Assessment and recommendations

1. Socio-economic challenges

Lithuania has been successful in transitioning from a pervasive and underperforming state apparatus to a modern public administration, but institutional challenges remain. Since regaining independence in March 1990, Lithuania has undergone a series of institutional reforms that paved the way for EU accession and NATO membership in 2004 and the adoption of the euro in January 2015. Lithuania has reformed the civil service, introducing a clear separation between political and professional functions, and streamlined central and local administrative and institutional structures. However, as for a number of former communist countries, ministries tend to work in silos, with limited horizontal co-ordination. Some of the reforms introduced to meet EU accession requirements, including evidence-based policy making and strategic planning, have not yet been fully mainstreamed.

Lithuania has recovered rapidly from the economic crisis. Nevertheless, significant challenges remain in terms of closing the welfare gap with other EU countries and making the economy more competitive in attracting jobs and investment as well as supporting inclusive growth. As a small, open economy, Lithuania is confronted with the need to improve the country's overall competitiveness and attractiveness for national and international investors. In an environment in which trust in government is relatively low, ensuring the efficiency and effectiveness of public institutions in developing and implementing public policies becomes even more important. A regulatory environment that supports business can attract investment and support growth. Regulatory policy has a role to play.

2. Regulatory reform and policies

Lithuania has introduced a set of useful and important reforms to strengthen regulatory policy. The initial focus was on reducing administrative burden, largely in response to EU initiatives, and building the foundation of a high-quality rule-making process. In recent years the agenda has given a stronger focus to the implementation of *ex ante* impact analysis and has broadened to the implementation of regulation, with new measures in the area of enforcement. Reforms have included the introduction of requirements for impact assessment, requirements for stakeholder consultation, Common Commencement Dates for new legislation, administrative burden reduction measures, improvement of EU negotiation and transposition and consolidation and streamlining of inspection and enforcement institutions.

While a number of pieces of legislation and government resolutions have been adopted, this significant effort still falls short of an overall policy for better regulation. The 2008 programme for better regulation set some principles and objectives, but the government has developed limited strategic thinking on the system-wide benefits of better regulation. A number of requirements (for example regarding impact assessment and administrative burden reduction) have been set out in different legal documents, but the government has not issued a comprehensive policy action plan covering the various

aspects of Better Regulation and measures have been taken largely independently from each other. Two main issues need to be addressed more particularly. First, the improvement of the regulatory framework requires making fewer and better laws, but the measures for better regulation have not directly addressed this issue. Second, the efforts to reduce administrative burden on business and citizens need to be supported by a more effective implementation of impact assessment when making new legal acts, so as to avoid the creation of new burdens (see Chapter 5).

There have been limited efforts to communicate the objectives and results of Better Regulation. This reflects largely the lack of a common strategy and coherent action plan, and limits the capacity to gather support and buy-in for reforms across the administration, as well as in parliament and in the public at large. While some targets have been set regarding the reduction of administrative burden on businesses, they have not been used effectively enough so far to communicate either within the administration or towards parliament and external stakeholders.

- **Recommendation 2.1: Bring the different elements of the policy for Better Regulation together in an integrated strategic plan for Better Regulation, with identified objectives and a clear communication strategy.** This strategic plan could take the form of a Government Resolution on Better Regulation (or any other comparable instrument) that would spell out the key building blocks of Better Regulation and bring together the provisions on better regulation that are now spelled out in different laws and resolutions. It should identify the lead institution(s) for co-ordinating implementation, give them a mandate to take and enforce decisions and set clear objectives. Regular reports on progress towards achieving these objectives would be provided to the government (see Recommendation 2.2). Having this single, comprehensive instrument would also help expressing high-level political support for the agenda and developing better communication towards stakeholders within and outside government. This instrument should be supported by a high-level institutional body to oversee and co-ordinate implementation (see Recommendation 3.1 below).

Ex post *evaluation of regulatory policy*

There is no policy in place for systemic evaluation of regulatory policy or particular regulatory quality tools in place in Lithuania. Some indicators of performance related to regulatory policy are mentioned in different strategic documents of the government. Quarterly reports are prepared by the Government Office based on the inputs submitted by individual ministries and submitted to the government. The quality of the information reported by the ministries varies. Annual ministrial reports on implementing the government programme are also published on the respective ministries' websites.

Lithuania closely monitors the World Bank's "Doing Business" indicators. Many reforms in Lithuania are motivated by improving its ranking in the Doing Business chart. While this might be useful in identifying some priority areas for reform (such as the issue of construction permits), it is also necessary to evaluate real outcomes for the society.

The Ministry of Economy was made responsible for reporting on the compliance with the cap on the overall level of administrative burdens on businesses set by the government in 2014. The data necessary for monitoring comes from the administrative burden evaluation reports submitted by individual ministries. The Government Office is conducting a review of the impact assessment process. Results are expected to be presented to the government in the course of 2015.

- **Recommendation 2.2: Set up a systemic framework for performance evaluation of regulatory policy and some of its elements.** Performance indicators for the implementation of regulatory policy and its programmes and tools should be set up-front. These indicators should give the government an overview of the progress made towards full implementation of a coherent, effective regulatory framework. They can help demonstrate measurable improvements that can be attributed against particular activities, and help highlight areas for improvement. The indicators should be qualitative and quantitative descriptions of whether the good regulatory practices described in policies have actually been implemented, for example the number of impact assessments that can be deemed fit for purpose. The OECD Framework for Regulatory Policy Evaluation may be used as guidance on setting up this framework. A high-level co-ordination body (see Recommendation 3.1) should be made responsible for annual reporting on regulatory policy to the government. These reports should be made public.

3. Institutional framework and capacities for regulatory policy

Within the Lithuanian government, the better regulation agenda is supported by a few key ministries and institutional bodies. The Government Office has responsibility for the general overview of law quality and use of impact assessment when preparing legislation. The Ministry of Economy leads the administrative simplification programme for businesses. Other key players are the Ministry of Justice, for law quality, the Ministry of Interior, leading administrative simplification for citizens and the Ministry of Transport and Communications in the area of e-government and electronic services. There is a small network of officials who work on the development of regulatory management policies and tools, but the diffusion and ownership of better regulation policies and tools across the administration appears limited.

While some capacities have been built up, the current fragmentation of responsibilities limits the capacity to develop further better regulation policies. While the Better Regulation Policy Unit of the Ministry of Economy has a mandate to plan and implement better regulation policy initiatives stemming from EU obligations and also some national initiatives, it has limited capacity and other government bodies have their own initiatives. No unit has a specific mandate to promote and ensure the implementation of better regulation policies across the administration, which goes in line with the lack of a comprehensive approach to regulatory management. Increased horizontal co-ordination and co-operation across the administration is needed for the roll-out of good regulatory management and tools throughout the administration.

Moving forward requires stronger political support and leadership from the centre and a clear mandate for a unit at the core of government to promote and roll out regulatory management policies through effective monitoring. Having a unit specifically in charge of regulatory management can not only improve co-ordination between existing ministries and agencies, but is essential to ensure that regulatory quality principles are successfully applied. Such a unit can also serve as an advocate for reform, as a co-ordinator, as expert and as a source of practical and technical support for the use of regulatory tools.

- **Recommendation 3.1: Establish a high-level co-ordination body to steer and oversee the implementation of the strategic plan for Better Regulation (Table 1).** This body should involve key ministers and/or deputy ministers and a wide range of stakeholders to identify and agree on key priorities for

implementing the Better Regulation strategy recommended above (see Recommendation 2.1), discuss progress and take any corrective actions that are needed to advance implementation. Competences of the Better Regulation Supervisory Commission could be broadened so that the Commission could play such a role. In addition, representatives of stakeholders could become members of the Commission to bring the perspective of citizens and businesses and provide a reality check on progress in implementing the Better Regulation strategy and steps forward. To facilitate active participation, stakeholders should have the possibility to table proposals on issues that directly concern them. The Commission could operate on the basis of a "comply and explain" rule committing the government to accept a proposal or to clearly explain why the proposal was not accepted. The government should also consider giving this body a role in supporting the Government Office in assessing the quality of in-depth impact assessments (see Recommendation 5.2).

- **Recommendation 3.2: Establish a Better Regulation Unit within the Government Office to provide the daily operational support for the work of the high-level institutional body (Table 1).** The unit could take up primary responsibility for developing regulatory management policies and tools, ensuring co-ordinated and consistent approach in the implementation of these policies and tools, and providing support to all government ministries through training and methodologies, including on regulatory management tools such as regulatory impact assessment, administrative burden measurement and reduction (see Recommendation 5.3). Staff background should include expertise in law, economics, social sciences and public management.

Table 1. **Structure and functions of the recommended Better Regulation institutions**

High-level Co-ordination Body	Better Regulation Unit
Advisory body to the government; the existing Better Regulations Supervisory Commission's competences could be broadened to play this role	Within the Government Office, providing secretarial and operational support to the High-level Co-ordination Body
Composed of high-level officials from line ministries and the Government Office and including non-government stakeholders, for example business associations, consumer groups, trade unions	Staffed with civil servants with expertise in law, economics, social sciences, public management
Adopting the Better Regulation Strategy, setting priorities for regulatory policy	Developing regulatory management policies and tools, ensuring co-ordinated and consistent approach in their implementation
	Providing support to all government ministries through training and methodologies
Agreeing on the Priority List (and submitting it to the government for approval)	Developing and enforcing criteria for inclusion of proposed legislation into the Priority List
	Checking compliance with the obligation to conduct preliminary impact assessment before drafts are included in the Annual Legislative Programme
Solving conflicts and serving as sounding board on RIA assessment	Overseeing the quality of impact assessments
Reporting to the government on compliance with the obligation not to increase administrative burdens and identifying areas for improvement	Overseeing compliance with the obligation not to increase administrative burdens (as part of overseeing IAs) and preparing annual scorecard on progress
Reporting to the government on progress on *ex post* reviews of regulations	Co-ordinating the programme on *ex post* reviews of regulation
Reporting to the government on the performance of regulatory policy and its particular elements	

4. Transparency, consultation and communication

The practice of prior consultation in the development of regulations is anchored in the Lithuanian administration. A general requirement to consult is set in the Law on the Basics of Legislation, and provides that the result of consultation be attached to the draft law. In practice there is interaction between stakeholders and the government, in some cases at an early stage of development. The review also found a general awareness within ministries for the need to consult and the benefits which can be drawn from consultation.

The review however showed areas for progress, in particular with respect to the time allowed for consultation and the quality of feedback. In many cases the standard 10 or 15 day period does not allow stakeholders adequate time for responding and providing valuable inputs. A number of stakeholders expressed some dissatisfaction with the explanations provided on why inputs are not accepted. More feedback on the results of consultation and the use made of comments could encourage stakeholders to provide comments and public ownership of the policy under development. In addition, as ministries consult their network, the process runs the risk of excluding some stakeholders from the consultation. Publication of draft laws on the central registry allows comments in principles. However as no specific publicity is given, this has not created a significant avenue for effective consultation and outreach to the wider public.

Consultation currently lacks a baseline methodology and technical guidance to public officials on how to design effective public consultation and integrate the views of the public. Ministries, which initiate legislation, broadly consult stakeholders as they see fit, since they have no guidelines on consultation, beyond the legal requirement that a consultation should take place and feedback be provided. Enhanced sharing of experiences across ministries and strengthened guidance on conducting consultation could improve the efficiency of the process. Several interlocutors raised the need to establish more structured procedures regarding time, duration, scope, formats, and feedbacks.

The system still lacks a government-wide online consultation platform, which would facilitate access to ongoing consultations of all stakeholders, within and outside the administration, at an early stage of development of new regulation. Publication on the official registry of draft laws takes places at a rather late stage of development and is not pro-active enough to drive comments. The current project for e-democracy services can provide an opportunity to switch from disseminated sources of information to a single government-wide consultation portal, with consultations being announced as early as possible.

- **Recommendation 4.1: Develop public consultation guidelines, make use of ICT tools to facilitate consultation and allow more time for consultation.** Guidelines should provide ministries and other law making bodies with clear indications on, for example, when to consult, the clarity and scope of what is consulted, accessibility to data and information and responsiveness to stakeholder feedback. The Legal Act Register should be used as a support for an online consultation portal; the Register could be upgraded to ensure that stakeholders can receive notification on upcoming consultations and legal drafts according to their area of interests. The 10-15 days that are currently required appear not sufficient for stakeholders to make meaningful contributions. Requirements for longer consultation periods could help improve stakeholder participation. While there is no ideal length of time for consulting, a number of OECD countries allow for a

period that ranges between 4 to 6 weeks. The UK consultation guidelines and the Danish consultation portal could serve as useful examples (see Chapter 4, boxes 4.1 and 4.2).

5. The development of new regulations

The requirements for impact assessment are largely in place. Since 2012, new legal requirements have been introduced for assessing impacts for any legislative act. These requirements apply to both the executive and the legislature, at the national and local level. The depth of the impact assessment is expected to be proportional to the significance of the legislative proposal. The assessment is expected to address a number of impacts, including impacts on the economy, the environment, society, regional development and business.

In practice, however, impact assessment remains a largely formal exercise to justify choices already made (with a strong preference for the regulatory option). Legislative proposals include an Explanatory Note that should reflect an assessment of the expected impacts of the legislation. This assessment, however, is rarely based on hard data or comparative analysis of alternative options. In most cases, it is prepared in parallel with the drafting of the legislative proposal and justifies the choice already made, rather than offering a basis for evaluating alternative solutions to a public policy problem.

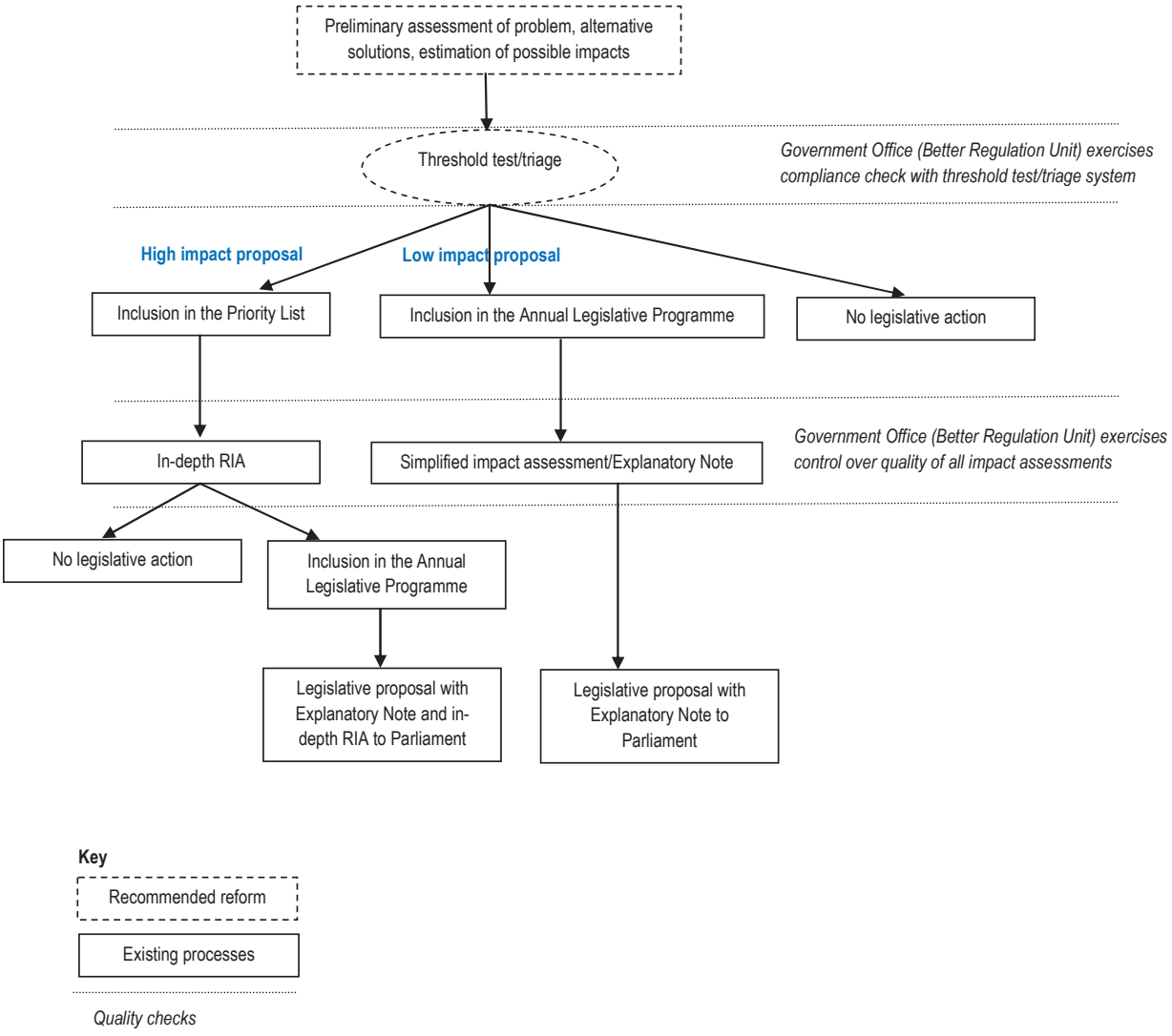
The impact assessment is proving ineffective in slowing down a tendency to legislate (too) quickly and then amend the law, which entails the frequent and disruptive change of the regulatory environment. Between 2010 and 2013, Lithuania adopted on average 458 laws per year (a comparable country like Estonia adopted on average 115 laws per year). Most of these laws originate in the executive. On average, the government submitted to parliament about 300 legislative proposals per year between 2010 and 2013 (compared to approximately 100 in Estonia). These proposals are included in an Annual Legislative Programme that is sent to Parliament at the beginning of each parliamentary session. A more careful evaluation of the public policy problem and the possible options to address this problem could help reduce the legislative production and the frequent changes of the regulatory environment that can be disruptive for businesses and citizens.

- **Recommendation 5.1: Start the preparation of the impact assessment early in the decision-making process, before the inclusion of a proposal in the Annual Legislative Programme (Figure 1).** The identification of the problem and the consideration of meaningful alternative solutions should be performed early in the decision making process and include some simple back-of-the-envelope estimation of the potential impacts. This first preliminary assessment should include a justification that a regulatory solution is the most suitable option so that this preliminary assessment would serve as an early test of whether a problem needs to be addressed through legislation or some other non-legislative tool. This preliminary assessment should become a condition for the inclusion of the legislative proposal in the Annual Legislative Programme. Compliance with this condition should be monitored and enforced by the Government Office.

Criteria for identifying in advance proposals for more in-depth assessment are not yet clearly defined. Since 2013, the Government Office has prepared an annual Priority List of the legislative initiatives that need to be assessed in greater depth. This is useful in that it can help modulate the depth of the impact assessment (and therefore the resources invested in it) according to the potential impact of the proposed measure already in the

planning phase. The initiatives are included in the list on the basis of a few ministerial proposals and a choice made by the Government Office among those who are to be included on the Annual Legislative Programme. The Priority List included 14 initiatives in 2013 and 26 initiatives in 2014. Given the 300 plus draft laws in the Annual Legislative Programme, a good share of high-impact measures that would deserve an in-depth assessment are likely to "slip through the cracks".

Figure 1. **Impact assessment process: State of play and proposed reforms**



- **Recommendation 5.2: Consider the introduction of some threshold test or triage system to determine more systematically the legislative proposals that require an in-depth RIA (Figure 1).** The Priority List should systematically include the measures that are likely to have a significant impact on the economy and/or society. Some objective criteria could be set for the inclusion of the measures on the list (including, for example, number of people affected or monetary value of economic impact or impact on business, economic competition) and compliance with these criteria should be monitored and enforced

by the Government Office. The high-level institutional body recommended above (see Recommendation 3.1) could serve as a sounding board by, for example, discussing a sample of these in-depth RIAs and/or arbitrating on any issue emerging from the assessment of impacts. The experience of Canada, Mexico and the United States could provide some useful examples (see Chapter 5, Box 5.2).

Multiple checks are conducted on draft government legislation, with a strong focus on legality (but no specific check is carried out on the quality of the impact assessment included in the Explanatory Note). Draft laws and regulations are first checked by each ministry's legal department before they are submitted to both the Ministry of Justice and the Legal Department of the Government Office for additional rounds of legality checks. A legality check is also conducted by the Legal Department of the *Seimas* for draft laws which are submitted to Parliament. These checks focus on compliance with legal requirements and conformity with existing laws, but relatively little attention is paid to the possible impact of the legislation and whether legislating is the most appropriate solution.

- **Recommendation 5.3: Streamline legal quality checks and strengthen quality checks on the assessment of impacts and options.** For example, there could be a more clear division of labour between the Ministry of Justice and the Government Office, with the Ministry of Justice focusing on legality and legal drafting (such as use of plain language and consistency of definitions) and the Government Office focusing on strategic focus, quality of impact assessment, consideration of alternative options for proposed legislation and the scope and extent of stakeholder engagement. This quality check should be mandatory and drafting institutions should be required to revise the draft proposal if necessary.

Even for more in-depth impact assessments, the depth and scope of the analysis is still limited and is used to back up a preconceived option. Initiatives included in the Priority List undertake a more in-depth RIA. Modulating the impact assessment is a good approach and needs to be supported as it allows focusing resources on the analysis of problems that can have the greatest impact on the economy and society. Since the introduction of the Priority List, 14 RIAs have been completed. The process is in the early stages of implementation and inevitably needs some fine-tuning. Particular attention should be paid to the quality of the analysis and the use of the analysis to assess the problem and truly evaluate alternative options. Investing in these critical areas in this early phase can pay off in the long term.

Controls on the quality of impact assessment are distributed across different institutions. Four institutions—the Government Office, the Ministry of Finance, the Ministry of Economy and the Ministry of Interior—check the quality of in-depth RIAs (but not necessarily the Explanatory Note for all the other legislative proposals). There is a network of impact assessment focal points within line ministries, who can provide advice on the preparation of impact assessments (but do not systematically check the quality of all impact assessments, including those not included in the Priority List).

- **Recommendation 5.4: Consolidate controls on the quality of impact assessment within a lead institution with some gatekeeping functions and strengthen filters and controls within sector ministries.** Some of the responsibilities for the control of the impact assessment could be consolidated in a specialised unit within the Government Office (see Recommendation 3.2) with **power to prevent a draft from going forward if the impact assessment does not meet quality requirements (adding a "gatekeeping" function which is not**

currently in place). This control should be gradually extended to all draft legislation (and not only those included in the Priority List). At the same time, a better regulation focal point within each sector ministry (for example, the focal points who are already expected to provide advice on the assessment of impacts) could exercise an internal control on the quality of impact assessment.

External stakeholders do not see the impact assessment as a useful tool to improve legislative proposals. The Explanatory Notes are used to consult with stakeholders. However, because they back up decisions that appear to have been already taken, they provide little room for meaningful feedback and contributions of stakeholders.

- **Recommendation 5.5: Use the preparation of the impact assessment as a tool for collecting feedback from stakeholders (and hence improving proposals and decisions).** Stakeholder should be consulted in the early phases of the preparation of the Explanatory Note and the in-depth RIA, in order to test different options. The formal and informal working groups and networks set up by sector ministries could facilitate this consultation.

6. The management and rationalisation of existing regulations

Reducing administrative burdens

The major part of the efforts of the Lithuanian government in dealing with the stock of regulations focuses on administrative burden reduction on businesses. These efforts were launched through a Better Regulation Programme in 2008 and included measuring administrative burdens in 7 priority areas and putting together suggestions for legislative changes that would lead to their reduction.

Despite the fact that legislative changes to achieve the 30% reduction goal have been developed and submitted to the government already in 2013, so far, only 5% reduction has been achieved. This is probably due to insufficient co-ordination between the executive and the legislative powers. Most of the proposals got stuck in the legislative process, especially in the *Seimas*, and have been abandoned and watered down. In addition, since the government decided to adopt a new Labour Code, it has been decided not to amend it before a new draft is prepared. This decision could to a large extent explain the low rate of reduction as the Labour Code accounted for a large share of the burden to be reduced.

- **Recommendation 6.1: Wherever possible, the government should try to implement legislative proposals aiming at reducing administrative burdens.** The new Labour Code, when prepared, should take into account the suggestions stemming from the project of reducing administrative burdens. Better communication with the legislative power could lead to implementing at least the majority of the simplification proposals, reducing administrative burdens for business significantly and restoring the trust of stakeholders and civil servants in the government's simplification efforts.

The programme on reducing administrative burdens has received a new boost from the new government through the adoption of a Law on Administrative Burden Reduction that came into force in 2013. This law created a new Better Regulation Supervisory Commission consisting of representatives of the government and stakeholders. The Commission, established in 2014, is supposed to provide the government with proposals on administrative simplification summarised in two-years Administrative Burden

Reduction Plans. The right given to the Commission to evaluate legislative drafts submitted to the government from the point of view of potential administrative burdens has not been used so far, which is not surprising given the high volume of draft laws prepared every year.

- **Recommendation 6.2: Ensure that the measures contained in the Administrative Burden Reduction Plan for 2014-15 are properly implemented.** The Better Regulation Supervisory Commission could become a high-level body co-ordinating implementation of regulatory policy (see Recommendation 3.1). It should also oversee the implementation and report to the government annually on the results of the implementation of the Action Plan as well as the overall reduction of administrative burdens and compliance with the cap on administrative burdens on businesses (see Recommendation 6.3).

Administrative burdens are also assessed *ex ante* when developing new legislative drafts. As of July 2014, any change of the level of administrative burdens must be expressed in monetary terms every time the new draft changes, eliminates or creates an information obligation for business. In 2012-13, the Ministry of Economy reviewed around 423 types of licences. In the beginning of 2014, the Ministry of Economy presented its suggestions on abolishing licensing and/or replacing them with declarations and these suggestions were approved by the government. The responsible ministries drafted most amendments of legal acts in their competence by the end of 2014, with the few remaining amendments expected to be ready by mid-2015. In total, 56 laws will need to be amended. As of June 2015, 7 laws had been amended by the *Seimas,* with 11 more under discussion. The government prepared 32 draft amended laws for the submission to the *Seimas*, while the remaining 24 drafts are expected to be ready in the nearest future.

An obligation to each individual ministry not to increase the overall level of administrative burdens caused by regulation in the ministry's competence was introduced in 2014. This is a form of a "one-in one-out" approach. Implementation of this measure is rather weak with quasi non-existent enforcement mechanism. The Ministry of Economy is formally responsible for reporting on this process and it does not have the necessary levers to ensure that other line ministries comply with this obligation. There are also problems in communicating this measure across the administration. At the time of the review, many interviewed ministries were not aware of this cap and therefore did not have any mechanisms to ensure compliance with it. The cap is set for each ministry individually.

- **Recommendation 6.3: Make sure that the cap on administrative burdens on businesses is properly implemented and enforced.** To make sure that administrative burdens are properly quantified as part of the *ex ante* assessment of impacts of new regulations, the quality control of RIAs should be strengthened. The Better Regulation Unit recommended above (see Recommendation 3.2) should be charged with overseeing compliance with the obligation not to increase administrative burdens, regularly reporting to the government and publicly, for example, through an annual scorecard highlighting progress for each ministry. The Unit should have sufficient capacity and authority to co-ordinate other ministries. The Better Regulation Supervision Commission (including external stakeholders) could review the annual scorecard report and identify actions for further improvement. The Commission could also serve as a "sounding board" for any impact assessment whose analysis of administrative burdens is considered particularly complex or problematic. To allow for some flexibility, off-setting of

new administrative burdens by reducing burdens stemming from regulations in the competence of other ministries than the one drafting the new regulations should be made possible only in clearly selected cases. The Canadian system could be used as an example (see Chapter 6, Box 6.1).

In parallel with reducing administrative burdens on businesses, the Lithuanian Ministry of Interior was running a project on reducing administrative burdens on citizens. A methodology based on the Standard Cost Model was used.

Ex post *reviews of regulation*

There are some general requirements set by the Law on the Basics of Legislation to conduct monitoring and ex post reviews of existing regulations. Monitoring and reviews of existing regulations should be conducted by central and municipal administration institutions in the areas of their competence. The Ministry of Justice is responsible for co-ordinating these reviews. It issued the Description of Procedure for Conducting the Monitoring of Legal Regulation. This document set out the objectives, terms and conditions for *ex post* regulatory reviews and identified regulations to be reviewed.

The law is rather vague on how ex post reviews should be conducted and which institutions are obliged to conduct such reviews. The Ministry of Justice does not actively promote regulatory reviews in the sense of putting pressure on other ministries to review regulations in their area of competence. The annual reports produced by the Ministry only contain information on the number of reviews conducted each year. The actual results of these reviews are not analysed.

- **Recommendation 6.4: Based on the current programme**, set up by the Description of Procedure for Conducting the Monitoring of Legal Regulation, **introduce a more systemic programme of *ex post* reviews of regulations, including a timeline for the planned reviews, and guidance and methodologies form these evaluations.** A limited number of priority areas for reviews should be identified in co-operation with the stakeholders (e.g. through the Better Regulation Supervisory Commission). These priority areas should be linked with the government's priorities. The whole set of regulations in these priority areas should be reviewed in consultation with stakeholders, to see if they are still fit-for-purpose, based on clearly set criteria and under the leadership of the co-ordinating body in co-operation with responsible ministries. The recommended Better Regulation Unit (see Recommendation 3.2) should serve as the co-ordinating body. It should report annually on the results of such reviews to the Better Regulation Supervisory Commission that would review progress and propose areas for improvement to the government. These reviews should be publicly accessible.

Licensing reform

A programme to screen all licences and permits needed to start a business activity has been in place since 2012. The main goal of the process was to screen all licences/permits in order to assess their necessity and proportionality, to abolish the ones which are unnecessary and/or disproportionate and to identify licences that could be replaced by simple declarations. Another goal was to review and simplify administrative procedures for businesses to obtain a licence/permit and to enable obtaining a licence or permit using electronic means. In 2012-13, the Ministry of Economy reviewed around 423 types of licences. In the beginning of 2014, the Ministry of Economy presented its suggestions on

abolishing licensing and/or replacing them with declarations and these suggestions were approved by the government. The responsible ministries drafted most amendments of legal acts in their competence by the end of 2014, with the few remaining amendments expected to be ready by mid-2015. In total, 56 laws will need to be amended. As of June 2015, 7 laws had been amended by the *Seimas,* with 11 more under discussion. The government prepared 32 draft amended laws for the submission to the *Seimas*, while the remaining 24 drafts are expected to be ready in the nearest future.

- **Recommendation 6.5: Speed up the process of adopting the amendments to implement the results of the review of licences.** Make sure that the process is finalised as soon as possible to simplify the licensing process in Lithuania. Make the necessary steps to enable electronic issuing of licences and develop an electronic registry of licences.

ICT and administrative simplification

There is a central government portal serving as a single point of access to all public and administrative services for the citizens and businesses – the E-Government Gateway. All services provided by central government institutions and municipalities are accessible via this portal. Electronic services in such areas as taxes, state social insurance, reports to police, legal entities registration, traffic information, libraries, services for patients and others, are being actively developed. The uptake of the electronic services in Lithuania is also increasing: in 2014, 41.5% of Lithuania's residents, and 100% of businesses, were using electronic services.

The Point of Single Contact for Services and Products (PSC) established in 2009 serves as a single point of contact in compliance with the EU Services Directive. The PSC is however not interconnected with the E-Government Gateway. In many cases, the website just provides information on regulations and administrative procedures; in some cases it enables to request a licence online and only in few cases the process is fully automatic. The State Enterprise Centre of Registers – a public entity responsible for administering the three main state registers (i.e. Real Property Register and Cadastre, the Register of Legal Entities and the Address Register) – is developing an electronic licensing registry in order to administer in one place the data and information on all licences that have been issued. All public institutions issuing licences and using licensing information systems will have to submit to this registry their information on licences that have been issued, revised or withdrawn starting on 1 September 2015.

There are, in addition, several examples of electronic services provided in particular areas of public service, such as the E-Service System for Insurers and the State Tax Inspectorate's "My STI" service. The approach to electronic services suffers from a lack of co-ordination among these different services. Many information systems of individual ministries are not interoperable. There is also a lack of co-ordination between the administrative simplification efforts and those focusing on using ICT and e-government approaches.

- **Recommendation 6.6: Ensure better co-ordination of e-government projects and with administrative simplification efforts.** The e-government initiatives should be co-ordinated by one body and summarised in one government-wide policy. Interoperability and inter-connectivity of all information systems and portals must be ensured. Projects in the areas of e-government and administrative simplification should be interlinked (ideally part of one wider policy) and thoroughly consulted. No digitalisation of public services and/or administrative

procedures should be carried out without prior assessment of options for their simplification.

Common Commencement Dates

Lithuania is applying a similar approach to the so-called Common Commencement Dates. According to the Law on the Basics of Legislation, legal acts modifying or setting new legal requirements for economic entities should usually enter into force on 1 May or 1 November; however, they should never enter into force sooner than three months following their official publication. Similarly, some tax laws shall enter into force no sooner than following six months after their official publication.

7. Compliance, inspections and enforcement

Lithuania has recognised the importance of reforming inspections as one of the key drivers for reducing administrative burden and strengthening regulatory policy and governance. Inspection reform was one of the key priorities of the regulatory reform agenda launched in 2009. The reform was led by the Ministries of Economy and Justice, with strong political support and engagement. The team looked at the problems of the country and at existing international experience. The legal foundations of the reform were set by a Government Resolution in May 2010 and by the adoption of amendments to the Law on Public Administration at the end of 2010.

The provisions included in the 2010 Law on Public Administration are comprehensive and, in many ways, highly innovative. Significantly, the law refers to supervision rather than inspection to emphasise an integrated approach to promoting compliance. Inspections are not seen any more as an enforcement tool, but as complementary tools alongside advice (which comes first), and analytical work. Inspection institutions are required to provide methodological assistance to economic entities. This requirement has been the foundation for the development of inspectorates' call centres, in order to ensure that advice and guidance provided are of consistent quality (given the binding nature of this advice).

The provisions included in the law, however, suffer from some "weak spots" – but recent improvements have been made. While methods for planning inspection visits are left to secondary legislation as in a number of countries, the law does not define the foundations and principles on which these methods should be developed. The list of admissible grounds for "non-routine" inspections is vague and fails to link it to risk considerations. Recent amendments adopted in November 2014 established risk assessment as the foundation for inspections, meaning that supervisory institutions should focus on high risk cases, with risk defined as the likelihood of harm to values protected by legal norms, combined with the potential magnitude of such harm. This is a welcome development and should help further develop good practices in this direction, by providing a stronger legal basis for risk-based approaches.

The reform has also suffered from some implementation gaps and a relatively informal steering and co-ordination mechanism. Secondary legislation – the Government Resolution of May 2010 subsequently amended and strengthened in 2011 and 2012 – has been the source of all the implementation work on risk-based inspections planning, and checklists. It created an Expert Group gathering the key ministries and most important inspectorates to co-ordinate and guide the reform process. It gave the ministries of Economy and Justice some steering role. This has led to the adoption of comprehensive

guidelines for checklists and risk criteria development (both based on best international practice), as a joint decision of the Ministers of Economy and Justice. However, this joint decision has a weak status and compliance with it remains mostly voluntary for inspectorates. Even with the recent amendments to the Law on Public Administration, such guidelines remain very important to ensure quality of implementation.

Governance of inspectorates is an aspect that has been nearly entirely missing from the reform so far. In most cases, inspectorates are under the direct responsibility of a ministry, and have no specific status that would ensure their stability, identity and long-term vision, and also avoid political meddling in their operations. Some of the best inspectorates (such as the State Food and Veterinary Service) have a special status, with, for example, specific reporting lines and fixed terms for their head. However, statutes including more collegial management, board of directors to ensure independence of the body and representation of stakeholders, and performance management considerations appear mostly absent.

The pace of reform implementation appears to have slowed down, with some key issues remaining unresolved. At the on-set of the reform, conscious choices were made to prioritise the actions that were considered most likely to produce quick results and impact, including checklists development, development of guidance and consultation activities, changes in enforcement and risk-based approaches. While work has been done on some key issues that were missing from the first phase of reform (for example, development of IT systems and consolidation), little results have been achieved so far, and there are a number of concerns, including inspectorates' mandates and goals and inspectorates' governance. Checklists are now widespread in Lithuania, but their quality is unequal. Some are really clear and focused, others are long lists of every possible requirement.

The slowing-down of the reform's pace appears to be confirmed by inspection data. For example, after a strong decrease from 2011 to 2012, the percentage of businesses covered by inspections increased strongly in 2014. The number of inspection visits per inspected business went down at first, but this has not been confirmed over time. In fact, between 2013 and 2014, inspections increased by 8%. The average duration of inspections for 2011 is estimated at somewhat above 3 hours, whereas in 2014 it was around 2 hours. Advance notification is complied with in 63% of cases in the latest survey, a number that has been roughly stable since 2012. Use of check lists has improved over time, in line both with the elaboration of more checklists (covering more agencies, and more economic activities), and with greater familiarity with the tool. The number of respondents who knew about the checklists went from 59% in 2013 to 75% in 2014. However, from 2012 to 2014, the percentage of respondents indicating that inspectors also checked points *not* included in checklists has increased strongly: from 40% to 49% in 2013 and 53% in 2014. This should not be a cause of major concern as checklists require regular improvements and revision. Nevertheless, it points to the importance of sustained implementation efforts and further action.

Professionalism and training of inspectors have been a missing element of reforms so far, one that is now important if the system is to make further progress. While many inspectors have good technical skills, and most of them have received some "on the job" training, the only somewhat more formal training plans have been introduced for call-centre consultants (and for some technical issues of EU interest, e.g. food safety). Rather, what is needed is a comprehensive vision of the "inspector" job: not only technical skills, but "core" skills (as in the Competency Framework developed by the UK's Better

Regulation Delivery Office), including risk management, communication and outreach, relations with businesses, investigation, enforcement.

- **Recommendation 7.1: Review goals and missions of inspectorates and consolidate inspectorates on the basis of new missions and a newly defined governance model.** The first priority should be reviewing all the existing inspectorates and seeing which ones have a clear, risk-based mission – and which ones have confused goals, or objectives defined only in terms of "enforcing legislation". Simultaneously, the government should develop a vision of which supervisory functions it needs to have, based on international experience and the country's priorities. These functions should, again, be defined in terms of risks being addressed. Before moving further with consolidation of inspection functions, the government should develop a model for inspection institutions, based on international experience and specifics of Lithuania's institutional and legal framework, to give inspectorates the desired autonomy, stability, transparency and responsiveness to stakeholders' interests.
- **Recommendation 7.2: Further develop and strengthen performance management and impact data collection.** Develop first a set of guidelines that will then result in: a set of clear performance indicators for every new (reformed, consolidated etc.) function, and mechanisms for data collection to support evaluation and risk assessment of inspectorates. This last point should also ensure that adequate information is collected by different structures (state and non-state) to serve for evaluation and analysis (e.g. data on causes of injuries and deaths to be collected in the health care system, etc.). The high-level performance management for inspectorates should be matched by criteria and processes that assess staff performance along the same dimensions.
- **Recommendation 7.3: Strengthen the reform co-ordination framework (including guidelines).** Develop a renewed reform co-ordination mechanism with strong decision making and steering powers, as well as a specific action programme with clear goals, objectives, benchmarks and timeline – and to give more strength to the reform's technical support team (in the Ministry of Economy), through more resources and more binding guidelines for reform implementation.
- **Recommendation 7.4: Continue development and implementation of risk-based approaches. Allocate resources based on data and risk analysis. Introduce a system for shared information management.** Risk-based planning/targeting still needs to be introduced in a number of institutions – and further strengthened/refined in others. Second, resource allocation and choice of instruments (outreach, education, visits, but also innovative schemes such as "sticker schemes" etc.) should also be made on the basis of risk – and this transformation is only just beginning in Lithuania. Finally, risk should also be the main criterion to decide what to inspect, and how to enforce. The current quality of checklists is often unsatisfactory in this regard, and this will require improvements, as well as further development of enforcement approaches and guidelines. Further progress in risk management by Lithuanian inspectorates requires both that those with already good information systems get more access to information and data from other agencies (to further improve their risk analysis, update their data more frequently etc.) – and that those still without such information systems get one. The most efficient and effective response to this

need is a shared information system with a single database and modular access, that would be at the very least shared by all inspectorates that currently have no good information system, and interfaced with the existing modern systems (e.g. Tax, Labour).

- **Recommendation 7.5: Review, improve and further roll out checklists and other tools.** There needs to be a thorough review of the existing stock (and of gaps), improvement where needed, and further development of checklists where they are missing and needed. Other tools also need to be developed: guidance documents, not only for businesses but, in many cases, for workers and the public, are one important example.
- **Recommendation 7.6: Build a framework for inspectors' professionalism.** There should be a set of skills and competences, as well as a training programme for new inspectors, and a system to regularly check the proficiency of existing inspectors, and update and upgrade their capacity over the course of their careers.
- **Recommendation 7.7: Consider addressing some institution-specific problems**, such as:
  - Consolidate the environmental supervision functions in one institution with a robust understanding of risk and sound, modern methods of compliance promotion.
  - Review allocation of resources in Fire Safety to ensure that more efforts are made to promote safety in residential buildings and that business inspections are more commensurate to their (quite limited) relevance for fire risks.
  - Introduce risk-based objectives and planning in public health supervision, and develop education and outreach to patients in the health care and medicines field.
  - Consider whether the Territorial Planning Inspectorate's function is still relevant in a modern regulatory system based on risk, considering that its role appears to duplicate other institutions and/or market mechanisms, and the case for allocating state resources to it is weak as it is not very clear what market failure it is supposed to address.

8. The interface between supra-national, sub-national and national levels of government

The interface between sub-national and national levels of government

Municipalities, Lithuania's only self-governing authorities, have significant responsibilities for delivering public services but limited regulatory responsibilities. Municipalities are relatively autonomous and provide a number of public services including pre-school, primary and secondary education, primary and secondary health care and public health services. Approximately 55% of their revenues come from central government's grants. They deliver construction permits and some business licences; the regulatory framework informing these permits and licences is, however, set at the national level.

While regulatory coherence does not appear to be a problem, business and citizens interact daily with municipalities and face some administrative burden originating from these interactions. The speed and simplicity of obtaining licences and permits can vary across municipalities, depending in part on municipalities' administrative capacity.

Better regulation reforms have introduced requirements for ex ante impact assessment, stakeholder engagement and administrative burden reduction for the 60 municipalities. However, there is limited control on the quality of regulatory processes at the municipal level as the government has limited levers to ensure municipalities' compliance with this obligation. As of December 2014, 41 municipalities had prepared an administrative burden reduction plan or included some reduction measures into municipality strategic plans. However, there is limited co-ordination and follow-up on the implementation of these plans and measures. This implementation gap might undermine the overall effectiveness of the better regulation reforms.

Consultations with municipalities for the preparation of draft legislation tend to be largely formal, with limited impact on the development of the legislation. The Association of Local Authorities (ALA), which represents all municipalities, participates in inter-ministerial meetings and shares draft legislation with municipalities to collect inputs (with limited interest from municipalities and little impact on the draft legislation). The ALA is also represented in the Better Regulation Supervisory Commission.

- **Recommendation 8.1: Explore mechanisms to more actively communicate with municipalities on the pay-offs of better regulation and involve municipalities more actively in the implementation of the Better Regulation agenda.** Business and citizens do not distinguish between the sources of administrative burden. Initiatives aimed at improving policy making at the central level should trickle down to the local level, where citizens and businesses are more likely to have daily interactions with the public administration, in order to maximise the impact of these initiatives. This would involve strengthening partnerships and co-operation with municipalities, for example, through some measurement of local burdens at the local level in partnership with the Association of Local Authorities. It could also involve the development of specific programmes targeted to municipalities (similar to Portugal's Simplex for Municipalities) with tangible incentives for participation and guidance and support for sharing good practices across municipalities. The experience of Denmark, Portugal and Sweden could be useful (see Chapter 8, boxes 8.1 and 8.2).

The interface between the national level and the EU

Negotiation

The process for co-ordinating the position of Lithuania in the negotiation process is standard and similar to many OECD countries which are members of the EU. Individual line ministries are responsible for drafting positions in their areas of competence. The Ministry of Foreign Affairs is in charge of co-ordinating the preparation of Lithuanian positions with regard to the legislative proposals within the European Union. Draft positions for the European Council and the Council of the EU meetings are adopted by the Governmental Commission on the EU Affairs and endorsed by the government.

A special information system called LINESIS enables online co-operation among state institutions involved in the negotiation process in real time. NGOs and social partners can get access to this system. The relative openness of such a system is rather rare among OECD countries.

A typical position should contain an impact assessment of the legislative draft which is rather rare even among OECD countries; however, the assessments are rarely of a sufficient quality. The obligation of impact assessment is stipulated in the Government Resolution No. 21 of 9 January 2004 "Regarding Coordination of European Affairs", which sets rules for a typical position. [1] This Resolution also introduces an obligation to conduct impact assessment according to the methodology adopted by the Government Resolution No. 276.

- **Recommendation 8.2: Make sure that a proportionate analysis of impacts is carried out in the process of preparing relevant positions to draft EU legislation that might have significant impacts on Lithuanian society and economy. Criteria for when such assessment is necessary should be set by a government resolution.** The EU Department of the Ministry of Foreign Affairs together with the European Law Department of the Ministry of Justice should be made responsible for enforcing such obligation in co-operation with the Better Regulation Unit recommended above (see Recommendation 3.2).

Transposition

The process of transposition and implementation of the EU law in Lithuania is highly centralised and well regulated. The European Law Department of the Ministry of Justice is the main institution co-ordinating and monitoring the transposition using the electronic system LINESIS. One government institution is always chosen as the one responsible for transposition. Within 3 weeks after the assignment, the responsible institution has to come up with a description of concrete measures needed to implement the draft and the deadlines for their preparation and adoption. The European Law Department supervises how the institutions are following the plan and the deadlines. It is required to complete and attach a correlation table to every single draft legal act which is implementing the EU legal act. The European Law Department then reviews the table with its EU law legal experts. All the correlation tables must be uploaded to LINESIS. The right to conduct *ex post* reviews of the existing legislation for their consistency with EU legislation is used rather scarcely.

One of the issues of the transposition process is the fact that the civil servant(s) that was/were participating in the negotiating process on a particular piece of legislation at the EU level is not involved in its transposition. Therefore, the institutional memory the person might have is not fully used. This is, however, a general problem in many other EU member states.

Special attention is paid to the issue of gold-plating. The European Law Department is responsible for reducing administrative burdens during the process of EU law transposition. To better formalise the process of preventing gold-plating, the European Law Department prepares a set of recommendations for public institutions and a concrete methodology for preventing creation of unnecessary administrative burdens in the process of EU law implementation.

1. www.e-tar.lt/portal/lt/legalact/tar.db68bca9e3a0/tais_465634.

- **Recommendation 8.3: Finalise and implement the recommendations and the methodology for preventing creation of unnecessary administrative burdens in the process of EU law implementation and make it binding to all ministries and other institutions.**

9. Territorial planning and construction permits

Rationale for and commitment to a comprehensive reform

The government of Lithuania appears to have good understanding of the importance of leveraging the governance of construction and territorial planning to foster economic development, new job creation and capital attraction. This is critical in post-crisis times. The government has made the reform of Lithuania's business environment one of its mandate's priorities. Such a commitment is grounded in the acknowledgment that several factors contribute to the decisions by foreign and domestic developers when determining possible investments in the country. The quality of the regulatory framework features prominently among those factors, calling national and local public authorities to provide the basic conditions for investment and business to thrive.

To achieve this, the government correctly identified the reform of the construction permit procedures in particular as one of the principal strands of action, since this sector of administrative activities is particularly prone to achieve important spill-over effects. The reform of the construction and territorial planning procedures fits the above mentioned rationale and explicitly seeks to achieve greater economic efficiency while preserving agreed safety and health standards. Not only do excessively complex or burdensome permit procedures tend to reduce the attractiveness of an economy; they may also jeopardise the actual main objective of building permits – to ensure the health and safety of the community. Construction permits moreover form an integral part of the (urban) territorial planning vision and management. They are critical for public authorities to strategically exploiting their comparative advantages and organise society, the economy and the territory accordingly. This has become particularly relevant over the past decades when – in Lithuania and all OECD countries alike – territorial development has tended to occur mainly in urban and metropolitan areas.

The government commitment to reforming this specific administrative area reflects stakeholders' concerns as well as international statistical evidence. The feedback from private sector organisations appears to have been the main trigger for action. Over the past years, stakeholders' concerns have focused especially on the excessive length and complexity of the permit procedures as well as the low predictability and accountability of administrative decision-making. The same sense of urgency for reform action does not appear to be provided by the related Doing Business index, the other main source of reform action. The index has considered Lithuania among the regional leaders since 2012-13 and in 2015 it ranks the country within the top 25 in the world. This notwithstanding, the government has centred both the design of its reform and the communication thereof around the improvement in that particular ranking.

At the same time, the potential of inserting the reform into a wider agenda appears to have been grasped by the government to a noticeable extent. Lithuania has significantly amended its Construction Law in 2010; revised the Law on Territorial Planning in 2014; and it is currently working on modernising the Law on Infrastructure (with final adoption of the law indicatively expected by the end of 2015). This set of initiatives aims at tackling important governance elements, ranging from zoning, infrastructure design and

management to energy efficiency policies and green building. Against this background, the changes brought about to the construction permit legal framework to date appear to be seen by the government as one piece in the puzzle of reform that, taken together, are likely to yield territorial development. Overall, the reforms all seek to increase the responsibility and accountability of public authorities at all levels of government to achieve ever more efficient public service delivery. Nevertheless, while broader (legislative) reforms have been undertaken over a few years, a number of fronts are still open to complete the reform endeavour.

Effectiveness of the reform and the monitoring of its performance

The construction permit reform undertaken by the government builds on several international good practices and has already achieved remarkable change. Among the critical success factors are the simplification, clarification and digitalisation of the procedures. To date, the government has already introduced significant simplification amendments to the construction permit legal framework, reducing the overall number of days, procedures and institutional actors involved to such an extent that Lithuania stands among the top three economies in the region and the top 15 economies in the world in terms of ease to dealing with construction permits (Doing Business 2015 data). This is a remarkable achievement, which was in part made possible by the introduction of the "silence-is-consent" clause; the clarification of both definitions and procedural requirements, which allowed for a better operationalisation of risk-based approaches; the consistent update and consolidation of affected legal bases; as well as the digitalisation of the procedure and the upgrade of the information system Infostatyba. All such reform interventions represent international good practices and have been welcomed by stakeholders.

Achievements to date as reported by the government are impressive, but the actual impact of the reform is yet to be noticed in the economy. This may question the overall effectiveness of the reform measures in the long run. The Lithuanian business community at large has broadly welcomed both the sense of direction given by the government to the reform and the initial achievements. However, perception surveys are less enthusiastic and immediate statistical evidence on the performance of the Lithuanian construction market do not necessarily corroborate the improvements in the Doing Business rankings. While this may clearly depend on the still relatively recent legal and administrative changes, the fact that the reform was not based on a robust assessment of the administrative burden and compliance costs actually imposed on developers might constitute a major limitation of the effectiveness of the measures launched. While administrations are requested to evaluate the administrative burden of legal amendments (including reform proposals) and send evaluations to the Ministry of Economy, such an obligation was not fulfilled in the case of the construction permit reform and the government and the *Seimas* approved amendments to the construction law framework without any preliminary impact assessment. The reform could moreover not benefit from the inputs by the Better Regulation Supervisory Commission, which was created only after completion of the legal and procedural changes. Associating the effectiveness of the reform to improvements in Lithuania's relative performance in the Doing Business index is a useful metric for success that is easy to communicate and instil investors' confidence. Not grounding sufficiently the success of the reform in "hard evidence" related to the country's construction market and to the economy could however lead to partial results.

- **Recommendation 9.1: Pursue the strategic commitment to achieve economic growth and competition through a comprehensive and sustainable territorial planning, infrastructure and construction law reform.** Private sector stakeholders seek further improvements in the legal and administrative regimes but at the same time they expect greater predictability, legal certainty and stability and "informed change" so as to best plan investment and implement development projects.
- **Recommendation 9.2: Consider further reforms areas that remain to be tackled, in order to complement and reinforce what has been done in the construction sector to date.** In particular, attention might be given to issues related to public land ownership; public procurement procedures in the construction and real estate sector; and procedures related to the Environmental Impact Assessment. The example mentioned in the chapter of the shortcomings in the current procedures to get electricity illustrates the comprehensive approach that reforms should follow if they are to concretely make a difference. The ongoing debate on a new Infrastructure Law may constitute a good opportunity to address some of these issues.

Governance of the reform

The governance of the reform has relied mainly on frequent yet informal dialogue with key actors within the public administration and among stakeholders. While this has had some merits in terms of flexibility and speed in designing the reform, concern has been expressed about the actual capacity of the reformed system to both mainstream change and build institutional learning. The government has reportedly consulted intensively when determining the direction of the reform. Nonetheless, in doing so it has relied mainly on informal dialogue with affected parties. At the same time, the reform has allegedly not taken sufficient account of the likely difficulties that the municipalities would have faced in implementing the new deadlines and procedural requirements. Allowing a transition period for local civil servants and decision-makers to adjust to changes is structural for any reform initiative of this type – and in our case it has been largely accepted by all parties involved (both the government and the private sector). However, the mechanisms in place to ensure as much as possible a smooth adaptation in peripheral municipalities are reported to be underperforming. In particular, municipalities denounce difficulties in getting timely instructions or clarification on formal requests for assistance from the government. The Ministry of Environment fulfils for instance a crucial help desk function through the State Territorial Planning and Construction Inspectorate (despite the relatively limited resources allocated to it), but it is formally not required to issue an opinion when seized about a legal interpretation query. In addition, the ministry considers several procedural or substantial complaints related to the construction permit procedures and it autonomously reviews a number of decisions. While data are collected, there seems to be no dedicated feedback mechanism that allows capitalising on such an analysis and knowledge, thereby missing out the opportunity for a continuous refinement and upgrade of administrative performance.

Further, wider governance issues emerge when considering the broader territorial planning and development policy. They notably refer to multi-level (vertical) co-ordination gaps in the allocation of funds, which in turn depend to a great extent also on the only partially solved inter-ministerial (horizontal) mismatch between local level "strategic planning" considerations (currently managed by the Ministry of Interior) and "territorial planning" (under the responsibility of the Ministry of Environment).

Discrepancies are reported to still exist between the two exercises, which consider uneven time horizons, and rely on different budget sources and levels of socio-economic strategic analyses.

- **Recommendation 9.3: Streamline and strengthen the governance underpinning the various institutions responsible for strategic planning and territorial planning, so as to achieve efficient and sustained socio-economic development**. The government might envisage revisiting the internal and multi-level co-ordination arrangements, as well as the procedures and to develop the related budgets, to ensure a structured mid-term approach to market improvement and prosperity in the country.

Future reform perspectives

Additional reform initiatives are currently being discussed, which raises the overall potential impact of the reform even further. Particular attention is to be put on leveraging the interface between public and private actors and market-informed solutions. The reform has still potential for improvement and current ideas are being debated between the government and stakeholders in order to identify and fully exploit policy synergies. Among such areas are in particular the revision of the liability and insurance regime; the rationalisation of enforcement, inspection and controlling practices; and the performance of oversight and arbitration mechanisms.

The ongoing debate on how best to accomplish the construction permit reform constitutes a promising basis to overcome some difficulties that the reform has so far faced and which remain pending. In particular, difficulties persist in relation to the reportedly still significant ambiguity of legal (implementing) texts and the related administrative discretion in interpreting the provisions; the limited technical performance of Infostatyba and its partial inter-operability with other public databases and one-stop shop platforms; and the different levels of skills and organisation across municipalities in accommodating to the changes – from coping with the digitalisation of the procedures to, more structurally, bearing full responsibility for territorial planning and developing strategies.

- **Recommendation 9.4: Consolidate the specific reform of the construction permit by intensifying the support to implementing administrations, upgrading Infostatyba, and leveraging market-based forces.** While correctly promoting responsible public service delivery from local authorities, the government could reinforce its help desk and legal counselling function to minimise discretional or delayed decisions through the construction permit procedures. If deemed necessary, revising the current implementing regulations and making related guidance (charters of services) uniform might be taken into consideration. The government might envisage optimising the potential of Infostatyba through technical upgrades that improve the software's capacity and inter-operability with other e-government tools. The government is furthermore invited to evaluate the merit of revising the liability and insurance regime and rationalising enforcement, inspection and controlling practices (see also Recommendation 7.7).
- **Recommendation 9.5: Ensure concrete effectiveness of the simplification and digitalisation measures already implemented.** Doing Business rankings are immediate indicators of the overall performance of a public administration but they might come short in terms of gauging the real challenges faced by business

and citizens when applying for permits. The government could consider developing a dashboard of indicators pertaining to the construction market trend which may inform more precisely on the concrete impact that the reform has on business activities. Proceeding to a measurement of the administrative costs incurred by the applicants may also enhance the effectiveness of the reform.

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