

# **EX - POST IMPACT ASSESSMENT ON THE IMPLEMENTATION OF THE LAW ON THE CHAMBER OF CONSTRUCTORS SUMMARY**

## **PROCEDURAL ISSUES**

This report contains the results from the a Ex-post Impact Assessment on the Implementation of the Law on the Chamber of Constructors carried out which covers the period starting from its entry into force on January 1, 2007 until the end of November 2012.

IA implementation of the Law for the Chamber of Constructors is a separate lot of the public procurement "Ex - post impact assessment of the implementation of regulations in the investment process," commissioned by the Ministry of Regional Development and Public Works of Bulgaria.

The overall objective of the procurement is to improve the conditions for development of the investment process in all of its stages, improving the quality of services to citizens and businesses and protecting the interests of users of construction services. The specific objectives include assessing the impact of the adopted regulation of the activity of persons carrying out construction, evaluation of the practice of application of this regulation budgetary impact of the regulation and any eventual proposals to improve the quality of the legislation in the area.

Additional specific objectives of the procurement which the Ministry of Regional Development and Public as assignor pursue through its implementation are the achievement of one of the key priorities set out in the Programme of the Ministry - improving the conditions for business development in the "Construction" sector, which is one of the strongest affected in the times of economic crisis.

This IA is aiming to answer the following questions:

- What is the experience from the introduction of alternative to legislation regulative mechanisms such as self- and co-regulation?
- What are the costs and benefits of these mechanisms and
- How can the effectiveness of their implementation increase?

## **METHODOLOGY**

The methodology for this Ex-post full impact assessment includes two separate tools:

- Methods and tools for data collection and information
- Methods and tools for analyzing data and information.

The impact assessment includes qualitative and quantitative approaches for data collection in order to gather the most comprehensive base of information.

From the many existing techniques the following basic methods and tools were used:

- Documentary analysis;
- Interviews with stakeholders;
- Focus groups;
- Research.

## **ANALYSIS**

The National Reform Programme, along with the Convergence Programme of the Republic of Bulgaria (2012-2015 years) are the two main strategic documents that reflect the measures and policies of the Bulgarian Government in response to the recommendations in the conclusions of the EU Annual Growth Review 2012. With the implementation of the National Reform Programme the Bulgarian Government follows its commitments to boost competitiveness, employment and sustainable public finances. In its section related to the reduction of regulatory and administrative burdens on business, Measure 1 from the Specific

Recommendation 6 of the Program provides for repeal / simplification / alignment of procedures in accordance with the Law on Limiting Administrative Regulation and Administrative Control on Economic Activity by decision of the Council for Administrative Reform or pursuant to the provisions of the Law on Limiting Administrative Regulation and Control on Economic Activity. Reflected in the document progress (stage) in the implementation of this measure under the Program is as follows:

"Reviewing the existing and most commonly used regulatory measures in order to eliminate unnecessary procedures, simplifying the procedures and shortening the deadlines extension of the tacit consent for measures governing registration procedures. There will be prepared relevant legislative changes and proposed for adoption by the Council of Ministers."

## **STUDIES**

The Law on the Chamber of Constructors outlines the regulatory framework of the structure and activities of the Chamber of Constructors in Bulgaria. There are certain goals that the state pursues with its adoption, the basic tasks of the Chamber and functions of the Central Register of Professional Constructors, which operates it. In essence CBA is a blank-type, since it contains repeated references to statutes and other internal regulations of the Chamber. Thus, through these linking norms the effect of self-regulation is achieved under which the state defines the main goals, objectives and organizational / institutional structures recognizing the legal autonomy and independence of these structures and their delegating them the powers to regulate a range of social relations of one and the same professional principle, giving operational autonomy and freedom to these non-state bodies to determine their own way to organize and administer the imposed and enforce them regulation.

The level of achievement of the objectives set by the law can be established only through analyzing the quality of the internal organizational acts adopted by the Chamber of Constructors which contain norms for self regulation, followed by an analysis of the methods through implementation of these norms is ensured evaluating also their performance.

## **STAKEHOLDERS**

### *The Chamber of Constructors in Bulgaria*

The Chamber of Constructors defines the adoption of the Law on the Chamber of Constructors as deed of the constructors themselves. According to representatives of its governing bodies there is no other such well established system of self-regulation, as the Chamber of Constructors, which is why many in Europe envy. It's all about self-regulation, such as defining types of construction (groups, subgroups and categories), through capacity requirements of companies and training of their staff and periodic reporting in Central Register of Professional Constructors. All this, including the construction of optical links, hardware and software to register the funding of programs for vocational training and retraining cooperation with central and local authorities, advocacy for members and consumers and international activities and contacts are implemented autonomously by the Chamber.

### *Local authorities*

A Survey of local government opinion was conducted among representatives of the administration of various municipalities across the country, which by their professional qualifications and duties, are related to the construction sector. Most often respondents are engineers, civil engineers, architects, Senior Experts, Vice Mayors and security chief architects of the municipality, and others. The survey covers the views of representatives from the Municipality of Blagoevgrad Municipality Dryanovo, Municipality of Ruse, Municipality Montana, Municipality Nessebar Municipality Koprivshitsa and others.

### *Consumers - representatives of business*

The opinions of business representatives who are users of construction services or have personal impressions of the performance of works collected from this survey can be summarized in two major thematic areas - economic crisis and the quality of services and staff.

### *Government*

The Government is an indisputable stakeholder in the process of assessing the effectiveness of the introduced approach to the regulation of the relations in the "Construction" sector.

## **DETERMINATION OF PROBLEMS**

**Problem I – The Law on the Chamber of Constructors** governs the obligation for the listed in the Central Register of Professional Constructors to submit annually until June 30 annual financial report, which duplicates the obligation provided for in the Accounting Act to submit the same documents at the same time in the Company Register kept by the Registry Agency. This obligation under the Accounting Act is generally valid for all commercial entities and the Company register is public and its information is fully available on the Internet.

**Defining Problem II: Unclear accountability of the Chamber of Constructors before the Government and vague binding national programs, policies and initiatives to the Chamber of Constructors, its members and registered in the Central Register of Professional Constructors.** The Government should choose the mechanism through which national programs, policies and initiatives implemented by it in the frame of its competence or in fulfilment of EU acts are relevant to the construction sector and business in general, binding and obligatory for application by the authority administering the self-regulation in the construction sector – Chamber of Constructors in Bulgaria. The Government must implement reliable tools by which to monitor based on certain criteria periodicity the achievement of the goals and objectives assigned to BCC by law.

**Problem III – The Rules of Procedure for Entering and Keeping the Central Register of Professional Builders** needs to be updated to bring it in line with the currently acting legislation concerning the verification of the elements of the legal individualization of traders to reflect the changes adopted in the Law on the Chamber of Constructors in 2010 and dropping duplicated obligation to submit reports of builders entered into the register.

**Problem IV – The Rules of Organization and Procedure of the Commission for keeping, maintenance and use of the Central Register of Professional Builders** contains a significant volume of regulations that relate to the functioning of the Central Register of Professional Constructors and must be exhausted in the Regulations on the registration and keeping the register. In the Rules of Organization and Procedure of the Committee for keeping, maintenance and use of the register should only remain the provisions relating the structure and organization of the work of this Committee.

**Problem V - questionable applicability of the internal regulations of the Chamber of Constructors in Bulgaria relative to the entered in the Central Register of Professional Constructors persons who are not its members.** Internal organizational measures taken by the Chamber of Constructors, through which virtually it performed self-regulation in the sector, have no relevance or no indisputable mandatory obligation to the registered constructors who are not members of the Chamber.

and the failure of the functions of the **Problem VI – Lack of effective application of the Code of Professional Ethics of the Constructor.** There is no ground for the existing ineffective application of the Code of Professional Ethics of the constructors Committee on

Professional Ethics at the Chamber of Constructors at the moment. This factual situation is contrary to the Law on the Chamber of Constructors and the Charter of the Chamber, providing for the adoption and implementation of such internal organizational act as part of the tools for the realization of self-regulation.

## **OBJECTIVES OF THE IMPACT ASSESSMENT**

### **MAIN GOAL**

Identification of legislative measures to improve the legal framework and proposing legislative acts to contribute and improve the quality of services to citizens and businesses and protect the interests of users of construction services.

### **SPECIFIC GOALS**

Changing of national legislation aimed at removing administrative barriers and reducing the administrative and regulatory burden on business in the "Construction" sector. Improving the regulatory frame for the management of construction activities by improving, updating and simplifying the existing regulatory instruments.

### **OPERATIONAL OBJECTIVES**

Offering the introduction of regulatory mechanisms that promote implementation of national programs, policies and initiatives that apply to the "Construction" sector, encouraging the full application of self-regulation and covering all addressees of the law, proposing the introduction of tools for accountability of the organization, carrying out self-regulation before the Government.

## **IDENTIFICATION OF OPTIONS FOR SOLVING PROBLEMS**

The analyzes, studies and research carried as part of this Impact Assessment lead to the conclusion that there is a need for improvement of the introduced by the Law on the Chamber of Constructors frame of co-regulation and self-regulation of the relations in the "Construction" sector. Therefore the following approaches of regulatory intervention are identified, which differ in the approach and intensity of intervention:

### **OPTION 0 - DO NOTHING**

### **OPTION 1 - LEGISLATIVE MEASURES**

### **OPTION 2 - ALTERNATIVE TO LEGISLATION.**

## **RECOMMENDATION FOR CHOICE OF OPTIONS**

### **OPTION 1 - LEGISLATIVE MEASURES**

I. Removing the requirement to register in the Central Register of Professional Constructors and having constructors submit annually financial reports until June 30 to amend the Law on the Chamber of Constructors.

II. Introducing a mechanism of regulation by which the national programs, policies and initiatives implemented by the Government in the frame of its competence in fulfilment of EU acts are binding and implemented by the Chamber of Constructors in Bulgaria, implemented with the help of the Government and by the Chamber of Constructors in Bulgaria. Adoption of reliable instruments by the Government, through which it monitors based on certain criteria periodicity the achievement of the goals and objectives assigned to the Chamber of Constructors in Bulgaria by law.

## **OPTION 2 - ALTERNATIVES TO LEGISLATION**

Changes to the Rules of Procedure for Entering and Keeping the Central Register of Professional Constructors to bring it in line with the current legislation in force relating to the verification of the elements of the legal individualization of traders to reflect the changes adopted in the Law on the Chamber of Constructors in 2010 and elimination of duplicated obligations to submit reports in the register for builders.

Amendment to the rules of the organization and procedures of the Committee for keeping, maintenance and use of the Central Register of Professional Constructors, which must retain only the provisions relating to the structure and organization of the work of this Committee. Introduction of fundamentally new approach by the Chamber of Constructors in Bulgaria, where all registered in the Central Register of Professional Constructors are its members.

Taking measures by the Chamber of Constructors in Bulgaria for the enforcement and implementation of the Code of Professional Ethics of the Constructor and full functioning of the Committee on Professional Ethics of the Chamber of Constructors in Bulgaria.

## **RECOMMENDATIONS ON MONITORING AND FOLLOWING EVALUATION**

We recommend performing the ongoing monitoring of the achievement of the identified targets to start immediately after the entry of the proposed regulatory changes in force.

We recommend that a further evaluation of the effects from the application of the legal changes within a period not longer than 24 months after its entry into force is carried out.

## **CONCLUSION**

This Ex-post impact assessment is specific for several reasons. It is assigned by a state authority - Ministry of Regional Development and Public, which is still a rare practice in Bulgaria. It aims to examine the effects of introduced relatively new and not very popular in our system methods of co-regulation and self-regulation. This Impact Assessment chases results which are in context of the nationwide programs and priorities related to the reduction of administrative and regulatory burden on business. From this perspective, the fact of its implementation, methodology and findings can serve as a valuable tool that should accompany the making all future significant decisions related to the regulation and the evaluation of the achievement of the objectives of already adopted models of regulation especially in cases where by them a wide range of entities and significant public interests are affecting.