



17 July 2024

Better regulation in the new EU legislature

BusinessEurope strongly supports the EU's better regulation agenda. Better regulation is about improving the quality of policy- and law-making and ensuring the legitimacy and accountability of EU governance. This paper gives a short overview of the better regulation objectives, principles and available tools, as well as suggestions how to reinforce the political commitment to better regulation across the EU institutions.

I. Better regulation objectives

- The better regulation agenda is the EU's set of principles and tools for ensuring good governance and the highest possible quality of EU policy and law. It applies equally to existing and the future legislation or policy initiatives.
- Better regulation is not deregulation, as it is often mistakenly perceived. It is about how to achieve good governance as acknowledged by OECD through legislative or non-legislative regulatory means, without creating unnecessary burdens such as excessive reporting or other administrative requirements for citizens, business and administrations, or undermining established rules and standards.
- Better regulation does not replace or undermine political deliberation and decision-making, including the existing legal requirements. It provides policymakers with a strong evidence and information base to make informed choices when deciding on legislation.
- With the evolution of our societies and changing political goals, different regulatory means may be necessary to achieve desired political outcomes. At the same time, there is an objective risk of overregulation and excessive burdening. The challenge of simplifying the EU regulatory framework is acknowledged as one of the major issues in the recent report on the future Single Market by Enrico Letta in April 2024¹. Therefore, regular scrutiny is necessary to identify disproportionate or unnecessary burdens and prevent or remove them.
- Stability of the regulatory environment should always be considered as one of the starting principles before proposing new legislative initiatives. Back-to-back evaluations and fitness checks are an important tool to make sure policy and law achieves its goals as effectively and efficiently as possible and does not go beyond what is necessary.
- Better regulation ensures transparency, dialogue with the different societal actors through stakeholder involvement and thus democratic accountability and legitimacy of EU decision-making regarding new or revision of existing legislation.
- The core tools of the better regulation framework which are outlined below cover the entire life cycle of a policy or legislation, from the political agenda-setting and consultation of the society to the evidence-base for informed political decisions.

¹ [Enrico Letta - Much more than a market \(April 2024\)](#), p.121



- The European Parliament and the EU Council play the central role in defending these core principles through their vigorous application in the policy- and law-making.

II. Taking better regulation agenda to a new level

- The Commission and the co-legislators must adhere to the principles of better regulation and their practical implementation during all stages of the legislative procedure to address regulatory complexity, disproportionate bureaucracy and challenges in implementation and accountability of the EU's executive. It includes consistent application of the 1-in-1-out and the Think Small First principles as well as a much stronger focus on enforcement and full implementation of the existing rules before introducing new regulations.
- By 2025, the EU should introduce concrete reduction targets on compliance costs and design a dedicated programme to achieve this, as well as keep the regulatory burden of incoming legislation to a minimum.
- Every legislative initiative must be accompanied by a top-quality regulatory impact assessment, verified by the Regulatory Scrutiny Board, which should be considered and updated in all steps of the EU legislative process.
- Transparency of the trilogue negotiations by the co-legislators and access to the trilogue documents should be ensured.
- The Council's and the European Parliament's scrutiny of delegated legislation (delegated and implementing acts) should become central in the co-legislator's work, especially given the fact of massive increase in number of such acts which aggravates the existing challenge of checks and balances even more.² Assessment of the impact of those secondary acts on the Single Market and on SMEs should always be demanded.

III. Reinforcing the political commitment to better regulation

- The core tool of better regulation for the European institutions is the [Inter-Institutional Agreement on Better Law-Making](#) (IIA) that should be vigorously applied, as well as updated for the new legislature.
- Its implementation in practical terms is facilitated by the Commission's [Better regulation: guidelines and toolbox](#) which can be used across the EU institutions.
- Evidence-based decision-making is key to prevent unimplementable or unenforceable EU rules, so regulatory impact assessments (IAs) are key. If the legislator acts without full awareness of intended and unintended impacts of the decision in question across the entire EU or its specific regions, the outermost regions among others, and the law does not deliver on its objectives, it undermines the European project and trust of the society.

² See also BusinessEurope analysis [Delegated Acts: streamlining the scrutiny \(October 2022\)](#)



- The highest possible level of transparency in the legislative process is achieved through timely information provision and a democratic participation of stakeholders in the political debates at all stages, which should include trilogues.
- The [recommendations](#) of the Conference on the Future of Europe of May 2022 acknowledged a necessity to update regulatory approaches, stating that “New EU policy initiatives should undergo a “**competitiveness check**” to analyse their impact on companies and their business environment”, This also included a call for reinforced governance to assess the cumulative impact of legislation and improve the framework conditions for competitiveness of EU companies.
- The European Parliament and the EU Council should also scrutinise the application of the IIA in practice and steer a debate on the IIA revision with the European Commission. To this end, **BusinessEurope has the following 11 recommendations:**

1. establishment of a permanent and publicly accessible forum in the EP that would scrutinise the IIA implementation, including by the Commission, throughout the life cycle of a policy or law-making, for example the Parliamentary Inter-Group for Good Governance (chapter IX of the IIA text in force)
2. apply stricter scrutiny of the Commission annual work programmes as well as legal bases used for the legislative initiatives (IIA Point II.7 of the text in force)
3. include the competitiveness check as mandatory step in the law and policy making that should be validated by the Regulatory Scrutiny Board in all impact assessments, including for substantive amendments by the European Parliament and the Council; the competitiveness check must also be applied to strategic programming documents envisaging packages of legislative initiatives (points III.12 and III.15 of the IIA text in force), consider the current regulatory landscape, cumulative impact of regulations and other elements as spelled out in BusinessEurope's recommendations on the competitiveness check³
4. establish the general criteria defining what a “substantial amendment” to the legislative act is, applicable to the European Parliament, EU Council and the Commission (point III.15 of the text in force)
5. regarding public and stakeholder consultation and feedback, to reinforce the notion that “time-limits of those public consultations allow for the widest possible participation” by strict minimum requirements (point III.19 of the text in force)
6. reinforce access for the public to trilateral negotiations (trilogues) and avoid night-time negotiations as a quality-damaging risk in law-making (transparency, point VI.38 of the text in force)
7. commit all the necessary resources for thorough scrutiny of delegated and implementing acts (Chapter V of the text in force)

³ [BusinessEurope's recommendations on the competitiveness check \(April 2023\)](#)



8. introduce the 1in-1out principle as one of the main principles in better law-making and commitment under the IIA in order not to overburden citizens, businesses and administrations
9. add the objective of regulatory burden reduction by all EU institutions, mandating the Commission to establish a quantitative baseline and the target itself as a mobilising KPI responding to the needs of citizens, businesses and administrations (Simplification, points VIII.47-48 of the text in force)
10. reinforce a commitment to the EP structured dialogue with national parliaments and the Council (Member States) for
 - a. prevention of national regulatory initiatives whenever the EU-level legislation on the same issue is already being proposed or negotiated,
 - b. adherence to the “non-regression clause” to protect the harmonisation of the Single Market and its level-playing field,⁴
 - c. more uniform and better transposition and implementation of EU rules, preventing ‘gold-plating’ among others
11. introduce the overall commitment to the stability of regulatory environment as one of the starting principles and to the consideration of non-legislative alternatives before proposing new legislative initiatives

* * *

⁴ [Enrico Letta - Much more than a market \(April 2024\)](#), p. 125.

**ANNEX: Better regulation resources in/for the EP**

- The EP Inter-Group for Good Governance (recommendation 8 above) should be instrumental to ensure systemic application of better regulation principles in the EP and a regular political debate
- In-house parliamentary resources are available to ensure transparency, consultations with stakeholders (e.g., public hearings) and impact assessments on substantive amendments, including:
 - The European Parliament Research Service (EPRS) provides comprehensive research and analytical support to MEPs and parliamentary committees.
 - The Ex-ante Impact Assessment Unit (IMPA): upon request of committees, this unit provides: evaluations of the quality and independence of Commission impact assessments; impact assessments on aspects of legislative proposals that are not dealt with adequately (or at all) by the Commission impact assessment; impact assessments of substantial amendments to the Commission proposal.
 - The Ex-post Evaluation Unit (EVAL): upon request of committees, this unit draws up background studies in support of Parliament's implementation reports as well as other ex-post evaluations.
 - The European Added Value Unit (EAVA): Provides 'Cost of Non-Europe' Reports and European Added Value Assessments, for example to support Parliament's legislative initiative reports, analysing policy areas where action at EU level could bring greater efficiency and public good for European citizens.