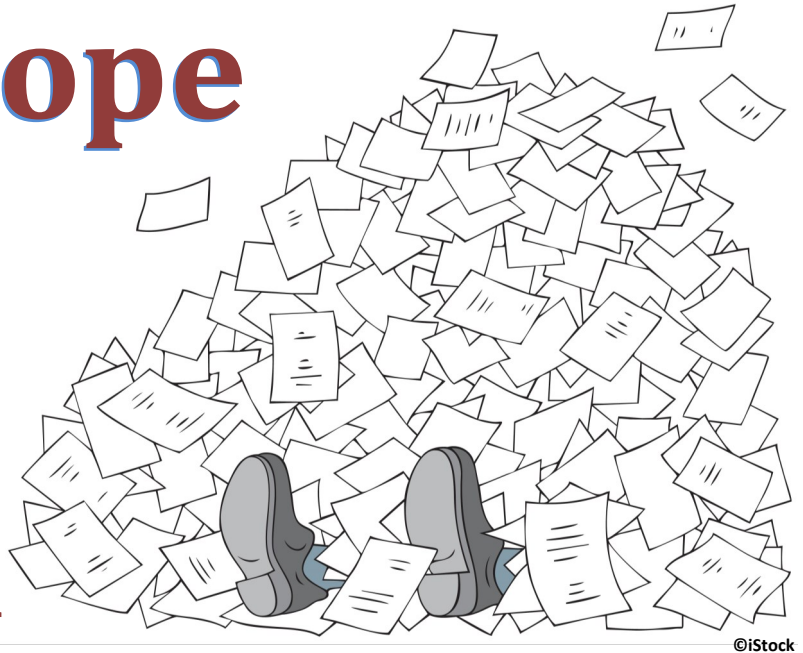


Employers' Group

Newsletter March 2015

Better Europe with better regulation

by Jacek P. Krawczyk



©iStock

"This time it's different" was the European Parliament's rallying cry for the European elections in spring 2014. The Employers' Group absolutely agrees that we need a different approach if we want to see economic recovery and growth in Europe. The message from business on the need to improve Europe's business environment was loud and clear long before the current Commission took office. But is it really going to be different this time?

There is a glimmer of hope that the EU is changing its approach. We agree entirely with the Commission's new structure, which aims to break down the silo mentalities in the Commission, and the leaner and more focused Work Programme. The same applies to REFIT (Regulatory Fitness and Performance), which is an example of the better regulation agenda. REFIT must be maintained and expanded. Most importantly, it must produce concrete results in reducing regulatory and administrative burdens.

Better regulation is a top priority for the Employers' Group. The main purpose of the EU's regulatory or any other work should be to boost its global competitiveness. Some people seem to forget very easily that when EU policies weaken Europe's competitiveness, they also put European jobs at risk.

The Employers' Group fully supports the Commission when it makes genuine efforts to reduce administrative burdens and bureaucracy and amends – or even abolishes – obsolete, rigid, impractical or unnecessary legislation. But the Commission must also refrain from proposing measures that do not promote competitiveness and hence prosperity and wellbeing in Europe.

In his foreword to the Final Report of the High Level Group on Administrative Burdens, the group's chair, Dr Edmund Stoiber, notes how ever more detailed rules have turned Europe into a "bureaucratic monster" in the eyes of the public. This is the kind of image the EU simply cannot afford to have. Nor can we afford to have too much regulation, or regulation that is burdensome, inconsistent or overlapping. Failing to take better regulation seriously is costly not only for Europe's companies, but also for its citizens and the European project. It has been estimated, for instance, that the High Level Group's proposals for cutting red tape would make savings of EUR 41 billion a year. According to Germany's National Regulatory Control Council (Nationaler Normenkontrollrat), at least half, if not 60%, of the regulatory costs on business comes from EU legislation.

There are some simple principles to better regulation: Regulate only when it really does have added value; avoid

unduly detailed regulation that leads to "micromanagement"; and dismantle excessive regulation. Less is more.

The current Commission's work programme gives some faint hope that the EU might manage to exercise some degree of regulatory self-restraint. But that is not enough. In addition to cutting the amount of proposed new regulation and making sure that no new regulation is introduced without assessing its impact on competitiveness, the EU also needs to take a long, hard look at its current legislation and take bold steps to lighten the regulatory burden. In a rapidly changing world, there needs to be scrutiny of whether, for instance, existing regulation still supports the objectives it had when it was adopted. Particular attention also has to be paid to the effects of EU regulation on SMEs and entrepreneurs. The "Think Small First" principle requires EU institutions to take SMEs' interests into account at the very earliest stages of policymaking in order to ensure an approach that better caters to their needs. Finally, a specified net target should be set for reducing regulatory costs and administrative burdens.

We need common rules in the Single Market, but those rules need to be fit for purpose. Better – or smarter – regulation is evidence-based, clear, simple, coherent and takes into account the longer term. The impact of the EU's policies and legislation on its global competitiveness also has to be factored in and no unilateral commitments must be made that undermine that competitiveness. In short, there has to be a level playing field both inside the EU and globally.

There must be an effective competitiveness check for all proposals. Ex post evaluations are needed in addition to ex ante assessments. These must take into account the cumulative effects of existing legislation in different policy fields and the impact of the planned new regulation.

Systematic and comprehensive impact assessments scrutinised by an independent body and updated in the course of the legislative process are the key to putting the principle of better regulation to practice. In addition, EU policies and measures must be meticulously planned following

comprehensive consultation with the relevant stakeholders, especially business.

The European Parliament and the Council, the two equal partners in the legislative process, must also take responsibility for better regulation. This means that when they propose amendments, the impacts and costs of these should be assessed transparently and systematically.

The expected negotiations on the Inter-institutional Agreement on Better Law-making are the perfect opportunity to embed the principle of better regulation in all decision-making in the EU. Following this, there needs to be a real commitment from all the EU institutions to putting this principle into practice.



Finally, better regulation also means better implementing existing rules. EU legislation must be applied to the same high standards in all the Member States and the Commission has to monitor for consistency more effectively.

The EU is not always the only culprit behind the frustration and expense of poor regulation: Member States are often overzealous in implementing EU measures and add layers of regulatory and administrative burden by "goldplating". This must be avoided and Member States, too, should have better regulation high on their agendas.

First Vice-President Timmermans is expected to report to the Commission later this spring on how its approach to better regulation could be strengthened. This could result in new guidelines on impact assessments and ex post evaluations. Our debate with him at the EESC Plenary in March is an excellent chance for the Employers' Group to present its views and vision on better regulation and so contribute to that ongoing assessment.

The EESC, too, has to make the better regulation principle more visible. The Best Practices on Working Methods play an important role in this regard. The Employers' Group is fully committed to promoting better regulation and spotlighting it in our agenda. For instance, the EESC is carrying out a study on goldplating at the group's initiative. The Employers' Group has also requested a study on better regulation that would improve existing analysis of how well the principle is being implemented in the EU.

If business is to be successful it needs a space in which to create, innovate and compete and it needs legal certainty and predictability. The EU must finally acknowledge that too much distrust and overregulated markets will not provide the opportunities we need to create growth, jobs and wealth.



About the author:

Jacek P. Krawczyk

President of the Employers' Group

Vice-president of the Polish

Confederation Lewiatan

Towards a new green growth model for SMEs in the EU

European companies are progressively building sustainability into their strategies, together with a new culture of innovation, with a view to securing competitive advantages. It is widely believed, from top management down to customer contacts, that these changes will produce the expected results, rapidly creating a win-win situation. Both business organisations and trade unions emphasise the importance of skills, calling for more information and guidance on developing green skills for efficient use of resources by SMEs. It is clear that European SMEs are increasingly efficient in seizing opportunities, and are contributing to the shift towards a low-carbon economy. This trend also emerges from the latest Eurobarometer survey on SMEs, resource efficiency and green markets. What then might be the best ways to help SMEs to turn environmental challenges into business opportunities?

There is a need for a well-defined, consistent and long-term EU framework that should be discussed with all the stakeholders and steer clear of excessive regulation, fostering links between R&D, innovation and energy, climate policy and efficient energy infrastructure, with new storage capacities.

The Green Action Plan proposes a green growth model for SMEs, requiring not only a wholesale culture shift, with a powerful boost to innovation and research, but also substantial investment in technology, education, organisation and training for new job profiles, financial engineering and appropriate tax policies.

In practice, the shift to a circular economy obliges producers, workers, consumers and people in general to make real changes to their attitudes towards the use of resources and raw materials. Products must be eco-designed; proper market and business opportunity must be identified and - most importantly - new methods for processing waste and resources must be sought.

The European Economic and Social Committee (EESC) argues strongly that in order to make this new green growth model effective, backing must be given to a consensus-based, participatory transition to a circular economy in Europe. This could open up a wide range of opportunities for micro-, small and medium-sized enterprises and for the social economy. The circular economy could become the main driver force for growth on both the international and internal markets.

To this end, we believe that priority should be given to:

- devising and promoting broader application of the voluntary green audit mechanism by companies;
- promoting access to credit through financial engineering and guarantee systems;
- financing eco-innovation for micro- and small enterprises, particularly in a number of demonstrator regions, that can show-case systemic eco-innovations;
- consolidating in-company training and tutoring measures;
- supporting a circular EU market for materials, parts and intermediate products, especially for by-products of building renovation;
- promoting education and training for positive development of skills, particularly in technical and professional training systems that involve social interest groups;
- launching a "circular eBay" based on European and international technical standards.

An integrated policy approach is crucial to harnessing the job-creation potential, based on proper access to new occupations and to meet the challenges inherent in the transition to a non-linear economy. Special attention should be given to enhancing communication, in order to address the range of major challenges represented by new training, jobs and organisational models.

This new green growth model is particularly important in order to stabilise primary and secondary resources in Europe, and could serve as a valuable factor for security of supply and for the EU's trade balance. It is also the ideal solution for small businesses, entrepreneurs and start-ups, as they would be able to react faster to the changing demands of the market and of occupations, enhancing their models from the outset in order to tap into these trends.



©iStock

About the author:

Antonello Pezzini

Member of the Employers' Group
Representative of the Italian Confederation
of Industry (Confindustria)



SMEs have much to gain from TTIP

European SMEs and their leaders and employees stand to be the main beneficiaries of an integrated transatlantic market in goods and services. Integrated multinational corporations in the form of subsidiaries and distribution networks on either side of the Atlantic are in fact already benefiting from these springboards for growth and jobs. But SMEs are not yet sufficiently quick off the mark in terms of their ability to identify opportunities.

SMEs – the backbone of both economies

According to the EU definition of SMEs (fewer than 250 employees and less than EUR 50 million turnover), there are over 20 million small businesses in Europe, representing 98% of all European businesses, 67% of jobs and 58% of added value.

The United States have even more SMEs, 28 million, accounting for 99% of total businesses and 50% of jobs in the private sector. However, they are defined differently: a business which employs 500 workers, and as many as 700 or 1000 in certain sectors can be considered as an SME.

Disproportionate adjustment costs of regulatory change

SMEs and micro-enterprises face a number of constraints when it comes to expanding into international markets. They often lack the necessary financial resources to meet transport and logistics costs, customs duties and customs formalities. Nor do they always have competent, multilingual staff who can establish a foothold in foreign markets, identify customers and devise a business strategy. However, gaining access to the US market calls for plentiful supplies of such resources, since it caters for affluent, sophisticated consumers market who have an abundant supply of goods and services and are accustomed to having their rights respected, not least in the courts. According to an OECD estimate, the cost of complying with all the regulations that apply in a new market is as much as 10 to 30 times higher for an SME as it is for a large company.

A wide range of opportunities

SMEs would benefit immediately from the removal of customs duties in sectors where these are still high, such as textiles, clothing, shoes and ceramics, as this would enable them to offer their clients more competitive prices.

If it goes ahead, regulatory convergence would result in immediate savings in sectors ranging from chemicals,



cosmetics, medical devices and vehicles to textiles and clothing. There will no longer be a need for a compliance test in the US for products that are ISO-or US-certified by a European laboratory. It should allow us to end the duplication of expensive inspections carried out by US or EU authorities.

A need for specific support measures

In view of these economic challenges, we have high hopes of the SME chapter in the TTIP. For the time being, the European Commission's priorities are the following:

- formalising the existing cooperation between authorities responsible for SMEs and trade in the US and the EU;
- establishing a free information portal on access to both markets;
- create an SME Committee with attributions which are still unclear

We expect other more substantial measures, including:

- a closer involvement of civil society in the transatlantic dialogue dedicated to SMEs;
- active promotion in the Member States and their regions of opportunities arising from the transatlantic market
- a fresh impetus for a European policy in favour of SMEs which draws inspiration from US "best practices" (for example, in the field of access to public procurement)

About the author:

Emmanuelle Butaud-Stubbs
Member of the Employers' Group
Union of Textile Industries



Belgian Supply Chain Code of Conduct: lead by example

There has always been, and always will be, pressure on the relationships between farmers, producers and retail. Belgium is no exception to that rule: the agro-food chain is a complex one, with many operators involved. Emotions often run high when there's pressure on margins. The agro-food chain platform that was established in 2009 offers all players the opportunity to bring their issues to the table, and to work together on a solution. The recently introduced Code of Conduct for Fair Relationships between suppliers and purchasers brings the platform to a new level.

Comeos, the Belgian federation for commerce and services, took the first step to set up framework where all operators in the agro-food chain could meet. Back in 2009, there was a severe crisis when milk producers challenged the retail to offer higher prices for their product. Once the dust of the protests was settled, the framework was set up. Ever since, all operators have tried (and often succeeded) to find solutions for their problems.

The main goal of the platform is to guarantee that all operators make a decent living out of their profession. That might sound obvious, but it's not. We live in a market that's steered by demand, on a global level. Local farmers can't always anticipate and find themselves in a weak bargaining position, retailers are facing demanding consumers who seek the lowest price. Margins all through the supply chain are under tremendous pressure.

The framework has ensured there is always a dialogue between the different operators. It is a platform where concerns are raised, where measures are proposed and negotiated, where solutions are found.

The Code of Conduct is a logical next step in that process. While it is a national initiative, it has been officially recognised at European level. The framework and the Code are a direct response to the European Commissions' demand for a better functioning of the food supply chain.

The options for the framework were limited. Either we waited for a regulatory initiative – be it on a national or a

European level – or we took the lead in setting up a working solution. We obviously went for the latter. The Code adheres to principles of good practice, in strict compliance with competition and other applicable laws. Suppliers and purchasers exchange general information on markets and consumer trends, to enable the supplier to match supply and demand, and – if possible – diversify or adapt to those circumstances. The main goal is that all operators work on a sustainable development of the whole agro-food chain, taking the consumers' interests into account.

The Code is now signed by all major operators. Those organisations or federations that haven't recognised the Code yet, are invited to do so. We see three major dimensions:

Society (a decent income for both the employee and the employer); **Environment** (an activity with minimum impact on the ecological system) and **Economy** (a sufficient economic return so that all links in the supply chain have continuance).

If there is a breach of the principles of good practice, the disputes are settled as soon as possible. This can be done on an individual base

(when a supplier is unhappy with the way he's treated by a customer), or aggregated (when several of the members of an organisation are affected). In both cases, purchasers and suppliers are dedicated to the consultation model as a strategy to resolve disputes in their relations.

Both our initial framework and the Code are highly appreciated by other member states, and they serve as an example on how to deal with the delicate relationships between operators.



©iStock

About the author:

Dominique Michel

Member of the Employers' Group
CEO of Comeos, Belgian Federation
for Commerce and Services



What influence does the UK have on EU employment legislation and how could this be improved?

EU employment legislation has resulted in British workers being given a wide range of individual and collective employment rights due to the implementation by the UK Government of a number of EU Directives. In some cases such as anti-discrimination legislation and family friendly policies, this has built on and extended existing domestic legislation. In other cases such as paid annual holidays, working time arrangements, equal treatment for atypical workers and information and consultation rights, this has resulted in legal rights being introduced for the first time for British workers.

The extent and range of employment rights that British workers have gained due to the implementation of EU Directives would probably be a surprise to most of them. This is because British Governments, of all political persuasions, have been rather reluctant to tell British workers that these new employee rights are the result of the implementation of EU Directives.

When they have explained these rights to them – and that has also not always been the case – they have often implied that they have come from the UK Government rather than the EU. This is of course in sharp contrast to British Governments of all political persuasions and, of course, the British press being only too keen to blame the EU for any European legislation that they do not really like – even though in many cases both Ministers and UK MEPs have been actively involved in its development.

It is often argued that the UK and, in particular, UK business has insufficient influence in the complex process for drawing up and agreeing EU employment legislation. Based on

my personal experience of representing the views of manufacturing employers in Brussels for nearly 20 years, I would however argue that the UK does fairly well and that, in many areas and especially through its civil servants in Brussels and London, it often “punches above its weight”. Nevertheless, I feel there are a number of ways in which this could be improved and made more effective so that it is better suited to the UK’s flexible labour market. These include:

Greater transparency about the EU legislative process

The EU employment legislative procedure is complex and difficult to understand, particularly for British citizens who are used to our model of Parliamentary democracy and method of drawing up legislation. It also often involves compromises having to be reached between the key players in Brussels which can require formal discussions behind closed doors or informal “corridor discussions” during meetings.

Whilst some of this is inevitable, having a more open and transparent way of reaching agreements on EU employment legislation would be helpful and create a better understanding of what was happening and why. A good place to start would be for the EU social partners to be more open with those they represent when deciding whether to negotiate on prospective EU employment legislation, drawing up the mandate that they have for these negotiations and explaining how these negotiations are progressing. In my experience, it is sometimes only when an agreement between the EU social partners has almost been reached that detailed information about its content is made available and then sometimes only on a “take it or leave it” basis. This does not really create trust and confidence in the EU legislative process.

Stronger Business Voice in Brussels

The voice of UK business needs to be even stronger in Brussels and this would be helped if more British MEPs had a business background in both large and small companies and were prepared to take a greater interest in employment issues when they are debated in the European Parliament. It would also be very helpful (although I suspect very unlikely given the current UK political scene) if David Cameron listened to the views of some of his own MEPs as well as the representatives of most business organisations and brought Conservative MEPs back into the EPP Group. This would then give them



far more influence in the European Parliament.

BUSINESSEUROPE also needs to be better resourced as the ETUC seems to have more employees and better research facilities to support its work. In an environment in which it is important for business to encourage the European Commission to undertake evidence-based policymaking, BUSINESSEUROPE needs more resources, both in terms of people and access to high quality research, to support its arguments.

Make some existing employment legislation “fit for purpose”

One of the most controversial EU Directives for British business is the Working Time Directive. In particular, there has been heated debate for many years about whether or not workers should be able to opt out of the maximum 48 hour working week averaged over 17 weeks.

The Commission has made some unsuccessful attempts to try to resolve this issue over the last 10 years. It is now again consulting on what changes need to be made to this Directive and will then probably publish another proposal later this year. Unfortunately, I see no realistic chance of a compromise being reached on this increasingly “political” and totemic issue between the European Parliament and the Council of Ministers as well as between the EU social partners.

Now could be the time to consider a different approach and recognise that the Working Time Directive was drawn up in a very different era when manufacturing was still predominant across much of the EU. There was also not the range of modern communications technology that has changed significantly the way in which many people work. Rather than trying to amend the current Directive, the Commission should perhaps be encouraged to draw up a new legislative proposal on working time and annual holiday entitlement which better reflects today’s European economy and labour market as well as the way in which many of us now work.

Addressing the impact of ECJ decisions on EU employment legislation

There have recently been an increasing number of cases where the ECJ has made some significant interpretations of EU employment legislation which have created practical difficulties and imposed costs for many employers, especially in the UK due to its different employee relations history and culture.

Whilst the ECJ’s important role of interpreting the meaning of EU legislation needs to be retained, some changes could be made to the ECJ’s decision-making process and how its decisions are then applied, although I suspect these are unlikely to be welcomed by the legal profession. One idea would be that, when the ECJ announces its decision, an



impact assessment with associated costs has also to be published setting out the practical effect of its decision on all Member States. Another idea would be that, rather than an ECJ decision coming into effect immediately, there should be a “cooling off” period of, say, 12 months before this happens. This would then give the key players in the European legislative process time to consider whether and how they needed to amend existing EU legislation in the light of this ECJ decision.

Having spent most of the last 20 years representing the views of employers on European employment legislation, I feel strongly that the UK needs to continue to be part of the EU, a view that I think is held by many British businessmen. However, I also feel that, as I have explained above, there are some important things that need to be changed so that the EU is reformed and becomes more “fit for purpose”. But I think there is a much bigger picture which, unfortunately, is often overlooked by many people when discussing EU issues. I have 2 sons who are currently aged 19 and 25 and I am very grateful to those who founded the European Union that neither my nor my sons’ generation have had to fight their fellow Europeans as my father’s generation very sadly had to do. I feel this is a price worth paying for the problems that we have with Europe today and which, if we really put our minds to it in a thoughtful and constructive way, I think are by no means impossible to resolve.

This article is based on a lecture given at the University of Greenwich on 8 October 2014. Full version can be found on the Employers' Group website: <http://www.eesc.europa.eu/?i=portal.en.group-1-new-news.35106>

About the author:

David Yeandle OBE

Member of the Employers’ Group
Director, Government Relations of
European Employers Group



Portuguese business eager to forge closer cooperation with the Employers' Group

Energy policy, transport policy (in particular investment in infrastructure) as well as TTIP and business aspects of healthcare systems – these were the topics of discussion between the president of the Employers' Group, Jacek Krawczyk, and the delegation from the Confederation of Portuguese Business (CIP).

"Energy prices and further development of transport infrastructure are crucial for growth of trade in the EU. Portugal and Spain would like to take on the role of new gateways for trade for the EU", stated José António Barros, president of the AEP (Portuguese Business Association) and 1st vice-president of the CIP. He emphasised the importance of TTIP not only for boosting trade but also for reducing energy prices in Europe. Portugal and Spain have already developed infrastructure that would allow cheaper LNG to be imported from the US (there are 7 LNG terminals operating in Portugal and Spain).

"The priorities of the CIP and the Employers' Group are in many cases convergent, therefore there is a field for close cooperation between us", stated Jacek Krawczyk, president of the Employers' Group. He presented EESC activities concerning TTIP and encouraged Portuguese employers to even more actively support the agreement.

In June 2015, the Employers' Group, together with the Confederation of Portuguese Business, will hold a conference entitled "Innovation across Europe", which will provide an opportunity to address a number of issues discussed at the meeting in the presence of a wider audience.



New Member of the Employers' Group

We would like to warmly welcome a new Irish member of the Employers' Group, Mr Erik O'Donovan, who has replaced Ms Heidi Lougheed.

Mr O'Donovan has been head of Ibec Europe, an organisation representing Irish business, since October 2012 and is its permanent representative to the European institutions and BUSINESSEUROPE. He is responsible for the management and development of Ibec's office and executive team in Brussels as well as the development and implementation of Ibec Europe's strategy and business plans.

Between 2008 and 2012 he served as Ibec's senior energy and climate policy executive. From 2003 to 2008 he was a director of the Irish Waste Management Association (IWMA). Between 1999 and 2008 he was an Ibec environment executive, responsible for development and delivery of information and commercial environmental services for Ibec members and clients.

In 1997 Mr O'Donovan worked as an analytical chemist at Rhône Poulenc Rorer Natrapharm Ireland Ltd. and between 1996 and 1997 was an editor of scientific journals at Elsevier-Datapage International Ltd.

He holds a bachelor's degree in analytical science, a master's degree in environmental science, a diploma in applied European law and a master's in economic policy studies.



Address:

European Economic and Social Committee
Employers' Group
Rue Belliard 99
1040 Brussels
Belgium

Telephone: +32 (0) 2 546 82 07

Fax: +32 (0) 2 2 546 97 54

E-mail: gr1@eesc.europa.eu

www.eesc.europa.eu/employers-group



@employers_EESC



EmployersEESC