

Recommendations towards the revision of the Interinstitutional Agreement on Better Law-making

RegWatchEurope is a network of independent European advisory bodies that play a significant role in scrutinising the impacts of new legislation. We note that European businesses are confronted with a burdensome regulatory environment originating from EU legislation. Recent legislative developments have introduced further extensive requirements for European businesses, making them subject to far more stringent obligations than their global counterparts. This creates a significant competitive disadvantage for businesses in the EU.

At the same time, we note with satisfaction that regulatory burdens on European businesses have moved to the top of the political agenda. We welcome President von der Leyen's strong commitment to increase Europe's competitiveness through Better Regulation and burden reduction. The upcoming revision of the Interinstitutional Agreement on Better Law-making (IIA) further presents a great opportunity for the European Commission, the Council and the European Parliament to – together - ensure a legislative environment that improves the conditions for European businesses, consumers, and citizens.

We hope to be invited to comment on the forthcoming draft of a revised IIA, but in the meantime, we would like to give the following main recommendations.

Impact assessments for all major legislative proposals

The present agreement states that the three institutions agree on the positive contribution of impact assessments in improving the quality of Union legislation. The agreement also states that impact assessments are a tool to help the three institutions reach well-informed decisions and the Commission commits to carry out impact assessments of initiatives that are expected to have significant economic, environmental or social impacts (paragraph 12).

However, in the period 2014 - 2024 only 48 percent of legislative files were accompanied by an impact assessment.¹ Thus, the revision of the IIA must commit the three institutions to conduct impact assessments on all legislative files that are deemed to have substantial impacts. The argument in the present IIA that impact assessments must not lead to undue delays in the law-making process is counter-productive, since it also gets used for non-urgent issues. The time then "saved" by not conducting an impact assessment will lead to additional time and effort being required further down the legislative- and implementation process.

We therefore recommend that impact assessments, proportionate to the proposals, should accompany all major legislative initiatives.

¹ "Handling of impact assessments within the Council - Annual report covering the period January-December 2024", Doc. number 6383/2/25 REV 2.

As pointed out in our Key Messages from Fall 2024, the same commitment should be made for delegated or implementing acts, which are currently rarely accompanied by impact assessments. While they may appear to be of a technical nature, from the perspective of European businesses many of the most burdensome requirements originate from delegated acts. In our Position Paper on Lean Interim Evaluations,² we point to the Corporate Sustainability Reporting Directive (CSRD) as an example hereof.

Thus, we recommend a further commitment to ensuring that impact assessments are always prepared for delegated and implementing acts, if they are expected to have significant economic, environmental or social impacts. We also recommend giving the Regulatory Scrutiny Board the mandate to scrutinise the Commission's motivations for not conducting an impact assessment.

A common methodology for impact assessment

In the present IIA, the Parliament and the Council commit to take full account of the Commission impact assessments. They also commit to carry out impact assessments in relation to their substantial amendments to the Commission proposal, taking the impact assessment of the Commission as a starting point (paragraphs 14-15).

However, the number of impact assessments conducted by the co-legislators has so far been limited. The future IIA therefore needs to strengthen this commitment. We believe that a common, simple methodology could facilitate impact assessments of the Parliament and the Council. We recommend that the new IIA restates this commitment to ensure that impact assessments for substantial amendments are performed on a much larger scale than today.

To be successful, the Commission's conclusions from impact assessments, including results and methods, should always be transferrable both to co-legislators and to Member States. For this to be the case, especially the cost calculations need to be described on a sufficiently granular level, rather than on an aggregate level, as is currently often the case.

Stakeholder consultation

Stakeholder consultation is central to the legislative process and any ex-ante impact assessment or ex-post evaluation. The present IIA states that the Commission, before adopting a proposal, shall conduct public consultations in an open and transparent way, ensuring that the modalities and time-limits of those public consultation allow for the widest possible participation (paragraph 19).

We would like to underline that these commitments need to be adhered to, which has to date not always been the case, especially regarding the time aspect.

² See <https://www.regwatcheurope.eu/rwe-position-paper-on-lean-interim-evaluation-in-the-eu/>