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SIMPLIFICATION, OMNIBUSES OR HOW TO REALLY NAVIGATE THE LABYRINTH OF EU LAW AND REDUCE THE REGULATORY BURDEN

Punishing European companies

In Europe, up to 6% of our workforce is busy just keeping up with compliance—while only 1.7% are driving innovation in Research and Development. The EU acquis now exceeds 365,000 pages of legal documents.

There are many more statistics one could cite to illustrate the imbalance and the burden that regulations are putting on business, employers but also on workers and citizens in Europe. Regulatory burdens in the EU have increased despite simplification efforts, impacting business competitiveness, particularly for SMEs. The EU is turning into a modern version of the Minotaur legend of Greek mythology. Businesses are getting stuck in a labyrinth of laws, unable to escape without assistance.

Now, the help that is being provided has taken the shape of so called 'omnibuses' - basically another regulatory tool to help improve regulation. The goal is to streamline and ideally simplify regulatory requirements and obligations. However, the omnibuses will not help businesses find their way out of the labyrinth. They are, in fact, not designed to do so. In some cases, they simply just move the deadline of entry into force of regulation or in other cases, they adjust requirements that were designed badly in the first place.

So, instead of incremental steps, which to this day have not even reached the business community and thus did not actually reduce any burden, the Employers' Group in the European Economic and Social Committee is advocating for a different approach: an AI-based tool to screen European regulation and how it is being transposed and implemented on the national level. Both EU regulations and directives take on very different shapes once they reach the respective national or even the sub-national level of the Member States. Using specifically trained AI models, it is possible to compare these different instruments and identify the least burdensome approach for companies.

As EU legislation regularly comes up for revision, this offers a great opportunity to turn that least burdensome implementation into the standard for all. This would lead, step by step, to a real cost reduction for companies without giving up on protection of workers or the environment.

Currently, though, the debate in Europe is fraught with distrust. Any call for burden reduction by the business sector is spun by opposing actors into an attempt to do away with social or ecological safeguards, regardless of its actual impact. This has led to complicated terminologies, ranging from 'better regulation' to 'simplification', leaving businesses, entrepreneurs and employers at a loss to know what is behind these concepts.

Is it really necessary for a small business to go through ten audits each year; each one asking the same questions but for different compliance purposes and requirements? Is it really necessary that a university professor from one EU Member State, giving a presentation at a partner university in another Member State has to fill in a form (A1) stating that he has indeed social security insurance and his employer is up to date with all other social requirements? The General Data Protection Regulation (GDPR) is, as the name suggests, a regulation and should hence be implemented uniformly in all Member States. Unfortunately, this is not the case, and internationally active companies have to research and comply with different requirements in the individual Member States.

All of this impedes the EU internal market and deters economies of scale, thereby turning the EU's most important economic asset into a fragmented labyrinth. The call for reducing the regulatory burden therefore is explicitly not a call to downgrade workers' or environmental protection but a call for European businesses to be able to focus on production, innovation, productivity and competitiveness. To achieve this, omnibuses are not nearly enough.

There is not 'the' one single action that will, in one all-encompassing sweep, cut away all red tape. That is however, neither the expectation nor the demand. A regulatory framework, as promoted by German ordoliberal economist Walter Eucken, is the basis for a social market economy, ensuring free, competitive markets but preventing monopolies and protecting social welfare and aiming for a level playing field and social cohesion. These should be the guiding principles for Europe's regulators: create a robust legal framework, define the rules of the game but avoid direct intervention and process management. Crucially though, only enforcement of the rules will make the market work for everyone.

The role of the EU and the national authorities is therefore, to ensure that regulation is actually applied. If compliance with certain agreed social and environmental standards is necessary for a product produced in Europe, then a similar product from a non-European and

non-compliant competitor must not be allowed to enter the internal market. When Member States lack market surveillance capacities and enforce regulations only selectively, they undermine Europe's businesses, as well as the economic foundation upon which the internal market is based. The result is that more and more companies are forced to cease their activities or abandoning Europe for other regions of the world. This is neither helpful for workers nor for society as a whole.

The current situation is thus punishing European manufacturers and service providers. They are obliged to comply with the regulations, while non-European competitors get away with treating the same set of rules merely as recommendations. One example is the Carbon Border Adjustment Mechanism (CBAM). Its current set up exempts so-called small importers from CBAM charges. It risks giving imported goods a competitive advantage over EU-produced equivalents, which remain subject to EU carbon costs. This reduces the competitiveness of European industry without contributing anything to the climate objectives.

A business-friendly Europe

The way out of this regulatory labyrinth or finding 'Ariadne's thread' that will help businesses navigate their escape, nowadays comes in the shape of AI. The new technological capabilities of large language models allow for a mapping, a comparison and an aggregation of existing obligations, both at EU and national levels. AI acts as an assistant, flagging inconsistencies and navigating the vast volume of data. It even makes it possible to assess burden levels, including the crucial cumulative burden. Making use of this, legislators can simplify and reduce some rules and requirements and integrate them better with existing business processes. Such a data-driven approach has the potential for better-designed regulations and policies, avoiding, if possible, overlapping, 'gold-plating' and incoherence.

Business-friendliness in this context is of course not limited to offering tools to the regulator. Providing companies, entrepreneurs and employers as the ultimate target of regulation with a better overview of the respective specific obligations that apply to them, out of the 365,000 pages of the EU acquis, would help them significantly reduce uncertainty and compliance costs.

In practice, this would require the establishment of an accessible, interoperable database of EU legislation and obligations, connected with databases in all Member States. There are several best-practice examples at the national level, e.g. in the Czech Republic and Poland, where digital tools are being used to support businesses in navigating a complex legal environment.

The EESC Employers' Group furthermore promotes the idea of an 'SME Indicator Company principle'. A concept designed to achieve broad regulatory impact: when burdens for indicator companies are reduced, all businesses subject to the same obligations benefit. By selecting indicator companies across multiple sectors, a large share of SME regulatory burdens can be systematically addressed. This would be in line with the call by the EESC for a more proportionate and supportive regulatory approach.

To make Europe an attractive place to do business again will not be achieved through the omnibus approach, outlined in the EU Commission's Communication "A simpler and faster Europe". The Commission's approach focuses on process and assumes that reducing obligations at the EU level will somehow automatically translate into tangible results for businesses on the ground. It leaves however an important gap unaddressed: the national implementation of EU rules by Member States, which results in fragmentation and undermining of the Internal Market. Instead, the way out of the labyrinth will be found through an active implementation tracking and comparison across Member States with the goal to identify and promote the most efficient regulatory practice.

To be sure, reducing the regulatory burden is a marathon, not a sprint. To motivated SMEs, entrepreneurs, founders and employers to give Europe a chance, all parts of the legislative chain, from the European Commission, to the European Parliament, to the Council and down to the national and sub-national level should undertake jointly to embark on that marathon, signal the political will to help European companies to be compliant, and drastically limit new regulatory initiatives. It is, as the EESC has made clear, imperative that definitions and implementation guidelines are standardized across EU Member States. A harmonised approach will reduce fragmentation within the Single Market, lower compliance costs for businesses, and ultimately strengthen the effectiveness of the directive.

Reducing regulatory burdens on companies, especially SMEs, in the EU is fully compatible with upholding environmental, social and human rights standards. It requires a proper consultation of the affected stakeholders and coordinated action on the European and national level with regards to implementation and enforcement. The necessary tools and expertise are available, now it needs the political will and understanding that the goal is not procedure, but outcome. Innovation and progress need space to flourish, and they are by definition disruptive. High bureaucracy related hurdles and costs for companies act as a brake on their ability to innovate and be competitive. The EU cannot afford to continue in a global race for economic leadership with the handbrake on and we need to actually help businesses find their way out of the legal labyrinth.