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**Best practices in legislative  
and regulatory processes  
in a constitutional  
perspective: the case of the  
European Union**

IN-DEPTH ANALYSIS FOR THE AFCO COMMITTEE



DIRECTORATE GENERAL FOR INTERNAL POLICIES  
POLICY DEPARTMENT C: CITIZENS' RIGHTS AND  
CONSTITUTIONAL AFFAIRS

CONSTITUTIONAL AFFAIRS

**Best practices in legislative and  
regulatory processes in a constitutional  
perspective: the case of the European  
Union**

**In-Depth Analysis**

**Abstract**

This briefing note discusses the key features of the EU better lawmaking agenda, also in light of the new EU better regulation package, and highlights areas in which the EU can be considered a best practice, as well as existing gaps and concerns. Gaps include problems of accountability and transparency, uncertainty in methodology and lack the coherence between better regulation and long-term policy goals. Concerns relate to the newly adopted package and refer to the sustainability of the workload, the lack of a real attribution of responsibility for the update of EU impact assessments during the ordinary legislative procedure and uncertainty on the treatment of self- and co-regulation within the Inter-institutional Agreement on Better Regulation.

**THIS DOCUMENT WAS COMMISSIONED BY THE EUROPEAN PARLIAMENT'S  
COMMITTEE ON CONSTITUTIONAL AFFAIRS.**

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## EXECUTIVE SUMMARY

### Background

The EU Better Lawmaking agenda is deeply rooted in Treaty provisions, which stress the need for EU institutions to adopt their policy initiatives in a way that is open, transparent, accountable, and in full respect of fundamental rights and key principles such as subsidiarity and proportionality. The way in which the agenda has been implemented goes very far in ensuring respect of these principles, and indeed many aspects of the EU policy process can be considered as best practices worldwide. This certainly applies to the pervasiveness of consultation process and standards, as well as to the ever-growing use of ex ante impact assessments, monitoring and ex post evaluations throughout the policy cycle. The new better regulation package adopted by the European Commission on May 19, 2015 further strengthens these prerogatives of the EU policy process, and must be welcome in general terms for this reason. The same applies to the Commission's proposed new Inter-Institutional Agreement on Better Lawmaking, with the *caveats* that will be illustrated below.

Against this backdrop, there are still some gaps in the existing policy cycle at the EU level, and also some reasons to be concerned about the feasibility of some of the proposed reforms. This briefing note aims at clarifying these gaps and concerns and at contributing to the work of the Committee on Constitutional Affairs of the European Parliament on the issue of "Best practices in legislative and regulatory processes in a constitutional perspective". In particular, this briefing addresses the case of the European Union by referring specifically to the use of better regulation tools throughout the legislative and regulatory process of the EU. Below, the key concepts of "policy cycle" and better lawmaking/better regulation are introduced.

### Aim

- Illustrating the key features of the better lawmaking and better regulation agendas of the European Union.
- Explaining the main features of the new EU better regulation package adopted on May 19, 2015.
- Highlighting areas in which the European Union can be considered as a best practices and those areas in which margins for improvement remain.

## 1. INTRODUCTION

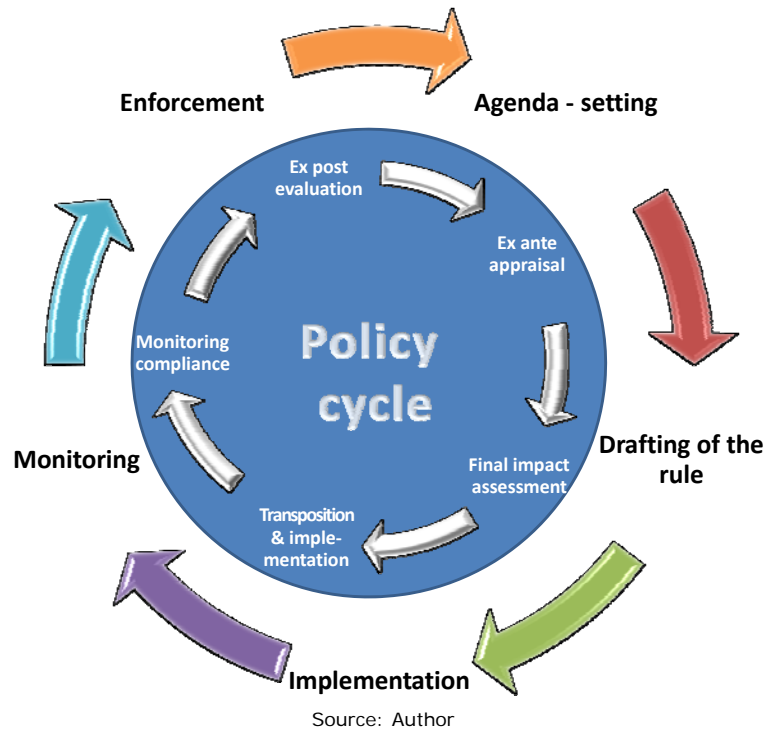
This briefing note was written by Andrea Renda as a contribution to the work of the Committee on Constitutional Affairs of the European Parliament on the issue of “Best practices in legislative and regulatory processes in a constitutional perspective”. In particular, it addresses the case of the European Union by referring specifically to the use of better regulation tools throughout the legislative and regulatory process of the EU. Below, the key concepts of “policy cycle” and better lawmaking/better regulation are introduced. At the end of this introductory section the structure of this briefing note is further outlined.

### 1.1. The “policy cycle”

Many legal systems around the world have specific provisions in place, which enable a better coordination and governance of the policymaking process (OECD, forthcoming). The “policy cycle” (or, as defined at the OECD level, the “regulatory governance cycle”) includes in reality two separate cycles, one related to the life of individual rules, and another to the better regulation tools used by institutions to promote the quality and good delivery of the legal provisions throughout their whole life cycle.

Figure 1 below shows both the policy cycle (outer circle) and the cycle of better regulation tools that accompany each phase (inner circle). The outer circle distinguishes between the following phases of the life of a legal rule:

- The *agenda-setting* phase of regulation: during this phase, the main preparatory documents are prepared and adopted. This can include preliminary documents, strategy papers, communications, and “umbrella” regulations (e.g. framework regulations) that are binding, but which still require the adoption of further implementation measures.
- The *drafting* of the rule is a crucial phase since the ability to express a legal provision in clear language is often considered as a fundamental step towards legal certainty, which in turn can have positive impacts on the economy both in terms of general awareness of existing rights and obligations, and also in terms of reduced litigation and enforcement costs.
- The *implementation* phase can entail the formulation and adoption of secondary legislation measures, in the form of specific regulations, or delegated acts. This phase can typically imply the setting of standards, which might be kept fixed or changed throughout the lifespan of the legal rules. In some cases, depending on the type of regulatory alternative chosen, implementation measures might have to be adopted by private organizations in the execution of a co-regulatory arrangement.
- The *monitoring* phase is normally not strictly speaking a regulatory phase, but rather a set of actions and behaviour that have to be put in place by targeted stakeholders when having to comply with a specific set of rules. As will be illustrated below, different types of regulatory interventions can have a very significant impact on innovation when it comes to compliance.
- The *enforcement* phase refers to securing compliance with the rules. It often entails the involvement of local administrations, which perform inspections and might impose sanctions for non-compliance. Also this phase can be delegated to specific agencies, or even private parties depending on the type of regulatory approach chosen.

**Figure 1 – The “policy cycle”**

For what concerns the “inner circle”, the instruments that are most regularly used at the global level include ex ante impact assessments (IAs), interim and ex post evaluations, and stakeholder consultations carried out at various stages of the policy process. Governments increasingly make use also of instruments aimed at analysing the “stock” of legal rules, not only the “flow”: these include programmes for the measurement and reduction of administrative burdens and compliance costs generated by legislation, analyses of cumulative and interactive costs of legislation in specific domains, etc.

## 1.2. Better lawmaking: the EU legal basis

“Better Law-Making” covers the whole policy cycle – from the genesis of law through to its implementation and enforcement – and involves a series of tools which are aimed at linking both decision-making and legislative drafting more closely to empirical evidence (so-called “evidence-based policymaking”). Better regulation and better lawmaking are rooted in key constitutional principles at the European Union level.

The relevant provisions in the Treaties include:

- Article 3 TEU, which states the aims of the EU, and in particular points 5 and 6, which state that the EU shall promote its values, contribute to eradicating poverty, observe human rights and respect the charter of the United Nations by “appropriate means”, according with its competences given in the treaties.
- Article 5 TEU, which sets out the principles of conferral, subsidiarity and proportionality with respect to the limits of its powers.
- Article 7 TFEU, which states that “The Union shall ensure consistency between its policies and activities, taking all of its objectives into account and in accordance with the principle of conferral of powers”.
- Articles 11-12 TEU and Protocol 1 include provisions related to the dialogue with civil society and national parliaments. Article 11 establishes government transparency, declares that broad consultations must be made and introduces provision for a petition

where at least 1 million citizens may petition the Commission to legislate on a matter. Article 12 gives national parliaments limited involvement in the legislative process.

- Article 15 TFEU and 42 of the Charter of Fundamental Rights address the issue of transparency and access to documents.
- Art 16 TFEU, Art. 298 TFEU and 41 of the Charter are related to the right to good administration.
- Inter-institutional relations are also addressed by the Treaty: Article 4 TEU refers to the principle of sincere cooperation, whereas Article 5 TUE (now Article 295 TFEU) explicitly foresee the possibility of inter-institutional agreements.

### **1.3. Structure of this work**

This briefing note reflects on the experience of the European Union on Better Lawmaking and discusses some of the features of the recently adopted new EU Better Regulation Package, as well as the content of the proposed new Inter-Institutional Agreement on Better Lawmaking, both presented by the European Commission on May 19, 2015.

Section 2 of the briefing analyses the current role played by the major EU institutions in better lawmaking, and aspects of the current inter-institutional agreement that would be worth re-considering. Key issues include:

- The use of ex ante impact assessments in major EU institutions;
- The frequency, timing and relevance of stakeholder consultation throughout the policy process;
- Problems related to the ex post evaluation, fitness checks and other forms of analyses of the stock of legislation (e.g. cumulative cost assessments); and
- A brief account of the role of Member States in the transposition and implementation phases of the policy cycle.

Section 3 deals with the review of the Inter-Institutional Agreement on Better Lawmaking. In particular, the briefing focuses on the existing proposals that would ensure that better regulation tools are used throughout the ordinary legislative procedure, and accompany EU rules throughout their life, as described in Figure 1 above.



## 2. BETTER LAWMAKING AND BETTER REGULATION IN THE EUROPEAN UNION

### 2.1. The use of ex ante impact assessments in major European Institutions

#### 2.1.1. The European Commission

The European Commission is by far the EU institution in which ex ante impact assessment has been more successfully mainstreamed into the policy process. Renda (2014) distinguishes between three main “eras” in the EU better regulation agenda, and more specifically in the use of impact assessment: (i) the early years (2003—2005); the relaunch of the system and the “plateauing era” (2006-2009); and (iii) the consolidation era (2009-2014), which leads to the transition towards smart regulation and then the regulatory fitness (REFIT) agenda. A fourth era has just begun with the Juncker Commission and the recently adopted Better Regulation Package.

##### 2.1.1.1. The early years (2003-2005)

At the European Council meetings of Göteborg and Laeken, the Commission announced its Action Plan for Better Regulation, which was eventually launched in June 2002. The new impact assessment model was introduced as part of this wider Action Plan, together with a communication aimed at simplifying and improving the regulatory environment and measures aimed at promoting “a culture of dialogue and participation” within the EU legislative process.<sup>1</sup> The Communication on impact assessment was inspired partially from the activity of the Mandelkern Group, but also from the commitment undertaken by the Commission at the Göteborg Council, to develop a tool for sustainable impact assessment.<sup>2</sup> As a result, the Commission decided to integrate all forms of *ex ante* evaluation by building an integrated impact assessment model, to enter into force on 1 January 2003.<sup>3</sup> Such model bears the heavy responsibility of ensuring that adequate account is taken at an early stage of the regulatory process of both the competitiveness and sustainable development goals, which rank amongst the top priorities in the EU agenda.

The new integrated impact assessment (IIA) model introduced in 2002 – which incorporated not only the economic impact, but also the social and environmental impact of the proposals concerned – adopted a ‘dual stage’ approach: while all Commission initiatives proposed for inclusion in the Annual Policy Strategy or the Commission Legislative and Work Programme and requiring some regulatory measure for their implementation were subject to a ‘preliminary impact assessment’, a selected number of proposals with large

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<sup>1</sup> During 2002 and early in 2003, the Commission developed its Action Plan through eight targeted Communications, at the same time defining with the European Parliament and the Council an overall strategy on better law-making. The Communications addressed the following issues: 1) General principles and minimum standards for consultation (COM(2002)704); 2) the collection and use of expertise (COM(2002) 713); 3) impact assessment (COM(2002) 276), including internal *Guidelines*; 4) Simplifying and improving the regulatory environment (COM(2002) 278); 5) proposal for a new comitology decision (COM(2002) 719); 6) operating framework for the European Regulatory Agencies (COM(2002) 718); 7) framework for target-based tripartite contracts (COM(2002) 709); and 8) Better monitoring of the application of community law (COM(2002) 725).

<sup>2</sup> See Communication COM(2002)276, p. 2. See also the Communication from the Commission to the European parliament, the Council, the Economic and Social Committee and the Committee of the Regions, *Towards a Global Partnership for Sustainable Development*, COM(2002)82, 12 February 2002.

<sup>3</sup> “Impact assessment is intended to integrate, reinforce, streamline and replace all the existing separate impact assessment mechanisms for Commission proposals.” See the Commission’s Communication on impact assessment, COM(2002) 276, 5 June 2002, Section 1.3.

expected impact were subjected to a more in-depth analysis called 'extended impact assessment'.<sup>4</sup> The extended impact assessment (ExIA) contained an in-depth evaluation of expected social, economic and environmental impact of the various policy options associated with the proposal and a summary of the consultation activity, which should also focus on political and ethical issues related to the proposal. The Commission also specified that the expected impact should be estimated in qualitative, quantitative and possibly monetary terms. The alternative policy options were to be evaluated according to criteria such as the relevance to the problem, the effectiveness in achieving the objectives, the coherence with wider economic, social and environmental objectives, the interaction with other existing and planned EU interventions, the cost or resources required and the user-friendliness of the regulatory option at hand.

The IIA permeated the whole Commission's Strategic Planning and Programming Cycle, from the definition of the Annual Policy Strategy to the publication of the Commission's Work Programme that leads to inter-service consultation before selected initiatives are undertaken and pursued. Preliminary IAs could be included in the APS, but had to be completed at the latest before the publication of the CWP. The availability of an extended IA (for proposals selected for such a more in-depth analysis) was a necessary precondition for launching inter-service consultation at the beginning of the year in which the regulation will be issued. The ExIA report was then attached to the proposal when it was submitted to the Commission for final adoption and adopted as a working document of the services. After adoption, the ExIA was sent to other institutions along with the proposals and made available online.

#### 2.1.1.2. The re-launch of the EU IA system and the "plateauing" era (2005-2009)

The Commission assessed the first results of its new Integrated Impact Assessment model in December 2004, by drawing a mixed picture on the progress made in improving the quality of EU legislation. At the time, the worrying signals shown by the mid-term review of the Lisbon strategy in February 2005 called for greater emphasis on fostering employment and growth and reducing the administrative burdens of regulation, shifting the focus from sustainable development to competitiveness, and from integrated impact assessment to economic assessment, when not mere compliance cost assessment<sup>5</sup>.

This was a key passage for the Commission's Impact Assessment system, which led to more evident convergence towards the US model – in 2005, the UK was also revising its RIA system, which resulted however in a dilution of the previous system and the adoption of more pragmatic tools to cut red tape on the stock of existing legislation, rather than on the flow of new proposals. Importantly, this passage also led to abandoning the dual stage system of preliminary and extended IAs, to create a single system dominated by the principle of proportionate analysis. Against this background, a first measure was to request services to establish 'Roadmaps' for the initiatives they have put forward for inclusion in the

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<sup>4</sup> Proposals that are exempted from impact assessment include: a) Green Papers where the policy formulation is still in process; b) periodic Commission decisions and reports; c) proposals following international obligations; d) executive decisions, such as "implementing decisions, statutory decisions and technical updates, including adaptations to technical progress"; and e) Commission measures deriving from its powers of controlling the correct implementation of Community Law (although the Commission may in some instances decide to carry out an impact assessment). See Communication on impact assessment, COM(2002) 276, 5 June 2002, Section 2 ("Coverage").

<sup>5</sup> In its Communication to the Spring European Council on "Working together for Growth and Jobs – A New Start for the Lisbon Strategy", COM(2005)24 of 2 February 2005, the Commission suggested that "[a] new approach to regulation should seek to remove burdens and cut red tape unnecessary for reaching the underlying policy objectives. Better Regulation should be a cornerstone for decision making at all levels of the Union."

Annual Policy Strategy (APS) and in the Commission's Work Programme.<sup>6</sup> Roadmaps, now available online at the end of every year, contain indications of the IA activity already carried out, consultation undertaken, options considered and future work to be undertaken<sup>7</sup>.

But several sources of pressure were calling for some major effort from the Commission in order to significantly improve the momentum of better regulation efforts, with specific emphasis on strengthening and improving impact assessment methods. First, the Parliament and the Council were urging the Commission to accept a greater involvement of all EU institutions in the procedure, by extending impact assessment to major amendments and defining common methodologies for carrying out assessments in all three institutions. Moreover, the failure to achieve the 25% reduction in the volume of the *acquis communautaire* by 2005, stated by the Prodi Commission, suggested the need for new efforts in the field of simplification. Finally, the decision to extend the impact assessment procedure to all the initiatives included in the Commission's 2005 Legislative and Work Programme (roughly 100 per year) starkly contrasted with evidence that the scheduled IAs had not been completed and had exhibited significant methodological problems, calling for a refinement of the guidelines.

The Commission took action in March 2005 with a new Communication on Better Regulation for Growth and Jobs in the European Union, defining the achievements of the first years of implementation of the IIA as "first steps in what must be a permanent effort"<sup>8</sup>. The communication laid down important changes in the IIA procedure and re-launched the role of IA and better regulation as part of the Lisbon strategy. The Communication's vibrant statement on the need to boost better regulation initiatives at all levels results in the launch of three key actions, to be reviewed in 2007, devoted to: a) the design and application of better regulation tools at EU level; b) a closer collaboration with member states to ensure a consistent application of better regulation principles; and c) a stronger, constructive dialogue with all EU regulators, member states and other stakeholders. The main features of the Commission's new strategy on impact assessment can be summarized as follows:

- Although the IIA was rooted in the sustainable development principle and its integrated nature was not under discussion, there was an *urge to strengthen the assessment of the economic impact* of proposed regulations – compared to the social and environmental impact assessments – in view of the increased importance (and urgency) of the competitiveness goals set by the Lisbon strategy.
- The Commission started developing a methodology to better integrate the *measurement of administrative costs* in its IA model, and has launched a pilot project for the quantification of such burdens that produced the first results in late 2005, together with a trial new methodology named 'EU Net administrative cost model', which later became the EU Standard Cost Model.<sup>9</sup>

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<sup>6</sup> See European Commission Staff Working Paper, *Impact Assessment: Next Steps*, SEC(2004)1377, Brussels, 21.10.2004.

<sup>7</sup> See the Roadmaps for every year, available online on the Commission's website, at [http://ec.europa.eu/governance/impact/planned\\_ia/planned\\_ia\\_en.htm](http://ec.europa.eu/governance/impact/planned_ia/planned_ia_en.htm).

<sup>8</sup> See Better regulation for Growth and Jobs in the European Union, European Commission Communication - COM(2005)97 (March 2005).

<sup>9</sup> See Commission Staff Working Paper, Annex to the 2005 Communication on Better Regulation for Growth and Jobs in the European Union, *Minimizing Administrative Costs Imposed by Legislation, Detailed Outline of a Possible EU Net Administrative Cost Model*, SEC(2005)175, 16 March 2005. Recall, in addition, that the UK Presidency stated its intention to develop a common methodology on measuring administrative burdens, based on the Standard Cost Model successfully applied in the Netherlands.

- The Commission launched an independent evaluation of the Impact Assessment system, which was then completed by The Evaluation Partnership in 2007.<sup>10</sup>
- Two networks of experts were created. A first network grouped high-level national regulatory experts for the development of a “coherent set of common indicators to monitor progress as regards the quality of the regulatory environment” both at EU and member state level. In addition, another network was created, composed of experts in better regulation issues, including academics and practitioners from the economic, social and environmental fields, who are called to advise the Commission on a case-by-case basis as regards the methodology adopted for carrying out the IA.

To those who had been following the debate on the implementation of the Commission’s IA model since 2003, these changes came to no surprise. The IA was coming back to the somewhat tighter walls of cost-benefit analysis, compliance cost assessment and simplification, in line with the established experience of other countries, and with the mounting pressure of industry stakeholders. The ‘back to basics’ hypothesis was supported by the new Guidelines issued by the Commission in June 2005.<sup>11</sup> The Technical Annex to the Guidelines devoted special attention to methods for assessing the economic impact of proposed regulations, in particular the impact on growth, competitiveness and employment. A specific section was also dedicated to the assessment of administrative costs imposed by legislation (Annex 10 to the Guidelines, from March 2006).

### 2.1.1.3. Evolution of the EU impact assessment system after 2005

An external evaluation of the Commission’s IA system in 2007 concluded that the Commission was making progress, by improving the quality of proposals, providing effective aid to decision-making, and enhancing transparency<sup>12</sup>. The evaluation, however, pointed out the need to clarify the concept of proportionate analysis, to better identify the initiatives to be assessed, to improve the timing of IA, and to reduce the number of impact assessments per policy measure. Subsequent development led to a further evolution of the system, although in rather sparse directions:

- The European Parliament and the Council had been increasingly involved in the better regulation agenda, a tendency which started with in the 2003 Inter-Institutional Agreement on Better Lawmaking and culminated with the 2005 agreement on a “common approach” to impact assessment<sup>13</sup>.
- In late 2006, the Commission appointed an Impact Assessment Board (IAB), responding to repeated calls for better quality assurance mechanisms and stronger coordination in the *ex ante* assessment activities carried out by the various DGs<sup>14</sup>.
- In January 2007, the Commission launched its Action Programme for the measurement and reduction of administrative burdens generated by EU legislation<sup>15</sup>. As recalled by Dunlop et al. (2009) and by Wegrich (2009), while RIA was the most important instrument in better regulation policies between 1995 and 2005, over the past few years other instruments, such as the standard cost model used for the reduction of administrative burdens, have become more pivotal.
- The European Commission published an updated and improved version of the IA Guidelines in January 2009, followed a few months later by an *ad hoc* guidance

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<sup>10</sup> Communication on Better Regulation for Growth and Jobs in the European Union, *op. cit.*, p. 6 (emphasis in original).

<sup>11</sup> See European Commission, Impact Assessment Guidelines, SEC(2005)971, 15 June 2005.

<sup>12</sup> See [http://ec.europa.eu/governance/impact/docs/key\\_docs/tep\\_eias\\_final\\_report.pdf](http://ec.europa.eu/governance/impact/docs/key_docs/tep_eias_final_report.pdf).

<sup>13</sup> Both documents can be found at [http://ec.europa.eu/governance/better\\_regulation/ii\\_coord\\_en.htm](http://ec.europa.eu/governance/better_regulation/ii_coord_en.htm).

<sup>14</sup> For a short description of the IAB, see [http://ec.europa.eu/governance/impact/iab\\_en.htm](http://ec.europa.eu/governance/impact/iab_en.htm).

<sup>15</sup> COM(2007)23 final, 24 January 2007.

document on the assessment of social impacts, an aspect that was perceived to be particularly weak in the IA documents produced by the European Commission.

- A consultation on the future of the smart regulation agenda in the EU was launched in 2010, with a view to collecting stakeholder views on how to improve the system in the years to come.

As a result, the Commission IA system became more firmly nested into the Commission's policy cycle. The IA procedure, coupled with stakeholder consultation, takes approximately 52 weeks to be completed, before the Commission proposal can indeed be finalized and sent – where appropriate – to other EU institutions. Figure 2 below shows the Commission policy process and the corresponding timing of IA.

**Figure 2 – Countdown for preparing IA in the European Commission**



Source: European Commission, Impact Assessment Guidelines, 15 January 2009

Of the abovementioned changes, perhaps the most important ones – the ones that left a mark on the overall design of the system – are the adoption of the 2009 IA guidelines, the creation of the IAB, and the launch of the Action Programme for the measurement and reduction of administrative burdens<sup>16</sup>.

#### 2.1.1.4. The 2010 “Smart regulation” communication and the “balkanization” of the EU IA system

After the public consultation on the future of the smart regulation agenda, in December 2010 the European Commission adopted a new Communication that spelled out the Commission's new priorities for the now-called “smart regulation” agenda. The term “smart” was used to denote a preference towards simpler regulation, and possibly to a competitiveness-enhancing use of regulation with the minimum possible use of red tape. The Communication announces a number of new features in the Impact Assessment system, and in particular:

- *The need to “close the policy cycle”* by ensuring that proposals that have been assessed *ex ante* are also monitored over time and evaluated *ex post* after a number of years, to check whether the rules in place have achieved the intended results. This evolution was to be integrated with new guidelines issued by the Secretariat General of the European Commission on *ex post* evaluation, which to date have not been published and should be made available during 2014.
- *The re-cast of the administrative burdens reduction programme and its combination with simplification initiatives*, with the acknowledgment of the work performed by the

<sup>16</sup> For an account of the relevance and methodological features of the Standard Cost Model, see Böheim, Renda et al. (2006), Renda (2008) and Allio and Renda (2010).



High Level Group on administrative burdens chaired by Edmund Stoiber, which acted as a stimulus for reforms that would cut red tape for the business sector in particular. The Commission announced that it was “on track to exceed its target of cutting red tape by 25% by 2012”, as it had tabled proposals which, if adopted, would generate annual savings of EUR 38 billion for European companies out of a total estimated burden of EUR 124 billion – a reduction of 31%. The Commission also decided to combine the administrative burdens reduction programme with the previously separated rolling programme for simplification.

- *The idea that smart regulation is a shared responsibility*, and that accordingly the European Commission can try to improve the quality of its documents as much as possible, but if the European Parliament, the Council of the EU and Member States do not take action to accompany this ongoing development the impact on the final quality and smartness of EU legislation would be limited.
- *The need to strengthen the consideration of SMEs in the policy process*, by refining tools such as the “SME test” that was introduced in the IA system after the adoption in 2008 of the Small Business Act for Europe, but which had not been fully operationalized in methodological terms by the European Commission to date. The smart regulation Communication was then followed by a review of the Small Business Act in 2011 and, in 2013 by two important initiatives: (i) a consultation and subsequent report on the top ten most burdensome pieces of EU legislation for European SMEs<sup>17</sup>; and (ii) the introduction of a new annual scoreboard which will allow to track the progress in the legislative cycle of proposals where a significant impact on SMEs can be expected, and will also show how different approaches to implementation by Member States affect the overall impact on SMEs.

All in all, however, the smart regulation era of the European Commission was heavily affected by a slowdown in the impact assessment activity of Commission DGs (as will be shown below, only 51 IAs were concluded in 2010, against the 135 initially planned) and also by a growing tension between the approach advocated by the Secretariat General, centred around the use of cost-benefit analysis, and the need – strongly felt by some DGs of the European Commission – to depart from this method to develop more specific techniques, which would lead in some cases to a narrower approach (e.g. the focus on administrative burdens or compliance costs in DG ENTR) or to a broader approach, very close to a multi-criteria analysis (e.g. DG EMPL, DG Justice, DG REGIO, etc.). This radical divergence has led, over time, to a worrying fragmentation of the IA system in the European Commission: while the SecGen believes and argues that the one and only official reference for conducting an IA is the 2009 Guidelines, to be revised in 2014 with even more emphasis on cost-benefit analysis, it seems to disregard and downplay the importance of the sectoral, specific documents that have been introduced under the initiative of individual DGs, such as:

- *For DG Enterprise and Industry*, the EU Standard Cost Model, the “Operational Guidelines to Assess Impacts on Micro-Enterprises”, and the “Operational Guidance for Assessing Impacts on Sectoral Competitiveness within the Commission Impact Assessment System - A “Competitiveness Proofing” Toolkit for use in Impact Assessments”.
- *For DG Justice and Citizens’ rights*, the “Operational Guidance on taking account of Fundamental Rights in Commission Impact Assessments”.
- *For DG Employment*, the already mentioned “Guidance on assessing Social Impacts”, coupled with two large studies on existing practices in Member States.

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<sup>17</sup> COM(2013)446, 18 June 2013.

- *For DG Regional policy, "Assessing Territorial Impacts: Operational guidance on how to assess regional and local impacts within the Commission Impact Assessment System".*

Along with these developments other DGs such as MARKT (Internal Market) and ENV (Environment) have developed own tools and handbooks on how to perform IA, which depart to some extent from the general template provided by the SecGen.

Another, important development that followed the Smart regulation Communication was the creation, in 2012, of the Impact Assessment (IMPA) Directorate within the European Parliament, which since then started to review the Commission's roadmaps and IA documents, as well as performing or commissioning ad hoc IAs on Parliamentary amendments or on own initiatives of the European parliament. The first year of operations of the IMPA Directorate has shown encouraging progress in the small groups' ability to exert pressure on the European Commission to produce better IA documents. If this trend is confirmed in the future, the Parliament might become an important gatekeeper of the soundness of the IA documents produced by the European Commission, thus filling some of the gaps left by the absence of a quality assurance mechanisms besides the "internal" quality check provided by the Impact Assessment Board of the European Commission. Recent examples include the Commission's legislative proposal containing rules on third countries' reciprocal access to EU public procurement, which was challenged by the IMPA Directorate through the collection of four different expert reports by experts in trade law and various economic disciplines, including game theory<sup>18</sup>.

### 2.1.2. The European Parliament

The early years of implementation of the Inter-Institutional Agreement on Better Lawmaking were not easy for the European Parliament. As explained in Renda (2006, 2011, 2014), part of the problems faced by the Parliament can be explained by the fact that no existing impact assessment system had been sufficiently tested in any national assembly. As a matter of fact, many expressed scepticism as regards the possibility to implement an IA system and advanced forms of evidence-based policy-making in a context in which decisions are adopted typically by striking political compromises.

That said, the early attempts in Parliament took the form of commissioned IA studies on "major amendments" on Commission proposals, which were mostly organised by the launch of framework contracts with multiple contractors, who could then be called to perform specific studies over a specific time frame (e.g. two years). However, the first experiments were not fully welcome by MEPs, and IA studies were soon "degraded" to briefing notes and background studies, which lacked the overall structure and the specific indication of preferred policy options that are normally included in an IA document.

In June 2011, the European Parliament adopted an own-initiative report (the so-called "Niebler report") on 'guaranteeing independent impact assessment', which welcomed the on-going development of the impact assessment process within the EU institutions as an important aid to better law-making during the whole policy cycle<sup>19</sup>. The following year, with a view to strengthening the capacity of the parliamentary committees to engage in ex-ante work of various kinds, the Parliament's Bureau established a dedicated Directorate for

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<sup>18</sup> See the expert reports at [http://www.europarl.europa.eu/meetdocs/2009\\_2014/documents/inta/dv/pp\\_summaries/\\_pp\\_summaries\\_en.pdf](http://www.europarl.europa.eu/meetdocs/2009_2014/documents/inta/dv/pp_summaries/_pp_summaries_en.pdf)

<sup>19</sup> See Report on Guaranteeing Independent Impact Assessments, available online at <http://www.europarl.europa.eu/sides/getDoc.do?type=REPORT&reference=A7-2011-0159&language=EN>

Impact Assessment and European Added Value. The latter's Ex-Ante Impact Assessment Unit, now moved to the new European Parliamentary Research Service, routinely summarises and appraises the strengths and weaknesses of Commission IAs accompanying legislative proposals and is available to provide, upon request from the relevant EP committee, more in-depth IA-related services, such as complementary or substitute impact assessments, in cases where certain aspects have been dealt with inadequately or not at all in the original Commission IA, and impact assessments of substantive amendments.

Between June 2012 and December 2014, the unit has prepared more than 90 initial appraisals of Commission IAs for parliamentary committees, six detailed appraisals, four complementary or substitute IAs, and four impact assessments on substantive EP amendments, encompassing a total of 21 amendments. IAs on amendments may help support the institution's position in trilogue negotiations, as well as improve advance knowledge of likely effects. Guidance for committees in using these EP impact assessment services are set out in the Parliament's internal 'Impact Assessment Handbook', adopted by the Parliament's Conference of Committee Chairs, and most recently updated in November 2013<sup>20</sup>.

### 2.1.3. The Council of the European Union

The Council has initially run a limited number of pilot impact assessment on some of its own major amendments shortly after signing the Inter-Institutional Agreement on Better Lawmaking, but soon abandoned the project. Since then, for more than a decade very little has been done, with the exception of a growing use of Commission IAs in Council working parties at an early stage of the debate on specific legislative proposals. In the past years, at least a third of the EU Member States have exerted pressure on the Council to set up at least a small IA unit, but so far no concrete step has been made in that direction.

### 2.1.4. Other EU institutions

Use of Commission IAs has reportedly increased over the past decade also in EU advisory bodies such as the Committee of the Regions (which has been calling for more attention to territorial impacts) and the European Economic and Social Committee (traditionally more attentive to social impacts, but also to issues such as self- and co-regulation). Alemanno (2012) interestingly reports that the Court of Justice of the European Union (CJEU) is making increasing use of Commission IAs, even if only as a sort of *obiter dicta*, i.e. documents that help the Court in developing a better understanding of the rationale that led the Commission to adopt its original proposal<sup>21</sup>.

## 2.2. Ex post evaluation, fitness checks and other forms of analyses of the stock of legislation

Since the early days of the better regulation agenda in the European Union, programmes launched by the European Commission have also involved the analysis of the stock of existing legislation. Significant steps were made in the 2002 better regulation package with the adoption of the Action plan "Simplifying and improving the regulatory environment"<sup>22</sup>; and later with the 2005 Communication on "Implementing the Community Lisbon

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<sup>20</sup> [http://www.europarl.europa.eu/EPRS/impact\\_assesement\\_handbook\\_en.pdf](http://www.europarl.europa.eu/EPRS/impact_assesement_handbook_en.pdf).

<sup>21</sup> Alemanno, Alberto, *A Meeting of Minds on Impact Assessment: When Ex Ante Evaluation Meets Ex Post Judicial Control* (July 31, 2011). European Public Law, Vol. 17, No. 3, 2011. Available at SSRN: <http://ssrn.com/abstract=1899276>

<sup>22</sup> Communication from the Commission of 5 June 2002 -- Action plan "Simplifying and improving the regulatory environment" [COM(2002) 278 final - Not published in the Official Journal].



programme: A strategy for the simplification of the regulatory environment"<sup>23</sup>. In order to implement its strategy the Commission established a rolling programme of simplification based on a sectoral assessment<sup>24</sup>. Assessment would reportedly consist of an analysis of the administrative and other benefits and costs of the legislation in question, with an initial focus on automotive, construction and waste and later an expansion into other industry sectors such as pharmaceuticals, mechanical engineering, information and communication technologies (ICT), and energy-intensive sectors to eventually focus on services.

Simplification instruments in the Commission's toolkit included repeal, codification, recasting, modification of the regulatory approach and reinforcing of the use of ICT-enabled tools such as e-government. The simplification rolling programme faced significant problems from the outset, and already in the first progress reports the Commission reported delays (in 2005-2006 it adopted only 27 out of 71 scheduled initiatives).

In the following years the European Commission has gradually shifted towards a more concrete strategy aimed at measuring and reducing administrative burdens generated by the EU *acquis*. Since February 2007 a pan-European strategy to reduce by 25% the administrative burdens generated by EU legislation was launched, and led to a number of important reduction measures that, as reported by the European Commission, have achieved the set target of reducing administrative burdens by at least one fourth, and even went beyond to an estimated 33% reduction in the priorities areas selected (a total of 42 Directives from thirteen priority areas)<sup>25</sup>. In order to keep the momentum in this specific area of intervention, a High Level Group of experts on Administrative Burdens was set up as an advisory body to the Commission: with the support of this Group, the initiatives proposed by the Commission and adopted by the co-legislator reportedly led to more than €33.4 billion of savings per year for business, which include €18.8 billion in savings on invoicing and €6.6 billion on annual accounting requirements<sup>26</sup>. Thanks to the work of the High Level Group, the Commission now fully applies the "think small first" principle, considering the impact of legislation on small and medium-sized enterprises (SMEs) whenever possible and considering SME exemptions and lighter regimes for legislative requirements whenever appropriate.

Since the beginning of the second Barroso mandate, and definitely after the October 2010 Smart regulation Communication, the European Commission has also made it clear that the time had come for ex post evaluations to become a regular commitment of the EU institutions, and in particular of the European Commission. Since then, long announced guidelines on ex post evaluation have finally seen the light after a long gestation on May 19, 2015.

The various developments observed in the past decade of better (or "smart") regulation in the European Commission culminated, at the end of 2012, in a new Communication on "regulatory fitness", which sets the stage for radical developments in the set of European

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<sup>23</sup> Communication of the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions of 25 October 2005 "Implementing the Community Lisbon programme: A strategy for the simplification of the regulatory environment" [COM(2005) 535 final -- Not published in the Official Journal]. See also Communication from the Commission of 14 November 2006 "Commission working document -- First progress report on the strategy for the simplification of the regulatory environment" [COM(2006) 690 final - Not published in the Official Journal].

<sup>24</sup> Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions of 11 February 2003 "Updating and simplifying the Community *acquis*" [COM(2003) 71 final - Not published in the Official Journal].

<sup>25</sup> See information on the administrative burdens reduction programme at [http://ec.europa.eu/smart-regulation/refit/admin\\_burden/high\\_level\\_group\\_en.htm](http://ec.europa.eu/smart-regulation/refit/admin_burden/high_level_group_en.htm).

<sup>26</sup> [http://europa.eu/rapid/press-release\\_IP-14-1116\\_en.htm](http://europa.eu/rapid/press-release_IP-14-1116_en.htm)

Commission policies for the quality of legislative proposals. The communication announces the launch of a new Regulatory Fitness and Performance Programme (REFIT) to systematically identify and transparently carry out initiatives that will result in significant regulatory cost reduction and simplification; a follow-up to the Action Programme for Reducing Administrative Burden (so-called "ABRplus") to ensure that the claimed success in the Administrative Burden Action Programme to cut red tape by 25% will eventually bring benefits to businesses and SMEs. The Communication also anticipates new and sharpened tools for regulatory management, including new impact assessment guidelines and guidance for ex post evaluation. The Communication is accompanied by two Staff Working Documents: "Review of the Commission Consultation Policy" and a report on the Action Programme for Reducing Administrative Burden".

Apart from the follow-on initiatives on previously launched streams of actions (such as the administrative burdens reduction programme) and the refined methods to close the policy cycle through stronger and more sophisticated assessments, the real novelty of REFIT is the launch of a set of comprehensive "fitness checks" in key domains of EU policy, which are expected to begin in 2014, and which will lead to a more general re-assessment of the potential for reform, simplification and improvement of the regulatory framework in each of those policy domains.

However, the REFIT seems to have exacerbated, rather than reduced, the ongoing "continental drift" between the approaches to better regulation adopted by different DGs of the European Commission. For example, in welcoming the idea of fitness checks, the DG ENTR decided to launch in early 2013 a series of fitness check in economic sectors, rather than policy domains, and ended up selecting the steel and aluminium sectors as the first candidates for a fitness check. Pity that the initiative by DG ENTR was only aimed at measuring the cost that EU legislation imposes on market players in these fields, which arguably make them less competitive than their rivals in non-EU countries: only after a long discussion with the SecGen the term "fitness check" was removed, and the studies were more correctly termed "cumulative cost assessments"<sup>27</sup>.

In October 2013 the Commission already explained that it had taken action on 6 of the top ten most burdensome legislations for SMEs to achieve simplification in the fields of data protection, posting of workers, consumer product safety, public procurement, professional qualifications and recording equipment (tachograph) in road transport. The Commission then announced that by the end of 2014, it would carry out or launch as many as 47 evaluations, Fitness Checks or similar reports with a view to reducing regulatory burden in areas such as environment, enterprise and industry and employment. But the "obsession" of the Commission seems to have been increasingly placed on the need to cut red tape, rather than to increase the net benefits or – better – improve the effectiveness of EU policies in achieving the EU long term goals; and all this despite frequent announcements on the need to preserve the quality of EU regulation.

### **2.3. Frequency, timing and relevance of stakeholder consultation throughout the policy process**

One area in which EU institutions, and in particular the European Commission, represent a best practice is certainly stakeholder consultation. The Commission is obliged by Article 11 TEU to carry out broad consultations with parties concerned in order to ensure that the Union's actions are coherent and transparent'. Also Protocol No. 2 on the application of the

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<sup>27</sup> See e.g. <http://www.ceps.eu/publications/assessment-cumulative-cost-impact-steel-industry>

principles of subsidiarity and proportionality annexed to the Treaty stipulates that “before proposing legislative acts, the Commission shall consult widely”. As a matter of fact, today the Commission consults stakeholders at various stages of the policy cycle, and it does so with minimum standards that go beyond those of all other legal systems around the world. Relations with stakeholders are governed by four general principles:

- *Participation*: Adopt an inclusive approach by consulting as widely as possible;
- *Openness and Accountability*: Make the consultation process and how it has affected policy making transparent to those involved and to the general public;
- *Effectiveness*: Consult at a time where stakeholder views can still make a difference, respect proportionality and specific restraints;
- *Coherence*: Ensure consistency of consultation processes across all services as well as evaluation, review and quality control.

These principles are complemented by five Minimum Standards that all consultations have to respect, namely clarity, targeting, publicity, availability of a sufficient time and acknowledgement of feedback. The results of (open public) consultations should be published and displayed on websites.

Mandatory open, internet-based public consultation must be carried out for a minimum of 12 weeks and must be carried out for all initiatives with impact assessments, evaluations, fitness checks and Green Papers. As will be explained below, with the adoption of the new Better Regulation Package Stakeholders will also be able to give feedback on Roadmaps for Evaluations and Fitness Checks roadmaps (for four weeks), and Roadmap and Inception Impact Assessments (duration will depend on a case by case decision). In addition, a four-week consultation process will be available to stakeholders on major Delegated Acts and Implementing Acts; a new eight-week consultation process will be run on legislative or policy proposals adopted by the College and, where applicable, accompanying IAs.

## **2.4. The role of Member States in the transposition and implementation phases of the policy cycle**

For what concerns better regulation tools, it is no mystery that most of the EU Member States are much less advanced than the European Commission. This is of course problematic for many reasons. First, it is impossible in most circumstances to accurately predict the enforcement and compliance costs of a specific EU rule, since patterns of monitoring and enforcement at national level vary significantly across Member States (Renda *et al.* 2014). Second, most Member States are not in the position to accurately assess the impacts of transposition measures at the national and local level, and they are also unable to report to the EU institutions on the impacts of EU rules during the evaluation phase. This crucially affects the multi-level governance of the European Union.

There are, of course, important exceptions. In particular, the United Kingdom has started experimenting with better regulation tools since the mid-1980s and moved to a full-fledged cost-benefit analysis system in 1998. On 15 December 2010, the UK Government announced the forthcoming adoption of Guiding Principles for EU Legislation, and in April 2013 a Guidance document was published, which helps policy makers and lawyers across Government in the implementation of EU Directives<sup>28</sup>. Dedicated guidance for far-reaching

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<sup>28</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/229763/bis-13-775-transposition-guidance-how-to-implement-european-directives-effectively-revised.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/229763/bis-13-775-transposition-guidance-how-to-implement-european-directives-effectively-revised.pdf)

pieces of EU legislation is also available (e.g. on the services Directive, and on procurement Directives)<sup>29</sup>.

Besides the United Kingdom, other national governments have made significant steps forward in the development of extensive better regulation tools. Countries like the Netherlands, Denmark, Germany, Sweden, and more recently also France, the Czech republic and Estonia have managed to promote the adoption of better regulation within government, with some differences: some countries chiefly focus on costs for businesses, and rely on semi-independent or fully independent oversight bodies for appraisal and advocacy with respect to pieces of legislation that have a significant impact on compliance costs and administrative burdens (mostly, for businesses)<sup>30</sup>. The cases of Germany is probably the most advanced in this respect, with the *Normenkontrollrat* actively working on the transposition and implementation of EU legislation at the federal and also regional level, and even contemplating the possibility of systematically providing government representatives in Council formations with an analysis of the likely impact (on Germany) of proposed rules being put on the Council formation's agenda.

## 2.5. Subsidiarity and proportionality

Subsidiarity and proportionality are Treaty-based principles that must be considered at various stages of the decision-making cycle of the European Union. Better regulation tools are the most important vehicle through which these principles enter the daily policy process of the European Commission, and are explicitly considered at the preliminary stage of "Roadmaps" attached to the Commission's Work Programme for the following year<sup>31</sup>; and also at the ex ante impact assessment stage, as the Commission guidelines include specific questions on the need to act at the EU level and the assessment of the degree of proportionality of alternative policy options<sup>32</sup>. When the impact assessments are sent to the Impact Assessment Board (from now on Regulatory Scrutiny Board), a further check on the respect of the subsidiarity and proportionality principles is performed (in 2013 the IAB commented on these aspects of draft IAs in more than one third of the cases. Typically subsidiarity and proportionality are also considered during Inter-Service Consultation, and in the explanatory memoranda (or Staff Working Documents) attached to Commission proposals, normally echoing an analysis that is also found in the IA document.

Throughout the policy process, subsidiarity and proportionality remain at the core of the EU decision-making. The European Parliament considers these principles in carrying out impact assessments of major amendments, in commissioning "EU added value" studies, and in providing for ex post evaluations of existing pieces of legislation belonging to the EU *acquis*<sup>33</sup>. Regrettably, the principles of subsidiarity and proportionality are much less explicitly considered and subject to clear explanations when the proposed legislation reaches the desk of the Council: this echoes the more general problem of accountability,

<sup>29</sup> See <https://www.gov.uk/transposing-eu-procurement-directives>; and more generally

<https://www.gov.uk/browse/citizenship/government/compliance-with-european-union-laws-and-regulation>.

<sup>30</sup> Renda *et al.* (2014) as well as Renda (forthcoming) and Castro and Renda (forthcoming) provide an overview of all these developments in the mentioned legal systems.

<sup>31</sup> Roadmaps provide a preliminary description of these potential initiatives and outline the Commission's plans for policy and consultation work. They also include an initial justification for action with regard to subsidiarity and proportionality.

<sup>32</sup> More generally, the IA exercise can be considered overall as an application of "constitutional principles" in the EU, such as proportionality and effectiveness.

<sup>33</sup> The relationship between EU Added Value and subsidiarity is still in need of a clearer definition at the EU level. While there is certainly a degree of overlap between the two concepts, EU Added Value is a term originally developed within the context of budget policy, as a criterion for the allocation of funds to different areas of intervention. It was then "promoted" to the overall policy level by the European Parliament in setting up its IMPA Directorate in 2012.

transparency and overall compliance with better regulation principles, which has already been raised in the past sections.

Subsidiarity is also subject to constant consultation with national parliaments. The position of national parliaments in the EU was strengthened in various ways by the Lisbon Treaty in order to enhance democratic legitimacy. Protocol 2 of the Lisbon Treaty introduced a mechanism of subsidiarity scrutiny by national parliaments on draft EU legislation. The so called “early warning system” including the yellow and orange card procedures give them a direct role in assessing compliance of draft legislation with the principle of subsidiarity (TEU art. 5). The chambers of national parliaments may each give a reasoned opinion and collectively they can influence the legislative procedure if a certain threshold is attained in the set time limit. In its latest report on subsidiarity and proportionality, the European Commission explains that in 2013, the Commission received 88 reasoned opinions from national Parliaments on respect of the principle of subsidiarity, which represents 14% of the overall number of opinions the Commission received in the context of the broader political dialogue with national Parliaments. In addition, national parliaments have made very limited use of the ‘yellow card’ mechanism foreseen by the subsidiarity control mechanism under the Lisbon Treaty<sup>34</sup>.

Subsidiarity checks are, finally, performed also by the Committee of the Regions. However, what seemed likely to become a regular, influential control point for the EU policy process in terms of respect for constitutional principles ended up being often a rather light-touch, uncoordinated form of interaction.

## **2.6. The new EU better regulation package**

More than a decade after the launch of the EU’s first comprehensive better regulation package, it is fair to state that the system has produced mixed results. On the one hand, many Commission officials have digested over time the new procedure, and seem to accept its regular use as more than a simple additional administrative requirement, but rather as a way to make the case for legislative action. Increased use of Commission impact assessments in other institutions, including the European Parliament, the Council and even the Court of Justice, seems to further encourage this sentiment inside the Commission. But a number of problems remain.

First, from a methodological perspective, a split seems to have emerged over time inside the Commission, with the Secretariat General pushing for more regular use of quantitative cost-benefit analysis, and individual DGs inevitably preferring the reliance on multi-criteria analysis, in which specific impacts would be looked at more closely: competitiveness, administrative burdens and impacts on SMEs for DG Enterprise (now DG GROW); environmental impacts for DG Environment; social impacts for DG Employment; impacts on Fundamental Rights for DG Justice; etc. This split can be observed in the publication of a number of specific guidance documents on individual impacts, which the Secretariat General has never fully endorsed as being fully integrated into the Commission Impact Assessment Guidelines, although some recognition has now been given to these documents in the new impact assessment guidelines published in May 2015.

Second, the European Commission has always shown reluctance to appoint an independent body in charge of scrutinising draft impact assessments, or even to publish its draft impact assessments for stakeholder consultation. While the former idea was difficult to translate in

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<sup>34</sup> Commission Annual Report on Subsidiarity and Proportionality, Brussels, 5.8.2014 COM(2014) 506 final.



practice without hindering the Commission's right of initiative, the latter has always stood on more fragile explanations, such as the need to avoid capture or to uselessly prolong the duration of an already quite clumsy legislative process (the Commission claims to take on average 52 weeks to move from early consultation on potential proposals to the formalisation of the proposal and its accompanying documents).<sup>35</sup> The fact that the Commission normally becomes a 'black box' exactly at the moment in which it needs more input – when using data and specific methods in support of the comparison of alternative policy options – has traditionally been subject to a rather generalised criticism. Only industry associations have so far managed to obtain some additional degree of scrutiny on Commission practices, when the Barroso Commission decided to create the High Level Group on Administrative Burdens, whose mandate expired last year.

Third, the Impact Assessment Board has been criticised for being too small, and insufficiently equipped to be able to provide a meaningful scrutiny of the flaws and imperfections of draft analyses submitted by the Commission services. Part of the problem was due to the fact that its members (originally five, then increased to nine, with a small secretariat) were acting in their personal capacity, on top of their daily duties of director-level officials in their respective DGs; and part was simply due to the fact that, being an internal body, the Board would have limited incentives to block initiatives that had been given highest political priority.

These criticisms, together with more recurring mantras of the government-stakeholder dialogue on better regulation (e.g. the impact assessments are a way to justify decisions that were already pre-determined; consultation takes place either too early or too late, and opinions are not fully taken on board; business impacts are given more weight than environmental and social impacts; etc.), called for action by the Juncker Commission, exactly in the direction of ensuring more constructive dialogue with stakeholders, even more on methods, data and decision-making criteria than on the merit of proposed initiatives, on which the Commission already extensively consults by following high standards.

What does the new better regulation agenda do in reaction to those criticisms? At a first glance, quite a lot.

For what concerns consultation:

- The Commission launched a new platform termed "Lighten the load – have your say", which constitutes an open channel for anyone willing to provide views on aspects of EU legislation that they find irritating, burdensome or worthy of improvement. Such platform seems indeed more addressed at companies wishing to signal burdensome pieces of legislation, in line with a consolidated practice at the EU level.<sup>36</sup> But there is no restriction on the possibility that citizens voice their concerns on the need to improve, for example, the design or the enforcement of environmental legislation.
- At the same time, the Communication "better regulation for better results" also announces the creation of a REFIT stakeholder platform chaired by the First Vice President of the Commission, which will involve high level experts from business and civil society stakeholders as well as all 28 Member States appointed through an "open and transparent process". Even if not many details are disclosed in the draft Communication, it seems that the platform will meet regularly and hear presentations and proposals by all members. This, if properly implemented, would potentially become a powerful instrument of advocacy for all stakeholders, who would obtain a direct

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<sup>35</sup> See the 2009 impact assessment guidelines for an illustration.

<sup>36</sup> Top ten most burdensome pieces.

channel of communication with the First Vice President. At the same time, it is not clear whether experts from business and civil society will add to the experts selected for each of 28 Member States, and whether the latter will be government experts or, themselves, representatives of the civil society, as would seem from the fact that they have to be appointed through a public competition. Importantly, the wording of the Communication suggests that the platform will serve also as a forum for reflection on the functioning of EU's multi-level governance, in particular when problems highlighted by the platform members will relate to the transposition and implementation of specific pieces of legislation by some or all Member States.

For what concerns the scrutiny of draft impact assessments, the new features introduced by the better regulation package are potentially far-reaching.

- First, the Impact Assessment Board is being replaced by a Regulatory Scrutiny Board, in which members will now operate full time, and will now include one Chair (with the rank of Director General), three 'internal' members, as well as three members (up from the two previously announced) recruited with fixed-term contracts on the basis of their specific academic competence and expertise "via rigorous and objective selection procedures"<sup>37</sup>. For the first time, the Commission thus accepted to open the doors of its watchdog to external members: as a general rule, all members of the Board should act independently and autonomously, and should "disclose any potential conflict of interest to the Chairperson and can be requested not to participate in the scrutiny of any impact assessments or evaluations or fitness checks where such potential conflict of interest arises".<sup>38</sup>
- Moreover, the Commission's Communication announces that the Commission will start consulting before and even "during the impact assessment process". This would happen after the publication of a new "inception impact assessment" document, which appears to be a somewhat more elaborate version of the Roadmap that so far has been produced by the Commission for each initiative on the occasion of the publication of the yearly Work Programme.<sup>39</sup> What is still unclear is whether this procedure will be mandatory for all proposals subject to impact assessment; and at what state of advancement of the proposal would consultation be run. The Impact Assessment Guidelines clarify that only "major" new initiatives have to be accompanied by an Inception IA and require political validation from the lead Commissioner, Vice-President and First Vice President. Such "major" initiatives are defined very broadly, such that they include "initiatives included in the Commission's Work Programme, REFIT items, new legislative proposals, recommendations for the negotiation of international agreements and proposals for their conclusion, policy communications, delegated and implementing acts having significant impacts, financing decisions having significant impacts, and other Commission initiatives that are sensitive or important".<sup>40</sup> The result is that all initiatives that are not routine administration or very minor regulatory interventions would need to be subject to a political validation before any policy appraisal work can start: and while 'major' initiatives included in the Work Programme

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<sup>37</sup> Communication, page 7, Section 3.2. Three members will be officials selected from within the Commission services. Three posts will be created, therefore, for officials who will work full time exclusively for the Board and be transparently selected on the basis of their expertise in accordance with prevailing Commission rules. They will be ranked as Director, Principal Adviser or Adviser. Three temporary posts will be created to permit the recruitment of the members from outside the Commission on the basis of their proven academic expertise in impact assessment, ex-post evaluation and regulatory policy generally.

<sup>38</sup> Regulatory Scrutiny Board, Missions, Tasks and Staff, page 3. Strasbourg, 19.5.2015, C(2015) 3262 final

<sup>39</sup> It is defined as a "Roadmap for initiatives subject to an IA that sets out in greater detail the description of the problem, issues related to subsidiarity, the policy objectives and options as well as the likely impacts of each option".

<sup>40</sup> IA guidelines, at 14.

have to be validated by the College of Commissioners, 'major' initiatives not included in the Work Programme only have to be validated by the First Vice President.<sup>41</sup> The 'political nature' of the new Commission here becomes visible, and places a significant constraint on the discretion attributed to the Commission services in adopting new initiatives. What is a bit more obscure is the scope of the consultation during the impact assessment process: ideally, this should be a rather 'technical' consultation, focused on the quality of the data, on the overall methodology, on the soundness of underlying assumptions, and on the list of considered alternatives, rather than on the content of the preferred policy option. But the guidelines do not fully clarify what type of consultation questions should the Commission services prepare after the inception report. Page 72 of the new Guidelines do not differentiate between the consultation that would be run before, during or immediately after the impact assessment has been completed, and simply clarify that consultation should cover all elements in the impact assessment process, including most notably the problem to be tackled, the issue of subsidiarity and the EU dimension to the problem, the available policy options; and the impacts of the policy options.

Finally, the new Better Regulation Communication marks a long-awaited step forward on the application of better regulation tools to delegated acts, the thousands "ex comitology" decisions that are taken every year to ensure the implementation of primary legislation. As a matter of fact, these rules are more similar to the types of rules on which Regulatory Impact Analysis (RIA) is mandatory in the United States since 1981: most often we forget that the type of impact assessment carried out by the Commission on its primary rules does not correspond to the type of regulation that in other jurisdiction is subject to systematic cost-benefit analysis or risk analysis. The Commission now (and as already announced since 2009) aims at extending its impact assessment system also to these measures, whenever impacts are likely to be significant: this is very similar to the U.S. rule introduced in 1981 as amended a decade later by the Clinton administration, which set out a number of basic criteria that had to be met for federal regulation to be subject to mandatory RIA. What the Commission does not explain is whether the methodology that will be used for delegated acts is the same contained in the (new) guidelines: one would expect that cost-benefit analysis be applied more systematically for these rules. Importantly, the Commission will also consult the public, although for a shorter period (4 weeks) on these acts, and will publish ahead of time an "indicative online list of any such acts in the pipeline" to allow stakeholders to plan in advance their contributions. Given the number of such acts that are adopted every year, this will certainly constitute a very heavy workload for the Commission, and it is hard to imagine how all opinions expressed in these consultations, likely to be of a much more technical nature, will be fully taken into account.

All in all, these are important changes, which – if properly implemented – would likely stimulate a more constructive dialogue during the early stage of policy formulation and ex-ante policy appraisal within the European Commission, and as such, with the usual *caveats*, must be welcome. Implementation of these changes must however be swift: at the time of writing, more than two months after the better regulation package was presented, an open call for selecting members of the REFIT stakeholder platforms has been published, but there is no sign of the call for the three independent members of the new Regulatory Scrutiny Board.

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<sup>41</sup> Less important initiatives have to be validated only by the Commissioner or, for evaluation and fitness checks, by the Director General of the competent DG.



### **3. THE PROPOSED NEW INTER-INSTITUTIONAL AGREEMENT ON BETTER REGULATION: AN ANALYSIS**

Over the past few years, the harshest critiques moved to the EU better regulation agenda have neither been confined, nor mostly focused, on the Commission's impact assessment system. While the Commission's impact assessments are certainly imperfect and worthy of some improvements, other institutions such as the European Parliament and the Council have shown problems in (if not reluctance to) implement what the 2003 Inter-Institutional Agreement on Better Law-making and the later 2005 Inter-Institutional Common Approach to Impact Assessment would in principle have forced them to do: carry out systematic impact assessment of their proposed major amendments on Commission proposal, as well as – for the European Parliament – regular impact assessments on own legislative initiatives. And as already recalled, while the European Parliament actually started carrying out impact assessments since 2012 and has, since then, tried to step up its analytical efforts by gradually upgrading its workforce and sharpening its toolkit, the Council has remained virtually silent on this issue.

The logic behind the 2003 and 2005 Inter-Institutional Agreements was clear. Compared to the early statements of the European Commission, which referred to impact assessment as merely an instrument of 'in house learning', the two Agreements looked at the impact assessment accompanying a specific initiative as a 'living document', to be updated to reflect the changes that EU institutions would introduce to the proposal during the ordinary legislative procedure. This feature was strengthened by the fact that that all three institutions were required to use the same methodology (the 'common approach'), which would avoid duplications and redundancies and create, at least in principle, a shared commitment towards better regulation. One of the worst consequences of the relative failure of the two inter-institutional agreements to trigger a real common approach is that the final document that emerges at the end of the legislative procedure is not backed by an updated impact assessment. This entails two deplorable consequences: on the one hand, some (if not all) of the amendments adopted by the European Parliament and (most importantly) the Council are not backed by evidence, nor motivation, nor by any assessment of their impact for European citizens and businesses; on the other hand, member states are constantly faced with the impossibility to rely on any up-to-date impact assessment when deciding on their transposition and implementation measures. This, although coupled with a degree of inertia of most member states in adopting better regulation tools, has doomed the whole EU better regulation agenda to a state of incompleteness.

Does the Commission proposed new Better regulation package remedy this stalemate? To some extent, yes. Three major new features are introduced, which signal a degree of discontinuity with the past.

- First, the Commission commits to run an eight-week consultation after the adoption of every proposal, in order to collect comments and opinions that would then be sent to the other EU institutions to facilitate their appraisal work. This consultation should, in principle, add to the one that will be carried out 'during' the impact assessment process, as the Commission has now proposed to carry out consultation on "inception IAs". The scope of this consultation is not clarified, but given its timing in the policy process it is likely that it will focus on the content of the proposed policy initiative, rather than on the impact assessment itself.
- Second, the Commission declares in the proposed text of the new Inter-Institutional Agreement its availability to assist the European Parliament and the Council in their assessment of the impacts, in particular by explaining in detail its impact assessment,

sharing the data used, and even – in duly defined cases – integrating its impact assessment. This commitment will have to be observed in practice. One possible interpretation is that, as the European Parliament has since 2012 started to provide its own analyses of the Commission's impact assessment, this might in some specific cases motivate the Commission in updating and complementing its original document. Another possible interpretation is that the Commission is leaving the door open to possible updates in its impact assessment to reflect the amendments adopted by other institutions, should the inertia (in particular, of the Council) continue.

- A third, related feature that complements the previous one is the brand new right, contemplated by the Commission, for any of the three institutions to call for an independent panel of three experts (each one appointed by a different EU institution) that would carry out an assessment of the impacts of a substantially revised proposal, to be finalised and made public within a reasonable amount of time, and which should be based on any existing impact assessment work. Clearly, this procedure will have to be detailed with due care, in order to avoid delaying tactics by any of the institutions. Other than this, the optional procedure is going to prove particularly useful, if confirmed in the final text of the Inter-Institutional Agreement, in case the Council will confirm its reluctance to back its decisions with a transparent, thorough, evidence-based document.

The proposed text of the Inter-Institutional Agreement, while contemplating these alternative ways to involve other institutions, is clear on the desired outcome: whatever the way in which this result will be achieved, the three institutions agree that information should be given on the impact of the final piece of legislation, and that this information will be used for future evaluation work, thus helping to complete the so-called 'policy cycle'. While this statement does not attribute any specific responsibility to any of the three institutions, the stated outcome (if taken seriously) would represent a clear step towards the completion of a fully evidence-backed policy cycle in the EU.

## 4. CONCLUDING REMARKS AND MAIN FINDINGS

The EU Better Lawmaking agenda is deeply rooted in Treaty provisions, which stress the need for EU institutions to adopt their policy initiatives in a way that is open, transparent, accountable, and in full respect of fundamental rights and key principles such as subsidiarity and proportionality. The way in which the agenda has been implemented goes very far in ensuring respect of these principles, and indeed many aspects of the EU policy process can be considered as best practices worldwide. This certainly applies to the pervasiveness of consultation process and standards, as well as to the ever-growing use of ex ante impact assessments, monitoring and ex post evaluations throughout the policy cycle. The new better regulation package adopted by the European Commission on May 19, 2015 further strengthens these prerogatives of the EU policy process, and must be welcome in general terms for this reason. The same applies to the Commission's proposed new Inter-Institutional Agreement on Better Regulation, with the *caveats* that will be illustrated below.

Against this backdrop, there are still some gaps in the existing policy cycle at the EU level, and also some reasons to be concerned about the feasibility of some of the proposed reforms.

The gaps that are most evident in the current EU better lawmaking agenda can be summarised as follows:

- There is no full certainty nor full accountability, on the side of the Commission, for what concerns the selection of "major" proposals that should undergo inception IAs, full Impact Assessments, and now also consultation and impact assessment on delegated and implementing acts. The Commission has always stated that, as a general rule, all legislative and non legislative initiatives included in the Commission's Annual Work Programme will be subject to ex ante IA, but has also been equally accurate in stating that this general rule can very well find exceptions, as some initiatives not included in the Work Programme could be subject to IA, and some that are included might eventually be exempted.
- As a reflection of this lack of full accountability, there is no judicial scrutiny on the respect of the obligation to respect fundamental better regulation principles throughout the process. While in other jurisdictions (e.g. the United States) a piece of regulation can be declared null and void by a federal court for material or procedural errors in carrying out the underlying cost-benefit analysis, in Europe no such gatekeeping role of courts is provided for.
- There are also uncertainties related to methodology: to the extent that the pendulum keeps swinging between cost-benefit analysis and multi-criteria analysis inside the European Commission, the importance attached to issues such as respect for fundamental rights, or distributional impacts, will keep being surrounded by a degree of uncertainty.
- There is also a problem of overall scope and coherence between the EU better lawmaking agenda and the medium- to long-term goals of the European Union. The methodological uncertainty highlighted above is also relevant for what concerns the link between the tools used by the Commission in appraising its own proposals and the ultimate targets and goals politically set in initiative such as Europe 2020. It is, indeed, a different thing to speak of an IA system that looks at the "efficiency" of proposals (through cost-benefit analysis), and an IA system aimed at checking the consistency of proposed actions with the Union's politically set targets in terms of smart, sustainable and inclusive growth. A move towards the latter approach would probably make it a lot

easier to implement better regulation principles in the European Parliament and the Council, since these institutions would feel more ownership of impact assessment if they could depart from a mere technical document that looks at the efficiency of proposals, possibly ignoring other important aspects such as distributional impacts, fairness, innovation, poverty, employment, etc.

- As already mentioned, important gaps are found in the way the Council of the EU handles legislative proposals: the compatibility of Council amendments with the interests of the EU citizens and the EU project as a whole is not subject to any assessment, nor is there any specific motivation for proposals that in some cases can easily be seen as worsening the original balance struck by Commission and Parliament decisions.
- Finally, the role of Member States in the process should be strengthened. Better Regulation cannot be made meaningful if the transposition, implementation and enforcement phases of EU rules are not subject to clear ex ante appraisal, monitoring and evaluation. Initiatives such as extended guidance on implementation (e.g. in the UK), a constant interaction between the national parliament and the EU authorities (e.g. in the Swedish parliament) and ex ante assessments of impacts of pending dossiers on national interests (as will probably be done by Germany's *Normenkontrollrat* in the near future) are so far too sparse to be considered as the rule, and are rather exceptions that would deserve more diffusion in Member States.

As regards the concerns the current proposals raise, these include the following:

- A first element of concern, and a missing explanation, is how the European Commission plans to multiply its activities, providing for many more rounds of consultation, inception IAs, implementation plans and much more without significantly increasing the staff dedicated to these tasks. And even if more staff is allocated to these tasks, it is unclear how the right competences can be put in the right place: but maybe this can be seen as a medium term commitment. The sneaky sensation here is that such enhanced workload (and expected lengthier duration of the policy process) would only be sustainable if the Commission maintained its initial approach, which seems oriented to a drastic reduction in the number of proposals tables on a yearly basis.
- Even if the Commission very cautiously repeats in several occasions that it plans to look at social and environmental impacts. Here and there the almost exclusive reference to administrative burdens and regulatory costs surfaces again the Commission's documents. To what extent this will remain the dominant refrain in Commission's better regulation actions is thus to be seen.
- The restatement of the joint responsibility of all three institutions to ensure that adequate information is provided on the prospective impacts of final piece of legislation hides the lack of a real attribution of responsibility to the Parliament and most importantly to the Council, the most reluctant of all EU institutions when it comes to evidence-based decision-making. It would be easy for a malicious commentator to observe that such a shared commitment was already emphatically stated in the 2003 Inter-Institutional Agreement on Better Law-Making, and yet very little has happened since then for at least a decade.
- What about self- and co-regulation? Perhaps the most surprising "elephant in the room" in looking at the new proposed inter-institutional agreement is the total absence of any reference to the issue of self- and co-regulation, which were prominent in the 2003 agreement. This comes after the European Economic and Social Committee filed a rather detailed and sophisticated opinion on the issue, seeking to clarify the features that a self- or a co-regulatory scheme should display in order to be considered as potentially in line with the public interest. So far, the impact assessment guidelines

simply refer to the “principles for better self- and co-regulation” developed in the past years with respect to the advertising sector by DG SANCO, and recently made the subject of a community of practice coordinated by DG CONNECT. What will happen to self- and co-regulation in the European Union? This is a delicate issue, since in many sectors of the economy the growing pace of innovation and technological development call for the adoption of flexible regulatory regimes: but absent more clarity on this issue, stakeholders might be discouraging from engaging with the Commission in otherwise welfare-enhancing forms of public-private cooperation in the design and enforcement of regulation.

## REFERENCES

- Alemanno, Alberto, *A Meeting of Minds on Impact Assessment: When Ex Ante Evaluation Meets Ex Post Judicial Control* (July 31, 2011). European Public Law, Vol. 17, No. 3, 2011. Available at SSRN: <http://ssrn.com/abstract=1899276>
- European Economic and Social Committee, Opinion INT/754, Self-regulation and co-regulation, Brussels, 22 April 2015. At <http://www.eesc.europa.eu/?i=portal.en.int-opinions.32859>.
- Cafaggi, Fabrizio and Renda, Andrea, Public and Private Regulation: Mapping the Labyrinth (October 1, 2012). CEPS Working Document No. 370, October 2012. Available at SSRN: <http://ssrn.com/abstract=2156875>
- Cafaggi, Fabrizio and Renda, Andrea, Measuring the Effectiveness of Transnational Private Regulation (October 3, 2014). Available at SSRN: <http://ssrn.com/abstract=2508684> or <http://dx.doi.org/10.2139/ssrn.2508684>
- Renda, Andrea, The Review of the Europe 2020 Strategy: From Austerity to Prosperity? (October 27, 2014). CEPS Policy Brief No. 322. Available at SSRN: <http://ssrn.com/abstract=2515255>.
- European Commission Staff Working Paper, Annex to the 2005 Communication on Better Regulation for Growth and Jobs in the European Union, *Minimizing Administrative Costs Imposed by Legislation, Detailed Outline of a Possible EU Net Administrative Cost Model*, SEC(2005)175, 16 March 2005.
- European Commission Communication on Regulatory Fitness and Performance Programme (REFIT): State of Play and Outlook, COM(2014) 368 final.
- Resolution on EU regulatory fitness and subsidiarity and proportionality – 19th report on Better Law-Making, European Parliament, 4 February 2014.
- 2003 Inter-Institutional Agreement on Better Law-Making, OJ C231 of 31.12.2003.
- Update on the European Commission's REFIT programme, Ex-Post Impact Assessment Unit, EPRS, European Parliament, June 2014.
- European Parliament work in the fields of Ex-Ante Impact Assessment and European Added Value: Activity Report for June 2012-June 2014, EPRS, September 2014.
- The Triangular Relationship between Fundamental Rights, Democracy and Rule of Law in the EU: Towards an EU Copenhagen Mechanism, Policy Department C Study, European Parliament, 2013.
- The Working Methods of the European Commission, 2014-19, C(2014) 9004, p. 7. 3 Competitiveness Council conclusions on Smart Regulation, 4 December 2014.
- EP Resolution of 8 June 2011 on Guaranteeing independent impact assessments, P7\_TA(2011)0259.
- EP Impact Assessment Handbook: Guidelines for Committees, November 2013.
- Radaelli, C. (2009), Desperately Seeking Regulatory Impact Assessment. *Diary of a Reflexive Researcher*, Evaluation January 2009, vol. 15, no. 1, 31-48.
- Renda, A. (2006), Impact Assessment in the EU: the State of the Art and the Art of the State, CEPS Monograph.

- Renda, A. (2011), Law and Economics in the RIA world, Intersentia Series in European Law and Economics, July 2011.
- Renda, A. and Cafaggi, F. (2012), Public and private regulation: mapping the labyrinth, *Dovenschmidt Quarterly* n. 1, September 2012.
- Renda, A. (2014), Les études d'impact de la réglementation de l'UE et les défis de la réforme, *Revue Française d'Administration Publique*, 2014/1 N° 149, p. 79-103. DOI : 10.3917/rfap.149.0079.
- Renda et al. (2014), Assessing the Costs and Benefits of Regulation, Study for the European Commission's Secretariat General.
- Renda et al. (2014), Assessment of the cumulative costs of EU legislation in the steel sector, Study for the European Commission, at [http://ec.europa.eu/enterprise/sectors/metals-minerals/files/steel-cum-cost-imp\\_en.pdf](http://ec.europa.eu/enterprise/sectors/metals-minerals/files/steel-cum-cost-imp_en.pdf).
- Renda et al. (2014), Assessment of the cumulative costs of EU legislation in the aluminium sector, Study for the European Commission, [http://ec.europa.eu/enterprise/sectors/metals-minerals/files/final-report-aluminium\\_en.pdf](http://ec.europa.eu/enterprise/sectors/metals-minerals/files/final-report-aluminium_en.pdf)



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