

Regulatory Policy Reviews

Slovak Republic

HIGHLIGHTS

2020

Public services



Transparency



Regulations

Stakeholders



Informatisation

Digitisation



Slovak Republic

SIMO & PASTRY
PEKÁRŇA V BRATISLAVE

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WHAT IS REGULATORY POLICY?

Regulatory Policy is a core field of the OECD's work, touching aspects in every sector of the political economy and affecting the everyday life of citizens. Regulatory Policy is a key lever for states to ensure that their interventions in economic and social affairs are efficient, innovative and effective. It is critical for sustainable growth and addresses domestic as well as global challenges, like those outlined in the Sustainable Development Goals.

The OECD's Regulatory Policy Committee (RPC) was created to assist member and non-member countries in building and strengthening their regulatory policy frameworks. The Committee's work informed and is based on the 2012 *Recommendation of the Council on Regulatory Policy and Governance*, the most detailed set of guidelines and principles developed in the field of regulatory policy.

Regulatory policy is about achieving government's objectives through the use of regulations, laws, and other instruments to deliver better economic and social outcomes and thus enhance the life of citizens and business.

WHAT ARE REGULATORY POLICY REVIEWS?

The OECD reviews of regulatory policy are country reports that are carried out under the programme of work of the RPC. Under this programme, the OECD has assessed the regulatory management policies of more than 25 member countries, as well as Brazil, Colombia, China, Croatia, Indonesia and Russia. Country reviews aim at assisting governments to improve regulatory quality – that is, to design, implement and enforce regulations to foster competition, innovation, economic growth and important social objectives.

WHY A REGULATORY REVIEW OF THE SLOVAK REPUBLIC?

In its ongoing efforts to improve regulatory reform, the Slovak Republic requested the OECD in 2019 to assess the Slovak Republic's capacity for regulatory management based on a comparative approach of international best practices. The OECD review assesses the policies, institutions, and tools employed by the Slovak government to design, implement and enforce high-quality regulations, including administrative simplification, ex ante and ex post evaluation of regulations, stakeholder engagement practices, regulatory compliance and enforcement, multi-level regulatory governance and future-proofing regulation.



THE SLOVAK REPUBLIC 2020

Population 5 447 011

Total area 49 035 km²

GDP/capita USD 32 621

Annual GDP growth 4%

Unemployment rate 6.5%

Purchasing Power Parity EUR per USD 0.49

Source: OECD statistical profile: Slovak Republic

Better regulation in the Slovak Republic



Since 2007, the Slovak Republic has introduced a broad set of useful and important reforms that strengthen regulatory policy and have supported the improvement of the business environment.

CURRENT REGULATORY POLICY FRAMEWORK

The current better regulation agenda contains a whole-of-government political commitment to the use of regulatory management tools, introducing systematic ex post evaluation of regulations and elements of innovative rulemaking.

CHALLENGES

- *The RIA 2020 Strategy is a comprehensive better regulation effort following international best practice, but it risks being of too ambitious. A complete overhaul of the regulatory policy system – a task that takes other OECD countries at least several years – is envisaged in a short period of time. The implementation of some tasks is delayed and there is a risk that the tasks outlined by the strategy will not be achieved in the foreseen timeframe.*
- *Despite ambitious reform plans, the objectives and results of Better Regulation are not systematically communicated within the administration and to the general public. An overarching communication strategy on regulatory reform is not foreseen as part of the RIA 2020 Strategy. As a result, the benefits of regulatory management tools like RIA*

are not fully understood across the administration and by external stakeholders, limiting the capacity to gather support and buy-in for reforms across the administration, in parliament and from the public.

KEY NEXT STEPS

- **Regulatory reform efforts should target the most urgent areas of reform.** Choosing priority areas for the Slovak BR agenda will be a crucial task for the Ministry of Economy to effectively employ the resources available. This effort should be complemented by an action plan with a realistic timeline and SMART performance indicators. Progress should be tracked systematically and evaluation results should be published online to ensure accountability.
- **The Slovak Republic should add a communication strategy to its whole-of-government policy for regulatory quality.** To generate support and buy-in for regulatory reforms across the administration, in parliament and from the general public, the benefits of regulatory management tools and regulatory reform programmes should be spelled out in the RIA 2020 Strategy.

THE RIA 2020 STRATEGY



In 2018, a whole-of-government policy for regulatory quality was introduced in the Slovak Republic, following the OECD *Recommendation of the Council on Regulatory Policy and Governance: the RIA 2020 Better Regulation strategy*. The strategy outlines a set of principles and tools that aim to improve the regulatory environment in the Slovak Republic and increase the level of transparency within the law-making

process. It includes 38 specific actions aimed at improving the better regulation framework, primarily carried out by the Ministry of Economy.

The strategy has five strategic objectives:

- 1. Raise awareness of the importance of better regulation efforts by communicating its benefits;**
- 2. Improve the quality of the *ex ante* impact assessment process;**
- 3. Introduce systematic *ex post* evaluation of regulations;**
- 4. Make use of innovative and future-looking approaches to regulation making;**
- 5. Promote horizontal co-operation within the administration to better connect bodies tasked with better regulation functions.**

Institutions and capacities for regulatory policy



As is the case in many OECD countries, Slovakia has a fragmented institutional landscape for regulatory policy, and responsibilities for regulatory oversight are split between several authorities.

CURRENT ARRANGEMENTS

Key institutions

The **RIA Commission** is responsible for overseeing the quality of regulatory impact assessments and is part of the Legislative Council of the Government, which reviews the legal quality of government regulations and the compliance of legislation with EU law. Several ministries are represented in the Commission as well as the Government Office and the Slovak Business

Agency. They share competencies for checking the quality of RIAs with each one focusing on their area of competences.

The **Ministry of Economy** is responsible for promoting regulatory quality across the administration. Its *Department for Business Environment* was appointed as the national co-ordinator of better regulation efforts.



A. Impacts on business environment **B.** Budget impacts **C.** Environment impacts **D.** SME-test
E. Impacts on informatisation **F.** Impacts on public services for citizens **G.** Social impacts

A UNIQUE RESOURCE – ANALYTICAL INSTITUTES IN KEY MINISTRIES

Compared to other countries in the region, the Slovak administration has significant analytical capacities available: the analytical institutes that have been established in most Slovak ministries. The institutes are specialised units operating within the portfolio of their ministry and serve to provide analytical background for the ministry's decisions. Their

structures, competences and position in the organisation of the ministry vary.

The **Institute for Financial Policy (IFP)** is one of the well-established analytical units and produces a significant number of policy briefs and working papers.

Institutions and capacities for regulatory policy



CHALLENGES

- *The regulatory oversight system's methods and performance have scope for improvement.* Currently, individual ministries represented in the RIA Commission only review the quality of individual impacts in their portfolio and not the overall quality of the RIA and total impacts on the welfare of the society. The Commission usually only meets once a year and does not meet with the ministries sponsoring legislative drafts.
- *The Ministry of Economy is well respected as the national co-ordinating body for better regulation, but strong leadership from the centre of government is missing.* As a line ministry, the MoE might not have the authority necessary to promote better regulation as a topic of high political priority across the administration.
- *The analytical units in some line ministries present a competitive advantage for the Slovak Republic and reflect international good practice, but existing capacities are not used to full potential.* Particularly institutes that have been established recently are not involved in the impact assessment process and co-operation between institute and ministry staff does not happen on a systematic basis.

KEY NEXT STEPS

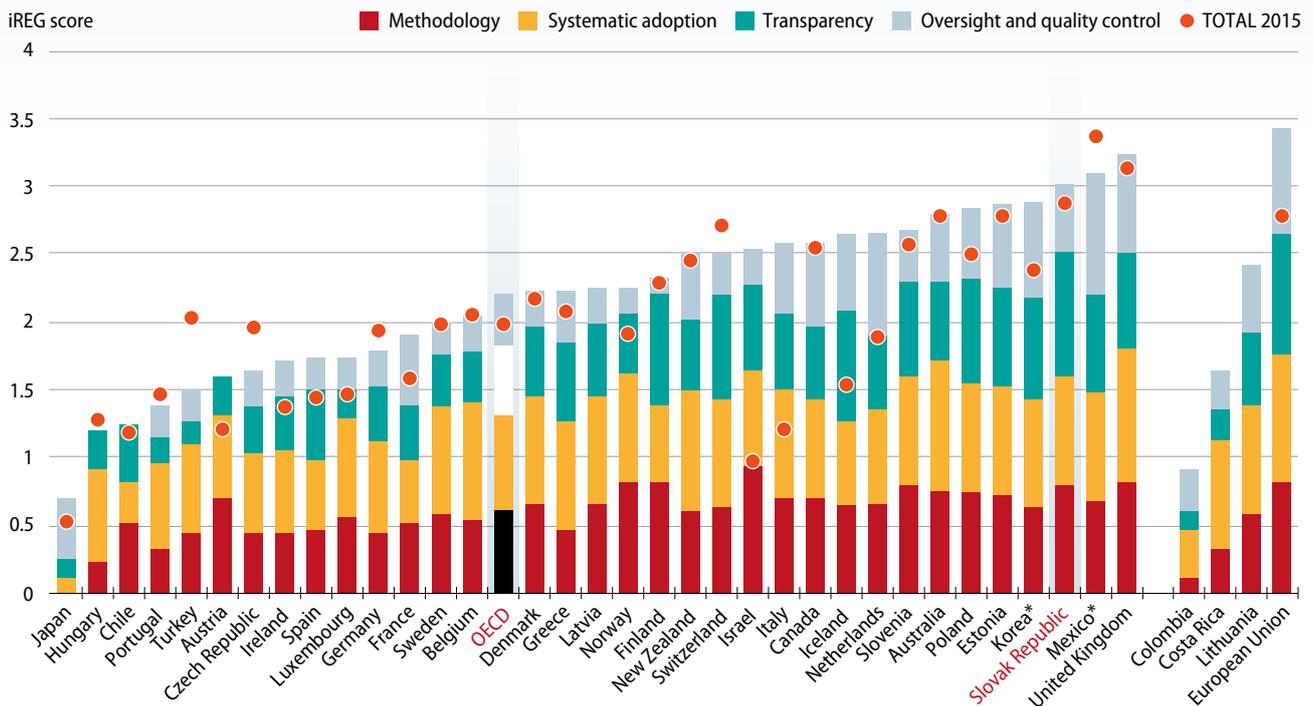
- **The Slovak Government should strengthen analytical capacities and promote the use of existing capacities in key ministries.** This includes creating conditions to attract and keep sufficiently trained staff. The government should follow up on trainings planned as part of RIA 2020.
- **Stronger leadership driving a concerted better regulation effort across the administration is needed.** There should be a body with the authority to enact change around the government and to promote a co-ordinated whole-of-government approach to regulatory policy.
- **The methods and performance of the RIA Commission should be improved.** The RIA Commission should meet with ministries at least 4 times a year, to provide continuous advice and support, and should review the total impacts of a legislation on the welfare of the society.
- **The Slovak Government could consider centralising regulatory oversight functions into one body and giving this oversight body stronger powers.** For the quality control of regulatory management tools it could be considered to place regulatory oversight functions in an independent body external to government.



Stakeholder engagement and public consultations



The Slovak administration uses both early-stage and late-stage consultations to engage with stakeholders, thus comparing very well with other OECD countries regarding stakeholder engagement and public consultations in the OECD *Indicators of Regulatory Policy and Governance* (see figure).



Note: Data for OECD countries is based on the 34 countries that were OECD members in 2014 and the European Union. Data on new OECD member and accession countries in 2017 includes Colombia, Costa Rica, Latvia and Lithuania. The more regulatory practices as advocated in the 2012 Recommendation a country has implemented, the higher its iREG score. The indicator only covers practices in the executive. This figure therefore excludes the United States where all primary laws are initiated by Congress. *In the majority of OECD countries, most primary laws are initiated by the executive, except for Mexico and Korea, where a higher share of primary laws are initiated by the legislature.

Source: Indicators of Regulatory Policy and Governance Surveys 2014 and 2017, <http://oe.cd/ireg>.¹

CURRENT ARRANGEMENTS

Unlike most OECD countries, Slovakia has formalised procedures for early-stage consultations and engagement in place, especially with businesses. The government makes systematic use of electronic public consultations through the government portal that is accessible to all members of the public and engages stakeholders early in the legislative process.

CHALLENGES

- Early-stage stakeholder consultations often take the form of ad hoc working groups and/or informal meetings and workshops. As guidance on forming such working groups and conducting meetings with stakeholders is missing, the working groups mostly consist of representatives of businesses, while other stakeholders are often neglected.
- Businesses and their associations have, to a certain extent, a privileged status regarding stakeholder engagement. As the process of consulting with businesses is quite rigorously set by the *Unified Methodology*, businesses seem to be given more opportunities for consultations than other stakeholders, such as individual citizens, CSOs, etc.

1. This graph is taken from the *OECD Regulatory Policy Outlook 2018*, <https://doi.org/10.1787/9789264303072-en>, p. 48.

Stakeholder engagement and public consultations



KEY NEXT STEPS

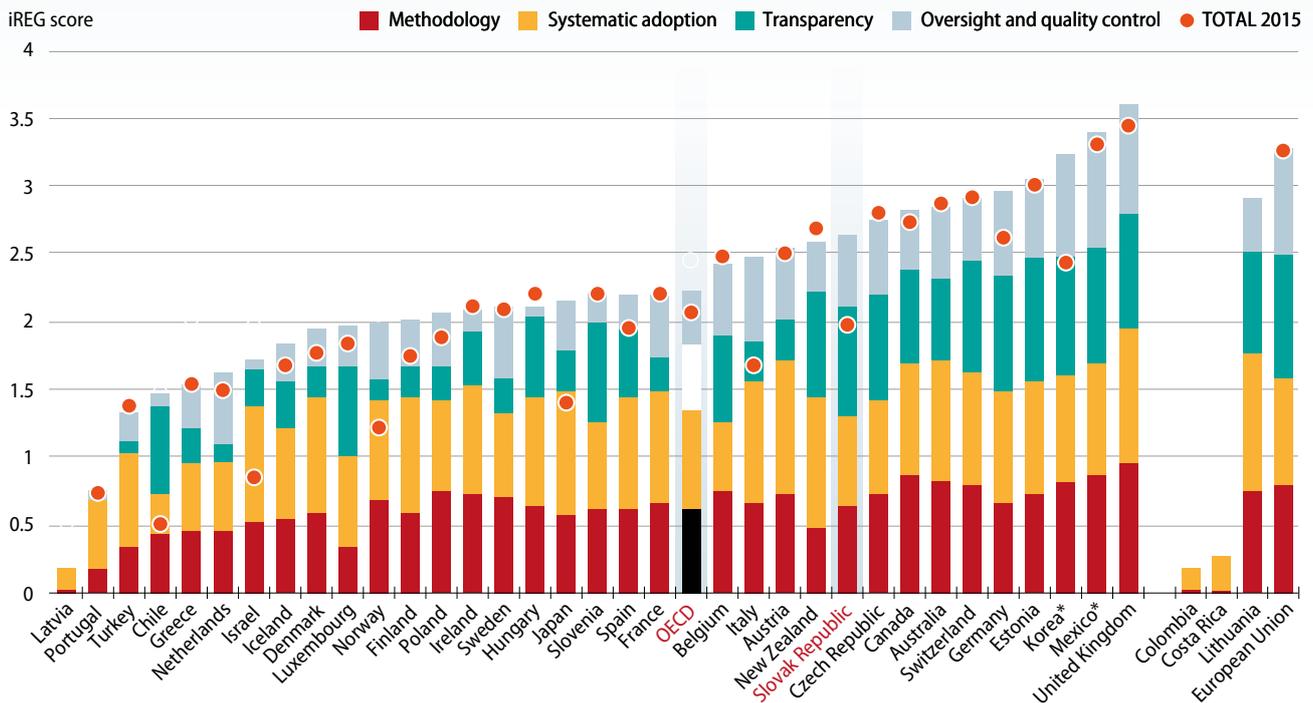
- **The preparation of the new guidance for stakeholder engagement** as envisaged in the RIA 2020 strategy **should be accelerated**. The guidance should specifically focus on guiding civil servants through the early stages of the legislation-making process, forming working group, and ensuring the representativeness of consulted subjects.
- **Slovakia should undertake efforts to more systematically include stakeholders other than businesses** (general public, civil society organisations, etc.) in early-stage consultations. It is necessary to let all potentially impacted stakeholders express their views and to balance various interests as part of the consultation process.
- **When consulting with stakeholders** and namely businesses, **it is important to create an environment of mutual trust**. It is crucial that goals of individual consultations process are clearly communicated upfront and that the input obtained from stakeholders is seriously analysed. In case the received comments cannot be taken into account, the reasons for doing so must be explained. Creating an informal discussion forum could help strengthen mutual trust.
- **The Slovak Government should voluntarily and to the extent possible, avoid presenting legislative proposals through the shortened procedure or directly in the Parliament through MPs initiatives**. Thus, all governmental legislative proposals would go through the systematic procedures described in the Legislative Rules and the Unified Methodology, including thorough engagement with stakeholders.



The development of new regulations



Regulatory impact assessment (RIA) has been a requirement for regulatory proposals since 2008. The *Unified Methodology on the Assessment of Selected Impacts* became effective in 2015 and introduced several changes to the assessment process, including creating the RIA Commission in the Slovak Republic and reinforcing the consultation process with a new business and SME Test.



Notes: Data for OECD countries is based on the 34 countries that were OECD members in 2014 and the European Union. Data on new OECD member and accession countries in 2017 includes Colombia, Costa Rica, Latvia and Lithuania. The more regulatory practices as advocated in the 2012 Recommendation a country has implemented, the higher its iREG score. The indicator only covers practices in the executive. This figure therefore excludes the United States where all primary laws are initiated by Congress. *In the majority of OECD countries, most primary laws are initiated by the executive, except for Mexico and Korea, where a higher share of primary laws are initiated by the legislature.

Source: Indicators of Regulatory Policy and Governance Surveys 2014 and 2017, <http://oe.cd/ireg>.²

CURRENT ARRANGEMENTS

All of the elements of RIA are in place in the Slovak Republic. Ministries and government bodies are required to submit RIA as part of the legislative process and the RIA Commission provides regulatory oversight. The Slovak Republic's regulatory impact assessment framework for developing primary laws has been ranked above the OECD's average (see figure).

Under the standard procedure, if the law drafting authority identifies impacts in at least one of the RIA Commission's impact categories during the preparation of a new law or regulation, the law-maker is obliged to

conduct a full impact assessment. Once drafted, the law-maker sends the impact assessment along with the legal text to the RIA Commission for review. In case the law-maker asks for a shortened period, the RIA Commission may decide to shorten the period to three days.

The RIA Commission provides three types of opinion: without comments (green light), opinion with minor comments (yellow light) and opinion with substantial comments (red light). The Commission's opinions are not binding.

2. This graph is taken from the OECD Regulatory Policy Outlook 2018, <https://doi.org/10.1787/9789264303072-en>, p. 60.

The development of new regulations



CHALLENGES

- *The RIA process does not appear to have had a significant impact on the decision-making process in many ministries. In some cases, representatives were not aware of analytical units (AU) or the potential benefits of RIA. The RIA process itself is staged, but the level of analysis is effectively the same regardless of the actual impact on citizens and businesses.*
- *Currently, the same RIA process and form are used for all regulations. Unlike in several OECD countries, there is no extended or more in-depth RIA required for proposals with more substantial impacts. Introducing such a targeted approach could help allocate scarce resources where they are most needed.*

KEY NEXT STEPS

- **The Slovak Republic should offer continuous training for RIA and analysis to policymakers** that covers all possible stages of a sound evidence-based RIA process. Training should include employees from the parliamentary research service, who would likely support efforts to introduce IA in parliament.
- **The Slovak Republic could develop a simplified process for regulations with minor impacts.**

A threshold could be introduced outlining criteria that allow legislation to undergo a simplified RIA process. This effort would have to be supported by the oversight body scrutinising the decision to conduct a simple RIA.

- **Setting clear and measurable objectives that relate to the broader government strategy should be a regular part of the legislation development process.** Policymakers should be required to provide a SMART quantitative objective as part of the RIA.
- **The shortened procedure should only be used in cases of an actual emergency.** As part of the RIA 2020 Strategy plans to introduce *ex post* evaluation, the Slovak Republic could make an *ex post* impact assessment a requirement for regulations passed under a shortened procedure
- **Ministries should be encouraged to better integrate the AUs in the process of developing legislation.** The RIA analysts present in AUs should be involved at an early stage when the analysis of the AU has a chance to affect the form of the final law and, ultimately, the beneficial impact regulation has on citizens. The Slovak Republic should find a way to guarantee continued financial support for AUs and policy development in general.



Ex post evaluation of regulation



Until 2019, the Slovak Republic had not yet adopted a formal institutional set-up, methodology, or process for evaluating laws and regulations individually or across sectors. Ex post evaluation efforts focused, like in many countries, on reducing administrative burdens for businesses across the economy.

CURRENT ARRANGEMENTS

Under the RIA 2020 Strategy, the Ministry of Economy has elaborated a new methodology (including guidelines) for the *ex post* evaluation of regulations, which was approved in 2019. A pilot project for every governmental body that produces rules to assess a selected law is planned for the first half of 2020. Methods used in the pilot testing phase will include the semantic decomposition of legal acts and quantitative scaling of impacts. The methodology will be adjusted based on the results of the pilot testing and presented to the Slovak Government for approval.

CHALLENGES

- The biggest short-term challenge will be to deliver high-quality pilot projects for *ex post* evaluations. The pilot studies should be carried out in a critical policy area or sector (e.g. healthcare) to review all of the relevant regulations and their costs, benefits and effectiveness. The final result should be a series of recommendations that improve both the beneficial effects of the laws and reduce their costs to society.

THE RECENTLY DEVELOPED METHODOLOGY FOR THE EX POST EVALUATION OF REGULATIONS

The new methodology proposes to make an *ex post* assessment of regulation mandatory within a maximum period of four years from the approval of the regulation. However, the specific date must always be chosen by the ministry, taking into account the content of the legislation under consideration. Ultimately, the ministry will be responsible for the timing of the *ex post* evaluation of the regulation.

When planning *ex post* evaluations, they should consider:

- The period between the start of implementation of the legislation and its effects (e.g. where the bill provides for time limits, transitional periods, and other information.),
- The different short-term effects from long-term,
- The possible risk of unintended consequences or obsolescence.

- Over the medium-term, the Slovak Republic could think about piloting a regulation under development for a post-implementation review. The pilot ministry would need to find appropriate SMART indicators as part of the RIA to review the impacts of the regulation after two years. This pilot could help establish a close link between RIA and *ex post* evaluation.

KEY NEXT STEPS

- **Capacities for analysis will need to be continuously supported by the government.** Like with RIA, some of the analytical capacities already exist in whole or in part within the AUs of individual departments. However, ministries may find it challenging to do more *ex ante* and *ex post* analysis at the same time.
- **The Slovak Republic should prepare comprehensive and clear guides and methodologies for different types of *ex post* evaluations.** The future success of *ex post* evaluation in the Slovak Republic will rely on successful pilots through the RIA 2020 Strategy. These pilots should further be supported by clear guidelines. Different types of *ex post* evaluations could include programmed mechanisms, ad hoc reviews and ongoing management types of reviews.
- Like RIA, **the government should establish an external oversight body that is independent of the ministry that initially produced and reviewed the regulation.** The RIA Commission could suit this purpose, but it would need to be sufficiently resourced. Alternatively, the creation of a separate commission scrutinizing the quality of *ex post* evaluations could be considered.
- **Policy and spending in ministries should be reviewed together** as it often happens in the IFP in the Ministry of Finance. The evaluation of regulations should not exist in a silo. *Ex post* evaluations should be linked to the government's broader policy goals. Value for money reviews could, for example, focus also on performance of policies rather than just spending.

Regulatory compliance, enforcement and inspections



As is the case in many other OECD countries, Slovakia does not have a whole-of-government strategy on improving regulatory compliance and reforming inspections.

CURRENT ARRANGEMENTS

The issue of regulatory delivery is not part of regulatory policy and there is no central body responsible for co-ordinating regulatory enforcement and inspections. While elements of good regulatory enforcement are implemented by some individual inspectorates; the use of evidence when planning inspections, targeting inspections based on risk, as well as focussing more on promoting compliance are still not fully embedded in the daily work of the inspectorates. Better co-ordination among different inspection authorities would also be useful and contribute to reducing regulatory burdens on inspected subjects.

KEY NEXT STEPS

- **Slovakia would benefit from adopting a government-wide strategy on reforming inspections or even a specific law on inspections.** The approach of the Lithuanian government could be used as an example.
- **The government should bolster the use of risk-based approaches to enforcement in Slovakia.** Regulatory enforcement strategies continue to be mostly based on prescribing sanctions to regulated businesses and individuals.
- **All inspectorates should move to focus on improving compliance rather than simply handing out sanctions.** They could accomplish this by issuing guidance materials, providing inspection checklists, or through information portals.
- **Better co-ordination among inspection-authorities should be ensured at the central level** through the voluntary exchange of inspection plans, creation of an inter-inspectorate co-ordination body and automatic exchange of information among inspectorates.



Innovation approaches to support future proofing regulation



The Slovak Government is looking to introduce innovative approaches to policy making. The Ministry of Economy has identified the below areas as being important to designing and delivering more effective and efficient regulatory policy.

Anticipatory innovation governance is a broad-based capacity to actively explore options as part of broader anticipatory governance, with a particular aim of spurring on innovations (novel to the context, implemented and value shifting products, services and processes) connected to uncertain futures in the hopes of shaping the former through the innovative practice.

Anticipatory regulation is a function of anticipatory governance, which uses regulatory means to create space for sandboxes, demonstrators, testbeds etc. for various technology options to emerge. This requires an iterative development of regulation and standards around an emerging field.

Behavioural insights uses rigorous research and experimental methods from the behavioural sciences, including behavioural economics, to understand why citizens behave as they do and pre-test which policy solutions are most effective before implementing at larger scale.

Strategic foresight is a structured and systematic way of using ideas about the future to anticipate and better prepare for change. It is about exploring different plausible futures that could arise, and the opportunities and challenges they could present, then using those ideas to make better decisions and act now.

CURRENT ARRANGEMENTS

The Ministry of the Economy is taking positive steps with the goal of elaborating strategies on future proofing regulation and applying behavioural insights. The focus of the strategy is on business outcomes and currently

does not include important societal and environmental outcomes, such as for gender or under-represented groups, which are also key drivers in promoting better economic outcomes.



Innovation approaches to support future proofing regulation



CHALLENGES

- *Developing and implementing these strategies in an environment of competing priorities and demonstrating the effectiveness of these strategies amongst the outcomes from all the other reforms under way.* The Ministry is taking on a number of ambitious reforms, including the RIA 2020 strategy and the use of artificial intelligence. Collectively all these reforms, strategies and priorities will take up significant resources. This could result in delays or a rushed, under-considered approach for strategies on future proofing and behavioural insights.
- *Implementing strategies on future proofing regulation and behavioural insights will require expert support.* The Slovak Government is in a position of strength, as they have already built analytical units in some ministries that are stocked with experts in various technical fields. Mobilising these experts may provide ready-made and in-house solutions to the initial roll out of both strategies, enabling short implementation periods and faster results.

KEY NEXT STEPS

- **Develop and gain high-level support from senior levels in government for both strategies.** This should include a clear idea which policy areas are most in need of these approaches and should also identify projects that could return early positive returns to demonstrate the effectiveness of these tools.
- **Carefully consider how best to institutionalise and embed these two strategies in the work of the Ministry.** Careful consideration needs to be given towards how these teams are created, and especially how they are embedded in the policymaking process to ensure their work is not isolated or disconnected from real policy development and implementation. Connections should be established with other parts of the administration currently working on foresight or BI to co-ordinate approaches and leverage collective expertise.
- **Consider various approaches to developing expertise and capacity to deliver efficiently on these new strategies.** Internally, explore the opportunity to leverage the expertise of analytical units and consider workshops and capacity building events to introduce and capacitate Ministry officials on the benefits of foresight/anticipatory governance and BI. Externally, the Ministry could consider partnerships with universities or private partners to lend expertise and support.



OECD Regulatory Policy Division

– “Better Regulation for Better Lives”

Since 2009, the OECD Regulatory Policy Committee (RPC) has built a valued reputation in setting standards and reviewing regulatory policy in both OECD and non-OECD member countries. The Committee gives strategic direction to the Organisation’s overall perspective on regulatory policy, and how it can contribute to achieving the Organisation’s broader goals. The OECD Network of Economic Regulators (NER) is an open and unique forum that brings together regulators with responsibilities for communications, energy, transport and water, in addition to other economic, competition, consumer, environment and safety issues. Members share their experiences, discuss challenges, identify innovative solutions, and balance their competing priorities that frame the features of a “world class regulator”.

AREAS OF WORK

Cutting Red Tape and Ex-post reviews

Reviewing the stock of regulations to reduce unnecessary burdens in public administration and make regulations more efficient.

Economic regulators

Share experiences and good practices in economic regulation.

International Regulatory Co-operation

Promoting the co-ordination of regulations and their enforcement among both international organisations and member countries.

Measuring regulatory performance

Assessing the benefits of regulatory reforms for citizens and businesses.

Regulatory Impact Assessment

Integrate RIAs with the development of new regulations.

Regulatory Delivery

Effective and risk-oriented implementation, enforcement and inspections.

Behavioural Insights

Understanding citizen’s behaviours to help design better policies.

Design and layout: baselinearts.co.uk
All images: © shutterstock.com

Environment

Budgets

SMEs



BETTER POLICIES FOR BETTER LIVES

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