

## The Better Regulation initiative and EU values

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The social and economic model for the European Union has been a focus of public debate for a long time. Lately the discussion has picked up the pace due to the need to seek answers to the challenges of globalisation and to counteract a perceived decline of the competitiveness of the economies of the member states.

Unfortunately, there is no clear definition of the term “European Social Model”, which in principle makes it difficult, if not impossible, to reach a consensus on this matter. Andre Sapir’s report “Globalisation and the Reform of European Social Models” confirmed that within the European Union there is not one commonly binding and accepted social model.

### **A core of common principles**

Instead it is broadly recognised that the European Union is characterised by a set of common principles and values. Those principles and values are enshrined in the treaties and member states should obviously recognise them and put them into practice. The principles apply to such ideas and rules as the free movement of labour, equal terms of employment for women and men, support for the close cooperation between member states in such areas as: employment, right to work and terms of employment, social security, vocational training, prevention of accidents at work and occupational diseases, health and safety at work, right of association and conclusion of collective agreements. All the above-mentioned provisions have already been elaborated by secondary legislation, both by regulations, directives and recommendations and opinions.

### **A common policy: the Better Regulation agenda**

Regulatory reform is one of the key elements in seeking to attain the goals of the reviewed Lisbon Strategy and improve the competitiveness of the European Union. The Commission linked the Better Regulation initiative directly with the Lisbon Strategy. In March 2005 the Commission produced a communication on “Better Regulation for Growth and Jobs in the European Union”.

The renewed Better Regulation agenda has been incorporated into several of the EU’s policies together with horizontal actions such as the new simplification program and measurement of administrative burdens.

If the better regulation agenda is to be a success, there are several challenges it must address, and a number of ways in which it should change and broaden.

### **(1) A test for Better Regulation - reducing the burden on small businesses**

One of the themes that runs through the social dialogue and Better Regulation discussion is related to the challenges of introducing alternatives to traditional legislative instruments and involving the small and medium sized businesses (SMEs) in social dialogue both at national and European levels.

SMEs would like to see more of the non-regulatory alternatives and are interested how the structural dialogue between employers and trade unions can create the right environment to arrange this without the need for formal legislation. SMEs constitute 99% of all enterprises and two thirds of employment in the European Union. They are collectively big but the sector consists of many family firms. Improving the quality of their interactions with regulations would be a social act in itself.

Regulation affects SMEs disproportionately because they have limited capacity to tackle, understand and comply with complex regulations. Robert Baldwin in his report “Better Regulation. Is it better for business?” argues that fixed cost elements of regulatory compliance produce higher relative compliance costs for small firms. He cites the OECD report “Business views on red tape” that reveals that small firms (with 1–19 employees) incur more than three times higher regulatory costs per employee than medium firms (20–49 employees) and more than five times higher costs than large firms (50–500 employees).

The importance of the SMEs sector and regulatory improvements is now being addressed at the European level. The renaissance of the Better Regulation agenda and the current emphasis on SMEs is not a sudden love for improving the regulatory environment for businesses. Within the European Union there have been initiatives on Better Regulation and SMEs since the 1980s, but only now has a strong relationship been established between them.

The Competitiveness Council in its contribution for the Spring European Council 2006 invited the Commission among others to launch an exercise to measure the administrative costs associated with EU rules in specific areas and stressed the need to pay particular attention to SMEs. Moreover the Council invited the Commission and the member states to continue to cut red tape, in accordance with Better Regulation actions. According to the Council a “Think Small First” approach should be at both Community and national level.

## **(2) Look at the wider costs of regulation**

Work on reducing administrative burdens, (based on the Dutch methodology of the Standard Cost Model), has come to dominate the better regulation agenda at the expense of a wider assessment of economic consequences of the existing and new legislation.

Better Regulation should be about more than just administrative burdens measurement. The dominance of the administrative cost is a fine example of the Emperor's new clothes phenomenon – it is in no individual's interest to point out that the approach is thread-bare.

Any assessment of cost for businesses should be designed in a fashion that meets the needs of different stakeholders and takes into account all cost that may arise. Better Regulation policy should focus on elimination of all kinds of regulatory costs. Only through a comprehensive approach to the issue of elimination of legislative burdens can the entire regulatory environment of business be improved.

## **(3) Reducing the regulatory burden on individuals**

Interestingly the administrative burden approach has never been broadly discussed in the context of minimising the burdens upon citizens. The extreme diversity of administrative provisions within the European Union doesn't allow this problem to be tackled at the European level but is a matter for national actions.

A state as a producer or the supplier of a particular good or service to citizens imposes administrative burdens upon them. Reduction of those burdens should also take into account this group not because of the need to boost competitiveness but simply because of a desire to improve the quality of life – the avowed goal of governments.

## **(4) Harmonisation is not the only way**

At their meeting in November 2005 and in preparation for the Lisbon Spring European Council 2006, the EU's Competitiveness Ministers found themselves discussing harmonisation as a means to better regulation. (This is important because this Council sets out the policy recommendations for the European Council in this area).

When the creation of a more competitive business environment and encouragement of private initiative through Better Regulation was discussed, some member states requested adding a reference to harmonisation as a crucial means to improve the quality of legislation for certain policy areas.

When harmonisation is discussed and seen as the main and most effective instrument for regulatory purposes, two points should be kept in mind.

Harmonisation should not always be seen as the only way to improve regulation. In principle harmonisation is just one of the instruments of enhancing the regulatory environment. The choice of instruments should be decided on the basis of a broader analysis, which must show that harmonisation is more effective than introduction of some other instrument.

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