EU simplification will fail without better governance: Three necessary reforms to make sure it doesn't fail

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Policy Brief

Summary

The EU has long been seen as a global regulatory power, exporting its standards across the world through what's commonly known as the 'Brussels Effect.' This influence gave firms operating in the EU a first-mover advantage in compliance, with the GDPR being a prime example. However, newer frameworks such as the AI Act and the Markets in Crypto-Assets Regulation (MiCAR) have failed to set international benchmarks – especially in the US, where leaner regulation or even deregulation have been used as a competitive strategy.

A key reason lies in the growing complexity of EU rules, increasingly seen as poorly designed, burdensome and difficult to implement. This not only erodes the EU's global influence but also undermines the competitiveness of its own companies. Indeed, the EU is suffering from a growing number of Level 1 legislative mandates, high granularity in Level 2 and 3 measures to minimise fragmentation of national implementation, goldplating practices (even in Council negotiations), the lack of an institutionalised mechanism to test the quality or necessity of regulations across their lifecycle, and a lack of an embedded secondary objective in regulations (like competitiveness) that could better inform the scope of the primary objective.

In response, the EU has made regulatory simplification a priority for this institutional cycle. The Omnibus package, reflection processes by financial authorities and renewed dialogue on better law-making all signal a determined effort.

Whether these measures will translate into real gains for business competitiveness and EU influence remains an open question. But for simplification to succeed, the EU's governance needs to improve first. Indeed, there doesn't appear to be any shared understanding of what simplification *actually* means: for some, it involves eliminating certain burdens for businesses, particularly for SMEs; for others, it represents outright deregulation. The scope of intervention is equally contested, with some advocating for changes in Level 1 legislation and others only in Levels 2 and 3. There's also no clear coordinator overseeing the various simplification exercises.

This ECRI Policy Brief outlines three key reforms that can help achieve better governance: working towards a universally agreed definition of what regulatory simplification is, with increased competitiveness being one of its key pillars, the development of granular coordination mechanisms and a much wider, admittedly much more ambitious, rethink of EU governance structures overall.

Introduction

The EU has traditionally positioned itself as a regulatory power, with many of its rules emulated abroad, a phenomenon labelled by Anu Bradford as the 'Brussels Effect'. This historically allowed the EU to shape global standards and provided EU firms with a first-mover advantage in compliance.

But when regulations become overly burdensome or are poorly designed, this advantage transforms into a competitive handicap. The flagship example of the EU's regulatory influence has been the General Data Protection Regulation (GDPR), which remains influential. However, the global traction of more recent EU regulatory frameworks appears to be waning and newer frameworks, such as the AI Act and the Markets in Crypto-Assets Regulation (MiCAR), have not served as international benchmarks, particularly in the US, where the Trump administration has actively pursued deregulation as a competitive strategy.

Of course, geopolitical pressures towards deregulation in other jurisdictions are playing a role but the declining quality of EU regulations, which are increasingly complex, burdensome and poorly designed, is undeniably an explanatory factor. Compliance with EU regulations is becoming increasingly burdensome even for EU companies, undermining their overall competitiveness. On top of this, while designed to ensure the good functioning of the internal market, national disparities make it challenging for EU companies to operate across the EU.

It's against this background that the EU has made regulatory simplification one of its main targets during the ongoing institutional cycle. For the time being, this has crystallised into including simplification mandates across all mission letters to Commissioners-designate, with each one tasked with reducing corporate reporting obligations by 25% for all businesses and 35% for SMEs, and to stress-test the existing *acquis* to simplify and reduce the burden on industry.

the EU's newfound zeal for simplification is also reflected in the specific appointment of Valdis Dombrovskis as Commissioner with a dedicated portfolio for 'Implementation and Simplification', the unveiling of several Omnibus packages throughout 2025 (with more expected), the Commission's commitment to present proposals for a 28th regime, and its stated intention to relaunch political dialogue with the European Parliament (EP) and Council on better implementing the 2016 interinstitutional agreement on better law-making.

In parallel, other European authorities have also initiated their own reflection processes on simplification, with European financial authorities such as the ECB, EBA, ESMA and SRB engaging in discussions over streamlining regulatory requirements and reducing administrative burdens within their respective supervisory frameworks.

But will this well-intentioned simplification process bear the fruits we all desperately hope for in terms of increased business competitiveness, reinforced internal market and regained regulatory influence?.

Five governance deficiencies that increase fragmentation

For this simplification process to succeed, it won't be enough to merely reduce the existing regulatory stock; the EU must also improve the flow of new regulation by embedding sound regulatory principles from the outset. To do this, it's essential to understand why EU regulation has become so complex in the first place. Five interrelated governance deficiencies help explain the current state of regulatory inflation and fragmentation.

First, the **growing number of Level 1 legislative mandates has significantly contributed to increased numbers of Level 2 and 3 measures across sectors**. During trilogue negotiations, the EP and the Council increasingly introduce detailed mandates instructing implementing authorities, such as the European Supervisory Authorities (ESAs) in finance, or regulators in the digital, environmental and consumer protection domains, to finalise extensive technical rules. These mandates often reflect political compromises or sectoral demands and leave limited discretion to streamline or prioritise. Consequently, even before implementation begins, the regulatory framework is already highly complex and prescriptive.

Second, the **persistent fragmentation of national implementation further fuels regulatory complexity**. Because many EU rules continue to be implemented or supervised at national level, Level 2 and 3 measures are often drafted with a lot of granularity to reduce the risk of divergence. This is particularly evident in the financial sector, where implementing supervisory measures have become excessively detailed to compensate for the lack of centralised enforcement.

Yet even this approach falls short – national competent authorities still apply varying standards when granting market access licences, while data protection authorities continue to interpret GDPR provisions differently, as seen in the recent Deepseek case. Thus, the lack of a unified enforcement framework reinforces the perceived need for prescriptive regulation at technical levels.

Naturally, not all discretion at the national or supervisory level is detrimental. In certain areas, a certain degree of flexibility is necessary to reflect the specific risk profile or business model of individual institutions. The objective shouldn't be to eliminate all discretion but rather to ensure that it doesn't compromise coherence, proportionality or the internal market's integrity.

Third, **Member States' persistent efforts to embed their national specificities into EU law result in 'goldplating' practices** that have evolved along with the legislative landscape. When directives were the norm, goldplating occurred during national transposition. Now that the EU increasingly favours regulations to ensure uniformity, these practices have migrated upstream to the Council, where Member States negotiate to embed their preferences directly into the legislative text itself, baking complexity into EU law from the very outset.

Fourth, **there's no institutionalised mechanism to test the quality or even the necessity of regulations across their lifecycle**. While the Commission usually conducts *ex-ante* impact assessments, these are typically limited to the initial legislative proposal and aren't systematically updated after trilogues, which is where major changes are often introduced.

Even more strikingly, in the financial sector for instance, the ESAs rarely perform quantitative assessments when developing Level 2 and 3 measures, relying instead on qualitative justifications. *Ex-post* evaluations are similarly rare, and there's no consistent mechanism for identifying and repealing rules that have proven ineffective, excessive or misaligned with their original mandate. Without such checks, regulatory stock accumulates without being corrected.

Fifth, **many EU regulations lack an embedded secondary objective that could better inform the scope of the primary one**. When rules are designed to pursue a single, dominant policy goal, such as financial stability, tax collection or sustainability, they risk becoming one-dimensional and overly expansive.

A more resilient regulatory framework would embed counterbalancing objectives, such as competitiveness, proportionality or neutrality, to ensure internal checks on ambition and scope. This lack of structured trade-offs encourages regulatory overreach and weakens the internal market logic that should underpin all EU legislation.

Simplification – a victim of its own flaws

These structural drivers of complexity are deeply embedded in the EU's regulatory system. Yet paradoxically, the current simplification agenda, intended to address the excesses of regulation, risks being undermined by governance flaws of its own. Rather than offering a strategic response to the root causes outlined above, many of the ongoing simplification efforts remain fragmented, conceptually ambiguous and poorly coordinated. Unless these shortcomings are addressed head-on, the EU's attempt to regain competitiveness, improve internal market functioning and restore regulatory credibility will fall short of its ambitions.

There doesn't appear to be any shared understanding of what simplification *actually* means. For some, it involves eliminating certain burdens for businesses, particularly for SMEs. For others, it represents outright deregulation.

The scope of intervention is equally contested – some advocate for changes starting with Level 1 legislation, while others prefer maintaining Level 1 frameworks to ensure regulatory certainty and limiting modifications to Levels 2 and 3. Others push for fundamental revisions to primary legislation itself. This conceptual confusion inevitably leads to fragmented and potentially contradictory initiatives.

Then there's no clear coordinator overseeing the various simplification exercises. Capital requirements for credit institutions, an apparently narrow area, nonetheless involves multiple authorities: the SSM for solvency and leverage requirements, the SRB for MREL and the ECB and national competent authorities (NCAs) for macroprudential requirements. Each authority may pursue its own simplification agenda without considering the cumulative impact on institutions or the coherence of the overall framework. In this specific area, there's already a growing consensus, both among regulators and within the banking industry, on the need for a more holistic approach, even if this has yet to translate into concrete institutional solutions. However, this consensus remains confined to a very specific segment of financial regulation.

In most other areas, including broader financial regulation and horizontal frameworks such as the AI Act or sustainability disclosures, the need for cross-cutting coordination remains largely unmet. Given the increasing number of complex regulatory regimes that apply simultaneously to multiple sectors, the absence of a single actor with a comprehensive, holistic view creates a major obstacle to effective simplification.

Three necessary reforms for a better simplification agenda

Given these fundamental governance deficiencies that drive regulatory complexity and threaten to undermine current simplification efforts, three strategic reforms are essential for achieving meaningful progress:

1. **Defining 'regulatory simplification'**

The **first and most fundamental requirement is achieving political consensus on what 'regulatory simplification' actually means**. This definition cannot emerge from scattered technical processes but requires a political decision at the highest level. The **European Council must establish clear principles**

that distinguish between simplification (reducing complexity whilst maintaining regulatory objectives) **and deregulation** (eliminating regulatory objectives altogether).

Additionally, the political framework must explicitly recognise that good regulation requires internal balance – rules shouldn't pursue a single objective in isolation but include structured secondary goals to ensure coherence, proportionality and internal discipline. This principle should be embedded as a default requirement across all future regulatory initiatives.

Furthermore, simplification must not be conceived as a one-off exercise but as a continuous governance commitment. This entails strengthening both *ex-ante* and *ex-post* evaluation mechanisms, including systematic and updated impact assessments at all stages of the legislative process, particularly after trilogue negotiations, and regular reviews of the effectiveness and necessity of existing rules. Any such mechanism must operate under the overarching principle of legal certainty, ensuring that the need for adaptability doesn't come at the expense of predictability or stability for regulated entities.

This strategic framework should include quantifiable metrics that go beyond the current 25-35% reduction targets to encompass qualitative measures of regulatory coherence and effectiveness. Crucially, this political guidance should be accompanied by **an explicit mandate from the European Council to all configurations of the Council to limit the growth of Level 2 and 3 mandates in new legislation**, and to actively avoid goldplating practices during legislative negotiations. The EP should make a similar commitment.

Without this foundational agreement, the various simplification initiatives will continue to operate at cross-purposes, with some actors pursuing burden reduction whilst others advocating for wholesale deregulation. The European Council's mandate would provide the necessary political authority to align all subsequent efforts and resist the inevitable pressures from sectoral interests seeking to advance their interpretation of simplification.

2. The need for granular coordination mechanisms

A second critical reform involves **establishing granular coordination mechanisms that address specific regulatory areas where complexity has become most acute**. Rather than broad sectoral approaches, the Commission should appoint dedicated coordinators for highly technical areas that currently suffer from fragmented oversight.

In financial services, for instance, this would require separate coordinators for capital stack simplification, reporting requirements for specific entity types (banks, insurance companies, investment firms), sustainability disclosure obligations, resolution and recovery planning, and the conduct of business rules. Each coordinator would maintain comprehensive oversight of all regulatory interventions within their remit, working directly with relevant European agencies and ensuring these agencies effectively coordinate with NCAs.

This **model could be inspired by Article 32 of the SSM Regulation**, which explicitly envisages that the Commission would monitor how the Regulation is applied and would then submit a report on its implementation, laying the foundation for a more institutionalised coordination role. A similar approach could be extended across multiple sectors to ensure coherence and reduce overlapping requirements.

3. A fundamental rethink of EU governance structures

Third – and arguably the most challenging – the **medium-term challenge requires the fundamental rethinking EU governance structures**. Genuine internal market integration necessitates transferring greater powers to European authorities, moving away from the current hybrid system that attempts to preserve national prerogatives whilst achieving uniform outcomes. The recent calls to strengthen ESMA's powers represent a paradigmatic case of this broader governance challenge. The current system's attempt to maintain national implementation whilst ensuring uniformity creates the very pressures that drive regulatory complexity in the first place.

However, even successful examples of European integration reveal opportunities for further improvement. Whilst the SSM has demonstrated the feasibility and benefits of transferring supervisory powers to the European level, its own experience also illustrates the need for simplification, even within successful integration models. The SSM's dual structure, combining ECB oversight with NCA involvement, hasn't delivered the resource consolidation that was initially anticipated.

Instead, both ECB and national supervisory resources have expanded in parallel, with banks facing multiple supervisory interfaces and overlapping documentation requirements. This institutional layering, whilst facilitating the political acceptance of integration, has generated cumulative rather than substituted supervisory intensity.

This governance evolution should not be approached piecemeal but as part of a comprehensive strategy that recognises the inherent tensions between national sovereignty and internal market effectiveness.

Conclusions

The EU must choose between accepting greater regulatory fragmentation as the price of preserving national competencies or it must embrace deeper integration that consolidates supervisory and implementation powers at the European level.

The current compromise (a detailed regulation attempting to bridge fragmented implementation) represents the worst of both worlds and lies at the heart of the complexity problem that simplification efforts are trying to address.

The three reforms suggested in this ECRI Policy Brief – admittedly ambitious but not insurmountable – would go a long way to resolving this complexity dilemma, a dilemma which must be confronted if the EU is to really increase its competitiveness and continue to wield the advantage of the much-touted 'Brussels Effect'.

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