

EU regulatory volume has doubled since the Treaty of Lisbon



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Summary

EU legislation has increased 729 per cent since the Maastricht Treaty (from 1 January 1994 to 1 January 2024) and 101 per cent since the Treaty of Lisbon (from 1 January 2010 to 1 January 2024). This legislation inflation is mainly constituted by EU regulations.

Despite claiming to simplify existing laws and reduce unnecessary regulatory costs, the von der Leyen Commission has overseen a substantial increase in regulatory activity; the amount of legislation in EU legislative acts has increased by 14 per cent since 1 January 2020.

In Denmark, more than six out of ten regulations in force have been introduced by the EU, either directly through EU regulations or indirectly through EU directives.

Over the past 35 years, the volume of rules in Denmark has increased by 26.7 million words (315 per cent) – from 8.5 million words in 1989 to 35.2 million words in 2024 – and EU legislation accounts for approximately 19.3 million of it.

The significant increase in regulation via EU directives and regulations has not, however, seen any corresponding decrease in regulation originating from the Danish parliament.

Regardless, it cannot be concluded that there would have necessarily been less regulation without the EU; national politicians would probably have most likely regulated the area themselves in the absence of the EU.

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About Jonas Herby

Jonas Herby is an expert on regulations, focusing on the consequences of extensive regulations on Danes' daily lives. His work examines the impact on companies' costs, Danes' private and public welfare, and society's ability to generate growth. Jonas is also an expert on socio-economic analyses and has, among other things, helped develop the Ministry of Transport's official models and unit prices. Jonas is good at establishing a macro view based on research and data and uses big data, web scraping, etc., in his analyses. He has, among other things, developed a regulatory database containing information about the growth of regulations, legal processes, hearings, etc.

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Introduction

The EU influences regulations in all member states directly through EU regulations, which have immediate legal effect within their national legislative system, and indirectly through EU directives. Regulations are legal acts that are directly applicable in all EU member states without the need for national transposition. In contrast, directives set targets for member states to achieve but leave it up to national authorities to decide how to achieve them. This allows member states to adapt national legislation that is tailored to their circumstances and needs.

Previous attempts to measure the EU's impact on current level of regulation within member states have focused on directives. However, legislation can also be indirectly influenced by EU law, even if it originated from a purely national initiative within the member state. Pedersen and Christiansen (2012) explain that 'this indirect influence can take several forms: legislation that is limited by EU law adapts to it, or which, for example, requires EU notification, just as a law can continue existing EU implementation'. In other words, the EU affects national legislation in more ways than just directly through new EU directives or regulations.

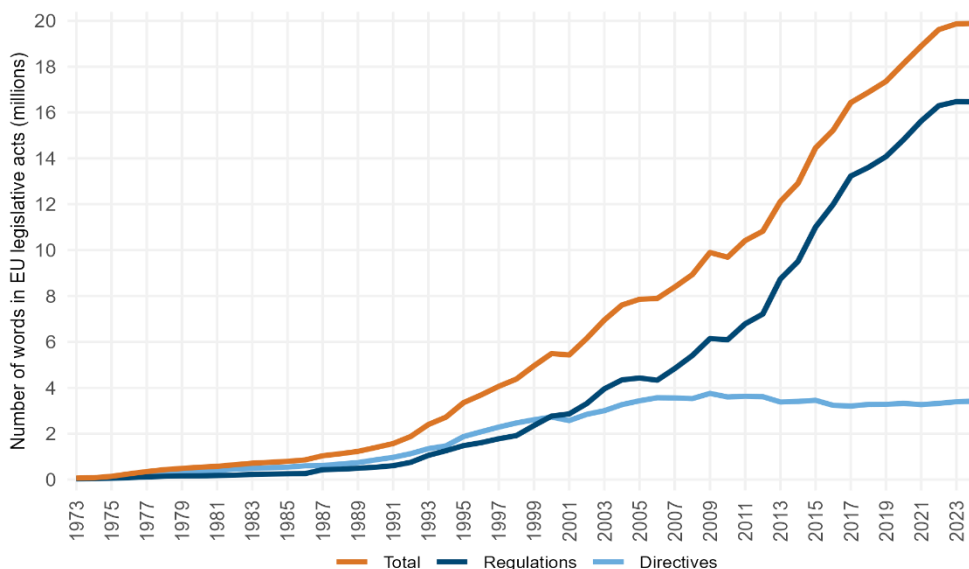
Think Tank Europe (2023) found that 54 per cent of all new legal acts in Denmark between 2016 and 2022 originated from the EU when regulations were included. In this calculation, all new legal acts were treated equally regardless of their scope and whether they were amendments or completely new acts.

Mchangama (2011) studied the number of laws, statutory orders, and executive orders that implement, refer to, or comply with directives or decisions or supplement or are necessary for the application of regulations. He found that the percentage of total Danish legislation that directly or indirectly originated from the EU increased from 3.1 per cent in 1986 to 25.8 per cent in 2010. In general, the EU directly affects 10–20 per cent of Danish laws and regulations and indirectly affects about twice that amount.

EU regulations increased by 729 per cent since the Maastricht Treaty and 101 per cent since the Treaty of Lisbon

Figure 1 shows that the volume of legislation has increased by 729 per cent since the Maastricht Treaty (1 January 1994 to 1 January 2024) and 101 per cent since the Treaty of Lisbon (1 January 2010 to 1 January 2024). The increase is mainly driven by EU regulations, whereas the increase due to directives has declined since 2009.

Figure 1. The trend in the total number of words in current EU legal acts

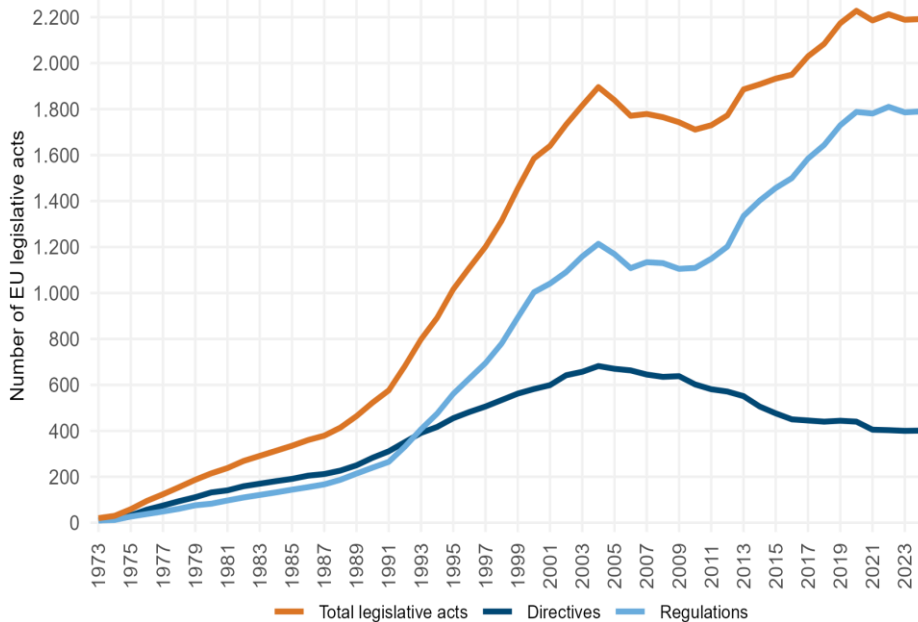


Source: CEPOS' Regulatory Database based on EUR-LEX.

Note: The inventory shows the number of words in original acts (main acts) and later consolidations. The inventory excludes acts marked 'Does not concern your user interface language' (Danish).

Figure 2 reveals that the increase in the number of EU legal acts has been significantly slower (174 per cent since the Maastricht Treaty and 25 per cent since the Treaty of Lisbon) because the analysis based on the number of legal acts does not take into account that EU legal acts have become significantly longer over time (see Figure 3).

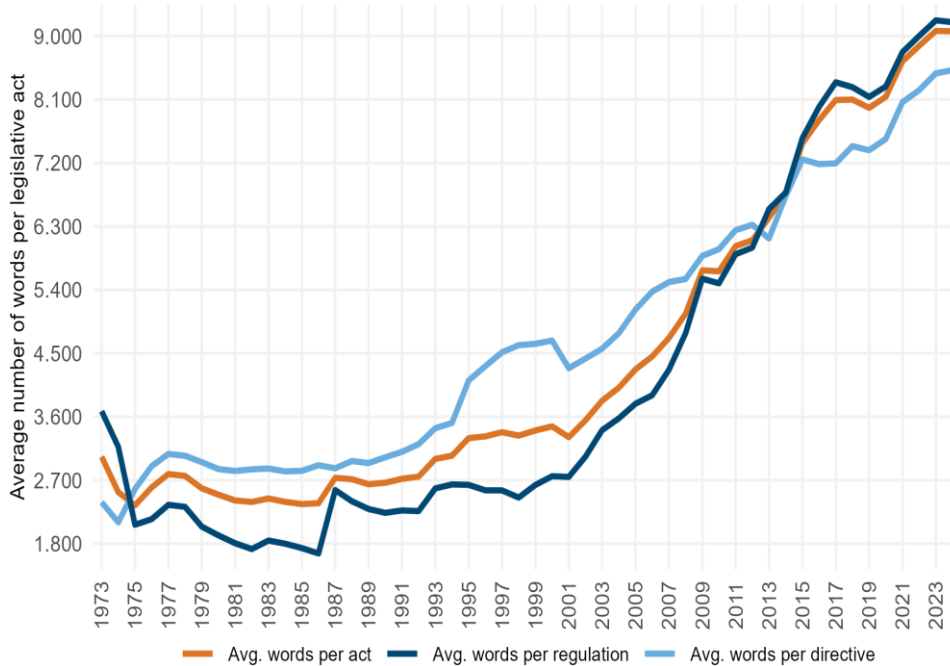
Figure 2. The trend in the number of EU legal acts



Source: CEPOS' Regulatory Database based on Retsinfo.dk and EUR-LEX.

Note: The inventory shows original acts (main acts) and later consolidations. The inventory excludes acts marked 'Does not concern your user interface language' (Danish).

Figure 3. The trend in the number of words per legal act



Source: CEPOS' Regulatory Database based on EUR-LEX.

Note: The inventory shows original acts (main acts) and later consolidations. It excludes acts marked 'Does not concern your user interface language' (Danish).

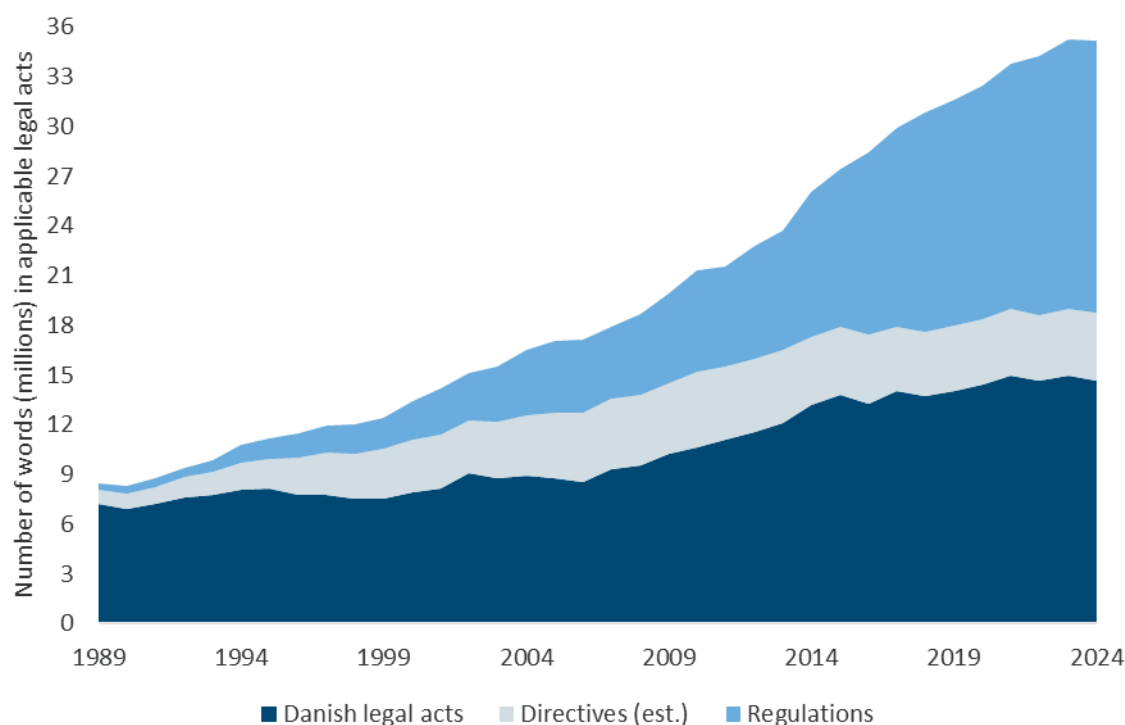
The case of Denmark

Figure 4 shows the trend in the number of words in Danish legal acts (laws and executive orders) and EU legal acts (regulations and directives). It establishes that since 1989, there has been an enormous increase in the number of words regulating the everyday lives of Danes, and this increase has been mainly driven by EU regulations. Danish legislation that implements EU directives has been removed from the calculation to avoid double counting.

In 1989, there were 8.5 million words regulating Danes and Danish businesses, while in 2024, there were 35.2 million words. This represents an overall increase of 26.7 million words (315 per cent) or 760,000 new words on average per year. Of this, regulations accounted for 16 million words (460,000 words per year on average; 60 per cent of total growth) and directives, 3.3 million words (94,000 words per year; 12 per cent of total growth). Regulations that were a purely Danish initiative accounted for 7.4 million words (210,000 words per year; 28 per cent of total growth).

With regulations increasingly stemming from EU regulations and directives, one might assume that there would be a corresponding reduced need for regulations originating purely from the Danish parliament. However, there is no indication that politicians at the national level are refraining from introducing new regulations, although, all else being equal, the need must be less.

Figure 4. The trend in the number of words in legal acts applicable in Denmark



Source: CEPOS' Regulatory Database based on EUR-LEX.

Note: The inventory shows original acts (main acts) and later consolidations. In the count, directives are only included after implementation in Danish law to avoid double counting (see the Danish version found at www.cepos.dk for a more detailed description of the methodology).

There are some limitations associated with the discussed statistics. For example, it cannot be denied that certain laws and executive orders that adapt Danish law to EU regulations were counted as Danish legal acts, even though they originated from an EU initiative. Furthermore, the distribution between Danish legal acts and directives was based on an average estimate of how much longer the implementation of directives in Danish law is in relation to the original directive and that the entry

into force occurs simultaneously (see the Danish version found at www.cepos.dk for a more detailed description of the methodology). However, these limitations hardly affect the overall conclusions.

Almost 60 per cent of Danish regulations originate from the EU

Currently, regulations account for 47 per cent of the regulatory volume in Denmark (Figure 4); while directives comprise 12 per cent. The regulatory volume originating from the EU accounts for 58 per cent of the total regulatory volume. Comparatively, just 42 per cent originates from purely Danish initiatives.

Figure 4 also shows that the share of directives has decreased significantly since it peaked at 24 per cent in 2006. The decrease is driven by a sharp increase in the use of regulations since the late 2000s, and the decline can largely be attributed to a decrease in the number of words in directives.

Conclusions

The scope of EU regulations has expanded more than sevenfold since the Maastricht Treaty and more than doubled since the Treaty of Lisbon. On average, the volume of rules has grown by approximately 600,000 words each year since Maastricht and 712,000 words each year since Lisbon, which is approximately four times the length of the New Testament. International research shows very clearly that there are significant costs associated with overregulation. Previous studies argue that a 10-year red tape cap, during which time the number of regulations is kept constant, has huge economic potential.

In Denmark, almost 60 per cent of the regulatory volume in 2024 originated from the EU. Notably, 47 per cent of the regulatory volume is from EU regulations. Directives comprise 12 per cent of the regulatory volume. In comparison, 42 per cent originate from a purely Danish initiative.

Overall, it is worrying that the scope of regulation is expanding rapidly without a thorough discussion of whether EU regulation complies with the principles of subsidiarity and proportionality and is implemented based on a minimum criterion that ensures competition both in the internal market and in relation to companies outside the EU.

References

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