

Memorandum accompanying the Final Report

Measurement data and analysis

As specified in the specific contracts 5&6 on Modules 3&4 under the Framework contract n° ENTR/06/061
The Annual Accounts/Company Law Priority Area

EU PROJECT ON BASELINE MEASUREMENT AND REDUCTION OF ADMINISTRATIVE COSTS

6th March 2009

NB: The European Commission added a corrigendum to this memorandum in Dec 2009 (see highlight in red). Authorship and responsibility for the rest of the memorandum remains with the Consortium.

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Annex: "PA Annual Accounts_Company Law 050309" (separate Zip file)

2. Introduction to the memorandum

Within the context of the EC Project on baseline measurement and reduction of administrative costs the Annual Accounts/Company Law Priority Area has served as a pilot case. The Consortium submitted its final report on the measurement data and analysis for this area on 31/10/2008. In agreement with the Commission, additional work on the layout was carried out afterwards and an updated version of the final Priority Area report has been delivered on the 28th February 2009.

As agreed with the Commission the final measurement results presented in this report have now been fully integrated in the mainstream process together with the remaining 12 Priority Areas. During this integration process a further analysis of the measurement data has been conducted in line with the methodological decisions that were taken for the mainstream areas after the measurement for the Annual Accounts /Company Law Priority Area was concluded. Finally the Annual Accounts/Company Law results have been updated by using a new set of tariffs.

The analyses have lead to considerable changes in the data presented in the Priority Area report. This is the case for the data stemming from measurement countries, baseline countries as well as extrapolation countries. In Section 3 we present the implemented changes in a more detailed way.

The current document is accompanying the final database on Annual Accounts/Company Law. It was agreed with the Commission that following the final corrections mentioned here above the full Priority Area report would not be rewritten. In this context, it should be noted that due to the changes that have been implemented upon request of the Commission there will - as expected and predicted - be discrepancies between the the final database on the one hand and the detailed analyses and data presented in the Priority Area report dd. 28th February 2009 on the other hand.

The main report on the Measurement data and analysis as specified in the specific contracts 5&6 on Modules 3&4 under the Framework Contract n° ENTR/06/61 presents the underlying methodology followed by the Consortium as well as the overall results of 13 mainstream Priority Areas (i.e. including Annual Accounts/Company Law).

3. Main findings

3.1 Directives in scope

Table: Legislation in scope for the Annual Accounts/Company Law Priority Area

EU Legislation
First Company Law Directive 68/151/EEC: Disclosure and validity of obligations entered into by, and the nullity of, companies with limited liability
Second Company Law Directive 77/91/EEC: Incorporation of public limited liability companies and the maintenance and alteration of their capital
Third Company Law Directive 78/855/EEC: Mergers of public limited liability companies
Fourth Company Law Directive 78/660/EEC: Annual accounts of certain types of companies
Sixth Company Law Directive 82/891/EEC: Division of public limited liability companies
Seventh Company Law Directive 83/349/EEC: Consolidated accounts
Eleventh Company Law Directive 89/666/EEC: Disclosure requirements in respect of branches opened in a member state by certain types of company governed by the law of another State
Twelfth Company Law Directive 89/667/EEC: Single-member private liability companies

3.2 Main findings in the Annual Accounts/Company Law Priority Area

- On the basis of eight Directives, a total of 68 EU Information Obligations (IOs) and Possibilities have been identified.
- The transposition of the 68 IOs and Possibilities resulted in 1,547 national IOs across the 27 Member States.
- The total administrative cost of these 68 IOs and Possibilities is estimated at € 25,509.88 million EU-wide.
- Of the € 25,509.88 million of administrative cost 54.7% (€ 13,958.51 million) have been classified as administrative burdens.
- Of the € 25,509 million of administrative costs, 98 % (€ 24,996 million) stem from EU requirements, whereas 2 % (€ 513.6 million) is due to national obligations going beyond EU requirements.
- Two IOs — “Obligation to draw up Annual Accounts and Disclosure of Accounts” and “Auditing of Annual Accounts” — alone account for €18,422 million in administrative costs, representing 72.2 % of the total administrative cost caused by EU IOs. Both IOs stem from the Fourth Company Law Directive.

We refer to the Data Annex "PA Annual Accounts_Company Law 050309" for a detailed presentation of the final measurement results. The Annex contains a set of tables presenting the data along different dimensions.

4. Main changes in the final results

The overall administrative cost for the Annual Accounts/Company Law Priority Area has significantly increased since the Final Report was submitted on the 31st of October 2008.

Within this section we will shortly elaborate on the main reasons for this.

4.1 New tariffs

The measurement report on Annual Accounts/Company law submitted in October 2008 used preliminary tariffs for the calculations. As in the meantime updated tariffs had become available the measurement results for all 13 Priority Areas (i.e. including Annual Accounts/Company Law) have been recalculated. The tariffs have been updated based on the annual labour cost structure 2006. In addition to this non-wage costs are now included (eg. social security, bonuses,...). As such the new tariffs are more in line with those used within existing national measurements. The new tariffs are on average 15% higher. It is therefore estimated that the change in tariffs accounts for approx. 15% of the increase in Administrative Cost for the Annual Accounts/Company Law Priority Area.

4.2 Manual adjustment to input data

Another reason for the changes were adjustments of the input data for the calculation. Input data can be defined as data stemming from measurement countries and baseline countries. In a limited number of cases and in agreement with the Commission the initial standardisation result following the field measurement has been modified in order to minimise the number of outlier data. A similar approach has been taken for data stemming from existing national measurements where – based upon a consistency check with the entire dataset of measurement and baseline countries – baseline country data have been adjusted or have not been used in a number of cases.

4.3 Manual adjustment to extrapolated data

Based upon the new input data a rerun of the extrapolation exercise consisted of predicting cost in order to generate the best estimates of the administrative activities conducted by businesses in the countries where data has not been collected or retrieved from existing databases. Whenever the extrapolation model gave rise to results that were not consistent with what might have been anticipated based on economic analysis, this was further discussed with DG Enterprise, with whom a basis for manual extrapolation was agreed.

4.4 Main changes in the new results

The main changes that the adjustments have resulted in will be presented in this chapter for the most important Information Obligations..

4.4.1 IO "Obligation to draw up annual account and disclosure of account"

The total AC for this IO did not change significantly, slightly decreasing by € 170 million to now € 10,519.7 million. Despite this overall reduction of AC, the costs for France rose by € 400 million to a total of € 1,404.2 million. The described analysis¹ revealed that the overall results for France were too low in relation to its economical and political importance in the European Union and especially in direct comparison to Member States like Germany and the United Kingdom. The figures were therefore manually adjusted to provide a realistic result. **Figures for Austria include AC imposed on "Business partnerships and sole proprietors". This IO does not however apply to this category. This segment was therefore deleted and new figures are provided in the corrigendum at the end of this memorandum.**

4.4.2 IO "Auditing of annual accounts"

For the IO "Auditing of annual accounts" the total AC has decreased by € 400 million to € 7,903.7 million. This is due to a notable drop of the AC in Ireland, Latvia, Romania and Slovakia.

After discussion with the Commission the measurement data for Ireland were taken out of the extrapolation process as the costs per occurrence were considered to be an outlier. Leaving these data in the extrapolation would have had a significant impact on the results for the other Member States, resulting in falsified overall results. Therefore Ireland was treated as a non-measurement country in this special case and the AC was extrapolated.

The decrease of the total AC in Latvia, Romania and Slovakia can be explained by the above described decision to exclude the measurement data from Ireland. Leaving out this outlier from the extrapolation influenced the costs for the non-measurement countries in such a way that the AC decreased from an overall perspective.

4.4.3 IO "Annual reports"

The IO "Annual reports" was subject to the largest change (and increase) in total AC. The cost almost doubled by increasing more than € 800 million to a total of € 1,637.45 million. The "cost drivers" for this increase were Germany, Spain and the United Kingdom. For Germany and the United Kingdom as baseline countries it turned out to be more challenging than expected to identify the correct data from the baseline measurement and distribute it in a correct manner to the respective EU IOs. This was the reason for the total AC results being too low in comparison to the other

¹ See 4.2

measurement and baseline countries in the final report². The financial analysis by the Commission resulted in manual adjustments of the data for these Member States, thus providing a self-contained overall result.

² FINAL REPORT, Measurement data and analysis; As specified in the specific contract on Modules 3&4 for the Annual Accounts/Company Law Priority Area of the Framework Contract No. ENTR/06/061; EU PROJECT ON BASELINE MEASUREMENT AND REDUCTION OF ADMINISTRATIVE COSTS; 31st October 2009

Corrigendum added by the European Commission in December 2009

Figures for Austria include AC imposed on "Business partnerships and sole proprietors". This IO does not however apply to this category. This segment was therefore deleted. The results of this correction for data concerning Austria are as follow:

- § Total administrative costs for Austria for the IO "Obligation to draw up annual accounts and disclosure of accounts" are estimated at € 417.7 million of which € 190.5 million are administrative burdens.
- § Total administrative costs for Austria for the entire priority area Company Law/Annual Accounts amount are estimated at € 694.6 million of which € 285.6 million are administrative burdens.

Administrative costs of the priority area Company Law/Annual Accounts (initial 42 acts) are estimated at € 24.9 billion of which € 13.6 billion are administrative burden.