



**Sent by email
to the Members
of the European Parliament**

Rue Wiertz 60
B-1047 Brussels
Belgium

BUNDESARBEITSKAMMER
PRINZ EUGEN STRASSE 20-22
1040 WIEN
T 01 501 65
www.arbeiterkammer.at
DVR 1048384

Your reference	Our reference	Case officer	Tel. +43 1	Fax +43 1	Date
-	EU-AmS/Ey/Ab	Frank Ey	Ext. 2768	Ext. 42768	01.06.2015

Vote on REFIT, the Regulatory Fitness and Performance programme

Dear Members of the European Parliament,

The European Parliament Committee on Legal Affairs is scheduled to vote on the Regulatory Fitness and Performance programme on 16. June 2015, with Sylvia-Yvonne Kaufmann as rapporteur.

In March 2015, we sent you the opinion of the Austrian Federal Chamber of Labour on REFIT (see also the [AK EUROPE position paper: Regulatory Fitness and Performance \(REFIT\) - in German: AK EUROPA-Positionspapier: Gewährleistung der Effizienz und Leistungsfähigkeit der Rechtsetzung \(REFIT\)](#)). Because a new REFIT reform package was announced by the European Commission on 19. May 2015, we would like to remind you of our central positions and elaborate on certain specific opinions:

We welcome measures that ensure a high level of regulatory fitness and performance and avoid unnecessary bureaucracy.

In its press release of 19. May 2015, however, the Commission announced that, in developing its initiatives, it would follow the 'Think Small First' principle even more rigorously, that it would consider relaxing the regulations for SMEs, and that it would envisage exempting the smallest companies from all regulations if it were possible and sensible to do so. We categorically reject any approach of this kind for the following reasons:

- **According to the European Commission's definition, approximately 99% of companies are SMEs (in Austria, the figure is approximately 99.6%).** Relaxing the regulations for SMEs or exempting them from all regulations, such as in the area of occupational health and safety, to quote the Commission's own example, would mean that **sensible and necessary regulations could potentially be sacrificed in almost all companies to the detriment of their employees.**

- If **legislative texts** were adapted according to the 'Think Small First' criteria, they would be rendered **absurd: in their original form, they would apply to only 1% of companies (0.4% in Austria)**. Thus the purposes of the respective Directives or Regulations could be largely thwarted.
- Instead of a 'Think Small' approach, we propose the **implementation of a 'Think Smart' approach**: to work towards efficient and high-performance EU laws, it is necessary to weigh up the costs and benefits of all social groups affected (e.g. employees, consumers and companies).

If the Commission proposes more transparent and comprehensible consultations and gives all stakeholders' views equal weight, this should be welcomed. However, it is very irritating when the Commission writes that it is interested in what stakeholders think, but in the second half of the same sentence it emphasises that it is particularly interested in the opinion of SMEs. **Once again, we would like to emphasise that the single market depends on employees in their role as consumers, and there are therefore completely different groups that are essential for the single market to flourish.**

The Commission's comment that it respects the autonomy of the European social partners and that consultations with social partners will continue to be carried out pursuant to Articles 154 and 155 TFEU, is obvious. At this point, once again we note with disapproval that the Commission has not respected an EU social partners' agreement on hairdressing and has not presented any appropriate legislative proposals – with the justification that this is a REFIT measure. And this is in spite of the fact that, in this very case, companies and employees have agreed on a joint approach. **We therefore ask the European Parliament to request that the European Commission immediately start work on a legislative text on hairdressing in accordance with the social partners' agreement.**

We would like to remind you that the Commission has also failed to present legislative proposals on a range of other important occupational health issues, such as disorders of the locomotor system, passive smoking and carcinogens, because of REFIT. At this juncture, we would also ask the European Parliament **to urge the Commission to resume work on occupational health and safety legislation.**

The Commission's idea that the European Parliament and Council should **carry out an impact assessment on every substantial amendment to a legislative proposal** represents a fairly obvious encroachment upon the independence of both EU bodies. This would indirectly limit the room for manoeuvre of MEPs and Member States that espouse a different philosophy from that of the Commission. **Therefore, from a democratic point of view, this proposal must be categorically rejected.**

Moreover, the comment urging Member States to avoid **'unjustified gold plating'** also deserves criticism. When does gold plating become unjustified? The Commission's view on gold plating is as follows (see COM(2015) 215, page 8, English version): 'While this may help achieving the legislation's objectives in the local context or aim to deliver greater benefits, it may also impose significant extra burdens.' Once again, this makes it clear that the

Commission is exclusively interested in benefits for companies (and this does not only involve SMEs!). The Commission's message is that even if the benefits outweigh the drawbacks (e.g. benefits for employees or consumers), this is irrelevant, because if it results in any costs for companies, it constitutes unjustified gold plating. **We therefore reject the proposal to avoid unjustified gold plating.**

Regarding the establishment of the Regulatory Scrutiny Board and the REFIT Platform, the purpose of these two boards is to perform preliminary work in order to reduce the administrative burden. It is essential that the membership of these two boards is balanced, and that no advantage is given to any interest group.

As we have indicated above, we have numerous misgivings about the orientation of the REFIT programme. EU law must take into consideration the interests of every part of the population. A bias towards the demands of SMEs will not result in balanced, efficient or high-performance EU law. We hope that you will take our comments into consideration when you vote on REFIT.

Yours sincerely

Rudi Kaske
President

Maria Kubitschek
On behalf of the Director