



## **SIGMA**

**Support for Improvement in Governance and Management**

A joint initiative of the OECD and the European Union, principally financed by the EU

## **SEMINAR**

On

# **Administrative Simplification**

Organised by

**The Prime Ministry**

In collaboration with

**Sigma**

**How effective are administrative simplification policies? Actions for reducing administrative burdens; role of an overall administrative procedure legal framework; factors of success and failure.**

*By Malgorzata Kaluzynska*

**Ankara, 8-9 May 2008**

(SPO Headquarters)

Malgorzata Kaluzynska is currently Director of the Department for Analyses and Strategies in the Office of the Committee for European Integration. From April 2006 until February 2008 she was Director of the Department for Economic Regulations in the Ministry of Economy, where she was responsible for the introduction of regulatory reform and the development of an explicit policy on Better Regulation. Ms Kaluzynska is responsible for economic and social analyses of specific EU policies, legislation and setting the impact assessment system for the implementation of the EU law.

## Simplification of legislation in Poland

*Abstract: This article is a more detailed explanation of a presentation made by Malgorzata Kaluzynska at the seminar in Ankara 8/9 May on Administrative Simplification. It examines the nature of Administrative Simplification and shows how it fits into the overall administrative procedure legal framework; Actions for reducing administrative burdens. It questions how effective are administrative simplification policies? It looks at factors of success and failure.*

### *Introduction*

According to the World Bank, Poland was the most active reformer of business licensing in 2004. This positive assessment commented the introduction of the Freedom of Economic Activity Act repealing more than 600 licensing and permit requirements at the national and municipal levels.

The reform expressed by means of this regulation had 2 goals: reducing the number of licensing regulations and requiring that any new ones be approved by parliament. The new law also introduced other forms of simplification: limited to 4 weeks the time that small businesses have to spend dealing with inspections, licensing requirements and permit renewals. This target was to be achieved by placing time limits on the services of authorizing agencies.

In 2006, two years after the entry into the force of the famous Freedom of Economic Activity Act, the entrepreneurs still believed that burdens in running business activities were numerous and burdensome and that there were too many inspections and controls. Poland has not yet established an operational one-stop-shop for start-ups. The entrepreneurs still believe that the number of restrictions (licences and permits) on starting and conducting the business was too high.

It seems that *the Act on Freedom of Economic Activity* did not represent an improvement of the position of firms. Businessmen still face inspections and controls by approximately 40 institutions. The principle established by the *Act on Freedom of Economic Activity* of “one control at a time” was not respected in practice. On the contrary, frequently some inspections run in parallel, their duration is extended excessively. In addition the principle of a ‘limited duration of audit’ at the company site in a certain calendar year is not respected.

Additionally, businessmen stated that inspection bodies try to bypass the provisions of *the Act on Freedom of Economic Activity*. *That Act*, despite being a step forward, was not able to achieve the necessary systemic solutions for simplification of the business regulatory environment.

In June 2006, the first review of Poland’s regulatory capacities was carried out under the SIGMA Programme (Support for Improvement in Governance and Management) – a joint initiative of the European Commission and the OECD. The review was directly related to the EU Better Regulation policy. After the review, a country report was prepared, containing analyses of the regulatory capacities and recommendations regarding necessary actions. Sigma review positively commented actions taken by the government but in the field of simplification recommended more concrete actions. In Poland, basing on the Dutch Standard Cost Model (SCM), two pilot studies were performed in the area of identification of administrative barriers to entrepreneurs in 2004 and 2005. The first study concerns administrative burdens pertaining to VAT act and the other

concerns administrative burdens for the road transport sector. The aim of those studies was to verify the possibility of introduction of the Standard Cost Model in Poland rather than reduce a certain number of administrative burdens. SIGMA review recommended a systematic simplification and reduction of administrative burden.

In order to improve the quality of law horizontally it was necessary to undertake systematic and integrated approach for simplification.

#### *Role of an overall administrative procedure legal framework*

From 2006, an explicit Better Regulation strategy has been put in place in Poland. On 19 August 2006, the Council of Ministers adopted the Regulatory Reform Programme. It is the first comprehensive regulatory reform programme in Poland defining an integrated approach to regulatory management policy. The programme includes a three-stage plan for the implementation of the Standard Cost Model (SCM) for measuring administrative costs of regulation. In accordance with the Program, the legislation simplification should cover the following issues:

- Elimination of obsolete or redundant provisions.
- Rationalisation of legislation, understood as the application of „horizontal” legislation instead of sectoral legislation, improvement of its coherence, extension of *vacatio legis* periods.
- Improvement of inspection standards, review of inspection bodies with a view to their consolidation and harmonisation of their inspection plans.
- Reduction of the number of restrictions on access to business activities (number of licenses, concessions and permits, their simplification at the national level, making possibly simplification proposals at the Community level).

Moreover, within the Programme, the simplification capacity is to be examined in multi-faceted manner – starting with horizontal and systemic modifications through cross-sectional analyses, ending up with in-depth sectoral and problem-specific analyses. Only when the aforementioned analyses have been carried out it will be feasible to set more precisely the direction of activities in order to build stable business law system.

#### *Actions for reducing administrative burdens - Implementation of the measurement system of administrative costs*

Under the National Reform Programme, Poland took an obligation to identify, measure and then to reduce administrative burdens. The first steps in the application of the Standard Cost Model were already taken in 2004 and 2005. In order to verify options of implementing the Standard Cost Model in the Polish socio-economic environment, a pilot project was executed in the road transport sector. The pilot project findings show that SCM methodology, regardless of the uniqueness of national legislation, can be applied effectively and may generate figures representing a reliable basis for taking measures to improve and simplify legislation.

However, there was need for more systematic actions. The implementation of the administrative burden measurement system has been planned in three phases over a 3-year time horizon pursuant to the proposed action plan in the National Reform Programme.

In the first phase, the Ministry of Economy decided to review a priority legal acts and sectors. The Ministry reviewed the legal regulations in the following areas: labour law (14 legal acts), tourist services (Act on tourist services), state aid (7 legal acts), product safety (7 legal acts), environment (14 legal act), hallmarking legislation (1 legal act), spatial planning, social security, the act on the freedom of business activity.

In March 2008, the Council of Ministers adopted the 25% reduction target to reduce administrative burden in 7 of the above mentioned sectors to be achieved by the end of 2010. In 2008, further measurements will be carried out in order to cover all economic regulation with the identification, measurement and reduction of the administrative burden. Poland is one of 16 countries that adopted the administrative burden reduction target. The baseline measurement will be carried out in 2008 and will cover economic regulations. On the basis of measurements already conducted, the Ministry of Economy will prepare the simplification programmes.

One of these was already prepared and now is the subject of the public consultations. The Ministry proposed a 25% reduction of information obligation in hallmarking legislation. One of the most burdensome information obligations was the stamping of jewellery. In this case, both direct (a fee) and indirect costs (cost of transport, insurance) were calculated. Annually, stamping costs account to more than 27 million PLN. Administrative burdens amounted to around 10 millions PLN. The reduction of administrative burdens is to be achieved by a complete abolition of the hallmarking system, abolition of the system for silver jewellery or thanks to the increase of the threshold for the goods that should be stamped obligatorily. It was decided to increase a threshold from 1 gram to 2 grams for gold and from 5 grams to 10 grams for the silver goods.

When interviewing entrepreneurs, it the amount of time was assessed that they needed to spend to fulfill a given obligation (e.g., submission of an application for a certificate or permit, the frequency with which a certain activity had to be performed (e.g., how many times a year the entrepreneur was obliged to inform his staff about the changes in Health and Safety regulations) and how many operators were subject to this obligation in the entire economy.

The issue of bureaucracy is manifested differently in different areas. Filling in all application forms and various types of reports provided in the Environmental Protection Act takes up to 300 hours per year in an average enterprise. As far as labour law regulations are concerned, the high level of costs results from a great number of enterprises being subject to specific obligations. The obligations may also be extremely cumbersome, e. g, in 2006, the information about employment conditions as provided by labour law was passed to workers about 5 million times (the overall cost in the economy about. 206 million PLN). Entrepreneurs issued about 4.5 million employment certificates (the cost about 250 million PLN). The necessity to assign a worker to be present during an inspection by the Labour Inspectorate costs an enterprise several hundred PLN each time, and in 2006 there were nearly 94 such inspections.

As pilot research on VAT shows, the three most important key factors having an impact on the burden of regulations are as follows:

- the number of binding VAT rates
- the frequency with which declarations must be submitted
- non-electronic modes of submitting declarations.

It turns out that, despite the existence of an option to submit VAT declarations quarterly, more than 96% of businesses submit monthly declarations. It is concluded that, even those reporting obligations which take relatively little time on the part of the entrepreneur, may be irritating if the entrepreneur is obliged to submit his reports to various institutions. Where additionally, one regulation contains many different obligations, the compliance with a single legal act can be very burdensome and cost-consuming. Research shows that the cost of following changes in regulations accounts for a high percentage of all burdens. This fits in with the thesis that too frequent changes in regulations generate serious administrative burdens and costs for firms.

### *Deregulation of the business licenses and permits*

In 2007, the Ministry of Economy decided to review the 168 existing pieces of legislation regulating economic activity. Following this review, 400 licenses were identified. The next step was addressed to the public administration. A questionnaire, aimed at the administration, was designed to check the procedures they apply were sent out. The questionnaire among others included questions on the number of licences and permits in the registers, the number of licences and permits issued in 2006, the use of electronic and paper registers, number of staff issuing the licences.

In 2006, more than 700 000 licenses were issued and 1,300,000 licences were registered. The next step aimed at the legal review of 50 pieces of legislation. The methodology was based on the simple questions –

- What was is the aim of the introduction of the licence?
- Can that aim be achieved without the existence of the licence?
- Was EU legislation the origin of the licence?

On the basis of those studies, an impact assessment study was conducted. According to the Impact Assessments, there is potential to reduce some of the identified licences.

### *How effective are administrative simplification policies?*

#### ***Case study 1: The Polish administration's initiative to reduce burdens for entrepreneurs applying for support in the frame of structural funds (SF) in Poland.***

The SF were available to enterprises from 2004 in the frame of the National Development Plan for the years 2004 – 2006, particularly in the frame of Sectoral Operational Programme *Improvement of competitiveness of enterprises for years 2004 – 2006* (SOP ICE). The entrepreneurs could apply for funding for the consulting and investment projects to Polish Agency for Enterprise Development (PAED).

First experiences in the field of the programme implementation have shown that the application system is hard to understand by applicants, not efficient and complicated. It was due to the fact that there were too many administrative burdens, which appeared unnecessary. Many business support organisations and entrepreneurs themselves were raising this problem and indicated the need to introduce simplifications to the process of applying for funding and projects' implementation.

Raised burdens were predominantly linked to:

- Significant number of appendixes to application form at the applying stage: ( i.e. certificates from the competent tax office and the Social Security Agency, building permits), documents that could be delivered at the contracting stage without harm to the grant award process,
- Lack of possibility to complete formal shortcomings during award procedures leading to rejection of the project proposal without thematic assessment,
- Short period of cost eligibility,
- Necessity of applying the public procurement procedures during projects implementation stage,
- Complicated reporting procedures,
- Unnecessarily wide range and repeatability of information filled by the applicant in the application documents,
- Complicated three-staged project evaluation procedure – formal, technical and economical and thematic evaluation,
- Obligation of the use of external sources (a bank credit) for co-financing, which was connected with long bank procedures having an impact on duration of application process and entailing additional costs and time engagement,

In response to the numerous institutions responsible for the SF management, a decision was made to reduce applicants' obligations. The first implementation of changes to the system was initiated by the Ministry of Economic Affairs in cooperation with PAED in July 2005 and was continued by the Ministry of Regional Development in cooperation with the Ministry of Economy and PAED in the frame of *The Programme for structural funds' absorption improvement in Poland* launched in December 2005.

The initiative's implementation has initiated positive and important changes in the application process both for the entrepreneurs and for the administration.

The initiative had the following impact on entrepreneurs:

- It led to the significant reduction of time and costs related to preparation of project. Documents previously submitted during application stage can now be submitted at the contacting stage. The effect – reduction of the project proposal preparation process by 2 weeks,
- It eliminated delays and costs related to the application of the public procurement procedures,
- It guaranteed better access to practical knowledge on funding and project's implementation (reporting and payment procedures),
- It allowed the entrepreneurs to make decisions on submitting the project proposal after checking them in the preliminary evaluation process,
- It increased the number of positively assessed project proposals,
- It reduced duration of the evaluation process,
- It simplified the reporting obligations,

- It allowed faster reimbursement (by about 4 weeks) of the costs incurred by the companies implementing projects,
- It improved funding accessibility.

The positive effects of the initiative's implementation were confirmed by the Report "*The assessment of the simplification's realisation in the system of the SOP ICE implementation*", conducted by SMG/KRC Poland Media and European Centre for Finance Counselling in spring 2007.

As for the initiative's implementation effects, the simplifications implemented were satisfying for entrepreneurs. In particular, the initiative had an impact on small entrepreneurs. Applying for funding became easier and award process accelerated.

The implementation of the reduction of the administrative burdens' initiative was done by the institutions responsible for SF management and implementation in Poland – the Ministry of the Economy, the Ministry of Regional Development, and the implementing institution for the SOP ICE – the Polish Agency for Enterprise Development.

Special Working Groups for all operational programmes, including SOP ICE, were constituted. They consisted of representatives of the public institutions responsible for the SF management and implementation, as well as representatives of the Business Support Organisations. As a result, a number of changes in the laws on structural funds implementation were introduced.

The reduction of the administrative burdens for entrepreneurs involved amendments to relevant Regulations, elaboration of new guidelines and forms, creation of the "questions and answers" section on the PAED website and changes in the project proposals evaluation system.

The following solutions have been implemented:

1. At the stage of applying for funding:
  - reduction of the number of appendixes to the application form submitted by the applicants,
  - elimination of the procurement procedure in the project implementation stage,
  - introduction of the procedure allowing the correction of formal mistakes,
  - introduction of new internet tool on the PEAD web site: Project Proposals Qualifier enabling the applicants to check the formal correctness of the application.
  - introduction of the optional preliminary evaluation of the project proposal,
  - elimination of the obligatory co-financing of the project from external financial sources.
2. At the stage of projects' implementation:
  - Extension of the eligibility period,
  - Simplifications in reporting procedures – elimination of quarterly reports,
  - Simplifications of the payment procedures,
  - Introduction of payments before the closing of the projects,

- Elimination of the obligation to submit the invoices for used fixed assets issued by the seller in favour of the seller's declaration.
- cancellation of the SOP ICE's Steering Committees – body responsible for the final project proposals' approval.

The above mentioned improvements, designed to simplify the process of submitting the project proposals by the entrepreneurs, can be easily adapted by other Member States, in particular new EU members which are at the start of the SF utilisation. In the context of actions taken by the Polish administration in order to eliminate the burdens in applying for the SF funding, it has to be underlined that the process is on-going and further simplifications are being designed for the purpose of current programming period 2007 – 2013.

***Case study 2: The Polish administration's initiative to reduce burdens for entrepreneurs in the field of statistic***

According to the Statistical Law, the Central Statistical Office of Poland (CSO) prepares Annual Programme of Statistical Surveys of Official Statistics. This programme covers the statistical work of the CSO, of the Ministries, of the Central Bank (NBP) and other bodies entitled to conduct statistical surveys. This document covers all statistical domains and requires compulsory responses in business surveys and voluntary responses in household and personal surveys. The Council of Ministers ensures that the programme includes surveys that are relevant for observation of social and economic processes. The programme is approved by the Council of Ministers and the appropriate regulation is enacted each year. The CSO has undertaken some actions to reduce administrative burden connected with fulfilment of the obligations included in Annual Programme of Statistical Surveys of Official Statistics. In the number of undertaken actions we should mention especially:

- decreasing the frequency of statistical surveys in domains which do not change frequently (for example surveys carried out not in each year),
- use of administrative data versus survey data. Some data are collected from the public bodies instead of enterprises. For example in 2007 - CSO gathers data on education from Information Educational System carried out by the Ministry of National Education instead of data from 11 statistical reports previously collected directly from educational units (schools). Moreover, almost all data concerning the insurance companies the CSO collects from Polish Financial Supervision Authority,
- use of sample surveys (especially concerning small businesses) instead of surveys which cover all the businesses,
- methodological work concerning methods of estimations of some phenomena instead of survey data,
- implementation of the new IT technologies for collecting data from enterprises for some statistical reports. At present 7 statistical forms are collected through internet on intelligent forms. They are: DG-1(with DG-1t, annex to DG-1), P-02, C-01, C-01b, KT-1, Z-03, Z-05. These reports are specially prepared. They are so called "intelligent forms" and allow enterprises fulfil data in an easier way. The CSO plan to implement the reporting portal in this year.
- priority-setting in the statistical domains. These actions are undertaken in the annual planning process and during preparation of the annual statistical programme of the

public statistics. In this way we avoid to collect data which are not so necessary for users and do not create additional burden for respondents.

These above mentioned actions may not be very innovative and brand new but implementing them in the package and, consequently, using them gradually led to saving time and money of the enterprises connected with the fulfilment of the statistical reports. The main initiatives, presented at the point 1, which were undertaken by the CSO in the previous years, this year and shall be carried out in the future, consequently lead to reduce significant burden of enterprises and other respondents (time, money) connected with the fulfilment of the statistical forms. Using “intelligent forms” makes fulfilment of the statistical forms easier and interesting. When the CSO uses administrative sources of data or when data are estimated the burden is considered as null. Sample surveys cover only randomly selected respondents (also enterprises). So these kinds of surveys fundamentally decrease statistical burden.

### *Factors of success and failure*

As for now, regulatory reform continues to be our government’s priority. One of the factors of success is the assistance of the European Commission for the administrative burdens reduction. The Commission promised both methodological and financial assistance to Poland in the area of the administrative burdens. Ministry of Economy is co-operating actively with the European Commission on the subject of administrative burdens.

The Polish government is planning a joint conference aimed at the business organisations and media on the Standard Cost Model. The conference is being set for the May this year. The European Commission has its own administrative reduction programme. It is aimed at identification of the information obligation that have as their origin European legislation and its transposition into the national legislation. Poland was chosen for the several priority areas out of 13 identified for this study.

There is a real chance to speed up the implementation of the Regulatory Reform Programme in Poland due to the EU structural funds. The Ministry of the Economy successfully finalized negotiations with the European Commission on this matter. One of the objectives of the Operational Programme Human Capital – Good Governance is designed especially for the implementation of the Programme. The funds will be spent on regulatory impact assessment trainings, legislation simplification and administrative burdens reduction.

The Regulatory Reform Programme is in the spotlight. There is a debate on the quality of the Polish legislation and the way regulations are drafted. There is an inflation of the initiatives issued by different bodies. There are different approaches used. Sometimes there is non methodological approach. It might lead to weakening the agenda and lost of momentum for simplification.

A national daily newspaper *Gazeta Wyborcza* launched an Internet website similar to the famous *Kafka.be*. It is called “legislative trash” and aims at identifying the absurd legislation. However, there are no ideas how to collect those proposals and what to do with them later. The journalist plans to submit the suggestions for simplification to the special commission on simplification

only because the parliamentary track for preparing the legislation is faster. In that case there is neither obligation to conduct consultation process nor the obligation for doing the IA.

It might seem that simplification actions have been strengthened due to the fact that the Parliament appointed a special commission on simplification – “Friendly State”. But in fact there is no coherence in the actions taken by the Parliament and the government. Several think-tanks presented their views on Better Regulation last year; the academics are evaluating our programme. Even the Ombudsman has a Better Regulation Task Force, which prepared a report on the better law making in Poland. Stakeholders are active like they have never been before submitting the numerous suggestions for simplification. In case of the business organisation the expectation is on deregulation of the economy rather than on simplification.

Our interpretation and approach to simplification might be too abstract and definitely too slow. The update of legislation, the improvement of quality, reducing the mass of the existing regulation and reduction of the burden of government formalities is not well understood. These are abstract concepts.

Improvement of the quality and the coherence of the existing legislation, making the law business-friendly are apparently not worth the support. It is useful to confront the comments we got from business with the administration approach and together search for results.