Procedure file

Basic information

INI - Own-initiative procedure	2006/2279(INI)	Procedure completed
Better law-making 2005: application of the principles of subsidiarity and proportionality. 13th annual report		
Subject 8.40.10 Interinstitutional relations, subsidiarity, proportionality, comitology 8.50.02 Legislative simplification, coordination, codification		

Key players

European Parliament	Committee responsible	Rapporteur	Appointed
	JURI Legal Affairs		02/10/2006
		PPE-DE DOORN Bert	
	Committee for opinion	Rapporteur for opinion	Appointed
	EMPL Employment and Social Affairs		14/02/2007
		PSE CHRISTENSEN Ole	
European Commission	Commission DG	Commissioner	
	Legal Service	BARROSO José Manuel	

Key events

13/06/2006	Non-legislative basic document published	COM(2006)0289	Summary
16/11/2006	Committee referral announced in Parliament		
25/06/2007	Vote in committee		Summary
16/07/2007	Committee report tabled for plenary	A6-0280/2007	
03/09/2007	Debate in Parliament		
04/09/2007	Results of vote in Parliament		
04/09/2007	Decision by Parliament	T6-0364/2007	Summary
04/09/2007	End of procedure in Parliament		

Technical information

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Documentation gateway

Non-legislative basic document		COM(2006)0289	13/06/2006	EC	Summary
Document attached to the procedure		SEC(2006)0737	13/06/2006	EC	
Document attached to the procedure		COM(2006)0691	14/11/2006	EC	Summary
Document attached to the procedure		COM(2007)0023	24/01/2007	EC	Summary
Document attached to the procedure		SEC(2007)0084	24/01/2007	EC	
Document attached to the procedure		SEC(2007)0085	24/01/2007	EC	
Committee opinion	EMPL	PE386.658	09/05/2007	EP	
Amendments tabled in committee		PE388.733	16/05/2007	EP	
Committee report tabled for plenary, single reading		A6-0280/2007	16/07/2007	EP	
Text adopted by Parliament, single reading		T6-0364/2007	04/09/2007	EP	Summary
Commission response to text adopted in plenary		SP(2007)5401	18/10/2007	EC	
Commission response to text adopted in plenary		SP(2007)5402	24/10/2007	EC	

Better law-making 2005: application of the principles of subsidiarity and proportionality. 13th annual report

PURPOSE: the presentation of the Commission?s 13th annual report on ?Better lawmaking?.

CONTENT: since 1992 the EU Heads of State, meeting at the European Council in Edinburgh, requested the Commission to present an annual report on the application of the principles of subsidiarity and proportionality. This request was later extended to include an annual evaluation of progress on improving the EU?s regulatory environment. This report is the Commission?s 13th annual review and covers the year 2005.

1) Better lawmaking:Streamlining the EU?s regulatory environment is crucial if the EU?s competitivness, growth, employment opportunities; sustainable development and quality of life is to improve. This requires the joint effort of the European Parliament, the Council, the Commission and the Member States. 2005 saw a growing interest amongst all of the actors involved to improve the EU?s regulatory quality.

2) Commission actions: In 2005 the new Commission endorsed revised guidelines on the Impact Assessments; adopted a Communication on an ?EU common methodology assessing administrative costs imposed by legislation?; adopted a Communication on ?The outcome of screening pending legislative proposals?; adopted a Communication on ?A strategy for the simplification of the regulatory environment?; and launched a high-level group of national regulatory experts.

The report makes the following findings:

- Consultation of interested parties: In 2005 the number of consultations increased significantly, with 187 non-legislative Communications (up by 28 compared to 2004 figures) and 106 internet based consultations (up 11 compared to 2004 figures). Overall compliance with the minimum standards for public consultation have been good. Experience shows that there is room for further improvements such as providing general feedback on how comments are taken into account and ensuring that comments which are receive are published.

- Impact Assessments: In 2005 the Commission improved it methodological framework for assessing the potential impacts of its proposals on policies. It also increased the number and quality of actual impact assessments. In future, particular attention will be given to alternative policy options.

- Collection and use of experts: 2005 saw the operational launch of SINAPSE (Scientific INformAtion for Policy Support in Europe). This acts as a new and powerful interface between experts in any given field and EU policy makers. In 2005 more than 300 European and international scientific organisation registered with SINAPSE. In other developments, Commission President Barroso has taken major steps to improve

overall transparency. Since October 2005, for example, a new register provides both Parliament and the public with standard information of approximately 1200 expert groups who advise the Commission.

- Updating and simplifying the acquis: In October 2005, the Commission adopted a new phase of its strategy for the simplification of existing rules. Based on Member State input, the new strategy proposes a three year rolling programme, which will be updated on a regular basis. The number of ?simplification? proposal presented by the Commission is expected to increase significantly. For example, the rolling programme foresees the repeal, codification, recasting or modification of 222 legal acts. This alone is expected to have a knock-on effect on more than 1 400 related acts.

- Estimation of administrative costs: In 2005, the Commission rested, validated and presented a methodology for estimating the administrative costs of EU imposed legislation. Based on this the Commission has announced that this methodology will be included in future impact assessment reports. Together with a group of national experts the Commission will continue work on refining this common methodology.

- Choice of instruments: To recall, the Commission announced in its revised ?2005 Action Plan? that it intended to pay more attention to the choice of instruments being proposed. The Commission has begun an inventory of existing cases for EU self-regulation and co-regulation. Whilst acknowledging that alternative approaches to regulation exist it nevertheless remains the Commission?s view that regulation remains the simplest way to achieve the EU?s overall objectives.

- Monitoring the application of Community law: Primary responsibility for applying Community law remains with the national administrations. The role of the Commission is to ensure that Community law is diligently and properly transposed and applied. The Commission notes that the management of complaints and infringements has improved in 2005 as has the use of less formal measures.

- Screening and withdrawing proposals: In September 2005 the Commission announced its intention of withdrawing 68 proposals on the basis that they were not consistent with the Lisbon objectives nor were they consistent with the new principles on better regulation. A list of proposals withdrawn was published in 2006.

2) Actions taken by the European Parliament, the Council, the Committee of the Regions and the EESC: In 2005 the European Parliament began work on several reports examining various aspects of better regulation. The Council and its Presidency were equally keen to examine the issue of better regulation. However, neither Parliament nor Council modified their working methods for the adoption of simplified proposals. In so far as this is key to the success of an overall simplification programme, the Commission expresses the hope that the legislator will proceed with the simplification proposals in an expeditious manner.

3) Actions taken by the Member States: Member States have an essential role to play in better lawmaking. The Commission argues that delivery of better regulation relies largely on them. Indeed, the Commission has suggested that better regulation become part of the national ?Lisbon? programmes and recommends that the Member States report on their current activities and actions. The Commission, in particular, calls on those Member States who do not have a strategy on improved regulation, to assess the impact of the proposed legislation and to systematically consult stakeholders at all stages of the decision making process.

4) Applying the principles of subsidiarity and proportionality: The report notes that the explanatory memorandums, which accompany every legislative proposal, have led to a more detailed and systematic justification of the need for EU action. The European Parliament and the Council have introduced relatively few amendments referring explicitly to the subsidiarity and proportionality principles. The Commission notes that a large proportion of the Commission?s proposals were in fact a response to invitations to act made either by the European Council, the Council or the European Parliament.

As far as the Committee of the Regions is concerned, the vast majority of its opinions did not criticise the Commission?s proposal on the grounds of subsidiarity. Although twenty national parliamentary chambers stated that the Commission failed to adequately justify their proposals on the subsidiarity principle and fourteen noted that certain proposals were breaching the subsidiarity principle, the Commission suggests that these views are possibly the result of an incorrect assessment of the principle.

In other developments, the principle of subsidiarity was referred to four judgements delivered by the Court of Justice and the Court of First Instance in 2005. No judgement concluded that the principle of subsidiarity had been contravened.

Better law-making 2005: application of the principles of subsidiarity and proportionality. 13th annual report

This Commission working document sets out a possible road map for achieving a cut of 25% in administrative burden, based on a partnership between the EU Institutions and the Member States. The report states that administrative costs are important since businesses across the EU are required to spend considerable amounts of time filling in forms and reporting on a wide range of issues. By reducing unnecessary reporting requirements company employees can spend more time on core business activities which may reduce production costs and allow additional investment and innovation activities to materialise, which in turn should improve productivity and overall competitiveness. In response to the June 2006 European Council conclusions and within the competitiveness framework of the re-launched Lisbon agenda, in early 2007 the Commission will launch a major Action Programme to measure administrative costs and reduce administrative burdens generated by existing legislation in the EU.

A common methodology for measuring costs in agreed priority areas and common principles for reducing these burdens are at the heart of this approach. Progress would be monitored through agreed partial targets as well as intermediary targets.

The plan will build on the previous experience developed by four Member States (UK, NL, DK and CZ) that have already set reduction targets after completing large baseline measurements. However, an assessment based on an extrapolation of Dutch data suggests that administrative costs may amount to circa 3.5% of GDP in the EU.

Administrative costs mean the costs incurred by enterprises, the voluntary sector, public authorities and citizens in meeting legal obligations to provide information on their activities (or production), either to public authorities or to private parties. They are different from compliance costs which stem from the generic requirements of the legislation, such as costs induced by the development of new products, or processes that meet new social and environmental standards.

An important distinction must be made between information that would be collected by businesses even in the absence of the legislation and

information that would not be collected without the legal provisions. The former are called administrative costs; the latter administrative burdens. The Commission's Better regulation strategy is aimed at measuring administrative costs and reducing administrative burdens. Administrative cost reduction measures are limited to streamlining information requirements and do not affect the basic design of the underlying legislation. This suggests that simplification measures to reduce administrative costs are developed more easily than measures aimed at changing the nature or the scope of the underlying legislation.

Given their nature and in light of experiences in Member States which have developed administrative cost reduction programmes, these reduction measures should be relatively straightforward to decide and implement. Such measures are therefore fundamentally different from deregulation initiatives. Administrative requirements can be further broken down into information obligations (IOs). This can best be explained as follows: a piece of legislation may contain requirements for submitting information (i.e. submitting a certificate of conformity to a public authority, on a regular basis). Each specific requirement in the legislation is defined as an IO.

In addition, a distinction must be made between information that would be collected by businesses even in the absence of the legislation and information that would not be collected without the legal provisions. The former are called administrative costs; the latter administrative burdens.

Measuring administrative costs in the EU is not a goal in itself. The aim is to reduce red tape for businesses in Europe. Results of the pilot project indicate that costs are strongly concentrated in priority areas. It is proposed that the Commission measurement also focus on priority areas and, where possible, to identify "low hanging fruits" related to these priority areas. Regarding the question of how to reduce these burdens, the following principles could, if agreed, make a significant contribution to guiding the burden reduction process:

- reduce the frequency of reporting requirements to the minimum levels necessary to meet the underlying objectives of the legislation (e.g. there are still many financial regulations that require monthly reporting; a reduction in the frequency could possibly be envisaged);
- review whether the same information obligation is not requested several times through different channels and eliminate overlaps (e.g. a number of environmental information obligations are presently required by more than one piece of legislation);
- require electronic and web-based reporting where paper based information gathering is presently required, using intelligent portals where possible (experiences in Member States demonstrate that intelligent portals covering a variety of information requirements can generate significant savings; in Norway the portal "Antinn" covers nearly all information obligations on businesses imposed by the central government);
- introduce thresholds for information requirements, limiting them for small and medium sized companies wherever possible, or rely on sampling (it is well known that SMEs suffer particularly strongly from administrative costs ? data collection for information purposes should take this into account);
- consider substituting information requirements on all businesses in a sector by a risk based approach ? targeting information requirements on those operators that carry the highest risk (the experience of UK enforcement of legislation in a number of areas shows that this can significantly reduce costs without compromising the legislation);
- reduce or eliminate information requirements where these relate to legislative requirements that have been dropped or modified since the information requirement was adopted (e.g. there are still information obligations in road transport dating back to the time that permits were required to carry out international transport).

The Action Programme will contain proposals allowing the spring 2007 European Council to take the following decisions:

- set an overall target for reducing administrative burdens in the EU;
- agree the priority areas for administrative cost measurement and burdens reduction;
- endorse the methodology for measurement proposed in the Action Programme;
- agree the list of "low hanging fruits" for immediate action.

Better law-making 2005: application of the principles of subsidiarity and proportionality. 13th annual report

This present communication sets out an action programme for reducing administrative burdens in the European Union.

In November 2006, the Commission proposed launching an ambitious Action Programme to reduce the administrative burden of existing regulation in the EU. As part of this, the Commission proposed that the 2007 Spring European Council fix a reduction target of 25 %, to be achieved jointly by the EU and Member States by 2012. This Action Programme is not about deregulation.

This Action Programme sets out how the Commission proposes that the information obligations (IOs) should be identified, measured and reduced. The programme will measure administrative costs, take a judgement on which of these costs constitute unnecessary burdens and reduce unnecessary administrative burdens. Practically, as the measurement exercise delivers its results, the Commission will analyse these and take the required initiatives towards reduction of the burdens that are unnecessary. The strategy presented in this Communication is ambitious and its success depends to a great extent on active support and cooperation from Member States and the other EU institutions. The pilot project and the national measurements carried out to date have confirmed that the reduction of administrative burdens is a joint responsibility of the European Parliament, the Council, the Commission and the Member States.

In essence it is proposed that the Commission, with the help of the Member States, measures administrative burdens related to Community legislation and national transposition, and draws up appropriate reduction proposals while Member States measure and reduce the administrative burdens of purely national and regional legislation. The Programme will commence in May 2007 and will aim to provide by November 2008, an assessment of administrative costs imposed by the selected Community legislation.

The Commission's measurement exercise will commence in summer 2007 to be completed by end of 2008. It will cover the following priority areas: 1. Company law; 2. Pharmaceutical legislation; 3. Working environment/ employment relations; 4. Tax law/VAT; 5. Statistics; 6. Agriculture and agricultural subsidies; 7. Food Safety; 8. Transport; 9. Fisheries; 10. Financial services; 11. Environment; 12. Cohesion policy; 13. Public procurement.

To conclude, the Action Programme set out in this Communication holds out the prospect of making a significant contribution to improving the business climate in the EU. It contains a detailed road map for measuring and reducing unnecessary administrative burdens in the EU as well

as targets to guide the process.

The Action Programme will require strong commitment from Member States and the colegislator. The Spring 2007 European Council is, therefore, requested to:

- endorse the Action Programme for Reducing Administrative burdens set out in this Communication, including the priority areas chosen, the proposed methodology, principles for reducing burdens, the list of fast track actions and the organisational structure;
- invite Member States to support the Commission with the measurement of administrative burdens associated with Community legislation and transposition as set out in this Communication;
- set a joint reduction target for administrative burdens, caused by EC and national legislation of 25% overall, to be achieved by 2012. To facilitate the attainment of this objective a 25% reduction target should also be set specifically for administrative burdens related to EC legislation and its transposition. This target will subsequently be differentiated across the priority areas on the basis of the results of the Action Programme;
- invite Member States to set administrative burden reduction targets at national level by October 2008, at the latest, and to report on the measurement and reduction of administrative burdens annually in their national Growth and Jobs Strategy progress reports, starting in October 2007;
- call upon the Council and the European Parliament to give special priority to the measures set out in Annex III once the Commission has made the corresponding proposals, with a view to adoption as soon as possible, in 2007.

Better law-making 2005: application of the principles of subsidiarity and proportionality. 13th annual report

The Committee on Legal Affairs adopted the initiative report by Bert DOORN (EPP-ED, NL) in response to the Commission?s communication on the action programme for reducing administrative burdens in the European Union (?Better law-making?).

The report underlines the importance of Community institutions and Member States, through regional and local authorities as well as at central ministerial level, keeping a permanent watch on the application of the subsidiarity and proportionality principles.

The committee welcomes the Commission?s action programme to measure the administrative cost for undertakings in Europe and to reduce needless and disproportionate administrative burdens by 25% by 2012. However, it does note that the strategy for a 25% reduction refers to needless administrative burdens for undertakings and cannot, therefore, be equated to a deregulation, nor lead to a change in the policy objectives and level of ambition contained in Community legislation.

It emphasises, in particular, that an effective strategy for the reduction of unnecessary European administrative burdens must be implemented both by the Commission, as regards unnecessary administrative burdens arising from European regulations and directives, and by the Member States, as such burdens arising from national legislation.

The Parliament is greatly concerned by the fact that the Commission proposes to limit the scope of the action programme to obligations of businesses, it considers, however, that the strategy for development and employment requires the action programme to cover all administrative burdens. It welcomes the identification by the Commission of 13 priority areas where the administrative costs are to be measured and unnecessary administrative burdens to be reduced as a pragmatic and effective approach. It also calls on the Commission, in the longer term, to also measure the administrative costs and reduce unnecessary administrative burdens outside these priority areas.

The Commission is invited to publish each year the measures adopted and the measures planned to reduce unnecessary administrative burdens in the EU, the increase in administrative burdens in the EU arising from new regulations and the envisaged net contribution of these measures to the attainment of the target reduction of 25% by 2012.

The committee supports the Commission's efforts to chart the unnecessary administrative burdens arising from new European legislation through the integration of the Standard Cost Method (SCM) in the impact assessment procedure. It considers it essential that stakeholders help to gather the information required for the use of the SCM.

The committee emphasises that Parliament should not take into consideration any legislative proposals from the Commission that are not accompanied by an independently scrutinised impact assessment that includes an evaluation of the existence of any unnecessary administrative burden through the SCM.

Lastly, the committee proposes that appropriations recently released in the EU Budget for a pilot project minimizing administrative burdens be used to set up an independent panel of experts to monitor the quality of opinions delivered by the Impact Assessment Board (IAB) by means of spot checks, notably as regards the charting of unnecessary administrative burdens, and to supervise the implementation of the European action programme to reduce administrative burdens.

Better law-making 2005: application of the principles of subsidiarity and proportionality. 13th annual report

The European Parliament adopted a resolution based on the own-initiative report drawn up by Bert DOORN (EPP-ED, NL) in response to the Commission?s communication on the action programme for reducing administrative burdens in the European Union (?Better law-making?).

Parliament agreed that the regulatory environment in which businesses operated was a determinant of their competitiveness, of sustainable growth and of employment performance. Ensuring the regulatory environment was transparent, clear, effective and generally of high quality should be an important objective of EU policy. Poor regulatory quality in the Member States and at Community level weakened the rule of law and alienated citizens from their institutions.

Members welcomed the success of the web portal "Your Voice in Europe" and invited the Commission to develop other effective ways of consulting interested parties about every aspect of a legislative proposal, including impact assessments. These should be based on wide-ranging consultation of stakeholders. Parliament called on the Commission to provide a sufficient number of scenarios and policy options

(including "do-nothing" options if necessary) as a basis for cost-effective and sustainable solutions.

Parliament also welcomed the Commission?s action programme to measure the administrative cost for undertakings in Europe and to reduce needless and disproportionate administrative burdens by 25% by 2012. However, it did note that the strategy for a 25% reduction referred to needless administrative burdens for undertakings and could not, therefore, be equated to a deregulation, or lead to a change in the policy objectives and level of ambition contained in Community legislation. The Commission was asked to ensure that the reduction in unnecessary administrative burdens arising from regulations should not be at the expense of the original objectives of the regulations concerned.

The report emphasised, in particular, that an effective strategy for the reduction of unnecessary European administrative burdens must be implemented both by the Commission, as regards unnecessary administrative burdens arising from European regulations and directives, and by the Member States, as such burdens arising from national legislation. It called on the Commission to take the lead.

Parliament was greatly concerned by the fact that the Commission proposed to limit the scope of the action programme to obligations of businesses. It considered, however, that the strategy for development and employment required the action programme to cover all administrative burdens. It welcomed the identification by the Commission of 13 priority areas where the administrative costs were to be measured and unnecessary administrative burdens be reduced as a pragmatic and effective approach. In the longer term, the Commission should reduce unnecessary administrative burdens outside these priority areas.

The Commission was invited to publish each year the measures adopted and the measures planned to reduce unnecessary administrative burdens in the EU, the increase in administrative burdens in the EU arising from new regulations and the envisaged net contribution of these measures to the attainment of the target reduction of 25% by 2012.

Parliament supported the Commission's efforts to chart the unnecessary administrative burdens arising from new European legislation through the integration of the Standard Cost Method (SCM) in the impact assessment procedure. It considered it essential that stakeholders help to gather the information required for the use of the SCM.

Parliament emphasised that it should not take into consideration any legislative proposals from the Commission that are not accompanied by an independently scrutinised impact assessment that includes an evaluation of the existence of any unnecessary administrative burden through the SCM.

Lastly, Parliament proposed that appropriations recently released in the EU Budget for a pilot project minimizing administrative burdens be used to set up an independent panel of experts to monitor the quality of opinions delivered by the Impact Assessment Board (IAB) by means of spot checks, notably as regards the charting of unnecessary administrative burdens, and to supervise the implementation of the European action programme to reduce administrative burdens.