

ETUC position on the recommendations of the High Level Group on Administrative Burdens

Adopted at the ETUC Executive Committee on 21-22 October 2014

On 24 July 2014, the High Level Group on Administrative Burdens (HLG) adopted its final report with far-reaching recommendations to the EU institutions and Member States on how to cut red tape. The ETUC and NGO members drafted a dissenting opinion (attached) to express their criticism against a number of the proposals, which is annexed to the final report of the HLG. Most of the recommendations are about reducing regulation in Europe and should be refuted. They undermine the legitimacy of the state to regulate.

The ETUC has always held that it is important to consider how rules and regulations can best be designed to meet their objectives and does not oppose measures to improve the quality or efficiency of legislation. However, the ETUC does oppose the pejorative description of regulation as a burden. The purpose of regulation is to create an overall benefit to society. Although this may lead to a burden or disadvantage for certain stakeholders (e.g. there may be redistributive implications), it is wrong to label regulation in general as burdensome or costly.

The ETUC does not accept the proposal to set net targets¹ for reducing “regulatory costs” and “burdens”, which in its most extreme form means ‘one-in, one-out’. Every piece of legislation is unique and has a specific purpose and cannot be reduced to a cost or a burden only. Quantifying regulation in this way does not make sense and reveals a purely ideological approach to regulation where less is better. Any attempt at removing perceived regulatory burdens or costs must be carefully balanced by considering the benefits.

The ETUC does not agree with the recommendation to launch public consultations on draft impact assessments for all legislative proposals. The social partners have a special role to play in the field of social policy and cannot be equated with other stakeholders. Moreover, such a process would delay the decision-making process and make it unmanageable since stakeholders would most likely have conflicting views.

The ETUC rejects the idea to exclude micro-enterprises and SMEs from EU regulation. They represent the bulk of all companies in the EU, which means that only a small minority of companies would be covered by EU legislation. This discriminatory approach would prevent companies from competing on equal terms. More importantly, all workers in Europe have the right to the same protection regardless of the size of their employer.

The ETUC disagrees with the recommendation to put greater emphasis on alternatives to regulation. This shows what is really behind the better regulation agenda, namely cutting regulation for the sake of cutting regulation and not for the sake of improving the regulatory framework.

The ETUC does not support the establishment of an independent impact assessment body to scrutinise and “assess the evidence base and costs and benefits” of all legislative proposals including amendments proposed by the European Parliament and Council. Instead of facilitating the legislative procedure, it would make it extremely cumbersome and delay the adoption of legislation. Also, regulatory impact assessments often do not take full account of the social and environmental impacts associated with regulatory measures. There is a tendency to focus on the costs in particular for SMEs.

¹ Such targets would mean limiting the extent of EU regulation in an arbitrary way, for example by capping the number of measures that could be adopted. A “one in, one out” rule would mean that a new piece of legislation, regardless of its importance, could only be introduced if another were removed.

The ETUC opposes the proposal to have an independent European Ombudsman for complaints about regulatory burdens. The Commission has all the tools at its disposal to deal with complaints about regulation, so there is no need for any new institutions nor amending the mission of the current Ombudsman. The ETUC believes that too much resources have already been spent in trying to identify regulatory burdens for companies, not least through the 7 years of existence of the HLG and various consultations (Top Ten) organised by the Commission.

The ETUC refuses the idea of gold-plating² and the proposal to make “the burden of gold-plating” more transparent. Having higher standards at national level than the minimum standards agreed at EU level is not gold-plating, but a legitimate goal for any Member State which is seeking prosperity for its people.

The ETUC insists that the question of the advantages and disadvantages of a piece of legislation may not in any way be limited to short-term savings resulting from deletion or modification of this legislation. The social and environmental impacts of legislation which only become fully apparent over the medium and long term, must be at the heart of a real approach to better regulation.

² *Condemning Member States for improving on minimum provisions when implementing directives, on the grounds that they are 'gold-plating', undermines legislation in the area of social policy and workers' health and safety. Many EU laws comprise minimum standards that governments adopt as a base marker, which nobody should fall below. To achieve social progress in Europe, Member States must be able to apply higher standards where possible.*

