



Reducing the Time to Start a Business Lessons from Serbia

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Executive Summary:

Persuaded by numerous donor-sponsored assessments highly critical of existing procedures, the Serbian government undertook radical reforms of its business registry systems. The reforms, which were driven by local experts with financial and technical assistance from donor agencies, included a new legislative framework and the establishment of a new business registration agency (SBRA). As a result of the efforts, the time necessary for starting a business has been significantly reduced, and Serbia's Doing Business ranking in this area makes it the second-highest ranked among nine Southeast European countries .

Introduction

The business registration process is the first bureaucratic hurdle in becoming an entrepreneur. It is essential, therefore, that this process be simple and inexpensive so that it is not a barrier to entry.

During its first year of operation, the Serbian Business Registry Agency (SBRA) reportedly registered almost 11,000 new companies, an increase of 70 percent over the previous year. This remarkable success is due to the reform efforts initiated in 2002, which led to a radical restructuring of the business registration process, including a new legislative framework and the establishment of a new agency. As a result, in addition to the dramatic increase in the volume of registrations, the time necessary for starting a business was reduced from 51 days in 2004 to 18 days in 2005.

While donor assistance was important in these efforts, much of the success is attributed to the persistence of the Inter-ministerial Working Group appointed by the Minister of Economy and Privatization, the driving force behind these reforms.

Context

For decades, procedures for starting a business in Serbia were time-consuming and burdened with unnecessary bureaucratic hurdles—the rules that were inherited from the Communist were not business friendly. The minimum capital requirement of US \$5,000 for starting a limited liability company, the need to perform inspections before a company could start operating, and the need to check every document by commercial courts were some of the biggest problems for starting a business in Serbia.

In addition, the registration system was highly decentralized with 16 commercial courts in charge of the registration of enterprises and 131 municipalities dealing with the registration of entrepreneurs. The practice was so inconsistent that even the same courts had different procedures. As one lawyer said, "I even had to file the same form to the same court in 15 different ways depending on what judge handled my registration."

A series of reports from USAID, GTZ, the European Union (EU), and the World Bank pinpointed business registration as a serious problem. As a result, during 2001 and 2002



there was a growing consensus that something had to be done. Finally, a report for the Ministry of Economy and Privatization, financed by the World Bank, prepared recommendations for reforming Serbia's enterprise registration system. The Jacobs Report, as it was commonly known, formed the basis for the reform.

Approach

In mid-2002 the Ministry of Economy and Privatization (which oversaw both registration and company law) commissioned Jacobs & Associates, a firm suggested by the World Bank, to review the system and make recommendations. The Jacobs Report, delivered in August 2002, recommended the "radical" step of creating a new agency with a unified registration and data system. The Jacobs Report design was extensive and fully detailed, which proved helpful later in meeting arguments of opponents who asserted that a new agency was impractical and that reforms could be undertaken within the courts.

Next, Minister of Economy Alexandar Vlahavic appointed two working groups. One was a core group of five members charged with recommending strategy and actually drafting a new law. The World Bank assisted in selecting these persons based on their expertise. The second was a wider group for consultation and vetting of ideas. This larger group included representatives from several other ministries, judges, the Statistics Office, the Chamber of Commerce, and donors.

The core group promptly prepared a set of policy principles following the recommendations of the Jacobs Report. This strategy served two functions: it provided a set of guidelines for the continuing work and a legitimacy against opposition. To further the principles, the core group and the Jacobs Report organized a two-day workshop, with presentations by registry officials from Ireland and Italy, selected as good examples of recent reform. The private sector was included in these workshops on a broad scale.

Opposition over the "new agency" issue arose and was given full voice at three more workshops organized by the core group and held in March 2003 in Belgrade and Novi Sad. The most vocal opposition was from the Ministry of Justice and the courts, which stood to lose functions, jobs, and funding. They argued that the reforms could be accomplished within the court system. To sup-

port this contention, the Ministry of Justice began a project (at some expense) to develop new software for an improved registration system in the courts. Doubts about a new agency were also expressed by GTZ, the German aid agency. (Germany is one of few countries with developed capital markets where company registration is still in local courts.) Further, the Chamber of Commerce, seeing the possibility of handling company registration itself, opposed the reforms.

At this point force majeure intervened with the assassination of Prime Minister Zoran Djindjic in March 2003, followed by a long slowdown in government activity. (A new government was elected in December 2003 and finally established in March 2004.) During this "limbo" period, although continued ministry support was basically passive, the core group's steadiness kept the project alive. One important step forward did occur: in June 2003 the government adopted the core group's principles. However, about a year was lost from the group's initial timetable: June 2003 had been the target date of passage of the new registration law with start-up of the new agency in January 2004.

Components of the Reform

The reform had two main elements. The first was a radical change of the legislative framework, and the second was the establishment of the SBRA to make the new system work in practice. Three laws were adopted—the Law on the Business Registration Agency, the Law on the Registration of Business Entities, and the Company Law. The first two laws established the SBRA and radically changed the procedure for registering companies. The two laws also moved the process from the commercial courts and municipalities to the SBRA, using the Irish system as a model. The decision was to establish a new agency that would not be burdened with old habits and inertia. The system was centralized and accessible via the Internet, leading to far greater legal certainty. As one interviewed attorney said: "Now I can check in a few minutes if a company exists, what is the address and who is authorized to represent them. Before, I had to go to the court for each inquiry."

The system also provided standard forms that are available online and designed to be simple enough to be filled out and filed without a lawyer. In addition, the system allowed for creation of a unique tax identifying number (TIN) for each business that serves all government needs,

including company registration, pension, social security, customs, tax, and other purposes (this has yet to be fully implemented). The laws also allowed businesses to start activities immediately after registration, even though additional permits and licenses may be needed for specific activities.

Another very important change was the introduction of a deadline of five days for the SBRA to register a company. If no decision is made in five days, the applicant is by law free to begin business operations. This is a significant change because in Serbian law generally, if a relevant administrative body does not respond within a proscribed time frame (called "silence of the administration"), the decision is negative.

In drafting the new Company Law, the decision was also to create something new—a law more suitable for a market economy—rather than amend a 1996 law. The new Company Law reduced the minimum capital requirement for limited liability companies (which represent 90 percent of all companies in Serbia) from US \$5,000 to 500 Euros and eased requirements for the establishment of companies by making the rules more flexible.

Costs of the reform. While the Company Law was prepared with mostly local expertise, international donor contributions overall were important sources of financing for the reforms. For example, in April 2003 the Serbian government adopted the principles of reform outlined in the Jacobs Report to meet requirements for a World Bank loan. In 2004 donors in Serbia included reform of the business registration on a list of 10 priorities for the new Serbian government. The Swedish International Development Agency (SIDA) made the biggest contribution, 1.4 million Euros administered by the World Bank. USAID donated US \$150,000 for computer equipment. In addition, the World Bank funded a great deal of consultancy work, and Microsoft Corporation donated provisional software and other essential and timely support. In total, the cost of reform was around 2 million Euros (US \$2.3 million). Of particular note, after an initial period of donor assistance, the SBRA became a fully self-financing institution, largely through registration fees.

During the implementation phase of the laws, a crisis occurred in the second half of 2004 when it became apparent that needed software and hardware would not arrive in time. As Andreja Marusic

from the Council for Regulatory Reform described, "It was clear that we were running out of time. We had two options—to postpone the start of the SBRA for a year and risk further delays compromising the reform or start as planned and try to fix the problems as they come." The decision was made to continue with the start-up, thanks to a donation from USAID and Microsoft of hardware and provisional software. The SBRA began operations at the beginning of January 2005 and became the only entity for business registration in the country.

Once the SBRA was operational, its biggest challenge was the reregistration of existing companies. In the end, almost 70,000 companies were reregistered. Reregistration was a big task in terms of workload, and was made bigger by obstruction from the commercial courts. In addition, the physical space of the SBRA was inadequate. Moving to new facilities in 2007 was to have solved this.

Results

The effects of the reform were felt almost immediately. The new system was a radical change, with a focus on customer service and user friendliness. The forms for registration are being constantly improved to reduce the time needed for completion. The time necessary for starting a business was reduced from 51 days in 2004 to 18 in 2005. In contrast with the very decentralized and inconsistent practices of the commercial courts, the new system is centralized with Internet access to all registration data. To achieve unified practice, only one person in the SBRA—the Registrar—has final authority and the power to interpret the relevant laws. This increases legal certainty and enables uniformity across the board.

During the first year of operation, SBRA registered almost 11,000 new companies, which was 70 percent more than in 2004, and has had the beneficial effect of shrinking the informal sector.

Operational Issues of Registration Law Reforms

Although all interviewees agreed that the reforms were highly successful, they also described problems with the new agency. These include:

- Delays in scanning the old court records into the new system (partly due to court slowness), in establishing the unique number system, and in getting electronic filing established);
- Backlog in reregistrations;

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- Inconsistencies between registry procedures and other laws and procedures;
- Changes in the agency's interpretations of some of its rules; and
- Inadequate training and task assignment of agency personnel.

All interviewees agreed that the new law is an immense improvement, acknowledging that issues remain to be resolved. Many were negative about the 500 Euros minimum capital requirement for LLCs. While low enough not to seriously deter business start-up—and too low to give any protection to creditors—500 Euros is also high enough to be a real nuisance, especially because the registry requires the amount in cash evidenced by a bank receipt.

Conclusions

Achieving political support from the policy makers as soon as possible and creating broad political consensus are important to avoiding the illegitimate influence of various interest groups and opponents. If such a reform is done again, a helpful step would be earlier adoption of the principles of reform to prevent delays and limit opposition, especially from the courts and the Ministry of Justice. At the same time, if the implementation of a reform is assigned to a professional and nonpolitical body, chances that the reform will survive governmental or other political changes increase significantly. Assigning reform coordination to an interministerial working group, such as the Council for Regulatory Reform, proved to be very successful as it provided coordination between various ministries that otherwise might be in conflict.

Another important lesson is that reforms should not be delayed because everything is not completely determined ahead of time. Many issues can be and are better addressed during the process. If the reform process takes too long, there is a risk of losing momentum.

While somewhat extreme, in this case, creating an entirely new institution with new specially trained, more capable, and well-paid staff helped to avoid the history and controversy associated with prior institutions. Other options for a new Serbian business registration system were based on using existing institutions with modifications in procedure, but it is doubtful this would have brought about the needed levels of change.

Another important lesson learned is the need for good coordination among various reforms and legislation changes. For example, one problem with the new system in Serbia is that a proper electronic filing of the registration documents cannot be completed because the Law on Electronic Signatures is not operational. In other cases, laws that were adopted were not compatible with business registration rules.

In terms of donor involvement, start-up of the SBRA was almost delayed for a year because the deadlines in the law were not compatible with World Bank procurement procedures. As such, better understanding of and coordination with the procurement procedures of donor organizations would have been beneficial.

Last, once the system is functional, reforms and process improvements should continue and efforts should be made to eliminate any delays in processing registration. For example, it is still not possible to acquire the TIN at the SBRA, it is still not possible. At present, the Tax Administration is now scrutinizing TIN applications more closely as it has become more sophisticated and sensitive to various forms of tax fraud. Increased scrutiny from the Tax Administration and its legitimate concerns for tax fraud should not delay business registration, which is why continuing efforts to improve cooperation between SBRA and other relevant agencies is important and necessary.

The business registration system in Serbia could be implemented in other countries. The Serbian system is not unique and was designed with European best practices in mind, and the Irish model in particular. The Serbian example could be especially valuable for neighboring countries that share similar problems and challenges.

As a result of the reform, for the year 2005, Serbia was ranked 43rd worldwide in the Doing Business survey, making it the second-highest ranked among nine Southeast European countries. For 2006, although all parameters stayed unchanged, other countries improved their performances, which meant Serbia moved backward. However, Serbia is still second in the region and 60th overall. If Serbia were able to achieve further improvements, in particular with respect to tax-related procedures, it could reduce the days needed for starting a business to close to 10 days and improve its ranking.