

THE IMPACT OF SCORING ON INDEPENDENCE AND EFFICIENCY OF REGULATORY AGENCY

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Abstract: *The paper presents the scoring of efficiency as the main tool for improving the efficiency of public administration in The New Public Management (NPM) concept. The NPM concept can be applied to the independent national regulatory agency (NRA). Scoring of efficiency can have a positive effect on competence and independence of the NRA. Having in mind the lack of development of the adequate methodology for scoring in practice, the paper points out the few published analyses that may be used as a basis and provides the principles and recommended guidelines for development of the methodology for scoring of NRA's efficiency. The content, form and procedure of making the plan and report of NRA must be proscribed and adjusted to the needs of the scoring methodology.*

Keywords: *scoring methodology, efficiency, NRA, New public management, EU regulatory framework.*

1. Introduction

The New Public Management (NPM) is based on the principle that the management of the authority to whom the affairs of the public administration have been transferred perform its tasks independently and responsibly, while rewarding of the management and budgeting of the authority is done based on the previously agreed methodology for scoring the efficiency [2],[13]. Therefore the quality of the method for quantitative evaluation (scoring) of the efficiency of public administration becomes the key in improving its efficiency. However, the public administration whose efficiency is to be improved often suffer from the lack of administrative capacities for developing the methodology for efficiency scoring [6],[12]. Thus the development of methodology for scoring of efficiency is the main challenge and issue in the application of NPM principle.

2. The application of NPM mechanism to regulatory authorities in the field of electronic communications and media

Although the independent national regulatory authorities (NRA) – agencies are independent from the government authorities, increasing of their responsibilities as well as manner and extent of financing, indicate that the NRAs efficiency and efficiency of

regulation is to be seen and controlled within the framework of efficiency of the whole public administration, including government administration.

The analyses point out the correlation between the volume of investments, efficiency of regulation, efficiency of the NRA and efficiency of the public administration [7]. The analyses also show that NPM mechanisms, whose comprehensive application guarantees the improvement of efficiency of public administration, could also be applied to NRA [12].

It is shown that using the appropriate legal provisions the NPM principles may be applied in such a way so as to be fully compliant with provisions of EU directives related to responsibilities and independence of NRAs of electronic communications and media [10]. The correlation between the efficiency of a certain NRA and the scope of application of NPM mechanisms is also easily perceived. Despite these facts, the comprehensive NPM mechanism is never fully implemented in practice, especially not in the segment of quantitative scoring of NRA efficiency, and in the particular scoring of economy of NRA.

3. The impact of the efficiency scoring upon independence of the regulatory body

The analyses have shown that, in addition to making the management of NRA more objective and responsible, the scoring would improve the independence of management, thus giving additional impact on the efficiency of regulation [12].

Notwithstanding the finality of the regulatory decisions, independence of the regulatory body is ensured by appropriate mechanisms of appointing and dismissing of the management, as well as budgeting of the agency. For instance, EU directives for electronic communications do not forbid individual and collective dismissal of the NRA management, but only when such action is based on legal provisions and justified in a public process. EU directives proscribe that the member state is responsible that the budget for the agency is “adequate”, i.e. appropriate to the rational and objective costs of regulatory activities [5]. **Although the conclusion could be drawn that these provisions on procedures for dismissal of the management and budgeting in EU directives are only dedicated for preservation of NRA independence, this does not limit member states, within the guaranteed independence, to adjust these procedures to the needs of efficiency improvement, i.e. to the goals of NPM concept.**

In practice, one can find legal provisions on which the management of NRA may be dismissed even in the event of non-acceptance of annual report of NRA, which at first glance may seem to be in accordance with EU directives and in line with the NPM concept. However, if there is no prescribed methodology for accepting of the NRA annual report, i.e. if no exhaustive list of reasons for non-acceptance of the report is

clearly stated, the acceptance of the report might be subjective or non-acceptance might be abused for political changes of NRA management or, through limitations of the NRA budget for illegal influence to regulatory decisions of NRA , which would heavily damage independence and competence of NRA. Therefore, it is preferable scenario that the body to which NRA is responsible (typically parliament) should approve the working plan and budget of NRA, while the appropriate report of NRA is to be evaluated in accordance with the proscribed methodology. Based on the normative methodology of the scoring of efficiency, which is applied on the working plan and consecutive report whose form is adjusted to scoring, proportional rewarding may easily be performed and explained (or possible dismissal of management) , as well as approval of the working and financial plan for next year [10].

Normatively regulated and objective scoring of efficiency of NRA increases responsibility of the management, thus promoting employment of competent individuals in the NRA management. Competence of management typically affects employment of competent staff of NRA, which is an important factor for achieving efficiency, but also the authority and independence of NRA, additionally leveraging efficiency of NRA [11].

4. Development of methodology for the efficiency scoring

Despite it is essential for scoring and therefore for the efficiency of NRA, methodology for efficiency scoring of NRA hasn't been enough developed even in the international practice [11]. It seems that this lack might be the main obstacle for application of NPM and main cause for uneven efficiency of NRAs. The bodies to which NRAs are responsible (parliaments), who would benefit from this methodology the most, have worked on the development of methodology the least. Only in rare publicly available analyses of the regulatory environment we can find rough methodologies for efficiency scoring that are not adapted to the NPM concept, but to the special needs of certain institutions (e.g. analyses of efficiency of the regulatory framework for telecommunications done by ECTA and EBRD) [6],[7]). Methodologies of these analyses may be used only as a valuable basis that needs to be modified taking into consideration their drawbacks and limitations. When developing the methodology for scoring of NRA that is to be used for the needs of NPM, the following has to be taken into account:

- Development of market and administrative capacities in different countries may vary considerably. Certain regulatory activities do not have the same effects in the same timeframe in different markets [14],[16]. Therefore, instead of statistical methods that would base the score of NRA efficiency upon the

analysis of cases in the same period of time, it is better to use the method that would compare the cases in time intervals with similar conditions in the market and legislative framework (the Time-window method). In the absence of sufficient number of similar cases (which is most often the case), it would be ideal to apply nonparametric methods (e.g. Data Envelope Analysis method) that base their analysis either on the ideal case or on the plan, i.e. given target [15];

- Clear distinction must be made between parameters and indicators of efficiency. For scoring the efficiency of NRA the parameters that present the planned activities of certain NRA are to be used. Conditions that NRA can only have partial impact on or when that impact cannot be exactly measured can only be used as indicators for planning of certain activities of NRA [16];
- Each of the activities planned, i.e. carried out by NRA, makes different contribution to the overall efficiency of regulation, and at the aggregated scoring of the efficiency each scored activity should be associated with the appropriate weighting coefficient . The weighting coefficient may be composite (presented as a product of several coefficients that have different impact of efficiency of certain activities);
- Different regulatory activities should have different priorities, i.e. weighting coefficient in proportion to their impact in the market when calculating the efficiency of regulation;
- Different activities have differently proportionality (ratio of benefit and transaction costs) [8]. Activities that have higher degrees of proportionality should have higher priority and greater weighting coefficient at the aggregated scoring of the efficiency;
- Planned activities should have their optimal start moment and dynamics adapted to the market development. Belated activities may have even negative impact on the efficiency of regulation [7]. So, **weighting factor for latency should be performed;**
- When scoring the efficiency, the economy should be separately considered [10]. Every regulatory activity should have objectively reasoned and planned regulatory cost, as well as overview of the actual cost in a report. This suggests that NRA should perform cost accounting for its activities or programs.

It is obvious that, for the needs of the efficiency scoring, there should be a standardized way of adoption, content and form of the plan and report of NRA, as well as method of calculation of budget for certain regulatory activities. Each of the activities from the plan should be associated with the corresponding composite weighting coefficient that is to be used the scoring of the efficiency. What should be taken into account is that NRAs are bureaucratic institutions whose natural interest is to maximize the budget, authority and

impact [13], whilst regulatory activities should ensue solely from the interest of beneficiaries (e.g. telecommunication operators and end users). Therefore all documents, especially list of activities with weighting factors used at the aggregated efficiency scoring, should be adopted in transparent procedure where arguments of all parties interested shall be equally treated [12].

5. Conclusion

Due to the constant increase of the scope of responsibilities and budget of the regulatory agencies, activities on improving their efficiency are becoming more and more important. Responsibility and rewarding based on the scored efficiency of the authority are main levers in New Public Management that might be applied to the independent regulatory agencies as well. In case of agencies in particular, methodology of scoring is the main guaranty of independence of the agency. Development of the methodology of scoring of efficiency of public management that may be applied to the independent agencies is difficult, but cost-effective task for the public management.

Literature

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Sadržaj: Rad ukazuje na značaj kvantitativnog ocjenjivanja kao ključne poluge za povećanje efikasnosti javne uprave koncepcijom Novog menadžmenta javne uprave (NMJU). Koncepcija NMJU se može primijeniti i na nezavisne regulatorne agencije, a ocjenjivanje može povoljno uticati na kompetentnost i nezavisnost agencije. Uočavajući nedostatak razvoja metodologije ocjenjivanja u praksi, rad ukazuje na rijetke analize koje mogu poslužiti kao osnova, te daje principe i preporučljive smjernice za razvoj metodologije ocjenjivanja efikasnosti NRA. Način donošenja, sadržaj i forma plana i izvještaja NRA, trebaju biti propisani i prilagođeni potrebama metodologije ocjenjivanja.

Ključne riječi: metodologija ocjenjivanja, efikasnost, nezavisna regulatorna agencija, Novi menadžment Javne uprave, EU regulatorni okvir.

UTICAJ OCJENJIVANJA NA EFIKASNOST I NEZAVISNOST REGULATORNIH AGENCIJA

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