia from all OECD countries has the most rigorous application of RIA system in practice. Besides its implementation at the federal level, RIA is implemented in all federal units, and the plan is that this assessment should be introduced in the practice of absolutely every authority that adopts legally binding regulations. RIA in Australia is based on the OECD best practice (in whose formulation Australia also participated) and on the so-called principles of *the Council of Australian Governments* (COAG principles) that include detailed empirical RIAs, broad consultation with all interested parties, regular application of cost-benefit analysis, independent review of the implemented RIA and the growing insistence on the subsequent monitoring of regulatory impact in practice.



3.10 Mexico

Regulatory reform in Mexico is a successful example of "reform competition" among

different territorial units, along with the implementation of appropriate systems of measuring the success of reform, which together lead to accelerated reforms. Although Mexico started some forms of regulatory reform even in the eighties and continued in the nineties, the quality of the business environment (measured primarily by Doing Business indicators of the World Bank) did not satisfy the capacity and ambition of Mexico in the beginning of the new century. A particular problem was the unstable political situation, where it was not possible at the national level to propose and implement extensive reforms due to political resistance and the constant threat of early elections.

The solution was to use the reform potential of Mexican federal states, in combination with initi-

ating a specific, competitive-minded approach to regulatory reforms. In 2005, in cooperation with the World Bank, a special sub-national *Doing Business Report* was made for 12 Mexican states, besides the capital Mexico City, and then for all 31 states. Reports assessed a number of indicators of the business environment, such as time and costs of starting a new business and property registration. By 2009, over 90% of the Mexican states implemented regulatory reforms in key areas, and to date, 20 states (65%) established their own bodies for further regulatory reform.

Mexico: The result of the national Doing Business Report was unexpectedly successful and has led to further reforms; that happened because the federal state governments had to seriously ask themselves and then to justify why certain procedures in some of these states (and within the same national laws) sometimes cost 10 times more or last 5 times longer when compared to the Mexican states with the most efficient administration.

As an additional success, reforms at the level of federal states had reverse influence at the national level. As the trend of regulatory reform has become generally accepted, the political resistance at the national level stopped, and in 2009 Mexico launched an ambitious regulatory reform project, with the aim to further advance its ranking on the global scale of the business environment quality. Some of the examples were the creation of the Internet "one-stop shop" system for a range of procedures that require the coordination of the national and local levels. The result arrived relatively quickly - Mexico from the 56th position in the Doing Business Report 2009 moved up to the 48th position in DB Report 2013.



3.11 Arab countries

Starting from 2004 and the OECD and UNDP incentives in this regard, various Arab countries have set as a priority administrative simplification and the introduction of e-government, all that with the aim to make necessary reforms in the public sector. The process has been institutionalized to some extent through the establishment of the Working Group chaired by the United Arab Emirates with a co-presidency of Italy and Korea, and with the task of defining concrete national plans in Arab countries, co-ordination of regional actions and exchange of experience. Both before and after the so-called "Arab spring", coun-

tries of the Middle East and North Africa have been trying to change the negative image of the slow and often corrupt administration. In Egypt, the business procedures reform was implemented at the national level in order to introduce e-governance to the maximum possible extent. In Lebanon, in addition to simplification of procedures at the national level, a pilot project of regulatory reform was initiated at the local level and in the capital Beirut. Tunisia was one of the first Arab countries that introduced the "one-stop shop" system for business procedures, with special emphasis on the legal framework simplification with regard to establishing new enterprises in the tourism and catering sector.

” MEXICO:
By 2009, over 90% of the Mexican states implemented regulatory reforms in key areas, and to date, 20 states (65%) established their own bodies for further regulatory reform.

4

REGULATORY REFORM IN THE WESTERN BALKANS

Regulatory reform, whether at national or local level, is not unknown in the Western Balkans.



In the period from 2000 to the present, in all the countries of the Western Balkans one or more of reforms were implemented at national and/or local level. All the Western Balkan countries have recognized the fact that the complicated business environment prevents new investments, domestic and foreign, and therefore the further economic development. Faced with various challenges in the transition process, the impoverished countries in this region have seen regulatory reform as one of the possibilities for faster approaching the desired models of efficient administration and market economy. Foreign partners such as the World Bank (WB), the International Finance Corporation (IFC), the Swiss State Secretariat for Economic Affairs (SECO), the US Agency for International Development (USAID), the Swedish International Development Cooperation Agency (Sida) and other Western donors, had a similar attitude and provided support to reforms. As a result, the significant experience on regulatory reform has been accumulated.

Given the similarity of administrative systems, existing challenges and implemented solutions, a comparative review of regulatory reform in the Western Balkan countries can be of significant benefit in analysing current events and potentials for the future.

” Faced with various challenges in the transition process, the impoverished countries in the Western Balkan region have seen regulatory reform as one of the possibilities for faster approaching the desired models of efficient administration and market economy.

4.1. Regulatory reform and RIA at national level



4.1.1 Serbia

4.1.1.1 Comprehensive regulatory reform

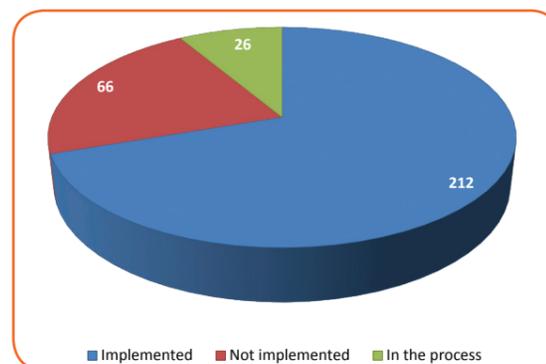
Comprehensive Regulatory Reform - CRR represented the first systematic "guillotine" project at the national level in the Republic of Serbia. Envisaged in the Regulatory Reform Strategy for the period 2008 - 2011, this reform was implemented in 2009 with the aim to facilitate the business entities operation. CRR was part of a project realized with the support of the Swedish International Development Cooperation Agency (Sida), the World Bank, the World Bank Institute and the International Finance Corporation.



Methodologically, CRR followed the best comparative practice, which was based on the collection of data and recommendations from government authorities and the business community. After receiving from the state bodies a list of regulations, so-called the Inventory of regulations and recommendations of stated actors, the CRR Unit that actively supported the implementation, shaped the concrete recommendations for repeal and amendment of regulations.

This process resulted in mapping of more than 5,500 regulations (laws and bylaws) and a proposal to amend about 1,500 regulations, through 340 specific recommendations. Recommendations were submitted to the Government, where on two occasions a total of 304 recommendations were adopted. According to the latest data for the third quarter of 2014,¹⁵ 212 recommendations were fully implemented, and another 26 are being implemented, while 66 recommendations were not implemented.

¹⁵ NALED, III Quarterly Report on the Status of Reforms in 2014: "The Last Beacon of Regulatory Reform"



Graph 1: Status of CRR initiatives

4.1.1.2 Regulatory impact assessment introduction

Regulatory Impact Assessment in Serbia has been implemented for a number of years. The beginnings in this regard can be referred to the year 2002, when the *Inter-departmental Working Group for Deregulation* was formed, which in 2003 was transformed into the *Council for Regulatory Reform*, whose role was to give initiatives and proposals for amendment of existing and adoption of new regulations, to prepare previous opinions on draft regulations and general acts considered by the committees of the Government of the Republic of Serbia, in the part relating to the important issues for the operation and development of private entrepreneurship and enterprises.

In early 2004, the Government Rules of Procedure introduced the obligation for the regulatory bodies to submit, together with the proposals of law and other acts, a report on justifiability, drawn up in accordance with the relevant OECD checklist. This was a simplified form of RIA, but the relevant bodies and ministries did not have enough capacity even for such a simplified form. This has resulted in relatively superficial and only formally prepared analyses. Therefore, within the existing *Council for Regulatory Reform* (which from 2005 has become responsible for the control of completed analyses), the *Secretariat* with the task of technical and professional assistance to ministries and other bodies was established. The introduction of obligation for implementing RIA has been accompanied by training programs of public employees on the RIA implementation, appropriate manual and presentations, and well as by developing the Council website, which has significantly contributed to the transparency of the procedure.

The first pilot regulatory impact assessment was prepared and implemented in 2004, while attempting to reform registration of enterprises. At that time, enterprises were registered in commercial courts and a significant problem in their registration was to obtain previously issued licenses to conduct activities from inspection bodies. The fastest and simplest solution, proposed by the RIA pilot, is that the previous inspection supervision (a condition for registration of enterprise), should be replaced by the regular inspection supervision after the establishment of an enterprise. This intervention has had a major positive effect by reducing the time needed to register an enterprise.

Upon completion of the CRR project, the *Office for Regulatory Reform and Regulatory Impact Assessment*, founded in 2010, has assumed to continue performing the activities of Unit for CRR. As from the second half of 2014, the *Republic Secretariat for Public Policy* assumed the activities of the Office.

The role of the Office for Regulatory Reform and RIA, and subsequently of the Republic Secretariat for Public Policy, among other things, consists in giving opinions about the completeness of the regulatory impact assessment content, which must be attached to the draft law by the applicant. It also provides opinions on whether it is justified if the draft law does not contain any impact assessment. In addition, the Secretariat gives suggestions and proposals to the regulation processing body, with the aim to make the best possible regulation assessment. Every opinion shall be published on the Secretariat website (www.rsjp.gov.rs). By April 2015, the Secretariat, the Office and the Council gave their opinion on 873 regulatory impact assessments that had been made, starting from 2005.

EXAMPLE OF GOOD RIA IN SERBIA:

Excerpt from RIA on the Law on Companies 2010

Source: <http://www.rsjp.gov.rs/primeri-dobre-prakse-analize-efekata-propisa>

Before drafting the new Law on Companies, the impacts of the applicable Law on companies were analyzed in detail, as well as the impacts that have occurred in practice since the beginning of the said law implementation. Also, analyzed legal solutions were used, as well as the experience of countries in the region, international experience, and experience of experts (judges of commercial courts, lawyers, auditors, economists), who in the previous five years were applying the Law on Companies. Statistically different data was collected. The Working Group began its work analyzing over a hundred questions and proposals made by judges, lawyers and businessmen. Some of the solutions are the result of further intensive consultations and focus groups held with judges of commercial courts, lawyers and auditors, and some of them are a result of the public debate.

It is also important to note that the amendments to the Serbian Government Rules of Procedure of October 2004 introduced the obligation of performing the regulatory impact assessment (RIA) of laws and bylaws

Comprehensive regulatory reform in Serbia resulted in mapping of more than 5,500 regulations (laws and by-laws) and a proposal to amend about 1,500 regulations, through 340 specific recommendations.

affecting the business environment. Unfortunately, the obligation of performing RIA for the subsidiary legislation was cancelled in 2006. One of the consequences of applying RIA only on the laws has been more complicated bylaws, whose implementation additionally burdens the business world.

*Study on the Improvement of the Legislative Process in Serbia*¹⁶ has indicated that for the quality of regulation it is necessary to ensure respecting the RIA principles, and in particular the principle of: *necessity, effectiveness, cost-effectiveness and proportionality*. Although some improvement in mechanisms of drafting regulations has been made, it can be concluded that there is still much to be done in their advancement, along with the appropriate implementation of instruments and standardized models of regulatory impact assessment. One of the ways is to introduce RIA at local and provincial level (discussed below).

4.1.1.3 Other initiatives

- Since 2001, the **US Agency for International Development - USAID** has been making great efforts to implement activities aimed to support the strengthening of economic and democratic capacities of Serbia. Advocating for the implementation of regulatory reform is only one of a series of USAID engaging in Serbia.

The five-year USAID Business Enabling Project - BEP (2011-2015) was launched with the aim to assist the Serbian Government in creating the environment for a competitive economy, improving public financial management and strengthening capital market. As of March 2015, BEP activities resulted or contributed to a series of national-level regulatory reforms, among which in particular the elimination of 138 para-fiscal fees, adoption of new laws on labor, factoring, and planning and construction as well as the creation of the Action plan for implementation of the Strategy for Development of Entrepreneurship and Competitiveness.

Sources: 1) www.usaid.gov/where-we-work/europe-and-eurasia/serbia
2) www.bep.rs

- **German Organization for Technical Cooperation GTZ, and as from 1 January 2011, German Fund for International Cooperation - GIZ**, be-

¹⁶ Study on the Improvement of the Legislative Process in Serbia / Dobrosav Milovanović, Nemanja Nenadić, Vladimir Todorčić; comparative analyses Ksenija Mihovar Globokar, Bastian Jantz, Vedran Đulabić. - Beograd : Deutsche Gesellschaft für Internationale Zusammenarbeit(GIZ), 2012

gan its work in Serbia in 2000 by supporting the government's efforts at enhancing the market-economic framework.

Legal Reform Project in Serbia (2011-2018) was launched with the aim to improve the overall *legislative process, popularize laws in the field of commercial and civil law, and successful implementation of regulations*. It has been planned that by 2018 the GIZ project team continuously provides a platform for the transfer of German, European and regional experiences in these segments. The Draft Law on Inspection Control was prepared in cooperation with GIZ. In April 2013, a Memorandum of Cooperation with the Ministry of Justice of the Republic of Serbia was signed with the aim to expand this project to the judiciary. GIZ has provided a significant support to establishing a system of private enforcement agents and introducing the notary public system, as well as to adopting the Civil Procedure Law, the Law on Public Property and the Law on Public-Private Partnership.

Source: www.giz.de/en/worldwide/303.html

- **National Association for Local Economic Development (NALED)** in 2008 launched "Out of the Maze" campaign, whose aim was to draw the attention to bureaucratic barriers that hinder the development of the economy in Serbia or cause damage. Several years ago, NALED published the so-called Grey Book with suggestions and recommendations for eliminating and improving regulation, which are based precisely on the experience of businesses. Also, NALED in its overview of the status of regulatory reform, among other topics, has monitored the implementation of the recommendations adopted during the CRR project. In 2012, the government, at the initiative of NALED, abolished 138 para-fiscal levies.

Source: www.naled-serbia.org



4.1.2 Bosnia and Herzegovina

4.1.2.1 Reforms at state level

Bosnia and Herzegovina as the state, legal system and business environment is characterized by heterogeneous system, which implies the division into two main entities - the Federation of Bosnia and Herzegovina, the Republic Srpska, and the Brčko District. The complexity of such a system requires different reforms at all levels of the government, and thus represents a significant challenge for the government

authorities. Further, the Federation of Bosnia and Herzegovina is characterized by a relatively complicated system of interior organization (10 cantons in the Federation of Bosnia and Herzegovina with their own constitution, laws, government and ministries), which all together causes additional complexity to doing business. Also, a significant problem in applying regulation constitutes a conflict of jurisdiction between the authorities at different levels, as well as the contradictions that exist between the regulations governing the same subject at different levels. Similarly, reforms must also be implemented at several different levels, which significantly complicate their implementation, coordination and duration.

One of the earliest initiatives for improving the business environment in Bosnia and Herzegovina was the so-called "Bulldozer Initiative" of 2002 and 2003. The initiative was launched by the *Office of the High Representative in B&H (OHR)*. Its coordinating body consisted of representatives of the European Commission, IMF, World Bank and USAID. The reforms were focused on the state level of B&H and 50 economic reforms in 150 days were ambitiously envisaged. Although this goal was not accomplished, significant results were achieved in the domain of enterprise registration, a unique Registry of Enterprises at the state level and amended Law on Construction and Building Land. In addition, the project has resulted in series of useful recommendations for changes at the entity level, such as facilitating business operations to foreign investors and avoiding double taxation. Although the scope of this reform has been limited, studies have shown that it resulted in shortening the enterprise establishment procedures, reducing a total number of burdens on the economy and improving the single market functioning.

Reforms in this case have come "from the field" by people who in their daily practice have been facing numerous administrative barriers of economic and political nature, which hinder their business. More than 80% of the proposed reforms have been adopted in the framework of this initiative. Creating the same conditions for business operations in both entities, simplification of business travel procedures, removal of double taxation, the abolition of provisions according to which the offices of foreign companies must be registered in both entities and changes in regulations relating to the use of building land are just some of the implemented reforms.

At the state level, the reform process has continued primarily in the RIA domain. In 2005, *Uniform rules for drawing up legal regulations in B&H institutions* were adopted, according to which a certain form of RIA was required with an explanation, although not in strict form. In 2007 and 2008, regulatory impact assessment was applied while implementing several different directives in terms of the Bologna process. One of the most famous cases is the use of RIA process at amending the Law on Foreign Investment Policy, as regards the registration of foreign investors. The process lasted from 2007 to 2010 and ended with the adoption of amendments based on the conclusions of a report on performed RIA. Significant institutional progress was made in 2011, when the *Department of Regulatory Reform at the Ministry of Foreign Trade and Economic Relations of B&H* was established.

A significant impulse to the RIA application was given in 2012 and 2013. In 2012, when the RIA methodology was applied, the administrative procedures in the jurisdiction of the B&H institutions relating to the import/export busi-

“ The reforms were focused on the state level of B&H and 50 economic reforms in 150 days were ambitiously envisaged. Although this goal was not accomplished, significant results were achieved in the domain of enterprise registration, a unique Registry of Enterprises at the state level and amended Law on Construction and Building Land. ”

ness were laid down and analysed. A detailed qualitative and quantitative analysis was conducted, and recommendations for simplification were prepared. On the basis of these recommendations, in 2013 the simplification of procedures at the level of the Ministry of Foreign Trade and Economic Relations was made. In addition, an electronic registry of administrative procedures was introduced in this Ministry. It is the first registry of this kind at the state level in Bosnia and Herzegovina, covering the activities of the Ministry and the Veterinary Office as well.

In 2012, RIA was initiated on the Law on Direct Foreign Investment Policy of B&H in the areas of protection of investors, disputes settlement and safety of investments. The B&H Council of Ministers adopted the report and conclusion to form the Working Group, with the aim to implement amendments to the Law governing these fields in 2013. A particularly important step is the adoption of the *Decision on the Method of Preparation, Impact Assessment and Policy Selection in the Process of Drafting Acts*, proposed and passed by the Council of Ministers and other institutions in B&H. Public debate at the state level of B&H is mandatory for all draft laws in a minimum duration of 21 days.

4.1.2.2 Reforms at the entity level

a) Federation of Bosnia and Herzegovina

In the Federation of B&H, the work on regulatory reform was carried out on several tracks. In the period from 2008 to 2010, a comprehensive reform of the regulations governing the inspection activities was performed, and it resulted in amending 16 laws and introducing the electronic registry of regulations governing inspections activities (www.fuzip.gov.ba).

As of 2009, a significant step in the reform of administrative procedures at the Federal level has been made. With continual support of the International Finance Corporation (IFC), a comprehensive identification of procedures within the competence of the FB&H administration was carried out - a total of 384 procedures.

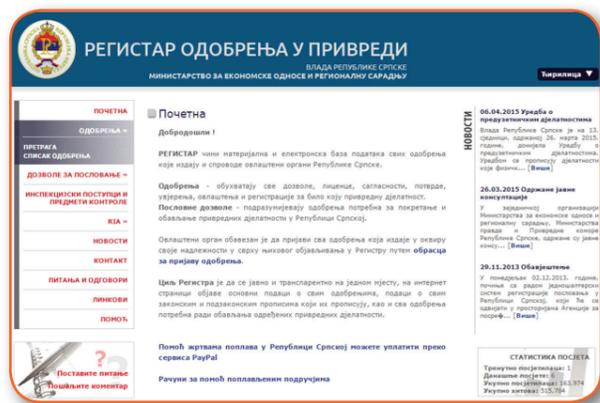
After a detailed qualitative and quantitative analysis, recommendations for simplifying 352 procedures were provided. Next year, 280 procedures were simplified, thus achieving savings of 92 million KM (47 million EUR). Of particular importance is the establishment of the electronic registry of administrative procedures at the FB&H level (www.fbihvlada.gov.ba) in 2011.

The continuation of activities on regulatory reform refers to the *Department of Regulatory Reform at the General Secretariat of the FB&H Government*, established in 2012. Accompanying activities were forming a group of trainers for regulatory reform in the Federation and initiating a series of activities to strengthen their capacities. Finally, the *Strategy for Regulatory Reform in the Federation of B&H* was adopted in 2013, with the plan of activities for the period 2013 - 2016.

Also, while implementing RIA for the Law on Enterprises, a draft of this Law was prepared and communicated to the parliamentary procedure. During 2013, 7 procedures from the jurisdiction of the FB&H Ministry of Energy, Mining and Industry were simplified, applying the same methodology. At the time of preparing this publication, the Government of the Federation of Bosnia and Herzegovina had already prepared the draft Regulation on the Application of Regulatory Impact Assessment, and initiated RIA on laws in the field of trade or tourism.

b) Republic of Srpska

In 2006, the Republic of Srpska launched the project "Regulatory Guillotine". One of the first steps was establishing the registry of procedures, approvals and inspection procedures, thus making available at one place all relevant information on administrative procedures that businesses need at the Entity level. Reform included the radical inspection system improvements. In total, over 150 administrative procedures and over 1,400 inspection procedures and control subjects were eliminated in the Republic of Srpska.



Picture 4: Internet site of the Registry in Republic of Srpska

According to the officials, direct savings in the economy amounting to about 3.2 million KM (cca 1.6 million EUR) were achieved, while indirect savings were 20 million KM (cca 10 million EUR).

Republic of Srpska adopted a set of 13 laws in 2013, with a goal to enable business registration within 3 days. This kind of comprehensive reform is the result of extensive RIA on the entire area of starting a business in the Republic of Srpska. The working group, consisting of representatives of 19 institutions, in a very short period, identified the problem and defined the options for the establishment of a single window, so-called "One-stop-shop" and for the improvement of the registration process.

In addition to the ex post simplification, the Republic of Srpska has achieved significantly more progress in the implementation of RIA at adopting regulations, when compared to the levels of B&H state and B&H Federation. In 2009, the Committee on Regulatory Reform was given the authority to apply the ex-ante regulatory impact assessment. In 2012 the Strategy for Regulatory Reform was adopted and the regulatory impact assessment was introduced for the period from 2012 to 2015.



4.1.3 Croatia

Croatian regulatory reform is characterized by an all-inclusive program of simplifying and reducing business-related regulations which unfolded under the name *Hitrorez* from 2006 to 2010. *Hitrorez* was an ambitiously conceived and conducted project that enjoyed broad political support and media attention, yet with the results considered controversial nowadays among the Croatian public.

A reform of such scale was initiated by the perception of the Croatian businesses and citizens that the existing regulations were too numerous and complicated, often outdated and corruption-friendly. Another important issue was the Croatian EU accession process, which called for considerable reforms and modernization of the legal system. Political support for the reforms resulted in granting a wide mandate to a newly established special unit for *Hitrorez*, as well as in a widespread media promotion which comprehended significant inclusion of businesses in proposing improvements.



Picture 5: HITROREZ media campaign

The very methodology of implementing the reform was based on proven solutions of regulatory guillotine which involved a detailed inventory of the existing regulation, verification of legality and justification of regulations' existence and providing recommendations to the Government of the Republic of Croatia for their enhancement, after extensive consultations with the private sector. In essence, the project envisaged the application of the Regulatory guillotine™ methodology and it was referenced as such in the instances of its application worldwide.¹⁷ Around 30 large meetings were held with the representatives of the business sector, with an estimated attendance of several thousand enterprises and entrepreneurs. Some 250 experts from Croatia

¹⁷ Regulatory guillotine™ - a legally protected concept of the consulting firm "Jacobs, Cordova & Associates". More details at: <http://www.e-guillotine.info/>

After a detailed qualitative and quantitative analysis, recommendations for simplifying 352 procedures were provided at the FEDERATION OF B&H level. Next year, 280 procedures were simplified, thus achieving savings of 92 million KM (over 47 million EUR).

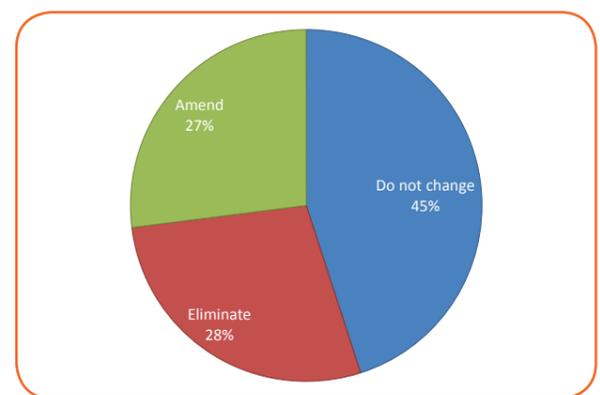
In total, over 150 administrative procedures and over 1,400 inspection procedures and control subjects were eliminated in the REPUBLIC OF SRPSKA. According to the officials, direct savings in the economy amounting to about 3.2 million KM (cca 1.6 million EUR) were achieved, while indirect savings were 20 million KM (cca 10 million EUR).

Within *Hitrorez*, around 30 large meetings were held with the representatives of the business sector, with an estimated attendance of several thousand enterprises and entrepreneurs. Some 250 experts from CROATIA and abroad took part in the very process of preparation of recommendations.

and abroad took part in the very process of preparation of recommendations. The aforementioned media campaign comprised TV commercials, news ads and billboards across Croatia.

All regulations that were not included in the electronic registry were automatically repealed, thus avoiding a waste of resources on removing every single regulation.

In order to achieve the speed and comprehensiveness of the reform, it was decided to create a single registry for all existing regulations, the final (and publicly available in an electronic form) version which included only such regulations that were assessed to comply with the criteria of being "smart" and fit for good business environment.



Graph 2: HITROREZ recommendations regarding business regulations

The final recommendations were grouped in three bundles. The first one referred to the measures the Government could carry out on its own, the second to those that required to be endorsed by the Parliament and the third represented the measures that had to be taken by regulatory bodies. Overall, elimination of 475 and simplification of 374 business-related regulations was proposed (55% of total number of regulations). Optimistic forecasts projected possible savings for businesses of around US\$ 300 million annually.

However, the implementation phase has seen resistance and standstill which resulted in only one third of the proposed number of regulations being implemented in total, with an estimated US\$ 66 million savings for the private sector. It was exactly such lack of results in the implementation phase that caused majority of public criticism. The prevailing perception was that the project, although undoubtedly useful, remained underutilised and that it was often used for promotional purposes of the

former Croatian Government instead. On the international plane, however, the project methodology gained recognition, where UNDP and EU commended the conducted reform and recommended it as an example of good practice. On the other hand, it is noteworthy to mention that *Hitrorez* is perceived to have been cancelled earlier than it was objectively needed, and that OECD had consequently lowered the rank of Croatia in measuring the quality level of the environment for small and medium enterprises.¹⁸

As the implementation of *Hitrorez* was drawing to its close, an extensive RIA rollout ensued, for the purpose of preventing a new aggregation of inadequate regulations. The special unit for *Hitrorez* was transformed in 2008 into the Office for Regulatory Impact Assessment – the *Office for Coordination of the RIA System which was merged into the Legislation Office of the Croatian Government* in 2009, which is still in charge of conducting assessments when passing laws. Besides, RIA departments were established in individual ministries, and everything was crowned by endorsing of the new Law on Regulatory Impact Assessment in 2012. The task of administrative simplification in Croatia was continued by the *Agency for Investments and Competitiveness*, which was also tasked with this assignment in 2012.



4.1.4 Montenegro

In 2002, Montenegro passed a relatively long-term *Administrative Reform Strategy* for the 2002 – 2009 period. Two main objectives were the improvement of the existing regulation coupled with deregulation in the areas considered burdened with regulations. Yet, the Action Plan for the conduct of regulatory reform was adopted as late as in December 2009, for the period until 2011. Such plan established three priority areas for the reform



Picture 6: Internet portal of Montenegrin Council (www.srr.gov.me)

18 OECD, *SME Policy Index: Western Balkans and Turkey 2012*, 2012, pg. 86-87.

– business environment, regulatory guillotine and application of the regulatory impact assessment. Likewise, the *Council for Regulatory Reform and Enhancement of Business Environment* was set up in December 2009, as a successor of the *Council for the Removal of Business Barriers*, which has been known as the *Council for the Improvement of Business Environment, Regulatory and Structural Reforms* since 2011.

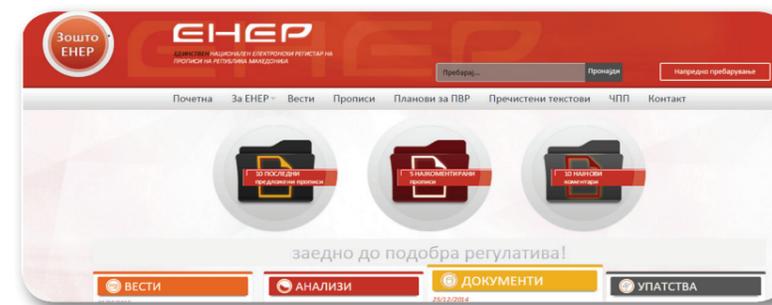
In cooperation with the *International Finance Corporation*, a systemic analysis of regulations and recommendations for their improvement was conducted in the said period. Based on the results of such project and the work of the Finance Ministry that ensued within the good governance project, funded by USAID, the final set of recommendations for simplification was prepared. Of total 1,887 recommendations for implementation, 1,446 were eventually adopted, related to laws and by-laws¹⁹

In the RIA domain, the *Strategy of Administrative Reform* envisaged the introduction of assessment on the level of central government until December 31st, 2009. Even though such initial plan had not been achieved, further steps to that direction were provided for in the Action Plan adopted in 2009. Following the execution of required technical and legal preparations, RIA was entered into the Montenegrin legislative system, by virtue of new Rules of Procedure of the Montenegrin Government of 2012. The introduction of assessment was followed by an intensive training of public employees, in cooperation with the International Finance Corporation and USAID. Since the introduction of the assessment requirement, more than 90 opinions have been rendered by the *Department for the Improvement of Business Environment within the Finance Ministry*, which assesses the analyses made by proponents of regulations.



4.1.5 Macedonia

The *Regulatory Reform Strategy* in Macedonia was primarily contained in the Government's Program for the period 2006 - 2010, accompanied with some segments included in the annual and EU accession strategies. Macedonia proceeded to a comprehensive regulatory reform, which involved reduction of the existing administrative burden, but also the introduction of principles of regulatory impact assessment when passing regulations.



Picture 7: Internet page of the Unitary national registry of regulations

The component related to simplification of the existing regulations was finalized by 2009 and it was headed by the *Department for Economic Policy and Regulatory Reform* within the Ministry of Economy, as well as by specially established bodies comprising the *Coordination Committee, the Regula-*

19 www.cb-mn.org/eng/slike_i_fajlovi/fajlovi/fajlovi_publicacije/preporuke/recommendations_to_the_government_2015.pdf

Following the execution of required technical and legal preparations, RIA was entered into the MONTENEGRIN legislative system, by virtue of new Rules of Procedure of the Montenegrin Government of 2012.

In the MONTENEGRIN reform, out of total 1,887 recommendations for implementation, 1,446 related to laws and by-laws were eventually.

The results of simplification of administrative burden in MACEDONIA are significant. Regulatory guillotine resulted in elimination of or amendments to several hundred regulations, including the elimination of 363 regulations dating back to former Yugoslavia times. As the final phase of simplification, an electronic registry of the applicable regulations was introduced.

tory Reform Committee and various working groups. A systemic analysis of the existing regulations, which was conducted as early as in 2006, encompassed all departments of the national administration.

The results of simplification of administrative burden in Macedonia are significant. Regulatory guillotine resulted in elimination of or amendments to several hundred regulations, including the elimination of 363 regulations dating back to former Yugoslavia times. As the final phase of simplification, an electronic registry of the applicable regulations was introduced, which had not existed before. The registry is located at <https://ener.gov.mk> and it is regularly updated not only with laws and other regulations but also with proposals of new acts.

The introduction of RIA principles in the Macedonian legislative system unfolded in two phases, though somewhat later compared to administrative simplification. The first phase consisted of a RIA pilot project in 2008 that applied the principles of assessment when drafting and adopting the Law on Court Fees and the Law on Waste. Following the experience acquired upon the introduction in 2008, further steps ensued the following year, through a set of trainings for public employees, elaboration of the official methodology and compilation of a manual on the implementation of the regulatory impact assessment. RIA is now officially prescribed for all draft legislations, save for those that are adopted under an urgent procedure.

A special *Department for Economic and Regulatory Reform* within the *General Secretariat* is in charge of RIA implementation, on the Government level, whereas on the level of each ministry, there are special officers who are in charge thereof. According to the data from 2011, as of the introduction of mandatory regulatory impact assessment in Macedonia, total of 170 assessments have been conducted, in adopting 82% of laws.



4.1.6 Albania

The regulatory reform in Albania is a process that was more resolutely launched in 2005.

A special Government Program for the 2005-2009 period has pinpointed the reduction of administrative obstacles to business activities and improved application of laws as priorities towards attracting a higher level of private investments.

Concrete plans, including both *ex post* and *ex ante*

regulatory reform, were worked out in a three-year *Action Plan for Regulatory Reform (2006-2008)*, and adopted by the *Council of Ministers* in 2005. The plan envisaged four major directions of regulatory reform, as follows: 1) elimination of administrative barriers to business operations and the overall simplification of business-related regulation; 2) improved preparation of new regulations through the application of RIA principles; 3) development of a system for long-term planning of legislation in order to avoid ad hoc solutions; 4) enhancement of mechanisms of public debate on legislative solutions.

As the body in charge of implementation, the *Working Group on Regulatory Reform* was set up. In the planned period, by 2008, significant results were achieved in the sphere of starting up new businesses, setting up firms and reforming the licences and permits issuance system. Upon the accomplishment of results in this area and the completion of the Action Plan in 2008, the reforms continued through the adoption of new *Government Program for the 2009-2013* period. This time, special emphasis was laid upon the reform of business inspections as yet another type of potential burden for businesses due to non-coordinated and non-transparent work.

At the same time, implementation of RIA principles in legislation was being done as well, which appeared to be a lengthy process in Albania. Besides a set of preparatory actions, such as trainings, compilation of studies and even partial application in particular areas, it was not before 2010 that a complete set of measures was adopted, involving pilot projects, trainings and guidelines for the application in practice. The same year, a relevant strategy was endorsed that envisaged further steps. The following year a so-called "light", simplified regulatory impact assessment ("light RIA") was adopted to be applied on the national level, subject to special tests for the laws related to SMEs. The introduction of full regulatory impact assessment was postponed until after 2013.

4.2 Regulatory reform on sub-national levels

4.2.1 IFC's "Sub-national Competitiveness Programme" in the Western Balkan countries

This program was conducted from 2007 to 2010 in 29 cities and municipalities in Serbia, Bosnia and Herzegovina, Montenegro and Albania and it was the first example of a systemic regulatory reform at local level

"In SEE transitional economies, the existing regulations and business formalities have a layered nature that increases the business risk and compliance costs due to limited access to information, a lack of transparency, an unequal interpretation and application and varying levels of discretion of the administration in a decision-making process.

An important lesson gained from the regulatory guillotine, conducted in the countries of the Western Balkans, is that the presence of a top-level "champion" of a reform is prerequisite for its success. The champion creates political room for the reform, inspires others to join the efforts and generally, boosts reforms. However, even champions need help. Political actors and mediators on lower government levels, and in reform teams, are equally important in that regard. On the other hand, business community needs to keep the reform on the radar and thus assist political champions and other key actors in shaping the business environment."

Margo Thomas, Manager of the IFC's "Sub-national Competitiveness Programme", Annual Conference of the South East Europe Regional Network of Policymakers, Podgorica, Montenegro, October 19-21, 2008. Published in Driving the Growth and Competitiveness Agenda in South East Europe, IFC/World Bank/SECO 2008, p. 10.

The project was conducted in 4 main phases:

Phase 1: Preparation of administrative procedures inventory	<ul style="list-style-type: none"> Local officials mapped all existing administrative procedures affecting businesses and citizens, and compiled all supporting documentation for the electronic Inventory of administrative procedures. Focus groups and workshops were convened for individual entrepreneurs, representatives of business associations, chambers of commerce, and civil society. The consultations produced feedback on the administrative procedures, along with recommendations for simplification. In each locality, a working group composed of officials systematically reviewed the inventory, and made recommendations for local and Republic level in terms of: the elimination or simplification of documents, submission forms and steps; elimination of information, shortened deadlines; reduction in related stamp duties and fees, elimination of administrative procedures etc. The working groups took into consideration the recommendations from focus groups and workshops, incorporating inputs of all stakeholders in the decision-making process. City and municipal authorities adopted recommendations and relevant legal acts; new Internet-based Registries of administrative procedures were established in each locality and a system of quality control was introduced to monitor new regulations.
Phase 2: Consultations with the business and civil sectors	
Phase 3: Analysis and preparation of recommendations	
Phase 4: Adoption and implementation of recommendations	

The regulatory reform on local level in the countries of the Western Balkans was conducted in:

Country	Montenegro	Bosnia and Herzegovina	Albania	Serbia	
Cities and municipalities	<ul style="list-style-type: none"> Bar Nikšić Bijelo Polje 	<ul style="list-style-type: none"> Mostar Banja Luka Novo Sarajevo Goražde Široki Brijeg Novi Grad Modriča 	<ul style="list-style-type: none"> Zvornik Doboj Tešanj Bihać Bijeljina Višegrad 	<ul style="list-style-type: none"> Drač Skadar Valona 	<ul style="list-style-type: none"> Zrenjanin Užice Vranje Kruševac City of Niš

Table 2: The overview of Western Balkan localities where local regulatory reform was implemented

in the Region. The program was implemented by the International Finance Corporation – IFC as a part of the World Bank Group, financially supported by the Swiss State Secretariat for Economic Affairs (SECO), the Swedish International Development Agency (Sida) and some local self-governments. From methodological perspective, the programme was based on the Regulatory guillotine™ solutions of the legally protected concept designed by the consulting firm Jacobs, Cordova & Associates.

The goal of the Project was to strengthen competitiveness of selected locations and provide assistance in attracting private investments through: 1) reducing costs and time required for the implementation of business administrative procedures, 2) enhancing capacities of local authorities for resolving administrative procedures and issuance of permits and 3) setting up a transparent and legally secure registry of administrative procedures that contains required information for businesses and general public.

“With the old method of work, each organizational unit within the administration focused on its competences and formalities in an exclusive manner. Legal requirements were applied through formalities that were conducted in a manner they themselves deemed appropriate, towards citizens and businesses. With the new system, we have brought all formalities together, and then analyzed them methodologically from the aspect of their costs, legality, and conformity to business operations and simplicity. Through this procedure, we realized that we had neglected to perceive certain formalities as our services and to present them to the public as such. That is how we arrived at a centralized methodology that enables us to perceive competences from the perspective of end users – citizens and investors”.

Ljiljana Vasojević Radovanović, Head of Information Technologies Department of the City of Banja Luka, Republic of Srpska

Pretty good results that have been achieved in Serbia and Bosnia and Herzegovina, and the interest shown by donors to support and co-finance further implementation of the regulatory reform at local level has resulted in commencing of new projects in both countries, relying on the experience and methodology developed during the period of implementing the IFC programme 2007-2010:

- Serbia: Improving Environment for Businesses at Local Level through Regulatory Reform (see more in section 4.2.2)
- B&H: Improving Business Environment in Bosnia and Herzegovina (see more in section 4.2.3)

4.2.2 Continuation of commenced reforms at local level in Serbia – SCTM/OPTIMUS PROJECT

The end of the IFC’s project at local level in Serbia did not mean the end of activities in this domain. On the contrary, it may be justly claimed that it represented the beginning of a new era in this area. Local organizations have become bearers of the reform, the territorial reach has expanded, and the very scope and methodology of reforms at local level have become enriched with new content.



Standing Conference of Towns and Municipalities

National Association of Local Authorities in Serbia

Recognizing the importance of regulatory reform for local economic development of cities and municipalities, the Standing Conference of Towns and Municipalities (SCTM), as one of important stakeholders, has been involved as a stakeholder, from the very start, in the IFC Project, which commenced in 2007. It was logical for SCTM, being the most relevant representative of local self-governments in Serbia, to become a bearer of the IFC’s exit strategy upon the project completion in 2010. A large amount of the acquired experience, data and the methodology applied (the already mentioned Regulatory guillotine™) has thus escaped being wound down together with the IFC project. By virtue of a Memorandum of Understanding, as a part of its exit strategy, IFC has transferred the entire methodology, know-how and its base of experts to the Standing Conference of Towns and Municipalities, thus creating a platform for the project’s sustainability and further implementation of regulatory reform in other local self-governments in Serbia.

The success of any intent or idea requires plenty of knowledge and a “little luck” to put together several pieces of a puzzle. SCTM’s vision about the need to pursue further reform, and its readiness to provide the required

know-how to that end, was the requisite first step. The following piece of the puzzle is OPTIMUS – Center for Good Governance, which contributed to the reform project with its expertise and experience, in the very matter that was directly relevant



The key contribution to the implementation of regulatory reform in Serbia has been made by the Swiss State Secretariat for Economic Affairs – SECO, whose financial support represents continuation of the Swiss state’s general support to the reform processes in Serbia. The project of SCTM and OPTIMUS has been recognized as a quality investment in better business environment and a successful continuation of all past endeavors to that end.

In particular, SECO Department for Economic Cooperation and Development is in charge of planning and implementing the economic and market policy measures in the developing countries, the states of Eastern Europe and Central Asia, and in new EU member states. SECO priorities are strengthening of competitiveness of the developing countries and introduction of versatility in their trade, activation of local and foreign investments, improvement of the basic infrastructure and promotion of tentative conditions for establishing a stable economy.

for the project implementation. OPTIMUS draws the experts with an extensive experience in the reform projects in Serbia, the Western Balkans region and wider, which created opportunities for improvement, as well as new ideas that can make the reform process far-reaching and all-embracing.

As a result of the partnership between SCTM and OPTIMUS, and owing to the support of Swiss State Secretariat for Economic Affairs - SECO, the current project “Improving Environment for Businesses at Local Level through Regulatory Reform” emerged. Total Project value amounted to EUR 1.16 million, and it is specific for the implementation of reforms in 16 local self-governments in Serbia, as well as a wide range of reforms conducted under its umbrella. The Project lasted from December 2011 until June 2015.

4.2.2.1 General goal

The Project’s goal is to improve environment for businesses at local level in Serbia through simplifying unnecessary, complicated and non-transparent administrative procedures and enhancing the general regulatory framework, striving to ensure a solid implementation of regulations in the future, and to prevent the adoption of regulations that would unnecessarily burden the business sector.

It may appear abstract, but the project’s goal actually refers to very specific quality indicators of a business environment – the transparency of information on business and administrative procedures, the required time, money and documents to complete a procedure, as well as (non-)existence of mechanisms for measuring the impact of new regulations upon the business environment. At the end of the project, the desired image in partners’ local self-governments was to be the following:

- 1) simplified and cheaper issuance of licences, permits, decisions and approvals upon the request of businesses;
- 2) created sustainable regulatory mechanism for passing high-quality local regulations that will ensure low costs and operating risk;
- 3) increased transparency and efficiency of local public administration through an electronic registry of all administrative procedures of the local self-government.

We could ask ourselves whether the project goal justifies the invested

“The end of the IFC’s project at local level in Serbia did not mean the end of activities in this domain. On the contrary, it may be justly claimed that it represented the beginning of a new era in this area. Local organizations have become bearers of the reform, the territorial reach has expanded, and the very scope and methodology of reforms at local level have become enriched with new content.

As a result of the partnership between SCTM and OPTIMUS, and owing to the support of Swiss State Secretariat for Economic Affairs - SECO, the current project “Improving Environment for Businesses at Local Level through Regulatory Reform” emerged.

funds, i.e. whether the problem to be addressed is so acute? Beyond any doubt, the answer is - YES. Constant complaints of the business community regarding the excessive and inefficient administration, Serbia's low ranking in the reports dealing with the quality of business environment, as well as the first-hand experience acquired during the implementation of the reform, show that local self-governments do have a fair share in creating a redundant administrative burden on economy.

The broader context that Serbia is positioned in should not be ignored either – the road to the European Union also carries strict commitments regarding the quality of administration and the conformity with the EU law. The quality of administration at local level is one of the topics of the EU negotiation chapters and that fact adds weight upon the already commenced and all future reforms.



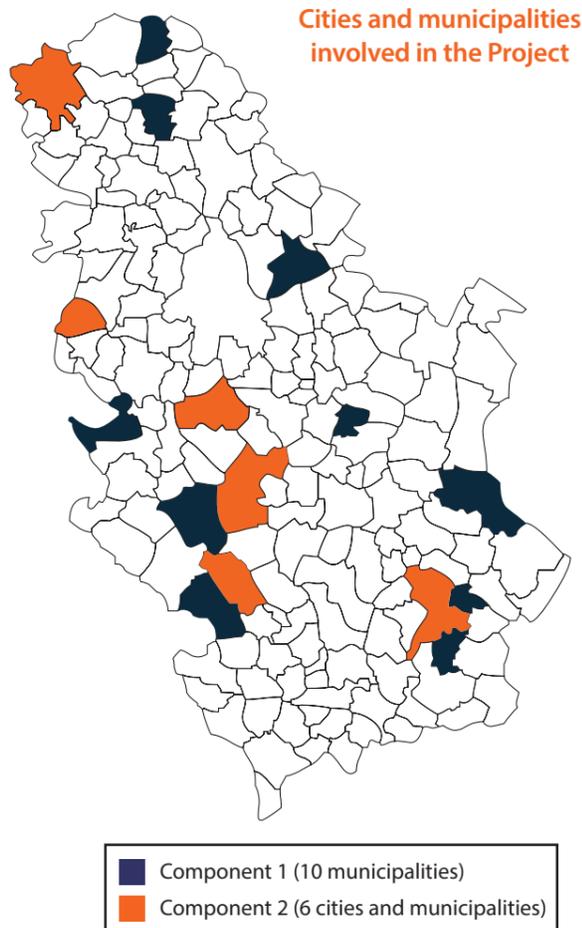
As a part of comprehensive reforms ignited by the EU accession, as well as by the expressed complaints and demands of citizens and

business community, the improvement of public administration and business environment appears to be an important step. SCTM and OPTIMUS, with the key support of SECO, have focused on the creation of a better business environment in cities and municipalities of Serbia through simplifying administrative procedures and creating "online" registry on their web pages. Complementary processes and institutions dealing with the regulatory reform are in place on the state level as well. Therefore, the project of improving the environment for businesses at local level may be observed as a part of overall efforts towards ensuring that the economy and citizens can reap the benefits of transparent regulations and efficient administration on all levels and all occasions.

Đorđe Staničić, Secretary General of SCTM and the project director

4.2.2.2 Project components

The project included two mutually independent components, where Component 1 was implemented by SCTM, while Component 2 was implemented by OPTIMUS – Center for Good Governance.



• Component 1

Component 1 includes the design of model packages for the implementation of 15 selected administrative procedures in 10 selected small municipalities across Serbia (Vladičin Han, Bajina Bašta, Knjaževac, Ivanjica, Kanjiža, Vlasotince, Kovin, Čuprija, Bečej and Tutin). It targets small municipalities that usually lack financial and human resources for the implementation of comprehensive and demanding projects, such as the regulatory reform.

An innovative approach to designing models for the 15 selected procedures within Component 1 enabled small municipalities to implement the regulatory reform by directly applying the developed models.

Each model of an administrative procedure is comprised of:

- proposed phases of an administrative procedure, proposed deadlines for the execution of individual phases, documentation and information submitted by clients, the Republic and local stamp duties, as well as the legal grounds;
- submission forms for clients;
- flowchart of the administrative procedures concerned, featuring also the proposed deadlines for each phase of the administrative procedure. The flowchart has been developed for the purpose of ensuring transparency and provision of detailed information to the client and/or as a guidebook for those employed in a local self-government related to compliance with a defined procedure.

In practice, the model implementation procedure is not based only on its mere adoption in local self-governments, it rather involves, after "capturing" the existing conditions, the process of participation and education of employees about the need and content of the reform to make the newly introduced solutions and simplifications accepted in practice and to ensure sustainability once the project has been completed. Likewise, mandatory consultations are held with businesses after which their suggestions are taken into consideration. As an additional step that secures sustainability, legal acts are passed whereby an obligation is created to observe newly introduced and improved administrative procedures.

By implementing all 15 simplified administrative procedures in 10 municipalities under Component 1, the following results have been achieved:

- an obligation has been introduced for the employees in local self-governments to obtain documents issued by the municipal administration at any time and *ex officio*;
- 262 redundant documents have been removed;
- unnecessary data required in submission forms have been eliminated;
- submission forms have been compiled anew and/or re-designed and improved to large extent, for all 15 administrative procedures in 8 municipalities;
- deadlines for full implementation of administrative procedures have been reduced in 71.9% procedures;
- total 2,42 million EUR of annual direct and indirect private sector cost savings have been achieved in 8 municipalities (SCM methodology used for calculation).

Besides, the process of evaluating the application and effects of adopting the model is of great importance, serving as a feedback for its further improvement and implementation in other municipalities. At the end of the process, the self-government's website is updated with an electronic registry of administrative procedures, improved according to the model, followed by the steps, phases, the amount of stamp duties, as well as the contact information of the persons in charge of a specific administrative procedure, which ensures the transparency of work.

• Component 2

OPTIMUS - Center for Good Governance implemented Component 2 of the project through a systemic regulatory reform of administrative procedures in 6 selected cities/municipalities, the introduction of the Regula-

“An innovative approach of developing a models for 15 selected procedures under Component 1 will allow smaller municipalities to implement regulatory reform through the direct application of the models.”

Total 2,42 million EUR of annual direct and indirect private sector cost savings have been achieved in 8 municipalities of the Component 1.



tory Impact Assessment (RIA) principles when passing local regulations, the introduction of an on-line registry of administrative procedures and the enhancement of capacities of the employees in local self-governments.

o Comprehensive reform of administrative procedures

As part of Component 2 of the project, OPTIMUS implemented a comprehensive regulatory reform of administrative procedures within the competence of the cities of Novi Pazar, Kraljevo, Leskovac, Sombor, Loznica and the municipality of Gornji Milanovac. The activities unfolded in phases that required different levels of participation of local self-governments and different profile of experts hired by OPTIMUS. It is significant that the process was conducted by a project working group in each local government, consisting of the employees in local self-government, supported by OPTIMUS. A permanent improvement of capacities of employees is thus performed, ensuring sustainability of the reform upon the project's cessation.

The reform process began with a detailed analysis of the existing situation – by making an inventory of the existing administrative procedures including their respective details. This, combined with additional data, enabled the conduct of a baseline economic analysis and represents a basis for preparing proposals for enhancing administrative procedures, local and republic regulations.

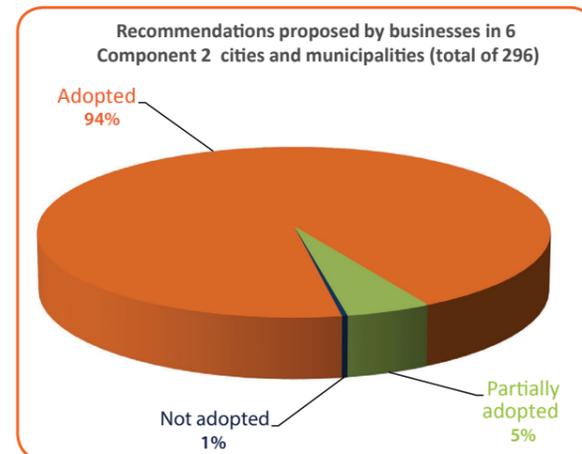
For the regulatory reform to succeed, it is especially important to hear the voice of the local business community. To that end, consultations were held



Picture 8: Training of the Working group in Gornji Milanovac with the representatives of local enterprises and entrepreneurs, in a form of focus groups, where specific proposals for improving local business environment, raised by businesses, were elaborated. As major obstacles to doing business, the participants of focus groups most often refer to unsatisfactory efficiency

of local administration, low transparency level, unacceptable amounts of the republic and local stamp duties and fees, etc.

The proposals of the business community, but also those of local officials and experts had influence



Graph 3: Recommendations from focus groups with businesses

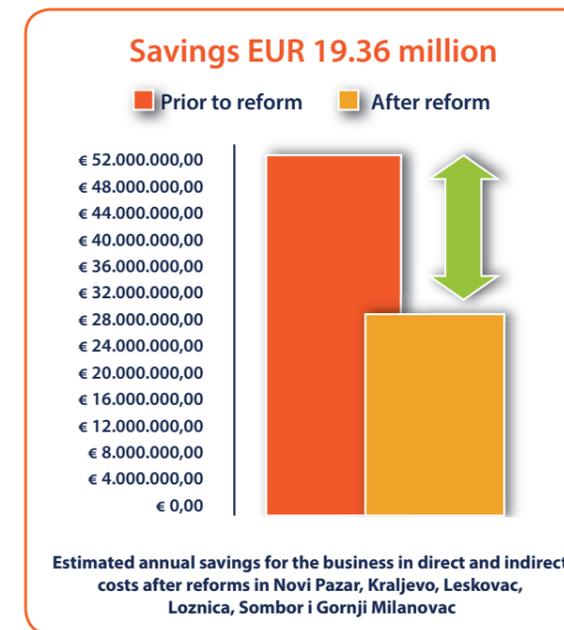
upon shaping specific proposals for simplification and/or cost-cutting of administrative procedures, their merger or even elimination.

Following a detailed analysis and preparation of recommendations, the working group adopted the recommendations for improving and simplifying procedures, and proposed the adoption of new and amending the existing regulations, for the purpose of implementing recommendations. Also, the working group in each local government prepared recommendations for amending Republic regulations that had been later on submitted to competent

“Our goal is to have desks without drawers in local administration, i.e. our employees to issue documentation in one day, if the client submits complete documentation. The intention of the local self-government is to create an efficient, mobile and cost-effective administrative system. Investors will be enabled, in a short period of time, to do their business since the documentation will be easier and simpler to obtain. That way, we expect new investments in the forthcoming period. The possibility to have a simple, clear and transparent method of handling cases will build trust of the businesses in the City Administration and facilitate making of important decisions on new investments and expansion of capacities.”

Goran Cvetanović, the Mayor of Leskovac

ministries and other bodies. The final results of reform - overall savings for the business sector in the process of conducting the procedures in a local self-government on an annual basis, arrived at only after a subsequent economic analysis, based on SCM methodology.



Graph 4: Savings in Component 2 local self-governments

Total of 635 business-related procedures have been reformed, as follows:

- the case resolving deadlines have been reduced in 93% of administrative procedures. Besides, the deadlines for initial verification that the case is complete have been introduced for almost every procedure ;
- total of 1,106 unnecessary documents for 438 business-related administrative procedures (69% of the total) have been completely eliminated or the local self-government currently obtains the same *ex-officio*;
- in 8% of procedures affecting the business, unnecessary data to be provided by clients have been eliminated;
- stamp duties and fees have been reduced /eliminated for 308 administrative procedures (49% of total number);
- for 81% administrative procedures new submission forms have been prepared or the old ones improved with regard to their content and design;
- 20 administrative procedures (3% of total number) have been eliminated as no grounds have been found in legal acts for their existence.

Simplification of procedures resulted in annual direct and indirect cost savings of **19.36 million EUR** for the private sector.

Apart of simplifying business-related administrative procedures, 454 civil procedures have been simplified as well (100% of total analysed). The reform of these procedures represents a special added value to the project, since the project was initially focused on business procedures alone, while civil procedures were subsequently included in the reforming process, following an agreement with the local self-governments. The benefits of the reform thus reach the widest possible range of people in cities and municipalities.

“The case resolving deadlines have been reduced in 93% of administrative procedures in Novi Pazar, Kraljevo, Loznica, Sombor, Leskovac and Gornji Milanovac.”

Simplification of procedures resulted in annual direct and indirect cost savings of 19.36 million EUR for the private sector.



Picture 9: Presenting the Project results in Kraljevo

o Regulatory impact assessment at local level

Component 2 is characterized by additional elements as well, such as the introduction of RIA principles at local level. The introduction of RIA principles (previously mentioned in more detail) at local level is a significant novelty in the area of Serbia and the Balkans and to some extent it represents a logical continuation of RIA introduction at the national level.

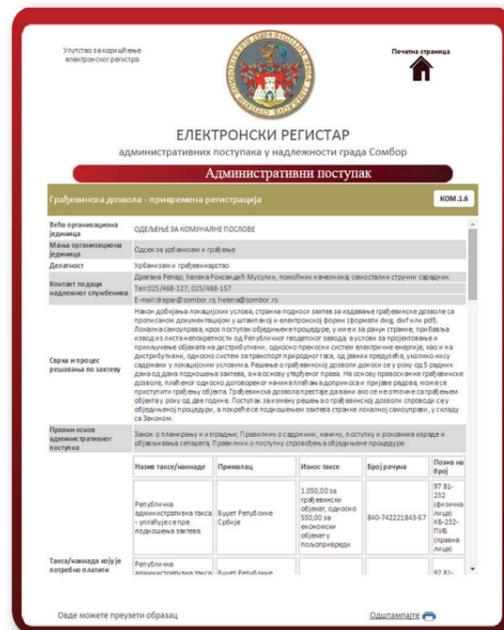
OPTIMUS - Center for Good Governance has conducted a pilot initiative of introducing RIA principles in the cities and municipalities covered by Component 2 of the project. The goal of this initiative is to enable prospective adoption of quality local regulations, taking into account the effects such regulations may have upon the businesses and citizens. To that end, the Project resulted in the development of a methodology and conception of a model of legal and institutional framework for the introduction of RIA principles at local level, considering the legal system, responsibilities and resources of local self-governments in Serbia. OPTIMUS has prepared a manual for practitioners in local self-governments about local RIA and methodology.

Trainings and meetings have resulted, among other things, in recognizing major **shortcomings of local regulations in Serbia** such as: political influence in drafting of regulations combined with insufficient participation of experts; adoption of ad hoc decisions within short deadlines; a lack of relevant analysis of problems and effects prior to passing decisions; the issue of a number of decisions conflicting with other local regulations and/or national regulation; unclear regulations and decisions; a lack of transparency and legal consultations with the stakeholders. The application of RIA at local level could contribute to mitigation of these shortcomings of local regulations.

The proof that the Project is on a good path, in terms of importance of introducing a “simple” RIA at local level, can be easily found in a statement of Mr Petar Vujadinović, the Component 1 expert and also the Head of the City Administration of Užice, made at a RIA training: “It took us only 10 days of implementation of the Decision on Environmental Taxes in our city to realize that it treated business entities in an unequal manner. We had to put it out of force straightaway and begin drafting a new decision. **Had we organized appropriate consultations with all relevant groups, we would have avoided such situation. The employees in the Užice city administration are willing to help you develop a methodology and to test it at any time”.**

o Electronic registry of administrative procedures

The development of an electronic registry of administrative procedures within the competence of local self-government stands out as a noteworthy result of the Project. The registry has been posted on official websites of the local self-governments that took part in the project. The primary purpose of the registry, which is available online to all interested businesses and citizens, is full transparency of all elements of administrative procedures and the method of their implementation. In a simple and convenient way, users can find out the information about documents, required for submitting requests, about deadlines, stamp duties and fees and contact infor-



Picture 10: Image of electronic Registry page on the web site of the City of Sombor

mation of the employees in charge, but also to download or fill in electronically the required submission forms. By virtue of the adopted legal regulation at local level, the registry is considered legally safe and is kept updated, so that the users could rely on all the data contained therein.

4.2.2.3 Vertical links local-national level in reforming the Law on Planning and Construction

The period of project implementation coincided with one of the key reforms of the business environment – adoption of new Amendments to the Law on Planning and Construction. The provisions of this law directly bear upon a number of local administrative procedures, which incidentally belong to such procedures that the business sector mostly complains of, due to their complexity, duration and costs. The business sector’s standpoint is also evidenced by the World Bank’s Doing Business Report 2015, which ranked Serbia as 186th (of 189) in the domain of building permits issuance procedure, taking into account exactly the indicators of complexity of procedures, duration and costs.

In view of the above, SCTM and OPTIMUS have actively contributed to the development of better and more business-oriented solutions in the Law, based on the extensive experience acquired in provision of support to local self-governments. Particularly important is a simulation of the construction process, carried out by USAID Business Enabling Project - BEP, SCTM and OPTIMUS at one of the later versions of the Draft Law. The proposed deadlines and needed documentation, as well as the detected problems and setbacks, have resulted in the preparation of a set of recommendation for enhancing the norms of the Draft Law, which have been to large extent incorporated in the final version of the Law (adopted in December 2014).



Picture 11: Signing of the Memorandum on Cooperation in Loznica

Besides, during the drafting of the Law from November 2013 to September 2014, relying on the experience of reforms on the local level and with participation of OPTIMUS’ experts, 5 sets of recommendations for different versions of the Draft Law have been prepared, which have been to large extent adopted and incorporated in the final version of the law. OPTIMUS has directly participated in drafting of the Rulebook on Unified Procedure (One-Stop-Shop) as the most important by-law of the new Law, by providing expert and technical assistance to the Ministry’s Working Group. The Rulebook itself, the first draft of which has been actually developed by OPTIMUS, was adopted on 27 February 2015.

The Law and the Rulebook introduce a concept of one-stop-shop system, i.e. a unified procedure. The legislator’s idea is for the competent body



Please visit electronic registries on Component 2 city/municipal web sites:

GORNJI MILANOVAC
<http://ergm.gornjimilanovac.rs/>

KRALJEVO
<http://79.101.44.220:86/kv/>

LESKOVAC
<http://www.eregistar.gradleskovac.org/>

LOZNICA
<http://www.loznica.rs/erl/>

NOVI PAZAR
<http://ernp.novipazar.org.rs/>

SOMBOR
<http://registar.sombor.rs/>



(republic, provincial and local) to ensure, *ex officio*, on behalf and for the account of the party concerned, require conditions and other documents from state authorities, republic and local public enterprises, the Real Estate Cadastre Unit and other organizations vested with public authority. This will significantly simplify, for businesses and citizens, a complicated process of obtaining documents, required in various phases of constructing a facility.

An important aspect of this process is strengthening of vertical links between local and national levels, as well as palpable results arising from such cooperation. Recommendations given by OPTIMUS' experts and the accumulated proposals, remarks, comments and observed shortcomings that emerged from complaints of local employees and business sector have found their way through to republic regulations. Such outcome may provide significant drive to further cooperation between the two levels of authorities, where the local level can see that regulations could be improved in practice through a constructive dialogue.

Recommendations adopted in the amendments to the Law and the Rulebook have resulted in additional cost savings for businesses in the amount of **EUR 6.42 million annually** in 16 local self-governments involved in the Project. Total savings in all local self-governments on the level of the Republic of Serbia, based on adopted recommendations from the simulation, are estimated at **EUR 75.08 million annually**. Calculation of savings was based on SCM methodology.

4.2.3 Continuation of the initiated reforms on the local level in Bosnia and Herzegovina

Successful implementation of the "Bosnia and Herzegovina Sub-national Competitiveness Project" contributed to the continuation of reforms. Then came the new IFC project "Improving Business Environment in Bosnia and Herzegovina" implemented in 2011-2015 in Una-Sana Canton, Tuzla Canton and Zenica-Doboj Canton, as well as the municipalities of Tuzla, Bosanska Krupa, Srebrenik, Živinice, Vitez, Cazin, Teslić, Ilidža, Visoko, Prnjavor and Zenica.

It became evident from the previous experience that municipalities and cantons had very limited resources but that the need for improving business environment and service delivery still exists. If we consider the lack of interest of the higher tiers of government and direct accountability of the local government to

its citizens, it is clear that there is a great need for comprehensive reforms. Sustainable changes are possible only if the local level reforms are linked to reforms on the level of entities and the state.

Therefore, this Project was designed to systematically improve the regulatory and institutional framework for investors, build capacity for investment promotion and enhance the overall competitiveness in the agribusiness sector. Such approach ensured better vertical coordination and communication among different tiers of government in Bosnia and Herzegovina.

Sub-national activities were directed to simplification of administrative procedures on municipal and cantonal levels. The focus was on the fields known as functional and strong business areas and the goal was to achieve visible reduction of administrative burdens.

Permits and decisions on the municipal and cantonal levels create burden for all businesses; they are a dead weight for agricultural producers, as well as small and large distribution chains. It was assumed that there were around 1000 business-related procedures in these areas where certain simplifications and improvements were needed. The goal was to simplify the procedures through:

- reduction of the cost and time required to conduct business administrative procedures, including licences, permits, approvals and certificates;
- establishment of transparent and legally secure electronic registries of administrative procedures and relevant information for businesses and the general public;
- building capacity of the local governments for the work on simplification of regulations and strengthening ties with the private sector representatives;
- enhancing the capacity for investment promotion to Bosnia and Herzegovina, service delivery to investors and assistance to investors in the operational phase of investment through establishment of cooperation network on the local level.

It was also necessary to create regulatory mechanisms in the abovementioned locations and ensure the transfer of knowledge, methodology and experience in this field. The mentioned mechanisms were institutionalized and made sustainable.

Imposing solutions to lower levels of government, without consultations and cooperation, will never lead to desired results. Cooperation of all government levels is of key importance since we saw that shortfalls are visible in the field, such as potential lack of understanding for the regulation and free interpretation that leads to problems in implementation. Joint work with local communities, municipalities and higher authorities may lead to good quality solutions that will help the economy. We did that through the Law on Entrepreneurship and the Law on Construction in the Republic of Srpska. Together with the Government of the RS and local self-government bodies we integrated the problems identified in the field in new and better versions of the laws that came into force and in which the businesses see improvements. The same situation happened with the Law on Construction in the Zenica-Doboj Canton. Through work in the field we pointed out shortfalls that the government of ZDC removed in cooperation with the local communities.

Tarik Šahović, IFC Manager of the Project "Improving Business Environment in Bosnia and Herzegovina"

It is by working at different levels of government that the use of regulatory mechanisms and sustainability of the whole concept is ensured. Active participation of the whole business community also plays a great role since it has a positive effect on the reform process. The business community, as well as the general public, should take a central role in identification, overview and proposal of the framework for legislative enhancement. It is the establishment of these very mechanisms and their institutionalisation that contribute to the continuation of the regulatory reform process in the remaining 80% of municipalities and 60% of cantons.

4.2.4 Other initiatives on the local level in Serbia and Bosnia and Herzegovina

4.2.4.1 Serbia

a) USAID support

USAID program Municipal Economic Growth Activity, the so-called MEGA, was implemented in the period 2005-2010 with the goal to develop capacities of local self-governments by enhancing the economic development and stimulating the private sector. Citizens Assistance Centres were opened in many local self-governments in order to overcome the gap between the administration and the citizens/businesses through removal of bureaucratic barriers and facilitation of their mutual communication. As part of this project, USAID helped open offices for local economic development in a few dozen cities in Serbia. Thus, the conditions were created for providing clear and complete information on financial and all other aspects of the local self-government relevant to potential investors.

USAID continued helping the local level in Serbia through the Sustainable Local Development Project being implemented from December 2010 to December 2015. The project is implemented in 32 local self-gov-

Recommendations adopted in the amendments to the Law and the Rulebook have resulted in additional cost savings for businesses in the amount of EUR 6.42 million annually in 16 local self-governments involved in the Project. Total savings in all local self-governments on the level of the Republic of Serbia, based on adopted recommendations from the simulation, are estimated at EUR 75.08 million annually. Calculation of savings was based on SCM methodology.

The Project "Improving Business Environment in Bosnia and Herzegovina" was designed to systematically improve the regulatory and institutional framework for investors, build capacity for investment promotion and enhance the overall competitiveness in the agribusiness sector. Such approach ensures better vertical coordination and communication among different tiers of government in Bosnia and Herzegovina.

ernments throughout Serbia. It is based on three components out of which two are directly aiming at stimulating economic growth through activities in the private sector (public-private partnerships, centres for entrepreneurial enhancement) and training of the youth so that they can successfully embark upon entrepreneurship. A component of special importance to the local regulatory reform is directed at building capacity of the local self-governments in order to be more efficient in attracting investments and inter-municipal cooperation. In cooperation with NALED, the activities in this component are based on elimination of regulatory barriers for investment, enhancing transparency and increasing availability of data regarding the possibilities to invest in a particular local self-government.

Sources: 1) www.usaid.gov/sr/serbia/work-with-us/transforming-lives
2) www.lokalnirazvoj.rs/sr/

b) UNDP initiatives

Projects *Municipal Improvement and Revival (MIR) I and II* were implemented in the period 2003-2008 (MIR I – 2003 to 2005 and MIR II – 2006 to 2008) in 13 local self-governments in the south of Serbia. The implementing agencies were United Nations Development Programme (UNDP) in Serbia and European Agency for Reconstruction (EAR) with financial support by the European Union and separately the governments of Austria, Norway, and Switzerland. MIR projects were building on the immediate assistance projects in South Serbia that was considered a risk area after the conflicts in Preševo and Bujanovac in 2000 and 2001. The overall project goal was improvement of good governance and decentralization in local self-governments. The activities were based on building the capacities of the local municipal and city administrations through employee trainings and improvement of the equipment and infrastructure, enhancement of cooperation and links between the local self-governments in the region and implementation of a series of small projects in local self-governments in order to resolve the burning infrastructural problems.

Sources: www.erc.ndp.org/evaluationadmin/downloaddocument.html?docid=625

c) EU Progres

EU Progres was the program supported by the European Union, the Swiss Agency for Development and Cooperation (SDC) and the Government of the Republic of Serbia and implemented by UNOPS. The program was realized from 1 May 2010 to 31 March

2014. It was mainly focused on improving stability and socio-economic development in the 25 local self-governments in the South and Southwest Serbia through strengthening governance capacity of the municipal authorities and social, economic and physical infrastructure.

Throughout this program 265 separate projects were realized. In terms of regulatory reform, particularly relevant are those aimed at strengthening competitiveness of municipalities and their business environment. In that sense, the establishment of one-stop-shops for issuance of construction permits was supported in municipalities with specially designed software to reduce the cost and time required to issue construction and other permits. Quality Management System (QMS) ISO 9001 and ISO 14001 were introduced in 5 local self-governments which shows dedication to quality service delivery to citizens and business community. Fifty-five new or revised local rulebooks and regulations were passed, all promoting one or several good governance principles. For its support to development of South and Southwest Serbia the Programme was given awards by 13 local self-governments and received numerous recognitions by public institutions and civil society organizations. In 2011, EU Progres was among the four best UNOPS projects in the world among 1000 projects from over 80 countries.

Source: www.euprogres.org

d) European PROGRES

European PROGRES is the ongoing programme financed by the EU and the Swiss Agency for Development and Cooperation (SDC) and implemented by UNOPS in cooperation with Department for Contracting and Financing of EU Funded Programmes (CFCU) at the Ministry of Finance of RS. Total initial value of the programme is 24.46 million EUR and the implementation is planned to last three and a half years starting from May 2014.

The programme is essentially the successor of the EU Progres programme but with particularly strong focus on business environment and good governance. Projects approved through this programme are taking place in 34 local self-governments in South East and South West Serbia in four key areas: strengthening capacity of local self-governments in line with the principles of good governance, increasing competitiveness of local economies through improved business environment and management capacities of small and medium enterprises, improving access to employment through social inclusion and rising public awareness about the effects and the importance of the European in-

tegration process. Envisaged projects focusing on technical assistance to local self-governments for the sake of efficiency, transparency and delivery of good-quality services to citizens as well as support to establishment and operation of public-private partnerships, SMEs and especially women entrepreneurship are of special importance for business environment and employment growth. The first projects supporting SMEs within the Project were approved in April 2015 and by the end of the same year the approval for a series of projects regarding strengthening of local competitiveness and good governance is expected.

Source: www.europeanprogres.org

e) GIZ projects on the local level

German Agency for International Cooperation in Serbia (GIZ) implemented and is still implementing various projects on the local level in Serbia. The most comprehensive one among them is the *Local Economic Development in Eastern Serbia* co-financed by the governments of Germany and Switzerland. The planned project duration is from 2007 to 2016 and it is implemented in 9 municipalities in Eastern Serbia in cooperation with various Republic ministries. Project activities include improvement of business environment through enhanced functioning of local administration, cooperation with the business community and regional networking, as well as direct trainings of SMEs and financing specific infrastructure projects of importance for economic development. According to the stated results, the project can be accredited with, among other things, significant increase of economic activity in municipalities, establishment of Regional Development Agency of Eastern Serbia and great investments for turning the Golubac Fortress into the new tourist centre of Eastern Serbia.

Besides this project, GIZ was active in promoting the establishment of the Network of Associations of Local Authorities of South-East Europe (NALAS) aimed at improving cooperation in development, as well as building capacity of 5 Serbian municipalities in waste management and environmental protection (project planned for the period 2012-2017) and in terms of strategic and socially responsible management of municipal land. Another supranational initiative directed at the local level is capacity building in one local self-government in each of the 5 countries in South East Europe (Pančevo in Serbia) regarding the use of renewable energy sources and complying with principles of energy efficiency.

Source: www.giz.de/en/

f) Initiatives of the National Alliance for Local Economic Development - NALED

NALED initiated the certification of local self-governments with business-friendly environment (BFC) in cooperation with the Ministry of Economy and Regional Development in 2007. By 2015, 19 local self-governments had BFC certificates promoting standards of efficient and transparent local administration with high-quality services and good communication with investors and businesses. Since 2012, supported by GIZ, certification of local self-governments is being conducted not only in Serbia but in Croatia, Macedonia and Bosnia and Herzegovina as well. Eighteen towns and municipalities from South East Europe participated in a pilot project of regional certification.

An on-line calculator is introduced as an application to calculate and compare costs of doing business in certain local self-governments with special emphasis on local stamp duties and fees that put significant burden on economic activity (fee for the use of construction land, fee for construc-

tion land development, public utility fees for motor vehicles, towed vehicles and road vehicles, fee for protection and improvement of environment etc.) based on which it is possible to calculate the total amount of stamp duties and fees.

Furthermore, the Local Grey Book is promoted with the aim to identify the most important procedures and regulations on the local level affecting the business environment. Local self-governments involved in this project are the City of Niš, the City of Leskovac, municipalities Merošina, Gadžin Han and Doljevac. The project is implemented with the support of USAID.

Source: www.naled-serbia.org/

4.2.4.2 Bosnia and Herzegovina

a) USAID support

Governance Accountability Project (GAP) in Bosnia and Herzegovina was implemented until 2013. Project activities considerably improved the service sector as well as the system of administration/management in 71 municipalities through direct interventions. Public counters halls were established and owing to that waiting time was significantly reduced. Therefore, the services for the entire municipality were consolidated and delivered in one location. In this period, local authorities had a chance to improve control through project activities and rationalize revenue and expenditure of the municipality. One of the Project components is strengthening the associations and upgrading capacities for participation in the associations.

In 2013 USAID initiated a Growth-Oriented Local Development (GOLD) project. In order to support the local community in achieving economic growth and development goals, GOLD project is promoting integrated and comprehensive planning of local economic development and realization of activities among the municipalities, cantons and entities in sectors with the highest potential for quick, sustainable growth of new jobs; it facilitates a more efficient usage of economic resources on the local level and promotion of new investment through public-private partnerships in targeted sectors; it improves the service quality in the public sector and enables the realization of reforms for business-enabling environment; it promotes new direct investments and supports competitive supply chains that will generate new jobs. In order to create new jobs for the youth, the project will support entrepreneurship and work with private and public sector on implementing expert training programmes in order to enable the young people to acquire appropriate skills needed in the local econ-

omy. The goal is to generate transformational economic growth through attracting investments and job creation. Through development of sustainable model for local economic growth the local communities will be able to maintain the impetus of economic growth in the future.

Sources: 1) http://pdf.usaid.gov/pdf_docs/PDACL350.pdf
2) www.goldproject.ba/ba

b) OSCE projects

The Organization for Security and Co-operation in Europe's Mission to Bosnia and Herzegovina has been implementing sub-national projects for many years. Through the *Local Comes First* Initiative, a special emphasis is put on increasing the participation of the youth, rural population, minority groups and persons living on economic and social margins in the local level activities as well as on the development of their capacity to hold the elected public employees accountable for delivery of basic services.

The programme *Citizen Involvement in Community* is focused on the development of efficient and sustainable mechanisms for consultation and involvement of citizens in the decision-making process on the local level. Special attention is given to a thorough revival of local communities and other existing mechanisms of democracy, encouraging youth participation in local matters through development of youth action policies and building capacities of youth organizations and youth councils; promotion of social inclusion of vulnerable groups (especially rural women, national minorities, returnees and persons with disabilities), through support and provision of expert advice to their associations, networks and political representatives as well as through organizing projects aimed at improving their approach to economic opportunities; and capacity building for citizens so that they can monitor accountability of officials through support of the so called watchdog initiatives (supervising and advocating initiatives).

Source: www.osce.org/bs/bih/

c) UNDP initiatives

Since 2008 within the project *Training System for Local Self-government Units*, UNDP has been working with its local partners on establishing the on-job training system for local authorities in Bosnia and Herzegovina. Project activities include: establishing a training system at the level of entity and local government; support for development and adoption of the training strategy for local authorities; identifying the training needs of the local authorities; support for development and adoption of human resource management standards within the local authorities.

Source: www.ba.undp.org



*The greater the obstacle,
the more glory in overcoming it.*

Jean-Baptiste Molière, French comedy playwright

REGULATORY REFORM: ACTORS, CHALLENGES AND SUSTAINABILITY

Legal certainty, predictability, transparency, simple, harmonized and precise regulations and their efficient implementation represent extremely important preconditions for attracting investments and therefore, faster economic development. A potential investor, local or foreign, wants to be familiar with the regulations, i.e. conditions related to investment of its capital before it actually invests. Quick and frequent changes of the legal framework lead to insecurity making it impossible for businesses to adequately prepare for potential costs that these changes may incur. For that matter, it is necessary to conduct quality, transparent planning of the amendments to the legal framework on one hand and enable cooperation between different actors participating in the process of adopting and enforcing regulations, on the other.

5.1 Regulatory reform actors

When we talk about regulatory reform actors the question arises as to who participates (should participate) in the process of drafting the regulations? The answer appears to be simple: the actors passing the regulation are: political elite, entities enforcing the regulation, but also those affected by the regulation. It is not acceptable that a regulatory body independently designs, prepares and passes a regulation without consultation and participation by a series of relevant subjects, to which



the regulation applies and who directly or indirectly have impact on the forming of the regulatory process. Obviously, the experts should be fully involved in the regulatory reform process since their knowledge, skills and experience in different areas in which regulatory reform is implemented will give this complex process the highest dimension quality-wise. The role of all entities applying and enforcing the regulations in their everyday work i.e. the role of the parties to whom the regulations apply is vital since they know

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the problems “in the field” and ways to overcome them. That is why active and continual cooperation of experts, creators of regulations and entities applying the regulations or parties in a procedure is of great importance for successful regulatory reform.

Bureaucratic apparatus and political elite are closely connected. Bureaucratic apparatus is directly implementing regulations and general acts through everyday communication with the parties. The quality of regulation enforcement and communication with the parties depends on the attitude and messages of the authority holders towards the administration. In order to provide successful implementation of regulation in practice, apart from the clear and complete regulation, it is necessary to enable efficient implementation both for the employees and the parties. Supporting the reforms and insisting on transparency and efficiency are important messages of the authority holders to the bureaucratic apparatus. Professional training and professional development of employees is an important precondition for successful implementation of regulation on one hand. On the other, establishing standards and rules of operation, as well as supervision over the work of administration should ensure that regulations are not applied in a superficial, arbitrary and illegal manner.

The role of **experts** in drafting the regulation is one of the preconditions for good quality regulation. Professional knowledge, skills and experience of experts from different areas should be an important “inflow” in the processes of increasing the knowledge of employees in the national and local administration, particularly those participating in the creation of regulation. Knowledge specialization in the area of norms and legal affairs will, judging in general, become appropriately ranked among the type of knowledge demanded in the public sector, if the reform of the public sector is implemented thoroughly and continuously in the period to come and in line with the adopted Strategy.

Economic sector. In order to reach the good quality regulation, one must first analyse the “inherited state of affairs” in a certain area, with obligatory consultations with the businesses that have immediate experience of the actual process of regulation enforcement. That is why the process of consultation and involvement of private sector representatives in the regulation adoption process is of great importance for passing “smart regulations”. It is necessary to listen to suggestions, complaints and problems of businesses and react adequately. In consultation process the problems that regulations cause to businesses are

most often pointed out, while at the same time the author of the said regulation was not even aware of them nor was his intention to cause administrative obstacles to businesses. Views and opinions of chambers of commerce, business associations, SME agencies and company representatives are a mandatory element of consultation process – practice may show that regulation in a specific case causes more damage than benefit and that expected effects of its application are simply not there or remain negligible. Of course, the selection of economy sector representatives influences its role in regulation creation – whether the representatives of SMEE have been consulted or only the “big players” that considerably affect the political elite by “lobbying” for certain legal solutions that suit them best makes the huge difference.

On the other hand, the more progress in building and strengthening of institutions and creation of efficient and comprehensive system for protection against corruption, the slimmer are chances to have (forbidden) influence of holders of economic and financial power on the holders of public functions.

Regulatory bodies. Participants in a normative process, depending on the competences, affect certain phases of drafting i.e. adopting regulation from different aspects. In many countries, bodies are established to promote, control and actively improve regulatory reform, for example, Council for Improvement of Business Environment, Regulatory and Structural Reforms of the Government of Montenegro.

In the process of drafting regulation, it is necessary to include the opinion of other bodies, organizations and competent state bodies. The better the consultation process in drafting regulations, the less possible it is to pass complicated, excessively demanding regulations that no one understands and that require involvement of significant human and financial resources from businesses, as well as to have (forbidden) influence on the creators of regulations. That is why it is important to underline that support to coordinated work of regulatory bodies is at the same time support to building the system that will protect the society from corruption.

Trade union activity. If well-articulated in its demands from authorities, trade union activity may without doubt change the initial state of the regulation and have significant effect on it. In developed democracies, the trade union influence is much greater than in the “young” democracies especially in terms of economy and fiscal policy.

Citizen role in the consultation process is also very

important and depends on the extent to which civic initiative is present in the public life. Although, for instance, the Law on Local Self-Government stipulates the procedure of immediate participation of citizens in realization of local self-government, it is not difficult to notice that so far the public and the local self-governments are not sufficiently aware of the importance of citizens’ participation. However, the institution of Ombudsman, the Commissioner for Protection of Human Rights, the Law on Access to Information of Public Importance as well as other relevant bodies and regulations are slowly changing the public opinion and are “teaching” the citizens how to participate in the consultation process and point to administrative barriers that are often in the way of exercising citizens’ rights.

Non-governmental sector. There is an increasing number of requests for active involvement of all social groups in the process of drafting regulations. Many projects and initiatives implemented in the area of public sector reform include engagement of non-governmental organizations. Their influence on creation of public opinion, education and providing information to the society is not to be neglected. Those facts exactly make the procedure of drafting and effects of the adopted regulation very dynamic categories.

The media. Promoting regulatory reform as a means to affect passing of better i.e. “smart” regulations is one of the ways to influence the public opinion. Citizens and businesses must be timely and completely informed about the benefits of their involvement in the public sector reform through the regulatory reform. In that context, it is also important for the media themselves to be educated in this area in order to fully appreciate its importance and raise public awareness in adequate ways.

The first step, apart from recognizing all of the stakeholders, is their complete involvement in the process of creating regulation. Consideration of different points of view is of fundamental importance having in mind that regulations, though their scope of action might seem narrow, often have a much wider outreach. With timely, well-organized, constructive, sincere and honest consultations with stakeholders one can really improve the regulation proposal and the final result will comply with the interests of those whose behaviour it regulates to a much greater extent.

5.2 Challenges in implementing regulatory reform on the local level in the Western Balkans

Speaking about challenges in regulatory reform, we cannot but emphasize the importance of political support of decision-makers, the role of the employees in administration and sustainability of this ambitious intervention that cannot survive without full agreement and perseverance in its implementation.

5.2.1 Political support as a precondition for reform implementation

Regardless of the level of its implementation (municipal, city, provincial, republic), the regulatory reform involves political readiness of decision-makers to ensure maximum support in implementation of processes as well as

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Political elite should be aware how important it is to unconditionally encourage administration to establish a new way of operation, which is a precondition for sustainability of the reform itself. Authorities must establish and actively support the mechanism of continual implementation of reform as well as control the implementation dynamics, because in that way they control the legality and efficiency of the employee work. ”

The role of authorities and their support in implementation and sustainability of regulatory reform is of fundamental importance. There were significant problems in one city during the first phase of reform implementation i.e. inventory of administrative procedures preparation that was actively boycotted by the public employees. The situation demanded decisive reaction from the mayor, who was at the same time the president of the working group. He sent formal order to local employees highlighting the deadline for completion of the first phase. He also required the heads of administration to inform him whether their administrations acted upon that order or not. The reaction proved to be successful and made inventory done in short period of time.

their proactive approach in all stages of reform implementation. It is important to note that with many stakeholders, sub-national regulatory reform would not be possible to conduct, i.e. ensure its sustainability, without the support from political structures.

It is necessary for local self-government authorities (mayor, city/municipal council, city/municipal assembly, head of city/municipal administration) to show determination and readiness, and actively participate in implementation of the regulatory reform. Their address to the employees but also encouragement of the economic sector, businesses and professional associations to give their contribution to the analysis of the existing situation and proposals that would be of importance for improving regulations is crucial in this process. Political elite should be aware how important it is to unconditionally encourage administration to establish a new way of operation, which is a precondition for sustainability of the reform itself. Authorities must establish and actively support the mechanism of continual implementation of reform as well as control the implementation dynamics, because in that way they control the legality and efficiency of the employee work.

Although one would expect from the employees in administration bodies to respect the "rules of the game" established by local acts the situation in the field indicates otherwise. Is there compliance with the set deadlines, what is the reason behind not acting upon or prolonging the procedure, is it easy or difficult for the citizens and businesses to exercise their rights, are employees and their managers accountable for inefficient action, how to stimulate administration inventiveness – those are all topics that all the local level managerial bodies should be dealing with as priority, in order to improve the business environment and strengthen economic potential in the local community.

Successful implementation of the reform is often possible only with full support and application of different methods, rewards and sanctions by the political authorities. However, the question is: When will we be in a situation that does not require political support as such, in which employees are aware that they themselves should implement the adopted rules? If administration reform is a priority in implementation of the local policy - that has to be "felt" at every step of the administration work.

5.2.2 Employee motivation and change of their attitude and way of thinking in reform implementation

The role of the employees in the local administration is very important, both for the reform implementation, from the very beginning until its completion, and for ensuring its sustainability by applying the new rules of the game in future. Since there is no political actor with a mandate as long as the ability of the administration to resist the changes in operations and immediate work with the parties, the change of the employee mind-set, their motivation and professional development is of crucial importance for the reform success and sustainability.

In one of the cities with successful project implementation, the principles of motivation and incentive of employees were applied to ensure sustainability and application of improved rules of local administration operation. After conducted regulatory reform and adopted local acts through which the recommendations for improvement were introduced into the city's legal system, the Rulebook on Disciplinary Accountability was also amended. Some new forms of "light breach of work obligation" such as missing deadlines, imposing an obligation to the party to obtain the documents when ex-officio procedure is envisaged and others were introduced. At the time when the first measure for breaching the work obligation was enforced, subsequent compliance with the rules was ensured among the employees ensuring the sustainability of regulatory reform.

Throughout the regulatory reform implementation it was observed that, as a rule, there is always an active resistance to the reform at its beginning. Also, the employees doubt the possibility of shortening and simplification of procedures. They are sceptical that administration work can become

better and more efficient. Why is that so? The reasons vary, but we observed the most frequent ones, as follows:

- concerns that every reform may show how uncoordinated and inefficient the administration was before;
- attitude that there is no room for improvement since the job is performed in an "absolutely excellent manner";
- concerns that reform will lead to loss of jobs.

Majority of employees are under common impression that "someone comes externally to teach them how to do their job which they have been doing for many years in a good way without mistakes". A reflex-like resistance to "imposed" changes and new approach to parties is usual but it turned out later that changes are exactly what was needed.

Among countless good and bad examples, we always seem to remember the "special ones", like the following:

- One employee put up the only article of the law that he applied in his work throughout the years in a visible place above his desk, as a reminder. The only problem was that the law related to the posted article was out of force since years back.
- While doing the inventory of administrative procedures in four cities, it was observed that only one city did not have the procedure called "taxi permit issuance" in its inventory. The competent employee persistently claimed that that procedure did not exist in his administration and that decision from the Business Registers Agency was sufficient. Only after the project coordinator provocatively asked if, in that case, it was "enough just to put up a taxi sign on a tractor and drive the passengers" the employee reconsidered this issues and admitted existence of relevant procedure in local jurisdiction.

Employee work is actually a reflection of the administration. That is why it is particularly challenging to change their approach and find a way to motivate them to act efficiently within set deadlines in coordinated cooperation between different organizational units of administrative bodies. Therefore, it is necessary to introduce the principles of good governance, good staffing policy, the system of continual education and stimulation of employees, with control of their work and undertaking accountability for their actions, in parallel. Once the new operation rules are set up between administration and parties, administration and manager and manager and political authorities and when all reform stakeholders accept their own responsibility and the fact that the innovative way of work will finally improve and facilitate mutual functioning, a proactive approach in implementation of procedures will become possible.

Raising employee awareness about the need for regulatory reform is necessary in all phases of the reform implementation with recognition of the model of life-long learning. It is evident from practice that in order to have successful implementation, particularly reform sustainability, one must ensure a "critical mass" of employees who believe in what they are doing. A mix of training, establishing good contacts and successful continual cooperation with the employees who are actively involved in the project implementation represents a winning combination. The change of attitude towards reforms is most easily noticed when "converted" individuals start convincing their colleagues to change the way they work or when at meet-

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A working group coordinator in a local self-government initially had a passive attitude since she did not believe in successful reform. During the joint everyday work, when she saw how difficult it was to “fight” against the lack of interest in other colleagues and avoidance of “imposed” responsibilities, she started facing the problems of project sustainability by encouraging employees and managers to involve in the process of change which demanded team work. From a skeptic at the beginning of the project, she became a great advocate of regulatory reform at the end.

ings of working groups the members “confront each other” in an attempt to introduce the most adequate solution for improved procedure.

Of course, it should be pointed out that there are good examples of proactive, inventive employees who are ready with unhidden ambition to become involved in the reform contributing greatly to its quality and dynamics of implementation. It is this profile that represents a positive “channel” of influence on administration.

Exchange of experience with colleagues participating in creation of a more modern and more positive business and administrative environment in their surrounding may also be one of the ways to change the mind-set. Otherwise, it is not possible to adequately face the change of rules of conduct in one’s environment in which there is no systematic approach to the evaluation of the regulatory impact on a real sector and the citizens.

Is it possible to create efficient administration without studying the models of good practice related to the administration functioning? Authors are of opinion that this publication will make a contribution in that regard.

The new concept of performance management in public administration must be based on customers and their needs. Satisfied customer must have the priority on the scale value of performance management in relation to all other goals.

5.2.3 Sustainability of regulatory reform

Starting from the previous experience in the implementation of regulatory reform in Serbia and the region, one can easily conclude that sustainability and persistence in the reform process of institutions, regulations and procedures is a long-term challenge for all reformers.

What jeopardizes the sustainability of regulatory reform?

1. **Shifting of political stakeholders**, as an unwritten rule, brings discontinuity with the previous authorities (at least at the beginning of establishing power) that could question the reform sustainability in the long run. Political alternations after elections often endanger the sustainability of reform through constant changes of political priorities and starting “from scratch” every time the local officeholders change. Regulatory processes should continue undisturbed even after political changes as a standard management model in the city/municipal administration.
2. **Returning to the old ways i.e. the tendency of a great many employees to go back to the period preceding the reform very quickly after its completion** and avoid applying “novelties” anticipated by the reform is a very frequent practice. It is not easy to change the approach to work and it is not a short-term process either. Therefore, retrograde processes, at least in some parts of administration, are quite possible.
3. **There is a lack of readiness to fundamentally and formally implement reform in the legal system of the local self-government.** Although on the surface the local stakeholders can be quite inclined to improvements and better administration, the real test is their readiness to make something official through legally binding regulations as well as their implementation and adequate application. The fact is that it requires a higher degree of dedication and political stake which in certain (e.g. pre-election) situations can pose a problem.
4. **The impression of the administration employees that the reform is just an additional imposed work.** During the project implementation phase, as well as later, it is not rare to find a certain number of employees who see the whole project just as an additional homework without compensation and belief that it brings benefit. This can cause a lack of interest, poor-quality inventory and subsequently, problems with result sustainability.
5. **Businesses and the general public lack information on the existence and results of the project.** The fact is it not easy to arise interest in the public, both businesses and citizens, about the reform and its results. The reasons are various, from lack of attention to local developments to conviction that the reform efforts are futile. In the end, this may result in the lack of general interest to maintain what was achieved later on.

How to overcome the problem of regulatory reform sustainability?

Regulatory reform sustainability is possible only with comprehensive insistence on accountability of all participants in the reform: employees, working groups, managers, political authorities.

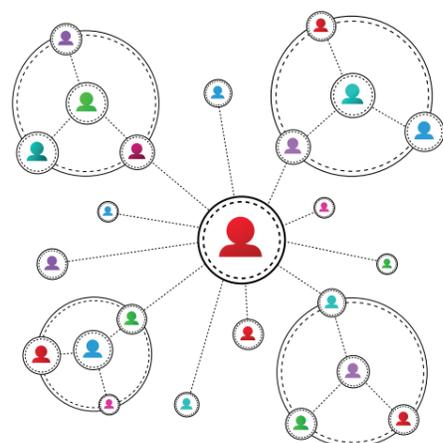
- **Empowerment of the project working group consisting, above all, of the key administration persons** who should, by nature of things, be proactive and visionaries. They usually recognize the benefits of the reform and use their authority to influence other employees to accept the reform and the changes it brings. This lowers the expected resistance to reforms and has a positive effect on sustainability.
- **Introduction of reform results into the legal system of a local self-government, through the local acts**, is one of the ways to ensure sustainability, provided that all the employees in the local self-governments comply with their regulations. Those are the acts that rationalize the work of administration and actions according to administrative procedures (shorter deadlines, obtaining documents ex officio, lower stamp duties and precise submission forms) and acts that establish a legally secure registry of administrative procedures applied on the local level.
- **Sufficiently long period of implementation and intensive support to local self-governments also after the regulatory reform** in order to ensure undisturbed application of simplified procedures and regulations and overcome potential barriers, starting from technical details to employee readiness to accept the changes.
- The greater the readiness and preparedness of administration to respond to the work demands in an efficient and reasonable deadline, through simple procedures, the bigger its influence is on political stakeholders after the election. There is no new political power that would dare to change the system that functions well. That is why **education of the administration employees** is a long-term task, for which financial and technical means must be provided, having in mind that by investing into employees and creating modern staff of ambitious, educated and efficient persons employed in the local self-government, one is actually investing in the changing image of lazy, slow, inefficient and inert bureaucracy.
- **Transparency of reform and active participation of citizens and businesses in this process.** Feedback on the work of administration, its rigidity, slowness and noncompliance with the rules of procedure, deadlines and required documentation is of utmost importance both during the reform process and in the subsequent period. Participation of the public, particularly the businesses, has an impact on the development of the dialogue with the local self-government and on building of trust. The businesses can be of great help during the reform by pointing out the obstacles they face in contact with the local administration but they can also be permanent “controllers” of sustainability of changes resulting from the reform. In that way, the local administration is not allowed to fall asleep and go back to the old ways.
- **Media campaign throughout the reform process and public relations generally** must be represented in all phases of the reform. If the citizens and businesses are not sufficiently informed about the advantages of regulatory reform for their personal benefit, then it loses its purpose. The more informed the public is about goals and results of the

Starting from the previous experience in the implementation of regulatory reform in Serbia and the region, one can easily conclude that sustainability and persistence in the reform process of institutions, regulations and procedures is a long-term challenge for all reformers.

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reform in the local institutions and transformation of the administrative apparatus, the greater the success and the point of the reforms in the implementing environment. That is why the role of the PR specialist and other representatives of local self-government in stimulating the media to take part in promotion of the more efficient functioning of administration is of great importance. It is necessary to “spread the word” about the reform and its benefits for the citizens and the businesses. On the other hand, intensive media coverage will finally raise expectations among the public and subsequently improve accountability of the administration.

5.2.4 How to connect the local with the national tier of government in a good quality way?



The tendency to harmonize the regulations with the EU standards and to improve the work of institutions by reducing national and local bureaucracy will remain one of the important goals of authorities at all levels for a long time. It can be achieved only by implementing the reform concepts which are adjusted to specific political, legal and economic circumstances in the state and at the local level and made applicable in the long run. However, that is not possible without good vertical connections between the local and national authorities. The government of the Republic of Serbia made great efforts in the regulatory reform process for a long period of time. However, it is still not enough, having in mind the Serbian legal system as a whole. Even after enactment of certain laws with inapplicable and complicated solutions, which incur great cost to businesses or require adoption of numerous bylaws while affecting the local level,

the role of the local authorities in influencing the creation of normative solutions on the national level still remains marginal due to two main reasons: inadequate consultation process and passive attitude of the local self-government representatives.

In the process of application of regulations, the role of the local self-governments must be in ensuring local feedback on the (un)successful implementation of national regulation. Continuous exchange of information between the regulatory bodies and implementers on the local level must be established, especially before a regulation is adopted.

Furthermore, even regional development is a special challenge for the executive authorities on the national level that should “develop” neglected and economically devastated local environments by passing stimulating regulations and measures ensuring a more balanced economic outlook for the local self-governments. It is to be expected that regulatory reform is difficult to implement in poor environments with low economic capacity. That is why cooperation of local self-governments with the national authorities must be qualitatively transformed, especially when national regulation that can affect the economic outcome in the local community is passed.

Systematic education of employees in local self-governments as well as the development of vertical ties and communication between the national and local administrations may contribute to better coordination and more appropriate quality of their cooperation and level of gained knowledge pertaining to changes and improvement in the regulation not only for administration but the entire society.²⁰

During the preparation for starting the negotiations with the European Union, it is high time for all the relevant stakeholders to become aware that the state cannot function successfully without good quality cooperation with the local authorities and vice versa. Therefore, joint effort and work of authorities at all levels is needed to improve the business environment and improve the legal system.

²⁰ II Quarterly Report on the Reform Status 2013 - NALED



In life we ultimately pursue, not conclusions, but beginnings.

Sam Tanenhaus, American journalist and writer

INSTEAD OF CONCLUSION

Speaking about the regulatory reform, its purpose, implementation results so far, history and challenges that the stakeholders face as well as the lessons learnt in the previous period, the impression is that the work taken by the regulatory bodies and other stakeholders in the reform process is actually a complicated path to creating regulations that will be clear enough, recognizable, logical and reasonable in terms of burdening the citizens, businesses and other entities. That reform path should motivate the state and its bureaucratic apparatus at all levels to accept their new role of “service” to the economy, especially SMEs. It is important that businesses are involved in drafting the regulations that have direct or indirect impact on the economy. Public authorities should know in advance about the consequences of the regulation and the burden it can pose.

For this reason exactly, we have to consider the criticism given with arguments, listen to what is going on in the surrounding and see whether there is progress in the reform of the legal process at our neighbours and beyond. We should apply *acquis communautaire* so that the harmonization process of the rules in Serbia with the EU standards becomes recognizable and acceptable for the most diverse social groups.

Let us collect different experiences from those more developed and more successful, and let us help those that are still not familiarized with the creation of “smart” regulation and stable legal framework and have the capacity to address that issue in the future.

Generally speaking, let us be consistent in reform implementation so that the reform can be sustainable and purposeful. Let us implement the reform at all government levels, starting from reforming ourselves and our immediate surroundings. Let us establish a mechanism of mutual control and work coordination in creating and applying the rules so that the society becomes a partner, not an opposition to the reform. By changing the spirit of administration, we will respect the time of others as well as our own time. We will make procedures less costly, simplify them and participate in creation of a positive environment.

This guide is just showing us how to perceive what awaits us on the road ahead.

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ABOUT OPTIMUS

OPTIMUS - Center for Good Governance aims at supporting the achievement of economic development through improving the business climate and private sector development. OPTIMUS mission is to contribute to sustainable development of Serbia and the Balkan Region as an area characterized by a secure environment for economic activity, rules of law, good governance principles, and with care for the environment. OPTIMUS is focused on strengthening the capacities of public administration, civil society and the business sector and improving their dialogue, while respecting the principles of efficiency, transparency, good service and participatory approach - all in accordance with the values of sustainable development.

Comparative advantage of OPTIMUS resides in the fact that it gathers experts with extensive experience, in-depth knowledge of substantive issues and demonstrated accomplishments in the field of business environment, regulatory reform, good governance, improvement of the work of public sector and the development of the sector of small and medium-sized enterprises and entrepreneurs in Serbia, other Western Balkan countries, and outside the Region.

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Clear vision, efficient solutions

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