



Committee on the Environment, Public Health and Food Safety
The Chair

3.3.2022

Mr Adrián Vázquez Lázara
Chair
Committee on Legal Affairs
BRUSSELS

Subject: Opinion on ‘*Better regulation: Joining forces to make better laws*’
(2021/2166(INI))

Dear Mr Chair,

The coordinators of the Committee on the Environment, Public Health and Food Safety (ENVI) decided on 3 June 2021 that ENVI would provide an opinion on ‘*Better regulation: Joining forces to make better laws*’ (2021/2166(INI)) in the form of a letter.

Therefore, as both ENVI Chair and ENVI rapporteur for this opinion, I would like to call on the Committee on Legal Affairs, as the committee responsible, to incorporate the enclosed suggestions, which were adopted by ENVI at its meeting¹ of 3 March 2022, into its motion for a resolution.

¹ The following were present for the final vote: Pascal Canfin (Chair), César Luena (Vice-Chair), Dan-Ștefan Motreanu (Vice-Chair), Mathilde Androuët, Bartosz Arłukowicz, Margrete Auken, Simona Baldassarre, Marek Paweł Balt, Traian Băsescu, Aurélie Beigneux, Hildegard Bentele, Sergio Berlato, Alexander Bernhuber, Malin Björk, Michael Bloss, Simona Bonafè, Delara Burkhardt, Sara Cerdas, Mohammed Chahim, Tudor Ciuhodaru, Nathalie Colin-Oesterlé, Esther de Lange, Christian Doleschal, Marco Dreosto, Cornelia Ernst, Eleonora Evi, Agnès Evren, Pietro Fiocchi, Raffaele Fitto, Malte Gallée, Andreas Glück, Nicolás González Casares, Catherine Griset, Jytte Guteland, Teuvo Hakkarainen, Martin Hojsik, Pär Holmgren, Jan Huitema, Yannick Jadot, Petros Kokkalis, Ewa Kopacz, Joanna Kopcińska, Peter Liese, Sylvia Limmer, Javi López, Fulvio Martusciello, Liudas Mažylis, Joëlle Mélin, Tilly Metz, Silvia Modig, Dolors Montserrat, Alessandra Moretti, Ville Niinistö, Ljudmila Novak, Grace O’Sullivan, Jutta Paulus, Jessica Polfjärd, Nicola Procaccini, Luisa Regimenti, Frédérique Ries, María Soraya Rodríguez Ramos, Sándor Rónai, Rob Rooken, Silvia Sardone, Christine Schneider, Günther Sidl, Ivan Vilibor Sinčić, Linea Søgaard-Lidell, Maria Spyraiki, Nicolae Ștefănuță, Róza Thun und Hohenstein, Nils Torvalds, Edina Tóth, Véronique Trillet-Lenoir, Nikolaj Villumsen, Alexandr Vondra, Mick Wallace, Pernille Weiss, Emma Wiesner, Tiemo Wölken.

Yours sincerely,

Pascal Canfin

Copy: Tiamo Wölken

SUGGESTIONS

1. Calls on the Commission to immediately and fully comply with the provisions of Article 6(4) of the European Climate Law¹, which provides that any draft measures and legislative proposals need to be consistent with the fulfilment of the Union's climate neutrality objective by 2050; recalls that to this end, the Commission must assess the consistency of all draft measures or legislative proposals, including budgetary proposals, with climate neutrality objectives and whether they ensure progress on adaptation to climate change;
2. Deplores the fact that the new climate consistency checks have only been applied to impact assessments on draft legislative measures and proposals as from 1 January 2022, despite the entry into force of the European Climate Law in July 2021, meaning that the provisions of the law have not been implemented for a number of proposals relevant for the European Green Deal;
3. Welcomes the approach for checking compliance with the European Climate Law in impact assessments and evaluations that is outlined in the Better Regulation Communication and in the subsequent guidelines and toolbox; urges the Commission, however, to apply those checks systematically, and to do so at the beginning of the process of preparing a new draft measure or a fitness check of existing legislation so that it can genuinely guide policy choices; underlines that the European Climate Law obliges the Commission to provide the reasons in the event of non-alignment of a draft measure or legislative proposal with the objectives of the European Climate Law, as part of the consistency assessment referred to in Article 6(4);
4. Expresses concerns about the implementation of the provisions of the European Climate Law in cases where no impact assessment is performed, especially for politically sensitive proposals, including secondary legislation; recalls that, as agreed under the IIA, the Commission should carry out impact assessments of its legislative and non-legislative initiatives, delegated acts and implementing measures that are expected to have significant economic, environmental or social impacts;
5. Supports the commitment to improved analysis and reporting of environmental impacts in all EU policies through mandatory assessment of the 'do no significant harm' principle, and the fact that this assessment is to be applied to proposals from across all policy areas, in order to avoid uneven application; calls on the Commission to clearly define the 'do no significant harm' principle in the Better Regulation toolbox, linking it with Article 17 of the EU Taxonomy Regulation², as is already the case in the guidelines;

¹ Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999 ('European Climate Law'), OJ L 243, 9.7.2021, p. 1.

² Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088, OJ L 198, 22.6.2020, p. 13.

6. Underlines that the assessment of the ‘do no significant harm’ principle must take into account the broader costs and benefits to society, such as in the area of public health, and environmental impacts;
7. Underlines that the Better Regulation agenda should serve to support the green transition of the Union also by removing legislation that is no longer fit for purpose, in order to ease the administrative burden for SMEs among other things; points out that the need for new policies should not automatically imply that existing policies are no longer needed; stresses that the application of the ‘one in, one out’ approach must not lead to deregulation or lowering of the standards of protection for European citizens and the environment, nor hamper the adoption of proposals aiming to update or complete the existing legislative framework to match the increased level of the EU’s ambition, for example as expressed in the European Green Deal and the European Health Union;
8. Calls for full transparency of the ‘one in, one out’ approach; calls on the Commission to develop clear, principle-based guidelines for selecting and assessing candidates for withdrawal, including methodology for a calculator to estimate ‘costs’ and ‘benefits’; stresses that such assessments should not just take into account administrative or economic impacts, but also look at the EU acquis holistically and consider its social, environmental and public health impacts;
9. Reiterates its call on the Commission³ to facilitate the achievement of the European Green Deal by tackling obstacles and red tape that may slow down its implementation, by paying special attention to the implications and costs of applying Union laws, especially for SMEs;
10. Underlines that the Better Regulation agenda should support the green transition of the Union’s economy by allowing, inter alia, innovative and enabling technologies to be brought to market faster and more efficiently; welcomes the fact that the preservation of high environmental standards can produce additional benefits such as new business opportunities, competitive advantages for European industry and a level playing field across the single market;
11. Recalls that the assessment of ‘unnecessary burden’ needs to consider ‘net’ effects of EU legislation at different administrative levels, while taking the principle of subsidiarity fully into account, where the adoption of one piece of EU-level legislation, especially in the form of directly applicable EU regulations, can result in a lower administrative burden at national or local levels, as well as improve the functioning of the internal market by making the rules transparent, predictable and uniformly applied in all EU Member States, and thereby also reduce the cost and impact of negative environmental, climate and health-related externalities; notes that making EU legislation clearer to comply with, for instance via the Better Regulation agenda, may support the uniform application of EU legislation;
12. Supports systematic integration of strategic foresight into policymaking as a way to ensure that EU policies and laws are ‘fit for the future’; welcomes the Commission’s commitment to making better use of strategic foresight since it plays a key role in helping to future-proof EU policymaking by ensuring that initiatives are grounded in a

³ ENVI opinion on the draft general budget of the European Union for the financial year 2022 – all sections.

longer-term perspective; calls in this regard for the reports of the Intergovernmental Panel on Climate Change (IPCC) and the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES) to be taken systematically into account in the strategic foresight process; welcomes in this regard the work of the Fit for Future Platform, which brings together the expertise of, inter alia, public administrations, non-governmental organisations and small and large businesses in regular meetings to improve existing EU legislation; notes that this platform could also be used to discuss broader themes, such as the green transition;

13. Supports the application of evidence-based policymaking, and underlines that reliable peer-reviewed scientific evidence should be a cornerstone of better regulation, as well as respect for the precautionary principle; in this regard, calls on the Commission to manage the evidence transparently, in line with the FAIR principle (findable, accessible, interoperable and reusable);
14. Welcomes the mainstreaming of the Sustainable Development Goals (SDGs) into policymaking, in order to ensure that every legislative proposal contributes to the SDGs; calls for impact assessments to take into account the impact on the achievement of the 2030 Agenda as a whole and not only to identify ‘relevant’ SDGs, given the holistic and integrated nature of the Agenda; reminds the Commission of the obligation to integrate, where relevant, the SDGs into the Better Regulation guidelines and toolbox and to take into account the full range of immediate and long-term impacts on the environment and climate as part of an integrated analysis of economic, social and environmental impacts, including their cumulative effects, as well as the costs of action and inaction that are part of the ‘think sustainability first’ approach adopted in the 8th Environment Action Programme;
15. Underlines that environmental and health-related legislation has a direct impact on the life of EU citizens; calls, therefore, on the Commission to draw up a short explanatory memorandum in accessible, non-expert language to accompany all legislative proposals, and to take all appropriate measures to ensure that all EU citizens can understand the essence of a legislative proposal, including the potential effects on their lives;
16. Reiterates that transparency regarding the votes of Member State representatives throughout all stages of the advisory and examination procedures for implementing acts should be increased and that the individual Member State representatives’ votes should be made public in the official minutes; reiterates that more information about the committee meetings should be made publicly available by the Commission, including the composition, attendance, agendas, documents and drafts discussed⁴;
17. Stresses that it is important that the Commission answer Written Questions from Parliament in due time; regrets that in the past the vast majority of Written Questions have been answered late, and insists that the Commission improve its response time to Written Questions from the Members of the European Parliament in the second half of its mandate.

⁴ Amendments adopted by the European Parliament on 17 December 2020 on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EU) No 182/2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission’s exercise of implementing powers (P9_TA(2020)0364).