

Quality of Public Administration A Toolbox for Practitioners



Theme 6: Business environment

Governments have a duty to regulate where necessary, but facilitate wherever possible, removing potential impediments to business initiative, investment and innovation. Small and medium-sized enterprises (SMEs) receive special attention as they make up the vast majority of businesses and contribute new jobs and ideas to the economy, but lack the scale and assets enjoyed by large firms, including to navigate bureaucracies. This theme deals with various aspects of the administration's interaction with the business base: making compliance with essential 'red tape' as painless as possible; ensuring easy, fast and cheap access to public services at all stages of the business life cycle; encouraging aspiring entrepreneurs by reducing the cost, time and steps to start up in business; supporting established businesses to operate, employ, and expand if desired; making trade beyond the EU's borders as seamless for business as possible; and protecting the interests of all parties faced with insolvency, while creating the conditions for new or re-modelled businesses to emerge and giving honest entrepreneurs a second chance.

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Public administrations have a profound influence on national productivity and competitiveness, as they can either help or hinder business development. This chapter:

- ✓ Explores how administrations make compliance with essential 'red tape' as painless as possible;
- ✓ Outlines how governments are ensuring that enterprises have easy, fast and inexpensive access to better public services;
- ✓ Examines what public administrations are doing to encourage and enable aspiring entrepreneurs to launch start-ups;
- ✓ Describes how administrations can support established businesses to survive and thrive;
- ✓ Reviews how public authorities are aiding businesses to trade beyond the EU's borders;
- ✓ Investigates how administrations are increasingly focused on the viability of firms threatened with closure, and enabling new and remodelled businesses to emerge.

Introduction

Good governance creates a conducive climate for business development: giving confidence to aspiring entrepreneurs to risk time and money to form new firms, forging favourable conditions for businesses to flourish, and directing resources into public services that the market cannot provide effectively or at all, like basic research, education and infrastructure. Governments have a duty to safeguard public interests (such as product safety, environmental protection and employee rights) and to ensure robust and fair competition among all enterprises, but also to remove potential impediments to business initiative, investment and innovation. Successful economies have strong public institutions that regulate where necessary and facilitate wherever possible.

The [2014 European Competitiveness Report "Helping Firms Grow"](#) proved empirically the potentially positive impact of an efficient public administration and the quality of institutions on the growth and competitiveness of firms. At the same time, it finds tax administration deficiencies, corruption (see [theme 2](#)) and ineffective justice systems (see [theme 7](#)) to be most detrimental to firms' growth.

The Commission has also published the [Public Administration Scoreboard](#), as the first EU-wide exercise to analyse the fitness for purpose of public administrations in promoting growth and competitiveness. The Scoreboard takes a holistic approach that looks at many features important for competitiveness. This in turn should encourage continuous improvement by governments and public administrations in the context of the European Semester.

Small and medium-sized enterprises (SMEs)¹ receive special attention in public policy, because of the contribution they make to the economy and the circumstances they face. SMEs comprise by far the largest share of the business community, generate the bulk of net new employment, ensure a flow of ideas into the economy, and enable large businesses to succeed as suppliers, service providers and sub-contractors, as well as partners in collaborative ventures. But they also generally lack the scale economies and management assets enjoyed by larger enterprises that brings readier access to information and capital markets and the resources to research, innovate and train.²

¹ SMEs are defined as businesses with fewer than 250 employees, up to €50m turnover, or up to €43m total balance sheet: http://ec.europa.eu/growth/smes/business-friendly-environment/sme-definition_en

² With regards to improving SMEs' access to markets for goods and services within the public sector, please see [theme 8](#) on public procurement.

In this context, the Council of Ministers adopted the [Small Business Act \(SBA\)](#) in 2008 as a comprehensive policy agenda around 10 principles that promote entrepreneurship, enable businesses to flourish, and anchor the ‘Think Small First’ philosophy in policy-making, in order to strengthen SMEs’ competitiveness and growth. The pioneering SBA stands on four pillars: promoting entrepreneurship; access to finance; access to markets; and, the core concern of this Toolbox, reducing administrative burdens.³ The underlying messages and key principles remain as relevant as ever. To strengthen the foundations, the existing four pillars will be reinforced by adding a fifth that reflects the challenges facing SMEs today: tackling skills shortages.

Guiding principles

The 10 principles of the Small Business Act aim to guide the conception and implementation of policies both at EU and Member State level, as follows:

- I. Create an environment in which entrepreneurs and family businesses can thrive and entrepreneurship is rewarded;
- II. Ensure that honest entrepreneurs who have faced bankruptcy quickly get a second chance;
- III. Design rules according to the “Think Small First” principle;
- IV. Make public administrations responsive to SMEs’ needs;
- V. Adapt public policy tools to SME needs: facilitate SMEs’ participation in public procurement and better use State Aid possibilities for SMEs;
- VI. Facilitate SMEs’ access to finance and develop a legal and business environment supportive to timely payments in commercial transactions;
- VII. Help SMEs to benefit more from the opportunities offered by the Single Market;
- VIII. Promote the upgrading of skills in SMEs and all forms of innovation;
- IX. Enable SMEs to turn environmental challenges into opportunities;
- X. Encourage and support SMEs to benefit from the growth of markets.

This chapter deals with various aspects of the public administration’s interaction with the business base, especially SMEs, to facilitate business start-ups, stimulate growth, and organise the orderly closure of those enterprises that exit the economy. It focuses on the following questions, and sets out ways and tools to address them.

Key questions	Ways and tools
6.1 How can we make compliance with essential ‘red tape’ as painless as possible for all businesses?	<ul style="list-style-type: none"> ✚ Administrative simplification programmes ✚ Mitigating measures to reduce burdens (<i>exemptions, transition periods, simplified implementation & enforcement, etc.</i>) ✚ Awareness-raising and clarification of essential rules ✚ Certification of good public services
6.2 How can public administrations ensure easy, fast and cheap access to public services to help enterprises at all stages of the life cycle?	<ul style="list-style-type: none"> ✚ ‘Indivisible’ government ✚ Single Points of Contact & other One-Stop Shops (OSS) ✚ eGovernment for business (G2B)

³ The SBA Review, launched in February 2011, is a major landmark in tracking the implementation of the Small Business Act. It aims to integrate the SBA with the Europe 2020 strategy. Six of the seven Europe 2020 Flagship Initiatives will help SMEs achieve sustainable growth.

6.2.1 What can administrations do to encourage aspiring entrepreneurs , by reducing the cost, time and steps to start up in business?	<ul style="list-style-type: none"> ✦ Removing minimum capital requirements ✦ Simplifying registration through inter-agency cooperation, e-Services & removing process steps ✦ Reducing the statistical burden on new start-ups
6.2.2 How can administrations best support established businesses to operate, employ, and expand if desired?	<ul style="list-style-type: none"> ✦ Unifying corporate data provision (fiscal & statistical) ✦ Easier empowerment of intermediaries ✦ Less frequent tax & social contribution declarations ✦ e-Filing and e-Payment of business taxes ✦ Risk-based tax inspections ✦ Simpler & on-line employer reporting ✦ Interactive online tools and standard templates for meeting employment and health & safety duties ✦ Streamlining permit applications ✦ Simplifying & automating property registration ✦ Cutting the incidence of late payments.
6.2.3 How do authorities make trade , especially beyond the EU's borders, as seamless for business as possible?	<ul style="list-style-type: none"> ✦ Reducing reporting thresholds for intra-EU trade ✦ Simplifying import, export & transit procedures ✦ Introducing certification systems to fast-track trade ✦ Risk-based goods inspections ✦ Investing in e-Customs ✦ Establishing the 'Single Window' in all Member States
6.2.4 Faced with the prospect of insolvency and business closure, what is the best way to protect the interests of all parties and create the conditions for new or re-modelled businesses to emerge?	<ul style="list-style-type: none"> ✦ Promoting early restructuring of enterprises in difficulty with the purpose of avoiding their insolvency ✦ Making available mediators to assist negotiations and reorganisation of insolvent enterprises (see theme 7) ✦ Quickly liquidating non-viable enterprises ✦ Ensuring a second chance for honest bankrupts ✦ Improving efficiency & transparency in restructuring, insolvency and second chance procedure.

As well as the [European Public Sector Award \(EPSA\)](#), this chapter draws upon the [SBA database of good practice](#) and the best practice examples identified by the [High Level Group of Independent Stakeholders on Administrative Burdens \(HLGAB\)](#), and the Group of High Level National Regulatory Experts, the expert advisory panels to the European Commission on tackling business burdens from legislation. These examples include a 2009 compendium ("[Better Regulation: Presentation of practical exercise on sharing good examples](#)"), assembled under the Swedish Presidency of the European Union.

6.1 Putting business first

The EU's future economic success will be built on the foundations of a dynamic business base, delivering products and services that meet customer needs and capable of competing in world markets. 'Think small first' has spurred governments towards fewer

Streamlining & simplifying 'red tape'

Business-centric administration

and better regulations, setting the framework for lightening the administrative load on businesses. There is still much to be done to reduce the burden, by abolishing unnecessary laws and curbing the excesses of existing legislation ('regulatory stock') and by avoiding the imposition of non-essential roles in the future ('regulatory flow'). Fundamentally, this is a matter of mind-set: changing attitudes so that every actual and potential interaction is seen from the business viewpoint, considering the consequences of rules and regulations for SMEs especially. As small firms lack the time and resources to navigate bureaucracies, relative to their larger counterparts, the principle of thinking small first is timeless.

6.1.1 Streamlining and simplifying 'red tape'

Excessive 'red tape' is a distraction for businesses and a drain on resources that could be deployed more productively. Public administrations across Europe have set targets to reduce the burden on business. Impact assessments of laws and

Streamlining & simplifying 'red tape'

Business-centric administration

regulations, with competitiveness proofing and the SME test, and the application of 'fitness checks', aim to slim down the statute book by removing non-essential legislation or ensuring it is not passed in the first place, and codifying / recasting necessary laws (see [theme 1](#)). Across the EU, governments at all levels are engaged in a concerted push to streamline the regulatory framework, especially with respect to SMEs.

In many cases, Member States have embarked on **administrative simplification programmes**, which involve a stock-take of the existing burdens on businesses, in consultation with enterprises and experts from industry and government, and identifying a plan of action for systematically cutting non-essential red tape.

In Denmark, for example, the Government has established a national Business Forum to advise it on the most burdensome rules and propose measures to simplify them, meeting three times a year and supported by a Secretariat in the Ministry of Business and Growth.

Inspiring example: Business Forum for Better Regulation (Denmark)

The Danish Business Forum for Better Regulation was established in 2012 to contribute to burden reduction and simplification for businesses in close dialogue with the business community. The Business Forum is an advisory body to the Government. It has the task of identifying the areas that businesses perceive as the most burdensome and proposing simplification measures. Simplification measures can, for example, imply changed rules, better communication, new processes, or less time spent on case work by public authorities. The most essential is that efforts are focused on the areas where businesses express a need for changes. In the

Government's Growth Package of June 2014, the mandate of the forum was expanded to include a broader range of regulatory costs – not just administrative costs, but also certain economic costs (changes in tax rates are not included in the mandate). For the time being, the mandate applies until the end of 2019.

The Business Forum has 21 members representing businesses, business organisations, trade unions, and experts with knowledge of simplification. The chairman of the forum, Peter Kürstein, is the chairman and former managing director of the Danish design company, Radiometer. The Ministry of Business and Growth (including the Danish Business Authority) provides a project team, which operates as the Secretariat for the Business Forum, preparing and following up on the Forum's meetings. Furthermore, it has the responsibility of managing the communication between the Business Forum and the public authorities.

The Business Forum meets three times a year, addressing a number of regulatory "themes" at each one. Prior to the meetings, working groups consisting of members of the Business Forum and the project team prepare each theme and outline simplification proposals to be discussed at the meeting. Some of the proposals stem from interviews and visits to relevant businesses by the members of the working groups. The proposals agreed upon by the Business Forum are subsequently sent to Government. The regulatory themes addressed so far include reuse of data, implementation of EU-regulation, digitalisation, statistics, and accounting & taxation. In addition, so-called "fast track" proposals are also addressed at each meeting, which are not included in a specific theme and are often sent in through the "mailbox" at www.enklerleger.dk where businesses and others can send in ideas and proposals for simplification. At the website, the status of the initiatives can also be followed.

The proposals made by the Business Forum are covered by a "comply or explain" principle. This principle means that the Government is obliged to either pursue the proposed initiatives or to explain why these are not pursued. The Government's responses to the proposed initiatives are made publicly available at www.enklerleger.dk (in Danish). As of September 2016, the Business Forum has sent 575 proposals to Government. The Government has replied according to the 'comply or explain' principle on 458 proposals:

- ✚ 191 proposals are complied with;
- ✚ 189 proposals are partly complied with;
- ✚ 78 proposals are not complied with (explained);
- ✚ 117 proposals are awaiting response.

Of the 282 proposals that are fully or partly complied with, 212 proposals have been implemented. The Government will provide an updated status on implementation of the proposals in a report to Parliament in March 2017.

A notable proportion of proposals from the Business Forum concern EU legislation. Likewise, many EU Member States systematically collect input from stakeholders on burdens that stem from EU legislation.

Taking inspiration from national initiatives, such as the Danish Business Forum, the European Commission in May 2015 established a permanent and inclusive platform for dialogue with stakeholders and Member States on how to improve EU laws in the context of REFIT. The REFIT Platform brings together high-level experts from business, civil society, social partners, the Economic and Social Committee, the Committee of Regions and Member States. It will collect suggestions from the ground for reducing regulatory and administrative burden and bring forward concrete ideas. The Commission will react to all of them and systematically explain how it intends to follow them up.

Following the establishment of the REFIT Platform, the Danish Business Forum submitted a range of proposals for consideration. In its first round of recommendations in July 2016, the Platform made 17 recommendations to the Commission, nine of which originated from the Danish Business Forum.

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A prime example is the French inter-ministerial committee which developed a programme with more than 200 measures, and in its early months, 50 specific proposals.

Inspiring example: Administrative simplification committee (France)

CIMAP, the French inter-ministerial committee for modernising public action, at its meeting of 17 July 2013, adopted a simplification programme comprising over 200 measures. To speed up implementation, the government decided to set up a special organisation devoted to making things simpler for businesses. An innovative method was introduced to ensure that the simplification measures, from design to implementation, focused on the needs of businesses. This new organisation came into existence on 9 January 2014. In each ministry, project leaders appointed by the Prime Minister carried out simplification projects in conjunction with the government bodies involved, with businesses and with industry organisations. An inter-ministerial team devoted to simplification guided and supported ministries in implementing the simplification programme. Independent senior figures attending simplification committee meetings would be responsible for maintaining a dialogue with the business community, for monitoring the programme's achievements, for contributing to making the results known and for making any further simplification proposals.

The Committee identified 10 review targets corresponding to key events in the life of businesses. Each review target would lead to several structural and practical simplification projects being implemented. From the design of the review targets, through to their implementation and project evaluation, the business community, politicians, associations and experts would be involved in the working groups. Particular attention was to be paid to SMEs and micro businesses, as crucial players in simplification. The method was designed to meet three objectives: collecting businesses' recommendations on simplification; designing simplification measures with businesses, especially SMEs and micro businesses; and informing the greatest number of people possible of the measures decided upon.

A consultation with the public and with businesses was engaged via the portal www.faire-simple.gouv.fr to receive proposals to make the simplification programme as wide-ranging as possible. Several campaigns were organised for the whole of 2014. At the same time, working groups were set up with stakeholders: businesses, politicians, central and local government bodies, industry bodies and industry representation organisations, experts and others. The proposals and recommendations made by businesses aimed to broaden the simplification programme and be used to refine projects, and to help decide how they should be implemented. A specific website was set up, so that the public could follow the committee's work, along with the progress being made with the programme and the business simplification measures. After only three months of work, the Committee had already identified some 50 proposals to put before the President of France. These can be grouped and classified under three main categories:

1. Giving businesses greater certainty through an environment that is easier to understand and more predictable

- Guarantee "zero additional cost" for all new measures;
- Easier access to the law;
- Greater use to be made by the tax authorities of "guaranteed answers" (binding agreements on tax treatment);
- Apply a principle of non-retroactive application for business taxes;
- Publish tax authority interpretations at fixed dates;
- Appoint project facilitators at the local level;
- Simplify the workings of local government agency committees to cut processing times.

2. Practical ways to make it simpler to run a business

- Reduce the number of business structures for single owner businesses;
- Reduce the number of authorisations needed prior to setting up a business;
- Setting up your business with one single document in one single place;
- Reduce the minimum number of shareholders for unquoted "Société Anonymes" [public limited companies] from 7 to 2, and consequently the minimum number of directors;
- Apply the principle of presumption of good faith in tax matters, by abolishing the requirement to make certain returns;
- Improve access to public procurement contracts, by reducing the administrative information to be provided to public bodies (reduced to simply notifying the SIRET establishment registration number);

- Abolish the two-step system of paying VAT on import under the "procédure de dédouanement domicilié unique" (PDU) single window customs clearance procedure;
- Make it easier to build and alter buildings.

3. Making it easier to take on employees and train them

- Devise a true "job cheque" to simplify the hiring process for micro businesses;
- Simplify the payslip;
- Standardise the definition of a "day" for social security purposes.

The simplification process will run until 2017. Some of the above measures were implemented immediately, and most of the rest were scheduled for implementation by 1 January 2015.

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In **decentralised systems**, authorities below the national level are responsible for much of the interaction with businesses in their territories. In this light, there is scope for regional and local initiatives to simplify administration, such as 'Simple Lombardy' which is the far-reaching agenda of Italy's largest regional government, which covers both business and citizen services.

Inspiring example: 'Simple Lombardy' (Italy)

Lombardy is one of 20 Italian regions established in 1970, with almost 10 million inhabitants and its regional capital in Milan. It has over 824,000 enterprises, of which 94% are SMEs, making a ratio of businesses to population ratio of 8.4%, compared with the European average of 4.3%.

On 23 April 2010, a new regional minister was appointed to manage simplification and ICT policy, reporting directly to the President of the Lombardy Regional Government. The newly created ministry was fully empowered to implement the overall reform of government at the regional level, with the following scope:

- ✚ Simplification - enhancing the simplification and the quality of regulation (smart regulation), while re-engineering administrative processes;
- ✚ Digitalisation and ICT - supporting modernisation through a new model boasting open and advanced ICT applications;
- ✚ Enhanced quality of public services - developing listening skills, improving accessibility to public services, and promoting consumer and user protection; and
- ✚ Local government reform - re-engineering administrative processes at the sub-regional level.

The ministry was looking to build on the achievements of the previous 2005-2010 legislature, including: regulatory simplification (governance by just 60 regional laws in 10 'sector coordinated texts', following the abrogation of 1,700 laws since 1970); administrative simplification under Regional Law 1/2007 and 8/2007 (reducing administrative burdens, boosting enterprise competitiveness, and shifting from *ex ante* controls to *ex post* controls); and digitalisation of administrative processes (investing in digital infrastructure and disseminating ICT at the local level).

The "Simple Lombardy" Agenda (*Lombardia Semplice*) is a **strategic long-term programme, bipartisan and non-ideological**, which establishes the main simplification policy goals, defines the roles of the various players involved, presents ways of achieving the goals, and monitors progress, measures results and evaluates policies. The multi-annual work plan was launched on 22 December 2010 with the adoption of the regional executive resolution no 1036: "Approval of the 2011-2015 government agenda to simplify and modernise Lombardy's system". The implementation process aims to be user-centric, without preconceptions - not starting from legal

parameters or technical possibilities, but instead trusting the viewpoint of beneficiaries, understanding the actual situation with regulatory processes, and rethinking them in organisational and technological terms. An early initiative involved introducing a **one-stop shop for enterprises** (SUAP), starting with technical cooperation with ANCI and Unioncamere Lombardia in July 2010, followed by a series of steps culminating in the publication of Presidential Decree no. 160 on the SUAP in September 2010.

“Simple Lombardy” was characterised from the outset by **wide-ranging consultation and inclusion** of business associations, professional intermediaries such as accountants and lawyers, chambers of commerce, universities, and local institutions. In the preparation phase, the “Zero Bureaucracy” Task Force (*Zero Burocrazia*) was set up on 21 April 2010 as part of the preparation phase to formalise dialogue. All citizens, enterprises, entities and associations have been able to submit their own input since 1 December 2010, making proposals to simplify regulations and procedures, flag up red tape, and propose good practice worth spreading undertaken by other government bodies via the *Semplific@ con noi* (“Simplify together with us”) portal, via the website: www.semplicazione.regione.lombardia.it. The creation of this “listening hub” e-tool draws from the best international experience (starting from the United Kingdom, Belgium, France and the EU itself). Reports of red tape, poor service and complaints are sent to the “Communication with Citizens” service, and then forwarded to the relevant government departments. Proposals for simplification and positive experiences are received by the Directorate-General for Simplification and Digitalisation and examined in partnership with the relevant departments. Select examples of input received:

- ✚ Simplification of procedures to grant a permit for woodland thinning;
- ✚ Reconciliation of the General Urban Subsurface Plan with the Territorial Management Plan;
- ✚ Review of regulation 2/2006 regarding concessions for diverting surface or underground water.

Two directions have been explored to **re-design regulatory and administrative processes**: working to limit the legislative and administrative flows to “prevent” the adoption of new bureaucratic barriers and look at each new document as a chance to re-think the existing framework; and organising and simplifying the existing body of rules, practices and procedures through gradual and systematic work that makes optimal use of all the available leeway.

A “**checklist for ex ante evaluation**” was adopted to avoid new administrative burdens on users and the public authorities themselves. It is a simple and effective self-assessment tool for officials that are drafting resolutions and decrees, a schematic flow chart of the procedure and 10 simple questions sub-divided into four thematic areas:

- ✚ Compliance analysis (subject, users and conciseness);
- ✚ Time savings;
- ✚ Cost savings (related to information, finance, compliance and changes required for implementation);
- ✚ Proportionality of requirements with respect to the most disadvantaged users (e.g. micro-enterprises or differently-abled people).

The Agenda also looks to simplify the existing situation through a range of actions at multiple levels of governance (from European to local), including “**sector simplification plans**” under the supervision of Directorate General, covering: agriculture; environment (with special care on noise and air pollution, wastewater and garbage); territorial governance, town planning and strategic environmental assessment; landmarks; health and safety in the workplace; social and non-profit organisations; craft business and SMEs; and public residential building.

Senior and middle management have benefitted from a “Simplifying for Action” training course, to promote cultural change. Moreover, an **incentive system** was introduced for managers in their contracts, with results-related bonuses comprising 60% for achieving individual targets and 40% when the simplification goals of operating programmes are achieved (according to performance evaluation. Additional amounts are allocated

selectively by an independent evaluation body with regards to the intensity/significance of individual targets, on top of the results-related bonus.

Finally, the simplification of processes through digitalisation is being taken forward under the **Lombard Digital Agenda**, which has a much wider remit to maximise the socio-economic benefits resulting from the use of ICT and develop the Internet economy, in close collaboration with the Digital Agenda for Europe, the National Reform Plan, and national eGovernment plans.

Source: HLGAB (op. cit.)

Businesses operating in Member States with decentralised systems can face very **fragmented regulatory environments at the national, regional and local levels**, which raises the complexity and cost of compliance, especially when laws and regulations vary from region to region (see also [theme 3](#) on government structures).

In some cases, public administrations can end up reducing burdens as a by-product of a **change in policy direction** that has had beneficial effects for businesses, either by design or default. For example, the new [European Transparency Directive](#) abolishes the obligation to publish quarterly financial information, which should encourage more SMEs to seeking access to regulated capital markets, discourage the culture of short-termism in investment finance, and relieve an information burden that is felt disproportionately by small businesses. In another example, some Member States are making it easier to start-up a business and compete in a regulated profession (such as accountancy, engineering, law and architecture), in line with the EU's Services Directive and Professional Qualifications Directive, as noted in a [2014 DG ECFIN study of the economic impact of professional services liberalisation](#).

In most cases, however, the underlying policy objective is pre-cooked and the challenge for the public administration is to ensure that the compliance costs are minimised, especially for new and small businesses. This often allows a 'lighter touch' to be applied to micro-enterprises or SMEs, where justified by the impact assessment. Public administrations should consider a **risk-based approach**, targeting legislative provisions on those operators that constitute the highest risk, in terms of both probability of outcome and impact if the risk materialises. In many cases, this will result in excluding sectors and size bands, reducing the overall net administrative burden. Note, the use of size-related criteria should be approached with care: if the threshold effect is *too* large, the benefits to small firms may be outweighed by the disincentive to move into a higher size bracket, and act as an impediment to business growth.

Based on experience from both the European Commission and Member States, public administrations can draw upon **nine types of mitigating measures** to relieve the administrative burden on businesses, especially micro-enterprises (fewer than 10 employees) or all SMEs. These can be inserted into the legal text itself during drafting or re-casting, or applied in its practical implementation and enforcement, depending on the judicial and administrative culture.

Potential measure	Description
Tailored legislation	The legislation is (re)drafted, so that it makes specific provisions for different size categories of business.
Permanent exemptions (complete or partial)	The law specifies that businesses below certain size thresholds (e.g. micro-enterprises or SMEs) would not have to comply with specific obligations, so long as this does not invalidate the original purpose of the legislation and there is no danger of market distortion. These exemptions could apply to the whole legislation or only part of it.
Temporary exemptions	Businesses are allowed transition periods during which they are exempted from the provisions of the law to give them time to adapt (again, subject to the same caveats as permanent exemptions). This provision could be restricted to businesses below certain size thresholds (micro-enterprises or SMEs).
Extended transition periods	This is similar to temporary exemptions, except that it applies to the proposed transition periods for all affected parties and extends them further in the case of businesses below certain size thresholds, to provide even more time to adapt.
'De minimis' rules	Exemptions are applied below a specified threshold, which is not related specifically to the size of the business, but tends to favour micro-enterprises and some SMEs (for example, state aid rules, which do not apply below €200,000 of aid in most cases).
Simplified implementation	The new or recast legislation makes compliance less onerous and costly by easing the reporting obligations on some or all businesses through, for example: reducing reporting frequency to the bare minimum necessary to meet the substantive objectives of the legislation; aligning reporting frequency across related pieces of legislation, where possible; requiring records to be held for a shorter time; or introducing the mandatory / voluntary use of faster, cheaper online channels for information exchange to reduce cost; use sampling for data collection, rather than require every business to submit reporting statistics.
Simplified enforcement	The new or recast legislation makes enforcement less onerous and costly by reducing the frequency of inspections and audits, and/or simplifying the process, by applying risk management techniques, for example.
Financial compensation	For the proposal to be 'cost-neutral' for affected businesses, the legislation could include provisions to redress certain affected businesses (e.g. SMEs) financially in relation to the regulatory costs incurred, provided this is compatible with existing legislation (e.g. state aid), by reducing fees and charges.
Voluntary arrangements	The law seeks to achieve its policy objective through voluntary means, either for all enterprises or just businesses below a certain size threshold (micros or SMEs).

A non-exhaustive list of examples is set out overleaf, drawn from both EU and Member States.

Examples of mitigating measures to relieve regulatory burdens in EU and Member State legislation

Measures	Examples
Tailored legislation	<ul style="list-style-type: none"> ✚ Legislation on accounting law clearly distinguishes the obligations for each category of businesses – micro, small, medium-sized, and large (EU). ✚ A new legal form of incorporated legal persons – the small partnership – has been created exclusively for micro-enterprises. A small partnership allows the ability to set up a company of fewer than 10 persons, with a simple and flexible management structure, the possibility to register online in under three working days, no capital requirement, and registration costs of under €100 (Lithuania).
Permanent exemptions	<ul style="list-style-type: none"> ✚ Micro-enterprises are exempted from having to install tachographs in lorries that travel within a limited radian (EU). ✚ The income tax law was changed to introduce the flat rate expense (FRE) for up to three motor vehicles for business activities as a tax-deductible cost, removing the need to keep the “evidence of journeys” (register of journeys, logbook) for the purpose of the income tax and saving mainly SMEs over €33 million (Czech Republic). ✚ SMEs with annual turnover of less than €150,000 per year in the catering and hotel industry are exempted from monthly reporting requirements in the context of public commerce statistics (previously €50,000), benefitting an estimated 2,700 SMEs (Germany). ✚ Since 2011, under the Simplification Regulation for SMEs no. 227/2011, 1.5 million business activities that produce little noise (retailers, hairdressers, gyms, etc.) are exempted from the obligation to prepare the document of acoustic impact (Ireland) ✚ All SMEs are exempted from the requirement to give employees time off to train, according to the Employment Rights Act 1996 (UK).
Temporary exemptions	<ul style="list-style-type: none"> ✚ Micro-enterprises are exempted for a limited period from certain legislative provisions, such as temporarily exempting self-employed persons performing mobile road transport activities which were exempted from working time directives until March 2009 (EU) ✚ Domestic measures which will come into force before 31 March 2014 must provide a legislative exemption for micro-enterprises and start-ups (UK) ✚ Under the Pensions (Automatic Enrolment) Regulations 2009, businesses with fewer than 50 employees will not need to comply with the requirement for businesses to automatically enrol their employees in a pension scheme until June 2015 (UK).
Extended transition periods	<ul style="list-style-type: none"> ✚ SMEs in the construction sector have a transition period of two years to adapt to the legislation on the use of work equipment (EU). ✚ Self-employed drivers benefitted from a longer lead-in time before rules on the organisation of their working time (Directive 2002/15) came into effect in 2009 (EU). ✚ Some small employers who pay employees weekly, or more frequently, but only process their payroll monthly may need longer to adapt to reporting PAYE information in real time. Therefore, until 5 October 2013, employers with fewer than 50 employees, who find it difficult to report every payment to employees at the time of payment, may send information to the tax authority (HMRC) by the date of their regular payroll run but no later than the end of the tax month (UK).
‘De minimis’ rules	<ul style="list-style-type: none"> ✚ Fishing vessels below 15 meters in length which operate exclusively in the territorial waters may be exempted from the obligation to be fitted with a vessel monitoring system (EU) ✚ Small shops selling electrical and electronic devices do not need to reserve extra space to meet take-back obligations under the new Directive on Electrical and Electronic Waste. The take-back obligation only applies to retail shops larger than 400m² (EU). ✚ Guarantees are not required for activities in the excise warehouses if they are carried out only by small breweries, and the goods produced or held there only belong to the small breweries (Lithuania). ✚ All shops with a selling area under 280 m² are exempt from the restrictions on opening hours which normally apply on a Sunday (UK).

Measures	Examples
Simplified implementation	<ul style="list-style-type: none"> ✚ Micro-enterprises can now choose simpler ways of showing that any one-off construction products they put on the market meet applicable product standards, according to Regulation 305/2011 (EU). ✚ The archive period for book-keeping files has been lowered from 10 to 7 years (Belgium). ✚ Electronic remuneration records (ELENA) have been introduced replacing the employer's obligation to issue monthly written certificates on income data to a central database for social security benefits, saving companies over €85 million per year on documentation relating to unemployment benefits, federal parental and housing benefits (Germany). ✚ The Department of Transport has simplified and streamlined the application process for a haulage operator's licence by moving from a process requiring three affidavits and supporting documents to a self-declaration model. The application form has been reduced from 11 pages to four and is now considerably easier to complete. Over half of all licence holders are SMEs (Ireland). ✚ An integrated form has been established, consolidating documents from three authorities, to prove that a supplier meets certain requirements of public procurement procedures (Lithuania). ✚ Since July 2010, a single environmental permit has replaced 25 different permits and exemptions from national & local government, reducing administrative burdens to business by €85 million due to 200,000 fewer permits issued each year, also saving citizens €11 million and 15,000 hours (The Netherlands). ✚ The Board of Agriculture has created a central holding register for keepers of bovine animals to reduce administrative burdens on farmers. Animal keepers now only need to make one set of notifications to the central database (Sweden).
Simplified enforcement	<ul style="list-style-type: none"> ✚ Businesses benefit from simplified fire safety inspections, where the first planned inspection of fire prevention and safety is a consultation on fire safety issues, with sanctions only applied in exceptional cases. Owners can declare their own conformity to fire prevention and safety requirements, and discovered breaches will be dealt with through consultation on how to properly make a declaration and or fire prevention issues. Sanctions are only applied where the breaches could cause fire, an explosion, or damage to surrounding buildings (Lithuania). ✚ The frequency of official inspections of on-farm dairy hygiene have been reduced by recognising the results of audits carried out by Assured Dairy Farms, leading to an estimated reduction in the number of inspection in England from 10,000 to 2,000 per year (UK).
Financial compensation	<ul style="list-style-type: none"> ✚ SMEs who are inspected by the European Medicines Agency, or use their scientific advice or services, benefit from fee reductions of 90% (EU) ✚ The New Companies Promotion Act (NeuFög) saves costs for start-up businesses and successor companies by exempting them from court and stamp fees, federal administration fees, land transfer tax, capital duty and stock exchange turnover tax. They also do not have to pay the employer's contribution to the Family Burdens Equalisation Fund (4.5%), the contribution to housing subsidies (0.5%), the second chamber contribution (i.e. the surcharge on the employer's contribution, which varies according to Land) and the industrial accident insurance contribution. To qualify, the new business owner must not have been self-employed in the same business segment within the past 15 years, and he or she must have attended a start-up counselling session with their respective interest group. (Austria).
Voluntary arrangements	<ul style="list-style-type: none"> ✚ SMEs are encouraged, but not obliged, to carry out an energy audit according to the new Energy Efficiency Directive 2012/27/EU. Member States may set up support schemes for SMEs, including if they have concluded voluntary agreements, to cover costs both of an energy audit and of the implementation of the highly cost-effective audit recommendations (EU).

Sources: EC Communication on Smart Regulation (2013), <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2013:0122:FIN:EN:PDE>; Group of High Level National Regulatory Experts (2013), "Adapting legislation to minimise regulatory burdens for SMEs: best practice examples"; EU Swedish Presidency (2009) "Better Regulation: Presentation of practical exercise on sharing good examples" (op. cit.).

Many Member States have also taken advantage of derogations in EU legislation to ease the requirements on their SMEs, to tailor their own legislation accordingly, and simplify implementation or enforcement.

Use of EU derogations by Member States

Audited accounts

In the Companies (Amendment) (No. 2) Act 1999 and 2012 amendment, an EU derogation was exercised to exempt small companies from the requirement to audit their annual accounts. The exemption applies to companies with a balance sheet under €4.4 million, a net turnover under €8.8 million, and on average fewer than 50 employees (Ireland). Small businesses are exempted from some of the requirements of the Companies Act 2006. Most businesses do not need to publish annual audited accounts, if they meet two of the following three criteria: fewer than 50 employees on average; annual turnover under GBP 6.5 million; total assets under GBP 3.26 million (United Kingdom).

Trade statistics

Intrastat is the system for collecting data and producing statistics on the trade in goods between Member States. Following the EU's decision to lower the minimum coverage of the intra-EU trade statistics, Germany has exempted almost 17,000 of a total of 70,000 businesses from their Intrastat information obligation through raising the reporting thresholds from 300,000 to EUR 500,000 value of traded goods per year and direction of flow. This led to a reduction of €19 million per year in administrative burdens by 2012 (Germany).

Sources: Group of High Level National Regulatory Experts (2013), "Adapting legislation to minimise regulatory burdens for SMEs: best practice examples", op. cit.

Once an essential regulation is adopted, the administration can make life easier for enterprises by **raising awareness of the rules and providing clarifications**, using business-friendly language and communication tools. Public administrations should spell out the implications, especially in the case of complex pieces of legislation that require explanation or legal expertise. This can include guidelines, especially those directed at SMEs, such as the Europe-wide campaign of the [European Agency for Safety and Health at Work and the Online interactive Risk Assessment \(OiRA\)](#), to carry out risk assessments required by law in a simple and less time-consuming way.

Governments can also encourage public bodies to enhance their services to business by providing **certification to public administrations that achieve certain standards** that are agreed with business representatives.

6.1.2 Business-centric administration

Creating a business-friendly climate is not just a matter of regulatory reform, but also improving the responsiveness of the administration, which is about attitudes and structures. While specific ministries and their executive agencies are tasked with industrial and SME policy, exports, inward investment etc., there are public bodies at all levels that deal with businesses on a daily basis. 'Think Small First' (TSF) is an ethos for the whole of government, at all levels, with public administrations offering seamless public services that improve rather than impede business performance.



For the business client of public administrations, **government should be ‘indivisible’**: they should be able to expect the same high quality and customer-oriented service whichever office they are dealing with. This principle was embraced by the Swedish Municipality of Hultsfred when it launched the LOTS project to create contact points throughout the municipality for companies looking to establish themselves locally, rather than rely on a single department as the interface with business. By developing their business ambassadors, Hultsfred has since seen its ‘business-friendliness’ rating climb 58 positions in Sweden and the LOTS model become an official standard which has since been taken up by other municipalities.

Inspiring example: The Municipality of Hultsfred ‘LOTS’ project (Sweden)

When a company or an entrepreneur has an errand to run at the municipality, they expect a high level of service. They also expect that this high level of service should be equal in all municipalities, since companies do not operate according to municipal borders. The problem is that many municipalities have one or two officials who are responsible for answering and handling all the questions from every company. In short, there is only one way into the municipality and every company must take the same route.

The Municipality of Hultsfred wanted to change this perspective and create many contacts for the private sector to use, and hence the LOTS project was launched in 2010. The model is to spread responsibility and knowledge throughout the organisation, to create lots of positive ways for companies to get help, support and guidance from the municipality. This means that officials must have a wider knowledge of the different areas covered by the municipality, as well as about the conditions of running a company. The LOTS Group currently comprises about 23 persons from different departments. Each official, who has other main tasks outside of LOTS, can be the first point of contact for a new business that wants to establish itself in Hultsfred, and they can all answer the most common questions from the private sector. The biggest cost of the LOTS project has been the time and effort spent by all of the persons involved in it, otherwise only minor investments have been made. The success is based on dedication – not budget.

Since the project was first launched, Hultsfred has climbed the rankings of the most corporation-friendly municipalities in Sweden. Moreover, the LOTS model has become a new Swedish standard regarding how municipalities can work when it comes to company contacts, certified by the Swedish Standards Institute, which major cities such as Stockholm, Gothenburg and Helsingborg have begun to adopt.

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In line with the user-centric approach to service delivery (see [theme 5](#)), many Member States have sought to enhance the front-office experience by creating **one-stop shops (OSSs) for business** to improve the public-private interface.

In many cases, this became a priority in the late 2000s as a result of Services Directive 2006/123 EC, which obliged Member States to simplify all procedures involved in starting and carrying out a service activity by the end of 2009. Companies providing services must now be able to complete all necessary formalities, such as authorisations, notifications, applying for environmental licenses, etc. through **Points of Single Contact (PSCs)** with the public administration, from a distance and by electronic means.⁴ They are also supported by IT tools through the EU-funded SPOCS project.

The PSCs will become part of the **Single Digital Gateway** for businesses and citizens (see [topic 5.4](#)), alongside Product Contact Points, Construction Contact Points, the Your Europe portal and SOLVIT.

⁴ The performance of PSCs against four criteria (quality and availability of information, online completion of procedures, accessibility for users from other countries, and usability) is considered in the [EU Single Market Scoreboard](#).

Other diverse forms of OSS for business exist in different Member States, varying in terms of scope, portfolio and degree of interconnection with PSC and eGovernment structures.

The priority is increasingly to offer **online Government-to-Business (G2B) services** (see also [theme 5](#)). As Internet usage is more widespread among the business community than the general population, the shift to better, faster, cheaper e-Services is benefitting SMEs particularly. Specific e-Business portals are now widespread across Europe based on 'life events' in the business cycle (start-up, employment, export-import, closure etc.), which are explored further in [topic 6.2](#). In the ideal situation, there is only a 'single portal' to access all the services that enterprises require, as illustrated by Austria's Business Service Portal.

Inspiring example: The Business Service Portal (Austria)

The Business Service Portal ('Unternehmensserviceportal') is the flagship project of the Austrian Federal Government's initiative to cut red tape. It is jointly coordinated by the Federal Ministry of Finance (BMF) and the Federal Chancellery (BKA).

The portal serves as a single entry point to Government for businesses. By offering information and transaction services, it enables businesses to meet their reporting obligations to the authorities as simply and efficiently as possible. This single gateway to government information and transaction services will significantly increase the attractiveness of doing business in Austria. Businesses can use this portal to find relevant information, submit data to meet their information requirements and use online procedures to interact with the authorities. A single access point is offered for previously existing applications, such as 'FinanzOnline' (virtual tax office), the electronic data exchange with Austrian social security institutions (ELDA), and the Data Processing Register (DVR). Furthermore, information on reporting and information requirements will be combined and offered in one platform.

The project submitted is Phase 1 of the BSP, particularly the implementation of the information part and single sign-on (SSO) functionality, including central administration of roles and rights in the transaction part and business register. In 2010, a fully-fledged information portal was set up, and since 2012 the BSP provides SSO services to the most important eGovernment applications, such as taxes, insurance and environmental reporting. Both new and already existing applications will be integrated into the BSP.

Phase 2, which started in 2013, focuses on the support of processes for enterprises, with special emphasis on streamlining administrative procedures and avoiding multiple reporting of the same information. For example, an online start-up process and the possibility to receive digital mail from administrative bodies are currently designed. Regional and local eGovernment applications will also be integrated. The added value for enterprises at a glance:

- + Register once to use various eGovernment applications: previously businesses had to register separately for each application and manage numerous passwords and user IDs;
- + Deal with all administrative issues online and resolve them faster;
- + Central user management for various procedures;
- + 24/7 information around the clock provided by government offices; and
- + Maximum security standards.

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Virtual OSSs are not solely the domain of national government. Online portals are also being offered at the local level, within decentralised systems. As described under [theme 5](#), streamlining the front-office is commonly complemented by back-office reforms to improve professionalism and responsiveness to SME needs.

Enterprises will always wish to minimise their contact with administrations on purely mundane matters, and hence **'once only'** data entry is a winning formula for business-friendly public services. The principle is that businesses should not have to provide basic information to the public administration more than once. After it has been registered by one authority, it is available to all and will not be requested again. This places the responsibility on public bodies to ensure full interoperability of their ICT systems (see [topic 5.4](#)). This innovation is being increasingly applied across the EU for the benefit of businesses.

For the difference between one-stop shops and once-only data registration, please see [theme 5](#). One-stop (see [topic 5.3](#)) is not the same as 'once only' (see [topic 5.4](#)). The OSS is a mechanism to access multiple services, but does not necessarily mean that user information will be shared across administrative units and never again requested. However, some OSSs do also offer 'once only' data registration services. The Crossroads Bank for Enterprises (CBE) brings together several registries for business, trade, VAT and social security within a linked database, so that the company only has to register once as a new or established business, and its unique identifier enables all government bodies at all levels to access its basic data. In this case, the front office for the CBE is the network of Business One-Stop Shops that operate across the country under various non-profit providers.

Inspiring example: Crossroads Bank for Enterprises (Belgium)

Within the framework of administrative simplification, an Act of 16 January 2003 provided for the creation of the Crossroads Bank for Enterprises ("*Kruispuntbank voor Ondernemingen*") and Business One-Stop Shops (BOSSs). The Crossroads Bank for Enterprises (CBE) is a database containing basic information on all enterprises established in Belgium and their individual locations, combining data from the former national register of legal entities, the former trade register, the VAT register, and the Social Security Administration. For new businesses, the authorised BOSSs enter the company data into the CBE after examining whether they meet the legal conditions (prior authorisations). They also provide access to CBE data. For these two tasks, they charge a fixed amount of money laid down by the authorities, who pay the BOSSs for providing these services. The BOSSs can also provide other services or play the role of an intermediary at a price freely set by them. Once the company is registered at the CBE, it receives a unique corporate registration number that has to be mentioned on the enterprise's correspondence, documents and invoices. This new procedure replaces the "old" registration procedure of a company at the commercial registry.

The aim of the CBE and the introduction of a single business number is to simplify the administrative obligations imposed on companies and to improve public services' efficiency. Once its data have been entered into the CBE, a company is no longer required to communicate the information to other public services. After an enterprise has been allocated its unique identification number, this is all that is needed to allow public service departments to request the information from the CBE. All federal, regional, provincial and municipal authorities use the CBE as the single database. The combined data also improves statistics reliability as it allows more control and comparison. Through the "private search" system, a company can consult its own data in the CBE and through the "public search" system anybody can consult the public data of any company. The BOSSs enter companies' data into the CBE, which drastically reduces business start-up time. They have been, and will be, given other tasks to perform by the federal and regional authorities. The BOSSs will eventually become the single point of contact for both the self-employed and companies. Notaries will very soon be able to enter the data of a new legal person into the CBE immediately after drawing up the articles of association, thus putting an end to the existing commercial court procedure.

Some categories of self-employed are currently excluded from the scheme: the professions and the foreign companies having no registered office in Belgium. These categories will nonetheless be involved in the scheme later. The regional authorities must be encouraged to hand over some of their tasks or devolve some of their

powers to the BOSSs or at least to call on them as intermediaries. The BOSSs can also assist foreigners who wish to work as self-employed in Belgium. Through their daily dealings with self-employed, the BOSSs can tell which regulations cause concerns and which therefore need to be assessed and amended. This again can lead to administrative simplification and to increasing the number of self-employed.

National professional and inter-professional organisations participated both officially and unofficially in the development of the CBE and the BOSSs, regarding the legal and technical aspects. At present, there are 10 registered BOSSs, which together operate 250 offices spread all over the country. All BOSSs are non-profit associations, founded by one or more of the following bodies: employers' organisations; organisations representing the self-employed; registered social insurance funds for the self-employed; and Chambers of the Belgian Federation of Chambers of Commerce and Industry. The scheme is therefore supported by the organisations and federations of the self-employed. Each BOSSs can as result provide evidence of the implementation of the measure via one of its members-partners. The BOSSs have taken over the job of the various bodies previously dealing with entrepreneurs. They can also play the role of an intermediary for several non-compulsory procedures. At present, 10 notary offices – and their number is growing – are able to enter the data of a new legal person directly into the CBE. The BOSSs register online the companies meeting the legal requirements. Business start-up time has been reduced dramatically, for instance in the retail sector. However, for some other sectors such as the construction sector, something still needs to be done. The notary project will certainly improve the situation. Less red tape can lead to more people choosing to become self-employed.

In terms of lessons learned, the system now operates quite smoothly, after a difficult start owing to technical problems. The merging of the various databases having led to data losses and inconsistencies, and hence the system would have benefited from a transition period. A Universal Message Engine links the various databases, and hence a problem with a specific database has consequences for the whole system. After three years of operation, the system needs to be assessed to improve its quality, accessibility and user-friendliness. The BOSSs perform the tasks of the various bodies to which entrepreneurs had to apply before July 2003. The quality of service provision still varies a lot, though the majority of BOSSs work well. Some BO Shops have founding members that are very different from each other, there is therefore a need for better cooperation and management. The quality of service provision within the same BOSS can vary from office to office. The BOSSs do not always succeed in communicating information quickly and correctly to all their offices. As far as the BOSSs are concerned, it appears that it is important to have a global view of the organisation: how many offices and how many staff members are necessary. Staff should be trained well in advance, and clear and possibly homogeneous working methods should be introduced, which requires sufficient preparation. Nevertheless, the administrative simplification that has resulted from the CBE has certainly contributed to reducing business start-up time and increasing the number of self-employed.

Source: SBA database (op. cit.)

It has been estimated that implementing the 'once only' principle, in compliance with data protection legislation, would generate net savings of around €5 billion per year by 2017 at the EU level⁵, as well as contributing to the efficiency of the Digital Single Market when applied across borders. In this context, the Commission is launching a large-scale pilot project from 2016 on implementing the **once-only principle across borders** in the business-to-public administration area, as confirmed in the [eGovernment Action Plan 2016-2020](#). The project will be funded through the Horizon 2020 research and innovation framework programme with the participation of at least six Member States. The Commission will also continue its ongoing work together with the Member States on setting up the mandatory interconnection of all Member States' business registers. This will enable access via the European e-Justice portal (see [topic 7.3](#)) to certain information on companies registered in Member States and ensure that all EU business registers concerned can communicate with each other electronically in a safe and secure way. This will enhance confidence

⁵ See the [2015 Commission Staff Working Document: 'A Digital Single Market Strategy for Europe - Analysis and Evidence'](#)

in the Single Market through transparency and up-to-date information on companies and reduce burdens on companies. In addition, the Commission will establish a European single window addressing also the once-only principle for reporting purposes in maritime transport. In a wider context, the Commission is working on the digitalisation of transport documents for all modes and the promotion of their acceptance by public authorities.



6.2 Streamlining administration for businesses

For public administrations, reducing the burden on business is not only a matter of the number and nature of regulations, but also how the public-private interface is managed at each stage in the business life cycle. Some interactions will always be necessary, when setting up, running and closing a business to comply with company and employment law, tax and social security rules, building and environmental regulations, etc. For businesses who wish to trade and invest across borders, there are customs regulations to consider, but also the prospect of dealing with different administrative cultures.



There is huge variation across the EU in the number of steps, involved institutions, time taken and cost of these essential processes. These metrics are regularly tracked and compared globally, especially by the World Bank's annual Doing Business reports, which are widely cited under this topic. The 2016 and 2017 reports surveyed 189 and 190 economies, respectively.⁶

The following sections take each 'life event' in the business life cycle and present ways in which Member States have taken actions to make processes more efficient and effective, and simplify the experience of enterprises in their essential dealings with public administrations. In practice, of course, many such reforms are planned and implemented in parallel, often as a package, as illustrated by the example of Latvia's annual Action Plan to Improve the Business Environment.

Inspiring example: Improvement of business environment (Latvia)

Quality of the business environment is one of the key priorities of Latvian government to enhance business activity and competitiveness.

The World Bank's international survey, 'Doing Business', as well as the 'Study of Administrative Procedure Impact upon Business Environment' are important tools for evaluating the business environment in Latvia. They help to find out the opinion of entrepreneurs about the factors hindering their activity and to prepare a list of tasks within the annual Action Plan to Improve the Business Environment.

Measures to improve the business environment in Latvia have been implemented since 1999 when the Ministry of Economics prepared the first Action Plan to Improve the Business Environment. Every year, the Plan is updated, together with a wide range of organisations representing entrepreneurs, such as the National Economic Council, the Foreign Investors Council in Latvia, the Latvian Chamber of Commerce and Industry, and the Employers' Confederation of Latvia, and approved by the Government.

The aim of the Plan is "simple and high-quality services in business: more e-services", and it includes actions to be taken to overcome burdensome requirements identified by entrepreneurs in all business cycle areas. Around 520 actions had been introduced by late 2014 within the framework of the Plan. As a result, Latvia has:

- ✚ Made starting a business easier - by introducing on-line business registration, reducing the minimum capital required and providing a one-stop-shop for company and tax registration;

⁶ [Doing Business 2016: Measuring Regulatory Quality and Efficiency](#) and [Doing Business 2017: Equal Opportunity for All](#)

- ✚ Simplified the construction process - by approving the Construction Law and amending subordinated construction regulations (within 2012-2014), the time period for coordination of construction projects decreased from 152 to 149 days, the number of procedures was reduced from 18 to 12, and the cost of the process fell from 15.4% to 0.3% of income per capita⁷;
- ✚ Made tax and accounting more business friendly - by implementing an electronic declaration system at the State Revenue Service and a simplified declaration filling process (the system generates the SRS available information at enterprise declarations; an electronic payroll tax book is introduced);
- ✚ Enhanced insolvency regulation - by introducing a new Insolvency Law in 2010 and amending regulation in 2014 that adjust procedures on creditor claim satisfaction, the insolvency process decreased from 3 years to 1.5 years, and the cost of the process has fallen from 13% to 10% of real estate value⁸,
- ✚ Made enforcing contracts more equitable - by improving the framework for mediation and arbitration, as well as introducing special legal procedures on business disputes-related matters (within 2013-2014).

To assess the impact of the performed reforms, the 'Study of Administrative Procedure Impact upon Business Environment' has been carried out every second year since 2001. Its main objective is to assess the opinions of Latvia's business leaders about various administrative procedures at both state and municipal level, about 7000 entrepreneurs participates in the survey and evaluates the procedures in such areas as registering a business, obtaining licenses, registering real estate, obtaining a construction permit, regulating labour relations, paying taxes, closing a business, dealing with inspections, applying for state aid, getting credit, etc.

The results of the Business Survey for 2014 show that entrepreneurs spend 13% on average of their working time dealing with issues related to administrative requirements (compared to 37% on average in 2005). All of the studies of instruments included in regulatory areas, administrative procedures, and possible barriers to business this year were judged less likely to hinder business development than in previous studies (since 2001).

Doing Business 2017 (op. cit.) ranked Latvia 15th among 190 countries and 6th among the EU Member States for the ease of doing business.

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Similarly, the European Commission has planned a series of initiatives to strengthen **cross-border services** for enterprises under the eGovernment Action Plan 2016-2020 (op. cit.) at various points in the business life-cycle. The Commission will propose legislation to extend the Single Electronic Mechanism for registration and payment of VAT to cross-border business to consumers' online sales of physical goods, to reduce the administrative burden, one of the main barriers businesses face operating cross-border. Improving the use of digital tools when complying with company law related requirements throughout different phases of a company's life-cycle would achieve simpler and less burdensome solutions for companies. The Commission will consider further ways to facilitate the use of digital solutions throughout a company's life-cycle, particularly in relation to the online registration procedures and to the electronic filing of company documents and information in business registers, also in a cross-border context.

⁷ Data from [Doing Business 2015](#)

6.2.1 Starting a business

Start-ups create jobs and inject new investment, ideas and initiative into the economy. They also put pressure on established firms to innovate, to improve product and service quality, and to raise their productivity. The ease in which aspiring entrepreneurs can launch a new business is a test of a country's readiness for economic renewal. The decision to set up a company is rarely taken lightly. It involves financial commitment, personal risk to the owner(s), and an uncertain future. As the World Bank's [Doing Business 2014](#) states: "Starting a new business involves multiple unavoidable obstacles, but excessive bureaucracy should not be one of them".⁹



There are **potentially many steps** to take before crossing the threshold of incorporation: as a minimum, registering the business and dealing with the tax authorities. Depending on the prevailing laws, regulations and circumstances, it may require the prospective owner to: check the proposed company name does not already exist, draft and notarise statutes; establish a bank account with a minimum capital requirement; submit all information to the business registry; apply for a business licence; register for VAT; and obtain a company seal. DG CNECT's [eGovernment benchmarking study](#) identified up to 24 possible steps before and during registration, which the diagram below clusters into eight groupings. Depending on the proposed activity, the situation of the owner(s), and the business plan, it may also mean obtaining environmental or construction permits, registering property, accessing credit and employing staff¹⁰.



Clearly, raising the rate of new firm formation in any economy is not just about lowering regulatory hurdles and removing administrative obstacles. Apart from quick and cheap procedures, prospective entrepreneurs need a **supportive ecosystem for start-ups**. The 'orientation' phase in the above schematic includes preparing a business plan and exploring sources of finance, including access to credit. Entrepreneurs contemplate setting up in business either out of desire (an enthusiasm to bring a product or service to the market) or out of necessity (for example, because self-employment is the industry norm, or because of lack of employment opportunities). In either case, the starting point is awareness of business start-up as an option, and the knowledge, skills and financing to bring the business concept to fruition. Education and training play critical roles, alongside signposting and

⁹ See also <http://www.doingbusiness.org/research/starting-a-business>

¹⁰ As these are more discretionary and apply to running any business, they are considered under the next topic.

ensuring ready access to funds and other support services (business incubators, advice on business planning, coaching and mentoring).

A good example of such a supportive approach is the "[BarcelonaActiva](#)" [Entrepreneurship Centre](#), the winner of the Commission's 2011 Enterprise Europe Awards. The 'alumni' companies of this support programme survive on the market at an impressive 83% rate over the initial 3 years, compared to the average European closure rate of 50% over the first five years.

Another example is StartUpGreece, which supports new starts and established entrepreneurs by combining a digital platform and outreach through social media with offline support from field experts in the public administration. The StartUpGreece community has more than 6,000 members, of which 10% are outside Greece.

Inspiring example: StartUpGreece

StartUpGreece is an information, networking and collaboration initiative of the Ministry of Development and Competitiveness, aimed at creating a new generation of entrepreneurs in Greece. It is a policy instrument for the implementation of European and national policies for SMEs, and especially the Small Business Act for Europe.

As a communication vehicle, StartUpGreece combines tools and actions that are both online and offline:

- ✚ **Online:** The digital platform www.startupgreece.gov.gr, created in 2011 with EU and national funds, combines an online community of entrepreneurs - structured to promote collaboration among the members - with an integrated knowledge-information database. The database is based on crowdsourcing and orchestrates all the critical content relevant to entrepreneurship in one single point. It contains first-level information about procedures, laws and regulations, concerning company establishment, licensing of activities, and other critical matters, as well as available public and private funding opportunities at national and European level. It also communicates events, competitions, and public consultations, provides useful guides, data and research studies from the National Observatory for SMEs and other specific European and national sources, and shares success & failure stories. StartUpGreece also participates actively in social media - Facebook, Twitter, youtube, and targeted blogs.
- ✚ **Offline:** The online experience is enriched by intensive offline actions and initiatives. StartUpGreece capitalises on its horizontal team of field experts in the public administration and provides first-level information to citizens' requests. The StartUpGreece Team members participate actively in events and actions that promote entrepreneurship, give lectures in secondary schools and universities, develop the StartUpGreece network engaging relevant public authorities and representatives of young entrepreneurs, and promote entrepreneurship-relevant information to mass media.

The StartUpGreece initiative aims to change the relationship that entrepreneurs have with public authorities, putting the entrepreneurs' needs in the centre of public concern and talking to young entrepreneurs in their own language.

The StartUpGreece community has more than 6,000 members, of which 10% are abroad, 7,500 likes on Facebook, and 8,900 followers on Twitter, while the StartUpGreece Team have answered more than 800 individualised citizens' requests, concerning matters such as company establishment and licensing procedures, funding opportunities, export procedures, foreign investments, and intellectual capital.

The StartUpGreece operation is coordinated by the SME Envoy for Greece and two colleagues from the General Secretariat for Industry, and is supported by 37 public officials working at the Ministry of

Development and Competitiveness, other Ministries competent for entrepreneurship, public authorities, and universities.

For further information: Zacharias Mavroukas, SME Envoy for Greece and Director General, Directorate General for Industrial & Entrepreneurship Policy, Ministry of Development & Competitiveness, Mavroukas_Z@gqb.gr. See also: www.facebook.com/StartupGreece; www.twitter.com/StartupGreece; <http://www.youtube.com/user/StartupGreece>

Irrespective of the eco-system, there is an **overwhelming case for reform** in business start-up procedures. Econometric studies have shown a strong correlation between new firm formation and sustained increases in productivity, employment and growth. In countries with a substantial 'grey economy', making it easier and less expensive to register and run businesses legitimately makes informal business owners more willing to 'come in from the cold'. Globally, it took an average of 51 days worldwide to start a business in 2003. The 2014 Doing Business survey found the average time to start a business in 2013 was 25 days, involving an average of 7 procedures and 32% of the average per capita income in fees. Best-in-class was New Zealand (also in the 2015 survey), where it takes just 1 procedure, half a day, less than 1% of income per capita, and no minimum capital requirement. This sets the ultimate benchmark for performance (or 'frontier'). Over the last decade, more attention has been paid worldwide to removing barriers to business start-ups than any other area of administrative reform for the private sector – and the EU is no exception. The European Commission has played an active role in simplifying and speeding up the business start-up process, and reducing the financial burden on businesses, so that Europe can unleash its full entrepreneurial potential.

Commission initiatives to simplify start-ups

In 2000, the **European Charter for Small Enterprises** included "cheaper and faster start-up" as one of its 10 action lines. The Charter not only asked Member States to act in this area, but also provided a forum for information and good practices to be exchanged between all participating countries.

In 2002, an EU-commissioned study was published **benchmarking** the then 15 Member States, presenting the state-of-play, proposing measures and presenting good examples to simplify and speed up business registration procedures. According to the study, the average time to start-up a company in 2001 in the EU-15 was 22 days and the cost was €827.

Based on all the collected evidence, the **European Council** in Spring 2006 provided the main political impulse and asked Member States to take concrete steps to facilitate start-ups. The conclusions of that Council state that: *"The Member States should establish, by 2007, a one-stop-shop, or arrangements with equivalent effect, for setting up a company in a quick and simple way. Member States should take adequate measures to considerably reduce the average time for setting up a business, especially an SME, with the objective of being able to do this within one week anywhere in the EU by the end of 2007. Start-up fees should be as low as possible and the recruitment of a first employee should not involve more than one public administration point."* To monitor progress, the Commission asked all countries to appoint a representative to act as National Start-up Co-ordinator to liaise with the Commission. It also developed a document providing greater specificity on how compliance would be measured.¹¹

Measuring progress in times, cost and one-stop shops for start-ups was fully embedded in the 2007 **Lisbon Strategy for Growth and Jobs**. Progress was assessed, based on information from regular meetings with the National Start-up Co-ordinators and yearly National Progress Reports on the Lisbon Strategy's implementation.

¹¹ Commission Staff Working Document, [Assessing Business Start-up Procedures in the context of the renewed Lisbon strategy for growth and jobs](#), SEC(2007) 129

The **Small Business Act** confirmed these commitments and again asked Member States to speed up and reduce the costs of starting a company. In December 2008, the Competitiveness Council adopted "The Council's Action Plan for a Small Business Act for Europe" which included a number of concrete measures to support SMEs. Among these, it asked Member States to bring down start-up times to 3 working days.

Since the SBA was adopted, start-up times and costs have been reduced in many Member States, and most countries have established a one-stop shop or equivalent arrangement. However, there are still vast differences across the EU in the number, cost and length of procedures required. Through the conclusions of the May 2011 **Competitiveness Council**, Member States signed up to a target of 3 days and €100 cost to start-up a private limited company, which should be achievable through a one-stop shop.

Administrative simplification for new firm formation remains high on the EU's political agenda, and the Commission continues to **track the progress** of all EU countries in simplifying and reducing the times and costs to start-up a business.¹²

There has been much progress in recent years. By 2014, the average time to [start a business in the EU](#) had fallen to 3.5 days, the average cost had fallen to €313, and 23 Member States were operating one-stop shops that handle fully all the procedural steps pertaining to the preregistration and registration of a company. But there is still some way to go: just six countries were fully compliant in 2014 with all three EU-wide targets: Denmark, Greece, Latvia, Romania, Slovenia and the United Kingdom. The cost target is perhaps the most elusive, as it requires that procedures are sufficiently simplified that lawyers and notaries are no longer necessary to the process. Slovenia was the only country in the EU in 2014 where the cost of setting up a private limited company is zero EUR, and remains 'best in class' worldwide on this criterion in the 2017 Doing Business report.

One of the most common reforms in recent years has been to reduce, or in some cases remove, the **statutory minimum capital requirement** for establishing a limited liability company. During 2012-2013 alone, the Netherlands abolished the minimum capital obligation, while Lithuania introduced a new form of incorporation that has no minimum requirement, as had Greece with the 'IKE' (see below). In conjunction with its One-Stop Shops for business start-ups, the IKE helped the Hellenic Republic to jump 111 places to 36th in the World Bank's Doing Business 2014 (op. cit.) for 'starting a business', compared with the previous year, by radically cutting the time and cost required for setting up a limited liability company.¹³

Inspiring example: Introducing a simpler form of incorporation for start-ups (Greece)

Following the introduction to the Greek commercial law of a new legal form of 'private company', *Idiotiki Kefalaioushiki Etairia* (IKE) in 2012, business start-up statistics have drastically improved in both time required and cost.

IKE was introduced under the law I.4072/2012 and is an incorporated legal entity, which is similar but an alternative to the limited liability company (EPE). It is separate from, and independent of, owners or shareholders, liable to creditors to the extent of its assets (while shareholders/owners are liable to the amount

¹² <https://ec.europa.eu/growth/smes/promoting-entrepreneurship/advice-opportunities/start-up-procedures/>

¹³ Greece moved subsequently to 52nd position on 'starting a business' in Doing Business 2015 (op. cit.), despite improving its performance on time (days) and cost (as a % of per capita income), and with a 'distance to frontier' (DTF) ratio of over 90% (in essence, performance compared with best-in-class). This illustrates well how changes in relative rankings should be treated with some care, as gains in one country can be over-shadowed by others' stellar improvements, a point made in the report itself. It is productive to focus on DTF and 'the story behind the story' – what explains a country's performance and what can be learned from others - to search for ways to make things better for business.

of capital contributed and subscribed for) and unable to raise any form of capital through ‘public’ subscription or to be listed on a public capital market and set up to trade actively. IKEs are formed solely through One-Stop Shops (OSS) in a period of less than two days and with a total cost of €115.80, as compared to 5 days and €909.80 for the previously existing EPE.

The reduction of the number of days required for the incorporation of an IKE, as compared to an EPE, is due to:

- ✚ The abolition of the requirement for the founders to have no outstanding debts concerning social security; and
- ✚ The abolition of the exception from the OSS procedure for IKEs with activities with sanitary concerns (OSSs provide IKE with both a registry number and a tax number, thus allowing it to be fully operational, even if its activity involves sanitary issues).

The reduction of the cost for setting up a IKE, as compared to an EPE, is due to:

- ✚ The abolition of the obligatory notarial deed for the articles of association;
- ✚ The minimum capital required for an IKE is €0;
- ✚ The abolition of Capital Tax payments at start-up (which came a year later through another piece of legislation); and
- ✚ The abolition of the obligatory registration of company founders to the appropriate social security fund at start-up and the related payment of social security contributions.

Furthermore, there is no need for founders to bring forward an outstanding social security certificate, or present official company seat documentation, to the OSS.

As a result, IKE is currently the prevailing form of a private limited company in Greece. According to official statistics from the Hellenic Business Registry (<http://www.businessportal.gr>), IKE has already replaced EPE as the preferred legal form in new incorporations. In 2013, there were twice as many new IKEs created than new EPEs (2,821 against 1,276). For the first 10 months of 2014, the number of new IKES was more than five times the number of new EPEs (3,193 against 591), with IKEs comprising around 38% of all new company start-ups.

The introduction of the IKE, alongside the contribution of One-Stop Shops, has improved dramatically Greece’s position in the ‘starting a business’ category of the World Bank’s Doing Business Report 2014 (op. cit.) by 111 places (from 147 to 36). In the words of the report: “Globally, Greek entrepreneurs experienced the biggest improvement in the ease of starting a business in the past year”.

For further information: Stefanos Komninos, Secretary General for Commerce, Ministry of Development & Competitiveness, gge@gge.gr. See also <http://www.startupgreece.gov.gr/content/private-company-tips-how-start> (information on setting up an IKE); <http://www.et.gr/index.php/2013-01-28-14-06-23/search-laws> (I.4072/2012, Part Two, Article 43-120 on IKE, I.3853/2010 on OSS, I.3419/2005 on GEMI and Chambers of Commerce, and I.2081/1992 on Chambers of Commerce).

Many Member States have made significant progress in **simplifying registration** and hence stimulating business starts in the recent past. Specific reforms relate to better inter-agency cooperation and/or abolishing specific steps¹⁴, such as:

- ✚ Being able to file applications for company and VAT registration simultaneously at the commercial registry (Latvia);
- ✚ Removing the need to register the new business at national labour and sanitary inspectorates (Poland);
- ✚ Transferring responsibility for issuing the headquarters clearance certificate from the fiscal administration office to the trade registry (Romania);

¹⁴ Doing Business 2014 and 2015 (op. cit.)

- ✚ Eliminating the requirement to obtain a municipal license before starting operations (Spain);
- ✚ Lowering registration fees (Bulgaria);
- ✚ Reducing the time needed to register with the district court, and eliminating the need (and hence the fee) for a notary to verify signatures (Slovak Republic);
- ✚ Introducing an electronic system linking several public agencies (Spain); and
- ✚ Speeding up tax registration (United Kingdom).

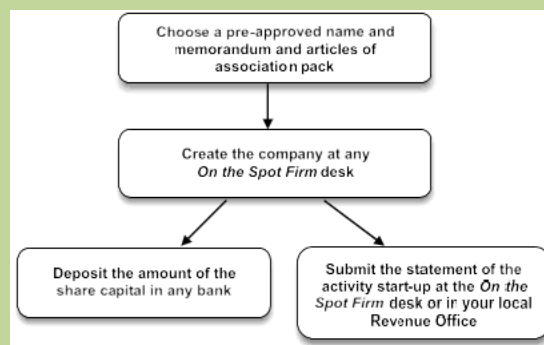
The ‘On-the-Spot Firm’ service, which blends **one-stop shops and the availability of ‘off-the-shelf’ model statutes** for new entrepreneurs, and crucially the introduction of e-Services, helped Portugal to reduce the time required to just one hour on the internet and €120. Research has shown that Portugal’s reforms have opened the door to many new entrepreneurs, by increasing the number of registered enterprises by around 17%, especially smaller, women-owned businesses.¹⁵

Inspiring example: On-the-Spot Firm (Portugal)

The initiative, On-the-Spot Firm (in Portuguese, *Empresa na Hora*), makes it possible to create sole trader, private limited and public limited companies on the spot, in just one office (**paper registration**) or online (**e-registration**), and in a single hour. Previously, the process took about two months, and the parties were obliged to obtain, in advance, the registration of the name of the company (Certificate of Admissibility) from the National Registry of Companies, and to sign a public deed.

Now, there are just three steps if the entrepreneur choses the paper registration option, which involves visiting one of the following **One-Stop Shops (OSSs)**: on-the-spot company help desks (*Loja da Empresa*); any Commercial Registry Office; or an Enterprise Formalities Centre (CFE). A list of available desks can be found in the contacts area of the website: <http://www.portaldaempresa.pt/cve/en/contacts/default>. (Please note, there are some companies that cannot be created at an Empresa na Hora desk. It is not possible to set up companies whose incorporation requires any prior authorisations, companies whose share capital is paid in by contributions in kind, European PLCs, groups of subsidiary firms, cooperatives and non-stock companies).

Otherwise, the process is extremely simple and does not necessitate the intervention of lawyers or notaries:



The first step involves the owner(s) selecting a name from the pre-approved list, either at the website (www.empresanahora.pt) or at the OSS (‘Empresa na Hora desk’). The pre-approved names are made up of figurative expressions that do not indicate any particular activity, and so the parties concerned are free to add a descriptive phrase related to the object of their enterprise to complete the name. For instance, if the chosen name is ‘ABCDE’ and the company is going to be involved in the catering sector, the name can be changed to ‘ABCDE-Catering’. The desired name can be tested in a simulator to assess if there are any other already existing or similar ones. One downside with the desk-based registration, however, is that the selected company name is only confirmed at the Empresa na Hora desk, so the chosen name might not be available by

¹⁵ Doing Business 2014 (op. cit.) / L.G. Branstetter, L. Francisco, J.T. Lowell and A. Venâncio (2013), [Do Entry Regulations Deter Entrepreneurship and Job Creation? Evidence from Recent Reforms in Portugal](#), The Economic Journal (July 16).

the time the entrepreneur goes to register. Second, the owner can choose one of the pre-approved standard packs with Memorandum and Articles of Association, available in the offices or on the website.

The members of the future company then go to an OSS to start the incorporation process (unless represented by a third party, who will need to produce all the relevant documents plus a power of attorney). If the members of the future company are private individuals, they will need to take with them their tax identification card, an identification document (identity card, passport or driving licence), and their social security card (optional). In the case of legal persons/corporations, they need to show the legal/corporate person tax identification or identity card; a current extract of the entry in the Commercial Registry; and the minutes of the general meeting granting powers of company incorporation. As far as foreign legal/corporate persons are concerned, the following documents, duly translated, are required: document proving the company's legal existence in the country of origin; memorandum and articles of association of the company; minute of the decision that the company may be involved in the incorporation of another; identification of the legal representatives of the company; and a legal/corporate person number, applied for in advance from the National Registry of Companies (RNPC) identifying the company in Portugal. There is no legal bar to foreign citizens participating in the setting up of companies in Portugal, but there is one prerequisite, which is the legal requirement to be in possession of a tax identification number at the time the company is incorporated. It is sometimes necessary for foreign residents in Portugal to seek advice from the Border and Foreigners Control Service (SEF) with a view to removing any obstacle to their participation as members of the company that is to be created.

The OSS carries out immediately the registration of the new company, and hands over documentary proof of the entry in the commercial register, the legal/corporate person identification card, and the articles of association. Registration for social insurance is also done automatically through the electronic transfer of data and the social security number of the company is issued. However, it is recommended to contact the Loja da Empresa Social Insurance Office, where the business owners can inform the officers of the date that the company will start its activity. At this office, the statutory body members may ask for the exemption of payment of contributions, if the owners have already paid them for another activity or if they don't receive any salary or compensation. For that purpose, they must present as evidence a declaration signed by the employer or, if they are retired, the pensioner card. The Registry Office will computerise the data needed to inform the Inspectorate-General of Labour (*Autoridade para as Condições do Trabalho*) about the start-up of activity, as well as the information required for the formal registration of the company with the Social Security and in the Commercial Register. As soon as the company is set up, one will be able to submit a Statement of Start-up of Activity at the help desk, for tax purposes, duly completed and signed by the Accountant. If one does not do this on-the-spot, it must be done within 15 days of the incorporation. Within no more than 5 working days of incorporation, the members must deposit the sum of the share capital in any bank, in the name of the company. The initial capital required for the foundation of a private limited company amounts to at least €1. The cost of the OSS registration service is €360. This amount is payable at the time of incorporation, in cash or by cheque.

Since June 2006, it has been possible to start up commercial companies through the **internet**. This service may be used by lawyers, solicitors and notaries with a digital certificate. It is also available to any citizen, providing they carry the Citizen Card (in this case, it is clarified that all members must be holders of a Citizen Card, so that they can digitally sign the pact) and it is not necessary to attach documents beyond the social pact. The interested parties must have a digital certificate and authenticate at the site. Through this service, it is possible to anonymously create commercial and civil societies in the form of trade, the type of quota shares and individual ownership via the internet, without going to any public administration office. As before, the prospective owners choose a company name from the pre-approved list, or they can use instead a certificate of admissibility. A pre-approved standard memorandum and articles of association can be used, or one made by the interested parties which will be analysed at the register office. After entering and validating all the information about the company, an email and SMS is sent to the interested parties confirming the incorporation request and another one is sent once the incorporation is successfully completed. The social security number is immediately generated. The Permanent Certificate access code is sent by the commercial register office to the interested parties. The collective person's card is sent by post. Since September 2007, it has also been possible to obtain a trademark at the time of establishment of an online company. This service also allows the incorporation of companies following a merger or division.

An automatic domain name registration starts with the chosen company name, free of charge for one year. With this service, it is cheaper to start-up companies: the formation of an 'online company' costs €220, publication included (plus stamp duty) if you choose a model memorandum and articles of association. This service is available at the site: www.empresonline.pt. Furthermore, entrepreneurs no longer need to communicate the set-up of the new company to other relevant public departments, e.g. tax, social security and labour departments, as all the required information is sent to them by electronic means, as soon as the registration process is finalised. The articles of association are registered and published immediately on the Ministry of Justice website or at www.mj.gov.pt/publicacoes with free public access, and the company is automatically allocated a registered web domain with the company's name on the internet. Since 2005, 214,965 companies were created at OSS.

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Some Member States are exploiting the intrinsic advantages of interoperability and shared base registries, such as in the Netherlands, where entrepreneurs who register their company at the Companies Registration Office (part of the Chambers of Commerce) automatically receive their VAT numbers from the Tax Agency, without having to request them¹⁶. Apart from the application of the '**once only**' principle of data entry, this example also reflects the benefits of automated, pro-active public services that are facilitated by ICT (see [topic 5.4](#)). Further exploration of the innovative potential for providing e-Services for business start-ups can be found in the EU-funded study of [cloud and service-oriented architectures for eGovernment](#).

The conclusions of the May 2011 Competitiveness Council included a call on Member States to reduce the time to **obtain business licences** to a maximum of 90 days by 2013. Since May 2011, several EU Member States have adopted major reforms to simplify and streamline procedures for business creation and, at the same time, for business licence applications. A prominent example of simplification is Portugal's Zero Licensing initiative, which allows businesses to open immediately after providing local authorities with the necessary information, without having to wait for the licence to be formally issued. This is a good illustration of the principle of switching from ex ante approval, which delays the start-up, to ex post checks.

Inspiring example: Zero Licensing initiative (Portugal)

In 2011, a new scheme - Zero Licensing ("*Licenciamento Zero*") - was approved for the premises of new shops, restaurants, cafes and pubs and a few other services, to simplify and shorten licencing procedures across a number of sectors and to dematerialise procedures, to reduce the costs and time associated with the delivery of business licenses. This also applies to secondary establishments (office, agency, branch or subsidiary) created in Portugal by a business legally established in another EU Member State. Zero Licensing replaces the old arrangement, which implied a prior visit to obtain the licensing of new premises, by possible inspections after the premises open, and higher fines for breaching the rules. Travel agencies have been given easier access to activity by abolishing the requirement for a licence before starting a new travel agency, and replacing it with a prior notice giving evidence that the new agency meets all the requirements. Hence, new travel agencies may start their activities without any formal authorisation by the public administration.

Source: European Commission SBA Factsheets for Portugal, 2012 and 2013

¹⁶ 2012 eGovernment Benchmark Background Report (op. cit.)

6.2.2 Running and growing a business

While not yet ‘mission accomplished’, relative success across the EU in reducing the cost, time and steps to start an enterprise has shifted the focus of attention from business flow to business stock. Given the multiple and multi-faceted interactions of public and private sectors, how do administrations make it easier for enterprises to operate on a daily basis? Once the enterprise is up and running, smooth interaction with the public sector is vital to keep the hidden costs of business administration as low as possible, especially for new and young businesses which face the highest likelihood of failure during their first 1-3 years of operation.



The regulatory framework sets the **parameters** for every company’s interactions with public authorities, but also investors, creditors, suppliers, partners, customers, consumers and workers, as well as owner-manager relations and the natural environment. Legislation and its interpretation determines the conditions for each business to access development finance and working capital, invest in R&D, innovation, equipment and training, protect its intellectual property, ensure compliance with contractual arrangements, and compete in the marketplace on an equal basis with its counterparts at home and abroad. Creating the right regulatory climate presents a series of policy dilemmas in different policy domains: how best to balance potentially competing or conflicting interests, and to respond to market failures (information asymmetries, externalities, principal-agent problems, etc.). These specific questions of corporate governance, competition, employment, environmental, consumer, financial and SME policies are not the subject of this Toolbox, which is concerned solely with their management and administration; the exception is the policy towards payment terms, which affects suppliers to public and private clients equally, and is especially detrimental to the liquidity of SMEs (see [topic 6.2](#)).

Instead, we focus on the direct interface between private enterprise and public administration, which is about information, registration, application, and payment in both directions. With regards to ongoing business operations, this tends to cluster around five ‘**life events**’:¹⁷

- ✚ Reporting of corporate information (fiscal and statistical);
- ✚ Paying businesses taxes and social security contributions;
- ✚ Applying for and complying with permits;
- ✚ Employing workers; and
- ✚ Registering property.

¹⁷ Some of the challenges faced by established businesses are also relevant to new ones: dealing with the tax administration; employing the first member(s) of staff; applying for permits and licenses (beyond business licences), and registering property and vehicles to allow operations to commence. These processes are considered here, but could equally be integrated into the start-up experience for many entrepreneurs, which is one of the reasons why the ‘life event’ concept should be treated flexibly (see [theme 5](#)).

Taking the overview, the administrative side of running a business is a **discontinuous series of interactions** with public authorities over a wide spectrum of policy fields: corporate governance, taxation, employment, statistics, health and safety, environment, etc. Some of these relationships are regular, which can be monthly (e.g. VAT returns), quarterly (e.g. corporate tax), or annually (e.g. submitting audited accounts, paying corporate tax). Other dealings are irregular, for example, related to social welfare in the case of employee sickness. Ideally, all the enterprise's relations with the public administration would be managed through one office or one portal, with each interaction at the maximum convenience and minimum cost to the business, involving the fewest steps possible (see [theme 5](#)).

Businesses are required by law to **disclose corporate data** for a range of reasons: for statistical purposes, to enable effective economic analysis and public finance planning *inter alia*; for tax calculations, as a precursor to tax demands and payments; and for investor and creditor protection. Portugal is the pioneer of simplified corporate information, unifying the legal obligation to provide accounting, tax and statistical information to four different public bodies, once only and electronically, cheaply and quickly.

Inspiring example: Simplified corporate information (Portugal)

In 2007, Portugal created the Simplified Corporate Information project (or in Portuguese, *Informação Empresarial Simplificada*, IES) as a public service which allows, in a single act, fulfilment by companies of four legal obligations that were previously scattered. Until the entry into force of IES, companies were required to provide the same information on their annual accounts to various entities through various means. They had to:

- ✚ Make a deposit of annual accounts and registry, on paper, in the Commercial Registries.
- ✚ Make delivery of the annual accounting and tax information to the Ministry of Finance (Directorate General of Taxes);
- ✚ Submit annual accounting information on their annual accounts to Statistics Portugal (INE) for statistical purposes; and
- ✚ Submit annual statistical nature of information about their accounts to the Bank of Portugal.

Now, with the IES, all obligations are performed only once and submission of accounting information on companies is fully electronic.

The IES is a new form of fulfilment, exclusively through an electronic and totally intangible process, of these legal obligations. This measure has significant impact on businesses and the public administration departments responsible for collecting this information are now able to direct the available resources for purposes of added value thanks to the reduction of charges associated with the paperwork.

Forms are available at the following sites: www.ies.gov.pt and www.dgci.min-financas.pt. The only obligation which is integrated in the IES is paying the deposit accounts. After the electronic submission of IES, a reference is automatically generated that will allow payment upon registration of the ATM or through home banking, within five working days. The price that companies pay only for the registration of accountability is €100 – cheaper than the price paid by the deposit of paper bills at the Commercial Registry Office.

As the process is exclusively electronic, there is no need for entrepreneurs to physically go to the various state agencies. Entities that are subject to checks and balances are: commercial companies and civil societies in commercial form; European stock corporations; public enterprises; companies with headquarters abroad and permanent representation in Portugal; and the establishment of limited liability. The Institute of Registries and Notaries, IP (which belongs to the Ministry of Justice) is responsible for the registration of accountability. As stated above, following this registration, no physical document is necessary. Models that are filled out and submitted in electronic form, condense information regarding the following documents: minutes of approval

of the account of the exercise and application of results; balance sheet, income statement and balance sheet and attached to the income statement; statutory audit; the opinion of the supervisory board, if any.

IES is a good example of a model of proactive approach and an innovative project of a public institute that is recognised by those who are involved with it.

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The ‘once only’ principle (see [topic 5.4](#)) has been adopted by Bulgaria, which harmonised its fiscal and statistical reporting into a single entry point, halving the administrative burden on all businesses, from micro to large enterprises.

Inspiring example: Single Entry Point for fiscal and statistical information (Bulgaria)

Statistics is one of 13 priority areas for administrative burden reduction. As measured, the provision of statistics accounts for just 0.5% of the total administrative cost in EU (€629 million), but is perceived as a greater burden, because of the so-called irritation factor.

The European Commission’s Communication on the Reduction of Response Burden, Simplification and Priority Setting in the field of Community Statistics, 14.11.2006, sought to take action in line with the 9th principle of the European Statistics Code of Practice: “The reporting burden should be proportionate to the needs of users and should not be excessive for respondents. The statistical authority monitors the response burden and sets targets for its reduction over time.”

At a Member State level, the possible avenues to reduce the statistical burden are five-fold:

- ✚ Simplifying legislation and reporting requirements;
- ✚ Simplifying and facilitating data reporting via e-questionnaires;
- ✚ Finding smarter and more efficient ways of data collection through more efficient use of administrative sources and linking micro-data from different sources;
- ✚ Developing an approach to data collection which is oriented to respondent types - SMEs and large enterprises;
- ✚ Improving co-operation across institutions and with the business community, especially to reduce the irritation burden.

Bulgaria has developed the Single Entry Point for reporting both fiscal and statistical information, enabling enterprises to submit their tax declarations and annual financial report at one single moment at any time (24 hours a day), via web-based application form or by paper, and to one common entry point of the National Statistical Institute (NSI) and the tax administration, the National Revenue Agency (NRA). Data can be submitted by chartered accountants duly authorised on behalf of the enterprise, which is especially important for SMEs. Once submitted, businesses can access their reports at any time. The process works as follows:

Enterprise data is submitted → it enters a validation process → if the result is positive, data is entered in the primary data store → data is edited by the NSI based on direct contact with enterprises → it is transferred to the data warehouse → it is used for multiple purposes by the NRA and NSI.

All requests for statistical information include a short, to-the-point explanation of why the information is important and include an option for enterprises to receive feedback on the result of the surveys. An attempt is made to introduce Customer Relationship Management (CRM) in relations with our respondents.

The steps to building the Single Entry Point were as follows:

- ✚ Define the scope and content of data that have to be submitted;
- ✚ Ensure that definitions and concepts used in the reports are identical for both NRA and NSI;

- ✚ Introduce amendments in the legal acts related to the fiscal and statistical obligations of business;
- ✚ Establish the concept of a Structural Business Statistic (SBS) data warehouse, ensuring the common use of data that fits the specific purposes of each institution;
- ✚ Build up the procedure of identifying the enterprise that is submitting data based on an electronic signature (see [theme 5](#));
- ✚ Develop a web-based application that uses free-of-charge standard web-browsers and programmes without the need for installation of any paid software by enterprises;
- ✚ Build up the necessary ICT infrastructure and quality of internet access that guarantees work under high pressure (many users in the same time enter the system);
- ✚ Safeguard data protection by encrypting the connection between the user's PC and the servers of the system;
- ✚ Ensure that the system can be upgraded and modified at any time when the data requirements are changed or simplified, and can be easily integrated with the existing IT systems in NSI and NRA;
- ✚ Organise a public awareness campaign and training sessions for accountants and business associations;
- ✚ Promote electronic data submission, instead of paper based.

The Single Entry Point saves the time and resources of enterprises, reducing the non-response rate, whilst also increases the quality and timeliness of statistical data: the time for SBS data production was reduced from t+11 months to t+7 months in 2011. In parallel, other measures were also put in place to reduce the administrative burden from statistical requirements, namely: lowering the covering rates for Intrastat and other reporting obligations; harmonising different measures and classifications used in certain statistics; provide statistical 'vacations' for SMEs; and most of all, better use of ICT.

The Single Entry Point has been well received and recognised by business as progress and successful. The Bulgarian authorities subsequently went on to work on integrating the Registry Agency with this Single Entry Point, to reduce burdens further.

Source: HLGAB (op. cit.)

Irrespective of the taxation system, structure and rates, the aim of the public administration should be to make it easy to **pay business taxes**, whether direct or indirect, at minimal cost and time. According to *Doing Business 2014* (op. cit.), the worldwide average for time taken to prepare, submit and pay the firm's annual taxes was up to 268 hours of its staff's time in 2013.¹⁸ The European Commission has carried out [studies and projects](#) on tax compliance to find out how to improve the situation for SMEs.

One of the simplest reforms is to reduce the frequency with which companies have to file and pay taxes and contributions. In recent years, for example, both Ireland and Romania have reduced the number of times each year that payment must be made for different taxes (e.g., from monthly to quarterly, and from quarterly to six-monthly). This carries consequence for Government's revenue collection and hence the financing of government operations, creating a funding gap that must be filled from other sources, such as the money markets.

A more fundamental reform is to move to electronic systems for filing and paying taxes, which accelerates the process whatever the frequency, and also ensures that tax revenue reaches the exchequer more quickly. This should cover all forms of taxation and social insurance, including income, profit, capital gains and VAT. The system should also be sufficiently flexible to allow interrogation of tax records, to ensure errors can be corrected, and to refund any over-payments.

¹⁸ Based on a standardised business in its second year of operation, and payment of three main categories of tax: profit taxes, consumption taxes, and labour taxes and mandatory contributions.

Using ICT to make tax compliance easier

Rolling out new information and communication technologies for filing and paying taxes and then educating taxpayers and tax officials in their use are not easy tasks for any government. But electronic tax systems, if implemented well and used by most taxpayers, benefit both tax authorities and firms. For tax authorities, electronic filing lightens workloads and reduces operational costs such as for processing, handling and storing tax returns. This allows administrative resources to be allocated to other tasks, such as auditing or providing customer services. Electronic filing is also more convenient for users. It reduces the time and cost required to comply with tax obligations and eliminates the need for taxpayers to wait in line at the tax office. It also allows faster refunds. And it can lead to a lower rate of errors. Electronic systems for filing and paying taxes have become more common worldwide. Of the 314 reforms making it easier or less costly to pay taxes that Doing Business has recorded since 2004, 88 included the introduction or enhancement of online filing and payment systems. These and other improvements to simplify tax compliance reduced the administrative burden to comply with tax obligations. By 2012, 76 economies had fully implemented electronic systems for filing and paying taxes as measured by Doing Business. OECD high-income economies have the largest representation in this group.

Source: Quoted from Doing Business 2015 (op. cit.)

As an example, the Government of Malta moved to Inland Revenue Services On-Line in the late 2000s. For public administrations with mature eGovernment systems that are sufficiently advanced to apply the 'once only' principle to data entry, it also opens up the scope for pre-filled tax declarations (see [theme 5](#)).

Inspiring example: Inland Revenue Services On-line (Malta)

The aim of 'Inland Revenue (IR) Services On-line' is to enable businesses and authorised tax-related professionals to file income tax returns, affect payments of tax and social security contributions, and submit other IR forms on-line.

Before the introduction of IR Services On-line, many of the formalities had to be done manually. This resulted in businesses having to call personally to the IR Department to present their documentation and wait in a queue to affect payments. IR re-engineered the process through which high volume information is obtained (for example, income tax returns), thereby enabling on-line applications and thus reducing the cost of compliance faced by businesses. IR Services On-line is mainly targeted at three groups:

- ✚ Corporate taxpayers: A fully electronic process connects the business's desk to the Inland Revenue's processing system. Businesses and tax-related professionals can now file income tax returns and financial statements, submit other tax forms, access accounts to confirm payments and tax statements, and find out the submission status of the tax return.
- ✚ Corporate tax registration: The IR has introduced other mechanisms to facilitate the compliance obligations for businesses. A direct link has been established between the Registrar of Companies and the taxation system, such that any company registered at the Registrar of Companies is automatically registered for income tax purposes. This registration is electronically available to all tax practitioners through the IR Services on-line portal.
- ✚ Individual taxpayers: An electronic facility is available for individuals to submit their income tax return on line. Individuals can also utilise the IR Services on-line to effect tax payments and social security contributions.
- ✚ Employers: Through this service, employers are now able to view payments made to the IR and submit end-of-year documents through their authenticated access.

- ✚ Third party data providers (such as banks, homes, schools): These are also using IR Services On-line to upload information on payments effected (e.g. interests) and payments received (e.g. fees for childcare) by taxpayers, rather than sending paper documents to the Inland Revenue.

Businesses can submit documentation to the IR Department at any time during the day and not only during the Department's opening hours. Documents received are immediately acknowledged. Data available at the IR Department is accessible for viewing by businesses. Through this system, businesses have the opportunity to receive immediate feedback on any possible errors in the documentation even before this is actually submitted to the IR Department. This feature allows businesses to make the necessary rectifications to ensure that the final submission is correct and thus avoid possible penalties for erroneous declarations. It reduces the instances when businesses are asked to provide clarifications on backdated information, and enables them to transact with the Inland Revenue in a secure manner.

The submission and processing of information on-line has enabled a faster turnaround for the 'back office' processing of information at Inland Revenue. This has facilitated the implementation of a Tax Statement for taxpayers without the need for submitting a tax return. 75% of the individual taxpayer population are benefitting from this initiative launched in 2008.

The entire service is backed by freephone telephone support during office hours. Should a customer have a detailed enquiry, the workflow system can facilitate the scheduling of a meeting with the IR Department's staff. In addition, the IR Department provides guidance and information in a simplified manner on its website. New applications and enhancements are released on ongoing basis.

For further information: Mario Borg, Director General (Operations), Office of the Commissioner for Revenue, mario.a.borg@gov.mt; or Yacob Zahra, Director (Employee Relationship Management), Implementation, People Development, Training & Standards Division, yakob.zahra@gov.mt

Taxation will never be an entirely virtual system. In line with every government's fiduciary duty, administrations reserve the right to physically inspect the records and systems of corporate taxpayers. As with other fields of regulatory enforcement, executives have the option to apply risk assessment techniques, as exemplified by Austria's 'fair play' approach, which seeks to tailor the application of inspection requirements during the enterprise's first year of operation.

Inspiring example: Fair play project - first business year (Austria)

At present, at the outset of entrepreneurial activity, initial visits are carried out by the Tax Administration in some cases, mainly in non- or low-risk sectors. Up until the tax assessment is made, further measures are only carried out in isolated cases (special VAT audit, follow-up inspection, etc.). The idea is to support new entrepreneurs during the first business year to facilitate them in becoming fully compliant partners of the tax administration: support instead of inspection!

As part of the 'Fair Play' project of the Austrian tax and customs administration, the first business year will be rolled out across the Austrian Tax Administration in 2011. There are now 41 tax offices and 9 customs offices. This approach ensures that taxpayers fulfil their obligations as envisaged in the Fair Play principle on a permanent basis, as a result of special clarification and support provided at the outset of entrepreneurial activity. It also establishes a basis of confidence which facilitates cooperation and communication between entrepreneurs and the tax administration. In addition, taxpayers who are likely to be dishonest in tax matters and who must be more closely supervised are identified by the tax administration in a timely manner.

Provision of support in the first business year does not normally coincide with the calendar year; support can continue for a longer period than up to the filing of the first tax return (tax authorities don't give support at filing tax returns), but also for a shorter period, depending on when the business in question started and when the tax returns are filed. A fundamental content check of the tax return is not feasible, since for tax returns not

containing anything unusual there is no reason for this to be done. If there is anything unusual, the ‘switch’ from service to inspection will already have taken place during the provision of support; VAT and wage taxes should thus be covered in all cases.

For further information: Johannes Fahrenberger, Expert for the development of organisations, johannes.fahrenberger@bmf.gv.at

Most of Europe’s enterprises are sole traders that do not **employ staff**. In some cases, this arrangement suits the entrepreneur, as it fits the business model in their sector (for example, freelance journalists or self-employed building contractors). In many cases, however, it is a conscious choice to forego expansion. The potential benefits of taking on workers is outweighed in the entrepreneur’s eyes by the extra burden of dealing with bureaucracy, such as withholding income taxes and social contributions to transfer to the tax administration, satisfying health and safety obligations, and meeting various reporting requirements regarding employment conditions (term of contract, working hours, paid leave, minimum wage, etc.), consultations and notifications (e.g. in relation to redundancies). A clear framework of rights and obligations in the workplace in every country is essential to the functioning of the single market, fair competition and sustainable economic growth. The important question is how labour regulations are implemented and enforced. The scope of labour law depends on the state-of-play with derogations at any moment in time (for example, exempting micro-enterprises or SMEs from certain provisions – see [topic 6.1](#)).

In accordance with the one-stop shop principle, and moving towards fully online channels of service delivery (see [theme 5](#)), Finland’s Palkka.fi is able to facilitate small businesses and households (who employ staff irregularly) to fulfil all their employer obligations electronically and interactively. This e-Service generates all the required parameters for calculation and payment, and is backed up by a call centre if needed.

Inspiring example: Palkka.fi - facilitating fulfilment of employer obligations (Finland)

To guide and help small employers in fulfilling their employer obligations, www.palkka.fi is a free-of-charge, interactive Internet service offered to small employers (with 1–5 employees), including small enterprises and households, by the tax administration, pension insurance companies and the unemployment insurance fund. Via this service, small employers are able to calculate, pay and report salaries, taxes, social security contributions and other employers' obligations on a single user interface. The service has been fully available since 1 February 2006 (1 September 2005 for limited use).

Users of Palkka.fi are authenticated by a general authentication service (www.tunnistus.fi), also used for several other e-Services. For electronic payments, e-Banking payment services are used. The service offers small companies the full set of correct, up-to-date parameters: percentages and amounts (such as tax rates and insurance premium rates), bank accounts and due dates for payments. Palkka.fi also creates the required statements for paid items and sends all the necessary reports to stakeholders of this electronically, at the right time. In addition, Palkka.fi builds an electronic archive. Users can also electronically transfer salary records to book-keeping. Via Palkka.fi, small employers also have access to other related services e.g. concerning VAT returns, accident insurance and healthcare cost refunds. A call service and an extensive information package are also available to users. A special version of the service is open to educational use (Opi.palkka.fi).

Palkka.fi reduces the administrative burdens related to the employer obligations of small enterprises and households, who often employ workforce irregularly and are not fully aware of the relevant, complex regulations. The target group comprises around 60,000 small enterprises and 200,000 households. The number of users is steadily increasing and was over 100,000 by late 2014, of which around a third were small enterprises and two-thirds were households. At the level of individual employers, it is estimated that the use

of Palkka.fi reduced the time spent on fulfilling employer duties by 2-4 hours per month. The total salary sum paid by this service was €779 million in 2013, and the saved costs were at least €5 million a year. The full potential is predicted to be double that amount.

For further information: Anna-Maija Lahti, National Board of Taxes of Finland, anna-maija.lahti@vero.fi

Not every enterprise needs to **apply for permits** to perform its business activities, but it can be a daunting and time-consuming process for those that do. In the case of *construction permits*, for example, building controls are necessary to safeguard public safety and strengthen property rights. However, excessive bureaucracy and delays can encourage illegitimate activity, as builders and their clients opt to proceed without permission. It can also incentivise unethical behaviour among the administration (seeking or accepting payments and favours to accelerate the decision process).

Options for construction permit reforms

- ✓ Ensuring building rules are consistent and comprehensible;
- ✓ Orientating the system to outcomes (performance requirements), rather than inputs;
- ✓ Streamlining the number of agencies involved in approval and inspection, including through a one-stop shop approach;
- ✓ Using risk-based systems, whereby simpler and less risky structures require fewer inspections than more complex or high-risk structures (such as hotels);
- ✓ Moving to passive approval for low-risk structures, only requiring notification that construction has commenced, rather than active approval-seeking in advance
- ✓ Reducing the steps to obtain approvals, by eliminating requirements or by merging procedures, so that they are performed in parallel;
- ✓ Setting time limits for decision-making by the administration, and applying the principle that silence implies consent.

Another specialist area is the approval of *environmental permits*, and follow-up compliance and inspection obligations. Depending on the legislative framework and the specific environmental media, this can involve a complex and confusing web of agencies at the national and local levels. Austria's EDM Environment is a prime example of a cloud-based, eGovernment solution to managing this multiplicity of authorities and processes.

Inspiring example: EDM environment (Austria)

EDM is a cloud-based eGovernment tool, developed over many years by the Austrian Ministry of Agriculture, Forestry, Environment & Water Management in cooperation with the federal regions. It is one of the most extensive and complex eGovernment tools in Europe and comprises a network of 22 applications from which reporting obligations (e.g. of emissions data), applications for permits and verification requirements are processed uniformly, in compliance with different environment-related laws. EDM's objective is to create clarity and legal certainty for all stakeholders by supporting a uniform application of Austrian and European legislation in the environmental sector, thus contributing to maintaining the high standard of Austrian environmental protection.

EDM enables the integration of authorities at different administrative levels and with different areas of competence (four federal ministries, all regions and district authorities) as often more than one authority is responsible for a specific permit or report. The clearly arranged, well-structured and in part menu-guided design of EDM makes even highly complex processes manageable. For instance, environmental inspections can be carried out efficiently by the authority with fewer personnel, and EDM applications can be used for the complete waste management process (e.g. generation, transportation, and treatment of waste). EDM establishes a knowledge database as a single point of information concerning environmental data like waste generation, collection, treatment, and recycling data, as well as permit information, emission data to air and

water, and information on radioactive sources. EDM reduces the complexity of the specialist requirements for the users. As an example, the waste characterisation and acceptance procedure for landfilling, involving waste owners, experts, landfill operators and landfill supervisory bodies is made far simpler thanks to the IT support that encompasses the complete process. The assessment of the characterisation results against permit data of landfills (put into the system by the competent authority) is supported by defined check rules and the built-in traffic light function. This reduces the time needed for proper control of the documents on arrival at the landfill and inspection by the supervisors of the landfill by around 90%.

Increased understanding of where additional regulations or changes of existing regulations are needed to successfully protect the environment and human health, and to ensure fair competition, supports the idea of "better regulation" and effective control of environmental regulations.

EDM is an extremely extensive Software as a Service (SaaS) application. It can be accessed online via standard protocols, is not bound to any specific terminals, and does not require any local installation. Provision of the service is automatic, needing no interaction with the EDM operator. All resources and data are freely available for several users in the form of a pool. The EDM services are mainly provided free of charge and without requiring a licence. Access and export of data are carried out in compliance with the strict requirements of Austrian data protection legislation. Highly automated processes can also be supported by EDM via a series of web service and XML interfaces available for import and export.

EDM is completely integrated into the Austrian eGovernment environment – including data pertaining to companies in the Austrian business register – and is an integral part of the Austrian Portal Group. A key EDM principle provides that data are collected and managed only when they first arise. Afterwards, they are transmitted and processed exclusively without media discontinuity.

For further information: Franz Mochty, Project Manager, franz.mochty@bmlfuw.gv.at

Another example is Greece, which has moved to simplify and streamline its *licensing regime for manufacturing industry*, by shortening the procedure, reducing the cost, moving from *ex ante* to *ex post* checks, and putting the application process online.

Inspiring example: Licensing of manufacturing activities (Greece)

A new law adopted in 2011 made it easier for manufacturers to obtain licenses (law 3982/2011), clarifying and accelerating the procedure, and cutting the cost. For two types of activities defined by the level of 'nuisance' (activities up to 37 KW, and low nuisance activities above 37 KW), which represent 75%-80% of licensing in Greece, applications were replaced by a statutory declaration made by the entrepreneur. The declaration was accompanied by the necessary approvals and supporting documentation, issued by the competent public authorities within a strict timetable. Specific (and shorter) deadlines were set within which the administration must respond to entrepreneurs who apply for a license (if the administration fails to meet a deadline, the proper sanctions are dictated by the general provisions of law 3528/2007). The medium time needed for legal operation through the statutory declaration procedure was seven days.

Of the 59 Prefecture's Development Directorates, the competent authorities for licensing procedure, 45 issued a total of 3,025 manufacturing licenses in 2013, of which 52.2% (1,581) followed the statutory declaration process, saving time and cost. The Technical Chamber of Greece, as well as the Chambers of Commerce, were given the possibility to act as the authority issuing the license, having the same powers with those of the Prefecture's Development Directorate as an equivalent mechanism. The move to a statutory declaration also enabled a switch from *ex ante* (prior) checks and inspections before the license is issued to an *ex post* "after check" in the licensing of new establishment. Inspections were conducted within a month of the premises opening. Extra simplification was also achieved on the low environmental impact activities (Class B – as it has been declared by the ministerial decision 9958/2012), by the standardisation and integration of environmental conditions in the context of the installation-operation license. The requirements involved in the licensing process were reduced for this type of activity, as no additional environmental license was required and the ultimate licensing cost was reduced.

An integrated IT system was being developed to offer e-Services to entrepreneurs for the licensing process through a central portal (www.anaptyxi.gov.gr). This platform would be the digital link between licensing authorities meeting the goals of:

- ✚ Online applications and submission of documents;
- ✚ Forwarding applications between jointly competent departments and processing them;
- ✚ Keeping an overall database of licensing;
- ✚ Enhancing transparency; and
- ✚ Reducing administrative burdens for businesses.

This system would be interoperable with other systems in operation in Greece, such as GEMI business registry, TAXISNET and Selected Citizen Services Centers.

The validity of the ‘Decision Approving Environmental Conditions’ was also extended to 10 years, or 12 years for companies that had an ISO 14001 environmental management system or equivalent, and 14 years for companies that held an EMAS certification (Eco-Management and Audit Scheme), thus reducing the administrative cost and rewarding companies that invested in environmental protection.

For further information: Xarito Piperopoulou, Head of Development & Coordination Dept., General Secretariat for Industry, Ministry of Development & Competitiveness, PiperopoulouX@gqb.gr; see also <http://www.startupgreece.gov.gr/content/licensing-manufacturing-businesses>

For new or established businesses that purchase land or buildings, the ease of **registering property** is important to ensure the asset can be put into productive use as quickly as possible, and to secure future access to credit as collateral. Given the legal and procedural aspects, rapid registration requires an effective public administration to converge with an efficient and high quality judicial system (see [theme 7](#)). The 2014 Doing Business report usefully defined the standard procedures that are pursued to complete the registration process.

Five sets of procedures for property registration

The ‘Doing Business’ report records the full sequence of procedures needed for a business to purchase an immovable property from another business and formally transfer the property title to the buyer’s name. The process starts with obtaining the required documents, such as a copy of the seller’s title, and ends when the buyer is registered as the new property owner. Every procedure required by law or necessary in practice is included, whether it is the responsibility of the seller or the buyer and even if it must be completed by a third party on their behalf. The registering property indicators identify 5 main sets of procedures:

- ✚ Due diligence procedures to obtain the necessary guarantees on the security of the transaction;
- ✚ Legalisation procedures to make the sale agreement legally binding;
- ✚ Tax requirement procedures to comply with tax regulations related to the transfer of a property, including inspections or surveys of the property to determine its value and thus the taxes to be paid;
- ✚ Registration procedures to register the property in the name of the new owner and pay the associated transfer taxes; and
- ✚ Publication procedures to give public notice of the intention to transfer a property, so as to allow any interested third parties to object.

Economies that rank well on the ease of registering property tend to have simple procedures, effective administrative time limits, fixed registration fees, low transfer taxes and online registries.

Source: Doing Business 2014 (op. cit.)

Member States can make it easier for businesses (and other service users) by reducing the steps in each procedure and the timescales for each one. Like permit applications, there is a case for setting legal limits on time taken. In common with other life events, there is scope for using one-stop shops to present a common ‘front office’, and rationalising back office processes by removing document requests and approval stages, combining steps, digitalising and harmonising registries, and allowing online lodgement and transfer of documents.

The 2014 Doing Business report found that, in the 45 economies worldwide that have computerised procedures over the past five years, the average time to transfer a property was cut in half, from 64 to 32 days. Electronic processing also strengthens title security, as it makes it easier to spot errors and overlapping titles. The experience of Denmark’s digitalisation and automation of property registration demonstrates that it can take several years of progressive adjustments to achieve wholesale change.

Inspiring example: Digitalising and automating registration (Denmark)

Implementing a fully computerised system takes several years and requires a step-by-step approach. In the past, the Danish property registration system was time consuming, and government employees had to maintain an archive of 80 million paper documents. Information was kept by local district courts that were not connected. As a preliminary step, all the information stored in local courts had to be centralised in a single place. This is why a unified land registry was set up in the city of Hobro. In 2006, the Danish government began modernising its land registry by digitalising and automating property registration. Processes had to be streamlined and reorganised. The centralised land registry initiated its computerisation and records were progressively digitalised. Once digitalisation was complete, the land registry introduced electronic lodgement of property transfers. By 2009, property transfer applications were only accepted online and the information technology system started screening applications in a fast and efficient way. As a result, over 5 years the time to transfer a property was slashed from 42 days to a couple of minutes. The Danish system was designed to respond to the needs of a variety of stakeholders, from citizens to financial institutions. With online access to a single source of land registry information, citizens and businesses could transfer property on their own with no third party and get information on any property. In addition, the Danish financial sector created a central hub for sharing land registration data between banks and the land registry - facilitating access to information and credit. By September 2016, more than 85% of all registrations were being handled completely automatically.

For further information: Danish Ministry of Justice, jm@jm.dk

Addressing **late payments** is high on the EU agenda, because of the detrimental impact on growth and jobs. Payment delays create liquidity problems that impede investment in expansion, but more fundamentally, endanger the existence of the business itself through insolvency, especially SMEs which are more vulnerable to cash-flow fluctuations than larger businesses. Late payment is an epidemic that affects both private and public sector debtors. In the private sector, delays in payment for supplies, services and works can have a domino effect, liquidity shortfalls being passed down the value chain, exacerbating the impact. Public authorities can have no excuse for late payment except for poor budgetary planning and execution, especially with regards to public procurement (see [theme 8](#)), and yet the problem is prevalent, leading to some enterprises shelving their employment plans to save funds and mitigate the threat of bankruptcy.

Findings of European Payment Index 2014

- ✚ The average length of payment in public sector has reduced from 61 to 58 days, but the public sector remains the slowest payer in the EU.
- ✚ About 69% of businesses do not feel that their government helps to protect them from the risk of late payment
- ✚ About 46% of businesses forecast payment risks will increase.
- ✚ About 51% of businesses blame administrative inefficiency for late payments, an increase compared to last year.
- ✚ About 55% of businesses expect a loss of income due to late payments.
- ✚ About 63% businesses expect a liquidity squeeze due to late payments.
- ✚ About 50% of businesses expect reduced growth perspectives due to late payments.

Source: *Intrum Justitia, EPI 2014*

The [EU's Late Payment Directive 2011/7/EU](#)¹⁹ set a 30 day limit for all payments by public authorities to businesses for procured goods and services, or 60 days in very exceptional circumstances, with a deadline for integration into national law in all Member States by 16 March 2013. Businesses are automatically entitled to claim interest for late payment, at least 8 percentage points above the European Central Bank's reference rate, and are also able to obtain a minimum fixed amount of €40 as a compensation for recovery costs. The [late payment information campaign](#) was running to December 2014 with events across the EU to highlight businesses' rights under the 2011 Directive, provide a forum for the exchange of best practices and help businesses to tackle late payment issues, with a special focus on SMEs. Some Member States have established national websites on late payment, to give more prominence to the administration's obligations and business entitlements.

Moreover, several Member States have adopted specific measures to accelerate the **payment of arrears**, to alleviate the liquidity problem faced by businesses, especially SMEs. For instance, €24.3 billion was allocated to debtor entities at central, regional and local levels in Italy for the repayment of arrears in March 2014, out of around €47 billion earmarked for 2013 and 2014. Of these allocations, 96.7% were spent. In Spain, the Government created the Suppliers' Payment Scheme in 2012, which has provided €41.8 billion of liquidity to enterprises to regularise the arrears of regional and local governments prior to January 2012. In Portugal, a strategy was adopted in 2012 for the settlement of arrears of more than 90 days, particularly in the health sector.

¹⁹ Note: Enterprises must pay their invoices within 60 days, unless they expressly agree otherwise and if it is not grossly unfair.

6.2.3 Trading across borders

Efficient trade facilitation at border crossing points is a critical factor in business performance in international markets. Businesses trading within the EU's Customs Union benefit from an internal market of almost 500 million people, and face very few additional administrative demands compared with trading within their national markets, the main exception being the collection of intra-community trade statistics, which can be simplified wherever possible (see example of Germany below).



Inspiring example: Raising reporting thresholds (Germany)

In accordance with Regulation (EC) No 638/2004, Member States must collect and provide Eurostat with statistics relating to the trading of goods between Member States (INTRASTAT). In 2008, Eurostat considered reducing the reporting requirements for compiling statistics on intra-EU trade by reducing the compulsory minimum coverage rates for arrivals and dispatches from 97% to 95%. In the end, the coverage rate was reduced for arrivals only, for quality reasons. Given the political need to further reduce the response burden, Eurostat decided in 2013 to reduce the coverage rate on the arrival side again – from 95% to 93%.

Resulting from the Eurostat decision of 2008, German Foreign Trade Statistics was able to raise the exemption thresholds in 2009 from €300,000 to €400,000 per year and the direction of flow, benefiting 9,500 enterprises out of approximately 70,000 providers of statistical information (PSIs), or 14% of all PSIs' businesses. Given the lower response burden, especially for SMEs, which is estimated to cut administrative costs by €11 million per year, the corresponding reduction in statistical information (0.4% of dispatch value and 0.6% of arrivals value) seemed to be tolerable. Several other member states (e.g. Belgium) also raised the exemption thresholds for INTRASTAT.

Due to the positive development of Germany's foreign trade in the years 2010-11, the coverage rate increased again. For this reason, Germany raised the exemption threshold from €400,000 to €500,000 in 2012, to the benefit of around 7,000 enterprises (11% of PSIs). Administrative costs could be cut by €8 million per year.

Resulting from the Eurostat decision of 2013, Germany is preparing to raise the exemption threshold from €500 000 to €800 000 on the arrival side. About 7,700 enterprises (12% of PSIs) would be able to cease reporting to Foreign Trade Statistics. The measure is estimated to cut administrative costs by €9.5 million per year. In the final analysis, of all German enterprises engaged in intra-EU trade, about 83% on the dispatch side and about 93% on the arrival side would not need to provide statistical information for INTRASTAT. The corresponding additional reduction of statistical information is about 1.2% - however deplored by important users of Foreign Trade Statistics.

For further information: Klaus Geyer-Schäfer, Federal Statistical Office (FSO)-Destatis, gruppe-g3@destatis.de

The bigger picture is that [80% of world trade happens within global value chains](#), coordinated by transnational corporations (TNCs) and often extending well beyond the EU's boundaries.²⁰ In this light, excessive red tape and overly complex clearance procedures that drive up costs²¹ are not just inconvenient, but also an impediment to investment, as TNCs will chose to locate their operations

²⁰ Source: UNCTAD (2013), [World Investment Report, Global Value Chains: Investment and Trade for Development](#).

²¹ This includes: time taken in dealing with the administration, extra documentation, storage fees, opportunity costs, loss of perishable goods, etc.

and source their supplies elsewhere to ensure they remain competitive. For businesses engaged in the international transit, import and export of goods, it is imperative that extra-EU trade is highly efficient, and minimises the time and paperwork required for customs and other procedures. This is the logic behind the [World Trade Organisation’s 2013 Trade Facilitation Agreement](#), which aims for faster customs and border management procedures globally.

The strong performance of many Member States in enabling trade to take place, through the **interaction of public and private services**, is demonstrated by the [World Bank’s Logistic Performance Index \(LPI\)](#) and the ‘Connecting to Compete’ report series. The LPI is based on a global survey that assesses the efficiency of supply chains, encompassing “*freight transportation, warehousing, border clearance, payment systems, and increasingly many other functions outsourced by producers and merchants to dedicated service providers*”, as described in the [2014 Connecting to Compete report](#).

Out of 160 countries in the [2016 Connecting to Compete study](#), the top four LPI performers were all EU countries: Germany, Luxembourg, Sweden and the Netherlands. Indeed, Member States accounted for 11 of the top 20.²² In terms of individual components of the LPI, the EU also took 10 places in the top 20 rankings for ‘efficiency of customs and border clearance’, demonstrating the **critical role of public administration** in trade facilitation.

“Supply chains are the backbone of inter-national trade and commerce The importance of good logistics performance for economic growth, diversification, and poverty reduction is now firmly established. Although logistics is performed mainly by private operators, it has become a public policy concern of national governments and regional and international organizations. Supply chains are a complex sequence of coordinated activities. The performance of the whole depends on such government interventions as infrastructure, logistics services provision, and cross-border trade facilitation.” World Bank, Connecting to Compete, 2014.

Some Member States have sought to **speed up and simplify** cross-border trade by streamlining procedures and reducing the number of documents required for import-export and transit, or investing in the physical and IT infrastructure at the border crossing points. These reforms not only reduce preparation and waiting times for traders, but also lower the potential for unethical behaviour (see [theme 2](#)).

The calculation for policy-makers is how best to ensure the smooth flow of cross-border trade without sacrificing other policy interests, such as tackling organised crime, illegal migration, smuggling and human trafficking, protecting national security and preventing the spread of human, animal and plant diseases. The answer lies in integrated border management with **strong inter-agency cooperation** between border police, visa control, customs administration, and sanitary, phytosanitary, and veterinary inspections.

Within the context of its Customs Union with the EU, Turkey has sought to **streamline goods inspection** using risk management techniques through its risk-based trade control system (TAREKS).

²² Belgium (6th), Austria (7th), United Kingdom (8th), Finland (15th), France (16th), Denmark (17th) and Ireland (18th).

This enables more efficient use of customs resources by concentrating on “high-risk” movements of goods and making customs clearance more predictable.

Inspiring example: Risk-based trade control system (Turkey)

The Ministry of Economy is responsible for the conformity assessment of certain imported goods such as toys, medical devices, telecommunication products, personal protective equipment, machinery, electrical equipment, gas appliances, etc., and some industrial raw materials and the quality control of some agricultural products at both export and import stages.

Inspecting 100% of goods at export and import stage used to result in a heavy burden on government and the private sector. Instead, the Ministry of Economy launched a tailor-made ‘Risk-Based Trade Control System’ (TAREKS), designed to carry out quality and safety checks electronically and on a risk basis. Rather than subjecting all export and import consignments to controls, TAREKS applies risk assessment procedures and focuses on high risk consignments. Thereby, the scarce inspection resources are concentrated on unsafe and poor quality products, this reducing the waiting period at customs and increasing the efficiency of inspections.

Upon the completion of the system’s software framework, a pilot implementation phase started in December 2010 with some selected agricultural products. Following successful results, the scope of the pilot was widened both in export and import. During this phase, firms started to apply for inspection and uploaded supporting data or documents via the 24/7 system, by means of electronic signature. In this way, firms are now able to follow their inspection applications and results. For this new type of service, all inspectors were equipped with notebook computers and wireless internet access.

Creating this project and involving all potential actors (customs authorities, designed inspection bodies, private companies) required institutional strengthening and capacity building. Tailored training programmes were organised in different regions and cities for companies, inspectors and other stakeholders. The scope has been expanded to include programmes in IT and legislation, case studies and exercises. Integrating all transactions into the system – a database comprising all applications and statistical data – has been established to determine the inspection policy and conduct the risk analysis.

Consequently, Turkey has acquired an advanced quality and safety inspection system that reduces bureaucratic procedures, replaces paper documentation by trustworthy and updated electronic data, and enables the efficient use of public resources. As of November 2014, there were 31,150 firms and 47,100 users registered. Through the system, users and firms follow the inspection procedure and they are informed about the result of the inspection process.

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As a Customs Union, there is just one external border with the rest of the world, meaning that the EU’s 28 customs administrations must operate according to **common rules**. This puts the onus on public administrations to harmonise their processes with neighbouring countries and to ensure mutual recognition of standards in line with the *acquis*.

The solution to smoother administration and multi-agency collaboration is **e-Customs**, which is well advanced in many Member States, as illustrated by Luxembourg’s ‘Paperless Douanes et Accises’ system, which obliges declarations to be submitted in electronic form.

Inspiring example: Paperless Customs and Excise (Luxembourg)

The Customs Administration's 'Paperless Douanes et Accises' (PLDA) system allows electronic transmission to the administration of all information concerning import, export and transit by enterprises. Since July 2009, it has been mandatory for all declarations concerning export and transit to be submitted electronically, either using compatible software or the free Internet client offered by the Customs Administrations. The procedure for import was to be changed to electronic declarations in early 2010. The module "transit" was implemented in June 2008, the module "export" in July 2009, and the module "import" in February 2010.

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Within the context of the [Modernised Customs Code](#) and the [e-Customs decision](#), the [Multi-Annual Strategic Plan \(MASP\)](#) sets out the ways in which the Commission and the Member States will set up secure, integrated, interoperable and accessible electronic customs systems for the exchange of data contained in customs declarations, accompanying documents and certificates, and other relevant information (see also [theme 5](#)). From the trader's perspective, the [ongoing developments](#) under the MASP offer six main advantages at a pan-European level:

- ✚ Better and readier access to information on import-export requirements in the EU through the EU Customs Information Portal;
- ✚ The opportunity for simplified procedures under the Authorised Economic Operator (AEO) system, supported by the Economic Operators' Registration and Identification (EORI) system and Single Authorisations for Simplified Procedures;
- ✚ The potential to receive preferential tariff rates as Registered Exporters;
- ✚ Avoiding duplication in import, export and transit operations in different Member States, due to electronic exchange of data among traders, customs and other governmental organisations across the EU under the Automated Import System, Automated Export System and New Computerised Transit System (NCTS);
- ✚ The availability of an online one-stop shop for customs procedures through Single Electronic Access Points (SEAPs), which allow traders to lodge their electronic pre-arrival/pre-departure, summary and full customs declarations via one single interface of their choice connected to all Member States' customs systems; and
- ✚ Applying the once-only principle of data registration (see [topic 5.4](#)) via the Single Window, which will enable economic operators to lodge all the information required by both customs and non-customs legislation for cross-border trade through a single portal, namely the SEAPs.

These front-office benefits are underpinned by behind-the-scenes developments which strengthen back-office functions. These include the Risk Management Framework and the Integrated Tariff Environment.

However, the full benefits for cross-border trade will only be felt when operators across the whole EU are able to enjoy ‘once only’ submission of *all* regulatory documentation (including customs declarations, applications for import/export permits, certificates of origin and trading invoices) which is then seamlessly transferred to *all* relevant agencies (customs, border police, statistics, insurance, ministries/agencies responsible for conformity assessment, health, environment, etc.). Assuming a positive response, the cargo is cleared for import, export or transit. This avoids the operator having to handle multiple visits to government agencies in multiple locations for the requisite permits and clearances. The EU’s **Single Window** relies on action at the level of each member of the Customs Union, and will not be complete until every national single window is operational and interconnected.

As well as trade in goods, **cross-border online data flows** are increasingly vital to business operations, in the context of electronic retailing, multi-national corporations with offices and factories in multiple countries, global value chains connecting suppliers internationally, cloud services, use of ‘big data’ etc. This data can take the form of corporate, customer, merchant, technical or human resources information and is integral to the functioning of the European and world economies. As the 2014 Swedish Board of Trade study “[No Transfer, No Trade](#)” shows, public administrations are starting to become alert to the importance of international data flows and the potential impediments from local storage and ‘forced localisation’, as well as issues around data privacy and protection.

6.2.4 Dealing with insolvency & second chance for honest entrepreneurs

For a variety of reasons, enterprises go out of business all the time. In recent times, around 200,000 firms have become insolvent in the EU every year. The cause can be better competitors, economic downturns, shrinking markets, obsolete products, over-rapid expansion by the entrepreneur, problems accessing finance, or many other internal or external factors. Business



failure is a fact of economic life, it will always be with us. This is especially the case with new and young businesses: around half of enterprises survive less than five years. When a business is facing financial difficulties, the question for policy-makers is the same as for business owners, creditors and investors: what happens next?

While technical insolvency means that liabilities exceed assets on the balance sheet, the trigger for business collapse is almost always when an enterprise is unable to meet its obligations: it is cash-flow insolvent, lacking the liquidity to make payments against invoices in sufficient time. Some entrepreneurs foresee that situation before it arises, and seek to manage the business down before they default. Others face more immediate financial distress and have to deal with their creditors, either voluntarily or following legal action. Insolvency systems must be capable of coping with all eventualities.

All countries have **laws and institutions** to handle insolvency, which usually present a range of options for both creditor and debtors to take action. There are major differences across the EU, partly because of various civil and common law systems in place. Some favour debtors more than creditors or vice versa, some give preference to some classes of creditor over others (for examples, prioritising workers' salaries before other claims).

All systems seek to safeguard creditors in some form. Foreclosure allows secured creditors to seize control of assets held as collateral, in lieu of payment, while liquidation involves assets being sold on behalf of all creditors. Without **creditor protection**, all businesses would find it harder and costlier to access finance, supplies and services, as the price and availability would reflect the higher risk.

But it is also widely recognised that breaking up the company is the least efficient outcome for economy, society and the parties concerned. On average around the world, creditors recover no more than 35% of their initial loan in case of closure.²³ It is typically in every party's interest – owners, investors, lenders and workers – that enterprises continue to operate as going concerns, if the business can be made viable again. Increasingly then, the focus of insolvency policy has shifted to saving the business, where possible. This puts the onus on **work-out, not wind-up**. This approach to insolvency proceedings places the priority on restructuring businesses in financial difficulties and restoring them to financial health. It shifts the emphasis towards restorative surgery on ailing businesses, rather than emergency treatments in intensive care which can end up killing the patient.

This early intervention approach has been encouraged by the European Commission first in the context of reviewing the [2000 Council Regulation on Insolvency Proceedings](#)²⁴ which established a common framework for dealing with cross-border insolvencies in the EU. A quarter of the EU's insolvencies each year can be termed **cross-border insolvency**, whereby a debtor's assets or liabilities are located in more than one state, the debtor has creditors from other Member State or is subject to the jurisdiction of courts from two or more states. The 2000 Regulation sought to create legal certainty as to the applicable law to insolvency, to the courts having jurisdiction and to the recognition of certain insolvency proceedings opened in another Member State. It is to be noted that the Regulation did not harmonise insolvency law across the EU, and only served to regulate the conflicts between different systems, leaving anomalies in place.²⁵ With more than 10 years' experience, the Commission [proposed an updated regulation in 2012](#) which sought to modernise the cross-border insolvency framework, notably by enlarging its scope to cover also preventive restructuring procedures, improving the coordination and cooperation between courts and insolvency practitioners of different Member States in cases of cross-border insolvency, introducing rules on insolvency proceedings of members belonging to the same multinational enterprise group, and setting up and inter-linking national electronic insolvency registers.

Second, with its [2012 Communication on a New European Approach to Business Failure and Insolvency](#), the Commission has also recognised that a degree of harmonisation of substantive law in the area of restructuring, insolvency and second chance would be key to improving the functioning

²³ Doing Business 2014 (op. cit.)

²⁴ The regulation does not apply to Denmark.

²⁵ European Parliament library briefing, [Cross-border insolvency law in the EU](#)

of the internal market, in particular the free movement of capital. As a next step, the Commission adopted in 2014 its [Recommendation](#) which focused on restructuring and second chance, since it was considered that action at EU level would bring most added-value in these two fields.²⁶ The Recommendation invited Member States to put in place (i) effective pre-insolvency procedures to help viable debtors to restructure and thus avoid insolvency, and (ii) second chance provisions for entrepreneurs enabling them to have a discharge in no more than 3 years after insolvency.

Following several reviews of the 2014 Recommendation which highlighted the lack of satisfactory prospect in the Member States, on 22 November 2016 the Commission adopted a [proposal for a Directive of the European Parliament and of the Council](#) on preventive restructuring frameworks, second chance and measures to increase the efficiency of restructuring, insolvency and discharge procedures. The proposal seeks to promote business rescue, a return to viability which will preserve competition and employment, and in the event of closure being inevitable, the rehabilitation of bankrupt business owners, except in the case of fraudulent behaviour. It also seeks to increase the efficiency of all procedures, be they restructuring, insolvency or discharge, with a view particularly to shortening their length.

New approach to business failure and insolvency

The Commission proposal for a Directive on preventive restructuring frameworks, second chance and measures to increase the efficiency of restructuring, insolvency and discharge procedures will help to provide a coherent framework for national insolvency rules, asking Member States to:

- ✚ Facilitate the restructuring of businesses in financial difficulties at an early stage, before starting formal insolvency proceedings, and without lengthy or costly procedures to help limit recourse to liquidation;
- ✚ Allow debtors to restructure their business without needing to formally open court proceedings;
- ✚ Give businesses in financial difficulties the possibility to request a temporary stay of up to four months (renewable up to a maximum of 12 months) to adopt a restructuring plan before creditors can launch enforcement proceedings against them;
- ✚ Facilitate the process for adopting a restructuring plan by a majority of creditors, keeping in mind the interests of both debtors and creditors, with a view to increasing the chances of rescuing viable businesses;
- ✚ Reduce the negative effects of a bankruptcy on entrepreneurs' future chances of launching a business, in particular by discharging their debts within a maximum of three years and limiting disqualification orders; and
- ✚ Increasing the efficiency of restructuring, insolvency and discharge procedures: applies not only to preventive restructuring and discharge procedures, but also to insolvency procedures, through the specialisation of insolvency judges and practitioners and through the digitalisation of procedures.

The proposal asks Member States to put in place appropriate measures within two years after the adoption of the proposal by the co-legislators.

See also: http://ec.europa.eu/justice/civil/commercial/insolvency/index_en.htm

²⁶ See [Impact Assessment accompanying the Commission Recommendation on a New Approach to Business Failure and Insolvency, SWD\(2014\) 61 final, 12 March 2014.](#)

Regulation 2015/848 on insolvency proceedings obliges Member States to set up domestic insolvency electronic registers by 2018. In the eGovernment Action Plan 2016-2020 (op. cit.), the Commission has committed to establish an electronic interconnection of insolvency registers by 2019, to enhance transparency and legal certainty in the internal market, in line with the regulation. This will become available on the European e-Justice Portal (see [topic 7.3](#)).

Some Member States already make provisions in their insolvency proceedings to **incentivise business rescue and reorganisation**.²⁷ This is exemplified in the recent past by the examples of the Czech Republic, which was singled out by the 2014 Doing Business Report for its sustained and continuous reforms over the previous five years, and Italy, which has embedded in law the ‘stay period’ for enforcement actions to give the debtor time to reorganise the business.

Inspiring examples: Bolstering reorganisation within the insolvency framework

The **Czech Republic** provides a good example of successful evolutionary reforms, achieving some of the biggest improvements in the past five years by continuously strengthening its insolvency framework. A new insolvency law went into effect in 2008 and declared reorganisation the preferred method of resolving insolvency. Liquidation and reorganisation proceedings were streamlined, and insolvency representatives became subject to educational and professional requirements as well as stricter government oversight. Application of the new regulations identified some inefficiencies that led to further reforms in 2009 and 2012. By 2011, reorganisation was the most common insolvency procedure in the Czech Republic, and survival of distressed but viable companies was the prevailing outcome. By 2013, the time to complete insolvency proceedings had fallen by 4.4 years compared with 2008. The recovery rate of creditors in the Czech Republic more than tripled over 6 years, from 20.9 ‘cents on the dollar’ (2008) to 65.0 ‘cents on the dollar’ (2013). Examples like the Czech Republic, as well as many other economies, show that meaningful improvements to insolvency systems require sustained, continuous efforts. Foundational reforms can produce results, but they are often insufficient to facilitate the most economically efficient outcomes of insolvency proceedings - the reorganisation of businesses that are economically viable and the liquidation of businesses that are not.

More recently, **Italy** has made resolving insolvency easier through amendments to its bankruptcy code that introduce a stay period for enforcement actions while the debtor is preparing a restructuring plan, make it easier to convert from one type of restructuring proceeding to another, facilitate continued operation by the debtor during restructuring, and impose stricter requirements on auditors evaluating a restructuring plan.

Source: Doing Business 2014 (op. cit.)

The proposal for a Directive envisages that debtors should be able to enter a process for restructuring their business, and should be able to keep control over the day-to-day operation of their businesses. The proposal puts in place provisions requiring Member States to make early warning tools available to debtors, particularly SMEs. To facilitate the preparation of restructuring plans, the judicial authorities should be able to appoint of a supervisor to oversee the activity of the debtor and creditors, or a **mediator** to assist in the successful running of negotiations with creditors (see [theme 7](#)).

²⁷ To inform a new approach to business failure and insolvency, DG Justice published a [study in 2014 by INSOL Europe](#), and subsequently a [study in 2016 by the University of Leeds](#) with comparative analyses of Member States’ provisions and practices.

The example of Denmark's Early Warning System is a good example of intervention by taking a **preventative** stance: better to step in early when the enterprise identifies it is facing difficulties, and help to steer it back to viability, or at least to close in a managed way. Importantly, the service is free, confidential and voluntary. Performance data (see [topic 1.3.1](#)) shows the cost to the public purse has been more than offset by reductions in tax debt, as well as higher revenues / lower losses for assisted businesses than would have happened otherwise, compared to the control group.

Inspiring example: Early Warning System (Denmark)

Early Warning is a unique and untraditional hybrid between a professional business-to-business service and an organisation of experienced volunteer professionals. Together these two groups complement one another's skills and provide free, confidential and impartial assistance to businesses in crisis, assisting them either to regain economic viability or to close down in a way that does not paralyse the owners. Analysis has shown that the greatest barrier to entrepreneurship and growth of start-up companies is the entrepreneur's fear of bankruptcy and financial collapse. To counter this fear, and thereby promote more start-up enterprises, the Early Warning System was implemented from late 2007, financed through Globalisation Funds, which are intended to make Denmark one of the world's most competitive societies. Due to very promising results Early Warning is now financed through the national budget. Given that, as a rule, fewer start-up companies in difficulty have the means to pay for private advice, the establishment of a skilled network of experienced volunteer professionals was one of the concept's most critical elements. The advice-led approach consisted mainly of the following:

- ✚ Specially trained consultants in the five regional Business Development Centres undertake the initial screening of the businesses.
- ✚ This results in an overview of the situation and options available to the company and its owner(s), which determines whether the business can be saved or if the business should be closed/declare bankruptcy.
- ✚ If it is determined that the business can be saved, an experienced volunteer adviser is assigned with the specific skills needed for the revitalisation plan of the business.
- ✚ If survival is unclear, or if the business needs to be closed, a legal/economic review meeting is held with a bankruptcy lawyer. This determines how a closure could best be carried out, and whether there is any opportunity for carrying on all or some parts of the company's activities under new management.
- ✚ If after bankruptcy, it is unavoidable that the business owner is burdened with an unmanageable debt load, a volunteer adviser can be assigned during the difficult period from declaration of bankruptcy until the time an assistant from the bankruptcy court is assigned to manage debt relief.

The advice should help put the development of as many viable but troubled companies as possible back on track and then help them enter a new period of growth. Non-viable companies must be assisted in expedient settlement and closure, for the benefit of the owner, creditors, and society as a whole. The initiative should also steer general attitudes towards business failure towards a slightly more American outlook (greater acceptance of "honourable closure").

Early Warning has shown its relevance with a large influx of businesses facing real problems. In total, approximately 5,000 clients were helped from the start of the project until mid-2016. Since 2008, the number of new clients has annually been approximately 600. 50% of the advised companies survive, 30% go bankrupt, from where 1/5 is continued, and 20% close without going bankrupt, often by solvent liquidation. In terms of costs, the budget was approximately DKK 12,500 (€1,678) per company helped.

In 2010, 2013 and 2015, an external evaluator conducted a measurement of effect of Early Warning. In all cases, the measurements are based on data from statistical databases:

- ✚ All measurements of effect exposed that the Danish Tax Authority had reduced its loss on the bankrupt businesses' public debt, consisting of outstanding VAT and tax. The debt was reduced by 20%, equalling, in 2013, DKK 18 million. This number is considered to indicate similar economic benefits for other creditors. Moreover, the number is only related to the one-third of the companies advised by Early Warning that goes bankrupt. Meanwhile, the total annual expense on the entire Early Warning programme was DKK 7.5 million.
- ✚ Voluntary counselling does work. When experienced volunteer professionals are affiliated, businesses maintain revenue, exports, and workplaces to a greater extent.

The social effects of business owners and their families being helped through a severe crisis is not estimated in the measurement. Likewise, an estimate of the effects of saved jobs, turnover, and value added for the surviving companies has not been attempted.

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At the same time, policy-makers must recognise that not all businesses can be saved, so there must be a mechanism to enable their orderly closure, and this process - typically requiring a set of procedures that reflect a range of scenarios - should be **efficient, transparent and predictable** to all parties. Given the costs, time and value-destruction involved in litigation, it is preferable to seek out-of-court solutions, where possible. Some Member States have introduced reforms in recent years to speed up the process of insolvency, irrespective of the choice of instrument and ultimate outcome, to avoid tying up time in claim and counter-claim by creditors and debtors, and to free up business assets for more productive use.

This is exemplified by Latvia, which amended its Insolvency Law in 2008, while also introducing electronic transfer of insolvency verdicts from courts to the business registry and notaries, to accelerate communication (see also [theme 7](#)). Since then, Latvia has introduced an entirely new Insolvency Law, which came into force in 2010 and was amended in 2014, to make insolvency proceedings faster and more efficient. This includes the legal framework for 'legal protection proceedings' (LPP), which is a set of preventive restructuring tools that is available to debtors that are facing financial difficulties or expect to do so, and are acting in good faith (that is, not using LPP to avoid insolvency proceedings to the detriment of the body of creditors). LPP protect the company from interventions by creditors and allow time to prepare and execute a restructuring plan to turn the business' fortunes.

Inspiring example: Improvement of insolvency procedure (Latvia)

The provisions of the Insolvency Law in Latvia are applicable to legal persons, partnerships, sole traders and foreign-registered individuals carrying on standard business in Latvia, agricultural producers and natural persons. The court of general jurisdiction of the Republic of Latvia and the Insolvency Administration, which is a state agency, are directly involved in the insolvency process.

Creditors may apply to the court to initiate the insolvency procedure, if they are owed more than thresholds set by the Law, and after payment of a fee. A copy of the court order to commence the insolvency procedure is immediately sent to the Insolvency Administration, so that it may recommend a candidate receiver (administrator) and to the Commercial Register so that it may make the relevant entry in the insolvency register. As regards legal persons, there are three ways to resolve insolvency: corporate rescue, settlement or bankruptcy, the final decision on which is taken at a creditors' meeting.

- ✚ Settlement: Creditors agree with the debtor on reducing the amount of the claim, waiving the contract penalty, interest or late payment fees, and on their reduction, the extension of the settlement date or on offset.
- ✚ Bankruptcy proceedings: If efforts to reach agreement on the settlement procedure or corporate rescue with the creditors have been unsuccessful, bankruptcy proceedings are initiated and the deadline for their conclusion is not prescribed by law. A resolution to conclude the bankruptcy procedure shall be adopted by the final creditors' meetings no later than one month after the bankruptcy procedure has been completed. A resolution on the conclusion of the bankruptcy procedure is considered to have been adopted if more than half of the creditors entitled to vote have voted in favour. The conclusion of insolvency proceedings shall be confirmed by the court.
- ✚ Corporate rescue: Debtors and creditors may agree on a corporate rescue by drawing up a corporate rescue plan to be approved by the creditors' meeting and the court. Corporate rescue is a solution to a state of insolvency and takes the form of a body of financial, legal and organisational measures aimed at preventing a possible bankruptcy of the debtor and restoring the debtor's solvency. Under the Civil Procedure Law, a corporate rescue is concluded when the court approves the resolution of the creditors' meeting on implementation of the corporate rescue plan and the resolution of the creditors' meeting on the completion of the corporate rescue and at the same time decides to conclude the insolvency procedure.

Legal protection proceedings (LPP) is a method of restoring a business's full solvency. It applies to companies only and lasts no longer than two years from the date on which the relevant court order comes into force. The extra-judicial LPP is a procedure where the legal protection process is initiated and declared immediately.

The 2010 Insolvency Law was designed to respect the experience of European and other developed countries, and the EU legal framework, as well as experience gained in applying the previous law. The law recognises numerous innovations, the aim of which is to make the insolvency proceedings faster and more efficient. Different time-consuming procedures are simplified or abandoned at all. Thereby, merchants' ability to function is encouraged and stimulated, as well as the business environment altogether. Changes were made in the legal framework for legal protection proceedings (LPP) to make the process more accessible and also to grant more rights to secured creditors and to reduce the possibility to use these proceedings to maliciously avoid insolvency. The new Insolvency Law was also made to ease solutions between viable performers of commercial activity and its creditors.

Latvia finished amending the Insolvency Law, which came into force on 1 January 2015. The amendments were aimed to resolve the practical issues related to the application of the law, make the regulation of insolvency procedure clearer, promote application of the procedures under the Insolvency Law according to their intended purpose, and strengthen protection of the rights of debtor and creditor. For example:

- ✚ The duties of the debtor were broadened within the framework of the LPP, with respect to submission of documents regarding validity of claims, confirmation regarding the transfer of the plan to all creditors, and the truth of provided information.
- ✚ Natural persons may be declared insolvent, if the person in question is unable to settle his or her debt liabilities. The amended Law reduced the threshold of debt liabilities for triggering insolvency proceedings from €7114 to €5000 (is not able to pay), and from €14228 to €10000 (will not be able to pay).

The amended Law stipulates that administrators of the insolvency proceedings shall be comparable with the public officials for the activity. It also stipulates that the Latvian Association of Certified Administrators of Insolvency Proceedings shall develop and adopt the professional Code of Ethics of administrators, and *inter alia* regulates the fulfilment of an administrator's duties in the situation of a conflict of interest. Further reform of the profession of the insolvency administrators was ongoing.

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It is important that laws incentivise good business practice and ensure that proper sanctions are in place to discourage dishonesty and recklessness. But policy-makers also have to ensure that insolvency proceedings are fair and do not discourage entrepreneurial flair. As well as the potential personal costs, there is a social stigma to bankruptcy, which combine to dissuade many potential entrepreneurs from embarking down the start-up or self-employment path. The European Commission's Expert Group completed a study on the prevention and processing of bankruptcy cases (covering out-of-court settlements and in-court procedures) and concluded inter alia that: *"It is fundamental to send a message that entrepreneurship may not end up as a "life sentence" in case things go wrong. Otherwise it acts as an effective deterrent to entrepreneurship"*.

In a public survey in 2012, 43% of respondents from EU Member States said that the risk of going bankrupt would make them afraid of setting up a business, while 50% thought that one ought not to start a business if there is a risk it might fail. In the event of closure, honest entrepreneurs should be given a **second chance**: a prospect supported by 82% of EU respondents in the same survey.²⁸ This means a proportionate - not punitive - period to discharge ex-owners from bankruptcy and allow them to start-up in business again. The Commission's proposed Directive on preventive restructuring frameworks, second chance and measures to increase the efficiency of restructuring, insolvency and discharge procedures sets a maximum discharge period of three years. This can only be meaningful if it applies in practice, as well as in law, which means that credit scoring agencies are fully on board and do not block aspiring entrepreneurs from obtaining bank finance for their new businesses.

In 2016, the European Commission launched a study to review progress in the policy area of "[Bankruptcy and second chance for honest bankrupt Entrepreneurs](#)" in Member States and CIP Participating Countries. The study provides an update and verifies the extent to which EU Member States comply with the May 2011 Competitiveness Council recommendations on promoting a second chance for honest bankrupt entrepreneurs and limiting the discharge time and debt settlement for them after a bankruptcy to a maximum of three years by 2013.

²⁸ European Commission (2012), [Entrepreneurship in the EU and beyond](#), Flash Eurobarometer 354. The EU-27 results are based on a telephone survey (fixed line and mobile) with 27,059 respondents in June 2012.

6.3 Conclusions, key messages and inspiration for future action

This chapter is dedicated to businesses, as the key partners of public administration in pursuing the economic goals of Europe 2020. But it constitutes just one piece of the jigsaw, alongside [theme 1](#) (regulatory reform), [theme 2](#) (combatting corruption), [theme 5](#) (better service delivery and digitalisation), and [theme 7](#) (an effective justice system, essential for contract enforcement, insolvency proceedings and in some jurisdictions, business registration). This wider framework provides the fuller context for the messages in this chapter.

Regulations have their rightful place among the policy instruments available to administrations in influencing business behaviour. They prevent and penalise cartels and other anti-competitive activities. They place the costs of pollution on the polluter, and set minimum environmental and safety standards backed up by the threat of sanctions. They aim to ensure the rewards from investment and innovation return to the source, to enforce contracts so that trade can take place with confidence, and to enable debts can be recovered so that creditors can take calculated risk. They create fair conditions for employment by establishing labour rights. But compliance often comes at a cost to business in information and other administrative obligations. Regulations should neither be created nor cut without considering the consequences.

However, it is also clear that - in the past - the crafting and management of legislation that affects business has not always been conducted with care for the implications for implementation: obsolete laws have been left on the statute book, failure to repeal them created conflicts with their replacements; new laws had been adopted without conducting thorough options appraisal and cost-benefit analysis; legal provisions have gone beyond what was desirable to deliver the policy's aims; necessary by-laws have not been passed. The performance of impact assessments (including competitiveness proofing and SME tests) on the regulatory flow, and fitness checks on the regulatory stock, should mitigate the risk of excessive rules on business (see [theme 2](#)).

Moreover, even necessary rules can become burdensome in their execution, if badly administered. Administrations face choices in interpreting and enforcing rules, with respect to the resources they dedicate and the systems they use. This is where a commitment to excellence in service delivery is key, simplifying implementation as far as possible, and choosing delivery channels that match the way that businesses operate (see [theme 5](#)).

More than anything, enterprises are looking for public authorities to be sympathetic to their cause. Business-centric administration is not about agreeing to anything that any enterprise asks for, and certainly not favouring one firm over another (which would fall foul of State aid rules), but instead adopting a pro-business perspective, as the Dutch 'Mark of Good Services' and the Hultsfred 'LOTS' initiative exemplifies.

This holistic approach to the business environment extends to a whole raft of support that public administrations provide. Increasingly, enterprises expect – and administrations deliver – public services through one-stop shops. This includes the EU-wide network of Points of Single Contact (PSCs) which are present in every Member State, but are yet to satisfy universally high standards, as

indicated by the Single Market Scoreboard. As the vast majority of businesses are online, Member States should be able to make more rapid progress with once-only registration, digital by default, and clouds of public services than they might for citizens.

‘Life event’ analysis and service provision should also be easier to organise for enterprises than the public. The business life-cycle is well understood, and the interactions with public services are less diverse: starting up; dealing with tax and employment; acquiring land and property; satisfying licensing, permit and other standards; trading at home and abroad; enforcing contracts; managing insolvency; and potentially starting again. Like citizens, each business is unique. An enabling environment can tailor public services to the enterprise’s circumstances, rather than the administration’s convenience.

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