The reduction of administrative burdens is a measure to improve regulatory quality. Most measures are directed towards reducing barriers for business while the issue of regulation inside government is not often posed. The research carried out in 2010 was intended to investigate how Slovenian municipalities and others in the public sector perceive measures to reduce administrative burdens and the areas in which they consider regulations to present the greatest burden. Results have shown that public procurement regulations are the greatest burden for municipalities and the public sector as a whole. Further research indicates which public procurement procedures municipalities used most often and what benefits they perceive in the amended legislation. Results indicate that most municipalities use open procedures most often, which procedurally is the most complex.

Keywords: administrative burden, better regulation, municipalities, public procurement, Slovenia.
1. Introduction

The regulations implemented by the public sector, particularly the central government administration, have a major impact on the competitiveness of business and the economy as a whole. Regulations are an important part of state function and policy implementation; however, regulations that generate costs for businesses and individuals that could be prevented by simplifying procedures also involve a reduction in social wellbeing (OECD, 2001). Reducing the administrative burden or ‘cutting red tape’ is becoming a political priority in most developed countries. The quality assessment of regulations is also of increasing importance for economic competitiveness (e.g. World Bank and European Bank for Reconstruction and Development with BEEPS-Business Environment and Enterprise Performance Survey and World Bank with WGI-Worldwide Governance Indicators, IMD with the World Competitiveness Centre etc.). Despite the fact that several countries have started actions for better regulation for businesses, little has been done for better ‘regulation inside government’. According to different research in UK and USA regulation inside government is also important in improving efficiency of the economy as a whole (Downe and Martin, 2007; Hood et al., 1998). Regulation inside government can be defined as the range of processes by which standards are set, monitored, and/or enforced (Hood and Scott, 1996). Local governments have to ‘follow’ different regulatory implications defined by state government with little opportunity to influence them at all. According to the research presented in the paper two fields of regulation are the most burdensome for local governments in Slovenia: cohesion policy and public procurement. Cohesion policy is mostly determined by EU regulation, but public procurement should mostly follow national regulation. Public procurement is one part of the public sector’s purchasing function that distinguishes it from the private sector. Public procurement represents a significant proportion of national and local budget expenditure, and it is also a field in which central and local government meet.

The paper is structured as follows. The next section places the presented research in the context of theory and other researches in this field. The data collection, research methodology and research results are then presented. Finally, the conclusion sums up the findings and anticipates further discussion in the field.

2. Better regulation, regulation inside government and public procurement

Regulation in a broad sense is used to denote ways in which public aims are decided on and implemented. Improved quality of regulation reduces administrative costs and unproductive use of resources. This leaves the economy with more funds for investment projects and research, which increases competitiveness. Unnecessary restrictions on operations caused by formalities and regulations create undesirable barriers to economic efficiency. Regulatory quality includes the development of better non-regulatory instruments and greater transparency (Klun and Slabe-Erker, 2009). It also includes a series of public policy measures aimed at strengthening institutional capabilities (state, business, individuals etc.), to ensure higher quality regulatory provision (Radaelli, 2007;
Virant and Kovač, 2010; Virant, 2010). The summary of the Mandelkern report (2001) states that implementing the EU Action Programme and other measures significantly contributed to the increase of the competitiveness of the European economy, citizens' wellbeing, and greater government legitimacy. The OECD report (1997) presents ‘new methods’ of regulation, such as cost efficiency, public participation, bottom-up approach, flexibility, dynamism, responsiveness etc.

Regulation inside government focuses on three main issues: its effectiveness, its costs, and institutional fragmentation of regulatory roles and responsibilities (Downe and Martin, 2007). Hood et al. (2000) argues that the concept of regulation inside government is related to, but not synonymous with, the notion of accountability. While business regulation is recognized in the literature as a highly diverse set of activities all concerned with influencing the behavior of firms, markets, and consumers, analogous activities in government tend to be discussed only in their particularity (for instance, Ombudsmen and audit offices) rather than as a set. Hood and Scott (1996) argue that bureaucratic regulation in a general sense is an important but neglected area of government activity and that internal government regulation is every bit as diverse as the forms of business regulation. Better efficiency of local governments becomes more and more important. Increasing deficits in local budgets (for more see Aristovnik, 2007) influence competition between them in different ways. Midwinter and McGarvey (2001) acknowledge that regulation inside government deploys a range of different methods, including both audit and inspection. Research in the field of regulation inside government showed that regulation of government seems to have become more formal, complex and specialized (Hood et al., 2000). Empirical analysis of ‘Best Value’ inspections of local government in UK suggests that the processes of inspection were transparent and applied in a reasonably consistent manner but the direct and indirect costs were high (Downe and Martin, 2007). Wilson and Rachal (1977) argue that in the United States, federal government internal regulation is likely to be less effective than regulation of business. The research presented in the next section evaluates the notion of public sector in Slovenia about the regulation burden in 13 priority areas determined by the European Commission (2007). The priority areas were assessed by the preliminary research as the main causes of administrative burden, primarily to businesses, but also to individuals and government: agricultural policy, company law, cohesion policy, environment, financial services, fisheries, food safety, pharmaceutical legislation, public procurement, statistics, tax law (especially VAT), transport and employment regulations. The same areas are also used in Slovenian Action Plan (Ministry of Public Administration, 2009).

The 13 areas included public procurement regulations. Public procurement represents an important state instrument for stimulating the economy. Public procurement covers economic, financial, social, political and legal aspects (Mužina and Pirnat, 2007). Public procurement is intended to stimulate fair competition between tenderers and to allow a contracting authority to purchase goods and services at the lowest possible price for a set level of quality. Recently, public procurement has increasingly extended
beyond local and even national borders. The public sector generally spends budget funds, where the aim of operations is not to maximize or generate profits, but to satisfy the needs of the community and individuals that cannot be met via market mechanisms. The central government therefore attempts to use legal regulation to improve weaknesses in the public procurement system that only come to light in practice. In 2007 the Ministry of Finance introduced the public procurement portal in order to reduce contracting authorities’ costs, reduce administrative burdens, and modernize public procurement processes, offer one-stop-shop information access and reduce the time taken in public procurement procedures.

3. Research into administrative burden and public procurement in local governments in Slovenia

3.1. Questionnaire and sample

The research into familiarity with and evaluations of administrative burden in Slovenia in the public and private sector took place in the first half of 2010. This paper emphasizes assessments of the administrative burden of regulation in the public sector. The research divided the public sector into three groups: central government (ministries, administrative units and government agencies), local self-government, and public institutes. The purpose of the research was to determine whether local communities responded differently to questions of familiarity with better regulation to the remainder of the public sector and whether they ranked regulatory areas differently in terms of burden. The questionnaire comprises 13 interlinked questions. The first set of questions was intended to acquire basic data on the respondents (e.g. which part of the public sector there are in), followed by question on familiarity with measures to reduce administrative barriers and the importance of these measures, as well as the respondents’ participation in such measures. This was followed by questions on perceptions of barriers and definition of the most burdensome areas.

The survey used questionnaires sent via e-mail to the central address of all central government and municipal bodies, from where the questionnaire was forwarded to the e-mail addresses of all employees. A total of 306 questionnaires were sent out, and 197 were returned, which is 64% of those sent with 35% from central government, 36% from local self-government, and 29% from public institutes.

Data on the type and scope of public procurements in Slovenian municipalities and their tender and award procedures were acquired in the research work ‘Awarding Work to External Contractors’. That research was carried out in June 2010 and included municipalities, which had over 8,000 inhabitants. A total of 45 municipalities with over 8,000 inhabitants participated, representing over half of the entire Slovenian population. The observed municipalities are very diverse in terms of size, with the number of inhabitants ranging from just over 8,000 to 270,000. This makes it unsurprising that the organization and implementation of public procurement procedures differ significantly from municipality to municipality. The division of municipalities into urban and other reduced these differences slightly, but not entirely.
3.2. Research results

As stated in the introduction, the aim of the paper is to present the research results assessing the public sector’s familiarity with the relevant measures and defining the areas of legislation that individual sections of the public sector consider as the most burdensome.

70% of respondents stated that they had heard of the project to reduce administrative burden (RAB). The next question was a control question linked to the first, asking whether respondents were familiar with the objectives and measures of the RAB project. Figure 1 indicates that detailed familiarity with the RAB objectives and measures was much worse in local self-government than in the rest of the public sector. Only 33% in local communities stated that their familiarity with the objectives was good, while not one municipality stated that they had a very good level of familiarity. Half of municipalities therefore assessed familiarity as poor or very poor, while 21% did not know how to define their level of familiarity. Given that the project has been ongoing since Slovenia joined the EU, the results indicate that the respondents had a poor level of familiarity with the objectives and measures of the RAB project.

![Figure 1: Familiarity with RAB project objectives and measures](source: Milavec and Klun (2011))

The research investigated how the public sector perceives the administrative burden of individual areas of regulation and the areas in which they most want to see simplification measures. The public placed the public procurement field first, with employment legislation second and financial services third. However, a comparison of different sections of the public sector indicate that in local government public procurement also ranked first for administrative burden, but the other areas were ranked differently. Municipalities ranked cohesion policy second as well as employment legislation with taxation and customs regulations coming next. Financial services only ranked fifth. The most common reason given by municipalities for major administrative barriers in all areas was continual changes of legislation, while the second most common reason given was too much legislation. The same ranking of reasons was given by the public sector as a whole. Municipalities offered the same response as the rest of the public sector for this question.
As the survey results indicate the regulatory area presenting the greatest burden on municipalities is public procurement. Regulations in this area have been amended on multiple occasions in recent years. The first act was adopted in 2000, with a new act adopted in 2006 (Kranjc, 2006; Smrdel, 2008), which was amended in both 2008 and in 2010. The implementation of public procurement normally starts with the identification of requirements. This is the pre-tender phase. One condition for starting a public procurement procedure is the inclusion of the public contract in a purchasing plan and financial plan, in which the contracting authority defines the funds available for the public procurement procedure. The next phase is the tender phase, in which the contracting authority carefully prepares the tender dossier. A contracting authority can only expect high quality tender submission and complete tenders if it provides tenderers with a high quality tender dossier. This is followed by the notice of public tender. Interested tenderers must submit tenders within the deadline for tender acceptance defined in the notice of tender and the tender dossier. After the acceptance period concludes there follows the public opening of tenders, review and evaluation, the decision on award of contract, before finally the notice of award of public contract is published. The post-tender phase covers the agreement of the contract and its implementation.

The total value of public procurements was compared with 2009 municipality expenditures (Ministry of Finance, 2009). The comparison reveals large differences between municipalities, which probably reflect the periodic nature of investment cycles. In almost half of municipalities, over 20% of all expenditures were allocated to public procurements, and below 20% in half of them. The research found that the contracts most commonly entered into by municipalities were with external contractors offering cleaning services, followed by security services, and the least frequently awarded services were legal services and economic consultancy services. High value public tenders have a specific and detailed legal arrangement due to the significant pressure from potential tenderers to create rules enabling equal and fair access to public procurements. States
with prescribed procedures regulating budget spending achieve the rationalization of operations, create procedural transparency, economy and equality of businesses in dealings with budget spending units. According to Slovenian regulation, high-value public procurements typically involve the contracting authority implementing one of the following public procurement procedures (Public Procurement Act, Official Gazette of the Republic of Slovenia, no. 128/06): 1. open procedure; 2. competitive dialogue; 3. call for tenders procedure; 4. negotiated procedure without prior publication; 5. call for tenders procedure after prior publication; 6. negotiated procedure after prior publication; or 7. procedure with tenderer prequalification. The contracting authority does not have complete freedom in selecting the type of procedure. It is generally restricted in selecting the type of procedure by the value of the public procurement, and procedural preconditions connected to the public procurement itself. One can only really speak of a contracting authority having complete freedom in the case of an open procedure or a procedure with prequalification of tenderers. The act does not place any restrictions on their use.

Those responsible for public procurement in municipalities have pointed out difficulties in the selection of the most favorable tenderer for public works. They consider in some cases that a monopoly or oligopoly of local organizations has effectively been created, preventing the most economical use of municipal budget funds. The most commonly used procedure in the surveyed municipalities for high-value public procurements was an open procedure – with 73.6% of municipalities who responded to these questions using open procedures always or frequently, and only 15.8% never using them. A call for tenders after prior publication was always used by 13.2% of municipalities and frequently by 26.3%. The only other procedure mentioned was negotiated procedure without prior publication.

| Table 1: Most commonly used tender procedures for high-value public procurements |
|----------------------------------------|----------|----------|----------|----------|
|                                       | Always   | Frequently | Occasionally | Never    |
| Call for tenders after prior publication | 13.2     | 26.3      | 26.3       | 34.2     |
| Negotiated procedure after prior publication | 0.0      | 11.8      | 38.2       | 50.0     |
| Open procedure                         | 36.8     | 36.8      | 10.5       | 15.8     |
| Other procedures                        | 0.0      | 3.7       | 11.1       | 85.2     |

Source: Milavec and Klun (2011)

In addition to the scope and form of procedures linked to public procurement, the survey was intended to determine whether public procurement regulations also had positive effects and did not only represent a burden as the first survey indicated. Amendments to regulations had positive effects for contracting authorities and tenderers. These positive effects facilitate the more effective realization of public procurements (Šoltes, 2007). This is confirmed by the fact that most contracts concluded in the surveyed municipalities were also implemented. In response to the question of what improvements in operations have been made or which measures have been adopted...
based on experience of public procurement, the most popular responses were that they had established better records (24% of all statements), greater staff specialization (18%) and strengthening internal controls (15%).

Table 2: Measures to improve the realization of public procurements

<table>
<thead>
<tr>
<th>Measure</th>
<th>Municipality type (number of responses)</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Urban municipalities</td>
<td>Other municipalities</td>
</tr>
<tr>
<td>Create better records</td>
<td>8</td>
<td>34</td>
</tr>
<tr>
<td>Greater staff specialization (recruitment, training)</td>
<td>5</td>
<td>26</td>
</tr>
<tr>
<td>Strengthening internal controls</td>
<td>4</td>
<td>22</td>
</tr>
<tr>
<td>Greater involvement of other specialist staff in PP procedures</td>
<td>6</td>
<td>14</td>
</tr>
<tr>
<td>Better quality planning</td>
<td>4</td>
<td>13</td>
</tr>
<tr>
<td>Better quality tender dossier preparation</td>
<td>3</td>
<td>11</td>
</tr>
<tr>
<td>Starting procedure on time</td>
<td>4</td>
<td>9</td>
</tr>
<tr>
<td>Improving preparation of contracts</td>
<td>3</td>
<td>9</td>
</tr>
<tr>
<td>Other</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>Total</td>
<td>37</td>
<td>139</td>
</tr>
</tbody>
</table>

Source: Milavec and Klun (2011)

Another major contribution could be made by standardizing instructions on the selection of appropriate tenderers, since smaller municipalities in particular face major problems in implementing procedures. Public procurement is clearly an extremely demanding field for both contracting authorities and tenderers, and often demands an interdisciplinary approach. Although the field is complex, it would be possible to put a system of indicators in place that would serve the needs of every municipality. Comparing data available from municipal websites indicated that the data on public procurements is deficient.

In smaller municipalities there have been suggestions of introducing a system to transfer best practice on the organization and implementation of public procurements. One can assume that the very small municipalities (those with fewer than 8,000 inhabitants), which have even smaller municipal administrations, face problems that are similar and even more acute.

4. Conclusion

Since 2001 Slovenia has been working to simplify procedures and produce better legislation, both domestic and the regulations that form part of the EU acquis. If the people preparing regulations have sufficient awareness or if there is not at least some control mechanisms in place, the administrative burden unavoidably increases. The only solution to prevent administrative burdens from arising and to reduce old burdens is a serious political commitment. Politicians have to lead and direct the public administration, and without such guidance it is very unlikely that patterns of thought and behavior will change. Frequent measurement of administrative costs and assessment of information quality and regulatory quality along with appropriately com-
parable results in terms of time, area and internationally comparability are needed to ensure that the right measures are applied to achieve relevance, effectiveness and durability. The research indicated that municipality familiarity with RAB measures is still very poor, and indeed the worst in the entire public sector. Unlike the rest of the public sector, the municipalities identified regulations as the area offering the highest burden. The research results indicate that more active promotion of the RAB project is required, with greater inclusion for municipalities. The municipalities identified public procurement as the most burdened area of regulation. Although the 2007 amendment introduced numerous new features into public procurement practice: the dynamic purchasing system, electronic auction, and competitive dialogue. The reform has introduced dialogue between contracting authorities and tenderers, which replaced the previous, exceptionally rigid system for public procurement awards. This has helped resolve any unclear points arising during the issue of a public procurement or receipt of tenders, particularly in complex cases. The inclusion of information technology, particularly electronic submission has made savings in time and public funds. The amendments to this legislation of the past two years have been aimed at reducing administrative burden still further. Despite raising the threshold for compulsory public procurements, the amended act also introduced extensions to procedures and some other administrative burdens.

Those responsible for public procurement in municipalities have pointed out difficulties in the selection of the most favorable tenderer for public works. They consider in some cases that a monopoly or oligopoly of local organizations has effectively been created, which prevent the more economical spending of municipal budget funds. At the same time, the field could also serve as an example of best practice for formal or informal cooperation between municipalities within a regional tier of government.

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