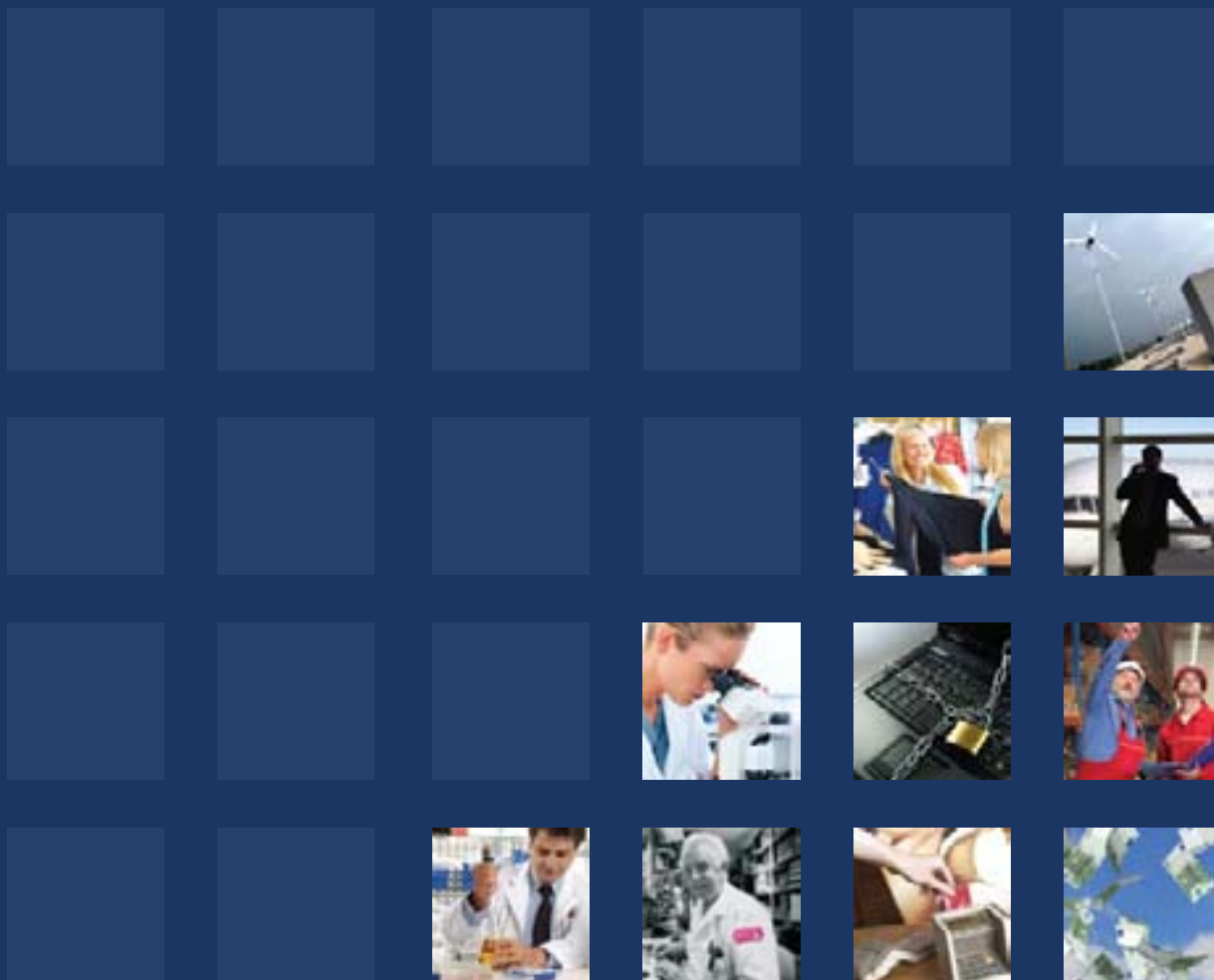




UNIZO & UCM EUROPEAN ELECTIONS MEMORANDUM 100 ENTREPRENEURIAL PRIORITIES

Europe 2009-2014



Unie van Zelfstandige Ondernemers



UNIE VAN ZELFSTANDIGE ONDERNEMERS

QUESTIONS OR REMARKS?

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On 25 June, 2008, the European Commission created the Small Business Act, or SBA. A logical step. Indeed, the importance of SMEs for the European economic fabric can be hardly overestimated: 99.8% of European companies are SMEs. Furthermore, SMEs account for 57.6% of the added value and represent 67.1% of European employment. Of the 6 million jobs created in Europe between 1999 and 2004, 5 million were created by SMEs.

The Small Business Act constituted a significant turnabout for European economic policy views. In keeping with the new “Think Small First” principle, henceforth each European or national directive or policy formulation must be first and foremost, and principally, SME-friendly.

In addition, the SBA stipulates that an enterprise-friendly climate should encourage people to start their own business and that the large contribution of SMEs to the growth of employment and economic prosperity should be acknowledged. SMEs should not be supported only during formation, but also throughout their entire life cycle. In doing so, the European Union shows it greatly supports entrepreneurship in general and SMEs in particular.

One might ask, with good reason, whether this SBA has not rendered this memorandum superfluous. The member states indeed did not want to cement these principles by turning them into legally binding rules. So the principles of the SBA eroded into political commitments. Despite their still great (symbolic) importance, institutions, governments and policymakers are still given too much freedom in performing/adopting their respective activities and decisions more or less in keeping with the principles of the Small Business Act.

This memorandum serves as a guide for all policymakers at all levels in accomplishing the commitments made by “Europe” in 2008. It contains an enumeration of (general and specific) measures in all fields, each of which can be reduced to the basic principles of the Small Business Act.

The question of whether this memorandum was necessary has now been answered. But why now? To turn the crucial European elections of 7 June also into SME elections. In 2000, European government leaders set the ambitious Lisbon goals: “to turn the European Union, by 2010, into the most dynamic and competitive knowledge economy in the world, with sustained economic growth, more and better jobs and tighter social cohesion with respect for the environment”.

Even though these goals already had to be adjusted in 2005, Europe must remain ambitious after 2010 as well, in the post-Lisbon era. However, a more effective and imperative supervision of the achievement of the goals is required. Moreover, in the face of the current crisis, more than ever before, the needs of companies, in particular of the SMEs, should be the starting point.

The current crisis is much more than a financial crisis. The real economy too is being hard hit. The national recovery plans lack scope and coordination. The rescue plans for troubled auto giants threaten to turn the member states into competitors. The European Union is failing in that respect. An important task thus awaits the newly elected members of the European Parliament and the new European Commission. The Small Business Act, if supplemented and rendered enforceable, can mitigate the current crisis for SMEs. In some cases there will have to be minor changes made to existing systems, while in other cases dramatic changes will be required.

UNIZO and UCM, as Belgian entrepreneurs’ organizations, are more convinced than ever of the added value of Europe. At the same time, this document warns of certain developments that do not take enough account of the individuality of some European regions.



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1

Energy and the environment

- European internal gas and electricity market
- Climate and environmental policy
- Registration obligations



Energy and the environment

EUROPEAN INTERNAL GAS AND ELECTRICITY MARKET

ANALYSIS For all the ambitious goals set, the electricity market in Europe remains divided into national markets. Thanks to the continued existence of those national markets, the “established producers” continue to play a dominant role in their home markets. The lack of competition saddles European SMEs with too high electricity and gas prices. That was confirmed as recently as January 2007 in the final report of an extensive sector survey by the European Commission. Nonetheless, a large European electricity and natural gas market is required to provide supply certainty and to attain competitive price levels.

UNIZO and UCM ask Europe

- 1 to adopt measures aimed at unbundling. Due to the vertical integration that still exists between production, supply and network management activities in many EU member states, not all players have equal access to key market information. As a consequence, the so-called “national champions” can make strategic decisions more quickly and there is no real competition in the field.
- 2 to exercise stricter supervision over and, if necessary, scale back or scrap state aid. Government subsidies can perpetuate monopolies.
- 3 to closely monitor compliance with antitrust rules. In the light of the merger of large, multinational energy companies, this is more necessary than ever. The danger remains that big players will divide the markets among themselves, rather than compete with each other.
- 4 to take a more critical stance on long-term capacity reservations, as they reduce access to key infrastructure such as transmission and distribution networks and/or storage facilities.
- 5 to see to it that more money is invested in the electrical

interconnection between EU member states. That is necessary to enable more intensive electricity exchanges (import, export and transit) in a liberated European market. This, in turn, will pave the way for more competition on the European markets and reduce the risk of incidents (e.g. a blackout).

- 6 to install a European regulator, who replaces the national regulators.
- 7 to create a European network manager, who replaces the national network managers. There can only be real competition if there are sufficient means of transport. Now the transport of electricity is the responsibility of the network managers and the supervising regulatory institutions, which only operate at the national level.
- 8 to actively support the further development of a West-European electricity bourse.

All of these European measures should contribute to better market directive, which will automatically result in better, more competitive prices for SMEs in the internal market.

European measures should contribute to a European electricity and natural gas market with better market directive. This is necessary to provide supply certainty and to attain better, more competitive price levels for SMEs. Among the things needed are a European regulator – a European network manager who must replace the national network managers; a real unbundling policy and the active supporting of the further development of a West-European electricity bourse.

CLIMATE AND ENVIRONMENTAL POLICY

Renewable energy

ANALYSIS All conclusions of recent studies on climate change point to the need to move toward a low-carbon society. The ambitious European climate and energy package forces us to transition towards a low-carbon economy. For Belgium, Europe set a very ambitious “renewable energy” goal that can be hardly achieved completely and internally, unless at an enormous cost.

Because of the move toward more renewable energy, the demand for energetic valorisation of biomass will continue to increase. The preconditions for using biomass for energetic valorisation vary from member state to member state. So there is certainly a need for European criteria and preconditions for using biomass flows in energy production.

UNIZO and UCM ask Europe

- 9 to compile an ambitious European stimulus programme for technological and social innovations to be able to move more quickly toward a low-carbon economy.
- 10 to provide a really flexible system of the trade in guarantees of origin to enable the overly ambitious “renewable energy” goals to be achieved effectively nonetheless.
- 11 to lay down a framework for biomass flows to be used for the purposes of energy production.

Acidifying substances

ANALYSIS The negotiations over the revision of the European directive on National Emission Ceilings for acidifying substances (NEC) are resumed in 2009 with a view to the adoption of an amended directive during the Belgian presidency in 2010. The distribution of the required reductions in acidifying substances between the various EU member states is of crucial importance to SMEs as well. They too are often active across the borders.

UNIZO and UCM ask Europe

- 12 to monitor the equal distribution of efforts between the EU member states to limit the emission of acidifying substances. In this regard, European measures such as Best Available Techniques (BAT), European emission standards or European product standards should be preferred over Flemish or Belgian environmental legislation. Indeed, those European measures usually prove more effective and cheaper and guarantee a European “level playing field”.

REGISTRATION OBLIGATIONS

ANALYSIS REACH stands for Registration, Evaluation and Authorization of Chemicals. It encompasses extensive and complex European directives with consequences for companies that produce, import and use chemicals. All players in the production chain are under obligation to disseminate information about substances and their applications; which is why a rising number of SMEs have questions about REACH.

For the registration obligation of substances, transition periods and deadlines apply which are more stringent depending on the hazard characteristics (carcinogenic, mutagenic, toxic etc.) and the quantities.

To be able to use the transition periods, the substances must be pre-registered. The pre-registration period ran until 1 December, 2008. Pre-registration was free and was best done online via the REACH-IT portal on the website of ECHA.¹

If no pre-registration is performed, the substances can no longer be manufactured or commercialized without prior registration. Indeed, no data on the substance means no market for the substance. Registration requires an extensive dossier to be submitted to the ECHA.

Downstream users must check if the substances they buy are registered for their application. By communicating the application to the supplier, he can include the use in his registration dossier. Downstream users and players in the distribution chain are subject to the information exchange, both upward and downward. The recommended risk-limiting measures relating to transport, storage etc. must be applied.

Besides REACH, there is also the CLP Regulation (PB L353, 31 December, 2008). CLP stands for “Classification, Labelling and Packaging of Substances and Mixtures” and imposes a number of specific rules the labelling of chemicals or mixtures must meet. The manufacturer, importer or downstream user² of chemicals or mixtures must classify them before putting them on the market.

These CLP rules are closely interwoven with REACH. The classification of substances or mixtures and the proper labelling under CLP is not obvious for an SME. These rules, too, have various transition periods for labelling, use of substance name, hazard indication etc. The difference with REACH is that this obligation is valid regardless of the quantity produced, imported or sold. This makes it a tough nut to crack for downstream users, whereas REACH poses a challenge for manufacturers and importers.

UNIZO and UCM ask Europe

- 13** to answer swiftly, free of charge, and in consultation with the various national SME organizations, the many specific questions from SMEs about REACH and CLP.
- 14** to ascertain, by means of an evaluation, to what extent SMEs have pre-registered. Anyone who unknowingly failed to pre-register should still be given the opportunity to do so without facing any detrimental consequences.

¹ ECHA = European Chemicals Agency in Helsinki; <http://echa.europa.eu>

² Anyone who buys substances on the European market is considered a “downstream user” in the REACH system.

2

Financial market

- **European Investment Bank (EIB)**
- **European Investment Fund (EIF)**
- **SEPA**



Financial market

EUROPEAN INVESTMENT BANK (EIB)

ANALYSIS The most important instrument of the EIB³ to support SMEs is the so-called global loan. This is a loan from the EIB to national financial institutions which, in turn, award loans to SMEs. The status of the EIB enables it to lend on the most favourable terms on the capital market (AAA rating). The EIB can then pass this benefit on to the banks it collaborates with, which eventually is supposed to benefit SMEs.

Each year the EIB awards roughly 5 billion Euros in global loans. These global loans have not been very successful in Belgium, as is shown by the table below.

GLOBAL SME LOANS IN BELGIUM

Year	Number of intermediaries	Amount (in millions of Euro)
2005	1	50
2006	1	50
2007	1	300
2008	0	0

So it is striking that in 2008 not a single euro in EIB financing made its way to Belgian SMEs via the global loans. The amount in the year before was successful : 300 million Euros. That year saw 1 billion Euros being awarded in France, 1.9 billion Euros in Germany and 1.6 billion Euros in Italy; These countries have an average of ten financial institutions collaborating with the EIB. Interest in Belgium is thus very limited.

So in terms of quantity, this EIB instrument certainly is no success in Belgium. Moreover, one might wonder if and to what extent the benefit actually reaches SMEs.

At the informal Council meeting of September 2008, the Finance Ministers asked the EIB to adjust and expand its SME instruments in order to limit the effects of the credit crisis on the SMEs. A few days later, the EIB decided to transform the global loans into EIB loans for SMEs and to raise the available budget by 50% to 15 billion Euros over a two-year period.

In addition to increasing the available volume, the product too was adjusted: henceforth, not only material investments will qualify and the SME must be informed about the benefit. But the core of the instrument remains unchanged. It was announced however that other instruments will be developed as well.

UNIZO and UCM ask Europe

15 to quickly evaluate the new EIB loan for SMEs. If the results for the SMEs are not better than in the past, the resources need to be recycled with a view to creating more powerful instruments.

³ The EIB, the Bank of the European Union having the 27 member states as shareholders, has financed SMEs since 1968. It is one of its five primary objectives since 2005.

EUROPEAN INVESTMENT FUND (EIF)

ANALYSIS

The European Investment Fund supports SMEs:

- by investing in risk capital funds;
- by providing guarantees to financial institutions upon granting credits to SMEs.

As far as the latter is concerned, there is already a tradition of collaboration between the EIF⁴ and the Participation Fund: thanks to the support from the EIF, the Participation Fund can award more subordinated loans.

UNIZO and UCM ask Europe

- 16 to increase the budget for the EIF guarantees. In Belgium, for instance, in addition to the Participation Fund, the 3 regional guarantee funds, too, should be able to enjoy the European EIF scheme.
- 17 to set up a European knowledge centre, similar to Kefik⁵. It must, among other things, monitor the European financing instruments for SMEs and stimulate experience sharing between the member states.

⁴ The EIF was created in 1994 and is a joint venture between the EIB, the European Commission and a number of financial institutions. The main task of the EIF is to support financial institutions in financing SMEs.

⁵ The Belgian Knowledge Centre for the Financing of SMEs

SEPA

ANALYSIS The harmonisation of the electronic payment landscape in Europe is the logical next step after the introduction of the Euro in 2002. However, the impact of changes in cost on the success of SEPA⁶ is decisive. More attractive conditions resulting from increased competition and scale advantages at a European level must make SEPA successful.

The European Commission, in particular DG Competition, has already made a great deal of effort to ensure that users of payment cards get the advantages they are entitled to. On 13 June, 2005, the European Commission launched an inquiry into the retail banking sector. In its final report of 31 January, 2007, the Commission concludes that there are 'features that impede competition' in the sector of payment card systems. The Commission identifies the so-called interchange fee⁷ as a feature impeding competition.

European Competition Commissioner Nellie Kroes on 19 December, 2007, ordered Mastercard to revise their interchange fees system. Mastercard was given 6 months to do so. Since Mastercard was unable to propose an economically acceptable alternative to the European competition authorities, Mastercard on 12 June announced that, as from 21 June, 2008, on a temporary basis or not, no more interchange fees would be charged for cross-border credit card payments.

On 1 April, 2009, Kroes announced Mastercard's new rates would be accepted. Henceforth, the new rate for cross-border credit card payments is 0.30% instead of 0.80% to 1.90% before. For Maestro payments, the new rate is 0.20% instead of 0.40% to 0.75%. For the Belgian market of cross-border credit card payments alone, this translates to 24 million Euros saved by Belgian merchants and consumers.

In terms of competition law however, the European Commission, in its ruling, can only pass judgment on credit card payments of a cross-border nature. The competition authorities of the United Kingdom and Hungary have already adapted their national situation to the decision of DG Competition. Things are not going as smoothly for Belgium and the other member states. Nonetheless, this would result in a more competitive commercial space for merchants and consumers.

In 2008, the principal Belgian transaction processor processed roughly 6.785 billion Euros in credit card transactions (Visa and Mastercard), on which Belgian merchants paid interchange fees. The purely national credit card payments represent two thirds of the total transaction amount processed. Based on an average interchange fee of 0.70 % (remark: for some merchants it is up to 2%) of the transaction value, for 2008 alone this totals an additional charge of 32 million Euros (0.70% of 2/3rds of the total credit card transaction amount processed) just for Belgian merchants... and consumers.

UNIZO and UCM ask Europe

- 18 to ensure that SEPA strives for the most powerful applications at the most favourable rates. SEPA must not lead to price increases without substantial benefits in exchange. This applies to both card payments and automatic payments.
- 19 to guarantee that the cost of SEPA for the users will be in proportion to the benefits. Otherwise powerful national systems must be allowed to continue to exist. An interchange fee is an intervention that reduces competition between banks. The market regulation that should ideally set the price of SEPA products is already disrupted to an unacceptable extent from the outset.
- 20 to ensure that there is greater consistency in the European competition policy at the national levels, allowing users in each country to enjoy, as quickly as possible, the benefits stemming from European decisions.
- 21 to "open up" the debit card market to competitors of Mastercard and Visa. Alternatives such as Payfair must be given the chance to gain a foothold in this market.

SEPA is all about more competition and scale advantages at a European level. This should result in products of higher quality and better service at lower prices for all users. Better cooperation between the national competition authorities and the European competition authority is essential to enable the member states to quickly work out technically complex European dossiers.

⁶ SEPA, the Single Euro Payments Area, must make it possible to pay, by means of transfers, automatic payments and payment cards, within Europe in the same way and on the same terms as within the borders of a single country. For the creation of a single European payment services market, European standards will be introduced.

⁷ The interchange fee is a fee due by the bank of the merchant concerned to the bank that issued the consumer's card.

3

Social Europe

- Social dialogue
- Lisbon and the labour market
- European activation policy for youths and elderly
- Free movement of employees and self-employed persons
- Equal minimum rights for self-employed persons and employees
- Reconciliation between work and family life
- Flexicurity: one step further
- Kafka goes Europe!

TEN PLENSTE HOUDEBAAR TOT:
08-12-2010

Social Europe

In the past ten to fifteen years, the European Union has entered the social field, although reluctantly and always in relation to the single market or the industrial policy, which is how it should be. But it is indisputable that a European social agenda is emerging slowly but surely, either through the smooth coordination of “frameworks of action”, or through the imperative effect of directives. Occasionally, the social partners even take control themselves through an “autonomous agreement”.

But what role should Europe play in terms of social policy in the broad sense of the word? Surely the Union has a reputation to uphold in relation to labour market policy, including the joint statement from the Commission on flexicurity. Initiatives based on social security are more difficult.

In the past legislature, the European institutions have been quite active on social issues. There have been new directives published on equal opportunities, temporary employment and working hours. There are still a few important interventions in the pipeline (once again relating to working conditions, all kinds of leave arrangements etc.). In addition, the European Commission has circulated a few significant recommendations to the member states, including on flexicurity and active inclusion.

In this chapter we try to explain what UNIZO and UCM expect of a European social policy. On this subject, too, UNIZO and UCM take the principle of subsidiarity as their guide. Europe may only take initiatives provided that they offer added value that would not have been attainable at the national level.

SOCIAL DIALOGUE

ANALYSIS Europe itself, too, always emphasizes the importance of a good and efficient social dialogue. In this regard, having an SEM organization present in the social consultation is crucial. Indeed, all too often the focus is on large enterprises and other major players in the labour market. The importance of SMEs, and certainly of micro enterprises, is being grossly underestimated. Yet, SMEs (up to 50 employees in Belgium) account for 42% of employment, whilst small enterprises (up to 10 employees) account for 15%. The enterprises operate within a different framework than multinational companies, which all too often seem to be the norm during social consultations though. Especially in times of crisis, it is striking how multinationals are high on the agenda (and control the lobby), with way too little attention being paid to SMEs. It is also the small enterprises where entrepreneurship and new chances for growth flourish.

UNIZO and UCM ask Europe

22 to see to it that SME organizations have the opportunity in each member state to develop and to be recognized as a representative social partner in the social dialogue. In this regard, they must be treated as an equal partner in relation to the other employers' organizations with the exact same rights

LISBON AND THE LABOUR MARKET

ANALYSIS The framework for the social policy is the post-Lisbon Strategy as a successor to the Lisbon objectives. The Lisbon objectives were quite ambitious:

- An overall rate of participation of 70% by 2010.
- Rate of participation of 50% for workers aged over 55.
- Raise the average retirement age by 5 years.
- In 2010, a minimum of 85% of 22 year olds must have successfully completed secondary education.
- Average participation of 12.5% of adults (aged 25-64) in lifelong learning.
- A new start in the form of a trajectory agreement is offered to all unemployed youths before they have been unemployed for 6 months, and to all unemployed adults before they have been unemployed for 12 months.

Although these objectives were not achieved, they created a great deal of dynamics in the member states. So it is important to have a post-Lisbon strategy worked out that can perpetuate these dynamics. The aim, of course, is to achieve the objectives this time around.

UNIZO and UCM ask Europe

23 to define new objectives that perpetuate the Lisbon dynamics. The bar must be raised further to attain a flexible labour market capable of sustaining maximum prosperity with a solid system of social security. Belgium has already been quite successful in narrowing the gender pay gap (the difference in remuneration between men and women): in six years, this difference was reduced from 13% to 7%. It is therefore logical, from a Belgian standpoint, to give priority to other objectives where Belgium's performance still leaves a lot to be desired.

UNIZO and UCM therefore suggest the following objectives:

- an overall rate of participation of 75%
- a rate of participation of more than 50% for people aged 55 and over.
- a minimum career (number of years actually worked) of 40 years and no retirement under the age of 60.
- average participation of 20% of adults (aged 25-64) in lifelong learning.
- A new start in the form of a trajectory agreement to be entered into with all unemployed youths they have been unemployed for 6 months, and with all unemployed adults before they have been unemployed for 12 months.

24 to impose a more imperative framework upon member states that fail to achieve certain minimum objectives.

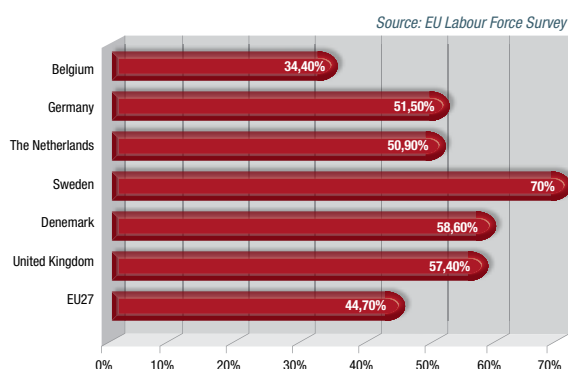
Ambitious post-Lisbon objectives are absolutely essential, whereby the Union also designs a monitoring mechanism for countries that do not attain the objectives.

EUROPEAN ACTIVATION POLICY FOR YOUTHS AND ELDERLY

ANALYSIS As for the elderly population, there has been a strange paradox for some time: though we all live increasingly long lives, the professional career of the average man has gotten steadily shorter. There was a time when the elderly were regarded as the wisest workers in the labour market. Today, however, they are all too often considered a too expensive group of people who can not keep up.

The dire consequence is that a very large group of people who never before in history have been so healthy at that age are no longer used in the economy. This is a huge loss in workforce, experience and creativity and costs an awful lot of money.

Employment Rate of People Aged 55 to 64 in 2007



Europe has not achieved the Lisbon objective of a 50% employment rate for people aged 55 or over. This is a sobering conclusion, as even an objective of 60% of the people aged 55 or over would be optimal. Europe must ensure that elderly people work longer and, if necessary, impose sanctions on member states that do not achieve the objectives.

As well as ensuring that elderly employees keep busy, the European Union also must guarantee the activation and access to the labour market of youth. The employment rate of youth in Belgium is hardly 30%. Youth unemployment was long considered a temporary phenomenon connected mainly to the period of study and the transition from studies to the labour market. The problems that cause youth unemployment however should be viewed more than ever within the framework of demographic and economic evolution. While skills and education have become decisive factors, a difficult transition between two jobs and the segmentation of the labour market must be closely monitored as well.

UNIZO and UCM ask Europe

- 25 to remove the thresholds for the elderly with respect to employment.
- 26 to closely monitor the introduction of youths in the labour market.
- 27 to prohibit all types of early retirement, with the exception of arrangements for medical reasons.
- 28 to encourage youths to get the necessary qualifications so they can have easy access to the labour market and to help elderly, through "lifelong learning", keep pace in the workplace and to make them more appealing in the labour market through training. In this regard, it is important that responsibilities be shared. Elderly have a right to and an obligation of training. To be able to exercise this obligation, the member states must compile a tailored programme of free training hours for older employees. This training must be provided at least as much outside working hours as during working hours. Since the return of such training is particularly relevant from a social point of view, it is only fair that the government should bear the costs of the training.
- 29 to acknowledge the right of elderly to work: any person aged 65 or over who wishes to work of his or her own volition after retiring, either as an employee, or as a self-employed person, is allowed to do so without this affecting their pension.
- 30 to examine how the large group of ageing people with specific needs in terms of care, special housing, entertainment, consumption... can be opened up in a manner that is economically justified and affordable for the target group. In any case, it is clear that we face enormous challenges which will require an adequate response. Indeed, demand for workers in the social and non-profit will continue to grow, which will only increase the pressure on the profit sector in an ageing environment. So workable releases capable of channelling this pressure in a positive way need to be found.

Europe must maximize the employment opportunities of elderly in the labour market. In this regard, it is essential to prohibit early retirement schemes (e.g. early retirement) and to acknowledge the right to work of pensioners.

FREE MOVEMENT OF EMPLOYEES AND SELF-EMPLOYED PERSONS

Free movement of workers is critical to a properly functioning economic union. Supply and demand may differ from each other in different places and at different times. Free movement ensures that supply and demand still reach a balance.

Within the Union

ANALYSIS UNIZO and UCM find that free movement of employees and self-employed persons in the Union has not yet been fully acquired. Moreover, a restriction on the free movement of people is factually undone by the free movement of services. For instance, UNIZO and UCM, in a study on non-Belgian self-employed persons, find that subjects of the new member states, who wish to respond to the demand of the labour market, choose the line of least resistance. Since the self-employed status is considered to be a part of free movement of services, and therefore can be used without additional restrictions during a transition period, it is preferred, in many cases, over the employee status (shortage profession, highly skilled or executive...).

Thus, the objective to protect the national labour market, which implies the adoption of transitional measures, is not attained or guaranteed.

UNIZO and UCM ask Europe

- 31 to allow free movement without transition periods. In the case of entry of Croatia or other new member states, a transition period can only be applied uniformly across the entire Union.
- 32 to apply all across Europe the Belgian follow-up system, the fairly simple and powerful Limosa⁸ system.
- 33 to find a balance that guarantees the proper application of free movement without any additional administrative charges, but that curbs unfair competition based on social security systems. Jurisprudence in relation to the “posting of workers” directive undercuts some of the principles of this directive.

Europe must fully guarantee the free movement of people to avoid dysfunctions in the European labour market and to improve worker mobility. The Belgian follow-up system, Limosa, must be used all across Europe.

Outside the Union

ANALYSIS At the end of 2008, the European Parliament adopted two important proposals from the European Commission:

- COM/2007/0637, the so-called “blue card” concerning the conditions of entry and residence of third-country nationals with a view to securing a job requiring high qualifications;
- COM/2007/0638 on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a member state and on a common set of rights for third-country workers legally residing in a member state.

UNIZO and UCM ask Europe

- 34 to guarantee the important principle of the “demand driven process”, whereby access to the labour market requires a prior labour contract with an employer. So the employer determines to a large extent who has access to the labour market.
- 35 to limit, in fleshing out these guidelines, the demand driven process to the first application. This amounts to limiting the “one to one” relationship (employee - employer) to (maximum) the first employment. Thereafter, in the event of an extension or renewal, one should pursue a “one to many” relationship (employee – employers) in order to guarantee or enhance labour mobility.
- 36 to combine the single application procedure, setting out the various conditions attached to employment and those attached to residence. UNIZO and UCM are of the opinion that anyone who is allowed to reside here, should also be allowed to work here (without any additional conditions regarding this employment). Conversely, the rule should also apply that anyone who is allowed to work here should also be allowed to reside here and change jobs. The directive (COM/2007/0638) should also apply to self-employed persons.

⁸ Limosa is the mandatory declaration for employees who are seconded to Belgium. www.limosabe.be

- 37 to drop the minimum wage requirement proposed by the European Commission.
- 38 to not limit the demand driven process to profiles with high qualifications, but to also allow it for profiles with lower qualifications as defined by the employer, whilst continuing to observe the community preference.
- 39 to expand the arrangement concerning the entry of third-country profiles with high qualifications. The current arrangement in Belgium⁹ allows for these profiles to be attracted with this having had a disruptive effect on the Belgian labour market.
- 40 to improve the working environment for both third-country and European highly-qualified workers. Unfortunately, the need for Europe to relax the conditions of entry for third-country highly qualified workers will not lead to an increase in innovation and scientific research in the short term. Figures indeed indicate a substantial outflow of European highly-skilled workers to the USA and Canada¹⁰, among other countries. So the debate about the highly-skilled third-country nationals is rather a debate of “attracting” as opposed to “allowing”.
- 41 to greatly guarantee the possibilities for mobility within the European Union, as well as “circular migration”. This is in the interest of the appeal of European member states as host country (transferability of social rights, family reunion...), as well as for the migrants’ countries of origin (training, research, development cooperation etc.)
- 42 to also take into account the indirect costs of migration (chain migration, and associated costs of education, health care, unemployment benefits etc.), without prejudice to the equality of the assigned rights for migrants.

In regard to third-country nationals, UNIZO and UCM argue in favour of a “demand driven process”, whereby the employer plays a decisive role in the first employment of a third-country national. This must apply to profiles requiring high skills as well as those requiring lower skills.

⁹ Through the system of the labour card B for highly-skilled persons, among others, earning a minimum gross annual salary of € 35,638 in 2009

¹⁰ Les blue cards européens : enjeux économiques, F. Docquier et H. Rapoport, UCL, April 2008

EQUAL MINIMUM RIGHTS FOR SELF-EMPLOYED PERSONS AND EMPLOYEES

ANALYSIS Social security for employees already counts many systems. But the variety in social security systems for self-employed persons is even greater, if possible. This is not a problem in itself: each country has developed a system of social protection for self-employed persons and that does not have to be changed.

It is essential however that these systems meet a few minimum standards. To create an innovative and enterprising climate, it is imperative that entrepreneurs be guaranteed a few minimum social rights. Indeed, as it turns out, insufficient social protection is one of the main reasons why people do not become self-employed entrepreneurs.¹¹

UNIZO and UCM ask Europe

- 43** to draft a directive that allows self-employed entrepreneurs to enjoy the same minimum benefits as employees in terms of pension, health insurance, child benefits and any other social security provisions that exist in the member state concerned. How this is done concretely, depends on the national system itself.
- 44** to ensure that social security payments are always at least 10% higher than welfare benefits. Indeed, social security contributions were paid for social security payments, unlike welfare benefits.
- 45** to respect the individuality of the self-employed status. With regard to this, UNIZO and UCM wish to call attention to the issue of maternity rest for self-employed women and assisting spouses. The current proposal for directive on the execution of the principle of equal treatment between men and women engaged in an activity in a self-employed capacity and concerning the elimination of directive 86/613/EEC that self-employed women and the assisting spouses, at their request, can have the right to the same maternity leave as that provided for in directive 92/85/EEC. Article 8 of the latter directive states the following :

- Member States shall take the necessary measures to ensure that workers within the meaning of Article 2 are entitled to a continuous period of maternity leave of a least 14 weeks allocated before and/or after confinement in accordance with national legislation and/or practice.

- The maternity leave stipulated in paragraph 1 must include compulsory maternity leave of at least two weeks allocated before and/or after confinement in accordance with national legislation and/or practice.”

It would be best to eliminate this, as it takes no account whatsoever of the specific situation of self-employed women and assisting spouses. Indeed, unlike employees, in most cases they cannot afford interrupting their activity for an extended period of time. Any reference to the arrangement for employees is entirely irrelevant because maternity rest for a continuous period of 14 weeks¹² in no way corresponds to the expectations of self-employed women. In the opinion of UNIZO and UCM, the directive had better contain specific provisions relating to a specific maternity leave for self-employed women. In this respect, the Belgian system of maternity leave by the week, which applies since 1 January, 2009, and which is linked to a system of service cheques, could serve as a model. The dual advantage of this system is that it is flexible and allows for the reconciliation between family life and professional life.

- *The European Union must draft a directive so that self-employed entrepreneurs can claim the same social rights as the employees of the same member state.*

- *At the same time, the individuality of the self-employed status must be retained. There may be no crude references to the employee system in proposals relating to self-employed workers.*

- *Europe guarantees a substantial difference between payments as part of the social security system and welfare benefits.*

¹¹ European Commission – Enterprise directorate-general – Promotion of entrepreneurship and SME's - Report of the Expert Group – Second Career – Overcoming the obstacles faced by dependent employees who want to become self employed and/or start their own business - 2004

¹² And all the more so during a period of 18 weeks, as proposed by European Commission.

RECONCILIATION BETWEEN WORK AND FAMILY LIFE

ANALYSIS At the European level, there have already been many rules defined on the subject of holiday and leave arrangements. The directive on the organization of working time regulates, among other things, the right to annual holiday of each employee. The interpretation thereof, however, questions the Belgian holiday system. Belgium has a – good – system whereby an employee builds up holiday rights during a holiday year of service and exercises them in a holiday year. This arrangement would be questioned as the right to annual holiday supposedly is not absolute. An interpretation of this directive should explain that the long-standing and generally accepted system in Belgium suffices to transpose this directive.

In addition, Europe is preparing initiatives regarding parental leave, pregnancy leave and paternity leave. Often, they are, by themselves, tenable positions, but they do not take into account the context in which they are introduced. For example, Belgium has a very generous system of time credit and career break (both in a pure form and in a theme form, including for raising a child). Clearly, these arrangements, too, must be taken into account in order to meet the obligations of the various types of leave.

Furthermore, in regard to all these proposals and initiatives, UNIZO and UCM find that Europe has not developed any comprehensive view of the combination private life – professional life. In this way, each leave system has its own specific rules with different conditions, a different duration, a different financial contribution... In addition to this manifest complexity, it also results in a lack of transparency and legal insecurity, both for the employers and for the employees.

UNIZO and UCM ask Europe

- 46 to be aware, in the event of new initiatives, that there is a need for well-balanced systems that take account of the needs of the employees and of the employers. Absent staff render the organization of work in SMEs more difficult. These problems are often underestimated.
- 47 to take into account the high costs of the leave systems for social security.
- 48 to examine other ways to better combine private life and professional life: better child day nursery structures, working from home or more attractive part-time work.

FLEXICURITY: ONE STEP FURTHER

ANALYSIS The main policy recommendation of the European Commission to achieve the Lisbon objectives pertained to “flexicurity”. This concept originated in Denmark and tries to reconcile flexibility and security in order to obtain an ideally functioning labour market. It can be summarized as follows:

- employees have a right to work security, not to job security. The labour market must function in as flexible a manner as possible to allow companies to hire and fire workers quickly according to the needs.
- employees who lose their jobs are entitled to a credible and secure safety net of social security.
- a strict activation policy is conducted: employees who lose their jobs are encouraged and guided to find a new job as soon as possible.
- an obligation of and a right to lifelong learning: the better employees are trained, the more flexible the transition between jobs can be.

It is important for each member state to be able to apply flexicurity within the own possibilities and culture. However, that does not alter the fact that the European Union could flesh out a number of principles of this concept.

UNIZO and UCM ask Europe

- 49** to enable a hiring and firing policy to create flexicurity. To ensure the flexibility of the labour market, Europe must impose a maximum cost in the event of a layoff. This means, on the one hand, that severance payments must remain limited (maximum six to twelve months’ pay) and, on the other hand, that employers need not provide further guidance to the jobseeker (e.g. outplacement payments) if this is actually the task of the official employment agent.
- 50** to activate jobseekers through a ceiling on the duration of the unemployment insurance.
- 51** to promote training through a framework for lifelong learning, wither shared responsibility of employers, employees and the government being the centrepiece.
- 52** to let the temporary employment sector play its pivotal role in a flexible labour market policy through two modifications to the European directive concerning temporary employment of 19 November, 2008:
 - to provide in art 6, 2nd paragraph that temping agencies must not prevent temporary workers from entering into a permanent labour contract with the company hiring them on a temporary basis; nor must they be prevented

from receiving reasonable compensation for their services. This article is well-intended, but does not regulate what it aims to regulate, namely a smoother transition from a temporary employment contract to a permanent labour contract. All too often companies hiring staff on a temporary basis have to pay outrageous amounts in redemption money for temporary workers who have worked with them for an extensive period of time. Nonetheless, a temping agency has earned back the costs incurred after an average period of three months. Thus, this article must better regulate that, after a temping contract with the company of an uninterrupted period of three months, no more redemption money is owed.

- to gear the recognition rules as part of temporary employment to one another. This will help render the sectors more transparent. Moreover, it will enhance labour mobility within the member states.
- 53** to amend the directive concerning the organization of working time:
 - to destine waiting time as working time, as suggested by the European parliament, is detrimental to many sectors that use it. Indeed, it means that this working time must be paid for and is taken into account in the overall working hours. This constitutes a major violation of flexibility and is very expensive. So the directive should acknowledge that waiting time is, in principle, no working time, unless otherwise stipulated by the social partners in the sector.
 - in the text, the working time of an employee working several jobs is added up and the sum must be under the maximum duration of 48h. This is a violation of freedom of labour. It is the responsibility of the employee to determine how many jobs he wants to work. Thus, a maximum is always on account of one job with one employer, and not the sum of jobs. Moreover, any exceptions to the 48h maximum must continue to exist as part of the flexible organization of the working time over a period of one trimester or one year.
 - Many sectors demand flexibility that requires a fast response. Overly stringent reporting conditions make it impossible to work in these sectors. The description in the directive “changes in working time must be reported well in advance” must be made clearer or scrapped.

KAFKA GOES EUROPE !

ANALYSIS Europe must consider administrative simplification of paramount importance. In recent years, Belgium has gained a lot of experience in terms of administrative simplification and e-government, especially as regards social security.

UNIZO and UCM ask Europe

- 54 to use and disseminate the Belgian experience in terms of administrative simplification and e-government, whilst observing the following principles:
- European rules and procedures must be tested against the accessibility for SMEs: the “Think Small First” principle. What proves detrimental to SMEs after testing must not be implemented as such.
 - Introduction of a European Kafka test¹³.
 - Once information is available, the government shall not ask it a second time. This must become a Europe-wide principle, ideally based on the Belgian instruments.

A very concrete example of the profusion of rules is the arrangement for driving and resting times. The current directive 561/2006, which regulates the driving and resting times for drivers, causes problems. UNIZO and UCM call attention to the fact that several self-employed activities do not fall under the exception arrangement and, therefore, must comply with the legislation on driving and resting times even though these activities have nothing to do with transport. This is true of market vendors, whose right to labour, in some cases, is obstructed by this regulation. While they are on the market, the tachograph’s counter keeps running, causing them to be automatically in violation on busy days.

Furthermore, UNIZO and UCM regret that the rules on driving and resting times have in no way led to European harmonisation. Many EU member states put little or no effort in carrying out inspections at the companies’ head office or apply very light punishments in the event of prosecution. That benefits companies that have a branch in the member states concerned. As a result, the Belgian sector, which is usually characterized by greater odds of getting caught and, especially, higher fines, once again is affected by distortion of competition.

UNIZO and UCM ask Europe

- 55 to see to it that the inspection officials interpret the driving and resting times equally and fairly (in other words, with regard for the economic reality) for all drivers in the European Union. The minority of companies that systematically ignore the rules must be dealt with in a more targeted and intensive manner in all EU member states.
- 56 to implement an unequivocal exception measure for market vendors and other self-employed workers who, according to the vehicle category, fall under the rules on driving and resting times, but carry out no activities that are related to the carriage of goods.

¹³ The Kafka test pertains to excessive paperwork that can be caused by new rules.



4 Tax matters

- **Administrative simplification not at the expense of financial transparency**
- **Enlargement of the applicability of reduced VAT**

Tax matters

ADMINISTRATIVE SIMPLIFICATION NOT AT THE EXPENSE OF FINANCIAL TRANSPARENCY

ANALYSIS On 10 July, 2007, the European Commission issued a communication on the simplification of the entrepreneurial climate in the field of company law, financial reporting and auditing of the annual accounts. Important in this regard was the introduction of a new category of enterprises – the “micro entities” – which would be exempt from the application of the 4th directive, and the exemption for small enterprises from any obligation of publication.

Under the definition of “micro entities” adopted by the European Commission, this means that nearly three quarters of all enterprises in the European Union fall outside the scope of application of the 4th directive¹⁴. The Commission lowered the proposed thresholds precisely because otherwise the fourth directive, along with the accounting obligations for small enterprises, could almost be revoked. It expressly states: “this outcome however does not appear desirable, as for many small enterprises, too, harmonised regulations for financial reporting are required in connection with cross-border investments and transactions of companies”¹⁵. In the same communication, the Commission emphasizes that financial reporting plays a crucial role in the creation of a common market and that harmonisation has positive effects on the competitiveness of enterprises.¹⁶

In a communication from the Commission to the European Council on a European Economic Recovery Plan of 26 November, 2008¹⁷, the Commission states that “Within the framework of the Small Business Act and to reduce the administrative charges for businesses; to increase their cash-flow and to get more people to venture into entrepreneurship, the EU and the member states must: (...) no longer require micro entities to draw up annual accounts (estimated amount saved by these enterprises: about 7 billion Euros a year)”.

The proposal of 25 February, 2009, from the European Commission allows member states to exempt the micro entities completely from the application of the guidelines relating to the annual accounts. As a consequence, micro entities are no longer obliged to draw up and publish annual accounts in accordance with European rules. Member states that apply this option however can impose upon these micro entities a simpler financial reporting framework at the national level. To define this framework, the Commission has proposed the following limits: fewer than 10 employees; less than billion Euros in turnover; less than 500,000 Euros in balance sheet total.

Simultaneously with this proposal, the European Commission also launched a consultation on a complete revision of the 4th and 7th directives, the accounting directives.

UNIZO and UCM ask Europe

- 57 to retain the obligatory annual accounts for SMEs. To abolish them may seem a simplification but creates more obligations in the long term (since each stakeholder will retrieve the necessary financial information in his or her own way). Moreover, an abolition creates unfair competition between entrepreneurs from different member states, hampers the internationalization of SMEs (each member state will impose its own obligations) and does not acknowledge the importance of accounting obligations within the framework of possible inspections and the fight against money laundering and terrorism funding.
- 58 to take as a starting point, for the overall revision of the 4th and 7th directive, the needs of small enterprises, which make up the largest group of enterprises within the EU, without losing sight of the advantages of a uniform accounting system.
- 59 to demand, for the publication and consulting of annual accounts, that maximum use be made of electronic means.

¹⁴ Internal Market and Services Directorate General, Study on administrative costs of the EU Company Law Acquis, Final Report, July 2007: 70,2 % - Figures for Belgium: at least 72%

¹⁵ Communication from the Commission of 10 July, 2007, page 16 - ¹⁶ Communication from the Commission of 10 July, 2007, page 3 en 5

¹⁷ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2008:0800:FIN:NL:PDF>, page 15

ENLARGEMENT OF THE APPLICABILITY OF REDUCED VAT

ANALYSIS Through directive 1999/85/EC of the Council of the European Union of 22 October, 1999, the sixth VAT directive was amended so that the European member states can apply, by way of experiment, for a period of three years, a reduced VAT rate to labour-intensive services. The aim was to maintain or increase employment in the selected sectors and to fight moonlighting.

Five types of services qualified for this: small repair services (bicycles, shoes and leather, clothing and household linen), renovation of and repairs to private homes, window cleaning and cleaning in private households, home care and hair dressing services (Annex K of the directive). Each member state could choose 2 (exceptionally 3) services from this list. Belgium chose the renovation of private homes older than five years and small repair services¹⁸. The reduced rate for these services in Belgium is 6% as opposed to the normal rate of 21%. This project was extended several times. It runs until the end of 2010.

Based on a study by an independent reflection group on the effect of the reduced rate on employment, economic activity and the functioning of the internal market, the European Commission in a statement of 5 July, 2007, stated that a new legislative framework for reduced VAT rates should lead to rationalization and simplification with respect for a proper functioning of the internal market. A broad political debate about the revision of the current VAT structure is announced.

Simultaneously with this debate, the European Commission in early July, 2008, launched a limited legislative proposal about

reduced VAT rates for local services, including the labour-intensive services and hotel and catering. The five labour-intensive services of the experiment were supplemented with a limited list of local services related to real estate, personal care and hotel and catering.

In March of 2009, the European Finance Ministers reached agreement on the definitive introduction of a reduced VAT rate for the services that were involved in the experiment surrounding the labour-intensive services and the enlargement of the application of this reduced VAT rate to include restaurants and books in all forms.

UNIZO and UCM ask Europe

- 60 to quickly adapt the directive, offering legal security to the sectors concerned.
- 61 to allow the enlargement of the arrangement to include all local and labour-intensive services that do not cause any disruption of the internal market. After all, many labour-intensive services, such as the garden sector, security services, the beauty sector and textile cleaning are not included in the agreement.
- 62 to let the member states choose the sectors as much as possible according to criteria, thereby giving priority to the functioning of the internal market and the competitiveness of the enterprises.

¹⁸ Royal Decree of 18 January, 2000; Decision 2000/185/EC of the Council of 28 February, 2000





5

Safety

- **Combating cross-border crime**

Safety

COMBATING CROSS-BORDER CRIME

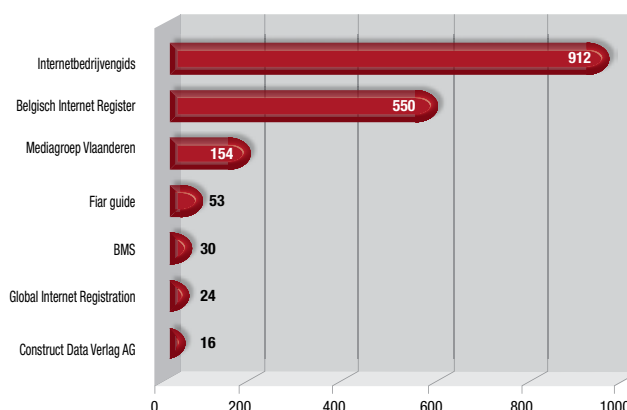
ANALYSIS The EU member states alone can no longer cope with the problem of organized crime, including gangs of roaming criminals responsible for the majority of ram raids against self-employed entrepreneurs. Combating this type of crime does not stop at the borders and can only be successful if part of an integrated European approach.

- Euro banknote counterfeiting: despite strong security features of the notes, there is a sharp rise in the number of counterfeiting instances and a clearly visible improvement in the quality of the counterfeit notes. The perpetrators pick retailers as their target group.
- International swindles: self-employed entrepreneurs are shrewdly swindled out of substantial sums of money by means of promises and advances. This trend is increasing sharply due to the Internet, giving it a greater international dimension.
- Credit card fraud: by using tiny card readers and tampering with cash machines, criminals obtain valuable card information, severely affecting self-employed entrepreneurs. The number of cases of fraud reported involving online payment transactions is also on the rise.
- ICT crime: in addition to the opportunities it offers, ICT poses multiple risks to SMEs using various networks. Viruses, spam, theft of information, loss of confidentiality are international phenomena which SMEs and their ICT specialists cannot solve on their own but which require an approach at the European level.
- Racketeering: UNIZO and UCM find that entrepreneurs, in part due to the enlargement of Europe, are falling victim to a new type of – often extremely violent – crime: racketeering in all its shapes and forms. This trend must be fought by all possible means to prevent it from growing and spreading.

Other types of crime against self-employed entrepreneurs require a European approach: imitation, business fraud etc. and, in particular, unfair commercial practices by advertising recruiters. For years now, in Belgium and in surrounding European member states, countless entrepreneurs have fallen victim to deceptive and fraudulent practices of well-organized and – especially – shrewd advertising recruiters. Internetbedrijvengids, Belgisch Internet Register, Mediagroep Vlaanderen, BMS, European City Guide, Global Internet Register, Intercable Verlag AG, the Fair Guide are but a few examples of the hundreds of recruiters who are active in the business of worthless (Internet) directories that swindle hundreds of millions of Euros out of Belgian entrepreneurs, municipalities and schools each year. In 2006, UNIZO created a reporting point. During the period from September 2006 to September 2008, UNIZO got 1,738 reports.

UNIZO and UCM have found that victims have a very hard time shutting down these recruiters through legal channels in their own country. Even if they succeed, it proves impossible to prevent the recruiters from continuing their deceptive activities in another member state.

Reports on advertising recruiters received by UNIZO (Sept. 2006-Sept. 2008)



If today there is any cooperation or consultation at all between the various authorities, it is often hampered by a different approach taken by these authorities. Not all member states consider the same commercial practices to be unfair and deceptive. This results in different interpretations of the same facts. In addition, it is of paramount importance that the various competent authorities notify each other more quickly of any violations by recruiters with international branches who reside in their territory.

UNIZO and UCM ask Europe

- 63 to devise a European security plan. Obviously, Europol and Cepol must adequately play their role in this. The independent course of both organizations must make way for a common desire to be a privileged partner in terms of police cooperation within the European union.
- 64 to receive greater authority and more resources to combat cross-border crime. Cooperation in terms of police and justice between the member states is necessary.
- 65 to put in place a European consultation platform for SMEs, modelled after the well-functioning Belgian partnership. Criminals are becoming increasingly inventive both in terms of their *modi operandi* and the type of swindle. This strategic and operational information must be shared in a continuous and open manner to enable the various national partners to develop preventive actions.

66 to allow the proper legal and administrative authorities to operate on a cross-border basis (at the European level) in their fight against the recruiters. After all, the main recruiters are also active on a cross-border basis.

67 to amend directive 2006/114/EC, grey listing or even blacklisting practices to be considered deceptive.¹⁹ A grey list does not consider certain deceptive practices *de facto* to be deceptive, but only in specific circumstances. A black list would take European lawmakers one step further: the limited enumeration of deceptive practices are considered to be deceptive in all cases and, therefore, must be considered accordingly by the competent judicial institutions passing judgment.

68 to enlarge the scope of application of directive 2005/29/EC to include business to business transactions (B2B transactions). Indeed, sellers do not enjoy the same extensive protection in all European member states. As a consequence, the “perpetrators”, operating from one country, can quite easily make victims in the better protected markets too.

To counter the internationalization of economic and financial crime, Europe must invest in a consultation platform for SMEs. This platform must give input on a European security plan in which public-private cooperation takes centre stage.

More concretely, as far as unfair commercial practices of advertising recruiters are concerned, Europe must strengthen the European maintenance policy. This can be achieved, among other things, by means of an amendment to Directive 2006/114/EC in the form of a black list of deceptive practices and an enlargement of the scope of application of Directive 2005/29/EC to include B2B transactions.

¹⁹ Policy Department Economic and Scientific Policy: Misleading practices of ‘directory companies’ in the context of current and future internal market legislation aimed at the protection of consumers and SMEs. (IP/AJMCQ/FWC/2006-058/LOT4/C1/SC6)





6 Innovation

- Inviting to tender in an innovative way
- Introduction of an SME-friendly community patent
- Knowledge valorization

Innovation

INVITING TO TENDER IN AN INNOVATIVE WAY

ANALYSIS Specific invitations to tender in the United States have created a great many innovative products and services; As a consequence, numerous SMEs have been able to grow into global players over the course of a few decades. Today, Europe, too, is beginning to see the benefits of the concept. Under the concept, government institutions must reserve a certain percentage of their budget to reach innovative solutions to social challenges through cooperation between companies, knowledge institutions and the government. In this regard, we refer to the example of the American Small Business Innovation Development Act.²⁰ This law stipulates that the US federal departments and agencies that have the biggest extramural O&O budgets must allocate a portion of their resources to SMEs. In this way, since 1983, a total of \$17.9 billion has been allocated to small enterprises.

Of course, in the United States, besides the specific provisions to allocate a portion of the O&O resources to SMEs, there is also the general objective to award 23% of the total volume of public contracts to SMEs. For fiscal year 2005, the federal government in the United States awarded a total of \$314 billion in contracts for the purchase of goods. Of the total budget, \$79.6 billion (25.36%) were allocated directly to SMEs.

UNIZO and UCM ask Europe

69 to launch, within the Competitiveness and Innovation Framework, a similar initiative modelled after the American Small Business Innovation Development Act. In this regard, European targets must be agreed on, whereby national and regional authorities commit themselves to allocate a minimum of 23% of their public contracts or O&O budgets to SMEs.

²⁰ *The small business economy, a report to the President. U.S. Small Business Administration. Washington 2006, p. 48.*

INTRODUCTION OF AN SME-FRIENDLY COMMUNITY PATENT

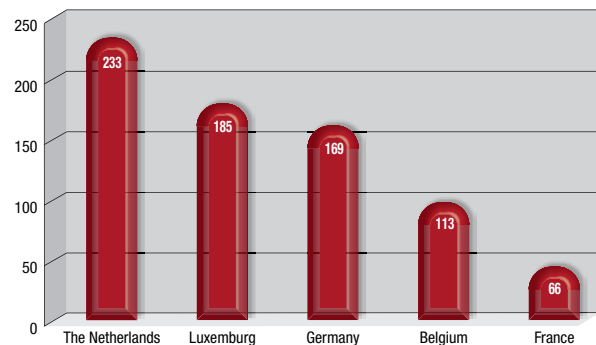
ANALYSIS Innovation is crucial to the development of a knowledge economy in the European Union. Innovation can only bring prosperity if the protection of research results is handled in a professional manner through intellectual property rights. A great many companies have become big precisely thanks to this protection.

As yet, there is no European regulation on a community patent that is valid for the entire European Union. The European Patent Convention²¹ does make it possible to obtain a patent in multiple European countries using a single procedure. The procedure for the grant of European patents is handled by the European patent office. After a European patent has been granted, it is divided into a bundle of national patents which are governed by the patent law of the individual countries. To be able to judge if it is useful to apply for a patent and, given the technical nature, most entrepreneurs bring in a patent agent.

The problem with these European patents is that they involve long procedures and that the costs tend to be very high (in part due to the costs of translation that may be required under national patent legislation). The costs incurred by a company for a European patent can be as high as € 25,000 to 50,000 per patent application. High costs are also associated with the research an SME has to conduct into what has and has not yet been patented. In the event of violations and disputes, the patent holder has to institute proceedings before the national courts.

Especially for SMEs, this legislation constitutes a hurdle to applying for patents and, consequently, also keeps SMEs from investing in research and development. This became clear, among other things, from a 2007 UNIZO survey among 700 SMEs. This survey found that just 1 in 10 SMEs effectively protect their intellectual property. The main reason for not doing so is a lack of knowledge and of awareness of legal protection. For one in four SMEs, the main reason is the heavy procedure. One in five cite the high costs of the protection as the main reason. The survey also revealed the great difference in patent degree between the member states. This is illustrated, among other things, by the diagram shown below, which compares Belgium with its neighbouring countries.

Number of European patent applications per 1 million inhabitants in 2006, comparison of countries



Source: UNIZO consultancy based on figures from the EPO and Eurostat

UNIZO and UCM ask Europe

- 70 to put in place community patent procedures that are transparent, affordable and accessible to SMEs. In this way, Europe stimulates SMEs to better protect their innovations and to fight imitation and piracy of their creativity.
- 71 to reduce to a minimum the number of working languages at the level of the European Patent Office. Preferably, one language – English – will be used as the official language in the procedure. This must contain costs and, consequently, lower the threshold for SMEs.
- 72 to strive towards a general harmonisation of patent protection at the level of the European Union, creating a so-called community patent as opposed to the current European Patent Convention.
- 73 through such harmonisation, to set clear limits as to what is patentable and what is not.
- 74 to urge a number of big member states (Spain, Italy, Poland etc.) to ratify the London protocol. The London protocol entered into force during 2008, reducing the costs of translation of the number of pages of patents in – currently – 13 member states and making a European patent for those countries cheaper.

Enterprises must have access to cheap, effective and legally secure patent protection. To that end, an easily accessible community patent must be created with a minimum number of language requirements.

²¹ VConvention on the Grant of European Patents (EPC), its implementing regulations and protocols, drawn up at Munich on 5 October, 1973 (Belgian Statute Book of 13 July, 1989), as amended on 7 December, 1990 and 5 July, 1991

KNOWLEDGE VALORIZATION

ANALYSIS The gap between SMEs and the rather academic knowledge centres is way too wide. Narrowing this gap is a top priority to create breakthrough applications – which may or may not be technological in nature. Presently, however, small entrepreneurs have to cross a very high threshold if they are to reach the knowledge institutions. Moreover, the added value of projects involving small entrepreneurs cannot always be directly demonstrated to renowned knowledge institutions, resulting in knowledge institutions currently not showing much interest in working with small enterprises.

Nevertheless, if one succeeds in narrowing the gap, the added value can be doubled. We introduce our entrepreneurs to the potential of the knowledge centres. This will result in the entrepreneurs becoming aware of commercial opportunities which they can seize. In this way, our famous knowledge paradox can be realized.

On the other hand, the contacts between researchers and entrepreneurs can contribute to the development of entrepreneurial competencies in scientific and technological researchers. If the knowledge institutions themselves look for entrepreneurs more actively, leverage is created to actually do something with the existing knowledge.

Cooperation – possibly through the proper guidance of an intermediary – between entrepreneurs and knowledge providers can enhance the innovation DNA of SMEs.

UNIZO and UCM ask Europe

- 75 to devise an action plan to support the transfer of knowledge from the knowledge centre to the business community. Concretely, student projects must be promoted with SMEs so as to tap into the underused potential. The well-known ERASMUS programme of the European Union can also take advantage of that.
- 76 to create a pool of trainee posts and trainees within the various member states, aimed at realizing innovative projects and to make this pool known among entrepreneurs. Local innovation centres, along with the various education and employers' organizations, are the ideal partners to stimulate and coordinate such a match between supply and demand.

A European action plan is needed to support the transfer of knowledge from knowledge centres to the business community. With respect to this, UNIZO and UCM argue in favour of a pool of trainee posts and trainees within the various member states, aimed at realizing innovative projects.



7

Education

Education

ANALYSIS Europe has limited powers as far as education is concerned. In the last decade, Europe has repeatedly placed emphasis on interregional mobility and entrepreneurship²², among other things. The most obvious example is the development of a qualification structure. The qualification structure is a frame of reference, developed in Europe, whose aim is to build a univocal and comprehensive classification that can be used in education, training as well as professional contexts. The EQF²³ has 8 levels. Europe asks that the EQF be translated to the national level, without any obligation. UNIZO and UCM notice that all member states do so in their own way. As a consequence, there is no univocal structure anymore, France has 5 levels, Ireland, 12 etc. Thus, the added value of the qualification structure as a frame of reference has completely disappeared.

UNIZO and UCM ask Europe

77 to ensure that the member states no longer abuse the non-committal nature of the recommendations for the purpose of eroding good recommendations by implementing them only to a minimum degree. UNIZO and UCM do not favour a complete transfer of the “education” policy fields (HR policy, financing,...) to the European level, but argue in favour of supervision over the adequate implementation of the tools to improve the alignment of education/labour market or interregional mobility:

- Europass: the Europass collects all useful documents and data necessary to enter the labour market. UNIZO and UCM ask that this be approached not just from the angle of education, but also from the perspective of the labour market. This is a flexible system that shows the paths someone has already travelled in their professional career as well as the competencies/qualifications that have been acquired.

- EQF: each member state must build a qualification structure that fits in with the EQF, on the one hand, and (especially) with the reality of education and/or professional qualifications, on the other hand. Within the qualification structure, the usual amount of attention also must be paid to Competencies Acquired Elsewhere.

78 to also adopt measures for people who are already on the labour market or are active as self-employed persons and wish to move to another member state. The Europass and the qualification structure are steps in the right direction, but are directed at the new generation of Europeans.

UNIZO and UCM argue in favour of more powers for Europe in the field of “education” so that education and the labour market are aligned with each other across the member states.

²² Commission of the European Communities, COM(2008)865 final, “An updated strategic framework for European cooperation in education and training”, 16.12.2008

²³ EQF = European Qualification Framework

A photograph of two young women in a clothing store. The woman on the left, with long blonde hair, is smiling and holding up a black long-sleeved shirt. The woman on the right, also with blonde hair, is looking at the shirt. In the background, there are clothing racks with various items, including a red patterned shirt and a blue jacket. The scene is brightly lit and has a warm, friendly atmosphere.

8

Consumers and SMEs

- Guarantee Directive
- Withdrawal period for e-commerce (Consumer Rights)
- Class Action
- Late payment

Consumers and SMEs

In recent years, the “consumer achievements” have steadily increased. In this regard, the Unfair Commercial Practices²⁴ directive is definitely worth mentioning, even though it already poses quite some problems as far as its transposition by the member states is concerned. In the near future, the proposal of directive on Consumer Rights²⁵ will be critical to the further development of European consumer law.

Unfortunately, the fact of the matter is that European legislation sometimes promotes consumer interests in an overly unilateral manner, whilst not taking enough account of the competitiveness of the enterprises. Though the Small Business Act²⁶ has adopted the “Think Small First” principle as its starting point, there is, in reality, still not enough awareness about the fact that it is precisely the SMEs that need more support. This has emerged from several European pieces of legislation and proposals.

²⁴ Directive 2005/29/EC of the European Parliament and the Council of 11 May, 2005, concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC and 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

²⁵ http://ec.europa.eu/consumers/rights/docs/COMM_PDF_COM_2008_0614_F_NL_PROPOSITION_DE_DIRECTIVE.pdf

²⁶ Adopted by the European Commission in June, 2008, in which the central role of the SMEs in the European economy is acknowledged.

GUARANTEE DIRECTIVE

ANALYSIS This directive²⁷ provides for minimum protection rules regarding the sale of and guarantees for consumer goods the member states can not deviate from.

Moreover, the rights arising from this directive are exercised without prejudice to other rights consumers may be entitled, namely the national rules pertaining to contractual or extra-contractual liability law. That is the case in Belgium, as the law of 1/9/2004 is added to the provisions of the Civil Code regarding indemnification against defects of the goods sold (sections 1641 through 1649 of the Civil Code). As a result, Belgian consumers can still hold sellers liable after the two-year guarantee period has expired on account of a so-called hidden defect. According to UNIZO and UCM, the problem, therefore, is that the actual guarantee period during which the seller is liable is, in fact, of indefinite duration.

A second problem concerning the application of the guarantee directive relates to the right of recourse of the final seller. It is, initially, the final seller who is responsible for the guarantee vis-à-vis the consumer. Subsequently, the final seller can have recourse against the producer or the importer. Final sellers often face difficulties in applying the right of recourse, provided by law, vis-à-vis the manufacturer. The problem with the current guarantee legislation, therefore, lies in the fact that the legal responsibility for a defect is put with the final seller, whilst they are usually not to blame. If the manufacturer refuses to step up to the plate or passes the costs on to the final seller, the latter ends up being responsible for the guarantee. That contravenes the spirit and the letter of the directive.

UNIZO and UCM ask Europe

- 89 to limit the current guarantee period. After expiry of the two-year guarantee period, member states can still allow (other contractual) rules to exist, causing the guarantee period to be extended de facto in a number of member states.
- 80 to fully harmonise the arrangement regarding guarantee periods at the European level, so that member states cannot extend these periods anymore by imposing additional rules. Presently, the non-harmonised situation leads to different consumer protection and unequal competitiveness between enterprises of different member states.
- 81 to introduce better enforceability of the right of recourse. Presently, final sellers often face difficulties in applying the right of recourse, provided by law, vis-à-vis the manufacturer.
- 82 to introduce direct action from the consumer against the producer or importer. This action protects the rights of the consumer and eases the unilateral burden on the SME final seller.

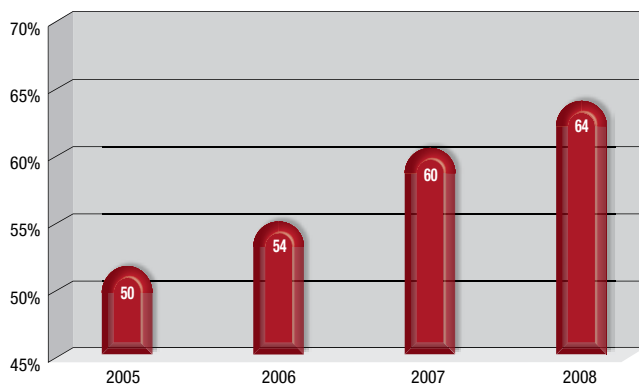
²⁷ Directive 1999/44/EC of the European Parliament and of the Council of 25 May, 1999, on certain aspects of the sale of consumer goods and associated guarantees

WITHDRAWAL PERIOD FOR E-COMMERCE (CONSUMER RIGHTS)

ANALYSIS The proposal of the “Consumer Rights” directive specifies a withdrawal period of 14 days to withdraw, without citing any reason, from distance contracts or contracts entered into outside the sales premises.

Since 1997, Europe, in respect of distance selling, requires the member states to apply a withdrawal period of 7 working days²⁸. UNIZO and UCM hold the view that this protection of consumers was justified at the time. However, in light of the technological evolution and the fact that consuming families have become very familiar with PCs and the Internet (refer to “Internet presence in Belgian households”), as well as the fact that e-commerce has become more common over the years (15% regularly buy online²⁹), the balance between the interests of entrepreneurs and consumers, more than 10 years after the implementation of these provisions, should be reconsidered.

Internet presence in Belgian households



Source: Eurostat

Indeed, the current regulations offer consumers a great deal of protection. After all, after 7 working days, they can completely arbitrarily advise the entrepreneur that they wish to cancel their order. Besides the period of 7 working days, also to be taken into account is the period needed by the consumer to return the goods to the merchant. As a consequence, enterprises are left in the dark for a long period of time as to the success of a sale. Moreover, the system is unbalanced and harmful to any enterprise wishing to start with e-commerce or to expand these activities. The administrative rigmarole and cost such consumer protection generates for entrepreneurs is not to be underestimated. In particular, such a withdrawal period causes significant problems in terms of stock management, claims collection, and customer and order administration.

UNIZO and UCM ask Europe

83 to stimulate e-commerce by abolishing the withdrawal period in respect of distance selling. More far-reaching protection through an extension of the withdrawal period to a minimum of 14 days will severely compromise the growth potential of e-commerce.

²⁸ Directive 97/7/EC of the European Parliament and of the Council of 20 May, 1997 on the protection of consumers in respect of distance contracts, OJEC 4 June, 1997, L 144.

²⁹ Eurostat

CLASS ACTION

ANALYSIS The introduction of class actions in Europe has become increasingly popular in recent years. More independent consumers and consumer organizations argue in favour of a system whereby individual consumers can unite in order to compensate for the loss they suffered as a result of the same or a very similar violation of an enterprise. 13 European member states have incorporated, to a greater or lesser extent, such a system in their legal system with mixed success. Europe now intends to harmonize these systems and to issue directives on the incorporation of class actions in the legal systems of all member states.

Based on experience in the US, a class action is described as “a form of lawsuit, allowed by law, whereby a single claim brought by one or more claimants can suffice to provide a legal solution which, in the future, can also be declared applicable to disputes between persons who are in a very similar situation vis-à-vis the same opponent”.

The extremely heavy economic consequences that can be brought about by the conviction of a professional following a class action are such that the United States have already adopted moderations.³⁰ The very brief analysis by the Commission in its green paper³¹ with respect to the impact on enterprises of the introduction of class actions shows that it is not aware of the implications of this procedure.

“Class action” means that claims have consequences erga omnes. Individual disputes must, given the specific nature of each case, be settled individually. Moreover, the introduction

of class actions would constitute a very heavy burden on the courts and undo the efforts made to clear the judicial backlog.

Aside from these objections, it is important to call attention to the fact that such actions do not enable SMEs to defend their interests in the same way as consumers do. This gives rise to a considerable amount of discrimination as to the possibilities of representation of consumers and SMEs, respectively, by the social partners.

UNIZO and UCM ask Europe

- 84 not to introduce the “class action”, specific to US claims culture, in the European legal system. The incorporation of class action in our legal system is to be avoided given the excesses such a procedure can cause.
- 85 to promote alternative dispute settlement through the European harmonisation of mediation and arbitration systems, resulting in a win-win situation for consumers and SMEs.

Consumers and enterprises must be considered real partners within the internal market, without any unnecessary obstacles. Only then can the internal market become more dynamic and more competitive. This can be achieved, among other things, through better enforceability of guarantee rules vis-à-vis producers; the abolition of the reflection period for e-commerce and the promotion of alternative dispute settlement between seller and consumer as opposed to excessive class actions.

³⁰ Class Action Fairness Act 2005

³¹ COM(2008) 794 final - Green paper on Consumer Collective Redress - Brussels, 27.11.2008

LATE PAYMENT

ANALYSIS The latest figures of business information consultancy Graydon Belgium nv³² show that the number of Belgian companies with payment arrears rose no less than 10% during the fourth quarter of 2008, as compared to the same quarter in 2007. In this case, “default of payment” means that invoices are paid more than 90 days after the due date or not at all. This study also indicates that the government is a bad payer. During the fourth quarter of 2008, no less than 23% of government invoices were settled more than 90 days after the due date – an absolute record. To the entrepreneur, it makes little difference whether a debtor is a private individual, another enterprise or a government: in all these cases, late payment means pre-financing, with all liquidity problems that may come with that.

In this regard, defaulters thus pose a major social-economic problem at both micro and macro level: the collection of payments costs the entrepreneur a lot of money (administration costs, lost interest, expensive cash credits etc.). At the macro level, late payments are a cause of bankruptcy (affecting employment, among other things) and, as such, also constitute a substantial social cost.

The payment obligation for the supply of a good or service, as well as the modalities of this payment obligation and the terms of payment, if any, belong, in principle, to the contractual sphere: they can be freely agreed on by the parties. In practice, however, we see many problems emerge in connection with the enforceability of these contractual obligations. Moreover, there is also the David-against-Goliath effect at play here: the negotiating position of SMEs vis-à-vis large enterprises or state-owned enterprises often is very weak. Just recently, dominant players in the market (multinationals) unilaterally decided to

extend the terms of payment from 30 days to 120 days. In this way, the major players in the distribution sector force SMEs to take over the role of short-term financier from the banks. Such unilateral actions undermine the cash position of the SMEs and could jeopardize employment at those very SMEs. So it is essential to lay down the necessary preconditions in order to increase the enforceability of agreed-upon terms of payment and to strengthen the negotiating position of SMEs.

The European directive 2000/35 EC on combating late payment offered a first response to this problem. However, the directive applies only to commercial transactions and not to transactions between merchants and consumers. Moreover, the European directive offered the member states the option to deviate from the statutory term of payment of 30 days for government transactions. Belgium, within the framework of the legislation on public contracts, used that deviation option.

UNIZO and UCM ask Europe

86 to maintain, through an amendment to directive 2000/35/EC on combating late payment, the freedom of contract in respect of the terms of payment, but to limit it by legally imposing a maximum term of payment of 60 days. This would enhance the competitiveness of SMEs vis-à-vis the large and more powerful enterprises, and certainly vis-à-vis the distribution chains. The recent French law ‘Loi de modernisation de l’économie’ can serve as a model.

Europe, in its directive 2000/35/EC, must put a cap on freedom of contract in respect of the terms of payment, after the example of France.

³² Study of 12 January, 2009 by Graydon Belgium. Graydon Belgium collects “aging listings” on a systematic and daily basis: many thousands of businesses report how they get paid by their business partners (on time, as agreed, or late and how late). The Graydon computers link this information back to the individual business, thus measuring accurately the payment behaviour of each active business and institution.



9

Doing business internationally

- European Private Company
- Origin

Doing business internationally

EUROPEAN PRIVATE COMPANY

ANALYSIS On 25 June, 2008, the European Commission launched a proposal for a Council regulation on the status of the European Private Company. Like the European Company (EC) and the European Cooperative Company, this will be a European company status specifically tailored for SMEs.

This proposal of the European Commission makes it possible to form a private company with limited liability according to a flexible status that is univocal for all member states. This status promotes the necessary internationalization of SMEs. In view of the great diversity of SMEs, the shareholders are given the greatest discretion to regulate the functioning of the company in the articles of association. Because of the uniformity, national law of the member state where the registered office is located, applies only on a subordinate basis. National law also applies for matters that fall outside the scope of company law, such as labour law, bankruptcy law and tax law.

UNIZO and UCM ask Europe

87 to turn the European Private Company into a flexible instrument which takes into account the course of life of an SME and facilitates access to the internal market. The status must enable SMEs to start in one member state and to grow without being required to change their legal form, not even when they fail to attain certain objectives in time. This is why it is essential not to demand an international component, both upon formation and at any later point in time.

88 to require a minimum capital of € 5,000 for starting a business. Abandoning the capital requirement (€1) sends a signal that, without the necessary sense of responsibility and expertise, one should not start a business. The threshold to form a company must be reasonable. However, the capital to be brought in also is the counterpart of the limited liability the entrepreneur acquires by establishing the company. The minimum capital also provides some guarantee for the creditors and the market. Still, a capital of less than € 5,000 can be accepted provided that the financial plan is approved by a practitioner of an economic profession and that the protection of the future creditors of that company be guaranteed.

89 not to consider this initiative as one of the priorities of the Small Business Act. The formation of a company is but one aspect. The life of an enterprise is governed by many regulations, such as accounting obligations, administrative obligations relating to VAT, ... Harmonization and administrative simplification of these fields are necessary.

The status of the European Private Company must remain a flexible instrument which takes into account the course of life of an SME, whereby the minimum capital is factored in as a guarantee for the economic partners and the market. This status is only the starting point; further harmonization in various fields and other initiatives to support and promote the internationalization of SMEs take priority.

ORIGIN

ANALYSIS The internal market still is not reality. Therefore, the further completion of the internal market for goods, capital, knowledge and services continues to take priority. Especially SMEs do not have the resources and means to institute time-consuming and expensive procedures against any obstructions.

Studies have revealed that enterprises that are internationally active perform better³³. The employment situation and added value of these companies grows more quickly. So it is in Europe's best interest to invest in the international activity of its enterprises. Especially in today's globalized world, enterprises must be encouraged to look even more across national and European borders.

The Eurobarometer (2007) however indicates that just 8% of European businesses export. Initiatives such as "Gateway to Korea" and "Gateway to Japan" are a first step in the right direction. Unfortunately, these initiatives are not sufficiently known to the target group, the SMEs.

Various formalities and regulations constitute an obstacle to being internationally active. All too often, the concept "origin" in its current form is abused to shield the own market and to keep out producers who perform better.

The existing system of certificates of origin³⁴ is an example of an unnecessary expensive formality for exporting enterprises. For the Belgian market alone this system in 2008 produced an extra cost of € 2.5 million (220,000 certificates at € 11.63 a piece) for internationally active enterprises. Though the digitization of this system is a step forward, the entrepreneur also pays processing costs (€ 3,5). In Germany, some 800,000 certificates were issued at a price ranging from € 4 to € 12. By now, the system has become so commonplace that foreign buyers or administrations ask about it for no reason. Financial institutions, too, now dare to impose it as a useless formality (within the framework of a bank guarantee or documentary credit).

UNIZO and UCM ask Europe

- 90 to encourage SMEs in general to become more internationally active.
- 91 to continue to strive towards a truly single market for goods, capital, knowledge and services.
- 92 to enlarge the gateway-to projects to include other countries and to ensure that these initiatives are sufficiently known to SMEs. Also, it must be determined for what sectors an enlargement of this project is desirable.
- 93 to formulate alternatives for the term "origin", which is used first and foremost by protectionist countries to shield their own market. The European Union must flesh out a well-functioning alternative for these market inefficiencies.
- 94 to avoid and deal with any superfluous formality linked to international activity.
- 95 to make clear to enterprises in what situations certificates of origin are really required. The European Union must require its member states in the short term to put in place a user-friendly system that enterprises can readily use, free of charge, to check when a certificate is "needed".
- 96 to urge the member states (and, if necessary, to intervene) to ensure that such systems can no longer constitute an obstacle for enterprises that are internationally active. In the medium term, a free automatic checking system (declaration of origin by the exporter) must replace the certificates of origin.

Entrepreneurs need and are entitled to a system of certificates of origin that can be easily consulted and whose costs are kept to an acceptable minimum.

An alternative replacing the current system of origin must be created urgently. Europe can and must play a leading role in this.

³³ Onkelinx J., Sleuwaegen L. 2008. *Internationalization of SMEs*. Flanders DC and Vlerick Leuven Gent Management School, March 2008

³⁴ The certificate of origin is an official document that states the country of origin of the product. The origin of a product indicates where it was manufactured. It is, in other words, the nationality of the product. This term is essential for the customs-technical handling of goods that are imported or manufactured in the EU or for goods being exported to third countries. The term "non-preferential origin" is used in the context of quota application, specific anti-dumping measures and supervision of the import of certain textile products. In the case of preferential origin, the European Union has entered into trade agreements with various countries that stipulate favourable import duties, or autonomously offers such favourable terms to developing countries (General Preferential System).





10

Europe and the
Liberal profession

Europe and the Liberal profession

ANALYSIS The sector of liberal professions is a social-economic factor within the knowledge economy of current Europe that keeps growing. In Belgium, the sector of free professions in the past decade has grown the most, representing 202,675 self-employed, or 22.4% of the total population of 904,954 self-employed³⁵. They, in turn, employ another 226,830 staff³⁶.

Therefore, it is very unfortunate to find that the European Commission still has no clear and coherent policy in place vis-à-vis this important and specific target group. This was once again emphasized when the European Parliament on 16.06.2008 submitted a written statement 'on the importance of liberal professions in Europe'³⁷.

This incoherence is also reflected in the development of new European legislation. For one thing, it remains unclear how the internal market rules will need to be applied to the segment of the health services. A previous proposal for a directive of the European Commission on that subject was rejected on 19.12.2007. Moreover, the European position to exclude the health services from the initial services directive is an implicit acknowledgement of the individuality of the liberal profession.

In regard to competition, too, we continue to witness a delicate balancing act. The European basic reasoning along the lines of "the more competition, the cheaper the service and the greater the turnover" cannot be applied to liberal professions just like that. That is because, in the case of liberal professions, it is mainly about guaranteeing independent high-quality service, regardless of the turnover. The following things are essential: the relationship of trust between the practitioner and the patient or the client, an independent position, professional ethics regulations, more thorough and continuously updated training, great personal responsibility and service of very high quality and offering a high added value. Moreover, liberal professions play a pivotal role in social traffic. The tasks liberal professions perform are dominated by the common good.

The economic sector supports the European strategy aimed at improving competitiveness and easing the administrative burden on enterprises (Lisbon strategy), and emphasizes the added economic value of clear, accessible and multifunctional financial reporting.

The emphasis however must be on the fundamental importance of the connection between limited liability and financial transparency in order to protect the economy against the system's risks.

Any initiative of (de)regulation requires caution: dramatic measures that are based too much on theoretical considerations and are not backed by solid data are to be avoided.

³⁵ 2007 figures from NISSE.

³⁶ 2006 figures from RSZ (National Social Security Agency).

³⁷ Official Journal of the European Union of 14 August, 2008, C207 E/9.

UNIZO-FVIB and UCM-UNPLIB ask Europe:

- 97 to recognize liberal professions as an individual target group among enterprises and to respect individuality of free professions by taking a specific approach. The underlying idea is that self-employed entrepreneurship in the form of a liberal profession, because of the professional ethics regulations and the unique relationship of trust with the client/patient, among other factors, does not entirely correspond to that of “ordinary” entrepreneurs. It has its own characteristics and has an additional goal. This view is essential in judging the need for (de)regulation in liberal professions; If Europe emphasizes this individuality, there will be less food for discussion when transposing it to national legislation. A typical example of this is the current discussion about whether or not to transpose directive 2005/29 EC on unfair commercial practices – as regards practitioners of liberal professions – through a separate sector-based law or through incorporation into the Commercial Practices Act.
- 98 to devise a coherent and transparent policy based on consultation. To shape this policy and to facilitate contact with the sector, UNIZO-FVIB³⁸ and UCM-UNPLIB³⁹ request that an “impact check” be performed or that, at the very least, consultation take place upon introducing new EU rules that have implications for the liberal profession.
- 99 to explicitly recognize the principle of deregulation by and for liberal professions and to recognize the role of professional corporations governed by public law. Because of the very nature of their service, liberal professions are active in a field that touches the common good in a fundamental way. Clients or patients however are not able to objectively judge the quality and the price of the services. For those two reasons, specific regulation of the market for the services of liberal professions is a permanent need. A system of self-regulation provides the best guarantees to monitor professional dynamics and to create social added value.

Europe, when implementing legislation, must not judge practitioners of free professions solely according to market-economic criteria. The key words are consultation and recognition of the individuality of the liberal profession.

³⁸ FVIB is the Dutch-speaking Federation for Liberal and Intellectual Professions. It is affiliated with UNIZO as the umbrella federation of professional organizations of liberal professions.

³⁹ UNPLIB is the French-speaking federation for liberal and intellectual professions in Belgium. It is affiliated with UNIZO as the umbrella federation of professional organizations of liberal professions (USCMB).

UNIZO, Union of Independent Entrepreneurs is the most representative organisation for entrepreneurs and self-employed persons in Flanders and Brussels. UNIZO unites exclusively entrepreneurs-owners, who run their businesses with own capital and at their own risk. More than 60% is an employer, 40% is self-employed. Over 115 SME sector organisations are affiliated with UNIZO*. UNIZO experts are actively present in all important local, regional and national consultation and advice authorities.

UCM is the SME organisation for the French speaking part of the country. UCM and UNIZO together constitute the Belgian National Committee for the SME, which is a member of the European SME organisation UEAPME.

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