

Administrative procedures for company creation in Spain



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Promoting the evaluation of public programmes and policies, developing transparency and improving the use of resources and quality of services to citizens are government priorities. Every year, the Council of Ministers approves a number of programmes and public policies to be evaluated by the National Agency for the Evaluation of Public Policies and the Quality of Services, within the scope of the functions outlined in its action plan.

On the proposal of the Minister of Public Administrations, the Council of Ministers, in its meeting of 30 March 2007, decided on the public programmes and policies to be evaluated in 2007. These included: The National Reform Programme of Spain; the administrative procedures for the creation of enterprises; the national register of greenhouse gas emission rights and the quality of services in state museums.

The evaluation of The National Reform Programme of Spain was to focus on: the effect of measures adopted for the rationalisation of pharmaceutical expenditure, the effectiveness of energy security policies, programmes to foster research, development and innovation, and the financial facilities to boost entrepreneurial activity.

Please note that the English-language version of this text is a translation of the original Spanish-language document and is for informative purposes only. The Spanish text shall be regarded as official in all cases.

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ADMINISTRATIVE PROCEDURES FOR COMPANY CREATION IN SPAIN

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GLOSSARY OF ACRONYMS

AEVAL	National Agency for the Evaluation of Public Policies and the Quality of Services
DGPYME	<i>Dirección general de Política de la Pequeña y Mediana Empresa</i>
DUE	<i>Documento Único Electrónico</i>
GAN	<i>Grupo de alto nivel</i>
GEM	Global Entrepreneurship Monitor
GDP	Gross Domestic Product
ICT	Information and Communication Technologies
INE	<i>Instituto Nacional de Estadística</i>
ITP y AJD	<i>Impuesto sobre transmisiones patrimoniales y actos jurídicos documentados</i>
LTD	Private Limited Company
NRP	National Reform Programme
NSA	National State Administration
OECD	Organisation for Economic Cooperation and Development
PACDUE	<i>Programa de ayuda para la cumplimentación del DUE</i>
PAIT	<i>Punto de asesoramiento e inicio de la tramitación</i>
PPP	Purchasing Power Parity
SL	<i>Sociedad Limitada</i>
SLNE	<i>Sociedad Limitada Nueva Empresa</i>
SME	Small and medium-sized enterprise
VUE	<i>Ventanilla(s) Única(s) Empresarial(es)</i>



1. Main conclusions and recommendations

Comparative studies on company start-up procedures in Spain and other countries lead to the following conclusions:

Conclusion 1. Procedural problems for companies in general

Procedural obstacles to company creation vary depending on company type, activity and even location. There is no one procedural model for company start-ups.

The length of the process means that many companies are set up and in operation without having first complied with the legal requirements for start-up. In some sectors this can even give rise to corruption.

Common benchmarks of administrative procedures to set up companies are the number, duration and cost of procedures. Each represents a different obstacle:

- The number of procedures represents an obstacle only if these are time-consuming and need to be carried out in different locations.
- The duration of procedures is a key factor as longer processes lead to higher opportunity costs, higher financing costs and longer periods of non-profitability. It is the most important procedural obstacle.
- Direct procedural cost is not a disincentive to company start-up in Spain. More relevant are opportunity costs and consulting and engineering expenses associated with business activity licence applications.

There are two basic stages in company start-ups. The first is registration or incorporation, which gives the company its legal personality and the right to employ. The second is obtaining the business activity licence, which allows the company to operate in the market and issue invoices. First stage requirements are designed to offer legal, commercial, fiscal and employment guarantees, whereas the second stage seeks to avoid any adverse external effects of the business activity.

At present, there are three key junctures in company creation. The first is the attainment of legal personality through registration. The second is obtaining the provisional or permanent corporate tax ID number (CIF in its Spanish initials), enabling the company to take on employees. The third is the granting of the municipal business activity licence. This permits the company to legally operate in the market and issue invoices. However, because of the long and complicated administrative process, many companies start operating prior to completing it.

This assessment will concentrate on the two most common company types in Spain: LTDs or private limited companies (*Sociedades Limitadas* – SL in its Spanish initials)



which account for 31,23% of total enterprises, and individual enterprises (one-person-enterprises) which account for 56,43% of total enterprises.

Spain has a relatively low ranking in the World Bank's "Doing Business" study. This is currently the most prestigious study to measure company start-up procedures. Spain ranked 94th in 2005, 108th in 2006 and 118th in 2007. This is because setting up an "innocuous" private limited company in Spain takes between 30 and 45 days, far longer than in other countries¹. Despite some reservations about the "Doing Business" study and other interim and more limited studies, administrative procedures for company start-ups do seem to be a problem in Spain.

49% of entrepreneurs saw financial difficulties as a greater disincentive to the setting up of companies, whereas 40% saw administrative obstacles as being of greater significance².

Conclusion 2. Regarding the difficulty of setting up companies in Spain.

The administrative procedures for setting up companies in Spain are more complex, more expensive and much longer than in other countries. This is a competitive disadvantage.

In broad terms, the National State Administration (NSA) plays a central role in company registration procedures, while the Autonomous Regions and local administrations are responsible for granting business activity licences. Procedural differences between Autonomous Regions and local councils threaten the unity of the Spanish single market.

In Spain, NSA-regulated sectors have to comply with specific additional requirements such as authorisations and inscription on *ad hoc* registers. Complying with these requirements is costly and time-consuming and the criteria applied can be discretionary and subjective. Nonetheless, this affects a limited number of companies and its simplification would have less impact than the rationalisation of regional and local procedures.

There are two problem procedures in company incorporation under the NSA. One is the business name certificate (7 days) and the other is registration (20 days). These account for 90% of all procedural time. Notary and company registration fees amount to 90% of the cost of setting up a company.

In the case of Autonomous Region activity licences, the main delay is caused by the application of national framework legislation. Regarding local authority licences, the lack of resources of local councils is a major cause of delay.

¹ An "innocuous" activity is understood to be one which does not require environmental, health or industrial control licences.

² According to the survey carried out for this assessment (see Annexes).



Conclusion 3. Regarding policies to simplify administrative procedures for company start-up .

Any simplification policy should begin by avoiding the creation of new obstacles to company start-up.

Key to reducing the negative effects of company start-up administrative procedures are:

- Prior information
- Electronic procedures
- Provisional authorisations

Provided that the simplification policy is constant, it is better to make small advances rather than attempt to solve the problem all at once. This is due to the diversity of company types and administrative procedures.

Although this policy has been too limited to achieve significant success, it has paved the way for the implementation of improved procedures and programmes. However, many of them should be reformed and strengthened to provide the maximum stimulus for entrepreneurship and company creation.

Entrepreneurs are often unaware of the instruments implemented to simplify company start-ups. There is also a need to create awareness amongst the agents involved in the process. There should be a well publicised framework policy including different measures to reduce the time and administrative complexity of setting up companies. To be effective, the policy of providing information should be implemented in parallel with the simplification measures and be equally constant.

Recommendations to improve the efficiency of the administrative simplification policy for company start-ups are as follows:

Recommendation 1. General measures to simplify administrative procedures for company creation

All types of company should have access to electronic procedures. At present, only the *Sociedad Limitada Nueva Empresa* (SLNE - new format private limited companies) and private limited companies (LTDs) have access to electronic procedures.



Electronic procedures should be carried out by means of a single document and a single portal. This would avoid unnecessary visits to public offices and the presentation of the same information more than once.

To enable the entrepreneur to attend personally to the setting up of his company and eliminate intermediaries, the language used in both online and paper forms should be simple.

Recommendation 2. Measures to simplify administrative procedures for company start-up

A legal distinction should be made between company registration (obtaining legal personality and the right to employ) and the granting of the business activity licence (right to operate and invoice in the market for goods and services, which is the reason behind its incorporation).

For companies with “innocuous” activities, the application for the municipal activity licence should take the form of a simple notification to the administration in question, in the same way that Autonomous Regions authorise registered premises to allow business activities to begin.

NSA (Ministry of Economy and Finance, Ministry for Labour and Social Affairs and the Social Security) company start-up procedures should be carried out by means of a single document.

The time required to obtain the business name certificate should be reduced. The following alternatives should be considered:

- Computerise the business name register, allowing on-line access and automatic receipt of the business name registration certificate.



- Accept the business name registration certificate for commencement of activities without the necessity for the certificate of incorporation.
- Allow the association of the entrepreneur's name with the business activity.

Recommendation 3. Measures to speed up the business activity licence process

The creation of a single municipal licence throughout Spain, or at throughout the relevant Autonomous Region could be negotiated with The Spanish Federation of Municipalities and Provinces (*Federación Española de Municipios y Provincias*).

Autonomous Regions and local councils should have a time limit for the granting of activity licences. Failure to respond to applications within this period should result in licences being granted automatically. Distinction should be made between companies whose activity could produce irreparable damage to society and other companies, with the latter being granted provisional licences subject to public inspection before being made permanent.

Wherever possible, signed statements by qualified professionals should be sufficient to comply with administrative requirements for the granting of the activity licence.

Coordination mechanisms should be created between the NSA and the Autonomous Regions. There should also be coordination amongst Autonomous Regions and between local councils and Autonomous Regions so that they can adopt coordinated simplification policies and awareness programmes for agents involved in the company start-up process.

The cost of obtaining activity licences should be reduced. Duplication of payments for the same procedures at regional and local level should be done away with. Standard fees based on activity type should be set with professional bodies for studies carried out to comply with administrative requirements.³

³ Given the obvious economic and social value of new companies, the possibility of the administrative costs being assumed by the corresponding administration should be examined.



The transposition of the EU Directive on services in the internal market should be availed of to unify criteria and simplify the setting up of companies throughout the country. There should be a single website to access procedures, a simplification of such procedures and a broadening of advisory services for electronic company start-ups.

Recommendation 4. Regarding the policy to simplify administrative procedures for company start-ups

There should be a national awareness campaign on administrative simplification within a general plan to promote entrepreneurship. It should be mainly aimed at agents involved in company start-up procedures.

Given current difficulties regarding company start-up procedures in Spain, evaluation mechanisms should be implemented to prevent a worsening of the situation. New regulations should be analysed, discretionary elements eliminated and any increase in the administrative burden avoided.



2. Assessment of administrative procedures for company start-up in Spain

On 30 March 2007, the Spanish cabinet gave its approval to the 2007 AEVAL work plan. As part of this plan it was to analyse:

“possible NSA administrative obstacles, in such a way as to produce results to enable cross-country comparisons. Different international studies on company start-ups in recent years were to be analysed. In addition, the assessment would include a preliminary examination of the administrative procedures of other Administrations, with a view to dealing with them more systematically in future evaluations”.

This assessment aims to contribute to greater awareness and better decision making in this area. It also seeks to assess economic policy measures implemented in order to achieve the following objectives:

- The possibility of setting up companies, SMEs in particular, in the EU in less than a week before the end of 2007 (European Council agreement of spring 2006).
- A reduction of 25% in the administrative burden on companies arising from EU regulations (announced by the European Commission in March 2007). In May 2007, the Spanish Government gave a similar commitment of a 25% reduction in the administrative burden on companies before the end of 2012. This assessment will concentrate only on the reduction of the administrative burden for company start-ups.

Administrative obstacles, which manifest themselves in the time and cost of complying with the legal requirements to set up a company, hinder and sometimes prevent the creation of new companies. In contrast, ease of company start-up can be a stimulus to entrepreneurial activity.

Given the scarcity of statistics and studies on company start-up procedures, this assessment has a dual objective. One is to take the first steps towards creating statistical measurements of the effect of administrative procedures on company creation. This would enable cross-country comparisons. The other objective is to evaluate the effects of current public programmes designed to improve and simplify administrative procedures for company creation in Spain.

Legal security and consumer protection

There is a conflict in considering administrative procedures to be an obstacle to company start ups. Although all citizens have the right to do business freely, the state is obliged to protect citizens (article 105 of the Spanish Constitution) through



regulations to guarantee the legal security of new companies and their compliance with environmental and occupational health and safety laws.

The role of the state in guaranteeing legal security and the protection of the citizen represents or may represent an obstacle to company start up by delaying the commencement of activities, increasing the number of procedures and the time and cost, both direct and indirect, of meeting requirements. Although it is necessary to have an administrative procedure for company start-up, it must be simplified and speeded up as much as possible.

Reducing administrative procedures as an economic policy objective

Although the reduction of the administrative burden on company start up is a generally accepted objective and one that encourages entrepreneurship, its effect depends on company type. Therefore, rather than a general reduction for all companies, there should be two prime objectives. The first is special reduced procedures for companies where administrative obstacles might jeopardise their viability. The second is the simplification and reduction of the administrative burden for companies in general, which should be systematic and constant.

The OECD believes complex administrative obstacles encourage corruption because new companies are forced by market demands to look for alternative ways to become legal. The OECD also feels that this favours a submerged economy as many companies operate in the market without permits⁴.

Paradoxically, a comparison of English and Spanish companies revealed that the greater complexity of company creation in Spain gave companies greater growth capacity and stability. This advantage is not maintained if Spanish companies that are not legally set up and lack activity licences are taken into account⁵.

It is also important to distinguish between general administrative procedures for company start-up, special procedures for regulated sectors, and procedures for new companies with activities requiring more careful processing for environmental, health or industrial control reasons.

This assessment will look at two key periods in company creation. The first is from the time when the entrepreneur decides to set up a company until the company is registered. For this purpose, a registered company is one which has a legal personality and the right to employ. The second period is from registration to the completion of all administrative procedures for the commencement of the business activity.

⁴ OCDE. (2007). "Framework for the Evaluation of DMR & Entrepreneurship Policies and Programmes. Final draft". CFE/SME (2007).

⁵ Cabelleras, Mole, Greene y Storey, (2006). "Do more heavily regulated economies have poor performing new ventures: Evidence from Britain and Spain" Warwick Business School.



Distinguishing between these two stages helps to understand the process and clarify policy objectives for administrative simplification. While registration procedures are relatively short and simple, authorisation to initiate activities is complex and involves health, environmental or industrial guarantees to those affected by the activity of the new company.

Administrative authorisations are not all that is required to set up a fully operative company. The entrepreneur must also put together the factors of production necessary to initiate the activity. This cannot be done until the company has the legal status needed to take on employees but can be carried out in parallel to activity licence procedures.

The simultaneous acquiring of production factors and the activity licence gives rise to three possible scenarios which affect the impact of administrative procedures on company creation.

1) *Acquiring the means of production necessary to initiate activities takes longer than acquiring the activity licence.*

Here, the administrative process has a minimal or non-existent impact on company start up. This situation arises when the new company undertakes work to prepare its premises or when the productive processes or industrial installations necessary take longer than the granting of the activity licence.

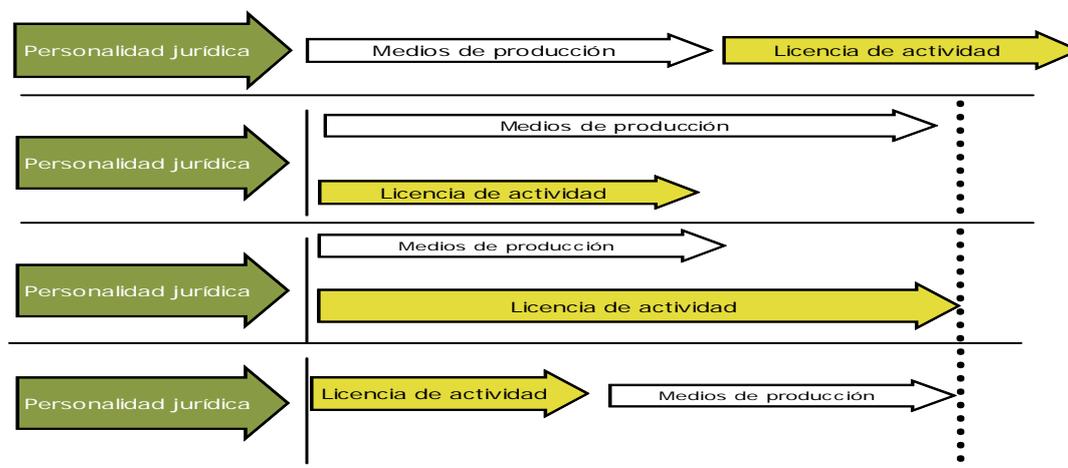
2) *Acquiring the activity licence takes longer than acquiring the means of production necessary to commence activities.*

The new company is ready to enter the market but must wait for authorisation. This results in costs arising from inactivity and lost revenue and represents a clear obstacle to company start-up. This situation may arise where the investment or technology required is lower than average and the administrative procedure represents a severe handicap to the new company. The resulting costs may threaten the consolidation of the business.

3) *Sectors with special characteristics in which, for administrative or precautionary reasons, acquiring the factors of production cannot commence until the activity licence has been obtained.*

This situation is a real barrier to entry and occurs mainly in highly regulated sectors where the activity may have a serious impact on health, the environment, industrial control or national security. It can also occur if the granting of the activity licence is not based on objective criteria. Examples of this are petrol stations, ports for water sports, etc.

Figure 1. Parallel actions in acquiring production factors and the business activity licence.



Source: prepared by author

There are no quantitative studies to indicate which of these three situations is most common for new Spanish companies. However, qualitative studies suggest that for many of the 400,000 companies set up annually in Spain, problems arising from administrative procedures are less important than other obstacles.

In the survey carried out for this assessment during 2007, entrepreneurs cited lack of financial support as the greatest obstacle to setting up a company. It scored 3.96 on a scale of 1 to 5. Complexity of administrative procedures was also an important obstacle. It ranked fourth with a score of 3.58. Although only 14% of the entrepreneurs cited administrative simplification as the best way of facilitating company start-ups, it was the second highest alternative selected overall, accounting for 53.9% of all chosen alternatives.

In this assessment⁶:

- A distinction is made between company registration, which entitles the enterprise to take on employees and authorisation to initiate activities and issue invoices.
- Special attention is paid to the two most common company types in Spain, private limited companies (SL in its Spanish initials) and individual enterprises.
- Account is taken of the fact that start-up administrative procedures do not have the same effect on all companies. Many companies are unaffected by this obstacle while for others, delays in the granting of activity licences can jeopardise viability.

⁶ See annexes for assessment methodology.



- Thus, the economic policy objective for administrative simplification is to obtain shorter procedural periods for companies particularly in need, rather than for all new companies.

Therefore, this assessment seeks to answer the following questions:

- With respect to company start-up administrative procedures for all company types, i.e., obtaining legal personality: What administrative procedures are necessary for a company to commence activities? How long does this take? How much does it cost? What administrations are involved?
- With respect to licences, registration and permits needed to begin production: What are the main obstacles to beginning the productive activity? What sectors are affected? What are the costs of this administrative regulation?
- With respect to the efficiency of the policy to reduce administrative obstacles to company start-up: How does Spain compare to other countries? What has been the trend in the main Spanish indicators in recent years? What indicators should be used to evaluate the effects of the policy to reduce obstacles to company start-ups from one year to another?
- With respect to policies to reduce administrative obstacles for the creation of companies: What is the content of such policies and how consistent are they? What new measures are foreseen? What are their real or foreseen impacts on final objectives? In the light of the results of this assessment: What recommendations can be given to improve the efficiency of existing policies and programmes?

Benchmarks used

Despite the fact that there is no consensus regarding their measurement and definition, the following benchmarks are used to measure the complexity of company start-up administrative procedures: the number of procedural stages, the average completion time for each stage and the cost.

The relative importance of each benchmark and its effect as a disincentive to company start-up varies. The number of stages is an important indicator (the fewer the stages, the easier it is to set up a company) but it is not the crucial factor.

The time taken to complete the procedures is more important. A procedure of a few very long stages is a greater obstacle than one with many short stages. From the time the company is legally incorporated until it obtains the activity licence, it has opportunity costs for fixed investment, fixed finance costs and loss of revenue because the activity cannot commence.



In Spain, the direct cost of administrative procedures is not a major obstacle to the setting up of businesses in general. However, indirect costs, often not considered when adding up the cost of company start-ups, are a disincentive. Technical studies to comply with procedures for regulated sectors or the gaining of activity licences for companies not considered “innocuous” can be very costly.

Difficulties in measuring administrative obstacles, and therefore cross-country comparison, is hindered by the great diversity in the number of stages, the time it takes to complete them and the direct costs involved in the company start-up depending on the legal format of the company and particularly on its business activity. These elements vary considerably in countries with a high degree of decentralisation and even the location of new companies can be an important factor.

This assessment of administrative procedures to set up companies in Spain is divided into two stages. The first involves a comparative analysis with the little data available and the design and implementation of a basic benchmark system with which to analyse the results. The second stage focuses on the assessment of simplification policies in Spain.



3. International panorama. A comparative study

The diversity of company types by legal format or business activity together with the absence of harmonised procedures for all administrations involved in the process means that the few existing international statistics are not representative of the national situations. This hinders cross-country comparison, which requires a prior definition of exactly what is being assessed in each country. There is also an absence of time series, apart from World Bank statistics. This hinders the measurement and monitoring of simplification policy results.

3.1. Existing international benchmarks

There are two prestigious international studies to measure the complexity of company start-up administrative procedures. One is the EU-financed "Benchmarking the Administration of Business Start-ups" carried out by the Centre for Strategy and Evaluation Services and published in January 2002. It concentrates on EU member States. The other is the series of analyses undertaken by the World Bank in its "Doing Business" study.

3.1.1. Benchmarking the Administration of Business Start-ups⁷

This pioneering study, in terms of cross-country comparison, looks at five types of obstacles to company start-ups, including complexity and cost of procedures. The results for Spain and the EU are shown below.

Table 1. EU time and cost (days and euro). Individual enterprise and Ltd.

Individual enterprise				Private Limited Company (Ltd)			
Country store	Average	High	Low	Country score	Average	High	Low
Average time	12	35	1	Average time	24	35	7
Minimum time	3	7	1	Minimum time	7	15	2
Average cost	250	1,572	0	Average cost	830	2,232	0
Minimum cost	90	750	0	Minimum cost	680	1,700	0

Source: prepared by author based on data from Benchmarking the Administration of Business Start-ups (2002).

⁷ Centre for Strategy & Evaluation Services (2002). "Benchmarking the administration of Business Start-Ups". European Commission. See Annex 2.

Table 2. Spain time and cost (days and euro). Self-employed and limited company.

	Individual enterprise	Private Limited Company
Time (minimum-maximum)	2-24	11-24
Cost	1,572	1,590
Procedural stages	12	23

Source: prepared by author based on data from Benchmarking the Administration of Business Start-ups (2002).

Both for the individual enterprise and the private limited company, the number and duration of procedures and the cost of start-up in Spain are much higher than the EU average.

3.1.2. World Bank "Doing Business" report⁸

In terms of company start-up, this study put Spain in 94th place in the 2005 "world ranking". It fell from 108th in 2006 to 118th in 2007⁹. Table 4 shows data for Spain and for the OECD as a whole.

Table 3. Results of some EU and OECD countries in order of administrative procedure duration (days). 2007

Economic Region	Number of procedures	Duration (days)	Cost (% GDP per capita)	Minimum Capital. (% GDP per capita)
Spain	10	47	15.1	16.7
Germany	9	18	5.7	42.8
Sweden	3	15	0.6	31.1
OECD	6.04	14.87	5.1	32.54
Ireland	4	13	0.3	0.0
Italy	9	13	18.7	9.8
United Kingdom	6	13	0.8	0.0
Portugal	7	7	3.4	34.7
France	5	7	1.1	0.0
United States	5	5	0.7	0.0

Source: prepared by author based on data from Doing Business 2008.

From the table it can be seen that the number of procedures in Spain and the time needed to complete them is the highest of all the countries shown. The cost of setting up a company is high and this contrasts with the relatively low minimum working capital required by law.

⁸ <http://espanol.doingbusiness.org/>. See also the Annexes.

⁹ Doing Business 2008 ranking, using 2007 data (2006 data is being reclassified).

Table 4. Trends in Spain.

Year	Position	Procedures	Time	Cost ¹⁰	Minimum Capital
2003	...	10	114	16.8	17.9
2004	...	10	114	17	16.9
2005	94	10	47	16.5	15.7
2006	108	10	47	16.2	14.6
2007	118	10	47	15.1	13.7

Source: prepared by author based on data from Doing Business 2008.

The OECD analysis of the “Doing Business” data considered not only number and duration of procedures, but also the average time for each procedure as a benchmark of administrative efficiency. The results are shown in Table 6.

Table 5: Duration/Procedure ratio.

Economic Region	No. procedures	Duration (days)	Duration/procedure ratio (days)
United States	6	6	1.00
Portugal	7	7	1.00
France	5	7	1.4
Italy	9	13	1.4
Germany	9	18	2
United Kingdom	6	13	2.1
OECD	6.04	14.87	2.46
Ireland	4	13	3.25
Spain	10	47	4.7
Sweden	3	15	5

Source: prepared by author based on data from Doing Business 2008.

The “Doing business” data may not be representative as it refers only to private limited companies set up in Madrid by traditional means and without a specified activity¹¹.

3.1.3 New EU initiatives

The decision by the European Council of Ministers in Lisbon to reduce the maximum time for company start-ups to a week has given rise to a series of measures to determine how the member States stand in this respect. Given the diversity of legal formats, business activities and start-up requirements in Europe, it was decided to

¹⁰ Percentage of income per capita.

¹¹ The Spanish Public Administration should continue to work with the World Bank towards achieving more accurate comparisons between Spanish data and data from other countries.



concentrate on start-up procedures for the five most characteristic company types within the framework of the private limited company, Europe's most common legal form.

Companies being studied include: a steel products or alloys manufacturer, a manufacturer of electronic devices, instruments or components, a hotel with a restaurant, a plumbing company, and a food products distributor operating at both wholesale and retail levels¹².

In October 2007, the EU decided to limit the scope of the study to the point at which legal personality had been acquired. This was due to the difficulty in gathering homogenous data from the different countries about the five company types with respect to the activity licence. Although the final data would not be available until December 2007, the following provisional data was unofficially released in November. The average cost of setting up a company in the EU is €485 and the average time between 10 and 12 days. For Spain, the average cost is €617 and the average time between 30 and 40 days.

Regardless of whether these studies are representative, the fact that they refer to five specific company types that to a greater or lesser degree reflect the problem of company start-ups in Spain, leads to clear conclusions. Administrative procedures for company start-ups are more complex, lengthier and more costly than in other EU countries. This is a clear competitive disadvantage.

3.2. Implementation in Spain - Results

Several studies have been carried out to measure Spanish administrative procedures for company start-ups in the most objective manner possible. These studies include cross-country comparisons that will serve as a basis for the assessment of administrative simplification policy in the future.

Results obtained up to 30 November 2007 are as follows:

3.2.1. Spain and OECD countries. Individual enterprise start-up procedures comparison¹³.

With the cooperation of the DGPYME (Spanish Directorate General of SMEs) a questionnaire was sent to the OECD working group on SMEs and entrepreneurs. The objective is to have uniform, comparable and updateable annual data on a large number of countries to complement the studies on private limited companies. Up to 30 November, data had been received on The UK, Mexico, Austria, Australia and Canada. The following conclusions can be drawn:

¹² See Annexes for details of procedures, duration, cost and methodology.

¹³ See Annexes for complete table.



- There are big differences in the time required to set up a one-person-enterprise. The time required ranges from 15 minutes in Austria to 35 days in Mexico.
- Similarly, the cost can range from €1 in Austria to €332 in Australia.
- Likewise, the number of procedures varies greatly, from 4 in Australia to 11 in Mexico.

3.2.2. Comparison of administrative procedures for “innocuous” companies not requiring special licences, using the methodology of The World Bank “Doing Business” study.

An equivalent of the World Bank study (which used Madrid as its single reference for Spain) was carried out in Spain. NSA, Autonomous Region and local procedures were analysed for companies not requiring special authorisations or registration. To achieve a uniform model across Autonomous Regions, the specific “innocuous” activity of textile wholesaling was selected¹⁴.

For the purposes of the study, a questionnaire was distributed to the VUE one-stop-shops and to chamber of commerce company start-up services in Autonomous Regions without VUEs. At the same time, a consultancy practice was commissioned to provide further data¹⁵.

Table 7 shows a comparison of AEVAL and World Bank data:

¹⁴ Textile wholesaling business, NACE code 51.410, IAE corporate tax category 613 with premises totalling 350 m². The premises was laid out as follows: store room of 150 m² and administrative and customer service offices of 200 m²

¹⁵ See final report of D’Aleph consultancy practice in the Annexes.



Table 6. Comparison of procedures and company start-up time in Spain*.

NAME	AVERAGE TIME (days)		COST	
	AEVAL	World Bank	AEVAL (€)	World Bank (€)
Business name certificate	7.000	3 - 4	20.5	7-14
Bank Deposit certificate	0.125	1	8	0
Drawing up of memorandum and articles of association and granting of public deeds (deeds to certify registration)	2.000	1	510.3	500
Fiscal registration: Granting of provisional corporate tax I.D number (CIF) and registration prior to commencement of activities.	0.250	1	0	0
Payment of Capital transfer taxes and Stamp Duty	0.250	1	30	30
Company registration	20,000	15	120	159
TOTAL company registration procedures (legal personality)	29.620	22	688.9	696
Social Security registration for company and employees	0,250	1	0	0
Issue and sealing of official Company Books**		15		70
Issue and authorisation of visitors book ***	0,250		5	
Signing and authorisation of employment contracts ***	0,250		0	
Business activity licence (municipal) ****	45,000	15 - 90	379,3	350
Authorisation of registered premises (Autonomous Region)****	0,125	1	0	0
TOTAL procedures to commencement of activity	75.490	54	1.073,2	1.116

Source: prepared by author with own data and data from Doing Business study. (*) AEVAL time data calculations are based on: 0.250 days for "immediate procedures" requiring visits to public offices and 0.125 hours for on-line procedures. In the case of time intervals, the time is assumed to be the minimum time. (**): Not included in AEVAL study. (***): Not included in World Bank study. (****): Data for central Madrid only in World Bank study and national averages for AEVAL study.

The AEVAL and World Bank data shows that, Autonomous Region and local procedures apart, setting up a company takes between 22 and 30 days. The cost is between €688 and €696 and the most time-consuming procedures are the business name certificate (3-7 days), and company registration (15-20) days. These two procedures account for about 91% of the total time. Notary costs and company registration fees represent around 90% of the costs¹⁶. The business activity licence

¹⁶ The World Bank considers authorisation of Company books to be a mandatory procedure, while this occurs later in Spain. For the calculation of time and cost for commencement of activity, The World Bank assumes the activity to be "innocuous". For the purposes of the



and notification of commencement of business activities add between 15 and 90 days to the process. The extra cost of these two procedures is between €350 and €380.

The AEVAL and World Bank data basically coincide. This validates the comparison and the methodology. The study shows that time differences with respect to OECD countries stem from company registration procedures and the municipal business activity licence. Notary fees and the municipal licence costs are the most striking of the procedural expenses.

3.2.3. Comparison of private limited company start-ups to the time when the business activity licence is granted, using EU methodology.

The analysis is on State, Autonomous Region and local procedures for the five company types specified in the EU study. As with the study on individual enterprises, all the companies are located in an Autonomous Region provincial capital. The differences between weighted and mathematical averages for companies created in Autonomous Regions are minimal. Therefore, the former is used as the benchmark for Spanish company start-up procedures. Table 8 shows the results:

Table 7. Average company start-up procedures.

	PROCEDURES/ Number		TIME/ Days		COST/ €	
	Weighted	Mathematical	Weighted	Mathematical	Weighted	Mathematical
INDUSTRY	15.49	15.12	249.16	239.00	3,112.60 €	2,735.17 €
ELECTRONIC	15.44	15.06	248.11	235.61	3,386.78 €	3,078.36 €
HOTEL	14.63	14.53	214.36	220.46	3,570.36 €	3,571.41 €
PLUMBING	13.27	13.00	102.82	100.06	1,299.48 €	1,431.55 €
DISTRIBUTION	14.56	14.35	150.52	158.73	3,521.30 €	3,364.42 €
WORLD BANK ¹⁷	11.74	11.59	99.17	94.30	2,098.53 €	2,300.11 €

Source: prepared by author.

The following conclusions can be drawn from analysis of the data obtained for the five company types and the World Bank model:

- Depending on company type, there are nine NSA procedures and between four and six Regional and local procedures.

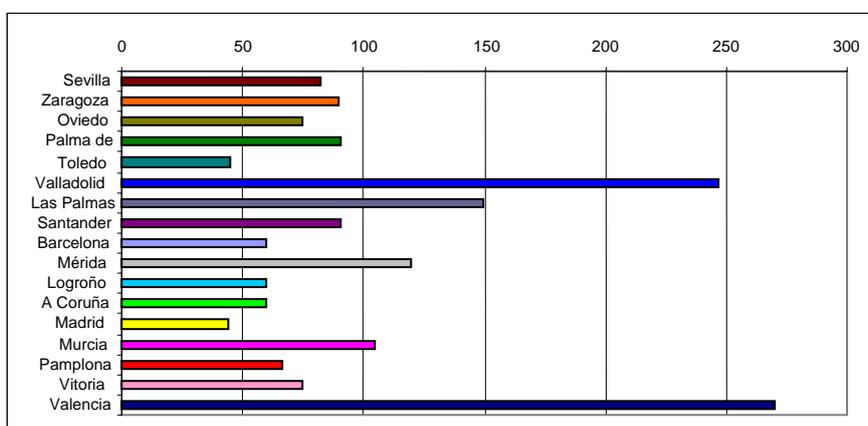
calculation, it was decided to use a textile wholesaling company. Normally this is considered “innocuous” but this is not the case in all municipalities or Autonomous Regions in Spain.

¹⁷ Textile wholesaler with an “innocuous” business activity as used for the World Bank study. The others are the company types used for the EU study.

- Between 70% and 87% of the total time is taken up by procedures involving Autonomous Regions and local councils.
- Between 51% and 80% of start-up cost is incurred in municipal and Regional procedures. This would be higher if notary costs and company registration fees were not included as part of the cost of NSA procedures.

Procedural time and cost varies greatly according to Autonomous Region, despite the fact that the number and content of procedures are theoretically the same¹⁸. An example is the time and cost by city for the plumbing sector, which is amongst the easiest company types in terms of registration.

Figure 2. Plumbing company start-up in 17 cities (Days)

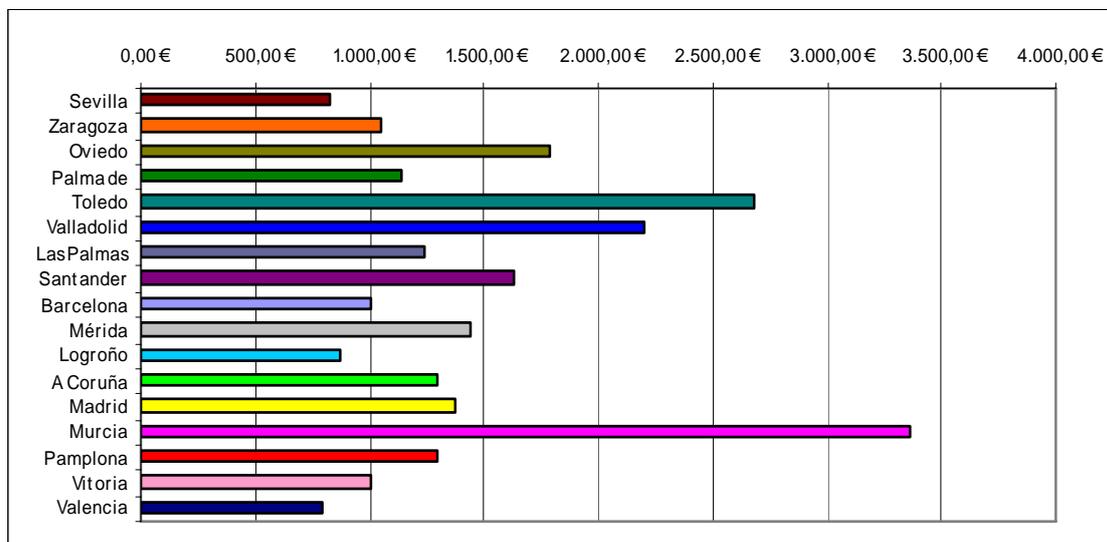


Source: D´Aleph Study. See annex 6.

¹⁸ See Annexes.

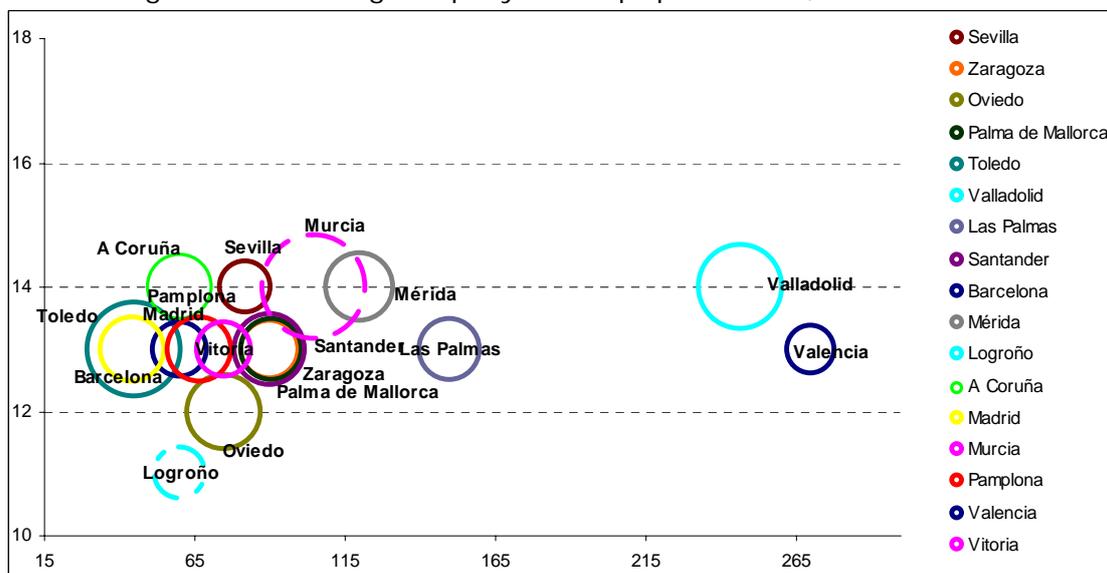


Figure 3. Plumbing company start-up in 17 cities (Cost €)



Source: D'Aleph Study. See annex 6.

Figure 4. Plumbing company start-up: procedures, time and cost



Source: D'Aleph Study. See annex 6.

The bubble size represents cost. The X axis represents time in days and the Y axis represents total number of company start-ups.



4. Spain - Current situation

4.1. Context

Spanish entrepreneurs

According to EU studies, the Spanish attitude to setting up companies is more positive than the EU 15 average and very similar to the United States. Furthermore, Spaniards are more attracted than other Europeans to the idea of setting up a company, although the data does not indicate whether this is a result of entrepreneurial vocation or rejection of being an employee on a company payroll¹⁹.

To discover the opinions of the Spanish entrepreneur on the administrative procedures for company start-ups, this assessment decided to actively participate in the Global Entrepreneurship Monitor (GEM) study, which was carried out in Spain by the post-graduate business school *Instituto de Empresa* by means of an *ad hoc* sub-survey²⁰. The following are the conclusions:

1. On obstacles: 49.4% of participants felt it was hard to set up a company due to lack of financial support. More than 40% considered that complex procedures hampered company start-up. More than 30% felt that the economic climate was favourable for entrepreneurship. There was no consensus as to whether it was difficult to obtain information on how to set up a company (26.1% fully agreed, while 25.15 totally disagreed).
2. There seems to be a lack of information with respect to NSA procedural improvements. 37.1% saw the VUEs (one-stop-shops) as an improvement, but it is striking that 33.2% were unable to give an opinion, despite the awareness campaigns. Most entrepreneurs felt that access to electronic procedures favoured company creation, but 21% did not know or failed to respond.
3. Lack of awareness is prevalent with respect to company creation in Europe. 39.7% were unaware if company start-up conditions were more favourable in the rest of Europe, though 24.3% believed that they were. 44.6% did not know or failed to respond as to whether fewer companies were set up in Spain than in the rest of Europe and only 14.9% responded "correctly".
4. Regarding the policy to foster entrepreneurship, entrepreneurs believe the priorities to be more loans, aid and subsidies. In second place came administrative simplification for start-up and the need to improve information and advisory services. The need for industrial areas and incubators ranked lowest.

¹⁹ See Annex 7

²⁰ See Annex 8.



Setting up companies in Spain

In 2003, Spanish companies accounted for 13.95% of the Europe-19 total, according to The European commission's "SMEs in Europe, including a first glance at EU candidate countries"²¹. As was the case of Europe-19, micro-companies dominated Spanish business, with an average of six employees compared to the EU average of seven.

In Europe, the average gross annual company start-up rate between 1995 and 2000 ranged from 15.7% in Germany to 6.5% in Denmark. The figure for Spain was 13.35%. The average gross annual company closure rate ranged from 12.6% in Germany to 2% in Sweden during the same period. In Spain, the figure was 11.4%. The highest net company start-up rate was in Ireland (6%) and the lowest in Belgium (0.2%). Spain had an average net rate of 2.9%.

The net company start-up rate in Spain is close to the EU average. Private limited companies (31.23%) and individual enterprises (56.43%) are the predominant company formats in Spain.

Administrative simplification of company start-ups in Spain

The simplification of administrative procedures for the setting up of companies is a basic objective of government economic policy. In this respect, the Ministry of Public Administration and the Ministry of Industry, Tourism and Trade have tried to reduce procedures and facilitate electronic procedures. The Ministry of The Economy and Taxation initiative to facilitate electronic procedures for SLNEs (new format private limited companies) and programmes to reduce obstacles to start-up in the Plan to Foster Business (*Plan de Fomento Empresarial*) are also steps in the right direction.

The Spanish National Reform Programme (NRP), takes the view that "the cost of starting and closing a company is high" due to the fact that it costs almost twice as much and takes more than twice as long as the EU-15 average. The fifth and seventh pillars of the NRP outline a series of objectives related to "the simplification of the legal and administrative environment in which companies are set up, operate and close."

The seventh pillar of the 2007 NRP monitoring report gives special mention to a number of initiatives. The Plan to Foster Business (*Plan de Fomento Empresarial*) has "reducing company start-up costs" amongst its objectives"²². The approval of the TUTELA programme, for the authorisation and monitoring of electronically set up SLNEs, was another noteworthy initiative, despite the fact that not all the measures were included in the plan itself. Other noteworthy advances mentioned in the NRP were; the possibility to set up all types of limited company in five Autonomous

²¹ See Annex 9.

²² NRP. Annual progress report 2007. See also Annex 10.



Regions by electronic procedures; the electronic support needed for these procedures; the impetus of the PAIT (Procedural Initiation and Advice Centres) ; the drawing up of guideline standard articles of association; and the projected “business name exchange”. The report also mentions the creation of the GAN (High Level Committee) to reduce the administrative burden and transpose the Directive on services in the internal market.

4.2. The administrative procedures for company start-up in Spain

Of the four current administrative authorities (EU, NSA, Autonomous Regions and local councils), the EU has the least direct influence on company creation. However, its indirect influence is still considerable in terms of the transposition of Directives on new requirements for start-up companies²³.

The NSA deals mainly with company registration, while the Autonomous Regions and local authorities deal more with procedures necessary for the commencement of business activities.

There are currently three key junctures in the company start-up process. The first is company registration, which is when the company obtains its legal personality. The second is receipt of the provisional or permanent corporate tax ID number (CIF in its Spanish initials), which enables the company to take on employees. The third is the granting of the municipal business activity licence, which allows the company to operate in the market and issue invoices. Because the entire process is complex and lengthy, many companies start business without completing it.

Phase 1. Legal personality and the right to employ and invoice for “innocuous” companies

More than half (56.43%) of Spanish companies are individual enterprises. 31.23% are private limited companies. Of the others, the most common forms are partnerships and larger private or public limited companies (*sociedades anónimas*). As has been mentioned, this study concentrates on individual enterprises and private limited companies.

Depending on its legal format, the general procedures for setting up a company involve: The Register of Companies, the notary, the tax authorities, the local councils, the Social Security, the labour authorities and the municipal and Autonomous Region licences²⁴.

²³ See Annex 11.

²⁴ See Annex 12 for details of administrative procedures for company creation according to legal format.



i) The individual enterprise

Individual enterprises are formed by people who carry out a commercial, industrial, or professional activity in their own name. They are self-employed individuals who habitually, personally and directly engage in an economic activity. They do not enter into employment contracts with other companies and no distinction is made between their personal possessions and their business assets²⁵.

Setting up an individual enterprise involves a minimum of seven procedures. Taking on employees increases the number of procedures to nine. This takes a minimum of sixteen days, assuming that the procedures can be completed on the same day and that the only administrative delay is the fifteen-day period for issuing the municipal licence for the commencement of "innocuous" activities.

The purchase and sealing of the visitors book costs €8 or €9 and the municipal licence costs €380.

ii) The private limited company

The incorporation of the private limited company (SL in its Spanish initials) is regulated by Law 2/1995, of 23 March 1995 governing limited liability companies (*Sociedades de Responsabilidad Limitada*). It is described as a company whose paid-up capital, made up of the contributions of the owners, is composed of indivisible and accumulative participations, which are not and cannot be called shares and therefore cannot be represented in documents or accounts as such.²⁶

Assuming that immediate procedures can be completed on the same day, it takes between 45 and 210 days to set up a private limited company, depending on the city. The cost ranges from €746 to €5,895 depending once again on where the company is set up.

Most procedures are carried out through the NSA (the tax, social security and labour authorities) so it is hard to understand why they cannot be done electronically at the same time and with a single form. The single electronic procedure would not eliminate the need for prior simplification to reduce complexity and avoid repeated requests for data or unnecessary information.

In cases where it is of vital importance to the entrepreneur, procedural times should be reduced for the business name certificate, the memorandum and articles of association deeds and incorporation on the Register of Companies. The introduction of standard deeds, provisional company registration using the entrepreneur's name and the business activity could reduce the time of the process. Delays could also be reduced by measures included in the bill to foster the information society.

²⁵ See Annex 13.

²⁶ See Annex 14.



However, the main delays in company start-ups are produced by NSA procedures for regulated sectors and in Autonomous Region or local council procedures for activities requiring registration, certificates or authorisations related to the environment, health, industrial control or urban planning.

Phase 2: The activity licence for “non-innocuous” companies.

Once the company has been incorporated, it requires a series of authorisations in order to start its activities. Three administrations issue these authorisations. Most competences have been decentralised to the Autonomous Regions or local authorities, although the NSA retains competence for regulated sectors.

i) Regulated sectors

Certain activities require national authorisation. This may be for reasons of public security, as is the case of arms and explosives, or for fiscal or financial reasons. These sectors are often also regulated in Autonomous Regions and even at local level²⁷.

Examples of business activities requiring special authorisation include establishments required by law to have security measures, laboratories, stockbrokers, risk capital companies or companies that import and market tobacco²⁸. In total, there are about twenty sectors subject to special NSA regulation, which can take from one day to one year to complete. Normally, these procedures take three months. The companies also have to apply for inscription on special registers, though many of these registers have been transferred to the Autonomous Regions. Twenty six economic activities are regulated by the NSA.

Consideration must be given as to whether NSA regulation of such activities is necessary and if so, whether the time taken to complete the procedures is excessive. Processes should be developed to reduce the arbitrary way in which authorisations are granted and the number of procedures involved. Finally, the duplication of Autonomous Region and local council procedures should be analysed.

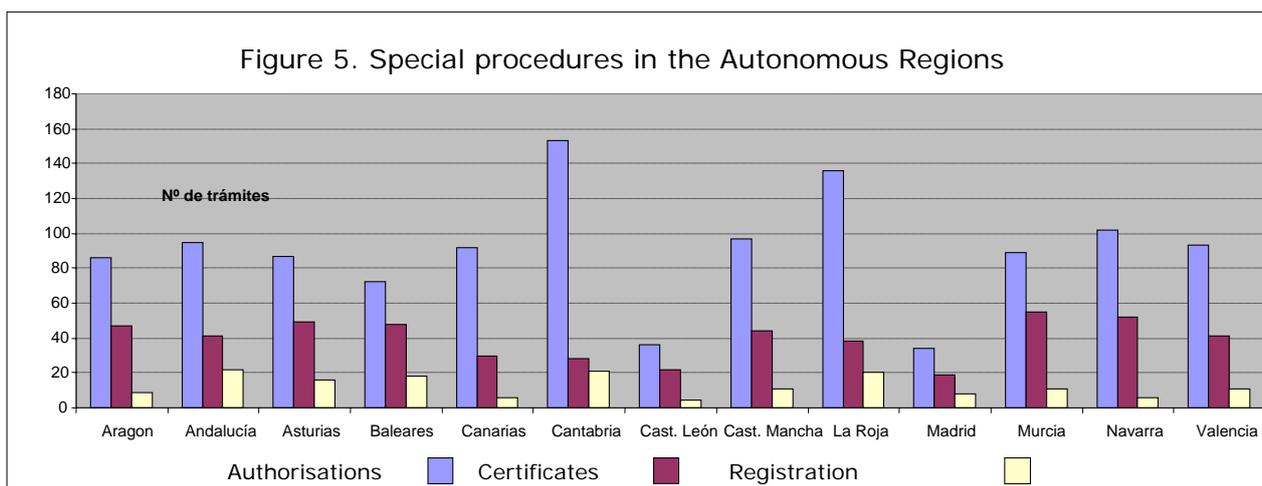
In NSA-regulated sectors, the time taken for authorisation can be up to a year. Expenses can be in excess of €13,000 and this does not include the cost of studies that may be necessary to comply with requirements.

ii) Administrative procedures in the Autonomous Regions

²⁷ See Annex 15.

²⁸ Consejo Económico y Social (Economic and Social Council). (2005). “El proceso de creación de empresas y el dinamismo empresarial”. Consejo Económico y Social. Madrid.

The Autonomous Regional Governments are responsible for company start-up procedures for “non-innocuous” sectors and the process involves practically all regional ministries. The main procedures are: authorisations to initiate activities, inclusion on registers, granting of mandatory certificates, licences for operators, mandatory notification of commencement of business, accreditation and others. Table 12 shows data from the VUE one-stop-shop website.



Source: VUE website

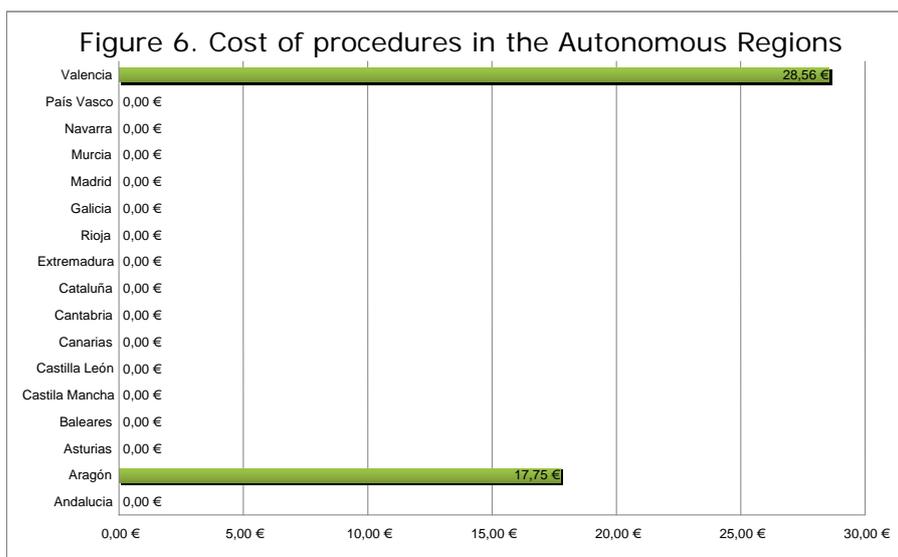
Regulation in each Autonomous Region varies because of different procedural requirements. However, the specifically regulated sectors are normally key industries in the economy of the region.

The manner in which authorisation is granted is not standard across the Autonomous Regions (depending on the Autonomous Region, failure to respond to applications may mean automatic authorisation or automatic rejection and provisional authorisations are not standard for all Autonomous Regions). Similarly, different activities within the same Autonomous Region may be subject to different procedures, despite common basic regulations. Specific regulations for start-up normally arise from NSA transpositions or the application of NSA mandatory legislation in the Autonomous Regions.²⁹.

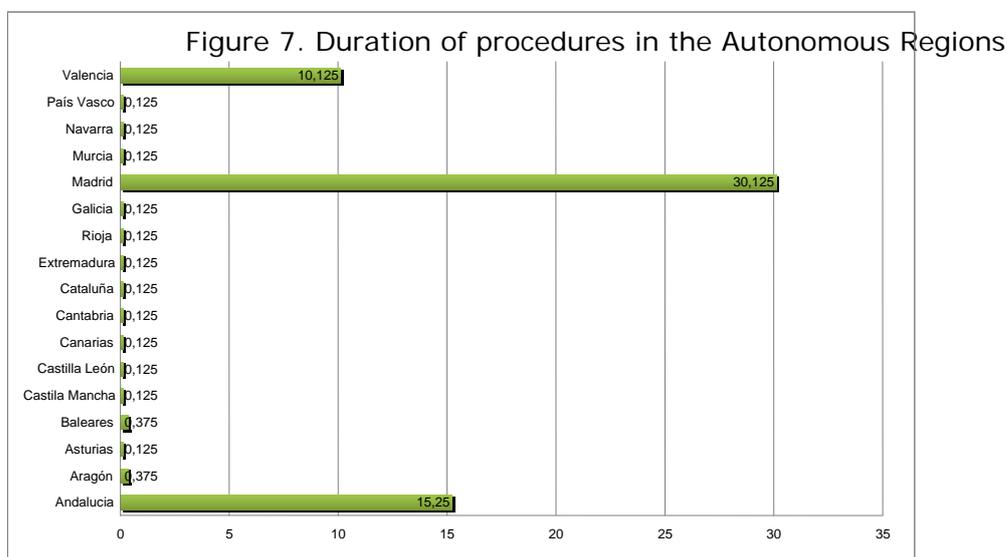
²⁹ An example is provided by Madrid’s industrial control legislation. It has 24 registers, procedural periods of between 30 and 180 days and most of its legal authority is based on ministerial orders or Royal Decrees.

Although Autonomous Region regulation currently appears to have the objective of protecting citizens, it cannot be ruled out that in the future it could be used to attract investment and therefore cause a possible disruption of the Spanish single market.³⁰

Autonomous Region procedures to set up a private limited company in accordance with World Bank criteria provide an example of the procedural heterogeneity. This can be seen in the following tables.



Source: prepared by author with D'Aleph data.



Source: prepared by author with D'Aleph data.

³⁰ Annex 6 shows the complexity and heterogeneity of these procedures for the five company types in the EU study.



iii) Local council administrative procedures

The local council must grant the municipal business activity licence before the new company can start to operate³¹. Often, the granting of this licence means that all procedures required by the Autonomous Regions have been completed. The complexity of local administrative procedures is aggravated by the involvement of over 8,000 local councils with differing technical and administrative resources. This leads to a diversity of approaches and manners in which procedures are resolved.

The complexity of procedures related to the business activity licence is similar to that of Autonomous Region licence procedures. However, it is further complicated by the lack of resources of local councils³².

From the purely environmental perspective, the local councils grant two types of licence: licences for “innocuous” activities and licences which require an environmental assessment. The process for the former is shorter.

This study looked at two local councils in the *Comunidad de Madrid* (Autonomous Region of Madrid) and the time taken to grant “innocuous” licences could be reduced if appropriate measures were implemented³³. The study shows that licences involving an environmental assessment take an average of 249 days. This is unacceptable, particularly in light of the fact that Law 2/2002 of the *Comunidad de Madrid* lays down a maximum of 5 months. If there is no response within this time period, the licence application is assumed to have been rejected.

Errors in licence applications can also lead to procedural delays. With clear internal procedures and objectives, files can be processed with great efficiency.

A general cause of excessive delays in local council procedures is the need for committee meetings or lengthy reports. The solution lies in more human resources and the simplification and clarification of forms.

It would also be beneficial if all local councils implemented on-line monitoring systems so that citizens could follow the progress of their applications. Local council websites are sufficiently secure to allow for applications to be monitored. They could

³¹ Distinction should be made between the business activity licence, with its implicit authorisation to carry out work and mount installations necessary to commence the activity and the operational licence, which certifies that work and installations comply with activity licence stipulations.

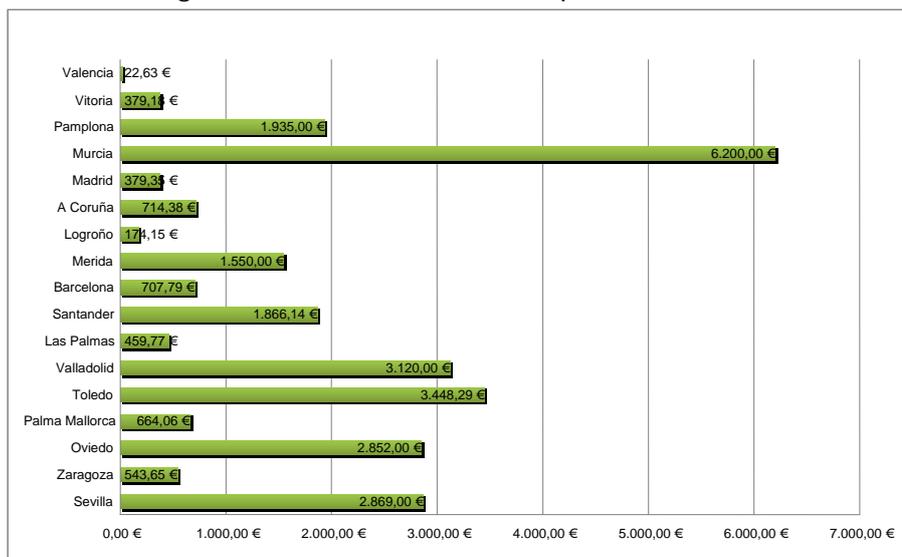
³² A field study of two *Comunidad de Madrid* councils, Getafe and Alcobendas was carried out. Full results can be seen in Annex 16.

³³ The figure for one of the two councils for obtaining the licences was 249 days and the trend was upward. This is well above the average of 47 days obtained in the “Doing Business” study, which served as a reference for this study.

even allow for information to be presented electronically, thus reducing procedural times.

Local council procedures to set up private limited companies in accordance with World Bank criteria provide an example of the procedural heterogeneity. This can be seen in the following tables.

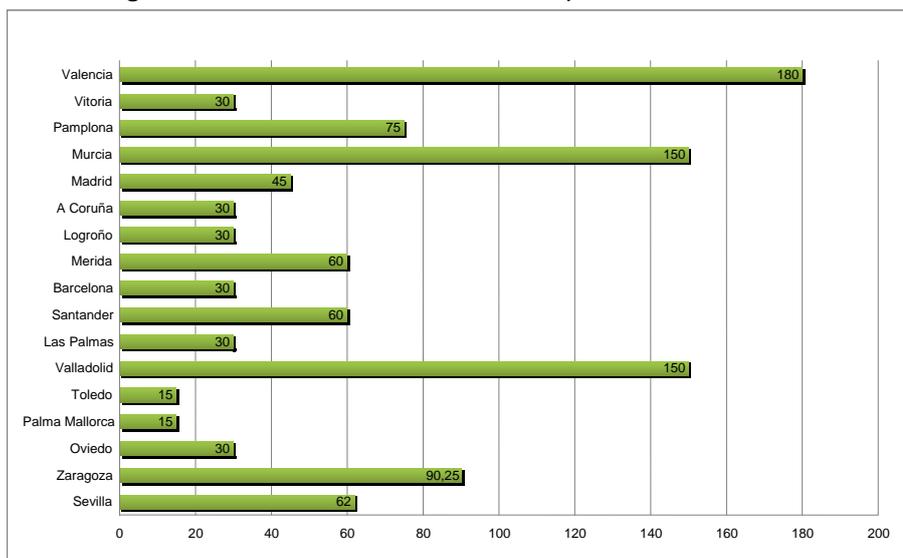
Figure 8. Cost of local council procedures



Source: Prepared by author with D'Aleph data.



Figure 9. Duration of local council procedures



Source: prepared by author with D'Aleph data.



5. Assessment of administrative simplification policies for company start-up in Spain

Current Spanish administrative simplification policies³⁴ are in line with corresponding EU policies and policies to support SMEs and foster entrepreneurship. They share the objective of contributing to growth and jobs through a 25% reduction in the administrative burden on companies before 2012 and achieving the one-week EU target for company creation³⁵.

5.1. Latest measures

1. The Law of electronic access to public services (*La Ley para el acceso electrónico de los ciudadanos a los servicios públicos*). One of the objectives of this law is to increase the efficiency of the NSA and to reduce the distance between the citizen and the public administration. This distance continues to exist despite decentralisation. The NSA should make "at least one point of contact available to citizens and companies so that they can have easy access to information and services, present applications and appeals, carry out the appeal process if necessary, make payments and have access to public administration announcements and notifications"³⁶.

2. *High Level Committee (GAN in its Spanish initials)*³⁷. Despite the fact that, in recent years, there have been many specific programmes, in May 2007, the Council of Ministers approved the creation of a High Level Committee to draw up "an action plan" for the reduction of administrative burdens". This plan was to be submitted before the end of 2007.

The Committee seeks to establish coordination between the Autonomous Regions and the local bodies (through the *Conferencia Sectorial de Administración Local* (Sectoral Conference of Local Administration) and the *Comisión Interministerial de Simplificación Administrativa* (Inter-ministerial Commission for Administrative Simplification)). It aims to agree cooperation mechanisms with the agents involved (chambers of commerce, business organisations and trade unions). Its objective is to identify "measures to reduce administrative burdens which affect company creation and constrain the activity of up-and-running companies".

3. *Possible changes to Spanish law due to the transposition of Directive 2006/123/EC on services in the internal market*. The government has set up an inter-ministerial commission which will report to the cabinet Commission for Economic Affairs (*Comisión Delegada del Gobierno para Asuntos Económicos*). The objective of this

³⁴ For more information, see Annex 17, which contains a summary of administrative simplification plans and others.

³⁵ Annex 18 provides a summary of the most important prior actions.

³⁶ See Annex 22.

³⁷ Council of Ministers Accord on accelerating the programme for improving regulations and reducing administrative burdens, published in BOE (Official State Bulletin) 12 June 2007.



commission is to coordinate the work and draw up a blueprint for the transposition of the Directive into Spanish law and subsequently into Autonomous Region and local legislation. A bill to create a harmonising framework for all public administrations is also being drawn up³⁸.

This means a radical change to business licence regulation for the opening of new retail outlets (the main affected group) and also represents a substantial change to State, Regional and local legislation. Numerous procedures and requirements should be either simplified or eliminated and restrictions on the opening of new retail outlets should be examined to see if they are necessary.

4. *The VUE Business One-Stop-Shop Programme*. This has been in operation since 1999³⁹. The VUE one-stop-shops provide all the information and services necessary to set up a company in a single location. As the survey showed, the programme is hampered by the fact that entrepreneurs know little about it.

5. *The DGPYME administrative simplification programme*⁴⁰. Its greatest achievement has been to extend the SLNE (new format private limited company) legal framework to all private limited companies. At present it can only be implemented in five Autonomous Regions: Madrid, Galicia, Andalusia, Aragón and Castilla y León.

The focal point of this programme is the Single Business Document (DUE). This is a form containing all information about the SLNEs or other private limited companies for presentation to legal registers and public administration for the purposes of setting up a company. It also serves to process tax and social security requirements. Single Business Document processing takes place at Procedural Initiation and Advice Centres (PAIT). From these centres, all messages and documents are submitted by internet. Digital signatures and secure connections give legal validity to the process.

6. *The bill to foster the information society* (currently at the parliamentary stage) proposes, in its additional provisions 9^a and 10^a, substantial changes to electronic procedures for private limited company start-ups. It will be possible to set them up in 4 days. The reform will enable:

- A reduction to 48 hours of the maximum time for the public registration of private limited companies. This will be done by means of a standard template of the required documents.

³⁸ See Annex 19.

³⁹ See Annex 20.

⁴⁰ Data for this citation are based on the report "*Actuaciones de la DGPYME en materia de fomento de la creación de empresas. Constitución telemática de sociedades-CIRCE*". See Annex 21.



- Reservation of a business name from a “business name exchange”. This will speed up the process of obtaining the business name, which under this system will have prior authorisation from the Register of Companies.
- From the moment the company deeds have been issued, administrators will be authorised to process the company objectives and all related contracts and documents without the need to wait for incorporation on the Register of Companies.

5.2. Impact of measures to simplify company start-up

There are two specific policies to reduce the effects of administrative burdens on company start-ups. One is the DGPYME policy to introduce electronic systems, simplify procedures and expand the network of advisory centres. The other is the Ministry of Public Administrations policy to facilitate company creation by extending the VUE one-stop-shop network and generally simplifying the administrative process. The effects of these policies are outlined below.

DGPYME policy to simplify company start-up procedures.

Regardless of its results, this is the first real NSA attempt to speed up company start-ups through electronic procedures. In hindsight, the new company format created by Law 7/2003 on 1 April 2003, the *Sociedad Limitada Nueva Empresa* (new format private limited company) was not the answer to the problems of administrative procedures. Lack of tradition and inherent limitations have resulted in the setting up of fewer SLNEs. Despite saving time on some procedures, lengthy company registration and notary procedures and few contact points for the process have stymied the initiative. Of around 400,000 companies set up annually in Spain, 1,100 SLNEs were set up in 2006 and only 3,004 were created between 2003 and 2007.

Nevertheless, the SLNE format has opened the way for the implementation of electronic procedures and their extension to private limited companies may have a positive effect on company creation. Electronic procedures should also be made available to individual enterprises. In this way, 90% of all new companies set up in Spain would have access to electronic procedures.

The DUE⁴¹ is the basic procedural tool. It integrates a number of documents relevant to different authorities and can be submitted electronically. Though the process is welcome and efficient at first glance, it may not be the best solution. Maybe it would be best to eliminate the different forms required by different NSA bodies. In this way the entrepreneur could fill in just one form for all administrative bodies.

⁴¹ Annex 21 shows procedures replaced by the DUE.



The system works through the PAIT (Procedural Initiation and Advice Centres). 183 companies were created up to June 2007 and measures are to be extended to private entities in order to increase access to electronic company start-up. Despite these efforts, procedures should be further simplified and computer programmes made more user-friendly so that entrepreneurs themselves can deal with start up procedures.

Of the DGPYME simplification measures, the most useful are the bill to foster the information society, simplified articles of association, reduced registration times and the data base of business names. Since the bill has not come into force and its wording has not been finalised, it would be premature to assess its effects on company start-ups.

The Ministry of Public Administrations VUE one-stop-shop programme.

The first VUE one-stop-shops were opened in Valladolid and Palma de Mallorca in 1999, subsequent to agreements with the corresponding Autonomous Regions. Currently, the programme has 31 centres with two basic functions. The first is to give advice on procedures related to setting up companies. The second is to carry out all NSA-related procedures, thereby avoiding unnecessary visits to other centres. The one-stop-shops should be extended to local councils and be located in accordance with entrepreneurial demand.

A total of 34,869 companies were created up to 2006, with a one-year high of 8,336 in 2003. Since then there has been an annual falling off in the number of companies set up and only 3,030 companies were set up in 2006.

Figure 10. VUE one-stop-shop programme. Annual number of companies created.

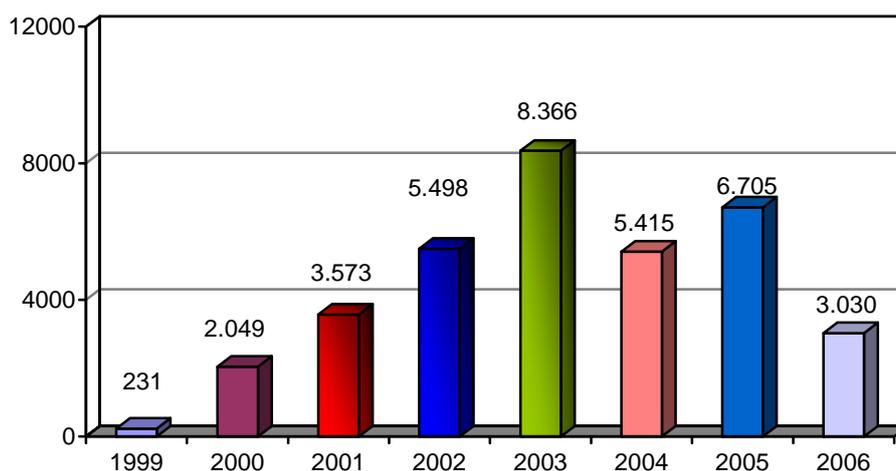
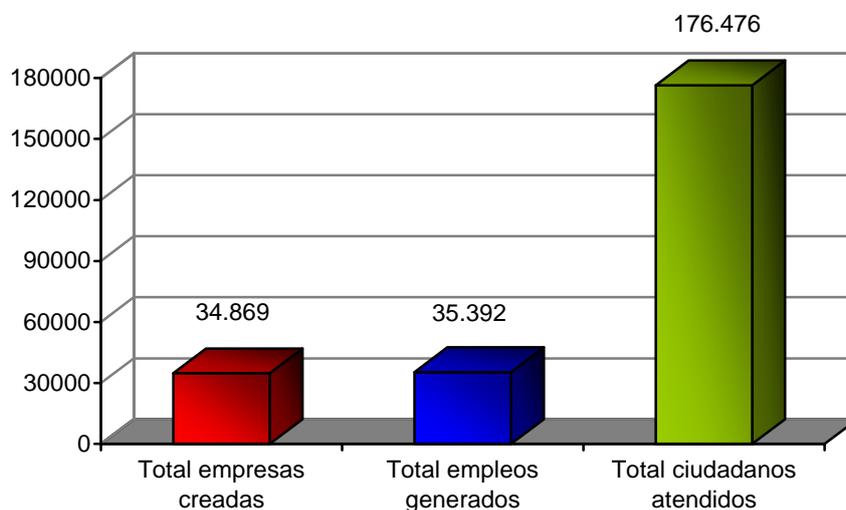


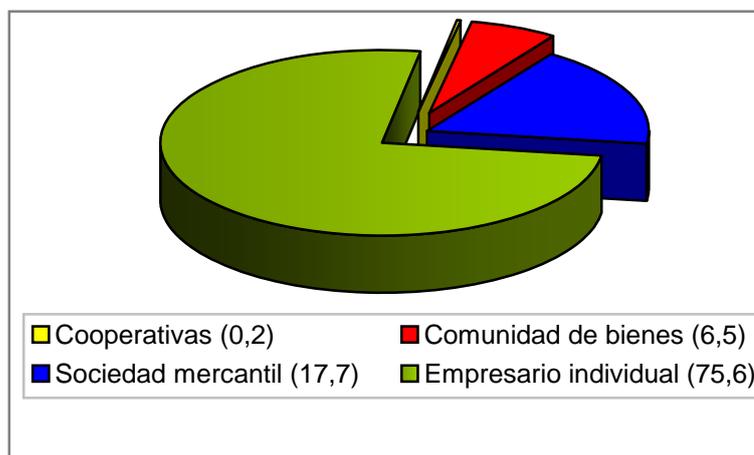


Figure 11. VUE one-stop-shop programme. Number of companies set up, jobs created and citizens attended. 1999-2006



The vast majority of companies formed were individual enterprises. Only 17.7% were trading companies.

Figure 12. VUE one-stop-shop programme. Number of companies set up by type



The above data shows the low impact of the VUE one-stop-shops on entrepreneurship. 176,476 citizens attended to at 31 centres in six years means an average of 900 per annum per one-stop-shop. The 34,869 companies set up means



an annual average of 200 per one-stop-shop. Most of these companies were individual enterprises.

What is the reason for such unspectacular performance? The answer is probably the underlying concept of the VUE one-stop-shops. They were designed to save the entrepreneur from visiting different public offices, rather than to simplify the process of setting up a new company.

New administrative simplification policies for company start-up.

The bill to foster the information society, the results of the Commission of Administrative Simplification (*Comisión de Simplificación Administrativa*) and the transposition of the EU Directive on services to Spanish legislation are all positive. It is still not possible to measure their effects as they have yet to exert a practical influence on company start-up procedures.

In summary, current policies, the one-stop-shops and electronic procedures, while not being hugely successful in themselves, have had positive effects. They have served to pave the way by implementing procedures and programmes which can and should be reformed and strengthened to optimise their impact on entrepreneurs and company start-ups.



6. Conclusions and recommendations

The following conclusions⁴² can be drawn from studies into administrative procedures for company-start-up in Spain and cross-country comparisons:

Conclusion 1. Procedural problems for companies in general

- The adverse effect of administrative procedures on company start-up depends on the legal format, activity type and location of the new company.
- It is impossible to deal with all procedural problems for company-start-up in a single document due to the heterogeneity both of the companies and the administrative procedures necessary for start-up.
- Given the heterogeneity of company types and administrative procedures, any cross-country comparison must ensure uniformity of measurement methods. Even so, each comparison should concentrate on only one company type.
- Commonly used benchmarks to measure the effects of administrative procedures on company start-up are the number, duration and cost of procedures. Each benchmark has a varying effect on start-up.
 - Time is the greatest obstacle to company start-up because it can increase opportunity costs, unproductive fixed costs and loss of revenue. It is the most important benchmark of administrative obstacles.
 - Despite being higher than in other countries, the direct cost of administrative procedures is not a disincentive to company start-up in Spain. More important are opportunity costs and advisory and engineering fees associated with business activity licence applications.
 - The number of procedures is only an obstacle if they are time-consuming or require visits to different public offices.
- There is a fundamental conflict between the fostering of new companies and protecting the citizen from possible negative effects. While new companies are encouraged for economic and social reasons, setting them up is regulated in order to protect the consumer. This protection takes the form of requirements related to industrial control, health, the environment and urban planning.
- Empirical studies indicate that stricter regulation on company creation leads to higher growth and stability. On the other hand, long complex processes may

⁴² The conclusions and recommendations have been reviewed by experts in different areas of company creation by means of a Nominal Group Technique (NGT). See Annex 23.



give rise to unauthorised companies operating in the market and in certain sectors can even result in corruption. Administrative simplification favours the regularisation of such companies.

- Company start-up consists of two stages. The first is registration or incorporation, which confers the legal personality and right to employ. The second is the business activity licence, which allows the company to do business and invoice clients. First stage requirements are geared towards legal, commercial, fiscal and labour guarantees. Second stage requirements are aimed at preventing the company from adversely affecting third parties.
- Currently, there are three key junctures in the company start-up procedure. The first is the acquirement of legal personality through incorporation on the Register of Companies. The second is the granting of the provisional or permanent corporate tax ID number (CIF), which allows the company to take on employees. The third is the granting of the municipal business activity licence. This allows the company to legally operate in the market and issue invoices. Due to the complexity and duration of the administrative procedures, many companies start activities before completing the process.

Conclusion 2. Regarding procedural problems for Spanish companies

- The administrative procedures for setting up companies in Spain are more complex, more expensive and take much longer than in other countries. This is a competitive disadvantage.
- The assessment of administrative obstacles to company start-up should focus on the two most common types of company in Spain, the private limited company (31.23%) and individual enterprises (56.43%).
- Spain has fared badly in the World Bank's "Doing Business" study, with rankings of 94th in 2005, 108th in 2006 and 118th in 2007. This is because the time of between 30 and 47 days needed to set up an "innocuous" company in Spain is far longer than in other countries. The deterioration in Spain's ranking is due to the fact that other countries have improved their procedures while Spain has failed to do so (these results refer only to private limited companies set up in Madrid in accordance with the conditions established by the World Bank).
- While there may be some reservations regarding the "Doing Business" study and other more limited studies, there is clearly a serious problem with administrative procedures for company start-up in Spain.



- Despite this, a majority of entrepreneurs (49%) identified financial problems as a greater disincentive to company start-up than administrative obstacles (40%)⁴³.
- There are additional specific requirements for NSA-regulated sectors. These include costly and time-consuming authorisations and inscription on registers and such requirements are not always objective.
- NSA-regulated sectors affect a very small percentage of company start-ups. Therefore, administrative simplification in this area would have less impact than at Regional and local level.
- In general terms, the NSA deals with company registration procedures, whereas the Autonomous Regions and local authorities are responsible for business activity licence procedures.
- Delays in NSA start-up procedures stem from the business name certificate (7 days) and company registration (20 days). Together, these account for 90% of procedural time.
- Notary and company registration fees make up 90% of total procedural costs of company start-up in Spain.
- Depending on company type, between seven and nine start-up procedures are carried out by the NSA and between four and six by the Autonomous Regions and local councils. However, Regional and local procedures account for between 70% and 87% of the time taken to set up a company. Between 51% and 80% of company start-up costs are incurred at Autonomous Region and local level. This figure would be even higher if notary and registration fees were not deemed to arise from NSA procedures, as is currently the case.
- Most mandatory business licence activity procedures in the Autonomous Regions are laid down in national framework legislation.
- Procedural costs in the Autonomous Regions are quite similar and mostly free. Procedural times are also similar because of electronic processes. In Autonomous Regions without electronic procedures, the duration of procedures is clearly excessive.
- Local council procedural costs are very heterogeneous and often very high. They range from €22 to €6,200 for the same type of company. Procedural times also vary greatly, ranging from 15 to 180 days.

⁴³ According to the results of the survey carried out for this report. Full results can be seen in Annex 8.



- There are two main problems with local council business activity licence procedures. One is the lack of resources to process applications, leading to excessive delays. The other is the complexity of the application files themselves.
- Administrative obstacles to company start-up and procedural variations at Autonomous Region and local level threaten to cause division in the market.

Conclusion 3. Regarding the implementation of administrative simplification in Spain

- The first step of a simplification policy for company start-up procedures in Spain should be to prevent the creation of new obstacles.
- Key to reducing the adverse effects of administrative procedures on company start-up are:
 - Prior information
 - Electronic procedures
 - Provisional authorisations
- Provided that procedural simplification policy is constant, it is better to make small advances rather than attempt to solve the problem all at once. This is due to the diversity of company types and the different administrative procedures.
- Entrepreneurs are often unaware of the existence of instruments to help set up companies, such as the VUE one-stop-shops, the PAIT (procedural initiation and advisory centres) and electronic procedures.
- Despite the fact that these policies have not been enormously successful in themselves, they have paved the way by implementing procedures and programmes which can and should be reformed to optimise their effect on entrepreneurship and stimulate the setting up of new companies.
- Entrepreneurs are often unaware of the instruments available to simplify company start-up and there is also a need to create awareness amongst agents involved in the process. There should be a well publicised framework policy including different measures to reduce the time and administrative complexity of company start-up. To be effective, the policy of providing information must be implemented at the same time as the simplification measures and be equally constant.

The following are recommendations to improve the efficiency of the administrative simplification policy for company start-up.



1. Recommendations on the general policy for administrative simplification of company start-up.

- There should be a national awareness campaign to emphasise the advantages of administrative simplification because of the importance of company creation to the economy. This campaign is also necessary due to the large number of organisations involved (public administrations, registers, notaries, professional bodies, PAITS, VUE one-stop-shops etc.) and the number of companies set up in Spain (around 400,000 per annum). It should be part of a general plan to promote entrepreneurship and should be aimed primarily at the agents involved.
- Given current difficulties regarding company start-up procedures in Spain, evaluation mechanisms should be implemented to prevent a worsening of the situation. New regulations should be analysed, discretionary elements eliminated and any increase in the administrative burden avoided.
- Apart from large-scale awareness campaigns, the basis of administrative simplification policy should be to seek specific solutions to specific problems. This does not imply a suspension of the general policy to simplify company start-up and reduce administrative burdens on companies.
- To enable the entrepreneur to attend personally to the setting up of his company and eliminate intermediaries, the language used in both on-line and paper forms should be simple.

2. Measures to simplify company start-up administrative procedures.

- Electronic administrative procedures, whether carried out by entrepreneurs or private or public intermediaries are at the heart of administrative simplification. Electronic procedures should be extended to all company types and not restricted to the *Sociedad Limitada Nueva Empresa* (SLNEs –new format private limited companies) and private limited companies, as is the case at present.
- Electronic procedures should be carried out by means of a single document and a single portal. This would avoid unnecessary visits and entrepreneurs presenting the same information more than once.
- Prior advisory services for entrepreneurs are essential to reducing procedural times. The scope of the PAIT (Procedural Initiation and Advice Centres) and the VUE one-stop-shops should be extended and planned in accordance with geographical company start-up demand.
- Despite the fact that procedural costs are not key disincentives, agreement should be reached with professional bodies on standard prices throughout



Spain for simple studies necessary to comply with requirements. Given the economic and social importance of new companies, another possibility would be for the administration in question to assume the procedural costs.

- A legal distinction should be made between the registration or incorporation of a company (conferring legal personality and the right to employ) and the granting of the business activity licence (right to operate and invoice in the market for goods and services, which represents the reason for setting up the company).
- Company start-up procedures, or at least NSA procedures, should be carried out by means of a single document.
- The time required to obtain the business name certificate should be reduced. Possible ways to achieve this are:
 - Computerisation of the register to enable on-line access and the automatic receipt of the certificate.
 - Acceptance of the business name certificate without the need for the certificate of incorporation.
 - Allow the entrepreneur's name to be associated with the business activity.
- There should be a "standard deed" with a standard cost throughout the country to facilitate company registration and commencement of activities. This could later be modified to reflect the specific characteristics of the new company.

3. Measures to speed up the business activity licence process

- For companies whose activities are considered "innocuous", the application for the municipal business activity licence should take the form of a simple notification to the administration in question. This would make it similar to the application to the Autonomous Region for the authorisation of the registered work premises so that the business activity can start.
- There should be deregulation. Only administrative procedures necessary to avoid adverse external effects of the new company should be maintained.
- The creation of a single municipal licence throughout Spain, or at least throughout the relevant Autonomous Region could be negotiated with The Spanish Federation of Municipalities and Provinces (*Federación Española de Municipios y Provincias*).



- Where possible, business activity licence procedures should be carried out by means of a single document submitted to the relevant local council and Autonomous Region.
- Autonomous Regions and local councils should have a time limit for the granting of business activity licences. Failure to process applications within this period should result in the licence being granted automatically. Distinction should be made between companies whose activities could produce irreparable damage to society and other companies, with the latter being granted provisional licences subject to public inspection before being made permanent.
- Wherever possible, signed statements by qualified professionals should be sufficient to fulfil administrative requirements for the business activity licence.
- Progress should be made in the computerisation of company start-up procedures in local councils to enable entrepreneurs to access and monitor the different procedures.
- Coordination mechanisms should be created between the NSA and the Autonomous Regions. There should be coordination between Autonomous Regions and between municipalities and Autonomous Regions so that they can adopt coordinated simplification policies and awareness programmes for agents involved in the company start-up process.
- The cost of obtaining activity licences should be reduced. Duplication of payments for the same procedures at Autonomous Region and local level should be done away with. Standard fees based on activity type should be set with professional bodies for studies carried out to comply with administrative requirements.
- More specialised training should be provided for staff responsible for dealing with entrepreneurs at local and Regional levels.
- The transposition of the EU Directive on services in the internal market should be availed of to unify criteria and simplify the setting up of companies throughout the State. There should be a single website to access procedures, a simplification of such procedures and a broadening of advisory services for electronic company start-ups.



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