



RSB Scrutiniser Seminar 2023, 5 December 2023

Centre Albert Borschette, Meeting Room 1D, Rue Froissart, 36, 1040 Brussels

Ladies and Gentlemen,

Thank you very much for the opportunity to discuss the topic of scrutinising impacts on competitiveness as part of the impact assessment system.

The National Regulatory Control Council was established in 2006 as an independent body of experts to advise the German Federal Government on reducing bureaucracy and improving legislation. The central element of our work back then and still today is the scrutiny of the assessment of administrative burdens. Since 2011 this has been extended to all direct compliance costs to businesses, citizens and administration.

Looking at the four dimensions of the new European competitiveness check, cost and price competitiveness, international competitiveness, capacity to innovate and SME competitiveness, our mandate focuses firmly on the first aspect, namely cost competitiveness and in particular on direct compliance costs.

In our last annual report, we identified additional recurring compliance costs to businesses of almost 4 billion Euros and one-off compliance costs of over 20 billion Euros. So even without having a comprehensive competitiveness check in place, we are able to demonstrate quite clearly the enormous challenges German businesses face, especially if you consider the current geopolitical situation. Since the NKR was established over 15 years ago the business community in Germany has never been so vocal about the regulatory burden they are facing. What has until now been exactly that, a burden, is now becoming an existential threat.

This is partly a national issue and the international developments in the last few years surely play a role, but from what we have heard in Brussels and also in exchanges with other Member States, this discontent among businesses is not unique to Germany. So the administrative burden and compliance costs, although

they are only one aspect of competitiveness, remain a key challenge and any assessment of competitiveness should have the costs at its core. And if anything, we believe we need to further strengthen tools such as “one in one out” to ensure tangible burden reductions.

In our work we have also been observing another worrying trend, which until now has not been mentioned that often in the context of competitiveness, namely administrative capacity. Many assessments of the ease of doing business in a particular country will look at for instance the procedures for registering a business or the functioning of the tax system or interaction with tax authorities. These are the baseline business-facing public sector services that need to function well.

At the same time, most new regulations result in additional tasks for the public administrations. For European regulations, this can mean new tasks for all administrative levels from the Commission and EU agencies to national governments to local and regional authorities. These require financial and human resources and hopefully a digital infrastructure to be in place. Especially on that last point we in Germany face some unique challenges – we are falling behind on public sector digitisation and the very complex political and administrative landscape in this area slows us down even further. So many countries are in a much better position. But some challenges are more universal, such as an ageing workforce and staff shortages in the public sector.

A recent study by the German Institute for Economic Research (DIW) has shown that regulatory density is not necessarily detrimental to growth, as long as there is sufficient administrative capacity. Where this is not the case it becomes a further challenge for businesses, on top of the costs they might be facing. We are increasingly seeing this in Germany with many local authorities stating they are on the limit of what they can deliver.

Lacking administrative capacity can mean that new regulations are not implemented on time or are more complex or costly than foreseen. It can also mean that we are not seeing the expected benefits because the regulations are not implemented or enforced as planned. Finally, it can mean that by stretching the administrations to their limits, we are failing to provide a level of basic baseline services that businesses require to be competitive. This is particularly visible in Germany,

where for many decades a stable and efficient bureaucracy was actually seen as a source of competitive advantage.

So our recommendation is to not only look at the impact on markets and businesses, but also look at what our public administrations can deliver. Are they able to quickly put the necessary digital processes in place? Can they offer the support businesses may need? And can they even enforce those new regulations?

This brings me to my second related point, which most likely concerns all scrutiny bodies. We tend to look at individual proposals in isolation. Some scrutiny bodies may look at a wide range of impacts, others, like in our case, may focus on costs. In all cases there will be a political objective, a problem to be addressed and an expected benefit, whether quantified or not. After all, no one puts forward a proposal without a reason. So a scrutiny body will look at whether the impacts have been assessed and whether the argumentation is clear and supported by data. The questions that won't be asked as often are: Is this is the right time for a particular regulation? What other new regulations and costs might businesses be facing at the same time? How can those impacts accumulate across policy areas? All these questions are crucial from the point of view of competitiveness, especially at European level, where all European businesses might be facing a cumulative impact from a range of regulations across multiple policy areas that their competitors in, for instance, the United States or China may not.

So, we welcome a more comprehensive competitiveness check at the EU level and we are hoping that we can also address competitiveness more effectively in the German system. But if we are serious about competitiveness we also need to be looking beyond single proposals or even policy areas and take a more cross-cutting view.

Those are the main takeaways from our national scrutiny work that I would like to leave you with and I am looking forward to hearing from the other participants and of course to the discussion.