



# REPORT ON ACTIVITIES

OF SBA BETTER REGULATION CENTER

for **2018**

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## **FOREWORD**

Annual report presents the activities that were carried out by the **Better Regulation Center** (hereinafter referred to as “**BRC**”) – **analytical department of the Slovak Business Agency** (hereinafter referred to as “**SBA**”) during 2018.

CLR was founded **in order to meet objectives of better regulation agenda for micro, small and medium-sized enterprises** (hereinafter 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**.

In response to above mentioned initiatives, the Slovak Republic adopted legal basis in the form of *[Act on SMEs Support](#)*, competences of which under Section 9 (1) were entrusted just to BRC upon the Contract for Provision of Implementation of Selected Better Regulation Activities between the Ministry of Economy of the SR and SBA; the tasks of BRC mainly result from its membership in the Standing Working Commission for Selected Impact Assessment at the Legislative Counsel of the Slovak Government (hereinafter referred to as “**Standing Working Commission**”). Within the Standing Working Commission, BRC covers the assessment of impacts on SME in compliance with the conditions defined in the basic process document adopted in the form of a resolution of the Slovak government – the so-called *[Unified Methodology for the Assessment of Selected Impacts](#)*. The strategic document *[RIA 2020 – Better Regulation Strategy](#)* adopted by the Slovak government at the beginning of 2018 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 sector Improvement Measures II](#)* were adopted by the government resolution – as the so-called 2nd anti-bureaucratic package of measures. Changes to the government did not affect the Programme Statement of the Slovak Government.

**The year 2018 was the third 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. Despite a great deal of time dedicated to administrative works relating to the application for the project within the Effective Public Administration Operational Programme with the design intent approved by the monitoring committee RO on 21 May 2015 as well as the reform intent approved by the RO evaluation committee on 13 April 2017, while the RO representatives’ requirement for sending the final description and budget of the project as of 30 April 2017 was met and the approach of BRC was as proactive as possible, SBA were informed by the RO monitoring committee that the project had been cancelled on 26 September 2018. Nevertheless, BRC were successful in performing the tasks entrusted to them either upon the aforementioned legal documents or SBA’s internal organisational rules or as a result of their own initiative and plan to continue in this direction.

## **ABOUT THE BETTER REGULATION CENTER**

Name: **CLR**  
Organisation: **Slovak Business Agency**  
Registered office: Karadžičova 2, 821 09 Bratislava  
E-mail: [clr@sbagency.sk](mailto:clr@sbagency.sk)  
Web site: [www.lepsiezakony.sk](http://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\*](#). They consist of a team of experts from the area of regulations and measurements of impacts thereof on the business sector, the so-called **Business Impact Assessment**.

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

### **THE MAIN BRC'S ACTIVITIES INCLUDE:**

- **identification** of legislative and non-legislative **measures with a negative impact on the SMEs**,
- **carrying out impact assessments of legislative and non-legislative materials on SMEs**, ([\*SME Test\*](#)),
- **creating space for consultations** of newly proposed, as well as already existing legal norms, materials of non-legislative nature and EU regulations,
- **ensuring feedback** based on the results of consultations in relation **to the respective central bodies of state administration**,
- **assessment and quantification of impacts of the newly proposed and existing legal norms** and non-legislative materials,
- **preparation of draft measures for reducing regulatory burden on businesses** in order to boost the economic growth and the competitiveness of the business sector,
- **implementation of the "Think Small First" Principle in the Slovak legal system** in accordance with the Small Business Act, i.e. taking into account the specific needs of the SMEs,
- **Assessment and quantification of excessive transposition of EU Directives** in the Slovak legal system (so-called gold-plating), and
- **improving awareness of the Slovak public regarding the better regulation agenda towards SMEs.**

## **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 sector 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 AND COOPERATION**

The pilot **operation** of BRC within the assessment of submitted documents with impacts on SMEs started in October 2015 **with two employees**. In 2018, **two analysts and two lawyers** participated on BRC's activities and, **during consultations** within the preparation of new regulations as well as during the evaluation of the existing ones, they **cooperated with the secretariat of the Standing 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 sector and also in the SME 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. They cooperated with the business sector Department of the Ministry of Economy of the SR at the development of **the training handbook for the Unified Methodology for the Assessment of Selected Impacts**, specifically in order to bring the process of assessment of the impacts on SMEs as well as the SME Test as such closer to the submitting parties, and contributed to **the Draft Business Sector Improvement Measures II & III** prepared by the Ministry of Economy of the SR with tens of their proposals.

In the position of **expert consultant**, BRC cooperated with the representatives of entrepreneurs in the form of evaluation of collected proposals for **bureaucratic nonsenses**, 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.

A major part of the communication with entrepreneurs was performed on-line through BRC's active social networks and web site as well as **personally through their participation on various conferences and discussions**, e.g. CSR Summit 2018.

Within three and half years of their operation in compliance with the Unified Methodology for the Assessment of Selected Impacts and with the Act on SMEs Support, they negotiated several compromises in the regulation in favour of SMEs and became a sort of a **“bridge” between SMEs and submitting parties**. This is another reason, due to which BRC have been constantly looking for resources to extend their activities; The Structural Reform Support Service is one of such resources applied for.

## ACTIVITIES

During 2018, 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), studied the problematic more deeply on the basis of **requesting for detailed information** (in the form of specific questions) **regarding its brief content focused on the potential of impacts on SMEs, and identified the need of recommending consultations with the affected business entities to be performed.** At the same time, BRC **actively participated on consultations** and have been submitting **proposals of alternative solutions** at the preparation of the documents, which were mainly based on the “think small first” principle, principle of reducing administrative and financial burden, as well as available proposals of the business community and best practices from foreign laws.

Regarding their **membership in the Standing 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, in 2018, BRC were, from the procedural point of view, dealing with methodological advisory at the interpretation of Unified Methodology for those submitting parties that were thereby obliged to submit documents with respective analyses in accordance with identified impacts, since the level of adherence of submitting parties to this obligation had significantly increased. 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 sector** (preliminary commenting procedures are run before ICPs, 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 sector.

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), then was invited to discuss comments submitted by BRC within special consultations or working groups, which, even though the comments and proposals were not fully accepted 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.

CLR fixed daily monitoring and recording of planned and approved legal regulations affecting the business sector with focus on SMEs as their own activity in the form of **regulations monitoring**, which is, upon various criteria, used as a source at presenting the most important changes to the regulation for representatives of entrepreneurs through the National Business Centre project, responding to the questions of journalists regarding this subject, as well as at composing their own copyrighted articles.

Within the tasks assigned by Act on SMEs Support and by the Unified Methodology, BRC **evaluated impacts subject to the assessment through the SME 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 SME 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 SME Test was performed upon problematic regulations with significant impacts on SMEs defined in advance and it represented a long-term task BRC were working on continuously along with their daily agenda with no pre-defined deadline (while, in 2018, rather ad-hoc subjects than extensive legal areas were subject to the ex-post evaluation) excluding more than 60 suggestions within the Bureaucratic Nonsense of the Year survey, the deadlines for assessment of which were defined in advance.

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 Nonsense 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 the Unified Methodology **training handbook regarding the SME Test** regarding increase of the importance of the SME Test preparation as well as willingness of submitting parties to cooperate at such preparation 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 Standing Working Commission. BRC’s proposals have also contributed to the preparation of **the 2nd and 3rd packages of the Draft Business Sector Improvement Measures.**

BRC **took part in and won** the national round of the **EEPA’s European Enterprise Promotion Award** competition in the category business sector Promotion and the representative of BRC took the Award over at the all-European evaluation in Graz.

In order to improve qualification not only of the team but also of its outputs, BRC **applied for support of their activities through the EU structural funds** (Structural Reform Support Programme 2017-2020); **in the first round**, the application was successful and if BRC succeed finally too, their work in 2019 and 2020 will thus be affected significantly.

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 **took part** in the on-line session “In Medias Res” within the discussion series “Debunking Myths about Enterprises” with the topic What should enterprises expect if they decide to become employers? Participation of BRC on the CSR Summit 2018 organized by the Pontis foundation as a leader of the table What does prevent us from doing responsible business? helped to increase awareness about BRC’s activities too. In cooperation with Neulogy, BRC **organized** the event – Policy Hackathon with the duration of one day with the topic “How to Increase Involvement of Micro, Small, and Medium Enterprises in the preparation of regulations”.

BRC also **participated** on other conferences and seminars with the accent on the problematic of entrepreneurship in Slovakia and informed of their contents regularly by means of social media.



## **OUTPUTS**

In 2018, BRC was dealing with the whole spectrum of business sector regulation areas, documents prepared by the Ministry of Labour, Social Affairs and Family (**minimum wage, extra pays, employing foreigners, social insurance, dual education, employment services, illegal employments**), the Ministry of Finance of the SR (**electronic cash register machines, VAT**), the Ministry of Justice of the SR (**eGovernment, Commercial Code**), but also the Ministry of Health of the SR (**ban on using dental amalgam, requirements regarding human body healthcare facilities**), the Ministry of Interior of the SR (**obligations of accommodation facilities to report accommodated foreigners**), the Ministry of Environment of the SR (**waste**), and other central state administration bodies (**personal data protection, Cadastral Register**) or proposals addressed by business entities (or identified as problematic upon BRC’s own searching activity).

## 1. Consultations with the business sector

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 Standing 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 2018, BRC actively personally participated on **12 consultations**, within which they **submitted specific content comments**; for example, **BRC were striving for changing the method of increasing the minimum wage, for partial exemption of minimum wage from compulsory payments to the state, and for simplifying modes for SMEs** (Decree of the Slovak government, by which the sum of minimum wage for 2019 is set forth), **submitted several proposals for simplifying processes within the obligation of accommodation facilities at accommodating foreigners** (amendment to Act No. 404/2011 Coll. on Residence of Foreigners), **expressed their disagreement with raising penalties, with extending the deadlines, as well as with extending competences of inspectors at performing inspection works** or proposed to **apply the "one-in, one-out" principle** as well as opened the discussion **regarding inspection of those entrepreneurs that are not employers, the proposed equalization of which was eventually excluded from the amendment** (the amendment to Act No. 125/2006 Coll. on Labour Inspection and on modification of and amendment to Act No. 82/2005 Coll. on Illegal Work and Illegal Employment); after several years of the existence of the problem with **constant registering and unregistering of temporary workers in the Bureaucratic Nonsense of the Year survey, the process was simplified thanks to the BRC's comment too** (the amendment to Act No. 461/2003 Coll. on Social Insurance) and others.

By means of a comprehensive analysis with alternative solutions proposed, BRC responded to the proposed mandatory extra pays for works performed in the night, in the weekend, and in holidays (amendment to Act No. 311/2001 Coll. Labour Code) and planned to discuss the problematic of implementation of obligatory recreation vouchers (amendment to Act No. 311/2001 Coll. Labour Code) or the implementation of special levy on food chains (Act No. 385/2018 Coll. on Special Levy on Retail Chains and on amendment to Act No. 595/2003 Coll. on Income Tax as amended) in a similar manner; however, the submitting party bypassed the process according to the Unified Methodology and submitted the proposals directly through the National Council of the SR by means of parliamentary bills and BRC thus had no legal opportunity to do that.

BRC took their distance part on **tens of consultations**, especially by means of e-mail communication with submitting parties, but also via phone; BRC came to the conclusion that their personal presence on such events is not necessary.

## 2. Assessing impacts of draft regulations within the Analysis of Impacts on the business sector

In the period from 1 January 2018 to 31 December 2018, BRC registered 698 separate documents, out of which **275 separate documents with the impact on business sector** or 499 unique ones, out of which 143 with the impact on business sector were identified by BRC.<sup>1</sup>

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

1/2018 - 12/2018	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	698			127	285	48
totally with the impact on BE/SMEs	275			78	175	22
unique	499	0	194	113	129	21
unique with the impact on BE/SMEs	143	0	N.A.	65	72	6

<sup>1</sup> 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.

## WHILE OUT OF THIS NUMBER

- **412 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 Standing Working Commission. And out of them with regard of
  - » the duration of PCP – submitting parties submitted **285 documents** (out of which 129 directly) into **the ordinary PCP and other 127 documents** (out of which 113 directly) **with the application for shortening PCP**, which were to be assessed within three working days;
  - » specificity of the procedure of document preparation in the case of identification of impacts on the business sector resulting from Unified Methodology (potential need of consultations with the affected entities during the document preparation) – submitting parties submitted **175 documents with identified impacts on the business sector** (out of which 72 directly) **into PCP and 78 documents** (out of which 65 directly) **with the application for shortening PCP**.
- **48 documents (out of which 21 directly) were submitted by submitting parties with the application for the final coat assessment** (after completing the inter-departmental commenting procedure, upon which influence of the document got changed) including those submitted by the submitting party repeatedly, because the clause of selected impacts and/or their analysis was revised upon a negative opinion of the Standing Working Commission. And out of that
  - » **22 documents** (out of which 6 directly) **with identified impacts on the business sector were submitted by submitting parties for the final assessment of the Standing Working Commission** with regard of the requirement of entities involved in the inter-departmental commenting procedure, where submitting parties were criticized for insufficiently identified impacts or where impacts on the business sector were identified due to ICP's comments (exceptionally).
- **no documents were submitted by submitting parties with the application for granting exemptions from Unified Methodology** (as compared to 4 occurrences in 2017 and even 14 occurrences in 2016, i.e. a positive trend in the application of process procedures and rules according to Unified Methodology from the submitting parties' side can be recognized there, but only provided that such submitting party was a Ministry or another state administration central body, not members of the National Council of the SR).
- **194 documents, where the submitting parties informed of the beginning of their preparation.**

Except for various non-regulatory documents, these documents also included [\*the Plan of Legislative Tasks of the Government of the SR for 2019\*](#). 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 regarding **37 documents (out of 59)**. Regarding the Plan of Legislative Tasks of the Government of the SR, there was a frequent overlapping with the documents recognized by BRC from such regulation name point of view. This year, [\*the Government Work Plan for 2018\*](#) was not subject to the PCP.

BRC contribute 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 their membership in the Standing 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 two cases in total and they informed of preparation of the document, within which BRC identified impacts on the business sector, by its submission directly into PCP.

From the formal and process points of view, BRC provided 72 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 sector 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:

01/2018 -12/2018	criticizing		providing	
	procedural deficiencies	formal deficiencies	negative opinion	positive opinion with comments
totally with the impact on BE/SMEs	2	72	46	26

In spite of BRC's efforts, especially in the form of principal comments within PCP, it can be stated that the trend of insufficient quantification of regulation costs/savings from the submitting parties' side persisted in 2018 too. Regulation costs were quantified by submitting parties in 22 documents with impacts on the business sector only. In the case of the said 22 documents, total costs for the business sector represented circa EUR 216.2 million and total savings represented circa EUR 163.4 million. In those cases, net costs for the business sector (including administrative costs) thus represented circa EUR 52.8 million. However, this figure represents a very deformed image of the total costs of the materials submitted and, in the future, submitting parties must make greater efforts at quantification of regulation costs.

### 3. Performing ex-ante and ex-post SME Tests

Within the legislative process, **in the event of an identified significant impact on SMEs BRC is elaborating ex-ante SME 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** and, optionally, also **international comparison** of best practice examples from abroad. BRC elaborates the ex-ante SME Test under 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**.

Within the SME Test, BRC review **specific impacts of submitted proposals on SMEs**. Consequently, it is important to record the impacts **qualitatively** – i.e. by means of a comprehensible subject-matter description (in the ideal case with an accompanying example) as well as **quantitatively** – i.e. to quantify them both as unit ones (one change/one SME) and in total

(all changes/the affected group of SMEs), in the ideal case for a period of one year or, upon the type of changes, for a different period of time (single or repeating impacts). The impacts can thus be both **negative, i.e. they result in higher costs** (financial – direct/indirect or administrative) on the SMEs' side and positive, i.e. they result in lower costs, i.e. **savings** as compared to the initial condition. While, in cooperation with a submitting party (i.e. BRC have the regulation document as such and a special statement of reasons at their disposal or, instead of them, a description of planned changes from the submitting party and responses to potential unclear issues), BRC can prepare the qualitative description in every situation, quantification almost always requires relevant data to be mediated by the submitting party. However, it could be impossible to quantify costs or savings of all impacts on the entire affected group of SMEs objectively anyway – if this is the case, quantification will be implemented on a sample or per unit – in the form of model examples. Results of the SME Test become a mandatory **part of the Analysis of Impacts on the Business Sector** and the statutory period for providing them to the submitting party in the form of the Report of the SME Test is four weeks.

**Quality of the final quantification of impacts of regulation changes on SMEs significantly depends on the ability of the submitting party to mediate relevant data to BRC.** The task of elaborating the SME Test was assigned to BRC, indeed, but **submitting parties shall cooperate with them to the maximum extent**, since neither qualitative nor quantitative part of the test can be elaborated without necessary information and data.

From the content point of view, the **ex-post** SME 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 SME Test differs from the ex-ante SME Test in the only thing, viz. in the absence of a submitting party's suggestion in the form of a proposed regulation change. It is 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 SME Test defined ahead, since no preparation phase of the legal process relating to the respective regulation is running along 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,<sup>2</sup> BRC has no competence of proposing changes to legal regulations, **ex-post SME Tests are aimed at elaborating analyses of benefits and costs** in compliance with 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 2018, BRC prepared **two ex-ante SME Tests** – the first one regarding [\*the social package\*](#) (amendment to Labour Code introducing extra pays for the work in the night, in the weekend, and in holidays), within which they pointed out **its significant impact on the business sector** and, using a created infographic, pointed to the situation **in other EU countries** as well as proposed **a compromise regarding increased fees in the form of relief from paying taxes and contributions**. The second SME Test performed by BRC in active cooperation with the Ministry of Labour of the SR was relating to [\*the new sum of the minimum wage for 2019\*](#). Except for **the international comparison of minimum wages within the EU countries** performed, **there were also several alternative options and mitigatory measures proposed by BRC**. In cooperation with the Ministry of Labour of the SR, **the estimated sum of costs relating to the minimum wage increase of 40% for SMEs was calculated** in the sum of **EUR 51 million**.

From **the ex-post evaluation** point of view, BRC were dealing with the problematic of excessive administrative burden caused by **the so-called driver's logbook, reporting the accommodated foreigners, and the subject of regulated trades**.

#### **4. Comments during ICP**

Regarding **the mission of Better Regulation Center**, they were also participating on the inter-departmental commenting procedure beyond their 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 Act on SMEs Support, **material proposals were focused on preventing SMEs from increasing regulatory burdens or directly on their reduction**.

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<sup>2</sup> Act No. 575/2001 Coll. on organisation of government activities and organisation of the central state administration.

Unlike the previous years and similarly to 2017, BRC did not apply **any crucial process comments** in the stage of ICP in 2018; this is the evidence of a significant improvement in the adherence to process procedures according to Unified Methodology. From the aspect of **material comments**, BRC 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 the comments would have been higher if they were presented to the representatives of submitting parties personally in a verbal form.

## **5. Evaluation of proposals from the survey *Bureaucratic Nonsense 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 Nonsense 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 2018 too.

Permanent pressure on legislators to remove these administrative obstacles through the survey is meaningful – the evidence is that **16 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.

Results of the survey should be an incentive for competent bodies to reconsider whether the importance of performing such duties is really worth such unreasonable administrative as well as financial costs spent by enterprises.

## BRC IN THE MEDIA

CLR also present 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, participation on professional seminars, and also various events organized for the wide entrepreneurial public free of charge. 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 18,000 users, 100 sharings, and 118 positive interactions (likes) at the most popular post (as compared to the previous year, when the most popular post reached the value of almost 2,800 users, 36 sharings, and 86 likes). 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](http://www.lepsiezakony.sk) at the end of 2017. Since 2018, BRC have been informing their readers through their own fully operational website not only of their tasks, mission, [task results](#), but also of [possibilities of reporting bad Slovak regulations](#) (due to the gold-plating effect or nonsense or too demanding regulatory burdens from the administrative point of view). 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 sector), **but also the European ones** (through the Enterprise Europe Network with its partner Slovak Business Agency). In the parts [“News”](#) and [“BRC in the 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 sector as well as TV presentations or, to the contrary, due to their own media searching activities or in relation to the activities, BRC participate on together with other partners.

## **PLANS**

- 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 regulations and respective education** as well as instruments of evaluation of their impacts on SME,
- make **cooperation with representatives of entrepreneurial organizations**, especially with SMEs (through development of **an active database of contacts as well as cooperation with SBA's regional representatives**) and parties submitting regulations, more intensive to build serious partnerships and **to use BRC in practice as a bridge** between these two types of entities,
- **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 SMEs on consultations and improvement of quality of elaborated analyses of impacts on the business sector – especially from the impact quantification point of view (using the cost calculator, development of data sources to avoid stating zero or unquantifiable costs due to the absence of such sources), to include feedback regarding/comparison of implemented regulations as well as objective evaluations of the level of transposition or implementation of EU regulations and explanation of facts affecting acceptance/non-acceptance of alternative solutions,
- **continue in elaboration of ex-ante and ex-post SME 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 Nonsense of the Year** as well as **other activities or events** such as Policy Hackathon, Profesia Days, Our City, Good Market or **participation on round tables, conferences, and seminars** to increase awareness about BRC's activities as well as to appeal necessity of involving representatives of SMEs in the preparation of regulations and to perceive their opinions as relevant ones,
- **involve the lay entrepreneurial public into the improvement of regulation**; the said public affects the process even through reporting bad regulations and mediating news from the area of legal news in a timely manner either on-line or by means of regular lectures through the National Business Centre, sending **newsletters** as well as using contacts on their subscribers 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 ICP and negotiations within standing working groups,
- achieve **the position of a professional and objective sponsor in the assessment of impacts on the business sector with the focus on SMEs and to build contacts with relevant entities in the Slovak Republic and abroad** and
- monitor the development in the field of **the assessment of impacts of regulations on SMEs abroad**.



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