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POLAND STRUCTURAL POLICIES FOR COMPETITIVENESS



POSITION PAPER
REGULATORY POLICY





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List of abbreviations

BRE	Better Regulation Executive
CIT	corporate income tax
EBA	Enabling the Business of Agriculture
EU	European Union
FDI	foreign direct investment
IA	impact assessment
MP	Member of Parliament
NQI	national quality infrastructure
OECD	Organization for Economic Co-operation and Development
OIRA	Office of Information and Regulatory Affairs
PIT	personal income tax
PDF	Polish Development Fund
PMR	product market regulation
R&D	research and development
RIA	regulatory impact assessment
ROB	regulatory oversight body
RPC	Regulatory Policy Committee
SEZ	special economic zone
SME	small and medium enterprise
SOE	state owned enterprise
SRD	Strategy for Responsible Development

EXECUTIVE SUMMARY

Since 1989, Poland's remarkable economic performance has led to an unprecedented improvement in living standards. The country has been the fastest growing economy in Europe and worldwide (among countries at a similar level of income) and has immensely benefitted from EU membership. Access to structural funds has helped to enhance the country's human and physical capital and connect Polish citizens and firms with the rest of Europe.

The Strategy for Responsible Development (SRD), the government's main policy document, acknowledges Poland's achievements and identifies reindustrialization, innovation, and efficiency in the administration as key priorities for the country's future development. Sound institutions and effective processes to regulate interactions among citizens, firms and the State are key to realize the Strategy's priorities. Regulations that are proportionate and meet clear objectives are fundamental to encourage domestic and foreign investment, increase competition in product markets, support SME development and guarantee effective delivery of public services to citizens and firms.

The SRD recognizes that the quality of regulation plays a central role in promoting entrepreneurial activity and supporting an efficient administration. In recent years, however, increasing legal uncertainty, limited use of evidence in the regulatory process and low transparency in the preparation of laws and regulations have risked undermining regulatory quality and the trust of citizens and firms. Adopting a comprehensive and well-defined strategy for "better regulation" would help introduce international good practices and ensure that the standards followed in the preparation and implementation of regulations translate into good regulatory outcomes.

This Position Paper takes stock of recent developments in regulatory policy in Poland. Based on the priorities of the SRD, it identifies topics of potential engagement between the World Bank and the Government. These are grouped under two broad areas: A) regulatory management and reform; and B) regulatory compliance and enforcement (Table A).

Engagement in **regulatory management and reform** could include (i) renewal of a Better Regulation Program at the center of the government with the expanded use of impact assessments; (ii) improving the management of the stock of regulations, with administrative simplification to reduce the burden on businesses and ex post evaluation of regulatory frameworks to ensure their adequacy for Poland's current needs; (iii) developing capacities at lower levels of government to ensure regulatory coherence and coordination, for instance, in the implementation of the Poland Investment Zone project; and (iv) developing complex regulatory reform in selected sectors identified as strategic in the SRD.

Engagement in **regulatory compliance and enforcement** could include (i) expanding and deepening current World Bank engagement in inspections reform, with a focus on improving the institutional set-up (ii) streamlining licensing and permitting systems, which would serve to reduce the regulatory burden for SMEs.

Table A. Potential World Bank engagement

Reform Area	Activities	Indicative Deliverables	Possible Results	
A. Regulatory management and reform	A.1. Renewal of a Better Regulation Program at the center of the government	<ul style="list-style-type: none"> • Preparation of a national Better Regulation Strategy • Implementation of a Regulatory Impact Assessment (RIA) system • Capacity building on evidence-based decision making 	<ul style="list-style-type: none"> • Recommendations for a National Better Regulation Strategy • Recommendations for a RIA system • Capacity building activities 	<ul style="list-style-type: none"> • Implementation of a National Better Regulation Strategy • Systematic use of evidence-based decision-making through RIA • Trained staff in ministries to conduct RIA and promote better regulation practices
	A.2. Managing the stock of regulations	<ul style="list-style-type: none"> • Implementation of ex post RIA for regulations affecting business • Streamlining and simplifying administrative procedures to do business 	<ul style="list-style-type: none"> • Ex post RIA reports on regulations affecting business • Recommendations on simplification of administrative procedures related to business 	<ul style="list-style-type: none"> • Revised regulations to do business • Friendlier procedures to do business in Poland
	A.3. Developing capacities for regulatory management at lower levels of government	<ul style="list-style-type: none"> • Diagnosis of regulatory delivery at local levels of government • Action plan to introduce a Better Regulation Agenda at the local level • Capacity building with local level authorities 	<ul style="list-style-type: none"> • Report on regulatory delivery at local levels of government • Recommendations for a Better Regulation Agenda at the local level • Capacity building activities with local level authorities 	<ul style="list-style-type: none"> • Implementation of a Better Regulation Agenda at the local level • Improved capacities at local levels to deal with regulations
	A.4. Development of complex regulatory reform in selected sectors	<ul style="list-style-type: none"> • Examination of current policy goals and applicability of existing policy instruments • Preparation of changes to legislation proposal • Establishment of a sector-specific RIA framework 	<ul style="list-style-type: none"> • RIA Reports with recommendations on regulatory changes in selected sectors 	<ul style="list-style-type: none"> • Improved regulatory frameworks in selected sectors

Reform Area	Activities	Indicative Deliverables	Possible Results	
B. Regulatory compliance and enforcement	B.1. Inspections reform	<ul style="list-style-type: none"> • Diagnosis of the current status of inspections • Improvement of the institutional set-up for inspections • Introduction of a risk-based approach to inspections 	<ul style="list-style-type: none"> • Diagnosis report with recommendations on how to reform inspections • Report to introduce a risk-based approach to inspections 	<ul style="list-style-type: none"> • Improved inspections system in Poland • Inspections conducted based on risk
	B.2. Support for SMEs	<ul style="list-style-type: none"> • Simplification of regulations and administrative procedures (licenses and permits) • Capacity building for a proper regulatory impact assessment and implementation of SME test framework 	<ul style="list-style-type: none"> • Report on simplification of regulations and administrative procedures (licenses and permits) • Capacity building activities on the SMEs test and RIA 	<ul style="list-style-type: none"> • Streamlined licenses and permits for SMEs • Proper use of the SMEs Test as part of the RIA process

INTRODUCTION

Regulatory policy is essential for economic growth and social welfare. Regulations are the rules set by the State to govern the daily life of citizens and businesses. Regulatory policy, the prerogative to establish these rules, is a key lever of State power. In an environment with limited scope for fiscal and monetary policy adjustments, altering the incentives of economic agents with appropriately designed and enforced regulations can be an effective way to promote economic growth, social welfare and other policy goals.¹

Poland has made progress in improving the quality of its regulatory processes but important challenges remain. High quality regulations are essential for a sound legal framework based on certitude, legality and transparency.²³ The Polish economy could benefit from additional efforts to make regulatory frameworks more efficient, transparent, effective and proportionate since the institutions and processes of regulatory policy are essential for business competitiveness and citizens' trust.

The Strategy for Responsible Development (SRD) recognizes the importance of regulation to stimulate economic activity in Poland. As the main policy document for economic transformation, the SRD identifies shortcomings in the current development model and makes proposals on how to address them. The Strategy offers a good starting point to identify areas in which the World Bank could engage with the Government of Poland to further support the efforts to strengthen a sound regulatory environment for business. This Position Paper aims at: (i) assessing some of the current efforts made by the Government of Poland in terms of regulatory policy, particularly affecting business; and, (ii) identifying areas of potential engagement between the World Bank and the Government of Poland.

1. OECD (2010).

2. OECD (2015).

3. OECD (2011).

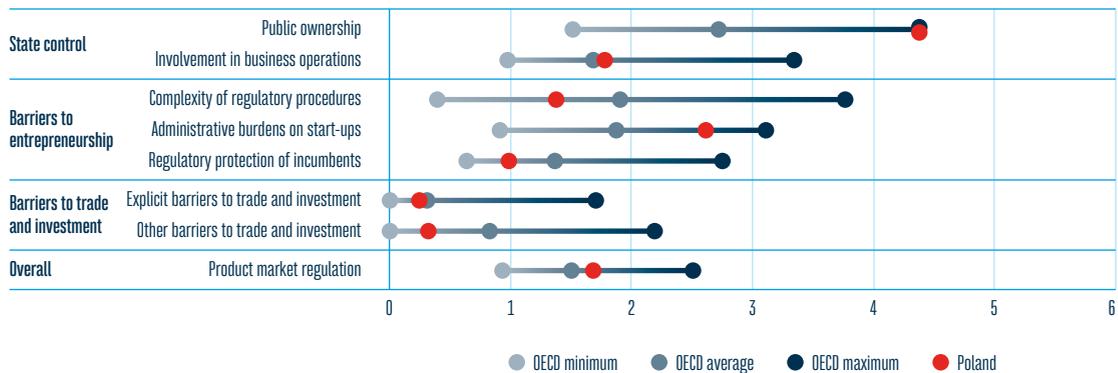
1. REGULATORY POLICY IN POLAND

Poland’s economic performance over the last two decades has been impressive. Sustained economic growth has led to considerable social achievements, reflected in sustained poverty reduction, good education outcomes, and increased life expectancy.⁴ The SRD, while acknowledging these successes, identifies a number of challenges that need to be addressed in the next phase of Poland’s development. In this context, the quality of laws and regulations and their impact on business operations emerge as critical elements of a successful reform strategy.

Poland’s economy is more heavily regulated than the OECD average. According to the OECD indicators of product market regulation (PMR), State control is pervasive, with the degree of public ownership and of direct involvement of the State in the business operations of SOEs above the OECD average (Figure 1). The State also plays a relevant role in regulating business activities, with the prevalence of a command-and-control regulatory approach. This is likely a reflection of Poland’s recent history, with the legacy of central planning still present, despite the fast deregulation that followed the transition, the creation of legal instruments and regulatory systems for a market economy, and their subsequent adaptation to the EU acquis before Poland joined the EU in 2004.⁵

Figure 1. Poland in relation to the OECD Product Market Regulation Indicators, 2013

Scale 0-6 from least to most restrictive



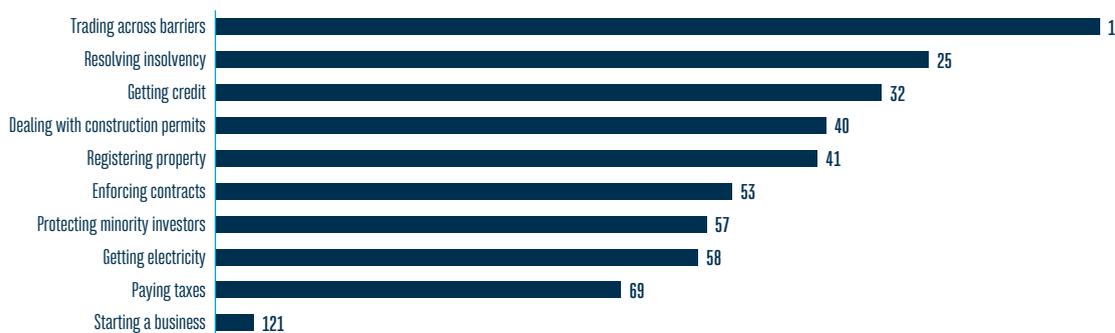
Source: OECD Product Market Regulation Indicators (database) in OECD (2018), p. 55.

4. World Bank Group (2017), OECD (2018), and Piatkowski (2018).

5. OECD (2002).

Significant efforts have been made to ease business regulations, putting Poland in a good position in the Doing Business indicators. In 2019, Poland ranked 33rd out of 190 economies in the ease of doing business, falling 6 positions compared to its ranking in 2018 (place 27th). However, looking at particular indicators, the situation is uneven (Figure 2). While Poland ranks first in the world in “Trading across Borders”, it remains 121st in “Starting a Business”, reflecting the challenge to build a sound regulatory system for all aspects of business operation and growth.

Figure 2. Rankings on Doing Business topics – Poland, 2019



Source: Doing Business Indicators, 2019

Poland has a number of advantages which bode well for its future growth prospects. It has a large domestic market, which is integrated in the largest economic bloc in the world; a history of strong and stable economic growth; high quality of human capital; and good infrastructure. But the quality of regulation remains an issue of concern.⁶ Regulatory changes without sound evidence-based decision-making and consultation procedures create uncertainty for investors. Moreover, an interventionist administrative culture imposes unnecessary barriers for businesses to start, operate and grow.

The Better Regulation Program 2015

Regulatory policy is not new in Poland. Since the end of communism, and in particular since joining the European Union, Poland has made efforts to enhance strategic state capacity and consolidate a functioning market economy, with various regulatory policy reforms introduced gradually over the years.

In January 2013 Poland adopted the *Better Regulation Program 2015* aiming to “ensure high quality of regulation throughout the entire cycle of policy making, beginning from problem analysis and designing the assumptions of legal acts, ending with evaluation and monitoring”.⁷ The idea of continuous improvement of the regulatory environment through evidence-based law-making was seen as an important element of a new vision, and essential to reduce regulatory costs and improve the competitiveness of the Polish economy.

6. European Commission (2018).

7. Ministry of Economy (2013).

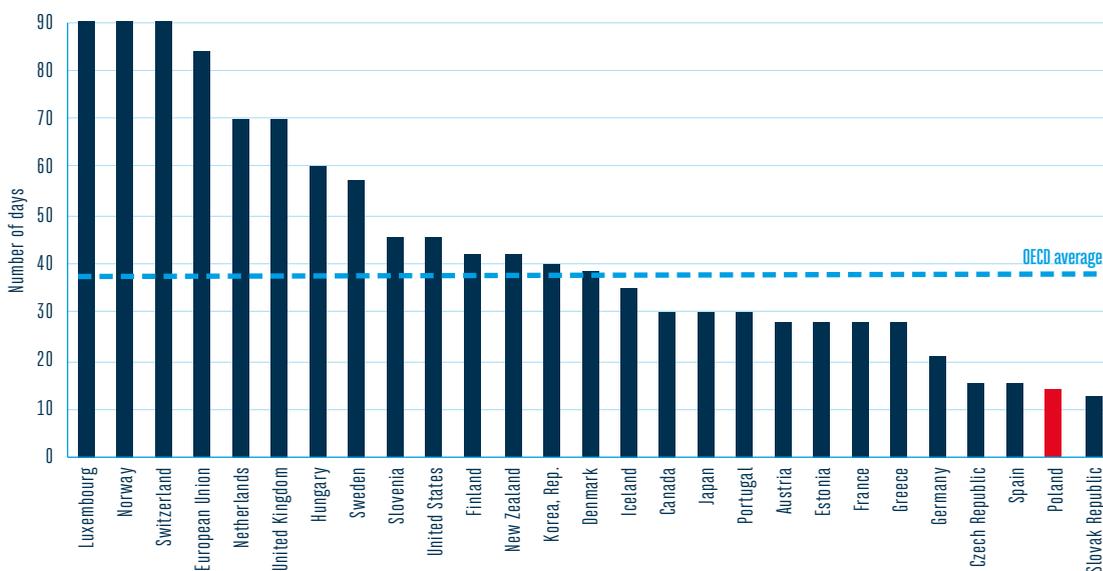
Regulatory Impact Analysis (RIA) and public consultations⁸ had been introduced before, but the Program helped embed them more directly in the policy and regulatory process.

The Program defined applicability and scope of analyses required during preparation of drafts of governmental bills and introduced standardized templates for ex ante and ex post impact assessment. These practices contributed to a more systematic approach to assessing potential benefits and costs in policymaking at the central level. A drawback, however, was that they were adopted as secondary rather than primary legislation, making them more easily reversible.

Revision of RIA guidelines and their integration in the *Work Regulations of the Council of Ministers* were the main innovations to Polish legislative procedure implemented as a part of *Better Regulation Program 2015*. The Work Regulations are a “manual of the government” emanating from the Chancellery of the Prime Minister and mandating compliance with RIA guidelines and procedures in the preparation of legal drafts.

An online portal for consultations was also put in place (www.konsultacje.gov.pl) with the aim to improve transparency and open channels for public participation in the regulatory process. This allowed the public to examine draft legislative proposals with their background information, as well as to track progress in the consultation process. However, consultation practices are still below OECD standards. For instance, the mandated period for consultation may vary between 14 and 21 days with no clear legal provision on deadlines, allowing government agencies to keep discretionary powers on the length of public consultation (Figure 3).

Figure 3. Typical length of consultation period for government regulatory proposals, 2017



Source: Poland’s regulatory environment for business – SCD Input (2017) based on World Bank Global Indicators of Regulatory Governance, 2016.

Note: While respondents were asked about typical length of public consultations, some indicated minimal consultation periods, while others provided ranges. Minimal consultation periods were interpreted as typical consultation periods. If ranges were provided, the lower and upper bounds of these ranges were averaged out to produce a single, comparable estimate. Belgium, Chile, Ireland, Israel, and Italy were coded as no-response because data provided made it impossible to make inferences about typical length of public consultations.

8. Guidelines for assessing anticipated socio-economic effects in accordance with § 24 para. 3 Resolution No. 190 of the Council of Ministers of October 29, 2013 - Work Regulations of the Council of Ministers and Guidelines for conducting public consultations in accordance with § 36 para. 1 Resolution No. 190 of the Council of Ministers of October 29, 2013 - Work Regulations of the Council of Ministers.

The Ministry of Economy coordinated the implementation of the Program and reported to the Council of Ministers. The Program was prepared in co-operation with the Chancellery of the Prime Minister, which oversaw the quality of impact assessments, and the Government Legislation Centre, in charge of ensuring legal quality, but also responsible to prepare draft regulations once they had received “assumptions” from proposing institutions. The Government Legislation Center is the coordinating body of the government legislative process and manages the website <https://legislacja.rcl.gov.pl/>, put in place in 2011. This was an initial attempt to have a system in place with clear oversight in the regulatory process (see Box 1 for international experiences in this respect).

Box 1. The role of Regulatory Oversight Bodies

The most successful international cases in implementing broad and comprehensive regulatory quality programs have been driven by powerful Regulatory Oversight Bodies (ROBs). These institutions, generally established at the center of the government, have four main responsibilities:⁹

- i. oversight of the rule-making process;
- ii. assisting rule makers in their evidence-based analysis;
- iii. challenging the quality of regulatory proposals; and,
- iv. advocating for quality/better regulation.

In the United Kingdom, for instance, some institutions play these roles. The Better Regulation Executive (BRE), a unit within the Department for Business, Energy and Industrial Strategy, is leading the regulatory reform agenda across government. It monitors the measurement of regulatory burdens and coordinates their reduction, while ensuring that the regulation that remains is smarter, better targeted and less costly to business. In terms of Impact Assessment, the Regulatory Policy Committee (RPC) is the body responsible for external, independent scrutiny of new regulatory and deregulatory proposals. The RPC reviews evidence and analysis supporting new regulatory proposals, and checks them before proposals are agreed by ministers. It ensures the government’s estimates of costs and benefits to business as a result of regulation are accurate and it looks at small and micro business assessments within impact assessments.

In the United States, the Office of Information and Regulatory Affairs (OIRA) is a statutory part of the Office of Management and Budget within the Executive Office of the President. OIRA is the United States Government’s central authority for the review of Executive Branch regulations, approval of Government information collections, establishment of Government statistical practices, and coordination of Federal privacy policy. In addition to reviewing drafts of proposed and final regulations under a variety of statutory and Executive Order authorities, OIRA also coordinates retrospective review of regulation under Executive Order 13610, reviews and approves Government collections of information from the public under the Paperwork Reduction Act.

In Europe, several countries have opted for an independent body at “arm’s length” from government in charge of ensuring the quality of RIAs.¹⁰ In Germany, the National Regulatory Control Council (NKR), established in 2006, is an independent body that advises and supports the Federal Government in the implementation of the program for “Bureaucracy Reduction and Better Regulation”. The NKR is involved as an independent authority in every draft regulation of the Federal Government and reviews the ministries’ estimates of the impacts for citizens, the business sector and public authorities. Before the Federal Cabinet adopts any piece of regulation, the NKR reviews the ministries’ estimates of compliance costs for citizens, businesses and public authorities. It also examines information regarding the aim and necessity of any regulation for its comprehensibility; considerations related to other possible solutions and alternatives; considerations regarding the effective date of a regulation, its limits and evaluation; information concerning simplifications of legal and administrative procedures; and information concerning the one-to-one transposition of EU law. NKR prepares a draft opinion of each regulatory initiative, which is presented to NKR plenum for adoption. NKR sends comments to the lead ministry, which then sends this and the draft proposal to the Federal Cabinet for deliberation.

The Czech Republic has a well-developed regulatory impact assessment process including mechanisms for quality control through the RIA Board operating at arm’s length from the government. All draft primary and secondary legislation prepared by the executive has to be accompanied by a basic impact assessment; a full RIA has to be

9. Andres-Amo, P. and Rodrigo, D. (2007), Cordova-Novión, C. and Jacobzone, S. (2011).

10. OECD (2018b)

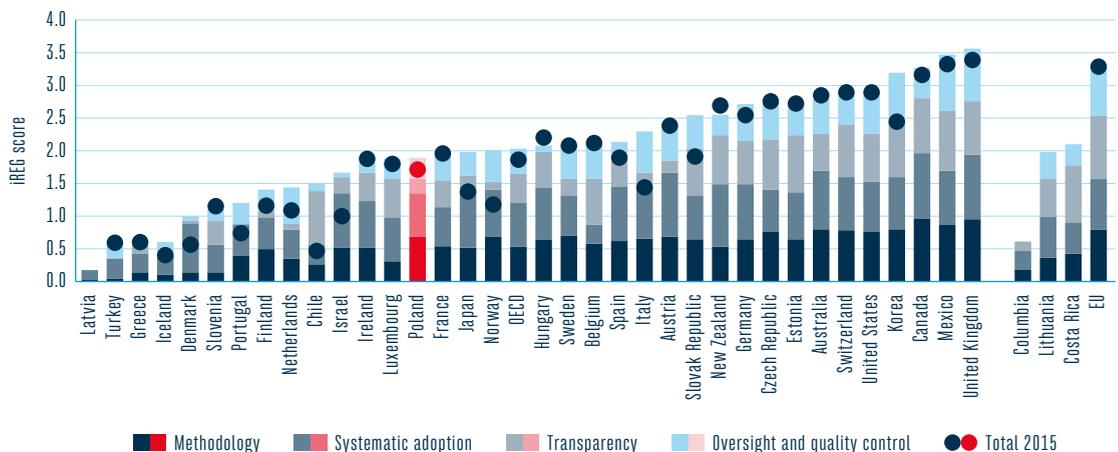
carried out for those drafts with new and significant impacts. The Government Legislative Council is an advisory body to the Government overseeing the quality of draft legislation before it is presented to the Government. One of its working commissions, the RIA Board, evaluates quality of RIAs and adherence to the procedures as defined in the mandatory RIA Guidelines, provides assistance to drafting authorities if requested, and provides opinions on whether draft legislation should undergo a full RIA. The Government Legislation Department of the Office of the Government is responsible for monitoring legal quality of draft legislation as part of the inter-ministerial comments procedure and when draft legislation is submitted to the Government Legislative Council and its working commissions. The RIA Department of the Office of the Government coordinates the RIA process within central government, provides methodological assistance and issues guidance materials for the RIA process. Compatibility with EU law is overseen by the Department for Compatibility of the Office of the Government.

The Better Regulation Program 2015 assessed problems in Poland's regulatory environment. These included:

- a large number of adopted or amended legal acts, resulting in an unstable regulatory environment;
- too complicated and confusing law as a barrier to starting a business and an impediment for citizens;
- a large number of information obligations imposed on businesses and citizens;
- lack of proper understanding of the mechanism of consultation by the administration and its role as an instrument for improving the quality of the law at all stages of its development;
- despite progress in more recent years, unsatisfactory position in international rankings of the regulatory environment.

By 2018, the OECD Regulatory Policy Outlook¹¹ showed that Poland still is lagging behind many OECD countries in the use of certain regulatory tools, such as RIA (Figure 4). The Better Regulation Program 2015 was supposed to address the shortcoming by strengthening enforcement, transparency, capacity and standard operating procedures for RIA.

Figure 4. OECD Composite Indicator on Regulatory Impact Assessment for developing subordinate regulations, 2018



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

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 Columbia, Costa Rica, Latvia and Lithuania. The more regulatory practises as advocated in the 2012 Recommendation a country has implemented, the higher its iREG score.

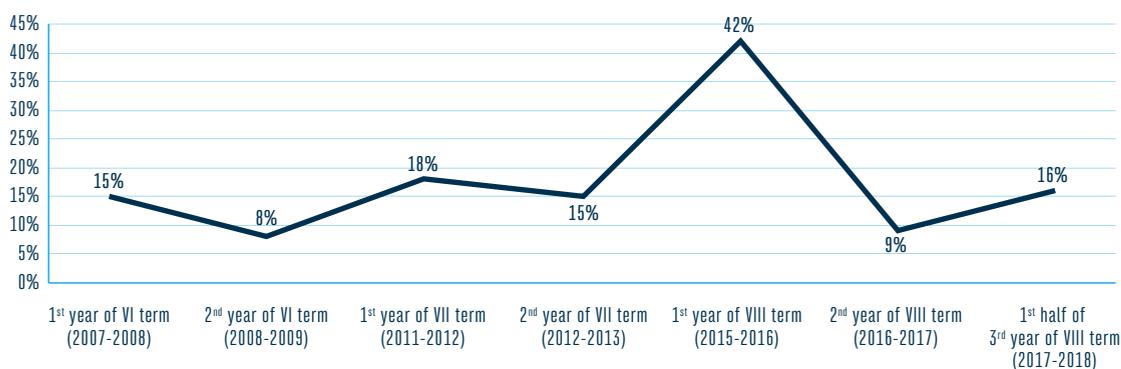
11. OECD (2018c)

More recent developments in regulatory reform

The current government does not have a regulatory reform program and the use of some of the tools that were previously introduced has been discontinued. In its post-audit report published in March 2018, the Supreme Audit Office analyzes a sample of 20 out of all 125 draft acts prepared by four ministries (Finance; Family, Labor and Social Policy; Agriculture and Rural Development; Economic Development) in the period 2015-2016. The report finds that RIA was performed in a manner providing reliable information about the effects of planned reforms only for a third of the examined draft bills.¹² In other situations, RIA was incomplete or deficient, and was performed mainly for compliance with formal guidelines. This is likely to have negatively affected the quality of the analysis and to have resulted in poor support to the decision-making process.

In recent years the number of legislative proposals from parliamentarians has increased negatively affecting the quality of the legislative process. Proposals submitted by Members of Parliaments (MPs) are not subject to the Work Regulations of the Council of Ministers described above, thus there is no formal obligation to prepare RIA or to hold public and inter-ministerial consultations. This procedure has been frequently used in 2015-2016 to bypass consultation and adopt new regulations as quickly as possible (Figure 5). Parliamentary track was most frequently used during the first year following 2015 elections. Afterwards, the share of projects submitted by MPs to all adopted legislature returned to values similar as in previous terms.

Figure 5. Legislative practice: Parliamentary projects submitted by MPs of the ruling coalition as a share of all projects adopted in the Parliament in the first two years of subsequent governments, 2007-2018



Source: Civil Legislation Forum (2018)

Parliamentary and governmental legislative paths can be accelerated in special circumstances further impairing the quality of the legislative process. Art. 51 of the Parliament Regulations enables, in justified cases, to proceed with subsequent stages of legislative procedure (e.g. hearings, votes) immediately after completion of previous ones. This allows no time for MPs to read the documents and prepare position.¹³ Similarly, art. 98 and 99 of the Work Regulations of the Council of Ministers allow to omit or shorten parts of governmental legislative procedure, such as intra-departmental and public hearings, analysis of the project by the

12. Supreme Audit Office (2018).

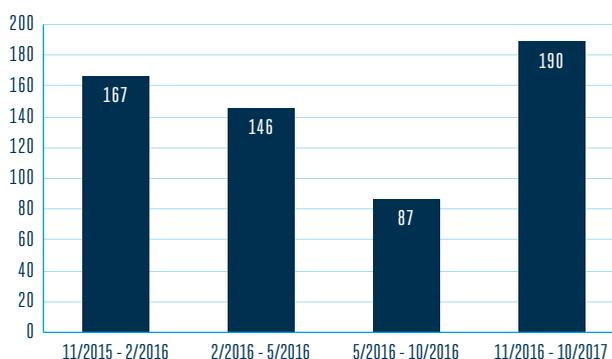
13. Civil Legislation Forum (2018).

Standing Committee of the Council of Ministers or law committee.¹⁴ Both procedures, called respectively “special” and “separate” for the parliamentary and governmental track, should be used only in emergency situations requiring prompt and determined actions. Decisions on classification of legislation proposals are made by the Prime Minister and by the parliamentary majority. None of the acts adopted through streamlined paths in recent years objectively meet emergency requirements.

Shortening or omitting some stages of legislative procedure have led to changes in the average time of preparation of the acts.

In case of governmental projects, period of preparation is understood as number of days from publication of the draft of the bill on the legislative portal to the date of the President’s signature. Analogously, in the case of projects submitted by the MPs or from other sources, the period is counted from the day of issuance of a document number by the legal department of the Parliament. The greatest acceleration of legislative procedure – to 87 days on average – corresponds with the period the highest number of proposals were submitted by MPs of the ruling coalition (Figure 6).

Figure 6. Legislative practice: Average work time on the project in days, 2016-2017



Source: Civil Legislation Forum
 Note: Data for previous years is not available. Frequency of publication of the Civil Legislation Forum reports changed from quarterly to annually in 2017.

In 2017, the average time of preparation of the acts doubled compared to second half of 2016, a result of decreased legislative initiative from MPs and completion of work on several acts that were initiated during the previous term (before autumn 2015).¹⁵

However, time spent on preparations varied widely among individual projects. Between November 2016 and October 2017, 21 acts, representing 10 percent of all projects adopted in this period, were prepared in less than a month. To put these numbers in a perspective, the European Commission recommends that the mere consultations of proposed legal acts should not be shorter than 6 weeks, which shows how fast is the pace of work on many proposals in Poland.¹⁶

Requirements for legislation proposed by the Government are becoming less stringent.

In June 2016 changes to the Work Regulations of the Council of Ministers reduced requirements to prepare initial outlines of new legislation and regulatory tests. Another relevant component of the information substantiating initiatives, the requirement to present “assumptions” of the regulatory changes before preparing a draft bill, was also abolished. This de facto limits the extent of consultation on legal changes initiated by the government.¹⁷ Use of the consultation platform has also diminished, and today the most recent proposals that can be tracked on the website date back from May 2017.¹⁸

14. *Ibidem*.

15. Civil Legislation Forum (2018).

16. European Commission (2005).

17. European Commission (2017a).

18. The website was accessed on May 29, 2018 and the latest draft regulation posted was open for consultation between 17 and 24 May 2017: Proposal for a regulation of the Council of Ministers on the allocation of state aid granted in the form of concessions in the administrative penalty payment for the restructuring of entrepreneurs and detailed conditions for granting these concessions.

In the mid-2018, the Government established the Strategic Analysis Centre – an institution meant to oversee the legislative process at the Cabinet level. Located in the Prime Minister’s Office, the Centre focuses on two main tasks: (i) issuing opinions on the quality and political usefulness of the assumptions and draft legislation prepared by the ministries and (ii) quality control of the drafts before they are adopted by the Council of Ministers. Strategic Analysis Centre has also a mandate for coordinating and supporting legislative efforts among ministries. The Centre manages activities of two bodies responsible directly for regulatory policy at the Chancellery level – Department of Analysis and Department of Regulatory Impact Assessment – thus it is positioned to promote horizontal reforms aiming at improving quality of regulations.

The Strategy for Responsible Development (SRD)

The Strategy for Responsible Development (SRD) aims at defining a new model for Poland’s development, with a prominent role for the quality of the business environment. The SRD is in alignment with the 2030 Agenda for Sustainable Development¹⁹ and combines a strategic and an operational dimension by delineating activities and implementation instruments. As the Government pointed out during the ceremony of the SRD’s adoption in February 2017, reindustrialization, a new Business Constitution and an improved investment policy are crucial for the improvement of the business environment. In this context, the quality of institutions and of legislation are essential to create the conditions for successful implementation of the proposed measures and for economic growth more generally.

The SRD uses an endogenous growth framework as justification for the State to play a stronger and more interventionist role in the economy. A crucial challenge for Poland is to reduce social, economic and territorial disparities to ensure convergence with the most advanced EU countries. The SRD also acknowledges the need for Poland to be better linked to foreign markets and to attract foreign capital in support of a more competitive economy. At the same time, the SRD proposes an active re-industrialization policy relying on a more innovative enterprise sector.

The SRD encompasses three specific objectives:

1. Sustainable economic growth based on existing and new advantages
2. Socially and territorially sustainable development
3. Efficient State and economic institutions supporting social and economic growth and inclusion

Sectorial issues necessary to achieve the objectives of the SRD are: human and social capital, digitization, transport, energy, environment and national security.

The SRD covers 700 actions together with more than 70 indicators to track progress in strengthening industry, e.g. by promoting digitalization and focusing government support on sectors where Poland is believed to have a competitive advantage. It provides for stepped up support for SMEs, simplification of regulation and tax payments, stronger export promo-

19. United Nations (2015).

tion, and vocational and higher education reform, along with greater support for innovation and exports, as well as investments in energy. An overview of the objectives and areas of intervention is presented in Table 1.

Table 1. Objectives and areas of intervention of the Strategy for Responsible Development

Specific Objective 1. Sustainable economic growth based on existing and new advantages	
Areas	Objectives
Reindustrialization*	Increased global competitiveness of Polish industry
Innovative business development*	Increased innovativeness of Polish enterprises in domestic and foreign markets
Small and medium-sized enterprises*	Modern instruments for the development of companies; reduced development barriers to enterprise; competitive farms and producers
Capital for growth*	Permanent increase in the number of investment projects and in their quality in the long term, with greater use of national resources
Foreign expansion	Increased internationalization of the Polish economy; increased export of high-tech goods
Specific Objective 2. Socially and territorially sustainable development	
Areas	Objectives
Social cohesion	Improved availability of services provided in response to demographic challenges; increased and improved use of the human capital potential in the labor market
Territorially sustainable development*	Sustainable development in the country using the endogenous potentials of individual territories; strengthened regional competitive advantages based on economic specialization and new market niches; improved efficiency and quality of implementation of geographically targeted policies
Specific Objective 3. Efficient State and economic institutions to support growth and social and economic inclusion	
Areas	Objectives
Law in the service of citizens and the economy*	Simplification of law guaranteeing better conditions for economic activities in the implementation of citizens' needs
Pro-development institutions and strategic development management*	Inclusive and effective public institutions: available and open for citizens and entrepreneurs, development of an integrated development planning system
E-State*	Digital service State
Public finance*	Stable, efficient and sustainable public finances
Efficiency of use the EU funds	Using EU funds in a manner reflected in permanent developmental results

*Areas with a strong business regulation component to be explored in the next chapter.

Implementation of the SRD is overseen by the Project Management Department in the Prime Minister's Office. As of June 2018, the Department was tracking progress for 32 percent of the strategic projects in the SRD, with a plan to achieve full coverage. The Department operates an ICT supporting system developed to monitor project implementation. The institutions in charge of individual projects are responsible for updating the information in the system and to inform on progress monthly. The Department does not have a mandate to assess impact of the strategic projects but only to monitor compliance with implementation targets.

The Business Constitution

The Business Constitution is a legislative package of five laws, approved by the lower house of Parliament in January 2018 and entering into force gradually in 2018. Its objective is to simplify the legal business environment and establish more favorable conditions for starting and carrying out economic activity. The package also tries to clarify rules for foreign companies setting up or providing cross-border services in Poland. Based on conversations with government officials, the Business Constitution offers clarity on principles that existed already in other legal acts, and provides a framework for simplification for entrepreneurs. It codifies, in a single package, regulations defining the nature of the relationship between Government and business.

The package consists of the following laws:

- The Law of Entrepreneurs, which introduces the following principles:
 - what is not prohibited by law is allowed (the entrepreneur may conduct business freely if she/he does not break specific prohibitions or restrictions);
 - presumption of the entrepreneur's honesty (the entrepreneur does not have to prove his honesty, doubts about the circumstances of a particular case will be settled in favor of the entrepreneur);
 - friendly interpretation of regulations (unclear regulations will be decided in favor of entrepreneurs);
 - proportionality principle (enforcement officials must not impose unjustified burdens on the entrepreneur, e.g. they will not be able to request documents they already hold).
- A bill creating the office of the SME Ombudsman
- A bill on the Central Registry and Information on Business
- A bill on the rules of engagement of foreign businesses and foreigners in economic turnover
- A bill on Regulations introducing the Law of Entrepreneurs and other acts on economic activity

The Law on Entrepreneurs or Business Act is the core of the package. It covers a number of provisions directed to define, guide and regulate business activity in Poland (Box 2). The Law contains provisions that, in many other countries, are normally included in commercial laws and administrative procedure laws, and which are generally described in more detail in secondary regulations. Rather than a major breakthrough, the Law on Entrepreneurs appears to be a compilation of issues that were already regulated in existing legislation, such as the Act of Freedom of Economic Activity (abrogated by the Law on Entrepreneurs) and the Code of Administrative Procedure.

Box 2. The Law on Entrepreneurs – Main chapters

The Law on Entrepreneurs was published on March 30, 2018. It covers in its various chapters the following key areas:

- Chapter 1 on General Issues. It offers an overview of the law, which is meant to define the rules for starting, operating and closing economic activity in Poland, including the rights and obligations of entrepreneurs and the tasks of public authorities. It also defines “entrepreneur”, as a natural person, a legal person or an organizational unit that is not a legal person. It defines what an “economic activity” is and establishes that anyone performing it should register in the Central Registry and Information on Business. It covers also some exemptions to the law, particularly economic activities in the agriculture sector and small businesses. It also offers a classification of businesses by number of employees and turnover. It introduces a key clause in *dubio pro libertate*, which will resolve doubts to the benefit of the entrepreneur. Furthermore, the law establishes a new principle stating that what is not prohibited by law is legal. It also covers responsibilities of public authorities. It introduces the SME Ombudsman.
- Chapter 2 on Starting, operating and closing a business. This chapter sets the general provisions on the way a business can start operations, the need to register at the Central Registry and Information on Business and the identification it should obtain. It also describes the ways businesses can suspend or close the economic activity.
- Chapter 3 on Handling Business Issues. This Chapter describes how government institutions should handle business issues, such as requests, applications, explanations to decisions, clarifications, etc. It introduces the Entrepreneur Information Point, as a means to support starting, operating and closing a business.
- Chapter 4 on Regulation of business operations. This chapter refers to licenses that have to be obtained in order to operate a business in particular cases. It sets provisions on how concessions and licenses are granted and the related inspections. It also establishes the public character of business registries.
- Chapter 5 on Restrictions on business control. This Chapter deals with inspections as a way to control business activities. It acknowledges the basic approach of risk-based inspections, but implementation lies with responsible agencies. It sets deadlines to conduct inspections after notification to the entrepreneur and procedures to perform them. It establishes the maximum number of days inspections can be conducted in a calendar year. It sets the obligation to keep an audit book. It provides ways to appeal inspections. The Chapter also contains an extensive list of regulatory fields in which some of these provisions do not apply.
- Chapter 6 on Rules for the development of draft normative acts in the field of commercial law and evaluation of their functioning. This Chapter requires that impact analyses are conducted when drafts are prepared in the field of starting, operating and closing a business. Particular attention should be given to regulations affecting SMEs.

The package was extensively consulted and business representatives were generally supportive. However, based on interviews conducted during the preparation of this Position Paper, the final version of the documents does not fully reflect the initial discussions and does not sufficiently address business concerns. According to several stakeholders, the Business Constitution package – a term that is not correct as the regulations do not supersede other regulations and are not at the level of the constitution – has lost its initial intention to provide a new framework for business activity in Poland. Rather, it has become a way to formalize the existing command and control approach in relations between government and businesses. However, provisions related to necessity of performing a SME test, included in Chapter 6 of the Law on Entrepreneurs, have been strengthened compared to the previous legal framework.

2. POTENTIAL WORLD BANK ENGAGEMENT ²⁰

Areas of potential World Bank engagement have been identified through literature review, discussions with Government officials and relevant stakeholders, desk research and international benchmarking. The selection of topics is guided by the strategic priorities outlined in the SRD and is based on: (i) their cross-cutting nature, (ii) their ability to rely on programs and strategies already in place, and (iii) their potential to produce spillovers on other areas or institutions. The selection also takes into consideration World Bank expertise and the possibility to offer sustained and comprehensive technical assistance to the reform process.

AREA A. Regulatory management and reform

The need for more effective regulation is frequently mentioned in the SRD, but without a unitary vision of how a better regulatory process could be put in place. A comprehensive approach to regulatory policy could build on the Better Regulation Program that was in place in the past and lead to more effective policymaking.

The section of the SRD “Law in the service of citizens and the economy” refers to the need to have a sound regulatory policy supported by the use of certain tools, such as the obligation for RIA, public consultation, and RIA ex post (Table 2). According to the SRD, the quality of legislation is to be further improved, as there are still serious shortcomings in the regulatory process, particularly regarding the preparation and implementation of regulations affecting businesses. However, the strategic projects proposed in the SRD will not produce the intended effects without a systemic approach and adequate capacities in implementing agencies.

20. Information on the status of strategic projects listed in this Position Paper is derived from desk research and information provided by the Project Management Department in the Prime Ministry, following meetings conducted as a part of a fact-finding mission in May 2018.

Table 2. Strategic projects in the area “Law in the service of citizens and the economy”

Strategic projects outlined in SRD that can be supported:	
Project	Current status
Development of a system to evaluate impact of regulations and social participation in the legislative process	<p>Preparatory work – The Rules of Procedure are still valid, but the use of RIA and consultation has been diminished in the legal process within the government. In autumn 2017, a draft of the Act on Openness of Public Life was published and it was partly related to the legislative procedure. During meetings with government representatives regarding this Act, it was openly admitted that, for political reasons, there is no possibility to implement mandatory public consultations in the procedure. In the Polish legal system there is also a separate legislative procedure for proposals of acts submitted by members of the parliament, which allows to bypass some of the steps defined in the regulations of the Council of Ministers, and is utilized to adopt controversial acts. In addition, the Government intends to establish a Strategic Analysis Centre to issue opinions on draft regulations.</p> <p>Despite limited changes in the overall regulatory policy, various governmental entities have been engaged in smaller scale activities contributing to better regulations over recent years, e.g.:</p> <ul style="list-style-type: none"> • Capacity building trainings for employees of the ministries • Regulatory Impact Academy managed by the Chancellery of the Prime Minister – program of postgraduate studies and specialized trainings for public administration employees co-financed by the European Structural and Investment Funds • Project aiming at enhancing implementation of the strategic component of the SRD deployed as a part of European Commission Structural Reform Support Program
Business Constitution Package	Advanced implementation – Regulations included in the Business Constitution Package were approved by the Parliament in January 2018 and came into force on 30 April 2018.
“100 changes for the companies”	<p>Advanced implementation – Numerous initiatives included in the “100 changes for the companies” program have already been implemented or are at the end of the legislative path:</p> <ul style="list-style-type: none"> • Regulations on succession of family companies have come into force on 1 June 2018 • Regulations on simple joint-stock company are in advanced stage of preparation in the Ministry of Entrepreneurship and Technology and are planned to come into force on 1 January 2019 • Regulations on tacit approval procedure were implemented in mid-2017

A sound regulatory quality system should aim to ensure predictability, transparency, proportionality and stability of regulation. Most stakeholders acknowledge that regulations in Poland fall short of being efficient and effective and tend to impose unnecessary costs and burdens on citizens and businesses. Effective reform requires strong political commitment to introduce changes in the administrative culture, as well as the establishment of a comprehensive program of regulatory quality. The Business Constitution addresses some of these issues, but it falls short of providing a systemic solution.

A whole-of-government approach to regulatory policy can help improve the regulatory frameworks for the strategic areas identified in the SRD. In most priority areas, the quality of regulation is essential to successful reform. However, most regulatory frameworks are inadequate, as they are outdated, do not reflect current needs, were issued under different contexts

and require revisions. In addition, continuing with old practices perpetuates lack of transparency, coherence and proportionality, making it difficult for Poland to meet international standards. It is therefore imperative to build a regulatory quality system with clear quality control mechanisms aiming to ensure that regulatory bodies design, produce and enforce regulations that are conducive to economic growth and social progress. This is in alignment with what other EU and OECD countries have been doing with a certain degree of success (Box 3).

Box 3. The EU Better Regulation Agenda

An important reference for Poland is the EU Better Regulation Agenda. In place since early 2000, Better Regulation has had a prominent role in all Commissions so far. In 2015, the Juncker Commission identified a set of balanced principles and measures revolving around three key pillars:

- i. **Impact assessment:** new proposals are accompanied by impact assessments which explore how policy goals can be achieved in the most efficient way without imposing unnecessary burdens.
- ii. **"Evaluate first":** all revisions of existing legislation would assess opportunities to simplify and reduce unnecessary costs based on analyses and stakeholder inputs.
- iii. **Stakeholder engagement:** better regulation is underpinned by the active engagement of civil society, which invites inputs from stakeholders at all points in the policy cycle using a range of feedback tools and consultation activities.

Many EU member countries have also developed Better Regulation Programs, adapted to their national contexts, but with the aim to also ensure that regulations are fit for purpose, meet their intended objectives, do not impose unnecessary costs to businesses and citizens and are kept up-to-date.

Source: European Commission (2017b)

Some achievements of the Better Regulation Program established by the previous government have been dismantled. Positive efforts continue at the Ministry of Entrepreneurship and Innovation, particularly in the field of regulations affecting SMEs, which is a core policy area for the Government. But, based on conversations with various stakeholders, practices such as preparing RIA and having consultations prior to issuing regulations have been reduced to a minimum, if ever conducted.

Renewed commitment to regulatory quality would lead to more effective policymaking. Despite past reform reversals, better regulatory processes remain necessary to achieve the goals stated in the SRD. World Bank support for the Government could have positive results, provided that World Bank engagement is carefully conceived, a proper assessment of gaps and challenges is conducted and is in line with the government's own priorities. Possible engagements in the area of regulatory management and reform are presented below.

A.1. Renewal of a Better Regulation Program at the center of the government

Renewal of a Better Regulation Program at the center of the government would imply developing the capacities to maintain an oversight body for regulatory quality to promote the use of regulatory tools in support of the priorities of the SRD. This institution should be staffed with qualified people and should be located in the Prime Minister's office with high political support, in order to ensure that good practices are disseminated properly across the public administration.

As established in the SRD, various tools are essential to support a Better Regulation Program. The World Bank could provide assistance in several dimensions, including: (i) evidence-based decision making through the use of RIA, (ii) forms of consultation to engage with stakeholders early in the regulatory process, (iii) review of existing regulations with ex post impact assessments (IAs), and (iv) a simplification program to reduce administrative burdens for business and citizens.

A.2. Managing the stock of regulations

Administrative simplification should ensure that existing regulations do not impose unnecessary costs on citizens and businesses. Procedures should be transparent and administrative requirements kept to a minimum, while ensuring effectiveness in achieving the intended outcome of regulation and guaranteeing safety and protection of human life. The World Bank could leverage its global expertise in this area, including in the use of ICT and the development of e-government to provide better services for citizens and businesses. The SRD refers to the use of ICT but the strategic projects are quite punctual and do not appear to rest on a consistent policy and institutional framework, with capacities and procedures to ensure the effective transformation of services for citizens and businesses (see Table 3).

Table 3. Strategic projects in the area “E-State”

Strategic projects outlined in SRD that can be supported:	
Project	Current status
National Integrated Computerization Program <ul style="list-style-type: none"> • development of the National System of Registers • establishment of eID and introduction of EZD (electronic documentation management) • provision of Common National Infrastructure in the scope of computerization • establishment of the Republic of Poland Portal • concept of the Chief National IT Specialist 	<ul style="list-style-type: none"> • Advanced implementation – Digitization of existing registers, preparatory works in creation of new ones. • Advanced implementation – Some services are publicly available (online registration of documents), other are in pilotage phase (e.g. mDocuments). • Preparatory works – Only a preliminary strategy and action plan have been developed. • Early implementation – The first version of the portal is to be implemented in H2 2018. • Advanced implementation – This role is fulfilled by the Minister of Digital Affairs with support team (incl. established in 2016 IT expert council). There is no intention to create new post or office related to the Chief National IT Specialist.
E-services in the field of justice and court system	<ul style="list-style-type: none"> • Various stages of implementation of various initiatives. Some services had been already rolled-out publicly (e.g. services for land mortgage registers management or judicial decisions portal), others are in advanced phases of implementation (e.g. registers of vehicles and drivers), and others are in very early stages of implementation (e.g. system for digital conduct of court proceedings).
Digitization and development of digital culture	<ul style="list-style-type: none"> • Early implementation – The new initiatives are in early stages of implementation, whereas major digitalization programs started in the previous decade are being continued.

Poczta Polska (Polish Post) as a strategic pillar in development of e-government

- Early implementation – Currently, the possibility of setting up a trusted profile (digital authorization key for e-services) in post offices was implemented in early 2018. Next step of the project is focused on implementation of a platform enabling confirmation of receipt of digitalized court and administrative letters.

Specific projects to simplify regulatory frameworks affecting SMEs could be envisaged.

The SRD acknowledges that SMEs are affected disproportionately by compliance requirements imposed by regulations and overlapping requirements imposed by regulatory institutions. Assessing the compliance costs could help define a better simplification strategy that can lead to ease the regulatory burden for SMEs.

Ex post evaluation of laws and regulations would help revise outdated regulatory frameworks to make them more adequate for Poland's current needs.

This is relevant particularly when regulations need to be updated to respond to new challenges to remain effective. The SRD contains several examples of regulatory frameworks that need to be adapted to new conditions and the challenges ahead, and where the World Bank could assist with implementation (see examples in section A.4 below). Several OECD countries are mainstreaming ex post evaluation of regulatory frameworks to assess the pertinence of existing regulations and their effectiveness in achieving intended objectives.²¹

A.3. Developing capacities at lower levels of government

Local governments are relevant actors in the design and implementation of regulations, and often impose additional burdens on businesses. They should operate according to principles of regulatory quality and use corresponding tools to ensure predictability, transparency, proportionality and stability of regulation. This requires regulatory coherence and coordination at all levels of government to keep regulatory frameworks up to date, increase compliance, and create better conditions for businesses to operate and grow. In this area, the World Bank could help build capacity at lower levels of government to ensure that preparation and implementation of regulations at the local level follows established, clear and transparent procedures, in alignment with efforts at the national level. The World Bank has expertise in providing support to regulatory quality programs in several countries. If the Government is interested in expanding the current efforts to a more systematic approach to regulatory quality, the World Bank could propose technical assistance tailored to the specific challenges of Poland.

One example of the need to ensure regulatory coherence and coordination between levels of government is the project Poland Investment Zone.

Regulatory coherence across levels of government is essential for regulations to achieve their intended objectives, in particular, to ensure that there is no mismatch between the design of regulations (rule making) and their implementation in practice (rule enforcement).²² In this light, successful implementation of Poland's Investment Zone project, one of the flagship initiatives of the current government,

21. OECD (2012), OECD (2015) and Coglianesi (2012).

22. Rodrigo, D., L. Allio and P. Andres-Amo (2009).

might face regulatory challenges.²³ Land ownership, cadaster, provision of basic infrastructure services, utilities, among other, might be affected by the interaction of different authorities at various levels of government, potentially raising issues of regulatory coherence and coordination. The World Bank could assist with a comprehensive diagnosis of these challenges, with a view to defining specific directions for possible engagement in this area.

A.4. Regulatory reform in specific areas: New industrial policy

One of the priorities highlighted in the SRD is the improvement of competitiveness of Polish industry on international markets. This goal is planned to be achieved through implementation of both horizontal (e.g. R&D tax incentives adopted in 2017²⁴) and sectoral policies (e.g. the Act on the Functioning of Coal Mining adopted in 2015 or the Act on Electromobility adopted in 2018). Regulatory reform of legislation in a given industrial sector may be an area of possible World Bank engagement. Whereas comprehensive regulatory reform may not be in the government’s agenda in the short term, implementation of RIA in specific sectors may be in line with government priorities, while showing the usefulness of the RIA approach more generally.

Table 4. Strategic projects in Point 3. Industrial regulatory framework in the area “Re-industrialization”

Strategic project outlined in SRD that can be supported:	
Project	Current status
New industrial policy	Preparatory work – Works on this project, as defined in SDR, were planned from 2018 onwards. Up to now, there is no information on the progress of this initiative. However, the conception of new industrial policy was one of the most politically promoted ideas in the area of economic policy after the change of government.

23. The Act on Special Economic Zones of 20 October 1994 introduced SEZs in Poland, as a separate, uninhabited part of the country’s territory where business activity may be conducted under preferential conditions. A new bill in Parliament aims to make Poland a single special economic zone.

24. See companion Position Paper on Innovation Policy.

AREA B. Regulatory compliance and enforcement

Compliance and enforcement of regulation are areas in which Polish businesses face challenges. Implementation of regulations is perceived to be uneven and complying with regulations is burdensome and costly. The World Bank is already engaged in a project in Poland on inspections in the food sector, which could be a starting point for further work.²⁵

B.1. Inspections reform

Businesses complain about the amount of inspections and the fact that complying with them requires time and resources. According to Act of 2 July 2004 on the freedom of economic activity with further amendments, the maximum number of days annually in which businesses can receive inspectors is 12 days for microenterprises, 18 days for small enterprises, 24 days for medium enterprises, and 48 days for other enterprises.

According to the SRD, there are at least 40 institutions that might inspect a business, and the relationship is rather conflictual and not cooperative. The World Bank has counted over 20 institutions that regularly inspect businesses in Poland:²⁶

- five share responsibilities for food safety: Veterinary Inspectorate, Sanitary Inspectorate, Trade Inspectorate, Inspectorate on Quality of Agricultural Products, Inspectorate on Plants and Seeds Protection,
- five supervise labor relations, occupational safety, and other work-related issues: State Labor Inspectorate, Social Insurance Agency, Office for Foreigners, State Mining Authority, Sanitary Inspectorate,
- three manage building safety, zoning, and other services related to construction (Construction Inspectorate, Technical Inspectorate, Geodesic and Cartographic Authority), while an additional two are responsible for environmental safeguards related to construction (Directorate for Environment Protection, Environment Protection Inspection),
- two are responsible for road safety, Police and Inspectorate for Road Transport, and the latter has duplicate offices in 10 major cities,²⁷
- all the above institutions have offices in voivodships (Poland's 16 regions) and several have offices in poviats (Poland's 380 "counties").

The mandates of these institutions often overlap and there is duplication of responsibilities at different levels of government. In addition, there is a tendency to rely on inspections and sanctions as enforcement measures, rather than on the provision of information and advice, not the optimal way to address non-compliance.

25. World Bank (2018).

26. World Bank (2017).

27. These are offices of the General Inspectorate for Road Transport and offices of the Voivodship Inspectorate for Road Transport. These offices have formally separate mandates (e.g. the first set of offices collects fines from speed cameras, a task outside the remit of the second set of offices), but in practice their competences overlap.

As the Project “Safer Food, Better Business” has identified, there are potential areas of improvement in inspections related to food. Some of them include: (i) consolidation of the use of risk-based enforcement to make regulatory compliance easier, less costly and proportionate; (ii) improvement of the regulatory and institutional framework for inspections; (iii) better use of ICT tools to support interoperability and exchange of information; and (iv) promotion of compliance. This could set the basis for a broader project on inspections in other sectors.

An efficient and effective inspections system is essential to improve compliance and enforcement.²⁸ Poland’s challenges are similar to those in other countries, namely unclear regulations regarding the purpose and role of inspections, discretionary powers of inspectors, unclear selection criteria to inspect businesses, high compliance costs associated with inspections. These challenges call for a comprehensive reform of inspections to improve the quality of the business environment.

The potential to conduct a comprehensive inspections reform is high with gains for all stakeholders. Improving compliance, and introducing different approaches to ensure it, are essential to the successful implementation of the SRD. The World Bank has extensive expertise in promoting comprehensive inspections reforms, including in several European countries, which have gone through this process in the early stages of transition. Once a comprehensive diagnosis has been carried out, further World Bank engagement with the government can extend to:

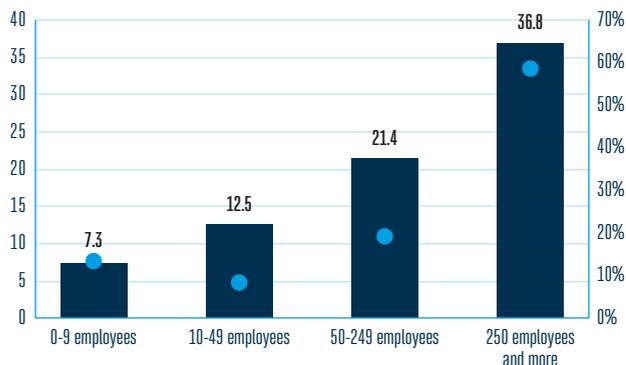
- **Institutional set-up.** Clarification of roles and tasks, streamlining responsibilities and processes and design of a new institutional framework for the inspections system. Support training and capacity-building in the inspections field.
- **Review of the regulatory framework for inspections.** Revising regulations to provide a coherent and clear legal framework for inspections, ensuring that costs are not simply a burden for businesses, while health, safety and the environment are protected.
- **Introduction of a risk-based approach.** Introduction of a risk-based approach to help improve procedures in dealing with businesses and support the move from control to persuasion, in order to reduce costs and impact positively the system as a whole. Businesses will see the benefits of more clarity, transparency and proportionality, and the administration will be more assertive in its decisions.

B.2. Regulatory reform in specific areas: Support for SMEs

A full section of the SRD and additional references in many other parts of the document are dedicated to SMEs. SMEs in Poland account for 99.8 percent of the 3.4 million active economic operators. They employ 68.9 percent of the workforce in the private sector and create added value equal to 52.6 percent of GDP. SMEs are dominated by micro-enterprises, which face various challenges, including informality, burdens to comply with regulations, reduced potential to grow and expand, lack of innovation. Micro companies in Poland invest five times less than large companies. The difference in investment outlays per person employed

28. World Bank (2011) and OECD (2014).

Figure 7. Investment outlays per person employed by firm size, PLN thousands, 2015



Source: Eurostat

Note: LHS (navy blue bars) represent the value of investment outlays per person employed by firm size. RHS (light blue dots) represents investments by company size as share of total business sector investment.

between SMEs and big enterprises in one of the highest among EU countries (Figure 7).²⁹ Fulfillment of one of the key objectives of the SRD - the increase of investment rate up to 25 percent GDP in 2030 - is particularly dependent on business conditions for SMEs. The gap between the smallest and largest companies is even wider when it comes to R&D expenditure - micro companies spend 20 times less than their large counterparts. Polish SMEs also significantly lag larger firms in terms of productivity and engagement in exporting.

Stronger performance of SMEs is crucial to achieve sustained economic growth. The positive social impact connected to growth of SMEs is larger than for larger firms.³⁰

The measures in support of SMEs proposed in the SRD, may be too narrow to address the shortcomings described in the Strategy. A more comprehensive package of regulatory measures could be implemented to improve the regulatory framework of SMEs in general.

Formalization of SMEs, and their ability to survive and grow, tends to be impaired by cumbersome and costly licensing and permitting requirements. In addition to the “100 changes for companies”, a more comprehensive intervention to review regulations affecting SMEs

Table 5. Strategic projects in Point 1. Improved legal environment for carrying out economic activity in the area “Small and medium-sized enterprises”

Strategic projects outlined in SRD that can be supported:	
Project	Current status
<p>100 changes for the companies, in particular:</p> <ul style="list-style-type: none"> • Succession of family companies • Simple joint-stock company • Tacit approval procedure 	<p>World Bank involvement: Project aimed at streamlining agri-food inspections and making them more business-friendly (i.e. veterinary and sanitary inspections) in two catching-up regions of Poland, which promote reforms aimed at making official inspections more business-friendly.</p> <p>Advanced implementation - Many initiatives included in the “100 changes for the companies” program have been already implemented or are at the end of the legislative path:</p> <ul style="list-style-type: none"> • Regulations on succession of family companies are to come into force on 1 June 2018 • Regulations on simple joint-stock company are in advanced stage of preparation in the Ministry of Entrepreneurship and Technology and are planned to come into force on 1 January 2019 • Regulations on tactic approval procedure were implemented in mid-2017

29. European Commission (2018).

30. Strengthening SMEs and Entrepreneurship for Productivity and Inclusive Growth, Key Issues Paper - SME Ministerial Conference, OECD, 2018.

could be envisaged. An analysis of licenses and permits affecting SMEs is a possible area of engagement where The World Bank has extensive global experience.

Proper implementation of the SMEs Test, as part of the preparation of impact assessments would be a further improvement in the regulatory environment for SMEs. The SMEs Test would lead to a better understanding of the impact of proposed regulation on SMEs, leading to better enforcement of and compliance with regulations.

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