

Opinion on the Communication on Implementation and Simplification

Less than a year since Ursula von der Leyen set out her political guidelines for the 2024 – 2029 European Commission mandate, Europe finds itself in a new period of uncertainty, with the economic and geopolitical order of the last decades being redrawn on an almost daily basis. Despite this changing landscape, the European Commission has remained committed to addressing European competitiveness through speed, coherence and simplification and has set out this vision in its latest communication on implementation and simplification “A simpler and faster Europe”.

RegWatchEurope (RWE) welcomes the European Commission’s ongoing commitment to simplifying regulation and improving its implementation. The first Omnibus proposals demonstrate that the European Commission is not only ready and willing to deliver on its priorities but is able to do so in a timely manner. This is an important prerequisite for achieving the objectives set out in the Communication. At the same time, the proposed actions build on years of experience in the field of better regulation, both at European and Member State level. RWE stresses the importance of drawing on these experiences. Given the current challenges and the scope of ambition, the new proposals should form part of a coherent, flexible and transparent Better Regulation framework that builds on previous achievements and proven instruments.

Implementation

Addressing shortcomings in transposing and implementing new laws is central to many of the recommendations of the Letta Report. It is also an area that has to date not played a sufficiently prominent role in the context of Better Regulation. With the number, scope and complexity of proposals on the rise, the need to ensure swift and effective implementation is more pressing than ever. RWE therefore welcomes the increased focus on implementation in the 2024-2029 mandate. The proposed measures, such as implementation strategies, explanatory templates, transposition roadmaps and implementation dialogues, when effectively implemented, are likely to be a source of substantial support to Member States.

RWE also welcomes the explicit commitment to investing in administrative capacity, digital tools and data and stresses the importance of forging a stronger link between these measures and the work on interoperability and digital readiness at the policy development stage.

RWE would also like to highlight a further instrument that should become an integral part of the new implementation toolkit: **implementation workshops**. Such workshops have to date only been used in an ad-hoc manner and without much published guidance. The iterative nature of the workshops, with round-by-round collation and review of initial and additional questions by the European Commission allows to arrive at a collective interpretation of a particular act. This collective interpretation is a unique feature of this format and RWE recommends that a systematic use of implementation workshops be included in the range of proposed implementation instruments. In addition, such workshops, combined with instruments such as implementation dialogues and reality checks, have other advantages, even going beyond the implementation of a specific act:

- **They can serve as a venue for discussion of specific areas of a legislative act:** The ability for experts from Member States to put forward questions to the legislation, especially those with room for interpretation is invaluable. Ambiguities and differences in implementation are often not primarily a result of conscious national choices, but of coincidence.
- **They promote best practices and limit the scope for accidental divergencies:** The Member State input to the collective interpretation of the act essentially results in a final catalogue of best practices, which Member States can then use in the national implementation process. Such best practices do not preempt 'sovereign' national implementation choices as such, but help steer them away from the accidental towards the well-considered.
- **They help ensure transparency:** To further add to the value and transparency of the workshops, RWE suggests that the Commission should publish extensive summaries of all questions and answers. Publishing the output of the workshops enables Member States to be transparent about national implementation choices.

Burden reduction

With the first Omnibus proposal the European Commission has already demonstrated its commitment to achieving its burden reduction targets. RWE however stresses that the long-term success of any burden reduction mechanism, whether based on targets or 'in' and 'out' rules, requires robust and transparent foundations. RWE would therefore like to express the concern, that there is still **insufficient clarity as to the baseline measurement** and the concrete point in time when the objectives are to be met. While an explicit figure of EUR 150 billion is very much welcome and RWE is aware of the challenges of such measurements, currently it is still unclear how it has been calculated, which costs have been considered and which point in time it represents. **A reduction target that is not time-bound and is based on unclear figures** is open to challenges and risks undermining Commission's burden reduction efforts. Similarly, including **all direct compliance costs and savings in the 'one in, one out' offsetting mechanism** is likely to be more intuitive to affected stakeholders, resulting in more acceptance of the rule.

RWE also reiterates its recommendation to ensure a **transparent monitoring of the reduction target and the 'one in, one out' rule**. This should at the very least be part of the progress reports set out in the Communication. Preferable would however be a **publicly accessible dashboard** for monitoring the targets.

Finally, the 'one in, one out' rule and the **reduction targets should complement other elements of the Better Regulation system**. Effective consultation, impact assessments, ex-post evaluations and fitness checks, as well as the Fit for Future Platform remain key tools for identifying, avoiding and reducing unnecessary burdens. Large burden reduction packages, while crucial for achieving the aforementioned targets, should not 'crowd out' the individual tangible efforts to improve regulation across the entire range of policy areas.

Ensuring that different instruments complement each other is also particularly important at the ex-post stage. With the ambitious goal of stress testing the body of EU legislation, the European Commission will need to build on the existing system of ex-post evaluations and fitness checks. If stress-testing the *acquis* is to be a continuous process, the system would also need to become more agile and efficient. This however cannot come at the expense of the existing "evaluate first" principle. Instead, a **flexible approach** would most

likely be required, harnessing existing data and **combining larger evaluation studies and fitness checks with reality checks** and **leaner and targeted interim assessments**.

Improving regulation

The Communication rightfully recognises the strengths of the European Commission's Better Regulation approach. Nevertheless, RWE and other stakeholders have in the past pointed to two considerable gaps in the current system: lack of impact assessment for implementing and delegated acts with significant impacts and lack of impact assessment for significant amendments introduced by co-legislators. RWE therefore welcomes the commitment to address these two shortcomings.

Extending the scope and use of impact assessment however implies not only additional workload, but also potential delays to the process. While policymaking should not be rushed, recent years have shown that Europe needs to be able to quickly respond to external challenges. This should however not come at the cost of a balanced consideration of costs and benefits. **The impact assessment system will therefore also need to become more agile**, combining larger assessments with smaller targeted ones and distributing these assessments over time. Already now, impact assessments can be largely out-of-date by the time a proposal is voted on. More targeted assessments and interim evaluations can not only address this, but can also be of value when regulation is changed only a short time after coming into force. For instance, while a full impact assessment of the first Omnibus package would most likely not have been proportionate, a more complete consideration of the costs and benefits of the changes could have contributed valuable input to the consequent debate. All these assessments should be underpinned by a **common and transparent methodology**, agreed on by the co-legislators.

Finally, RWE welcomes the clear commitment to smart and digital delivery. Digital-readiness, interoperability and the use of platforms such as the Single Digital Gateway are crucial to reducing administrative burdens, improving effectiveness of regulation and, ultimately, contribute to strengthening the Single Market.

Outlook

With the Communication on Implementation and Simplification the European Commission set out an ambitious vision for improving EU regulation. It has also already shown that it is committed to delivering on this vision. RWE welcomes this commitment, especially in terms of addressing the key gaps in the existing system. In order to keep delivering on the vision over the entirety of its current mandate, the European Commission will need to ensure that ex-ante and ex-post assessment instruments are used in a coherent and flexible way, delivering relevant insights at the right points in time without overextending the capacities of the EU administration. Underpinning all these efforts should be transparency, especially in terms of the burden reduction targets set out in the Communication and the common methodology for calculations. RWE and its members are ready to support the European Commission in delivering this ambitious agenda.