



2016/2018(INI)

28.3.2018

OPINION

of the Committee on Employment and Social Affairs

for the Committee on Legal Affairs and the Committee on Constitutional Affairs

on interpretation and implementation of the interinstitutional agreement on better law-making
(2016/2018(INI))

Rapporteur: Anthea McIntyre

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SUGGESTIONS

The Committee on Employment and Social Affairs calls on the Committee on Legal Affairs and the Committee on Constitutional Affairs, as the committees responsible, to incorporate the following suggestions into their motion for a resolution:

1. Takes note of the interinstitutional agreement (IIA) on better law-making and the inclusion of new, innovative elements seeking to improve the quality of regulation, which can help to provide real added value in terms of competitiveness, growth and jobs, in particular by introducing an annual burden survey, burden reduction targets, SME and competitiveness tests, which should be the common thread running through every impact assessment, and involving the Regulatory Scrutiny Board (RSB) in checking the quality of impact assessments, as well as by improving legislative procedures, requiring the European institutions to cooperate in good faith, and enhancing the transparency of law-making while observing the core principles of Union law, democratic legitimacy, subsidiarity and proportionality;
2. Considers the better law-making agreement as an interinstitutional exercise which seeks to improve the quality of Union legislation; recalls that, in many instances, EU legislation harmonises or replaces different rules in 28 Member States, making national markets mutually and equally accessible and reducing administrative costs overall to establish a fully functional internal market;
3. Underlines the importance of transparent cooperation in good faith between Parliament, the Council and the Commission, which should be translated into practice by a genuine commitment on the part of the Commission to involving Parliament and the Council, at the same level, in the implementation of its programming arrangements and reminds the Commission of its obligation to respond promptly to legislative and non-legislative own initiative reports; deplores that several own-initiative reports have remain unanswered, and calls on the Commission to provide the co-legislators, within three months, with reasons for the withdrawal of a text and also with a reasoned reply to requests for legislative or non-legislative proposals;
4. Points out that there is at present an information disparity between Parliament and the Council, since parliamentary committee meetings are held in public, whereas Council meetings are not; stresses the importance, therefore, of giving effect without delay to point 34 of the agreement, which stipulates that Parliament and the Council, in their capacity as co-legislators, have to maintain close contacts all through interinstitutional negotiations, one means to that end being to exchange views and information;
5. Takes note, as a co-legislator tasked with scrutinising the Commission, of the establishment of the Commission Taskforce on Subsidiarity, Proportionality and 'Doing less more efficiently', which should work hand in hand with the IIA to help increase the trust of citizens who consider the principle of subsidiarity to be a key aspect of the democratic process, and who are looking to the EU to act where it has genuine added value and involve them to a greater degree in the decision-making process at EU level;
6. Believes that the 'Think Small First' principle should play an important role in job creation and growth by reducing the unjustified cost of legislation to SMEs; points out that legislation can have a different impact on large enterprises and SMEs, which should

be kept in mind during the whole legislative process; encourages the Commission to consider how the needs of SMEs can be further taken into account when drafting legislation and to perform an ‘SME test’ in order to assess how SMEs might be affected by its proposals while continuing to ensure high standards of consumer, employee, health and environmental protection regardless of the size of the enterprise; points out that cooperation with the social partners can help to ensure that measures are implemented without unnecessary red tape, including in small and medium-sized companies;

7. Urges the Commission, in the context of better law making, to better assess the social and environmental consequences of its policies and their impact on the fundamental rights of citizens, by keeping in mind also the cost of non-legislation at European level and the fact that cost-benefit analyses are only one of many criteria;
8. Highlights the Impact Assessment (IA) Handbook, and in particular the guidelines on the provision of impact assessments on substantive amendments; firmly believes that impact assessments on Parliament’s amendments will help to reinforce Parliament’s position; points out that while impact assessments may help improve the quality of EU legislation the IIA nevertheless states that it must not result in undue delays in the law-making process or prejudice the co-legislators capacity to propose amendments or replace the political decision-making process;
9. Notes that, as specified in the IIA on better law-making, ‘each of the three Institutions is responsible for determining how to organise its impact assessment work, including internal organisational resources and quality control’;
10. Maintains that it is essential that, to quote the IIA, ‘the Commission's initial impact assessment and any additional impact assessment work conducted during the legislative process by the Institutions’ be made public by the end of the legislative process in order to ensure transparency in relation to citizens and stakeholders;
11. Stresses the importance of timely, public and transparent stakeholder involvement and consultation, with sufficient time for meaningful replies; maintains that it is essential for public consultations to be carried out by the Commission in all official languages during the preparatory phase;
12. Stresses the importance of the agreed Annual Burden Survey as a tool which could help identify and monitor the results of EU efforts to avoid unnecessary burdens, and improve the quality of EU legislation, which must be ambitious;
13. Urges the Commission to establish without delay all the measures proposed in the IIA, especially those relating to sincere cooperation among the institutions and in particular the Annual Burden Survey, as it can play a key role in the implementation and proper application of EU legislation, notably the scrutiny of Member States’ transposition and enforcement of directives, and of all national measures that go beyond the provisions of EU legislation (‘gold-plating’), while bearing in mind that Member States are always free to apply higher standards if only minimum standards are defined by Union law; believes, in this regard, that the Annual Burden Survey provides an additional opportunity to further demonstrate the added value of EU legislation and to provide transparency to citizens;

14. Notes that the RSB is a welcome first step towards achieving an independent scrutiny board; believes that the new RSB must show more ambition; calls for regular evaluation and follow-up on the work of the RSB in fulfilling its role of supervising and providing objective advice on the quality of impact assessments; considers it useful for RSB opinions to be published at the same time as the findings of the impact assessments where possible;
15. Welcomes the fact that the IIA stipulates that the ‘European added value’ of any proposed Union action, as well as the ‘cost of non-Europe’ in the absence of action at Union level, should be taken into account when setting the legislative agenda; highlights the fact that the cost of non-Europe can be estimated at EUR 1.75 trillion per year, equivalent to 12 % EU GDP (2016)¹; honours the work of the Directorate for Impact Assessment and European Added Value of the European Parliamentary Research Service (EPRS) in this context;
16. Highlights the fact that the choice of legal basis for a Commission proposal should be made on objective grounds which are subject to judicial review; stresses, however, Parliament’s right, as co-legislator, to propose modifications to the legal basis, on the basis of its interpretation of the Treaties;
17. Stresses that better law-making should focus less on reducing regulation and more on quality legislation and its ability to protect and promote the interests of EU citizens; highlights the importance of giving fundamental rights, as well as employment and health and safety considerations, the same weight as financial considerations when legislative fitness checks are carried out; points out that, where these clash, fundamental rights should always take precedence;
18. Notes that, as stated in the IIA, ‘the Commission [... is to] assess the feasibility of establishing, in REFIT [the regulatory fitness and performance programme], objectives for the reduction of burdens in specific sectors’ to help reduce the regulatory and administrative burden overall; calls on the Commission to clarify, and where appropriate establish targets for the reduction of, unjustified burdens in key sectors without making it more difficult to achieve the EU’s ambitious strategic goals;
19. Recalls that, in its decision of 9 March 2016 on the new IIA, Parliament stated that the wording contained in the IIA does not sufficiently commit the three Institutions to include SME and competitiveness tests in their impact assessments; firmly believes that further steps should be taken to commit all three Institutions to include such tests in their impact assessments;
20. Calls on its Committee on Employment and Social Affairs to set aside committee time on a regular basis to undertake an analysis of the implementation of legislation; believes that the committee should invite the Commission on a regular basis to present its impact assessments at a full committee meeting;
21. Calls on all its committees to systematically review Commission impact assessments and to review Parliament’s ex-ante impact assessment analysis as early as possible in

¹ http://www.europarl.europa.eu/RegData/etudes/STUD/2017/603239/EPRS_STU%282017%29603239_EN.pdf

the legislative process.

INFORMATION ON ADOPTION IN COMMITTEE ASKED FOR OPINION

Date adopted	27.3.2018						
Result of final vote	<table style="width: 100%; border: none;"> <tr> <td style="width: 100px;">+:</td> <td style="text-align: right;">26</td> </tr> <tr> <td>–:</td> <td style="text-align: right;">18</td> </tr> <tr> <td>0:</td> <td style="text-align: right;">3</td> </tr> </table>	+:	26	–:	18	0:	3
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Members present for the final vote	Guillaume Balas, Tiziana Beghin, Brando Benifei, Mara Bizzotto, Enrique Calvet Chambon, David Casa, Michael Detjen, Lampros Fountoulis, Elena Gentile, Arne Gericke, Marian Harkin, Czesław Hoc, Agnes Jongerius, Ádám Kósa, Agnieszka Kozłowska-Rajewicz, Patrick Le Hyaric, Jeroen Lenaers, Thomas Mann, Dominique Martin, Miroslavs Mitrofanovs, Emilian Pavel, João Pimenta Lopes, Georgi Pirinski, Marek Plura, Sofia Ribeiro, Robert Rochefort, Claude Rolin, Siôn Simon, Romana Tomc, Ulrike Trebesius, Marita Ulvskog, Renate Weber						
Substitutes present for the final vote	Georges Bach, Amjad Bashir, Heinz K. Becker, Tania González Peñas, Ivári Padar, Anne Sander, Sven Schulze, Jasenko Selimovic, Csaba Sógor, Neoklis Sylikiotis, Ivo Vajgl						
Substitutes under Rule 200(2) present for the final vote	Jude Kirton-Darling, Ana Miranda, James Nicholson, Massimo Paolucci						

