

ANALYSIS OF ADMINISTRATIVE BURDENS FOR COMPANIES IN SELECTED SEE COUNTRIES

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Abstract

The institutional framework in which companies have to act establishes the rules of the game. It is limited and controlled by a public administration system, which may be more or less open and contemporary for companies. The aim of this paper is to analyse administrative procedures and costs for companies when dealing with public administration from a theoretical and empirical point of view. The paper's goals are to compare administrative burdens and to find the advantages and weaknesses of administrative systems in selected countries. During a company's operation, from its establishment to its closure, entrepreneurs are constantly exposed to administrative systems and their requirements. They have to carry out different procedures regarding the company's establishment, the hiring and firing of employees, obtaining various licenses, state regulatory statistical and tax reporting, tax burdens etc. Fulfilling all those administrative procedures may negatively impact the establishment and operation of companies in particular countries.

Keywords: public administration, administrative burdens, SEE countries

JEL classification: M16, L51, L53

1. INTRODUCTION

The institutional environment determines the conditions under which companies must operate, from their establishment until their closure. In this paper, we discuss selected aspects of the environment determined by public administration procedures entrepreneurs face throughout the company's lifecycle. Modern and responsive public administration has positively impacted the exploration of business opportunities and served as a supportive environment. In contrast, obsolete and unresponsive public administration further complicates entrepreneurs' life and negatively impacts new business creations as well as companies' successful operation. In general, economic policy-makers have two main ways of promoting entrepreneurship [Van Stel et al., 2007]. First, their actions may be in the di-

rection of low regulation; second, they may be in the direction of high support. Low regulation can direct economic policies in two areas. The first is to enable the business start-up in the quickest, simplest, and most inexpensive way. The second area is to minimize the number and scope of regulations for companies that already operate. Taxpayers actually shoulder the cost of a high level of entrepreneurship support services, which may be in the form of advice, provision of information, education, financial incentives, and subsidies. The policy of less-regulated environments is characteristic for the USA, while the supportive policy is more typical for European countries.

This paper provides an overview of the institutional framework for entrepreneurship and presents the results of an empirical analysis of indicators to measure administrative processes and public administration responsiveness in selected SEE countries compared to the EU average. The paper will conclude with some insights that should be considered for the further development of such public administration that will not hinder the efficient operation of companies.

2. INSTITUTIONAL FRAMEWORK AND ENTREPRENEURSHIP

Entrepreneurship is a scarce resource. Therefore, the way it is utilized is particularly important. Generally, entrepreneurship as a characteristic of the human spirit is not greater in certain countries or regions; its prevalence or lack of it is more about the "channel of entrepreneurial spirit" [Hall, Sobel, 2006], where some countries are more successful than others. The institutional system and rules of the economic system play a major role in channelling this entrepreneurial spirit. It is always possible for economic policy to support the creation and operation of companies, but it has to consider that the effectiveness of support depends on the companies' life cycle, which is represented in Table 1.

Table no. 1 Connections between companies in different stages and possibilities of economic policy

| Entrepreneurship phase | Lowering entry barriers | Lowering barriers for growth and expansion | Providing advice, support and finance from public funds |
|---|--------------------------------|---|--|
| Nascent entrepreneurs from necessity | Strong influence | Weak influence | Strong influence |
| Nascent entrepreneurs from opportunity | Strong influence | Weak influence | Strong influence |
| Entrepreneurs (new and established companies) | Weak influence | Strong influence | Strong influence |

Source: [Van Stel et al., 2007, 172]

It must be understood that companies have different needs and external factors affect them differently, depending on the stage of their life cycle. The establishment and operation of a company needs capital; therefore, the influence of income limit [Fonseca et al., 2007] has to be considered because it can have a negative impact. Additionally, transaction costs (e.g. costs of searching and acquiring information, costs of negotiation and decision making, costs of motivation and execution of agreements, costs of control and performance evaluation, and compliance costs of business activities) can be very important factors for operating companies. Evans and Jovanović [1989] have identified that the richer people are, the more they tend to become entrepreneurs. Lack of wealth restricts people from undertaking entre-

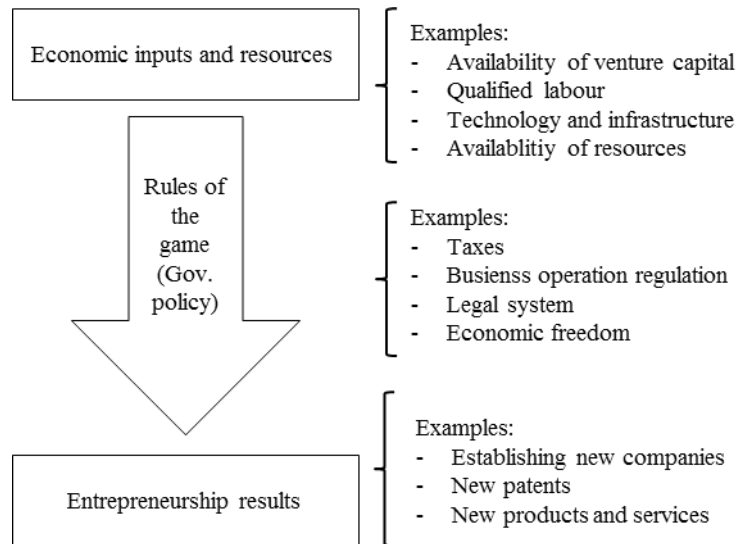
preneurial activities. It follows that the primary interest of financial business support is to remove liquidity constraints and enable people without own resources to become involved in entrepreneurial activities. Therefore, the most appropriate way to support entrepreneurship is to facilitate access to capital. However, this concept was very quickly criticized. Cressy [1999], for example, criticized Evans-Jovanović's model by arguing that taking risks is an important problem that outweighs financial ones. Wealthier people should be more predisposed to entrepreneurial activity because their wealth reduces risk aversion. Therefore, not only is financial support important, but so too are other measures that may reduce the risks of entrepreneurs.

For active companies transaction costs are a very important factor that could affect their operations. Examples of these costs for the relevant business activities are the costs of search and retrieval of information, the costs of negotiation and decision making, motivation costs, control costs, costs of performance evaluation, and compliance costs [Bradač, Rebernik, 2010]. Some of these costs are proportional to the size of the company while others are fixed and therefore independent of company size, which for smaller companies represents a relatively greater burden. Small companies have low negotiating power and are exposed to opportunistic behaviour from their customers, suppliers, local communities, countries, etc. When we think about supporting the growth of companies, a useful platform may also be resource-based theory. According to this theory, policy-makers should establish support that will enable companies to build resources to obtain sustainable competitive advantages, including the creation of isolating mechanisms, such as barriers to imitation (patents, licenses, government procurement preference, etc.) or exploiting first-mover advantage (experience curve, network externalities, reputation of the company).

The policy affects the level of business in a society in two ways [Sobel et al., 2007]. The first is it shapes the quality and quantity of inputs for the entrepreneurial process; the second is it shapes the institutional framework that provides the "rules of the game." However, the key question is always, at whom are different incentives aimed? It is important not only to influence the number of companies, but primarily their quality. Influence on the institutional framework takes place over the entire set of laws, rules of a competitive market, government intervention, the legal system, tax rules, and others. Those are the factors that direct individuals to decide to engage in (or discourage) different types of entrepreneurship: productive, unproductive, or destructive [Baumol, 1990; Baumol, 1993]. Creative people will get involved in productive entrepreneurship in countries that ensure property rights, a fair and balanced legal system [Sobel et al., 2007] and appropriate implementation of contracts. This is in contrast to countries with incomplete and inadequate institutions, where more people will engage in unproductive or destructive entrepreneurship. The more unregulated the institutional structure is and the slower and more unresponsive the public administration is, the greater the chances that companies will be directed towards maintaining the status quo instead of innovation, growth and internationalization.

However, unresponsive public administration brings an additional risk. The entrepreneurial process represents permanent Schumpeterian creative destruction and recombination of resources and is largely based on the principle of "attempt - error" [Zahra et al., 2006; Clark, Dwight, 2006; Sobel et al., 2007]. Therefore, resources have to be free for entrepreneurial activity and should not be burdened by numerous administrative obstacles and processes, which have negative impacts on entrepreneurs' core mission, namely the manufacturing and provision of products and services customers are willing to purchase. Therefore, the effectiveness of the entrepreneurial process depends not only on successful

products and services, but also on how quickly failures are identified and inefficient combinations of resources are eliminated to make room for more successful combinations. The more bureaucratic and politicised an economic system is, the less effective it is. In a strong economy there will always be huge dynamics involving new companies and their failures. Figure 1 represents the elements of the entrepreneurship process named the “rule of the game” that have important impacts on the outcomes of the entrepreneurship process [Hall, Sobel, 2006]. They represent the framework in which the entrepreneurship process can take place and can accelerate or hinder it.



Source: [Hall, Sobel, 2006, 4]

Figure no. 1 Entrepreneurship process

Many examples exist of the elements of the “rules of the game” that hinder entrepreneurship. One of them is the administrative barrier to workforce flexibility. The information obtained in the Global Entrepreneurship Monitor [Rebernik et al., 2010] suggests that in countries with more strict legislative protection of employment, there are fewer entrepreneurs with a high potential for job creation. Extensive legislative protection of work has made the creation of new jobs more difficult. At the same time, it is more risky for experienced individuals to leave their existing (protected) employment and to start new ventures. Both factors contribute to increased rigidity of the economic system and consequently to less competitiveness.

Scarcity of entrepreneurial talent should be a motivation to exploit it as efficiently as possible and to focus on innovative, development-oriented companies. What can be done to help people with entrepreneurial aspirations (nascent entrepreneurs) to realize their plans? Why do people who have plans to develop a company (increased employment, market share, and revenue) fail to accomplish that? The answers to these questions, unfortunately, are not known in detail in either theory or practice, and even less in the latter. However, the fundamental frameworks that encourage or hinder them are known. Rigid and unresponsive public administration certainly has hindering effects. Even Adam Smith wrote in *The Wealth of Nations* over 230 years ago that the fact that “a rise from the lowest barbarism to

the highest level of affluence, not need much else than peace, moderate taxes and a tolerable matter of legal system (tolerable administration of justice) – the rest comes naturally” [Aghion, Durlauf, 2005].

A national policy influences the development of an economy in three ways [Nikolić et al., 1998]: first, by the legislative system which establishes a regulatory mechanism; second, by the development process at national level through various short- and long-term economic policy measures; and third, by encouraging entrepreneurship in the public sector. However, companies have their life cycle from inception to closure and need support from the public administration to lessen administrative obstacles and to encourage entrepreneurship. Below is an empirical analysis of selected indicators of administrative procedures in public administration.

3. EMPIRICAL ANALYSIS OF ADMINISTRATIVE BURDENS IN SELECTED SEE COUNTRIES

To help the European Union achieve its goals of becoming the most competitive economy, the European Commission implemented several initiatives. The measurement and evaluation of initiatives' effects are done mostly on an annual basis by different systems of indicators. We used several indicators from the World Bank's database *Doing Business 2011* [Doing Business Data, 2011] to evaluate public administration procedures applied to companies in different stages of their life cycle in selected SEE countries (Slovenia, Croatia, Bosnia and Herzegovina, Serbia, Montenegro and FYR Macedonia). The life cycle of companies was divided into three steps, namely (1) starting a company, (2) operating a company, and (3) closing a company. In this paper we analyse the first two steps of the life cycle, which are summarised in Table no. 2.

Table no. 2 Overview of indicators, measuring administrative procedures in the public administration of companies

| Starting a company | Operating a company | | |
|---|--|--|--|
| | Trading across borders | Registering property | Enforcing contracts |
| <ul style="list-style-type: none"> • Procedures • Time • Cost • Minimum capital | <ul style="list-style-type: none"> • Documents to export • Time to export • Documents to import • Time to import | <ul style="list-style-type: none"> • Procedures • Time • Cost | <ul style="list-style-type: none"> • Procedures • Time • Cost |

Source: [own]

3.1. Analysis of administrative procedures in public administration on starting a company

Starting a company and its operation require the entrepreneur to deal constantly with public-administrative procedures and costs. The establishment of a company is associated with these procedures and continues throughout its life cycle. Administrative procedures during a company start-up are measured by the number of procedures, time, costs and minimum capital required. Definitions of these indicators are as follows [Doing Business (d), 2011]:

- *Number of procedures needed to establish a company* is defined as any interaction of the company founders with external parties (for example, government agencies, lawyers, auditors or notaries). Interactions between company founders or company officers and employees are not counted as procedures. Procedures that must be completed in the same building but in different offices are counted as separate procedures. If founders have to visit the same office several times for different sequential procedures, each is counted separately.
- *Time* is measured in calendar days. The measure captures the median duration that incorporation lawyers indicate is necessary to complete a procedure with minimum follow up with government agencies and no extra payments. It is assumed that the minimum time required for each procedure is one day. Although procedures may take place simultaneously, they cannot start on the same day (that is, simultaneous procedures start on consecutive days). A procedure is considered completed once the company has received the final documents.
- *Cost* is measured as a percentage of the economy's income per capita. It includes all official fees and fees for legal or professional services if such services are required by law. Fees for purchasing and legalizing company books are included if these transactions are required by law. The company law, the commercial code and specific regulations and fee schedules are used as sources for calculating costs.
- *Paid-in minimum capital requirement* reflects the amount that the entrepreneur needs to deposit in a bank or with a notary before registration and up to three months following incorporation and is recorded as a percentage of the economy's income per capita. The amount is typically specified in the commercial code or the company law.

Table no. 3 represents the results of the above-mentioned indicators by selected SEE countries and the EU average for 2011.

Table no. 3 Administrative demands in public administration on starting a company by country

| Country | Procedures (number) | Time (days) | Cost (% of income per capita) | Min. capital (% of income per capita) |
|------------------------|---------------------|-------------|-------------------------------|---------------------------------------|
| Bosnia and Herzegovina | 12 | 55 | 17,7 | 30,5 |
| Croatia | 6 | 7 | 8,6 | 13,7 |
| FYR Macedonia | 3 | 3 | 2,5 | 0 |
| Montenegro | 7 | 10 | 1,9 | 0 |
| Serbia | 7 | 13 | 7,9 | 6 |
| Slovenia | 2 | 6 | 0 | 45 |
| EU average | 6 | 15 | 6 | 18 |

Source: [Doing Business Data, 2011]

Among the countries investigated, Bosnia and Herzegovina require the most procedures to establish a company, while Slovenia and FYR Macedonia require the least. The

latter two countries' requirements are also under the EU average. The time needed to establish a business is also highest in Bosnia and Herzegovina while all the other countries are under the EU average. Costs of starting a company are also highest in Bosnia and Herzegovina, while in Slovenia there are no additional costs for establishing a company. The last indicator is the required minimum capital, which is highest in Slovenia, while in FYR Macedonia and Montenegro it is not needed. In previous years almost all countries (except Bosnia and Herzegovina) opened one-stop shop systems and eliminated several procedures for establishing companies. Among the countries in the above table, Serbia did the most to ease the process of establishing a company in the past few years, which significantly increased the number of registered companies. This shows that each indicator is an important part of the number of established companies in an economy. However, starting a company is a unique event, while operating one takes time and is more important from this point of view.

3.2. Analysis of administrative procedures in public administration on starting a company

During the second phase of the life cycle (operating), companies are confronted with even more administrative procedures and expenses than in the first phase. We analysed three groups of indicators that measure administrative procedures, namely (1) trading across borders, (2) registering property, and (3) enforcing contracts.

Analysis of administrative obstacles to international trading

International cooperation is an important prerequisite for company growth, especially in smaller economies, and depends on national conditions enabling cross-border trading. Several indicators can be used to measure the extent to which administrative procedures serve as barriers to international trading. We selected the following four [Doing Business (e), 2011]:

- *Documents for export or import:* All documents required for shipping exports and imports are recorded. It is assumed that the contract has already been agreed upon and signed by both parties. Documents required for clearance by government ministries, customs authorities, port and container terminal authorities, health and technical control agencies and banks are taken into account.
- *Time to export or import:* The time taken for exporting and importing is recorded in calendar days. The time for a procedure is calculated from the moment it is initiated until it is completed. If a procedure can be accelerated for an additional cost and is available to all trading companies, the fastest legal procedure is chosen.

Table no. 4 represents the results of the above-mentioned indicators by selected SEE countries and the EU average.

Table no.4 Administrative demands in public administration on start up of a company by country

| Country | Documents to export (number) | Time to export (days) | Documents to import (number) | Time to import (days) |
|------------------------|------------------------------|-----------------------|------------------------------|-----------------------|
| Bosnia and Herzegovina | 5 | 16 | 16 | 7 |
| Croatia | 7 | 20 | 8 | 16 |
| FYR Macedonia | 6 | 12 | 6 | 11 |
| Montenegro | 6 | 14 | 6 | 14 |
| Serbia | 6 | 12 | 6 | 14 |
| Slovenia | 6 | 19 | 8 | 17 |
| EU average | 5 | 12 | 5 | 12 |

Source: [Doing Business Data, 2011]

The results show that in each country, including the EU average, more documents or an equal number are required for imports as opposed to exports. In general, time to import and export is higher in Croatia and Slovenia than in other countries. The time to import is very high in Bosnia and Herzegovina although they made reforms in 2008 to simplify international trade. Additionally, Montenegro and FYR Macedonia successfully implemented measures to simplify procedures and shorten time, while other countries have not implemented special successful measures in this area.

Analysis of administrative obstacles on registering property

Registering property includes various procedures, and involves time and costs. Three indicators are used to measure these procedures [Doing Business (c), 2011]:

- *A procedure* is defined as any interaction of the buyer or the seller, their agents (if an agent is required legally or in practice) or the property with external parties, including government agencies, inspectors, notaries and lawyers. Interactions between company officers and employees are not considered. All procedures that are required legally or in practice for registering a property are recorded, even if these procedures may be avoided in exceptional cases. It is assumed that the buyer follows the fastest legal option available and used by the majority of property owners.
- *Time* is recorded in calendar days. The measure captures the median duration that property lawyers, notaries or registry officials indicate is necessary to complete a procedure. It is assumed that the minimum time required for each procedure is one day.
- *Cost* is recorded as a percentage of the property value, assumed to be equivalent to 50 times income per capita. Only the official costs required by law are recorded, including fees, transfer taxes, stamp duties, and any other payment to the property registry, notaries, public agencies or lawyers.

Table no. 5 provides the results of administrative procedures and costs associated with registering property in selected SEE countries and the EU average.

Table no. 5 Administrative procedures and costs of registering property by country

| Country | Procedures (number) | Time (days) | Cost (% of property value) |
|------------------------|---------------------|-------------|----------------------------|
| Bosnia and Herzegovina | 7 | 33 | 5,3 |
| Croatia | 5 | 104 | 5 |
| Macedonia FYR | 5 | 58 | 3,2 |
| Montenegro | 7 | 71 | 3,3 |
| Serbia | 6 | 91 | 2,7 |
| Slovenia | 6 | 113 | 2,1 |
| EU average | 5 | 35 | 5 |

Source: [Doing Business Data, 2011]

The results show that costs and number of procedures are comparable in all countries, while there are major differences in time, which is an important issue in registering property. The worst situation is in Slovenia (113 days) and in Croatia (104 days). However, all other countries except Bosnia and Herzegovina (33 days) perform better than the EU average (35 days). Although all countries implemented measures to shorten and reduce administrative procedures on this issue, including implementation of electronic systems, it is still not optimal and needs further improvements, especially reducing time.

Analysis of administrative obstacles to enforce contracts

Administrative procedures and costs indicators of enforcing contracts measure the efficiency of the judicial system in resolving a commercial dispute. Administrative procedures in enforcing contracts are measured by the following indicators, which are defined as follows [Doing Business (b), 2011]:

- *A procedure* is defined as any interaction required by law, or commonly used in practice, between the parties or between them and a judge or court officer. This includes steps to file and serve the case, steps for trial and judgment and steps necessary to enforce the judgment.
- *Time* is recorded in calendar days, and is counted from the moment the plaintiff decides to file a lawsuit in court until payment. This includes both the days when actions take place and the waiting periods between. The average duration of different stages of dispute resolution is recorded and includes: the completion of service of process (time to file and serve the case), the issuance of judgment (time for the trial and obtaining the judgment) and the moment of payment (time for enforcement of judgment).
- *Cost* is recorded as a percentage of the claim, assumed to be equivalent to 200% of income per capita. No bribes are recorded. Three types of costs are recorded: court costs, enforcement costs and average attorney fees.

Results of the above-mentioned indicators for selected SEE countries and the EU average are provided in Table no. 6.

Table no. 6 Administrative procedures and costs of enforcing contracts by country

| Country | Procedures (number) | Time (days) | Cost (% of claim) |
|------------------------|----------------------------|--------------------|--------------------------|
| Bosnia and Herzegovina | 37 | 595 | 40,4 |
| Croatia | 38 | 561 | 13,8 |
| FYR Macedonia | 37 | 370 | 33,1 |
| Montenegro | 49 | 545 | 25,7 |
| Serbia | 36 | 635 | 28,9 |
| Slovenia | 32 | 1290 | 12,7 |
| EU average | 32 | 549 | 21 |

Source: [Doing Business Data, 2011]

Similarly to the issue “registering property” the time to enforce contracts differs among countries, while the number of procedures and costs of all countries are comparable. FYR Macedonia (370 days) is the most effective with regard to time, and is well below the EU average (549 days). All other countries perform much worse than the EU average. Leading the pack of poor performers is Slovenia, which requires 1,290 days to enforce a contract. FYR Macedonia is the only country recorded as having implemented some measures to improve this area of public administration in the past three years. Among these measures was the good practice of “sustained multitasking” [Doing Business (a), 2011]. This area of company operation is important because it can have a major impact on entrepreneurship dynamics, because unsolved commercial disputes can prevent the further successful operation of a company.

5. CONCLUSION

This paper provides an insight into the administrative procedures in public administration for companies during their whole life cycle by providing the results of empirical analysis among selected SEE countries compared to the EU average.

First we analysed the administrative demands of establishing a company. Almost all the countries cited in the study implemented most of the initiatives and conditions required for establishing a company. However, establishing a company is a one-off act and it is rather the administrative procedures and costs involved in operating companies that are more important because they affect business on a daily basis. Nevertheless, as our study of administrative procedures and costs shows, the countries analysed did not make as much effort to improve the conditions for operating a company as they did for starting a company. The first domain we analysed was international trading, in which almost all countries were able to improve conditions to lessen the number of procedures and to shorten the time to import or export goods. Fostering international operations of companies positively impacts their growth; therefore in the future all countries should implement additional measures to improve conditions for international trade. Concerning the other two domains, registering property and enforcing contracts, the main challenge is to improve the time it takes to perform these functions. Almost all countries should shorten the time needed to register a property and to enforce a contract, while the other two indicators, namely procedures and costs, are less critical issues.

It can be concluded that the countries analysed still have to improve conditions regarding administrative procedures and reduce their costs. However, national economies have to find an appropriate level of administrative procedures and costs to foster entrepreneurial activity and at the same time to retain a suitable minimum level of administrative procedures to ensure institutional protection and overview.

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