

**Position Paper of Serbian Association of Employers**  
Representative Employers' Organisation in the Republic of Serbia

CHANGES TO THE TRADE REGULATIONS  
AND REFORM OF THE INSPECTIONS



Belgrade, June 2013

## Trade companies unanimous toward the Government of the Republic of Serbia

### *The reform of inspections and trade regulations is necessary*

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**Based on the survey of Serbian Association of employers conducted among trade companies operating in the Republic of Serbia, it is necessary for the Government to urgently start a fundamental reform of the inspections and trade legislation with the goal of reducing the operating costs of trade companies, elimination of numerous redundant administrative procedures, increase of competitiveness of domestic producers and increase of trade turnover.**

**It is estimated that a number of different regulations and administrative procedures in the trade sector cost over 107.8 million Euros per year!**

All this is ultimately paid for by the citizens and the business sector (consumers), which attributed to the significant drop in purchasing power since the year 2008 to date, and significantly increased retail and wholesale prices.

Reform of the inspections and regulations will reduce the difficulties of doing business for trade companies and simplify the procedures. The savings made by the trade companies would enable placement of funds into development of different trade formats, increase of competitiveness on the domestic market and opening of the new workplaces.

We recommend to:

1. Form a Workgroup for reform of trade legislation and reform of inspections by august 2013 the latest, which would consist of representatives of different ministries and inspections relevant for the trade sector, representatives of small trade companies and large retail chains that apply current legislation in practice and legal and economical experts in the field of trade regulation.
2. It is necessary for this Workgroup to collect and analyze all problematic regulations, aiming to keep the logical preventive function of those regulations and simultaneously make them simple, applicable and less costly for the business sector.
3. Workgroup should draft the reform of the inspections that control the business of trade companies on the principles of full transparency, efficiency (for the state as well as the business sector) and removal of possibilities for corruption.
4. It is necessary to introduce simple and efficient electronic mechanism for complaints on the work of the inspections that would be evaluated by the independent commission consisting of the representatives of the inspections, business sector and legal and economical experts in the field of trade.

5. The reform should also result in the strengthening of the educative role of the inspections for all minor infractions caused by ignorance or administrative and technical reasons, and abandonment of the system of stimulation of inspectors for fining businesses for formal omissions that do not consist a criminal offense.

### **A. Trade Regulation – Burden to the Trade Businesses**

Current legislative framework contains numerous inconsistencies, flaws, unclear provisions and demands that are difficult or impossible to implement in practice. Current trade regulations represent a mixture of outdated legislation from socialist former Yugoslavia which were not adapted to modern market economy and EU *acquis* that was implemented from the year 2005 onwards with the goal of harmonisation of Serbian legislation to the European business regulations. In the process of harmonisation with EU *acquis* Serbia did not use the possibility of adapting these regulations to the business environment in Serbia. The application of such legislation contributed to:

1. High burdens on business operation of trade companies
2. High retail prices of numerous products
3. Significant effect of the costs of application of these regulations on the drop of turnover in trade
4. Bureaucratisation and redundant administrative procedures
5. Numerous arbitrary interpretations of legislation by the inspections
6. Inability to develop different forms of small (family) trade due to high costs of business
7. Increase of informal economy

### **The Situation in the Trade Sector due to the Effects of the Economic Crisis and the Poor Business Environment**

According to the data of the Statistical Office of the Republic of Serbia the retail and wholesale turnover in 2012 was 30.4% lower than in 2008, which is the highest drop compared to the regional countries, which has a significantly lower drop of turnover (Croatia 10.8%, Bosnia and Herzegovina 12.4%, Macedonia 13.2%).

In the period of 2008-2012 trade companies, together with the catering establishments, had highest frequency of closing and of opening new businesses. In only 4 years, almost 27% of trade companies and entrepreneurs closed down. These formats of trade were also the type of businesses most frequently opened during this period, which shows great business insecurity in the situation of constant reduction of purchasing power and changes to the legislation, and creates a constant need to adapt to changing circumstances

due to the unpredictability of business environment. In the year 2008 there were a total of 100,233 trade stores of different format, and the year 2011 ended with 90,305 of shops, which makes a reduction of 9,9% in only four years. Additional difficulty for those remaining in the “legal business” is the fact that a number of these shops did not completely disappear, but transferred into informal sector, which increased disloyal competition and caused further drop of turnover in legal business sector.

Constant reduction of turnover in retail and wholesale trade and simultaneous implementation of new regulations which introduced additional burdens to the business operations and bureaucratic procedures has left its mark on the number of employees in the trade sector, which is the economy sector with highest number of employees in the Republic of Serbia. In 2008 wholesale and retail trade employed 197,178 people, which was reduced to 183,973 people in 2012, showing a drop of 6.7%. Pressured by the reduced turnover, along with the simultaneous obligation to implement new legislation, employers operating in the trade sector were forced to reduce the number of employees as an end measure to ensure the survival of their companies.

## **What is the Problem and What Needs to be Changed?**

In the situation where the effects of global economic crisis, crisis of demand on the national market and unstable business environment in Serbia are greatly felt by every trade company in Serbia, it is necessary to put an effort into relieving the business operations of trade companies through the reduction of numerous redundant and expensive regulations and procedures.

Survey conducted in February, march and April 2013 by Serbian Association of Employers and CEFE Serbia (as a part of the project Enabling Environment for Sustainable Enterprises of the International Labour Organisation) identified a number of regulations effecting the trade sector which could be reformed in order to reduce operational costs, and which currently create a significant burden:

- Obligation of passing the „hygienic minimum“ course (expenses of trade companies are 6.5 million EUR in a four year period)
- Obligatory 2% of the employees trained in giving first aid (annual expenses of trade companies are 550,000 EUR)
- Workplace risk assessment for each new business facility (annual expenses of trade companies are 1.7 million EUR)
- Obligatory sampling of products for quality testing that has no refund for samples which passed the quality control (annual expenses of trade companies are approximately 3.6 million EUR)
- Obligatory sampling of work surfaces (annual expenses of trade companies are over 2.9 million EUR)
- Expenses of creation of fire protection plans for objects which only have one exit (annual expenses are approx. 450,000 EUR)
- Obligatory periodical determination of microclimate conditions in small size objects (annual expenses 720,000 EUR)

- Obligatory measurement of lightning on each 50 square meters (annual expenses 450,000 EUR)
- Issues with unequal interpretation of regulation by the inspections (through different fines and penalties the annual expenses for the trade companies is over 6.9 million EUR)
- Issues with slowness of administration due to which trade companies incur annual losses of over 12 million EUR (late issuing of permits, opinions, obligatory registering in central register, verification of M4 forms, different certificates and documents required for participation in public procurements, etc.)
- Services and high costs of state agencies that create state and regional monopolies (annual expenses of trading companies are over 3.2 million EUR)
- Employees in trading companies spend an average of 17 work hours per month on redundant administrative procedures, which equals to 3,127,541 working hours per month on 183,973 employees in trade sector. Multiplied with 208.21 RSD (average gross hourly wage in the trade sector in 2012) carrying out of numerous administrative procedures in the trade sector causes an expense of 651 million RSD or 5.58 million Euros, which adds up to 69.8 million Euros per year.

**Once the listed expenses are added up, we reach the total annual expenses of 107.8 million EUR. These expenses are equal to a minimum of 19,113 potential workplaces** (average annual workplace expenses in trade sector amount to 5,640 EUR in 2012).

All listed regulations can be amended and adjusted to preserve their preventive function while simultaneously causing minimal expenses to the business sector through circumventing the redundant administrative procedures. Most of these legislation was introduced without understanding of the everyday trade practices and could have been implemented in a way that does not cause high expenses and additional bureaucratization.

## **B. Trading Companies Issues With Inspection Practices**

Work of inspections that control the business of trading companies has not seen significant reform since the period of socialist former Yugoslavia. A large number of regulations enables the field inspections to interpret them in a different manner, and the coordination between different inspections mostly does not exist, and thus it occur that a same regulation is interpreted in two completely different manners by two different inspections.

Trading companies object that there is no efficient mechanism for complaints on the inspections, there are no sub-legal acts which govern the inspection process, and therefore companies do not know their rights and obligations during the inspection control. Other objections are that inspectors are not adequately trained and that fines are not in line with the seriousness of the violation and financial strength of the company. The situation is made especially difficult by the fact that the success of the individual inspector's work is usually evaluated on the basis of the number of fines, and not on the basis of preventive and advisory work with the goal of instructing the companies to follow the regulations.

In the survey conducted in February, March and April 2013 trading companies pointed at the following issues with the inspections:

- Frequent inspections (average number of inspections is 2.46 per year. In addition, each inspection performs their control separately, without an integrated system, which makes the company operation more difficult)
- Inspections in the company lasted 2 to 5 days in 49% of cases.
- Deadlines for removal of irregularities in 49% of trading companies were 21 days in average, while in 23% of the cases those deadlines were an average of 17 days and were considered as too short by the surveyed companies, and in 28% of the cases the companies were immediately fined.
- In 28.3% of the cases trading companies claimed that the regulations were wrongly interpreted at their expense, for which they incurred millions in expenses.
- Most frequent reasons for imposing fines on trading companies are inadequate pricing (32.6%), collision in the interpretation of regulation between different inspections (23.9%) and formalistic errors (21.7%)
- The highest-evaluated inspection was the financial inspection (4.2), while the inspections that received lowest evaluation grades were Tourist inspection (2.9), Inspection for road and public transport (3.1), Sanitary (3.2) and Communal Inspection (3.3)

### **C. Action Toward Reform. Influence on the Responsible Authorities**

Results of the survey conducted between trading companies in the period February-April 2013 will be delivered to the institutions which are directly or indirectly responsible for the creation of the creation of trade and free market development in the Republic of Serbia.

Ministry of Foreign and Internal Trade and Telecommunications  
Ministry of Finance and Economy  
Prime Minister of the Government of the Republic of Serbia  
Parliamentary groups in the National Assembly of the Republic of Serbia  
Tax Administration Office of the Republic of Serbia  
Health Inspection  
Sanitary Inspection  
Labour Inspection  
Inspection for Environment Protection  
Veterinary Inspection  
Agricultural Inspection  
Phytosanitary Inspection  
Communal Inspection

Serbian Association of Employers will demand from these institutions to urgently react and propose the formation of **Workgroup for reform of trade legislation and reform**

**of inspections**, which would consist of the representatives of SAE's Trade sector and all listed governmental institutions, as well as independent economic and legal experts in the field of trade regulation. The invitation for participation in this Workgroup will also be delivered to the representatives of leading consumer associations, since the reform proposed by the business sector are also in the general interest of the consumers as well as the producers.

Workgroup task would be to perform an analysis of all disputed regulation found in different laws and by-laws that create high business expenses in trade sector and unnecessarily complicate business administration, and to suggest quality solutions with lower costs and lower number of bureaucratic procedures.

Final document of the Workgroup would include the proposals for the amends of all laws and by-laws which would reduce the number of disputed regulations in the trade and remove or change superfluous administrative procedures. The document would be sent to the Government of the Republic of Serbia for further action.

#### **D. The Effects of Reform in the Field of Trade Regulation and the Reform of Inspections**

Reform of the trade regulation and of the inspection should positively influence the business environment in the Republic of Serbia and contribute to a number of short- and long-term results.

##### **1. Short-term Results**

In the first year after the conducted regulatory guillotine in trade and the technical and administrative reorganisation of the inspections approximately 32,200 SMEs and large companies, as well as the consumers and producers in Serbia would feel the following effects:

- Simpler and more efficient business organisation in all store formats
- Significantly lower operational costs
- Significant reduction in the number of administrative procedures, forms, visits to certain institutions, written reports, decisions, simpler accounting, reduction of the number of employed legal experts and experts in certain fields and administrative assistants.
- Reduction in the retail and wholesale prices as a result of reduction of operational costs
- Less formalities in communication, correspondence and legal framework for cooperation with the producers and other suppliers
- Simpler relation with the inspections and better knowledge of the inspection authority
- Reduced possibilities for high fines due to lack of knowledge of numerous procedures or accidental mistakes.

- Reduction of possibilities for arbitrary interpretation of regulations by the inspections
- Savings in funds and time spent for communication with relevant ministries and the inspections concerning the interpretation of different regulations and sanctions for not implementing them.

## 2. Long-term Results

- Improvement of business environment and predictability in trade sector
- Improved legal framework and higher level of protection of private property in the interest of attracting domestic and foreign investments
- Savings from the reduction of operational costs, which could be transferred into investments and opening of the new workplaces
- Increased efficiency of the inspections and savings in the state budget
- Reduction in the abuse and corruption in the inspections