



EUROPEAN PARLIAMENT

2014 - 2019

Committee on the Internal Market and Consumer Protection

2014/2150(INI)

18.3.2015

OPINION

of the Committee on the Internal Market and Consumer Protection

for the Committee on Legal Affairs

on the Regulatory Fitness and Performance Programme (REFIT): state of play
and outlook
(2014/2150(INI))

Rapporteur: Othmar Karas

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SUGGESTIONS

The Committee on the Internal Market and Consumer Protection calls on the Committee on Legal Affairs, as the committee responsible, to incorporate the following suggestions in its motion for a resolution:

1. Acknowledges the REFIT Communication and the continued commitment shown by the Commission to the better law-making agenda; stresses that the work envisaged in the REFIT Communication should be seen as an ongoing process aimed at ensuring that the legislation in force at European level is fit for purpose, achieving the legislators' shared objective and meeting the expectations of citizens, businesses and all stakeholders; stresses that the REFIT programme should focus on better regulation and should not undermine gender equality, social, labour, environmental standards or environmental and consumer protection;
2. Considers that, where the need for action at EU level has been clearly identified and where such action is consistent with the principles of subsidiarity and proportionality, a careful assessment should be made as to whether a non-legislative or legislative instrument – and, in the case of a legislative instrument, which one – is best suited for achieving the intended political goal, with an emphasis on European added value; considers that a set of indicators for identifying the full compliance and administrative costs of a new legislative act should be applied in order to better assess its impact; stresses that such indicators must be based on clear, comprehensive, quantifiable (where appropriate) and multidimensional criteria, including social, economic and environmental criteria, in order to allow a proper assessment of the implications of action or inaction at EU level;
3. Calls on the Commission and the Member States to be more rigorous in assessing the impact of future and existing regulation on SMEs and on competitiveness in general; believes that an assessment of impact on competitiveness should form a significant part of the impact assessment process; considers that the draft revised guidelines should contain direction as to how impact on competitiveness should be assessed and weighed in the final analysis; supports a standing presumption that proposals with a negative impact on competitiveness should be rejected, unless evidence supporting significant unquantifiable benefits is presented;
4. Expresses disappointment that the measures identified for review in the scoreboard accompanying the communication are far from new, but rather represent a catalogue of measures which the Commission was obliged to follow owing to expiring review clauses in previously adopted legislation; expects a more ambitious approach from the new Commission to the objectives set out in the REFIT Communication, in particular when it comes to tackling tough issues such as those highlighted in the 'top ten' consultation of SMEs;
5. Considers that the scoreboards concept should be revised and should instead comprise two documents, one outlining a work plan and a second, new one detailing the progress made by the Commission, expressed in quantitative terms; calls for this second document to form the basis of an annual statement of new costs to business, which should be an easily understood statement or ledger of 'debits and credits' in terms of the administrative and

regulatory impact of proposals adopted in the previous legislative year, as this would be much more useful and would show that the Commission understands that the problem is often the cumulative cost of regulation;

6. Reiterates careful consideration needs to be given to SMEs in EU legislation; calls on the Commission, with a view to providing evidence of the added value of EU action and its costs and benefits, to recognise the importance of the ‘think small first’ principle in the revised impact assessment guidelines, which should include a mandatory SME test and competitiveness proofing, and to duly analyse the social, environmental and economic impact of proposed legislation;
7. Points out that the adoption of Commission proposals by the College of Commissioners must be based on a favourable opinion from the Impact Assessment Board indicating that the corresponding impact assessment has been carried out satisfactorily;
8. Recalls its position on the general exemption of micro-enterprises from EU legislation, as laid down in its resolutions of 23 October 2012 on ‘small and medium size enterprises (SMEs): competitiveness and business opportunities’¹ and of 27 November 2014 on the revision of the Commission’s impact assessment guidelines and the role of the SME test², to the effect that exemptions must be assessed on a case-by-case basis for each proposal so as to reflect the policy of reversing the burden of proof, i.e. that micro-enterprises should remain outside the scope of proposals unless it is demonstrated that they should be included; strongly encourages the Commission to build on the progress it has made in this area by continuing to cut the cost of legislation for micro-enterprises and SMEs; draws attention to the recommendations made in its aforementioned resolution of 27 November 2014 on this matter;
9. Notes that Parliament’s position on the ‘top ten’ consultation process and lightening the burden of EU regulation on SMEs, as set out in its resolution of 17 April 2014 on that subject³, was that the burdens arising from employment legislation should be reduced and the Working Time Directive fundamentally overhauled, as it is inflexible for micro-enterprises and SMEs; notes, in addition, that in the aforementioned resolution Parliament recommended that low-risk companies not be required to draw up written health and safety assessments, so as to reduce the burdens arising from health and safety legislation;
10. Notes that up to a third of the administrative burden related to EU legislation stems from national implementing measures, reiterates the importance of ensuring the swift and consistent transposition, implementation and enforcement of legislation, alongside the proposed simplification, and highlights the need to avoid ‘gold-plating’; calls on the Commission to include criteria for assessing excessive national implementing measures with a view to clearly defining national gold-plating in the EU Regulatory Scoreboard, so that such additional innovations in individual Member States are identified as such; stresses that such a definition must respect the right of the Member States to apply stricter standards in cases where EU law only provides for minimum harmonisation;

¹ OJ C 68 E, 7.3.2014, p. 40.

² Texts adopted, P8_TA(2014)0069.

³ Texts adopted, P7_TA(2014)0459.

11. Believes that better regulation principles should apply to decisions on secondary legislation as well as on primary legislation; calls on the Commission and its agencies, where appropriate, to accompany delegated and implementing acts with a mandatory impact assessment, including consultation with interested parties and stakeholders, whenever the impact of those acts can be expected to be considerable; calls, to this end, for an amendment of the guidelines for implementing acts, in line with the general guidelines for delegated acts; emphasises that the co-legislators should be as specific as possible in Tier 1 legislation about what delegated and implementing acts should accomplish; notes that in Parliament's resolution of 4 February 2014 on EU Regulatory Fitness and Subsidiarity and Proportionality¹, it urged the Commission to step up its review of the application of the principle of proportionality, especially with regard to the use of Articles 290 and 291 of the Treaty on the Functioning of the European Union on delegated and implementing acts;
12. Endorses the Commission's intention to improve evaluations as a central aspect of intelligent legislation; points out that evaluations provide reliable information about the actual impact of laws on their addressees, and calls, in this connection, for the formal and comprehensive participation of the addressees' stakeholders in the evaluation procedure;
13. Calls for the renegotiation and updating of the Interinstitutional Agreement on better law-making, in order to take account of the Treaty of Lisbon and the framework agreement between Parliament and the Commission and to develop and consolidate best practice in areas such as legislative planning, impact assessments, systematic ex-post evaluations of EU legal provisions, and the implementation and handling of delegated and implementing acts;
14. Calls on the Commission to introduce a methodology for quantitative targets for reducing administrative burden at European level; notes the positive experiences in some Member States of setting net reduction targets with the aim of lowering compliance costs; asks that this methodology be discussed at the new proposed High Level Group on Administrative Burdens and taken into account in future impact assessments once accepted;
15. Calls for relevant stakeholders, including the social partners, business associations, consumer protection organisations, environmental and social organisations and national, regional and local authorities, to be more closely involved with checks on subsidiarity and proportionality, administrative burden assessment (including the positive impact as well as the costs generated by compliance with legislation), the choice of legal basis, the regulatory fitness and ex-post evaluation, and the monitoring of the implementation and enforcement of EU legislation at national level; believes that these checks and assessments could be enhanced by the use of peer review by the Member States; welcomes the Commission's intention to establish a new High Level Group on better regulation, which will include stakeholders and national independent experts under the responsibility of the responsible Vice-President; proposes that this group be given a strong mandate so that it can be an effective and independent advisory body;
16. Believes that an unbalanced or incomplete impact assessment or the lack of an impact assessment must be considered to be grounds for the potential removal or revision of current EU legislation under the REFIT programme;

¹ Texts adopted, P7_TA(2014)0061.

17. Stresses the need for a bottom-up approach to deregulation; calls on the Commission, therefore, to establish a 'European Stakeholder Forum' on better regulation and less bureaucracy, with the quantitative goal of reducing administrative burden by 25 % by 2020; emphasises that the forum should comprise relevant stakeholders, including the social partners, consumer organisations and the business community; stresses that proposals from the forum should be actively considered by the Commission, and that the Commission should address these proposals in accordance with the 'comply or explain' principle; believes that the forum could serve as a platform for businesses or collective groups working either nationally or across Europe to submit direct inputs which support the better regulation principles or contribute to achieving less bureaucracy in the regulation applicable in their sector;
18. Calls on the Commission to ensure that consultations with stakeholders are transparent and timely, and that their output is analysed in both quantitative and qualitative terms to ensure that due account is also taken of minority views; considers it critical that stakeholders have the opportunity, at the earliest stages of the legislative process, to comment on unnecessarily burdensome aspects of Commission proposals via a published draft impact assessment submitted to the Impact Assessment Board, at the stage preceding the final legislative proposal and assessment, for instance through the involvement of the future High Level Group of experts on better regulation;
19. Calls on the Commission to frame the REFIT exercise in, and link it to, the broader context of the definition and implementation of the Commission work programme and key priorities;
20. Urges the Commission to step up its consultation, both public and private, with all stakeholders, including consumers, when preparing implementing and delegated acts, with a view to considering how better to increase awareness of proposals at a provisional stage; believes firmly that such efforts to increase stakeholders' input before recommendations are finalised will lead to better legislation; welcomes, in this connection, possible initiatives to compare processes for consulting on provisional rules or standards with those used in other jurisdictions, with a view to developing best practice;
21. Considers that stakeholders, local and regional authorities and Member States should be more closely involved in identifying specific implementation difficulties at local, regional and national level and should provide feedback to the Commission; calls for the use of indicators for measuring compliance costs as well as the costs of non-regulation (along the lines of the 'Cost of non-Europe'); calls for these indicators to be comprehensive and suited to assessing the possible benefits and drawbacks, and the costs and savings, of a single market approach, in both qualitative and quantitative terms;
22. Believes that the assessment of REFIT and further efforts on better regulation should follow the shift towards digitisation of the economy, society and public administration; believes that extensive use of the REFIT tool and the use of fitness checks could also contribute to assessing the coherence and consistency of regulatory areas within the broader framework of the digital single market;
23. Welcomes the prospective drafting of internal guidelines for improving the quality of consultations and the evaluation thereof; believes that, as regards the complexity of policy choices in any one area, the questions asked during consultations need to be both more

specific and worded so as to be clearly understandable; considers that, where legislation is proposed in a complex field, a second stage of consultation should be envisaged whereby a draft legislative act, accompanied by a provisional impact assessment, is published for comment by all relevant stakeholders; considers that this second stage would introduce further rigour into the Commission's analysis and strengthen the case for any proposal adopted following the process;

24. Recalls that, during her confirmation hearing, Commissioner Bieńkowska committed the Commission to considering the withdrawal of any proposal where Members find that an impact assessment is flawed or that certain elements have not been given proper consideration; calls on the Commission to confirm in writing that this is the policy of the College of Commissioners as a whole;
25. Stresses the need to improve EU communication policy with regard to EU legislation, in respect of which the better regulation agenda is a valuable basis for making EU action understandable and tangible; calls on the Commission to further develop the Your Europe portal in cooperation with the Member States in order to give SMEs easy access to practical information, in a multilingual format, on upcoming consultations, relevant EU rules and their application in the Member States;
26. Welcomes and supports the Commission's intention to launch, in the medium term, a number of new evaluations and fitness checks of the performance of existing EU regulations and the application of Treaty law, including on late payments.

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	17.3.2015
Result of final vote	+: 24 -: 12 0: 3
Members present for the final vote	Dita Charanzová, Carlos Coelho, Sergio Gaetano Cofferati, Lara Comi, Anna Maria Corazza Bildt, Daniel Dalton, Dennis de Jong, Pascal Durand, Vicky Ford, Ildikó Gáll-Pelcz, Antanas Guoga, Robert Jarosław Iwaszkiewicz, Liisa Jaakonsaari, Antonio López-Istúriz White, Jiří Maštálka, Eva Paunova, Jiří Pospíšil, Virginie Rozière, Christel Schaldemose, Olga Sehnalová, Mylène Troszczynski, Anneleen Van Bossuyt, Marco Zullo
Substitutes present for the final vote	Lucy Anderson, Jussi Halla-aho, Kaja Kallas, Othmar Karas, Emma McClarkin, Jens Nilsson, Julia Reda, Adam Szejnfeld, Lambert van Nistelrooij, Josef Weidenholzer, Kerstin Westphal
Substitutes under Rule 200(2) present for the final vote	José Blanco López, Andrea Bocskor, Roger Helmer, György Hölvényi, Emilian Pavel