



EUROPEAN COMMISSION

LEGAL SERVICE
Legal Revisers Group

**SUMMARY REPORT ON THE SEMINAR:
QUALITY OF LEGISLATION – GERMAN VIEWS
Brussels, 30 March 2007**

Prof. Dr Klaus-Dieter Borchardt, Deputy Head of Cabinet of Commissioner Fischer Boel, recalled the latest European Council conclusions on Better Regulation before analysing the problems specific to the Community system and reporting on the major efforts being made to simplify agricultural legislation.

Ministerialdirigent Dr Erich Milleker, Head of the Better Regulation Task Force in the Federal Ministry of the Interior, traced the history of efforts to improve regulation in Germany where, after a comparatively late start, Better Regulation is now being given high priority.

The aims are to ensure first of all that all legislation is necessary and then that, as far as possible, it is rational, simple, workable, enforceable, and transparent, entailing no unnecessary burdens. The whole statute book must be clear and accessible. The provision of a clearly structured legal system is in the interest of the citizen, who should enjoy maximum freedom with minimum interference; it also generates substantial cost savings.

The task is not easy; it requires careful thought and sustained effort. A culture shift in the administration is essential to give priority to the needs of the addressees of rules over the convenience of the administration and to be constantly aware of the need to minimise the burden of rules. To change a whole administrative culture is not easy but with interdisciplinary cooperation, proper training and the provision of good tools it can be done. Speed is important since delay will only aggravate the problem.

In Germany, the efforts of the many different departments concerned are being coordinated at the highest level. Key tools in Germany as elsewhere are the standard cost model and regulatory impact assessment. Information technology also makes a major contribution.

To formulate quality legislation takes time but that time must be found. Any body imposing requirements on others must itself meet the very highest standards. Only by applying such standards and producing actual results will it be possible to win over the public.

Ministerialdirigent Dr Klaus Abmeier, Head of Directorate IVa in Directorate-General IV: Constitutional and Administrative Law; International and European Law in the Federal Ministry of Justice, explained how the Ministry of Justice contributed to good drafting and simplification of legislation in Germany. He showed all the structures that are in place but stressed that producing good legislation always required enough time.

Most of the first drafts of legislation are produced by the ministry responsible for the sector concerned. Under the procedural rules all draft legislation must be submitted for checking to the Ministry of Justice which can object to any draft legislation it considers

inconsistent with the current law. Sectoral ministries may be overinfluenced by the needs of their own sectors. The Ministry of Justice is concerned only to ensure that the law is observed and so it can offer independent impartial advice. It checks that draft legislation complies with the constitution, European law and international law, that it is consistent with existing laws and that it is internally consistent. It also checks compliance with the formal drafting rules.

Revision in the Ministry of Justice is carried out by some 30 units, each specialising in one sector, with a number of horizontal units for fundamental questions. They are helped in their task by informatics systems such as *juris* offering access to all federal laws, their amendments and related data such as case-law (<http://www.juris.de> or <http://www.gesetze-im-internet.de>), and the parliament's public database (<http://dip.bundestag.de>), a comprehensive drafting handbook, sophisticated drafting software and linguistic advisers in parliament.

Weaknesses in the system are that political pressures may mean that the necessary time for revision is curtailed and that changes made in the parliamentary process are not subject to the same revision.

In 1963 all applicable federal law was identified, systematised and republished. After some sporadic repealing laws, a comprehensive administrative simplification programme was launched in 2003 which has led to 10 laws repealing some 800 obsolete laws and regulations.

Regierungsrat Dr Dominik Böllhoff, of the Regulatory Reform Unit in the Federal Chancellery, emphasised the value of exchanging views and ensuring transparency to forging an interdisciplinary approach to Better Regulation and reducing bureaucracy.

The present government has made reducing red tape a top priority both at national and EU level. Following the lead of the Netherlands and others, it uses the standard cost model (SCM) as a key tool. The SCM is a method for identifying and measuring one element of the administrative burdens inherent in regulation, the burden for operators, citizens and the administration resulting from information obligations imposed by regulation. The value of the SCM is that: it makes bureaucracy visible and quantifiable; it focuses on the burden of information obligations rather than the substantive burden of regulation such as the imposition of taxes; it helps those framing rules to think about the impact and effects of the rules; a comparable approach is applied in many European countries and at EU level.

Once all existing administrative costs have been measured, efforts will be launched to reduce them by 25% in line with the call at the March 2007 European Council for ambitious targets to be set by Member States. The goal is simplification for operators, citizens and the administration which is significant, sustainable and verifiable. Means to that end include removing existing information obligations and preventing the creation of new ones, simplifying existing obligations, cutting out duplication and use of information technology. A Regulatory Control Council has been set up to check new legislation, further develop the methodology and liaise at international level.

The SCM helps to reduce administrative burdens, promote the broader Better Regulation agenda and change the culture of the administration by encouraging more account to be taken of the impact of rules on those to whom they will apply and multi-level thinking.