



The Regulation Authority: Objectives, Tools, and Framework

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This is a short summary, for the full paper (in Hebrew) see

<https://www.runi.ac.il/research-institutes/economics/aiep/policy-papers>

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The Regulation Authority: Objectives, Tools, and Framework

The Regulatory Principles Law, enacted as part of the Economic Arrangements Law in November 2021, mandates, among other things, the establishment of a regulatory oversight body (ROB) which would be tasked with coordinating government efforts toward regulatory optimization, as exists in advanced countries and pursuant to the recommendation of the OECD. This ROB (henceforth: The Regulation Authority) is currently being established, and is expected to commence operations by January 2023 at the latest.

This policy paper describes the tools available to The Regulation Authority, the recommended frameworks for its activity, and the areas of action which are necessary in order to promote optimal regulation in Israel. We consider efficient frameworks, with established, measurable targets, as key to the success of The Authority, due to the expected nature of its work – consultation and professional guidance for government offices and regulators during the processes of devising and optimizing regulations, and reducing bureaucracy. Inefficient operation of The Regulation Authority might encumber intra-governmental work processes and lead to a lack of cooperation by government offices.¹ A Regulation Authority with efficient frameworks and established targets may generate a fundamental shift in the perception of regulation in Israel, as well as reducing bureaucracy – processes which will reduce the cost of capital for the business sector and contribute to an increase in private investments, an increase in labor productivity, and a reduction in the cost of living.

¹ The law establishes mechanisms for this purpose, including provisions regarding response time, and the consideration of failure to respond as agreement by default.

The importance of high-quality regulation, which achieves the objectives of regulation with low bureaucratic costs and encourages entrepreneurship, investments, and employment, is underlined in the age of global economy, when many countries compete to attract businesses and investments from all sources, both domestic and foreign. International indices which rank the quality of regulation show that Israel currently has excessive regulation. Thus, for example, Israel has strict regulation with regard to the entry of foreign firms (ranked 34 out of 37 in the OECD's STRI). The poor quality of the Israeli bureaucracy is further highlighted in the data of the Ease of Doing Business Index, which shows that the length of time required to complete common business procedures is longer in Israel compared to the benchmark countries.²

The biggest challenge in the processes of regulatory optimization and bureaucracy reduction is resolving the stock of regulation and bureaucracy which has accumulated over the years, along with oversight of the ongoing flow of regulation. **The key to reducing the stock of bureaucracy is systematic, professional, and monitored measurement of the cost of compliance with key regulatory procedures and their attendant bureaucracy, using the SCM method, and establishment of reduction targets.** In the absence of measurement and established metrics, it would be decidedly difficult to quantify the regulatory burden and to prioritize issues for action. This is evident, among other things, from the accumulated experience of other countries which have implemented plans for reduction of the administrative burden on businesses.³

² The benchmark countries are countries similar to Israel in terms of population size and the nature of their economic growth, which relies on human capital, yet they have higher levels of GDP per capita and labor productivity, as well as lower poverty rates. This group of countries includes Austria, Denmark, Finland, Sweden, and The Netherlands – all characterized by GDP per capita levels which exceed the OECD average, along with lower poverty rates. We believe that the OECD average is not the appropriate goal to aspire to, since it is affected by relatively poor countries as well. The inclusion of those poor countries in the OECD index should not, in our opinion, affect the aspirations of Israel, which should aspire to resemble leading European countries.

³ SCM (Standard Cost Model) is the most common model for bureaucratic cost measurement, and has been adopted as a uniform methodology by the OECD and the European Union. This model is based on breaking down legislation into information obligations, and measuring the time and the cost required to fulfil each information obligation. For further information and a review on this topic, see Sumkin (2020), "Bureaucracy Cost Measurement and Reduction Policy".

1. Summary and Conclusions

The Regulatory Principles Law, enacted as part of the Economic Arrangements Law in November 2021, is an important stepping stone in the development of the regulatory infrastructure in Israel.⁴ The law mandates the resolution of two issues: (1) the law defines optimal regulation, including the considerations which should be taken into account when determining regulation, such as the cost of compliance with the regulation, and the effect of the regulation on other considerations besides the protected interest, such as considerations of competition and the cost of living;⁵ (2) the law mandates the establishment of a regulatory oversight body (ROB) which would constitute the professional agency coordinating all government efforts toward regulatory optimization, as exists in advanced countries and pursuant to the recommendation of the OECD. This ROB (henceforth: The Regulation Authority) is currently being established, and is expected to commence operations by January 2023 at the latest.

The Regulation Authority will initially rely on the activity of the Regulatory Policy Division in the Prime Minister's Office, and is expected to greatly expand the scope and depth of operations in regard to this issue. This division was established in 2016, and was tasked with implementing government resolutions in the area of regulation. However, the legal status of this division, the limited resources and powers assigned to it, and the lack of primary legislation authorizing its operation, hampered the achievements of its goals – reducing excessive regulation and easing the administrative burden in Israel. Furthermore, prior to the ratification of the Regulatory Principles Law, there was no formal legal foundation defining considerations and principles for the establishment of smart, balanced regulation, which authorizes regulators to also consider, alongside the protected interest under their jurisdiction, the costs of regulation and its indirect consequences.

⁴ A link to the law (in Hebrew):

https://he.wikisource.org/wiki/%D7%97%D7%95%D7%A7_%D7%A2%D7%A7%D7%A8%D7%95%D7%A0%D7%95%D7%AA_%D7%94%D7%90%D7%A1%D7%93%D7%A8%D7%94

⁵ We use the terms “optimal regulation” and “smart regulation” interchangeably.

We believe that the establishment of an effective Regulation Authority with clearly defined goals, which would generate a profound shift in the concept of regulation in Israel, is key to fundamentally improving business sector investments, increasing labor productivity, and reducing the cost of living. This paper aims to outline frameworks, tools, targets and operational metrics which will facilitate the realization of The Authority's mission – promoting higher quality of regulation, along with reduction of excessive regulatory burden and of the bureaucracy required to comply with unwarranted regulation.

In regard to the frameworks of The Authority, we emphasize in this paper that the designated task of The Authority is to monitor new regulation being drafted in government offices, optimize existing regulation, and reduce the regulatory burden. In the fulfillment of this task, The Authority will act as a professional agency which consults and guides the government offices which actively undertake these deep-reaching processes. Therefore, this task requires the full cooperation of the government offices involved. This requirement is emphasized due to the fact that The Authority lacks any powers over those government offices themselves, hence the success of The authority depends on joint government effort by all government offices and regulatory bodies, grounded in an understanding that their cooperation with The Authority in the processes of authorizing new regulation, or striving to significantly reduce the stock of regulation, is not merely a bureaucratic duty on their side but an essential need of the economy in order to stimulate the business sector and the level of investments in the Israeli economy, to encourage competition, and to reduce the cost of living. The Authority should employ all its powers, including its subordination to the Prime Minister's Office and the publication of annual reports, to inform the government and the public on the effort and the progress made toward reducing the administrative burden on businesses and citizens in each government office.

Against the backdrop of the relatively poor condition of the quality of regulation and the cost of bureaucracy in Israel, as revealed by international indices, this paper presents the tools available to The Authority, which may help it promoting high-quality regulation and regulatory optimization, including the establishment of targets for regulatory optimization and reduction of the administrative burden. In the absence of clear metrics, it would be decidedly difficult to quantify the regulatory burden, to set concrete targets, and to monitor the achievement of targets. These policy recommendations are based on the successful experience of other advanced countries in reducing the regulatory burden, and we see them as mainstays for the success of The Authority. These mainstays are:

1. Publication of a regulatory prescription according to areas of activity (authorized by law);⁶
2. Systematic, professional, and monitored measurement of the cost of compliance with key bureaucratic procedures, using the SCM method;⁷
3. Setting metrics and targets for reduction of the stock of regulation and bureaucracy;
4. Tracking and annual publication of the regulatory prescription and of the costs of compliance with key bureaucratic procedures, similar to the measurement and publication of other economic indicators, such as inflation and employment rates.

We also recommend upgrading the digital infrastructure in the public sector (public ICT capital), and particularly digitalization of the interfaces between the public and business sectors, in a manner which would bridge the current gap between Israel and the benchmark countries.⁸ We wish to emphasize that bridging the gap in the level of public ICT capital in the public administration sector requires investment on a considerably lower scale than the investment in other public infrastructures, such as core infrastructures (transportation, etc.), yet it has a significant potential impact on government efficiency and on the advancement of the business sector, due to the need of some businesses for technological update in order to match the new government interfaces. We detail the three channels which require essential investment in public ICT capital in order to carry out the necessary shift to optimal regulation. In addition, we present the high economic cost incurred on the Israeli economy due to excessive regulation and bureaucracy, particularly through low investments by the business sector, reduced competition, and an increase in the cost of living. In the last chapter, we detail regulatory procedures which are key to the economy in terms of competition and the cost of living, and characterized by excessive regulation. Optimization of these procedures, some of which have undergone important reforms, has already begun. We believe The Authority should be involved and play a guiding role in these processes as well, in order to track and ensure the success of these reforms and optimization processes.

⁶ A regulatory prescription is the inventory of bureaucratic obligations which exist in each area. This is the foundation for the actual measurement of the cost of bureaucratic compliance, and for the formulation of targets for its reduction.

⁷ SCM (Standard Cost Model) is the most common model for bureaucratic cost measurement, and has been adopted as a uniform methodology by the OECD and the European Union. This model is based on breaking down legislation into information obligations, and measuring the time and the cost required to fulfil each information obligation. For further information, see Sumkin (2020).

⁸ See footnote 2.