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# **Bulgaria's Policy for Regulatory Reform in the European Union: Converging with Europe's Best Regulatory Environments**

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This report has been prepared by Scott Jacobs (international expert on Regulatory Impact Assessment) as part of a joint technical assistance project of the World Bank and the Ministry of Economy and Energy of Bulgaria.

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## **Bulgaria's Policy for Regulatory Reform in the European Union: Converging with Europe's Best Regulatory Environments**

### **Executive Summary**

Bulgaria's entry into the EU Single Market raises new opportunities and new risks for the national economy. As shown in the rest of Europe, a program of regulatory reform offers an effective strategy for managing the risks of more intense competition while preparing Bulgarian companies to prosper within the largest economy in the world.

Bulgaria has already made significant progress in regulatory reform, with an emphasis on developing regulatory impact analysis (RIA) in Bulgaria's public administration. To support these activities, the Council of Ministers agreed in August 2006 to the proposal of the Ministry of Economy and Energy to develop a national plan for better regulation.

**Goals of Reform:** The goal is to progressively achieve a low-cost, low-risk regulatory system that both supports national competitiveness and effectively protects public interests. To achieve its potential, Bulgaria should converge, not with a minimum standard of regulatory reform, but with the best performers in Europe.

**Recommended Reform Program:** This policy paper identifies nine tasks for setting up a modern regulatory system and meeting European obligations. These nine tasks are intended to improve the ability of the central government to promote regulatory reform, to build better regulation practices through the institutions of governments, and to improve the quality of both the stock and the flow of regulation on a permanent basis. The Table below summarizes the proposed reforms and next steps for action.

### ***Timetable of the Reform:***

This reform will require several months to prepare, and years to implement. Financial resources will be needed for investment in a new central Better Regulation unit, for training in new skills, for outreach to stakeholders, and for IT tools. Yet the Bulgarian public administration already has a solid base of experience and substantial regulatory reform skills, and external assistance from the World Bank, Phare, and the OECD. If the convergence policy is given political support to focus these various efforts, preparation of the implementation plan can be accomplished by the end of 2007 at the latest, and specific projects can begin on a phased basis even before then.

<b>Recommended Reform</b>	<b>Proposed Steps</b>
<b>MANAGEMENT OF THE NATIONAL REGULATORY SYSTEM</b>	
1: Adopt a national policy for regulatory reform that lays out the goals, actions, schedules, and implementing institutions	<ul style="list-style-type: none"> <li>▪ Submit a policy for regulatory reform to the Council of Ministers for consideration</li> <li>▪ Develop a medium-term (5 year) implementation plan based on this convergence policy</li> <li>▪ Communicate the benefits of these reforms to the public.</li> </ul>
2: Create engines of reform inside the administration to manage and coordinate the complex regulatory reform strategy, and monitor and report on outcomes	<ul style="list-style-type: none"> <li>▪ Create a central unit in the Council of Ministers responsible for promoting and overseeing regulatory reform through all national public sector institutions, and working with local governments.</li> <li>▪ Benchmark the unit with good EU practices to ensure that it has adequate resources, expertise and authority.</li> <li>▪ Assign specific tasks to expert ministries, such as RIA support to the Ministry of Economy.</li> <li>▪ Support the central unit by a network of units in each ministry.</li> </ul>
<b>BUILDING THE INSTITUTIONS OF A "BEST PRACTICE" REGULATORY SYSTEM</b>	
3: Train regulators to build skills in "better regulation" tools	<ul style="list-style-type: none"> <li>▪ Launch a phased training program focused on implementing the national convergence policy</li> <li>▪ Carry out this training with the assistance of the Ministry of Economy and Energy, the Ministry of State Administration and Administrative Reform and the Institute for Public Administration and European Integration</li> </ul>
4: Complete the national electronic registry of consolidated regulations, with mechanisms for continuing maintenance of the registry	<ul style="list-style-type: none"> <li>▪ Complete as a high priority the new Administrative Register within the Ministry of State Administration and Administrative Reform (MSAAR)</li> <li>▪ Subsequently expand the registry to all business regulations, and eventually to the Regulations Official publication</li> </ul>
5: Work with local governments to promote "better regulation" practices across Bulgaria	<ul style="list-style-type: none"> <li>▪ Examine options for promoting "better regulation" practices at the municipal level, base supporting reforms in municipalities that are ready to move forward</li> </ul>
<b>IMPROVING THE FLOW OF NEW REGULATIONS</b>	
6: Create a well resourced regulatory impact assessment (RIA) system	<ul style="list-style-type: none"> <li>▪ Develop a new strategy, methods, and procedures for the RIA system to embed it firmly in existing policy processes</li> <li>▪ Consult with appropriate groups such as the CEG and stakeholders inside the government on their roles in the RIA system</li> <li>▪ Create a central RIA oversight body by assigning a specific entity, probably the central unit in the Council of Ministers assisted by the Ministry of Economy, with an institutional mandate, resources and power to enforce the RIA program</li> <li>▪ Train ministries in RIA methods</li> </ul>
7: Create a formal consultation policy and mechanisms to ensure a systematic means of early and effective stakeholder consultation during policy and regulatory development.	<ul style="list-style-type: none"> <li>▪ Based on the minimum consultation standards adopted by the European Commission, develop and implement a mandatory consultation policy.</li> <li>▪ Develop eGovernment tools to help implement the policy</li> </ul>
<b>MODERNIZING THE STOCK OF EXISTING REGULATIONS</b>	
8: Develop a review strategy for the "stock" of regulations now in place based on the European approach of rolling reviews for competition obstacles	<ul style="list-style-type: none"> <li>▪ Conduct a systematic analysis of key goods and services markets to identify specific obstacles to competition and remove them.</li> <li>▪ Adopt a continuing program of review and reform to modernize the regulatory stock.</li> </ul>
9: Adopt the European target of a 25 percent reduction in administrative burdens by 2012	<ul style="list-style-type: none"> <li>▪ Develop a plan for reaching the target, with careful sequencing so that it is carried out after preparation of the central unit, and with institutions with skills and resources to manage the task</li> </ul>

# **Bulgaria's Policy for Regulatory Reform in the European Union: Converging with the Top Reformers**

## **Main Report**

Bulgaria's entry into the EU Single Market raises new opportunities and new risks for the national economy. As shown in the rest of Europe, regulatory reform offers an effective strategy for managing the risks of more intense competition while preparing Bulgarian companies to prosper within the largest economy in the world. Improvements to the regulatory framework that reduce the economic cost of poor and excessive regulation will support Bulgarian growth and productivity and ease the strains and risks of the economic structural adjustment needed over the next several years.

Bulgaria should aim, over the next few years, to design and implement the institutions, processes, and capacities needed to converge with good European practices in regulatory reform. To achieve its potential, Bulgaria should converge, not with a minimum standard of regulatory reform, but with the best performers in Europe. In a Europe with wide disparities in economic performance and regulatory quality, this ambitious performance standard requires that Bulgaria choose carefully the Member States against which it will benchmark its performance. The objective should be to achieve -- in a progressive, carefully-planned, and rapid manner -- a low-cost, low-risk regulatory system that both supports competitiveness and effectively protects public interests.

This "convergence plan" sets out the European context, Bulgarian progress on regulatory reform and regulatory impact analysis (RIA) to date, a vision of future regulatory reform in Bulgaria, and the next steps needed to move forward to achieve the vision. It identifies nine concrete tasks for setting up a modern regulatory system.

### **The reasons for regulatory reform in Europe**

Since the launch of the Lisbon strategy in 2000, the annual growth rate for the Euro area averaged 1.8% per year, lagging behind its main competitors. Hourly productivity rose 1.2% yearly between 1999 and 2003 and exhibited a declining trend. The employment rate rose from 60.6% in 1999 to 63% in 2004, while unemployment declined marginally, from 9.1% in 1999 to a still high 8.9% in 2004. Employment rates for older workers and for women remained particularly low.

## **1. The Importance of Regulatory Reform and RIA in Europe**

Regulatory reform became a key priority within Europe following the work of the Mandelkern Group on better regulation and the Commission's Better Regulation Action Plan (2002), which adopted the recommended OECD agenda. EU institutions and Member States have agreed on the need to improve their approach to regulation to ensure that regulation defends public interests in a way that supports the development of economic activity. The "better regulation" strategies adopted at every level in Europe are aimed at contributing to growth and jobs, while taking into account social and environmental objectives and benefits for citizens and national administrations in terms of improved governance.

As part of the 2005 renewed Lisbon Strategy, refocused on growth and jobs, the Commission announced its intention to launch a comprehensive initiative to ensure that the regulatory framework in the EU meets the requirements of the 21st century. The current initiative has three main strands:

- By further promoting the *design and application of better regulation* tools at the EU level, notably in so far as impact assessments and simplification are concerned.
- By *working more closely with Member States to ensure that better regulation* principles are applied consistently throughout the EU by all regulators.
- By *reinforcing the constructive dialogue* between all regulators at the EU and national levels and with stakeholders.

For itself, the Commission announced a range of important initiatives aimed at pursuing the Better Regulation objective: screening pending legislation, simplification, revised Impact Assessment guidelines, administrative costs and the appointment of a High Level Better Regulation group in the Commission to oversee the regulatory reforms.

At the core of the European regulatory reform strategy is regulatory impact assessment (RIA), or impact assessment (IA) as it is called by the European Commission, since it applies to all policies, not only regulatory policies. The Commission's Communication on Better Regulation of June 2002, which proposed an Action Plan for "simplifying and improving the regulatory environment", centered on a new Impact Assessment system designed to integrate and replace previous single-sector assessments, which had little effect on the quality of policy-making.

The European Commission's "Better Regulation for Growth and Jobs" (2005) aimed at "further promoting the design and application of better regulation tools at the EU level, notably ... *impact assessments* and simplification...."

The current Impact Assessment system requires the Commission systematically to assess the likely economic, environmental and social implications of its policy proposals and to highlight the potential trade-offs, with the aim of improving the quality and transparency of proposals and identifying balanced solutions consistent with Community policy objectives. Instruments that provide an alternative to legislation, such as self-regulation and co-regulation must be considered when assessing options

In June 2005, the Commission issued new Impact Assessment Guidelines, which explained the importance of impact assessment as follows:

It ensures early coordination within the Commission. It demonstrates the Commission's openness to input from a wide range of external stakeholders, and shows its commitment to transparency. Further, by providing a careful and comprehensive analysis of likely social, economic and environmental impacts, both direct and indirect, it also contributes to meeting the specific commitments of the Lisbon and Sustainable Development Strategies. Also, it improves the quality of policy proposals, by keeping EU intervention as simple as possible.

As part of the 2005 initiative, the Commission requires Member States “to demonstrate their clear commitment to better regulation principles through their National Lisbon [Action] Programmes”. The Commission has stated, “These are the key tool to drive implementation of the Lisbon strategy: they offer a checklist of national commitments and benchmarks to monitor progress in the months and years ahead.”<sup>1</sup>

The first set of national action plans were evaluated in January 2006 and the second set in December 2006. They showed many initiatives on regulatory reform throughout Europe. The Commission estimated that reforms in the ease of entry for new firms had boosted GDP in the EU15 by 2 percent since 1995. Notably:

- Many Member States (Austria, Belgium, Cyprus, Czech Republic, Denmark, Estonia, Lithuania, Luxembourg, the Netherlands, Portugal, Slovenia, the UK) are carrying out (or intend to carry out) analyses of a subset of regulatory costs -- the administrative costs imposed by legislation. The standard cost model initially developed in the Netherlands and adapted for the European Commission has inspired key aspects of these reforms. Five countries (Czech Republic, Denmark, the Netherlands, Sweden and the UK) have also set quantitative targets for reducing administrative costs (ranging in reductions from 20 to 25 percent) by 2010.

However, the reports from European countries reveal a general lack of strategy for regulatory reform. The Commission found in December 2006 that, “Better regulation is crucial to creating a more competitive business environment and removing obstacles to innovation and change....Nearly all Member States address parts of this agenda, but in many cases, a more integrated approach is necessary.” In Poland, for example, the Commission found that “Improvements in the impact assessment system are also set out but the approach to Better Regulation needs to be further developed.” The Commission concluded that individual Member states should move forward faster:

*Member States are increasingly exchanging experiences and good ideas. However, while all have moved forward, there remain big differences between Member States in the depth and speed of reform...*

The Commission charged Member states with two specific regulatory reforms:

- EU leaders are invited to set a joint 25 percent target for reducing administrative burdens to be achieved jointly by the EU and Member States by 2012. This target was formalized by the Commission in 2007.
- In addition, the Commission intends to conduct a systematic analysis of key goods and services markets to identify specific obstacles to competition and make proposals for removing them. The Report invites Member States to do the same.

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<sup>1</sup> European Commission, Communication from the Commission to the spring European Council 2006 “Time to move up a gear: The new partnership for growth and jobs,” Brussels, p. 9.

The goal of the European Commission is clear: “Establishing a fully fledged and integrated Better Regulation system should be the medium to long-term objective of all Member States.”<sup>2</sup> The 2007 report to the European Commission provides an opportunity for Bulgaria to showcase its efforts to adopt an integrated approach to regulatory reform. Bulgaria’s progress report on compliance with the Lisbon Agenda to the European Commission should report an integrated, broad, and concrete program to reform its domestic regulatory structure in line with the regulatory reform practices recommended in Europe.

## **2. Regulatory Reform in Bulgaria**

Bulgaria has already made significant progress in regulatory reform, in particular through adoption of the body of EU law known as the *acquis communautaire*, implementation of the 2003 *Act on Restricting Administrative, Regulation and Control on Business Activities* and continuing development of the eight “*Measures for implementation of the better regulation principles*” proposed by the Council for Economic Growth and approved by the Council of Ministers on August 3, 2006. These regulatory reforms implement key components of the *Political Priorities of the Government of European Integration, Economic Growth and Social Responsibility* of 28 September 2005. These measures are in line with commitments made by the European Commission and Member States to improve European competitiveness.

### **Reasons for Regulatory Reform in Bulgaria**

Bulgaria entered the EU in 2007 with a per capita income level of about 35 percent of the average for EU25, the lowest among the new member states. In addition, employment and participation rates, although improving, are among the lowest in the EU.

As cited in Donato De Rosa, Marianne Fay, Stella Ilieva (2006) *Product Market Regulation in Bulgaria: A comparison with OECD countries*, World Bank.

Bulgaria’s regulatory reforms over the past few years focused on legal convergence with Europe through adoption of the *acquis communautaire*. That massive reform required a thorough review and overhaul of Bulgarian legislation and regulation, and helped reduce barriers to entry into Bulgarian markets that will increase competition and productivity through the whole of the domestic economy. As part of these reforms, regulation in infrastructure sectors improved considerably as market-oriented regimes were adopted and new regulators were created.

Other components of a national regulatory reform program have developed slowly over several years. In 1998, the *Strategy for establishment of a modern administrative system* took the first step towards introducing meaningful regulatory reform, outlining a vision of the modern role of the state, distribution of government powers and the organization of the administrative system.<sup>3</sup> In 2000, an Inter-ministerial Working

<sup>2</sup> European Commission (14.11.2006) COMMUNICATION FROM THE COMMISSION. Economic reforms and competitiveness: key messages from the European Competitiveness Report 2006 COM(2006) 697 final. Brussels.

<sup>3</sup> In 1998, the Institute for Market Economic (IME), a local think tank, began working with a parliamentary committee on a RIA Law. The Law did not prosper, but it generated interest on RIA from the press and business associations. In 2000 and again in 2001, a coalition of think tanks and technical assistance programs drafted bills to implement RIA in Bulgaria, but failed to gain sufficient support for adoption. This demonstrates how the private sector has actively promoted RIA efforts in



Group for the Optimization of Regulatory Regimes (which revised licenses, permits and regulation requirements) recommended a program for reforming administrative procedures that started with removal or simplification of several dozen requirements.<sup>4</sup> These reforms were aimed at changing or removing regulations impeding firms' activity. The World Bank concluded in 2006 that, through these reforms, the Bulgarian government had in fact successfully streamlined regulatory regimes to reduce private sector transaction costs. The Inter-ministerial Working Group had reviewed 360 centrally-managed regulatory regimes and approved elimination of 71 and modification of 121 regimes.<sup>5</sup> These efforts were followed by attempts by the Ministry of State Administration and Administrative Reform to create an electronic registry of administrative formalities affecting businesses, but the registry is not yet in place.

As in other parts of Europe, much of the focus of regulatory reform in Bulgaria has been on regulatory impact analysis (RIA). Substantial political support for formal RIA emerged in 2002, with the creation of the influential Council for Economic Growth (CEG), a public-private advisory body under the Council of Ministers. In 2003, the *Act on Restricting Administrative, Regulation and Control on Business Activities* took a major step forward by defining the legal framework for RIA in Bulgaria. The Act:

- Required regulation at all levels of government to be justified by a defined need (in terms of national security, environmental protection or personal and material rights of citizens), limiting the discretion of the regulator;
- Imposed a cost-effectiveness (lowest cost) standard by forbidding regulations to impose restrictions unnecessary to the stated purposes of the regulation;
- Mandated identification and measurement of costs and benefits for new regulations with respect to businesses; and
- Mandated stakeholder consultation in the development process, elaborating the requirements in the Law on Normative Acts (1973, amended 1995 and 2003). The 2003 Act requires the Government to notify companies of future regulation and provide them with at least one month to file objections.

Yet implementation of the Act has been inconsistent. Since 2003, local think tanks, the private sector and some Government agencies have attempted to introduce RIA in Bulgaria by conducting overall assessments of the status of RIA, as well as by conducting RIAs on specific pieces of legislation. The Directorate for Strategic Planning and Management in the administration of the Council of Ministers carried out valuable work by producing a Guide on Impact Assessment in Bulgaria (with PHARE assistance). The MoE has recently emerged as a leader on RIA initiatives, chairing an inter-ministerial Working Group on Better Regulation that attempts to create a coordinated position on regulatory reform issues and working closely with the Council of Economic Growth (CEG) and the Council of Ministers.

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Bulgaria, in contrast to the experience in other ECA countries, including Poland and Hungary, where the public sector was the main promoter of RIA.

<sup>4</sup> Stanka Delcheva (2003) *The Strategma Agency in Bulgaria*, published in RGI SEE Seminar: Reducing Administrative Barriers, December, Bucharest.

<sup>5</sup> World Bank (2006) *Implementation Completion Report (Tf-52681 Scl-47850) On A Loan In The Amount Of Us\$450 Million To The Republic Of Bulgaria For A Series Of Three Programmatic Adjustment Operations*, June 26, 2006, Washington, D.C.

In 2006, the current government placed the Lisbon Agenda reforms higher on its priorities. Several of the reforms promoted by the European Commission in 2005 were contained in “Measures for implementation of the better regulation principles” proposed by the Council for Economic Growth and approved by the Council of Ministers on August 3, 2006 (contained in Annex 1). In this instrument, the Council of Ministers basically adopted a basic short-term plan on regulatory reform that, for the first time, assigned specific responsibilities to public institutions, although these measures did not constitute a formal mandate. These measures focused on several key reforms:

- **Better implementation of RIA** to improve the quality of new laws and regulations. The Council on Economic Growth identified seven draft laws that are high priorities for RIA, and three RIAs were prepared by consultants by end 2006. These pilot RIAs are intended to promote the systematic introduction of RIA into the regulatory process, consistent with the recommendation in the September 2006 monitoring report of the European Commission.
- **Creating a method and process for analysis and monitoring of regulation** and inspections that are most costly for businesses. The MoE initiated a survey of firms aimed at identifying firms’ perceptions of constraints imposed by current regulations. The initial survey was carried out in 2006.
- **Improving regulatory quality at local levels.** More systematic dialogue is expected between national regulators and the National Association of Municipalities during formulation of policies.
- **Improving dialogue with stakeholders.** Setting up the Council on Economic Growth was a good step to improving the flow of information from business stakeholders into the legislative process. More effort is expected by the ministries to include stakeholders at earlier stages in policymaking.
- **Enhancing transparency in government actions.** The planned regulatory registry, which has been delayed for years, will be a good step in this direction.

Such reforms will be useful in addressing inefficient regulatory practices that still exist in Bulgaria. A 2006 World Bank diagnostic of Bulgarian regulatory practices, using a highly detailed OECD regulatory database,<sup>6</sup> found Bulgaria’s performance mixed. On one hand, it concluded that Bulgaria has been:

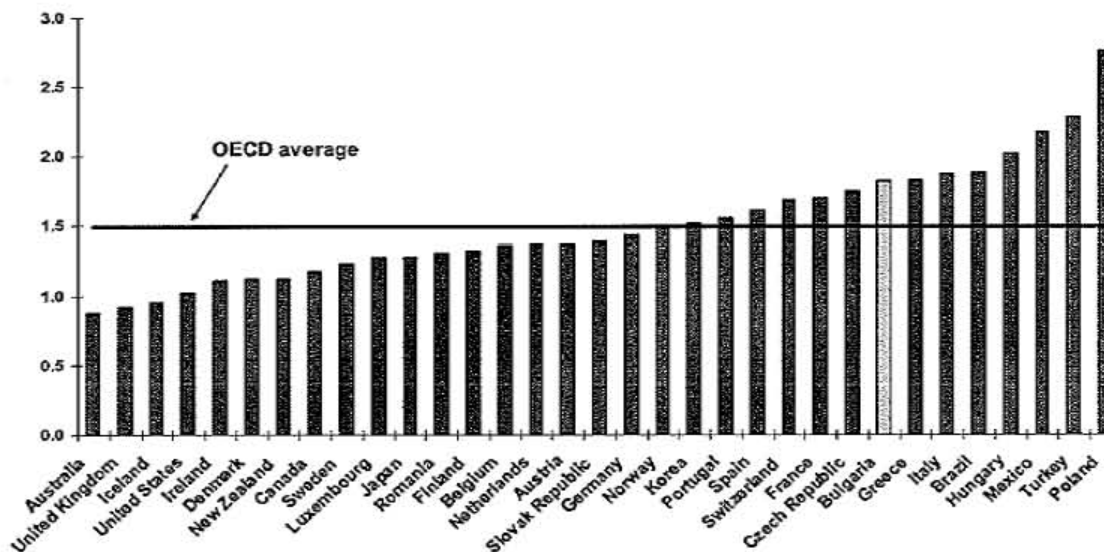
*...successful in reducing barriers to trade and investment, eliminating regulatory barriers and discriminatory procedures against foreign investors. ... With respect to barriers to entrepreneurship, Bulgaria has managed to eliminate a number of them (such as antitrust exemptions) or reached OECD average for several others (licenses and permits, and legal barriers to competition).*

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<sup>6</sup> The OECD calculates an overall product market regulation (PMR) index that measures the regulatory burdens imposed by inward-oriented and outward-oriented economic policies. A high PMR score indicates that a country has implemented relatively restrictive product market regulations. The World Bank expanded that database to include Bulgaria.

On the other hand, Bulgaria in 2006 appears to rank in the lower third of European countries in 2003 in terms of the restrictiveness of its regulatory policies (Figure 1). Because this is a highly synthetic indicator, small changes in scores indicate important differences in regulatory regimes. Indeed, Bulgaria's 2006 score is not far from the EU average in 1998, when the benchmarking process was started. That suggests that Bulgaria is around 8 years behind the average European country in reducing the economic costs of its regulatory regimes.

**Figure 1: Product Market Regulation - Country Comparison<sup>7</sup>**  
(2003 for all countries except Bulgaria, which is 2006)



The authors of the World Bank paper note several areas in which Bulgaria should focus its future reforms (Figure 2). Regulatory quality is poor as measured by the extent to which “command” rather than incentive regulation is used. This is probably a direct result of the absence of RIA in Bulgarian regulatory processes, since RIA directly contributes to consideration of a wider range of non-regulatory options.

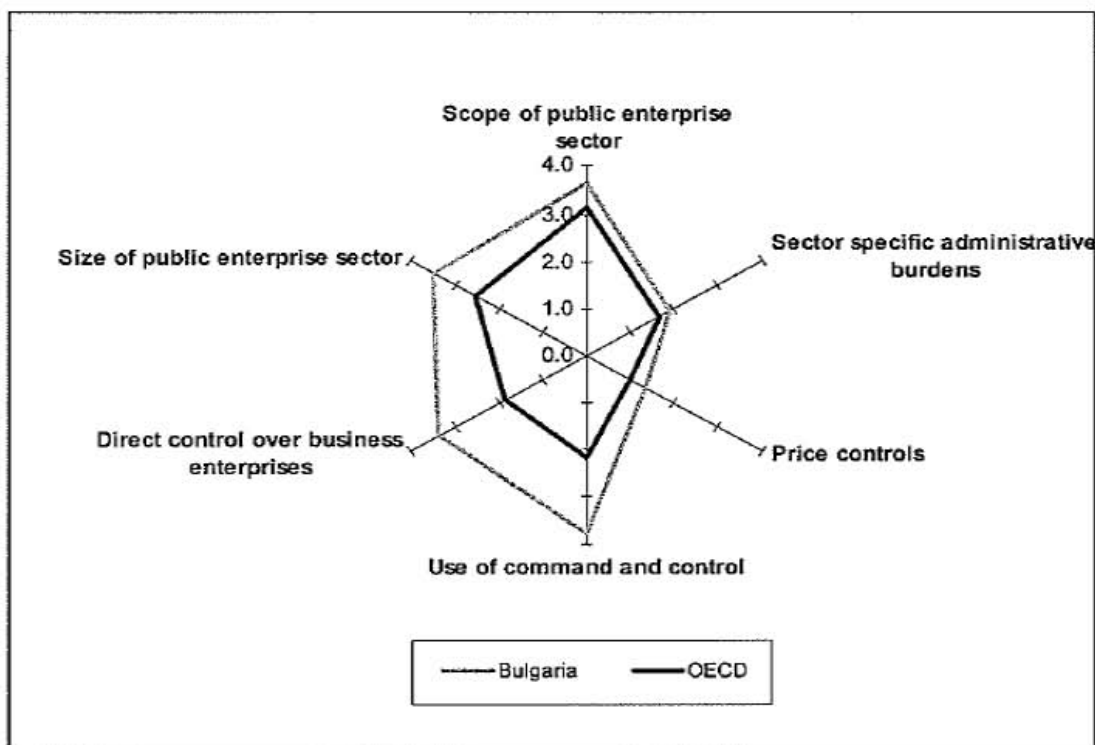
The 2006 study of administrative burdens in Bulgaria (based on a survey of 505 firms) found that businesses are generally pleased with improvements in the macroeconomic environment, but that regulatory problems remain significant:

- Burdensome regulatory regimes became more of a problem for businesses from 2002 – 2006 (identified as a problem by 11 percent of businesses in 2002 but 23 percent in 2006). Complex licensing and regulatory regimes rank third among the problems of the business environment.
- 59 percent of companies had problems in obtaining licenses, permits and registrations.

<sup>7</sup> Source: OECD and, for Bulgaria, World Bank estimates based on information provided by Bulgarian authorities and Doing Business in 2005. Note: the values are for 2006 for Bulgaria and for 2003 for all other countries. As cited in Donato De Rosa, Marianne Fay, Stella Ilieva (2006) Product Market Regulation in Bulgaria: A comparison with OECD countries. DRAFT FOR DISCUSSION, World Bank.

These findings support the PMR indicators in suggesting that administrative burdens due to complex procedures should be a future priority for Bulgaria, as in Europe overall.

**Figure 2: Remaining Gaps in Regulatory Quality Compared to the OECD Average**



Bulgaria’s entrance into the European Union, and the opening of its economy to deeper integration into the Single Market, places more attention on the cost structures of its producers and the continuing capacity of the government to respond efficiently to address social needs and market failures.

### **3. What is Best Practice in Regulatory Reform?**

Any survey of European regulatory practices shows enormous diversity in the quality of regulations across the European Commission and across Member States. Likewise, the range of regulatory reform activities is wide, and continuously increasing as new initiatives on regulatory reform are launched across Europe. In such a dynamic and diverse policy reform environment, it is important to be clear on the fundamental principles of “best practice” regulatory reform. This convergence policy recommends that Bulgaria adopt as benchmarks European best practices, which will rest on a careful selection of countries and performance standards.

Tackling the regulatory reform agenda is among the most difficult challenges facing governments since regulatory systems, while large, tend to be highly decentralized among numerous institutions, non-transparent, easily captured, and based in enduring habits of public sector behavior. Improving the quality of regulation is necessary to

improve the business environment, and thereby increase investment, productivity and sustainable economic growth. High quality regulation—defined in the box below—avoids imposing unnecessary burdens that cost time and money for businesses, citizens and public administrations. By improving the quality of regulations affecting private firms, countries improve the conditions for doing business, reduce market distortions, increase competition, and facilitate integration of local requirements and standards with those of other countries, in turn expanding firms’ access to foreign markets. This contributes to increased private investment, firm productivity, export and employment. By improving the quality of regulations affecting the citizens and the public sector, countries also improve citizens’ rights and the quality of public services.

Modernizing the regulatory role of the state requires a sophisticated “good governance” agenda, not only a narrow “deregulation” agenda aimed at cutting costs. Successful regulatory reform has become a multifaceted strategy that includes better regulation, deregulation, re-regulation, simplification and institution-building (including public sector reforms that realign incentives). In the modern practice, regulatory reform is not about limiting the role of the state, but about re-defining the capacities and the role of the state to meet evolving needs. This means that regulatory quality management must become as much a part of public management as have fiscal management and human resource management. The OECD calls for a “pro-active “quality assurance” role” for the regulatory functions of government.

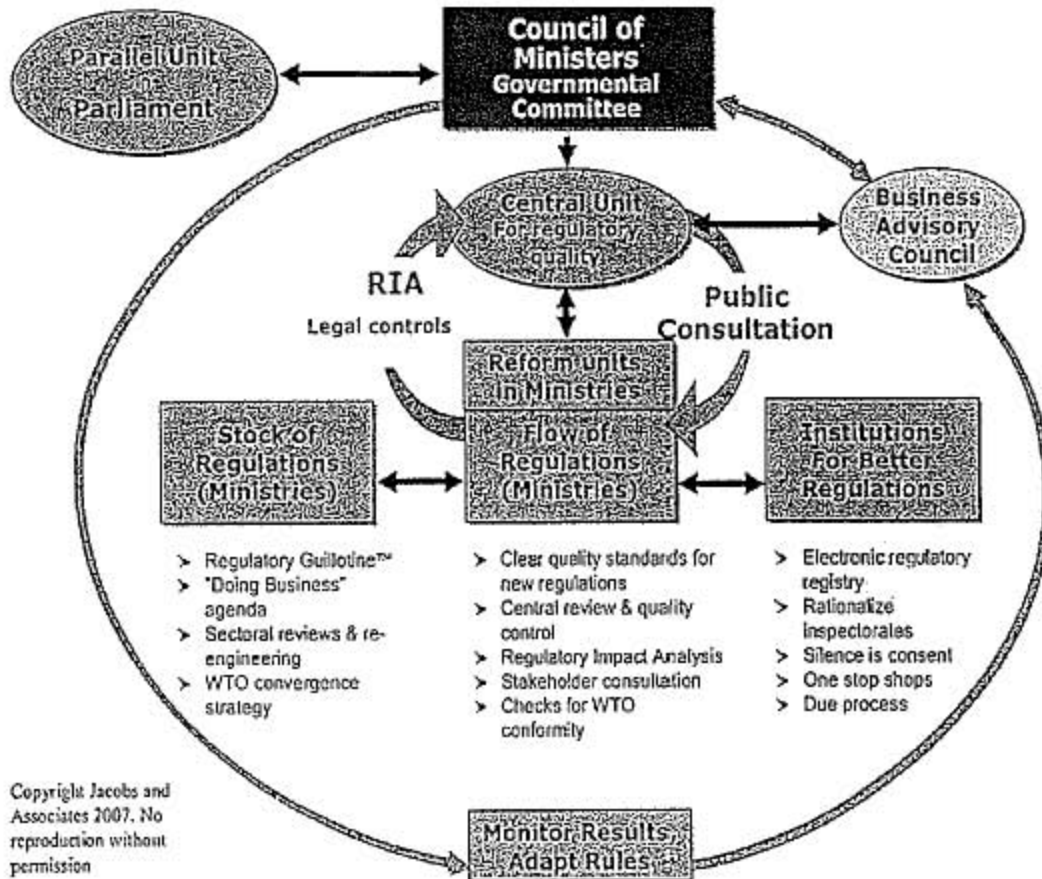
OECD Regulatory Quality Principles	
High quality regulation should:	
<ul style="list-style-type: none"> <li>• Serve clearly identified policy goals and be effective in achieving those goals;</li> <li>• Have a sound legal basis;</li> <li>• Produce benefits that justify costs, considering the distribution of effects across society;</li> <li>• Minimize costs and market distortions;</li> <li>• Promote innovation through market incentives and goal-based approaches;</li> <li>• Be clear, simple, and practical for users;</li> <li>• Be consistent with other regulations and policies; and</li> <li>• Be compatible as far as possible with competition, trade and investment-facilitating principles at domestic and international levels.</li> </ul>	
<p><i>Source: OECD Recommendations on Regulatory Quality 1995 and 1997</i></p>	

The sheer complexity of the national regulatory system has defeated many reformers. It is necessary to start with a clear understanding of the components of a dynamic regulatory system, each with its problems and related solutions, in order to create an integrated reform strategy. Over many years of work, the OECD has divided the reform task of building a modern regulatory system into four major components. The essential concept of the OECD “system” approach is that a national regulatory system can be divided into the *stock* of regulations, that is the accumulated legacy of regulations that have built up over years and decades, and the *flow* of regulations, that is, the continuing production of new regulations that are needed to meet the changing needs of society. Management of the stock and flow of regulations requires different institutional capacities and different strategies, which make up the core of the OECD regulatory reform agenda.

These four components are summarized below and a functional map is presented in Figure 3 (next page):

- I. *Build a regulatory management system that can lead the reforms, monitor the quality of the national regulatory system, and promote good regulation tools throughout the entire public sector.*
  - Strategic medium-term regulatory reform policy (5 years)
  - Engines of reform such as a regulatory reform unit at the center of government
  - A responsible minister
  
- II. *Build the institutions to carry out good regulation*
  - Trained and skilled regulators who understand how to implement “better regulation” tools
  - One-stop shops
  - Regulatory registries, preferably electronic and online
  - Inspections reforms
  - Due process reforms to speed up appeals
  
- III. *Improve the quality of new regulations (the continuing flow of new laws and other regulations)*
  - Adopting principles of regulatory quality
  - Systematic use of RIA
  - Transparency and Stakeholder consultation
  - Central quality checks by an independent unit (a regulatory reform unit)
  
- IV. *Upgrade quality of existing regulations (the huge stock of existing laws and other regulations)*
  - Targeted deregulation, simplification, codification based on business priorities
  - Broad-based reforms (Standard Cost Model approach, Regulatory Guillotine™)
  - Rolling programs of review of targeted sectors (European Commission approach)

**Fig. 3: A Functional Map of a Modern Regulatory System**



While Bulgaria has many choices about the kinds of reforms that it adopts, and the design and institutional basis for those reforms, these four major tasks should be reflected in its convergence policy in order to both achieve short-term benefits and a longer-term, sustainable program of regulatory management that will serve Bulgaria well into the future.

#### **4. Converging with the Best: The Vision of Regulatory Reform in Bulgaria**

Bulgaria should benchmark its progress against the best countries in Europe. Not only must Bulgaria engage in a "catch-up" by moving faster than the others, other countries are continuing to reform in the interim. If Bulgaria is to move into the better performing European countries in the next five years, it must move faster with broader and better implemented reforms.

Accelerating progress on regulatory reform requires a medium-term (i.e. 5 year) convergence policy that links the various components of reform into a coherent and results-oriented plan of action. Against high European benchmarks, concrete performance measures should be adopted and monitored for each reform to ensure that adequate progress is made over time by the responsible institutions.

This convergence policy identifies nine tasks that are needed to converge with European best practices in regulatory reform. These nine tasks follow the OECD agenda in addressing the stock, flow, institutions, and management of the national regulatory system. For each of the nine tasks, practices that should be considered by Bulgaria are identified, possible performance standards are suggested, and relevant experiences in Europe are identified.

**Example: Poland's Program For Regulatory Reform Under the Lisbon Agenda**

Poland is focusing on 7 actions to improve its regulatory environment:

- (1) Simplify domestic legal instruments,
- (2) Implement the Commission's rolling review program at domestic level,
- (3) Improve efficiency of the EU directives implementation system,
- (4) Apply a system to measure and reduce administrative costs on businesses,
- (5) Optimize RIA,
- (6) Strengthen regulatory capacity, and
- (7) Implement the "Think small first" principle.

## MANAGEMENT OF THE NATIONAL REGULATORY SYSTEM

*Task 1: Submit a convergence policy for regulatory reform to the Council of Ministers for consideration, develop a medium-term (i.e. 5 year) implementation plan based on this convergence policy, and communicate the benefits of these reforms to the public.*

This explicit and coordinated convergence policy for Bulgaria, with clear goals and implementation mechanisms, is itself a key part of successful reform. The OECD recommends that each country "adopt at the political level broad programs of regulatory reform that establish clear objectives and frameworks for implementation... articulate reform goals, strategies and benefits clearly to the public."<sup>8</sup> Adoption of a clear program is so important, the OECD found, that "countries with explicit regulatory policies consistently make more rapid and sustained progress than countries without clear policies. The more complete the principles, and the more concrete and accountable the action program, the wider and more effective was reform."<sup>9</sup>

Adoption by the Council of Ministers would be a key signal of the credibility of the convergence policy, and a predictor of its success. One of the weaknesses seen in a recent review of the regulatory quality programs in many of the 10 newest states of the EU (the OECD review did not include Bulgaria and Romania) is lack of an explicit political commitment to a concrete policy of regulatory reform. The head of the OECD/SIGMA regulatory reform program recently concluded that:

"...as the governance processes of states become more sophisticated and more is understood about improving the quality of policy making and regulation drafting, an explicit policy for Better Regulation becomes a key feature of the governance landscape and is easily identified by reference to an explicit policy

<sup>8</sup> OECD (1997) OECD Report on Regulatory Reform, Paris.

<sup>9</sup> OECD (2002) Regulatory Policies in OECD Countries: From interventionism to regulatory governance, OECD, Paris.



document, an explicit political commitment and by a change of culture for the constant improvement of governance.”<sup>10</sup>

This convergence policy, while important as a policy document, is not sufficiently detailed to be an implementation plan. Through a process of inter-ministerial and stakeholder consultation over the next few months, Bulgaria should develop a detailed implementation plan for carrying out these reforms. Such a plan should include the:

- design and interaction of each reform;
- specific performance goals for each reform;
- the institutions to be involved;
- the schedule;
- the financing and staffing plan;
- the monitoring and evaluation strategy.

The implementation plan should be consulted with stakeholders and presented for consideration by the Council of Ministers by the end of 2007 as the blueprint for reform, and for integration into financial and staffing plans.

Communication to the public of the regulatory reform strategy in the benefits for national policy priorities is important to maintain accountability for results and to ensure that the program moves ahead against the inevitable resistance. A communication plan from the top of government is needed to ensure that the public and key stakeholders such as the parliament are informed as the reforms proceed.

#### *Suggested performance standards*

It is suggested that Bulgaria benchmark the quality of its convergence policy and implementation plan against the criteria currently used by the OECD/SIGMA to assess the suitability of “better regulation” policies in the new European member states. The basic indicators used by OECD/SIGMA for a regulatory management policy include:

- An explicit policy on regulatory management;
- Political support;
- A structure to implement a Better Regulation policy;
- A structure to plan policy and regulatory activity and to prioritise policy and regulatory activities;
- An appropriate number of suitably-qualified personnel;
- Reports on the effectiveness of particular substantive policies.

#### *Good practices in Europe*

In the *Czech Republic*, the government has developed, and in 2007 is improving, a regulatory reform policy that parallels broadly the EU Better Regulation policy. Commitments for the development of Better Regulation were included in the National Reform Programme of the Czech Republic within the Lisbon programme, and in the Strategy for Economic Growth of the Czech Republic.<sup>11</sup> A Government Resolution<sup>12</sup>

<sup>10</sup> Edward Donelan and Diane de Pompignan (2007) Better Regulation Practices in New European Member States: Context for Better Regulation, published at <http://www.reforma-regulacji.gov.pl/>

<sup>11</sup> OECD/SIGMA (2006) Report on Regulatory Management Capacities of the Czech Republic, Paris.

on Reducing the Administrative Burden on Businesses was adopted in 2005 that includes an Action Plan for Reducing Administrative Burden on Businesses and a Methodology of Measurement of Administrative Burden, based on the Dutch Standard Cost Model.<sup>13</sup>

In *Malta*, a general outline of a Better Regulation policy is set out in the *National Reform Programme: Malta's strategy for growth and jobs for the period 2005 to 2008*.

*Poland's* three-year "Regulatory Reform Program" was adopted by the Council of Ministers on 19 August 2006 as "the first comprehensive regulatory reform program in Poland defining an integrated approach to regulatory management policy."<sup>14</sup> The program is based on the principle that Better Regulation is a long-term action and should be continuous. The first stage of the reform covers the period 2006-2008. The Program is "a comprehensive document containing references to the most important issues identified in the national regulatory system." It is based on recommendations from Polish enterprises, on a diagnostic by the Polish government ("Entrepreneurship in Poland in 2006"), and recommendations from the World Bank and the OECD. It focuses on seven tasks: (1) simplifying domestic legal instruments, (2) implementing the Commission's rolling program at domestic level, (3) improving the efficiency of EU directives implementation, (4) applying a system for measuring and reducing administrative costs imposed on businesses, (5) optimizing RIA, (6) strengthening regulatory capacity, and (7) implementing the "Think small first" principle.<sup>15</sup>

The *European Commission* adopted in 2005 its own strategic vision for "better regulation": "In the context of the renewed Lisbon Strategy, refocused on growth and jobs, the Commission announced its intention to launch a comprehensive initiative to ensure that the regulatory framework in the EU meets the requirements of the twenty-first century." When little progress was made across Europe, the Commission launched an Annual Progress Report that monitors progress in each Member State, and develops specific recommendations that are endorsed by the European Council. This system of policy, monitoring, and recommendations has been effective in stimulating much faster progress across Europe.

***Task 2: Build a central unit responsible for promoting and overseeing regulatory reform through all national public sector institutions, and working with regional governments. It should be supported by a network of units in each ministry.***

The regulatory reform agenda can be speeded up by the right regulatory management structure. The OECD has found that change can be driven by central units with longer term, whole-of-government views. In the longer term, such regulatory management units should be responsible for continuing adaptation and improvement of regulatory

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<sup>12</sup> No. 421/2005.

<sup>13</sup> OECD/SIGMA (2007) REGULATORY MANAGEMENT CAPACITIES OF MEMBER STATES OF THE EUROPEAN UNION THAT JOINED THE UNION ON MAY 1, 2004. Sustaining regulatory management improvements through a Better Regulation policy. Mimeo draft, April, Paris.

<sup>14</sup> OECD/SIGMA (2007).

<sup>15</sup> Republic of Poland (2006) National Reform Programme for 2005-2008 to implement the Lisbon Strategy. *First Annual Progress Report*. Adopted by the Council of Ministers on 13 October 2006  
Warsaw.

systems as external conditions change, information becomes available and new problems arise.<sup>16</sup>

Bulgaria requires a dedicated mechanism, with adequate resources, expertise and authority, for managing and co-ordinating the complex regulatory reform strategy and monitoring and reporting on outcomes. The location of the institution needed to oversee compliance with regulatory reform policies has by now been well established: *the oversight body is most effective when associated with the center of government where authorities for inter-ministerial oversight are already well established.*<sup>17</sup> Individual ministries are not well-placed to carry out such government-wide program management.

Discussions in Bulgaria to place such a unit in the administrative offices of the Council of Ministers are well within the mainstream of experiences in Europe, and are consistent with recommendations from the OECD. Indeed, the administrative offices of the Council of Ministers have already been active in promoting better regulation practices. If placed within the Council of Ministers, the Better Regulation unit would work best if designated as a stand-alone unit, with its own mandate, staff, and head accountable for delivering a specific program. That is, the unit should not be seen as a collective or inter-ministerial function serving the Council's day-to-day needs, but as a program delivery function with its own tasks. Of course, in carrying out its tasks, it would be accountable to the Council of Ministers, and the Council would be able to charge it with new tasks beyond its core mandate to support Government policy. In addition, the unit should be integrated into the policy processes of the Council so that its advice and outputs are considered by the Council, as appropriate. To ensure sustainability, salaries of these units are entirely paid from the annual government budget, based on civil service rates.

There is no ideal practice for establishing the mandate of such a unit. Some countries establish such units by law, while others create such units by decision of the Council or the Prime Minister. In general, creation by law is associated with more credibility and sustainability of the unit, because its role supersedes short-term political and party interests.

The core functions of such a unit typically include:

- Strategic leadership: assessment of regulatory challenges and new initiatives on regulatory reform
- Program oversight: central coordination of delivery and implementation of regulatory reform, with monitoring and challenge to ministries on performance
- Operational functions: Reviewing RIAs, conducting training, writing guidance, providing help-desk services

In its mandate, the unit could, for example, be responsible for:

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<sup>16</sup> OECD (2002), p. 91.

<sup>17</sup> Jacobs, Scott (2006) "Current Trends in Regulatory Impact Analysis: Mainstreaming RIA Into Policy-Making," Jacobs and Associates Reports, Washington, DC.

- advising the government on all matters relating to business regulation, regulatory institutions, the enabling environment, and related reforms generally;
- reviewing all proposals for new regulatory requirements against the standards established by the regulatory policy;
- reviewing on its own initiative or upon the representation of any person any matter relating to business regulation;
- reviewing proposed Government policy on business regulation and advising the Government as may be appropriate;
- issuing guidance and standards for regulatory impact analysis to be applied by the regulatory authorities;
- issuing guidance and standards for the manner of public consultation to be applied by the regulatory authorities, promoting more accessible and systematic public consultation strategies, developing a website portal for public consultation, and consulting regularly with stakeholders on issues of business regulation and its reform.
- operating training programs to build skills in the regulatory authorities
- monitoring and reporting on the activities of the regulatory authorities related to regulation reform, quality, or related issues particularly compliance with the national regulatory policy;
- producing at least once year a report on the quality of regulation in Bulgaria, and proposing as needed any actions necessary to improve the business environment so as to support the development policies of the Government;
- organizing forums, and bringing together the regulatory authorities and stakeholders with a view to getting the views of these groups on the regulatory environment for business activity in Bulgaria.

Such a unit should be supported by a network of units through the public sector. Jacobs (2006) has found that the best-performing countries create a rich network of supporting institutions on regulatory reform.. The better systems seem to combine both a central unit with a network of institutions among the ministries. Such a network might include:

- Political and minister-level bodies for regulatory reform (special ministers for regulatory reform in UK, Special Committee of Council in Canada);
- Activist committees and bodies of the parliament (Committees of the European Parliament);
- High level commissions (Competitiveness Council in the European Commission);
- Inter-ministerial working groups that coordinate and advise on major regulatory initiatives (Implementation Group of Secretaries General in Ireland);
- Ad hoc inter-ministerial working groups that coordinate and advise on major regulatory initiatives (Cross-departmental steering groups on better regulation in Ireland, Inter-service coordination groups for regulatory development in the European Commission)
- Ministerial regulatory reform units who are responsible for carrying out the regulatory policy and RIA quality oversight at the level of the Ministry (In United Kingdom, a Minister for Regulatory Reform is appointed to each

key regulatory department to be responsible for the quality of RIA within the department. Departmental Better Regulation Units are established in each department)

- Private sector groups, advisory bodies, think tanks, or other research bodies who support the regulatory reform agenda (UK Better Regulation Task Force, Sweden's Board of Swedish Industry and Commerce for Better Regulation (NNR))

#### *Suggested performance standards*

To evaluate the quality of the design of this unit, Bulgaria should consider the standards suggested by Jacobs (2006)<sup>18</sup> for regulatory reform units:

- Have a longer-term agenda and mandate, with sustained focus and influence over several years.
- Have an active inter-ministerial component to coordinate the parts of the public administration that will have to actually implement reforms.
- Be authorized, connected, and accountable for results to the centre of government to strengthen policy coordination and oversight capacities.
- Have strong relations and an active involvement with the private sector, and include those parts of the government who are champions of private sector development.
- Command the resources needed to get the job done, including a dedicated secretariat with the right skills and financing to move reform forward.

#### *Good practices in Europe*

Europe is seeing an explosion of these so-called Better Regulation Units, particularly in response to the adoption of the Standard Cost Model and the government-wide targets for cost reduction. However, in the new Member States, the tendency is to locate responsibility for the better regulation policy in a specific ministry, most commonly the Ministry of Economy. This approach is too new to be evaluated in the region; however, it has not proven to be an effective design in other European countries, or outside of Europe. Examples of the more carefully designed units include:

In *Malta*, the Better Regulation policy is the responsibility of the Better Regulation Unit within the Management Efficiency Unit (MEU). The MEU operates in the Office of the Prime Minister and plays a unique role of an in-house management consultant to the Government. It has developed some experience of impact assessment. The mandate of the Unit is to monitor regulatory developments and reduce unnecessary bureaucracy.<sup>19</sup>

In *Latvia*, the Policy Coordination Department of the State Chancellery is responsible for designing and implementing the policy and strategic planning system, which includes the Better Regulation policy. This policy is prepared in cooperation with line

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<sup>18</sup> See, for example, Scott Jacobs and Jacqueline Coolidge (2006) Reducing Administrative Barriers to Investment: Lessons Learned. FIAS Occasional Paper 17, IFC/World Bank, Washington, DC.

<sup>19</sup> OECD/SIGMA (2007).

ministries, which are in charge of checking the quality of impact assessments, according to their respective areas of competence.<sup>20</sup>

In *Poland*, an inter-ministerial working group (the Task Force for Modern Economic Regulation) was established in February 2006 to develop the regulatory policy for submission to the Council of Ministers for approval. This Task Force is building on the work done by a team appointed in 2000 (the Inter-ministerial Regulatory Quality Team) and will deal with similar issues, but with a stronger focus on both improving the regulatory environment for business, and making use of the regulatory tools more effectively. There is also a strong, well managed Department in the Ministry for the Economy and added competencies were given to the Office of the Prime Minister to oversee impact assessments. An official in each Ministry is responsible for the development of Better Regulation in that Ministry.<sup>21</sup>

*Germany*, under Cabinet Decision of 25.04.06, has taken a new centralized approach to overseeing administrative simplification across the government:

- Centralized approach at the center of government (a Coordinator and a Better Regulation Unit in the Federal Chancellery)
- Political Coordination via a State Secretaries' Committee (covering all ministries)

The *United Kingdom* has three challenge units at the center of government: The central units are supported by Departmental regulatory reform units in each ministry.

- The Better Regulation Executive (BRE) in the Cabinet Office provides central coordination of delivery and implementation of regulatory reforms, challenges departments on progress with regulatory reform; and works with departments to change regulatory culture and processes.
- Small Business Service reviews proposals that affect small firms.
- All regulatory proposals likely to impose a major new burden on business require clearance from the Panel for Regulatory Accountability, chaired by the Prime Minister.

In *Denmark*, an interministerial Regulation Committee is staffed by the permanent secretaries of four ministries – including the Ministry of Finance, the Ministry of Justice, and the Ministry of Business and Industry. This Committee prepares the legislative agenda for the coming year and develops the national policy on legislative quality. It is supported by a Division for better regulation in the Ministry of Finance; by a Division for quality in business regulation in the Ministry of Business and Industry; a Legislation Technique Division in the Ministry of Justice, and a Digital Task Force for the IT issues.

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<sup>20</sup> OECD/SIGMA (2007).

<sup>21</sup> OECD/SIGMA (2007).

## **BUILDING THE INSTITUTIONAL INFRASTRUCTURE OF A “BEST PRACTICE” REGULATORY SYSTEM**

### ***Task 3: Train regulators to build skills in "better regulation" tools by launching a phased training program focused on implementing the national convergence policy***

Regulators across the public sector – those who develop and adopt new regulations and those who implement and monitor existing regulations -- should be more skilled in the principles and methods of the better regulation plan. Bulgaria’s Council of Ministers in 2006 agreed to the need for more support and training for the officials of the central and local administrations. Such training should be carried out with the assistance of the Ministry of Economy and Energy and the participation of the Institute for Public Administration and European Integration.

In general, governments across Europe invest far too little in training of civil servants in better regulation to rules and principles. Indeed, the OECD found in 2002 that “The lack of skills reflects the fundamental disregard, found in almost all country reviews to date, for the need for large scale, sustained and detailed training to be provided by co-ordinating bodies.”<sup>22</sup> Jacobs (2006) found the same situation four years later.

Those governments that do training seem to use a combination of external training to develop a high level of skills for a core group, combined with in-house or on-site training for a far broader group of civil servants who need to know the principles and tools of better regulation, without the detailed knowledge of a RIA analyst. The better organized governments have begun to integrate training on better regulation into the civil service institutions responsible for continuous training.

#### *Suggested performance standards*

There are no agreed performance standards for “Better Regulation” training in Europe. Suggested standards could include:

- Training should be given as early as possible in a professional career.
- All regulators should have basic training in the principles and tools of good regulation, as contained in the national regulatory policy. The percentage of those trained should rise progressively, reaching 100 percent by year three.
- All regulatory bodies should have a core group trained in RIA by year two. This group should be able to design and carry out basic RIA for their ministries.
- All managers at the level of Director should have at least 8 hours training in the national regulatory policy, rising to 100 percent by year 2.
- Once reaching 100 percent, the government should maintain that standard of a fully trained civil service.

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<sup>22</sup> OECD (2002).

### *Good practices in Europe*

In the **Czech Republic**, training is delivered to civil servants by the Institute of State Administration. Special courses are organized on EU issues as well as on Better Regulation issues. In particular, a 3 day course was set up to train civil servants on the EU methodology on Regulatory Impact Assessment and on how to conduct RIA. 50 civil servants were trained by the end of 2006.<sup>23</sup>

In **Hungary**, two initiatives to provide training for officials in modern administration, including Better Regulation, were introduced in 2004. The first is in Budapest; the second in Perch University, which started a Better Regulation curriculum for local authority lawyers. Training aims to give officials the capacity to undertake and manage an impact assessment project.<sup>24</sup>

**Bosnia, Serbia, and Moldova** have sent officials to the College of Europe/Jacobs and Associates RIA Training Course offered twice a year in Bruges. This five-day course is the only commercial RIA course offered in Europe, and provides the most advanced training available for the core cadre of RIA experts needed in the Better Regulation Unit.

**Moldova**, with World Bank financial support, is developing a series of training courses and training materials, and is training a cadre of trainers in its civil service training institute so that RIA training can be offered on a continuous basis at low cost.

The **Irish** Department of the Taoiseach is drawing up a “detailed training strategy for RIA” using the Centre for Management and Organization Development (CMOD) in the Department of Finance, as well as academic institutions. The Irish approach to drawing up a training strategy for RIA might be an effective way of attracting more training resources to RIA, upgrading the quality and consistency of RIA training government-wide, and ensuring that good practices around the world are transmitted quickly and efficiently to civil servants.<sup>25</sup>

In the **United Kingdom**, the better regulation unit runs seminars, formal training sessions and workshops on RIA. The unit is also involved in training officials through the Civil Service College's training courses on policy making.

#### ***Task 4: Complete the national electronic registry of consolidated regulations, with mechanisms for continuing maintenance of the registry***

Most OECD countries have established central electronic registers for laws and regulations, and the 2005 OECD Guiding Principles for Regulatory Quality and Performance recommends that governments “create and update on a continuing basis public registers of regulations and business formalities, or use other means of ensuring that domestic and foreign businesses can easily identify all requirements applicable to them.”

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<sup>23</sup> OECD/SIGMA (2006) Report on Regulatory Management Capacities of the Czech Republic, Paris.

<sup>24</sup> OECD/SIGMA (2007).

<sup>25</sup> Scott Jacobs (2006) “Current Trends in Regulatory Impact Analysis: Mainstreaming RIA into Policy-Making.”



Bulgaria has no complete, electronic registry of its regulations for access by businesses. Amendments to the Law on Administration in March 2006 aim to unify the data in the Register into a single Administrative Register. The Ministry of State Administration and Administrative Reform (MSAAR) is charged with producing the new Administrative Register, but the Council for Economic Growth has complained about delays.

Bulgaria should complete, as a high priority, a national electronic registry of administrative requirements on businesses. Such a registry could be subsequently expanded to all business regulations, and eventually to the Regulations Official publication of the National Assembly and the Council of Ministers. Once established, the government should maintain the registry over time, and mechanisms are necessary to do this.

Bulgaria has several options for the design of an electronic registry:<sup>26</sup>

- A registry of forms and other information such as fees needed for formalities. Such forms can be:
  - Only downloaded
  - Answered on line
- A registry of legal texts – ranging from formalities to a broader set of legal texts -- at different levels of government. Such a registry could be:
  - For information
  - Legally secure
- A registry of all requirements needed for a business to start up and operate. This becomes an electronic one stop shop. Such a registry could be:
  - Comprehensive from the view of businesses
  - Geared to a single ministry or level of government.

#### *Suggested performance standards*

The purpose of the registry is to reduce transactions costs for users and to increase legal security. Evaluation of the performance of the registry in achieving these goals could use the following kinds of standards:

- Publication in a single site (as opposed to multiple sites)
- Presentation of information in a standardized format
- Timely updating of the registry (in parallel with notification in the national gazette)
- Accessibility to the public without fees
- Capacity for user-friendly searches on key words
- Capacity to download relevant forms
- Capacity to fill out and submit relevant forms
- Legal value of the content of the registry in legal proceedings
- Accessibility in multiple languages.

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<sup>26</sup> Cesar Cordova and Scott Jacobs (2007) Key Elements and Characteristics of Regulatory eRegistries: A Note for HITROREZ, Croatia. Mimeo, Washington, DC.

### *Good practices in Europe*

In *Norway*,<sup>27</sup> the Register of Reporting Obligations of Enterprises and The Central Co-ordination Register for Legal Entities (Oppgaveregisteret) plays a key role in efforts to monitor and reduce administrative burdens. Created in 1997, the main task of this register is to maintain a constantly updated overview of businesses' reporting obligations to central government, and to find ways to coordinate and simplify these obligations. The register keeps an updated overview of all reporting obligations of industry and business. The information supplied by each business enterprise is not registered by the Oppgaveregistret, but by the authorities using the information. Under the Act relating to the Reporting Obligations of Enterprises, the public authorities must co-ordinate their reporting activities. This means that if two or more public authorities ask the same questions of the same type of company, these authorities shall collaborate so the question is asked only once. The register also maintains an overview of the permits that are required to operate within various businesses and industries, and provides information on how to obtain such permits. Currently the register is restricted to business and industry's reporting obligations to the central authorities. The results of its monitoring efforts are published on a yearly basis. The register has compiled a database of about 669 reporting obligations and a total of 255 different permits and licenses covering all business sectors in Norway. The register estimates burdens related to submission of information in terms of time.

*France* has opted for the establishment at the centre of Government of an agency dedicated to the promotion of administrative simplification and in particular the registration of all government forms. Provision of online services was improved by introducing a national gateway portal in October 2000 that allows online access to administrative forms (with 1,000 forms now available, out of a total of 1,600). These can be found at <http://www.service-public.fr/formulaires/index.html> and <http://annuaire-cfe.insee.fr/AnnuaireCFE/jsp/Controleur.jsp>. The forms are available in .pdf format. Some must be printed and filled out manually, while others can be filed online. France is currently (2006-2007) expanding the online filing services.

*European Union Institutions* offer EUR-Lex (<http://eur-lex.europa.eu/en/index.htm>), which provides direct free access to European Union law. The system makes it possible to consult the Official Journal of the European Union and it includes treaties, legislation, case-law and legislative proposals. It offers extensive search facilities. Its website states that, as Community legislation is evolving, due to frequent publications of new, amending, legal acts, the collection of consolidated legislation in the database is not complete and it cannot be guaranteed that a text represents the up-to-date state of the legislation in force. However, each consolidated text contains a list of all legal documents taken into account for its construction. Therefore a comparison with the data in the Directory of Community legislation in force allows an easy check on the current state of consolidation. Furthermore, each part of the text is enriched with data concerning its origin (basic act, amending act or corrigendum). Consolidated texts in EUR-Lex are intended for use as documentation tools and have no legal value. For legal purposes, the texts published in the Official Journal of the European Union are binding.

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<sup>27</sup> OECD 2003, Regulatory Reform in Norway. Chapter 2 Government Capacities to Ensure High Quality Regulations OECD Paris see Box Best Practice: The Brønnøysund Registers.

***Task 5: Work with local governments to promote “better regulation” practices across Bulgaria.***

A continuing complaint of businesses in Bulgaria is the implementation of regulations at the municipal level, which is still seen as uncertain and adding to regulatory risks. An effective national convergence strategy cannot ignore regulatory practices at municipal levels, but the independence of the 263 municipalities means that a standardized approach across many municipalities is unrealistic.

But national governments do not have to mandate actions in order to support beneficial regulatory reforms. The implementation plan for regulatory reform should examine several options for promoting “better regulation” practices at the municipal level, including:

- Enhancing consultation with municipal authorities in the preparation of new laws and regulations in order to improve their application;
- Developing with the National Association of Municipalities in the Republic of Bulgaria recommended model practices for regulatory implementation and stakeholder relationships;
- Financing consultancies for municipalities to help them self-diagnose and improve performance, or set up a municipal "helpdesk" in the national Better Regulation unit to provide advice;
- Launching with the National Association of Municipalities in the Republic of Bulgaria a national project to examine not only HOW municipalities perform, but WHAT they do as background to municipal simplification programs;<sup>28</sup>
- Coordinating implementation regulations with national ministries through, for example, expansion of municipal-national one-stop shops;
- Developing a mechanism with the National Association of Municipalities in the Republic of Bulgaria to score the quality of regulatory practices at municipal levels to encourage faster adoption of good practices across Bulgaria;
- Establishing clearer definitions of the competencies between levels of government and more information exchange to avoid duplication and inconsistent application of regulations;
- Including municipal regulations and forms in the national electronic registry.

*Suggested performance standards*

The European Commission has not adopted any performance standards for better regulation at municipal level, or even for coordination between national and municipal reform programs. Bulgaria might consider the following performance standards:

- Adoption of a model approach to regulatory simplification in an increasing percentage of municipalities, reaching 100 percent by year five;

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<sup>28</sup> World Bank Group (2006) *Simplification of Business Regulations at the Sub-National Level: A Reform Implementation Toolkit for Project Teams*. Small and Medium Enterprise Department, Washington, DC.

- Establish a national scoring system to compare the performance of municipalities in better regulation, and produce steady improvements in scores;
- Improving scores of municipalities on annual business surveys in Bulgaria.

### *Good practices in Europe*

In a few European countries, different levels of government are co-ordinating efforts to reduce burdens on businesses:<sup>29</sup>

In the **Slovak Republic**, extensive consultation with the Association of Slovak Towns and Municipalities is organized as part of developing new laws and regulations in order to facilitate application after adoption.

In **Italy**, law 246 of 2005 created agreements between the Government and regions to:

- Facilitate co-ordination of their respective areas of responsibility, notably regarding the administrative formalities that businesses must fulfil and procedures for authorisations, licences, and approvals;
- Identify nation-wide approaches to simplification of such formalities;
- Ensure the removal of obstacles to the functioning of smooth operations of unified business help-desks or one-stop shops.

In **Sweden**, the Swedish Business Development Agency produced a report in 2004 on the most important permits needed to start a business and on the average processing time to receive the permits. The report stressed differences in processing times for permits between municipalities as well as gaps in the agencies' and municipalities' knowledge of – and information about – the length of processing times. Such “score cards” enabled the government to develop more concrete targets for improving permitting at regional levels.

## **IMPROVING THE FLOW OF NEW REGULATIONS**

### ***Task 6: Create a well resourced regulatory impact assessment (RIA) system***

One of the most important capacities of a modern regulator working within an open and competitive economy is the ability to assess the market impacts of a regulation before it is adopted. Enhancing the capacities of regulators to choose efficient regulatory solutions consistent with market forces reduces the risks of costly regulatory mistakes, and the level of implicit government taxation on productive activities.

Bulgaria is already working to improve RIA, a technique that can simultaneously reduce the costs of regulation, increase the benefits, and increase participation by stakeholders in the regulatory process. The focus on RIA as a priority in Bulgaria is consistent with the core importance of Impact Assessment in the Lisbon Agenda.

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<sup>29</sup> OECD (2006) Cutting Red Tape: National Strategies for Administrative Simplification, Paris, pp. 77-78.

Despite legal obligations to perform RIA in Bulgaria, RIA is not being carried out in a meaningful way on new laws and regulations. The Bulgarian Government has not yet developed a general strategy for RIA that is integrated with other reform efforts and that is in line with the country's development needs. RIAs on specific legislation are of varying—and often poor—quality.<sup>30</sup> Most ministries and public agencies lack institutional capacity to support the implementation of RIA. While all regulating ministries should produce RIAs to improve the quality of their regulations, there has been little training to build RIA capacities within those ministries. Basic operating requirements (such as strategies for data collection for impact evaluation, peer review groups, RIA advisory bodies, and RIA networks in the ministries) are still missing.

In order to move beyond the current pilot stage into a systemic application of RIA, it is necessary to create a central RIA oversight body by assigning a specific entity with an institutional mandate, resources and power to enforce the RIA program. Ideally, this task would be assigned to the central Better Regulation unit. The 2003 Act on Restricting Administrative, Regulation and Control on Business Activities does not assign responsibility for the RIA to any single institution. This has created confusion between the Ministry of Economy and Energy (MoE) and the Ministry for State Administration (MSA) regarding the mandate for leadership on RIA.<sup>31</sup>

**What RIA methods should Bulgaria consider?**

International RIA methods are moving today toward more integrated methods of assessment, converging to a method called *soft benefit-cost analysis (BCA)* by Scott Jacobs. In soft BCA, *quantitative* and *qualitative* metrics are combined and presented systematically in an integrated framework to deal with the complexity of modern public policy.

Source: Jacobs, Scott (2006) "Current Trends in Regulatory Impact Analysis: Mainstreaming RIA Into Policy-Making," Jacobs and Associates Reports.

Based on best practices at the OECD and in Europe, Bulgaria should develop a new strategy and content for its RIA system, in consultation with appropriate groups such as the CEG and stakeholders inside the government. The strategy should consider the following components of setting up an effective RIA system:

<sup>30</sup> Based on assessments conducted by the OECD, DFID and the European Commission, and on interviews held during the mission with stakeholders involved with RIA.

<sup>31</sup> The Ministry of State Administration and Administrative Reform focuses on government procedures, a useful but limited perspective.

**Tasks Recommended to Implement a Functioning RIA System in Bulgaria**  
**(Source: World Bank (December 2006) Implementing RIA in Bulgaria:**  
**Summary Note, Scott Jacobs, Sofia)**

<b>Political and Legislative Mandates for RIA</b>
Develop a legal mandate to require control of RIA by a central regulatory reform unit; to create other checks on the RIA compliance; to require the central unit to develop mandatory RIA guidance and consultation procedures; and to mandate the central unit to oversee implementation of the entire convergence strategy
Set up central Better Regulation unit with operating procedures
<b>Develop supporting materials and training</b>
Develop RIA guidance, including choice of method, decision criteria, impacts to be included, standard assumptions, and data collection methods
Hold government-wide training in introductory principles of good regulation and compliance with the RIA guidance for around 300 policy officials
Hold more specialized training for the staff of central unit on how to review RIA
Develop new consultation procedures and consult them with stakeholder groups
<b>Implement RIA</b>
Ministries and agencies begin using new RIA guidance. Central unit begins to review and control the quality of the RIA. New publication checks adopted.
Stakeholders provide input through the RIA-based consultation process
<b>Build RIA skills in the Parliament</b>
Begin discussions with the Legal Department of the Parliament on how to use RIA in legislative actions by Parliament
Reach agreement on how RIA can be structured in the Parliament to make best use of expanded memoranda on draft laws
Hold training to build skills in the Legal Department of the Parliament on RIA
Start RIA for legal drafts and changes in Parliament
<b>Begin pilot programs in ministries and regional governments</b>
Select 2 pilot local governments to roll out the RIA program
Hold RIA training for pilot local governments
Launch 1 year pilots in local governments
Assess experience of RIA in local governments and design full local government-wide RIA

*Suggested performance standards*

There is extensive guidance on good RIA systems. The most influential and the most often cited standards are still the 1997 OECD's ten practices for good RIA.<sup>32</sup> These practices could be used in Bulgaria as performance standards for the design and operation of the RIA system.

Performance criteria for a RIA system:

- Systematic. RIA must be part of a larger system that supports core analytical requirements and ensures that the analysis is able to influence policy decisions.
- Empirical. RIA must make maximum use, within cost constraints, of quantitative data and rigorous empirical methods. This will maximise objectivity and comparability.

<sup>32</sup> OECD (1997), Regulatory Impact Analysis: Best Practice in OECD Countries, Paris.

- Consistent but flexible. Analytical approaches must be broadly consistent to optimize overall results. However, analysts must retain sufficient flexibility to target scarce resources at the most important regulatory issues and fit the analysis to the issue at hand.
- Broadly applicable. RIA should be applied to as wide a range of policy instruments as possible. It should not be possible to avoid RIA by using a different instrument.
- Transparent and consultative. Extensive consultation should inform RIA. The results of RIA should, in turn, be widely available and the basis of decisions made clear.
- Timely. RIA should be commenced early in policy development and its results made available in time to influence decisions before they are made.
- Responsive. Effectiveness depends ultimately on how well decision-makers apply the insights of RIA. This requires that RIA address issues that are practical and connected to the current policy debate.
- Practical. RIA systems must not require infeasible resource commitments and must not impose unacceptable delays on decision-making.

### *Good practices in Europe*

The OECD/SIGMA recently noted that all new Member States, except Malta and Cyprus, have laws requiring RIA as part of new regulatory policy development. This suggests that there should be no lack of good practices for Bulgaria to examine. However, the practice of RIA is disappointing right across the region. OECD/SIGMA concludes that “inadequate institutional arrangements, particularly as regards the quality review of assessments, lack of clear methodologies and training meant that the process became an empty formula and RIA existed in name and not in substance.”<sup>33</sup> Some countries are actually moving backward. Hungary, for example, abolished its Department of Impact Analysis, Deregulation and Registration of Law in July 2006, and has not replaced it.

In *Poland*, RIA is still quite new, but the RIA system and its supporting institutions are emerging as one of the best in the eastern region:

- Ministers are responsible for RIA and public consultations, but new institutional arrangements for RIA were implemented in 2006 to strengthen the RIA system, including placing responsibility for the review of RIA in the Chancellery of the Prime Minister instead of the Government Legislation Centre where it was until July 2006.
- To increase the effectiveness of the RIA process, the Ministry of the Economy prepared new RIA Guidelines which were adopted in October 2006 by the Council of Ministers. The new guidelines clarify the key analytical steps to be taken in the undertaking of a RIA. The Guidelines constitute a set of logical steps which structure the preparation of policy proposal from identifying the problem, choosing objectives and main policy options, through comparing the possible options, assessing cost and benefits of each option to finally recommending the best solution. It is planned, after operating the new guidelines for 12 months, to evaluate their effectiveness.

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<sup>33</sup> OECD/SIGMA (2007).

- The Government Centre for Strategic Studies prepares major RIAs, taking into account the major and long term impacts of regulations.

***Task 7: Create a formal consultation policy and mechanisms to ensure a systematic means of early and effective stakeholder consultation during policy and regulatory development.***

Early and meaningful consultation before a regulatory decision is taken is one of the most important assurances to businesses of a supportive, low-risk legal environment. Public consultation with stakeholders such as businesses has been widely recognized as key to the quality of new laws and other regulations.

Bulgaria does not have a government-wide consultation policy and has not established standard methods of consultation. An important development for business environment reforms occurred in March 2002 with creation of the Council for Economic Growth (CEG) as a consultative body under the Council of Ministers. The 2003 Act on Restricting Administrative Regulation and Control on Business Activities requires the government to notify companies of future regulation and provide them with at least one month to file any objections, elaborating the requirements in the Law on Normative Acts (1973, amended 1995 and 2003).

A more systematic approach is now needed across the government, based on e-Government solutions to reduce the cost of consultation. The government of Bulgaria should develop and implement a mandatory consultation policy, based on international practice and e-Government tools, that lays out goals, standard methods, and an implementation plan. Such a policy will require investment in new procedures and staff training in how to consult and how to use information from consultations. The policy should consider the following options:

#### ***Consultation Policy***

- Adopt a ministerial consultation policy that establishes a minimum standard of consultation ministry-wide
  - Create a standardized format for consultation documents, such as a summary of policy goals, main issues and options, to permit easier access by stakeholders
  - Make consultation accessible to all businesses and stakeholders in Bulgaria

#### ***Method of consultation***

- Build a unique website for publication and consultation on draft regulations and decisions. Publish open public consultations that are announced at a 'single access point'.
- Create a Business Advisory body as a permanent consultation channel for decisions.
- Develop business focus groups and test panels to discuss draft decisions and regulations.

#### ***Timing and response to consultations***

- Require consultation early in policy development, before drafting is done, to improve the quality of documents submitted to Ministers.



- Provide sufficient time for response. Staff should allow at least eight weeks for responses to written public consultations.
- Receipt of contributions should be acknowledged.
- Results of open public consultation should be displayed on websites linked to a single access point on the internet.
- Ministerial reactions to stakeholder comments should be summarized in the final policy decision.

*Suggested performance standards*

The general principles and minimum consultation standards adopted by the European Commission (2002) seem to be a reasonable benchmark for Bulgaria. These are as follows:

**General Principles**

**PARTICIPATION**

- Consult as widely as possible on major policy initiatives.

**OPENNESS AND ACCOUNTABILITY**

- Consultation processes must be transparent, both to those who are directly involved and to the general public. It must be clear:
  - what issues are being developed
  - what mechanisms are being used to consult
  - who is being consulted and why
  - what has influenced decisions in the formulation of policy.
- Openness and accountability are important principles for the conduct of organisations when they are seeking to contribute to policy development. It must be apparent:
  - which interests they represent
  - how inclusive that representation is.

**EFFECTIVENESS**

- Consultation must start as early as possible. Interested parties should be involved in the development of a policy at a stage where they can still have an impact on the formulation of the main aims, methods of delivery, performance indicators and, where appropriate, the initial outlines of that policy.
- Consultation at more than one stage may be required.
- The method and extent of the consultation performed must always be proportionate to the impact of the proposal subject to consultation and must take into account the specific constraints linked to the proposal.

**COHERENCE**

- There must be consistency and transparency in the way that ministries operate their consultation processes.
- Include in consultation processes mechanisms for feedback, evaluation and review.

## Minimum Standards

### A. CLEAR CONTENT OF THE CONSULTATION PROCESS

- All communications relating to consultation should be clear and concise, and should include all necessary information to facilitate responses.
- The information in consultation documents should include:
  - A summary of the context, scope and objectives of consultation, including a description of the specific issues open for discussion or questions with particular importance
  - Details of any hearings, meetings or conferences, where relevant
  - Contact details and deadlines
  - Explanation of processes for dealing with contributions, what feed-back to expect, and details of the next stages involved in the development of the policy
  - If not enclosed, reference to related documentation.

### B. CONSULTATION TARGET GROUPS

- When defining the target group(s) in a consultation process, ensure that relevant parties have an opportunity to express their opinions.
- For consultation to be equitable, ensure adequate coverage of the following parties in a consultation process:
  - those affected by the policy
  - those who will be involved in implementation of the policy,
  - bodies that have stated objectives giving them a direct interest in the policy.
- In determining the relevant parties for consultation, take into account the following elements as well:
  - the wider impact of the policy on other policy areas, for example, environmental interests or consumer policy
  - the need for specific experience, expertise or technical knowledge, where applicable
  - the need to involve non-organized interests, where appropriate
  - the track record of participants in previous consultations
  - the need for a proper balance, where relevant, between the representatives of social and economic bodies, large and small organizations or companies, wider constituencies (for example, churches and religious communities) and specific target groups (for example, women, the elderly, the unemployed, or ethnic minorities), organizations in the European Union and those in non-member countries.
- Where a formal or structured consultation body exists, the Commission should take steps to ensure that its composition properly reflects the sector it represents.

### C. PUBLICATION

- Ensure adequate awareness-raising publicity and adapt communication channels to meet the needs of all target audiences. Without excluding other communication tools, open public consultations should be published on the Internet and announced at the “single access point”.
- For addressing the broader public, a single access point for consultation will be established where interested parties should find information and relevant documentation.
- At the same time it might be useful to maintain more traditional alternatives to the Internet (for example, press releases, mailings). Where appropriate and feasible, provide consultation documents in alternative formats so as to make them more accessible to the disabled.

### D. TIME LIMITS FOR PARTICIPATION

- Provide sufficient time for planning and responses to invitations and written contributions. Strive to allow at least 8 weeks for reception of responses to written public consultations and 20 working days notice for meetings.

### E. ACKNOWLEDGEMENT AND FEEDBACK

- Receipt of contributions should be acknowledged. Results of open public consultation should be displayed on websites linked to the single access point on the Internet.
- Depending on the number of comments received and the resources available, acknowledgement can take the form of:
  - an individual response (by e-mail or acknowledgement slip), or
  - a collective response (by e-mail or on the single access point for consultation on the Internet).
- Contributions will be analyzed carefully to see whether, and to what extent, the views expressed can be accommodated in the policy proposals.
- Provide adequate feedback to responding parties and to the public at large. The results of consultations carried out in the Impact Assessment process will be summarized in the related reports.

#### *Good practices in Europe*

In *Estonia*, an eGovernment tool to facilitate consultation, called Web ‘Talk along’,<sup>34</sup> has been developed. It permits the involvement of citizens in the formulation of policy and the drafting of legislation.<sup>35</sup>

In *Latvia*, consultation within the government and with the public is all part of a seamless IT system. The inter-ministerial consultation process is organized by the electronic circulation of documents using a government web page. From the moment of the “announcement” of a draft in the Meeting of State Secretaries, each draft and annotations of Bills and other legal instruments is also made available for public

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<sup>34</sup> [www.mkm.ee/index.php?id=8252](http://www.mkm.ee/index.php?id=8252).

<sup>35</sup> OECD/SIGMA (2007).

consultation. Ministries now only use the electronic form of documents in the process of analyzing and giving opinions on proposed drafts.<sup>36</sup>

*Ireland's* 2005 consultation policy states, "The introduction of RIA in Ireland means that public bodies will, in future, consult more widely and systematically."<sup>37</sup> This useful document presents a checklist of ten questions that regulators should ask in designing a consultation strategy:

- Are you clear on the purpose and objectives of your consultation?
- Are you clear on the questions you want to ask in your consultation?
- Have you identified all of the stakeholder groups and individuals that should be consulted?
- Have you chosen the most appropriate and inclusive methods of consultation, including those that meet the needs of 'non-traditional' stakeholders?
- Have you allowed for sufficient resources for the consultation?
- Have you considered all of your legal obligations?
- Have you publicised your consultation in online and offline media?
- Have you allowed sufficient time to give stakeholders an opportunity to consider the issues fully?
- Have you planned how you will analyse the submissions received during your consultation?
- Have you planned to evaluate your consultation process and to ensure any lessons learned are taken into account for the future?

## **MODERNIZING THE STOCK OF EXISTING REGULATIONS**

***Task 8: Develop a review strategy for the "stock" of regulations now in place based on the European approach of rolling reviews for competition obstacles.***

The 1997 OECD Report recommends that governments "review regulations systematically to ensure that they continue to meet their intended objectives efficiently and effectively". A systematic approach helps to ensure consistency in approaches and review criteria, generates momentum and ensures that important areas are not exempted from reform due to lobbying by powerful interests. Ex post reviews are a complement to rigorous ex ante RIA.<sup>38</sup>

The European Commission has asked Member States conduct a systematic analysis of key goods and services markets to identify specific obstacles to competition and remove them. This is not a task that will be completed by any fixed dates. A continuing program of review and reform is needed to modernize the regulatory stock. Because of the potentially high cost of this component of the reform program, it must be designed to be manageable and to set clear priorities that produce the most valuable results.

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<sup>36</sup> OECD/SIGMA (2007).

<sup>37</sup> Ireland Department of the Taoiseach (2005) *Reaching Out: Guidelines on Consultation for Public Sector Bodies*, Dublin.

<sup>38</sup> OECD (2002).

### *Suggested performance standards*

The European Commission suggests a few standards for the design of programs of review:

- The review of existing law must become a continuous and systematic process. This means that an ongoing process must be systematized so that the reviews cover, over time, the entire body of legislation.
- Extensive consultation must be built into the process.
- Reviews must rest on in-depth analysis of the impact on all stakeholders, including business and industry, taking into account the objectives pursued by the legislation.
- Priorities must be set, and a mechanism for setting priorities should be developed.

### *Good practices in Europe*

The *European Commission* itself carried out the most extensive review of existing legislation in recent years. In September 2005, the Commission announced its intention to withdraw 68 pending proposals as a result of extended screening, and to introduce a new method of simplifying existing legislation called the “simplification rolling program” covering the period 2006-2009. The rolling program operates as follows:

- An initial batch of legislation to be simplified was identified on the basis of a broad consultation.
- A continuous process is then fuelled by input from new, more systematic review procedures for the identification of future simplification priorities based on a broad analysis of the impact of legislation. This process encompasses a thorough economic analysis. Rules that seem to inhibit competitiveness (including administrative requirements) will be examined by the Commission to ensure that they are necessary and proportionate to other public interests pursued.
- The Commission will include major legislative simplification initiatives in its annual legislative work programs and issues a series of communications indicating in more detail how simplification work will be brought forward or integrated in the sectors of agriculture, environment, health and safety in the work place, fisheries, taxation, customs, statistics and labour law.
- The Commission will identify the need for simplification from a sectoral perspective. Such an approach will make it possible to assess the overall effectiveness of the legislative framework for the sector concerned and the room for further simplification.

*Croatia* has adopted quite a different approach through the Regulatory Guillotine™,<sup>39</sup> a government-wide approach to the fast review of regulations and the elimination simplification of those that do not pass simple quality standards. This approach should lead, in less than a year, to the elimination of over 30 percent of business formalities.

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<sup>39</sup> Regulatory Guillotine™ is a trademark of Jacobs and Associates.

**Task 9: Adopt the European target of a 25 percent reduction in administrative burdens by 2012 and develop a plan for reaching the target**

In 2006, the European Commission has asked Member states to considering setting a 25 percent target for reducing administrative burdens by 2012. In March 2007, the Spring European Council invited Member States, taking into account their different starting points and traditions, to set their own national targets of comparable ambition within their spheres of competence by 2008. Administrative burdens are an important subset of regulatory operating costs, and many believe that reducing such costs is easier than reducing other regulatory costs such as capital costs and barriers to entry or developing the capacities for a more balanced "better regulation" agenda.

If it is to respond, Bulgaria needs a plan of action for reaching this ambitious target. The processes that have been used around Europe to reach this ambitious target are becoming fairly clear through elaboration and refinement of the Standard Cost Model (SCM) approach<sup>40</sup>, summarized as follows:

1. Develop the national simplification program with clear targets
2. Introduce baseline measurement of existing administrative burdens
3. Monitor quantitative targets
4. Involve the business community
5. Organise independent quality control of measures and reforms
6. Good communication strategy and management of expectations

There is some controversy about the sequencing and costs of the SCM approach, due primarily to the fact that the SCM approach is still quite new and relatively untested with a range of experiences in Europe. Some argue that experiences from other EU countries suggest that a SCM system can be an appropriate basis for expanding regulatory quality efforts into more broadly-based RIA approaches, and that the cost of establishing and implementing a RIA system can be higher than an SCM based approach to burden reductions.

Others believe that the SCM approach, even at its most organized, is proving to be a difficult and costly reform, requiring intensive planning and input from across the entire government. It is clear that assessing the baseline is the most costly part of the exercise, because it requires a comprehensive assessment of the cost of all existing administrative burdens on businesses. This requires extensive data collection and input from businesses. In the United Kingdom, for example, the Admin Burdens Measurement Exercise (the initiative to identify and measure the administrative costs placed on business by central government regulation) ultimately involved over 9,000 businesses and charities. The UK Ministry of Revenue and Customs alone conducted over 900 face to face interviews with businesses, supplemented by telephone interviews and focus groups, to assess the costs of its own administrative requirements. The United Kingdom carried out this exercise in three phases:

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<sup>40</sup> Wim Jansen (2007) Reducing Administrative Costs with the Standard Cost Model (SCM), Legislative Burden Department (IPAL), Ministry of Finance, Netherlands. Presented at the Regulatory Impact Analysis Training Course, College of Europe/Jacobs and Associates, College of Europe, Bruges Campus, Belgium, 6 March 2007.

- Phase 1 – Preparatory analysis: this primarily involved identifying and agreeing the regulations within the scope of the project and then breaking down these regulations into their constituent parts such that the information and data that businesses are required to provide to government were identified and classified.
- Phase 2 – Time and cost data capture and standardization: this was concerned with collecting the data needed to calculate the total administrative costs which result from each of the requirements identified in Phase 1, including the number of organizations required to comply and unit costs per organization. The data were collected, reviewed and assessed on a continuing basis to ensure they were credible and representative of the ‘normally efficient business.’
- Phase 3 – Calculation, data submission and reporting: this focused on processing the data collected and producing this report on the administrative costs imposed by regulations on business.<sup>41</sup>

In terms of sequencing, and given the priorities and preparations already underway in Sofia, it is probably better to create first the central Better Regulation unit in the Council of Ministers, then to launch a basic RIA program, and only then to build on those foundations with the SCM and the national administrative burden reduction program targeted at this important subset of regulatory costs.

#### *Suggested performance standards*

The European Commission has invited Member States to set a joint 25 percent target for reducing administrative burdens to be achieved jointly by the EU and Member States by 2012. Bulgaria may choose any target that it wishes, but most countries have chosen 25 percent, and this level provides a quantitative performance standard against which Bulgaria can be assessed. The Ministry of State Administration and Administrative Reform already plans to begin to measure the costs of administrative burdens by the end of 2007, using the Standard Cost Model approach.

#### *Good practices in Europe*

Adoption of the Standard Cost Model approach is moving rapidly across Europe. Most countries are still in the early phases of implementation, and hence it will be hard for Bulgaria to assess which are the top performers and which approaches are less effective. However, it seems clear even in the early stages that an organized, government-wide approach with a central quality control body is needed.

*Slovenia* has adopted a Program of Measures for Reduction of Administrative Burdens which aims to reduce administrative barriers, ensure that public administration is friendly, effective, open and transparent, and provide impetus for the rapid development of e-government. All ministries are preparing work plans for the 2007-2008 period to reduce administrative burdens.

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<sup>41</sup> Government of UK, Department for Transport (June 2006) Administrative Burdens Measurement Exercise: Final report, London, p. 8.

The *Czech Republic* adopted an Action Plan of Reducing Administrative Burden on Businesses in April 2005, and a Methodology of Measurement of Administrative Burden, based on the Dutch Standard Cost Model. According to the plan, the Head of the Office of the Government is responsible for drawing up an initial report (Analysis of Administrative Burden on Businesses) based on results of measurements undertaken by particular ministries and central state administration authorities.



**Annex 1: “Measures for implementation of the better regulation principles”  
proposed by the Council for Economic Growth and approved by the Council of  
Ministers on August 3, 2006.**

1. Drafting of TOR for an expert study of the “Most business troubling regulation regimes”, including an analysis of the current situation, an outline of the specific regulatory and practical obstacles for application of the regimes creating troubles for businesses, analysis and summary of the proposals of all stakeholders: local governance bodies and central authorities, businesses, NGOs and industrial associations, citizens	15 August 2006	working group with CEG
2. The opinion of the National Association of Municipalities in the Republic of Bulgaria will be required on drafts of secondary legislation, establishing obligations for the local authorities. .	standing	The body submitting the draft legislation
3. CEG members shall consider the operational and legislative schedule of the Council of Ministers and select the secondary legislation (regulations) to be subject of the impact assessment to be assigned.	September 2006	CEG members
4. Preliminary analysis of the need for an impact assessment to be undertaken shall be prepared for all draft regulations to be submitted to the CoM. In case such an assessment is needed, the ministry submitting the regulation shall assign its performance.	standing	MEE
5. The impact assessments shall be adopted at a CEG meeting and further submitted to the CoM by the chair person of the CEG	standing	MEE
6. MSAAR shall make the required amendments and shall elaborate the new Administrative Register with reference to regulatory regimes	30 August 2006	MSAAR
7. In view of the need for methodological support and training of central and local administration staff, MSAAR assisted by MEE shall propose a plan for methodological support and training relevant to the introduction and enforcement of the principles of better regulation and preparation of impact assessments of regulations, to be considered by the CEG	August 2006	MSAAR and MEE
8. Mechanism to control how the central and local administrations implement their commitments	15 September 2006	Business organizations