

REPORT ON ACTIVITIES

OF SBA BETTER REGULATION CENTER

2017



FOREWORD

Annual report for 2017 presents the activities that were carried out by the **Better Regulation Center** (hereafter referred to as “BRC”) – **analytical department of the Slovak Business Agency** (hereafter referred to as “SBA”) during the second full calendar year of its existence.

CLR was founded **in order to meet objectives of better regulation agenda for micro, small and medium-sized enterprises** (hereafter referred to as “SME”), which is covered by [“Small Business Act” Initiative of the European Commission for Europe](#) along with [the “Better regulation” Recommendation](#), as well as [the Recommendation of the OECD Council on Regulatory Policy and Governance](#). An accompanying slogan of this agenda is the development of regulation **rules according to the “Think Small First” principle**, i.e. public authorities responding to SME’s needs and adapting public policy instruments exactly to their needs. Such an approach is possible especially **by means of regulation not only in terms of content adjusted so that it’s taking into account specifics of SME** (simplified rules, e.g. in the form of exemptions from the obligations, transitional periods, reduced rates, simplified forms etc.), but **also in terms of procedure i.e. adoption of regulation where SME representatives or SME as such** (not only representatives of large employers’ associations) **should have the possibility of being involved**.

Activities of BRC are also following one of the objectives of the **Effective Public Administration Operational Programme**.

In response to above mentioned initiatives, the Slovak Republic adopted legal basis in the form of [Small Business Act](#) as well as Decree of the Government of the Slovak Republic – the so-called [Unified Methodology for the Assessment of Selected Impacts](#). In 2017, [RIA 2020 – Better Regulation Strategy](#) document was prepared that was approved by the Government of the Slovak Republic at the beginning of 2018 and that should bring principles of simplicity, clarity, and transparency to the legislative preparation process in the coming years. With the intent of implementing changes not only procedural, but also in terms of content of the regulations as such, [Draft Business Environment Improvement Measures](#) were adopted by the government as the so-called 1st anti-bureaucratic package of measures.

The year 2017 was the second calendar year of the BRC operation; plans to continue and improve performance of the defined activities both in terms of quality and quantity in the coming years are ambitious. For this purpose, the Ministry of Economy of the Slovak Republic concluded **the Contract on Providing Implementation of Selected Activities of Better Regulation** and it was thus officially assigned competences under Art. 9 (1) of Small Business Act. Despite a great deal of time dedicated to administrative works relating to the application **for the project within the Effective Public Administration Operational Programme** and the changes that occurred within the professional team, BRC was successful in carrying out the tasks assigned either by the aforementioned legal documents or by the SBA’s internal organizational rules or resulting from its own initiative and intends to continue in this direction.

TABLE OF CONTENTS

FOREWORD	2
TABLE OF CONTENTS	3
ABOUT THE BETTER REGULATION CENTER	4
VALUES	5
PEOPLE	6
ACTIVITIES	8
OUTPUTS	10
1. Consultations with the business environment	10
2. Assessing impacts of draft regulations within the Analysis of Impacts on the Business Environment	11
3. Performing ex-ante and ex-post SMEs Tests	14
4. Comments during ISCP	15
5. Valuation of proposals from the survey Bureaucratic Non-Sense of the Year and their regulatory burdens	16
6. Results of legal monitoring	17
BRC IN MEDIA	19
PLANS	20

ABOUT THE BETTER REGULATION CENTER

Name: **BRC**

Organisation: **Slovak Business Agency**

Registered office: **Karadžičova 2, 821 09 Bratislava**

E-mail: **clr@sagency.sk**

Web site: **www.lepsiezakony.sk**

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** ([SME 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) Objectivity

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 such 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 **2017, 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). They cooperated with the Business Environment Department of the Ministry of Economy of the SR at the development of **explanatory statements towards the Unified Methodology for the Assessment of Selected Impacts**, commented **the RIA 2020 – Better Regulation Strategy** document, and contributed to the governmental **Draft Business Environment Improvement Measures** with their 60 proposals. BRC cooperated with the representatives of entrepreneurs in the form of evaluation of collected proposals for **bureaucratic non-senses**, for which SBA is a partner of the announcer – the Young Entrepreneurs Association of Slovakia in the annual **survey**. At the same time, they **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.

And last but not least, BRC also cooperated with **the Ministry of Interior of the SR**, since it represents the governing authority of **the Effective Public Administration Operational Programme**, within which the project plan for the **“RIA and SMEs Test – Better Regulation Center Analytical Unit Development Project”** was approved by the Monitoring Committee on 21 May 2015. The year 2017 was thus significantly marked with revisions of the required documents to their expected versions and the evaluation committee approved the reform plan on 13 April 2017. However, after achieving the required quality of documentation, a question emerged there whether a provision of non-repayable financial resources in the form of a national project a state aid is. Upon the information available, the governing authority contacted the European Commission and, from this moment on, the communication between SBA and the governing authority aimed at moving the project closer to the implementation did not continue anymore. This fact represents a significant complication regarding implementation of the project that should be used in the business environment for active participation on the development of regulations and in the analytical

units for objective and professional assessment of impacts both of new and existing regulations and for finding alternative solutions while taking the interests of SMEs into account. Currently, BRC is operated under very limiting conditions as compared to the planned ones, but, nevertheless, they negotiated several compromises in the regulation in favour of SMEs within two and half years of their operation in compliance with the Unified Methodology for the Assessment of Selected Impacts and with the Small Business Act and became a sort of a **“bridge” between SMEs and submitting parties**. It is another evidence that it is meaningful to start full operation of the respective project after the “test version” of a sufficient duration for multiplying progress in the better regulation agenda.

ACTIVITIES

During the last year 2017, 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 web page 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 their **membership in the Permanent Working Commission**, the tasks and competences of which result from the Unified Methodology for the Assessment of Selected Impacts 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 discuss comments submitted by BRC within special consultations or working groups or dispute proceedings, 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.

BRC participated on the development of **explanatory statements towards** as well as on **the update of Unified Methodology** as such, the second more important update of which was required by the application practice and experience resulting from the daily work of members of the Permanent Working Commission. Comments of BRC were incorporated in **the RIA 2020 – Better Regulation Strategy** document and BRC with **their 60 proposals** contributed **to the governmental Draft Business Environment Improvement Measures**.

On 12 February 2017, representatives of BRC took part on **the meeting in Brussels regarding the problematic of Tax compliance costs for SMEs**, where **the study elaborated by KPMG** was presented, the aim of which was to sum up obligations to be met by SMEs in various EU member states in the field of taxes, to quantify administrative burdens resulting from meeting such obligations with regard of the size of SMEs and the sector of industry, and to submit recommendations for reducing administrative burdens of SMEs resulting from tax regulations. Upon the SCM method, the study showed that the SR had the highest but one administrative burden within 20 EU member states and, with regard of other lists, the SR was always among three countries with the highest burdens. BRC used the meeting for receiving recommendations and best practice of particular EU member states such as simplified modes within the tax administration for SMEs, the one-stop-shop approach for registration purposes, user-friendly on-line instruments in various languages, emphasis on a comprehensive ex-ante Impact Assessment or the need of liberalization in the field of penalties.

BRC presented outputs from their activities not only on their new web page or through social networks, but also through press releases published on internet portals, in dailies or weeklies or in TV news. For informing the public on the status of better regulation in Slovakia, a representative of BRC participated on **the press conference regarding the INESS project – Bureaucratic Index 2017**.

OUTPUTS

In 2017, 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 (**extracts from registers**), but also the Ministry of Labour, Social Affairs and Family of the SR (**problematic of illegal employments, collective bargaining, social insurance, social services**) or the Ministry of Health of the SR (**employers' duties at employees' occupational health protection**), the Ministry of Environment of the SR (**waste**), the Ministry of Transport of the SR (**vehicle operating conditions**) and other central state administration bodies (**public procurement**) or proposals addressed by business entities or identified as problematic upon BRC's own searching activity.

1. CONSULTATIONS WITH THE BUSINESS ENVIRONMENT

BRC **perform daily monitoring of publishing preliminary information** through the on-line portal slov-lex. Those regulations with submitting party's expected impacts on an area subject to monitoring (while BRC are 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 to decide **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 start **at first with on-line consultations** with the submitting party in the form of questions regarding details of the arrangement or potential discrepancies and submit **their proposals and comments regarding contents of the arrangement**. If BRC have no content comments regarding the problematic, they will let the relevant business entities in the given area propose them only (or address representatives of SMEs by sectors, if they are not on the notification list addressed by the Ministry of Economy of the SR). If on-line 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 web page of the Ministry of Economy of the SR](#) 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 2017, BRC actively participated on **24 consultations** and **submitted specific content comments within 15** of them; for example, BRC **were striving for simplifying modes for SMEs or the transfer pricing** (the amendment to Act No. 593/2003 Coll. on Income Tax) and for **achieving exemption for small enterprises within the extension of higher-level collective agreements** (the amendment

to Act No. 2/1991 Coll. on Collective Bargaining), expressed their **disagreement with the obligation of providing both the technical and emission inspections at the same work site** (amendment to Act No. 752/2004 Coll. on Vehicle Operating Conditions within the Road Traffic), then were striving for **more transparent public procurement with lower administrative burdens** (the amendment to Act No. 343/2015 Coll. on Public Procurement), succeeded in **proposing a solution for liberalization of objective responsibility for illegal employment as well as reduced penalties** (the amendment to Act No. 82/2005 Coll. on Illegal Work and Employment), for the second time they were trying to remove strict professional competence at the nursery operation (the amendment to Act No. 448/2008 Coll. on Social Services) and also **submitted several proposals for simplifying processes within the VAT payment** (the amendment to Act No. 222/2004 Coll. on Value Added Tax) **or duties of employers towards the Social Insurance Company** (the amendment to Act No. 461/2003 Coll. on Social Insurance), and others.

BRC adopted a negative attitude with proposals of alternative solutions towards the proposed increase of mandatory additional payments for the work at night and in weekends and holidays (the amendment of Act No. 311/2001 Coll. Labour Code).

2. ASSESSING IMPACTS OF DRAFT REGULATIONS WITHIN THE ANALYSIS OF IMPACTS ON THE BUSINESS ENVIRONMENT

In the period from 1 January 2017 to 31 December 2017, BRC registered 585 separate documents, out of which **319 separate documents with the impact on business environment** or 420 unique ones, out of which 201 with the impact on business environment were identified by BRC¹.

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

1/2017 - 12/2017	to be assessed by BRC	with the application for granting an exemption	under preparation	with the application for a shortened preliminary commenting procedure	for a due preliminary commenting procedure	for final assessment
totally	585			96	226	30
totally with the impact on BE/SMEs	319			55	141	19
unique	420	4	119	69	113	17
totally with the impact on BE/SMEs	201	0	64	30	65	8

While out of this number

- **322 documents were submitted by submitting parties with the application for the assessment within the preliminary commenting procedure** (hereinafter referred to as PCP) including those

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.

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

- i. the duration of PCP – submitting parties submitted **226 documents** (out of which 113 directly) **into the ordinary PCP** and other **96 documents** (out of which 69 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 **141 documents with identified impacts on the business environment** (out of which 65 directly) **into PCP** and **55 documents** (out of which 30 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).
- **30 documents (out of which 17 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 impact analysis upon a negative opinion of the Permanent Working Commission.** And out of that
 - i. **19 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).
 - **4 documents were submitted by submitting parties with the application for granting exemptions from Unified Methodology.**
 - **119 documents, where the submitting parties informed of the beginning of their preparation (BRC identified impacts on the business environment in 64 of them).**

Except for various non-regulatory documents, these documents also included [the Work Plan of the Government for 2017](#) and [the Plan of Legislative Tasks of the Government of the SR for 2018](#). 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. 26 and 54** 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.

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 ten 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 87 partial opinions** within the impacts assessment in the Commission 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. 2: **The number of documents procedurally intervened by BRC by:**

1/2017 – 12/2017	criticizing		providing	
	procedural deficiencies	formal deficiencies	negative opinion	positive opinion with comments
totally with the impact on BE/SMEs	10	77	30	57

BRC was commenting the regulation proposals, **costs** of which for the business environment, as resulting from submitting parties' quantifications stated in the Analyses of Impacts on the Business Environment, represented **circa** EUR 125.5 million, but, due to the insufficient quantification made by submitting parties in spite of principal comments of BRC within their partial statements in PCP directed to them (most frequently explained by submitting parties as non-feasibility whereas either the scope of affected entities is not known or the costs of new measures in practice cannot be predicted or other data are missing), the sum may not be considered the final one and, at the same time, it is irrelevant to exclude financial or administrative costs thereof, since no quantification of administrative costs was performed in most of the cases. The potential for reduction of such costs is represented by the aforementioned 1st anti-bureaucratic package; preliminary **savings** in administrative costs for the whole business environment in the sum of **more than EUR 3.1 million** were quantified by the Ministry of Economy of the SR as the submitting party.

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.

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 **the analysis of 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

From material and content points of view, BRC took part in consulting in 24 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 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 counter-proposals 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 elabo-

³ Act No. 575/2001 Coll. on organisation of government activities and organisation of the central state administration.

ration 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 (experience from practice) 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).

During 2017, BRC prepared **one [ex-ante SMEs Test regarding work health service](#)** and the first version in the stage of PCP identified savings of Slovak entrepreneurs in the sum of up to EUR 18,768,462 provided that changes to the work health service (WHS) were adopted in their original versions. However, the amendment version was significantly changed after ISCP and the final version **with savings of almost ten million EUR lower (EUR 9,090,727)** than the original ambition of the Ministry of Health of the SR was adopted. In relation to the results of **the evaluation of the gold-plating effect**, i.e. Slovak legal arrangements exceeding minimum requirements of EU Directives, BRC understand that the argument for explaining such unexpected changes based on the required compliance with the EU system of laws is irrelevant, since **the original version that was more optimistic for micro, small, and medium-sized enterprises, did not represent any risk of breaching such compliance**.

Within **the ex-ante evaluation**, BRC were significantly participated on quantification of impacts of **harmonizing the Slovak Act on Personal Data Protection with the EU's GDPR Regulation**.

From the **ex-post evaluation** point of view, BRC were dealing with the problematic of setting up **provision of the de minimis aid, waste management regulation, and Act on Social Services** (the so-called nursery act).

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**.

Unlike the previous year, BRC did not apply **any crucial process comments** in the stage of ISCP in 2017; this is the evidence of a significant improvement in the adherence to process procedures according to Unified Methodology. From the aspect of **crucial material comments**, BRC have expressed disagreement with the obligation of providing both the technical and emission inspections within the same work site (the amendment to Act No. 725/2004 Coll. on Vehicle Operating Conditions within the Road Traffic) and re-directed their comments regarding contents closer to the consulting stage, since, upon the first year of their activities, they came to the conclusion that the successfulness of at least partial acceptance of comments would have been higher if they were presented to the representatives of submitting parties personally in a verbal form.

5. VALUATION 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 professional advisor agenda in the survey over and **professionally evaluated justifiability** of tens of proposals for 2017 too.

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 2017 represented the basis for creating **the 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.

Based on the voting of a professional jury, the arrangement, upon which the operation of nurseries is conditioned by earning a university degree, providing barrier-free premises, and elaborating annual reports, also proceeded to **TOP 10 Bureaucratic Non-Senses**; BRC proposed to revise the arrangement within two amendments in the previous two years.

Permanent pressure on legislators to remove these administrative obstacles through the survey is meaningful – the evidence is that **12 of 60 serious problems** (for the years 2012 – 2017) **at the entrepreneurship were removed and resolved so far**. Thanks to legal arrangements in 2017, they also included the partially resolved problematic arrangement of the work health service or reporting residence of accommodated foreigners or complete release of penalties for false statutory declarations of temporary workers and arrangement of objective responsibility for illegal employment – and, within all the aforementioned cases, **BRC were significantly participating** on consulting, testing impacts on SMEs, pointing out best practices from EU countries or proposing specific alternative solutions.

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 re-consider whether the importance of performing such duties is really worth such unreasonable resources spent by enterprises.

6. RESULTS OF LEGAL MONITORING

BRC perform daily monitoring of legal changes and record those affecting the business environment with the accent on SMEs.

From the BRC's point of view regarding impacts on SMEs, the following negative measures became effective in 2017:

- higher social contributions for people with higher incomes
- higher health contributions for people with higher incomes
- mandatory reporting of data from sport professionals with business aspirations*
- the end of concurrence of graduate practice and agreement at the same employer*
- job applicants as contract workers for 40 days a year only*
- prohibition of retail sale during holidays,
- preserving the extension of higher-level collective agreements even without the employer's consent*
- operators of technical inspection stations shall also provide technical inspections and vice versa*
- stricter WHS for employees of categories 2 to 4*

And vice versa, from the BRC's point of view regarding impacts on SMEs, the following positive measures became effective in 2017:

- new business activity with the minimum registered capital of 1 EUR
- linking the commercial registers with each other and simpler incorporations of companies
- less complicated employment procedures for foreign employees with high qualifications
- steak tartar will be legal again if menus will be revised accordingly*
- simpler conditions for purchasing and selling lands in Slovakia,
- virtual cash registers more accessible for all entrepreneurs
- reduced WHS for employees of the category 1*

From the BRC's point of view regarding impacts on SMEs, the following negative measures becoming effective in 2018 were adopted in 2017:

- stricter requirements for education of financial agents and compulsory insurance of all financial agents*,
- new obligations at the deletion of companies from the Commercial Register without liquidation

- safety measures at innovative payment forms
- stricter personal data protection*
- more detailed definition of the tax secret and stricter protection thereof
- missing bookkeeping could result in cancellation of trade licence*
- liability for obligations in the case of participation on a transaction resulting in the crisis condition of a company
- extending the accounting record-keeping period from 5 to 10 years*
- a new tax amounting to 21% in the event of a firm withdrawal
- a shorter period for registering employers in the register of employers
- consent of the Social Insurance Company at the deletion from the Commercial Register
- minimum wage increased to EUR 482
- the end of including expenses for occasional works in the sum of up to EUR 500 into the costs*
- cash documents shall contain other new data
- the obligation of identifying the final beneficiary at cash transactions starting with the sum of EUR 10,000.

At the same time, from the BRC's point of view regarding impacts on SMEs, the following positive measures becoming effective in 2018 were adopted in 2017:

- consent of the tax administrator with a transfer of major business interest only in the case that one of the parties is debtor
- simplifying electronic services of the Commercial Journal
- quick repayment of excessive reading, if there are no doubts about it
- removal of some application problems with the nursery act*
- deduction of costs for research and development will increase from 25% up to 100%
- producers of packaging and non-packaging products in the volume of up to 100 kg a year will be got rid of some duties*
- changed definition of a producer of non-packaging products*
- reduced objective responsibility for illegal employment by suppliers*
- reduced charge for binding statements towards tax regulations down to a half thereof*
- maximum deadline of the tax assessment procedure
- the end of submitting extracts from the Criminal Register
- the end of submitting extracts from the Commercial and Trade Registers
- the end of submitting extracts from Ownership Certificates
- employees will have seven days for registering themselves in the Social Insurance Company provided that no inspection and general pardon will occur at illegal employments*

(regarding the changes marked with *, BRC were significantly participating on the preparatory stage of the legal process; regarding positive measures in favour of SMEs, BRC's initiatives also contributed to their adoption)

BRC IN MEDIA

CCLR also presents their activities and their results through **on-line tools**, namely they inform regularly of the news from among prepared changes to regulations affecting SMEs on their [Facebook site](#), where stakeholders get information of results of their 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 2,700 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 website, the first two years BRC had their partial site within the website of the Slovak Business Agency only, but they started to work on their own website www.lepsiezakony.sk at the end of 2017. Through their own website, the readers are currently not only informed of BRC's tasks, mission, and [results of their activities](#), but also of [the possibility of reporting bad Slovak regulations](#) (due to the gold-plating effect or non-sense regulatory burdens or regulatory burdens with too complicated administration). The BRC's separate website is also informing **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 partner Slovak Business Agency). 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 their own media searching activities or in relation to the activities, BRC participates on together with other partners. During 2017, BRC was subject to tens of [media presentations](#) in relation to their activities and their results.

PLANS

Since the year 2017 was the second year of the BRC's operation only, contents of its planned activities are mostly included in their plans. Specifically, their aim within starting and implementing the **“Project of Establishment of the Analytical Unit for RIA and SMEs Test – the Better Regulation Center”** within the Effective Public Administration Operational Programme is to:

- extend **professional personnel capacities** with the aim of **using the tests of impacts on SMEs for covering more and more regulations as well as of enabling partial specialization on specific areas of regulation,**
- 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 in compliance with the document RIA 2020,** 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 – to include feedback regarding/comparison of implemented regulations vs. original expectations/aims as well as evaluations of the level of transposition or implementation of EU regulations therein and, last but not least, to explain facts affecting acceptance/non-acceptance of alternative solutions,
- **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 of achieving 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 and the other instruments such as the calendar of events or sharing news from the environment of revisions of regulations available through the developed social networks and website to be used for the development of a database of BRC's contacts for sending regular newsletters as well as for using them for the purposes of surveys to perform our tasks,
- **participate on the development of draft measures for improving conditions of SMEs entrepreneurship** in Slovakia through participation on consulting activities or ISCP and negotiations within permanent working groups,
- achieve **the position of a professional and objective sponsor 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.**



SLOVAK | BUSINESS | AGENCY

WWW.LEPSIEZAKONY.SK

SLOVAK BUSINESS AGENCY | KARADŽIČOVA 2 | 811 09 BRATISLAVA 2