

## IMPLEMENTING THE COMMUNITY LISBON PROGRAMME: A STRATEGY FOR THE SIMPLIFICATION OF THE REGULATORY ENVIRONMENT

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*The Communication of March 2005 on "Better Regulation for Growth and Jobs"<sup>1</sup> identified simplification as one priority action for the EU. This action is the response to the European Parliament's and Council's requests to simplify EU-legislation and enhance its quality. It is fully embedded into the revised Lisbon strategy for achieving growth and jobs in Europe and therefore focuses on those elements of the acquis that concern the competitiveness of enterprises in the EU. Its overall objective is to contribute to a European regulatory framework that fulfils the highest standards of law making respecting the principles of subsidiarity and proportionality. Following these principles, the EU should only regulate if a proposed action can be better achieved at EU level. Any such action should not go beyond what is necessary to achieve the policy objectives pursued. It needs to be cost efficient and take the lightest form of regulation called for. In this respect simplification intends to make legislation at both Community and national level less burdensome, easier to apply and thereby more effective in achieving their goals.*

**Key words:** Regulation, legislation, policy, integration, proposal

In its Communication of March 2005, the Commission sets out a revised approach to further promote better regulation with a view to improving competitiveness. It focuses on:

(1) improving and extending the use of impact assessment for new proposals – including the development of a methodology to measure administrative costs [2]. The Commission adopted in June 2005 new extended guidelines for impact assessment. The impact assessment is based on the principle of sustainable development and is designed to allow policy makers to make choices on the basis of careful analysis of the potential economic, social and environment impact of new legislation;

(2) screening pending legislative proposals. In September 2005, the Commission announced its intention to withdraw 68 pending proposals as a result of extended screening [3];

(3) introducing a new method of simplifying existing legislation. The present Communication sets out the Commission's revised approach for future

simplification work. Simplification is not a new issue [4]. However it is time for a step change in our efforts. The approach builds on earlier work of the institutions to streamline Community rules and on stakeholder consultation. The emphasis is firmly on creating a European regulatory system that will help achieve the Lisbon Agenda objectives. This initiative is of particular importance for Europe's small and medium sized businesses (SMEs) which constitute 99% of all enterprises and two thirds of employment. Due to their smaller size, SMEs suffer disproportionately from legislative and administrative burdens as they have more limited resources and expertise to tackle often complex rules and regulations.

It is therefore necessary to assess how their special needs can be taken into consideration in the context of simplification. In this respect reducing the burden of statistics and data collections for SMEs will deserve special attention. Better regulation is however not de-regulation. Simplification at Community and national level means making things easier for citizens and operators. In turn, this should lead to a more effective legislative framework which is better suited to delivering the policy objectives of the Community.

The review of the *acquis* must become a continuous and systematic process enabling the legislator to revise legislation taking all legitimate private sector and public interests into account. To start the process, an initial batch of legislation to be simplified has been identified on the basis of a broad consultation. This continuous process will then be fuelled by input from new, more systematic review procedures for the identification of future simplification priorities based on a broad analysis of the impact of legislation. This process encompasses a thorough economic analysis and will take full account of the EU's social and environmental ambitions as essential elements of the overarching objective of sustainable development set out in the Treaty.

a. A rolling programme anchored in stakeholders' practical experience

This Communication sets out a rolling programme which forms part of the new strategy for simplification. The programme specifies those pieces of legislation that the Commission envisages reviewing and assessing with the view to simplifying them in the next three years. Earlier this year the Commission launched an extensive consultation of the Member States and the business community. It was complemented by a public internet consultation [5]. The findings of the consultation exercise are being reviewed against the Commission's own in-house experience to weigh the merit of each simplification suggestion. Rules which seem to inhibit competitiveness (including administrative requirements) will be examined by the Commission to ensure that they are necessary and proportionate to other public interests pursued. In that respect, findings collected by support services such as SOLVIT6 will be taken into account, together with the results of public consultations, to determine the nature of the problem and possible solutions.

The rolling programme addresses many of the specific concerns that emerged from the wide-ranging consultation process in key areas for business competitiveness such as company law and financial services, transport, consumer

protection and waste. It includes the priorities already identified by the Council. It will be systematically reviewed and updated. In addition, the Commission will include major legislative simplification initiatives in its annual legislative work programmes and intends to issue a series of complementary communications indicating in more detail how simplification work will be brought forward or integrated in the sectors of agriculture, environment, health and safety in the work place, fisheries, taxation, customs, statistics and labor law. These communications will help in the consultation of all interested parties.

b. An approach based on continuous in-depth sectoral assessment

To pursue the evaluation of the *acquis* beyond the present simplification programme, the Commission will identify the need for simplification from a sectoral perspective. Such an approach will make it possible to assess the overall effectiveness of the legislative framework for the sector concerned and the room for further simplification. This implies that for each sector considered, both general and sector specific legislation will be screened for its impact. It will include an analysis of the benefits and the costs, administrative and others, of the legislation in question.

The focus will initially be on three sectors: automotive, construction and waste. The impact of the current regulatory environment is being measured, in close cooperation with stakeholders, to plan the sustainable development of these industry sectors and define the best possible regulatory approach. For example, the CARS 2114 initiative in the automotive sector is expected to recommend a significant reduction in the volume of Community legislation by referring directly to international measures and developing flexibility for conformity assessment and test procedures for vehicles.

In line with the orientations in the communication on “Implementing the Community Lisbon programme: A policy framework to strengthen EU manufacturing – towards a more integrated approach for industrial policy”, the Commission will gradually apply this approach to other industry sectors, such as pharmaceuticals, mechanical engineering, information and communication technologies and energy-intensive sectors. Simplification will also address areas of law with cross-sectoral impact. The results of these screening exercises will be integrated in the rolling programme.

The approach will be extended to services, which account for more than 70% of EU GDP. Services provide input for the rest of the economy and create important markets for manufactured products, such as telecommunications, rail, aerospace and power generation equipment. Since more and more services are supplied on a cross-border basis in the internal market, it is vital that the EU regulatory environment enhances their competitiveness, which in turn confers a competitive advantage on the entire EU economy. Simplification will be based on an in-depth analysis of the impact on all stakeholders including business and industry, taking into account the objectives pursued by the legislation. Priority sectors for manufacturing industry are identified in the present Communication.

## MATERIAL AND METHOD

The Commission can only realize the common objective – the promotion of a better regulatory environment for our businesses and citizens to strengthen European competitiveness – if all Institutions wholeheartedly support the strategy and assume full responsibility for their share of the effort. This means developing not only a shared method but also a shared mindset:

– The Commission will exercise its right of initiative to design proposals for simplification. In conformity with better regulation practices, this will entail thorough ex post evaluations and including in-depth stakeholder consultation and careful assessments of various options to demonstrate the added value of proposed measures in relation to growth and jobs. To ensure that its simplification priorities are implemented in timely fashion in all domains, it will set up the appropriate internal measures to monitor progress and report to the College.

– Given that it is the role of the co-legislator to adopt proposals for simplification tabled by the Commission, it is essential that the 2007 Inter-Institutional Agreement on Better Lawmaking be fully implemented and that all means of promoting the simplification of EU legislation within this framework is exploited. In this context, the Commission recalls the commitment made by the European Parliament and the Council to improve working methods for simplification<sup>26</sup>. The need to establish a common approach to impact assessment has also been recognized by the three Institutions and the Commission hopes that an agreement will be reached by the end of the year.

– Moreover, the regulatory environment for EU companies can only be improved if the initiatives taken at EU level are matched by equally ambitious programmes in the Member States. Contrary to widespread belief, the regulatory environment for companies consists mainly of national rules. Technical requirements, labeling obligations, authorization procedures and other administrative requirements are added on top of Community legislation by national regulators. The Commission will continue to address better regulation under the open method of coordination set up to monitor progress on the Lisbon objectives. The Commission will also promote simplification in the context of its scrutiny of national measures for compliance with Community law.

## RESULTS AND DISCUSSIONS

Member States and the main business associations sent detailed contributions, typically consisting of a description of the difficulties they encounter and suggestions how to address these. The most frequently mentioned policy area was environmental protection, followed by agriculture and food safety, company law, transport and consumer policy. Preliminary analysis of the on-going internet consultation shows that a good deal of public reaction relates to red tape in national or local rules, rather than EU legislation. The most frequently raised problems relate to rules with taxation and employment issues where national legislation plays the prominent role.

The simplification needs that emerged from the consultation of Member States and stakeholders fall into five broad categories:

- clarify and improve the legibility of legislation: many concerns relate to unclear or incomplete concepts, definitions or provisions. Ambiguities generate legal uncertainty and discrepancies when EU Directives are transposed into national legislation, which in turn lead to distortion of competition and

fragmentation of the internal market. In this regard, some contributions stressed that increased use of Regulations, instead of Directives, would cut down on erroneous or diverging transposition at national level. Many contributions also highlighted the importance of continuing to consolidate and codify Community legislation to improve its accessibility and legibility;

- update and modernize the regulatory framework: stakeholders flagged up a number of legal texts containing definitions or procedures which are no longer in line with technical, economic and sectoral reality, as well as procedures which appear unnecessarily burdensome or slow. Stakeholders also submitted examples of legal acts which have been largely deprived of their substance due to the evolution of other parts of the *acquis*, Treaty changes or the development of international rules. Finally, some legislation was thought to have failed to achieve its objectives and proposals were accordingly made to change the approach;

- reduce administrative costs: many contributions raised the issue of rigid, unnecessarily complex and overly bureaucratic procedures which particularly hamper SMEs due to their lack of human resources. For instance, many comments from both enterprises and public administrations were recorded on the frequency and duplicative character of reporting or statistical obligations and the level of detail required complying with them;

- reinforce the consistency of the *acquis*: a series of comments were received concerning overlaps, insufficient coordination or alleged inconsistencies among pieces of EU legislation. In this regard, some stakeholders provided concrete examples of cases where, in their view, coherence is not ensured between instruments within the same policy sector or across sectors;

- improve the proportionality of the *acquis*: several respondents felt that certain provisions are excessively prescriptive, disproportionate and too costly in relation to the objectives pursued. This is probably the most far-reaching concern and at the same time the most difficult to address as it affects the substance of legal acts which are the result of a legislative process during which the various concerns were considered by the legislator. This type of evaluation can only be done on a case by case basis, taking all the legitimate private sector and public interests into account.

## CONCLUSIONS

Starting with a working programme based on input from the Member States and stakeholders, the Commission will develop its simplification priorities following,

- a comprehensive analysis of selected sectors regarding the impact of legislation, including economic, environmental and social aspects,
- a simplification method drawing on techniques such as repeal, codification, recasting and changing implementing methods,

– a legislative method entailing a clear preference for essential requirements rather than technical specifications, the increased use of co-regulation, the promotion and increased use of information technologies,

– an increased use, as appropriate and on a case by case basis, of regulations instead of directives as well as of review clauses,

In order to secure the implementation of simplification priorities on time, the Commission will streamline its internal working methods to ensure a comprehensive monitoring and follow-up of the simplification process, both at administrative and political level. In addition the Commission will continue to consult regularly with stakeholders on how the simplification programme should be further developed over the coming years. Considering the need for shared commitment to simplification by the Institutions, the Commission invites the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions to react to this Communication.

### BIBLIOGRAPHY

1. Ciupagea, C., 2002 - *Macroeconomic models for the Romanian economy*. Editura IEM, Bucuresti, p. 94 – 127.
2. Curbis, R., Welfe, W., 2004 - *Central and Eastern Europe on its way to EU. Simulation Studies based on Macromodels*, p. 26 – 69.
3. Phillippe, A., Blanchard, O., 1994 - *On the Speed of Transition in Central Europe*, National Bureau for Economic Research Macroeconomics Annual, p. 283 - 319;
4. Pușcaș, V., 2003 - *Negociind cu Uniunea Europeană*, Economica Publishing House, Bucharest, p. 145 – 204.
5. Zamfirescu, Iulia, 2001 - *Costuri și beneficii ale aderării la Uniunea Europeană pentru țările candidate din Europa Centrală și de Est*, European Institute of Romania, Bucharest, p. 112 - 175.