

Is there a way out of the regulations' jungle?

Whenever a new EU regulation is introduced by EU legislation people complain about it as it enlarges the masses of laws and restricts consequently their liberty in account of the forced implementation. At the same time the question arises regularly if these acts are necessary for the living together in the European Union by casting for example on the regulation of the chocolate's fat content or the "sunshine directive" that would have made employers responsible for workers' exposure to sunlight.

The main intention of regulations is to govern and control the people as well as to facilitate and improve the living together. According to Hood the government has got four different types of governing: *nodality* (dissemination and use of information), *authority* (use of law), *treasure* (governing by money) and *organization* (use of the formal organizational structure). The European Union concentrates especially in governing on the principle of authority, as it fits in its demands at best to the EU structure. The EU draws as supranational organization its income only through the subscription fee of the member states and not through an own tax yield. This revenue is in comparison to the tax yield of a state relative low, so that consequently the EU cannot mainly govern by the principles of treasure and organization. Of course you can find political programs according to these ideas as the subsidies for underdeveloped regions in the European Union, but they exist to a less degree. Likewise the EU only rarely makes use of the principle of nodality as it may be relative cheap, but its impact is very low.

Therefore it is not surprising that the European Union primarily produces regulations.

Furthermore it is also necessary to consider that it is easier in the EU legislation process to pass an EU regulation as it does not require unanimity in each case. Therefore political decision-makers on EU level will at first try to solve a problem by an EU regulation that does not demand consensus among the member states in most issues. Focusing the treasure principle the EU always faces tax issues which enforce unanimity.

But is this a justification for an overload of EU regulations and laws as well as the restriction of individual liberty and national decision space of each member state?

It is obvious that the current situation does not meet the principles of Liberalism. It is a better solution to delegate state functions in a high degree to individuals as the prescribing of binding laws by a small political elite. Politicians have on the one hand more information about a society problem than the citizens as they have different sources of expertise but on the other hand they are also led by personal incentives. According to James Mill it is important that citizens have the power to decide about an issue when the interests of the politicians do not fit the interests of the citizens¹. They are on location and as persons concerned they know the particular circumstances of location and time according to Hayek². This knowledge is not organized but very important in order to find the right solution for a problem. Therefore it is necessary to take decisions on the lowest level as possible.

Hence, it is important to keep competition in the European Union and not to promote a total harmonization by regulating each issue on EU level. Variety and contest lead to more prosperity and to the establishment of efficient solutions for society problems.

¹ J. Mill (1820): „Essay on Government“, quoted in R. Vaubel (2005): „Ideen zu einem Versuch, die Tätigkeit des Staates zu begrenzen“, Berlin: Liberales Institut. Referring to James Mill

² F.A. Hayek (1976): „Individualismus und wirtschaftliche Ordnung“, Salzburg: Wolfgang Neugebauer: p. 107.

In this sense it is the right way that the European Union and the member states press deregulation ahead. But this process is not easy as there are two problems. At first industry and citizens are calling for a certain degree of regulation by the state for maintaining and obtaining equality and fairness for example in emission's issue or in the harmonization of taxation. Secondly the state faces the problem of a regulatory capture. Because of a preceding deregulation the state and its administration become more and more dependent on industries information. An information asymmetry arises that can be taken into advantage by the industry. Consequently politicians and bureaucrats, who have to implement deregulation, strive to maintain their power and state institutions.

Therefore the idea of a cooperative state could be a solution for a transition in a more liberal state. Cooperative state means that the state delegates his old functions to private persons and institutions who work more efficient, but he remains responsible and has to manage delegation and interdependence between the different actors.