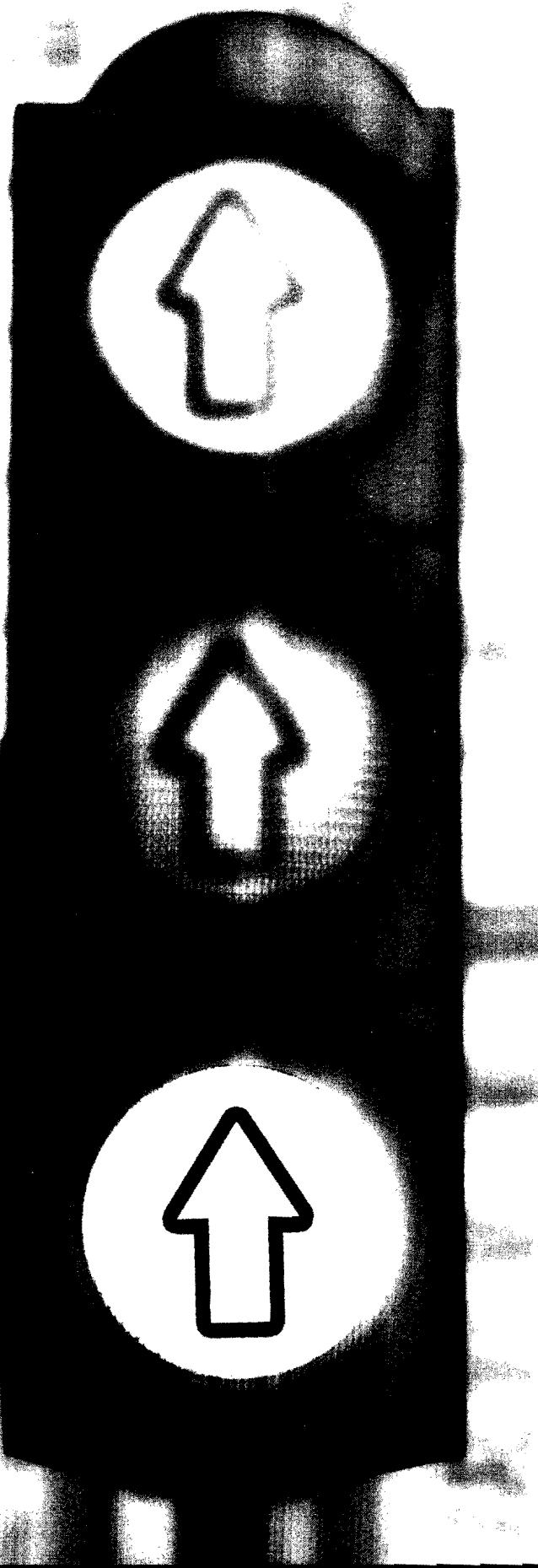


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BETTER REGULATION
SERIES

VOL. I



BETTER REGULATION FOR HIGHER GROWTH

Bulgaria's business regulation -
achievements and recommendations

OCTOBER, 2010



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FISCAL YEAR
1 January – 31 December

WEIGHTS AND MEASURES
Metric System

	DEFINITION
ARC	Administrative and Regulatory Costs
BEEPS	Business Environment and Enterprise Performance Survey
BRU	Better Regulation Unit
BGN	Lev (Bulgarian national currency)
CEDB	Citizens for European Development of Bulgaria
CEG	Council for Economic Growth
CoM	Council of Ministers
ECSPF	Finance and Private Sector Development Department, World Bank
EU	European Union
EUR	Euro (currency)
FIAS	Foreign Investment Advisory Service – joint World Bank and International Finance Corporation program
IT	Information Technology
LARACEA	Limiting Administrative Regulation and Administrative Control on Economic Activity (Act)
OECD	Organization for Economic Co-operation and Development
RIA	Regulatory Impact Assessment
SG	State Gazette
SMEs	Small and Medium-sized Enterprises

Vice President:	Philippe Le Houerou, ECAVP
Country Director:	Peter C. Harrold, ECCUS
Sector Director:	Gerardo Corrochano, ECSPF
Sector Manager:	Lalit Raina, ECSPF
Task Team Leader:	Evgeni Evgeniev, ECSPF

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Bulgaria has made great strides in the past six years in improving the business environment by reducing the administrative and regulatory burden on the business sector. In 2008 the World Bank's *Doing Business* ranked Bulgaria one of the world's top ten reformers, as a reduction in regulations and procedures made it easier to start and conduct a business in Bulgaria. Key indicators of the regulatory burden have continued to improve over the past two years. But the global economic crisis has hit Bulgaria hard, and it has been difficult to keep the momentum for regulatory reform strong. In these demanding times, however, it will be even more critical to extend the reform agenda. Bulgaria will need a more friendly business environment with a sound regulatory system to correct for market failures that inhibit investment and innovation.

This report summarizes the findings of three topical studies recently completed by the World Bank: *Administrative and Regulatory Barriers to Business (Volume II)* studies the overall burden of regulation for companies in comparison to other relevant EU peers; The *Ex-Post Impact Assessment of the Act on Limiting Administrative Regulation and Administrative Control on Economic Activity (Volume III)* makes an assessment of how this act has been enforced, identifies and estimates the impacts of the act, and provides recommendations for amendments; *Reforming the Regime of State Fees (Volume IV)* examines how reforms to the structure of state fees could decrease the regulatory burden for firms.

These World Bank reports identify ways in which Bulgaria can further remove obstacles to business regulation. This recognizes that achieving pre-crisis growth levels, raising labor productivity and improving the business environment will require continued reforms to eliminate administrative and regulatory barriers to business. These reports argue that innovative, smart regulation will reduce the regulatory burden for businesses as procedures and regimes are simplified and streamlined. And the government will also benefit from an improved regulatory environment as it will require fewer resources and less time to administer the regulation needed for an efficient economy and a dynamic society.

The adoption of legislation, policies, and institutional reforms have created the foundation for Bulgaria's improvements to its business environment. The enactment of the Act on Limiting Administrative Regulation and Administrative Control on Economic Activity (LARACEA) in late 2003 was considered a significant achievement by economic policymakers. This act remains the basis for meaningful reform going forward. More recently the Bulgarian government cooperated with international partners to improve the institutional framework and monitoring of regulatory policies.

The adoption of the Better Regulation Program 2008–2010 became the cornerstone of regulatory reform. As part of this program, the Better Regulation Unit (BRU) at the Council of Ministers (CoM) was established in 2008, followed by a training program for administration personnel and preparation of regulatory impact assessments of important legislation. In the spring of 2010, under the new administration, the Ministry of Economy, Energy and Tourism developed an Action Plan to reach a target of 20 percent reduction of the administrative burden by 2012, and the government prepared a new Better Regulation Program to cover the period until 2013, which was approved by the Council of Ministers in May 2010.

The regulatory and administrative reforms to date have had concrete results. In surveys of companies in Bulgaria, senior managers report spending less time on dealing with regulations in 2009, compared to 2008 and 2007. And *Doing Business 2011* documents reductions in the number of procedures, the time to register, the cost of registration, and minimum capital requirements. Bulgaria has also reduced corporate taxes and improved the regime of paying

Bulgaria's business environment is ranked in the top third of countries worldwide (51st of 183 countries), but the regulatory burden in Bulgaria is still higher than in most other EU countries. As well as ranking below the well established economies of Europe such as top ranked UK, Denmark, and Ireland, Bulgaria is less attractive to business than other recent EU entrants, such as Estonia, Lithuania, and Latvia. As Bulgaria ranks 7th in the context of the new EU-10, clearly there is room for improvement.

Although Bulgaria has made progress through legislation, policies, and institutions, there is substantial room for improvement in the administration of regulations particularly at the local level. Municipal authorities often add additional burdensome administrative procedures and fees to the cost of doing business, even when in some cases these are directly prohibited by the LARACEA Act. In addition, inefficiencies in the administration of regulation at the local level, such as duplication of documents and a lack of a centralized electronic registry, make it more difficult and costly for both companies and administrators to do their jobs. In 2008, senior managers in Bulgaria reported spending 10.6 percent of their time dealing with requirements imposed by government regulations, a higher figure than in other new EU entrant states.

The regime of state fees is particularly burdensome for business. An outdated legal framework, weak institutional structure, and lack of government policy for setting state fees has resulted in an unchecked increase in fees, which rose by as much as 60 percent between 2005 and 2008. A number of state fees are so high that they seriously harm competition by functioning as barriers to firm entry. Although the State Fees Act specifies that fees should be set to achieve cost recovery, this requirement is largely ignored, and state fees are often used to fund state bureaucracies.

Concern about the predictability of regulation remains higher in Bulgaria than in other new EU entrants. The 2009 Administrative and Regulatory Costs survey indicated that over half the managers of Bulgarian companies felt that regulations were applied inconsistently and unpredictably. The lack of a consistent, predictable, fair, and transparent regime for administrative fees makes doing business in Bulgaria unduly difficult and less competitive.

This report offers several specific recommendations that will help ease the regulatory and administrative burden on companies doing business in Bulgaria:

- **The government needs to develop and adopt a general policy as well as internal guidelines to articulate straightforward criteria for establishing state fees and to improve transparency.** This policy must be backed up by a public institution with the authority to enforce the guidelines, coordinate among institutions and stakeholders, approve the setting of state fees, and monitor results. Clear guidelines and a mandate to enforce them will not only streamline the fee-setting process and make it more equitable, but it will give businesses the confidence in predictable regulation they need to plan for the future.
- **The mandatory use of regulatory impact assessments (RIAs) to evaluate the cost of key legislation on all stakeholders needs to be adopted, as already mandated in the LARACEA Act for new regulatory regimes.** The wider application of RIAs will significantly improve the quality of legislation and policies. Impact assessments will not only ensure that regulation is not unduly burdensome on business, they will answer business leaders' call for increased stability, consistency, and transparency of legislation.
- **An electronic Administrative Register needs to be set up to improve compliance with rules and regulations, and to raise efficiency, predictability, and transparency.** An electronic register at the central and local level would give businesses the knowledge they need to comply with rules and regulations, and provide the administration the tools they need to enforce regulations efficiently.

It would also make administrative procedures clearer, thereby reducing corruption, improving predictability of policies, and increasing the business sector's confidence in stable regulation.

- **Local conditions for doing business need to be improved.** Doing away with redundant rules and inefficient practices at the local level will save businesses time and money. Specifically, there is a need to streamline or eliminate requirements to submit documents that have been issued by the municipal authorities themselves, curb the unlawful imposition of registration regimes, and shorten issuance processes. Improvements could be instigated by pilot programs that follow international best practice models and that encourage competition for efficiency among municipalities. These would complement the development of a fiscal decentralization model for Bulgaria.

Underlying all these reforms, should be a strengthening and enforcing of the LARACEA Act and implementation of the Better Regulation Program 2010–2013. Amendments to the LARACEA Act need to be made so that its objectives are more easily interpreted and enforced, and to ensure that there is a clear avenue for institutional support of its mandate. The Better Regulation Program currently lacks an institutional framework, particularly since the phasing out of the Better Regulation Unit (BRU) in mid-2009. Reinstatement of the BRU as a separate authority with a strong mandate would re-energize the momentum for regulatory reform in Bulgaria. As before, the BRU could report directly to the Prime Minister's office and count on solid long-term financing for the management, monitoring, and control of the Better Regulation Program.

MAIN ISSUES ANALYSIS

Issue	Recommendation	Timeline*
<p>Redundant rules and ineffective practices at the local level. Local administrative services are burdensome for businesses in terms of: (i) enforcement of additional requirements that are not directly related to or necessary for the facilitation of regulated commercial activity; (ii) requirements to submit documents that have been issued or already available from the municipal authorities themselves; (iii) lack of public registers and limited utilization of electronic government tools; (iv) unlawful imposition of registration regimes; and (v) lengthy issuance processes.</p>	<p>Support the implementation of pilot cases that improve local administration practices and conditions for doing business including through regulatory, administrative and institutional reforms that follow international best practice and further the objectives of the Better Regulation Program 2010-2013.</p>	<p>Short-term</p>
<p>Non-transparency of the regime of state fees. The lack of an overall policy, and transparent procedures to set and raise state fees, harms the business climate. Moreover, the link between fee revenues and bonuses that is allowed by the current regime of state fees creates the wrong incentives. The fact that some executive agencies can retain a considerable percentage (25–75 percent) of fee revenues for their own budget and mostly distribute this as bonuses to employees creates an incentive to increase fees. Thus, agencies focus more on the revenue-generating function of fees (and fines) than on the legal requirements, namely the principle of cost recovery. Even where the principle of cost recovery is applied, agencies tend to inflate the cost by including expenses beyond the specific service-related expenses.</p>	<p>Develop a Policy on State Fees, addressing:</p> <ul style="list-style-type: none"> i) identification of the function of state fees; ii) decision on subsidizing or not of the state fees; iii) decision on retaining fee revenues by public agencies; iv) methodology for establishing a cost recovery based approach; v) amendment of the outdated State Fees Act or adoption of a new Act that supports a modern fee structure. 	<p>Short-term to Mid-term</p>
<p>Weak state authority responsible for the Better Regulation Program. The authority to manage, monitor and control the implementation of the Better Regulation Program is split between the Ministry of Economy, Energy and Tourism and the CoM Administration. This institutional framework has the potential to shelve or delay government measures in the regulatory reform area and reduce accountability for results.</p>	<p>Give an official mandate to the Better Regulation Unit at the CoM Administration to report directly to the Prime Minister, with an established budget to carry out this work.</p>	<p>Short-term to Mid-term</p>
<p>Weak enforcement of the LARACEA Act. The scope of the LARACEA Act is limited; there is scant application of the principle of silent consent; the institutional framework is inadequate; and the adoption of a new regulatory regime is not preceded by the development of an <i>ex-ante</i> impact assessment as required by the Act. Moreover, irregular regulatory regimes and superfluous administrative procedures continue to be introduced by municipalities and central authorities without due regard to the requirements in the Act (e.g. introduction of registration regime for commercial establishment at the local level).</p>	<p>Amend the LARACEA Act to increase its scope and improve its:</p> <ul style="list-style-type: none"> (i) administrative implementation provisions; (ii) institutional support resources and functional measures; (iii) rules for calculation of administrative charges including for local level jurisdictions. 	<p>Short-term to Mid-term</p>

III. MONITORING AND REVIEW

Issue	Recommendation	Timeline*
<p>There is no institution in charge of monitoring and approving state fees. It is essentially up to the executive agency or ministry in charge to apply the State Fees Act according to its own interpretation. The Act does not empower the government to adopt secondary legislation on issues such as prescriptions on the application of the cost-recovery principle. No entity within the government has the responsibility to review fee proposals or to request changes. While the CoM is in charge of approving proposals for amendments in tariffs, none of its members would have the time, specific responsibility or the technical knowledge to apply the State Fees Act consistently. This practice results in unpredictability and excessive discretionality in setting of state fees.</p>	<p>Empower a state authority to deal with the regime of state fees and adopt a single-cost calculation model for setting such fees, to be reflected in secondary legislation and/or implementing regulations.</p>	<p>Short-term to Mid-term</p>
<p>Low transparency and predictability of regulations. As per 2009 Administrative and Regulatory Costs (ARC) Survey, over half of the managers of all types of firms in Bulgaria stated that regulations were applied inconsistently and unpredictably. Although taxation is one of the areas that has achieved substantial progress in recent years, the greatest area of concern related to taxation, was the frequency of rule and rate changes.</p>	<p>To increase transparency and predictability of regulations:</p> <ul style="list-style-type: none"> (i) Amend the Law on Normative Acts to introduce the regulatory impact assessment (RIA) as a mandatory tool for important legislation and policies. (ii) Set up an on-line Administrative Register documenting regulatory regimes and procedures to hold public bodies accountable according to a published set of rules. 	<p>Short-term to Mid-term</p> <p>Mid-term to Long-term</p>

*Short-term (<1 year); Mid-term (1-3 years); Long-term (>3 years).

INTRODUCTION

Removing regulatory obstacles that create barriers to business is a major objective for economic policymakers.¹ There is broad understanding among policymakers and development practitioners that microeconomic reforms aimed at strengthening property rights, unleashing competition, and reducing the cost of doing business are critical to creating a sound investment climate and promoting economic growth (World Bank 2004; World Bank 2005; Lewis 2004). It is also commonly agreed that these changes need to be credible and sustained for private firms to respond by increasing investment and production (World Bank 2005).

This report summarizes the findings of three topical studies of the World Bank: *Administrative and Regulatory Barriers to Business (Volume II)* studies the overall burden of regulation for companies in comparison to other new EU peers and specifically assesses IT and manufacturing companies and the role of key stakeholders. The *Ex-Post Impact Assessment of the Act on Limiting Administrative Regulation and Administrative Control on Economic Activity (Volume III)* makes an assessment of how the act has been enforced, identifies and estimates the impacts of the act, and provides recommendations for amendments. *Reforming the Regime of State Fees (Volume IV)* examines how reforms to the structure of state fees could decrease the regulatory burden for firms.

The private sector responds far better when it has confidence that the state will not reverse or supersede regulatory decisions by changes in policies or legislation. The more uncertain and risky the legal and administrative environment for economic activity, the more likely it is that aggressive rent-seeking and short-term profit-taking will replace longer-term investment (FIAS, 2009). Successful regulatory reform is therefore not just about cutting the immediate regulatory barriers or administrative burden but also about making a good investment climate an ongoing objective in policymaking.

Reducing regulatory costs and barriers to entry and exit can support the recovery and boost long-term growth. Relatively easy access and exit from the market facilitates the reallocation of productive resources, as inefficient firms pull out of the market and allow for the growth of new dynamic firms. In order to become fully operational, firms also need to obtain licenses and deal with inspectors for standards, health, safety, and environmental protection. Superfluous, inefficient administrative procedures and inspections, or illegal practices that affect the regulatory regimes at the central and municipal levels, cost businesses unnecessary time and money, reducing their productivity and potential to grow.

Well-designed and applied administrative procedures can help stimulate business productivity as well as reduce public sector costs. The private sector is the most obvious beneficiary of streamlined administrative processes because it becomes more competitive and operates more predictably under established rules. However, the government also benefits from an improved regulatory environment. Innovative or so called “smart regulation” reduces the regulatory burden for businesses when procedures and regimes are simplified and streamlined. At the same time, the public sector becomes more efficient as it requires fewer resources and less time to administer.

¹ Regulation is often used to mean legal or administrative instruments to achieve policy objectives, whereas the costs to a company of providing information to the Government or a third party (consumers or shareholders), which are imposed by regulations, are referred to as regulatory costs.

Bulgaria has made progress in recent years with the Better Regulation Agenda. Upon joining the EU, Bulgaria made progress in the area of regulatory reform by adopting the European legislation through the *acquis communautaire*. In 2003, the country moved forward with the adoption of the Act on Limiting Administrative Regulation and Administrative Control on Economic Activity (LARACEA) and with the establishment of the Council for Economic Growth (CEG) one year earlier. In fact, the CEG promoted the introduction of Regulatory Impact Assessment (RIA) in Bulgaria, which was also an important step forward. In 2007, the Ministry of Economy and Energy emerged as a strong champion of Regulatory Policy and RIA initiatives by working closely with other line ministries, business associations, think tanks, and the World Bank. One year later, the leadership role was transferred to the Better Regulation Unit at the Council of Ministers (CoM) Administration, directly reporting to the Prime Minister.² This Unit took the lead in coordinating government efforts to prepare the Better Regulation Program 2008-2010.³ The government put regulatory reform at the top of its agenda, and business' confidence in the government increased in this area, as reflected in 2009 surveys among firms and the *Doing Business* indicators.

However, local conditions for doing business are lagging behind. In 2009, 167 municipal regimes were abolished. For instance, the “Registration of a Commercial Establishment” regime introduced in contravention to national legislation by 140 municipalities was eventually revoked in 110 of them by 2009. However, about 30 municipalities continue to illegally apply this regime. In addition, municipal authorities enforce additional administrative procedures (formalities) which cost money and time for business. For instance, some of the documents required from businesses are already available in government records or are generated by the local authorities themselves (e.g., submission of a document that proves the payment of local taxes and fees). Furthermore, public registers are not used and electronic submission of documents is not practiced at the local level.⁴

The new Administration has contributed to progress in the area of regulatory and administrative reforms. The government came to power in July 2009 and soon afterwards created the Council on Administrative Reform as an Inter-ministerial council chaired by the Minister of Finance. Proposals for a reform in the field of payments in the state administration were discussed, and a government report is expected to come out on the state administration payment system. In addition, a reform for streamlining of the administrative structure was initiated in September 2009—a 15 percent cut in administrative expenditure was targeted by the end of 2010. Furthermore, the Ministry of Economy, Energy and Tourism prepared in the spring of 2010 an Action Plan for reduction of the administrative burden for business by 20 percent until 2012,⁵ and in May 2010 the Government approved a new Better Regulation Program, developed by government authorities, covering a period until 2013.⁶

² See World Bank (2008a) for more on policies of the Bulgarian Government in the regulatory reform area.

³ Results from the first year of the Better Regulation Program are summarized in World Bank (2010a).

⁴ The administration often asks the business to provide their court registration and Unified Register for Identification of Economic and Other Subjects (BULSTAT), which the administration can access itself because the information is available in the public registers.

⁵ The Action Plan is available at www.moe.gov.bm/bulstat.

THE OVERALL BURDEN OF REGULATION

The regulatory system impacts day-to-day business transactions and shapes the incentive framework for investment, which can have multiplier effects for the effective contribution by private enterprises to the economy. Reducing the burden of regulation, therefore is not only a matter of administrative reform, but is also intricately integrated with economic policy making and putting in force an enabling economic environment.

The Better Regulation Agenda in Bulgaria is challenged by the impact of the global financial crisis. The recession in high-income countries, which had an impact on the demand for Bulgaria's exports, and the global financial crisis, which reduced capital inflows and lowered domestic demand, hit Bulgaria in late 2008, and the economy contracted.⁷ The new Bulgarian government introduced prudent fiscal policy and achieved a low gross debt level as a response to the global financial crisis.⁸ However, this had the unfortunate effect of pushing the regulatory reform agenda to the periphery of government priorities. One of the reasons for this was that the agenda envisioned cost-reducing payments (e.g. fees) from businesses, which implied reduced revenues for the government. In times of fiscal consolidation, the tradeoff became difficult.

Given the depth of the downturn affecting Bulgaria's economy, it is crucial to develop a business-friendly environment that will help increase productivity. The Bulgarian government needs to sustain its efforts to raise labor productivity and to compete on global markets. Bulgaria will need a labor force with the capacity to innovate—absorb, adapt, develop and commercialize new technologies and processes. And Bulgaria will need a more friendly business environment with a sound regulatory system to correct for market failures that inhibit productive and innovative investment and to reconcile the interests of firms with the interests of economic and social development.

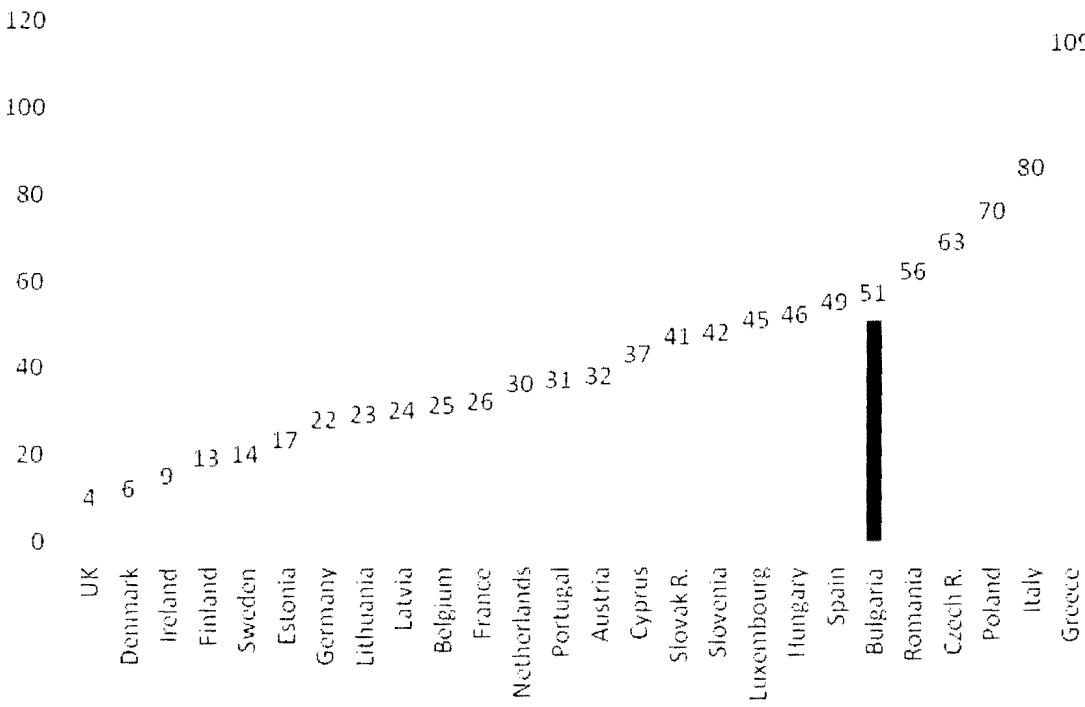
2.1 Bulgaria's “Doing Business” Standing

Regulation in Bulgaria is not as burdensome as it is in many countries in the world, but Bulgaria's ranking in the *Doing Business* is less favorable than that of many EU countries. In the most recent *Doing Business 2011* (World Bank, 2010c), Bulgaria ranked 51st out of 183 countries, similar to its ranking last year (World Bank, 2009a). Although this shows that regulation is not as burdensome as in many countries, Bulgaria compares less favorably with other countries in the EU and with the new entrants to the EU (Figure 1). This suggests that Bulgaria could improve its ranking.

⁷ Unlike in high-income countries, the global financial crisis is having a different impact in Bulgaria — it is not a financial crisis, but it is a demand crisis. In addition, the real exit rate for firms in Bulgaria has been much higher than expected. For more information, see Ramalho, Rodríguez-Meza, and Yang (2009), and Correa and Iootty (2009).

⁸ International rating agencies, like Moody's and Standard & Poor's, have increased their ratings for Bulgaria in recent years, reflecting the government's commitment to reducing the burden of regulation. Bulgaria is currently rated Baa3 by Moody's and AA- by Standard & Poor's.

Figure 1: Bulgaria keeps 51st position in *Doing Business 2011*



Source: Doing Business 2011 (World Bank, 2010c).

Note: Data is not available for Malta.

The fact that there is still room for improvement should not overshadow the progress that Bulgaria has achieved over the past few years with respect to its *Doing Business* rankings. Although there have been some areas in which Bulgaria's relative positions have stayed the same (e.g., protecting investors) or even gotten worse (e.g., number of procedures and time to get a construction permit), Bulgaria has improved in many aspects (Table 1). For example, reductions in the number of procedures, the time to register, the cost of registration, and the minimum capital requirement have made starting a business considerably easier since 2004. Similarly, the total tax rate and the number of payments have been reduced.

Table 1: Although improvements have not been uniform—and some setbacks have occurred—Bulgaria's *Doing Business* ranking has improved since 2004

Indicators		2004 or earliest available	2010
Starting a Business	Procedures (number)	11	4
	Time (days)	32	18
	Cost (% of income per capita)	10.4	1.6
	Min. capital (% of income per capita)	86.7	0.0
Dealing with Construction Permits	Procedures (number)	20	24
	Time (days)	127	139
	Cost (% of income per capita)	475.2	442.3
Registering Property	Procedures (number)	9	8
	Time (days)	19	15
	Cost (% of property value)	2.4	3
Getting Credit	Strength of legal rights index (0-10)	8	8
	Depth of credit information index (0-6)	3	6
	Public registry coverage (% of adults)	1.3	37
	Private bureau coverage (% of adults)	0	13.1
Protecting Investors	Extent of disclosure index (0-10)	10	10
	Extent of director liability index (0-10)	1	1
	Ease of shareholder suits index (0-10)	7	7
	Strength of investor protection index (0-10)	6	6
Paying Taxes	Payments (number per year)	31	17
	Time (hours per year)	616	616
	Total tax rate (% profit)	46	29
Trading Across Borders	Documents to export (number)	7	5
	Time to export (days)	26	23
	Cost to export (US\$ per container)	1233	1551
	Documents to import (number)	10	7
Enforcing Contracts	Time to import (days)	25	21
	Cost to import (US\$ per container)	1201	1666
	Procedures (number)	40	39
Closing a Business	Time (days)	564	564
	Cost (% of claim)	23.8	23.8
	Recovery rate (cents on the dollar)	33.8	31
	Time (years)	3.3	3.3
	Cost (% of estate)	9	9

Source: *Doing Business* 2011 (World Bank, 2010c).

Note: The most recent *Doing Business* 2011 report refers to data obtained by June 2010.

Improvements in the area of regulation have continued. *Doing Business 2011* (which includes data through June 2010) reports that since *Doing Business 2010* the CEDB-led government had reduced minimal paid-in capital for limited liability companies to EUR 1 from EUR 2,500 and decreased the total tax rate by 2.4 percent, reaching 29 percent of profit. The indicator “Getting a Credit” improved due to an increase in public registry coverage (37 percent of adults compared to 34.8 percent the previous year) and private bureau coverage (13.1 percent of adults compared to 6.2 percent the previous year). These results demonstrate the potential for continued improvement along a number of dimensions.

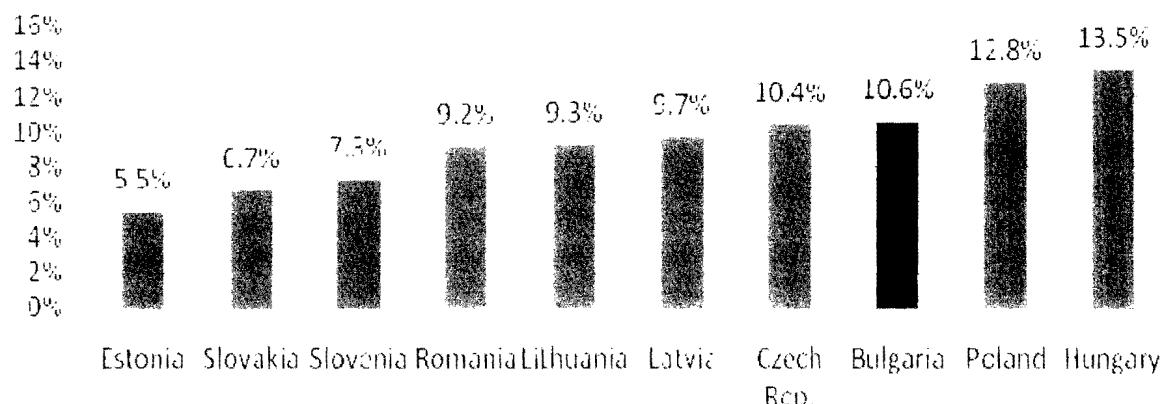
There is a need for further government efforts in specific areas, such as dealing with construction permits, enforcing contracts, and closing a business. Bulgaria is far behind in terms of *dealing with construction permits*. Estonia, ranking highest among new EU members in terms of this indicator, has 14 procedures, taking 134 days and 29.9 percent of income per capita.⁹ *Enforcing contracts* is another indicator that requires further improvement. In contrast

to Bulgaria, in Hungary this takes 35 procedures, 395 days and costs 15 percent of the claim.¹⁰ Furthermore, to *close a business* in Slovenia it takes 2 years, and it costs 4 percent of the estate, with a recovery rate of 50.9 cents on the dollar, which is much less than in Bulgaria (Table 1).¹¹

2.2 Findings from Enterprise Surveys

There are differences between the *Doing Business* indicators and survey data.¹² These differences can indicate uneven implementation of regulatory requirements, differences between written regulations and the way regulations are implemented, and differences in the scope of coverage.

Figure 2: Bulgarian firms reported spending more of their time dealing with regulations in 2008 than firms in other recent entrants to the EU



Source: BEEPS (2008-09).

Note: Figure 2 includes information on all sectors, not just manufacturing firms.

Senior managers in Bulgaria report spending 10.6 percent of their time dealing with requirements imposed by government regulations, although this differs across sectors and types of companies. This was slightly higher than in most other new EU member states (Figure 2). For example, managers in Estonia reported spending on average only about 5.5 percent of their time. As per ARC survey findings, senior management of a *new* Bulgarian manufacturing firm spent 10 percent of their time and the average manager of an IT firm reported that their senior management spent about 11 percent of their time dealing with regulatory requirements (Figure 3).¹³

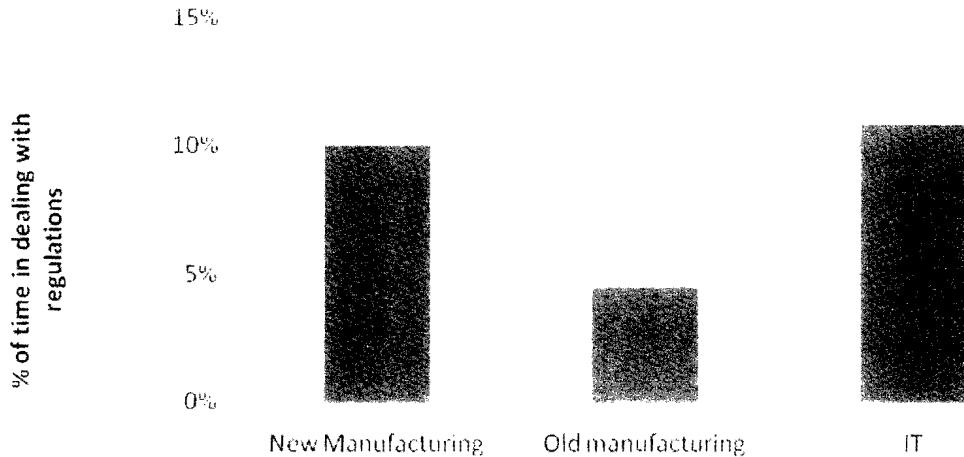
¹⁰ In Luxembourg, ranking highest among EU members, it takes 26 procedures, 321 days, and costs 9.7% of the claim. A new Civil Procedure Code, enacted in July 2007 and effective from March 1, 2008, addresses the issue of enforcing contracts in Bulgaria. However, there are many other indicators, assessing the judicial performance, that are not covered by the *Doing Business* or enterprise surveys. As per *Bulgaria: Resourcing the Judiciary for Performance and Accountability* (World Bank, 2008b), the judicial system demonstrates modest improvements. Even more, in some areas, it seems to be deteriorating, demonstrated by indicators pertaining to case disposition, case allocation, and average cost per case.

¹¹ In Finland, ranking highest among EU members, it takes less than a year to close a business and costs 4% of the estate with a recovery rate of 89.4 cents on the dollar.

¹² A new Administrative and Regulatory Costs (ARC) Survey, carried out as part of the report *Administrative and Regulatory Barriers to Business (Volume II)*, provides evidence on the reduction in the burden of regulation. The survey was conducted between May and October 2009. The survey covered 318 manufacturing and information technology (IT) firms. It was commissioned by the Better Regulation Unit at the CoM and was conducted by AFIS Agency. The research tool was developed by the World Bank team. For more information, see World Bank (2010b). This survey, as well as the earlier Business Environment and Enterprise Performance Survey (BEEPS) and Enterprise Survey, collect information on firms' actual experience with regulations and regulatory authorities.

¹³ Throughout the report, whenever the term the 'average manager,' 'average firm,' or 'median firm,' or 'median manager' is used, it refers to the average or median response on that particular question. This is used because it is less cumbersome than referring continually to the 'average.'

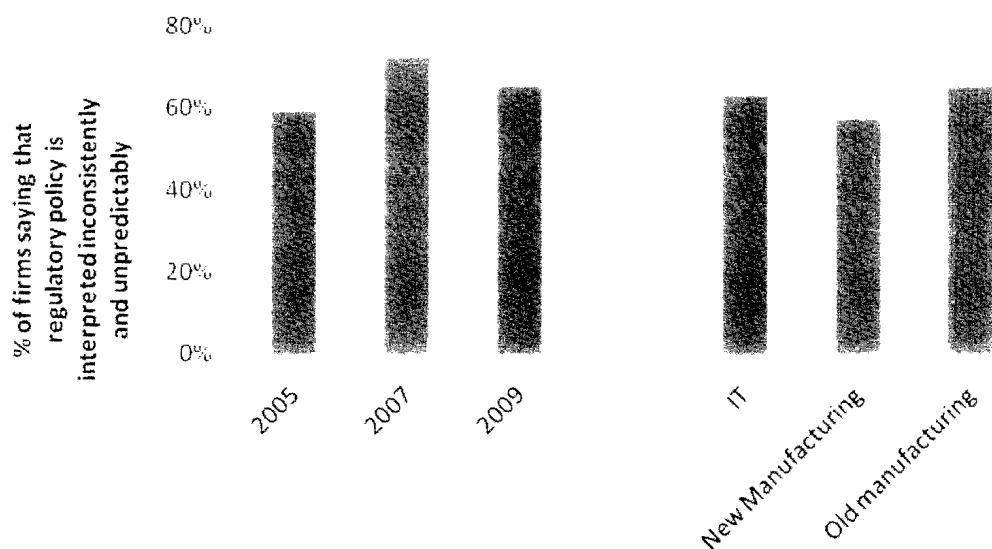
Figure 3: Firms report that their senior managers spend about 5 to 10 percent of their time dealing with regulatory requirements in 2009



Source: Bulgaria ARC Survey (2009).

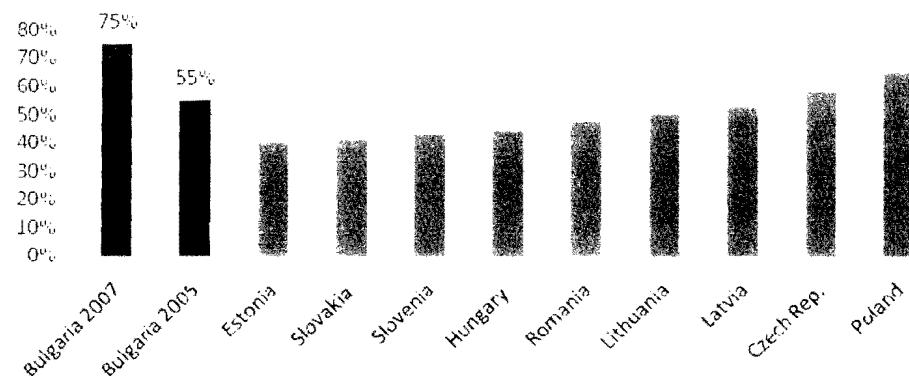
Although the burden on managers has fallen in recent years, a continuing concern is the consistency and predictability of how regulations are enforced and interpreted. Over half the managers of all types of firms in the ARC Survey said that regulations were applied inconsistently and unpredictably (Figure 4). Although high, this figure has dropped since the 2007 Enterprise Survey when as many as three quarters of respondents expressed this concern, more than any other new EU entrant (Figure 5). Substantial progress was made in taxation in recent years, but the greatest area of concern related to taxation was the frequency of rule and rate changes.

Figure 4: Fewer managers of manufacturing firms said that regulatory policies were interpreted inconsistently or unpredictably in 2009 than said the same in 2007



Source: Bulgaria ARC Survey (2009), Enterprise Survey (2007), BEEPS (2005).

Figure 5: In 2007, firms in Bulgaria were more concerned about the predictability and consistency of how regulations were interpreted



Source: BEEPS (2005) and Enterprise Survey for Bulgaria (2007).

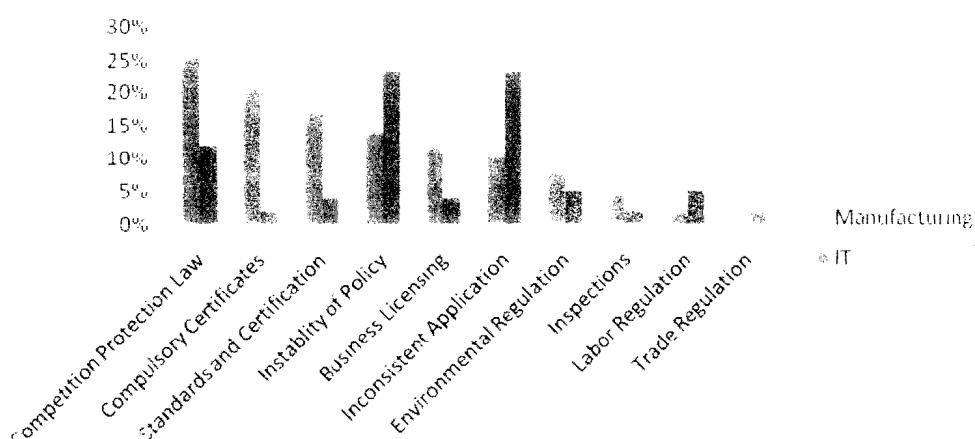
Note: 2005 BEEPS data are provided for all other new EU member states. This figure contains information on all firms — not just manufacturing firms.

2.3 Comparing the Perceptions of Manufacturing and IT Firms

The ARC Survey distinguished manufacturing firms, new manufacturing firms (established after 2006), and firms in the IT sector, including companies that are located in Sofia, Plovdiv, Varna, and Bourgas.¹⁴

The areas of regulation that manufacturing firms considered most problematic were competition protection, compulsory certificates, standards and certification, and instability of regulatory policy. Between 14 and 26 percent of manufacturing firms in the ARC Survey stated that these were serious problems (Figure 6). Concern about the instability of regulatory policy was consistent with the data from the 2007 Enterprise Survey.

Figure 6: IT firms had different perceptions about regulation than manufacturing firms



Source: Bulgaria ARC Survey (2009).

¹⁴ Bulgarian manufacturing has increased its importance lately. In fact, as per EUROSTAT data, the share of manufacturing production in Bulgaria between 1999-2006 increased, unlike the EU-25 average. Moreover, the manufacturing industry accounts for 89 per cent of total export in 2009. In the economic context, IT has become very significant too. The annual rate of value added increase for the IT sector in Bulgaria is 21 per cent, which is much higher compared to the EU-25 average (4 per cent), as per EUROSTAT data and estimates by the Ministry

Managers are not imposed to raise extra funds. Generally, the analysis indicates that, for comparable regulatory regimes examined, local governments do not impose fees simply to raise regulatfunds. The fees cover the expenses relating to the provision of the service.

The timeframe for issuing administrative decisions in accordance with regulatory regimes is generally reasonable.

- **Duplication of documents needs to be reduced.** Some of the documents required by

2.4 **Regulation** municipal authorities from businesses are available in government records or generated by the local authorities themselves (e.g., proof of local taxes and fees). This duplication

The Better Regulation measure to improve information exchange between institutions would solve this problem.

- ~~measures~~ public registers need to be used to publish decisions. The municipalities do not make use of public registers to publish the decisions issued in accordance with the regulatory regimes. This would allow businesses and citizens to exercise control over the quality of services provided to them.

- Electronic submission of documents needs to be increased.** Although the procedures legislation by 140 municipalities, and documents required for the issuing of a construction permit are posted on the web-municipalities continue to apply this rule, applications and documents cannot be submitted electronically.

The regime for registration of a commercial establishment is still used in some municipalities and should be abolished, because it contravenes national legislation to the Administrative Court.

A recent study of the subnational regulatory environment compared all 28 districts in Bulgaria. A index for local conditions for doing a business was constructed based on six indicators: local taxes, local fees, regulation of economic activity (existence of unlawful registration of commercial establishment regime), electronic government, administrative services, and corruption in local authorities. It has been introduced by 77 percent of central administration structures, 96 percent of regional and 100 percent of local authorities. The major findings of the Bulgarian subnational study are:

A review of four regulatory regimes as a result of the Bulgarian transition finds that administrative burden at the local level is substantial. This is evident even though local fiscal decentralization has not been achieved in Bulgaria yet. It is particularly interesting to note that the largest municipalities rank very low in terms of categorization of rules for doing business. For instance, Varna is ranked 24th, Bourgas (22nd), Municipia (19th) and Plovdiv (10th). The results indicate that Bulgaria's regulatory environment is not fit for the development of its economy.

- **There are unnecessarily high local taxes and local fees.** Some municipalities, including Stara Zagora, Smolyan, and Pleven, impose both high taxes and fees, which The main conclusions of these case studies show.
 - **Compliance with taking the last three positions in the ranking of regulations implemented at the local level** indicates that most of the municipalities with negative station and do not have the required administrative capacity.
 - **There is no linkage between the quality of administrative service and the availability of electronic government systems.** Municipalities, such as Lovech, Yambol, and Sliven, which rank high in terms of the quality of administrative services, do not rank high in terms of availability of electronic government systems; facilitation of regulated business.
 - **There seems to be no correlation between the size of municipalities and the corruption index.** Some small municipalities are perceived by business to have low corruption (e.g., Silistra and Targovishte, 1st and 2nd rank), while other small

¹⁵ Many of these municipalities are perceived to have high corruption (e.g., Yambol and Pazardjik, ranking 28th and 25th). But some large municipalities (e.g. Bourgas and Varna, 24th and

¹⁶ See World Bank ranking 28th and 25th). But some large municipalities (e.g. Bourgas and Varna, 24th and ibid. 27th rank) are also perceived as having high levels of corruption.

¹⁸ It should be stressed that the term corruption is used here in its broadest sense.

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SECTION III

IMPROVING THE ACT ON LIMITING ADMINISTRATIVE REGULATION AND ADMINISTRATIVE CONTROL ON ECONOMIC ACTIVITY

The Act on Limiting Administrative Regulation and Administrative Control on Economic Activity (LARACEA) exerted a favorable influence by reducing regulatory and administrative burdens on business, but the Act needs to be amended to make a stronger impact. Despite the progress in reducing regulatory and administrative burdens, several obstacles persist in the enforcement of the Act. The World Bank (2010a) conducted an *ex-post* impact assessment of the LARACEA Act. The study concluded that the major problem for the Act is “*the broad state intervention in economic activities as manifested by the presence of a large number of regulatory regimes introduced by special laws that result in reduced transactional efficiency and competitiveness of the economy.*”

3.1 Context

The adoption of the LARACEA Act was a significant step forward in the process of regulatory reform in Bulgaria. The LARACEA Act was adopted in 2003 to facilitate and encourage economic activity by defining and placing openly justified limits on the regulations and controls imposed on businesses by national and local government bodies. The Act was intended to reform the regulatory environment by simplifying administrative regimes and administrative control.

Through its most important provisions, the LARACEA Act:

- i. Sets up the **guiding principles** of legislation and administrative procedure related to economic activity. Among these, the principles of economic freedom (proclaimed by Art. 19 of the Constitution), proportionality, and legitimate expectations are of particular importance;
- ii. Provides that all **regulatory regimes** and requirements for permits, certifications and notifications of separate deals and actions must be **substantiated in a law**. It defines two types of regulatory regimes: licensing and registration;
- iii. Introduces the requirement that **regulations at all levels must be justified** by a clearly defined necessity (from the viewpoint of national security, environmental protection, or the personal and material rights of individuals), thus limiting the discretionary power of regulators;
- iv. **Introduces compulsory *ex-ante* economic analysis and impact assessment for each regulation**, which must be made public, as well as a requirement for informing in advance those persons (stakeholders) who will have obligations or be subject to restrictions by virtue of a new regulation;
- v. **Limits the power of administrative bodies** to require applicants to submit proof of circumstances which are certified before another administrative body and which are properly entered in a register;
- vi. **Defines the obligations** of the administration in exercising its powers;
- vii. Introduces the principle of “**silent consent**” for issuing permissions and certificates;
- viii. Constitutes the **main set of rules for executing control** on business activities;
- ix. **Adopts a list of economic activities** covered by a licensing regime.

The purpose of the Act was to establish rules restricting unjustified intervention of state and local authorities in the activity of entrepreneurs and commercial companies. A majority of experts and business leaders believe that the Act created the basis for a more favorable regulatory environment in Bulgaria.

However, some proposals in the initial draft were not included in the adopted version of the Act. These included issues such as, (i) considering the option of non-introduction of a regulation; (ii) the requirement for official exchange of information and documents among institutions;²¹ (iii) the application of the principle of “silent consent” to registration regimes; (iv) the possibility for the administration to authorize business associations to perform self-regulation, and other matters. Since its adoption, the Act has been modified sixteen times.

Implementation of the Act has been inconsistent, and there have been high levels of non-compliance with the provisions of the Act on the part of central authorities and municipalities. The Act did not amend secondary legislation, which resulted in illegal application of regulatory regimes by the executive and by local municipalities. In addition, the LARACEA Act was designed as a common legal Act, to become a clear model for administrative regulation and control. It was intended to serve as a sound basis for the creation of a package of special administrative acts that would affect the business environment. Some of the provisions of the act—including deadlines for issue of registration approval by public authorities and introduction of the principle of “silent consent”—exist only *de jure*.

3.2 Key Issues

The report *Ex-Post Impact Assessment of the LARACEA Act* (Volume III in this series) found that the LARACEA Act was critical in advancing regulatory reform and improving the business environment in Bulgaria, but also identified several shortcomings:²²

- **Limited scope of the Act.** The Act stipulates the main principles of regulatory impact by distinguishing between two types of regulations: (i) licensing and registration regimes and (ii) regulations referring to individual deals or single actions. However, most of the regulation of business remains beyond the scope of the Act and is subject to the Administrative Procedures Code and other special laws.
- **Limited application of the principle of “silent consent.”** Art. 28 of the Act states that this principle, whereby a business application is presumed to be approved unless it is denied within a certain period of time, applies to the issue of permits and certificates for individual deals or actions, unless otherwise provided by another law. In general, special laws avoid the application of the principle of “silent consent.” Only six laws apply this principle.
- **The adoption of a new regulatory regime is not preceded by the development of an *ex-ante* impact assessment as required by the Act.** No *ex-ante* impact assessment is ever made during the drafting and submitting of new regulatory regimes. The Act also mandates that the impact assessment be published on the Internet or made public in another adequate way; this also is not the practice. Most of the 16 amendments to the Act relate to the introduction of new regulatory regimes, yet there is no evidence that this requirement of the Act has been fulfilled.

²¹ This principle was introduced later on by amendment to the Law, SG 74/2009.

²² World Bank (2010b). The report also outlined a policy framework by focusing on the coherence and consistency with governmental and EU policies and initiatives, as well as by touching upon relevant documents on regulatory reform, followed by analysis of the goal and objectives of the Act and identification of performance indicators.

- **Inadequate institutional framework.** The Act does not have an adequate institutional framework. This results from three main factors:
 - ***Lack of an effective sanction and control system for enforcing the Act.*** Although a sanction and control system has been created to ensure that public officials carry out their duties as per the Act, it is non-functional and not applicable, since the responsibilities to impose sanctions are assigned to the heads of administrative structures.²³
 - ***Lack of a truly functional integrated register of administrative regimes.*** The Act contains only a list of licensing regimes and the requirement that all administrative bodies that issue licenses and make registrations shall keep a special register for each procedure. A study of 41 existing licensing regimes indicates that in 12 of them either no register is available, or a register exists but is not publicly accessible, which contravenes the provisions of the Act.²⁴
 - ***No official authority holds clearly assigned responsibility under the Act for its implementation, to control its performance or to suggest necessary amendments.*** The lack of such responsibility can hardly be compensated by the general administration of the CoM, or another functional or line ministry. Given the findings of this report, the Act has not been incorporated as an integral part of a general strategy for reduction of administrative burdens on business and restricting bureaucratic interference. This demands constant efforts on behalf of the government, since bureaucracies do not tend to readily surrender their powers and prerogatives.

These problems generate several impacts:

- **High costs to businesses related to applying for and obtaining licenses, registrations, permits, and certificates.** These costs can be measured both in terms of financial expenses and of loss of valuable time. In financial terms, the most important are the losses resulting from fees for permits (Table 1). Sometimes these fees are unrelated to the real costs of services delivered to business and are used rather as a tool for generating income for the bureaucracy.²⁵ In this way, services are double-financed: first, tax-payers pay, and the budget distributes resources for administrative services to business, and, second, the same service is financed again in the form of additional material incentives to officials in administration.

²³ As per Art. 30 (1) of the LARACEA Act, the mayor or the minister is to impose a fine of BGN 1,000 (EUR 500) to 5,000 (EUR 2,500) on an official of his/her own administration for not implementing the provisions of the Act, unless another sanction is applied. Hence, there is no external sanction or control mechanism over civil servants. This makes it likely that delays or mistakes by civil servants go unpunished. An additional disincentive for sanctions is that the amount of a possible fine is very high. Another factor is that businesses are subject to numerous inspections resulting from multiple types of administrative regulations; this increases the possibility of one or more officials violating the terms of the Act.

²⁴ Attempts so far to build such registers have achieved only partial success. The first to be created was the Register of Administrative Structures and Administrative Acts at www.government.bg/_ras/regimes/index.html. Though still accessible on the Internet, this Register has not been updated recently. It lacks a list of introduced registration regimes, procedures on different regimes are not presented, and the classification of regimes is not correct (e.g., so-called coordination regimes exist). The other functioning register, which can be found at <http://www.egov.bg>, features a better structure. However, listed regimes are not grouped and classified properly. In addition to the regimes stipulated in the Act, there are also regimes for permission, notification, certification, etc. Information on the site is not regularly updated. For instance, it still contains the procedure for issuing licenses to expert evaluators, even though such licenses have been abolished. Internet links to institutions responsible for carrying out the procedures are missing. Although the site was designated as a single point of contact under Directive 2006/123/EC, it lacks both the required functionality to serve the purpose and an English version.

²⁵ For example, the fee for registration of a pharmacy was BGN 5,000 since 2000. This led to lack of pharmacies in the village areas. After the amendment of the Law on Medicinal Products for Human Use from December

Fees Act does not empower the government to adopt secondary legislation on issues addressed in the Act; there are no specific statutory guidelines or prescriptions for the application of the cost-recovery principle by the central administration. Similarly, the government has not issued internal administrative provisions in this area; each ministry and executive agency applies its own methodology when proposing new fees or raising existing fees.

DEVEL. P. 1

RECOMMENDATIONS

4.2 Key Issues

The Regime of State Fees in Bulgaria

~~Several observations can be made regarding the fee structure in Bulgaria:~~

~~business associations and NGOs~~ **State fees have increased significantly.** A Government report from 2009 assessed the Bulgarian fee increase of 19 tariffs between January 2005 and November 2008 and concluded that “the total average growth in percentage of the fees (excluding the Ministry of Health State fees as per the Medicinal Products in Human Medicine Act) is 60 percent.” This is partly the result of newly established services (49 percent), and partly because of an increase of existing fees (50 percent). The Ministry of Health increased its fees significantly above the average. If the Ministry of Health’s tariff is included in the total calculation, the total average increase of fees would soar to 183 percent, out of which the weight of the newly established fees is 73 percent, and the increase of the amount of fees is 27 percent.

The report Bulgaria: Reforming the Regime of State Fees Volume IV, analyzed the legal, institutional and administrative framework for setting state fees and provided recommendations based on good international practice. The general conclusion from this diagnostic review is that the regime of state fees’ complexity is both a factor interfering with the market economy and a potential opportunity to effectively streamline it. The legislative and institutional aspects of boosting growth and competitiveness.

The lack of a consistent, predictable, fair, and transparent regime for administrative fees makes doing business in Bulgaria unduly difficult and less competitive. SMEs, in

4.1 Context face high and ever-changing entry licensing fees or annual fees that can constitute a heavy financial burden.

The Bulgarian central administration has a total of 91 tariff regulation in place, as of 2009. There is insufficient information about the level of administrative fees. Despite the observation that administrative fees have increased significantly since 2005, it is not clear whether the current level is excessively high. As a snapshot of only a small number of administrative procedures from *Doing Business 2009*, it can be concluded that administrative fees in Bulgaria are not significantly higher than those of other countries in the region or of OECD countries. But the survey covers only the most important administrative fees; the cumulative effect of many small fees can also be burdensome.²⁷ A comparison with the best EU performers shows that there is a lot of room for improvement: “*Simple administrative expenses, required for providing the service*”.

Several shortcomings of the regime of state fees were identified as being responsible for the numerous coordinated, inconsistent, and inequitable fee structures – otherwise in

A lack of policy objectives is one reason for the unchecked spread of tariffs. There are different types of policy objectives that are relevant for administrative fees: *full cost recovery* matches overall revenues with overall costs (e.g., the Australian cost recovery program); *incentive functions* stimulate economic activities (e.g., Danish Commercial

²⁷ State and Companies’ Agency); *social functions* provide assistance to lower income groups (e.g., Germany, Federal Law on Administrative Costs).

²⁸ Art. 4 (letter o) of the Fees Act.

²⁹ Art. 1, State Fees Act.

³⁰ Cost recovery is “... a common function of law...” (Art. 1, State Fees Act.)

This general *general cost calculation* in which the overall costs are calculated for a specific administrative unit.

This cost must then be offset by fees paid for an estimated number of applications.

Recovery as equity perspective; the cost-recovery method aims to set fees equal to the administrative costs ~~assimilated~~ with the individual or class of application(s). An instrument to achieve this goal is a *single cost calculation* in which the average administrative cost associated with a specific application is calculated and

no general statement or overall policy by the government on the function or criteria for setting fees.

- ***An inadequate legal framework hinders the transparent and equitable setting of fees.*** The general guideline of cost recovery as per the State Fees Act is a good start, but it fails to address the complex fee structure that is in place. It does not allow for exemptions and does not empower the government to adopt regulations on the specifics of fee-setting mechanisms. Such regulations are required for the efficient interpretation of the term “cost recovery.” Furthermore, sector laws allow for retaining fees, but there is no provision on the distribution of such funds. These funds can be significant, and straightforward principles of transparency and equality should be stated.
- ***A lack of supporting (internal) rules and guidelines makes it difficult to set and calculate consistent tariffs.*** A common methodology would not only ensure a consistent fee regime but would also streamline the fee setting process for the institutions involved. With more detailed rules, the process would become smoother and more automatic. A successful example is the State of Hamburg, where every two years each fee-collecting authority must submit a cost calculation for the next calendar year that includes definitions of the administrative unit, the time period, and all personnel and non-personnel items involved in the delivery of the service for which the fee is requested.³²
- ***There is no government institution or department in charge of monitoring the implementation of the State Fees Act.*** It is essentially up to the executive agency or ministry in charge to apply the Act according to its own interpretation. The Council of Ministers is in charge of approving proposals for amendments in tariffs, but its members do not have the time, specific responsibility, or knowledge to apply the State Fees Act consistently. This practice results in unpredictability and excessive discretionality when it comes to the setting of state fees. This is also true for the distribution of retained fee revenues within collecting executive agencies.
- ***Distorted incentives can cause fees to rise.*** Some executive agencies retain a considerable percentage (25–75 percent) of fee revenues for their own budget and distribute these funds as bonuses to employees. This creates an incentive to increase fees. Agencies focus more on the revenue-generating function of fees (and fines) than on the legal requirements, namely the principle of cost recovery. Even where the principle of cost recovery is applied, agencies tend to inflate the cost by including expenses beyond specific service-related expenses. This does not mean that performance-related bonuses should be eliminated. It is the link between fee revenues and bonuses that creates the wrong incentive. Stipulating alternative ways to assess and reward performance is recommended.
- ***Illegal fee setting remains a problem.*** The State Fees Act is clear that cost recovery should be the criterion applied in setting fees. However, restrictive and revenue-generating fees that violate this principle continue to be levied by various institutions and are costly to Bulgarian business.

³² See World Bank (2009b). *Categories of Costs:* a) Personnel; cost of personnel depends on the structure of the respective administrative unit. The Revenue Authority issues every year salary tables to be used in the cost calculation. They will be converted in hourly rates for the cost calculation of services; b) Non-personnel costs; this item includes the cost of the work place, travel costs, cost of vehicles plus insurance and maintenance, training costs, rent/lease/mortgage of buildings and others (archive, data collection, etc.); c) Capital costs; depreciation, *Estimated Categories of Income:* a) Estimated income from administrative fees based on the current fee structure

CONCLUSIONS AND KEY POLICY RECOMMENDATIONS

As a whole, regulation in Bulgaria is not as burdensome as it is in many countries in the world. And enterprise surveys suggest that the burden of regulation on business managers in Bulgaria has fallen in recent years, as discussed in Section II. In fact, in 2008, *Doing Business* listed Bulgaria as one of the Top 10 reformers in the world as reductions in the number of procedures, the time to register, the cost of registration, and the minimum capital requirement have made starting a business in Bulgaria considerably easier since 2004. Measures that reduce paid-in minimum capital from EUR 2,500 to EUR 1 for registration of limited liability companies have been introduced as a way to encourage business investment in the country. And Bulgaria has reduced corporate taxes and improved the regime for tax payment.

The adoption of legislation, as well as the adoption of policies and institutional reforms that address the Better Regulation Agenda, have contributed to Bulgaria's recent progress in improving the business environment. The enactment of the LARACEA Act in 2003 is considered a significant step toward reducing the administrative burden and improving the regulatory environment. More recently the Bulgarian Government cooperated with a variety of international partners (including the EU, OECD, and the World Bank) to improve the institutional framework for regulatory policies as well as increase and improve monitoring of the enforcement of regulations. The adoption of the Better Regulation Program 2008-2010 became the cornerstone of regulatory reform. As part of this program, the Better Regulation Unit (BRU) at the Council of Ministers Administration was established in 2008, followed by training of administration personnel and preparation of regulatory impact assessments of key legislation. However, the BRU was short-lived—it ceased to exist by mid-2009.

But Bulgaria's business regulatory climate is less favorable than that of many EU countries, and there is substantial room for improvement. Inefficiencies at the local level cost businesses time and money; outdated and sometimes exorbitant state fees are a substantial burden; and business managers worry that regulations are applied inconsistently and may change from year to year. There are several legislative reasons for these ongoing obstacles to doing business in Bulgaria. First, the LARACEA Act is not delivering optimal results due to the imperfect implementation of key provisions. This perpetuates a burdensome regulatory environment, impedes transparency, and enables corruption (e.g., duplication of submission of documents, opaqueness of procedures in applying for licenses, and the illegal application of formalities). Second, regulatory impact assessments of new regulatory regimes, although mandated by the LARACEA Act, are done only in an *ad hoc* manner, further creating a sense of inequity and unpredictability of the regulatory environment for business. Third, there is no single government coordinator with an official mandate to manage, monitor and control the implementation of the Better Regulation Program.

5.1 Policy Level

Develop a policy on state fees. As noted in Section IV, there is no policy on the regime of state fees. A general policy needs to articulate straightforward criteria for establishing state fees and to improve transparency and coordination among institutions and stakeholders. Issues to be addressed in consultation with key stakeholders include: a) Should the function of state fees be to cover administrative costs or to generate revenue; b) Should any administrative service fees be subsidized; c) If so, what would be the criteria for such a subsidy, and which services would be subsidized. What should be the mechanism for its implementation?

agencies should be allowed to retain fee revenues for their own budget; f) What should the institutional framework be to assess and monitor fee-setting; g) How should the fee regime be monitored (e.g., e-government or e-tracking of fees). It is advisable that a model of setting fees based on the single cost calculation be introduced.

Improve local conditions for doing business. As described in Section II, there are many redundant rules and inefficient practices at the local level which cost businesses time and money. Burdensome local administrative practices should be abolished or reformed including: (i) additional requirements not directly related to or necessary for the facilitation of regulated commercial activity; (ii) requirements to submit documents that have been issued even by the municipal authorities themselves; (iii) lack of public registers and limited utilization of electronic government tools; (iv) unlawful imposition of registration regimes; and (v) lengthy issuance processes. Moreover, businesses are often exposed to high local fees and taxes, and to corruption. Improvements could be instigated by pilot programs that follow international best practice models and that encourage competition for efficiency among municipalities. These would complement the development of the fiscal decentralization model for Bulgaria.

5.2 Institutional Level

The BRU needs to be re-established as a separate authority within the structure of the CoM Administration to sustain the reform momentum. The weak institutional framework of the Regulatory Reform has the potential to shelve or delay the implementation of government measures. The BRU needs to be given a strong mandate, reporting directly to the Prime Minister's office and with solid long-term financing for the management, monitoring, and control of the Better Regulation Program. Preferably, the BRU would start operations in early 2011.

Empower an authority to deal with the state fees regime and adopt a model for setting fees to limit unjustifiable increases for business. As noted in Section IV, there is no institution in charge of monitoring and approving fees, which has allowed an unchecked growth of fees in recent years. It is recommended that a state authority be entrusted with the management, monitoring, and control of the regime of state fees.

Set up an Administrative Register to improve compliance with rules and regulations, and to raise predictability and transparency. As discussed in Section II, firms often complain about frequently changing rules and regulations, and the predictability and transparency of enforcement of regulations are lower than in other countries in the region. The creation of an Administrative Register in Bulgaria has been an ongoing project, but is without any concrete results to date. An electronic register with all regulatory regimes at the central and local level would give businesses the knowledge they need to comply with rules and regulations. It would also make administrative procedures more transparent, thereby reducing corruption, decreasing the informal sector, improving predictability of policies, and increasing the business sector's confidence in stable regulation.

5.3 Legislative Level

Introduce Regulatory Impact Assessments (RIAs) as a mandatory tool not only for the introduction of new regulatory regimes, as prescribed by the LARACEA Act. One useful approach to improve transparency and predictability of regulations and decrease the frequency of changes of laws is to enforce the mandatory use of RIAs to accompany key legislation. The new Draft Law on Normative Acts already introduces RIA as a mandatory tool;³³ it is recommended that this law be enacted at the earliest opportunity and that RIA documents include a special focus on the regulatory impact on SMEs. The wider application of RIAs will significantly improve the quality of legislation and policies by reducing the frequency of changes in rules, which is perceived as a serious problem by manufacturing and IT firms in Bulgaria.

Amend the LARACEA Act to address remaining weaknesses of the Law. The main issues with the current version, as noted in Section III, are: the scope of the act is limited; there is limited application of the principle of silent consent; the institutional framework is inadequate; and the adoption of a new regulatory regime is not preceded by the development of an *ex-ante* impact assessment as required by the Act. Therefore, three sets of amendments to the law are recommended. These amendments would: (i) improve its administrative provisions (instrumental amendments); (ii) strengthen its institutional support (institutional amendments); and (iii) introduce new rules for calculation of administrative fees (economic amendments).

Instrumental amendments

- Introduction of key principles (e.g., avoiding duplicate submission of identical documents to both central and local authorities) for providing administrative servicing in the Act, relevant to all relationships between businesses and the administration;
- Application of the principle of “silent consent” in the area of registration regimes;
- Broad implementation of declarations of compliance by applicants, along with suitable mechanisms for verifying those declarations, instead of requiring official documents issued by a court or other administrative bodies;
- Establishment of a minimum time period during which an applicant for a license or permit can correct mistakes in the application;
- Improved oversight and control of the sanctioning mechanism within the administration and reduction of the burden on controlled entities;
- Introduction of instruments enabling an analysis of compliance of proposed regulatory regimes with the three groups of criteria under the LARACEA Act (*national and personal security, human and property rights, and environment*).

Institutional amendments

- Establishment of a unit within the administration of the Council of Ministers to oversee implementation of the Act and impose sanctions in cases of violations thereof on the part of public administration officials;
- Establishment of a uniform Administrative Register of regulatory regimes to provide easily accessible information and advice on all procedures and required documents.

³³ The draft law has received a mandatory opinion by the European Commission for Democracy through Law (Rule of Law) Committee, dated 15 January 2020. The opinion is available at <http://ec.europa.eu/eulex/enforcement/legislation/2020/01/15/2020-01-15-draft-law-on-normative-acts>.

Economic amendments

- Introduction of additional principles for setting charges for administrative services (including those set and applied by local bodies);
- Regulation of the amount of charges on the basis of adopted rules;
- Introduction of the "one procedure – one charge" principle. Surcharges should be prohibited whenever additional actions are required for an applicant to correct mistakes or as an incentive for administrative officials to perform their jobs.

Revise the legal framework regarding the regime of state fees. The current law on State Fees is not sufficient to support the application of a modern fee structure, as discussed in Section IV. This stems from the fact that although the general guideline of cost recovery stated in the State Fees Act is a good start, it fails to address the complex fee structure in place. It does not allow for exemptions and does not empower the government to adopt regulations on the specifics of fee-setting mechanisms. Therefore, new and modern legislation based on a national policy should be adopted. To achieve this goal, the Government of Bulgaria could amend the existing Law on State Fees or adopt a new Law.

REFERENCES

- Administrative and Regulatory Costs Survey in Bulgaria, Bulgarian Government, 2009.
- Act on Limiting Administrative Regulation and Administrative Control on Economic Activity, SG 55/2003.
- Correa, Paulo and Mariana Iootty (2009). *The Impact of the Global Economic Crisis on the Corporate sector in Europe and Central Asia: Evidence from Firm-level Survey*. World Bank Group. Enterprise Note 9.
- Business Environment and Enterprise Performance Surveys, European Bank for Reconstruction and Development and the World Bank, 2008-2009, 2005.
- Enterprise Surveys, World Bank, 2007, 2005.
- FIAS (2009). *Lessons for Reformers: How to launch, implement and sustain regulatory reform: An analysis of six case studies in developing and high-income countries*. World Bank Group: Washington DC, July 2009.
- Lewis, William (2004). *The Power of Productivity: Wealth, Poverty and the Threat to Global Stability*. Chicago: University of Chicago Press.
- Mladenova, A., Z. Manolova, M. Metodiev, P. Ganev (2009). *Local Conditions for Doing Business*. Druzhba Print: Sofia. (in Bulgarian)
- Rita Ramalho, Jorge Rodríguez-Meza, Judy Yang (2009). *How are firms in Eastern and Central Europe reacting to the financial crisis*. World Bank Group. Enterprise Note No.8.
- State Fees Act, SG 104/28.12.1951, amendments in SG 43/2008 and SG 74/2009.
- World Bank (2010a). *Bulgaria: Ex-Post Impact Assessment of the Limiting Administrative Regulation and Administrative Control on Economic Activity Act*. Report No.55728-BG. Washington DC: World Bank.
- World Bank (2010b). *Bulgaria: Administrative and Regulatory Barriers to Business*. Report No.55727-BG. Washington DC: World Bank.
- World Bank (2010c). *Doing Business 2011: Making a Difference for Entrepreneurs*. Washington DC: World Bank.
- World Bank (2009a). *Doing Business 2010: Reforming Through Difficult Times*. Washington DC: World Bank.
- World Bank (2009b). *Bulgaria: Reforming the Regime of State Fees*. Report No.55729-BG. Washington DC: World Bank.
- World Bank (2008a). *Bulgaria: Investment Climate Assessment*. World Bank. Washington DC.
- World Bank (2008b). *Bulgaria: Resourcing the Judiciary for Performance and Accountability*, Judicial Public Expenditure and Institutional Review, Report No.42159-BG. Document of the World Bank.
- World Bank (2005). *Doing Business in 2005: Removing Obstacles to Growth*. New York: Oxford University Press.
- World Bank (2004). *World Development Report 2005: A Better Investment Climate for Everyone*. New York: Oxford University Press.

Internet sources:

The Action Plan for the Reduction of Administrative Burden by 20 percent until 2012 is available at www.mee.government.bg/bids.html?id=314522 – last accessed in August 2010.

The Better Regulation Program 2010-2013 is available at www.strategy.bg.

Register of Administrative Structures and Administrative Acts, available at www.government.bg/ras/regimes/index.html, last accessed in June 2010.

Unified Internet Portal for Access to Electronic Administrative Services, available at www.egov.bg, last accessed in September 2010.

Opinion No.536/2009 of the Venice Commission, available at [www.venice.coe.int/docs/2009/CDL\(2009\)115-e.asp](http://www.venice.coe.int/docs/2009/CDL(2009)115-e.asp), last accessed in September 2010.

