

Focus Groups' Report

Administrative requests - PKS Uzice, 26th of
September 2023

Introduction

The EU4BE project aims at improving the business environment by simplifying regulatory requirements and improving transparency. The improvement of business environment is directed into two streams:

- a) simplification of regulatory requirements which encompasses simplification of administrative procedures for businesses and optimization of administrative requests that businesses need to fulfill,
- b) introducing new digital instruments that help businesses navigate through the regulatory web with two key instruments developed: 1) RAP as an online inventory of the administrative procedures and administrative requests across industries and 2) business lifecycle concept that builds upon the RAP and creates online guide for business through the regulatory steps in selected industries.

The focus groups described in this Report were dedicated to administrative requests.

Focus groups dedicated to administrative requests fall under the simplification of regulatory requirements stream. In the past two years, the EU4BE project conducted a comprehensive analysis of the regulation and inventoried all the administrative requirements for businesses. The next stage is optimization of the administrative requests - assessment of the administrative requests against a set of criteria, their simplification and removal if their existence is not justified.

In the context of optimization, the EU4BE team conducts a series of focus groups in priority areas /sectors so to gather more in-depth information on administrative requests affecting businesses.

Administrative procedure is administrative or other proceeding which is conducted by state organs and organizations, organs and organizations of the autonomous provinces and of the local self-government, institutions, public entities, organs through which the regulatory function is implemented, legal and physical entities which are entrusted with the public authority. These procedures are commenced on demand of the business entities and citizens with the aim of accomplishing their rights or fulfillment of their obligations. Court proceedings and proceedings performed by entities entrusted with public powers by the court, proceedings which arise from the labor relations in the organ and proceedings which are commenced on demand of organs and which are led by other organs are not considered as administrative procedures. Administrative requests are conditions that business entities and other service providers need to fulfill in accordance with the legal system of the Republic of Serbia, in order to establish and conduct their business in compliance with regulations. Administrative requests encompass two types of requests: a) documents i.e. documentary proofs that business entity need to prepare, adopt and keep (decisions, rulebooks, internal procedures, etc.) but are not required to be submitted to the state, provincial, local or other public organs/bodies and organizations and b) technical and other conditions for starting and operating business (conditions in terms of building and spatial requirements, equipment and machinery, staffing and their qualifications, financial conditions, etc.)

Objectives

To obtain insight into business practices within the existing regulatory environment and to confirm/correct findings with respect to administrative request in selected regulatory areas and help decide if there is a need for optimization of administrative request, more precisely:

- to understand better how clear the regulatory requirements are from the private sector perspective
- to understand better to which extent the administrative requests create burdens in a given industry
- to identify key constraints among the administrative requests that businesses need to fulfil in a given industry
- to confirm or correct the findings of the legal analysis and be able to make informed decisions when recommending optimization of an administrative request.

Methodology

Key sectors

While identification and inventory of administrative requests is done across all regulatory areas, the process of analyzing and optimizing administrative requirements starts with selected industries: freight road transport, food and beverages production, hospitality – accommodation and restaurants, and pharmacies with possibility of extending to other industries.

Consultations with the private sector consultations in the listed sectors will take place in the form of focus group discussions. The focus groups will cover both administrative procedures and administrative requests in order to get insight into clarity, complexity and potential for improvement for both procedures and requests.

Focus groups' structure

The focus groups session held in Uzice in the Regional Chamber of Commerce Uzice on September 26th, 2023 encompassed two focus groups. The first group gathered companies from food industry and hospitality and involved discussions regarding legislation, conditions and requirements in food industry, and the second group (more heterogeneous group) in which companies from different sectors discussed primarily horizontal legislation relevant to all businesses, as well as sectoral regulation to collect information about possible issues in the sector that are not given priority at the point.

Participants

Total of 3 participants in food industry dedicated group and total of 4 participants in the general issues group took part into discussions. All companies gathered were mature companies registered in Zlatibor county. No newly established companies were represented in the focus groups discussions.

Questions and topics

General issues group	Food Industry Group
<p>Are you familiar with the legal framework that regulates business in your industry?</p> <p>In your opinion, which is the most complex segment of legislation</p> <p>Do you know the conditions for starting a business in a given industry</p> <p>Do you think some of them are complex and why?</p> <p>Are you familiar with the legal framework that regulates labor relations?</p> <p>Do you think that the legal framework is complex?</p> <p>Are you familiar with the documentary administrative requirements and can some of them be simplified or abandoned?</p> <p>Are you familiar with record-keeping and archiving requirements for these documents?</p> <p>Is it possible and useful to digitize some of the documents or records kept by the employer? If yes, which one?</p> <p>Are you familiar with the legal framework that regulates tax obligations?</p> <p>Do you think that the legal framework is complex and, if so, in which part?</p> <p>Are you familiar with and clear the terms of keeping documents in the area of tax law?</p>	<p>Are you familiar with the legal framework which regulates food production?</p> <p>Do you think that the legal framework which regulates food production is complex and, if so, what is the most complex segment of legislation?</p> <p>Are conditions for the establishment of entities engaged in food production, i.e. technical conditions for facilities clear and could some of them be simplified or abandoned?</p> <p>Is the process of establishing a food company complex? If so, why?</p> <p>Have you registered with CRO and how do you evaluate the procedure?</p> <p>Do you understand administrative requirements that you need to fulfill - the documents (procedures, records, records) that should be prepared and kept by the manufacturer?</p> <p>Do you know how long the written procedures and internal records listed above need to be kept?</p> <p>Are the requirements related to traceability clear? (Traceability procedure and records related to traceability)</p> <p>Do you know the record-keeping periods for documents that prove compliance with traceability requirement?</p> <p>Transportation for own needs - only for entities that carry out transportation independently: Are you familiar with the documentary requirements in this respect</p> <p>In your opinion, is it possible to digitize some documents that the manufacturer keeps as evidence or keep some of the records in electronic form? And if so, which one?</p>

Organization

The focus groups are organized in collaboration with the regional chambers of commerce and industry with the support of the Public Policy Secretariat and the World Bank Group.

Findings

Focus group dedicated to food production and hospitality: discussion and conclusions

Q1 General questions of regulatory framework

The companies claim a solid understanding of the regulatory framework comprised of the Law on Food Safety and related bylaws. Given the fact that the food production is an industry highly regulated and closely monitored official inspections, and that certification is very often a pre-requisite in this industry for entering supply chains, retail chains and in particular for exports, the companies report good understanding of both binding regulation (food safety law and HACCP as basic standard) and voluntary standards and certificates (BRC, IFS, FSSC, SQF, etc.).

Quote

We are more concerned with the purchasers' requests and requirements than those of the state inspections. We are all certified by the foreign certification companies. The foreign certification companies request far more "papers" to be prepared and presented than the state inspection for food safety. (Frozen fruits / cold storage representative)

The same was reported for other relevant regulations, which fall outside food safety, such as occupational health and safety, fire preventions and protection, etc.

When it comes to complexity of the regulatory framework, the companies were not able to pinpoint a specific part that is complex, unclear or missing.

Some issues related to product declaration were mentioned, as the declarations for food products are relatively strict and there are consulting companies that do preparation and/or quality control of the food declarations for food companies to ensure all requirements of the Rulebook on Declarations are respected. The companies, however, made several observations with regard to the inspection oversight and the need to harmonize the inspection practice and possibly improve inspection capacities and knowledge.

The conclusion may be drawn that bigger and more mature companies, especially those included in domestic and international supply chains, find the current regulatory framework clear and not too complex. As a caution, smaller and newly established companies may have a different view.

Q2 Administrative requests in the given industry / economic activity

As for the general understanding of the administrative requests that companies must fulfill, the moderators first explained the concept of administrative request and the two types of administrative requests, and looked at the conditions for starting a business and then into documentary requests that they need to fulfill during operating a business in Serbia.

The food companies expressed the view that conditions for starting (registering) a business as well as the procedure for starting a business were simplified long ago. The hospitality company, however, pointed out unclear conditions and procedure for starting accommodation business in the form of tourist village (turističko / apartmensko naselje) in the Zlatibor County. The observation is worth further research so to clarify is about the registration procedure itself or the lack of understanding and harmonized practice at the local authority's part.

When it comes to individual conditions for starting a business (staff, premises, equipment and vehicles, etc.) the companies were given a questionnaire with exhaustive list of conditions set by the law to assess if the conditions were clear, relatively easy to achieve and justified. The food sector companies marked all the conditions for starting business clear, simple and justified. (Filled-in questionnaires available at request).

When it comes to administrative requests of documentary type that companies need to fulfil during operating a business, the food companies were again provided with full list of administrative requests (nearly 40 of them) to assess if the documentary requests are clearly defined (both the content of the document and the record-keeping period), not too complex to prepare/fulfill and justified. The food companies interviewed expressed the view that all the documentary requests that need to be fulfilled while operating a food business are clear, simple and justified. Some unclarity is noted however when it comes to records-keeping period for the said documents. The hospitality company, however (accommodation services), reports that they are not aware of the mandatory record-keeping periods for any of the requested documents. In the pool of documentary requests, two out of three companies report unclarity when it comes to maintenance, hygiene and marking of the vehicles used in food production and food delivery (NB. Scope of responsibility of the Sanitary Inspection).

Quote

We keep all the documents because we don't know the record-keeping and archiving periods. We keep old documents in the garage. (Accommodation services provider)

When it comes to traceability requirement in food production, one food company reports good understanding of requirements set in the Law in this respect while other gives mixed answers. The answers suggest that this concept and requirements related to traceability are not fully understood.

Further to this, the companies did not report on or complained about overlapping of responsibilities between Food safety inspection of the Ministry of Agriculture, Forestry and Water Management and

Sanitary inspection of Ministry of Health, although both inspections inspect unfirms, employee's health and mandatory food safety training. The hospitality company reported on overlapping and different regulations between Sanitary inspection and Tourist inspection.

The interview showed that mature food companies find the administrative requests (both conditions for starting business and the documentary requests) as justified and simple to fulfil, with some unclarity with regards to vehicles and traceability issues. As the focus group interview did not include newly established companies, the findings must be interpreted with caution. The hospitality area seems to be worth further research.

Q3 Digitalization of administrative requests in the given industry / economic activity

Finally, with regards to possibilities to digitalize some of the procedures and/or records kept by the food companies, the digitalization is assessed possible when it comes to internal procedures (work instruction and standard operating procedures), but internal records of daily operations (checklists, inventory lists, etc.) are to be taken in paper form, in their view.

The hospitality industry, which has several e-services at its disposal, reports that some of the G2B services helped while others made daily operations more complex, such as e-Invoice. When it comes to sector-specific tools some suggestions for improvements were also made.

We had a problem with the payment of the residence tax via e-Tourist system, which we pay regularly, but instead of the system automatically marking the tax paid once the payment was made, it is necessary for us to "click" in the e-Tourist that it has been paid. So, we are now proving that we have been paying residence taxes for the past 2 years.

E-Tourist system, in addition to their good sides, causes us problems when registering tourists because we are not authorized to ask some of the mandatory questions envisaged in the System, such as which border crossing the tourists crossed. There is no option for passengers in transit, which makes up 60% of tourists here. It would be good to improve the software.

*The inspection has always asked for a paper document, and when it is an electronic document, it is printed, signed and scanned.
(Accommodation services provider)*

Focus group dedicated to horizontal issues of labor law, tax law and related

Q1 General questions of regulatory framework for given industry

In the heterogeneous group of companies, the moderators looked first into how the companies assess the general regulatory framework within which the companies operate in order to gather as much information as possible about the quality of regulatory framework in different sectors, after which the moderators proceeded to ask question on horizontal legislation, tax, labor legislation primarily.

The respondent who deals with the processing of recycled material and the export of hazardous and non-hazardous waste reported on facing unclear legal frameworks, especially when regulations are being changed. The respondent is most concerned with the administrative procedures under the Ministry of Environmental Protection. Specifically, this company claims it takes too long to obtain permits for doing business, then renew permits during operating the business, and that the authorities do not clarify the requirements prescribed by the regulation.

When renewing the license, the same documentation is collected, an inspection is also required for the renewal of the license even though there have been no changes in the production, which we confirm by giving a written statement under criminal and material liability that nothing has been changed. This is where the problem arises because there are no sufficient number of inspectors to go out on the field, so they fear whether they will renew the license on time or whether they will have to stop production until the license is renewed. The deadline for license renewal is short. There are cases where the written documentation that they submit to the Ministry somehow gets lost, which means that they have to prepare and submit the documentation again.

Another respondent whose main activity is also trade in waste and secondary raw materials, and international transport has similar views on complexity of regulation and procedures in environmental protection area. They report that while transport is well regulated and it works without problems, there are big problems with the circulation of secondary raw materials, the regulations are not clear, the import of machines takes too long, the waiting period is too long, and the conditions (legal framework) are not clear. Unclear regulations regarding deadlines for decisions by authorities.

For a large company dealing with production of brass products for industry, in the course of doing business they often encounter the problem of getting answers from state authorities. In the process of obtaining a permit or some other act, they are faced with a very long procedure, and the most common situation they encounter is the silence of the administration. They believe that if some sanctions were introduced for officials in the administration, the procedures would take less time

The respondent from a company that provides consulting services and is partly financed through foreign donor programs (Switzerland) reports that the regulations are not clear to them for this specific activity, primarily taxes and VAT treatment.

Asked specifically on what the most complex part of legislation is, two companies reported the administrative procedures and request from the scope of environmental protection to be most complex, one pointed out that urbanism and construction related procedures and requests are most complex from their point of view. The respondent that works with donor funding has a different set of issues -

The system does not recognize exceptions, donor programs that have their own requirements and rules, not according to domestic law. Donations are recognized as income, not as donations, so they are taxed. Archive material - the respondent believes that the obligation is meaningless and burdensome.

Q2 Administrative requests in the given industry / economic activity

As for conditions for starting business in their respective industries, the companies dealing with secondary waste and brass production report unclear conditions for starting and doing business. When asked to pinpoint what is specifically burdensome in this respect the companies draw attention again to licenses and permits.

More specifically, the respondents claim complex conditions for working with secondary raw materials. For example, the inspection report that is requested for the renewal of the license is in their view meaningless if nothing in the company has been changed. In addition, no changes are additionally confirmed by the statement under criminal and material responsibility. Also, they report waiting too long for the inspector to make the field visit and inspect the company for the purpose of issuing the said report. Without an inspection report, no one can get a permit or extend it. In the EU, there are no licenses for the export of non-hazardous waste. The same is waiting for the transit permit for a long time. Other companies highlight complex conditions for working with secondary waste and for obtaining permits, e.g. water permits. The problem is also seen in the slow adoption of new regulations / bylaws in this area. The brass company problems with getting permits, getting stronger electricity, and long wait for issuance of permits. On the other hand, the respondent from the consulting company finds the conditions clear but inadequate, and the biggest problem for them is tax treatment of donations.

Q3 Administrative requests related to labor legislation

When it comes to administrative requests that stem from the labor law and related bylaws, the companies find the regulatory framework clear. Participants mentioned that procedure for termination of work contracts is complex. One participant was unaware of the necessity of existence of the decision for the overtime work. One participant is of the opinion that evidences of daily work of employees is not necessary. One participant was not familiar with the obligation to provide monetary compensation for employees if they are not provided with the sufficient annual leave.

However, when it comes to record-keeping periods for the required documents, respondents are unaware of the record-keeping and archiving requirements and in addition they point out that the legislation in this regard is not clear. When it comes to digitalization of documents and how useful that would be, the respondents agree that digitalization of documents is useful and welcome whenever possible.

Q3 Administrative requests related to tax legislation

When it comes to administrative requests that stem from the tax law and related bylaws, the companies find the regulatory framework clear, but they are of the opinion that the fines are too high. When it

comes to record-keeping periods for the required documents, the companies report that this is not an issue for them as this part of their operations is done by the accountants.

One participant reported that they are not familiar with special administrative requests which relate to special situations regarding VAT (for example: records on trade of goods and services in accordance with the donation agreements with the Republic of Serbia, records of VAT tax debtors which subsequently acquires the right to deduct the previous tax for equipment, objects, investments in objects which serve for conducting business, records of VAT tax debtors which adhere to the system of payment upon collecting receivables for the trade of goods and services). Other participant reported that records on trade of goods and services in accordance with the donation agreements with the Republic of Serbia are difficult to implement. One participant reported that a separate VAT registration for tax debtors is not justified and that records of VAT tax debtors which received secondary raw material, i.e. services related to such materials provided by entity which is not a VAT tax debtor is unjustified.

The respondents see no potential for digitalization of administrative requests in this regulatory area.