

Executive Summary

Drivers of Better Regulation

The development of Better Regulation policies in Portugal over the past few years has been part of the government's reforms to modernise the economy and enhance growth, and to meet the goals of the European Union's Lisbon Agenda on economic growth and job creation. The need to address deep seated structural and economic problems has facilitated the emergence of a shared understanding among politicians and civil servants that in-depth changes are necessary. There is a widespread recognition that the public sector must become more cost-efficient and closer to public needs, which requires a transformation of the administrative culture. Another priority has been to make the business environment more dynamic and innovative to increase the competitiveness of the economy and its capacity to attract foreign direct investment. Portugal's relatively low ranking in various competitiveness benchmarks has been an important driver for the launch of the *Simplex* Programme for administrative simplification and e-government.

Public governance framework for Better Regulation

Portugal is a unitary state and a parliamentary republic ruled by the constitution of 1976, with a tradition of strongly centralised government. The development of Better Regulation has been closely associated with managing the transformation of the public sector. Reflecting the high-political importance of this objective, responsibility for regulatory quality management and the development of Better Regulation policies has always been at the centre of government, close to the Prime Minister. Better Regulation is also closely associated with e-Government policies to promote more effective public governance.

Developments in Better Regulation

The development of Better Regulation policies is relatively recent compared with some other OECD countries. The government's strategy for promoting Better Regulation in its first phase has been to focus on actions which could rapidly produce tangible and effective results, on which to build a foundation for further reforms. Through the *Simplex* Programme, the objective was to send clear signals on the direction that had to be taken and to raise expectations for further reform among citizens, companies and within the administration. The *Legislar Melhor* Programme for enhancing legal quality constitutes a further and broader development aimed at improving the overall quality of the regulatory system and includes the first steps toward *ex ante* impact assessment.

Regulatory management capacities continue to be developed and reinforced. The Portuguese government recently adopted a resolution to create a stronger institutional framework for monitoring the transposition of EU directives. It has also, building on successive reinforcements of the programme, taken steps to further strengthen the *Simplex* Programme for the reduction of administrative burdens, with plans to introduce quantified

targets, extend the programme to full compliance costs, and cover citizens as well as business and burdens on the administration. It is also addressing public consultation via the establishment of a code of good practice.

Main findings of this review

Portugal has made impressive progress over a very short period (three years) in the development and implementation of policies for Better Regulation, which is now recognised as an important part of effective public governance. There is a need to sustain momentum and confidence, and to set out a clear overall strategy that links and further develops the different initiatives for Better Regulation. Defining stronger operational as well as strategic targets will help the reform programme to stay on course. As Portugal unrolls further initiatives for Better Regulation under the *Legislar Melhor* umbrella, it also needs to ensure that *ex post* evaluation is anticipated both for specific elements of the policy, and for Better Regulation strategy as a whole.

Portugal has institutional structures at the centre of government as well as a network of officials involved and interested in Better Regulation across the administration, who are ready to move forward. The implementation of the *Simplex* Programme has played a big role in raising interest across ministries, generating inter-ministerial co-operation. Portugal should focus on enhancing shared working across the government and ensuring adequate capacities for the future development of Better Regulation policies.

An important transition has taken place over the last couple of years regarding public consultation, from reliance on formal requirements to experiments with broader and more flexible approaches. However the quality and scope of consultation practices appears uneven and open consultation is not yet fully embedded. Portugal has made positive progress in enhancing access to the legislative stock and more generally to the administration, including through the development of e-Government. Two issues that need sustained attention are the delays in the court system for appeals, and the need to strengthen the framework for management of EU affairs, both of which the government is addressing.

Significant steps have been taken towards enhancing regulatory quality and controlling regulatory production. Procedures and guidance for the development of new legislation have been put in place. The government has also introduced the *Simplex* Test, mainly to assess the administrative burdens which new regulation could impose on citizens and businesses. This embryonic form of impact assessment needs to be further developed in order to enhance regulatory quality and management.

The *Simplex* Programme has been impressive in scope and ambition, and has removed some important difficulties in the regulatory system. The government plans to introduce a variant of the standard cost methodology (SCM) and establish quantified targets for 2012. A sharper approach based on quantification will help to evaluate progress on sounder footing and encourage the further and full engagement of relevant ministries. The government is also now engaging the municipalities in the *Simplex* Programme with the *Simplex Autárquico* Programme, launched in August 2008.

Strategy and policies for Better Regulation

Portugal has made impressive progress in the development and implementation of policies for Better Regulation in a very short time frame. Over a period of less than three years, the government has launched a programme for enhancing legal quality (*Legislar Melhor* Programme or Better Law Making Programme) and for the reduction of administrative burdens (*Simplex* Programme), which is now being extended to cover

municipalities (*Simplex Autárquico Programme*), alongside a major programme for the development of e-Government. A number of tangible results have been produced, including reduction of administrative burdens on citizens and companies for a number of administrative acts, easier access to regulations (websites of Official Gazette and the parliament), codification, and publication of rules of procedures for the preparation of regulation. Portugal also deserves credit for taking inspiration from the experiences of other countries, thereby reaping the benefits of a catch up effect, and more broadly for getting the measure of the efforts that were needed to start changing the culture of the administration, and the issues to be addressed.

These tangible achievements mean that Better Regulation is now recognized as an important part of effective public governance and is embedded in the policy agenda. The need for Better Regulation is now increasingly recognised and supported not only within much of the administration but also outside (business, trade unions, citizens). Reforms in this area no longer appear to depend on the politics of the moment. A momentum for reform has been created, and there is a climate of confidence as well as an expectation on the part of business and society that the government is taking reform seriously.

There is a need to sustain momentum and confidence, and to set out a clear overall strategy for Better Regulation that links and further develops the different initiatives. Whilst much has been achieved in the first phase of reform, a second phase is opening up, which needs further development if it is to provide effective ongoing support for Portugal's economic goals. The *Legislar Melhor* Programme is an important step in this direction, signalling that the government has understood that Better Regulation must be extended out from its origins in the *Simplex* Programme. This new programme outlines a broader and potentially deeper strategy for Better Regulation in Portugal. The risk is that Better Regulation reform gets stuck at some point in the next couple of years, if this strategic vision is not addressed. A strong central vision will also help to avoid a fragmentation of approaches across ministries, agencies, and beyond at the municipal level.

Defining stronger operational as well as strategic targets will help the reform programme to stay on course. Defining operational and strategic targets, against which the government can report progress, would also act as an incentive for ministries and others to sustain and even strengthen their efforts. For this to work, current policies need to be given a sharper edge. This includes specific targets and measurements for the administrative burden reduction programme, and a stronger and fuller approach to *ex ante* impact assessment which goes beyond the assessment of administrative burdens. The government has taken steps with regard to the administrative burden reduction programme and now needs to take further action with regard to *ex ante* impact assessment.

Better Regulation strategy needs to be clearly communicated to stakeholders within and outside the administration. The first phase of reform rested largely on a specific and highly visible policy (launching the *Simplex* Programme for the reduction of administrative burdens as a way to embed Better Regulation in the administration's agenda). This policy was well communicated. The current situation, however, is no longer so clear. Stakeholders need to be fully aware of what is planned as well as what the government has already put in place.

***Ex post* evaluation is not at this stage embedded in the culture, although there are some useful initiatives.** Measuring and evaluating progress is important to sustain the momentum for reform and to improve the reform programme. A useful specific initiative on *ex post* evaluation is the recently established monitoring panel for the *Simplex* Programme, which could constitute a step towards the establishment of a broader system

for monitoring and evaluation policies. As Portugal unrolls further initiatives for Better Regulation under the *Legislar Melhor* umbrella, it needs to ensure that *ex post* evaluation is anticipated both for specific elements of the policy, and for the Better Regulation strategy as a whole.

There is a need to strengthen understanding of the link between the Better Regulation agenda and impact on the economy in order to sustain support for Better Regulation over the long term. Portugal has set itself the goal of achieving a stronger economic performance and a reduction in the public deficit. How can/does Better Regulation (which itself requires resources) contribute to economic performance? This is difficult to show directly at the macroeconomic level. However it could be attempted for specific areas, for example making the link between simplification of processes for business start ups and the effect on new business formation. This can also be a “reality check” on the effectiveness of the reform programme.

Better Regulation in Portugal is closely linked to and supported by e-government policies aimed at promoting more effective public governance and regulatory management. Portugal has for a number of years prioritised the development of the Portuguese Information Society and focused on putting public sector services online. This has resulted in a significant improvement relative to the European Union e-government benchmarks regarding accessibility of e-government. Drawing full benefits from simplification through e-government services however requires that the government also works to tackle the digital divide in Portugal.

Institutional capacities for Better Regulation

Considerable progress has been made in a short time, and foundations are being established for the further development of institutional capacities. Portugal now has institutional structures at the centre of government as well as a network of officials involved and interested in Better Regulation across the administration, who are ready to move forward. The implementation of the *Simplex* Programme has played a big role in raising interest across ministries, and has generated inter-ministerial co-operation for a major horizontal government programme for the first time without a formal legal requirement to do so. Two entities based within the Presidency of the Council of Ministers at the centre of government now play a major role in the development of Better Regulation in Portugal: CEJUR (the legal centre of the Presidency of Council of Ministers in charge of the *Legislar Melhor* Programme), and SEMA (Secretary of State for Administrative Modernisation) with the support of AMA (the Agency for Administrative Modernisation, in charge of the *Simplex* Programme). Among ministries, the Ministry of Justice is a particularly active and effective player with respect to the *Simplex* Programme, partly as an extension of its own initiatives to remove congestion in the judicial system. The Ministry of Finance and Public Administration and the Ministry of Economy and Innovation have been other key players in the development of simplification programmes.

Despite progress, the institutional motor at the centre of government for Better Regulation has weaknesses. One is the need to enhance shared working. There is goodwill and a certain level of co-operation between the main players in the Presidency of the Council of Ministers and key ministries, but much of their work appears to be carried out independently of each other, and may be over-dependent on the enthusiasm of the officials currently in place. This will matter increasingly as new processes are rolled out, for example to capture the administrative burdens of new regulations, which will need to be meshed with the more established *Simplex* Programme. The second major weak spot is capacities and competences. These are inadequate for the work ahead. For example CEJUR

has been given an important role for the development of the *Legislar Melhor* Programme, but its capacity to perform these tasks will be limited by its resources and competences, which are focused on law quality. It could not for example, as matters currently stand, provide much effective support for the development of *ex ante* impact assessment. Policies on administrative simplification and on the quality of new regulations are related, and require strongly coordinated actions. They are currently conducted by AMA and CEJUR, which are under different Secretaries of State within the Presidency of the Council of Ministers.

Across ministries and agencies, capacities and competences for tackling reform appear to be highly uneven and also need attention. There have been considerable efforts to develop training, and an important initiative to link performance assessment with results obtained on Better Regulation policies such as the *Simplex Programme*. Some entities (such as the Ministry of Justice and the financial regulators) appear to be fully equipped as well as enthusiastic for their role. Others, however, seem less at ease and not so well integrated.

The more formal engagement of external stakeholders, many of whom are highly supportive of the government’s Better Regulation policies, could also be usefully strengthened. Leaving aside the Ministry of Justice’s De-formalisation Commission, which covers both government and external representatives, Portugal does not at present have a fully independent external advisory body of the kind that has been set up in a number of other OECD countries. Such bodies, provided that they are established with careful regard to their independence and balance of representatives, can provide powerful support for sustaining Better Regulation over the long run, advising the government on how Better Regulation programmes can be strengthened, and acting as an effective public communication channel for the government.

The government and the parliament have a shared interest in Better Regulation, which needs to be exploited. The Assembly of the Republic is considerably engaged in Better Regulation initiatives aimed at strengthening the quality of law making, including through early efforts at impact assessment. Sharing of databases on the regulatory stock could be another entry point for encouraging communication and co-operation.

Transparency through consultation and communication

Consultation processes are well established, both through formal rules and in practice, and have been evolving. Although public consultation is not required for all regulations, in practice most regulatory projects are subject to some form of consultation. There is a well-established practice of formal consultation of specific stakeholders stemming from constitutional requirements. An important transition has taken place over the last couple of years, from reliance on formal requirements to experiments with broader and more flexible forms consultation, often based on the Internet, carried out by different ministries and agencies. In particular, the implementation of the *Simplex Programme* has provided the opportunity to develop new forms of consultation with external stakeholders, which can be considered as a successful experience.

The new legal framework for consultation together with the planned Code of Good Practice are positive steps towards promoting more effective, open and user friendly consultation across all ministries, not just the best performers. The quality and scope of consultation practices appear to vary across ministries, and open consultation is not yet fully embedded. The government is now preparing a new legal framework and a Code of Good Practice, which should help to promote good practices. There is a particular need to promote more user friendly deadlines, and provide more systematic feedback on the results

of consultation, so as not to discourage those who are putting big efforts in the provision of comments. Public consultation usually takes place within short deadlines and at a late stage in the development of regulations, which does not allow stakeholders sufficient time to contribute and reflect on how they could be affected. Nor does it encourage public ownership of the policy under development. Feedback on the use made of comments also appears to be poor.

Portugal has also made positive progress in enhancing access to the legislative stock and more generally to the administration, making a strong use of ICT in doing so. The *Digesto* initiative, and other initiatives to enhance transparency of the rule making process (Official Gazette on line, website of the Assembly of the Republic and individual ministries) show that Portugal has understood the need for a more transparent approach tailored to the needs of business and citizens without a legal background or support. The launch of comprehensive portals for citizens and business also transforms access channel to public services and administrative procedures. Business might welcome increased simplicity through the adoption of common commencement dates as it can avoid the need to be on a regular lookout for new or revised regulations.

The development of new regulations

There has been good progress to strengthen the procedures and guidance for the development of new legislation. Very little was in place until recently. A practical guide to help law drafters is under preparation to complement the 2006 Rules of Procedures of the Council of Ministers, which have established common rules for the preparation of regulations. This has been a major achievement of *CEJUR* and should feed through into better quality drafting and planning for new regulations.

An embryonic policy for effective *ex ante* impact assessment of regulations is apparent, especially with the *Simplex* Test. A form of impact assessment has been formally introduced, both in the rules of procedures of the executive and of the parliament. The government has also introduced the *Simplex* Test for new draft regulation, mainly to assess the administrative burdens which the regulation could impose on citizens and businesses. The *Simplex* Test is now well known within ministries, and the practice of making *ex ante* impact assessment (even if focused on administrative burdens) and considering alternatives to regulation is making its way in the administrative culture. The first benefit of the *Simplex* Test is that it has made officials in central government aware that good regulation requires preparatory work, including questioning expected consequences. There are limits to the Test, but with this recent new tool, Portugal has made a significant step towards enhancing regulatory quality and controlling regulatory production. Throughout the OECD mission study, interviewees underlined the progress.

While the initiatives so far fall short of a fully effective *ex ante* impact assessment policy, they are a useful starting point for strengthening the current approach. The current review of the Test following its pilot phase is an important opportunity to take stock of the following issues and how they might be best addressed in the Portuguese context.

There is a need to move from a static to a dynamic approach. The *Simplex* Test is currently a static exercise – a snapshot of regulatory proposals at an early stage in their development. Effective *ex ante* impact assessment implies a dynamic process over time. Updating assessment as the draft progresses can help authorities to assess the regulation as it develops. It will also allow a more authoritative reference to an assessment which has been done on the final version of the text, and not on an early version which will have been modified significantly.

There is also a need to broaden the scope of assessments, taking account of the proportionality principle. The analysis underlying the *Simplex* Test (which is essentially based on a long questionnaire) and explanatory note is very limited. The *Simplex* Test does include some elements of a broader assessment, but focuses mainly on administrative burdens, not the full-fledged broader range of policy effects and potential costs and benefits. It can be legitimate to have different levels of impact assessments, proportionate to the subjects and their complexity. The overall aim should be to get the right balance as the current version of the *Simplex* Test is both too long and complex, and at the same time offers an inadequate basis for capturing effectively the full consequences of a proposed regulation.

Publishing results of impact assessment and using public communication are important for transparency of public choices and medium term efficiency. The results of the *Simplex* Test currently remain confidential, even within the government. The confidentiality can be justified in the early phase of launch and implementation of the new policy. It is however now necessary to set when and how the *Simplex* Test can be communicated to interested parties and parliament. One argument for not making impact assessment publicly available is that this is preparatory work aimed at providing insights to the government. This is indeed the case, but the study can be made public once choices have been made and the draft is to be published or in the case of draft laws when the draft is communicated to the parliament. Another element of transparency to be improved is public consultation. There is currently no specific link made between public consultation processes and *ex ante* impact assessment. The development of the *Simplex* Test for evaluating the administrative burdens of new regulations should involve effective public consultation of stakeholders in order to identify prospective issues.

The institutional support for impact assessment needs to be strengthened. *CEJUR*, via its responsibility for the *Legislar Melhor* Programme, has the formal responsibility for overseeing impact assessment. However, as a legal centre for the quality of drafting it does not have the necessary economic competences or resources for overseeing a more robust impact assessment process. Strengthening the institutional framework also requires a change of culture across the administration, notably a willingness to engage in more systematic and open exchanges on the development of new policies and associated regulations.

The parliament needs to be part of the process of strengthening impact assessment. The role of the parliament in the development of legislation is strong in the Portuguese system. The parliament has already taken a number of initiatives of its own to strengthen procedures for the evaluation of draft regulations, including not least the requirement for a wide ranging technical note to be attached to drafts which it will enact. The parliament also has its own rules for ensuring transparency of the law-making process through public consultation including via its website, and the collection of data from external experts. It has recently engaged a reflection on the development of a more formalised impact assessment procedure. It makes sense for parliamentary initiatives to be worked up in cooperation with the government, in relation to draft regulations (whether initiated by the government or the parliament) which are to be enacted by the parliament.

Steps are being taken to promote alternatives to “command and control” regulations. The *Simplex* Test for new regulations raises the issue of alternatives. The *Simplex* Programme for the reduction of administrative burdens also increasingly highlights the use of alternatives. This progress needs to be consolidated.

The management and rationalisation of existing regulations

Portugal has developed some important initiatives for the consolidation of the regulatory stock, which support legal clarity and transparency for citizens and enterprises. Consolidation of existing regulations is part of the government's agenda for Better Regulation. In 2006 checks on legal consolidation were made part of the law making process, and the *Simplex* Test also draws attention to this aspect. The *Simplex* Programme also contains some important initiatives for consolidation of areas of the law. However consolidation has lost visibility in the formulation of the programme since 2006, and along with it may have lost some momentum. There is also a new– but still limited– use of sunset clauses or revision clauses in regulations.

Portugal has made good progress in simplifying administrative procedures on citizens and businesses over the last three years. The *Simplex* Programme, and in particular measures by the Ministry of Justice, have been successful at removing some “dark” points in the regulatory system. A flagship measure has been the simplification of procedures for establishing a business, which used to be particularly burdensome and were often cited as a brake to the competitiveness of the economy. This is only one example, and the *Simplex* Programme has been impressive in scope and ambition, resulting in tangible results for companies and citizens. This progress is well recognised both within and outside the administration in Portugal, including the main business associations. Simplifying licences (which is one of the priorities of *Simplex* 2008) is also considered as key to creating a more competitive environment in Portugal.

Good foundations have been laid for further development of the administrative burden reduction programme. The government recognizes this, with its plans to introduce a variant of the SCM methodology and establish quantified targets for 2012. A sharper approach based on quantification will help in a number of ways. It will introduce greater rigour into the programme, ensuring that the most important issues are being tackled. It will enable the government to evaluate progress on sounder footing. Finally, it will encourage the further and full engagement of relevant ministries, who will need to show specific progress against a baseline measurement. The next stage of the programme is ambitious, as it aims to cover full compliance costs, and to cover citizens as well as businesses and burdens on the administration.

Good institutional foundations have also been established for the effective promotion and monitoring of the programme. Portugal already has in place an entity at the centre of government –SEMA– to pilot the programme, which it has done very effectively over the last three years. This now needs to be complemented by the development of capacities and resources within each relevant ministry, charged with providing technical support, encouragement and the monitoring of progress. This would also help to anchor ownership of the programme across the ministries.

Compliance, enforcement, appeals

Portugal retains a largely traditional approach to enforcement (based on inspections), although there is a wind of change through the *Simplex* Programme. Structures, competences and capacities at the local level remain geared to a traditional approach. However the implementation of the *Simplex* Programme has entailed some important strategic policy changes to encourage a more proportionate approach to enforcement. It could be time to refer to the experience of other countries to promote this approach, both in central government bodies (including at the level of local services) and in municipalities.

Delays in the court system are a real issue, which the Ministry of Justice is tackling to good effect through the Decongestion Action Plan. This is also another good example of a vigorous approach by parts of the institutional structure to identify and tackle problems.

The interface between member states and the European Union

The current approach to the negotiation and transposition of EU regulations does not deliver effective results. Portugal's transposition record is below the EU average. Portugal needs to be encouraged to develop a more formal approach including guidelines, to help ministries address EU issues in a more structured way (both at the stage of preparing and negotiating EU regulations, and at the stage of transposing EU regulations). The UK's EU Guidelines may provide some ideas. Denmark also offers an interesting case of how efforts at the negotiation, through a thorough process involving all stakeholders, can promote a smoother transposition process. There is also likely to be an issue of capacity building in ministries, and if so this too will need to be addressed.

The interface between subnational and national levels of government

Engaging the municipalities in the *Simplex* Programme is an important new initiative, alongside the direct efforts of some municipalities in this field. In July 2008 the Portuguese government launched the *Simplex Autárquico* Programme (*Simplex* for municipalities), an initiative to integrate municipalities in the *Simplex* Programme. Some of these measures imply close co-operation between central government and local governments, as well as between local governments themselves. Engaging the municipalities is critical to ensuring the success of the programme in key areas, in the first place simplification of licensing procedures, as municipalities play a very important role in that field. The government aims at involving 50% of municipalities by 2012 (with nine municipalities taking place at its launch). Some of the larger municipalities have also started their own efforts at Better Regulation. Involvement of more municipalities is necessary as differences across municipalities in the implementation of regulations create difficulties for both citizens and businesses.

Promoting best practices and providing support to local governments need further effort. Efforts to implement Better Regulation policies vary a lot across municipalities. It is important to find ways to encourage municipalities to adopt best practices. The *Simplex Autárquico* Programme includes interesting measures in that respect. Harmonisation of municipalities' approach to enforcement appears to require further effort.

Key recommendations

| <i>Strategy and policies for Better Regulation</i> | |
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| 1.1 | Portugal should set out its strategic vision for the further development of Better Regulation policies over the coming few years, based on the initiatives that have already been set in motion. A White Paper would be a good way of doing this. |
| 1.2 | The government should take steps to strengthen <i>ex ante</i> impact assessment (see Chapter 4). |
| 1.3 | Alongside the development of a strategic vision, the government should establish a communication strategy for Better Regulation both inside the administration and for external stakeholders, which also underlines achievements to date. |
| 1.4 | Provision should be made for the <i>ex post</i> evaluation of Better Regulation strategy and specific initiatives, so that the insights obtained can be used to strengthen the policy over time. Consideration should be given to whether the Court of Auditors could play a role in this respect. |
| 1.5 | Portugal should consider whether to commission studies that would help to highlight and quantify the link between its Better Regulation policies and improvements in the performance of the economy (especially micro effects such as new business formation). |
| 1.6 | Portugal should continue to make the roll out of e-Government in support of Better Regulation a priority. |

| <i>Institutional capacities for Better Regulation</i> | |
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| 2.1 | Short of setting up a fully integrated unit, which may cut too much across current structures, Portugal should develop a more co-ordinated approach to Better Regulation within the Presidency of the Council of Ministers so that officials can work together and share experiences on linked issues. At the same time it should consider how resources and relevant competences can be strengthened for CEJUR, so that it can effectively meet its responsibilities for the <i>Legislar Melhor</i> Programme |
| 2.2 | Portugal should identify a high-level committee to take responsibility for Better Regulation, supported by a secretariat in the Presidency of the Council of Ministers, to which ministries would report progress on a regular basis. Within individual ministries, a Better Regulation contact point should be established to liaise with the central structures, co-ordinate reporting, and promote best practice. |
| 2.3 | Portugal should consider establishing an independent external advisory body of business and other representatives to support the development of Better Regulation policies. |
| 2.4 | Initiatives should be taken to strengthen the contact and co-operation between the Presidency of the Council of Ministers and the parliament over the development of Better Regulation tools and processes, in particular <i>ex ante</i> impact assessment of new legislation, and databases. |

| <i>Transparency through public consultation and communication</i> | |
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| 3.1 | Portugal should ensure that the new legal framework and Code of Good Practice under development includes clear instructions to consult early in the process of developing regulations and to provide feedback. |
| 3.2 | As well as current initiatives under the <i>Legislar Melhor</i> Programme, consideration should be given to establishing common commencement dates for the introduction of new regulations. |

| <i>The development of new regulations</i> | |
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| 4.1 | It is important that the practical guide encompasses all aspects of rule making, including legal quality, consultation and impact assessment. Putting the guide on line would facilitate its use by all law drafters. |
| 4.2 | The government should refine the <i>Simplex</i> Test procedure to ensure that assessments are updated as a draft progresses. |
| 4.3 | The government should put in place a system for assessing the impact of new regulation to capture the full consequences (benefits as well as costs) of draft regulations, beyond what is already done with respect to administrative burdens in the <i>Simplex</i> Test, and taking account of the need to secure a proportional approach. |
| 4.4 | The government should take steps to publish impact assessments, at least when the draft is communicated to the parliament, and engage external stakeholders systematically in the impact assessment procedures, in order to support a more effective and systematic assessment of potential impacts. |
| 4.5 | The government should consider how CEJUR can be strengthened, in order to support and if necessary challenge ministries in the development of impact assessments. |
| 4.6 | The government and the parliament should exchange views and ideas on the further development of impact assessment relating to draft bills that will be enacted by the parliament. |
| 4.7 | The government should consider how to further raise awareness and embed the use of alternatives in the regulatory culture, including setting up specific guidance for officials. This guidance could be a part of the practical guide mentioned above. |

The management and rationalisation of existing regulations

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| 5.1 | Spring cleaning of the regulatory stock is important. Ongoing initiatives to consolidate the regulatory stock should continue to be pursued systematically. Consideration should be given to the more systematic introduction of sunset or revision clauses in new regulations. |
| 5.2 | To provide an effective institutional framework for the next stage of the <i>Simplex</i> Programme, each relevant ministry should be equipped with a contact point or a small central unit to provide support to ministry officials carrying out the measurements and implementing the measures identified. |

Compliance, enforcement, appeals

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| 6.1 | Portugal should review the practical experience of some other OECD countries in the deployment of a risk-based approach to enforcement and inspections, with a view to developing a policy adapted to its situation. |
| 6.2 | The Ministry of Justice should be strongly supported in its ongoing efforts to deal with congested courts. |

The interface between member states and the European Union

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| 7.1 | Portugal should elaborate a stronger policy and guidance for its approach to the negotiation and transposition of EU regulations, after consulting with stakeholders within and outside the administration. This is now being taken forward. Since the OECD review in spring 2008, the government of Portugal has adopted a resolution to create a stronger institutional framework for monitoring the transposition of EU directives, which constitutes a positive step in that direction. |
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The interface between subnational and national levels of government

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| 8.1 | Portugal should sustain its efforts to promote Better Regulation across municipalities via the <i>Simplex</i> Autárquico Programme. Further effort should be made to promote best practice and coherence in the enforcement of regulations across the country (beyond the reduction of administrative burdens) and provide support to local governments, drawing on the experiences of other OECD countries. |
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