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## Article

# Introduction to the issue on overregulation in the EU? How to boost competitiveness with smarter legal frameworks

EconPol Forum

## Provided in Cooperation with:

Ifo Institute – Leibniz Institute for Economic Research at the University of Munich

*Suggested Citation:* Nam, Chang-woon (2024) : Introduction to the issue on overregulation in the EU? How to boost competitiveness with smarter legal frameworks, EconPol Forum, ISSN 2752-1184, CESifo GmbH, Munich, Vol. 25, Iss. 6, pp. 3-4

This Version is available at:

<https://hdl.handle.net/10419/308546>

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Introduction to the Issue on

# Overregulation in the EU? How to Boost Competitiveness with Smarter Legal Frameworks

*Chang Woon Nam*

By adopting regulations that affect the international business environment, set global standards, and lead to the Europeanization of some crucial aspects of world trade, the EU has so far managed to shape policy in areas such as data protection, consumer health and safety, environmental protection, supply chain, antitrust law, etc. This “Brussels effect,” which once stood for the supposed influence of the EU on the shaping of global regulations, is now increasingly contributing to the global fragmentation of regulations: not only has the EU’s insistence on “autonomy” and “European values” led to the rise of global protectionism, but regulatory cooperation in the single market also appears to be stagnating and in many cases even declining – this is reflected in the fact that it is difficult for companies to enter markets and expand in the EU, as well as to adapt and modernize their businesses. On the other hand, overregulation in some areas is not expedient, but can restrict innovation, competition, and growth.

Under its last two presidents, the European Commission has evolved into a more policy-oriented body, whose role has helped the EU in recent crises. However, the EU has lost its strengths as a technocratic legislative body that focuses on drafting laws based on evidence and best practice and is less tied to short-term politics than the European Parliament and the European Council. A more technocratic stance is also important so that the European Commission is perceived as an impartial enforcer of EU law – and so that it can hold member states to account if they do not implement these laws properly.

What the EU needs now is “better regulation,” equipped with a set of practices that ensure EU legislation is evidence-based, produced in a transparent and inclusive way, and as simple and targeted as possible to reduce unnecessary bureaucratic burdens and costs. In the search for ways to boost economic growth and competitiveness, EU policymakers need to reduce distortive regulations and must prioritize regulatory strategies and measures that unleash the collective ingenuity of individuals and companies and help foster innovation and maintain high levels of productivity.

This issue of EconPol Forum contains seven articles on the impact of EU regulations on innovation, competitiveness, and growth. With a particular focus on the institutional aspects related to the single mar-

ket and the enforcement of EU regulations by member states, the authors critically assess the extent of the negative economic impact of complex regulations and bureaucracy in the EU, also addressing the specific areas of climate and data protection, supply chains, etc. They also make some policy suggestions on how the EU can improve the quality of legislation and enforcement performance needed to successfully implement “better regulation.”

According to *Béatrice Dumont*, “ambitious” regulatory standards can promote innovation and competitiveness, while the complexity of regulation is perceived as a burden for companies. For this reason, debates on regulation and competitiveness appear to be less conclusive and benchmarks are being sought for assessing the notion of complex/ambitious regulation. There is no ready-made solution for the implementation of a regulation reduction law or a corresponding law in the EU. However, what is proposed is a policy of “smart regulation” in the sense that it should not be a policy of numbers, but of sound principles of systematic ex post evaluation of regulations in pre-announced periods, with review clauses in the same periods that allow anticipation of regulatory changes and flexibility in the regulatory timeframe. The phases of the EU Emissions Trading System can be an interesting starting point for further reflection, as they involve planning dates for potential regulatory changes, encourage past evaluation, and facilitate debate on reform.

The volume of legislation is increasing in the EU, but enforcement resources are not, which in turn means that in order to enforce new legislation, other legislation will need to be left unenforced. In contrast to the European Commission, which sees such a “one in, one out” principle only in terms of the administrative burden on businesses and citizens, *Jan Blockx* argues that the enforcement costs imposed on public authorities are particularly crucial for EU legislation, the enforcement of which usually depends on the member states. There seems little doubt that (mostly national) enforcement resources cannot keep pace with the increase in EU legislation, especially in these times of tight budgets. As a result, the adoption of new EU legislation almost inevitably leads to less enforcement of old (EU or national) legislation. If legislators do not take this effect into account, the

introduction of more and more regulations will only lead to less and less enforcement.

The rapidly growing volume and economic importance of digital data has prompted EU policymakers to enact several data market regulations, including the General Data Protection Regulation, the Data Act, and the European Health Data Space. All of these regulations aim to open up access to data locked in technical silos, facilitate the emergence of data markets, and encourage the development of innovative data-driven services. However, *Bertin Martens* criticizes the current EU data market regulations for being fragmented, driving up compliance costs, and failing to realize the full social value of data. Economies of scope in the reuse and aggregation of non-rival data, together with transaction costs, can create a gap between the private and social value of data, leading to market failure and the need for regulatory intervention in data markets. Where feasible, the tension between the private and social value of data can be bridged by private incentives for shared use. If this is not possible, binding conditions for sharing apply.

According to *Fredrik Erixon* and *Oscar Guinea*, a large part of the productivity gap between the EU and the US is due to the fact that the EU invests less in ICT-related tangible and intangible capital. This, in turn, is partly due to the EU's digital regulations, which restrict companies' access to modern resources such as data and force EU companies to specialize in less ICT-intensive activities. In this context, the EU has overlooked the full impact of digital regulations by focusing on compliance rather than such "behavioral" effects. The EU urgently needs to reduce the restrictions of digital regulation in order to increase the contribution of digital technologies to productivity growth.

The EU Corporate Sustainable Due Diligence Directive requires companies to carry out due diligence on their own conduct and that of their direct and indirect suppliers. They must identify and prevent, end, or mitigate actual or potential negative impacts on human rights and the environment in their own operations, in their subsidiaries, and in the value chain. In this context, the costs of social and environmental compliance are shifted to private companies within complex supply networks. To ensure effective and cost-efficient implementation, the Directive should aim to reduce economic complexity. To this end, *Gabriel Felbermayr* and *Klaus Friesenbichler* suggest (1) excluding countries with strong regulatory systems; (2) public agencies should set harmonized standards and organize a private certification system that focuses

on the suppliers and not on the entire network; and (3) the new European Parliament may need to adapt the legal framework accordingly.

In view of the ageing of the European population and to better address serious challenges such as slow growth, the lack of contribution to the digital revolution, and the weak exploitation of cutting-edge technologies and innovation, the Draghi report published in September 2024 advocates institutional and economic measures that focus on equipping Europeans with the necessary skills to benefit from new technologies, using decarbonization as an opportunity to promote competitiveness and growth, and to increase security and reduce dependencies. However, *Thomas Weck* critically argues that the EU economy would probably benefit more, if the existing Treaty framework (established by the Treaty on European Union and the Treaty on the Functioning of the European Union) were fully implemented than if the recommendations of the Draghi report were followed. In this context, the following points were emphasized: (1) the EU treaties are based on an open market economy – the Draghi report does not; (2) the EU's lag in advanced technology is well known and Draghi's state-driven response is unconvincing; (3) EU overregulation is a problem, especially in the strategic areas Draghi mentions; (4) extensive public funding distorts markets and burdens the population; and (5) the Draghi report advocates reducing dependencies but lacks a global trade strategy.

*Oliver Falck*, *Yuchen Mo Guo* and *Christian Pfaffl* estimate the overall economic costs caused by a high level of "bureaucracy," which often has negative connotations, as too much regulation unnecessarily burdens citizens and companies, and stands for inefficient, non-service-oriented administrative processes. Such bureaucratic burdens cause additional costs for economic activity and have a negative impact on the country's competitiveness. Their international analysis shows that a fundamental reduction in bureaucracy is associated with an average increase in real GDP per capita of 4.6 percent. If Germany had carried out such a reduction in 2015, GDP per capita would have been EUR 2,449 higher in 2022. On average, over this period this would have corresponded to an annual increase in real GDP per capita of EUR 1,766 or a total of EUR 146 billion per year. A digitalization push in public administration would have increased real GDP per capita by 2.7 percent with the same level of bureaucracy.

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