



ReSPA

Regional School
of Public Administration

BETTER REGULATION

1st Working Group Meeting

15 -16 October 2015, ReSPA

Danilovgrad, Montenegro

Discussion Paper and Draft Agenda

Background and Rationale

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Efficiency and quality of regulation affect private investment and economic performance, which was confirmed by a number of studies. These findings confirm the importance of a favourable legal and regulatory environment for fostering economic growth and efficient investment. The recent financial and economic crisis, which strongly affected the economic growth and the inflow of foreign direct investment (FDI) into the Western Balkans, further increased the importance of this issue. Consequently, the development of a quality legal and regulatory framework has been identified as one of the most important prerequisites for attracting foreign capital into the region and for revival of its economic growth.

From the beginning of the transition process in Western Balkan countries, **Regulatory Reform** has been one of the key reforms due to its relevance to economic performance. It has been driven by the need for a substantial transformation of their socialist legal systems into market economy, which would contribute to the creation of a favourable business and investment environment and, as a result, positively impact private investment, business start-ups, job creation, and incentives for efficiency among both private and state-owned enterprises.

In the early 2000's, regulatory reform was partial, and focused on specific sectors or areas. Due to the necessity of creating a well-functioning legal system, the legislative reform agenda in Western Balkan countries was mostly focused on creating market-friendly laws, aiming to reduce unnecessary administrative burdens and foster the functioning of a market economy. It resulted in the drafting of a significant number of regulations that fulfilled market standards.

After a period of *ad hoc* approach to regulatory reform in the early 2000s, governments in Western Balkan countries began to introduce some segments of the systemic approach to regulatory reform – and subsequently initiated systemic, multi-pronged regulatory reform. The main motive for Regulatory Reform implementation in the countries of this region was to increase their economic competitiveness and growth. However, the harmonization of the legal systems of Western Balkan countries with the EU *acquis* was also an important motive for the implementation of these reforms and positively influenced the quality of laws in these countries.

Better Regulation in Western Balkan countries

Systemic approach creates much better prospects for the improvement of the quality of laws and their implementation, as well as a reduction of administrative barriers, and thus improves the quality of legal and regulatory environment as a segment of the business and investment environment. In most of the Western Balkans countries, governmental awareness of the importance of regulatory reforms resulted in stronger political support. The need for a strategic approach in this area was recognized, and most of the countries of the region have adopted regulatory reform strategy as a single document or as a part of other strategic document during the last ten years.

Significant steps in the implementation of the systemic approach to regulatory reform and implementation of regulatory quality tools were (i) the introduction of mandatory regulatory impact analysis (RIA) into the legislative process in several countries of the region, (ii) establishment of oversight bodies for regulatory reform, (iii) implementation of systemic or sectoral regulatory guillotine, and (iv) improvement of transparency of the legislative process, with the introduction of obligatory public consultation and forward planning of regulatory activities.

In 2004, Serbia was the first country in the region that formally introduced **Regulatory Impact Assessment (RIA)** in its legal system, as one of the most important regulatory quality tools. It was followed by Macedonia, where the implementation of RIA became obligatory from 2009, while Montenegro introduced RIA in 2013. Republic of Srpska and BiH Federation formally introduced an obligation to conduct light-RIA for all laws, and full-flagged-RIA for the key laws, in 2013 and 2014 respectively. Kosovo*¹ prematurely introduced RIA in 2007, but due to limited capacities to perform it, this obligation was abolished in 2011. However, the new Better Regulation Strategy foresees the RIA introduction into the legal system of Kosovo*. Finally, Bosnia and Herzegovina at the State level, and Albania have made some steps towards the introduction of RIA in their legal systems.

All of the Western Balkan countries, except for Serbia, have introduced a legal obligation for **public consultation on legislative proposals** for all draft laws. However, in Bosnia and Herzegovina minimum of consultation is obligatory for all regulations, while extensive public consultation is obligatory only for systemic laws.

Forward planning of regulatory activities assesses the extent to which governments in Western Balkan countries are planning their legislative activity in advance. All Western Balkan countries have fully implemented and make publicly available plans of legislative activities.

The implementation of a systemic, one time review of existing legislation, so called **regulatory guillotine**, has been already implemented in Serbia, Macedonia, and BiH entities, while this reform activity is in the final phase of implementation in Montenegro. Albania and Kosovo* already implemented partial - sectoral reviews of existing legislation, and they are, as well as Macedonia, continuing with this reform activity.

The pace of Regulatory Reform can be increased with the right **regulatory management structure**. Change can be driven by central units with longer term, whole-of-government views. In the longer term, such regulatory management units should be responsible for continuing adaptation and improvement of regulatory systems as external conditions change, information becomes available, and new problems arise. The Western Balkan countries have selected different institutional models for regulatory reform. While some of the countries have a centralized framework within the prime minister's or deputy prime minister's office (Serbia, Albania, BiH Federation, and Kosovo*), others have permanent bodies at the level of line ministries (Macedonia, Montenegro and Republic of Srpska).

¹ This designation is without prejudice to positions on status, and it is in line with UNSCR 1244 and the ICJ Opinion on the Kosovo Declaration of Independence.

Regional approach to the improvement of the legal and regulatory environment in the Western Balkan region, as a part of the South East European region, has been identified as one of the reform priorities for cooperation among the South East European countries since 2001. This cooperation was supported by the international community, under the *OECD Investment Compact for South East Europe*, with a flagship **Initiative on Regulatory Reform for South East Europe (IRR)** of the Investment Compact (October 2001), establishing a framework for policy dialogue on regulatory reform between the countries of South East Europe and the OECD. The IRR aimed at improving the foundations for a sound regulatory environment conducive to investment in South East Europe countries. The intended outcome of the IRR was to strengthen the institutional, knowledge, and process capacities for developing and implementing efficient and effective regulation, supportive of sound and competitive markets.

The regional cooperation in the area of Regulatory Reform continued through (i) **Working Group on Regulatory Reform**, as one of the four working groups established in 2007 by the OECD South East Europe Investment Committee, and (ii) **South East Europe Network of Policy Makers**, launched in 2007 with the support of the IFC Advisory Services for Southern Europe.

Building on the previous regional cooperation activities conducted with the support of the international community, the need for regional cooperation in the area of Regulatory Reform has been recognized by the parliaments of the countries in the region. The **Regional Network of Parliamentary Committees for Economy and Finance of the Western Balkan countries** was established in 2009, pointing to the necessity of regional cooperation with the aim to improve the quality and the implementation of laws at the regional level.

The Regional Cooperation Council (RCC) launched in February 2008, as the successor of the Stability Pact for South Eastern Europe, focuses on promotion and enhancement of regional cooperation in South East Europe (SEE) and supports European and Euro-Atlantic integration of the aspiring countries. One of the main operational documents guiding the RCC work is the **South East Europe 2020 Strategy** (November 2013). The SEE 2020 Strategy, which aims at promoting creation of jobs and prosperity in a European perspective for the Western Balkans, has five pillars, among which the 5th Pillar is related to the **Governance for Growth**. In the implementation of this pillar's Dimension N - **Effective Public Services**, ReSPA was assigned as a coordinator for most of the areas related to Effective Public Services, including some segments of Regulatory Reform. The awareness of ReSPA representatives that the **Regulatory Reform / Better Regulation** is an important reform area, strongly correlated with the improvement of the quality of public administration, resulted in the decision to encompass Better Regulation in ReSPA activities.

At the 5th ReSPA Governing Board Ministerial Meeting held in Skopje in October 2014, ministers in charge for public administration from Western Balkan countries encouraged ReSPA to engage in the area of Better Regulation. At the 3rd meeting of the Public Administration Reform (PAR) Network in May 2015, it was agreed that the PAR Network should serve as an 'umbrella' for ReSPA Working Groups in different PAR related areas, where highest decision makers should meet for policy dialogue. Better Regulation has been recognized as one of the areas of potential cooperation of ReSPA Members. The PAR Network endorsed the decision to create a **Regional Expert Working Group for Better**

Regulation. It was agreed that the Working Group composition, in addition to **senior public servants dealing with Better Regulation**, may be open for representatives of civil society organisations, think tanks, business associations and/or academia. The initial task of ReSPA was to conduct a **regional review on status on Better Regulation** in the Western Balkans region.

Aim and Purpose of the Working Group Meeting

ReSPA commissioned the **Baseline Analysis on Better Regulation** in the Western Balkan countries expecting that this review would serve as a basis for identification of possible **common regional objectives and follow up activities**. **The draft Baseline Analysis will be presented and discussed at the 1st Better Regulation Working Group meeting to be held in ReSPA on 15 and 16 October 2015.**

The Better Regulation Working Group is also foreseen to contribute to the implementation of the segments of the SEE 2020 Strategy, from Pillar 5, Dimension N, related to Regulatory Reform, including: (i) Developing regulatory impact assessments in SEE, (ii) Reinforcing consultations and public-private dialogue in SEE, (iii) Towards a simpler regulatory environment in SEE. In addition to these activities, the Working Group will be also focused on the continuation of the strategic approach to Regulatory Reform in the region.

Draft Agenda

Day I, 15 October 2015, Thursday

09:00 – 09:15	Registration and refreshments
09:15 – 09:30	Introduction Welcome remarks by ReSPA Introduction of Working Group members / meeting participants
09:30 – 11:00	Baseline Analysis on Better Regulation in Western Balkan Countries Presentation by Dr Slavica Penev, ReSPA Expert
11:00 – 11:30	Coffee break
11:30 – 13:00	Comparative Analysis of Better Regulation in Western Balkan Countries Presentation by Dr Slavica Penev, ReSPA Expert, followed by Discussion
13:00 – 14:30	Lunch break
14:30 – 15:30	Useful Practices of Western Balkan Countries (1st part) Presentations by: Albania

Bosnia and Herzegovina

15:30-16:00	Coffee break
16:00 – 17:00	Useful Practices of Western Balkan Countries (2nd part) Presentations by: Bosnia and Herzegovina - continuation Kosovo* ²
17:00	End of the 1 st Day
19:00	Dinner

Day II, 16 October 2015, Friday

09:00 – 09:30	Registration and refreshments
09:30 – 11:00	Useful Practices of Western Balkan Countries (3rd part) Presentations by: Macedonia Montenegro Serbia
11:00 – 11:30	Coffee break
11:30 – 13:00	Discussion on regional experiences and potential cooperation
13.00 – 14.30	Lunch break
14:30 – 15:30	Plans for regional activities for 2016 - 2020
15:30 – 16:00	Conclusions and recommendations
16:00	Closing of the Meeting Farewell refreshments / Departure of participants / Dinner

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