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**Administrative simplification, an overarching policy to
maintain a balance between the protection of the public
interest and interests of businesses**

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(SPO Headquarters)

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Administrative simplification, an overarching policy to maintain a balance between the protection of the public interest and interests of businesses

Introduction

This paper which is a more detailed statement of ideas presented at a seminar in Ankara 8/9 May on Administrative Simplification examines the nature of Administrative Simplification. It explains how it is a public policy of the European Union, what are its main characteristics, how it relates to similar policies on OECD countries and that its purpose includes: keeping a balance between the protection of the public interest and the private interest of businesses

Many OECD countries have recognised that it is not enough to develop a sophisticated body of legislation to support the delivery of economic development, environmental protection **and** improvement of social standards. There is also a need to address holistically the way in which policies are formulated and regulations drafted, made and implemented.

One of the challenges for the modern world is to implement regulations in such a way they achieve efficient outcomes in the most cost effective ways. These outcomes should be achieved with a minimum of costs and complexity for those affected by them. This has led to the developments in the European Union of a policy on Better Regulation and policies with similar objectives in most OECD countries. Within the scope of the EU Better Regulation policy attention is paid to Administrative Simplification. This attention has now developed in the EU and most OECD countries to the point where one can speak about a permanent public policy on Administrative simplification.

At the heart of this policy is the idea that there is a need to keep a balance between the **protection** of the public interest and the protection of the right to do business with the minimum of unnecessary interference and costs. Rules and regulations are needed to provide for orderly market entrance and exit, to protect health, safety and the environment, and to prevent uncompetitive or fraudulent behaviour.

On the other hand businesses need to manufacture and sell goods and supply services in an administrative environment that imposes the least unnecessary costs and is, as far as practicable, simple and easy to understand. The interests of business and government come together in the delivery of policies to ensure orderly entrance and exit of market participants and the creation of a competitive environment.

Many OECD countries have developed policies on administrative simplification . These policies take many forms. A number of the more interesting ones are well documented in the OECD publication: [From Smart Tape to Red Tape: Administrative Simplification in OECD countries, OECD, 2003.](#) It sets out 7 country case studies in administrative simplification.

Practical examples of administrative simplification

Thanks to information technology a whole host of means have appeared to facilitate the dealings between business and the government. The success and failures of these have been well documented including a recent article in the Economist.¹ So far the picture is mixed but there is much experience to learn from. One stop shops have also appeared.

¹ The **Economist**. Technology and bureaucracy Feb 14th 2008 ...
www.economist.com/Specialreports/showsurvey

These are places where businesses can deal with a single point of entry to government as regards business registration or licensing. Progress has been made on simplifying licensing procedures in many countries by, for example, reducing the number of licenses needed to undertake an activity or the need to repeat information already in the hands of government. In Albania, the Ministry for the Economy is reviewing all licenses for business with a view to making them simpler and easier to operate or even done without. In France, all forms in use by citizens are being reviewed to ascertain which can be simplified.

Shorter time limits have been introduced in some countries and the principle of silence is consent. The latter means that if a business has applied to government for a licence or permission to undergo a course of action the licence is automatically granted or the course of action permitted if no reply has been received within a specified period.

The different approaches to simplification need to be seen in the context of the paradox that on the one hand businesses call for the reduction of 'red tape'. On the other hand there is an increasing demand for greater accountability and transparency on the part of governments. Fair procedures are also demanded but the more objective fairness that is built into a process the more it necessitates complex rules and a structure to ensure the rules are enforced.

Priorities for simplification

Typically, the priorities for any simplification programmes are:

- Making sure that all written communications between government and citizens are as simple and accessible as possible.
- Making sure the cost of administrative requirements (information gathering, complying with regulations) is as low as possible.

However, it should be noted that the more coherent and consistent the basic administrative structure of a country the easier it is to operate. An effective administrative procedures law or set of principles guiding the administration will go a long way towards providing the kind of simplicity sought by business interests. There is nothing more confusing for a business than to have to face a different set of principles or rules in dealing with different parts of government or in dealing with different situations in the same ministry.

Administrative simplification and good administrative procedures

Citizens or businesses dealing with government should be able to expect that their rights will be respected and a consistent set of general principles of law shall be applied in administrative proceedings. These include but are not limited to:

- The principle of equal treatment.
- The right to be heard and to be given reasons for a decision.
- The right to appeal to an independent body in the event of arbitrary or unfair treatment.
- The principle of proportionality.
- The principle of accountability (officials should be accountable for their actions).
- The principle of transparency (justice should not only be done but be seen to be done).

Decisions taken by administrative bodies should be 'fair and reasonable' (Common law) or not arbitrary or capricious (Civil law).

For the most part, the Institutions of the European Union and the Member States have well established legal arrangements to ensure the coherent and consistent legal workings of their institutions. What has been lacking, however, up to recently in many cases was a policy to make sure a guiding intelligence was brought to bear to ensure that both the 'stock' of existing laws and procedures and the 'flow' of new laws and procedures was subject to some sort of common sense test of 'simplicity.'

EU Policy on Administrative Simplification

Among the many policy papers and briefs on the subject, of particular importance is the EU's Partnership for Growth and Jobs strategy. It brings up to date the Lisbon agenda's drive to make Europe the world's most competitive economy. The strategy identifies the need for the Commission and the Member States to simplify the current regulatory environment.

The EU is governed by its Treaties and by Regulations, Directives and Decisions. Many of these legal instruments impose costs directly or indirectly on businesses and citizens. The challenge for the Institutions of the Union, notably the Parliament and the Commission, and for Member States implementing these laws is to keep the costs for business and citizens as low as possible.

The EU imposes two types of costs on business: substantive costs and administrative costs.

- Substantive costs are induced by obligations for businesses to change their products and/or production processes.
- Administrative costs are defined as costs incurred by businesses in meeting obligations to provide information on their activities or production, either to public authorities or to private parties.

Administrative Simplification –EU strategy

In order to ensure that costs on business are kept to a minimum, the EU Commission has established a strategy to address issues associated with administrative simplification. This policy addresses issues associated with reducing administrative costs and ensuring that it is as easy as possible to comply with legal obligations. This strategy for regulatory simplification was launched in 2005.

In 2005 the Commission published a Communication on Simplification. It provided a *strategy for the Simplification of the Regulatory Environment*.² That communication was based on two approaches

- *A rolling programme anchored in stakeholders' practical experience*
- *An approach based on continuous in –depth sectoral assessment.*

The European Commission has taken a threefold approach to the delivery of a policy on administrative simplification:

1. Repeal of regulations that are no longer of practical utility.
2. Codification of laws
3. Recasting of laws so that they can be more easily read.

The first exercise involved a trawl through all the legislation of the European Union to identify what was in force. The Codification exercise was undertaken in two steps. The first step

² COM (2005) Final

involved an informal consolidation of all related legislation. In other words when a text is amended it is necessary to read two texts to identify the law. A consolidation rewrites the two texts so that they may be read as one text. Then the consolidated text was submitted to the legal services of the European Commission to ensure its accuracy and, once the text was validated by the legal services, the text was re-enacted as a legally binding or 'codified' text.

The recasting exercise was necessary in cases where the text needed to be updated and revised or there were so many amendments that the resultant text could not be consolidated easily.

Since October 2005, 300 legal acts representing about 5000 pages of the Official Journal have been removed from the roughly 95,000 pages of the Community acquis as a result of the simplification rolling programme under way states.

The simplification rolling programme now comprises about 164 initiatives covering all policy areas. Since 2005, the Commission has taken action or proposed to remove about 2500 obsolete acts from the acquis.

The most recent approach has also focussed on costs. So far savings of €500m were made in 2007 thanks to the action programme launched a year ago by the European Commission with the aim of cutting administrative burden by 25% by 2012. The action programme focuses on 40 EU laws reckoned to account for some 80% of European red tape. The Commission's priority is to free companies from reporting requirements that create unnecessary paperwork.

Second progress report

A second progress report by the European Commission shows that the strategy for administrative simplification is well underway. The main results so far include the creation of the European single payments area and new computerised customs procedures. Both are expected to save the EU economy billions of Euros a year.

The process will intensify in the following years. Further savings of €800m are expected before long. Company law is currently being reviewed to reduce administrative requirements, and simplified rules on public subsidies (state aid) are in the pipeline.

An independent group of high-level experts gives the Commission frank advice on better regulation and cutting red tape. The group is chaired by Edmund Stoiber, former minister president of Bavaria.

The progress report documents examples of the simplification work undertaken. 50 Council acts have been removed and more than 650 legal articles reduced to 200 in view of simplifying drastically the 21 Common Market Organisations of the Common Agricultural Policy into a single scheme to streamline and simplify the Common Agricultural Policy

A paperless customs will be the result of the e-customs decision which will create a European electronic system for data exchange between public authorities and companies.

The ground-breaking revision of EU insurance law (Solvency II) will mean replacing 14 existing directives with a single directive,

More than 2000 pages of EU legislation will be deleted by bringing all three modes of inland transport of dangerous goods (road, rail and inland waterways) into one single piece of legislation.

Reviews of areas of policy

Related to the policy on administrative simplification, there are continual reviews of substantive policy areas to ensure that they are up to date. For example in 2007, the European Commission adopted the Green Paper on the Review of the Consumer Acquis.

This Green Paper concludes the diagnostic phase of the review, sums up the Commission's initial findings and initiates a public consultation. It identifies a number of problems with the current legislation in the area of consumer protection and presents main options for a reform as well as a number of specific questions.

With this Green Paper, the Commission called on all interested parties to express their views on the issues identified in the context of the Review of Consumer Acquis. The consultation period lasted till 15 May 2007. Currently, the Commission is analysing the contributions and will publish a summary in the 4th quarter of 2007. On the basis of the outcome of the consultation, the Commission will decide whether there is a need for a legislative initiative. A similar exercise is being undertaken with the Common Agricultural Policy, Environment Policy and so on

Conclusions

Many OECD countries have recognised that there is a need to address holistically the way in which policies are formulated and regulations drafted, made and implemented. They have also recognise the need to make laws which impose as few administrative burdens as possible with the least administrative costs.

One of the challenges for the modern world is to implement regulations in such a way they achieve efficient outcomes in the most cost efficient ways with a minimum of costs and complexity. This has led to the developments in the European Union of a policy on Better Regulation an important element of which is Administrative Simplification.

At the heart of this policy is the idea that there is a need to keep a balance between the protection of the public interest. Many OECD countries have developed policies on administrative simplification and they take many forms.

Priorities for any simplification programmes should include, firstly, the principle that all written communications between government and citizens are as simple and accessible as possible. Secondly, the cost of administrative requirements (information gathering, complying with regulations) is as low as possible. In addition, citizens or businesses dealing with government should be able to expect that their rights will be respected and a consistent set of general principles of law shall be applied in administrative proceedings.

The EU Commission has established a strategy to address issues associated with administrative simplification. These include taking action to tidy up the stock of legislation so that it is easier to understand EURO obligations with the a programme of consolidation, there is a simplification rolling programme cutting administrative burden by 25% by 2012. A second progress report by the European Commission shows that the strategy for administrative simplification is well underway.

Some good practice examples have developed such as a paperless customs and revision of EU insurance law (Solvency II) will mean replacing 14 existing directives with a single directive,

Related to the policy on administrative simplification, there are continual reviews of substantive policy areas to ensure that they are up to date.

Further Reading

Suggested reading list

On Better Regulation policies in the EU:

ec.europa.eu/enterprise/regulation/better_regulation

Communication of the Commission to the European parliament, the council,

The European Economic and Social Committee and the committee of the regions

Implementing the Community Lisbon programme: Brussels, 25.10.2005

COM(2005) 535 final

A strategy for the simplification of the regulatory environment Brussels, 14.11.2006

COM(2006) 690 final

Commission Working Document: First progress report on the strategy for the simplification of the regulatory environment {COM(2006) 689 final} {COM(2006) 691 final}

Communication from the Commission to the Council, the European parliament, the European economic and social committee and the committee of the regions Brussels, 24.1.2007, COM(2007) 23 final

Action Programme for Reducing Administrative Burdens in the European Union

{SEC(2007) 84} {SEC(2007) 85}

From Red Tape to Smart Tape: Administrative Simplification in OECD Countries, OECD, 2003

Cutting Red Tape: National Strategies for Administrative Simplification, OECD, 2003

Regulatory Management Capacities of Member States of the European union that joined the union on 1 may 2004: Sustaining Regulatory Management Improvements through a Better Regulation Policy, Sigma Paper No. 42 www.sigmaweb.org

Regulatory Policies in OECD Countries – From Interventionism to Regulatory Governance (2002)

The OECD Report on Regulatory Reform: Synthesis (1997)