

CASE STUDIES: ADMINISTRATIVE BARRIERS SOLUTIONS

Licensing Reform in Kenya

FIAS helped speed Kenya's reform of business licenses and fees by using an innovative "regulatory guillotine" strategy

Many developing countries struggle with layers of inefficient, outdated and inaccessible regulation. Excessive business licenses impose unnecessary barriers on businesses, and constrain them from growing, investing and joining the formal economy. Most governments are acutely aware of these problems. However, they often operate in a context of limited capacities and volatile political environments. This makes it difficult to strike the right balance between measures that can provide important political quick-wins in the short run and long-term measures that can ensure that results are sustained.

Kenya is now witnessing a success story unfold, which seems to prove that radical and sustainable reform can take place, even in a very impoverished country with a delicate political climate. This of course can be achieved, only as long as you have strong political commitment in key areas, a good plan, and the right people within the government and the private sector.

In February 2005 Kenya launched a broad reform of business licenses and fees based on the "regulatory guillotine strategy". When the reform was launched, there was no overview of the number of business licenses in Kenya. Initial estimates said around 600. A review supported by the World Bank Group identified more than 1300 licenses.

Spearheaded by a cross-ministerial Working Committee on Regulatory Reform for Business Activities in Kenya, the reform applied a simple fast-track review process to find out what licenses could be eliminated, simplified or maintained. Unless regulators could actually justify that licenses were valid and required, the licenses were eliminated by default. This "guillotine approach" reversed the idea that the reformers were the ones who had to prove the need to reform. Instead the reform process pointed out that it was the beholders of the status quo who should prove that change was not needed. The review process integrated extensive consultations with regulators and the private sector. In June 2006, through the Finance Minister's budget speech, the Kenyan government committed itself to eliminate and simplify about 800 business licenses. Many more are likely to follow as the review process continues throughout 2006, particularly the review of licenses issued by local governments.



ABOVE: A meeting of the Working Committee on Regulatory Reform for Business Activities in Kenya

Photograph courtesy of FIAS staff member **Peter Ladegaard**

More important, reform does not stop with the review and elimination of existing licenses. In Kenya in particular, reform meant building institutional capacities. Concerning license review, the government of Kenya is establishing two simple institutions that will ensure that the results of the license review are not eroded by a wave of new licenses and burdensome business regulation. First, an Electronic Regulatory Registry will be set up to host all valid business licenses. If a license is not in the registry, it is not valid. The registry will work as an information center for businesses and the general public. Second, a Regulatory Quality Review Unit will be set up to "guard the gates" to the Registry. The Unit will be charged with vetting all new licenses prior to becoming legal and accepted into the regulatory registry. The Unit, which will be located within the Ministry of Finance, will ensure that all future laws and regulations related to the business and investment environment meet a simple "quality test" before enactment. This Unit will also develop and implement a medium-term regulatory reform strategy, including monitoring the quality of new licenses.

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