

## *Chapter 1*

### **Strategy and policies for Better Regulation**

Regulatory policy may be defined broadly as an explicit, dynamic, and consistent “whole-of-government” policy to pursue high quality regulation. A key part of the OECD’s 2005 Guiding Principles for Regulatory Quality and Performance is that countries adopt broad programmes of regulatory reform that establish principles of “good regulation”, as well as a framework for implementation. Experience across the OECD suggests that an effective regulatory policy should be adopted at the highest political levels, contain explicit and measurable regulatory quality standards, and provide for continued regulatory management capacity.

Effective communication to stakeholders is of growing importance to secure ongoing support for regulatory quality work. A key issue relates to stakeholders’ perceptions of regulatory achievements (business, for example, may continue to complain about regulatory issues that are better managed than previously).

Governments are accountable for the often significant resources as well as political capital invested in regulatory management systems. There is a growing interest in the systematic evaluation of regulatory management performance – “measuring the gap” between regulatory policies as set out in principle and their efficiency and effectiveness in practice. How do specific institutions, tools and processes perform? What contributes to their effective design? The systematic application of *ex post* evaluation and measurement techniques can provide part of the answer and help to strengthen the framework.

E-Government is an important support tool for Better Regulation. It permeates virtually all aspects of regulatory policy from consultation and communication to stakeholders, to the effective development of strategies addressing administrative burdens, and not least as a means of disseminating Better Regulation policies, best practices, and guidance across government, including local levels. Whilst a full evaluation of this aspect is beyond the scope of this exercise and would be inappropriate, the report makes a few comments that may prove helpful for a more in-depth analysis.

## Assessment and recommendations

### *Development of Better Regulation strategy and policies*

Since the OECD Review of Regulatory Reform of France published in 2004, France has undertaken a set of ambitious measures to improve regulatory quality; these measures constitute a major change in quality. Three substantial fields of action may be distinguished. Two are upstream: the first tackles the process of drafting regulations by strengthening *ex ante* impact assessment; the second is the overhaul of the public consultation processes. The third field is downstream of regulatory production. The French government has conducted a simplification policy which combines legal simplification and a reduction in administrative burdens. Special efforts have also been developed to reduce the backlog of EU legislation to be transposed into national law, and to speed up the production of secondary regulations necessary for the implementation of primary laws, two weaknesses emphasised in the 2004 OECD report. Upstream and downstream actions are converging. There is growing consideration of how to combine *ex ante* impact assessment and *ex post* simplification. While there is still no integrated strategy on the ground, principles guiding future developments are clearly coming to fruition. This discussion is of just as much importance to France as to other countries.

In the area of regulatory governance, France has long emphasised the importance of rule drafting and achieving legal consistency, but the debate on these matters is broadening. High quality regulation is increasingly regarded as an aim of public policies; which was not previously the case. The most recent period has been important in heightening awareness about the significance of high quality regulation and a real desire for change, in contrast to the significant lack of progress apparent in 2003/04. This awareness is broadly shared (on the part of the government, the Council of State, the parliament and the public administration), even though external stakeholders (and particularly business representatives) have been only modestly involved in the debate in comparison to other European countries. Awareness has also been influenced by examples from other countries, through the sharing of good practice and experience. Compared to other countries, it is worth emphasising the innovative nature of the impact assessment arrangements introduced in France since 2009, as well as the changes in the area of public consultation. These represent a major breakthrough, offering scope for creativity in a context that remains largely traditional and centralised.

The approach to regulatory governance continues to be strongly influenced by legal considerations. Legal codification and simplification, as well as access to the law, are still important mainstays of regulatory governance. Regulatory governance policy is largely driven by the perception that France would suffer more than it should from “overproduction of legal norms”, which has prompted discussion about what needs to change in order for regulatory management to improve. The definition and policy field of French regulatory governance do not always fit the expression “Better Regulation”, which is difficult to translate into French.<sup>1</sup> It means more than just the simplification and clarification of laws. France does not have a regulatory governance strategy in the strict sense, but a set of measures to improve the quality of regulation, which are driven essentially by the perception of a “French disease”, namely the overproduction of legal norms that has to be kept in check.

The economic dimension and the cost to the economy of excessive regulation or “poor” regulation still tends to be discounted. Reference is made to economic concerns but with a less important emphasis, compared to other European countries. Action in the

field of regulatory governance is part of a broader programme reviewing public policies (RGPP), which aims to modernise government administration and increase its effectiveness. The economic goal is thus not central to the system. Administrative burdens aside, there is arguably insufficient awareness of the fact that regulation has a cost, as well as benefits, which is a rough equivalent to the cost of public expenditure. For example, the United Kingdom has considered the idea of “regulatory budgets”, though difficult to put into practice, tend to point to the importance of keeping regulatory costs in check. Symptomatic of this lack of awareness is that the Ministry for Economic Affairs and the *Cour des Comptes* (the *Court of audit*) are still insufficiently involved in regulatory governance issues.

*Continued progress in regulatory governance depends on maintaining strong political will.* The progress achieved since 2004, for example, on impact assessment, administrative simplification, and the transposition of EU directives, has depended on a strong political will on the part of the government and parliament. It should be emphasised that many of these policies are a “work in progress”, and at the midpoint of implementation. Processes and tools need to be set up and implemented, a lengthy and exacting process. Regulatory governance is a long-term policy, with little immediate political gain, and subject to short-term pressures. It is harder to raise its profile in France given, that on the one hand, there is a lack of a comprehensive regulatory governance programme which might be sustained with political backing and, on the other, the relative disregard for economic concerns, which is somewhat surprising at a time when policy is geared towards economic recovery. Under these circumstances, relatively little attention is paid to the issue of regulatory governance beyond the limited context of administrative and political institutions. Identifying an overall policy could increase the visibility of the process and give it impetus over time.

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**Recommendation 1.1. Regroup the different initiatives to create an overall strategy. Launch an integrated communication strategy covering the initiatives and the vision for the future, highlighting the link to economic performance. Produce an annual progress report, which could be sent to the prime minister and parliament by a minister given the responsibility for co-ordination of the strategy, its implementation, and its communication. This report would be made public.**

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### ***Communication on Better Regulation strategy and policies***

*There is no clear communication which brings together the different strands of regulatory governance.* This reflects the lack of any integrated policy and the dilution of certain initiatives in the RGPP. It is above all presented as an initiative in favour of “users” (citizens and businesses) and improved public services, rather than a support for economic recovery. The various reforms are the subject of separate internal communications within the administration in an *ad hoc* fashion (such as in February 2010 on progress with the simplification plan). This does not provide clear visibility for these reforms, either within the administration, or outside it (for stakeholders).

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**Recommendation 1.2. Elaborate a communications strategy that regroups the different initiatives, showing the interaction, leaving room for communication on individual reforms. Ensure that communication is targeted to meet the needs of the administration as well as those of the general public, outside the administration.**

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### ***Ex post evaluation of Better Regulation strategy and policies***

*France stands out (positively) in terms of the large number of reports on regulatory quality.* The reports by the *Council of State* and other *ad hoc* committee reports which focus on specific aspects, such as the *Balladur* report on local governments and the *Warsmann* report on regulatory quality, may be cited. These assessments, although not regular events, have given rise to substantial changes, which suggests that it would be helpful to conduct these assessments on a more systematic basis. Thus the publication of several reports which emphasises the ineffectiveness of the measures introduced by a decree or a circular to establish impact assessments, has contributed to the setting up of more stringent and ambitious arrangements through the constitutional reform of 2008 (Chapter 4).

*France has several players who may be able to provide regular evaluations of regulatory policy over time.* The *Cour des comptes* (Court of audit), independent of the executive, has not yet undertaken studies on regulatory governance, but could be very useful for general assessments. The programmes to reduce administrative burdens and impact assessment processes could be candidates for this approach, as can be seen in other countries. This approach could be envisaged as part of the development of public policy assessments outlined in the recent constitutional revision. The *Council of State* remains a major player. A new section (the administration section) was recently set up, enabling it to take a more in-depth cross-cutting view of state reform and its objectives.

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**Recommendation 1.3. Reinforce and make the evaluation of Better Regulation policies more systematic. Anticipate the evaluation of key programmes, such as impact assessment. A global evaluation could also be carried out to show the link between Better Regulation policies and economic performance. Consider which body would be best placed to carry out such evaluations.**

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### ***E-Government in support of Better Regulation***

*Many initiatives have been supported by the development of e-Government.* The spread of *e-Government* has provided a mechanism for many reforms in the area of regulatory governance. This applies in particular to measures for administrative simplification (for example, in order fully to dematerialise administrative procedures applicable to businesses). It also concerns access to information (especially with *Légifrance*), the simplification of administrative procedures through developing the public service portal (*mon.service-public.fr*) and the internal operation of public administration. This progress has been acknowledged by businesses. Several OECD interviewees have suggested the need to go further, particularly by simplifying the “back office”.

### Box 1.1. Extracts from the 2004 OECD report: Strategy and policies of regulatory governance

#### Evaluation

The solid legal character of the French system, with formalised procedures for preparing and recording, has long masked the necessity for a global effort aimed at improving the quality of regulations and strengthening the resources for developing controls. There are directives prepared by the prime minister, such as that of 26 August 2003 which recall the importance that must be attached to the quality of the rule of law, by using the legal expertise of ministries appropriately and co-ordinating it between different ministerial departments. However, such directives do not have any legal binding on legislation that has been drawn up, and their impact has not been assessed. Moreover, in some sector ministries, legal and economic expert resources have long failed to respond to the prior demands of regulatory quality and evaluation.

Thus regulatory reform policies have retained a fragmented character for a long time without a global framework of concepts enabling regulatory quality to be defined. However, from 2001, the work carried out as a result of the *Mandelkern* report has led to planning conditions for transposing principles for regulating quality which apply at the inter-departmental level.

Source: OECD (2004), *Regulatory Reform in France: Government capacity to assure high quality regulation*, OECD Publishing, Paris.

## Background

### *Economic context and drivers of Better Regulation*

France is a major player in the world economy. It faces substantial challenges, including loss of business competitiveness on world markets. At the same time France can boast a range of advantages which should help it to rise to these challenges. The implementation of certain necessary structural reforms partly depends on a further strengthening of regulatory governance policy, which requires strong and sustainable will. For example, it will be important to draw on modernisation brought by the organic law on impact assessment and the new models for public participation in the elaboration of policies.

In recent years, French policies for Better Regulation have underlined a political will, which has grown in strength since 2004, to undertake reforms in order to improve regulatory quality. A stronger and deeper understanding of the importance of effective regulatory management within the administration has helped to promote this trend. A number of public reports on the quality of laws have fuelled discussion, and contributed to a promotion of the principles of regulatory quality (Box 2.1). The perception of what some have termed “French disease” (but in fact a disease present in other countries, though not all), corresponding to the overproduction of legal norms that has to be controlled, has led to discussion about what has to change to give rise to better legislative and regulatory management. These debates, which have involved among others the government, parliament, the *Council of State* and the central administrative authorities have resulted in actions aimed at improving regulatory quality both from the outset (by reforming the process for drawing up standards) and subsequently (by evaluating and simplifying what is already in place). The momentum generated by the Community (EU) “Better Regulation” initiative (in French, *mieux légiférer*), in conjunction with the Lisbon process, has also helped to create a context more conducive to reforms in the area of regulatory quality. In the interviews conducted by the OECD, many informants stressed

how there was heightened awareness of the importance of regulatory quality and a kind of “acculturation” on the part of French administration both to reform and to evaluation.

### Box 1.2. Main reports on regulatory quality

#### The *Picq* report (1994)

This report followed the 1991 *Council of State* report on the proliferation of regulations and their inadequate quality. These reports are part of the growth in awareness, from the end of the 1990s, of the need to reform the State. They highlighted the fact that the increased number of formal regulations was in practice of little use to direct, modernise and control state operations. The *Picq* report proposed an overall strategy to modernise the role of the state by refocusing it on its basic responsibilities, by improving the delegation of responsibility and modernising budgetary and accounting rules. It also led to initiate regulatory impact analysis (RIA) in 1997.

#### The *Mandelkern* report (2002)

On 12 October 2000, the inter-departmental committee for state reform entrusted an inter-ministerial working group on the quality of regulation with the task of examining the following questions: civic consultation on draft texts; access to the law; the readability and intelligibility of the law; impact studies; and the cost of regulation. This working group chaired by Mr Dieudonné Mandelkern (who also chaired the High-Level Advisory Group on Better Regulation, appointed by the European Commission in 2000) submitted a set of proposals intended to establish more “proportionate” regulations, which were indeed implemented and more readily accepted. The most important recommendations were concerned with the implementation of an annual simplification programme, the preparation of cost indicators for each new regulation, systematic consultation with the departments expected to ensure observance of the text, and improvements to the processes of preparing and finalising texts. The working group undertook a close examination of the practice of impact assessments as hitherto carried out, noting that they were often belated and generally formal, but also the fact that much draft legislation avoided this form of scrutiny (Mandelkern, 2002).

#### The *Lasserre* report (2004)

The observations on impact assessments in the *Mandelkern* report were further examined in a supplementary evaluation undertaken, at the request of the prime minister, by a working group chaired by Mr. Bruno Lasserre, which submitted its report in 2004. This report too, noted the limits to the arrangement based on a circular from the prime minister, and recommended that the projected analysis of the impact should be taken into account at a much earlier stage, when the basic options confronting the reform were determined (Lasserre, 2004).

#### The *Council of State* report on legal certainty and the complexity of the law (2006)

The *Council of State* devoted considerable effort to evaluating the policy for the quality of the law in the general review of issues in its 2006 public report entitled *Sécurité juridique et complexité du droit* (“legal certainty and the complexity of the law”), (*Conseil d’État*, 2006). A working group was accordingly formed by the General Secretariat of the government to draw conclusions from it, and proposed that the obligation to undertake impact assessments should be included in an organic law (*Secrétariat général du gouvernement*, 2007).

#### The *Warsmann* report (2009)

In June 2008, the prime minister commissioned Mr. Warsmann, a deputy and chair of the National Assembly Commission for Laws, with the brief to identify an “operational” strategy for the quality of the legal standard, the aim being to devise a methodology for simplification of the law, and then to ensure that the constitutional aim of intelligibility was achieved more effectively and that every citizen could access all legal norms. This strategy was defined with reference to an appraisal of existing

practices for producing and publicising the standard. A second part of the brief was to propose simplification measures in three areas: namely company accounting; VAT; and public procurement. Submitted in January 2009, the report contained 103 proposals, including 46 concerned with the fore mentioned areas.

French policy for regulatory quality is also strongly linked to reforms for modernising the state, under circumstances in which regulation has become deeply embedded as a primary means of state intervention. The various current initiatives, for example as regards impact assessments or the reduction of administrative burdens, are part of the broader framework of the RGPP, which was initiated in June 2007 just after the presidential election. The RGPP seeks to produce gains in budgetary savings and improve the effectiveness of public policies, which includes action to strengthen the quality of services provided for citizens and businesses (OECD, 2009). The actions to promote regulatory quality are also linked to institutional reforms, and especially the constitutional reform of July 2008 (which formally upheld the principle of impact assessments) and the territorial reform (see Chapter 2).

Economic issues and the relevance of effective regulatory governance for economic performance are not totally removed from regulatory governance policies, but they are not nearly as conspicuous as in some other European countries (such as the United Kingdom or the Netherlands), in which they have been the main driving force behind reforms. One of the government actions is to reduce the administrative burden on businesses. While the aim of this programme is certainly to promote the competitiveness of French business, it does not lie at the “heart” of policies for regulatory governance. The relatively low profile of economic concerns may also be attributed to the paramount importance traditionally attached to legal order and legal certainty. Policies must benefit private individuals and businesses, which are above all portrayed as “users” of public services rather than economic players. Already noted in the 2004 OECD report, the economic goal is not central to the system.

### ***Developments in France’s Better Regulation agenda***

Initiatives to improve regulatory governance have become steadily more substantive in the last 40 years. The first raft of reforms in the 1970s sought primarily to lessen the distance between ordinary citizens and administrative authorities and put an end to the traditional secrecy and lack of openness in administrative activity (creation of the post of Republic Ombudsman in 1973, and the laws of 1978 and 1979 on access to administrative documents). A second wave of reforms occurred in the 1990s to facilitate access to the law (with the establishment of *Légifrance*) and, in a more limited way, simplify existing law. In the years from 2000 onwards, the field of Better Regulation became broader. In particular, regulatory policy covered accessibility of the law, the reform of conditions for the drafting of standards, the simplification of existing law and the reduction of the administrative burden. These various initiatives have not been part of a formal strategy for Better Regulation. However, the quality of the law has become an increasingly clear aim and the different actions of recent years have been geared to it.

Since the 2004 OECD report, the French government has undertaken several major initiatives. A key measure has been the inclusion – enshrined in the Constitution – of *ex ante* impact evaluation on draft legislation. The government has initiated other reforms pointing in several directions: simplification of the law and lessening of the administrative burdens for private individuals and businesses, access to the law,

modernisation of public consultation procedures, and legal certainty in the application of Community (EU) legislation and the enforcement of laws.

**Table 1.1. Main stages of policies for Better Regulatory governance in France**

1978	Law of 17 July 1978 on administrative transparency.
1981	Establishment of business formality centres (BFCs) linked to the chambers of commerce and industry.
1987	Decree by the prime minister who required an assessment of the budgetary impact and impact in terms of jobs for all regulations.
1991	<i>Council of State</i> report on the proliferation of regulations and their inadequate quality.
1994	<i>Picq</i> report on reform of the state (following the 1991 <i>Council of State</i> report).
1997	<ul style="list-style-type: none"> <li>• Experimentation with impact assessments for draft laws and draft decrees in the Council of Ministers.</li> <li>• Administrative simplification programme (decentralised to the level of the ministries).</li> </ul>
1998	Creation of <i>Légifrance</i> .
1989	Decree of 12 September 1989 which revitalised codification.
2000	<ul style="list-style-type: none"> <li>• The <i>Mandelkern</i> report (inter-ministerial working group on state reform).</li> <li>• Law N° 2000-321 of 12 April 2000, concerning the rights of citizens in their relations with administrative authorities, which broadened the area of simplification beyond the central state to territorial authorities, local public institutions and social security bodies.</li> </ul>
2002	<ul style="list-style-type: none"> <li>• Law N° 2002-276 of 27 February 2002 concerning community-based democracy.</li> <li>• Decree of 7 August 2002 on general distribution of the law over the Internet.</li> </ul>
2003	Enabling law for administrative simplification (July).
2004	<i>Lasserre</i> report "for better quality regulation".
2006	<ul style="list-style-type: none"> <li>• Annual report of the <i>Council of State</i> which dealt extensively with the evaluation of policy for the quality of the law ("legal certainty and the complexity of the law").</li> <li>• Decree N° 2006-672 of 8 June 2006 on consultative committees.</li> </ul>
2007	<ul style="list-style-type: none"> <li>• Law of 31 January 2007 on reform of the social dialogue.</li> <li>• Government commitment to a 25% reduction by the end of 2011 in the burden resulting from the 1 000 heaviest or most irritating formalities weighing on businesses (December).</li> </ul>
2008	The constitutional law of 23 July 2008. Intended to strengthen the capacity of parliament to examine draft reforms, the constitutional reform established in particular an obligation to conduct prior evaluation of draft legislation.
2009	<ul style="list-style-type: none"> <li>• The <i>Warsmann</i> report, "Let's make the Law simpler to cure a French disease".</li> <li>• Organic Law No 2009-403 of 15 April 2009 which incorporated the rule on prior evaluation of draft legislative measures.</li> </ul>

### ***Guiding principles for the current Better Regulation agenda***

Just as there is no integrated policy for Better Regulation, the French government has not drawn up a special set of principles for Better Regulation. However, the various policies and initiatives in this area have led in actual fact to the emergence of two major guiding principles – legal certainty and access to the law – more strikingly than in most other European countries. There is a broad consensus among political and administrative leaders, as well as the economic players, that France appears to be suffering more than it should from a constant tendency to over-regulate (see Chapter 4). This is regarded as a source of legal uncertainty and of a cost to society and the economy, which is affecting the credibility and effectiveness of public action. Many people are further concerned that

steps should be taken to ensure that citizens are fully familiar with the law, and that their relations with public administration should be simplified.

### ***Main Better Regulation policies***

#### *Legislative simplification and reduction of the administrative burden*

Simplification of the law constitutes one of the main strategic components of the RGPP. This policy targets all categories of “users” (private individuals, businesses, territorial authorities and associations). Its aim is to simplify regulation along with the relation between the state and its users and to reduce the administrative burden weighing on the latter in their relations with the administrative authorities. The policy for simplification in France is based on a prescriptive programme for simplifying the law and procedures (especially through the simplification laws of 2003, 2004, 2007, 2008 and 2009) and a programme for the modernisation of public administration, including the introduction of e-Government.

Meanwhile, the French government introduced a special programme in 2006 to reduce the administrative burdens weighing on businesses. “Measurement and reduction of the administrative burden” (MRAB) is part of both the Lisbon Strategy and the public undertaking of the French government at the first Council for the Modernisation of Public Policies on 12 December 2007, to achieve a 25% reduction by the end of 2011 in the burden resulting from the 1 000 heaviest or most irritating formalities weighing on businesses. Supervision of this activity has been handed to the *Direction général de la Modernisation de l’État* (DGME, or Directorate General for State Modernisation), within the Ministry of the Budget, Public Accounts and State Reform. Recently, this programme has changed in terms of its target group (it is intended for all users) and its methodology, with the use of common life events in selecting simplification activities (see Chapter 5).

#### *Impact assessment*

The French government has embarked on a reform of methods for drawing up the standard, by modernising parliamentary procedure and formally approving an obligation to evaluate draft legislation at a much earlier stage. The constitutional law of 23 July 2008 and the organic law of 15 April 2009 represent major steps in taking account of legal quality requirements in relations between government and parliament. One aspect of this reform has indeed been to introduce an obligation to evaluate draft legislation from the outset, disregard for which is likely to carry political or even judicial penalties (imposed by the *Constitutional Council*). This obligation came into effect on 1 September 2009. The government anticipated it and has implemented impact assessments systematically (for draft legislation) since April 2009 (Chapter 4).

#### *Modernising consultation with stakeholders*

Several joint actions have been launched to modernise consultation with stakeholders when devising public policies and prescriptive draft documents, in ways that include greater use of information technology. They entail overhauling forms of traditional consultation (which occurs within institutional advisory boards) and diversifying methods of consultation so that stakeholders are involved in the process of drawing up public policies (Chapter 3). These actions have included:

- *The reform of traditional institutional consultation*, with a systematic overhaul of existing advisory boards. This has led to the abrogation of over 200 such bodies. Rules have also been defined to guide the establishment of new boards.
- *Reform of the social dialogue*. The law of 31 January 2007 on modernising the social dialogue has established, in the case of any government proposal involving reforms in industrial relations, employment or vocational training, an obligation to engage in prior consultation with the social partners (nationally recognised representative union organisations of employees and inter-professional employers’ organisations) in order to begin a negotiation procedure. The Houses of the parliament have recently defined a protocol giving social partners equal rights regarding draft bills on social reforms when they are introduced by members of parliament.<sup>2</sup>
- *The development of new forms of participatory consultation* about the determination of public policies (with in particular the *Grenelle Environment Forum*).

#### *Promoting legal quality*

- *Legal certainty in the application of Community (EU) legislation* and the enforcement of laws. Fresh measures have been introduced by the prime minister in both areas, especially as regards the organisation of inter-departmental activity. Their aim has been to reduce the gap in transposing European directives (Chapter 4).
- *Access to the law*. This remains a central feature of national regulatory policy, which was highlighted by France during its EU presidency in the second half of 2008. It has materialised most notably in an enlargement of the *Légifrance* website (Chapter 3).
- *The national codification programme*. This is going ahead with special attention paid to maintaining existing codes (Chapter 5). The circulation, since 2005, of a “Guide for Drafting Legislation and Regulations” jointly published by the *Council of State* and the SGG is indicative of the progress made with legislative drafting (Chapter 4).

#### ***Communication on Better Regulation strategy and policies***

As in the case of many other EU countries, France has not developed an integrated communication strategy for matters concerned with quality regulation. However, many reports on regulatory quality have fuelled the public debate. Several government websites give details about the process of drafting legislation and about simplification initiatives. As regards the general framework, the “regulatory quality” heading on the home page of the *Légifrance*<sup>3</sup> website provides access to information on progress with the codification programme and on the development of drafting rules for legislative and regulatory documents, as well as on trends in the volume of such documents. The DGME websites<sup>4</sup> contain details about simplification initiatives.

### ***Ex post evaluation of Better Regulation strategy and policies***

As in most other EU member countries, *ex post* evaluations have not been undertaken systematically. That said, it has been possible to evaluate different measures for regulatory quality in reports by the *Council of State*, as well as in various reports commissioned by the President of the Republic or the prime minister (Box 1.2). Several reports have thus emphasised the ineffectiveness of measures taken by decree or by circular to introduce impact assessments, and have led to the establishment of more stringent and ambitious arrangements through the constitutional reform of 2008 (Chapter 4). The *Court of audit* has produced no report devoted specifically to a programme directly concerned with policies for regulatory quality. By means of some reports, however, it may identify on an *ad hoc* basis the difficulties faced by the administrative authorities, such as the mass of decrees that have to be produced or the deadlines for transposing European directives.

### ***E-Government in support of Better Regulation***

In October 2008, the French government initiated a development plan for the digital economy known as *France numérique 2012* (“Digital France 2012”). It follows the first plan for the development of e-Government, known as *Adèle*, which ran between 2004 and 2007. The current plan is part of the RGPP and its progress is thus monitored by the Council for the Modernisation of Public Policies. Organised in terms of 150 actions, *France numérique 2012* seeks to develop an infrastructure (access for all and development of VDSL), the promotion of digital content, the promotion and diversification of services used by business, the public authorities and private individuals, and the modernisation of digital economy governance. To encourage the rapid development of e-Government, one priority has been to promote the spread of electronic identity cards.

E-Government is regarded as an essential mechanism in simplifying administration for users (who here include private individuals, businesses and associations), as well as improving the accessibility and quality of public services. The full dematerialisation of administrative procedures applicable to businesses has been a goal pursued in close co-operation with the business formality centres, particularly in transposing the so-called “services” directive. The aim has been to establish by then a new portal combining many online services already available. As regards access to information, France has possessed since 2000 a single government portal ([www.service-public.fr](http://www.service-public.fr)) run by the *Documentation française* (the French national office for documentary resources). The portal is intended both for private individuals and businesses (with a special section for SMEs) and has become gradually more detailed and extensive. In January 2008, two-thirds of administrative procedures could be undertaken on line.<sup>5</sup> The DGME has offered Internet users new facilities and the opportunity to open a personal account for online procedures at “[mon.service-public.fr](http://mon.service-public.fr)” (MSP). The first services became operational at the beginning of 2009.

Information and communication technology is also a mechanism to reform processes for drafting and publicising the law. An important stage in the incorporation of these procedures was completed in 2007 when the *Système d’Organisation en ligne des Opérations Normatives (SOLON*, or the “online system for regulatory operations”) was introduced throughout all central government departments. The system dematerialises the path of legislation published in the *Journal officiel de la République française* (the “Official Gazette of the French Republic”) in its “Laws and Decrees” edition via the

involvement of ministries, the *Council of State* and the SGG. *SOLON* is notably of benefit in providing for better monitoring of government activity, by reliably keeping track of the successive draft versions of documents prior to their final publication in the “Official Gazette”. The system also enables common models to be circulated among ministries to support the decentralised production of legal norms. However, it does not provide direct assistance with drafting and is not clearly linked to the “Guide for Drafting Legislation and Regulations”. Moreover, it includes neither independent regulatory authorities, nor the dialogue between government and parliament. However, there are plans for a forthcoming expanded version which in particular should pave the way for the consolidation of documents when preparing draft regulations.

## Notes

1. The expression generally used is *Mieux légiférer*.
2. In December 2009 the Bureau of the Senate adopted a protocol which organises consultation with social partners previous to Senate discussion of draft bills initiated by Parliament on individual and collective labour relations, employment and vocational education. The Senate is implementing this protocol on an experimental and will evaluate it by 30 September 2011. In practical terms, when a the President Conference considers to table a draft “social” bill initiated by Parliament, the President of the Social Affairs Commission informs social partners by writing to get their views and, if relevant, to see if they want to open negotiations.
3. [www.legifrance.gouv.fr/](http://www.legifrance.gouv.fr/).
4. [www.ensemble-simplifions.fr](http://www.ensemble-simplifions.fr) and [www.modernisation.gouv.fr](http://www.modernisation.gouv.fr).
5. *Source*: e-Government in France, EC.