

The 'one in, one out' principle - A real better lawmaking tool?¹

ABSTRACT

The study submits that 'One in, one out' is a tool for less, not better, regulation and legislation, and, as such, it is not a suitable instrument for better law-making.

To achieve effectiveness of legislation, the EU must reform its law-making policy holistically by placing the citizen at the core of its legislative communication. The EP must lead on and defend the citizens' right to better legislation. To put this reform to effect, the JURI Committee must place itself at the centre of deliberations, via a Working Group dedicated to Better Regulation, to assure a constant reflection on better regulation with the support of a network of European academic experts.

This study was commissioned by the European Parliament's Policy Department for Citizens' Rights and Constitutional Affairs at the request of the JURI Committee.

Background

Since the introduction of the Commission's undertaking to fully implement the OIOO initiative in 2019, the commitment of the European Commission to its implementation has been confirmed repeatedly, amongst others in the written answer of Vice-President Šefčovič to a relevant question at the EP in 2020. OIOO is a version of offsetting that ensures that any new regulation introducing new burdens withdraws equivalent burdens to citizens and enterprises from EU legislation in the same policy area.

The Commission alleges that the "successful and aggressive implementation of such policies has contributed positively to economic growth and job creation by stemming the flow of regulation, red tape and bureaucratic burden, while increasing the chances that non-regulatory methods of achieving policy goals are considered".

But economic growth and job creation are no indicators of better law-making. They could possibly be introduced in the future as indicators for better regulation, should the prevalent strategic policy aim of the EU become financial in nature. Thankfully, this is not the case with the EU now and hopefully not even in the future. In its response to the Van der Leyen commitment to the implementation of OIOO in 2019, the Council challenged the Commission to ensure that the implementation of OIOO should not be detrimental to the ecological and social objectives of the EU. Thus, within the EU's current regulatory environment with its multitude of supplementing and equally valued policy goals (including the promotion of peace and democracy, the implementation of human rights, social protection, ecological preservation, and of course

¹ Full study in English: [https://www.europarl.europa.eu/RegData/etudes/STUD/2023/753421/IPOL_STU\(2023\)753421_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2023/753421/IPOL_STU(2023)753421_EN.pdf)



financial stability, competitiveness, and growth), the OIOO approach can only boast to be a tool for the promotion of one set of the EU's policy goals that tackle the reduction of administrative burdens and red tape.

This is undertaken via the maintenance, or reduction, of regulatory burdens for citizens and enterprises. One route for this maintenance or reduction is the balancing of the relevant legislative provisions. And one sub-type of that route is the balancing or reduction of whole legislative texts (not sporadic provisions with legislative instruments) that introduce burdens to citizens and enterprises. OIOO, as implemented by the Commission, is a strategy that withdraws whole legislative instruments in order to balance burdens, whatever is unilaterally classified as such by the Commission.

Conclusion 1: The OIOO cannot serve as a tool for better regulation in its current form. To be effective, OIOO cannot be limited to an assessment of unnecessary burdens. It must also include the assessment of its possible effects on the current regulatory goals of the EU. This requires the compilation of a list of regulatory goals against which offsetting must be evaluated.

Conclusion 2: OIOO is not a tool for better legislation. It does not tackle legislative quality.

Conclusion 3: OIOO can be a tool for less legislation. Less in the number of legislative instruments in the EU statute book. Not less in the number of actual provisions within the less instruments. Not less in the content of these provisions, whose qualitative assessment is not undertaken via OIOO.

Conclusion 4: For real Better law-making **the Commission must undertake a holistic reform of its legislative strategy**, via the application of the Better Regulation principles on to its own law-making approach. To put this reform to effect, **the JURI Committee must place itself at the centre of deliberations and lead consistently and systematically, via a Working Group dedicated to Better Regulation**, to assure a constant reflection on better regulation with the support of a network of European academic experts. Better regulation is not just an institutional task for the Commission, it is an expression of the rights of EU citizens to accessible legislation and participatory regulation, which (rights) must, and can only, be defended by the European Parliament.

Conclusion 5: This reform can be implemented without grandiloquent legislative or structural changes in the law-making process of the EU. It can be achieved via, amongst other tools, a simple technocratic **modernisation of the legislative drafting style of EU legislation**, reflecting of course a modernisation of legislative philosophy. Using legislation as a modern method of direct communication with its citizens can allow EU legislation to finally become current, fit for purpose, and effective.

Conclusion 6: Better legislation is a right for EU citizens, one that must be promoted and protected by the EP. But, through its forging of a relationship of loyalty and trust between citizens and regulators/law-makers, better EU legislation can also become a real tool for the resilience and sustainability of the EU, both as an ideal and as an organisation.

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