



ReSPA

Regional School
of Public Administration

“Regulatory Techniques and Processes – an Advanced Practical Workshop Based on EU’s Regulatory Practices”

12 – 14 June 2013

Danilovgrad, Montenegro

PROVISIONAL PROGRAMME

Background

Modern societies are characterized by their high degree of regulation. Regulation influences heavily the work of governments and legislators who, with an input coming from the scientific community, establish regulatory standards whose purpose is, for example, to settle the technical requirements for the elaboration of a certain product, to establish certain standards of quality in the provision of a service, to ensure the respect of certain objectives of public interest (i.e. the protection of consumers or the environment) which could be affected by the exercise of a certain economic activity and, finally, avoid the risks that the use of new technologies could entail.

Regulation also impacts in a considerable manner on the work of economic operators and on the flow of economic transactions, who are meant to respect the fixed regulatory standards, in their production activities or whenever they render a supply a certain service. The non respect of the established regulatory requirements can be sanctioned by administrative and judicial authorities, giving rise to contractual and non-contractual liability.

Finally, the EU constitutes the most advanced regulated economy and society, and EU regulatory standards are considered to be of reference value in international trade. They also influence EU candidate and associated countries in their legal approximation processes.

Objectives

At the end of this program participants will have:

- An understanding of the concept of regulation
- A comprehension of the reasons which explaining the necessity for a regulatory intervention in certain fields of public policy
- A clear overview of the number of actors that intervene in the regulation
- An overview of the number of choices and dilemmas that the regulator confronts when exerting its regulatory power and a reference guide on how to address these different situations
- An improved knowledge on how to use various techniques and tools to set regulatory standards
- An awareness on how the EU proceeds itself to regulation and the capacity to take EU regulatory requirements into consideration in the law approximation's efforts of their respective administrations

Content

The contents of the workshop have been conceived to respond to three fundamental questions on the matter of regulation: what is regulation? Who can regulate and how to do it?

The answers to these three queries will be formulated both from the point of view of general regulation (section I of the program: Introduction to Regulatory Affairs) and from the particular standpoint of the EU (section II of the program: Regulatory Affairs in the EU), since this organization has developed particularly perfected regulatory strategies and tools.

In a sequential manner, the program presents the following components:

- In the first place, an understanding of the concept of regulation will be provided and the motivations which explaining the necessity for a regulatory intervention in certain fields of public policy will be analysed.
- Then, a reference to the number of potential actors that intervene in regulation and the description if number of choices and dilemmas that the regulator confronts when exerting its regulatory power will follow.
- As third content element, the workshop will be feature a toolkit of the various techniques and tools to set regulatory standards providing an exhaustive analysis on the respective use of each.

Beyond the pure description, the workshop will explore the above contents from an analytic point of view, trying to highlight the practical implications of each. This is why a number of sessions in the event will discuss current regulatory strategies in a number of policy areas (environment, agricultural policy, etc.).

Finally, the workshop will be based on a comparative rationale, for all the regulatory matters proposed in the programme will be examined from both the perspective of the EU and the one of candidate countries and other associated to the EU. This comparative stance will enable participants to measure to what extent this EU experience can be extrapolated to the ongoing regulatory efforts in their respective countries.

Target Group

The target group for this workshop should be public officials who exert professional responsibilities in the field of regulation as decision-makers or in the enforcement of public policies, and administrative or legal follow-up and control. These officials can come from all types of public administrations institutions and primarily from the following entities: Ministry of Economy, Ministry of Public Administration, Ministry for EU Integration, Ministry for Regional Development, Ministry of Infrastructure and Telecommunication, Ministry for Consumer Protection. The workshop is also aimed at civil servants of regulatory bodies.

In particular the seminar should be of interest to officials dealing with regulation of sectors or policies such as network industries (telecommunications, broadcasting, gas and energy distribution, etc.), consumer protection, food / product safety, environmental protection, financial services, etc.

Although no prior theoretical knowledge of regulatory affairs required, all participants must possess a certain level of practical professional exposure to these matters. In addition, they must come from administrative positions which can allow them to apply the knowledge and skills acquired in their workplace upon their return to work, so that they can use the lessons learned to improve and / or transform the regulatory practice of the services where they work.

Workshop Facilitators

The course will be directed and presented by one international expert from the European Centre for Judges and Lawyers (EIPA Luxembourg) and two regional experts, all possessing a wide experience in the design and delivery of activities devoted to regulatory issues and other related legal matters both in the EU and in the Western Balkan region.

- **Juan Diego Ramírez-Cárdenas Díaz**, Senior Lecturer and Seminar Leader, European Centre for Judges and Lawyers, EIPA Luxembourg. He holds a university background on Law and International Relations plus a Master degree on European Political and Administrative Studies from the College of Europe, Bruges. He is currently conducting his PhD in European law at the University of Paris 10. Prior professional experiences include legal advise and counsel for the European Commission and the position Senior Lecturer at the Institute of Political Studies in Paris
- **Nebojsa Lazarevic**, Director, European Policy Centre, Belgrade. He holds a Law degree and a Master of EU law and international business law awarded by the United Nations University for Peace. He has a prior professional experience of legal adviser for various services of the Serbian administration (European Integration Office, Ministry of Trade and Services)
- **Zoran Sretic** is specialist in EU Law, environmental law, and the Internal Market rules. He is, currently, head of Group for Environment, Agriculture and Rural Development in Serbian European Integration Office monitoring and coordinating government's activities in the process of Serbian accession to the EU in the relevant fields. He holds the Master of Law Science degree obtained from European Center for Peace and Development of United Nations University for Peace in Belgrade.

Methodology

The training will not only be a theoretical, awareness raising event but it will also have quite a practical nature. Its pragmatism will be assured through reference to numerous cases taken from the EU's regulatory activity. At the same time, in order to assure the interactive nature of the sessions, participants will often be invited to intervene to share their views and experience. For that reason the program for the seminar serves more as a framework for discussion rather than a series of predefined list of lectures.



DRAFT TRAINING PROGRAMME

Day 1- 12 June 2013

- 09.30 – 10.15** **Welcome and introduction to the seminar.**
Presentation of trainers and participants
- 10.15 – 11.00** **What constitutes regulation?**
Brainstorm session on the concept of regulation.
Illustration of personal experiences in regulatory affairs – round table
Juan Diego RAMIREZ-CARDENAS DIAZ
- 11.00 – 11.45** **Why the regulator regulates?**
The rationale of regulation.
Overview of the catalogue of ‘good reasons’ motivating regulatory action
Factors present in regulatory activities: economic, scientific and societal considerations
Juan Diego RAMIREZ-CARDENAS DIAZ
- 11.45 – 12.00** Coffee break
- 12.00 – 12.45** **What is the main object of regulation? Risk, as the main justification for regulation**
The concept of risk
The perception of risk
Overview of models of risk regulation
Juan Diego RAMIREZ-CARDENAS DIAZ
- 12.45 – 13.45** Lunch break
- 13.45 – 15.15** **Who must regulate and how to regulate? Overview of regulatory authorities. Catalogue of regulatory techniques and practices.**
The particular regulatory strategy in EU Candidate Countries
Presentation of the actors exerting regulatory competencies
Description of regulatory techniques and tools (i.e. impact assessment, public consultations, experts’ role, etc.) & Guidance for the selection of the regulatory technique to be used
The particular case of Candidate Countries: SAAs and legal harmonization. National Plan for the adoption of the *acquis*
Nebojsa LAZAREVIC
- 15.15 – 15.30** Coffee break
- 15.30 – 17.00** **Workshop – Case Study**
Practical case on the choice of regulatory tools and approaches
Nebojsa LAZAREVIC
- 17.00** End of first day

Day 2- 13 June 2013

REGULATORY AFFAIRS IN THE EU

- 09.00 – 10.00** **Why EU regulates? European Union's set of competencies and principles of subsidiarity and proportionality. What lessons for ReSPA members?**
The necessity of regulatory action at EU level: reasons and motivation
Overview of EU competences
Principles governing the competence sharing between the Member States and the EU: subsidiarity and proportionality
Impact of EU regulatory action on executive and legislative authorities of ReSPA members
Juan Diego RAMIREZ-CARDENAS DIAZ
- 10.00 – 11.00** **Overview of the regulatory fields in the EU. The particular cases of the environmental protection and the common agricultural policy (CAP) of the EU**
Overview of sectors and policy fields subject to EU regulatory activity
Case study: environment and CAP
Zoran SRETIC
- 11.00 – 11.15** Coffee break
- 11.15 – 12.15** **Fixing of regulatory standards in the EU (1). Main legal principles of EU law. The precautionary principle. Tables of concordance.**
EU legal principles as sources of law and regulatory standards
The precautionary principle (definition, scope and application)
Tables of concordance as a tool for taking over EU membership obligations (definition, scope of application, structure and practical examples)
- 12.15 – 13.15** Lunch break
- 13.15 – 14.45** **Fixing regulatory standards at EU level (2). The practical use of tables of concordance. Case study**
Practical exercise on the use of tables of concordance
Relation between EU sources of law in the tables of concordance
Elaboration and composition of tables of concordance
Different types of comparative approaches used in the tables of concordance
Zoran SRETIC

- 14.45 – 15.00** Coffee break
- 15.00 – 16.00** **The impact of EU regulatory standards on Candidate Countries. Methods and approaches in transposition of EU acquis into national legislation – the case of Serbia**
EU Integration Coordination Structures
National Programme for Integration of Serbia into the EU and the NPAA
Translation, creating the Serbian version of the acquis
Nebojsa LAZAREVIC
- 16.00** End of second day

Day 3- 14 Jun 2013

- 09.00 – 10.00** **Fixing regulatory standards in the EU (3). Overview of different legal regulatory techniques**
- Non harmonized and harmonized policy areas
New approach directives
Minimum versus maximum harmonisation
Choice of legal basis: Article 114 TFEU (ex Article 95 TEC)
vs. Article 192 TFEU (ex Article 175 TEC)
Case study: environmental protection and the Internal Market
Zoran SRETIC
- 10.00 – 11.00** **Practical examples of drafting of national laws transposing EU requirements**
- The process of law drafting and its main phases
Overview of practical examples
Nebojsa LAZAREVIC
- 11.00 – 11.15** Coffee break
- 11.15 – 12.15** **Judicial review of regulatory standards by the EU jurisdictions – Case study.**
- Authorities in charge of the judicial control of EU's regulatory action:
EU courts and tribunals of Member States
- Potential grounds for the judicial review of EU regulatory actions
– case study.
Juan Diego RAMIREZ-CARDENAS DIAZ
- 12.15 – 12.45** **General conclusions and end of seminar**
- 12.45 – 13.45** Lunch break
- 13.45** Farewell