



# ***Seven quick strategies to improve the business environment in Bosnia***

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## Regulatory and legal frameworks are a major constraint on growth in Bosnia

- In BiH, the policy environment continues to be hostile to private sector start-ups and investment.
- Reforms to date have barely changed regulatory constraints affecting private sector activity.
- The Annual Business Survey 2003-2004 by the Employers Confederation RS shows “pessimism” and “disorientation” due to “poorly defined commercial atmosphere”
- Businesses cannot wait years. Faster reform of the regulatory framework is urgent to stimulate investment, boost competitiveness, and create jobs.



# Five characteristics needed in modern regulatory systems

- **Security** (legal security, consistent respect for market solutions, predictable enforcement)
- **Transparency** (clear and simple rules, openness through the entire policy process, less corruption)
- **Legitimacy** (must protect safety, health, environment, consumers, public interests)
- **Efficiency** (low-cost rules, orderly and timely decisions, move swiftly to meet market needs)
- **Expertise** (good regulatory skills and understanding of complex markets and technologies)



## *To speed up reform, the, BiH should consider 7 tools used in other countries*

- 1. Centralized register of formalities on the Internet*
- 2. Silence is consent*
- 3. Reduce ex ante controls by shifting to ex post monitoring*
- 4. The Guillotine*
- 5. Improve public consultation and transparency*
- 6. A Simple RIA – SME test*
- 7. Independent review of red tape by a central body*



## Centralized register of formalities on the Internet

- Formalities, such as licenses and permits, are a major cost of doing business. Lack of a clear inventory of formalities creates uncertainty and potential for duplication

### *The tool*

- Establish a centralized, comprehensive, and secure registry of all forms and formalities required by the government. The inventory should provide legal security to businesses.

### *How to do it*

- Make the registry unique and secure by law.
- Designate an institution to set up and update the registry.
- All ministries and agencies provide a complete report of all their formalities, forms and information requirements.
- Publish the inventory in the Internet



## Silence is consent

- Time is money and businesses are harmed by delays and uncertainty in obtaining approvals, licenses and permits.

### *The tool*

- The “silence is consent” switches the burden of action entirely: if administrators fail to decide within time limits, the business is automatically granted approval.

### *How to do it*

- Require by law that, in a period of six months, all laws and regulations requiring decisions by the public administration on requests from the public incorporate the “silence is consent” for low risk activities (not high risk activities such as building a chemical plant).
- Ministries and agencies should not self-assess the level of risk -- a specific agency or commission should do this.



## Reduce *ex ante* controls by shifting to *ex post* monitoring

- *Ex ante* licenses and permits (which means approvals by public officials before businesses can start action) can become extremely damaging barriers to start ups.

### *The tool*

- The goal is to shift from *ex ante* approvals to *ex post* controls and monitoring of compliance after the firm starts its activities.

### *How to do it*

- The shift can be made either on a case by case basis, or with a general legal reform such as Poland's.
- To define the scope of the reform, determine that small group of commercial activities whose risks to the environment and society require *ex ante* controls.



## The Guillotine

- Countries in transition face an enormous task of reviewing and updating the laws, rules, and other instruments dating back decades. Updating must be done quickly to avoid slowing down economic growth.

### *The tool*

- The Guillotine is a means of rapidly reviewing a large number of old regulations, and eliminating those no longer needed. It is clear, decisive, and fast.

### *How to do it*

- The government instructs government agencies to establish lists of their regulations
- As they prepare the lists, they exclude unnecessary rules
- A centralized list is created by adding all the ministry's lists together. At the end of a year, any regulation not on the list is automatically cancelled without further legal action.





## Improve public consultation and transparency

- Early and meaningful consultation before a regulatory decision is taken is one of the most important assurances to businesses of a supportive legal environment.

### *The tools*

- Many methods have been used in developed and developing countries to institutionalize transparency.

### *How to do it*

- Three methods of public consultation are worth consideration by the BiH:
  - publication for comment;
  - circulation of regulatory proposals for public comment;
  - business test panels and focus groups.



## A Simple RIA – SME test

- Understanding within the public administration of the impacts of a law or regulation on businesses is usually poor.

### *The tool*

- The major tool used to examine the costs and benefits of government decisions is regulatory impact analysis (RIA) to examine potential impacts arising from government action

### *How to do it*

- BiH should implement, step by step, a program of regulatory impact analysis within the ministries:
  - Require Ministries to expand the justification statement for all new laws and regulations to include a discussion of the costs to businesses.
  - Discuss the expanded justification statement with an advisory group of SMEs to check its accuracy.
  - Require each minister to certify that the proposed law or regulation reduces costs to businesses to the minimum possible level.



## **Independent review of red tape by a central body**

- Ministries tend to follow an action plan organized around a long list of individual actions without any overall view. A more systematic approach is needed to produce real gains.

### *The tool*

- Give an independent body responsibility for approving formalities and procedures, based on clear criteria, such as the OECD quality criteria.

### *How to do it*

- Create a responsible body and an administrative procedure for central review of new and existing formalities
- Require ministries to justify why each formality is needed or should be retained.
- Review of all submissions by the central reviewer who consults with a business panel and outside experts.
- Approval by the central reviewer, and posting the approved<sub>1</sub> formalities in the national registry.