



## ETUC Position on the Better Regulation Agenda – for people and planet, not for profit

Adopted at the Executive Committee meeting of 10-11 December 2024

In a Union founded on the rule of law, human rights and democracy, **regulation should serve the general interest**. A highly competitive social market economy is a tool to drive sustainable development, full employment, social progress and a high level of protection of the environment, as fundamental EU objectives set out in Article 3 TEU. Clearly, competitiveness is not an end in itself and market forces do not stand above the law. Any efforts to make EU law clearer, simpler, more effective and accessible should deliver in the interest of people and planet, not for the sake of power and profit of businesses. **Democracy, regulation, social dialogue and collective bargaining are all needed** to answer to the social and environmental calls of our time.

ETUC is concerned about a resurfacing EU deregulation agenda, as clearly reflected in the 2024-2029 Political Guidelines of the Von der Leyen II Commission and mainstreamed across the Mission Letters of all incoming Commissioners. A narrative on EU legislation as burdensome is reductionist and represents a threat to the European project. This EU bashing undermines trust in institutions, feeding Euroscepticism and the far right. A deregulatory approach to competitiveness has no place in a Europe where protection gaps and violations of workers', trade union and social rights persist, as a result of non-compliance, lax enforcement, impunity and regulatory loopholes.

The push for reduced administrative, reporting and regulatory costs and burdens prioritises business interests over **democracy and societal needs**. The general interest is not only composed of businesses, but also workers and trade unions, consumers, citizens and communities, regions, public authorities and the environment. By almost exclusively focussing on the quantification of short-term economic costs for compliance and adjustments, the Better Regulation Agenda ignores **positive social, environmental and economic impacts of quality legislation as a long-term investment** for society.

As much as the 2020 pandemic demonstrated the need for regulation to act in the public interest and manage a crisis, likewise the 2008 financial crisis illustrated how failure to regulate can even cause a crisis, and in what ways deregulation and marketisation can have devastating consequences for the European social fabric and public services. The EU cannot afford a return to austerity. Over the years of European integration, **the cost of non-Europe has proven to be much greater than the regulatory investments for a more Social Europe.**<sup>iii</sup>



ETUC recalls its 2020 Resolution on EU Better Regulation for All<sup>iv</sup>, and will continue fighting to preserve and strengthen workers' rights and the EU social *acquis*, and prevent any downward pressure on wages or collective bargaining.

ETUC calls for a Better Regulation Agenda that recognises the **merits of quality law-making in terms of purpose and added value for society**, and not in terms of costs and savings for businesses. There are countless scientific studies demonstrating the societal benefits regulation can bring in monetary and non-monetary terms, as well as the negative impact harmful business practices have in terms of rising inequalities, labour exploitation and ecological disruption. Still, these aspects are not seriously taken into account in EU policy-making. At the same time, no consideration is given to the **actual costs or claimed benefits of the Commission's own working methods**, given all the resources, internal procedures and boundaries it imposes on the legislative process.

ETUC demands a **Social Progress Test to be added to the Better Regulation Toolbox<sup>v</sup>** to ensure that all policy proposals are socially responsible, promote social dialogue and collective bargaining. This should be overseen by the European Social Dialogue Envoy<sup>vi</sup> to rebalance the Better Regulation Agenda, since the new Competitiveness and SME Tests only reinforce its current business bias. The Commission's impact assessments should pay as much attention to social and environmental aspects as economic ones, and with the same level of detail, specifying also the **costs of in-action and assessing the long-term effects of the 'one in, one out' policy** on all relevant stakeholders.

In the same vein, the forthcoming renewal of the **EU Interinstitutional Agreement on Better Law-Making** should address these imbalances by strengthening the assessment of qualitative impacts. This should include a **reform of the Regulatory Scrutiny Board** to ensure it lives up to democratic standards in terms of transparency, expertise and representation, with clear checks and balances on the exercise of its mandate. ETUC rejects an interinstitutional negotiation led by the Commission with the aim to simply push its own restrictive methodology onto the European Parliament and Council to assess substantial legislative amendments, thereby risking to further delay, limit and pre-empt the democratic process. Instead, the agreement should **respect the margin of manoeuvre of the co-legislators and improve the transparency and accountability** of the legislative process.

In the name of European competitiveness, the Von der Leyen II Commission aims to stress-test the entire EU *acquis*. This will be coordinated by a dedicated Commissioner for Simplification and Implementation, tasking every member of the College with identifying possibilities to simplify legislation and implementation, and to reduce administrative burdens and reporting requirements for businesses. This **short-sighted approach to competitiveness** is echoed also in the 2024 Draghi Report on the Future of European Competitiveness<sup>vii</sup> which praises the European social model, but fails to make the link between high living standards and quality legislation, instead calling for the EU to exercise regulatory self-restraint. Similarly, the 2024 Letta Report on the Future of the Single Market<sup>viii</sup> recommends more liberalisation and the use of regulatory sandboxes, criticising the EU for a risk-averse approach to regulation, thereby completely disregarding the precautionary principle under the Treaties. On the contrary, **future-proof regulation** helps stimulate and shape innovation, ensuring it delivers in the general interest and without undermining or circumventing existing rights and standards.

The protective and redistributive effects of legislation pave the way for a **more equal and cohesive society with a level playing-field**. Improved working and living conditions cannot be considered a drag on competitiveness, but are key components



for a fair, sustainable and resilient economy. Bad working conditions, poor wages and abusive employment practices are root-causes to unfair competition, labour shortages and extractive business models seeing profits siphoned off in dividends and bonuses instead of being reinvested. Being serious about competitiveness means being serious about delivering **quality jobs** in every sector and in every region, with **better conditions and higher wages**, through reinforced social dialogue, collective bargaining, and effective democracy at work.

ETUC rebuffs **accusations of ‘gold-plating’** of EU directives and strongly rejects approaches based on maximum harmonisation, aiming to replace directives by regulations, or legislation by delegated and implementing acts, or even worse, by private, undemocratic norm-setting mechanisms. Setting higher standards at national level is a legitimate goal for any Member State under the Treaties. In particular EU social policy measures are implemented via directives to **respect the specificities of national industrial relations systems and the unique role of the social partners**. Social dialogue and partnership are inherent to the European social model and democracy at all levels. Bearing the prerogatives of the social partners in mind, the **EU Social Dialogue and Social Partner Consultations** must not be undermined by Open Public Consultations, Citizens’ Panels, Implementation Dialogues or Reality Checks undertaken by the Commission. For these instruments to effectively contribute to better law-making, they need to guarantee democratic and transparent processes with balanced and representative participation, involving also trade unions.

ETUC regrets that the Commission’s approach to enforcement is mainly focused on implementation and infringement proceedings rather than ensuring better application and oversight on the ground. Also when it comes to digitalisation, its potential cannot be limited to simplification, but **digital tools** should help to support better compliance and cross-border cooperation. Effective **monitoring and enforcement of applicable rules** require access to the necessary data to verify compliance, assess risks, better target checks, perform audits and inform future policy measures. However, these efforts risks being undermined by the Commission’s 25% (35% for SMEs) target for reducing **company reporting obligations**. This is yet another arbitrary measure which comes on top of the ‘one-in, one-out’ calculator and which has been set without any prior consideration to the policy objectives these requirements pursue. ETUC rejects such numerical targets which completely disregard the needs for effective application and enforcement of EU law. Likewise, ETUC has serious concerns about extending the **SME definition** to include also small mid-caps<sup>ix</sup>. Already the existing definition encompasses 99.8% of all companies in the EU, employing close to 90 million people and accounting for almost two-thirds of employment in the private sector.<sup>x</sup> Better Regulation should deliver better law-making for all, not enable cut-out solutions, resulting in double-standards or standard-setting for only a fraction of the EU economy.

ETUC recalls that the European Commission as Guardian of the Treaties should serve the general interest by promoting social justice and protection, equality between women and men, solidarity between generations and protection of the rights of the child, as well as economic, social and territorial cohesion, and solidarity among Member States. Set out in Article 3 TEU, these **fundamental EU objectives should be guiding also for the Better Regulation Agenda**, in a way that supports our shared efforts for constant improvements of living and working conditions in Europe.



## Annex I Examples on the impact of the EU Better Regulation Agenda

The **paradoxical nature of the EU Better Regulation Agenda**<sup>xi</sup> pursued by the Von der Leyen Commission has had a clear negative impact on the EU law-making process. In 2019, the EU executive unilaterally introduced a **‘one-in, one-out’** policy, without any legal base in the Treaties, prior consultation or impact assessment.<sup>xii</sup> It has proven to be an arbitrary book-keeping exercise, pushing for increased quantification and monetisation for the sole purpose of short-term cost off-setting for businesses, while at the same time ignoring long-term savings and qualitative benefits for people, planet and the public. It is far from policy neutral and does not contribute to legislative quality. These concerns are clearly identified by e.g. ETUI<sup>xiii</sup>, AK<sup>xiv</sup> and the European Parliament<sup>xv</sup>, but also reflected in Commission<sup>xvi</sup> documents.

In parallel, the **Fit for Future Platform**<sup>xvii</sup> established in 2021 has proven to be nothing but a continuation of the Commission’s former REFIT Platform, with unbalanced stakeholder representation, untransparent procedures and unpredictable choices of topics with little focus on actual future-proofing. While trying to portray this endeavour as a success, in 2024 the Commission informed that the Platform had held its final meeting.<sup>xviii</sup>

Despite several inquiries by the European Ombudsman, also the problems with the Commission’s **Regulatory Scrutiny Board** persist in terms of transparency<sup>xix</sup>, independence, diversified expertise<sup>xx</sup> and democratic legitimacy<sup>xxi</sup> to question, delay or even veto legislative proposals. The announcement of an SME Envoy that will participate in RSB hearings further contributes to these concerns.<sup>xxii</sup> In the same vein, the Ombudsman has also expressed concerns with how the Commission takes into account the feedback received via **Open Public Consultations**.<sup>xxiii</sup>

While the Commission publicly commits to ensure that a reduction in reporting requirements for businesses will not compromise on the EU’s policy goals or high social and environmental standards,<sup>xxiv</sup> investigative journalism has revealed that its **25% reduction target was set without any evidence base**. Internal Commission documents describe how AI has been used to identify a total of 11 000 reporting obligations across the EU’s more than 23 000 pieces of legislation. Out of this, however, the Commission services were able to identify only 190 requirements as unnecessary. Still, the political hierarchy has kept pushing for intensified efforts to cut burdens for businesses.<sup>xxv</sup> This risks jeopardising both existing and future policy objectives, as illustrated by the 2023 proposal for a Traineeships Directive. During its elaboration phase, the Regulatory Scrutiny Board on the hand questioned the lack of supporting data, while on the other hand inquired about the necessity of new reporting obligations for companies.<sup>xxvi</sup>

Arbitrarily **removing requirements without a proper understanding of the objectives** they pursue can severely undermine the effective oversight of both social and environmental as well as economic standards. For instance, the scrapping of mandatory safety checks on high-risk machinery in 2006 resulted in more workers in Europe being injured by machines, and in 2022 the co-legislators decided to reintroduce this obligation under the **Machinery Directive**.<sup>xxvii</sup> Similarly, **omitting SMEs from financial reporting** may allow holding companies to engage in artificial arrangements, as evidenced in 2023 by the largest bankruptcy ever recorded in European real estate.<sup>xxviii</sup> In 2024, the Commission tabled a proposal for an **e-Declaration on Posting** with a view to cut reporting obligations for employers, despite the administrative burdens for declaring posted workers being estimated to a total of only 17.29 million euros in the EU.<sup>xxix</sup> While considering that the EU average cost of 10.78 euros per declaration should be further



reduced, the Commission did not make any estimations with regard to potential risks and social costs of less reporting, and did not properly assess the information needs of labour inspectorates to effectively enforce the rules on posting.<sup>xxx</sup>

The Commission's approach to law-making has proved to be not only **controversial, but also contradictory**. For example, in 2022 the Commission's Annual Burden Survey<sup>xxxii</sup> estimated the cost for businesses to **protect workers against asbestos** to 33 million euros, completely ignoring employers' obligations to ensure safe workplaces or considering the added value of occupational health and safety for individual workers as well as for society. By the end of 2023, the Commission claimed that the 'one-in, one-out' approach since 2022 had generated 7.3 billion euros in administrative savings.<sup>xxxii</sup> However, this figure stands in stark contrast to the benefits generated even by individual legislative initiatives. **Law-making is not a zero-sum game.**

During the 2019-2024 legislative term, EU flagship initiatives such as the **European Green Deal and the Fit for 55** package have resulted in important additions to the EU *acquis*, addressing climate change, shaping innovation in a more eco-friendly direction, and encouraging companies to compete based on more sustainable business practices. Similarly, the 2024 **Platform Workers Directive** ensures that innovation does not result in digital business models that rely on a regulatory vacuum for their competitiveness. These kind of measures cannot be compensated through an equivalent amount of cost and burden reduction for business, in particular since estimates show that regulating the platform economy can generate aggregate benefits to a value of 47 billion euros annually. Similarly, ambitious green policies can increase EU GDP with 2% by 2030 and 4% by 2050.<sup>xxxiii</sup>

Conversely, studies conducted by the Commission<sup>xxxiv</sup>, European Labour Authority<sup>xxxv</sup> and the European Platform tackling Undeclared Work<sup>xxxvi</sup> show that **regulatory gaps which allow subcontractors, labour intermediaries and letterbox companies** to operate freely in the EU internal market create serious challenges for workers, enforcers and bona fide employers. Clearly, also legislative inaction, impunity and lack of enforcement comes at a cost for society, taking forms such as violations of social rights, unpaid wages, taxes and social security contributions, work accidents, enforcement challenges for authorities, and unfair competition among companies. Moreover, reports describe how corporations and business lobbies rely on **EU enforcement mechanisms and infringement proceedings to challenge social and environmental standards** in national law, framing them as obstacles to the internal market. The examples range from multinationals seeking profits in the healthcare sector to investors speculating in social housing.<sup>xxxvii</sup>

This increased focus on **cost and burden reduction for businesses is clearly influenced by industry lobbying**. In 2024, the EU co-legislators agreed to postpone the implementation of the **Corporate Sustainability Reporting Directive** by two years, framed as allowing companies to focus on the necessary minimum in terms reporting.<sup>xxxviii</sup> The Commission has also made a similar proposal in 2024 to delay the implementation of the **Deforestation Regulation** with one year, presented as a strengthened support for phasing-in. Moreover, European employers' organisations have issued a joint statement with similar demands regarding the **Corporate Sustainability Due Diligence Directive** adopted in 2024, calling for a competitiveness check with a view to simplify requirements and reduce burdens.<sup>xxxix</sup> During a European Social Summit in 2024, employers' organisations also cited the **Pay Transparency Directive** as yet another regulatory burden they consider should be tackled by the EU Better Regulation Agenda.<sup>xl</sup>





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