



Republic of Bulgaria  
ECONOMIC  
AND SOCIAL COUNCIL

# **RESOLUTION**

**on**

**"IMPROVING THE BUSINESS ENVIRONMENT IN  
BULGARIA**

**THROUGH BETTER REGULATION"**

**(own-initiative resolution)**

**Sofia, 2013**

The Economic and Social Council (ESC), led by the need to build a modern and competitive economy in the Republic of Bulgaria, decided to elaborate a resolution on

**"Improving the Business Environment in Bulgaria through Better Regulation."**

Mr. Vasil Velev, Chairman of the Governing Board of the Bulgarian Industrial Capital Association, ESC Member of Group I – Employers, and Vice-President of the ESC was appointed rapporteur on the resolution.

The ESC President submitted the draft resolution already adopted by the President Board to the Plenary Session for discussion.

At its meeting held on 18 July 2013 the Plenary Session adopted the resolution.

This resolution of the Economic and Social Council of the Republic of Bulgaria is elaborated in response to the need for adequate measures to improve the business climate in our country and the development of a modern and competitive economy by using all advantages offered by better regulation.

The resolution is an expression of the consistent and active stance of the "civil parliament" of the country on the consensual development and adoption of proposals to improve the competitiveness of Bulgaria in the context of its membership in the European Union (EU).

As an institution that integrates and expresses the will and interests of the main structures of civil society, with this resolution ESC proposes its views and ideas on how to reduce the administrative burden and develop a highly effective economy, relying on uniform rules for everyone, which would guarantee a dignified position of Bulgarian citizens and Bulgaria as part the European Union.

## **I. INTRODUCTION**

1. In its opinion of March 2009 ESC already expressed its position on the opportunities to reduce administrative burdens and improve the business environment in Bulgaria.
2. The economic crisis that has developed since then has introduced new challenges that need to be resolved.
3. The adopted Programme for Better Regulation 2010-2013 (update) has developed the goals and objectives included in the National Reform Programme and its Action Plan.

4. ESC is concerned to note that the national target for reducing administrative burdens by 20 per cent by 2012, which was adopted by Resolution № 10.19 of the Council of Ministers adopted on 12 March 2009 – was not achieved. Contrary to the Restricting Administrative Regulation and Administrative Control over Economic Activity Act, new regulatory regimes were introduced and the application of existing ones was perpetuated without any legal grounds whatsoever.

4.1. Municipal administrations continue to administer hundreds of regimes and collect fees for them despite the fact that this has been proscribed by the law.

5. No comprehensive analysis of the grounds and amount of state and local taxes and fees was performed in order to make them directly related with the costs incurred by the administration for providing the respective services.

6. The deepening economic crisis highlighted the need to achieve greater competitiveness and better performance of Bulgarian enterprises. Another related need is to use the opportunities offered by better regulation to help Bulgarian economy to develop faster than the EU average.

7. ESC proposes to the responsible institutions to take into account the single position of civil society organisations to take concrete steps to reduce administrative regulation to the minimum commitments arising from EU membership.

## **II. REVIEW OF REGULATORY REGIMES**

1. ESC starts from the position that the licensing and registration regimes for conducting business as well as the requirements for authorisation, certification and giving notice for the performance of various transactions or actions must be prescribed by legislation.

2. According to ESC, reducing the administrative burden must be made by revising and reducing the number of regulatory regimes. It is known that at the moment there exist hundreds of regimes that are not grounded in legislation, which is in violation of the Restricting Administrative Regulation and Administrative Control over Economic Activity Act.

3. ESC holds the opinion that the revision of all regimes should be performed as quickly as possible by a special working group under the leadership of Deputy Prime Minister, who is also Chairman of the National Council for Tripartite Cooperation (NCTC), with the participation of representatives of all central administrative authorities which have introduced or administer the regimes, as well as representatives of the social partners.

4. ESC proposes that all regulatory regimes should be included in a unified public register with access open to everyone. The inclusion of each regime in such a register should be made after the working group has completed its work thereon, by its decision based on the following principles:

4.1. Any authority/institution that has introduced or administers a separate regulatory regime shall have to prove:

- the legal grounds for the existence of the regime;
- the expediency of the existence of the regime.

4.2. In case of failure to meet any of these specific requirements the respective regime should be immediately repealed.

5. ESC proposes that the registry entry should include expressly and specifically the legal grounds for the existence of the respective regime as well as the administering structure/department. The implementation of the proposed approach will result in the removal of both unlawful and inexpedient regimes.

6. This proposal will also have a preventive effect on the introduction of new regimes and requirements that hinder the conduct of business.

7. ESC believes that it is acceptable to reduce the number and scope of regulatory regimes only to the commitments related to the country's membership in the European Union, which should also be reviewed in order to optimise them in terms of fees, time limits, tacit consent, etc.

### **III. IMPROVING THE QUALITY OF LEGISLATION**

1. ESC takes the stance that in all cases it is necessary to conduct preliminary assessment of the impact of regulations. The currently established practice to skip this assessment must be decisively altered.

1.1. The current procedure according to which the draft amendments for legislative act are accompanied by the formal assumption that their adoption "will not have financial implications/consequences for the national budget", not only diverges from the requirements of Regulations Act but also departs from public expectations for improving the quality of legislation.

1.2. Similarly, impact assessments should not be limited to assessing the effect of legislation after it has been enacted. ESC believes that the preliminary assessment is far more important – so much so that it should become a mandatory requirement.

1.3. This is also a way to curb possible occurrences of custom rulemaking which has serious adverse effects on businesses and the business environment as a whole. The preliminary impact assessment should be applied on a case by case basis. Unassessed draft legislation should not be eligible for consideration by the National Assembly.

1.4. It is also important to have preliminary clarity of what the financial impact of the proposed legislative act on businesses and citizens will be, as well as what administrative burden it will impose on them.

1.5. The estimation of the impact should be made with consideration for the general objective of the European Union and Bulgaria to reduce and relieve the administrative burden because in many cases it is one of the main reasons for the existence of the informal economy.

2. ESC believes that the principle of tacit consent must be introduced in special legislation as well.

2.1. Not only should the principle of implied consent be extended in scope but the principle of implied refusal should be limited in scope to the point where it should cease to exist as a possibility unless its use is not absolutely necessary.

2.2. ESC expresses its satisfaction with the implementation in Bulgaria over recent years of this positive interconnectedness (widening the scope of tacit consent and narrowing that of implied decision). Legislative acts providing for the use of tacit consent have outnumbered those giving priority to implied refusal – a development that ESC evaluates as positive.

2.3. In order to widen its scope of application, tacit consent should be implemented as a default option, i.e. if the law does not expressly require otherwise.

3. ESC upholds the opinion that any draft regulation that affects issues related to the competence of the National Council for Tripartite Cooperation should be mandatorily subjected to preliminary discussion with the Council.

3.1. All draft legislation, as well as draft amendments of existing legislation, relating directly or indirectly to issues of labour relations or other relations directly associated therewith, social security relations and issues connected with living standards – regardless of who has proposed them should be reviewed by the National Council for Tripartite Cooperation (NCTC).

3.2. NCTC's review of such drafts should become a mandatory prerequisite for their adoption. Besides compliance with the Labour Code and the Rules of Organisation and Procedure of the Councils for Tripartite Cooperation this will ensure the active involvement of social partners in the process of establishing a legislative environment that is acceptable to society while providing the necessary support for reforms in this sensitive area.

4. ESC demands that draft legislation and strategic documents related to the economic and social development of the country should be preliminarily discussed with the Economic and Social Council.

#### **IV. BETTER GOVERNANCE AS A BASIS FOR GROWTH**

1. According to the ESC it is necessary, without increasing the currently planned budget and the employed personnel, to put in place specialised administration with the Council of Ministers whose main task will be to identify and propose solutions to ease the administrative burden and bureaucracy.

2. These functions can be assigned to the Unit for Better Regulation in the administration of the Council of Ministers. The important tasks of this specialised administration should include: introducing and implementing the policy for better regulation in the administration of the executive part of the government and the municipalities, monitoring the introduction of e-governance, methodological functions, responsibility for the implementation of the Restricting Administrative Regulation and

Administrative Control over Economic Activity Act and the Programme for Better Regulation.

3. The general and long-standing position of the ESC is that the fees should be basically cost-oriented.

3.1. The Administration of the Council of Ministers has adopted important conclusions within the project "Policy for designing fees in accordance with public relations – a condition for good governance" (Project K11-13-1 / 08 September 2011).

3.2. This project focuses on the cost orientation of fees as an essential tool for good practice in the administration and so does the State Fees Act and the Methodology developed for its implementation.

3.3. At the same time, there are still fees that are in essence quasi taxes or are indeed completely unrelated to the cost of the respective administrative service. Examples for this are the waste collection fees, the fees imposed by the Commercial Register, which amount to sums that are up to five times larger than the cost of the respective services, the fees for using water resources and for pollution, as well as many others.

4. ESC welcomes the expressed position for transferring certain functions from the administration to the business sector without allowing the distortion of the free market environment and competition.

4.1. The draft Strategy for Public Administration by 2020 envisions the transfer of functions from the administration to the business sector. ESC supports this measure and believes that the business sector entities in question are representative organisations rather than individual companies.

4.2. ESC believes that this will be a better opportunity to use the expertise gained over the years by such organisation in one or more economic activities.

4.3. Similar considerations are connected with the transfer of public functions to the private sector. Transferring the administration of certain activities to business organisations may also be considered, especially in light of the fact that there are cases in which the latter are the main and only user and simultaneously liable person.

## **V. CONCLUSION**

In conclusion, ESC restates its position that against the background of the ongoing economic crisis it is even more urgent to use all available resources to achieve the national goal of reducing the administrative burden. This will create the conditions expected by the civil society for developing the country's economy through increased investment, saving time and public funds, more disposable income and better conditions for doing business.

ESC declares its readiness to actively participate in the adoption and implementation of the proposals expressed in this resolution, which we believe will contribute to the better economic development of the Republic of Bulgaria.

**(signature)**

**Prof. Lalko Dulevski, Ph.D**  
**PRESIDENT OF THE ECONOMIC AND SOCIAL COUNCIL**

