

20 October 2008

BETTER REGULATION PROPOSALS FOR SIMPLIFICATION OF EU LEGISLATION

WORKING TIME

Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time.

- Rules on working time should be handled at national and company level, not at EU level. While the Directive exists, the rules should be as simple as possible for business to comply with. The Directive rules are not always compatible with national ones and need more flexibility. For example, the periods of daily rest could allow shorter periods if taken during nighttime than if based on any 24-hour period. The period of computation of the total hours of work is far too short in order to function in practice. This period should be extended from four to twelve months. The Directive should be abolished or, alternatively, the calculation period of computation of total hour of work should be extended to one year (12 months).

FIXED TERM WORK

Council Directive 1999/70/EC of 28 June 1999 concerning the framework agreement on fixed-term work concluded by ETUC, BUSINESSEUROPE and CEEP.

- Employers shall under the rule 'information and employment opportunities' (clause 6) in the Directive inform fixed-term workers individually of vacancies of employment. To SMEs that, for example, often have variations in number of employees due to seasonal changes, this obligation is extra burdensome. This is an unnecessary rule. If the employer is interested in employing someone that already is a fixed-term worker, this person will, of course, be asked. This rule should be abolished.

EMPLOYMENT CONTRACTS

Council Directive 91/533/EEC on an employer's obligation to inform employees of the conditions applicable to the contract or employment relationship.

- The Directive instructs employers to notify the employee about "the essential aspects of the contract or employment relationship. It has proved difficult to demarcate what this covers leading in some cases to unnecessarily long and complicated contracts. The employers' duty to inform the employee about the contract and employment relationship should

be limited to the specific points mentioned in Article 2 of the Directive. The enterprises' option to describe the terms of the employment by referring to collective bargains should be enhanced.

Council Directive 90/270/EEC on the minimum safety and health requirements for work with display screen equipment.

- The Directive does not reflect current technological standards and the modern work environment. Some detailed provisions are, for example, based on completely outdated technical specifications for computer equipment. The Directive should be brought up-to-date. Any detailed provisions should be replaced with more general guidelines to avoid the Directive having to be constantly updated to reflect technological developments. Guidelines would allow companies to make provisions that are suitable to their sector and size. These guidelines should be accompanied by clear and concise guidance to assist companies in complying with the rules.

ENERGY – PRESSURE EQUIPMENT

Directive 97/23/EC of the European Parliament and of the Council of 29 May 1997 on the approximation of the laws of the Member States concerning pressure equipment.

- The Directive imposes large administrative costs on business. The legislation is extensive and complicated. These factors taken together result in high compliance costs for companies that generate district heating. The Directive needs to be simplified and adjusted to match the overall situation for district heating. This would reduce compliance costs for business and improve general understanding of this legislation.

ENVIRONMENT

Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC.

- The administrative requirements of the Directive result in large administrative compliance costs, especially for smaller companies. The rules for administering emissions trading should be simplified to reduce the administrative compliance costs to business.

FOOD LABELLING

Directive 2000/13/EC of the European Parliament and of the Council of 20 March 2000 on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs.

- Labelling on the packaging of foodstuffs is one of the most important ways that producers communicate with their customers. However, the current legislation is detailed and requires producers to provide more information than is necessary on food labels. The information that producers are required to provide on packaging should be limited to what is necessary for the majority of consumers. Producers should be able to provide additional information through other channels, for example through their website and customer contact points. The requirements in the Directive should also be made less detailed. Any changes should be co-ordinated and take place at few occasions to allow producers to change all their labelling at once and there should be a suitable transition period.

FOOD SAFETY

Regulation (EC) No 178/2002 of the European Parliament and the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety.

Regulation (EC) No 852/2004 of the European Parliament and of the Council of 29 April 2004 on the hygiene of foodstuffs.

- The legislation concerning traceability - article 18 Regulation (EC) No 178/2002 - and the Hazard Analysis and Critical Control Point (HACCP) - article 5 Regulation (EC) No 852/2004 - imposes considerable costs on business. The measurements of administrative costs carried out in Sweden with the use of the Standard Cost Model shows that these two Directives are the most expensive for business of the measured regulations related to food. Guidance from the Commission on various aspects of the food safety and hygiene of foodstuffs legislation is unclear and has been interpreted differently by enforcing authorities and business in different Member States. Guidance should be improved to explain how the Directives could be implemented and complied with in the simplest and most efficient way.

FINANCIAL SERVICES

Directive 2004/109/EC of the European Parliament and of the Council of 15 December 2004 on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market and amending Directive 2001/34/EC.

- The disclosure requirements in the Directive impose large administrative costs on business. Electronic disclosure should be made possible.

Directive 2007/64/EC of the European Parliament and of the Council of 13 November 2007 on payment services in the internal market amending Directives 97/7/EC, 2002/65/EC, 2005/60/EC and 2006/48/EC and repealing Directive 97/5/EC.

Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments amending Council Directives 85/611/EEC and 93/6/EEC and Directive 2000/12/EC of the European Parliament and of the Council and repealing Council Directive 93/22/EEC.

Commission Directive 2006/73/EC of 10 August 2006 implementing Directive 2004/39/EC of the European Parliament and of the Council as regards organisational requirements and operating conditions for investment firms and defined terms for the purposes of that Directive.

Directive 2002/65/EC of the European Parliament and of the Council of 23 September 2002 concerning the distance marketing of consumer financial services and amending Council Directive 90/619/EEC and Directives 97/7/EC and 98/27/EC.

Directive 2001/107/EC of the European Parliament and of the Council of 21 January 2002 amending Council Directive 85/611/EEC on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) with a view to regulating management companies and simplified prospectuses.

Directive 2002/92/EC of the European Parliament and of the Council of 9 December 2002 on insurance mediation.

Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council ('Unfair Commercial Practices Directive').

Directive 2002/83/EC of the European parliament and of the Council of 5 November 2002 concerning life assurance.

- Legislation covering financial services is fragmented and has grown up in a piecemeal way. It imposes numerous information obligations on business. There has been no attempt at reviewing legislation in this area to assess what information obligations provide information that is useful and necessary. In many cases companies have to provide a lot of information to consumers, retail investors or policyholders that is not essential. This imposes large administrative costs on companies having to comply with these information obligations. Information obligations in all the above

Directives should be divided into two categories: 'essential information' and 'other relevant information'. Essential information should always be provided but 'other relevant information' should be made available if requested by the consumer, retail investor or policyholder.

STATISTICS

Intrastat - Council Regulation (EC) No 3330/91 (consolidated version), Regulation (EC) No 638/2004 of the European Parliament, and Council and Commission Regulation (EC) No 1901/2000.

- The Intrastat system results in mirror statistics where the same transaction is reported twice, once by the exporting company (to Intrastat export) and once by the importing company (to Intrastat import). The burden is greatest on the importer of goods. It is often difficult for this company to gather the required information about, among other things, raw materials, intermediary products and other inputs used in the production of a given good. It is, naturally, easier for the producer and exporter of a product to provide the required information. The level of detail required by both Intrastat import and Intrastat export is also high and a separate form is required for each product. Even if the information can now be reported electronically, it is still a time-consuming process. A single flow system should be introduced. The requirement for importers of goods to report deliveries to Intrastat import should be abolished. Instead, reports from exporting countries' statistical bureaus should be shared with the bureaus in importing Member States and thus 'recycled'.

Intrastat - Statistics on trade between the Member States are based on Council Regulation (EC) No 3330/91 (consolidated version), Regulation (EC) No 638/2004 of the European Parliament and of the Council and Commission Regulation (EC) No 1901/2000.

Extrastat - Council Regulation (EC) No 1172/95 at 22 May 1995 on the statistics relating to the trading of goods by the Community and its Member States with non-member countries.

Prodcom - EEC No 3924/91 on the establishment of a Community survey of industrial production (statistics on the production of manufactured goods).

- The nomenclatures used in Intrastat, Extrastat and Prodcom are different. In addition, two different measures of quantity are required for trading information on some goods, including kilograms for net mass and litres or 'pieces' for secondary measures. The language and measures used in the three statistical areas should be harmonised, and the measures of quantity should relate better to different types of products.

Council Regulation (EC) No 530/1999 of 9 March 1999 concerning structural statistics on earnings and on labour costs.

- Information requirements are too costly for smaller businesses. The information requirements should be limited to companies with more than 20 employees.

Council Regulation No 58/97 concerning structural business statistics.

Regulation No 2056/2002 amending Council Regulation No 58/97 concerning structural business statistics.

- The Member States are instructed to collect information on business' investment for the protection of the environment. The reporting requirement includes the variables "investments in integrated technologies" and "total current expenditure on environmental protection". It is a guessing game for enterprises how much of the investment is for environmental purposes. The part of the statistics which relates to environmental investment should be abolished as it does not make any sense to collect figures which are not reliable.

TAXATION

Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax.

EU companies involved in cross-border transactions face higher advisory and compliance costs as well as risk exposure related to value-added tax (VAT) obligations than when they operate exclusively at domestic level. Simplification and harmonisation therefore need to be the key objectives. In order to implement a harmonised VAT system in the EU, the number of options for deviations granted to the Member States under Directive 2006/112/EC have to be significantly reduced, particularly in those areas, e.g. invoicing, which negatively impact on the proper functioning of the Internal Market. However, there are also a number of options that facilitate VAT compliance, e.g. TOCG Relief (Art. 19), VAT Grouping (Art. 11) and Import VAT Reporting Relief (Art. 211), as practice – in those Member States that have implemented them – shows. We therefore encourage all Member States to consider these best practices with a view to implement them as well in the near future.

The following aspects should be particularly considered to reduce complexity and bureaucracy costs:

- **Harmonised input VAT deduction rules:**
The requirements to keep track of which purchases with VAT-charges are deductible and to which portion create difficulties and high costs for companies and often cause errors. The rules for input VAT deduction should be harmonised based on the principle of neutrality of VAT, meaning that all

business-related input VAT shall be deductible. The existing VAT legislation (e.g. Art. 18 and 26 Directive 2006/112/EC) provides for better instruments to levy VAT upon the use of goods and services for non-taxable activities than the denial of input VAT deduction. In particular, the input VAT deduction rules for passenger transport and travel expenses should be uniform across the EU.

- **Standardized reporting process across the EU:**
Different reporting obligations collecting the same information (VAT returns, Intrastat, EC Sales Lists) should be consolidated.
- **Uniform invoicing requirements:**
National differences in the implementation of the Invoicing Directive are very costly for companies operating across the EU. There should be uniform invoicing requirements throughout the EU set out in a binding Regulation, which does not grant options for deviation. Such a regulation should define the maximum extent of invoice requirements Member States may demand based on the criteria of efficiency and proportionality, and be easy to handle.
- **Business friendly environment for e-invoicing:**
While in some countries pdf files are accepted as e-invoice, others require very high standards of electronic signatures on the e-invoice. There is no reason why e-invoices are treated in a different way than paper invoices. Simple and uniform rules across the EU are a requirement for e-invoicing to become widely used.
- **Simplification of import VAT reporting and payment:**
VAT should be reported as acquisition tax in the VAT return instead of the payment to the Customs Authority. Several member states already have this simplification in place.
- **Uniform rules on tax warehouses /call-off stocks:**
There are direct costs in some Member States of having to pay VAT on transactions, because the principle of tax warehouses is not used. Even more important, in some Member States a non-resident taxable person does not have to register for call-off stocks located at a buyer's premises while in some other Member States there is a registration liability on the basis of call-off stocks.

Eight Council Directive 79/1072/EEC on the harmonization of the laws of the Member States relating to turnover taxes – Arrangements for the refund of value added tax to taxable persons not established in the territory of the country.

- **Speeding up of the VAT refund process (Directive 79/1072/EEC)**
The present refund procedure is so burdensome that a significant number of companies do not request the refunds they are entitled to. Most companies also have to hire local experts to successfully claim the VAT refunds and wait sometimes several years before the refund is received. The new Directive 2008/9/EC could accelerate the refund period. Yet unfortunately new bureaucratic hurdles for VAT refunds were set up in this Directive, which should be revised.