



EUROPOS SOCIALINIAI, TEISINIAI IR EKONOMINIAI PROJEKTAI

IMPACT ASSESSMENT OF BETTER REGULATION INITIATIVES ON THE EU LEVEL

Summary

*This survey was funded by the Office of the Prime Minister of the Republic of Lithuania
under the program of impact assessment of Lithuania's integration into the EU*

5th December 2004, Vilnius

The aim, tasks and methodology

The aim of the study is to make an overview of the initiatives and recommendations of better regulation and to assess to what extent they meet interests of Lithuania and what possible measures are necessary to implement them in Lithuania. The study seeks to answer the following questions: (1) In what ways the EU regulation of economic activities is important, and what are the distinguishing features of current reforms? How the regulation and its different methods can be evaluated in general? What are essential features of EU initiatives for better regulation for the years 2001-2004 and how to assess them? What interests do these initiatives reflect? To what extent do they meet Lithuania's interests? What can Lithuania propose in planning and implementing better regulation's initiatives? What initiatives are worth to implement in Lithuania?

The input of this study into the discussion on regulation in the EU is the perspective of a new member state based on an assessment of regulation at the EU level in general and specific recommendations on Lithuania's position concerning further regulation reforms in the EU.

Main conclusions and recommendations of the study

1. The regulation policy reform currently implemented in the EU and the initiative of better regulation in particular is (a) the reaction to the past regulatory policy to the EU's functioning experience, (b) efforts to adjust to the EU enlargement due to the increasing number of member states, and in particular because of growing economic and social diversity, (c) the reflection of discussions about good governance and public administration in other countries (New Zealand) and international organizations (OECD).
2. The initiative of better regulation undertaken by the European Commission, and EU presidency confines itself to quite technical and managerial changes in decision making and regulatory procedures, without reforming and changing objectives of regulation and EU's institutional structure.
3. After EU enlargement the concept of regulation as correction of „market failures“ becomes more problematic because of quite significant diversity of incomes level and diversity of societal preferences. It is very likely that in the first years Lithuania will not be capable to resist to other states' attempts to transpose its norms, and this is an additional argument why the initiative of better regulation, which should reduce the number of norms as well as its negative impact, should be supported by Lithuania's representatives.
4. The initiatives of better regulation are aimed to improve the EU's legislative process. They are best summarized by seven fields of better regulation provided in the Mandelkern report: more attention to the alternatives to regulation, impact assessment, consultation, simplification, better access to regulation, related to wider and more frequent use of information technology, the creation of relevant structures responsible for better regulation and higher attention to the implementation.

5. The simplification of regulation is important element of the reform, but it should be assessed in the context of other initiatives. It is possible to simplify the regulation in the EU as well as at the national level only by implementing the impact assessment system, by enlarging the scope of consulting, and by applying different regulation alternatives. Simplification of the EU law based on codification should be encouraged, but Lithuania has no real possibilities to identify priorities of the process because of the limited experience of EU membership and because of legal/technical nature of this process. Accordingly, it is worth to relate the priorities of simplification with the most complex EU regulation fields, such as agriculture and environmental protection.
6. The initiatives of better regulation emphasize the reduction of administrative burden to business, but they usually overlook consumers who eventually pay the regulatory costs. It is aimed to reduce administrative burden not by deregulating, but by “sideways” – by simplifying regulatory norms, by applying more widely the impact of regulatory norms, and consulting more with society and business during the assessment, and by using alternative methods of regulation.
7. A more important question to Lithuania is how much flexibility the initiatives of better regulation can offer to the EU regulation policy in order to tolerate more economic and social diversity and at the same time to create conditions to the competition of different rules and methods of regulation. The interest of Lithuania is to join the initiative of better regulation first of all by defining the internal priorities of better regulation, by implementing parallel program of the reduction of administrative burden at the national level, and by submitting proposals to the EU presidency. The initiative of better regulation should limit the number of draft EU regulatory norms and improve their quality. Lithuania, having relatively good experience in applying the system of impact assessment, in planning and coordinating the transposition of the EU norms could offer its experience at the EU level. Lithuania’s interest could be to give more attention to alternatives to regulation at the EU level which are not emphasized enough in the EU action plans. Increasing diversity in the EU imply wider use of “soft” regulatory methods. Lithuania should be interested in wider application of open coordination method, code of conduct type of regulation, co-regulation, self-regulation method using them as alternatives to regulation using legal norms.
8. Not only the initiative of better regulation could be useful to Lithuania, but also the experience of other EU member states in implementing the objectives of better regulation.
9. The experience of Sunrise initiative and the lessons learned from it, especially from its poor implementation record, could be valuable at the national level. The most important of them is that better implementation of regulatory reform requires prioritizing it as one of the most important issues of political agenda (support of political parties to the initiatives to reduce bureaucracy and administrative burden, especially for small enterprises, and EU reform is favorable for that, but growing economy and an overwhelming interest to the EU funds diminish the attention to the issues of regulation reforms), and simple institutional coordination mechanism with sufficient powers delegated to the responsible institution.

10. Taking into account the political and economic situation in Lithuania it is possible to conclude that importance of regulation reform, to compare with other not yet reformed fields (healthcare system, education, other structural reforms), is not at the top of the list. However, the regulatory reform should be viewed as a permanent feature of everyday policy and part of public administration reform in Lithuania. In this respect a political agreement on the principles of good regulation and its implementation in creation of new legal norms and in taking positions on draft laws at the EU level is necessary, as is the plan of review of legal norms in force in Lithuania.
11. The support of better regulation initiatives and concrete proposals in this area would continue currently implemented but quite slow reforms of public administration in Lithuania and would give to them an additional impetus. First of all, on the national level more attention should be paid to the new regulatory impact assessment of legal norms according to the principles of good regulation – proportionality, accountability, consistency, transparency, and usefulness.
12. The same principles of good regulation should be applied during the assessment of European Commission's proposals. A more intense use of regulation in Lithuania during the past ten years is associated to the external impact – transfer and implementation of the EU legal norms. It is not a result of pressure of local interest groups. Probably, in the future the EU will remain the source of economic regulation, and because of that it is necessary to turn the efforts related to the regulation alternatives to this direction. The simplification of regulation should conform to the same rule. The system of impact assessment in Lithuania exists, but it should be improved, especially in the field of ex-post impact assessment. The initiative of better regulation in Lithuania, first of all, would embrace the improvement of consultation mechanism, institutional structures and allocation of more resources and attention to the implementation in general. The initiative of better regulation could naturally help to further develop the system of strategic planning and to give new impetus to the efforts who have slightly died out.
13. The essential demand in the national level, related to the better regulation, is the institutionalization of this priority. It would be useful to nominate an institution directly responsible for the implementation of better regulation. As it was in the Sunrise initiative's case, a special high level group could be responsible for coordination. However, permanent institutional and other resources are necessary. As it is recommended in the Maldenkern report, the above mentioned institution should work near the Government's center. This solution is recommended by the OECD and is suggested by the successful experience of other countries. The Chancellery of the Government would be able to do the work, but corresponding resources are needed. In addition, it would be desirable from an independent institution to commission an evaluation of regulatory norms in Lithuania, which could include the material from the past initiatives, surveys of business representatives, and studies performed by other institutions.
14. An institution responsible for coordination of internal efforts in the regulatory reform could coordinate planning and implementation of Lithuania's participation in the EU's better regulation initiative. As it was noted, it could be the Chancellery of the Government.

15. To generalize all, it would be necessary to take into account that current rapid economic growth and relative significance of unfinished structural reforms make the issues of regulation reforms rather insignificant. However, they will become more and more important with the slow down of economic growth. The initiative of better regulation not only would stimulate the reform of public administration and would better represent Lithuania's interests in the EU, but would also be politically attractive as it should not meet much bureaucratic resistance (except in cases of elimination of overlapping functions or bigger efforts in regulatory impact assessment), or entail direct costs to the budget (in some cases – on the contrary), and would be acceptable for the majority of citizens. The EU reform of better regulation gives to Lithuania a good possibility to solve earlier mentioned internal problems and at the same time to maintain diplomatic activism in the EU institutions while generation proposals concerning regulatory reforms. Later on, this experience would be useful for neighboring EU countries.