



**COUNCIL OF
THE EUROPEAN UNION**

**Brussels, 18 November 2013
(OR. en)**

**13920/13
ADD 1**

**MI 787
COMPET 669**

COVER NOTE

From: Secretary-General of the European Commission,
signed by Mr Jordi AYET PUIGARNAU, Director

To: Mr Uwe CORSEPIUS, Secretary-General of the Council of the European
Union

No. Cion doc.: COM(2013) 685 final (Part 2)

Subject: ANNEX to the COMMUNICATION FROM THE COMMISSION TO THE
EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN
ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF
THE REGIONS Regulatory Fitness and Performance (REFIT): Results and
Next Steps

Delegations will find attached document COM(2013) 685 final (Part 2).

Encl.: COM(2013) 685 final (Part 2)



Brussels, 2.10.2013
COM(2013) 685 final

ANNEX

to the

**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN
PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL
COMMITTEE AND THE COMMITTEE OF THE REGIONS**

Regulatory Fitness and Performance (REFIT): Results and Next Steps

REFIT Initiatives

This annex presents the proposals that result from the REFIT programme in terms of new initiatives to reduce costs, simplify regulation, better to meet policy goals and achieve the benefits of EU regulation, as well as initiatives to repeal outdated laws and to withdraw pending proposals or refrain from action in areas where this is not appropriate or where sufficient evidence in support of legislative action is not available. Commission legislative initiatives with significant impacts are subject to evaluation and impact assessment under the Commission's smart regulation policy.

The initiatives are presented in four main categories:

1. Pending Commission proposals for simplification and burden reduction that are awaiting adoption by the co-legislator;
2. New initiatives by the Commission to simplify, reduce regulatory costs and consolidate legislation;
3. Areas where laws are outdated which the Commission will propose for repeal, proposals which the Commission will propose to withdraw and planned initiatives which it will not take forward;
4. Fitness Checks and Evaluations to focus on the reduction of regulatory costs and burdens (planned and on-going).

1. Pending Commission proposals for simplification and burden reduction that are awaiting adoption by the co-legislator

Health and Consumer Policy

- Proposal for a Regulation on Consumer Product Safety¹ and a Regulation on Market Surveillance² introducing a clearer set of rules, eliminating overlaps, and codifying also certain exemptions from reporting requirements.
- Proposal for revision of the Clinical Trials Directive³, proposing streamlined authorisation procedures and simplified reporting requirements;
- Proposals for a new animal health law⁴, replacing 37 legal acts for a new plant health Regulation⁵ replacing 7 legal acts, for a new plant reproductive material law, replacing 12 legal acts and for a new Regulation on official controls along the agri-food chain replacing 10 legal acts⁶.

Environment

- Proposal for a directive of the European Parliament and of the Council amending Directive 2011/92 on the assessment of the effects of certain public and private projects on the environment;
- Proposal for a Regulation of the European Parliament and of the Council amending Regulation 1013/2006 on shipment of waste.

Internal Market and Services

- Commission proposal on the review of the Professional Qualifications Directive (2005/36/EC)⁷
- Commission proposal to amend the Public Procurement Directives Directive 2004/18/EC and Directive 2004/17/EC⁸

¹ COM(2013)78

² COM(2013)74

³ COM(2012)369 final

⁴ COM(2013) 260 final

⁵ COM(2013) 267 final

⁶ COM(2013) 265 final

⁷ COM(2011)883

⁸ COM(2011)896 and COM(2011)895

- Commission proposal on European Long-term Investment Funds⁹

Justice

- Proposal for a Regulation of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation),¹⁰
- Proposal for a Directive of the European Parliament and of the Council on package travel and assisted travel arrangements, amending Regulation (EC) No 2006/2004, Directive 2011/83/EU and repealing Council Directive 90/314/EEC 11

Home Affairs

- Commission proposal for a recast Directive for the entry and stay in the EU for third-country national students, researchers and other groups such as school pupils, trainees, volunteers and au pairs¹²

Maritime Affairs and Fisheries

- Commission proposal for a reform of the Common Fisheries Policy¹³
- Commission proposal on Common Market Organisation in fishery and aquaculture products¹⁴

Energy

- Community system for registration of carriers of radioactive materials replacing national reporting and authorization procedures by a unique registration system to simplify procedures while ensuring high radiation protection levels;¹⁵
- Consolidation on basic safety standards in field of radioprotection and associated directives;¹⁶

⁹ COM(2013) 462 final

¹⁰ COM(2012) 11

¹¹ COM(2013) 512

¹² (COM(2013)151)

¹³ COM(2011) 425

¹⁴ COM (2011) 416

¹⁵ COM(2011)518

¹⁶ COM(2012)242

Budget

- Proposal of the Commission for a new own resource based on VAT¹⁷

Taxation and Customs

- Common Consolidated Corporate Tax base (CCCTB)

Trade

- Commission Proposal for a Regulation amending the basic anti-dumping and anti-subsidy Regulations¹⁸.

Mobility and Transport

- Proposal amending Regulation 3821/85 on recording equipment in road transport (tachograph).

Note: Several proposals made by the Commission in the context of the Multi-annual Financial Framework are pending adoption by the co-legislator. This concerns proposals in the areas of Agriculture and Rural Development, Health, Consumer policy, internal security funds, asylum and migration funds, Maritime Affairs and Fisheries, Development Cooperation, Humanitarian Aid and Civil Protection and Enlargement.¹⁹

¹⁷ COM(2011)737, 739 and 740. Pursuant to the conclusions of the European Council of July 2013 the current system shall be maintained during the next MFF. The Commission approved on 4 September a draft joint declaration on own resources which is part of the political agreement between the Council and the EP. It provides for the establishment of a high-level Group which will undertake a general review of the own resources system.

¹⁸ Commission Proposal (COM(2013) 192) for a Regulation amending the basic anti-dumping and anti-subsidy Regulations¹⁸ (Council Regulation (EC) No 1225/2009 on protection against dumped imports from countries not members of the European Community and Council Regulation (EC) No 597/2009 on protection against subsidised imports from countries not members of the European Community).

¹⁹ For references, see SWD(2013)401 final.

2. New initiatives by the Commission to simplify, reduce regulatory costs and consolidate legislation

Employment

- Consolidation of three Directives in the area of information and consultation of workers subject to the results of a consultation of social partners.²⁰

Health and Consumer Policy

- Revision of the Food Hygiene legislation to consolidate the hygiene provisions, simplify procedures and reinforce a flexible approach for SMEs;
- Consolidation of zootechnical legislation.
- Simplification of the veterinary medicines legislation

Statistics

- Framework Regulations for Integrating Business Statistics (FRIBS) and social statistics²¹;
- Reform of the Farm Survey System.

Home Affairs

- Simplification and streamlining of the Visa Code²²;
- Codification of the Schengen Borders Code²³;

Justice

- Consolidation and merger of legislation regarding consumer rights and advertising subject to the results of a Fitness Check²⁴;
- Revision of legislation on a European Small Claims Procedure²⁵;

²⁰ This concerns Directive 98/59/EC on collective redundancies, Directive 2001/23/EC on transfers of undertakings and Directive 2002/14/EC establishing a general framework relating to information and consultation of workers in the EC.

²¹ The review of social statistics will depend on developments within the European Statistical System.

²² Regulation (EC) No 810/2009 establishing a Community Code on Visas

²³ Regulation (EC) No 562/2006 of the European Parliament and of the Council establishing a Community Code on the rules governing the movement of persons across borders

²⁴ Directive 2005/29/EC²⁴ on unfair business to consumer commercial practices; and Directive 1999/44/EC on certain aspects of the sale of consumer goods and associated guarantees and Directive 93/13/EC on unfair terms in consumer contracts.

- Directive 2006/114/EC concerning misleading and comparative advertising.

Internal Market and Services

- Revision of UCITS²⁶;
- Codification of eight Directives in company law²⁷;

Taxation and Customs

- Introduction of a standard EU VAT declaration in all Member States.

Agriculture

- Simplification of State Aid rules in the agricultural sector²⁸;
- Review and simplification of the legal framework for organic farming²⁹.

Trade

- Codification of twenty-six Council Regulations following the adoption of two enabling regulations³⁰ bringing trade legislation in line with the TFEU
- Export for Recovery of non-hazardous waste – The update of Regulation 1418/2007³¹ will simplify procedures and reduce administrative burden;

²⁵ Regulation (EC) No 861/2007 of the European Parliament and of the Council of 11 July 2007

²⁶ Directive 2009/65/EC

²⁷ Directives 82/891/EEC, 89/666/EEC, 2005/56/EC, 2009/101/EC, 2009/102/EC, 2011/35/EU, 2012/17/EU, 2012/30/EU.

²⁸ The future "*de minimis*" regulation is undergoing impact assessment with a view to adoption of the regulation by the end of 2013. The impact assessment for the remaining State aid package (i.e. State aid guidelines and the regulations on block exemptions and notification forms) is envisaged for early 2014. The new guidelines and regulations are planned to be adopted by July 2014.

²⁹ The review of the organic farming legislation will target inconsistencies, gaps and ineffective measures, simpler rules and reduced regulatory costs. The impact assessment is planned for autumn 2013 and the Commission's adoption of proposals is envisaged for the first quarter of 2014

³⁰ COM(2011)82 and COM(2011)349

³¹ Commission Regulation (EC) No 1418/2007 of 29 November 2007 concerning the export for recovery of certain waste listed in Annex III or IIIA to Regulation (EC) No 1013/2006 of the European Parliament and of the Council to certain countries to which the OECD Decision on the control of transboundary movements of wastes does not apply

Mobility and Transport

- Simplification of cabotage rules in road transport³².

Competition Policy

- Revision of Commission Regulation implementing Council Regulation No 139/2004³³ to introduce a simplified procedure for Merger Control [Competition]

Fisheries and Maritime Affairs

- Fishing Authorisation Regulation
- Technical measures for the protection of marine organisms

³² Regulation (EC) No 1072/2009 of the European Parliament and of the Council of 21 October 2009 on common rules for access to the international road haulage market

³³ COUNCIL REGULATION (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings (the EC Merger Regulation)

3. Areas where the Commission will propose or is considering to repeal laws, withdraw pending proposals or where initiatives will not be taken forward

Environment

- Withdrawal of a proposal for a Soil Framework Directive³⁴;

The Commission notes that the proposal has been pending for 8 years during which time no effective action has resulted. It will therefore examine carefully whether the objective of the proposal, to which the Commission remains committed, is best served by maintaining the proposal or by withdrawing it, thus opening the way for an alternative initiative in the next mandate. This will be judged on the feasibility of reaching adoption before the European Parliament elections.

- Withdrawal of a proposal on access to justice in the area of environment³⁵;

Employment

- During the present mandate, the Commission will not propose legislation in the area of occupational safety and health for hairdressers, muscular skeletal disorders and screen displays, environmental tobacco smoke and carcinogens and mutagens.

Enterprise and Industry

- Repeal of Directive 1999/45/EC on the classification, packaging and labelling of dangerous preparations;

Health and Consumer Policy

- Withdrawal of two proposals regarding information to the general public on medicinal products subject to medical prescription³⁶.
- Repeal of Council directive on assistance to the Commission and cooperation by the Member States in the scientific examination of questions relating to food³⁷

Statistics

- Repeal of the Regulation on Steel Statistics³⁸

³⁴ COM(2006)232

³⁵ The Commission will consider alternative ways of meeting its obligations under the Aarhus Convention and is conducting an impact assessment while awaiting an ECJ judgement.

³⁶ COM(2012)48 and COM(2012)49

³⁷ OJ L52, 4.1.1993, p.18

- Withdrawal of a proposal for a Regulation on European statistics on safety from crime (COM(2011)335)

Home Affairs

- Repeal of a Council Decision concerning arrangements for cooperation between financial intelligence units of the Member States in respect of exchanging information³⁹

Internal Market and Services

- Withdrawal of proposals in legislative procedure on the legal protection of designs and on the Community patent (patent proposal converted into enhanced cooperation).
- Withdrawal of the proposal for a Council Regulation on the statute of a European private company⁴⁰.

Taxation

- Withdrawal of the proposal for a Directive simplifying VAT obligations⁴¹

Mobility and Transport

- Repeal of Directive 2007/38/EC on the retrofitting of mirrors to heavy goods vehicles;
- Repeal of Directive 2009/33/EC on the promotion of clean and energy-efficient road transport vehicles;
- Withdrawal of proposal in legislative procedure regarding driving licences which include the functionality of a driver card.

Energy

- Repeal of the Council decision on the setting of a Community target for a reduction in the consumption of primary sources of energy in the event of difficulties in the supply of crude oil and petroleum products⁴² and implementing legislation.

³⁸ Regulation (EC) No 48/2004.

³⁹ Council Decision 2000/642/JHA of 17 October 2000. Timing to depend on adoption and implementation of Anti-Money Laundering Directive proposal, adopted by Commission 5/02/2013 which will make Decision 2000/642/JHA obsolete.

⁴⁰ COM(2008)396. The Commission considers presenting a new proposal in this area.

⁴¹ COM (2004) 728 final of 29 October 2004

⁴² Council Decision 77/706/EEC of 7 November 1977 on the setting of a Community target for a reduction in the consumption of primary sources of energy in the event of difficulties in the supply of crude oil and petroleum products (+implementing Commission Decision 79/639)

Development Cooperation

- The Commission will not propose a new European Union Food Facility. This instrument will expire at the end of 2013.

4. Fitness Checks, Evaluations and other reports assessing the potential for simplification and the reduction of regulatory costs and burdens

Environment

Fitness Checks and Evaluations planned:

- Fitness Check on Natura 2000⁴³, on the EU Eco-Label⁴⁴ and EMAS⁴⁵;
- Streamlining of reporting requirements obligations in the environment sector applying the principles of Structured Implementation and Information Frameworks;
- Evaluations of the European Pollutant Release and Transfer Register (EPRTTR), of legislation in relation to keeping wild animals in zoos and regarding the Aarhus Convention (pending a Court of Justice judgement).

Fitness Checks and Evaluations ongoing:

- Fitness Checks on Waste Policy⁴⁶;
- Evaluations of legislation in relation to environmental noise, volatile organic compound emissions, environmental liability and Infrastructure for Spatial Information.⁴⁷

Employment

Evaluations planned:

- Evaluations of legislation regarding information obligations for employers in relation to employment contracts.

Evaluations ongoing:

⁴³ Directives 92/43/EC and 2009/147/EC: This Fitness check will be organised to accompany the evaluation required under the legislation, respecting the deadlines set-out in the Directive.

⁴⁴ Regulation (EC) No 66/2010

⁴⁵ Regulation (EC) No 1221/2009

⁴⁶ Covering: Directive 86/278/EEC (sewage sludge), Directive 94/62/EC(packaging and packaging waste), Directive 96/59/EC(PCB/PCT), Directive 2000/53/EC (end of life vehicles), Directive 2006/66/EC(batteries)

⁴⁷ Directive 2002/49/EC relating to the assessment and management of environmental noise; Evaluation of Directive 2009/126/EC of 21 October 2009 on Stage II petrol vapour recovery during refuelling of motor vehicles at service stations; Directive 2004/35/CE on environmental liability with regard to the prevention and remedying of environmental damage; Directive 2007/2/EC establishing an Infrastructure for Spatial Information in the European Community (INSPIRE).

- Evaluation of legislation in the area of health and safety at work.⁴⁸
- Directive 2008/104/EC99 on temporary agency work
- Directives 97/81/EC97 on part-time work and 99/70/EC98 on fixed-term work

Health and Consumer Policy

Fitness Checks and Evaluations planned:

- Fitness Check of the Regulation (EU) N° 178/2002 (the General Food Law Regulation).

Enterprise and Industry

Fitness Checks, Cumulative Cost Assessments and Evaluations planned:

- Fitness Checks on the most relevant chemicals legislation not covered by REACH as well as related aspects of legislation applied to downstream industries;
- Evaluations of the machinery Directive and firearms legislation;
- Cumulative cost assessments in the areas of chemical industry and forest-based industries (woodworking, furniture, pulp/paper and printing).

Fitness Checks and Evaluations ongoing/completed:

- Evaluation of regulations regarding internal market for industrial products;
- Fitness check on the type-approval system for motor vehicles and of the oil refining sector;
- Cumulative cost assessment of the aluminium sector;
- A cumulative cost assessment on the steel sector has been delivered in 2013.

Energy

Evaluations planned:

- Evaluation of the Directive on Renewable Energy⁴⁹

Home Affairs

Fitness Checks and Evaluations planned:

⁴⁸ Framework Directives 89/391/EEC and 23 related Directives.

⁴⁹ Directive 2009/28/EC of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC

- Fitness Check of legislation on legal migration;
- Evaluations of the Visa Information System⁵⁰, FRONTEX⁵¹ including Rapid Border Intervention Teams⁵² and legislation on residence permits for victims of trafficking in human beings⁵³.

Evaluations ongoing:

- Comprehensive evaluation report of Council Framework Decision on the fight against organised crime and on combating terrorism⁵⁴.

Justice

Fitness Checks and Evaluations planned:

- Fitness Check with a view to the possible need for consolidation and merger of legal acts related to consumer rights and advertising (see above);
- Evaluation of legislation regarding equal treatment in social security⁵⁵.
- Evaluation of legislation on a European Enforcement Order for uncontested claims⁵⁶.

Internal Market and Services

Evaluations planned:

- Regulation 1606/2002 on the application of international accounting standards (IAS);

⁵⁰ Regulation (767/2008) and Council Decision 2004/512

⁵¹ Council Regulation (EC) No 2007/2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (FRONTEX)

⁵² Regulation (EC) No 863/2007 establishing a mechanism for the creation of Rapid Border Intervention Teams and amending Council Regulation (EC) No 2007/2004 as regards that mechanism and regulating the tasks and powers of guest officers

⁵³ Council Directive 2004/81 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities. This Directive and Directive 2011/36 relevant to combating trafficking in human beings will be considered for being merged.

⁵⁴ Council Framework Decision 2008/841/JHA and Council Framework Decision 2008/919/JHA amending Framework Decision 2002/475/JHA

⁵⁵ Council Directive 79/7/EEC on the progressive implementation of the principle of equal treatment for men and women in matters of social security.

⁵⁶ Regulation (EC) No 805/2004 of 21 April 2004 creating a European Enforcement Order for uncontested claims.

- New Remedies Directive 2007/66/EC;
- Financial Services legislation⁵⁷;
- Directive 86/653 on commercial agents.

Taxation and Customs

Evaluations planned:

- Evaluations of the directive on the structure and rates of excise duty applied to manufactured tobacco and of general excise duty arrangements.

Trade

Evaluations planned:

- Comprehensive implementation report on the EU export controls Regulation, including review of the Dual Use Regulation 428/2009 (required under the basic act and export control policy). The planned report will present options for reform and simplification;
- Evaluation of Council Regulation (EC) No 953/2003 of 26 May 2003 to avoid trade diversion into the European Union of certain key medicines;
-

Mobility and Transport

Evaluations planned:

- Evaluation of Directive 2004/54/EC on tunnel safety;
- Evaluation of the Combined Transport Directive⁵⁸;
- Evaluation of Passenger Ships Safety Legislation⁵⁹;
- Continuing work on the definition and implementation of aviation safety for the non-commercial sector⁶⁰.

⁵⁷ This evaluation is planned for the medium term.

⁵⁸ Council Directive 92/106/EEC of 7 December 1992 on the establishment of common rules for certain types of combined transport of goods between Member States, Official Journal L 368 , 17/12/1992 P. 0038 - 0042

⁵⁹ Directive 2009/45/EC of the European Parliament and of the Council of 6 May 2009 on safety rules and standards for passenger ships (Recast), Official Journal L 163 , 25/06/2009 P. 0001 - 0140

⁶⁰ European Aviation Safety (EASA) Basic Regulation (216/2008)

Other Areas

Evaluations ongoing:

- Evaluation of the European Consensus on Humanitarian Aid – the policy framework for cooperation between the EU and Member States [Humanitarian Aid and Civil Protection]

Evaluations planned:

- Evaluation of Privacy and Electronic Communications Directive⁶¹ [Communications Networks, Content and Technology]
- Evaluation of Audio-visual Media Services Directive (AVMSD)⁶² [Communications Networks, Content and Technology]
- Evaluation of Merger Regulation: referral system and minority shareholdings [Competition]

⁶¹ Directive 2009/136/EC of the European Parliament and the Council of 25 November 2009 amending Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services, Directive 2002/58/EC concerning the processing of personal data and the protection of privacy in the electronic communications sector and Regulation (EC) No 2006/2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws

⁶² Directive 2010/13/EU. A consultation on core elements of the AVMSD has just been held, a separate consultation was held on the independence of the audiovisual regulatory bodies (article 30 of AVMSD) on which an assessment is currently being made.