

ETUC declaration on 'Better Regulation'

Adopted at the ETUC Executive Committee on 17-18 June 2015

The 'Better Regulation' package¹ published the 19/05/2015 by the European Commission is supposed to ensure better, simpler, less burdensome EU regulation.

The ETUC supports this aim. We want good regulation to protect workers, which is simple to apply and enforce. Legislation should avoid unnecessary bureaucracy and cost. EU legislation can also be more effective if it replaces national legislation in the 28 member states.

In reality, the 'Better Regulation' package puts the supposed needs of business above all others; turns minimum standards into maximum standards; puts a value on impact assessments that they do not have; brings a longer, costlier and more bureaucratic procedure that will risk delaying social progress; makes it more difficult for elected EU institutions to change European Commission proposals and could undermine the principle that EU law applies equally to all. In short, it adds red tape, slows down progressive change and de-democratises Europe. These unwelcome changes are also contained in the new Inter-institutional Agreement².

Social partner agreements

The ETUC insists that the Commission better regulation agenda must respect the autonomy of the social partners and their role as legislators as set out in the treaties. The ETUC is therefore concerned that the Commission states that social partner agreements intended to be Directives³ must first undergo impact assessments focussing in particular on the representativeness of the signatories, the legality of the agreement and a subsidiary and proportionality check.

The ETUC does not consider that these three elements constitute an impact assessment. They are already part of the current process. Going beyond this, by submitting an agreement between trade unions and employers to impact assessment, is not acceptable.

The ETUC rejects the claim that the Commission has the right (under Article 155 paragraph 2 TFEU) to decide whether or not to present to the Council a social partner agreement if the signatories request it.

Putting business above all others

The European Commission appears to view legislation as having to benefit SMEs and avoid placing a 'regulatory burden' on them.

The ETUC opposes the choice of one sector of society, business, as the primary beneficiary of 'better regulation'. The ETUC believes legislation should have a societal benefit, and that the needs of businesses do not come above those of workers or, for example, the environment.

The ETUC believes that proposing a "lighter regime" for SMEs and an "outright exemption for micro-businesses" leads to unfair competition, and undermines the basic

¹ Better Regulation Package published on 19/05/2015 by the European Commission

http://ec.europa.eu/smart-regulation/index_en.htm

² Interinstitutional agreement is an agreement between the three Institutions about better coordination during the legislative procedure

³ http://ec.europa.eu/smart-regulation/guidelines/docs/br_toolbox_en.pdf

principle of EU legislation applying equally to all. It should be noted that 85% of all employment is in SMEs. Workers must enjoy the same protection regardless of the size of the company.

No evidence is provided to show that any potential cost-savings for business would be invested in innovation and the workforce.

Improving minimum standards

The ETUC objects to the Commission asking member states, as a rule, to not go beyond what is 'necessary' when they implement EU legislation. By doing this, the Commission is turning what are often 'minimum standards' into 'maximum standards' maximum standards which is an infringement of the treaties. The Commission should rather insist on member states' right to improve standards. This is especially important in the social field to ensure social progress.

The ETUC is particularly concerned that the Refit programme has led to a Health and Safety strategy that contains no legislative proposals, and has delayed much needed improvements to existing health and safety legislation.

Impact assessment

The ETUC does not accept that impact assessments are necessarily a neutral technical instrument. Instead they are frequently used as a political tool, not only by delaying legislation, but also by making recommendations based on a model biased towards economic interests on the short term and dismissive of, or even blind to potential long-term benefits.

A long, costly and bureaucratic legislative procedure

Instead of making EU legislation more effective, the ETUC considers 'better regulation' to be erecting several new barriers to the legislative procedure: introducing a major increase in impact assessments and public consultations, establishing a "Regulatory Scrutiny Board" that will have to issue a positive opinion before any new initiative can be taken and a "REFIT stakeholder platform", and proposing 'independent' panels for impact assessments in each EU institution. The ETUC does not agree that one EU institution should be able to impose impact assessment upon another institution. As to the REFIT stakeholder platform, the ETUC calls for a balanced representation of different interest groups so as to avoid another Stoiber group.

The ETUC believes that citizens' disillusionment with the European project is reinforced by the lack of new social legislative proposals, and this new system further limits the possibility of social progress of the EU. The ETUC warns that this risks further discontent with the EU.

A more democratic Europe?

The European Commission asks the European Parliament and Council to carry out an impact assessment if they significantly change Commission proposals during the legislative procedure. The ETUC considers this to be a blatant attempt to make it more difficult for the EU's democratically elected institutions to change Commission proposals.

The ETUC condemns this 'power-grab' by the European Commission, and notes that it is contrary to President's Juncker's commitment to a more democratic Europe.

Transparency?

The ETUC notes that the European Commission's commitment to assessing impact did not apply to the 'Better regulation' package, and that its stated commitment to transparency and consultation did not extend to discussing its 'better regulation' package with the European Parliament.