Cutting Red Tape

Administrative Simplification in Poland

MAKING POLICIES PERFORM



OECD

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Foreword

The OECD was invited by the Government of Poland, to evaluate Poland's programme on administrative simplification and reduction of administrative burdens. This evaluation is intended to help Poland to shape its future programme of administrative simplification and regulatory reform. The results of this evaluation were discussed in Paris at a meeting of the OECD Regulatory Policy Committee on 28-29 October 2010.

The OECD enjoyed close co-operation with Ms Otylia Trzaskalska-Stroinska, Director of the Department of Economic Regulations of the Ministry of Economy and her team. Many officials and stakeholders provided background information, participated in interviews and meetings, and checked the factual evidence.

To carry out the evaluation, Daniel Trnka and Miriam Allam from the Regulatory Policy Division of the OECD undertook a study mission to Warsaw on 7-9 June 2010. They were accompanied by Signe Jensen, a senior official in the Danish Commerce and Companies Agency of the Ministry of Economic and Business Affairs. This mission was an opportunity to consult actively with representatives of the government as well as with stakeholders from the private sector and discuss methods and results of administrative simplification in Poland.

The OECD is well-equipped to carry out this review of Poland, one of its 34 members which benefit from OECD peer reviews and thematic studies on regulatory policy. The OECD is a forum where governments come together to share and compare policy experiences, seek answers to common problems, and co-ordinate action. Through its network of 250 specialised committees and working groups, the OECD provides a setting where governments compare policy experiences, seek answers to common problems, identify good practice, and coordinate domestic and international policies. The Organisation is progressively reinforcing its role as a global hub for dialogue and decision-making on economic and social policy issues by providing a platform for a wide range of policy experiences and the possibility to influence the shaping of the global economic agenda.

The OECD Regulatory Policy Division, part of the OECD Directorate for Public Governance and Territorial Development, has been leading work on administrative simplification since 2002. OECD reviews are based on objectives and working methods articulated in the 2005 OECD Guiding Principles for Regulatory Quality and Performance. The Regulatory Policy Committee, created in 2009, is the unique forum to exchange knowledge and best practices in the area of regulatory policy among 33 member states and observers from non-member countries. The RPC contributes to comparative information on trends in regulatory management and policy to *Government at a Glance*, the OECD's window into governments and their capacity to deliver on social and economic policy objectives.

This report is part of a series of OECD reviews of national administrative simplification programmes. It follows the reviews carried out for the Netherlands (2007), Portugal (2008), and Viet Nam (2011). Since 2008, OECD staff has been helping the Government of Mexico implement administrative simplification on the basis of OECD recommendations.

The report is also linked to a set of thematic reports of national strategies for administrative simplification, assessing progress against objectives and in the context of broader policies for regulatory quality. The most recent report in this "Cutting Red Tape" series is *Why is Administrative Simplification So Complicated?* (2010). Thematic reviews complement country reviews of regulatory reform (completed for 24 OECD countries, as well as for Russia, Brazil and China, and under way for Indonesia). Reviews of 15 OECD countries in the European Union carried out in 2009-10 contain much information about administrative simplification, setting this topic into a wider context.

Acknowledgements. The report was prepared in the Regulatory Policy Division of the OECD Public Governance and Territorial Development Directorate by Daniel Trnka, under the supervision of Josef Konvitz and the direction of Rolf Alter. Useful comments were provided by Miriam Allam and Helge Schroeder. Jennifer Stein was responsible for the editing and final document preparation. The report benefited input from Signe Jensen, Danish Commerce and Companies Agency of the Ministry of Economic and Business Affairs.

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Executive Summary

The Polish Ministry of Economy asked the OECD to evaluate Poland's efforts to simplify its regulatory framework. The goal of the evaluation is to help Poland make its administrative simplification programme and its implementation more efficient when the first results of the legislative review of licences and permits are put into practice, the pilot phase of administrative burden reduction is coming to an end and the full baseline measurement has been completed. Poland stands before the critical phase: – looking for measures to simplify a substantial part of its business legislative framework and implementing those that have already been prepared.

Administrative simplification is becoming a priority in many countries seeking to improve public governance and regulatory quality, in order to boost competitiveness and growth. The Polish programme on administrative simplification focuses on cutting red tape to improve the framework for doing business, thus stimulating competiveness and growth.

This report adds to the OECD series of reviews of administrative simplification (the Netherlands, 2007; Portugal, 2008; Vietnam, 2011) and is linked to thematic reports in the Cutting Red Tape series (*e.g. Why Is Administrative Simplification So Complicated?*, 2010).

This study examines what has been done, how and what results in administrative simplification have been achieved and evaluates progress in the light of best practices in OECD countries. It also studies, to a lesser level, the situation in other regulatory policy areas, such as regulatory impact assessment and stakeholders' involvement, and integration of administrative simplification with other policies, such as e-government.

Poland has adopted a complex administrative simplification programme implementing methods that have been successfully used in other OECD countries. The programme has two main streams: the first one focuses on the simplification of licences and permits; the second is a typical European project on the measurement and reduction of administrative burdens. The Polish government adopted a quantitative target of a 25% reduction in the seven priority areas by the end of 2010; a new target is to be set for the main phase of the exercise. While the first target was met by the end of 2010,

legislation in two of the areas remains unchanged. Using the Standard Cost Model, Poland puts itself next to many other OECD and non-member countries using successfully modifications of this method.

The Polish government recognises quality regulation as an important issue. There is a complex regulatory quality policy adopted by the Council of Ministers. The programme is inspired by good practices in other countries and international Organisations such as the OECD and the Better (Smart) Regulation programme of the European Union.

Many important elements of regulatory policy are in place, at least formally. Besides focusing on the improvement of the existing regulatory environment, the programme also takes into account the quality control of newly developed regulations, especially through the implementation of Regulatory Impact Assessment. Involvement of stakeholders and consultations with the public throughout the whole policy-making process also enjoy a sufficient attention in the programme. Poland is investing impressive resources in training civil servants, including at the top level, in the field of regulatory impact assessment (RIA).

The practice nevertheless shows an implementation gap. RIA is perceived by many as an additional administrative burden and therefore usually conducted at the end of the legislation-making process to justify the solution that has been already chosen. A similar situation concerns public consultation. Stakeholders, especially businesses and their associations are dissatisfied with the extent to which they are engaged.

Regulatory policy, including the administrative simplification projects, has been, until recently, co-ordinated by the Ministry of Economy headed by the Vice-Prime Minister. The Ministry lacks necessary power to enforce active co-operation on the part of other ministries. Steps to strengthen co-ordination by appointing a Government Plenipotentiary for the Reduction of Bureaucracy have been taken recently and are limited in scope.

Communication with and involvement of stakeholders is also relatively weak despite some efforts undertaken by the Ministry of Economy.

Recommendations

In order to improve the efficiency of its administrative simplification programme, Poland should:

In the short term:

- Re-launch the programme on administrative simplification using the results of the baseline measurement while setting new, realistic targets, timelines and developing action plans for individual ministries; creating efficient co-ordination structures, including an inter-ministerial working group and a high-level committee, and reporting mechanisms; and improving continuous stakeholders' involvement through the creation of a permanent advisory body.

- Develop a comprehensive, whole-of-government administrative simplification strategy where all the projects (licensing reform, reforms of inspections) will be included and can be interconnected. Better interconnect e-government with administrative simplification through a co-ordinated approach.

- Develop a communications strategy with stakeholders and the general public.

In the medium term:

- Consider broadening the simplification programme on subjects other than businesses, namely on citizens as well as the public administration and widening its focus on costs other than administrative.

- Develop a business portal to help businesses receive all information necessary to start-up and run a business, but also to interact with the government. This has to go hand in hand with a careful streamlining and simplification of the process for business registration and obtaining licences and permits.

- Establish a systematic and continuous evaluation of administrative simplification projects for their "value-for-money".

In other areas of regulatory policy, Poland should:

- Strengthen its RIA system by improving quality control, strengthening capacities in the Chancellery of the Prime Minister and possibilities for public control. Quantification of administrative burdens should be a firm part of RIA. Poland should continue to train civil servants in techniques to conduct RIAs.

- Consultations throughout the whole process of making legislation should be improved through strengthened enforcement, making consultations a compulsory part of the RIA process. The plan for creating an electronic portal enabling on-line consultations should be put into action as soon as possible.

Résumé

Le ministère polonais de l'Économie a demandé à l'OCDE d'évaluer les efforts de simplification du cadre réglementaire de la Pologne. L'évaluation a pour but d'aider la Pologne à améliorer l'efficience de son programme de simplification administrative et de sa mise en œuvre lorsque les premiers résultats de l'examen de la législation relative à l'octroi de licences et de permis seront appliqués, que la phase pilote de la réduction de la charge administrative touchera à sa fin et que la mesure de référence complète sera achevée. La Pologne se trouve devant une phase décisive : – réfléchir à des mesures permettant de simplifier une grande partie de sa législation relative aux entreprises et mettre en œuvre celles qui sont déjà prêtes.

La simplification administrative devient une priorité dans de nombreux pays qui cherchent à améliorer la gouvernance publique et la qualité de la réglementation afin de renforcer la compétitivité et la croissance. Le programme polonais de simplification administrative est centré sur la réduction de la paperasserie en vue d'améliorer le cadre offert aux entreprises, stimulant ainsi la compétitivité et l'expansion économique.

Ce rapport s'ajoute à la série d'examens de la simplification administrative auxquels procède l'OCDE (Pays-Bas, 2007 ; Portugal, 2008 ; Vietnam, à paraître) et est lié aux rapports thématiques de la série « Éliminer la paperasserie » (comme celui de 2010, par exemple, intitulé *Pourquoi la simplification administrative est-elle si compliquée ?*).

Cette étude examine ce qui a été fait, comment et avec quels résultats en matière de simplification administrative, et évalue le progrès réalisé à la lumière des meilleures pratiques des pays de l'OCDE. Elle analyse aussi, à un niveau moins détaillé, la situation dans d'autres domaines de la politique de la réglementation, comme l'analyse d'impact de la réglementation et la participation des parties prenantes, et l'intégration de la simplification administrative aux autres politiques, comme l'administration électronique.

La Pologne a adopté un programme complexe de simplification administrative à l'aide de méthodes appliquées avec succès dans d'autres pays de l'OCDE. Le programme s'articule autour de deux axes principaux : le premier est la simplification de l'octroi de licences et de permis ; le

second est un projet européen type sur la mesure et la réduction des contraintes administratives. Le gouvernement polonais a adopté un objectif quantitatif de réduction de 25 % dans sept domaines prioritaires d'ici à la fin de 2010 ; un nouvel objectif sera fixé pour la phase principale du programme. Le premier objectif sera fort probablement atteint à la fin de 2010, tandis que la législation dans les deux autres domaines reste inchangée. Si l'on utilise le modèle de coûts standard, la Pologne se rapproche de nombreux autres pays membres et non membres de l'OCDE qui appliquent avec succès des variantes de cette méthode.

Les autorités polonaises reconnaissent l'importance d'une réglementation de qualité. Le Conseil des Ministres a adopté une politique complexe de qualité de la réglementation, qui s'inspire des bonnes pratiques en vigueur dans les autres pays et dans des organisations internationales telles que l'OCDE, et du programme « Mieux légiférer » (« Réglementation intelligente ») de l'Union européenne.

Bon nombre d'éléments importants de la politique de réglementation existent déjà, du moins officiellement. Outre l'amélioration du cadre réglementaire existant, le programme vise aussi le contrôle de la qualité des réglementations nouvelles, surtout par le biais de l'analyse d'impact de la réglementation. Il fait aussi une place suffisante à la participation des parties prenantes et aux consultations publiques. La Pologne investit des ressources considérables dans la formation des fonctionnaires, notamment au niveau le plus élevé, dans le domaine de l'analyse d'impact de la réglementation (AIR).

Dans la pratique, la mise en œuvre a pris du retard. L'AIR est souvent perçue comme une contrainte administrative supplémentaire et est donc généralement réalisée à la fin de processus législatif pour justifier la solution déjà choisie. En matière de consultations publiques, la situation est la même. Les parties prenantes, en particulier les entreprises et leurs associations, se plaignent de ne pas être suffisamment consultées.

La politique de la réglementation, notamment en ce qui concerne les projets de simplification administrative, était, récemment encore, coordonnée par le Ministère de l'économie, dirigé par le Vice-premier Ministre. Le Ministère de l'économie n'a pas les pouvoirs nécessaires pour obliger les autres ministères à une coopération active. Des mesures, de portée limitée, ont été prises dernièrement afin de renforcer la coordination par la nomination d'un Plénipotentiaire du gouvernement chargé de la réduction de la bureaucratie.

La communication avec les parties prenantes et leur association au processus de décision sont aussi relativement faibles malgré certains efforts entrepris par le Ministère de l'économie.

Recommandations

Pour améliorer l'efficience de son programme de simplification administrative, la Pologne devrait :

Dans le court terme :

- Relancer le programme de simplification administrative en s'aidant des résultats de la mesure de référence, tout en fixant de nouveaux objectifs réalistes, des délais de réalisation et des plans d'action pour les différents ministères, en créant des structures de coordination efficientes, notamment un groupe de travail interministériel et une commission à haut niveau, et des mécanismes d'établissement de rapports, et en améliorant la participation régulière des parties prenantes grâce à la création d'un organe consultatif permanent.

- Élaborer une stratégie générale de simplification administrative à tous les niveaux de l'administration, dans laquelle tous les projets (réforme des systèmes d'octroi de licence, réforme des inspections) seront inclus et pourront être interconnectés. Mieux interconnecter l'administration électronique et la simplification administrative dans le cadre d'une approche coordonnée.

- Élaborer une stratégie de communication avec les parties prenantes et le grand public.

- Dans le moyen terme :

- Envisager la participation des administrations infranationales, par le biais de consultations régulières ou par le biais d'un statut de membre à part entière ou d'observateur dans les structures interinstitutionnelles.

- Envisager d'élargir le programme de simplification à des sujets autres que les entreprises, à savoir les citoyens et l'administration publique, et le faire porter sur les coûts et non sur les procédures administratives.

- Développer un portail des entreprises afin d'aider ces dernières à obtenir toutes les informations nécessaires pour lancer et gérer une activité, mais aussi d'interagir avec les pouvoirs publics. Cela doit aller de pair avec un effort de rationalisation et de simplification de la procédure d'enregistrement des entreprises et d'obtention de licences et de permis.

- Procéder à une évaluation systématique et continue des projets de simplification administrative du point de vue de leur efficience.

Dans les autres domaines de la politique de la réglementation, la Pologne devrait :

- Renforcer son système d'AIR en améliorant le contrôle de la qualité, en rehaussant les capacités de la Chancellerie du Premier Ministre et les possibilités de contrôle public. La quantification des charges administratives devrait faire partie intégrante de l'AIR. La Pologne devrait continuer de former les fonctionnaires aux techniques de l'AIR.

- Les consultations tout au long du processus législatif devraient être améliorées par un contrôle renforcé, les consultations étant obligatoires dans le processus d'AIR. Le plan de création d'un portail électronique permettant des consultations en ligne devrait être mis en œuvre dès que possible.

Introduction

The Polish Ministry of Economy asked the OECD to evaluate Poland's efforts to simplify its regulatory framework. The goal of the evaluation is to help Poland to make its administrative simplification programme and its implementation more efficient when the first results of the legislative review of licences and permits are put into practice, the pilot phase of administrative burden reduction is coming to an end and the full baseline measurement has been completed. Poland stands before the critical phase: – looking for measures to simplify a substantial part of its business legislative framework and implementing those that have already been prepared.

To carry out the evaluation, Daniel Trnka and Miriam Allam from the Regulatory Policy Division of the OECD undertook a study mission to Warsaw on June 7-9, 2010. They were accompanied by Signe Jensen, a senior official in the Danish Commerce and Companies Agency of the Ministry of Economic and Business Affairs. This mission was an opportunity to consult actively with representatives of the government as well as with stakeholders from the private sector and discuss methods and results of administrative simplification in Poland.

The OECD review will establish an empirical record of what was done, how and with what results, evaluate progress in the light of best practices in the OECD countries, engage officials in policy dialogue and support capacity-building and provide policy options and recommendations on how to improve implementation and face remaining challenges in the area of administrative simplification and regulatory policy in general.

The main focus of this review is only on one aspect of regulatory policy – administrative simplification. However, as experience of OECD countries has proven, a success of administrative simplification clearly depends on solid linkage with other elements of regulatory policy, *e.g. ex ante* control of newly developed regulations, public consultations and involvement with stakeholders, etc. Therefore, these aspects are also examined including some of the recommendations.

The report was discussed in Paris at a meeting of the OECD Regulatory Policy Committee on 29th October.

OECD's work on reviewing national simplification programmes

The OECD Regulatory Policy Division, part of the Directorate for Public Governance and Territorial Development (see *www.oecd.org/gov*), has been leading work on administrative simplification since 2002. The indicators database (*www.oecd.org/regreform/indicators*), which covers all OECD members as well as South Africa, Brazil, Indonesia and India, includes several questions on administrative simplification. The OECD conceptual framework on this issue is reflected in the 2005 *Guiding Principles for Regulatory Quality and Performance*, and the 2005 *APEC-OECD Integrated Checklist on Regulatory Reform*.

Three thematic reports of national strategies for administrative simplification, assessing progress against objectives and in the context of broader policies for regulatory quality in most member countries, have been completed (2003, 2006 and 2010). Reviews of national programmes of administrative simplification have been carried out for the Netherlands (2007), Portugal (2008) and Viet Nam (2011). Since 2008, the OECD staff has been helping the government of Mexico implement administrative simplification on the basis of OECD recommendations. Wider regulatory reform reviews have been conducted for many other OECD members and non-members, including all EU Member States, and also contain many insights and examples of good practice that can be useful when designing a national simplification programme.

OECD indicators, reviews, good practices, checklists, principles and policy dialogue are used by members and non-members alike in their efforts to "make life easier for business and citizens". The Division has ongoing co-operative relations with China, South Africa, Brazil, India, and Indonesia, and is very active on issues of rule of law and administrative simplification in the Middle East and North Africa.

Chapter 1. International Trends in Administrative Simplification

Importance of administrative simplification

One of the main roles for governments is to create the environment that is enabling economic competition, spurring innovation while making life as least difficult as possible for citizens and businesses. Regulations and formalities are important tools used by governments to provide services and to carry out public policies in many areas.

With the complexity and dynamism of societies and economies creating a demand for new and revisions to existing regulations, the intricacy of the regulatory framework and the burden it presents for citizens and businesses as well as the public sector become excessive. Regulatory burdens have tended to grow in number and complexity, as governments need more information to implement their policies and target their regulations and instruments on more specific issues and populations. These effects are more costly in global markets, where business competitiveness can be affected by the efficiency of the domestic regulatory and administrative environment.

Citizens and companies demand regulations that are efficient and cost-effective in achieving their goals, easily accessible and easy to understand. Those that must comply with regulations must be able to obtain information and guidance on what they need to do, in purely practical terms, to meet the compliance requirements imposed on them. These must be guiding principles throughout the 'regulatory chain', from official inquiries at central government level to enforcement at municipal level.

Governments are blamed by many for creating unnecessary regulatory burdens, introducing regulations that are too costly and therefore not bringing the "value-for-money" – the goals of regulations are not reached fully or with the costs that exceed the level that is considered as efficient. Too much paperwork causes irritation, especially when the goal is not clear to the users of regulations.

Excessive regulatory burdens also limit initiative, create possibilities for corruption and encourage the growth of an informal economy. The more restrictive and complex the regulations are, the more possibilities there are for public servants on one side and specialised private agents on the other to find ways how to bypass the regulation using semi or non legal ways.

A specific category of regulatory burdens are the "costs of paperwork"- administrative burdens or "red tape". These are usually defined as the costs imposed on regulated subjects (*e.g.* businesses), when complying with information obligations stemming from regulation. Red tape is particularly burdensome to smaller businesses which are less equipped to face administrative burdens due to greater resource constraints and may act as a disincentive to new business start-ups.

The administrative burden, overregulation and bureaucracy are by far the main general concerns for European SMEs according to the 2008 open consultation[1] conducted by the European Commission in the preparation of the "Small Business Act" for Europe.

Failure to address rising levels of burdens can have an impact on the regulatory authority of the state. If the burdens of administrative regulation come to be seen as unreasonable, compliance rates may fall and the general level of respect for the law will be undermined, putting at risk the effectiveness of regulation as a tool to reach policy objectives.

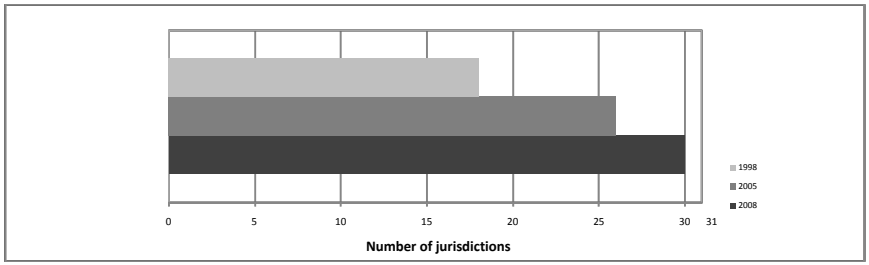
A complete halt to regulation is not a viable option. The solution lies in the adoption of rigorous regulatory quality programmes, to create regulations that meet quality standards. A regular review of existing regulation would necessarily complement new regulations. While administrative procedures are needed to collect information and implement public policy, streamlining them makes life easier for citizens and businesses.

Recent developments in administrative simplification

Administrative simplification has remained high on the agenda in most of the OECD member countries over the last decade. As Figure 1 shows, 30 out of 31 jurisdictions in 2008 had programmes on reducing administrative burdens compared with 26 in 2005 and 18 in 1998.

1. *http://ec.europa.eu/enterprise/newsroom/cf/itemshortdetail.cfm?item_id=1273.*

Figure 1.1. Explicit programme for reducing administrative burdens



Source: OECD Regulatory Management Systems' Indicators Survey 1998, 2005 and 2008, *www.oecd.org/regreform/indicators.*

Burden reduction provides a mechanism that can be used to create an incentive for compliance by agencies without determining in advance where the reductions in regulatory burdens are going to come from. Finally, the success of the programmes can be measured and communicated to businesses to build support for reform.

One of the major factors that contributed to the rapid spread in use of the Standard Cost Model (SCM) originally developed by the Dutch Ministry of Finance was the initiative of the European Commission which launched in 2007 the Action Programme on reducing administrative burden in the European Union (EU) for measuring administrative costs arising from legislation in the EU and reducing administrative burden by 25% by 2012. A key part of the Action Programme consisted of a large-scale measurement of administrative burden in 2007-08 using modification of the Standard Cost Model that should be followed by major simplification proposals aiming at reduction of administrative burden on businesses. All 27 Member States of the EU have also adopted quantitative targets of administrative burden reduction.

Additional approaches to simplify administration exist besides the administrative burden measurement and reduction programmes using the SCM. Many of these exploit modern information and communication technologies for making life of regulated subjects as well as administration authorities and civil servants easier. Re-engineering administrative processes and their streamlining are based on reviewing and optimising information transactions required by government formalities, including reducing their numbers and burdens through redesign, elimination of steps and application of technology, as appropriate. Streamlining procedures often results in creation of a one-stop shop, whether physical or electronic. Process re-engineering, using ICT as well as the creation of electronic one-stop

shops show that there is more integration among administrative simplification and e-government: ICT are increasingly used to ease the administrative burden on citizens, businesses and public authorities.

The issue of enforcing regulation and inspections has also received more attention over the past years, especially in connection with the use of risk-based approaches to enforcement.

While some countries and the EU have a policy on how to manage the stock of legislation, in many countries it appears as a derivative of administrative simplification. By management of the stock of legislation we mean making the legislation more and easily accessible. This includes electronic publication, consolidation and codification of legislative texts as well as the review of existing regulation to eliminate inconsistencies and duplications. Regular periodic reviews of existing regulations represent another approach to reduce regulatory stock. According to OECD regulatory management indicators, the number of countries adopting mechanisms for regulatory review and evaluation has evolved significantly over the last decade.

Despite the popularity of administrative simplification and administrative burden reduction programmes among civil servants and politicians, the perception by those who should mainly benefit from such programmes, businesses and/or citizens, is below expectations. Even in countries, where administrative burden reduction programmes brought significant results, businesses did not express much enthusiasm about those results. Reasons for this negative perception by regulated subjects may lie in relatively low visibility of reductions for individual companies, delays in implementation, too much focus on "cutting dead wood", neglecting communication with stakeholders and underestimating their perception of regulations focusing too much on quantitative aspects.

Improved communication is one of the important aspects of strengthening trust of stakeholders in administrative simplification projects. Communication with stakeholders is very important after achieving the goals of administrative simplification as perception of importance and usefulness of these projects by regulated subjects plays an important role in the overall evaluation of their success.

The basic SCM represents a technique that is purely quantitative, expressing administrative burden in monetary terms. Some countries have decided to use more qualitative techniques, either as a complement to the existing quantitative ones or to replace them. Qualitative techniques do not try to express administrative burden in measurable terms but rather work with information that may be subjective and is not quantifiable, but still may represent useful input for the simplification effort. A sub-set of qualitative techniques are the perception studies

When simplification efforts are not co-ordinated properly, synergistic effects of various approaches may not be used fully. The institutional structure can be one of the main factors supporting or hampering better co-ordination of administrative simplification efforts. A further step of integration is the co-ordination of administrative simplification with other policies and instruments dealing with regulatory quality. The most important example is integrating *ex post* simplification with *ex ante* assessment of regulation.

Administrative simplification is likely to remain high on most government agendas in the following years. It is highly probable that many of the initiatives will not appear to be as successful as was envisaged few years ago. The perception of the beneficiaries – businesses and citizens – will probably not be so positive and the public will keep complaining about the high level of government bureaucracy and too much red tape. This does not mean however, that the efforts to simplify administration should be condemned and abandoned.

Administrative simplification projects must be thoroughly evaluated, first to prove that they are really beneficial not only for some of the regulated subjects (especially the big companies) but for society as such. Their effects on economic growth, creating jobs, enabling innovations, *etc.* must be clearly shown to persuade the decision makers and the stakeholders on their usefulness. Second, the evaluation should serve the purpose of adjusting the methodologies on simplifying administration to bring the best "value-for-money".

Chapter 2. Context

Economic developments

Since Poland abandoned central planning and initiated the transition to a market economy, the Polish economy has undergone an enormous amount of change. Most elements of a modern market economy have been established: the main part of economic activity is now carried out by private businesses or individuals and Poland's integration with the international economy is gradually increasing (OECD, 2010a). Although the transition proved very difficult in the early nineties and a slowdown in 2001-02 cooled off the quickly growing economy, Poland's GDP growth picked up again and increased by an average of around 5% annually from 2003 to 2008 (European Commission, 2010a).

Combined with an impressive reduction of the unemployment rate, from nearly 18% in 2005 to 8.5% at the end of 2007, growth had allowed for a considerable reduction of the budget deficit to below 2.0% of GDP, down from 3.8% in 2006 and even 6.3% in 2003. Especially increased tax revenues and, albeit to a lesser extent, reduced expenditures on social security, have contributed to this unexpectedly positive outcome. Consequently, living standards rose by about 3% annually since 2004, after nearly a decade of relative stagnation (OECD, 2008a).

Although many aspects of overall economic performance were promising, with GDP growth being both above OECD and EU average, there were also troubling signs and growing imbalances before the global financial crisis. Inflation fluctuated, increasing rapidly from below 1% at the beginning of 2004 to more than 4% in 2005 before dropping again to slightly more than 1% in 2006. The inflation rate then rose continuously until the outbreak of the crisis to around 4%. These fluctuations were mainly caused by the volatile prices of energy and food (European Commission, 2010a).

But the structural deficit remained. Although Poland was able to increase both its overall employment rate and its employment rate of older workers (from age 55-64), the improvements were not sufficient to achieve the targets set by the 2000 EU Lisbon Strategy. Population ageing and the low productivity of labour further increased the pressure on the system and threatened the sustainability of economic growth in Poland (OECD, 2008a).

When the financial crisis broke out in 2008, Poland's economy slowed down but was affected less than other countries. In fact, Poland performed better than any other OECD member state. Its economy did continue to grow, albeit with only 1.8% in 2009. There are several reasons why Poland did not enter a recession: monetary easing; exchange rate depreciation; relatively limited dependence on international trade; a sound banking sector and unleveraged private sector; tax cuts and other fiscal measures; and infrastructure investments linked to EU transfers and the 2012 football championship (OECD, 2009). However, the crisis led to a strong increase of the budget deficit from 1.9% of GDP in 2007 over 3.7% in 2008 to 7.1% in 2009, prompting an excessive deficit procedure at the European level.

The depreciation of the zloty helped to cushion the economic shock, but contributed also to the postponement of Poland's entry into Phase Two of the Exchange Rate Mechanism (ERM II) which is the preliminary step of adapting the euro. Originally, the Polish government made participation in the common currency a priority and intended to enter ERM II by mid-2009 which could have allowed to adopt the euro as early as 2011 (OECD, 2008b). Since this possibility is ruled out and the euro zone has been experiencing major difficulties during the crisis, it seems unlikely that Poland will continue to strive for the euro as ambitiously as in the past. At the present, 2015 seems to be the earliest possible date of entry (Economist Intelligence Unit, 2010).

In the last couple of months, Poland's economy has regained momentum with GDP growth expected to increase by around 3.4% this year (European Commission, 2010b). This implies that Poland's economy is continuing to grow faster than both the EU and the OECD average, thus closing further the GDP-per-capita gap to the EU15 and the OECD average (OECD, 2010b). Inflation has been predicted to fall to 2.7% in 2010 with the OECD even observing a small decrease in prices (-0.1%) during the month of July. It is expected that inflation will remain relatively low in 2011 due to only slight increases in labour costs and food and energy prices as well as the negative output gap after the crisis (Economist Intelligence Unit, 2010; European Commission, 2010a).

The reassuring levels of both growth and inflation rate show that Poland's economy has successfully overcome the financial crisis. However, as mentioned above, the Polish overall employment rate is relatively low, and far below best-practice countries (around 59% in Poland compared to nearly 80% in Switzerland). Income levels are still low, the country's infrastructure needs to be developed or modernised, and the disparities between the regions continue to be of a worrying extent (OECD, 2010a).

Business environment

It is therefore not surprising that Poland's economic environment does not always compare favourably in international surveys. The 2010 OECD Studies on SMEs and Entrepreneurship lists some of these studies which, taken together, make a strong case for continued reform effort in Poland:

- The OECD's system of indicators of product market regulation show Poland as having the highest level of anti-competitive restrictions of any OECD member country, as of early 2008 (Woelfl *et al*., 2009).

- In the World Bank's Doing Business 2011 Report, covering the period June 2009 to May 2010, Poland ranked 70th out of 183 states. This represents an improvement by 3 rankings compared with 2010, first improvement in many years. Among OECD countries, Poland is 28th out of 33 and among the 26 EU members covered, Poland ranks 23rd.[1] The ranking of Poland improved in 4 areas: starting a business, dealing with construction permits, paying taxes and closing a business. Poland performs relatively well in the following areas: getting credit (15th), protecting investors (44th) and trading across borders (49th). On the other hand the country performs poorly in a number of areas: Poland does not rank well in 'Starting a business' (113th)[2] because the costs are too high and it takes considerably more time than in comparable economies. Furthermore, Poland is lagging in "Paying taxes" (121st)[3] because it does not perform well in all three indicators, *i.e.* number of payments per year, expenditure of time required and total tax rate in per cent of the profit. Finally, Poland's ranks only 164th in "Dealing with construction permits". This is again due to poor performances in all three indicators, *i.e.* number of procedures, time required and costs.[4]

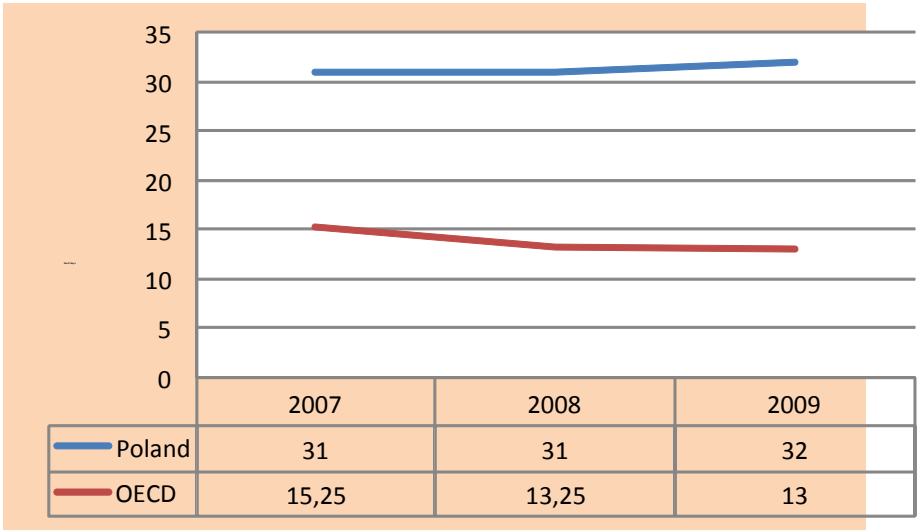
- The World Economic Forum's Global Competitiveness Report for 2010-11 ranks Poland 39th globally out of 139 countries. It ranks 24th of OECD countries and 14th of 27 EU members. Poland has improved its position by seven places each year in the last two rankings. Whereas the country performs especially well because in terms of its market size, and because of its high secondary and tertiary enrolment rates as well as its advanced health sector, there are also areas where Poland needs to catch up to competitors. This is the case for the transport infrastructure, the extent and effect of taxation, the transparency of government policy making as well as the burden of government regulation, among others.

- Survey information collected for the European Commission indicates that Polish SMEs are more likely than those in other EU countries to report problems due to: the lack of skilled labour; a bureaucratic regulatory and procedural environment; poor infrastructure; high labour force costs; and low access to finance (Gallup Organisation, 2007).

The same OECD publication also summarises the main barriers to SME (small and medium enterprises) and entrepreneurship development – which are of great importance to Poland's economy – as follows: tax rates; inadequate access to financing; lack of a qualified labour supply; deficiencies in knowledge, management competence and competitiveness; regulatory complexities and administration costs. Whereas most of these barriers are hard to overcome without causing repercussions elsewhere, some can indeed be reduced safely, thus improving the business environment. This is especially the case for the barrier caused by regulatory complexities and administrative costs.

The burdens of government regulation represent a major obstacle for growth which is not limited to SMEs and especially relevant in the case of Poland. The Global Competitiveness Report ranks Poland 111th out of 139 countries (World Economic Forum, 2010). The Polish Confederation of Private Employers Lewiatan (PKPP Lewiatan), for example, lists nearly 300 impediments to business activities in Poland and estimates that excessive regulation in Poland decreases the competitiveness of enterprises considerably (Freyberg, 2010) (see also Box 2.1). This is in line with Djankov *et al.* (2005) who argue that increasing business regulation can result in up to 2.3% of additional annual growth.

Figure 2.1. Number of days required to launch business activity in Poland in relation to the average for the OECD (without Poland) in 2007-09



Source : Freyberg 2010.

Therefore, administrative burdens should be removed fast in order to improve the business environment in Poland. Making the legal and regulatory framework compatible and welcoming would help increase inward foreign direct investment (FDI) which is still lagging that of comparable countries. Although Poland has already made progress in this respect through the Regulatory Reform Programme, many impediments to conducting activities in a business-friendly environment remain (*ibid.*).

Box 2.1. Ten "regulatory sins" according to PKPP Lewiatan

- Great number of regulations which causes the sense of being lost and unable to meet obligations which results in the sin of omission.
- Lack of transparent law in the form of regulating certain activities by several different legal acts.
- Lack of stable law is visible in the form of numerous amendments to provisions (every year amendments constitute 60% of established law).
- Lack of precision in formulating provisions resulting in their interpretation at the discretion of both entrepreneurs and civil servants.
- Protective provisions relating to assigning risk for committed errors to entrepreneurs.
- Unequal treatment of private and state entrepreneurs.
- Excessively restrictive provisions.
- Increasing costs of fulfilling information obligations.
- Lack of information on expected amendments of regulations.
- Great number of so-called "dead provisions".

Source: "Why the reform of Polish regulatory system is necessary?", *www.pkpp.pl.*

In addition, public-administration efficiency should be improved to help restore fiscal discipline, as advocated by the recent *OECD Economic Survey of Poland* (OECD, 2010b). The inefficient and very complicated tax code should be revised in order to increase tax efficiency and reduce high compliance costs caused by the number of payments and the time required to fill out tax forms. In addition, the public payroll should be reduced (a reduction target of -10% is already envisaged by Poland), wage growth in the public sector should not exceed wage growth in the private sector and promotions should be linked more closely to performance (OECD, 2010b).

Further simplification of administrative procedures together with streamlining public administration would help Poland to make full use of its economic potential.

Notes

1. On the other hand, Poland ranks among the EU countries that reformed the highest number of the examined areas (starting a business, getting credit, paying taxes and closing a business).
2. Despite improving by 30 ranks in two years.
3. Again, despite a significant improvement by 27 ranks compared with 2010.
4. Poland has noticed that Doing Business ranking did not always contain the up to date information. Poland has therefore improved communication in order to keep the WB better informed so that the recent reform efforts are recognised and included in the ranking.

Chapter 3. Regulatory Reform

Regulatory reform policy in Poland

Following an OECD report in 2001 (OECD, 2002b), a number of regulatory reform policies were adopted in Poland with various degrees of success. In 2006, the Regulatory Reform Programme was introduced. It was part of the National Reform Programme for 2005-08, including in particular Action 2.1: Improvement of regulatory quality and to a certain extent by Action 2.2: Simplification of administrative procedures and reduction of business operating costs. The Programme was partially built around recommendations of the Report on Regulatory Management Capacities in Poland (SIGMA, 2006).[1]

The current government efforts are still partially driven by this document. The temporary efforts to improve regulatory quality are part of the campaign called "Entrepreneurs have a right/a law for entrepreneurs" ("Przedsiębiorca ma prawo") as well as of strategic priorities of the new draft initiative of the Ministry of Economy called "Better Legal Regulations Programme" ("Lepsze regulacje prawne").

The main objective of the Better Legal Regulations Programme prepared in 2010 is to implement measures "that will ensure the creation and functioning of effective, stable and transparent economic regulations". The reform is focusing on two main tools to achieve this objective:

- improving the process of creation of new laws;
- improving and simplifying existing economic regulations.

At the national level, the measures taken focus on a review and simplification of economic legal regulations through identification of legal acts that create major obstacles for the growth of entrepreneurship. Considering that bureaucracy and bureaucracy-related costs prove to be a burden especially for small firms, the principle "SME First" is applied. The programme on measurement and reduction of administrative burdens is part of this effort.

Apart from simplifying the existing law, the programme involves measures aimed at improving the quality of the legislative process. The main idea is that the new laws created by the Government and Parliament should respond to socio-economic needs, and the benefits of their introduction for businesses and consumers should outweigh the implementation costs. An effective tool that can be used to achieve this aim is evaluation of regulatory impacts. Part of this effort is also strengthening public consultations throughout the whole process of developing new regulations.

The Regulatory Reform Programme is largely driven by the Better Regulation initiative of the European Union. The EU is used as an example and also as a source of external pressure to conduct important reforms. This is useful but also presents a challenge as regulatory reform tools such as RIA can be considered by some officials as "alien" measures implemented by the EU. The priorities of the Regulatory Reform Programme are reflected in the current National Reform Programme aiming at fulfilling the goals of the EU Lisbon Agenda. Many of the actions are financed from the European Structural Funds, mainly the European Social Fund (ESF), the main financial instrument allowing the Union to realise the strategic objectives of its employment policy. Without this support many of the projects, especially in the area of administrative burden measurement and training activities could not have been realised.

Institutional framework for regulatory reform

The leading institution in the area of regulatory policy is the Ministry of Economy. The Department of Economic Regulation that directly reports to the Minister of Economy and its Regulatory Reform Unit are responsible for co-ordination of developing strategic documents in the area of regulatory policy. It is also directly managing most of the projects. The department should advocate regulatory policy and contribute to introducing a modern framework for economic regulation. The department is also providing the Government with comments on draft bills that have potential impact on businesses.

Ministry of Economy has a relatively strong position in the structure of the government. Its Minister, Mr. Waldemar Pawlak, is also a Deputy Prime Minister. Improvement of the business environment is also considered to be one of the priorities of the current government. Nonetheless, the MoE is still "only" one of the line ministries and does not have any special co-ordinating powers. This results in a lack of instruments that the ministry has to enforce some of the regulatory policies whenever there is a resistance among civil servants from other government authorities.

Placing responsibility for regulatory reform in the economic ministry also shapes the orientation of the regulatory reform programme, which mainly aims at improving regulations affecting businesses and strengthening economic competitiveness of the country.

The Regulatory Reform Unit is relatively strong in human resources. It has 9 employees with various backgrounds, mostly economists. However, a considerable part of the unit's capacity is absorbed by technical administration of EU Funds.

The Prime Minister introduced a new co-ordinating mechanism in August 2010. Mr. Adam Jasser became the Undersecretary of State, Secretary to the Economic Council and Prime Minister's plenipotentiary for the Reduction of Bureaucracy. His role is in co-ordinating, initiating and supporting the works of the Council of Ministers in the area of reducing administrative burden to businesses and citizens in the legal and administrative areas. Creation of a working group is currently under consideration.

The unit in the Chancellery of the Prime Minister, which is responsible for the control of quality of impact assessments, is seriously understaffed. With only few employees, it may focus only on assessing formal aspects of impact assessments (see also Chapter 4.3.1).

A central participant in the review of regulatory quality is the Government Legislation Centre (GLC). The GLC is a central agency answerable to the Prime Minister. The GLC co-ordinates the government's legislative activity, provides legal advice to the government, prepares government drafts and advises on parliament's drafts. Its head participates in the meetings of the Standing Committee of the Council of Ministers. When scrutinising draft primary and secondary legislation or amending existing primary and secondary legislation, the GLC considers the constitutionality of proposed laws and their conformity with general principles of law and the extent to which they are drafted in a clear and coherent manner. Before 2006, GLC was also responsible for quality check of impact assessments, but today its role is in purely legalistic review.

Recent reforms have widened the competences of the GLC which is now responsible for drafting all legislative documents, respectively their paragraph wordings based on the substantial intent developed by the responsible ministry (see below).

Regulatory reform is a horizontal issue and therefore its success heavily depends on efficient co-ordination structures and co-operation with other ministries. Although the government recognises this fact, no dedicated structures have been created in individual ministries and/or government

agencies. The interministerial co-ordination structures for regulatory reform in Poland are only recent and limited in scope. This may present a serious challenge in Poland, where "silo" ministries usually operate on departmental principles, and horizontal co-ordination is one of the main weaknesses of the public administration system, as in many other post-socialistic countries.

Parliament is not directly involved in regulatory reform efforts of the government. In fact, it has its own initiative focusing on administrative simplification called "Friendly State". The Friendly State Extraordinary Committee (Komisja Nadzwyczajna Przyjazne Państwo – KNPP) was established by the Resolution of the Sejm of 20 December 2007 in order to limit bureaucracy. In accordance with the resolution, the Committee's tasks are the following:

- review and analysis of provisions in order to identify unclear, incoherent, ineffective, unnecessary or over-regulating provisions;
- preparation of theses relating to necessary amendments in legislation;
- provision of legislative initiatives on the basis of the above mentioned theses.[2]

The Committee started operation at the beginning of 2008. The Committee's President estimated at the beginning of 2010 that about 60 drafts prepared by the Committee were stopped at some stages of legislative works.[3] The KNPP is also accused of chaotic actions, no plan of works and basing too many legislative initiatives not on theses formulated by the Committee itself but on draft acts submitted to the Committee by lobbyists and interest representatives.[4]

No reporting mechanisms on progress of regulatory reform have been established. The OECD experience shows that regular reports to parliaments, such as the ones provided quarterly by the Regulatory Reform Group in the Netherlands, can significantly contribute to the visibility of the programme, as well as to put pressure on other participating ministries and agencies since they can be "named and shamed" in the report.

In many countries, the Ministry of Finance can be a demanding partner. In Poland, the ministry, though responsible for one of the priority areas for administrative simplification, does not seem to have a sense of "co-ownership" of regulatory reform, having its own initiatives on the simplification of tax administration.

The Regulatory Reform Programme focuses solely on the central level of government. Sub-national levels of government are not very much involved which is explained by the fact that Poland is a unitary state where lower levels of government do not have sufficient regulatory powers to have significant influence on regulatory quality. However, sub-national governments are often responsible for direct executing of regulations and can therefore contribute with their experience from the "front-line".

Assuring the quality of new regulations

Poland has a well-structured and transparent legislative process. The procedure for development of government draft primary legislation is set out in the Law on the Council of Ministers of 8 August 1996, together with its implementing regulations and in Rules of Procedure of the Council of Ministers. The draft regulation is subject to inter-ministerial and public consultation and, subsequently, it has to be accepted by the standing Committee of the Council of Ministers/ or European Committee of the Council of Ministers and the Council of Ministers. Those drafts that are so accepted are presented to the Parliament. The process does not separate the policy formulation from the regulation drafting.

All draft regulations are subject to a quality review process. A central participant in the regulatory process is the Government Legislation Centre. GLC was originally established within the Chancellery of the Prime Minister and then removed from it in January 2000, which gave it more political and practical independence (OECD, 2002b). It is a central agency reporting to the Prime Minister.

An important change was introduced in 2009 with the division of formulating policy and drafting a law. From April 2009, it is not the ministry who prepares a paragraph wording of the draft law but GLC. The Ministry is obliged to prepare a substantial intent of a new regulation, based on the RIA carried out and corresponding to the most important socioeconomic problems.

This system is still relatively new to evaluate its efficiency. It is implemented gradually and it is still possible to proceed according the old scenario. Without any doubt, the main aim of these changes is to increase the legal quality of new laws and their homogeneous language and implementation. Nevertheless, many ministries complained during interviews that they do not have a direct influence on how the GLC transposes its substantial intent into legal terms.

One of the issues that may have caused some problems is the fact that RIA must be elaborated on the substantial intent only, not on the final draft law. Interpretation of ministerial intent into a legislative document should be a purely technical issue and therefore no additional changes in impacts should occur. However, many representatives of ministries as well as stakeholders made comments that the final draft law sometimes differs substantially from the intent and some of the analysed impact may be therefore changed.

According to the interviewed businesses, Poland suffers from frequent changes of laws and regulations. In 2009, 1 400 new regulations were adopted. This is a problem particularly in the area of tax administration.

Another problem, according to the businesses, concerns poor implementation of some of the laws. Not enough instructions and guidelines are provided to the implementing institutions which results in inconsistencies and self-interpretation of regulations.

Regulatory Impact Assessment

Impact assessment is one of the most important regulatory tool available to governments. Its aim is to assist policy makers in adopting the most efficient and effective regulatory options (including the "no regulation" option), using evidence-based techniques to justify the best option and identifying the trade-offs involved when pursuing different policy objectives. Where relevant, the costs of regulation should not exceed their benefits, and alternatives should also be examined.

There is an important potential link with the measurement of administrative burdens (the use of the Standard Cost Model technique can contribute to the benefit-cost analysis for an effective impact assessment). While reducing administrative burdens stemming from existing regulation, countries have to prevent that the inflow of new burdens outweighs those reductions. This is usually done through an obligation to assess potential ABs stemming from newly adopted regulation as part of the RIA process.

In Poland, implementation of the Regulatory Impact Assessment (RIA) was initiated at the end of 2001. Since that time, it has been formally mandatory to carry out impact assessment studies for all governmental legal acts. The system of regulatory impact assessment covers both bills and regulations.

It is proclaimed as an essential element of legislative procedure. According to Ordinance 49 of the Council of Ministers from 19 March 2002 – Rules of Procedures of Council of Ministers – a summary of RIA results must be attached as a separate section of the explanatory notes. The minimal

RIA statement should identify parties affected by the regulation, present the results of public consultations, identify impacts that the regulation will have on public finances including central and local budgets, labour market, internal and external competitiveness, regions and regional development and indicate sources of funding, in particular where proposed legislation imposes costs on central and local budgets. The structure of RIA final report according to the Guidelines prepared by Ministry of Economy should comprise the following items:

- problem analysis with brief description of the issue;
- aim, effects, and circumstance containing the purpose of the proposed regulation and background information on existing legal framework and justification of the change along with risk assessment;
- options with a brief description of the available intervention options including a resignation from public intervention and interventions other than legislative.
- consultation with a brief description how consultation was planned and carried out and the way in which consultation results were used in the assessment of regulation impact;
- costs and benefits;
- subjects to be affected by the regulation;
- detailed analysis of the costs and benefits resulting from the options and presented in a table of costs and benefits for the subjects and areas of public finance, labour market, competitiveness and entrepreneurship, impact on regional development and environmental impact;
- implementation, enforcement, monitoring;
- recommendation with comparison of the total cost and benefit of various options and justification of the recommended option;
- implementation plan.

Impact assessment is performed for all draft regulations, whatever their nature and impact as long as they are subject to obligatory promulgation in Polish official journals. However, the RIA system is not applied to EU Regulations (other than EU Directives to be transposed, RIA is not carried out when the EU proposal for a Regulation is under discussion by the EU institutions).

New modernised and extended Guidelines on Regulatory Impact Assessment were approved by the Council of Ministers in 2006. Institutional arrangements for RIA were implemented in 2006 in order 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. At present the Chancellery of the Prime Minister indicates whether the scope of the assessment is adequate and identifies the elements which the ministry should apply to expand the impact assessment and make it as complete as possible. The Chancellery does not have a right to veto proposals that do not contain sufficient assessment of regulatory impacts.

The Strategic Analyses Department of the Chancellery seems to be seriously understaffed. The review team was told that only few employees are charged with the task of reviewing quality of RIAs. According to the interviewees, this is sufficient only to check whether formal aspects of RIA are included, not to analyse their actual correctness or feasibility. The quality check is therefore still insufficient and should be strengthened. RIA is neither used sufficiently in the process of consultations with stakeholders which was confirmed also by stakeholders' representatives.

The Ministry of Economy, as the co-ordinating body of regulatory reform, plays a crucial role in promoting and institutionalising RIA. It promotes the culture of RIA and is the main driver of changes within the RIA system. It is not only the author of RIA guidelines but the Ministry was the first to introduce RIA methodology in the internal procedure of regulatory powers.

The Ministry of Economy has developed a cycle of trainings on Regulatory Impact Assessment for government administration employees. Experience with the pilot programmes of the training, conducted during 2006-07, organised to train approximately 600 administration employees involved in the legislative process, indicated the need for continuation of the trainings, in order to permanently increase the competencies of officials in the area of RIA. In addition, MoE has planned trainings for 2 880 individuals from various ministries during 2009-11. The trainings are directed at developing skills for analysing social-economic processes and to solve identified problems. The training cycle has been divided into two educational paths, reflecting the varying requirements of administration workers. The course for employees directly involved in the process of creating law consists of the basic module, primarily aimed at providing theoretical knowledge and the advanced module, consisting of case studies for respective RIA stages. The trainings will also include management of the central government administration including top level officials.

The OECD team got a very positive feedback on the training provided by MoE so far. Many civil servants expressed their satisfaction with the fact that their bosses will be trained as well as the awareness among top officials on RIA is generally quite low. Most OECD countries provide some kind of training on RIA either independently or as part of a more general legislation-making training. The scope of training in Poland is however something still not very usual.

In theory, the RIA system in Poland is in-line with best practices in OECD countries. The guidelines and the institutional set-up are obviously inspired by countries with a long-lasting experience with RIA, such as the United Kingdom, and by the system implemented at the level of the EU. However, as some analyses show and as it was confirmed almost unanimously both by government representatives and the stakeholders, the practical application is far from being perfect.

According to the analysis prepared by the National School of Public Administration (Sakowicz, 2010) apart from two new legislative initiatives originating from Ministry of Economy none of the RIAs had a description of the problem. Less than a half of the analysed RIAs highlighted the purpose of the proposed regulation. Option analysis is almost never presented and alternatives are seldom compared. Only in two cases RIA contained discussion of the different options for solving the problem. Moreover, refraining from regulation, self- and co-regulation strategies are rarely included in alternative options. RIA statements usually identify parties affected by new proposal (89% of cases) and present consultations mechanisms presented in 84%. The latter is nevertheless still a controversial issue and subject to many critical opinions (see further).

Poland is aware of the imperfections of the RIA system. There are plans on how to make the system more effective. The MoE plans to:

- ensure an effective training system that will increase awareness and competence of administrative employees in the process of creating law based on evidence;
- introduce a mechanism verifying the quality of prepared RIAs (RIA audit, RIA *ex post*) – in co-operation with the Ministry of Finance and the Chancellery of the Prime Minister, the Ministry of Economy has drafted substantive and organisational guidelines for audits of commissioned Regulatory Impact Assessments. The purpose of the audit that should be undertaken in 2010 by a high-level group consisting of ministers and directors from MoE, the Chancellery of the Prime Minister, the Government Legislation Centre and the Legislative Council will be to evaluate the formal and substantive correctness of RIA preparation in government

administration and the compliance between adopted guidelines for legislation and legislative drafts with previously prepared RIAs. The Ministry of Economy has introduced a periodic, systematic and comprehensive review of applicable regulations, within the scope of its authority (internal RIA *ex post*). Evaluation of applicable law is aimed at verifying the actual costs and benefits of adopted law and verifying the accuracy of Regulatory Impact Assessments prepared prior to introducing regulations in force.

An electronic platform has been created that should facilitate the preparation of RIAs by enabling universal access to analytical tools and good practices.[5] The electronic platform contains a collection of existing and developed RIAs, as well as analytical tools useful in preparing RIAs and at the same time identifying examples of good practices. The platform will perform two roles: it will be an instrument supporting the process of Regulatory Impact Assessments preparation and strengthen the role and importance of RIA inside the administration. It will also support public debate in the subject of the quality of legislation in Poland.

Public consultations

Transparency is one of the central pillars of effective regulation, sustaining confidence in the legal environment, making regulations more secure and accessible, less influenced by special interests, and therefore more open to competition, trade and investment. It involves a range of actions including standardised processes for making and changing regulations, consultation with stakeholders, effective communication of regulations and plain language drafting, publication and codification to make them accessible, controls on administrative discretion, and effective implementation and appeals processes. It can involve a mix of formal and informal processes.

Public consultation exercises are compulsory for all new policy initiatives. There are standard procedures and requirements laid down for consultation. The Ministry of Economy has developed guidelines on consultation called *Principles of Consultations Carried out upon Preparation of Government Documents*. The document is not obligatory to follow as a kind of a soft law but it was recommended for use by the Decision of the Committee of the Council of Ministers of 30 July 2009.

The document clearly states that the stakeholders should be involved throughout the whole legislation-making process. It should serve as a handbook for civil servants on how to seek for the input from stakeholders. It describes various methods for consulting the public including public

hearings and meetings, citizen's panels, surveys, consultations through electronic means, etc. It sets the minimum period for inter-ministerial consultations to 21 days and for external consultations with the public to 30 days. A full list of social partners was included in the *Analysis of consultation process of SME's related legal regulations* published in 2009.

Public consultations are part of the RIA process. There is no enforcement and the control of whether the principles set out have been followed is part of the quality check of RIA which is usually very formal. The quality of public consultations will be also part of the RIA audit (see above). As the OECD team was told, the practice in the area of consultations with stakeholders varies but generally is not very satisfactory.

Although consultation is recommended at the earliest possible stage (selection of problem-solving options), practice shows that usually public consultation takes place in parallel to inter-ministerial consultation *i.e.* at the end of the legislation making process. According to a Ministry of Economy survey, in almost all cases (95%) regulatory bodies consult the legal acts but very seldom at the initial stage (Ministerstwo Gospodarki, 2007). The choice of subjects for consultations is in the competence of the responsible ministry or agency which gives them an opportunity to pick up only those subjects that will not make too much trouble. Furthermore, consultations usually take place through the tripartite. Representativeness of members of the tripartite is however questionable and these consultations cannot replace consultations with the wider public.

Stakeholders also complained that they are not consulted on the final paragraph wording of the draft law (for the same reasons as why there is no RIA on the final draft – it is supposed to be a technical issue). According to them, substantial changes are made during this last phase they are not aware of until the draft is published. Also, stakeholders could act as an independent scrutiny of the legal quality of the draft as they could identify some shortcomings, unclear language, contradictions, etc. which may occur.

Another important issue in the consulting process is securing sufficient time, which will allow all entities to get to know the problem, provide answers and present a rationale for specified positions. Stakeholders complained about insufficient time for providing comments during the process. They were also mentioning insufficient feedback from the administration on their comments. Even in cases when they had provided comments, they did not get any explanations whether their comments had been reflected or not and why.

Consulted parties also face problems. NGOs and business associations lack capacities for detailed analysis of consultation documents and potential impacts of new regulations. This will grow incrementally, but it is an important role for the government to make consultations as easy and user-friendly as possible.

According to the analysis of MoE, mandatory consultations of legal acts are not considered by the administration as a source of information by public officials, but only as an additional burden (Ministry of Economy, 2010).

A problem of the Act on Lobbying has been mentioned several times. The law now stipulates that only registered lobbyist should have access to civil servants responsible for preparation of policies and regulations. With the new law, some civil servants are actually afraid to consult other subjects than the registered lobbyist. After several serious corruption scandals, the public administration is extremely cautious in this respect. This is obviously an unattended consequence, and some form of government guidance would be useful in dealing with this issue.

There is no central consultation portal where all consultation documents are published. Stakeholders willing to consult have to at first be aware of the fact that consultations are being held and then find a document on one of many government websites. This makes the process burdensome and may discourage some of the stakeholders from engaging. The MoE is currently working on a project aimed at creating a pilot system for on-line consultations, which will increase the transparency of the legislative process by effectively supporting the procedure for obtaining opinions on draft legal acts. The plan is that the portal will be interconnected with the electronic RIA registry so that assessments of impacts can be used in the consultation process.

Notes

1. A Joint Initiative of the OECD and the EU, principally financed by the EU.
2. Article 2 of the Resolution of the Sejm of the Republic of Poland of 20 December 2007 on appointing the Friendly State Extraordinary Committee for issues connected with limiting bureaucracy.
3. "Rzeczpospolita" of 12 January 2010 as quoted in Freyberg 2010.
4. Interview of "Rzeczpospolita" with Senator Zbigniew Romaszewski, "Rzeczpospolita" of 9 May 2009 as quoted in Freyberg 2010.
5. *www.mg.gov.pl/Reforma+Regulacji/Ocena+Skutkow+Regulacji/Platforma+elektroniczna+OSR.*

Chapter 4. Administrative Simplification

Administrative simplification is a regulatory quality tool to review and simplify administrative regulations. Administrative regulations are paperwork and formalities through which governments collect information and intervene in individual economic decisions. Administrative simplification is an effort to improve the regulatory stock and its effects without changing the regulatory management system itself. This may follow.

Administrative simplification has remained high on the agenda in most of OECD member countries over the last decade. The growing use of formalities has become a major problem, known as "red tape" or administrative burdens. Formalities increase costs and multiply barriers for businesses through the time and money needed to comply with these. In addition, these can reduce regulatory certainty, a key parameter for businesses. With the complexity and dynamism of societies and economies creating a demand for new and revisions to existing regulations, the intricacy of the regulatory framework and the burden it presents for citizens and businesses as well as the public sector become excessive.

Poland has adopted a complex administrative simplification programme implementing methods that have been successfully used in other OECD countries. The programme has two main streams: the first one focuses on streamlining licences and permits, where the criterion "*EU plus zero*" is being used to cut unnecessary permits and licences. A second stream is a typical European project on measurement and reduction of administrative burdens. Using the Standard Cost Model, Poland puts itself next to many other OECD and non-member countries using successfully modifications of this method.

Administrative simplification tools and policies

Simplification of the law

The simplification activities in Poland focus mainly on improving the business environment that is favourable to SMEs. The efforts are conducted mainly within the framework of the *Package for Entrepreneurship*. According to the government, the primary goal of this package containing amendments to over 20 legal acts is to facilitate the start-up and conduct of business. As the overall goal is to simplify broadly defined business and tax legislation, simplification activities with respect to SMEs also include areas such as access to capital, commercialisation of technology, conducting research and development activities and establishing technology companies.

So far, 18 legislative acts of the *Package* have been enacted; work on the others continues.

Box 4.1. Examples of changes in legislation in the framework of the Package for Entrepreneurship

Act on Public-Private Partnership (PPP). this is one of the key legislative acts of the package, typical of Anglo-Saxon practice. The Act has eliminated unnecessary administrative burdens and liquidated excessive limitations, on the subject and content of the agreement itself. The solutions introduced, *inter alia*, do not impose the obligation of preparing analyses, leaving this decision to the interested parties themselves.

Second stage of amending the Act on Freedom of Economic Activity. During the initial period (transition period), this has introduced a so-called "one-stop shop", in which all formalities related to the commencement of business activities can be taken care of. The ultimate solution will be the so-called "no-stop shop" (beginning July 1, 2011), *i.e.* full service of citizens electronically, without the necessity to visit government offices. For this purpose a business platform will be created, named the *Business Activity Central Register and Information Record*. Furthermore, the rules and time for auditing businesses have been simplified and limited. At the same time several dozens of other legislative acts were amended, in addition to the Act on Business Freedom, so that business law is more favourable to entrepreneurs;

Act on Packed Products. This Act simplified regulations pertaining to packaging, removing unnecessary requirements in this area. It defined more precisely the necessary obligations of businesses that package or introduce packaged goods into commerce, and removed the unnecessary ones. It excluded from administrative supervision the groups marked "e" within the territory of the EU; it released manufacturers of aerosols from the necessity to comply with strictly defined package volumes, and in other cases completely eliminated the obligation to package;

Act on Amending the Labour Code. Amending the provisions pertaining to obligations of the employer in circumstances of threats – emergencies, fires, evacuation of employees. The goal of the amendments was to avoid application of regulations on fire protection, with respect to qualification requirements and training for officers of fire protection units and individuals performing activities related to fire protection (legislative path as a legislator's initiative);

Act on Graduate Traineeship. The second act, after the *Act on Public-Private Partnership*, is based on a new model of writing law (the Anglo-Saxon model). It is a light framework act, which created a stable legal framework and simplifications in accepting graduates for internships, in order for them to obtain professional experience. It has eliminated administrative and bureaucratic requirements pertaining to internships in Poland, basically including labour law;

Act on Service Activities. This act introduced simplifications for entities commencing and performing business activities in Poland, not only service providers. It eliminated many requirements in this area, but primarily introduced new legal and technical solutions. The former include introduction of the institution of presuming public administrative permission. The latter include the introduction of single contact units, where a Polish or a foreign business could take care of all registration and information matters. The Act defined uniform rules for performing business activities and the principle of administrative co-operation with appropriate authorities of EU and EEA countries, not belonging to the EU. Furthermore, the regulation guaranteed freedom of providing transborder services.

Act on the Access to Commercial Information (in the legislative process). The goals of the new act are to strengthen the safety of commerce, prevent payment delays, improve the system of exchanging business information and improve operating conditions or business information bureaus. An important issue will be to increase the protection of creditors, also by creating an open catalogue of creditors authorised to co-operate with the Bureau (also natural persons). Co-operation between business information bureaus and credit information bureaus will also be simplified. This act is also anti-crisis in its nature.

Source: Ministry of Economy (2010), *Regulatory Reform*, Report on the Implementation of Regulatory Reform Activities in 2009, April.

The *Act on the Reduction of Administrative Barriers for Citizens and Entrepreneurs*, the so-called Deregulation Act, is the most important legislative initiative in the area of administrative simplification. According to the Ministry of Economy, the initial point for creating this act was the necessity of redefining the proportions between the scope of limitations imposed on businesses and the freedom of business activities, guaranteed by the Constitution. The main aim of this act was to remove unnecessary barriers to starting up and conducting business activities while sustaining the necessary protection of basic values by the state. "The degree of state

intervention must correspond to requirements of public safety, protection of health and human life, as well as care for the natural environment, but it must also consider the substantiated interests of businesses" (Ministry of Economy (2010).

The primary goal of the project is to change what is called a "certificate culture" into a "declaration culture". The Act will implement the rule of building the State's confidence in the citizen, including the entrepreneur. In any situation where an obligation to submit certificates is not imposed by security reasons or by international law, it will be enough for a citizen to declare that a certain legal or actual obligation has been met. The second goal is to limit the quantity of restrictions imposed on business activities (licences, permits, registers of regulated activities, accordance) by eliminating or changing limitations to less restrictive ones. The Act will also improve access to regulated professions, including professions of public trust. The "*EU plus zero*" principle is used in the review process. This means that the restrictions, if they are not directly stemming from the legislation of the EU, should be abolished.

The draft of the *Act on the Reduction of Administrative Barriers for Citizens and Entrepreneurs* was prepared based on a review of business-related legislation in Poland. According to the Ministry of Economy, a total of 205 legislative acts were analysed. As a result of this analysis, the draft proposed to over 100 legislative acts. The draft act, together with other legislation of the *Package for Entrepreneurship* represents the first comprehensive reform of business law since the 1990s.

According to the MoE (see Ministry of Economy, 2010), other activities in the simplification of law are for example:

- *Report on the analysis of legal conditions for entities operating on the Venture Capital/Private Equity market.* One of the significant barriers to the development of entrepreneurship in Poland is impeded access to capital. The Ministry of Economy has conducted an analysis, aimed at identifying and indicating ways to reduce existing regulatory barriers slowing down the process of businesses obtaining capital. The first part of the analysis was devoted to legal regulations governing Venture Capital/Private Equity Funds operating in a high risk market, which are becoming an increasingly significant component of economic policy in Poland. Venture Capital Funds are committing increasing amounts of financing to Polish businesses in the SME sector, resulting in growth for the entire national economy. The nature of Venture Capital Funds' operations is about investing a specific amount of assets in businesses, operating primarily in the region where the

respective fund has its headquarters or branch. The regional nature of Venture Capital Funds investments and the fact that they pay taxes in the country where they are registered, makes a significant incentive for creating favourable conditions for such enterprises in Poland;

- *Report on guidelines for unification of the UNIDROIT lease law with provisions of the domestic legislation.* UNIDROIT is an independent, intergovernmental organisation, established to analyse methods for harmonizing and co-ordinating private law of countries and groups of countries, by drafting uniform acts of model law, for adoption by its member countries. The report allowed for establishing and evaluating amendments necessary to harmonise UNIDROIT regulations with domestic provisions. The need to change regulations in the area of leasing is necessary from the standpoint of developing the domestic leasing sector, which constitutes a very important source for obtaining capital, especially for small and medium enterprises.

The local levels of government were involved in this project by providing data on the number of licences and permits issued. This is an example of how sub-national levels, while not having very strong regulatory powers, can provide useful information and data on implementation of regulations.

Measurement and reduction of administrative burdens

Poland launched a project on measuring and reducing administrative burdens on businesses (ABs). A modification of the Standard Cost Model is used for quantification of ABs.

The Polish approach is a direct reaction to the initiative of the European Commission aimed at measuring and reducing administrative burdens imposed on businesses in the EU by 25% by the end of 2012.[1]

In March 2008, the Council of Ministers of Poland set the goal of reducing administrative burdens by 25% by the end of 2010. This is to occur in seven designated priority areas of the law:[2]

- environment;
- land development plan;
- economic activity law;
- social security;[3]

- hallmarking law;
- tourist services;
- labour law.

These were selected using the priority areas picked up by the European Commission and based on the consultations with stakeholders. Most businesses met by the OECD review team expressed satisfaction with the choice, but also underlined a need for continuation of the project in the remaining areas of legislation. Areas of tax administration and cohesion policies were specifically named as the best candidates for simplification.

In 2007, the measurements of administrative burdens in the designated priority areas were undertaken. In the initial phase, some 700 information obligations were identified in 50 legislative documents. These include such obligations as: completing forms, filing applications for recognition of the ability to run a particular type of business, reporting obligations, measurements registration obligations, applications for permits, drawing periodical reports, participation in inspections.

The overall administrative burden stemming from the 7 priority areas is PLN 19 billion (approx. EUR 4.9 billion). The area causing the highest amount of ABs is by far the social security law, with more than PLN 17 billion, around 89% of the overall ABs in the seven areas.

Measures for reduction of administrative costs were identified in only 5 out of 7 priority areas. According to the report of the MoE from May 2010, the areas of labour law and social security remain untouched while simplification measures in the tourist services area concern other information obligation than the ones that were identified and measured in the pilot phase. This is mostly result of insufficient inter-ministerial co-ordination, lack of permanent political pressure, non-ability to reform information obligations stemming from the EU law, emphasising the social protection aspect over simplification, etc.

It is important to bear this in mind when seeing the results of the reduction in the first phase. The legislative changes that had been already adopted before May 2010 resulted in the reduction of ABs by 0.77%. There are plans for further reductions in the four areas that should, when adopted in the legislative process, lead to the overall reduction by 3.18%.

It is however fair to say that these numbers are distorted by the fact that most of the ABs in the seven priority areas are caused by the area of social security which remained without substantial changes. If we disregard this area and count the ABs only in the remaining six areas, the numbers look more impressive – 6.54% reduction already finished by May 2010 plus

21.06% still in the pipeline. This accounts for the overall reduction by 27.60% by the end of 2010 in the six priority areas.

Even these new numbers deserve further analysis. The biggest reduction has been achieved in the area of the land development planning (over PLN 460 million, 35.11% reduction in this area) and economic law (almost PLN 150 million, 91.23% reduction). For the remaining areas, the reduction is PLN 3.8 million in the area of tourist services and hallmarking legislation. This practically means that there were only two areas of legislation where significant reduction has been achieved. While there was some reduction in additional three areas, in the remaining two has not been any reduction whatsoever. The areas of labour law and especially social security have a huge potential for finding measures that could bring a significant relief for businesses. This issue has to be addressed in further continuation of the process.

In the second phase of the project on administrative burden reduction, the remaining areas of legislation relating to businesses were scanned. An analysis of 482 legal acts of the generally binding law (statutes, regulations, directives) revealed 6 187 information obligations. An external consortium of companies led by Deloitte was hired for the measurement of the cost incurred by the information obligations, the so called baseline measurement. The consortium obtained a significant support from the Polish statistical office. The measurement was financed from the EU Structural Funds.

In addition to the internationally recognised basic Standard Cost Model, Poland included also some question examining the subjective irritation caused by particular information obligations. The final report then includes an annex with a qualitative analysis of the perception of regulations among businesses with some ideas of where the government should target its simplification efforts.

The measurement revealed that the overall administrative burdens imposed on businesses by government regulations is PLN 77.6 billion (approx. EUR 20 billion) which represents around 6.1% of the Polish GDP. Discounted of what was subjectively qualified by interviewees as business-as-usual administrative costs, this number shrinks to PLN 37.3 billion (approx. EUR 9.5 billion) which represents around 2.9% of the GDP. These numbers are comparable to other OECD countries that undertook the full baseline measurement ranking Poland probably above average as most of the countries did not discount the overall ABs by business-as-usual costs (see Table 4.1).

Table 4.1. Estimated share of administrative burdens in GDP of EU-25 in 2004

Countries	Share of administrative burdens in GDP (%)
Austria	4.6
Belgium	2.8
Czech Republic	3.3
Cyprus	6.8
Denmark	1.9
Estonia	6.8
Finland	1.5
France	3.7
Greece	6.8
Spain	4.6
Netherlands	3.7
Ireland	2.4
Lithuania	6.8
Luxembourg	2.8
Latvia	6.8
Malta	6.8
Germany	3.7
Poland	5.0
Portugal	4.6
Slovakia	4.6
Slovenia	4.1
Sweden	1.5
Hungary	6.8
Great Britain	1.5
Italy	4.6
UE-25	**3.5**

Source: European Commission: Measuring administrative costs and reducing administrative burdens in the European Union, COM(2006)689/final.

In the following phase, the reduction target and the date for its achieving will be set by the Government. The most burdensome regulations and information obligations will be identified and measures for their simplification will be sought. MoE has recently presented a plan to be accepted by the Council of the Ministers to undertake reduction in the remaining areas of economic regulations by 25% until the end of 2012, with the half-way report on the progress to be made by MoE and accepted by the Council of Ministers in the beginning of 2012.

E-government and one-stop shops

Process re-engineering, using ICT as well as the creation of electronic one-stop shops show that there is more integration among administrative simplification and e-government: ICT are increasingly used to ease the administrative burdens on citizens, businesses and public authorities in OECD countries. There is a potential of a synergic effect that is not always fully exploited.

Physical one-stop shops were created in 2009 mainly for registering business start-ups. However, according to the representatives of businesses met by the OECD review team, the time needed for registration of a new business has in fact increased due to complications in communications between competent public authorities. Although the laws stipulates for a seven-day period maximum for registration of businesses, this is not enforced and the deadline is often not met by public authorities.

A project for creation of a business portal for getting information and registration of businesses is underway (in its initial phase, according to the MoE), its implementations should start in July 2011. An external company is making a list of procedures necessary for starting up a business, another external company checks the list whether it is complete.

The biggest issue for creating such a portal lies in a very complicated regulatory environment with too many registers that are not interconnected and too many identification numbers for businesses such as REGON (number from the Polish register of business entities for statistical purposes), NIP (Polish tax identification number) or KRS (National Court Register number). Creation of a unique identification number would obviously be beneficial.

As experience of many OECD countries show, electronisation of administrative procedures cannot be successful without their substantive simplification. Therefore, it is advisable to better integrate e-government projects with efforts in the area of administrative simplification. This integration seems to be missing in Poland.

Lack of human capacities is another issue standing against more rapid evolution in the area of e-government. As in many other countries, IT experts are the most demanded on the labour market and therefore it is difficult to attract them to the work in state administration.

The ePUAP – the Electronic Platform of Public Administration Services is being developed by the Ministry of Interior and Administration. In the future, the system should provide access to public sector information and services for both citizens and businesses. The ePUAP will consist of an integrated platform supporting a number of interactive services, with user identification/authentication, electronic case handling and ePayments when needed. Therefore ePUAP will offer a basic set of services that enable public institutions to build and provide public services through electronic channels. It is not clear, whether ePUAP will serve as a platform also for the future Internet portal for businesses.

Compliance and enforcement, inspections

A project on the reform of inspections is underway. According to the MoE, there are too many inspections in Poland. According to their estimates, 40 to 50 different inspection agencies may inspect one enterprise. The purpose of the project was to create a list of institutions that have a right to inspect businesses and the legal ground for existence of such inspections. The main goal is to rationalise budgetary expenses.

A stocktaking phase of the project has been completed. The plan of the MoE is to remove overlaps between various inspections and therefore decrease the number of inspections. A political decision is now needed to continue with the project. There is no interconnection with any other project on administrative simplification. Even though both projects are managed by the same ministry (but by different departments), the results on the measurement of administrative burdens are not used in the project on rationalisation of inspections.

Other policies in the area of administrative simplification

There seems to be no policy on improving accessibility of regulations, *i.e.* on codification or the consolidation of laws.

Institutional set-up and interministerial co-ordination

Since administrative simplification is a cross-cutting issue that needs co-operation of all, or most central government bodies, the co-ordinator should have the necessary "teeth" to put pressure on other actors to keep in line with the targets – *i.e.* to be placed close to or report directly to the centre of government (OECD, 2010).

Inter-ministerial co-ordination structures and communication seem to be major issue in Poland. The Ministry of Economy, Department for Economic Regulation, is co-ordinating all major activities in the area of administrative

simplification. This is not unusual, one of the ministries is charged with the task of administrative simplification in other OECD countries as well (examples may include, Ireland, Czech Republic, etc.). The fact that the MoE is headed by the Vice-Prime Minister makes it slightly stronger than any other line ministry.

The MoE, nevertheless, lacks the necessary competencies to enforce active co-operation on the part of other ministries. Neither an inter-ministerial working group nor any structure at the higher level has been established. There is no official document charging other ministries with active co-operation with MoE in achieving the targets of administrative simplification. No special structures have been created or responsible units appointed inside other ministries. This results not only into a lack of co-operation but sometimes into an active resistance among other ministries.

The recent initiative of creating a post of the Plenipotentiary for the Reduction of Bureaucracy is a step forward. One of its main tasks will be to co-ordinate administrative simplification efforts. An inter-ministerial working group should be created in the future, however, according to the plans it will not include representatives of all ministries (only MoE, Chancellery of the Prime Minister, Ministry of Interior and Administration, Government Legislation Centre and Ministry of Foreign Affairs).

There is a lack of awareness among civil servants about the projects, their goals and ways to achieve those goals. During interviews, many officials representing ministries did not even know about the 25% reduction goal. This is obviously due to the lack of communication between the ministries throughout the process.

MoE prepares all the amendments, including those of the laws that are in the competence of other ministries, though based on their proposals of simplification measures. The responsible ministry sometimes sees the proposal only at the final stage of the process – during the inter-ministerial comment procedure. The reaction is then obvious and understandable – an *a priori* refusal of any measures suggested by MoE without properly consulting the responsible ministry.

The preparation of the *Act on the Reduction of Administrative Barriers for Citizens and Entrepreneurs* is a good example. It proposes to amend around 100 legal acts, many of them in the competence of other ministries. While the original draft developed by MoE was very ambitious, it got significantly watered down in the inter-ministerial process due to the fact that the proposed amendments had not been pre-consulted with the responsible ministries.

Communication and co-operation with stakeholders

The involvement of those, who should benefit the most from the administrative simplification efforts – the businesses and entrepreneurs, was limited mostly to the initial phase of the project. The seven priority areas for reduction of ABs were consulted with businesses and they expressed content with the choice.

Businesses were, of course, providing the data in the process of AB measurement. They were interviewed by the consortium on the length of the procedures to comply with information obligation, wages of those responsible for providing information and also on irritation caused by specific regulations and information procedures.

No institutional structure for stakeholders' involvement has been established (an advisory committee, regular attendance in meetings with ministries). The businesses therefore do not have any direct channel to present their views in the process besides the Tripartite.

Some stakeholders are trying to present some simplification proposals to the Government. For example, the Polish Confederation of Private Employers Lewiatan (see *www.pkpplewiatan.pl/en/*) is submitting every year a so-called Black List of Barriers (*Czarna Lista Barier*) for the development of businesses to each ministry and also the members of parliament. The publication contains a list of concrete proposals for the simplification of business regulations. It has been published annually since 2001. While the assessments are necessarily subjective and may be incomplete and not fully accurate, ministries should take this as a valuable input for consideration. According to the representatives of Lewiatan, the feedback provided by the ministries is often insufficient or none.

The communication on administrative simplification is relatively weak despite efforts of the MoE to organise meetings with business representations. Most of the businesses interviewed were aware of the existence of the Package for Entrepreneurship, the *Act on the Reduction of Administrative Barriers for Citizens and Entrepreneurs* as well as on the ongoing administrative burden reduction project. However, businesses were explicitly complaining that they did not have any information on the progress throughout the projects, neither enough opportunities to be consulted on drafting of the simplification proposals.

There are elements of a communication strategy on the issue of regulatory reform but they are not systematically used. Regulatory reform has its own "corporate identity" including the logo and easy-to-understand slogans. Marketing items (pencils, folders, notebooks, USB keys) with the regulatory reform logo are distributed.

Evaluation and reporting

Evaluation of either Regulatory Reform programme or particular programmes, especially in the area of administrative simplification has been *ad hoc* (consultations, RIA). Systematic assessment of the "value-for-money" that the projects are bringing is missing. There are also no obligations for reporting on the progress of regulatory reform or particular initiative to the Council of Ministers or Parliament. These reports could be used as a tool for putting pressure on those ministries and agencies that may be not fully supportive of the programme.

Plans for the future

Besides further training in RIA with a plan to train almost 3 000 of public officials in 2010-11, there are many other ambitious plans for the following period. Consultation with the public should be available on-line by 2012. This should provide citizens and businesses with easier access to consultation on newly developed regulations and it should also support improvement of the quality of impact assessments.

Strengthening of RIA is also one of the main priorities of the prepared Regulatory Reform Programme for the years 2010-11. The guiding documents of the Council of Ministers make it obligatory to conduct Regulatory Impact Analysis including inter-ministerial and public consultations, already at the phase of developing guidelines for drafts of legislative acts. This should result in a situation where legal texts are developed only in the case a RIA has been approved by the Council of Ministers. RIAs should provide evidence that the anticipated benefits of a new regulation justify its potential costs. The capacities of the Chancellery of the Prime Minister should be strengthened to provide statements on each guidelines for the draft legislative act.

An electronic platform for RIA was launched. The RIA website contains analytical tools and a collection of RIAs that exist and are being developed. Access to the website is public. By identifying examples of good RIAs – continuously updated, this website is of assistance to individuals preparing an RIA (Ministry of Economy, 2010).

Further review and changes in the provisions of business law are planned by the MoE. They should focus on:[4]

- eliminating obsolete or unnecessary regulations;
- utilising "horizontal" regulation in place of industry oriented regulations, improving the consistency and prolonging the *vacatio legis* period;
- verifying the feasibility and means of bringing order to legal acts in the area of business law;
- reducing the level of restrictions on business activities (quantity of licences and permits, their simplification at national level, or proposals for simplification at the EU level);
- introducing "fast–track" type solutions in order to eliminate deficient legal regulations.

The programme should also focus more on the problematic of SMEs by introducing additional amendments to the existing laws and regulations, *e.g.* strengthening assessment of impact on SMEs as part of RIA or focusing administrative simplification efforts on the issues affecting the SMEs.

Notes

1. Action programme for reducing administrative burdens in the EU, *http://ec.europa.eu/enterprise/policies/better-regulation/administrative-burdens/action-programme/index_en.htm*.
2. Ministry of Economy (2010).
3. The Council of Ministers and the MoE now considers to remove the area from the priority ones to "maintain a high level of social protection".
4. Ministry of Economy (2010).

Chapter 5. Assessments and Policy Options

Assessments of strengths and weakness

Regulatory policy

Regulation and its quality are recognised as an important issue by the government. This is reflected by the Regulatory Reform Programme that was adopted at the level of the Council of Ministers and its successor – the Better Legal Regulations programme of the Ministry of Economy from 2010. This is aligned with OECD principles.[1]

The programme includes many important elements of what a regulatory quality policy should contain in the light of the experience across the OECD. Besides focusing on improvement of the existing regulatory environment, it also takes into account the control of the quality of newly developed regulations, especially through the evidence-based mechanisms including the implementation Regulatory Impact Assessment. Involvement of stakeholders and consultation with the public throughout the whole policy-making process also enjoy a sufficient attention in the programme.

The programme is inspired by good practices of other countries and international organisations such as the OECD and the Better (Smart) Regulation programme of the European Union. It also takes into account specifics and needs of the Polish economy, oriented toward strengthening of the competitiveness of the country. It does not take much into account social and environmental aspects and focuses rather on businesses and entrepreneurs than citizens and the general and public sectors.

A significant degree of political support is also reflected by the fact that the main sponsor of the programme is the Vice-Prime Minister and Minister of Economy. In several documents, the Government proclaims regulatory reform as one of its main priorities. Nevertheless, there is still room for even stronger political support, preferably expressed by the Prime Minister itself as well as the Council of Ministers and its individual members. The project could be regarded by some as the initiative of just one ministry. Appointment of the Plenipotentiary for Reduction of Bureaucracy is a positive step forward.

The attention the government pays on the issue of regulatory quality is also evident in the existence of a dedicated entity responsible for co-ordinating implementation of the Regulatory Reform Programme. The Department for Economic Regulation and its Unit for Regulatory Reform are well staffed with highly committed civil servants. The position of the department in the hierarchy of the MoE – reporting directly to the minister (in fact the Vice-Prime Minister) also reflects the importance of the agenda.

Implementation of the Regulatory Reform Programme resulted in many important steps. One of them was the adoption and implementation of the obligation to conduct the Regulatory Impact Assessment in case of each new law and amendment of a law and publication of the RIA Guidelines. The Guidelines, obviously inspired by countries with a long-lasting experience with RIA, such as the UK, and by the system implemented at the level of the EU, are also in line with the OECD recommendations in this area and include most of the necessary elements, including the obligation to assess more alternative solutions, estimate economic as well as social and environmental impacts that should be expresses quantitatively in as many cases as possible, etc. The assessment of potential administrative burdens is also a formal part of the RIA process and therefore all potential ABs stemming from the newly developed regulations should be quantified.

RIA is an important regulatory quality tool by itself, supporting evidence-based policy making. It also impacts on the efficiency of the administrative simplification process. The Government must ensure that the administrative burden it is trying to reduce from existing regulations is not outweighed by new burdens stemming from newly adopted ones. Making the quantification of administrative burdens (*e.g.* using modified SCM) part of the RIA process is a mighty tool in assuring this. The RIA system must be therefore fully functioning including quality check procedures.

Poland is investing an impressive amount of resources into training civil servants, including at the top level, in regulatory impact assessments including techniques of quantification of potential impacts. Training in calculating administrative burdens using the Standard Cost Model is part of the process. Some 600 civil servants were trained during 2006-07 and the Government plans to train some 3 000 more by the end of 2011. The evaluation of the training sessions among civil servants interviewed by the OECD team was generally very positive.

Practice shows an implementation gap. RIA is not very popular among civil servants, and perceived as an additional administrative burden rather than a useful tool to help provide the government with background for decisions that would be based on evidence and hard data. Therefore, RIA is usually conducted at the end of the process to justify the solution that has already been chosen.

One of the biggest factors to improve the efficient functioning of RIA in Poland would be creation of a watchdog with the necessary competences. While creation of a specialised unit in the Prime Minister's Chancellery was a good step forward, this unit has not been staffed properly so far nor been given enough competencies to be able to deal with the ministries as an equal partner. There is a lack of pressure either at the political level and/or from the users of regulation on better quality impact assessments.

Generally, similar things as in the case of RIA may be said about public consultation. The Government recognises the importance stakeholders' engagement and the adoption of the *Principles of Consultations Carried out upon Preparation of Government Documents* is a positive and important step forward. Unfortunately, these guidelines and the obligation to consult stakeholders throughout the process are poorly enforced and perceived by ministries as an additional burden. Stakeholders, especially businesses and their associations are dissatisfied with the extent to which they feel engaged and they are losing confidence in how seriously is the Government dealing with the issue of regulatory quality.

In line with the OECD good practice, consultations are a firm part of the RIA process. On the other hand, this means that the lack of control of the quality of RIAs results in poor control of the quality of public consultations.

What may be seen as a challenge is the fact that regulatory reform has not been co-ordinated from the centre of government. It is too early to evaluate the effect of recent changes. Nevertheless the appointment of the Plenipotentiary in the Chancellery is a positive step in strengthening co-ordination.

Institutionalised co-ordination mechanisms have also been lacking in Poland until recently. The experience of OECD countries shows that for a successful implementation of either administrative simplification or more general regulatory reform programmes, some kind of inter-ministerial working structures is crucial. In Poland, the co-ordaining body does not have necessary competences to enforce regulatory reform policies and to make other actors co-operate. This is a major issue and needs to be solved without any further delays as it undermines prospects for success.

Most projects in the area of regulatory reform are financed from the Structural Funds of the EU. Even though there is no official dataset on this, it may be said that Poland is probably using the largest proportion of resources from the EU Funds on regulatory reform among the beneficiary countries. These investments, if continued to be used wisely, will pay back in setting a better regulatory environment, more effective allocation of resources by businesses, better innovation, and satisfied citizens and businesses. Using the EU funding plays a very important role in enabling the reform activities and stands as an example that should be followed by other countries which can use EU Funds. Once EU funds end, Poland will need to find new resources. While some of projects will be finished by that time, some resources will be needed to sustain efforts, *e.g.* for RIA, consultations and the systematic review of regulations.

Administrative simplification

Poland has adopted a very complex administrative simplification programme implementing methods that have been successfully used in other OECD countries. The programme has two main streams: the first one deals with the simplification of licences and permits, with the aim to change the system of relying more on self-declaration and using the criterion "*EU plus zero*" to cut unnecessary permits and licences. This criterion is very ambitious and in general aims at a maximal goal that the Polish government can achieve without changing EU legislation. The criterion is very clear and easy to communicate, but does not take into account possible benefits stemming from domestic licences, reasons why they were adopted and implemented into regulation.

A second stream is a typical European project on the measurement and reduction of administrative burdens. Using the Standard Cost Model places Poland next to many OECD member and non-member countries which use successfully modifications of this method. The planning of the project is very much in line what OECD recommends – starting with a narrower pilot phase and then continue with larger-scale project; in the case of Poland, a full baseline measurement of all administrative burdens on businesses stemming from government regulations. Results of the measurement are comparable with other countries that have already finished their measurements. Poland also added a qualitative aspect to the measurement, asking questions on irritation and businesses' perception.

The Polish Government adopted a quantitative target of a 25% reduction in the seven priority areas at the end of 2010. Setting quantitative targets is important. They help create momentum at the beginning and make the monitoring of progress easier. The 2008 OECD survey on indicators of

regulatory quality shows that all but 5 OECD member countries (Australia, Finland,[2] Japan, New Zealand and Switzerland) adopted targets for administrative burden reductions. Targets are used so widely because they help create momentum at the beginning and make the monitoring of progress easier.

The target applied only for the pilot phase. A new target is to be set for the main phase of the exercise. The first target was met by the end of 2010 (even though legislation in two of the priority areas remain unchanged). The target was not distributed among participating ministries nor were the priority areas. This has to change in the main phase to improve the credibility of the process. The OECD experience shows that when individual targets for participating ministries are set in addition to a general reduction target, this creates a pressure on participating institutions to deliver timely results.

As in case of the overall regulatory reform strategy, inter-institutional co-operation and co-ordination is the major issue seriously undermining the potential benefits administrative simplification may bring to the Polish business environment. Different approaches to the institutional set-up for administrative simplification are used in OECD countries. In most of them, co-ordination is usually the responsibility of a ministry or a specialised agency. Administrative simplification is a horizontal issue and needs close co-operation across the administration. It is important that the co-ordinating body has enough political support and sufficient tools to put pressure on the participating departments and agencies. Setting individual targets is one possibility. Naming and shaming, for example through regular reports to the government and/or parliament, is another one (OECD 2010c).

The non-existence of co-ordination structures and a lack of legal competence of the MoE led it to fight with other participating ministries. The problem also is a lack of communication capacities, where all the simplification proposals are prepared inside the MoE and communicated to the responsible ministries very late in the process.

Communication with and involvement of stakeholders is another weak spot in the efforts to simplify administration. The ongoing participation of stakeholders is considered an essential element in both the elaboration and implementation of simplification measures in OECD countries. Communication with stakeholders may be crucial to achieve the goals of administrative simplification projects since regulated subjects are the only ones that can provide reliable data on complying with information obligations.

It was wise to communicate the goals of the programme at the beginning of the exercise and to choose priority areas for administrative burden measurement in co-operation with businesses, but this co-operation was not sustained. There is no communication strategy and contact with other stakeholders than businesses are virtually non-existent. Therefore, awareness of the projects among stakeholders is very low.

Horizontal co-ordination seems to be an issue not only in the area of regulatory reform but also in other domains. There is no clear strategy on e-government. The *ad hoc* e-government efforts are poorly co-ordinated with administrative simplification. The same may be applied to the reform of inspections. It is not part of the regulatory reform agenda and therefore is not co-ordinated with administrative simplification even though there are obvious synergic effects.

Recommendations and Policy Options

Poland has an ambitious strategy for improving regulatory quality reflecting the need for the simplification of administrative formalities that are too complex and that therefore slow down economic growth and make life difficult for citizens and businesses. It adopted a complex programme for regulatory reform including projects focusing on administrative simplification, with most of the important elements of OECD good practice in place, using vastly experience of other OECD countries.

The biggest challenges lie in the implementation process. Following are several recommendations that should help make regulatory reform and administrative simplification in particular more efficient, delivering results towards improved competitiveness and better social welfare:

Re-launch the programme on administrative simplification using results of the baseline measurement…

- This seems to be the right time to renew the momentum for efforts in this area by re-launching the programme with some new features, taking into account what went well or not during the first phase.
- The re-launch should receive a sufficient and visible political support, preferably expressed by adopting the programme by the Council of Ministers and the presentation of the programme by the Prime Minister himself.

…setting new, realistic targets for individual ministries and a timeline…

- Not only a general, overall target for administrative burden reduction should be set by the Government, but also, based on the analysis of the AB measurement, individual targets for each ministry. This must be done in co-operation with all participating ministries to give them a sense of ownership. This will also enable an ongoing control of whether all the actors are working to achieve their results.

- The government has to make sure that in fulfilling their targets, ministries will not focus only on "cutting dead wood" – *i.e.* on regulations that are easy to abolish because they are obsolete; either outdated or not properly enforced. On the contrary, those regulations that cause the highest burdens and also are perceived by stakeholders as most burdensome and irritating have to be simplified.

…creating efficient co-ordination structures and reporting mechanisms…

- Co-ordination of administrative simplification efforts should be the responsibility of a specialised agency, strong ministry or the centre of government.

- In the short term, an interministerial high-level committee should be created, consisting of participating ministries. The committee should be chaired by the government Plenipotentiary. The committee would have a co-ordination function and should not meet frequently, *e.g.* four times a year. The strategic solution should only be taken and major conflicts solved by this committee.

- An inter-ministerial working group, including representatives of all participating ministries could serve such a structure. Through this working group, MoE could provide guidance to other ministries and regularly check how targets are being achieved. Minor methodological problems would also be solved through this working group. This would also enable sharing experiences and good practice examples among participating ministries.

- Individual action plans should be developed for each participating ministry on how its particular target will be achieved. This should be done through bilateral collaboration between MoE and individual ministries and presented to the working group. The action plans should be published and therefore publicly accountable.

- In the long term, Poland should consider creating a specialised body responsible for either administrative simplification only, or for co-ordination of the overall regulatory reform, including oversight on the quality of RIAs. Another option, still in the medium or long term, is to create a specialised unit in the Chancellery of the Prime Minister.
- A system of regular reporting should be established both to the Parliament and the Council of Ministers. This would improve transparency of the process, informing stakeholders and increase the pressure on all participating actors to deliver results.
- The Council of Ministers should issue clear instructions on the necessity to fully co-operate with the co-ordinating unit (wherever it is placed). This instruction should be put into a resolution of the Council of Ministers.

…***and improving stakeholders' involvement.***

- Stakeholders should be continuously involved in the simplification efforts throughout the whole process. Businesses have to be involved in identifying regulations or areas of regulations that ministries should focus on and also in preparation of simplification measures. The measures should be thoroughly consulted with the stakeholders to check whether they are feasible and bring substantive relief. Stakeholders must also be allowed to submit their own simplification proposals. Their proposals have to be assessed and feedback provided (including, if needed, a clear expression of why they are not taken on board).
- Poland should consider the creation of a permanent advisory body consisting of representatives of stakeholders for the purpose of administrative simplification. Its competences could be potentially broadened onto other areas of regulatory reform. The Dutch ACTAL, German Normenkontrollrat or Swedish Regelrådet could be used as successful examples. An alternative approach could be to make stakeholders permanent members of the inter-ministerial committee and working groups.
- Use of qualitative methods for assessing administrative burdens should be even strengthened by creating regular systems to assess perception of regulations among regulated subjects. Qualitative techniques should be used as a complement to the quantitative ones.

Develop a comprehensive, whole-of-government administrative simplification strategy where all the projects will be included and can be interconnected. Better interconnect e-government with administrative simplification through a co-ordinated approach.

- Co-ordination and interconnection of the administrative simplification with other projects (licensing reform, reforms of inspections, some of the e-government projects) should be strengthened through a complex strategy for administrative simplification.

- Institutional structures described in the previous paragraphs can be used for co-ordination and inter-ministerial communication. Better information on ongoing projects among ministries should help use resources efficiently, with synergies. Thus, data from administrative burden measurement can be used as input in other projects, *e.g.* reform of licensing.

- The reform of inspections should be better co-ordinated with other efforts in the area of administrative simplification. A risk-based approach to reforming inspections should be used to help target resources on "high-risk" areas where not complying with regulations may lead to a significant cost for society and also focus on "high-risk" businesses that are unlikely to comply with regulations while reducing the administrative burdens on those that do comply.

- The e-government strategy should include a project on developing a business portal, where businesses could not only get all the information necessary for starting-up and running a business but also could interact with the government, *e.g.* submit information and receive necessary licences and permits electronically. This has to go hand in hand with careful streamlining and simplification of the process of business registration and obtaining licences and permits including reducing the number of procedures necessary to start-up a company. An inter-institutional exchange of data must be ensured and the principle that businesses submit data only once must be implemented. Creation of a unique registration number for businesseses will be helpful achieve these objectives. A similar portal should also be developed for citizens.

Develop a communications strategy with stakeholders and the general public.

- The elements of a communications strategy should be further used to create an ongoing, user-centred communication channels. The strategy should be developed even before re-launching the programme. When communicating results, individual examples and case studies should be used rather than total numbers and overall savings.

Poland should consider broadening…

- Poland should consider, in a later stage, broadening the administrative simplification programme to subjects other than businesses, namely on citizens as well as public administration itself.

…and widening of the simplification programme.

- The Polish Government and stakeholders' representatives should discuss together their perception of other regulatory costs. Based on this analysis, it should consider widening of the administrative simplification programme on those regulatory costs. Techniques are already available also for the quantification of such costs and the structures for the administrative simplification programme could be easily used.

Establish systematic evaluation of administrative simplification.

- Administrative simplification efforts should be evaluated for their "value-for-money". It should not only focus on the quantification of administrative burdens reduced as a result of the project but also on other outcomes and effects for society. The evaluation exercise needs to look beyond the achievement of the target set and analyse the real outcome of the programme in terms of social welfare and industry competitiveness. The best way to organise an evaluation process is to establish a continuous mechanism of monitoring and evaluation.
- Develop a system of monitoring implementation of these recommendations by an independent body such as the OECD.

General recommendations for other areas of regulatory reform

Strengthen the RIA system.

- Poland should continue in training civil servants in techniques of conducting RIA.
- The system of control should be improved. In the short term, the capacities in the Chancellery of the Prime Minister should be strengthen, so the specialised unit is able to provide qualified opinions on the quality of RIA based on a thorough analysis of the presented documents. In the long term, if a specialised government agency is created (as suggested above), the competence of assessing RIAs could be transferred to this agency. The unit (and later on the agency) should provide guidance and assistance to ministries and civil servants who may struggle with some problems dealing with RIA.
- The Council of Ministers should systematically refuse to discuss those legislative proposals that do not contain proper RIA. Ministers should stress that making decisions based on evidence provided by an assessment of potential impact is their priority. They should also encourage civil servants to start their analysis as early as possible when preparing legislative documents.
- While the introduction of *ex post* RIA control at the MoE is a positive step forward, it would be advisable to enlarge the scope of this exercise to other ministries and agencies responsible for developing RIAs and make it an official government policy.
- Quantification of administrative burdens should be a firm part of RIA. This will enable to later evaluate the success of administrative simplification, in other words, whether the target achieved will have been met or whether the new inflow of administrative burdens will have actually outweighed the reductions.
- It is necessary to strengthen public control over the quality of RIAs. Stakeholders should be systematically consulted. A possible new stakeholders' advisory committee could serve as a watchdog and a partner of the Chancellery in overseeing RIA quality.

Improve consultations throughout the whole process of making legislation.

- Consultations are formally obligatory for every stage of the legislation-making process. The enforcement should be strengthened through making consultations an obligatory part of the RIA process. The Chancellery of the Prime Minister should, as part of assessing the quality of RIAs, also control the quality and completeness of consultations with stakeholders.
- The plan for creating an electronic portal enabling on-line consultations should be put into action as soon as possible. The portal should have an extensive list of features, be fully searchable, provide a possibility to register a set of topics a stakeholder is interested in and send an alert anytime a discussion document relating to these topics is available. Possibilities of employing new web 2.0 technologies should be explored.

Notes

1. The first principle of the 2005 OECD Guiding Principles for Regulatory Quality and Performance recommends governments to "Adopt at the political level broad programmes of regulatory reform that establish clear objectives and frameworks for implementation."
2. Finland adopted the 25% target in 2009.

Conclusion

Poland has achieved progress in the area of regulatory reform and administrative simplification. Important policies are in place and the government provides a significant political support. The review shows, however, that there is a serious implementation gap.

Successfully finishing the baseline measurement of administrative burdens on businesses and having prepared several important amendments for the simplification of licensing and permits, Poland has the right opportunity for evaluation and to re-launching the programme while improving inter-ministerial co-ordination, reforming institutional structures and strengthening stakeholders' involvement.

Adoption of the renewed simplification programme and better interconnection with strengthened *ex ante* control of newly prepared regulations as well as with other policy areas such as e-government would help Poland to achieve the goals of improving its business environment, increasing productivity and innovation, attract investments, and maintain a satisfactory rate of growth and employment, enhancing competitiveness.

Bibliography

Allio L. and Renda A. (2010), "Evaluation of Administrative Burden Reduction Programmes", OECD, Paris

Djankov, Simeon, Caralee McLiesh and Rita Ramalho (2005), *Regulation and Growth*, World Bank, Washington.

Economist Intelligence Unit (2010), *Country Report: Poland*, Economist Intelligence Unit, London.

European Commission (2010a), "Convergence Report 2010", *European Economy*, Vol. 3/10, Directorate-General for Economic and Financial Affairs of the European Commission, Brussels.

European Commission (2010b), *Interim forecast: September 2010*, Directorate-General for Economic and Financial Affairs, Brussels.

Freyberg, Ewa (2010), *Business-friendly administration*, Expertise commissioned by the Polish Ministry of Regional Development, Warsaw.

Gallup Organisation (2007), "Observatory of European SMEs – Summary", *Flash Barometer Series*, No. 196, European Commission, Brussels.

Ministerstwo Gospodarki (2006), "Wytyczne do oceny skutków regulacji" (OSR), Ministry of Economy, Warsaw.

Ministerstwo Gospodarki (2007), "Raport z wyników konsultacji dotyczących zasięgania opinii zainteresowanych stron w procesie oceny skutków regulacji", Ministry of Economy, Warsaw.

Ministerstwo Gospodarki (2008), "Podręcznik do identyfikacji i pomiaru obciążeń administracyjnych według Modelu Kosztu Standardowego", Ministry of Economy, Warsaw.

Ministerstwo Gospodarki (2010), "Raport na temat realizacji celu redukcji obciążeń administracyjnych w siedmiu priorytetowych obszarach prawa", Ministry of Economy, Warsaw.

Ministry of Economy (2006), "Regulatory Reform Programme" (working translation), Ministry of Economy, Warsaw.

Ministry of Economy (2009), "Principles of Consultations Carried out upon Preparation of Government Documents", Ministry of Economy, Warsaw.

Ministry of Economy (2010), *Regulatory Reform: Report on the Implementation of Regulatory Reform Activities in 2009*, Warsaw, April.

OECD (2002a), *Regulatory Policies in OECD Countries: From Interventionism to Regulatory Governance*, OECD Publishing, Paris.

OECD (2002b), "Poland – From Transition To New Regulatory Challenges", *OECD Reviews of Regulatory Reform*, OECD Publishing, Paris.

OECD (2003), *From Red Tape to Smart Tape: Administrative Simplification in OECD Countries*, OECD Publishing, Paris.

OECD (2005a), *OECD Guiding Principles for Regulatory Quality and Performance*, OECD Publishing, Paris

OECD (2005b), *Guiding Principles for Regulatory Quality and Performance*, and the 2005 *APEC-OECD Integrated Checklist on Regulatory Reform*, OECD, Paris.

OECD (2006), *Cutting Red Tape: National Strategies for Administrative Simplification*, OECD Publishing, Paris.

OECD (2007), *Cutting Red Tape: Administrative Simplification in the Netherlands*, OECD Publishing, Paris.

OECD (2008a), *Economic Surveys: Poland*, Vol. 2008/10, OECD Publishing, Paris.

OECD (2008b), *OECD Economic Outlook*, Vol. 2008/2, OECD Publishing, Paris.

OECD (2009a), *OECD Economic Outlook*, Vol. 2009/2, OECD Publishing, Paris.

OECD (2009b), "Joint OECD/EU Initiative – The EU15 Country Reviews", *www.oecd.org/document/24/0,3343,en_2649_34141_41909720_1_1_1_1,00.html*.

OECD (2009c), *Making Life Easy for Citizens and Businesses in Portugal: Administrative Simplification and e-Government*, OECD Publishing, Paris

OECD (2009d), *Overcoming Barriers to Administrative Simplification Strategies: Guidance for Policy Makers*, OECD Publishing, Paris.

OECD (2009e), "Indicators of Regulatory Management Systems", 2009 Report, OECD, Paris.

OECD (2010a), *OECD Studies on SMEs and Entrepreneurship: Poland 2010, Key Issues and Policies*, OECD Publishing, Paris.

OECD (2010b), *Economic surveys: Poland*, Vol. 2010/8, OECD Publishing, Paris.

OECD (2010c), *Why Is Administrative Simplification So Complicated?*, OECD Publishing, Paris.

PKPP Lewiatan (2010), *Czarna lista barier*, PKPP Lewiatan, Warsaw.

Sakowicz M. (2010), "Regulatory Impact Assessment – How Institutionalized Are better Regulation Practices in Poland", for the 18th NISPAcee Annual Conference, 13 May 2010.

SIGMA (2006), Report on "Regulatory Management Capacities in Poland", OECD, Paris.

Woelfl, A., *et al.* (2009), "Product Market Regulation in OECD Countries 1998-2008", *OECD Economics Department Working Papers*, No. 695, OECD Publishing, Paris.

World Bank (2009), *Doing Business 2010: Reforming through Difficult Times*, World Bank, Washington DC.

World Economic Forum (2010), *Global Competitiveness Report 2010-11*, World Economic Forum, Davos.

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Cutting Red Tape

Administrative Simplification in Poland

MAKING POLICIES PERFORM

Now more than ever, administrative simplification is a priority in countries seeking to improve public governance and regulatory quality in order to boost competition and growth. To date, Poland has adopted a complex administrative simplification programme, based on methods successfully used in other OECD countries. It has two main streams: one focused on simplifying licences and permits, the other on measuring and reducing regulatory burdens. This report reviews the programme with the aim of helping Poland to make it and its implementation more efficient.

The report shows that although many important elements of regulatory policy are now formally in place in Poland, in practice, there is still an implementation gap. The OECD recommends that Poland re-launches its programme by:

- Setting new, realistic targets and timelines.
- Developing action plans for individual ministries.
- Creating efficient co-ordination structures and reporting mechanisms.
- Improving continuous stakeholders involvement.

Poland should also strengthen its regulatory impact assessment system by improving quality control, strengthening capacities, and possibilities for public control. Consultations throughout the whole process of making legislation should also be improved.

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