



SLOVAK | BUSINESS | AGENCY

ACTIVITY REPORT 2016

OF THE BETTER REGULATION CENTER, BRC

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“ FOREWORD

The Activity Report for 2016 presents activities performed by **the Better Regulation Center** (hereinafter referred to as BRC). BRC was established for fulfilling goals of the better regulation agenda for micro, small, and medium enterprises (hereinafter referred to as SMEs) covered by [the European Commission's "Small Business Act" for Europe](#) together with [the Better Regulation Guidelines](#) as well as the Recommendation of the OECD Council on Regulatory Policy and Governance. The slogan accompanying this agenda is to develop regulation **rules upon the "Think Small First" principle**, i.e. public administration bodies should respond to the needs of SMEs and adapt instruments of the public policy just to their needs. Such procedure is mainly feasible **through the regulation, contents of which are set to consider specifics of SMEs** (simplified rules, e.g. in the form of exemptions from duties, temporary periods, reduced rates, simplified forms, etc.), but **processes of which, i.e. the procedure of adopting regulations, are also set to involve representatives of SMEs or SMEs as such** (not only representatives of associations of large employers).

At the same time, BRC's activities fulfil one of the goals of the Operational Programme **Effective Public Administration** project.

In its response to the aforementioned initiatives, the Slovak Republic adopted a law basis in the form of [Small and Medium Enterprise Promotion Act](#) as well as resolutions of the government of the SR – the so-called [Unified Methodology for the Assessment of Selected Impacts](#). Better regulation was also defined as one of the main areas to be paid attention to by the Slovak Chairmanship in the Council of the European Union in the second half of 2016. Moreover, the current government committed itself in its **Manifesto** to *"continue in adoption of comprehensive solutions for reducing administrative burdens of entrepreneurs" and also to "complete the audit of applicable regulations from the aspect of redundant regulatory burdens so as to reduce them significantly". In the Manifesto, the government admits "the need of improving quality of documents adopted in the transparent legal process" and the necessity of "objective assessment of the level of administrative burdens in relation to the effect achieved by the regulations proposed"*.

Since **the year 2016 was the very first whole year of the BRC operation**, plans of continuing and improving the performance of the activities defined from both the qualitative and quantitative points of view in the coming years are ambitious. Despite the initial year of operation, which, as every beginning, brings many unexpected variables, aligning operation processes, building a professional team, etc., BRC started its activities successfully and is going to continue in this direction.

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ABOUT THE BETTER REGULATION CENTER

Name: **BRC**

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BRC is a **specialized analytical division** established within **SBA**. BRC was established in October 2015 in relation to the fulfilment of the goals expected by the European Union's initiative for **supporting small and medium enterprises** (SME) with the name [Small Business Act](#). It consists of a team of experts from the area of regulations and measurements of impacts thereof on the business environment, the so-called **Business Impact Assessment**.

The mission of BRC is to reduce unreasonable regulatory burdens for enterprises and to improve business environment in the Slovak Republic.

The main BRC's activities include:

- **identification of measures** of legal and non-legal nature **with impacts on the environment of SMEs**,
- **performance of the Test of impacts** of legal regulations and non-legal documents on **SMEs (SMEs Test)**,
- **development of a space for consultations** between the submitting party and entrepreneurs regarding draft or existing versions of legal regulations or non-legal documents or regulations of the European Union,
- **provision of feedback** based on the results of consultations in relation to the **respective central bodies of state administration** and to European Union's authorities,
- **performance of the evaluation and quantification of impacts of proposed and existing legal regulations** and non-legal documents **on SMEs**,
- **preparation of draft measures for reducing regulatory burdens of enterprises** to improve competitiveness of the business environment and economic growth,
- **enforcement of the "Think Small First" principle in the Slovak law** in compliance with the Small Business Act initiative, i.e. taking specific needs and requirements of SMEs into account,
- **evaluation and quantification of excessive approximation of legal regulations of the European Union in the Slovak law** (the so-called **gold-plating**).

VALUES

a) Objectivism

Impartial arguments based on documented evidences and data to improve confidence and reliability of outputs of the analytical activity.

b) Independence

Cooperation with other entities (parties submitting measures as representatives of public authorities or entrepreneurs) or origins of founders (the Ministry of Economy of the SR, the Entrepreneurs Association of Slovakia, and the Slovak Trade Union) have no influence on contents of the outputs.

c) Qualifications

Consistency in presenting relevant and objective information with stating its original sources.

d) User-friendliness

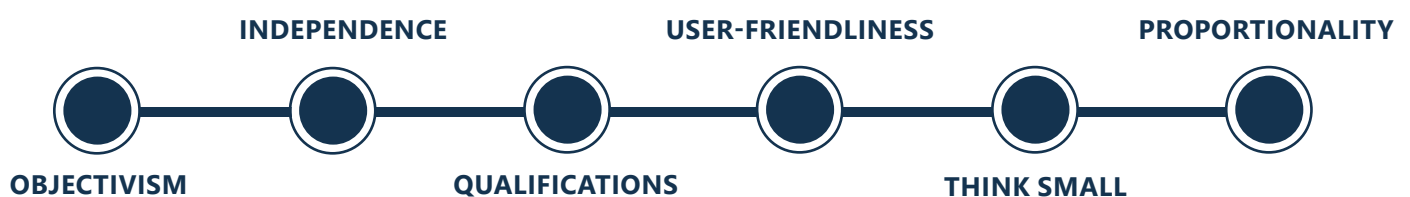
Benefits for purposes of a professional discussion with parties submitting regulations as well as with the entrepreneurial public with the aim of providing instruments for optimizing regulatory burdens in a comprehensible and practical form.

e) Think small

Enforcing mainly interests and needs of SMEs in the regulatory process with the aim of reducing excessive regulatory burdens towards such entities.

f) Proportionality

Partnerships with cooperating entities in the fields and in the scope providing reduction of regulatory burdens of the business environment with regard of possible achievement of optimum results at the existing inputs (time, priorities, scope of regulation impacts, personnel capacities, existing level of competence either of representatives of BRC or its partners in the given area and the level of their cooperation).



PEOPLE

The pilot operation of BRC within the assessment of submitted documents with impacts on SMEs started in October 2015 **with two employees**. In **2016, two analysts and two lawyers** participated on BRC's activities and, **during consultations** within the preparation of new regulations, they **cooperated** with **the secretariat of the Permanent Working Commission for assessing selected impacts at the Legislative Council of the government of the SR** (hereinafter referred to as Permanent Working Commission), with parties submitting new regulations from among **state and public administration bodies, and with representatives of business organizations**.

BRC was cooperating with the first two groups during **the preliminary commenting procedure** in the form of assessing correctness of identified and real existence of recognized impacts of submitted documents in the enclosed **analyses of impacts on the business environment** and also in **the SMEs Test (ex-ante)**, if required their detailed quantitative and qualitative assessment and evaluation of presence of the gold-plating effect), and in **the Ex-Post Analysis of Costs and Benefits** in the case of existing excessive encumbering regulations. BRC participated on the **inter-service commenting procedure** (hereinafter referred to as ISCP) by submitting its own content proposals for improving regulation in favour of SMEs (including participation on dispute proceedings). BRC cooperated with the representatives of entrepreneurs in the form of evaluation of collected proposals for **bureaucratic non-senses**, for which the Slovak Business Agency is a partner of the announcer – the Young Entrepreneurs Association of Slovakia in the annual **survey**. At the same time, it **informed** representatives of entrepreneurs **of prepared changes to regulations** regularly and in a comprehensible and practical form in the moment of publishing the preliminary information, the explanation of or amendment to which was requested from the submitting party; BRC cooperated at unifying attitudes of affected entrepreneurs and at increasing probability that their comments submitted within **consultations** will be accepted.

ACTIVITIES

Since the day of its establishment, BRC **daily assessed information on preparation of the document** (from 1 April 2016 in the form of a “preliminary information” published on the portal slov-lex created in relation to the adoption of Act No. 400/2015 Coll. on the Creation of Legal Regulations and on the Collection of Laws of the Slovak Republic and on modification of and amendment to certain acts) and identified the need of **recommending performance of consultations** with the affected business entities or **mediated the information to relevant representatives of business entities** regardless of the fact whether they were registered in the list of the Ministry of Economy of the Slovak Republic published on their webpage to motivate them for subscribing to the consultations announced. At the same time, BRC **actively participated on consultations** and has been submitting **proposals of alternative solutions** at the preparation of the documents.

Regarding its **membership in the Permanent Working Commission**, the tasks and competences of which result from the Unified Methodology for Selected Impacts Assessment approved by Resolution of the government of the Slovak Republic of 14 January 2015 as amended by Resolution of the government of the SR No. 513 of 16 September 2015 and Resolution of the government of the SR No. 76 of 24 February 2016 (hereinafter referred to as **Unified Methodology**) effective since 1 April 2016 as well as Act No. 290/2016 Coll. on SMEs Support and on modification of and amendment to Act No. 71/2013 Coll. on Subsidies within the Powers of the Ministry of Economy of the Slovak Republic as amended (hereinafter referred to as **Act on SMEs Support**) effective since 1 January 2017, BRC was dealing with **methodological advisory at the interpretation of Unified Methodology** for those submitting parties that are obliged thereby to submit documents with respective analyses in accordance with identified impacts. Within its competence assigned upon the legal acts, BRC **assessed real existence of the impacts recognized in all the prepared Analyses of Impacts on the Business Environment** (preliminary commenting procedures are run before ISCPs, final assessments thereafter, if document impacts get changed) and **provided detail opinions containing proposals of better recognition of impacts** of new regulations on the business environment.

From the material point of view, BRC was actively and upon its own initiative participating on **commenting procedures of contents of new draft regulations** (consultations, ISCP), then was invited to the dispute proceedings to discuss comments submitted by BRC, which, even though the variance was not removed in most of the cases, resulted in **incorporation of some important BRC's proposals** in the document of proposed regulations as such and regulatory impacts on SMEs could thus finally be reduced to a certain extent.

Within the tasks assigned by Act on SMEs Support and by the Unified Methodology, BRC **evaluated impacts subject to the assessment through the SMEs Test** applying the **ex-ante** method (i.e. in advance, in the phase of preparation of the given regulation) as well as the ex-post method (i.e. consequently using the so-called analysis of benefits and costs of effective regulations). The ex-ante SMEs Test was performed flexibly in relation to the publishing of the preliminary information, upon which significant impacts on SMEs were supposed by the regulation submitted, and its preparation was thus the core activity of BRC within the four-week period of consultations. To the contrary, the ex-post SMEs Test was performed upon problematic regulations with significant impacts on SMEs defined in advance and, unlike the ex-ante SMEs Test, it represented a long-term task BRC was working on continuously along with its daily agenda with no pre-defined deadline.

Within testing, we cannot omit the importance of **analyses of excessive** regulation caused by the process of **transposing the European law in the Slovak** legal regulations (the so-called **gold-plating effect**).

These analyses also included **international comparison of legal arrangement of the subject to the regulation** focused on the comparison with EU member states with emphasis on a more detailed recognition of legal arrangements of those countries that are considered by OECD exemplary in fulfilling recommendations of the European Union in the better regulation agenda.

In the survey **Bureaucratic Non-Sense of the Year**, BRC professionally **evaluated “(non-)sense” of delivered as well as BRC’s own proposals, quantified the scope of their impacts** on the affected business entities, and **prepared proposals of material measures for optimizing regulatory burdens**. BRC performed **analyses of individual legal institutes burdening SMEs** even beyond the survey and, in such cases, the initiative was driven by representatives of entrepreneurs or by BRC’s own searching activities.

Except for **the preparation of a simplified methodology** of how to proceed when **performing the SMEs Test** defined by the party submitting new regulations, BRC **participated on updating Unified Methodology**, the updated wording of which is frequently required by ambiguous application of provisions in practice. Representatives of BRC **took part on the Seminar on the SMEs Test** held on 5 October 2016 in Brussels, where the European Commission presented the method of applying the SMEs Test as such and created space for a **discussion of relevant representatives from particular member states** about evaluation methods of quality of the impacts recognized and the level of participation of the affected (business) entities on consultations, quantitative analysis, and impacts of the SMEs Test or on their application. BRC used the meeting for bringing inspiration for building the better regulation agenda in Slovakia, especially with regard to procedures of the Danish (they evaluate the effect on GDP too) or the Austrian (ex-post re-evaluations of each regulation within five years from its adoption) or the Netherlander (a user-friendly information tool for all duties of specific entrepreneurs).

BRC **presented** outputs from their activities not only on its webpage or through social networks, but also through press releases published on internet portals, in dailies or weeklies or in TV news.

OUTPUTS

In the first whole year of its existence, i.e. in 2016, BRC was dealing with the whole spectrum of business environment regulation areas, documents prepared by the Ministry of Finance of the SR (**the area of taxes and contributions**), the Ministry of Justice of the SR (**the field of enforcing ownership rights, conditions of applying for public contracts**), but also the Ministry of Labour, Social Affairs and Family of the SR (**problematic of illegal employments, the field of trade licenses at selected occupations, conditions of employing applicants for jobs**) or the Ministry of Interior of the SR (**conditions of employing foreign persons, registration of accommodated foreign persons**) or the Ministry of Health of the SR (**employers' duties at employees' occupational health protection**), the Ministry of Culture of the SR (**problematic of employers' payments for services of the Radio and Television of Slovakia**), and other central state administration bodies or proposals addressed to business entities or identified as problematic upon BRC's own searching activity.

1. Consultations with the business environment

BRC performs daily monitoring of publishing preliminary information through the online portal slov-lex. Those regulations with submitting party's expected impacts on an area subject to monitoring (while BRC is only focused on impacts on SMEs) are sent to members of the Permanent Working Commission as well as to its secretariat. If a more detailed description of a prepared regulation is required, CLR will contact the submitting party with specific questions and if **impacts on SMEs are confirmed** upon the information, two important steps will follow:

- 1. recommendation** for the Ministry of Economy of the SR of deciding **about** submitting party's **mandatory consultations with entrepreneurs and**
- 2. notification of relevant representatives of potentially affected business entities** about the prepared regulation with stating its comprehensible description.

Consequently, BRC mostly starts **at first with online consultations** with the submitting party in the form of questions regarding details of the arrangement or potential discrepancies and submits its proposals and comments regarding contents of the arrangement. If BRC has no content comments regarding the problematic, it will let the relevant business entities in the given area propose them only (or address representatives of SMEs by industries, if they are not on the notification list addressed by MH SR). If online consultations are not sufficient enough, the submitting party shall address both BRC and business entities having expressed their interest in the given subjects to consult the document, if the subjects are open (they are recorded in the [list on the webpage of the Ministry of the Economy](#) accessible by any entrepreneur) and to participate on personal public consultations. Consultations are aimed at improving transparency of the preparation of draft regulations and at creating space for involving affected business entities in their development.

During 2016, BRC actively participated on 18 consultations and submitted specific content comments within five of them; for example, **BRC was striving for removing the duty of micro-employers to pay the so-called television license fees derived from the number of employees** (the amendment of

Act No. 340/2012 Coll. on Payments for Public Services Provided by the Radio and Television of Slovakia), for **achieving a compromise at the option of combining graduate practice and agreement** (the amendment of Act No. 5/2004 Coll. on Employment Services), then **submitted several proposals for removing excessive burdens and non-compliant deadlines within statistical surveys** (the amendment of Regulation of the Statistical Office of the Slovak Republic No. 291/2014 Coll., by which State Statistical Surveys Programme has been published for the years 2015-2017).

BRC **adopted a negative attitude with proposals of alternative solutions towards the initiative of implementing a choice of revoking trade licenses in the case of breaching specific provisions of accounting and tax laws** (the analysis of Implementation of a Choice of Revoking Trade Licenses in the Case of Breaching Provisions of the Accounting Act and Tax Code) and then **actively participated on the reform of the institute of occupational health services with the aim of removing the gold-plating effect in the Slovak legal arrangement and of simplifying duties for employers** (the amendment of Act No. 355/2007 Coll. on Protection, Support and Development of the Public Health). **Moreover, BRC in cooperation with representatives of entrepreneurs was working on the proposal for improving conditions of employing foreign persons in Slovakia and running their businesses as well as for improving the electronic system of reporting accommodated foreign persons by accommodation facilities** (the amendment of Act No. 404/2011 Coll. on Residence of Foreigners).

2. Assessing impacts of draft regulations within the Analysis of Impacts on the Business Environment

In the period from 1 January 2016 to 31 December 2016, BRC registered 502 separate documents, out of which **297 separate documents with the impact on business environment** or 373 unique ones, out of which 196 with the impact on business environment identified by BRC¹.

Table No. 1: The number of documents submitted by submitting parties in total

| 01/2016-12/2016 | to be assessed by BRC | with the application for granting an exemption | under preparation | with consultations recommended by BRC |
|------------------------------------|-----------------------|--|-------------------|---------------------------------------|
| totally | 502 | | | |
| totally with the impact on BE/SMEs | 297 | | | |
| unique | 373 | 14 | 227 | |
| unique with the impact on BE/SMEs | 196 | 10 | 131 | 59 |

While out of this number

» 188 documents were submitted by submitting parties with the application for the assessment within the preliminary commenting procedure (hereinafter referred to as PCP) including those submitted by the submitting party repeatedly, since the clause of selected impacts and/or their analysis was revised upon a negative opinion of the Permanent Working Commission. And out of them with regard of

¹ Differences in the calculations are caused by repeated submissions of a unique document in re-elaborated versions within the same stage or a submission of the document (in various versions) in consecutive stages.

- i. *the duration of PCP* – submitting parties submitted **100 documents** (out of which 53 directly) **into the ordinary PCP** and other **88 documents** (out of which 47 directly) **with the application for shortening PCP**, which were to be assessed within three working days;
- ii. *specificity of the procedure of document preparation in the case of identification of impacts on the business environment* resulting from Unified Methodology (potential need of consultations with the affected entities during the document preparation) – submitting parties submitted **54 documents with identified impacts on the business environment (out of which 17 directly) into PCP and 45 documents (out of which 11 directly) with the application for shortening PCP (without informing the affected entities previously of the preparation**, while consultations would not be efficient in selected cases only with regard of the character/scope of proposed changes to the regulation). Beyond that, **6 documents complied with Unified Methodology partially - they informed of the preparation, but did not provide consultations in terms of the decision of MH SR, and, at the same time, applied for shortened PCP.**

» **67 documents (out of which 42 directly) were submitted by submitting parties with the application for a final assessment** (after completing the inter-service commenting procedure, upon which impacts of the documents got changed) including also those submitted by the submitting party repeatedly due to the revision of the clause of selected impacts and/or analysis upon a negative opinion of the Permanent Working Commission. And out of that

- i. **41 documents (out of which 25 directly) with identified impacts on the business environment were submitted by submitting parties for the final assessment of the Permanent Working Commission** with regard of the requirement of entities involved in the inter-service commenting procedure, where submitting parties were criticized for insufficiently identified impacts or where impacts on the business environment were identified due to ISCP's comments (exceptionally).

» **14 documents were submitted by submitting parties with the application for granting exemptions from Unified Methodology.**

» **227 documents, where the submitting parties informed of the beginning of their preparation (BRC identified impacts on the business environment in 131 of them),** and, out of that, BRC

- i. **recommended** submitting parties **consulting their** proposals with **entrepreneurs in 59 cases, especially before, but explicitly also after putting the slov-lex portal** publishing preliminary information of the document preparation **into operation** (since 1 April 2016),
- ii. responded to direct questions of submitting parties or of the Permanent Working Commission regarding consultations with business entities (yes/no) at 14 documents in relation to publishing preliminary information through the slov-lex portal and at 24 documents with publishing no preliminary information,
- iii. was dealing with 11 documents, the information of preparation of/starting consultations about which might not be published through the slov-lex portal or the information was not published after its putting into operation.

Except for various non-regulatory documents, these documents also included **the Plan of Legislative Tasks of the Government of the SR for June to December 2015, the Work Plan of the Government for the Second Half-Year 2016, and the Plan of Legislative Tasks of the Government of the SR for 2017**. The documents contained a list of regulatory and non-regulatory documents commented by BRC with regard of the need of consultations with business entities, **namely to the documents No. 77, 18, and 91** in the said list of the documents. Regarding the Plan of Legislative Tasks of the Government of the SR, there was a frequent overlapping with the documents recognized by BRC in the legal process very often also prior to publishing them in the Plan of Tasks of the Government of the SR as such both from such regulation name and goal points of view.

Table No. 2: **Number of documents submitted by submitting parties within various phases of the process preparation**

| 01/2016-12/2016 | with the application for shortened PCP | into ordinary PCP | for final assessment |
|---|--|-------------------|----------------------|
| totally (even repeatedly) | 88 | 100 | 67 |
| totally with impacts on BE/SMEs (even repeatedly) | 45 | 54 | 41 |
| totally (first time) | 47 | 53 | 42 |
| unique with impacts on BE/SMEs (first time) | 11 | 17 | 25 |

BRC contributes to improved quality of professional discussions on subjects of regulatory burdens for entrepreneurs not only by analytical outputs that, except for identification of causes, usually include proposed alternative solutions during the document material preparation, but, within the assessment of documents due to its membership in the Permanent Working Commission, also through **the improvement of formal transparency of recognizing the impacts of proposed documents during the legal process**. The purpose of comments in partial opinions of BRC within PCP and the final assessment is **to recommend and to ask submitting parties for the missing or insufficient description of the impacts of the document submitted both from the qualitative and quantitative points of view**, which should be used for informed decision-making and usefulness of adopted regulations prior to their adoption and producing the (estimated) impacts.

Submitting parties **failed to comply with Unified Methodology** in circa one **quarter of the cases** in total and **they informed of preparation of the document, within which BRC identified impacts on the business environment, by its submission directly into PCP or directly to the final assessment**.

From the formal and process points of view, BRC **provided** the Commission **more than 60 partial opinions** within the impacts assessment and thus directly **contributed to improved quality** of the elaborated analysis of impacts on the business environment and to the **increased fair value of objectively calculated or otherwise recognized impacts**, but also to **the correct interpretation of Unified Methodology**.

Table No. 3: **The number of documents procedurally intervened by BRC by:**

| 01/2016-12/2016 | criticizing | | providing | |
|------------------------------------|-------------------------|---------------------|------------------|--------------------------------|
| | procedural deficiencies | formal deficiencies | negative opinion | positive opinion with comments |
| totally with the impact on BE/SMEs | 72 | 63 | 26 | 37 |

BRC was commenting regulation proposals, **costs** of which **for business environment represented circa 410 million Euros, out of which the sum of up to circa 8 million Euros was represented by the administrative costs** that, however, were almost exclusively relating to regulations relating to financial market entities and measures resulting from provision of compliance between activities of the related entities and regulations representing transposition of European regulations.

3. Performing ex-ante and ex-post SMEs Tests

Within the legislative process, **in the event of an identified significant impact on SMEs BRC is elaborating ex-ante SMEs Test**, in which the detailed **procedure and result of measuring the impact** of the regulation proposed by the submitting party on SMEs **as well as the evaluation of alternative solutions regarding such proposals are shown including gold-plating identified**. BRC elaborates the ex-ante SMEs Test under the Act on SMEs Support and Unified Methodology **in cooperation with the party submitting the new regulation** at the time **between** the ongoing **consultations** with business entities **and submission** of the document **into PCP**.

The ex-ante SMEs Test represents **the analysis of** submitted **draft changes to the existing regulation** and the scope of their impacts on business entities or SMEs as well as **alternative solutions** and it consists of four parts²:

- **consultation** with representatives of SMEs
- preliminary **assessment of the extent** of probably **affected business entities**
- **measurements** of regulation **impacts** on SMEs
- **assessment of alternative options** and mitigating measures for SMEs

During 2016, BRC recommended submitting parties **consulting** their proposals **with entrepreneurs** in 59 cases, especially before, but also after putting the slov-lex portal publishing preliminary information of the material preparation into operation (since 1 April 2016). From material and content points of view, BRC took part in **consulting in 18 documents** under preparation.

Regarding the necessary presumptions of **"significant impact identification"** and provision of **"cooperation with the submitting party"**, but eventually also **"identification of potential alternative solutions mitigating the burdens proposed"**, **it is more useful to evaluate the elaboration of the ex-ante SMEs Test from the qualitative than quantitative point of view**. The value of

² Parts of the analysis may, but need not be implemented in the said order. Implementations of the said parts are often overlapping and repeated in several rounds, if required so.

benefits from BRC's actions is based not only on the elaboration of ex-ante SMEs Tests, but mainly in combination of this activity with the improvement of in-time informing of the preparation of documents and specific participation of those business entities on the preparatory stage of the legal process that are/ should be affected by such document. Probability of considering counterproposals from the side of the affected entities is increased upon the ability of such entities to formulate such proposals and probability of unilateral development of the regulatory environment is thus decreased.

From the content point of view, the **ex-post** SMEs Test (analysis of costs and benefits) represents **the analysis of already effective regulations** and the scope of their impacts on business entities or SMEs. The form of implementation of the ex-post SMEs Test differs from the ex-ante SMEs Test in the only thing, viz. in the absence of consultations. They are replaced by negative impacts identified by BRC directly or through attitudes of the entrepreneurs (especially SMEs). At the same time, there is no deadline for elaboration of the ex-post SMEs Test defined ahead, since no legal process relating to the respective regulation is running in compliance with such elaboration. Therefore, its content also includes international comparison, namely comparison of legal arrangements in EU member states and highlighting best practices from the countries that, as stated by OECD, follow recommendations of the European Commission in the better regulation agenda for SMEs in an exemplary manner.

*Since, under the Competence Act, BRC has no competence of proposing changes to legal regulations, **ex-post SMEs Tests are aimed at elaborating analyses of benefits and costs** in compliance with the Act on SMEs Support or, in the case of identification of problematic excessive transposition of the European regulations in the Slovak system of laws, **gold-plating analyses** in order to **invoke professional discussion regarding revisions of already effective regulations by responsible state or public administration bodies and to reduce regulatory burdens of business entities**. The analyses are mostly dealing with the selected units or legal institutes only, within which they identify problematic aspects of regulation impacts on SMEs, and are using relevant data available for measuring burdens, while expecting at least minimalist, if not complete proposals of alternative solutions for regulation revisions (draft measures for optimizing the regulatory environment).*

³ Zákon č. 575/2001 o organizácii činnosti vlády a organizácii ústrednej štátnej správy.

During 2016, BRC prepared **one ex-ante SMEs Test** regarding the [Proposal amending Act No. 340/2012 Coll. on Payments for Public Services provided by the RTVS](#) and **two ex-post SMEs Tests** regarding [new obligations concerning the posting of workers within the EU and absolute objective responsibility of employers for illegal employment](#) as well as [occupational health services](#) and thus **contributed to identification of excessive burdens, their quantification, and presentation of alternative solutions in the form of savings of around 3.5 million Euros** (payment for Radio and Television of Slovakia Public Services, the amendment of which finally failed to proceed to the meeting of the government of the SR) **and other 2.2 million Euros** (work health service, the amendment of which was modified due to the acceptance of BRC's comments and is currently subject to ISCP) used in the relating process of preparation of the amendment of this Act, **viz. for the SMEs group only**. If the Ministry of Labour, Social Affairs and Family of the SR **accepts BRC's comments resulting from the ex-post SMEs Test in the field of objective liability of entrepreneurs for illegal employments provided by their suppliers, all registered entrepreneurs would save circa 4.8 million Euros** in the form of administrative costs relating to **one-time verification of the compliance of conditions** of the service delivered **with the law** or a multiple of 2,000 Euros in the case of a penalty for potential acceptance of service from a supplier being an illegal employer; **this sum is "only" relating to unburdening SMEs from their liability at supplies in the territory of Slovak Republic**.

4. Comments during ISCP

Regarding the mission of Better Regulation Center, it was also participating on the inter-service commenting procedure beyond its tasks resulting from Act on SMEs Support or Unified Methodology. BRC's comments can be classified onto two kinds – [process and material ones](#). While **the process comments** appealed to submitting parties for following the procedure of the pre-preparation phase of the legal process upon Unified Methodology as well as in compliance with the Act on SMEs Support, **material proposals** were **focused on preventing SMEs from increasing regulatory burdens or directly on their reduction**. BRC submitted comments **in 13 cases**; most of them were of crucial character and, consequently, subject to dispute proceedings.

Crucial process comments relating to **the requirement regarding those submitting parties** that failed not only to inform of the document preparation, but also to submit it to PCP, to state identified impacts on the business environment in the clause of selected impacts, to elaborate **or to amend the analysis of impacts on the business environment**, and to submit them together with the document (at least) for **final assessment** by the Permanent Working Commission, were most successful. Comments regarding **additional organization of consultations** with representatives of the affected business entities were not too successful.

From the aspect of **crucial material comments**, BRC has, except for pointing out the existence of alternative concepts and its negative opinion **regarding the proposed increase of payments for Radio and Television of Slovakia public services**, also proposed **exemption from the duty of paying the so-called television license fees for all microenterprises** (with less than 9 employees) as well as **withdrawal of the proposal of future payment rate setting via a regulation**, which would result in

the situation that a potential increase avoids consultations with entrepreneurs. A specific ***change in favour of better cooperation at collecting payments between Radio and Television of Slovakia and the Social Insurance Company was proposed too***. The last two comments were accepted and the legal process has stopped in the stage of "PCP evaluation" and did not proceed to the government.

BRC also proposed to ***liberalize confirmations regarding the possibility of employing foreign persons for empty job positions or of documenting incomes of foreign trade-license holders*** for purposes of a temporary address within the **amendment of Act on Residence of Foreigners**. BRC succeeded ***in enforcing the extended validity of the so called blue card from originally proposed three years to four years*** as permitted by the EU Directive. Even though the submitting party admitted that ***the electronic system of reporting accommodated foreign persons*** had its technical weaknesses, BRC failed to enforce its proposal for improving the system.

BRC submitted a lot of ***technical comments improving the legal safeguard and leading to simplified legal arrangements in favour of SMEs in the amendments of the Execution Code, Act on the Reminder Proceedings, Act on Bankruptcy and Restructuring or Act on Register of Partners of the Public Sector***. However, majority of the comments were not reflected in paragraph wordings of the amendments and in such cases, BRC refused to agree with formal removal of the disputes.

At the same time, BRC pointed out the existence of ***bureaucratic barriers*** resulting from **acts on administrative and court fees, Tax Code or Acts on Income Tax and on VAT**, and proposed a simple solution thereof that would represent zero additional financial costs for the public administration. The expressed ***disagreement with increasing the price of a binding opinion in the case of transfer pricing as well as the proposed significant decrease of a fee therefor or practical deficiencies of the transfer pricing institute as such*** were not accepted by the submitting party. Finally, BRC pointed out ***the absence of arrangement of increasing the so-called lump-sum expenses of self-employed persons*** in the document submitted despite their presence in the Manifesto of the government of the SR as well as in the preliminary information regarding preparation of the document and asked the submitting party for amending the arrangement for these plans of the government. BRC also accented that the originally proposed sum of ***the dividend tax*** was 10% and the submitting party had then increased it for ISCP to 15%. Also thanks to these comments, the submitting party finally increased lump-sum expenses of self-employed persons from 40% to 60% and adopted the dividend tax in the sum of 7% "only".

Within its participation on the inter-service commenting procedure, BRC also succeeded in, for example, ***reducing unreasonable qualification requirements for baby-sitters taking care of children younger than 3 years*** (accounting for skills of women older than 50 years) and ***moderating nursery regulations*** (lower number of professional employees, more children per one employee) in the amendment of the Act on Social Services. BRC also proposed to withdraw the obligatory registration duty or new strict requirements for nurseries, but with no success. However, the pressure produced by BRC together with other consultants from among the affected entrepreneurs was not useless, since President of the SR vetoed the Act amendment and the submitting party has currently announced another revision.

5. Evaluation of proposals from the survey **Bureaucratic Non-Sense of the Year and their regulatory burdens**

The Slovak Business Agency **has been a partner** of the Young Entrepreneurs Association of Slovakia, **the announcer of the Bureaucratic Non-Sense of the Year survey**, almost since its beginning in 2012. The survey represents a platform for **collecting incentives from entrepreneurs** whose practice suffered from significant **complications** caused by selected regulations **without any justified reason or who consider various regulations conflicting with each other**. Years brought several tens of proposals of absurd duties and representatives of the associations of entrepreneurs selected ten checked and justified proposals for **voting by the entrepreneurial public**.

Since the day of its establishment, BRC took the partnership agenda in the survey over and **professionally evaluated justifiability** of up to one hundred proposals for the years 2015 and 2016, out of which 28 in 2015 and 39 in 2016 were among BRC's candidate **measures for improving the business environment**. At the same time, BRC **quantified excessive burdens** of an extensive and, at the same time, **varicoloured group of affected entities** in a half of the cases in the sum of **several million Euros**.

A summary of proposed measures from top tens of particular years of the survey that have not been taken into account in the legal arrangements made by responsible state and public administration bodies so far as well as a wider selection of candidates from the last year 2016 represented the basis for creating **the current list of 60 measures for improving business environment** submitted by BRC as **a background document to the Ministry of Economy of the Slovak Republic** for starting negotiations about the arrangements with relevant sectors.

Proposals for revision of regulations **include those where**

i. the regulations conflict with each other and fulfilment of the duties is impossible or very complicated (e.g. non-compliant deadlines for fulfilment of the duties against the Statistical Office of the SR; non-compliant deadlines for electronic services VAT return and payment), or

ii. the duties are replacing the absence of efficient operation of the public administration (e.g. reporting a foreign person's stay using the inefficient electronic service; when performing various inspections, clerks ask entrepreneurs for public documents or documents that can be asked for from another authority; under the law, courts ask for non-public and often unsearchable data; ill-conceived electronic communication with the financial administration), or

iii. they are nonsense due to the useless redundancy of actions (such as the duty of permanent registering and unregistering workers on agreement in health insurance companies; useless bureaucracy at the cross-border posting of employees; application for relieving from the duty of paying tax advance payments), or

iv. iv. they are nonsense in their nature (e.g. television license fees are paid by employers upon the number of employees; penalized entrepreneur, if his(her) supplier employs workers illegally; penalized employer for untrue declaration of honour of a temporary worker; if an entrepreneur provides his(her) clients sacks for goods or prints a leaflet, he(he) must register at the Ministry; raw fish yes, but meat not), and so on...

Permanent pressure on legislators to remove these administrative obstacles through the survey is meaningful - the evidence is that **10 of 50 serious problems** (for the years 2012 – 2016) at **the entrepreneurship were removed and resolved so far**. Quantification of costs as such with resulting 7-digit sums representing total cost of such bureaucratic non-senses for the entire business environment in Slovakia should be an incentive for competent bodies to reconsider whether the importance of performing such duties is really worth such unreasonable resources spent by enterprises.

BRC IN MEDIA

CLR also presents its activities and their results through **online tools**, namely it informs regularly of the news from among prepared changes to regulations affecting SMEs on its [Facebook page](#), where stakeholders get information of results of its participation on the preparation of regulations too. Establishing an account on the Facebook social network in May 2016 was purposed on **introducing** BRC's activities to **the lay entrepreneurial public closer** and on the **user-friendly** mediation of possibilities to be used by representatives of entrepreneurs as such for affecting content wordings of prepared regulations. At the same time, the BRC's page works **as a monitor of regulatory changes** with the most significant **impact on SMEs**, thanks to which visitors of the page are informed of planned measures soon enough. Although no BRC's activity was subject to advertisement as a paid service so far (including absent promotion of the Facebook page), reach statistics show the value of more than two thousand users at the most popular posts. Soon afterwards, an account on the social network [LinkedIn](#) has been established too to be more frequently used by BRC in the future also **in relation to the recruitment of new employees and presentation of its activities and creating contacts among partner organizations of this kind**.

As for the official information published on the internet, BRC has its [web page](#) within the website of the National Business Centre so far, where the readers are not only informed of BRC's tasks, mission, results of its activities (the list both of ex-ante and ex-post SMEs Tests) and, in a user-friendly manner, of the **possibility of reporting bad Slovak regulations** (due to the gold-plating effect or nonsense regulatory burdens or regulatory burdens with too complicated administration), **of the procedure of how to participate on preparation of regulations - not only Slovak ones** (consultations with the business environment), **but also the European ones** (through the Enterprise Europe Network with its Slovak partner Slovak Business Agency), but they are also provided **key documents for the better regulation agenda for downloading**. In the parts **"BRC's News"** and **"BRC in Media"**, readers can find the latest information relating to the most important BRC's activities presented outwardly – either in the form of press releases taken over by media or participation on the discussions regarding the state of business environment as well as TV presentations or, to the contrary, due to its own media searching activities or in relation to the activities, BRC participates on together with other partners. **During 2016**, BRC was subject to **tens of media presentations** in relation to its activities and their results.

PLANS

Since the year 2016 was the first complete year of the BRC's operation, contents of its planned activities are mostly included in its plans; specifically, its aim within starting and implementing the **"Project of Establishment of the Analytical Unit for RIA and SMEs Test – the Better Regulation Center"** is to

- » extend **professional personnel capacities**,
- » make **cooperation with representatives of entrepreneurial organizations**, especially with SMEs and **parties submitting** regulations, more intensive to build serious partnerships,
- » **continue in participation on the improvement of process procedure at the adoption of regulations affecting SMEs**, i.e. to achieve higher level of participation of business entities on consultations, acceptance of comments submitted by them, and improvement of quality of elaborated analyses of impacts on the business environment,
- » **continue in elaboration of ex-ante and ex-post SMEs Tests** and forwarding their results to relevant authorities through the Ministry of Economy of the SR **with the aim to achieve the implementation process of the solutions proposed with even greater emphasis on gold-plating analyses**,
- » **continue in activities** within the survey **Bureaucratic Non-Sense of the Year**; regarding the extension of BRC's personnel capacities and fulfilment of duties resulting from the membership in the Permanent Working Commission, just these activities and proposals from previous years of **the survey** will be used as one of **the bases for selecting relevant areas and subjects of ex-post SMEs Test elaboration in the coming years**,
- » **involve the lay entrepreneurial public into the improvement of regulation**; the said public affects the process even through reporting bad regulations,
- » **participate on the development of draft measures for improving conditions of SMEs entrepreneurship** in Slovakia,
- » achieve **the position of a professional and objective gestor in the assessment of impacts on the business environment with the focus on SMEs** and to **build professional contacts with relevant entities in the Slovak Republic and abroad** or
- » monitor the development in the **field of the assessment of impacts of regulations on SMEs abroad**.



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