



Regional School of Public Administration (Phase 1)

A Joint Initiative of the European Union
and the OECD, principally financed by the EU



RESPA/SC(2007)1/001

ReSPA ACTIVITY REPORT 2006¹

3rd ReSPA Steering Committee, 31 January 2007

Headquarters of Human Management Resource Authority, Podgorica, Montenegro

According to Art. 16 of the Rules of Procedure, the Steering Committee reviews the Activity Report of the preceding year. The Secretary prepares and distributes the Activity Report to the Steering Committee Members at least two weeks prior to the date of the Session.

According to Art 4 of the Rules of Procedure, the Steering Committee Members are expected to inform the Steering Committee of the needs of his/her country's public administration system, but also to report on the country's achievements in terms of regional cooperation.

Except for the European Commission, Steering Committee Members are invited to provide the ReSPA Secretary with their written contributions no later than 19 January 2007. (According to Art 10 of the Rules of Procedure, the Secretary will circulate the country contributions to the other SC members no later than a week before the session).

Committee action

- The Steering Committee is invited to **review** the reports of activities.

¹ This activity report is produced by the Secretariat based in the information available. IBF was not consulted in the preparation of this document and bears no responsibility for its content.

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In accordance with Art 16 of the Rules of Procedure, Steering Committee Members are invited to review the 2006 activity report prepared by the Secretary.

It is important to note at this stage that the Secretary took its functions on 1 Nov 2006, after the completion of the Framework Contract 2005/107-063, "Assistance in the preparation of a project to support the Creation of a Regional School for Higher Education in Public Administration Reform in the Western Balkans" from 27.09.2005 to 28.05.2006 carried out by the consulting firm IBF.

Most of the work performed between January and October 2006 has consisted in background work supporting the European Commission in moving to Phase 1 of the work plan for the development of ReSPA. During that period, the European Commission was also supported by Sigma.

Therefore, this activity report consists of 4 sections plus annexes: **Section 1** walks the reader through the main legal and administrative steps leading to an agreement between the EC and OECD to support the implementation of Phase 1 of ReSPA, **Section 2** provides the reader with a synthesis of the work done by the Steering Committee in its two sessions of 2006; **Section 3** describes the work done at the First ReSPA regional conference organised in Skopje with the Civil Servants Agency in November 2006. Finally, **section 4** gives indications to the readers of the work in progress at the time of writing.

1. ReSPA institution Building

Building upon the recommendations of the feasibility study, the Commission contracted IBF in September 2005 to perform the main tasks envisaged in phase "zero". IBF submitted its final report to the European Commission in August 2006. The following main activities were performed by the European Commission and/or by its contractor:

- **January 2006** in Brussels: **first informal Consultative Meeting** with selected experts from the different countries;
- **End January and early March 2006**: second series of **Consultative Meetings in each of the countries and entities of the region**. The EC, supported by IBF and

Sigma, worked on the different possible scenarios for the establishment of ReSPA phase 1 and 2.

- **March 2006:** first **draft** of the **Protocol of Cooperation** has been prepared
- **Mid-March, 2006:** Meeting in Paris between EC, SIGMA and NISPAcee representatives as part of the consultative process. The **draft Protocol of Cooperation** was finalised.
- **March – April 2006:** **Informal inter-service consultation on the draft Protocol of Cooperation with the EC Legal Service. Approval by the EC Legal Service.**
- **2 May 2006:** Under the auspices of the European Commission, in presence of Commissioner Olli Rehn, **signature at ministerial level of the Protocol of Cooperation.** Most EU Member States were present at the signature ceremony.
- **11 -12 May 2006:** European Commission and Sigma participated in the **14th Annual NISPAcee** conference in Ljubljana. A dedicated forum on ReSPA was organized and **the EC presented the Initiative** to a wider range of interested parties from the beneficiary region, EU Member States as well as other representatives from outside the region (Caucasus, etc.).
- **24 May 2006:** the European Commission receives the first draft of IBF's final Report.
- **June 2006:** **Draft Rules of Procedure** for Phase 1 were **sent for comments** to the Steering Committee Members.
- **August 2006:** **Adoption of Commission Decision** amending CARDS 2005 Regional Programme to allow for co-operation with OECD. IBF submits to the European Commission its Final Report.
- **September 2006:** **Drafting of grant agreement with OECD, informing Member States in the EU Council and in the CARDS Committee.**
- **September 2006:** Commission Decision for CARDS 2006 Regional Programme.
- **October 2006:** Signature **of the grant agreement with OECD** for implementation of year 1 of Phase One of ReSPA.
- **1 November 2006:** entry into effect of the grant agreement between the European Commission and the OECD.

2. Steering committee meetings

During the period covered by the present activity report, two Steering Committee sessions took place: Upon signature of the Protocol of Co-operation, the European Commission organised the first Steering Committee Meeting in Brussels, and a second session took place in November 2006 shortly after the entry into force of the agreement between the EC and OECD to support the implementation of Phase 1 of ReSPA

- **2 May 2006:** The first Steering Committee meeting, in Brussels. (See List of Decisions, RESPA/SC(2006)M1/FINAL.
- **25 Oct – 14 Nov 2006:** preparation of the second Steering Committee meeting. Final adjustments to the agenda of the meeting, briefing note to the Chair, bilateral talks with Steering Committee Members.
- **15 – 18 Nov 2006:** work with the Civil Servant's Agency of Macedonia, final preparation of the Steering Committee meeting and of the first ReSPA Conference.
- **20 Nov 2006:** Steering Committee Meeting.
- **27 Nov 2006:** Steering Committee's list of decisions sent to Steering Committee Members after consultation with the Chair.
- **11 December 2006.** Informal adoption of the List of Decisions.

Material Outputs:

The material outputs of the second session of the Steering Committee are as follows:

- Agenda of the Meeting (RESPA SC (2006) A2) ;
- Documentation (RESPA/SC(2006)M1/FINAL; RESPA/SC/ (2006)2/001; RESPA/SC(2006)2/003; RESPA/SC/2006/2/002)
- List of Decisions (RESPA SC(2006)M2)

Achieved result:

The achieved results of the second session of the Steering Committee are:

- the adoption by consensus of the Rules of Procedure for Phase 1.

(RESPA /SC/(2006)2/001) and

- guidelines for the 2007 Work Programme

3. First ReSPA annual conference

In his speech on 2nd May 2006, Commissioner Rehn announced that the first ReSPA training activity would take place, in the region, before the end of 2006. In order to meet this political commitment of the EU, the Secretary in cooperation with the Civil Servants Agency in Skopje, organised the first ReSPA Annual Conference. After consulting with the EC, and other Sigma colleagues, the theme of the Conference was “Regulatory Management in the Western Balkans”. The following steps were taken:

- **25 Oct – 14 Nov 2006:** preparation of the first ReSPA Conference. Final adjustments to the programme of the Conference, quality control of speaker’s inputs, bilateral talks with Civil Servant’s Agency, identification of participants, etc.
- **15 – 18 Nov 2006:** work with the Civil Servant’s Agency in Skopje, final preparation of the Steering Committee Meeting and of the first ReSPA Conference.
- **21 – 22 Nov 2006:** First ReSPA Annual Conference opened by the Deputy Prime Minister of the host Country and the ECD in Skopje.

The Material Outputs of the conference are:

- Agenda of the Annual Conference – Annex 1
- List of Participants – Annex 2
- Papers in English, Macedonian, Albanian and Serb-Montenegrin-Croat-Bosnian – Annex 3

Time, budget and interest permitting, ReSPA might publish in 2007 (in electronic format only) the main papers of the Conference.

4. Work in progress

After the completion of the Second session of the Steering Committee, the Secretary is producing the agenda of the third session of the Steering Committee meeting (due to take place in Podgorica, 31 January 2007).

The Secretary is also working on:

- The development of **two options for ReSPA staffing** in the region.
- The development of the **general organisation chart** of ReSPA phase 1 ;
- The development of **proposals for the implementation of one PSER project** in the Region;
- The development of proposals for the **implementation of two to four “ordinary” training**;
- Work on the establishment of a **ReSPA Web site**
- The **first elements of networking with institutions sharing the same objectives** ;

5. ReSPA Budget information

The IBF contract covering ReSPA phase zero was executed from September 2005 to August 2006 for a budget of € 152.712. As of 1 November 2006, the EC and the OECD agreed on a one year contribution agreement for a total amount of € 1.019.785,-.

Annex 1

Agenda of Annual Conference

Two day conference on regulatory management in the Balkans

21-22 November

Location: Holiday Inn, Skopje

Objective: to place before a wide audience of senior officials in the Balkans the issues underpinning the importance of good regulatory management for good governance and the necessity of training of civil servants and raising awareness among them of these issues.

The conference is targeted to Secretary Generals of Government Offices, representatives from Legislative Secretariats and representatives from line ministries.

The context for this conference is the first meeting of (Regional School for Public Administration in the Western Balkans) ReSPA which is an initiative of the EU to promote transfers of contextual experience of training management and contextual knowledge of the region. EC has asked SIGMA to support this first event given its expertise.

The conference will be in line with two previous Sigma workshops (Dec.2002 and Oct. 2005). The 2002 workshop addressed the tasks of the General Secretariat (Sigma paper 35) and triggered bilateral cooperation between the General Secretariats; the 2005 workshop served to renew and intensify cooperation in the region, as encouraged by the European Regional strategy for the Balkans.

Sigma assessments have shown that despite some progress in the Western Balkan countries, there is a serious lack of professional capacities to provide policy makers with analysis and options and ensure efficient regulatory management. Line ministries usually do not coordinate their respective policies at an early stage; leading often to contradictory sectoral policies as well as to overlapping and sometimes contradictory legislation. The Government Secretariats have neither the staff nor usually the remit to challenge poor policy submissions or to replace the ministries in their policy role by taking on the task to develop sectoral policy options and to monitor and evaluate policy implementation.

This defective regulatory management process has negative repercussions on the ability of the countries to meet their Stabilisation and Association Process and Agreement (SAA/Sap) obligations and to implement necessary reform towards good governance. The risk of producing failed policies is considerable.

As a result, regulatory management was chosen as the theme of this first ReSPA meeting since it is an overarching theme which should generate a series of workshops into the individual components of it.

The conference will look at the policies, tools and institutions used in regulatory management in the EU and selected OECD countries.

The conference needs to be structured to allow time for discussion and to emphasize that each element in the conference requires a much more thorough explanation and as regards the use of the tools more detailed training.

One of the outcomes to the conference should be recognition by the officials at the conference that further detailed training should be provided by ReSPA, in the form of workshops or otherwise, on each of the issues raised. The discussions should include a discussion on priorities, sequencing and timing of that training, which shall be complementary to existing regional trainings, including in law drafting, as well as to the experience acquired by officials involved in CoG twinning projects.

Time table

DAY 1, TUESDAY 21 NOVEMBER 2006

Session 1, chaired by Metodija Dimovski, General Secretary of the Civil Servants Agency, Skopje.

9.00 – 10.00: Introduction and overview

Mr. Zivko Jankulovski – Deputy Prime minister in charge of Agriculture and Education, Skopje.

Ms Joan Pearce, First Counsellor to the EC Delegation in Skopje

Mr. Aleksandar GEŠTAKOVSKI, Director of the Civil Servants Agency, Skopje

Introduction and overview from ReSPA (Nicolas Dubois)

Purpose of the session:

To examine the concept of regulatory management and how it is understood in SAA countries

10.00 – 10.30

Overview of regulatory governance and regulatory management issues in EU and OECD member states (Edward Donelan, SIGMA)

This presentation will examine the concept of regulatory management, how it has developed, why it is needed, how it varies from country to country, why it varies, whether there is a right or a wrong way to manage regulatory policy and what specific tools or

procedures, e.g. impact assessment and consultation, can be used to improve regulatory management. It will examine developments in selected OECD and European Union countries as regards regulatory management and examine, in particular, the development of better regulation policy of the European Union and how it is developing within European Union Member States and the implications of these developments for applicant and potential acceding countries.

In this regard, the presentation will show how public administration reform and regulatory management are complementary, in that the latter addresses in more details aspects of policy making and implementation of laws and regulations.

To clarify the wording used in this particular presentation and during the conference in general, it shall be recalled that laws designate primary legislation and regulations, secondary legislation.

10.30 – 11.00 Coffee break

11.00 – 12.30 Roundtable / Discussion

Participants will make a brief presentation addressing the following issues.

- *How regulatory management issues are understood in their respective countries?*
- *Describe a reform related a regulatory management issues (the most relevant one according to you) – Focus on the issues and problems.*
The discussion in session 2 will follow up onto these presentations while focusing on action and solution envisaged.

12.30 – 14.00 Lunch

Session 2, chaired by Edward Donelan, Sigma.

Purpose of the session:

To examine the benefits of improving regulatory management, and in particular how it can contribute to a better compliance with EU requirements;
To examine the problems faced and options available when undertaking a regulatory management reform.

14.00 – 14.45

Challenges of emerging democracies to address regulatory management issues
Klaudijus Maniokas [k.maniokas@estep.lt] Lithuania

Questions to be considered

- *What are the main benefits for applicant and candidate countries and potential candidate countries as regards regulatory management?*
- *How can an improved regulatory management contribute to implement the legislation adopted to comply with the *acquis communautaire*? (implementation/ tick the box exercise)?*
- *What are the lessons to be drawn from other countries in the development of regulatory management policies? How to adapt a practice to the context of a specific country? How to monitor the reform process, including timing, whole of government approach?*

14.45 – 15.00

Comments by Chair and introduction to next session

15.00 – 16.00 Discussion by two break out groups

- *What are the main benefits for SAA countries as regards regulatory management? How does regulatory management reform process can fit into the reform agenda in SAA countries?*
- *What preparations are underway for adopting the European *acquis*? How can an improved regulatory management contribute to implement the legislation adopted to comply with the *acquis communautaire*? (implementation / tick the box exercise)?*
- *How to conduct the regulatory reform process (timing, whole of government approach, implementation by lower levels)?*
Follow up of the presentations made during session 1: focus on possible envisaged actions/reforms

16.00 – 16.15 Coffee break

16.15 – 16.45

Summary by rapporteurs (one or more from a [Western] Balkans perspective and one from SIGMA)

16.45-17.10 Discussion

17.10 – 17.15 Closing remarks by Chair

19:30 Dinner, Holiday Inn

DAY 2, WEDNESDAY 22 NOVEMBER 2006

Session 3, chaired by Klaudijus Maniokas

Purpose of the session:

To examine in detail the various aspects of regulatory management in two participant countries, i.e. host country of the conference and Croatia, with a particular focus on the problems faced and solutions envisaged.

The session should prepare the discussion held during session 4 where participants will have the opportunity to discuss how regulatory management is implemented in their respective countries and how training can contribute to its improvement.

9.45 – 10.00 Introduction and welcome by chair

10.00 – 11.15

Presentation by 2 speakers from Skopje on regulatory management capacities and challenges addressing the following issues? Ms Magdalena SHALDEVA and Mr. Sali SALIH, State Adviser on Strategic Planning, Skopje.

To clarify the wording used in the questions, it shall be recalled that laws designate primary legislation and regulations, secondary legislation.

- *What competencies, procedures, and capacity exist to ensure that priority setting and policy planning is effective and efficient, and in line with the government programme and government priorities?*
- *Are established and unified procedures for policy making and law/regulation making? Are these procedures applied and is there a body responsible for checking that they are effectively applied?*
- *What questions do policy makers ask themselves, for example:
Is government action needed?
What is the appropriate level of government for this action?*
- *What bodies are in charge of policy making and law / regulation drafting?*
- *Are regulatory bodies required to identify and assess alternative policy instruments before adopting new laws or regulations?*
- *Are potential impacts of new laws/regulations (eg impact on the budget, economic and social impacts) assessed before drafting law/regulation?*
- *Are stakeholders consulted when new policies or laws / regulations are proposed?*

- *Is there a body whose function is to review laws and regulations once they are drafted before they go to Parliament in order to avoid that they contradict each other?*
- *What is the role of the legislative offices and/or government secretariat in quality reviewing new laws/regulations?*
- *Is there a sufficient number of adequately trained civil servants to review the quality of new laws/regulations?*
- *What inter-ministerial coordination structures are in place to ensure that ministries do not duplicate each others work?*
- *How active is parliament in proposing legislation? Who drafts parliamentary proposals and are there any quality review process of these proposals?*
- *Are there procedures to evaluate ex post the impacts of laws/regulations? Could the role of Supreme Audit Institutions be improved in this regard?*

11.15 – 11.45 Coffee break

11.45 – 12.30

One speaker from Croatia to discuss selected aspects of questions discussed by previous speakers and how accession to the European acquis is being managed in Croatia. Ms Obradović Mazal, Assistant Minister in the Ministry of Foreign Affairs and EI, Croatia.

12.30 – 14.00 Lunch

Session 4, chaired by Edward Donelan

Purpose of the session:

To give participants the opportunity to share their experience on how regulatory management is implemented in detail in their respective countries with a view to identifying problems faced and needs for further training.

14.00 – 16.00

Two break out groups to discuss for their respective countries the following issues

To clarify the wording used in the questions, it shall be recalled that laws designate primary legislation and regulations, secondary legislation.

- *What competencies, procedures, and capacity exist to ensure that priority setting and policy planning is effective and efficient, and in line with the government programme and government priorities?*
- *Are established and unified procedures for policy making and law/regulation making? Are these procedures applied and is there a body responsible for checking that they are effectively applied?*
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- *What is the role of the legislative offices and/or government secretariat in quality reviewing new laws/regulations?*
- *Is there a sufficient number of adequately trained civil servants to review the quality of new laws/regulations?*

- *What inter-ministerial coordination structures are in place to ensure that ministries do not duplicate each others work?*
- *How active is parliament in proposing legislation? Who drafts parliamentary proposals and are there any quality review process of these proposals?*
- *Are there procedures to evaluate ex post the impacts of laws/regulations? Could the role of Supreme Audit Institutions be improved in this regard?*

The discussion should focus on the problems faced in the regulatory management process with a view to enable participants identifying priorities for training in regulatory management issues. Further training seminars could then be organised within the framework of ReSPA.

- *What are the priorities for capacity building?*
- *How can ReSPA help complementing the training programmes already hold in the region, e.g. on law drafting?*

16.00 – 16.15 Coffee break

16.15 – 17.15

Reports from rapporteurs of discussions in break out groups

Discussion about future role of ReSPA and conclusions by chairs

17.15 - 17.30 Summary by Chair

Annex 2
Participants List

FIRST ReSPA REGIONAL CONFERENCE
REGULATORY MANAGEMENT IN THE BALKANS
SKOPJE
21-22 NOVEMBER 2006
In alphabetical country order

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Annex 3

Overview of Better Regulation ISSUES IN EU AND OECD MEMBER STATES²

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CONTEXT FOR BETTER REGULATION

Public sector modernisation and Regulatory reform

The European Union has developed a policy to improve the quality of policy making and legislative drafting called Better Regulation³ which reflects practices that have worked well in many OECD countries. Better Regulation derived internationally from a concern by governments to keep the costs of government to a minimum and to ensure that regulation does not interfere unnecessarily with the operation of the free market.

The roots of better regulation policies can be traced to regulatory reforms in the United States which were aimed at reducing the size of government and the interference with government in the market. According to a series of OECD reports on regulatory reform, a range of regulatory reforms and deregulation activity led to better functioning markets. However, regulatory reform and deregulation led in many cases to an increase in regulation because state run monopolies did not need rules on market entry and exit.

When the state moved out of telecommunications and other utilities rules had to be introduced to ensure equity in markets and the number of regulations increased. In the United States concerns about too much regulation and bad regulation was met with policies to improve the quality of legislation including the use of impact assessments.

OECD Reports

In the last 20 years the OECD studied over 20 countries from the point of view of regulatory reform and observed that countries that performed better economically paid attention to the quality of the management of their regulatory processes. Regulatory Management refers to long-term, systematic perspectives concerned with institutions and performance, whereas regulatory reform is designed to produce high quality regulations by improved policy-making processes and using specific tools.

A key development in thinking about regulatory matters was the adoption in 1995 of the *Recommendation of the Council of the OECD on Improving the Quality of Government Regulation*.⁴ This recommendation set out the first internationally accepted set of principles on ensuring regulatory quality. It included the 10 point OECD Reference Check List for regulatory Decision Making.

EU Policy on regulation

Lack of economic growth in many Member States is a recurring concern of European policy makers. To address the concern, the Heads of State and Government of the European Union met in Lisbon in 2000 and launched a series of ambitious reforms at national and European level. By establishing an effective internal market, by boosting research and innovation and by improving education, to name only a few reform efforts, they aimed to make the European Union “the most dynamic and competitive knowledge-based economy in the world” by 2010.

³ Better Regulation is essentially a policy which aims to ensure that (existing and future) legislation is as concise and straightforward as its subject matter permits and light as is commensurate with the proper protection or promotion of the various public interests at stake and the burden it imposes on citizens or business.

⁴ OECD/GD/ (95) 95 OECD, Paris (1995)

Having reached the half-way stage of the Lisbon process, the Commission decided to focus efforts on two main areas: productivity and employment. The implementation of Better Regulation policies is central to these areas. The European Union on its own, however, cannot boost productivity and employment. Member States also must play their part through, for example, developing and implementing Better Regulation policies and using Better Regulation tools effectively. Member States need to recognise that their own domestic regulatory frameworks need to be fine-tuned in the same manner as the institutions of the EU were fine-tuned and they need to adopt Better Regulation policies.

The European Union Better Regulation policy extends as far as improving the whole process of governance from conception of ideas through selection of ideas for policy action, empirical analysis of ideas and evidence based policy making, good quality drafting as well as effective enactment and enforcement of the resultant legislation.

Better regulation is:

- a policy which aims to ensure that (existing and future) legislation is as concise and straightforward as its subject matter permits and
- light as is commensurate with the proper protection or promotion of the various public interests at stake and the burden it imposes on citizens or business.
- **complementary to public administration reform** in that the latter addresses in more details aspects of policy making and implementation of laws and regulations.

Why Better Regulation?

- Economic growth and performance are linked to good regulatory management
See OECD data: administrative compliance costs amount to 4% of business wide GDP and are increasing

- Move away from old ways to new: the accession to EU requires improved regulatory management

Member States are expected to draw up plans for the development and application of Better Regulation principles so as to ensure that they are applied consistently throughout the EU by all regulators.

More substantially, the transposition into national law of the complex EU legislation requires Member States to have a sophisticated and efficient regulatory management system.

- Improving the law making process: ensuring it is made according to a set of principles

The Mandelkern group report⁵ argued that Better Regulation is a drive to improve the policy-making process through the integrated use of effective tools and not an attempt to impose additional bureaucratic burdens. The report proposed an Action Plan which was closely followed by the EU institutions and set out 7 core principles for Better Regulation. These principles are: necessity, proportionality, subsidiarity, transparency, accountability, accessibility and simplicity.

- Enhanced transparency and fight against corruption

⁵ The group, composed of representatives of Member States, was established under the Chairmanship of a judge of the Council of State in France, Mr. D. Mandelkern,⁵ to examine ways in which policy making and regulation drafting could be improved in the Institutions of the EU. It reported in November 2001.

The Third Workshop of the OECD-APEC cooperative initiative⁶ on regulatory reform recognized that transparency is an important factor of regulatory management. It is essential to avoid conflict of interests, regulatory capture and outright corruption.

BETTER REGULATION IS ACHIEVED THROUGH:

In a seminal report *From Interventionism to Regulatory Governance*,⁷ the OECD identified three key drivers for regulatory reform, which may apply to Better Regulation as well:

- **Policies**
- **Institutions**
- **Tools**

POLICIES

These are policies laid down by central government to apply to all regulation making bodies to achieve Better Regulation. Four factors help institutions deliver Better Regulation policy: explicit political support, a changed administrative culture, constituency development and explaining Better Regulation as a process for continuous development and improvement.

Implicit policy

Most new Member States have an implicit policy on Better Regulation. Policies and tools may be used by institutions, implicitly, even without a full understanding of their use or value. There are merits in this argument but it must be understood as representing an early stage of understanding of Better Regulation as a policy concept.

Explicit policy

However, as the governance processes of states become more sophisticated and more is understood about improving the quality of policy making and regulation drafting, an explicit policy for Better Regulation becomes a key feature of the governance landscape and is easily identified by reference to an explicit policy document, an explicit political commitment and by a change of culture for the constant improvement of governance. For instance, in the UK, successive governments have developed and refined regulatory policies and principles to guide the preparation of new regulations. The White Paper “Modernising Government”, published in 1999, established broad government priorities for reform, and marked a new drive to remove unnecessary regulation. In the Netherlands, the government set the goal of achieving a 25% reduction of the administrative burden within an agreed time period.

INSTITUTIONS

Constitutional bodies such as the Parliament, the government and the judiciary, as well as other central administrative bodies and local authorities have all a key role to play in the regulatory management process. However, co-ordination can be difficult to achieve when these bodies are in separate ‘stove pipes’, and horizontal links between them are not strong.

Central units

Central oversight or co-ordination bodies may help overcome this problem, to some extent, and encourage increased dialogue and interaction between the different ministries. They can play a number of key roles in the reform process, including

⁶ The APEC-OECD Cooperative Initiative on Regulatory Reform provides a forum for exchange of experiences on good regulatory concepts, policies and practices.

⁷ OECD Paris, 2002

- Ensuring a ‘whole of government’ approach is taken to reform,
 - Acting as an advocate of quality regulation and good regulatory governance,
- and
- Providing technical support to those applying regulatory tools.

The exact location of such a body is a matter for domestic political choice and national administrative cultures. In Belgium, the Administrative Simplification Agency (ASA) is a federal institution placed under the Prime Minister, which was created with the view of reducing red tape drastically and reports to a Secretary of State for Administrative Simplification.

Task force

Some countries have entrusted an inter-institutional task force to develop and drive the regulation policy since all institutions, and not only the executive branch of the government, are involved in the regulatory process.

In Ireland, a Working Party chaired by an official in the Office of the Prime Minister⁸ and supported by officials from key government departments and independent regulators has been very successful in overseeing the implementation of the OECD Report, *Better Regulation in Ireland*,⁹ and in the development and implementation of a policy on Better Regulation.¹⁰

Part of existing structures

In Estonia and Latvia, specific ministers responsible for promoting regulation policy, including the Ministry of justice and the Ministry of Economy or the State Chancellery in Latvia. In France, the Better Regulation and international affairs Unit is a department of the Agency for administrative simplification which is placed under the Ministry of Finance.

TOOLS

The EU proposals reflect many of the OECD’s recommendations regarding best regulatory practice. Accordingly, the EU package fits well with many of the recommendations contained in the OECD Reports on Regulatory Reform. These recommendations include:

- Developing programmes of **simplification** of regulation.
- The need to adopt rigorous **Regulatory Impact Analysis** policies
- Greater structured **consultation** on regulatory proposals

IMPACT ASSESSMENT (IA)

IA aims to ensure that the most efficient and effective regulatory option is chosen by establishing a systematic and consistent framework for assessing the potential impacts of government action. It ensures the formulation of evidence-based policies while providing the information necessary to make regulatory decisions. IA may also contribute to improve compliance both ex ante, through the use of a compliance assessment, and ex post, since ex post assessments may help identifying unanticipated regulatory effects with a view to amend regulations according to their original goals in cases where they are not met.

⁸ Department of an Taoiseach.

⁹ Paris, 2001.

¹⁰ See <http://www.betterregulation.ie>.

There is no single model for a good IA program since it is necessary to take into account institutional, social, cultural and legal contexts in the relevant country. In any case, IA shall be considered as an element of an overall regulation strategy which requires in particular a combined use of all regulation tools. A specific methodology to assess the impacts of given regulations should be laid down providing in particular for an early use of IA and for a screening mechanism to select the regulations for which an IA shall be conducted.

IA needs to be reviewed by a Central Body to ensure consistency across and within ministries. The Central Body should add value by ensuring that ministries do not use IA to justify decisions taken and by facilitating dialogue between Ministries and resolving ‘turf’ disputes between Ministries. Such a practice applies in the UK and Netherlands.

CONSULTATION

Consultation may be defined as “a structured public engagement which involves seeking, receiving, analysing and responding to feedback from stakeholders.” The use of public consultation has different implications for the improvement of the regulatory framework. If it is undertaken in a timely and effective manner, consultation enables the collection of empirical information and provides insights to officials in charge of drafting a regulation. Moreover, consultation mechanisms are also being increasingly characterised by greater openness and accessibility, particularly for smaller, less organised interests. They can address many of the causes of regulatory failures, such as regulatory capture and bias of regulators towards particular vested interests and lack of accountability.

The potential for consultation is a function of the strength of civil society and of the procedures used so principles laid down for consultation need to take into account particular domestic cultural and societal factors as well as national institutional set up. Some countries have adopted guidelines on consultation. They should be flexible enough so that consultation is not perceived by citizens and businesses as an additional burden.

The necessary elements seem to be the following:

- recommendations for how to select stakeholders to ensure a broad and useful input
- systems for controlling that the recommendations for selections and the minimum time have been complied with
- a minimum time for external consultation needs to be introduced; for instance, in Sweden, the time for comments is normally three months.

SIMPLIFICATION

There are two main approaches to simplification: simplifying the language of law and administrative matters and, improving accessibility to legislation and simplifying procedures. The concept of simplifying the use of language in laws and administrative forms is self explanatory though it is often not a simple task. Improving accessibility of legislation and information about administrative matters is concerned with simplifying the form of proposed regulations and ensuring that they are well drafted, easily and freely accessible, not excessively amended. It may require consolidating, codifying or recasting texts. For instance, in France, regulatory inflation and lack of clarity of regulations were first addressed by turning to the French traditional tool of codification. In Slovenia, the parliamentary legislative and legal office to prepares the official consolidated version of a law at the same time as the bill is discussed. It is confirmed by the National Assembly without debate and published in the Official Gazette.

The objective of accessibility and clarity has been addressed in various ways in OECD countries since is considered as an essential element in a transparent and open system of democratic governance. Some countries have very advanced in this regard. For instance, in Estonia, through

E-Õigus (the electronic system for the co-ordination of drafts), the public can access all legislative drafting in process. The system is connected to all the ministries and national associations of the local governments.

Procedures (reduction of administrative burdens)

The third approach to simplification is concerned with examining both newly established regulations and the stock of existing regulations to determine the extent to which they do not impose excessive burdens, have unintended consequences and are, generally, still relevant. Considering that regulatory environment and economic performance are linked by policies on good regulation management, the need to make regulatory requirements as simple as possible has been recognised by most member states of the EU.

Regulation reviews are close to ex post assessments in that they look at existing procedures with a view to amending them and making them as light as possible. This may be achieved through the use of a variety of simplification tools which may be divided into two categories:

- Procedures to common sharing and storing of information required according to regulations between different government bodies (Estonia, Belgium)
- Tools such as one stop shops or simplification of licensing procedures which may facilitate regulatory information transactions between authorities and businesses and citizens

LESSONS LEARNT FROM OECD/EU MEMBER STATES – POLICIES AND INSTITUTIONS

- All countries have elements of better regulation in place, but very few are driven politically, especially in new (1/5/2004) EU member states
- Need for a change of culture
- Need for a whole of government approach
- Better Regulation – part of a continuous improvement process
- Need for a reduction of initiatives

LESSONS LEARNT FROM OECD/EU MEMBER STATES - TOOLS

- Measurement of administrative burdens (SCM): pilot projects conducted; need for a simplification strategy
- Positive features relating to simplification: provision of information once; e government
- Need for an integrated use of tools
- in new (1/5/2004) EU member states in particular:
 - Review of use of tools currently taking place to develop consistent policies
 - Need to focus on enforcement and implementation

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**Regulatory management and EU
accession: experience of Lithuania**

**ReSPA conference on Regulatory
Management in the Balkans,
Skopje,
21-22 November, 2006**

Dr. Klaudijus Maniokas, ESTEP

1. Introduction

The relationship between the preparations for the accession to the EU and better regulation is not straightforward. On the one hand, the focus on rapid transposition of the *acquis communautaire* as a major part of the accession efforts hardly contributes to a better quality of regulations. New legal acts are adopted without considering their relevance to the needs of a particular society. It is a condition of the EU membership and *acquis* should be taken as a whole without modifying it. On the other hand, accession process might bring considerable improvements in the process of regulatory management through better legislative planning, impact assessment and rationalization of public policy in general. Moreover, accession process might reduce a possibility of regulatory capture of domestic interest groups. This possibility might be high in weak transition states. Lithuania is a case demonstrating that an overall balance of the impact of accession on the quality of regulation could be positive. This paper will explore this case in detail covering Lithuania's accession to the EU and regulatory management reforms, EU accession impact and the development of certain crucial elements of the regulatory reforms such as the introduction of regulatory impact assessment. It will demonstrate that regulatory management practices established in the process of preparing for the EU were gradually expanded to the government activities in general.

2. Lithuania's EU Accession Process

Lithuania's general preparation for membership was made according to the guidelines and instruments established by the EU. The creation of the system of coordination was determined by the changing nature of work relating to integration – relations with the EU overstepped the limits of usual relations with foreign countries or international organisations and became the subject of not only foreign but also the domestic policy. Accordingly, co-ordination of work of preparing for the EU membership gradually passed from the Ministry of Foreign Affairs to the Ministry of European Affairs, and later – to the European Committee under the Government of the Republic of Lithuania. This was already a step and a pre-condition for later development of the regulatory management reforms related to accession.

Changes in the system of coordination of the EU affairs were related to the principles and instruments of management of accession. In 1996 on the initiative of the Ministry of European Affairs the first specific programme for preparing for membership – the National Programme for Law Approximation – was created. It was a Lithuania's response to the White Paper devoted to the preparation of the CEE associate countries for integration into the internal market of the Union approved by the EU in the summer of 1995. The opinion presented by the European Commission about Lithuania's preparation for the EU membership in July 1997 provided the greatest stimulus to the preparation work. It was the start of the comprehensive planning of accession, which later on helped to improve the overall government planning system. At the beginning of 1998 the programme for integration of Lithuania in the EU single market was adopted and the National Programme for the Adoption of *Acquis* was co-ordinated with the European Commission. In 1998 this Programme became the tool to implement the EU accession priorities identified in the Accession Partnerships. It provided for detailed concrete short-term and long-term work of preparing for membership – programmes for internal reforms, drafts of legal acts, measures of strengthening institutions. Responsibility for this work was carefully distributed and supervision of carrying out the programme was centralised in the European Committee. Furthermore, in 1997-1998, at the Ministry of European Affairs, and later at the European

Committee a great number of programmes solving sectoral or specific problems were developed. Thus programmes for improving qualifications of the officials, society information, preparation for the EU membership in the spheres of justice and internal affairs, the EU accession impact assessment programmes appeared. The analytical process of the *acquis* screening, which started at the beginning of 1998, became the most important element of preparation for membership. At the beginning of 2000, after the accession negotiations between Lithuania and the European Union started, preparation for the EU membership intensified even more and became an especially important or even decisive item on the agenda of the Government of Lithuania. It was further consistently planned after the earlier separate sectoral programmes had been integrated into the single Lithuania's EU Accession Programme, which became a part of the programme of the Government of the Republic of Lithuania at the beginning of 2001. Preparing for the EU membership in 1999-2001 in the conditions of political instability in Lithuania guaranteed the continuity of the essential principles of both foreign and domestic policy.

3. EU impact on regulatory and institutional environment in Lithuania

Orientation towards the requirements for the EU membership determined extensive and profound changes in Lithuania. Despite their extensiveness, the EU impact on Lithuania and other states of Central and Eastern Europe is mainly related to the changes in the regulatory policy and the formulation and implementation of its infrastructure.

3.1. The EU impact on regulatory policies of Lithuania

The impact of the EU on the democratic and market institutions was not particularly visible. In both areas the EU largely followed and supported the advice of other international organizations, such as the Council of Europe in the case of democratic institutions as well as the IMF and the World Bank in the case of market institutions. The main impact of the EU in the area of democratic institutions was depoliticisation of public administration and strengthening of judiciary isolating it from the political influence. In the area of the second Copenhagen criterion the EU largely promoted neoliberal policy advocated by the IMF and the World Bank based on the macroeconomic stabilisation, unconditional privatisation, and strict fiscal and monetary policies. The EU also helped to conceptualise the economic policy of the candidate countries by requesting them to produce as much strategies and policy papers as possible. However, the impact was hardly decisive.

It was, however, far more important in the areas of public policy aimed at the correction of market failures. In this area the EU is directly responsible for the development of competition, environment, consumer protection, food safety and other relevant policies. In addition to that, the EU and the European Commission in particular were advocating institutional solutions based on non-majoritarian institutions. Therefore empirically the EU impact could be traced in a huge number of technocratic expertise-based institutions isolated from the political influence. They were established in almost all areas covered by the *acquis*, starting from the competition and ending with many sectoral policies. For example, in the transport area the most obvious outcome of the EU impact was a number of non-majoritarian institutions responsible for the safety of different means of transport, starting from the air transport and ending with the railway safety. The same applies to the social policy, policy of telecommunications and other public policies. This kind of impact is also very visible in the agriculture, where the EU has contributed to the growing powers of veterinary and food inspection and a number of other agencies also partially or entirely isolated from the direct political influence.

3.2. The EU impact on the institutional infrastructure in Lithuania

The EU had a wide-ranging and profound impact on the Lithuanian institutions. First, the EU accession agenda was very broad and went far beyond the adoption of the *acquis*. It comprised the well known Copenhagen accession criteria such as functioning democracy, rule of law, market economy and administrative system. Second, due to the asymmetrical nature of the accession process, the EU and especially the European Commission were able to influence the choice of institutional structures of the candidate states. The technical and financial assistance including twinning program alongside other accession instruments, such as accession partnership provided necessary channels of impact. And third, due to the weakness of the institutional system in Lithuanian and other candidate countries, institutional models were imported from the EU willingly without much resistance.

The result of this huge EU impact on the Lithuanian institutional system could be summarized by a metaphor of a regulatory state. It means that the EU has stimulated the **development of regulatory policies and the non-majoritarian institutions**. The latter could be characterized by their relative autonomy from the political interference and by the reliance on the technical expertise. Using the political criterion, the EU has pushed Lithuania towards the consolidation of the autonomy of judiciary and public administration. The Public Service Law (1999) and the Law on Courts (2002) could be regarded as a concrete result of the EU impact. The Public Service Law and other reforms related to the public sector resulted in the establishment of a quasi-independent weberian type public service. The Law on Courts completed the establishment of the administrative autonomy of courts.

In the area of economic regulation the EU has promoted the establishment of the whole set of supervisory institutions. The European Commission pushed hard for isolating those institutions the political sphere. Therefore, those institutions could be regarded as non-majoritarian agencies. Their competence is regulated by relevant laws and the nomination and dismissal of the heads of these institutions is subject of many restrictions. The concrete examples of supervisory institutions reorganized or established under direct EU influence are the Competition Council (under the new Competition law adopted in 1999), Public Procurement Office (1999), market surveillance institutions such as National Bureau of Accreditation, State Metrology Service, National Standards Board, Veterinary and Food Supervision Agency, Non Food Products Supervision Agency (as a result of the reform accomplished in 1999-2000), Lithuanian Bank (gained an autonomy under the new law on the Lithuanian Bank in 2001), Securities Commission, Insurance Supervision Council, State Energy Pricing Commission, Civil Aviation Administration, Telecommunications Regulations Commission, Consumers Protection Council, Personal Data Protection Council and others. These institutions have been modeled according the experience of different EU member states, but in many cases they are more autonomous than their counterparts in the member states due to the extreme care for autonomy of these establishments by the European Commission.

4. Regulatory Reforms in Lithuania

This comprehensive approach to the EU accession based on domestic reforms including their planning and monitoring their implementation is well known and followed by all acceding, candidate and potential candidate countries. However, the most interesting question is whether these practices directly related to the regulatory management can be extended to the whole of the government or they remain a certain 'island of excellence'¹¹. A recent study of the World Bank on the administrative capacities in the new member states suggest that only few countries

¹¹ See World Bank, 2006.

managed to extend such practices. Lithuania is one of them. Therefore it is important to understand how and why it happened.

The case of regulatory impact assessment (RIA) will be used to answer this question.

5. Introduction of RIA in Lithuania

Introduction of RIA in Lithuania was advocated by a number of international organizations (OECD, World Bank) since the early years of transition. However, only the accession process helped to kick the process off. It was started by the European Committee under the GoL in 1998-1999 and was motivated by the needs of accession process and negotiations in particular. Thus in December 1999 the Framework for Assessing the Implications of Lithuania's Integration into the EU was prepared by the European Committee and approved by the Governmental European Integration Commission. The Framework advocated the use of RIA based on a uniform methodology in assessing the impact of the EU accession and the main pieces of the EU acquis. It used the examples of the EU member countries and some candidate countries (Hungary and Poland in particular), was oriented towards the practical needs of policy makers and started with selective focus. At the beginning of 2000 the Government adopted the National Program of Surveying Social and Economic Impacts of Lithuania's Accession to the EU. It provided the necessary legal basis for further actions along three main lines. First, the work on a methodology started. Pilot studies were conducted using EU technical assistance. And, third, training of public officials started. In spring 2000 the questionnaire for the first wide RIA was prepared and sent to all major government institutions. The main objective of this first shallow RIA was to determine the areas of further in-depth studies. 462 questionnaires were filled covering 1872 EU legal acts. The methodology was drafted and adopted in October 2000. Over 30 trainings of public officials were held in 2000. In 2001-2002 funding of individual in-depth studies shifted from PHARE to the national budget. During 2001 detailed RIAs were conducted with respect to 13 legal acts in the areas of environment, agriculture, transport and energy. Another 10 studies were completed in 2002. Some of these studies were directly used in the accession negotiations for the substantiation of the transitional periods (nitrates directive, oil stocks, road transport etc) or for justifying the relevant level of preparedness. Later on the emphasis shifted towards the needs of public information.

The most interesting case is however not this exercise in itself but the extension of the scope of application of RIA to all government activities. It was not easy, took some time and was related to domestic reform efforts. In February 2003 the Government of Lithuania adopted a resolution on mandatory regulatory impact assessment for all draft legislation submitted to the Government. The Government also recommended it to line ministries, county administrations and municipal government while issuing their own ordinances. It reflected experience of applying RIA for the transposition of EU legal norms and was motivated by the aim to improve the decision-making of the Government (in the context of a number of government resolutions rising from 500 in 1993 to 2100 in 2002).

The extension of RIA to all legal acts of a normative character adopted by the government was facilitated by several factors. First is the accession process as such. Accession related RIAs were a good initial testing of a new regulatory management initiative. They provided good examples of possible results and familiarized civil servant to it. Second factor was a particular institutional context related to the management of the EU affairs. Since the main coordinator was placed in the center of the government, spill-over effects were made easier. And, finally, accession impact was reinforced by domestic reforms of regulatory management providing the necessary critical mass.

Human factors, not only agencies, also played a role. The introduction of RIA and other regulatory management tools were stimulated by a small group of civil servants with an academic background. It was, therefore, an exercise managed by the core executive, which emerged during the accession process. Its role was strong during these years in many other accession countries¹².

Better regulatory management therefore can hardly be stimulated by the accession process only. Experience of better regulation policy in the EU member states and at the EU level as well clearly demonstrates it. Domestic concerns over quality, intensity and purpose of regulation play an important role. These internal concerns are stronger in the time of economic and fiscal problems and are largely motivated by them. Important internal context is briefly outlined below.

6. The Sunrise and Sunset initiatives in Lithuania

The first serious regulatory reform in Lithuania independent from the imperatives of the EU membership was undertaken in 2000-2001. In 2000 the ruling conservative government established two commissions. The Sunrise commission aimed at improving business conditions. The Sunset commission targeted the reform of public administration with an introduction of elements of new public management including strategic planning. Both commissions enjoyed high political support and set ambitious targets. For example, within the sunrise initiative, there were 12 working groups created on almost all aspects of business conditions and regulation in general, including customs, taxation matters, labor market regulation and others. The Sunrise commission recommended 181 measures to be implemented in all these areas. About half of them were implemented.

These initiatives were complemented by the introduction of strategic planning supported by the Canadian experts. The reformist government of 2000 succeeded in reforming the budget and rationalizing the legislative process. Strategic planning committee was created supported by the strategic planning unit in the government chancellery. This unit was also instrumental in the institutionalization of the regulatory impact assessment.

7. Conclusions

The accession process can advance the better regulation and thus control the otherwise chaotic process of transposing and implementing the *acquis communautaire*. However, important pre-condition should be present. Lithuanian case demonstrates that regulatory reforms motivated by the accession process such as better legislative planning and regulatory impact assessment could be extended to the whole government business if there is an internal drive for regulatory reforms. It is higher in the times of economic and fiscal difficulties. Existence of devoted core executive might facilitate the process. And, finally, the accession stage is more conducive to regulatory reforms than the post-accession context.

¹² For the concept of core executives and their role in the CEE accession process see Grabbe, 2001, Lippert, Umbach and Wessels, 2001.

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***STRATEGIC PLANNING PROCESS
IN MACEDONIA***

***November 2006
Skopje***

Mr Sali Sali, Macedonia

Introduction

The General secretariat of the Government of the Republic of Macedonia, as staff of the Government, in transformation from a body dominantly giving administrative and logistical support to the Government, managed to grow into a significant entity in the Government's decision making process.

Major part of the General Secretariat's competences are related to the strategic planning process and its link to the budgeting process, policy analysis and coordination.

1.1 Why strategic planning?

The current context in the Republic of Macedonia, especially bearing in mind the priorities such are the EU and NATO integration, the economic development and fight against corruption, imposes the need for careful planning of all steps that need to be taken now and in the future in order to meet those Government's priorities and goals. At the same time, meeting priorities should fit within the conditions of limited fiscal framework with constant review of the optimal use of available resources.

Starting from the need of long term strategic approach in establishing goals and priorities of the Government of the Republic of Macedonia, in 2003 the Government adopted the Methodology for Strategic Planning and Preparation of the Annual Work Program of the Government, which defines in detail the stages in the strategic planning process, including timelines for implementation of the specific measures and activities, and their link to the budgeting process. The Methodology clearly set forth the competence of the General Secretariat and the Ministry of Finance to be responsible for these two processes. The need to establish and gradually further develop the Strategic Planning process, was confirmed by the Government decision from 2005, which obligated the ministries to develop three-year strategic plans for the 2006-2008 period. With the adoption of the Budget Law the same year, the processes of Strategic Planning and budgeting were linked by law, by a provision in the Law that made it mandatory for state administration bodies to accompany their budget fillings with three-year strategic plans.

1.2. Advantages of strategic planning

The environment and conditions in which state administration bodies operate are constantly changing. In time of globalization and fast and frequent changes, including decentralization, all institutions regardless whether public or private, are forced to opt for a strategic approach in meeting the challenges they face. The mode of operation and officers change, new employees come, old ones leave. Processes that introduce reforms as a result of meeting Government's priorities bring about great changes. New functions, new technologies, modes of operation not used and known before are introduced and this imposes the need of new know how and skills on the part of employees in order for them respond to their tasks. Citizens' needs and demands change too, looking for new or better services.

With the strategic planning as a method for institutional management, the managers acquire a strong tool in the systemic approach to meeting the challenges and changes the institution is facing.

The Strategic Planning Process represents a systemic and structured way of identifying, planning and monitoring the:

- advantages and disadvantages – the human resources the body employs, its organizational setup, internal communication and coordination, equipment and technology and spatial conditions
- working environment – all external factors influencing work – politics, economy, other ministries and bodies the institution cooperates or shares common interests with
- competences and functions – mission (purpose for the existence of the body) and vision (desired future)
- use of existing resources, distribution of resources by function and need for new resources, as well as the organizational setup – in one word the development of the institution itself
- vision for future development – strategic planning is the way to actively seek changes, not only react to them
- policies and programs in the field – which will implement Government's strategic priorities and goals and will enforce the basic competences set forth by the laws
- results and efficiency of programs and policies – strategic planning is an instrument for permanent monitoring and evaluation of the activities being implemented and set targets being met.

1.3. What exactly is strategic planning?

Strategic planning, in fact, through functional or other types of analyses, helps state administration bodies define what they want to accomplish, and make elaborate plans how to accomplish it. By implementing the strategy, and in general acting strategically in practice, state administration bodies can focus to what really matters and is essential, i.e. to their priorities and goals and will allocate their available resources accordingly.

The Republic of Macedonia has several priorities. For several years already, the Government is passing decisions that set out its priorities for the coming year. NATO and EU are constant priorities, and they will remain so until the Republic of Macedonia becomes fully integrated in them. There are also priorities that concern the economic development, the fight against corruption, and so forth. Common to all these priorities is that they can not be met without careful planning. So, it is in the interest of the Government and the ministries to develop appropriate policies and programs that will yield the most appropriate results in achieving those priorities. The National Program for Adoption of the Acquis shall also be noted in this context. It is a plan that directs the Republic of Macedonia toward implementing activities that will ensure EU requirements are met and thereby ensure Macedonia's membership into the EU.

We think that Strategic Planning will help the bodies to continuously plan program activities in a structured fashion, to monitor their implementation and to adjust to all changes. The strategic plans of the bodies should actually be detailed plans for meeting the requirements and conditions for European integration.

The methods and techniques of strategic planning can be used on both micro and macro level, i.e. from planning one person's future and priorities, to planning in any small organization/body, to planning in large and complex ministries, to planning priorities and development of the entire country.

It is important to stress that strategic planning and the strategic plans of the state administration bodies should be a synthesis of the two planning levels, namely:

- Planning in the relevant field/fields of competence of a ministry/body, means detailed situation analysis, definition of priorities in those fields, creation of policies and programs through which priorities and programs are to be fulfilled, definition of the resources needed for their accomplishment, monitoring results, etc. The methodologies and techniques used in this level are directly linked and taken from the analysis and policy creation field.
- Planning the internal development of the ministry/body as an organization that according to the law has the authority to manage and act in the relevant area/areas – current situation analysis in the ministry as an organization, analysis of available resources, effectiveness and efficiency of the procedures it uses, internal communication inside the organization, as well as the definition of activities that need to be taken for the ministry to grow into a successful organization, ready to face all challenges and carry out its functions in the most effective and efficient possible manner. The methodologies and techniques used in this level are taken from the field of organizational management.

What links these two planning levels is the budget – the frameworks set through the fiscal strategy and the budget ceilings provide the real planning framework for these two levels. Exactly because of this, it is of crucial importance to focus resources only in priority areas.

1.4. Specifics of successful strategic planning

Full support from the minister/director – the minister should be informed about the process and should know the benefits of strategic planning. By implementing the ministry's strategic plan, the minister may provide timely fulfillment of the set Government's priorities and objectives and fulfillment of its competences. Therefore, his/her support to the entire process and program implementation are of crucial importance for the successfulness of the strategic planning.

Participation of all layers of the ministry/body – all organizational units of the ministry/body should be involved in the process. But the strategic plan should not be just a simple summary of the plans of each organizational unit, but should be a harmonized and realistic plan of the whole ministry. Some of the ministry's programs will be carried out in cooperation between two or more sectors of the ministry or in cooperation with the bodies within its framework.

If the process is organized in such a manner, i.e. with the participation of all managers and employees, that will ensure their commitment to and involvement in the implementation of the strategic plan.

Strategic planning should be placed on realistic foundations, i.e. should realistically reflect the goals, resources and expected results, always having regard to the human resources, the overall fiscal framework and the budgetary trends. It is the only way to make sure that the plan will be implemented.

Strategic planning should be a practical tool for definition of activities, responsibilities and deadlines. That will make it possible to monitor the execution of the strategic plan and to precisely locate responsibility.

Monitoring the execution of the plan is an integral part of the process. Without continuously monitoring the progress and regularly reporting to the managers, state secretaries and ministers, the strategic plan will remain just a document without any practical use. The continuous

monitoring can also provide for timely adjustment of the plan in cases when situation changes or unforeseen circumstances occur.

The strategic plan should be transparent, both toward the parliament and the citizens. This will provide comprehensive information on acting upon government's priorities and public spending. At the same time this will improve the accountability of all individual ministers as well as of the whole government.

2. Legal framework

The fundamentals of strategic planning are set forth in the Budget Law (Official Gazette of the Republic of Macedonia 64/05); the Methodology for Strategic Planning and Preparation of the Annual Work Program of the Government adopted by the Government on 06 June, 2003; Guidelines for the manner, content and format of drafting the strategic plans of the ministries and other bodies of state administration, adopted by the Government in May 2005; Handbook for strategic plan development for the ministries and other state administration bodies; and the Information on the need for institutional reform of the ministries related to strategic planning, with the conclusions contained therein, adopted by the Government in April 2005.

Under article 15, paragraph 3, of the Budget Law, budget users are obligated to make three-year strategic plans that contain all programs and activities needed to fulfill the strategic priorities of the Government of the Republic of Macedonia, as well as the budget user's goals and priorities

At the same time, Article 22 of the Budget Law requires the principal holder of the functional area, i.e. the budget user, to prepare the accompanying document to the budget request (the draft strategic plan) and to submit it to the Ministry of Finance latest by 15 August of the current year.

Under Article 23 of the Rules of Procedure for the Operation of the Government (Official gazette of the Republic of Macedonia no. 58/06) the Government of the Republic of Macedonia adopts an Annual Work Program of the Government which provides the timeframe for the Program, that the Prime Minister Designate proposes when the Government is elected in Parliament. The Government incorporates the strategic priorities and the fiscal policy into its annual work program and budget.

The Strategic Planning Methodology and part 4 of the Annual Work Program of the Government, define the procedures and deadlines for strategic planning, the definition and adoption of the strategic plans and the draft budget forecasts of the ministries and other state administration bodies. The Methodology therefore notes that draft budget forecasts through an integral budgeting and planning model, are an addendum or an accompanying document to the ministries' strategic plan. The Methodology at the same time notes that in coordination with the Ministry of Finance, the General Secretariat of the Government is the body responsible for assessment of the readiness of the strategic plans and budget forecasts, especially in the sense of meeting the strategic priorities.

In order to have a good quality strategic plans of the ministries and other state administration bodies, the Government of the Republic of Macedonia, adopted Guidelines which set forth the manner, content and format according to which the strategic plans of the ministries and other state administration bodies are to be prepared.

3. Foundations for preparation of the strategic plans

The Government of the Republic of Macedonia, pursuant to the Methodology on Strategic Planning and Preparation of the Annual Work Program of the Government of the Republic of Macedonia, adopts a decision, establishing the strategic priorities for the coming year, latest by 15 April of the current year. To date, following the aforementioned methodology, decisions have been adopted for the Government's priorities for 2004, 2005, 2006 and 2007.

The fiscal strategy, drafted by the Ministry of Finance, is also a basis for the design of the strategic plans of the ministries. The fiscal strategy proposes the directions and goals of the fiscal policy and establishes the principal category amounts with all revenue approved for a mid-term period of 3 years.

In addition to these two documents, the European Partnership Action Plan and the commitments taken by other international treaties and acts, also serve as foundations for preparation of the ministries' strategic plans.

4. Format and content of the strategic plan

In 2005, the Government of the Republic of Macedonia adopted Guidelines that closer define the manner, content and format for drafting the strategic plans of the ministries and the other bodies of state administration. Under the Guidelines, the strategic plan is the primary development plan that should contain programs, sub-programs, projects and activities through which state administration bodies plan to reach their goals during a three year period. The programs and activities that should be based on a realistic and objective assessment of the economic, political social, technological and material plan, existing normative frameworks and available resources, should go in favor of implementing Government's strategic priorities.

The Guidelines also require that the strategic plan fulfills several goals – it should be a framework within which the ministry should be able to plan, implement, monitor and redefine its work program, and at the same time be able to integrate in the strategic planning process the activities relating to policy creation.

The content of the plan should, according to a previously defined matrix, be structured in such a way that it provides answers to the questions about the body's mission, its vision, the priorities and goals of the body and what programs will it use to act in order to realize the goals and priorities of the government.

Under the Guidelines, during the strategic plan preparation, the state administration body evaluates the results achieved in the implementation of the past and current year's programs against predetermined set of indicators which are a constituent part of the implementation plan. State administration bodies that have been consulted during preparation are also noted, especially in situations when programs that are horizontal in nature are created, which assign specific commitments for implementing measures and activities within a program to several bodies.

The implementation plan is also a constituent part of the strategic plan. It defines the stages and deadlines for making progress in fulfilling the goals and priorities.

5. Institutional capacities for strategic planning within the General Secretariat

5.1 Organizational setup of the Sector for Strategy, Planning and Monitoring

The Sector for Strategy, Planning and Monitoring (herein referred to as the Sector) in the General Secretariat of the Government of the Republic of Macedonia provides expert support to the entire Government, to the Prime Minister and the members of the Government in determining the strategic priorities and in monitoring the fulfillment of those priorities and of the Government's annual work program.

Specifically, the tasks and competences of the Sector for Strategy, Planning and Monitoring are:

- To analyze the fulfillment of the goals and results of the Government's strategic priorities during the past year and to make a draft proposal for the Government's strategic priorities.
- To prepare the Annual Work Program of the Government and to ensure that the strategic priorities of the government are appropriately reflected in the Program;
- To monitor the manner and degree of fulfillment of the strategic priorities of the Government and of the Annual Work Program of the Government, as well as to report on the degree of fulfillment of the strategic priorities of the Government.
- To ensure that the Prime Minister's office is regularly informed of the current affairs and issues pertaining to the achievement of the strategic priorities;
- To take care that the Methodology on Strategic Planning and Preparation of the Annual Work Program of the Government is consistently implemented.

In exercising its competences, the Sector cooperates with the Ministry of Finance regarding the achievement of the strategic priorities, by incorporating them into the Budget of the Republic of Macedonia and maintains permanent contacts with Office of the Prime Minister and the competent sectors in the ministries.

2.2 Organizational setup of the Sector for Strategy, Planning and Monitoring

According to the Rules for Internal Organization of the General Secretariat, the affairs under the competence of the Sector for Strategy, Planning and Monitoring are carried out by the following units:

a) Unit for strategic planning and monitoring of the fulfillment of the strategic priorities is in charge of the following tasks and obligations:

- Participates in the definition of the strategic priorities of the Government and their incorporation into the Budget;
- Initiates the strategic planning process by preparing the draft proposal for the strategic priorities based upon previous analysis of the economic, political and social situation, upon the adopted development documents as well as upon the realistic findings of the situation, available resources and limitations.
- Ensures cooperation and coordination with the state administration bodies in relation to strategic planning;
- Cooperates with the Ministry of Finance in the budgeting process, in order to ensure that appropriate funds are allocated in the Budget of Republic of Macedonia for the strategic priorities of the Government.
- Monitors the degree of fulfillment of the strategic priorities and submits quarterly reports to the Government
- Gives advice for amendments of the strategic priorities;
- Upon request, informs the Office of the Prime Minister about the state of affairs regarding the implementation and fulfillment of the strategic priorities; and

- Analyzes the achieved results from the implementation of the strategic priorities as a basis for definition of the strategic priorities for the coming year.

6) The Unit for design and monitoring of the implementation of the Annual Work Program of the Government of the Republic of Macedonia carries out the following tasks:

- Prepares the draft Annual Work Program of the Government;
- Cooperates and coordinates with the state administration bodies, in the preparation of the Annual Work Program of the Government, lined by priority – high, moderate, low.
- Takes care that the Methodology for Preparation of the Annual Work Program of the Government is consistently implemented.
- Coordinates the harmonization of the draft programs between the state administration bodies
- Reviews the degree of feasibility of the Work Programs of the ministries, against to the strategic priorities of the Government; and
- Monitors the degree of implementation of the Annual Work Program of the Government, makes semi-annual and annual reports on its implementation and initiates proposals for its amendment.

6. LINKS BETWEEN THE STRATEGIC PLANNING PROCESS AND THE BUDGET

Due to the need to link the strategic planning process with the budgeting process, it is of special importance that the multitude of entities involved in this rather interactive process are complementary and coordinated. Analyzed from the Sector's point of view, the activities are repetitive. Under the strategic planning methodology, the entire process starts at the beginning and ends at the end of the current year, with a clear definition of the holders of responsibility, deadlines and expected results which signify the execution of the specifically defined measures and activities. After each planning cycle which is followed up by monitoring mechanisms, the achieved results and experiences are evaluated and on the basis of that feedback the future needs, priority goals and activities are planned.

Given that the strategic planning process is complex, and that all state administration bodies are involved therein, it directly affects the temptation to compromise on the policies in circumstances of limited fiscal framework in which the defined policy may be implemented. Therefore, in order to provide better links between the strategic planning process and the budgeting process, the General Secretariat of the Government and the Ministry of Finance play primary role in ensuring coordination and harmonization between the actions of the entities.

The primary mechanisms that link the strategic and budgetary planning in each of the ministries, are the Methodology for Strategic Planning and Preparation of the Annual Work Program of the Government and the Budget Circular.

In the strategic planning process, the Government of the Republic of Macedonia primarily start from the fact that the budget of the Republic of Macedonia has limited funds, i.e. that the Government has limited financial power to implement everything it has planned.

Therefore, due to the link between the process of definition of the strategic priorities and the budgeting process, the General Secretariat of the Government of the Republic of Macedonia – the Sector for Strategy, Planning and Monitoring and the Ministry of Finance – Sector for Budgets and Funds are in charge of coordinating the activities for definition of the strategic priorities and the budgeting process.

A first step in the strategic planning process is the definition of strategic priorities of the Government of the Republic of Macedonia.

Upon adoption of the Decision on the strategic priorities of the Government, the budgeting process starts by defining the budget forecasts for the coming year and the fiscal strategy is adopted. In this stage the Government of the Republic of Macedonia sets out the ceiling of the total expenses, based on a balanced budget or planned deficit as well as on the revenue forecasts.

Together with the draft budget forecasts, the Ministries submit the strategic plan. The deadlines for submission of the draft budget forecasts and the strategic plans of the ministries are aligned, and the efforts of the Ministry of Finance and the General Secretariat are coordinated for assessment of the plans and the draft budget forecasts, especially in the sense of achieving the government's priorities. The Ministry of Finance also checks the accuracy and rationality of the forecasted expenses, as well as of the funds allocation, i.e. whether they are in line with the Fiscal Strategy and the Budget Circular.

7. MONITORING OF THE EXECUTION OF THE STRATEGIC PRIORITIES OF THE GOVERNMENT AND OF THE ANNUAL WORK PROGRAM OF THE GOVERNMENT

- The Government is obligated to monitor the timing of execution of the strategic priorities and the Annual Work Program of the Government in order to ensure that it goes according to plan.
- Monthly information on execution is provided; ministries submit standardized progress reports to the General Secretariat
- The General Secretariat is obligated to collect all necessary information from the respective ministries in order to be able to monitor the degree of execution of the Annual Work Program of the Government.
- At the end of the year, the achieved results are analyzed in coordination with the General Secretariat.

The Regulatory Management System in Macedonia Facts and Challenges

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1. Introduction

Since 2001, the policy making process in the Republic of Macedonia improved significantly through combined efforts of the Government and the international donor community. Improvements focused on developing the policy process through adoption of new regulations and acts that specify better policy making procedures, and through developing policy capacities in the General Secretariat and in ministries and other state administration bodies.

The reform gives the system a good foundation, but many of the reforms are still very new, and need to be deepened through practice and development of capacities both in ministries and the general Secretariat in the coming years.

2. Legal Framework

The legal framework for decision-making and policy formulation is set by the *Rules of Procedure for Work of the Government*. The Rules of Procedure were first adopted in April 2001 and were significantly amended in July 2003 and recently in April 2006 to incorporate the various reforms agreed by the Government.

The Rules of Procedure set the framework for the strategic planning and policy analysis and coordination processes. The political priorities established by the government upon its election are linked to the annual process of setting strategic priorities and to the budget, and are then translated into specific policies and actions presented in the Annual Work Programme. The Rules of Procedure also define procedures to ensure that relevant information is submitted in support of all items brought for decision by the government and that inter-ministerial consultations are carried out to ensure that coherent and well coordinated policies are prepared reflecting the interests of the relevant stakeholders. They also establish the legal basis for two important government acts:

- The Methodology on Strategic Planning and Preparation of the Annual Work Programme of the Government¹⁴ describes the process of identifying the strategic priorities of the Government and ensures that adequate resources are allocated to those priorities through the budget process and incorporated in the Annual Work Programme of the Government.
- The Methodology on Policy Analysis and Coordination¹⁵ defines the key principles for policy-making and elaborates the roles of the players in each of the steps of the decision-making process.

The legal framework provides the necessary elements for a solid decision-making process, including strategic planning and preparation of proposals in ministries, co-ordination, and monitoring of implementation.

3. The Regulatory Management System

Formally, according to the Constitution (Article 71), every Parliament Representative, the Government, or at least 10.000 voters have the right to propose adoption of a law. In reality, most of the policies and legislation stem from the Government Programme presented by the Prime Minister designate when the Government is elected in the Parliament and especially from the EU

¹⁴ Adopted by the Government on the 50-th session of 22.09.2003

¹⁵ Methodology for Policy Analysis and Coordination, (Official Gazette of the Republic of Macedonia no. 52/06)

integration process. The law approximation process has and will have in future a major impact on the planning of policies and legislation to be put forward to the Government and the Parliament and it depends on the priorities and the timelines set out in the European Partnership and the National Programme for Adoption of the Acquis (NPAA).

Preparation of policy proposals is the main responsibility of the Ministries within the policy making system. Policy proposals are usually developed within the ministry departments, often including the legal department. In cases of cross cutting policies, working groups are often given the responsibility for legal drafting under the leadership of the line ministry responsible in the relevant area.

In cases when Parliamentary Representatives or Groups propose adoption of policies and legislation, the Government is responsible to give comments on such proposal.

3.1 Quality of Policy Proposals

The Rules of Procedure require Ministries to go through a thorough process of policy analysis. The key tools for improving policy preparation and co-ordination, and for providing better information to ministers are the following:

Memorandum to the Government — For all proposals brought to the government sessions for decision, ministries are required to submit a standard Memorandum that summarises the most important issues. The purpose of the Memorandum is to provide Ministers with the most important information that they need in order to discuss the material brought to them, and to make the necessary decisions. The Memorandum (maximum of five pages) has fixed headings relating to the justification of the proposal, options considered, results of impact assessments and consultations, harmonisation with EU legislation, and key communication messages. In fact, the Memorandum serves like an “executive summary” of the entire package of documents submitted for review to the Government.

The level of compliance is good, but the quality of information contained in the Memoranda is still not satisfactory, especially with respect to the impact assessments that ministries should perform regularly in the course of the policy development process.

Fiscal Impact Assessment – Ministers are responsible for providing an assessment of budgetary costs, according to an agreed format, for all proposals presented to the government for decision. In many cases, however, ministries comply only formally, giving very general information and often omitting the projections of fiscal implications for the next three years that are required by the budget submission form. The Ministry of Finance and the General Secretariat have the mandate to perform quality checks on these forms but their capacities are still insufficient.

The Statement of Compliance – is submitted for all legislation which is harmonized with the EU legislation. The purpose of this document is to offer an overview of the impacts of the EU legislation on the Macedonian legislation being harmonized and to give an assessment of the level of harmonization. The Table of Concordance lists the exact text of the EU provisions that have been incorporated into the Macedonian legislation and shows how this is reflected in the legal provisions of the Macedonian legislation.

Although some of these tools have been in use for some time, there is still much work to be done in order to improve the quality of information offered to ministers. The approach in the policy making or legal drafting is legalistic and policies are still not fully thought through which finally has serious implications in the implementation stage.

The Methodology for Policy Analysis and Coordination sets out the key policy making principles which include:

Alignment of policies and acts with strategic priorities of the government

Policies and acts of the ministries and other state bodies need to be aligned with the government's strategic priorities. The mechanisms of strategic planning in ministries of the government ensure that the strategic priorities of the government are realised through the strategic plans and initiatives undertaken by ministries.

Fiscal viability of policies and acts

Policies and legal acts need to be prepared in accordance with fiscal limits and within the framework of the three-year budget planning and programming cycle. During the preparation of policy proposals, ministries and other state bodies assess the fiscal implications, taking into account those solutions that will produce the greatest effect vis-à-vis the costs.

Alignment of policies and acts with the European Union Acquis

Ministries and other state bodies need to transpose the regulations, directives and other EU acts so as to harmonise national legislation with the European Union's Acquis and to apply the best practices of EU Member States.

Policies and legal acts based on previously undertaken analysis

When determining policies and acts, ministries and other state bodies derive from a previous analysis of the existing situation in their areas of responsibility, which includes definition of problems and identification of gaps. The proposed policies and acts have clearly defined objectives and solutions (options) that have been reviewed with an explanation of each solution.

Transparency during the preparation of policies and acts

In the process of determining policies and acts, ministries and other state bodies conduct transparent consultations with the competent and interested ministries and other state bodies, units of self-government (municipalities and the City of Skopje), interested associations of citizens, other interested parties and experts.

Planned implementation of policies and acts

In order to apply policies and acts, ministries and other state bodies prepare plans for their implementation, which include: calculated costs; indicative list of related by-laws for implementation of the laws; identification of required organisational capacities and human resources; and procedures for monitoring and evaluation

In order to promote quality in policy development, the General Secretariat developed a Handbook on Policy Development just recently. The purpose of the Policy Development Handbook is to help civil servants in ministries and other state administration bodies prepare high quality proposals (materials and acts) based on relevant information and analysis for review and adoption by the Government. The Handbook is so designed as to offer practical guidance and advice in the relevant steps of the policy making process in the Republic of Macedonia taking account of the requirements stipulated in the existing legal framework and the best practices applied in the EU Member States and other developed democracies. The consultation process with ministries and other state administration bodies will be completed by the end of November and it is hoped that the Handbook will contribute to improving the quality of policy proposals.

3.2 Consultations

According to article 68 of the Rules of Procedure, the proposing Ministries submitting the legislative draft or other materials for review to the government have the responsibility of

consulting other “responsible, relevant and interested state administration bodies and other state bodies, depending on the nature of the material to be reviewed”. Consultations with the Ministry of Finance on the fiscal aspects of the proposed policies or legal drafts is obligatory.

The staff in the General Secretariat’s Policy Analysis and Co-ordination Sector checks whether consultations have been conducted, particularly with the Ministry of Finance and the Legislative Secretariat. They prepare a briefing note for the Secretary General, which includes a list of consulted ministries, whether the proposing ministry has accepted or rejected the comments and, in case of rejection, whether it has supported that rejection with relevant arguments, and whether relevant interested bodies or organisations have not been consulted. This note is discussed in the meeting of the General Collegium of State Secretaries, which according to the Rules of Procedure may decide to defer consideration of an issue if the relevant and interested parties have not been consulted.

According to the Methodology on Policy Analysis and Co-ordination, staff in the General Secretariat may take part in the working groups responsible for drafting systemic or other important legislative proposals in the initial stage.

In reality, however, most of the consultations take place late in the policy process, only after draft legislative proposals have been developed. Traditionally, policy proposals are rarely prepared prior to drafting laws and regulations, so there is little opportunity for consultations in the policy development stage.

Recently, there have been good examples of involving and consulting NGO’s and other relevant stakeholders in the legal drafting process and in consulting relevant stakeholders. In June, the Government adopted the Concept Paper of the Strategy for Cooperation with the Civil Sector and it is expected that the Strategy will be adopted in December. The purpose of the Strategy is to promote cooperation with the civil sector through enabling favourable legal framework for civil society development; participation of civil society sector in policy making; creating favourable conditions for sustainable civil society sector; participation of civil society sector in the EU integration process; developing cross-institutional and cross-sector cooperation; and promoting sustainable development of civil society sector.

3.3 Coordination and dispute resolution mechanism

According to the *Rules of Procedure* (Article 67) and the *Methodology on Policy Analysis and Co-ordination*, the General Secretariat is responsible for providing relevant information and for assisting ministries in the development stage in dispute resolution of major legislative proposals or policies.

Once the proposals reach the General Secretariat for presentation to the Government, there are two levels in place to resolve disputes among ministries. The first level is the weekly meeting of the General Collegium of State Secretaries, where – according to article 72, paragraph 10 of the Rules of Procedure – the Collegium may defer an issue for an additional five days if the relevant bodies have not been consulted or if additional co-ordination and consultations should be made on disputable issues. If no agreement is reached on such issues, this lack of consensus is indicated in the report on the meeting of the Collegium that is presented to the standing Government Commissions and to the Government. Additionally, in the meeting, State Secretaries decide whether a specific policy proposal is ready to be presented to the Government Commissions and to the Government. The Secretary General chairs the weekly meetings.

The second level is that of the standing committees that meet before the meeting of the government to discuss and resolve issues that were not resolved in the meeting of state secretaries. The standing government committees are ministerial committees organised by topic – political system, economic system and policy, and human resources and sustainable

development. A report is prepared on the meeting of each of the committees, indicating the issues that are outstanding.

3.4 Central Policy Coordination

The central coordinative body responsible for providing both substantive and logistical support to the Government and its committees is the General Secretariat. The General Secretariat has a leading co-ordinating role in the strategic planning and the regulatory management.

The General Secretariat is playing an increasingly significant role in helping the Government adopt strategic plans, creating linkages between priorities and the budget, and ensuring that items reaching the Government sessions are better coordinated and in line with government priorities. The General Secretariat is the “guardian” of the processes, with the mandate to return items that have not been developed in accordance with the Rules of Procedure. The General Secretariat is also responsible for recording all Government decisions and for monitoring their implementation according to a special methodology.

However, the capacities in the General Secretariat are still not sufficient and developed enough to fully support the regulatory management system and to ensure that proposals are well thought through.

3.5 Consistency of the regulations with the Constitution and other laws

The Legislative Secretariat is an independent office providing legal advice to the government, with specific responsibility for reviewing all draft laws and secondary legislation from a juridical and constitutional standpoint. Following amendments to the Law on Government adopted in 2004, the Legislative Secretariat assumed responsibility for ensuring the compatibility of national legislation with EU legislation. A *Handbook on the Method of Transposition of EU Legislation into Macedonian Legislation* was published. The new methods of verifying compatibility include the requirement that all ministries submit Tables of Concordance for the Secretariat’s approval. The head of the Legislative Secretariat attends meetings of the Government.

3.6 Ex post policy evaluation

There are no legal requirements for ex-post impact assessment of laws and regulations and this is very rarely done if ever.

However, in order to promote favourable conditions for development of businesses, a Department for Economic Development has been established in the General Secretariat. The responsibilities of this Department include responsibility for ex-post regulatory impact assessment. The Government Programme 2006 – 2010 includes a programme on Deregulation of economic activities which, among other, includes activities to identify and review formal regulations impeding business activities and to simplify or revise regulations. The purpose is to eliminate all inefficient and anti-market elements in the legislation, which impedes the normal functioning of businesses.

4. Future Challenges

Although significant progress has been achieved in setting up the regulatory management system, there is still serious work ahead to ensure the sustainability of the system.

Overall, there are two important issues. The first is to ensure sustained commitment and leadership from senior administrative officials, particularly at the level of the Secretary General and State Secretaries. The second is to further implement and deepen the reforms that have been successfully launched. In particular, the focus should be on:

- Further development of capacities in the General Secretariat to enable their ability to provide substantive support to committees and to the government and to proactively and creatively impel ministries to improve the quality of their policy proposals; and
- Further development of the co-operation between the General Secretariat and the Ministry of Finance to ensure stronger links between policy priorities, the budget and ministry-level strategic plans and policies.
- Improve the capacity of ministries to develop, assess and cost policy proposals. Ministries should improve internal procedures and increase their capacity for:
 - Strategic planning to ensure close links between national strategic priorities, the ministry's programmes and its budget; and
 - Policy development to ensure that policies are well prepared, supported by appropriate assessment of impacts and costs, and subject to consultation both within the ministry and with other stakeholders, including NGOs and other civil society organisations.

REGULATORY IMPACT ASSESSMENT AND ALIGNMENT OF THE LEGISLATION IN THE REPUBLIC OF CROATIA

LEGISLATIVE PROCEDURE

Preparatory Legislative Process

In the Republic of Croatia the legal framework for decision-making and policy formulation is set by the Standing Orders of the Government of the Republic of Croatia, adopted in October 2000 (amended in March 2001).

The Standing Orders set up a coherent decision-making system by establishing a series of sequential steps through which proposals must proceed before reaching the session of the Government. They also cover all the necessary elements for a decision-making process, including inter-ministerial consultations, consultations with NGOs, review by the Legislation Office by the Ministry of Finance and Ministry of Foreign Affairs and European Integrations.

Preparation of legislation may be initiated by the Government, or by individual ministries. In both cases the formal sponsor of the law is Government of the Republic of Croatia in accordance with the article 84 of the Constitution of the Republic of Croatia which stipulates that Government has the right to propose laws.

When the law is proposed by the Government its draft proposal is prepared by the competent line ministries. For the preparation of legal texts, the Government may appoint ad hoc working groups, assembled by the representatives of different ministries, the SAOs, the non-governmental sector or others.

Co-ordination between ministries is carried out by the working bodies of the Government. The permanent working bodies of the Government are the following: Coordinating Committee on Social Affairs and Human Rights, Co-ordinating Committee on Economy, Coordinating Committee on Domestic and Foreign Policy, Commission on Relations with Religious Communities; Human Resources Commission, Administrative Commission. The Permanent Committees have their subordinated Working Groups, who perform inter-ministerial coordination on expert and technical level.

Before reaching the session of the Government draft legislative proposals are submitted to discussion to the technical working groups, relevant Co-ordinating Committee and the Inner Cabinet.

Proposals of laws or other legal documents and documents which the Government has to submit to the Parliament must contain all the elements laid down in the Rules of Procedure of the Croatian Parliament, while the proposals of regulations submitted to the President of the Republic must be made in the form of provisions of law with explanatory reports. Along with draft proposals of laws and other legal documents, opinions of the Legislation Office, the Ministry of Finance and the Ministry of European Integration or other state administration bodies concerned with issues in those proposals must be included. The same applies to reports, information and similar material, if they contain proposals of conclusions regulating obligations of state administration bodies or create financial obligations.

Adoption of Legislation

The procedure for adoption of legislation begins with the submission of a proposal of a law to the President of the Parliament. All deputies, deputy clubs and parliamentary working bodies, as well as the Government are entitled to propose laws. The Parliament may determine that preliminary hearings on the reasons for the enactment of a law and the fundamental issues to be regulated by such a law are to be held in working bodies. The President forwards proposals of laws to all working bodies, all deputies and the Prime Minister when the Government is not the sponsor.

Prior to a debate on the proposal of a law at a session of the Parliament, the competent working body adopts a position on all elements of the proposal of the law while the Legislation Committee adopts a position on the constitutional grounds of the law. The Act is generally adopted in the regular procedure through two readings.

After the submission of the opinion by the authorised working body (Committee), the law proposal is distributed to the members of the Parliament, with all the attachments, and the procedure of the First Reading starts. The First Reading includes the introductory speech by the proposer, a general discussion on the reasons for adopting the law and its basic content, detailed discussion on the text of the proposal, and the discussion on the positions of the working bodies that have scrutinised the proposal. The representative of the Government may participate in the discussion even when the Government is not the proposer of the law.

At the end of the discussion, the proposal may be rejected, and in that case it cannot be proposed within next three months. If the proposal has passed the First Reading, it is delivered to the proposer with all the opinions and conclusions of the discussion, and the proposer is obliged to deliver the final draft of the proposal within next six months.

The Second Reading includes the discussion on the final draft of the law, positions of the working bodies, discussions on the proposed amendments, and the adoption of the law. The procedure for the discussion is the same as for the First Reading, only without the discussion on the general principles and the purpose of the law.

The amendments may be proposed by the representatives, clubs, working bodies of the Parliament, and the Government. The proposer of the amendment(s) submits the amendments to the President of the Parliament until the end of the discussion on the final draft of the law. The proposer of the amendment may comment when his amendment is discussed. The proposer of the law and the representative of the Government have to comment every proposed amendment, with the possibility of accepting it, fully or partially, or rejecting.

After the discussion on the final draft and the amendments, the discussion is closed, and the decision on the law is reached by voting.

Only in cases when the proposed amendments substantially change the general purpose or content of the law, or there is a large number of amendments proposed, the proposer or the Parliament may initiate the Third Reading. The procedure is the same as for the Second Reading.

The law may be adopted by the urgency procedure only in exceptional cases, when it is required by the interest of defence, in the case of major disturbances in the economy, or other justified reason. The proposal for the urgency procedure has to be submitted at least 24 hours before the session. It has to be supported by 25 signatures of the members of the Parliament if it is proposed by a single representative.

The laws necessary for the adjustments to the *acquis communautaire* are discussed according to the urgency procedure upon the request of the proposer.

The Parliament decides on the Urgency Procedure for an item during the decision on the agenda, at the beginning of the session. The Urgency Procedure merges the First and the Second reading procedure.

ANALYSIS OF THE IMPACT OF REGULATIONS IN THE REPUBLIC OF CROATIA

In the Republic of Croatia Regulatory impact assessment is required by the provisions of the Standing Rules of the Croatian Parliament, incorporated in the Standing Rules of the Government. Article 132 of the Parliamentary Standing Rules demands that every proposal of the law (draft law) has to be accompanied by:

- Constitutional grounds for passing the act,
- Assessment of the status and fundamental issues to be regulated by the act and the impact of the passed act,
- An assessment and the sources of funds necessary to implement the act,
- The text of the proposal of the act, with its interpretation and explanation,
- The text of the provisions of the valid act to be amended, if that is what is proposed.
- In addition to the proposal of the act, the sponsor may also submit other relevant documentation, particularly expert opinions, ratified international treaties and other acts serving to explain the grounds for the proposal.

However, even though the Standing Rules form the basis for regulatory impact assessment, the procedure is not standardised, i.e. outcomes vary in quality and scope significantly.

Assessing the financial impact of regulations

On 20 May 2005 The Government of the Republic of Croatia adopted the Decision concerning the form of standard methodology for assessing financial impact. In accordance with Decision the state administration bodies, in addition to the proposals of regulations and other legislation adopted by the Government, and the proposals of acts and other legislation proposed by the Government, must submit the Form on the assessment of financial impact.

The Form on the assessment of financial impact of proposed legislation consists of:

- Basic data about the sponsor and the proposal;
- Connection between the draft legislation and the State Budget;
- Statement of financial impact on the State Budget and other budgets;
- Impact on employment;
- Statement on the sources of funding;
- Potential liabilities for the State Budget;
- Indicators of success;
- Explanation and response of the sponsor;
- Recommendation and a statement on the proposal of the regulation by the Ministry of Finance, and
- Dates on which the Form was sent and received.

ALIGNING THE CROATIAN LEGISLATION WITH THE ACQUIS COMMUNAUTAIRE

By signing the Stabilisation and Association Agreement with the European Union, the Republic of Croatia committed to harmonise its legislation with the *acquis communautaire*.

The harmonisation process is being implemented through co-operation between state administrative bodies in the phase of the preparation of legislative proposals and the Croatian Parliament in phase of the adoption of laws.

In order to make harmonisation as effective as possible the Government of Croatia has adopted a Decision on Measures in the process of approximation of the legislation of the Republic of Croatia with the *acquis communautaire*. The decision is applied obligatory as of 1 December 2001.

In accordance with the aforementioned Decision, state administration bodies are required, under article 69 of the Stabilization and Association Agreement, when preparing acts approximating Croatian legislation with the *acquis*, to submit a Statement of Compatibility and Table of Concordance of Legislative Provisions of the Republic of Croatia with the relevant EU provisions together with the draft legislation. Both of these instruments and the draft proposals are to be forwarded to the Ministry of foreign affairs and European Integration, for verification and approval.

With regard to the abovementioned instruments, the Croatian Parliament has adopted a Conclusion on the 9 October 2002, whereby the Government of Croatia is required to ensure that draft acts forwarded to the Parliament are accompanied by a Statement of Compatibility and the Table of Concordance of legislative provisions of the Republic of Croatia with the relevant EU provisions.

In December 2001 the Croatian Parliament amended its Standing Orders articles 136 and 161 to set detailed procedures concerning draft legislation to be harmonised with the EU *acquis*. In the amended article 136, distinction was made between draft legislation that should be harmonised and other "ordinary" draft legislation. Legislative proposals to be harmonised with the EU *acquis* carry the mark P.Z.E. The amended Article 161 stipulates that legislative proposals being harmonised with the EU legislation of the European Union shall be enacted under summary procedure if so sought by the sponsor, unless the competent working body (which is either the Committee on the Constitution, Standing Orders and Political System or the Legislation Committee) propose that such legislation be discussed and debated in the first reading due to its failure to comply with the Constitution or the legal system. In terms of procedure, the article 161 provision basically represents a regular application of summary procedure for legislation that is being harmonized with EU *acquis*. Unlike the case of other draft legislation, voting on enabling the use of summary procedure for P.Z.E. legislation is not required.

By the Decision of the Croatian Government of 25 February 2004 on the instruments for the alignment of the legislation of the Republic of Croatia with the *acquis communautaire* and legal acts of the Council of Europe the obligation to complete the Statement and the Table of Concordance has been expanded to the making of subordinate legislation, serving to achieve alignment with the *acquis communautaire*. The competent authority has been extended an opportunity to indicate, next to the draft legislation in the Statement of Compatibility, the need to prepare a consolidated version.

The basic document for planning and monitoring the process of harmonisation of legislation is the National Programme for the Accession of the Republic of Croatia into the European Union.

The National Programme is a document prepared on a yearly basis, which charts all the preparations Croatia needs to make on its way to integration into the European Union.

The structure of the National Programme follows all the activities of the Government of the Republic of Croatia related to fulfilling the membership criteria and consists of Political criteria, Economic criteria, Harmonisation of national legislation with the *acquis* including administrative capacity building, Annex A - Plan of harmonisation of Croatian legislation with the *acquis communautaire* and Annex B - Table of planned budgetary funds and foreign assistance funds.

ASSESSMENT OF FINANCIAL IMPACT IN THE PREPARATION OF NEGOTIATING POSITIONS

Following the European Council's political decision accession negotiations with Croatia were formally opened in October 2005. The formal opening of the negotiating process was followed by the analytical overview and evaluation of the degree of harmonisation of national legislation with the *acquis communautaire*, known as screening. This first phase of the accession process, the analytical examination of the *acquis* (screening), was completed in October 2006.

After screening is completed, the decision on the opening of negotiations for individual chapters, depending on the evaluated readiness of the candidate country, is made by the Member States within the Council of the European Union. With the opening of negotiations for individual chapters, the substantive phase of the negotiations begins.

Substantive negotiations are conducted on the basis of the EU's and the candidate country's negotiating positions which are prepared in line with the screening results for each chapter. The candidate country is the first to present its negotiating position which specifies the plan and mode of adoption and implementation of the *acquis* in specific chapters, along with a description of its institutional capacity.

On 15 April 2005 the Government of the Republic of Croatia adopted a Decision on the Process of Preparation and Adoption of Negotiating Positions of the Republic of Croatia in the Process of Negotiations on the Accession of the Republic of Croatia to the European Union. The process of preparation and adoption of negotiating positions of the Republic of Croatia in the Process of Negotiations on the Accession of the Republic of Croatia to the European Union comprises the following steps:

- an analytical overview and assessment of the degree of harmonisation
- of the legislation of the Republic of Croatia with the *acquis communautaire*
- (screening)
- preparation of the working draft proposal of a negotiating position,
- preparation of the draft proposal of a negotiating position,
- preparation of the proposal of a negotiating position,
- preparation of the final proposal of a negotiation position,
- submission of the negotiating position to the European Union,
- negotiations.

Working groups for the preparation of negotiation positions are obliged to give a statement on the assessment of financial impact by chapters for:

- New programmes, strategies, action plans
- Amendments to programmes, strategies, action plans
- New legislation and subordinate legislation
- Amendments to legislation and subordinate legislation
- Establishment of new agencies or similar organisations
- Financial participation for inclusion in certain programmes

- Other activities

In the procedure for making and adopting the financial impact assessment The form PFU EU is forwarded for opinion to the Ministry of Finance and other state administration bodies competent for the issues covered by the chapter, together with the working draft of the proposed negotiating position. Within seven days of receiving the Form PFU EU, the Ministry of Finance forwards its opinion on the Form to the member of the Negotiating Team in charge of the chapter concerned.

The working group then makes the draft proposal of the negotiating position and, together with the Form PFU EU, which includes the opinion of the Ministry of Finance, forwards it to the Negotiating Team

The Negotiating Team reviews and adopts, in addition to the draft proposal of the negotiating position, the statement on assessment of financial impact given on the Form PFU EU, and forwards them to the Coordinating Committee.

FUTURE CHALLENGES

HITROREZ

A Special Unit HITROREZ was established on 28 September 2006 as a working body of the Government of the Republic of Croatia. The main task of HITROREZ is to examine, review and analyse the regulations, determine normative barriers and suggest ways of simplification and elimination of the existing procedures laid down in various regulations, in order to boost direct domestic and foreign investments through the introduction of a friendly regulatory environment.

In the first phase of HITROREZ all the ministries and Regulatory bodies will be ordered to draft an extense regulations' list in their own authority First reassessment of the regulations will be made by regulatory bodies, referring to economic subjects and according to the Instructions criteria. Second reassessment of the regulations will be made by special unit for HITROREZ, including consultations with the private sector and if necessary regulatory bodies.

In the procedure of HITROREZ, there will be a set of simple questions that need to be answered with respect to each regulation:

- Is it necessary?
- Is it in accordance with law?
- Is it business-friendly?
- Is it in line with the WTO regulations?
- Is it in line with the EU standards?

Once the three examination procedures are over, the Special Unit for HITROREZ will make a list of all regulations that need to be simplified or which are regarded as unnecessary.

On the basic of final recommendation The Croatian Government will prepare the methods to amend or place the regulations out of force.

The regulations that pass this reassessment will be included into e-register for the purpose of improving their accessibility and transparency.

The integration of the Republic of Croatia into the EU is a process that requires adjustment of the economy and harmonization of legislation with the *acquis communautaire*. One of the basic

factors of ensuring success is an effective and skill-based procedure of preparing and billing acts, which can be strengthened by introducing recognized methods and instruments.

Having that in mind a Special Unit HITROREZ is planning to start the project of improvement of the legislative procedure by introducing a systematic analysis of the impact of legal regulations in accordance with internationally recognised standards.

Systematic analysis of the impact of legal regulations will help in reviewing the options that are available for implementing the EU acquis, so as to identify those options that are the most beneficial for Croatia. Beyond this, by incorporating the same impact assessment techniques into the country's normal legislative procedures, these governmental processes may be strengthened towards the level that is needed to assure the most effective development of the country in the competitive market it is about to enter.