Chapter 5

The management and rationalisation of existing regulations

This chapter covers two areas of regulatory policy. The first is simplification of regulations. The large stock of regulations and administrative formalities accumulated over time needs regular review and updating to remove obsolete or inefficient material. Approaches vary from consolidation, codification, recasting, repeal, *ad hoc* reviews of the regulations covering specific sectors, and sun setting mechanisms for the automatic review or cancellation of regulations past a certain date.

The second area concerns the reduction of administrative burdens and has gained considerable momentum over the last few years. Government formalities are important tools to support public policies, and can help businesses by setting a level playing field for commercial activity. But they may also represent an administrative burden as well as an irritation factor for business and citizens, and one which tends to grow over time. Difficult areas include employment regulations, environmental standards, tax regulations, and planning regulations. Permits and licences can also be a major potential burden on businesses, especially SMEs. A lack of clear information about the sources of and extent of administrative burdens is the first issue for most countries. Burden measurement has been improved with the application by a growing number of countries of variants on the standard cost model (SCM) analysis to information obligations imposed by laws, which also helps to sustain political momentum for regulatory reform by quantifying the burden.

A number of governments have started to consider the issue of administrative burdens inside government, with the aim of improving the quality and efficiency of internal regulation in order to reduce costs and free up resources for improved public service delivery. Regulation inside government refers to the regulations imposed by the state on its own administrators and public service providers (for example, government agencies or local government service providers). Fiscal restraints may preclude the allocation of increased resources to the bureaucracy, and a better approach is to improve the efficiency and effectiveness of the regulations imposed on administrators and public service providers.

The effective deployment of e-Government is of increasing importance as a tool for reducing the costs and burdens of regulation on businesses and citizens, as well as inside government.

Assessment and recommendations

Simplification of regulations

Some efforts have been made on legislative simplification, more is needed to boost legal access, security and clarity. The issue was raised by a number of stakeholders. It had already been picked up in the 2000 OECD report, which noted the lack of a consolidated code or registry, that revision of regulatory

frameworks was not systematic, and that tools such as sun-setting or mandatory periodic reviews were absent from the legal tradition. Simplification appears difficult to achieve in the Spanish environment, and this undermines easy access to the legal stock, legal clarity and security. Issues include laws which cover a range of different issues, and not least, the rapid shifts in the distribution of regulatory competences across levels of government, which has increased the complexity of the legislative process with a variable geometry of actors involved, depending on the issue. Although some progress has been made since the 2000 report with consolidated texts and databases, a more comprehensive policy is needed. A number of European countries (including Portugal, Germany and France) are, for these reasons, taking steps to reinforce provisions for assuring legal quality.

Recommendation 5.1. Establish a clear and comprehensive policy to address the challenges of legislative simplification in order to support legal security and clarity.

Box 5.1. Comments from the 2000 OECD report

The revision (of regulatory frameworks) has not been systematic. Ministries have been responsible for updating and adapting their laws and regulations. Moreover, no centrally organised programme has taken place. Tools like sun-setting or mandatory periodic reviews are absent from the legal tradition. As a result, there is a risk that damaging regulatory rigidities will be durable, and that the costs will grow over time as regulations become increasingly ill suited to changing conditions.

Administrative burden reduction for businesses

The policy on administrative burdens has been substantially reinforced since the 2000 OECD report. This is especially important in Spain, as administrative burdens on business are estimated to be above the international average. Since 2007, Spain has sought to catch up with other parts of Europe and has established a comprehensive Action Plan aimed at revitalising business and boosting competitiveness. The objective is to reduce administrative burdens on business by 30% by 2012, from a baseline of May 2007, a more ambitious target than the one set by the European Commission. The programme comprises a suite of well defined elements. Good use is made of e-Government in support of simplification measures. Most of the fast track measures use ICT or the introduction of online services.

The institutional support framework appears sound. It is framed by the establishment of a high-level Group of secretaries of state, a unit of officials in the Presidency ministry, and contact points in each ministry. This reflects good practice in other European countries.

The structured arrangements for consultation with the business community are also a sound starting point for picking up business views. Spain has opted to work through structured co-operation with key stakeholder representatives (the Higher Council of Chambers of Commerce, the CEOE - Spanish Confederation of Employers' Organisations, and the CEPYME – Spanish Confederation of Small and Medium-Sized Companies), backed up by formal agreements. These organisations are firm supporters of the need to reduce burdens as a priority for boosting competitiveness. In many other countries, consultation with the business community rests at least in part on more direct contact with individual firms in order to confirm real needs. This could be a useful complement to the structured arrangements. The 2000 OECD report proposed strengthening linkages between simplification policy and SME policy, and this implies making sure that the views of SMEs, in particular, are effectively captured.

The principle of a country wide target is commendable, but needs vigorous follow through. Few EU countries have yet gone so far as to extend formal coverage of their administrative burden programmes to all levels of government. Since the majority of burdens on business are considered to derive from regulations issued by the ACs and local levels of government, this is important. The issue is how effectively this is being taken forward in practice. Since the central state cannot dictate to the ACs, it will

take action only on national regulations, and a non binding co-operation agreement is in place with the ACs to encourage the latter to apply their own reductions, based on their own measurements and definition of burdens. The OECD peer review team heard from some ACs that further harmonisation of terms and methodologies would be desirable. Communication seems to be an issue. Some of the ACs met by the OECD peer review team seemed to know little about the programme.

Recommendation 5.2. Review the practical arrangements for integrating the levels of government into the Action Plan and take action to remedy weaknesses, such as the need for a common approach, and effective communication.

Although burdens in new regulations are to be measured, the target is not a net target. Many EU member states now have net targets, in recognition of the fact that it is important to capture the potential burdens in new regulations and avoid a situation where new burdens cancel out the positive effects of dealing with existing burdens. In countries suffering from regulatory inflation, such as Spain, this is all the more important.

Recommendation 5.3. Consider setting the current target as a net target as a next step, to take into account burdens from new regulations.

Communication of the programme, its objectives and achievements appears to need attention. Communication is woven into the daily work of the officials in the presidency ministry responsible for the simplification policies and there are frequent meetings. Nevertheless, there does not appear to be a clear communication strategy drawing attention to the programme, its objectives and potential benefits (as exists, for example, in the Netherlands). A report will be drawn up every six months by the Presidency ministry on progress with the Action Plan, but this will only go to the Cabinet.

Recommendation 5.4. Establish a communication strategy so that businesses (and citizens) are fully informed of plans and developments. Engage the parliament, by sending them a version of the progress report to the Cabinet.

The Action Plan needs to deliver results as soon as possible, in order to sustain momentum. The arrangements in place (such as institutional support, structured consultation) are generally sound in principle but now need to show that they are functioning effectively in practice. Some aspects need fixing now. The reduction target is not divided between ministries, which reduces the incentive to take action. Methodological support for ministries also appears to be an issue, although training courses have been established and are being further developed.

Recommendation 5.5. Monitor and evaluate the effectiveness of the institutional arrangements and of the co-operation agreements for delivering results that meet the needs of the business community. Allocate the target reduction among ministries in order to encourage ownership of the Action Plan across the government. Ensure that ministries are adequately supported in taking forward their part of the Action Plan. If necessary, take action to complement the consultation arrangements, via direct interaction with firms on their needs.

Other actions to support business needs are being taken forward, with mixed success. One-stop shops providing support and information for business start ups have been set up in a number of ACs and the evidence is that they are having a positive impact, for example on company creation. On the other hand, challenges which were already picked up in the 2000 OECD report regarding licences and permits remain.

Recommendation 5.6. Continue the roll out and reinforcement of the one-stop shop network for businesses. Carry out an evaluation of licensing at the municipal level with a view to addressing problems.

Box 5.2. Recommendation from the 2000 OECD report

Strengthen the administrative simplification policy by: (i) assuring that good regulation guiding principles and specific parameters are used in the revision of existing formalities; (ii) by assigning to the Simplification Commission a dedicated secretariat with analytical expertise and resources; and (iii) by concentrating on reducing authorisations, licences and permits.

The establishment of the inter-ministerial Simplification Commission was an important step toward making the administration more slim and efficient. To achieve its potential in improving the quality of administrative procedures, it should at an early stage develop detailed methodological requirements for the presentation of each ministry's proposals. To improve the ministries' accountability in the process, the Commission should also put the onus on the ministries to justify objectively and publicly the need for each procedure. Second, experience shows that in such complex reviews asymmetric information favours the regulator *vis-à-vis* the reviewer. An important element for the success of a review is a capable secretariat reporting to the Commission. Third, to maintain political support, early and visible results are needed. The 9-10 months limit to eliminate unnecessary formalities is a useful target. To produce the most benefits in this period, the Commission should concentrate its resources on eliminating or improving permits and licenses, which are among the most damaging of government formalities with respect to business start-ups and among the most costly to administer. Last, the government should assist the Commission in clarifying and simplifying the institutional network for administrative simplification, particularly in ensuring communication and co-ordination among the various bodies at work. The strengthening of linkages between the Commission's work and the government's SME policy and initiatives stirred by the Ministry of Economic and Finance is an important step forward and should produce results in the short term. The work of the Commission should also be clearly linked to the regulatory reform and competition policies.

Administrative burden reduction for citizens

The government's initiatives for the reduction of administrative burdens generally cover citizens as well as businesses. Many of the projects in the Action Plan also have some effect on citizens. The 2007 Law on electronic access of citizens to public services was an important milestone in defining citizen rights *vis à vis* the administration. However, it was beyond the scope of this review to form a view as to what extent these rights have been translated into practice.

Administrative burden reduction for the administration

The government does not at this stage have a specific programme for administrative burdens within the administration. The Administrative Information System (AIS) does, however seek to map procedures. The value of a programme to address regulation inside government is that it can release resources for other work, such as front line teaching or policing, by reducing unnecessary burdens and improving productivity. This can also help to drive the ongoing efforts at modernisation of the public service. A study from the business community suggests that business suffers from inefficiencies in the public administration.

Recommendation 5.7. Consider whether a specific plan to improve the efficiency of regulations inside government would be helpful.

Background

Simplification of national regulations

Simplification of national legislation usually occurs through the delegation of powers from parliament to the executive. Such authorisation may be granted in two ways, either by using a reworked text (*texto refundido*), unifying several amendments and reforms of a law; or through an articulated text (*texto articulado*), in which the government may fill some parts that were not covered previously or were insufficient or obsolete. In the recent past, the former option has been preferred. Both kinds of text are called *Real decreto legislativo.* From 2000 to 2007, parliament adopted 17 such legislative decrees authorising the government to elaborate a text regulating a specific matter, and which consolidates all related legal acts.[1]

The Official State Gazette (BOE) contributes to an understanding of the legislative stock by publishing codes in selected areas, such as public service, contracts, working law, etc. In these codes, which are on sale, the BOE puts together different laws or decrees about that specific area.[2] The codes are a compilation of all related regulation in force. They are only "publications", in the sense that the legal reference is always to the original text.

Further mechanisms for legislative simplification do not exist (*e.g.* the "regulatory guillotine") or are not systematically used (sunset clauses).

Accessing legislation is not necessarily simple and legal clarity appears to be poor. The previous OECD review in 2000 indicated the lack of a consolidated code or registry as the most problematic issue at the national level. This creates difficulty in knowing which law, subordinate regulation, or articles can be enforced and which ones have been abrogated, totally or in part, by more recent laws and regulations. Three main reasons for the confusion are worth noting:

- First, matters are regulated by an array of laws on distinct matters. This phenomenon, identified by the Council of State as "legal mixture", appeared in the 1980s,[3] and was recently exacerbated by coalition governments. This trend has manifested itself mostly by annual enactment of the *Ley de Acompañamiento*, a special law which is voted at the same time as the budget, and which includes dozens of modifications to other laws. Because the reforms are negotiated in Parliament, they do not follow the procedures described in the previous subsections. This kind of law has not been used since 2004.

- Second, national regulators (including Parliament) have complied with difficulty with the obligation to provide an exhaustive list of articles and laws being abrogated by the new measure at the end of new laws or regulations.[4] It is a legal requirement that a table (*tabla de vigencias*) summing up which articles have been abrogated should accompany each new measure (either creating or reforming a regulation). Yet, according to the Council of State, an increasing number of new laws and regulations tend to use a general formula indicating that "all previous rules which are contrary to the one being enacted are henceforth repealed".

- Finally, legal security and overall transparency of the regulatory environment have decreased due to rapid shifts in the distribution of regulatory competencies across levels of government – European, national, and subnational.

To address these challenges, the Spanish government has taken a number of steps, including the development of a public database for verdicts; official access to the BOE website for consolidated texts;[5] and the reinforcement of judicial analysis in RIA. In the future, RIAs should state precisely the changes brought about by the proposed rules. Accordingly, the standard sentence "all previous rules which are

contrary to the one being enacted are henceforth repealed", which was commonly used, is no longer sufficient.

A further problem linked to legislative simplification in Spain is the complex nature of the legislative process, whereby ACs need to be involved differently depending on the policy area. A straightforward rationalisation of the stock is therefore difficult to design, and legal clarity suffers. The OECD peer review team heard a number of comments to this effect. A process of unification of doctrine is being carried out by the Supreme Court to establish a single interpretation of a rule when two or more courts have made different interpretations. The Ministry of Territorial Policy is responsible for ensuring that simplification efforts preserve the certainty and coherence of the legal environment across the territory. The OECD peer review team also heard that duplicative regulation is an issue, so regular cleaning of the regulatory stock is important. Concurrent regulation by the State and the ACs on the same issue was a point already picked up in the 2000 OECD report.

Administrative burden reduction for businesses[6]

Context

Administrative burdens on Spanish businesses are estimated to be above the international average. On data from 2005, the Bank of Spain has estimated that the burdens represent 4.6% of GDP (compared to 3.7% of GDP in the Netherlands).[7] A reduction of 30% would therefore imply (at least in principle) an increase in GDP of 1.4 points. A similar estimate of 4.6% GDP is suggested by the Spanish Chambers of Commerce, reporting on data from the European Commission (see Figure 5.1).[8] According to the central government, the 30% reduction target implies around EUR 15 billion annually of savings for Spanish enterprises.

Figure 5.1. Administrative burdens in some EU Member States in relation to national GDP

Administrative costs per EU member state

Administrative costs as % of GDP[1]	AT	BL	CZ	DE	DK	ES	FI	FR	GR	GR	HU	IE	IT	NL	PL	PT	RE	SK	SI	SE	EU25
	4.6	2.8	3.3	3.7	1.9	4.6	1.5	3.7	1.5	6.8	6.8	2.4	4.6	3.7	5.0	4.6	6.8	4.6	4.1	1.5	3.5

1. Kox (2005): Intra-EU difference in regulation caused administrative burden for companies. CPB Memorandum 136. CPB, La Haya.

Source: 2008 Spanish Chamber of Commerce Report, p.6.

The Chambers of Commerce have also estimated that some 42% of Spanish businesses incur administrative costs between EUR 6 000 and 30 000 per year, and 8% bear more than EUR 30 000 administrative costs annually. According to a study, businesses suffer mostly from inefficiencies of the public administration, triggered in first place by over-regulation and the lack of cost assessment. In addition, most of the companies analysed considered the government's policy supporting entrepreneurship to be complex and ineffective. The building sector and hotel and catering businesses are the sectors where burdens are perceived to be highest.[9] 94% of Spanish businesses employ less than 10 workers.[10]

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The de-centralised legislative system (with increasing regulatory and administrative activity of the ACs over the past decades) is a key underlying issue. The great majority of the burdens on business are considered to derive from regulations issued by ACs and the local levels of government.

National policy on administrative burdens for businesses and citizens

Early policies

As in other European countries, the Spanish government has made successive efforts over a number of years to reduce administrative burdens and simplify citizens' relations with public authorities. These have led, for example, to the elimination of the need to present photocopies of the national ID card and registration certificates at the AGE. This allowed a saving of 7.5 million paper documents and close to 7 million processing hours.[11]

The introduction of ICT in the handling of administrative procedures will be accompanied by a process of redesign and simplification. Law 11/2007 (article 34) obliges administrative units to analyse, prior to the automatisation of a procedure, which documents are required, its time limits, and the distribution of work inside the Public Administration for handling the case.

Box 5.3. Administrative simplification: Initiatives recorded in the 2000 OECD report

- Project to review all procedures to incorporate the tacit authorisation rule contained in the Common Administrative Procedure Law (1999).
- Inter-ministerial Commission on Simplification (1999).
- Project to set up one-stop shops for entrepreneurs (*Ventanillas Unicas).*
- Administrative information system (*Sistema de Información Administrativa*), which has been implemented.

Current policy

Since 2007, the Spanish government has adopted a number of decisions that have reinforced its policies to reduce administrative burdens. The aim is to revitalise Spanish business and boost Spain's international competitiveness. The strategy is mostly aimed at business burdens though there is a small part for citizen burdens. The overall objective is to reduce administrative burdens on companies derived from Spanish regulations by 30% by 2012, from a baseline of May 2007.[12]

The programme includes burdens at the sub national levels of government (regional and municipal). It excludes regulations that transpose EU directives, if the information obligation can be directly traced back in the directive. The EU is, however, a clear driver, via Directive 2006/123/EC on services in the Internal Market (so-called Services Directive), for the establishment of one-stop shops. In addition, the Plan seeks to minimise administrative burdens on companies derived from new regulations. 16 ministries are engaged and 10 ministries are on a fast track to show results, based on areas found to be especially burdensome, which have been brought together into packages approved by the Council of Ministers. Use of the Standard Cost Model is promoted, wherever possible.

The specific objectives and modalities of the strategy are described in the Action Plan for the Reduction of Administrative Burdens, approved by the Council of Ministers in June 2008. As well as

confirming the overall 30% reduction target (up from the original 25%) this includes the following key projects:

- *Action in six priority areas.* The Action Plan follows the European Commission's approach of targeting priority areas rather than screening all the legislative stock. The priority areas are Company Law, Tax Law, Statistics, Public Procurement, Environment and Working Environment-Employment Relations.

- *Addressing new regulations.* Action Protocol on RIA to be applied to all new regulations adopted since 1 January 2009.

- *Three fast track packages,* covering a total of 159 measures.

- *A pilot project* in the area of the environment.

Box 5.4. Staging posts in the government's commitment to reduce administrative burdens

Spain's current strategy to reduce administrative burdens has been shaped through the following decisions:

1. Council of Ministers Agreement on the Promotion of the Better Regulation and Reduction of Administrative Burden Programme (4 May 2007). This agreement approved:

- the creation of a High-level Group (*Grupo de Alto Nivel,* GAN) to prepare an Action Plan for the Reduction of Administrative Burdens;

- co-operation with the ACs and local authorities to link their participation in the objectives included in the future Action Plan;

- identification of new initiatives that allow for progress in the simplification processes of procedures that influence the lives of citizens and companies; and

- agreement on co-operation mechanisms with the Chambers of Commerce, business organisations and trade unions to identify those measures that allow the reduction of administrative burdens.

2. Action Plan for the Reduction of Administrative Burdens (May 2008). It included the reduction of burdens affecting existing companies, particularly SMEs; the simplification of procedures for the creation and dissolution of companies, speeding up and reducing their associated costs and promoting an entrepreneurial spirit; and the promotion of investment, facilitating the diversification of companies into new sectors or new geographical areas. To this end, the Plan foresaw an administrative burden reduction target of 30% by 2012 for companies, and to minimise administrative burden on companies in all regulations approved as of 1st January 2009.

3. Council of Ministers Agreement for the development of the Action Plan for the Reduction of Administrative Burden and Better Regulation (20 June 2008).

4. Council of Ministers Agreements of 27 June and 14 August 2008, which approved the urgent implementation of 81 fast track measures to reduce costs in procedures affecting business activity was approved.

5. Council of Ministers Agreement of 17 April 2009, approved a further 78 measures for the reduction of administrative burdens on citizens and companies.

6. Council of Ministers adoption of Royal Decree 1083/2009 (*memoria del análisis de impacto normativo*) in July 2009, to boost the implementation of impact assessment.

Institutional framework in the AGE

A High-level Group (*Grupo de Alto Nivel*, *GAN*) drew up the Action Plan in 2007. The Group continues to lead the process. It is chaired by the First Vice-President of the government (Ministry of the Presidency) and comprises the Secretary of State for the Economy, the Secretary of State for the EU, the Director of the Prime Minister's Economics Office and the Undersecretary of the Ministry of Trade, Industry and Tourism. The Labour, Health and Environmental ministries are also present. The GAN meets 2–3 times a year.

The Ministry of the Presidency oversees and co-ordinates the simplification policies. The Sub-Directorate General for the Improvement and Simplification of Procedural Regulation created in 2007 within the State Secretariat for Public Service, is responsible for management and co-ordination of simplification policies, including the programme for administrative burden reduction (see Chapter 2). A staff of 14 are allocated to this work. The Ministry heads an inter-ministerial co-operation and co-ordination network. Under-Secretaries in each ministry have been designated as points of contact for the work. The reduction target of 30% is not divided between ministries.

Two other institutions are involved:

- The National Agency for the Evaluation of Public Policies and Quality of Services (AEVAL), through its reports on the effectiveness of public programmes. Among other relevant studies it produced a report in 2007 on administrative burdens and company creation.[13]

- The Inter-ministerial Commission for Administrative Simplification, through its role as facilitator at the interface between the public administration and external stakeholders.

The June 2008 Council of Ministers decision requires submission to the Council of Minister in the last trimester of each year of a legislative proposal encompassing all measures relating to administrative simplification. Business organisations and trade unions should be consulted while elaborating such proposal.

The Presidency Ministry, in collaboration with the other involved ministries, will draw up a report every six months on the measures adopted within the framework of the Action Plan, and their economic impact. The reported will be presented to the Council of Ministers.

The creation of a technical body to compute all existing procedures in the public administration as well as those simplified is foreseen for 2010. The body will allow access to a comprehensive inventory, which to date does not exist as each public administration has its decentralised, autonomous statistical structure.

Co-ordination with subnational levels of government

The programme and its goal is a shared one across all levels of government. This is unusual in the EU and marks Spain out, at least in this respect, as ahead of most EU countries. Co-operation agreements and working groups have been put in place to facilitate co-ordination (see also Chapter 8). Significant efforts are being made to define common ground, which can be a challenge. The central government is responsible for measuring and reducing administrative costs related to legislation with direct State origin, while the ACs are expected to take action in relation to their legislation. The central government encourages the ACs to respect their commitments and perform their tasks in a manner as harmonised as possible.

The different levels of government are all highly relevant to the programme in different ways. According to the CEOE, the central level is especially relevant to company law and taxation; the ACs are especially important for the regulation of commerce and the environment; and the municipalities for start ups and licensing.

Training

A range of training activities have been developed at the national level. They include presentations from ministry representatives, as well as representatives of the companies and associations who signed co-operation agreements in 2008. The International University Mendez Pelayo on its premises in Santander organises 2-day seminars on the topic. The reduction of administrative burdens has also been added as a subject for the selection courses for future public sector employees. An online course has also been launched on Better Regulation and the reduction of administrative burdens.

Overall, some 500 officials of the AGE have been informed and trained so far on the administrative burden reduction programme.

Methodology and process

Definition and scope of administrative burdens

Administrative burdens are understood as the cost of unnecessary information obligations contained in regulations and incurred by economic operators (business and not-for-profit operators such as the charitable sector and voluntary organisations) originated by any of the three levels of public administration (national, regional and local authorities), and which would otherwise not be incurred in the absence of those regulations.

Use of the Standard Cost Model (SCM)

The SCM methodology is being deployed in the six priority areas as well as for the fast track measures and the environment pilot project. Consultants have been hired to carry out the measurements. The Spanish government notes, however, that the SCM is not always well suited to capture the benefits of some reduction and simplification measures. These are often related to initiatives that are not focused on actions linked to administrative processes, but rather on other practices such as the reduction of timeframes for resolution by the administration; the injection of liquidity; and the implementation of "silence is consent" rules, In these cases, alternative analysis methods have been applied, leading to qualitatively determine (and sometimes quantify) the opportunity costs incurred by the company prior to implementation of the initiative.

New regulations

The target is not formally a net target. However burdens arising from new regulations are reviewed and measured. All impact assessments must include the measurement of the burdens which are being removed, the ones which are kept, and the ones which are introduced (with a justification). The measurement is being carried out by the unit proposing the regulation. The June 2008 Council of Ministers decision included the preparation and implementation of an Action Protocol on RIA (*Protocolo de actuación para el Análisis del Impacto de la Nueva Normativa),* which would ensure that the impact of new burdens on businesses and citizens be measured and kept to a minimum. Such a protocol shall be applied to all new regulations adopted since 1 January 2009. The 2009 RIA Guidelines make the identification and measurement of administrative burdens an integral part of the RIA process. They include an annex describing a simplified version of the SCM method.

The six priority areas

The Spanish government has targeted six of the thirteen priority areas identified by the European Commission. The baseline measurement of State regulations in these areas has already been completed using the SCM methodology. Consultants have been hired to detect information obligations imposed on companies and individuals in the six priority areas. The sixteen central ministries involved in the priority areas in this task. The ministries involved in the priority areas co-operated in this task. The Presidency

Ministry has now submitted the proposals for discussion and subsequent implementation to the line ministries.

Box 5.5. Administrative burden reduction: Screening and measuring the six priority areas

The Agreement of the Council of Ministers of 20 June 2008 set action in six priority areas in accordance with those information obligations that generate a higher cost for companies. These areas are Company Law, Tax Law, Statistics, Public Procurement, Environment and Working Environment-Employment Relations.

To date, the following stages have been carried out by the central government:

- Identification and selection of regulations from all of the priority areas. A list of relevant legislation has been drawn up for each of the six areas. Overall, 167 regulations were studied (five Organic Laws, 66 norms with the status of Law, 86 with Royal Decree status and 10 with a lower status).
- Identification of the related information obligations (IOs). From the analysis of those regulations, a total of 1 377 IOs were identified, using the following criteria:
  - the economic cost for the entrepreneur;
  - the general sphere of application;
  - the organisational impact for the entrepreneur, in accordance with the regularity of the IO, as a result of the volume of personnel affected, etc.; and
  - the territorial area (IOs with a limited geographical scope of application are not analysed in the study).
- Selection of the IOs with greater impact. Of the 1 377 IOs identified, 300 have been selected for measurement because they represent a greater burden for companies or are considered to be priority on grounds of public interest. The following general criteria applied:
  - the number of companies affected by the IO;
  - the frequency with which companies subject to an IO have to fulfill it;
  - the impact on the business activity, evaluating a priori the effort required by companies to comply with the IO; and
  - the capacity of measuring the IO, evaluating a priori the feasibility of measuring the cost of the activities generated in the company in order to comply with the IO.

Fast track measures

The Council of Ministers has also approved (in 2008 and 2009) three packages of measures (a total of 159 measures). The measures affect 10 ministries and their implementation spans three years (2008, 2009 and 2010). The baseline for measurement is set against the benchmark of May 2007. An external consulting company has been engaged to quantify the administrative burdens related to these procedures. These measures imply a cost reduction of more than EUR 2.3 billion.

Pilot project for the environment

A pilot project to measure burdens in the area of the environment was agreed with the aim of reducing the administrative burdens on transporters of dangerous waste by road (Box 5.6). Consultants were

engaged to cost the relevant burdens. This project engaged both the State (the Environment Ministry and the then Ministry of Public Administration) as well as the ministries of the environment in each AC. It has recently been completed.

Box 5.6. The pilot project on administrative burdens and the environmental sector

The procedure of "Notification of transport of hazardous waste across the national territory" was selected as a case study for its high significance, as it affects a large number of administration and private companies of different sizes and distributed in a wide range of sectors and levels of government. The transfer of large volumes of hazardous waste requires very comprehensive monitoring, as required by the related framework legislation, which has an European, national and regional character.

The pilot project followed a structured approach, which included a screening of the relevant legislation to identify the burdens. The information obligations placed on companies are very recurrent and are associated with each transaction they make, given that the ultimate goal of the procedure is to ensure the full traceability of the waste and avoid any situation of illegality that may occur. The information obligations covered by the pilot project included:

- the notification of transport of hazardous waste;
- the document control and monitoring during transport; as well as
- the annual statement by the producers and the annual report by the managers of hazardous waste collecting statistical data.

As a second step, the Standard Cost Model was applied to measure the cost. On the basis also of direct interviews with a representative sample of both producers and managers, the cumulated cost at the national level of the reporting requirements was concluded in EUR 16.5 million per year for the producers (some 8 207 in total) and managers (1 354). The unit cost per producer and manager amounted to EUR 2 468 and EUR 1 603, respectively.

The pilot project final report made a number of recommendations to reduce those administrative costs. Among them, the elimination of the national code and of the prior notification of transport; the introduction of fast track procedures for small national producers; the simplification of document control and monitoring; the establishment of a system for managing information on hazardous waste (notably by enhancing ICT tools and setting up one-stop-shops); and enhanced co-ordination between administrations. The findings were released in a moment of reflection and analysis of the administrative procedures regulating hazardous waste, in relation to the transposition of Directive 2008/98/EC. Thus, the pilot project contributed to decision-making within the Sub-directorate for Sustainable Production and Consumption, which is responsible for transposition process.

This pilot project was the first attempt to produce a SCM measurement in Spain. The project was a valuable experience for the administrations involved in experimenting the practical implication of the administrative burden reduction strategy, stimulating at the same time close collaboration both within the public administration and between this and the concerned stakeholders.

The government considers that the project provided the basis for a good approach to the subsequent big scale measurements. The main challenge was the involvement of the private sector to produce accurate figures, which not always has been possible. The findings of the report on the environmental implications have been useful for the concerned department, while the methodological ones for the Ministry of the Presidency and thus for the whole burden reduction programme. In particular, the report showed how to identify reduction proposals coming from the private sector, even when quantification in monetary terms is difficult.

Further to the pilot project, the ACs will continue to implement the system for sharing information on hazardous waste and apply the agreed standards. To this end, the Environment Ministry is developing a platform for exchange of information between the various public administrations.

Public consultation and communication

The Spanish government has opted to work through structured co-operation with key stakeholder representatives, backed up by formal agreements. Two co-operation agreements were signed with the

Spanish Confederation of Small and Medium-Sized Companies (CEOE)[14] and with the Higher Council of Chambers of Commerce and Industry. These associations of stakeholders provide help and assistance to the government in the detection of information obligations within the framework of the Action Plan.

Box 5.7. Co-operation agreements to reduce administrative burdens in Spain

The Spanish government has sought close collaboration with relevant affected stakeholders in pursuing its strategy to identify, measure and reduce administrative burdens on companies. Two co-operation agreements are worth mentioning in this respect.

Higher Council of Chambers of Commerce

The agreement with the Higher Council of Chambers of Commerce regulates the participation of that association in the development of the Project "The Reduction of Administrative Burden in the Spanish Company: Impact on Productivity". Linked to the overarching Action Plan for the Reduction of Administrative Burden, it intends to promote the study and transfer of information between the public administration and the Chambers; the identification of actions and promotion of joint initiatives; the design of procedural simplification. The agreement includes the setting up of a permanent advisory panel of companies by the Higher Council of Chambers of Commerce.

CEOE and CEPYME

A further co-operation agreement was signed in the framework of the project "Analysis of the Administrative Burden supported by Spanish SMEs", which is developed jointly by the central government, the Spanish Confederation of Employers' Organisations (CEOE), and the Spanish Confederation of Small and Medium-Sized Companies (CEPYME). Also in this case, among the purposes of the agreement are the carrying out of studies, exchanging information, and the identification of possible joint initiatives aimed at implementing the overall Action Plan. In particular, the agreement includes the selection by the CEOE and CEPYME of a group of companies of different sizes, sectors of activity and territorial implementation to carry out an analysis, co-ordinated by the associations, of all the actions and administrative processes that these companies must carry out with the public administrations in the normal course of their activity.

These projects are to be considered as a starting point for closer interaction and integration. The relevance of this project is twofold. It not only tests current co-ordination mechanisms between the levels of government, but it also helps to establish which burdens are created at what level and by which authority.

The Chambers of Commerce and the CEOE have made a significant contribution to shaping the Action Plan:

- The Chambers of Commerce have carried out a project to measure administrative burdens making use of its legal status, its presence across the national territory, and its daily contacts with businesses. In October 2008, the Chambers published a report commissioned to a private consulting company and a law firm, which identified the administrative procedures and information obligations faced by businesses (mostly, SMEs) and recommended simplification measures. Overall, 200 businesses were consulted. The areas considered referred to legislation enacted by the State in its exclusive capacity (Art. 149 SC), focussing on six horizontal and six sectoral domains. The former were domains affecting businesses irrespective of the sector of activity, while the sectoral legislation represents 53% of Spanish firms. Overall, 225 norms were analysed, ranging from laws to royal decrees to decrees and resolutions. 160 were State laws. The study identified 584 procedures and obligations related to these norms and proposed 113 concrete simplification measures.[15] An internal Working Group was created by the Chambers to follow up the project and contribute to the government's programme.

- The CEOE has launched a project with a view to quantifying administrative burdens on SMEs. To this end, in accordance with a protocol signed with the Ministry of the Presidency, personal in-depth interviews will be carried out with some hundred companies in the commerce, food, transport, and tourism sectors. A questionnaire was also sent to 1 500 companies seeking to capture the "irritation factor" of some of the burdens identified. A report, including recommendations for possible simplification measures, is expected by the end of 2009.

Use of e-Government in the AGE

Extensive use is being made of e-Government for the simplification programme. Most of the fast track measures adopted by the Council of Ministers use ICT or the introduction of online services. The Administrative Information System (AIS) is an example of the synergies exploited between the e-Government strategy and the Action Plan for the Reduction of Administrative Burdens (see below). The AIS was initially conceived as a support tool for the AGE. Its main purpose was to implement the mandate of Law 30/1992 which requires that every public administration has a complete catalogue of all existing administrative procedures. Because of its remit and sophistication, the AIS has now become the tool for monitoring the application of Law 11/2007 on the electronic access of citizens (definition includes companies) to public services.

Box 5.8. E-Government and reducing administrative burdens in the AGE

The actions include:

- Electronic Office and Electronic Register in the Ministry of Justice.
- Electronic Signature System for Civil Servants to interact with citizens (Ministry of Economy and Finance).
- Electronic or Telephone Resolution of tax infringement in Personal Income Tax.
- Electronic Filing of Economic – Administrative Claims.
- Creation of a network of 3 000 Cadastral Information Points.
- Electronic Access to the Cadastral Virtual Office by Notaries or other Public Administrations.
- Electronic Registration Application for Security Companies.
- Electronic Application for all benefits administered by the National Social Security Institute.
- Electronic Payment of Industrial Property Charges.
- Application for the driving licenses through the medical cabinets.

Achievements so far and next steps

As in other European countries, it takes time for processes to start yielding results. The current Action Plan of the Spanish government was adopted in 2008. However, the first reductions have already taken place. In April 2010, 109 of the fact track measures had been fully implemented, totalling an annual saving of more than EUR 1 157 billion.

176 proposals for the six priority areas have now been presented for validation by the responsible ministries. These proposals taken together, if implemented, would amount to an annual saving for Spanish

enterprises of more than EUR 5 billion. Another package of proposals for simplification elaborated in collaboration with CEOE-CEPYME and the Higher Chamber of Commerce has been prepared. As of April 2010, the proposals for costs reductions may total nearly EUR 10 billion.

The National Institute for Public Administration has created an Investigation Group for the Better Regulation and burden reduction policy. The participants include high-level officials for the three levels of the public administration (State, Autonomous Communities and municipalities), as well as representatives of enterprises (Higher Chambers of Commerce), and academics. It meets once every two weeks and is chaired by a civil servant of recognised expertise and authority from the Ministry of the Presidency. The purpose of this Group is to analyse possible improvements and specific horizontal procedures that could be generalised to all ACs and local authorities. In particular, the Group is now evaluating the authorisation procedure of the city of Madrid and its possible change to a declaration or previous communication scheme, as well as the possibility of adopting the rule "silence is consent". The Group also aims to study the documents required of citizens for hundreds of the administrative procedures of the Autonomous Community of Madrid, in order to determine if these are already held by the central administration.

Other simplification measures for businesses

One-stop shops

One-stop shops for businesses have been established in Spain, called *Ventanillas Únicas Empresarial* (VUE). These bodies support entrepreneurs in setting up new activities through the provision of integrated services. In particular, the VUE system seeks to inform and orientate businesses and to facilitate the processing of individual cases. The aim is to reduce all procedures related to all relevant administrations into a single step. So far 31 VUE one-stop shops have been set up across ten ACs. A virtual one-stop-shop portal[16] has also been established, which provides general information, as well as personalised advice on procedures related to starting and promoting an economic activity. From June 1999 to December 2005, the VUEs contributed to the creation of more than 36 500 companies and offered advice to more than 162 000 persons.[17] From December 2005 to end of 2009, further 34 500 new businesses have been created and 110 000 people given advice.[18]

Licences and permits

As already noted in the 2000 OECD report, Spain faces important challenges with the length and complexity of procedures for licensing and permits.[19] The government reports that the main problems are the volume of files managed and the generalisation, in most municipalities, of "authorisations" instead of "communications". The same diagnosis is provided by a study by the AEVAL.[20] The Agency recommended, among other matters, to extend the access to electronic procedures to all types of company; the development of a single template and portal; the introduction of a single municipal licence throughout Spain; and deadlines to be set for public authorities (ACs and local councils) for granting activity licences, failing which the authorisation should be automatic.

A number of actors are mobilised to address the problem, including the municipalities, as well as a multi-disciplinary commission within the National Institute for Public Administration (INAP). The Law on Measures to Promote the Information Society approved in 2007 incorporates actions aimed at reducing the constitution times of a Limited Company, such as the creation of a set of pre-registered company names, and the possibility of using a guidance model of by-laws which allows registration within 48 hours.

The chambers of commerce suggested that municipalities are a source of delays and braking reform on licences. This is partly because onerous *ex ante* proof is needed to establish a business.[21] Not least, licences are an important source of income when the tax base is limited. Another factor is the often very small size of municipalities.

Administrative burden reduction for citizens

Most initiatives to reduce administrative burdens do not strictly distinguish between businesses or citizens (see above). Many of the projects set out above also have some effect on citizens. More broadly, Law 11/2007 on electronic access of citizens to public services (see Annex A) was an important milestone in defining citizen rights with respect to the public administration (electronic access, communication and procedures), as well as the obligations of the authorities with respect to citizens and a framework of co-operation with reference to electronic information between administrations.

Administrative burden reduction for the administration

No specific programme targeting administrative burdens incurred by the public administration has so far been developed by the Spanish government. However, initiatives for the modernisation of the administration are now established in central government strategy. They are partly pursued through administrative simplification.

In February 2007, the then Ministry for Public Administration implemented the "Plan for the Simplification and Computerisation of the Procedures of the General State Administration (AGE)" updating the inventory of procedures in force in the AGE. To this end, the so-called Administrative Information System (AIS) was designed as a repository to introduce, exploit, and monitor information on procedures and carry out related analysis through a series of indicators (Bureaucratic Effort Index). According to data available in the AIS, there are a total of 2 612 procedures in the AGE regulations, of which 2 112 are external procedures and 500 are internal.

With the objective of creating more efficient and direct procedures, a Web Tool was designed to support the redesign of the administrative procedures (HARPA). The tool was made available to the public administrations and offers the possibility to define new processing circuits, eliminate activities that fail to add value and optimising the processing times, and as a result improve the quality of the services provided to citizens. The *060 network* also contributes to reducing burdens through access to information services and to electronic processes.

Notes

1. The texts can be seen on the website of the Congress, at: *www.congreso.es/portal/page/portal/Congreso/Congreso/Iniciativas/LeyesAprob?_piref73_1335447_73_1335446_1335446.next_page=/wc/busquedasLeyesAprobadas&anoLey=2000&selectLey=tituloListadoRealesDecretosLeg* (last accessed 28 September 2009).

2. See: *http://tienda.boe.es/oresults.html?sf=N2COD&se=101(*last accessed 28 September 2009).

3. *Communication of the Consejo de Estado (1999).*

4. *This rule was first established in the General Tax Law of 1963.*

5. Previously, consolidated texts and judicial verdicts were provided to the public by some private services.

6. In Spain the distinction between actions for business and citizens is blurred, partly because legally the two notions are rolled together. Further to legal acts establishing such a notion, such as law 11/2007, "citizens" often means both natural and legal persons (corporate bodies). This section therefore contains some elements that are also relevant to citizens.

7. See: Bank of Spain, *Una primera estimación del impacto económico de una reducción de las cargas administrativas en España*, in Bolétin Economico, Julio-Agosto 2008.

8. See: Consejo Superior de Cameras de Comercio, Industria y Navigacion de España, *Análisis de los trámites administrativos soportados por las empresas en su actividad cotidiana derivados de la regulación*, Final Report, Octobre 2008, p.6.

9. See: Chambers of Commerece, *Regulacion y Competitividad Empresarial*, Panel de Opinion 10, 2007. The report considered about 6.500 companies and the survey took place in July 2007.

10. See: Bank of Spain, *Una primera estimación del impacto económico de una reducción de las cargas administrativas en España*, in Bolétin Economico, Julio-Agosto 2008, p.85.

11. See: Spanish Government, AB Agreement of 4 May 2007.

12. This compares with a reduction target of 25% at the EU level.

13. See: AEVAL (2007), Administrative Procedures for Company Creation in Spain, Madrid.

14. The CEOE is a matrix organisation covering all sectors of the business community and the whole Spanish territory. It comprises 225 associated

federations, or 1.2 million companies, and claims to represent over 95% of Spanish economic activity. A specialised federation, the CEPYME, covers SMEs and works in close co-ordination with the CEOE.

15. See: Consejo Superior de Cameras de Comercio, Industria y Navigacion de España, *Análisis de los trámites administrativos soportados por las empresas en su actividad cotidiana derivados de la regulación*, Final Report, Octobre 2008.

16. The portal is a part of the *060.es* website: *www.060.es/empresa-ides-idweb.jsp* (last accessed 20 August 2009).

17. See. *www.ventanillaempresarial.org/docum_vues/datos_VUEs_31dic05.pdf* (last accessed 20 August 2009).

18. The figures are provided by the Spanish government.

19. The 2000 OECD report noted that setting up, operating and closing a business in Spain appears to be a more cumbersome process than in other countries. The main culprit is a complex system of authorisations, permits and licences existing at all levels of government. The overall burden is disproportionately borne by the very large SME sector.

20. See: AEVAL (2007), *Administrative Procedures for Company Creation in Spain*, Evaluaciones E06, Madrid.

21. Spain is still based on a notarial system, which implies significant, formal administrative procedures that can only be taken forward through a licensed official- the notary. However, the government considers the system vital in order to guarantee the security of economic traffic.

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