

## Chapter 5

### The management and rationalisation of existing regulation

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 sunset 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 small to medium-sized enterprises. 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*

*Belgian governments have engaged significant efforts to consolidate or simplify the regulatory stock.* Simplification of the stock of regulations is a key part of Better Regulation programmes. For example since the early 1980s the legal information technology service of the Justice FPS is responsible for feeding and managing the Belgium wide “Justel” database. Belgium legislation includes a number of codes (e.g. (federal) penal code, Walloon housing code and Flanders’ territorial development code). In the area of economic regulations, the Economy SPF has launched a major codification project to assess and modernise economic law. Significant efforts have been made to develop a social security code, which have led to major improvements in the legal base for this sector. Codification, however, seems to take place *ad hoc*, with some difficulties in co-ordination when a chosen sector cuts across different ministries, and without adequate long-term vision and backing from the political class.

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**Recommendation 5.1. (all governments): Consider how the important work of codification, carried out for the most part by civil servants, can be drawn to the attention of governments and the political leadership in order to ensure their full backing over the long-run.**

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*The need for more systematic ex post review of regulations generates considerable support.* The OECD peer review team heard from many stakeholders that this was a priority area, but that initiatives were generally slow to get off the ground. The parliamentary committee for Legislative Monitoring established in 2007 only started work in February 2010. The OECD peer review team heard that this was a promising initiative which should be encouraged. The team were told that another area for increased attention is the need to strengthen the assessment of implementation upstream, when regulations are being developed, rather than wait for them to become a problem once adopted. Mechanisms for *ex post* evaluation of new laws, taking account of their broader legal context, would also help the codification projects.

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**Recommendation 5.2. (federal government, all governments): Encourage and track the work of the parliamentary committee for Legislative Monitoring, and the work of other parliamentary committees (for example, the Flanders Committee). Share the results of this work in the spirit of a global approach. Consider how implementation issues can be captured more effectively and at an earlier stage (for example, providing for review clauses in draft regulations; ensuring that implementation is one of the issues to covered in *ex ante* impact assessment; and generally making a stronger link between *ex ante* RIA and *ex post* implementation and review).**

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## ***Administrative burden reduction***

### *General context*

*All Belgian governments have now committed to reducing administrative burdens of regulations and are putting considerable efforts into this, with measurable success.* Policies extend well beyond programmes to reduce burdens in specific regulations, and include a mix of broad long-term structural projects as well as short-term projects aimed at “quick win” results; target citizens, businesses and non-profit organisations (the programmes do not particularly distinguish between burdens for business and citizens); make strong use of ICT; tackle (to a greater or lesser extent) both the flow and stock of regulations; and integrate efforts to improve transparency and easier access to the administration (portals, websites, etc.). The biannual surveys of the Federal Planning Bureau indicate that administrative burdens on businesses decreased from an estimated 3.5% of GDP in 2000 to 1.72% of GDP in 2008.

*Policies cover a rich mix of projects shared between Belgian governments, and initiatives specific to each government within its area of competence.* Shared initiatives are a particularly striking feature of current projects, underlining the fact that Belgian governments are not always compartmentalised on their own projects. Shared projects are supported by a 2003 co-operation agreement signed by the federal, community and regional governments. Important initiatives in this category include the *Kafka* contact point where citizens, businesses and public servants across Belgium can propose ideas for cutting red tape, and the Business Crossroads Bank which is a register of business identification aimed at connecting different databanks of the administrations and thereby allowing re-use of data across administrations. Institutional support is provided by the ASA whose annual action plan covers not only initiatives to reduce burdens in federal regulations, but also long-term projects shared with the other Belgian governments.

*Belgian governments have been especially active in the development of programmes to reduce burdens in specific regulations.* Important initiatives have been taken by the federal government, and the Walloon and Flemish governments, to establish and develop administrative burden reduction programmes. Different approaches have been used. The federal government and the Walloon region have taken a selective approach, preferring to test and encourage a gradual evolution. The Flemish region has opted for a more systematic approach. Variants on the SCM methodology are deployed to carry out measurements. At the same time, there is increasing adoption of a user-centric approach to improve the experience of citizens and businesses with the administration. Brussels Capital Region has launched a “Brussels Plan for Administrative Simplification” and is embarking on selective measurement starting with economy and employment.

*There is scope for further cross-government sharing of best practice.* The fact that different approaches are being taken can be viewed as an asset, as this provides a laboratory of ideas for moving forward. Steps have already been taken to develop co-operation between the federal level and the regions with regard to measurements, where experiments are underway to find cost efficient approaches. These experiments are of potential interest not only across Belgium but to other European countries (for example, Portugal and Finland have also decided not to adopt a full-blown SCM approach). It is important that databases evolve as far as possible on the same principles, to facilitate best-practice exchange and co-operation. Shared platforms of this kind can be “held in reserve” for the possibility of sharing reduction programmes in policy areas of common interest at some future date.

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**Recommendation 5.3. (all governments): Strengthen the existing Belgian SCM network to share ideas on the development of methodologies. Ensure that information is exchanged between governments regarding the development of databases, to facilitate exchanges of best practice and co-operation.**

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*Administrative burden reduction programmes for businesses and citizens*

*The federal level has intensified its administrative simplification programme, which has a number of strengths.* The federal programme is developing in stages. The establishment of the Measuring Office in 2007 within the ASA, which has the mandate to capture the changes in administrative burdens caused by the adoption of new or changed regulations in selected areas, was an important staging post in the development of a more systematic policy. It supports a rolling simplification programme which brings together the simplification projects of the different ministries. The *ex post* measurement results highlight the effect on administrative burdens of the regulatory actions of ministries.

*The policy is delivering concrete results and needs to be supported and sustained, with attention to certain points.* The focus on *ex post* measurement and analysis puts some pressure on ministries to deliver results, but in order to ensure maximum effect, the *ex ante Kafka Test* may need to be reinforced (see Chapter 4), so that regulations which contain administrative burdens can be the subject of a stronger approach before they are adopted, to minimise the adoption of unnecessary new burdens. Ensuring that the *ex ante* and *ex post* parts of the policy remain firmly and visibly linked up is also important if effective control is to be exerted over burdens in the long-run, linked to the clear establishment of a net target or objective. Public consultation over the issues to be covered and the selection of priority areas could benefit from more direct interaction with businesses, to complement the feedback from the *Kafka* contact point, and the work of the Steering Committee.

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**Recommendation 5.4. (federal government): Confirm a clear net target or objective for burden reduction so that work on existing regulations is not cancelled out by burdens in new regulations. Consider how the *ex ante Kafka Test* might be strengthened and continue to ensure that *ex ante* and *ex post* parts of the policy are firmly linked up. Consider the further development of direct consultations with businesses, as an adjunct to the input from the *Kafka* contact point and the ASA Steering Committee.**

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*The Walloon Region has also intensified its administrative simplification programme, which has a number of strengths.* The Walloon government has decided that the first priority is to raise awareness and understanding of objectives (it is necessary to walk before you are able to run). It has made efficient use of experiences and best-practice elsewhere (at the federal level and also at EU level) to build its own approach. Significant efforts are going into the measurement of administrative burdens, using the SCM methodology and other approaches. Progress is measured through quantitative and qualitative criteria defined at the start of the simplification process for each measure. *EASI-WAL* publishes regular progress reports, which are available on its website. These criteria are then used in progress reports to highlight achievements against plans.

*Nevertheless, a number of issues need to be addressed, as the programme matures.* The programme raises issues similar to those at the federal level. Burden measurement is not clearly linked up with simplification plans, and is not used as a baseline to strengthen current targets for simplification. Little attempt is made to link up the policies to evaluate

existing and new regulations (the *Kafka Test*), which is important if effective control is to be exerted over burdens in the long-run. Third, there is a need for more robust public consultation to capture the views of the widest range of stakeholders possible, not just the views of the administration and selected interviews with business in the measurement process.

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**Recommendation 5.5. (Walloon government): Strengthen the current targets and criteria for burden reduction so that work on existing regulations is not cancelled out by burdens in new regulations. Make stronger use of the measurement work to inform simplification plans and in support of a clear target or objective. Examine ways of linking up the evaluation of burdens in draft regulations (the *Kafka Test*) with the policy for existing regulations. Develop and implement a more broadly based public consultation policy which will capture the direct views of stakeholders in a more systematic way.**

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*The Flemish government has taken a different and more systematic approach compared with the other governments, which also has a number of strengths.* An initial pilot has now been expanded to cover all policy areas. Baseline measurements have been made for the policy areas, and an action plan must be prepared for each policy area. As well, the regulatory management unit will establish an overall action plan. Regular (annual) progress reports are made to the Flemish government and parliament, which indicate the extent to which the reduction target for 2012 has been achieved. Efforts have been made to address the effect of new burdens via a compensation rule.

*The main issue facing the Flemish approach is resources.* Better Regulation is a long-term goal which takes time to achieve, and it is important that resources are adequate to the task. The Regulatory Management Unit has relatively few staff and there is a risk that lack of resources will slow the pace of an ambitious but necessary programme.

*Interesting approaches to measurement and identification of priorities are being deployed in Flanders.* SCM measurements by interviews with a group of stakeholders instead of individual businesses is a potentially cost efficient approach, although its real effectiveness needs to be evaluated (there is the risk that important details are missed and that businesses might be reluctant to express their views freely in a group). The 20/80 rule risks that some important administrative burdens remain invisible. In order to avoid this, or to test the hypothesis, a study could measure all legislation in one of the policy areas.

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**Recommendation 5.6. (Flemish government): Consider how the Regulatory Management Unit can be further supported in its work. One idea would be to outsource the measurement process. Consider evaluating the approaches being taken to assess burdens to confirm that no important details are missed.**

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### *Administrative burden reduction for the administration*

*The issue of administrative burdens affecting officials is particularly important for Belgium given the “inflation” of institutions from the federalisation process.* Some efforts are being made to capture this in simplification programmes, though this is more a by product of the programmes than a policy in its own right. Beyond these programmes, Flanders has set up a specific project with the focus on costs of regulation for government. Reform of the public administration with the objective of improving the efficiency of the

state might usefully be more closely associated with Better Regulation. Unnecessary regulatory burdens inside government, for example, excessive paperwork that needs to be handled by officials on the frontline of public services, implies unnecessary costs to the administration.

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**Recommendation 5.7. (all governments): Consider whether it is appropriate and necessary to establish more focused actions to deal with unnecessary burdens inside government.**

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## Background

### *Simplification of regulations*

Strong concern over regulatory inflation (see Chapter 4) has led Belgian governments to take action to streamline the stock of existing regulations, including removal of obsolete regulations, consolidation, and codification. However, the OECD peer review team heard that codification efforts, in particular, were often difficult to take forward in practice. The preparatory work and impetus generally comes from civil servants, academics, lawyers and other practitioners, but is not strongly picked up by the political class. The huge scope of this work requires a broad supporting long term vision, and strong support of governments. Absence of this support, will make it difficult to achieve significant long term progress.

### *Abrogation of obsolete regulations*

Belgian governments have taken specific initiatives to remove obsolete regulations from the existing stock of regulations with a view to facilitating readability of the regulatory framework. In 2004, the federal parliament adopted a law whose only purpose was to abrogate a number of old regulations. Prior to this law there had been several initiatives to abrogate old regulations, which following lengthy discussions in the parliament had not been brought to a conclusion. The establishment or update of codes also includes the removal of obsolete rules (for example, the ongoing project in the area of economic regulations). As part of its action plan for simplification, the Walloon government has charged the Legislative Committee of its parliament with identifying obsolete texts (either fallen into disuse or replaced by others). This has led the government to repeal a first batch of 156 obsolete texts in April 2008, and a second batch of 42 texts in June 2008, in a wide range of areas (economy and employment, welfare, agriculture, hunting, fisheries and territorial planning). Flanders also abrogated a number of regulations, but there have been no major recent initiatives in the recent period due to lack of resources.

### *Consolidation*

The adoption of regulations that modify a regulation of equal level or inferior level is used by Belgian governments as an opportunity for consolidation. Since the early 1980s the legal information technology service of the Justice FPS is responsible for feeding and managing the “*Justel*” database, which is accessible on the Internet. This legal database includes all titles of regulations published in the official journal since 1945 and all regulations in force, in integral and consolidated versions, coupled with the modified and abrogated texts as well as decisions of the *Court of Cassation* and labour courts.

Consolidation has a legal value only if published in the official journal, which seldom happens (it is then known as “co-ordination”).

### *Codification*

The establishment of codes dates back to the creation of Belgium as an independent state in 1830. A number of codification projects have been undertaken and/or completed in recent years to create new codes or update existing codes.

In 1980, a law initiated by parliament set up a commission in charge of codification, harmonisation and simplification of legislation related to social security. The work was to be carried in the context of a global reform of the legislation. The commission prepared a draft code, which led to significant legislative changes. It also paved the way for a major re-organisation, with the creation of the Crossroads Bank for Social Security (law of 15 January 1990), which interconnects the back-office applications across the many government agencies responsible for providing social security services in Belgium (see Box 5.2).

The SPF for Economy, SMEs, Self-Employed and Energy has launched a major codification project in the area of economic regulations, as part of a project to assess and modernise economic law. A group of high-level experts from the administration and the private sector, assisted by a team of officials, has reviewed economic legislation and, as part of its proposals for modernisation, suggested the establishment of a code of economic regulations. The envisaged code implies a deep reform of economic legislation to replace the existing complex regulatory framework, inherited from successive layers of new regulations or changes to regulations, with a set of clear and coherent rules.

The Walloon government has specifically integrated codification in its 2005-09 action plan for simplification, and has charged the Legislative Committee of the parliament with identifying areas in need of codification. In addition to the existing codes (environmental code, housing code, territorial planning code, public service code, local democracy code, rural code and tourism code), it has undertaken codification in the area of welfare and health.

### *Common commencement dates*

Belgian governments do not (as yet) use common commencement dates for new regulations.

### *Ex post review of regulations*

Procedures for *ex post* review of regulations are still under development. Legislation only rarely provides for *ex post* review. Sunset clauses are not commonly used. At the federal level, one of the “12 Strategic Works” outlined in the policy note of the federal government provided for the introduction of *ex post* evaluation of existing laws. This led to the establishment of the Parliamentary Committee for Legislative Monitoring in 2007. The OECD peer review team heard that this was a promising initiative which should be encouraged.

### Box 5.1. The Parliamentary Committee for Legislative Monitoring

The law of 25 April 2007 established the Parliamentary Committee for Legislative Monitoring (*Parlementair Comité voor de Wetsevaluatie / Comité parlementaire chargé du suivi législatif*). The committee is to be composed of 11 deputies and 11 senators.

The parliamentary committee is charged with evaluating laws that have been enacted for at least three years". It has to identify possible implementation difficulties (due to complexity, loops, incoherence, vagueness, contradictions) and assess how the law has effectively responded to its initial objective.

Requests can be sent by a large number of stakeholders (any administration in charge of implementing law; any authority in charge of law enforcement; any natural or legal person; and deputies and senators). The work of the committee is also to be fed by reports from the *Court of Cassation* and tribunals on difficulties encountered with laws and from the decisions of the Constitutional Court.

Regional governments are also trying to develop *ex post* review mechanisms. The Flemish government agreement stipulates that “a well-organised rule-making process will be established through [...] a thorough regulation evaluation. The concept of sun-setting in decrees will be examined and decrees will be screened on their efficiency, effectiveness and enforceability”. This project is still under study. A parliamentary commission has been set up and has discussed proposals for evaluation of regulations but the parliament has not made decisions yet. The rules of procedures of Brussels-Capital Parliament allow the enlarged bureau of the parliament to ask the government to produce an evaluation report on legislation enacted for the previous five years, but this possibility has never been used.

*Ex post* review is indirectly addressed on an *ad hoc* basis by the *Court of Cassation* and *Court of Audit*. Since 2000, the *Court of Cassation* has included *lege ferenda* (the law which should be applied – *quant à la loi que l'on doit appliquer*) proposals in its annual report. Based on the appeal procedures and decisions carried out in the year, the Court identifies legal difficulties which would require legislative modifications (due to divergences in jurisprudence, implementation difficulties). The *Court of Audit* also sometimes identifies issues relating to the quality of existing regulations (incoherence, inappropriate implementation procedures) as part of its performance audit missions relating to the sound use of public funds.<sup>1</sup>

Some interviewees noted the need to develop an “evaluation culture” in the administration and in the political arena, and associated tools (definition of indicators and collection of data). As well as calls for the introduction of more systematic and robust *ex post* evaluation of regulations, the OECD peer review team heard numerous calls for increased attention to be paid to implementation at the drafting stage (to avoid downstream difficulties due to complexity, loops, incoherence, vagueness or contradictions).<sup>2</sup>

### ***Administrative burden reduction for businesses and citizens***

#### *Early steps*

Administrative burden reduction has been a policy objective across Belgian governments for a number of years. The first initiative goes back 25 years, when a working group was set up to consider the issues. A Commission was created in 1982, with the



particular mandate to consider the issues affecting SMEs and independent workers. A project “*Auditform*” was launched and a charter was later established to promote more efficient public services for the user.

Belgium’s administrative burden reduction policies started in earnest with the federal *Kafka* initiative launched in 1999. The programme, that initially put together projects initiated by federal ministries, became more structured in 2003, when the federal government outlined *12 Strategic Works*. All ministries were requested to draft a simplification action plan to contribute to the *12 Strategic Works*. Ministries also needed to list individual simplification projects within their sphere of competence and within a specific time schedule. These projects were bundled into a rolling simplification plan, approved by the Council of Ministers. The Administrative Simplification Agency (ASA) was charged with monitoring and reporting progress.

### *Current policies for simplification and the reduction of administrative burdens*

All Belgian governments have now committed to reducing administrative burdens of regulations and have launched programmes for administrative simplification. Policies include a mix of broad long term structural projects as well as short-term projects aimed at “quick win” results; target citizens, businesses and non-profit organisations (the programmes do not particularly distinguish between burdens for business and citizens); make strong use of ICT; tackle (to a greater or lesser extent) both the flow and stock of regulations; and integrate efforts to improve transparency and easier access to the administration (portals, websites, etc.). Policies cover a rich mix of projects shared between Belgian governments, and initiatives specific to each government within its area of competence.

Simplification and administration burden reduction policies of Belgian governments are not confined to the “classic” programmes aimed at identifying and reducing burdens in individual regulations. They cover a range of approaches:

- Creation of electronic business registers with the ultimate objective of having enterprises across Belgium submit information only once. Major projects have included the establishment of the Crossroads Bank for Social Security (Box 5.2) and of the Crossroads Bank for Enterprises (Box 5.3). Regions and communities have also taken specific initiatives (such as the Magda platform in Flanders).
- Simplification and dematerialisation of administrative procedures. Flagship projects have included “e-depot” (electronic process of transactions for notary acts when creating a company) and *telemarc* (public tender procedures). All governments have undertaken projects to simplify forms and put them on line (through a dedicated Internet site in the Flemish and Walloon regions). This has often included simplification of the procedure itself but not always. For example while the simplification of procedures relating to an employment subsidy (*prime pour l’emploi*) in Wallonia has involved changes in regulation, the project *Primver* to simplify forms in the education system in the French Community has not addressed the complexity of underlying regulations (although it has led to a better understanding of the regulatory system). Efforts have also been made to improve the quality of newly-established forms (thereby acting not only on the stock but also the flow). The Flemish government has created a quality label for forms, as well as guidance and training, while Wallonia has put in place guidance material and training to help officials.

- Review of specific sectors to reduce and/or eliminate unnecessary administrative burdens. This has been undertaken at federal and regional levels for the road freight sector, and for the agricultural sector.

As regards the specific programmes for reducing burdens in specific regulations, different approaches have been used. The federal government and the Walloon region have taken a selective approach (identifying priorities from consultation with stakeholders and officials). The Flemish region has opted for a more systematic approach. Variants on the SCM methodology are deployed to carry out measurements. At the same time, there is increasing adoption of a user-centric approach to improve the experience of citizens and businesses with the administration. The Brussels Capital Region has been catching up, and in 2008 it launched a pilot for SCM, with a view to creating an SCM procedure. With the “Brussels Plan for Administrative Simplification” launched in October 2009, this will be developed into a full programme, with the objective of a 25% reduction in administrative burdens. From 2010 a selective measurement approach will be launched, the first target being Economy and Employment legislation.

The Crossroads Bank for Social Security (Box 5.2) represents a major co-ordination effort for the reform of the social security system. It engages a wide range of actors, and disseminates the views and proposals that emerge from debate.

### **Box 5.2. The Crossroads Bank for Social Security**

The social security system in Belgium is complex, involving over 2 000 public sector bodies that deal with collecting contributions, delivering benefits (such as unemployment, holiday pay, health care reimbursement and old age pensions) and determining supplemental benefits. These institutions are spread across all types of governments – federal, community, regional, provincial and municipal.

This large system was suffering from the lack of a well-co-ordinated service delivery and information management process, resulting in significant administrative burden for agencies and users, a low-level of service to users, sub-optimal social protection for citizens, and higher possibilities for fraud.

In 1989, the Belgian government launched a major overhaul of the social security system, combining a re-organisation and integration of back-office processes with user-focused e-services. The goal was to implement one-time data collection from employers and citizens, reduce administrative burdens and allow users to access integrated services from a single point of entry. This was achieved through the creation of a network that links and integrates institutions’ back offices, permitting social security actors to share information and simplify transactions.

A main component of the re-organisation was implementation of a communication model to pool information available throughout the many social security Institutions. All structural information processes related to social security have been assigned to a co-ordinating body, which keeps a directory of which agencies possess what information and routes information requests to the proper source – rather than collecting and storing data itself. It also provides common formats for data and information, to ensure that all queries and responses are compatible and can be handled quickly. This agency is the Crossroads Bank for Social Security (CBSS), created in 1990.

The CBSS helps social security actors offer services effectively and efficiently with minimal administrative burden, improving both processes and relationships among the different actors. CBSS promotes information security and privacy protection among social security institutions, and handles all policy initiatives aimed at improving social security policies and processes. CBSS offers a secure network using unique identification keys for citizens to manage 185 e-services (which have replaced nearly all paper-based information and data exchange).

The CBSS system interconnects the back-office applications across the many government institutions responsible for providing social security services in Belgium, utilising a publicly accessible

and jointly agreed data model to collect, manage and exchange information and data in a standardised format. The CBSS network is based on agreed formats on four levels: technical and organisational standards, authentication process standards, used notions, and instructions. By setting standards and gaining agency buy-in at the earliest stages of the process – and by making one agency responsible for setting and managing standards from the beginning – the CBSS created a system that is seamless and allows for easy information and data re-use.

The CBSS has had a major impact on improving service delivery to both public officials and citizens in Belgium. It has increased efficiency, and reduced costs due to once-only information collection, fewer contacts required for execution of services, task-sharing, reduced administrative burdens, and faster processing of queries and service requests. The overall level of social protection has been improved, with citizens being informed directly of benefits they are entitled to when their situation changes. Because the reference database cross-checks the information collected by different agencies, there is less room for errors in the system. This has increased the level of fraud protection.

*Source: OECD (2008), OECD e-Government Studies – Belgium, OECD Publishing, Paris, pp. 203-209.*

The Crossroads Bank for Enterprises is one of a number of examples of cross government co-operation, which include other projects such as the penal data register, the Crossroads Bank for Enterprise, the Crossroads Bank for social security, and the *Telemarc* public procurement project.

### Box 5.3. The Crossroads Bank for Enterprises

The Crossroads Bank for Enterprises (CBE) is a business register established by a law of 16 January 2003 (“CBE law”). It is managed by the FPS Economy, SMEs, Self-employed and Energy, under operation since 1 July 2003. The register is a databank aimed at identifying businesses and their establishment units. It also aims at ensuring at connecting different databanks of the administrations. A number of connections have been established so far, including the official journal, the National Bank of Belgium (annual accounts), and the employers’ register of the social security national office.

A number of commissions have been established to manage the CBE:

- A co-ordination commission, established within the FPS Economy and presided by a representative of the Prime Minister, is charged with providing opinions on draft royal orders, which aim at adapting existing legislation with the requirements of the CBE law.
- A surveillance committee for the CBE has been set within the Commission for the protection of private life.
- A committee is in charge of monitoring the quality of the data of the CBE and its operation (established in 2006).

Since 1 January 2005, the use of the business number has been mandatory for the relations between businesses with administrative and judicial authorities, as well as for the relations between administrative and judicial authorities. Authorities and administrations which have been authorised to consult CBE data can no longer request businesses to provide them with information already in the CBE. Close to 150 federal, federated and local administrations have been authorised to get access to the CBE so far. The CBE covers all entities with an economic activity in Belgium (public and private, trade and non-trade, individuals and corporate bodies).

The creation of the CBE has led to the elimination of a number of registers that used to be managed separately by different administrations such as the Business Register, the Craftsmen Register, and the National Register of Corporate Bodies.

The CBE law has also provided for the establishment of one-stop shops for businesses. These are private bodies with a statute of non-profit organisation which are given a ministerial authorisation for delivering public services, including:

- registering commercial and handicraft businesses companies in the CBE;
- checking qualifications relating to regulatory requirements for the access to commercial and craftsman professions; and
- delivering authorisations for itinerant trade and stall keeper activities.

The scope of activities of one-stop shops is to extend as the government plans to give them additional as part of transposition of the Services Directive.

A number of projects are underway, including:

- integrating all private enterprises in non-commercial activities (professionals and service providers);
- integrating authorisations and licences delivered to businesses;
- refining the role of CBE as part of transposition of the Services Directive; and
- increasing the use of CBE by administrations at all levels of power.

### *Federal government administrative burden reduction programme*

The work on administrative burdens in federal regulations is made up of a number of interacting elements:

- Evaluation *ex ante* of the burdens contained in proposed new or changed regulations before they are adopted (the *Kafka* Test – see Chapter 4).
- A rolling simplification programme which brings together the simplification projects of the different ministries and which is informed by an *ex post* rolling measurement exercise in selected policy areas, to capture the changes in administrative burdens caused by the adoption of new or changed regulations. The *ex post* measurement results highlight the effect on administrative burdens of the regulatory actions of ministries, from which it is possible to establish the front runners from the others.
- In order to carry out the *ex post* measurement, the federal government established the Measuring Office within the ASA in 2007 (Box 5.4), which uses the SCM methodology for selected areas. The federal government's approach is mindful of the significant resources which full and regularly updated SCM measurements imply, and has therefore opted for this system, whereby measurement is *ex post* and for selected areas.
- The Federal Planning Bureau conducts a biannual survey of enterprises across the whole of Belgium to assess the cost of administrative burdens for businesses, upon request of the ASA. The survey focuses on the three most burdensome sectors: social, environment and fiscal. Regions are consulted in the survey preparation. The figures are used alongside qualitative and other data to draw an overall picture and to assess trends and needs. The survey highlights developments over time, since 2000.<sup>3</sup>

- There is no quantified reduction target (net or other) to be met. However the approach is currently being developed in this direction, and the ASA told the OECD peer review team that it considers the programme fits within the context of the EU's target of a 25% reduction of administrative burdens by 2012.
- Public consultation on the programme is mainly through the ASA's Steering Committee, and the *Kafka* contact point (where any citizen / company can post proposals for simplification). When measuring administrative burdens, interviews with businesses are carried out. The ASA has established a network of 35 simplification agents across the federal administration responsible for monitoring progress on simplification projects in their department. It also prepares an annual progress report on simplification projects which is sent to its Steering Committee and to the Prime Minister.

#### Box 5.4. The ASA Measuring Office

The ASA's Measuring Office comprises six consultants appointed by the ASA, who work in ASA offices. They screen the official journal to detect any new regulations which may result in an increase or decrease in administrative burdens. They make a quick scan estimate of the administrative costs. If the estimated cost is under EUR 5 000, they do not carry out further measurements. They also undertake measurements in areas pointed out by stakeholders through the ASA's Steering Committee or the *Kafka* contact point. Detailed measurement is based on the SCM methodology and consists of identifying information obligations related to the regulation through interviews with three to five businesses (following *ad hoc* selection). Measurement covers obligations imposed by ministries as well as *para-statal* organisations which act upon request of authorities (such as the SABAM in charge of managing authoring rights). Results are grouped in a database and communicated to the relevant FPS upon completion of the measurement. The ASA presents a monthly report on the result of measurement of administrative burdens for each SPF.

The measurement started in 2008 for all burdens deriving from new or modified federal regulations published in the official journal. For 2008 this consisted of 165 regulations. In addition, the ASA has measured the impact of some e-Government initiatives taken in recent years.

The Measurement Office can also undertake measurement in specific sectors upon request of a FPS which wants to assess administrative burdens in specific areas or measure the impact of simplification initiatives. In 2009, a report is to be produced for the FPS Mobility and Transport on the impact of simplification measures undertaken since 2003.

#### *Walloon region administrative burden reduction programme*

As for the federal level, there are two main aspects to the work on administrative burdens in the Walloon region. The first is to evaluate *ex ante* the burdens contained in proposed new or changed regulations before they are adopted (the *Kafka* Test – see Chapter 4). At the same time (as for the federal level), the Walloon region has established a formal action plan (“the 2005-09 action plan for administrative simplification and e-Government”) to address burdens in existing regulations. While the government has not formally set a reduction target, it considers that its policy takes place in the framework of the EU plan to reduce administrative burdens by 25% by 2012. Progress is measured through quantitative and qualitative criteria defined at the start of the simplification process for each measure.

The government is measuring burdens using the SCM methodology for selected issues. To carry out the work, *EASI-WAL* has signed an 18-month contract with two consultants. In 2007, the region undertook two pilot experiments in the field of agriculture (single payment

procedures and agri-environmental measures) and the environment (environmental licence procedure). The government selected procedures which had an impact on a large number of citizens and businesses. It does not intend to carry out a full baseline measurement but plans to extend the use of the SCM methodology to measure burdens in selected regulations that impact a large number of citizens and businesses and/or result in heavy burdens. Measurement is to be carried out both before and after implementation of the regulation. It is also developing the use of “personas” based on surveys to identify user-needs and set simplification priorities.

The process for measuring administrative burdens includes interviews with selected stakeholders. For example, the measurement of administrative burdens generated by the environmental licence included consultation of business representatives (Walloon Business Union and Union of Middle Classes), and final results were communicated to all administrations, drafters of the regulation and consulted stakeholders.

*EASI-WAL* publishes regular progress reports (once or twice a year since 2006), which are available on its website, and has organised an annual presentation to all officials. The criteria defined at the start to measure progress are used in the report, which includes a series of key figures on implementation of the action plan (such as the number of obsolete texts that have been eliminated, number of *Kafka* tests, number of simplified forms and number of downloaded forms). *EASI-WAL* has also published the list of simplification measures by target group on its website, in addition to a guide of good practices (second edition issued in 2007).

### *Flanders region administrative burden reduction programme*

The Flemish government has taken a different approach. The government started by identifying six policy areas for which a reduction target needs to be set (at the end of 2008, the target was set at 20% by 2012 for three of them, with the remaining three still to be set). This has now been expanded to cover all policy areas. Baseline measurements have been made for the policy areas, and an action plan must be prepared for each policy area. As well the regulatory management unit will establish an overall action plan. Simplification projects are decided within each ministry, based on the information collected when measuring burdens. These projects are being followed up by the Regulatory Management Unit, which checks their implementation.

In addition, the Flemish government has introduced a compensation rule to control the flow of new burdens generated by new regulations, which became mandatory in January 2005. It has so far only had limited impact in practice.<sup>4</sup> However, it has raised consciousness of the issues.

Burden measurement is done on the basis of the 20/80 rule. Departments draw up an inventory of all regulations, select the 20% of regulations that cause 80% of total administrative burdens, and map information obligations relating to these regulations. Another option is to consider the 20% of regulations that cause burdens on 80% of the relevant target group (such as schools). The 20/80 option is validated by the ministry and the DWM. A mix of methodologies is used to analyse information obligations and identify priorities for simplification: evaluation by absolute value (total burdens in Euros); average administrative burden per stakeholder; simultaneous analysis if the price and quantity component.<sup>5</sup> Once the measurements are finalised the results are gathered in a database – *SAMBAL*. The work (interviews, report) is done by the DWM, with some support from consultants, and the report is discussed by the regulatory unit of the department. The next step is the development of profiles to draw a picture of the burdens faced by a specific target group. The research leads to the identification of simplification proposals, which

have to be tested for feasibility (consideration of different options) by the relevant administration.

Efforts have also been directed at simplification of licences, linked to the transposition of the EU services directive. Flanders has started an inventory of all its permits and authorisations and compared its approach with other countries. The project is part of the campaign “Flanders in action” and aims to improve Flanders competitive position in the world. Twenty-one proposals were drawn up and will be part of a benchmark exercise and a baseline measurement. Simplifications projects will be formulated on basis of the outcome of the benchmark and measurement.

The minister responsible for administrative simplification prepares a progress report on regulatory management and communicates it to the Flemish government and parliament. This aggregates specific progress reports prepared by each policy area, which indicate the extent to which the reduction target for 2012 has been achieved.

### *Brussels Capital Region and the French Community*

Brussels Capital Region and the French Community have not yet set up a structured approach to administrative burden reduction. Measures involving administrative simplification have been strongly linked to e-Government initiatives. There is increasing support in the French Community for the development of an integrated approach to administrative simplification.

### *Shared initiatives for simplification*

An important success story concerns the shared projects that are supported by a 2003 co-operation agreement signed by the federal, community and regional governments to support simplification initiatives (Box 5.5). This led to the establishment of the *Kafka* contact point in December 2003, one of the most visible initiatives. The *Kafka* contact point is a website where citizens, businesses and public servants across the whole of Belgium can formulate projects and ideas for cutting red tape. It has also given rise to other important shared projects: among others, the Crossroads Bank for Enterprises, the *Kafka* contact point, transposition of the EU services directive, and the *Telemarc* project.<sup>6</sup>

The ASA’s annual action plans are an important unifying factor in Belgian simplification as they not only cover its work to address administrative burdens in federal regulations, but also the shared projects that link up with other governments, such as the *Kafka* contact point.

#### **Box 5.5. The 2003 co-operation agreement on administrative simplification**

##### **Objective and scope**

In 2003 the federal state, communities and regions signed a co-operation agreement on administrative simplification,\* covering reduction of administrative burdens and legal simplification. The agreement stipulates that “citizens and companies are entitled to quick, simple and efficient public services whatever the distribution of competences on an institutional level between the parties of the convention”. This includes strengthening consultation between the different powers and reaching a number of practical and structural agreements in the field of administrative simplification (defined as initiatives to facilitate and alleviate administrative burdens imposed by public authorities on citizens and businesses).

The agreement provides for:

- consultation between governments on how they reach their policy objectives for simplification;
- co-ordination “as much as possible” of simplification projects and launch of common initiatives;
- collaboration to projects launched by other governments;
- harmonisation of administrative procedures and establishment of single one-stop shops; and
- co-operation between units in charge of administrative simplification.

### **Consultative Committee on Administrative Simplification**

The agreement led to the establishment of a Consultative Committee on Administrative Simplification, a body made up of political representatives and civil servants for the exchange of ideas and information on Better Regulation policies and for negotiation on the development of common simplification initiatives. It approves the annual work plan under the agreement. A number of working groups have also been established on an *ad hoc* basis for specific projects (*e.g.* the EU Services Directive and public procurement). The Committee consists of a representative from each government and a delegate from a technical working group set up in the field of e-Government policy.

Co-operation is often based on exchange of information (for example, on form simplification) and consultation (for example, regarding transposition of the EU directive on data re-use). Co-operation is based on voluntary participation, which means that projects are subject to variable geometry.

### **Achievements so far**

The ASA has produced reports on the implementation of the agreement. Achievements have been significant, including flagship initiatives such as the *Kafka* contact point, transposition of the EU services Directive, the *Télémarc* project, and the Crossroads Bank for Enterprises.

- establishment of a single contact point on administrative simplification for all authorities (the *Kafka* contact point);
- creation of the Crossroads Bank for Enterprises;
- exchange of information and experiences in the field of administrative simplification (including impact assessment, burden measurement); and
- establishment of a working group for the transposition of the EU Services Directive.

\* “*Convention de coopération du 10 décembre 2003 entre l’Etat fédéral, les Communautés flamande, française et germanophone, la Région flamande, la Région wallonne, la Région de Bruxelles-Capitale, la Commission communautaire flamande, la Commission communautaire française et la Commission communautaire commune concernant la simplification administrative*”. Available at : [www.simplification.fgov.be/doc/1216040806-3994.pdf](http://www.simplification.fgov.be/doc/1216040806-3994.pdf).



### *Achievements so far*

In 2009, the ASA published its first report on the evaluation of administrative burdens with respect to federal regulations. It showed a decrease in burdens of EUR 93 million during 2008, of which EUR 71 million resulted from changes in legislation and EUR 11 million from e-Government applications (Table 5.1).

**Table 5.1. Changes in administrative burdens resulting from regulatory changes and initiatives in the field of e-Government and e-invoicing**

Target group	Regulation	e-Gov	E-invoicing	Total
Businesses	-76 288 883	-1 268 791	-11 145 052	-88 702 726
Citizens	6 643 233	-5 004 701		1 638 532
Citizens and businesses	-385 479	-4 708 440		-5 093 919
Non-profit organisations	-667 026	0		-667 026
Total	-70 698 115	-10 981 932	-11 145 052	-92 868 331

Source: Agence pour la simplification administrative, *Rapport d'évaluation des charges administratives 2008*.

The biannual surveys of the Federal Planning Bureau indicate that administrative burdens on businesses decreased from EUR 8.6 billion in 2000 (3.5% of GDP) to EUR 7.7 billion in 2006 (1.72% of GDP) (Table 5.2).

**Table 5.2. Trends in total cost of administrative burdens on businesses over the period 2000-06**

	Cost in EUR billion				Cost as % of GDP			
	2000	2002	2004	2006	2000	2002	2004	2006
Enterprises	6.28	6.31	4.91	6.46	2.55	2.41	1.73	2.05
Self-employed	2.29	2.66	2.37	1.22	0.93	1.02	0.84	0.39
Total	8.57	8.97	7.28	7.68	3.48	3.43	2.57	2.44

Source: Federaal Planbureau / Bureau fédéral du Plan.

The shared Belgium wide flagship projects are another important achievement (Box 5.5).

### ***Administrative burden reduction for the administration***

The Flanders Region has launched a pilot project for estimating costs of regulation for government as part of its policy to improve government's efficiency. These burdens are now considered in the RIA.

## Notes

1. Examples include the reports of the Court of Audit on the co-ordination of federal sustainable development policy (June 2005), on the Road Safety Fund (December 2007), and on the first job convention (April 2008).
2. This concern was raised by several stakeholders during interviews with the OECD peer review team.
3. The principal purpose of this survey is to ask companies or contractors throughout Belgium the number of hours they spend on administration in three areas: tax, social issues and the environment. The number of hours is then converted into a numeric cost. The results are broken down by sector, company size, region, etc. This data is thus objective, but qualitative questions are added about regulatory quality and improvement of public services at the different levels of government.
4. According to the compensation rule, any increase in administrative burdens generated by a new regulation (decree and order) must be counterbalanced by an equal reduction of existing administrative burdens. An evaluation was conducted in 2008 which showed serious problems of implementation, with no significant impact in practice. A key difficulty has been the use of unrealistic figures. The Flemish government plans to improve the process is to re-use data gathered in the baseline measurements.
5. The DMW is working on the development of a simulation tool for calculating administrative burdens of new legislation.
6. *Télémarc* is an online application through which public services (subject to public procurement laws) seek information directly from sources (crossroads bank, social security, tax data base, national bank). Companies participating in tender processes are, as a result, exempted from providing this information, which leads to enormous reductions in administrative burdens.



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