

## Opinion of the European Economic and Social Committee on 'The impact of legislative barriers in the Member States on the competitiveness of the EU'

(Exploratory opinion requested by the Czech presidency)

(2009/C 277/02)

Rapporteur: **Mr Joost van IERSEL**

In a letter dated 27 June 2008, Mr Alexandr Vondra, the Czech Deputy Prime Minister with responsibility for European Affairs, acting on behalf of the Czech Council Presidency, requested the European Economic and Social Committee to draw up an exploratory opinion on

*The impact of legislative barriers in the Member States on the competitiveness of the EU.*

The Section for Single Market, Production and Consumption, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 24 April 2009. The rapporteur was Mr van IERSEL.

At its 453rd plenary session, held on 13 and 14 May 2009 (meeting of 14 May) the European Economic and Social Committee adopted the following opinion by 198 votes to four with 10 abstentions.

### 1. Conclusions and recommendations

1.1. The Internal Market as an overall political objective to promote economic growth and jobs, and to create sustainable development is at the core of the European integration process. The Single Market is very successful in that it has lifted a tremendous number of legal barriers to the benefit of citizens and consumers, of business and of society at large <sup>(1)</sup> Against this backdrop, the rule of law is an essential principle.

1.2. But quite contrary to a usual saying that the Internal Market is completed economic dynamics require continuous efforts to create a real Single Market for public and private economic actors across the EU. Moreover, EU legislation has not yet brought about an effective functioning of the Internal Market in important fields, such as finance and energy. Given the current situation, an effective legal framework for the financial sector is urgently needed.

1.3. In the worst recession in living history and systemic crisis in the financial markets, recovery of trust and confidence in Europe are crucial. In order to solve the crisis, current policies should be re-examined, in particular in the financial sector. To turn the risks of protectionism and the renationalisation of policies and to safeguard open markets in the EU and beyond, the EU urgently needs to set a clear political course. The EESC calls for a continuous firm commitment of the Council and the Member States against protectionism and market fragmentation.

1.4. Measures to soften the impact of the crisis, such as direct state intervention in or state ownership of banks as well as specific fiscal and financial stimuli, however necessary in the current crisis, must not undermine agreed mid- and long-term EU goals, or jeopardise existing successful framework conditions, including rules applying to rescue and restructuring aid. Otherwise, the possibility for wide scale distortions to competition would be created. At the same time, it is important to learn from the crisis what regulations and financial measures need to be put in place in order to achieve a long term sustainable development.

1.5. The sharp economic downturn asks for a robust, resilient and fair environment for European business and workers in order to promote economic growth, innovation, job creation, social progress and sustainable development. The Lisbon-Gothenburg Agenda <sup>(2)</sup> remains a cornerstone for growth and employment and to promote vitality and innovation within the EU as well as at world scale.

1.6. In this respect, better lawmaking and all related initiatives at EU level, the quality of correct transposition and enforcement in the Member States and at regional level are of paramount importance. The principal actors, i.e. the Commission, the European Parliament, the Council and the Member States themselves, have to remain fully committed to these objectives.

1.7. For good governance, besides governmental actors, business and business organisations, social partners and organised civil society must do their share and feel co-responsible and accountable in the whole process.

<sup>(1)</sup> For an overview of the remaining obstacles to the Single Market, see the EESC-SMO study under [http://www.eesc.europa.eu/smo/news/index\\_en.asp](http://www.eesc.europa.eu/smo/news/index_en.asp).

<sup>(2)</sup> The Gothenburg Council Summit in June 2001 added an environmental dimension to the Lisbon Agenda.

1.8. European integration is also positively served by new chapters as the New Approach and the 2008 Goods Package, the reduction of unjustified administrative burdens and the recognition of professional qualifications.

1.9. Recent developments once again confirm the EESC's long-standing call for the Commission, as guardian of the treaties, to receive more resources, instead of being hampered, as often happens, so that it can effectively ensure that national legislation is consistent with agreed legal requirements in the EU.

1.10. The ongoing implementation of the Services Directive in 2009 will open new avenues to the benefit of citizens and companies. However, there should be effective monitoring to avoid lower social, quality, environmental and safety standards.

1.11. The lifting of legal barriers, and the way it is realised, requires, especially today, a better communication strategy at EU level and in the Member States. Such communication must enhance the credibility of the EU and foster trust among citizens and companies against euro-scepticism.

1.12. Lifting legal barriers, better lawmaking and agreed framework conditions within the EU will also underpin the position of the EU in negotiations with other trading blocks, in the WTO and in the Doha-round.

1.13. Finally, the EU can learn from its history that hard times may also lead to beneficial steps forward. The crisis of the seventies and the early eighties of last century confirmed the political willingness to an EMU, and it produced in 1985 the Single Act which was the basis for 'Europe 1992', the way to the completion of the Internal Market.

## 2. Introduction

2.1. The present exploratory opinion, which the EESC is drafting at the request of the Czech Presidency on 'Legislative Barriers to Competitiveness' is focusing on achieving an Internal Market free of (unjustified) administrative obstacles and based on better regulation. The Single Market is about offering to European citizens and businesses certainty and security in the legal environment in view of the free movement of persons, goods, services, and capital across the EU.

2.2. In its programme, the current (Czech) Presidency concentrates in particular on the timely and correct implementation of the Services Directive and on a further removal of trade barriers between Member States in accordance with the Internal Market Strategy Review. These objectives are rightly seen in the broader perspective of National Reform Programmes and the Lisbon Strategy, and its review and possible adjustment in 2010.

2.3. The same framework encompasses the relationship between Better Regulation <sup>(3)</sup>, improved use of impact assessments, and ongoing implementation and evaluation of measures to reduce the administrative burdens of enterprises as well as support for a Small Business Act for Europe and a sustainable EU industrial policy, including an appropriate innovation policy.

2.4. These intentions and proposals have to be accomplished in the midst of a very sharp economic downturn <sup>(4)</sup>. They make clear that the Presidency, in line with views of the Commission, envisages in its Programme to maintain strategic outlines as defined in more promising times. The Presidency is thus also aiming at giving new impulses to the mandate of the new Commission.

2.5. It wants to keep earlier drafted strategic policies on track whatever short-term measures are to be taken to absorb substantive sudden shocks in the economy affecting sectors, investments and jobs.

2.6. Lifting restraints to spontaneous further development of business in Europe is the main focus of this Opinion. In that sense, strengthening competitiveness has to be defined as reinforcement of the level playing field in the EU by making the common legislative base as effective as possible.

2.7. A cornerstone in this process is the agreed Better Regulation agenda with its focus on the quality of legislation, impact assessments, simplification, the introduction of new rules where appropriate and the reduction of the administrative burdens by 25 % by 2012 <sup>(5)</sup>.

2.8. The present Opinion focuses on removing legal barriers and on effective regulation restoring trust in the markets, keeping in mind the increasingly global dimensions of competitiveness. The better the regulatory framework for the Internal Market functions, the more resilient the EU's position on the world scene will be.

2.9. On a number of areas the EESC has already expressed its views. As the question of competitiveness is extremely broad, this Opinion focuses on a selection of topics that are particularly pressing in the current situation.

<sup>(3)</sup> OJ C 24, 31.1.2006, p. 39.

<sup>(4)</sup> See the recent report by the OECD arguing in favour of continued regulatory and precompetitive reform in the current context of the crisis (Going for Growth 2009).

<sup>(5)</sup> See in particular the Third Strategic Review of Better Regulation in the EU, COM(2009) 15 final.

2.10. Impressive improvements have been made in realising the Internal Market. But at the same time it is also undeniable that there still is a substantial lack of harmonisation in specific fields - energy, finance, the potential flagship Community patent (!) and a need for action in the social field. Ongoing individual governments' actions - legislative, and administrative practices - require permanent attention from a European viewpoint <sup>(6)</sup>.

2.11. Lack of desirable harmonisation or governments' actions often creates substantial nuisances for large companies and damaging obstacles to Europe-wide investments of small and medium-sized enterprises.

2.12. SMEs are a vital part of the all-over European competitiveness. Large companies are indispensable to maintain European strength. But because of outsourcing, the fragmentation of business processes, and the supply and added value chain, SMEs are the main creators of jobs. They are as a rule sufficiently flexible to adjusting to required sustainable production, and they are often, especially as partners in the value-added and supply chain, at the root of inventions and new systems that promote sustainable and ecological production.

2.13. Legal barriers do not only affect business but also the cross-border movement of workers <sup>(7)</sup>. It is important to ensure that fundamental rights and rules on the labour market are applicable to all workers <sup>(8)</sup>.

### 3. Context and general comments

3.1. The Single Market is a dynamic concept. Its content and the creation of a level playing field for economic actors in Europe are defined by appropriate EU policy objectives and guaranteed by European law. Objectives and rules are also adjusted in due course as a result of changing circumstances. If necessary and appropriate, suitable specific measures for the protection of workers should be adopted as soon as possible, making it clear that neither economic freedoms nor competition rules take precedence over fundamental social rights.

3.2. The current economic downturn affects us all economically and socially. It affects also the position of Europe as a world player. Unusual times may ask for unusual approaches and

solutions - e.g. sensitive State aid approved 'to remedy a serious disturbance in the economy of a Member State' <sup>(9)</sup> following 'emergency' guidance by the Commission <sup>(10)</sup> - but agreed framework conditions must not be jeopardised and each intervention should be adequately motivated.

3.3. National regulation is often designed to respond to all sorts of challenges in a national context. Also against that backdrop, continuing programmes related to lifting existing and potential legislative barriers between the Member States is necessary and should be encouraged.

3.4. Short term motivations, especially today, can easily undermine the political willingness to act accordingly. Open or hidden protectionism lies in wait. A clear plea to carry on what has been set in motion regarding legislative barriers is all the more needed. The better we pave the way now, the more resilient the European economy will be later on.

3.5. The current situation requires undoubtedly invigorated efforts to define transparent new framework conditions in the field of finance and energy.

3.5.1. In the ongoing financial crisis, national states have regained ground as central players in the economic system by providing significant 'emergency' aid to major financial institutions. Besides the potential impact on public finances, this approach may lead to distortions of competition, if State aid rules are not respected <sup>(11)</sup> and put the more virtuous banks at a disadvantage.

3.5.2. While the EESC does not question the need for a prompt intervention in these exceptional circumstances, it is important to closely monitor <sup>(12)</sup> the evolution of the situation in order to safeguard the present cohesiveness, the rule of law, and the level of competition within the European market, all factors that are crucial for citizens and the economy.

<sup>(6)</sup> See in this context the recent illustrative brochure 'When will it really be 1992?' by the Dutch employers' federations (VNO – NCW, MKB – published in December 2008). 1992 was at that time announced as the year of the completion of the Internal Market.

<sup>(7)</sup> OJ C 228, 22.9.2009, p. 14.

<sup>(8)</sup> See EESC opinion on 'Identification of outstanding barriers to mobility in the internal labour market', OJ C 228, 22.9.2009, p. 14, point 1.5.

<sup>(9)</sup> See Article 87.3 (b) of the EC Treaty. This is a deliberate switch of legal basis from Article 87.3 (c) which is usually applied. It gives more room for financial support to the Member States and may lead to distortions. Hence, 'these deliberate, authorised distortions must be constantly and closely monitored by the Commission, and corrected as soon as the economic situation returns to normal', see opinion OJ C 228, 22.9.2009, p. 47.

<sup>(10)</sup> OJ C 16, 22.1.2009, p. 1.

<sup>(11)</sup> OJ C 270, 25.10.2008, p. 8, OJ C 10, 15.1.2009, p. 2, OJ C 72, 26.3.2009, p. 1.

<sup>(12)</sup> 'Monitor' is used here, and also in 4.2.1 and 4.2.6.2 in general terms without detailed definition of the role and mandate of the Commission. These vary according to the legal instruments used in concrete cases.

3.5.3. New framework conditions and legal provisions are needed. They have to focus on a European – or at least at European level tightly coordinated – surveillance of the banking sector, on indispensable regulation, and on actually diverging policies vis-à-vis banks <sup>(13)</sup>. The EESC stresses the need of better regulation and control of the financial sector as proposed by the *de Larosière Report* on behalf of the Commission under the Czech Presidency <sup>(14)</sup>. European supervision should, besides the banking sector, also include the insurance sector.

3.5.4. The forthcoming discussion on the legal financial architecture must also take as a strategic goal a trustworthy framework for the future resilience of the European economy at large. This broader perspective is so far underexposed.

3.5.5. Energy as a core raw material for all society can be in many respects – prices, public intervention, degree of liberalisation, competition, and others – a vast source of (unwanted) legal barriers which impede a true level playing field with possibly negative effects in other industrial sectors. The lifting of such structural and legal barriers to internal trade and investment should be a very important motivation in creating a common market for energy.

3.6. The Open Method of Coordination (OMC) <sup>(15)</sup> has aroused high expectations regarding the possibility of coordinating national actions. Such soft approach leaves much room to the Member States, additional source for legal barriers. A more structured approach would be welcome.

3.7. In this respect an important subject for discussion is whether in specific cases EU-directives or regulations should be chosen as the most appropriate legal base for harmonisation. Equally, the EESC stresses that a further promotion of standardisation resulting, among others, in a transparent environment and improvement of interoperability is in many cases most profitable.

3.8. Barriers to a competitive environment in Europe are manifold. They can be essentially grouped into various categories which have to be tackled in their own way:

3.8.1. A first category includes simply existing obstacles facing both citizens and companies that wish to operate in another Member State. This type of barriers can originate from national legislation, regulations or administrative procedures that do not depend on EU legislation and its transposition *per se*, and are thus difficult to predict *ex ante* by a business planning to operate trans-border.

3.8.2. European integration does not necessarily lead to a reduction of national rules, in many cases quite the contrary. Very often, such (additional) national rules cause supplementary barriers. Moreover, in the actual economic situation special legal provisions can easily have a protectionist effect.

3.8.3. Another type of barrier can derive from existing initiatives such as one-stop-shops for businesses, which are already in place, but do not fully function as expected. This can be caused by a lack of adequate resources or by other types of problems, such as the availability of information only in the language of the country concerned.

3.8.4. A fourth type of barrier is constituted by desirable initiatives to create a level playing field, but which are either not undertaken or incompletely carried out. This type of barrier flows from insufficiently respecting European legislation or regulations by Member States <sup>(16)</sup>.

3.8.5. Specific barriers to be mentioned are, amongst others, caused by the split between Eurozone Members and the other Member States, obligatory working languages in Member States and diverging tax regimes and tax bases.

3.9. A number of the above mentioned barriers are a by-product of the features of national administrative and legislative systems. That should lead to a strong emphasis on convergence in the treatment of trans-border problems.

3.10. Specific financial stimulus can, if not properly coordinated and in particular respecting the EU state aid rules, create new barriers. The EESC insists that in all cases the *acquis communautaire* – regulations as well as instruments – is to be respected.

3.11. Dedicated networks between EU and national administrations such as the Enterprise Europe Network, SOLVIT, the European Competition Network, and on-line platforms to exchange best practices, focussed on lifting undue barriers, are very welcome.

3.12. The lack of cooperation and mutual information between national administrations on the implementation of EU law is a very serious problem. In this context, the EESC is currently preparing an opinion on the Internal Market Information (IMI) initiative <sup>(17)</sup>.

<sup>(13)</sup> OJ C 224, 30.8.2008, p. 11.

<sup>(14)</sup> See the *de Larosière Report* on financial supervision in the EU, 25 February 2009.

<sup>(15)</sup> This method provides a framework for cooperation between EU Member States in the policy areas that fall within their competences, such as employment, social protection, social inclusion, education, youth and training. It is a typically intergovernmental policy tool. For further details: [http://europa.eu/scadplus/glossarty/open\\_method\\_coordination\\_en.htm](http://europa.eu/scadplus/glossarty/open_method_coordination_en.htm).

<sup>(16)</sup> OJ C 325, 30.12.2006, p. 3.

<sup>(17)</sup> See COM(2008) 703, and also OJ C 325, 30.12.2006, p. 3.

3.13. Moreover, increasing communication between national administrations should provide an additional check on potential (hidden) barriers resulting from national rules and obligations in specific areas.

3.14. In a similar vein, training and preparation of national civil servants dealing with EU legislation is key. That requires adequate resources for keeping skills up-to-date. This is particularly relevant in view of the increased emphasis on and use of evidence-based policy-making tools, such as impact assessments, and the measurement of administrative burdens.

3.15. The EESC has argued in several Opinions that an effective monitoring of the application of EU rules and agreements by the Commission in the Member States is indispensable.

3.16. For good governance of the Single Market, besides governmental actors, business and business organisations, social partners and organised civil society must do their share and feel co-responsible and accountable in promoting framework conditions for a level playing field in Europe. Instruments are: practical experience, exchanges of good practices, self-regulation, social dialogues at various levels, communication and information, and others.

## 4. Specific issues

### 4.1. Better Lawmaking

4.1.1. Better lawmaking is a crucial strategy for a resilient business environment. The Better Lawmaking agenda as defined in 2.7 is the core driver of this strategy.

4.1.2. Better lawmaking has to do with both the selection of topics to be harmonised at EU level and the method of lawmaking, e.g. via regulations, detailed directives or framework directives. Legal barriers between Member States can remain intact when directives are too ambiguous or prescribe only minimum norms.

4.1.3. On various occasions the EESC welcomed the focused overhaul of Community legislation by the Commission. Such an overhaul may add to adjustments to changing circumstances and to the abolition of existing legal barriers.

4.1.4. It must be acknowledged that certain topics are not suitable to be harmonised due to diverging legislative frameworks in Member States. In those cases potential legal barriers have to be specifically examined.

4.1.5. It is worth noting that the European Commission is successful in carrying out impact assessments whereas there remain serious deficiencies at Member States level in this field. This undermines the level playing field for business and for mobility at large.

4.1.6. Impact assessments are a very useful tool, both in fighting overregulation and in view of new rules. They entail a growing awareness in the Commission, the European Parliament and the Council. The EESC insists that the Council and the EP respect impact assessments and their updates during the whole legislative process

4.1.7. Impact assessments require an overall and integral approach not only to technical aspects of goods and services, but including also by-effects such as environmental and consumer interests. On the other hand, in environmental and consumer legislation, the need for a competitive industry should always be taken into consideration. In successful impact assessments stakeholders of all kinds have their place.

### 4.2. Implementation and enforcement <sup>(18)</sup>

4.2.1. A correct and timely implementation and enforcement on the ground is an inextricable aspect of better lawmaking. Practical evidence shows that both unsatisfactory and excessive implementation (goldplating and cherry picking) are a main source of legal barriers, transborder problems and protectionism. Therefore the resources and tools needed to monitor and enforce EU legislation at the Member State level should also be carefully appraised.

4.2.2. Subsidiarity must be respected. However, this should not be a one-sided track. The EU has to abstain from interference in national procedures and administrative systems, indeed. But the Treaty requires also that the EU safeguards the goals of the Union and guarantees the functioning of the market according to the agreed rules. Problems that businesses, other organisations and citizens experience on the ground can only be solved satisfactorily under that condition.

4.2.3. In other words, the relation between Community rules and subsidiarity is a subtle one. The EESC is of the opinion that in the process of deepening integration, the right balance between the necessary respect for national administrative traditions and systems, and EU monitoring should be defined and applied according to the agreed objectives.

4.2.4. In this respect a special case in point are the local and regional entities which in a number of Member States are responsible for the implementation of EU law. These entities have to take EU law correctly into account.

<sup>(18)</sup> OJ C 24, 31.1.2006, p. 52.

4.2.5. Another vast and important field is public procurement. Notwithstanding the implementation of the directives of 2004, traditional practices and administrative procedures, including legal barriers that inhibit cross-border competition in public contracts are still in place. Public procurement requires continuous attention while respecting collective bargaining between social partners.

4.2.6. The EESC considers that governance in view of lifting legislative barriers in the EU has to be improved considerably:

4.2.6.1. Existing feedback on the practical application of legislation is still unsatisfactory <sup>(19)</sup>.

4.2.6.2. As an indispensable part of the rule of law the monitoring by the Commission should systematically be extended to implementation and enforcement of EU-law. This issue requires special attention and political debate.

4.2.6.3. Besides, it is desirable that evaluation networks among national administrations <sup>(20)</sup> are introduced where they do not yet exist and that administrative skills in Member States are fostered.

4.2.6.4. In the same perspective, the EESC fully endorses the recent establishment of the Subsidiarity Monitoring Network by the Committee of the Regions in order to facilitate the exchange of information between the EU and local and regional entities.

4.2.6.5. The Commission must guarantee that national regulators apply EU rules similarly in a coordinated way.

4.2.6.6. The desired governance mentioned in 4.2.6. must also be applied equally in the case of non-legal barriers which often arise from existing administrative practices.

#### 4.3. *The Single Market for Services*

4.3.1. Europe is at a turning point as regards the Internal Market for Services. The state of transposition and implementation of the Services Directive, foreseen for the end of 2009, must be closely followed to ensure that no new barriers and discrepancies are added at the national level. However, there should be no lowering of social, quality, environmental and safety standards here. The implementation of the EU Services Directive requires that administrative staff be properly trained (languages, intercultural skills).

<sup>(19)</sup> The European Commission proposes a number of information sources including contact points for complaints such as the Europe Direct call centre, Eurojus, the national SOLVIT centres, the European Consumer Centres, the Enterprise Europe Network and the Your Europe portal.

<sup>(20)</sup> The EESC draws the attention to the Internal Market Information system (IMI), which the Commission developed to facilitate mutual information between national administrations on EU legislation.

4.3.1.1. The current approach taken by the European Commission to support the Directive's transposition at the national level appears to be effective and should be further encouraged.

4.3.2. As regards specific aspects of the Services Directive, the freedom of establishment and trans-border activities is a key ingredient to create the right environment for European business <sup>(21)</sup>.

4.3.2.1. Feedback from concerned stakeholders seems to suggest that despite the existence of ad hoc measures facilitating the establishment of business in another Member State, there is still room for improvement.

4.3.3. Another issue that needs addressing is the approach to be taken in the areas that are not currently covered by the Services Directive.

4.3.3.1. Some sectors such as financial services, electronic communications, and audiovisual services are regulated separately, while other areas are not regulated at the EU level.

4.3.3.2. The latter can exhibit significant differences across Member States and thus generate potential unexpected barriers. Hence, there is a need for increased coordination among national governments to avoid taking conflicting approaches on specific issues directly affecting the EU's business environment.

4.3.4. Moreover, it has to be stressed that nowadays the line between goods and services is increasingly blurred. Hence, a correct implementation of freedom of establishment and trans-border activities in services will also be highly beneficial for the manufacturing industry.

4.3.4.1. Even in the presence of a full and correct transposition of the Services directive, European institutions and Member States should keep the sector under close watch to address pending issues and prevent new obstacles from emerging. As most progress in creating a level playing field has been achieved in the market for goods, lessons learned in that field can offer valuable insights on how it is best to proceed for tackling remaining barriers in services.

#### 4.4. *The New Approach, the 2008 Goods Package and standardisation*

4.4.1. The New Approach to technical harmonisation and standards <sup>(22)</sup> and its ongoing review is one of the most tangible successes in lifting barriers to competitiveness in the Internal Market.

<sup>(21)</sup> OJ C 221, 8.9.2005, p. 11.

<sup>(22)</sup> Launched in 1985, the New Approach to technical harmonisation and standards constitutes a turning point for EU legislation on the Internal Market. It was adopted as a response to the complex legislative environment resulting from a set of detailed rules put in place to create and complete the Internal Market for goods.

4.4.2. Under current circumstances, it is of utmost importance to maintain the method of the New Approach and to avoid undoing achieved results through protectionist moves.

4.4.3. It is also worth taking stock of the application and use of the principle of mutual recognition. Particular consideration should be given here to the extent to which sustainable development from an economic, social and environmental point of view could be guaranteed. Furthermore it is essential to monitor the real impact of the 2008 'Goods Package', which intends to ensure that mutual recognition is effective.

4.4.4. Another field is standardisation that is normally based on voluntary measures and not on legislation. The clear contribution of standardization to European economic integration draws attention to pending issues that still hamper efforts in the Internal Market as well as the EU's competitive position on the global scene.

4.4.5. In other instances, it is the absence of standards in a given field that provokes (legal) barriers, such as in public procurement where a lack of consensus among industry players has a negative impact on competition in the EU. This is for instance evident when companies initiate a 'battle of the standards' to establish or defend a monopolistic position on the market, at the detriment of competition and consumers' choice. In those instances, the possibility of intervening at EU level to facilitate an agreement among the concerned parties should be foreseen.

4.4.6. Hence, the EESC stresses the need to increase standardisation efforts in certain areas such as public procurement, IT and communication services. However, to avoid distortions in the process, it is crucial to take all relevant stakeholders on board when establishing a standard. In this respect, ongoing initiatives such as the work of NORMAPME on standardisation and SMEs should be further encouraged.

#### 4.5. *The reduction of unjustified administrative burdens*

4.5.1. A flagship policy of the European Commission is the 2007 Action Programme on measuring administrative burdens to simplify the regulatory environment for business.

4.5.1.1. Using the Standard Cost Model, originally adopted in the Netherlands, the EU is currently finalising the measurement of the burdens generated by EU legislation <sup>(23)</sup>.

<sup>(23)</sup> This approach – often labelled as the fight against 'red tape' – aims at identifying and measuring all administrative burdens for firms deriving from EU legislation, in order to find options for reducing 25 % of these burdens.

4.5.1.2. The appointment of the Stoiber Group - a High Level Group of 15 experts - to put forward concrete reduction proposals is an additional step towards the concretisation of this initiative.

4.5.2. The programme for the reduction of administrative burdens is increasingly gaining ground at national level and most Member States have already committed to measure and reduce administrative burdens at home.

4.5.2.1. At this point, it is absolutely crucial to coordinate national measurement and reduction strategies across Europe and between the EU and national level for the success of the exercise.

#### 4.6. *The recognition of professional qualifications*

4.6.1. To make the Internal Market function effectively, in addition to the free traffic of goods and services, a free movement of professionals has to be endorsed. In line with decision taken in the Research Council as regards the mobility of researchers, a wider application to other professionals is needed.

4.6.2. The recognition of professional qualifications within the EU is a complex matter that goes beyond the issue of legal barriers; it needs to be addressed because in several respects it is directly linked to the problem of (hidden) barriers in the Internal Market.

4.6.3. Recently, there has been a major breakthrough in this field with the establishment of the European qualifications framework, the so-called fifth freedom, i.e. the mobility of researchers. The EESC welcomes this significant step forward.

#### 4.7. *Other initiatives*

4.7.1. Due to the length and cost of traditional judicial procedures, alternative dispute settlement mechanisms make a valuable contribution to solving conflicts arising from cross-border activities.

4.7.1.1. However, little is known on the state of play as regards the use and access to these tools among business and citizens. It is a pity that non-binding recommendations of the Commission in this field are only applied in a limited number of Member States.

4.7.1.2. It would be worth exploring the matter more in depth and see how it can be supported and promoted on the ground as an additional means to reduce existing barriers and problems.

4.7.2. When it functions effectively, the SOLVIT network is rightly praised for ability to quickly resolve and prevent additional problems from emerging. Each Member State should ensure that the resources and staffing committed to national Centres adequately meet existing needs <sup>(24)</sup> and that interested parties are aware of the network's existence and functions.

4.7.3. The role of the Enterprise Europe Network (now replacing the former Network of Euro Info Centres - EICs) is also key to support, in particular SMEs, and improve the environment in which they operate. As a matter of fact, the Enterprise Europe Network often represents the face of Europe for operators at the local level.

4.7.3.1. Previous studies <sup>(25)</sup> found that while the former network of EICs generally provide quality services, the feedback

mechanisms between the Centres and the European Commission do not always function well. This aspect should be appraised again to take adequate intervention where the problem persists.

4.7.4. Complaints about legal barriers can also be addressed directly to the European Commission. This additional communication channel should be adequately publicised.

4.7.5. The current state of self- and co-regulation initiatives has also an impact on the environment of business and they can contribute to lift existing barriers. It is desirable to deepen the knowledge about self- and co-regulation in order to disseminate best practices <sup>(26)</sup>.

Brussels, 14 May 2009.

*The President  
of the European Economic and Social Committee*  
Mario SEPI

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<sup>(24)</sup> OJ C 77, 31.3.2009, p. 15.

<sup>(25)</sup> Renda A., Schrefler L. and Von Dewall F. (2006), Ex post evaluation of the MAP 2001-2005 initiative and suggestions for the CIP 2007-2013, CEPS Studies.

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<sup>(26)</sup> The EESC has set up a database dedicated to European self- and co-regulation initiatives together with the Secretariat General of the European Commission:  
<http://eesc.europa.eu/self-and-coregulation/index.asp>.



## APPENDIX

**to the opinion  
of the European Economic and Social Committee**

The following Section Opinion text was rejected in favour of an amendment adopted by the assembly but obtained at least one-quarter of the votes cast:

**Point 3.1**

*The Single Market is a dynamic concept. Its content and the creation of a level playing field for economic actors in Europe are defined by appropriate EU policy objectives and guaranteed by European law. Objectives and rules are also adjusted in due course as a result of changing circumstances.'*

**Reason**

cf. EESC Opinion SOC/315.

**Result**

Amendment adopted by 125 votes to 76, with nine abstentions.

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