



January 2018
AK Position Paper

Completing the Better Regulation Agenda; REFIT Annex in the Commission Work Programme 2018

COM (2017) 651, COM (2017) 650

About us

The Austrian Federal Chamber of Labour is by law representing the interests of about 3.6 million employees and consumers in Austria. It acts for the interests of its members in fields of social-, educational-, economical-, and consumer issues both on the national and on the EU-level in Brussels. Furthermore the Austrian Federal Chamber of Labour is a part of the Austrian social partnership. The Austrian Federal Chamber of Labour is registered at the EU Transparency Register under the number 23869471911-54.

The AK EUROPA office in Brussels was established in 1991 to bring forward the interests of all its members directly vis-à-vis the European Institutions.

Organisation and Tasks of the Austrian Federal Chamber of Labour

The Austrian Federal Chamber of Labour is the umbrella organisation of the nine regional Chambers of Labour in Austria, which have together the statutory mandate to represent the interests of their members.

The Chambers of Labour provide their members a broad range of services, including for instance advice on matters of labour law, consumer rights, social insurance and educational matters.

More than three quarters of the 2 million member-consultations carried out each year concern labour-, social insurance- and insolvency law. Furthermore the Austrian Federal Chamber of Labour makes use of its vested right to state its opinion in the legislation process of the European Union and in Austria in order to shape the interests of the employees and consumers towards the legislator.

All Austrian employees are subject to compulsory membership. The member fee is determined by law and is amounting to 0.5% of the members' gross wages or salaries (up to the social security payroll tax cap maximum). 816.000 - amongst others unemployed, persons on maternity (paternity) leave, community and military service - of the 3.6 million members are exempt from subscription payment, but are entitled to all services provided by the Austrian Federal Chambers of Labour.

Rudi Kaske
President

Christoph Klein
Director

Executive Summary

The BAK wishes to draw attention to the fact that in the **Better Regulation Agenda (REFIT) the interests of all actors involved, in particular those of employees, must be treated equally.**

In recent years BAK has pointed out a number of times in its opinions on better regulation that, with regard to a series of REFIT proposals, it is to be feared that they will have negative effects for employees, consumers and society. Of the dossiers currently being negotiated at EU level, this is the case for the **European services e-Card**, for example. This proposed legislation could have damaging effects for employees and also create a greater administrative burden. The proposal for a **Common Consolidated Corporate Tax Base** must also be viewed critically, although in principle it could lead to fair business taxation. However, without consolidation the REFIT measure would aggravate tax competition even further. The push for a **better work-life balance for parents** is essentially positive and can lead to fathers becoming more involved in parenting.

However, employers have the option to refuse flexible working hours for parents, which in fact calls the initiative into question. Regarding consumer protection, the **geoblocking** initiative is to be welcomed, in BAK's opinion. However, the **Review of the Consumer Acquis** must not result in a deterioration of standards in consumer law.

Furthermore, BAK wishes to draw attention to the fact that REFIT must not be used to dispense with necessary regulations. In this connection BAK calls on the EU Commission once again to implement the framework agreement of the European social partners for better employee protection.

The AK's position in detail

Essentially the Commission's intention to improve EU legislation and make it efficient is to be welcomed. However, as BAK has found on several occasions, the principle formulated by the Commission of creating a better environment for SMEs creates the impression that people and organisations outside the business sector could run the risk of becoming "victims" of this initiative since their interests quite clearly play a subordinate role. Therefore BAK wishes to expressly state once again that REFIT must reflect the interests of all actors involved.

In its Communication on Completing the Better Regulation Agenda and the REFIT Scoreboard Summary, the Commission refers to numerous examples where REFIT measures are successful, or could be so in the future. However, BAK wishes to point out that, apart from some positive REFIT proposals, unfortunately there are also initiatives which must be rejected either in whole or in part because they would have negative effects on society. To some extent additional legislative proposals would be necessary to ensure that the REFIT draft legislation will have a positive effect. BAK would like to give the following examples:

- **European services e-Card:** The Commission is expecting the REFIT initiative to simplify the provision of cross-border services. However, in BAK's opinion there is no added value to be expected; on the contrary: in the construction sector in particular, it could result in a rise in

bogus self-employment and bogus secondment at the expense of employees in the construction sector. Furthermore, the proposal would entail more bureaucracy because a new authority would have to be created. Therefore BAK roundly rejects this legislative proposal.

- The proposed directive on **Work-Life Balance for Parents** and Carers contains improvements to ensure a better sharing of caring responsibilities between women and men. Paternity leave of ten days is a step in the right direction, although a month would be preferable. However, the right of the employer to refuse or postpone paid parental leave and flexible working hours must be rejected absolutely. Furthermore, parental leave does not take the situation of single parents into consideration.
- The Commission's drive to create a **Common Consolidated Corporate Tax Base** is essentially to be welcomed. However, in BAK's opinion, consolidation must be adopted, together with the Common Corporate Tax Base, and a minimum tax rate must be set. This is the only way to achieve the objective of the draft legislation, namely to prevent tax avoidance by companies. Without consolidation and without setting a minimum tax rate at the same time, the opposite effect could come about and tax competition between EU Member States could even increase.

- In BAK's opinion the measures against **geoblocking** are expressly to be welcomed, offering added value for consumers. However, BAK would also like to express its concern to ensure that proposals for a **Review of the Consumer Acquis** must not bring about a lowering of standards in consumer protection.

Furthermore, BAK wishes to point out that REFIT must not be used either to dispense with necessary regulations. The financial and economic crisis which started in 2008 has shown that a lack of legal standards can result in enormous costs for national economies.

For example, the Commission is still blocking the implementation of the framework agreement by European social partners on **occupational health and safety in the hairdressing sector** in a directive. This was signed by the social partners at EU level as early as 2012. The agreement was reviewed in 2016 in order to meet the Commission halfway. BAK deplores the attitude of the European Commission because draft legislation to improve working conditions of hairdressers would offer considerable added value and would be a positive REFIT measure.

We kindly request that our remarks be taken into consideration during work on the proposed directive at the EU level.

Should you have any further questions
please do not hesitate to contact

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