**Follow-up to the European Parliament non-legislative resolution on Better Regulation: Joining forces to make better laws**

1. **Rapporteur:** Tiemo WÖLKEN (S&D / DE)
2. **Reference number:** [2021/2166 (INI)](http://www.europarl.europa.eu/oeil/popups/ficheprocedure.do?lang=en&reference=2016/2891(RSP)) / [A9-0167/2022](https://www.europarl.europa.eu/doceo/document/A-9-2022-0167_EN.html) / PA\_[T9(2022)0301](https://www.europarl.europa.eu/doceo/document/TA-9-2022-0301_EN.html)
3. **Date of adoption of the resolution:** 7 July 2022
4. **Competent Parliamentary Committee:** Committee on Legal Affairs (JURI)
5. **Brief analysis/ assessment of the resolution and requests made in it:**

The European Parliament resolution on ‘Better Regulation: Joining forces to make better laws’ focuses mainly on the Commission Communication from 29 April 2021, with the same title. The resolution mostly welcomes the orientations of the Communication as well as the revised Better Regulation guidelines and toolbox, but also requests further improvements.

Amongst others, the resolution:

* calls for defining clearly the “do no significant harm” approach **(paragraph 4)** and for implementing a ‘sustainability first’ approach **(paragraph 5)**;
* calls to ensure that human rights are systematically assessed and impact assessments include gender-disaggregated data **(paragraph 8),** children rights **(paragraphs 38 and 41**), vulnerable people **(paragraph 40),** developing countries **(paragraph 48)**;
* calls to apply regulatory sandboxes **(paragraph 10)** and for new forms of digitalisation processes to be identified in a revised Interinstitutional Agreement on Better Law Making **(paragraph 11)**;
* calls to provide for a mandatory small and medium-sized enterprises (SME) test in all legislative proposals, where applicable **(paragraph 15)** and to create the position SME Envoy **(paragraph 17)**;
* calls for multilingualism on consultation documents, websites on funding and tender opportunities and greater transparency in the consultation process **(paragraphs 19, 20, 23 and 26)**;
* calls for tailored consultations of regions **(paragraph 31)** and public consultations tailored to adolescents and children **(paragraph 39)**;
* calls for impact assessments for all legislative initiatives and all non-legislative with significant impacts **(paragraphs 42 and 46).** Calls for impact assessments for repeals **(paragraph 85**) and ahead of trade negotiations **(paragraph 74**), as well as for draft impact assessments to be shared with co-legislators **(paragraph 82)** and impact assessments to be published immediately upon completion **(paragraph 42)**;
* calls for minimum quality standards for ex post reviews that are not evaluations **(paragraph 53)**;
* invites the Commission, in cooperation with the European Parliament and the Council, to develop an interinstitutional toolbox on review and monitoring clauses **(paragraph 54)**;
* calls for the publication of multiannual evaluation plans and for the Joint Legislative Portal be in place by the end of 2022 **(paragraph 57)**;
* stresses the importance to answer written questions form European Parliament in due time **(paragraph 59)**;
* requests for a European law of administrative procedures **(paragraph 64)**;
* calls for an independent Regulatory Scrutiny Board, transparency of meetings with stakeholders, immediate publication of opinions, and mandatory use of the Transparency Register **(paragraph 82)**;
* calls for the ‘One in – One out’ (OI-OO) approach not to be applied mechanically **(paragraph 83)** and the OI-OO calculator to be made public **(paragraph 85)**;
* recalls the Commission’s commitment to support the Parliament’s right of initiative and suggests to revise the Framework Agreement for an increased facilitation of the European Parliament’s right of initiative **(paragraph 90)**;
* calls for the establishment of a permanent participation mechanism that could build upon the experience of Citizen Panels **(paragraphs 91 and 92)**;
* calls for establishment of a legislative calendar **(paragraph 95)**.
1. **Response to requests and overview of actions taken, or intended to be taken, by the Commission:**

The European Commission welcomes the European Parliament’s continuing interest in better regulation and the acknowledgment on the improvements made by the Commission, including through its revised better regulation guidelines and toolbox. In response to specific calls of the Parliament’s resolution, the Commission notes the following:

Paragraph 4: the Commission welcomes the Parliament’s support for its commitment to improved analysis of environmental impacts via the ‘do no significant harm’ approach. This principle is defined in detail in the relevant technical guidance issued by the Commission[[1]](#footnote-1). The Commission recalls that the Recovery and Resilience Facility provides that measures should not lead to significant harm to any of the following environmental objectives: climate change adaptation and mitigation, sustainable use and protection of water and marine resources, circular economy, pollution prevention and control, and protection and restoration of biodiversity and ecosystems.

Paragraph 5: the Commission agrees with the European Parliament on the need to prioritise long-term sustainability. New tools have therefore been included in the revised better regulation guidelines and toolbox on Sustainable Development Goals and foresight; both elements have already become integral parts in our impact assessments, evaluations and consultations.

Paragraphs 8, 38, 40, 41 and 48: the better regulation system requires the systematic assessment of impacts, where relevant, on developing countries, fundamental rights, including gender, children and vulnerable groups such as people with disabilities. These aspects have been strengthened in the updated better regulation toolbox, including through a revised tool (#29) dedicated to analyse such impacts. Tool #29 includes a checklist to ensure non-discrimination and promote equality. In addition, a dedicated tool (#35) has been included in the revised better regulation toolbox on analysing impacts on developing countries. The Commission is working to make its public consultations more accessible to people with disabilities in line with our Strategy for the Rights of Persons with Disabilities.

Paragraph 10: the Commission welcomes Parliament’s support in its application of regulatory sandboxes. The Commission agrees that it is important that regulatory sandboxes are applied on a case-by-case basis while taking into account the EU added value and proportionality. A special tool (#69) has been included in the revised better regulation toolbox dedicated to sandboxes and new innovative approaches to legislation.

Paragraph 11: the Commission agrees with the Parliament that the development of new forms of digitalisation processes in decision-making is both a challenge and an opportunity. The Commission is exploring for instance ways to improve online citizen engagement, building on the experience of the Conference on the Future of Europe platform. Regarding the suggestion to include corresponding commitments from the three EU institutions in the Interinstitutional Agreement on Better Law-Making, the Commission believes that priority should first be given to the full implementation of that agreement before introducing new elements.

Paragraph 15: the new better regulation toolbox (Tool #23) has strengthened the application of the SME test, which must be applied systematically in all impact assessments, where proportionate to the importance of the impacts. This ensures that there is a particular focus on the ‘think small first’ principle and that ways are considered to minimise burdens for SMEs. The EU’s SME envoys network is also helping the Commission in this respect, by signalling initiatives to the Commission that have relevant impact on SMEs and require close attention in the policy preparation phase, as well as by feeding ideas into the work of the Fit for Future Platform[[2]](#footnote-2) that is supporting the Commission to simplify existing EU laws and reduce related unnecessary costs.

Paragraph 17: the Commission agrees on the key role of the European SME envoy to give SMEs a strong voice in better law-making. Pending its appointment, the network of SME national envoys, chaired by Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs is operating at full speed and cooperating across borders.

Paragraphs 19, 20, 23 and 26: the revised better regulation toolbox requires the Call for evidence, the public consultation questionnaires for initiatives of broad interest and the executive summary accompanying an impact assessment to be translated in all EU official languages (Tools #11 and #51). The revised toolbox requires services to ensure that consultation events are interpreted, whenever necessary, while responses to the Commission’s consultation activities can be submitted in any EU official language (Tool #51). It also requires the explanatory memorandum to be available in the same languages as the proposal it introduces and that a Commission Communication, interpretative Communication or Notice is published in all EU official languages (Tool #40).

With regards to the transparency of the consultation process, the revised toolbox requires for a factual summary report to be published within eight weeks of the closure of the public consultation, along with the contributions to the public consultation on the ‘Have Your Say’ web portal (Tool #51). Feedback and contributions to all consultation activities (public or targeted) are summarised and referred to in the ‘synopsis report’. This report also explains how and to which extent the stakeholders’ views have been taken into account. The synopsis report is a compulsory annex in the final impact assessment or evaluation report. For transparency reasons, the synopsis report also mentions the number of removed (moderated) feedback comments and suggestions (Tool #51).

Regarding multilingualism of EU websites on funding and tender opportunities, the notices for calls for tenders are available in all EU official languages on Tenders Electronic Daily – TED. To ensure a proportionate and cost-effective approach, the tender specifications are made available in EU official languages based on the needs identified by Commission services or on the explicit request by potential tenderers. Regarding funding opportunities, an overview of all EU funding opportunities is available in all EU official languages, while more specific information is made available based on the needs identified by the Commission services.

Paragraphs 31 and 39: the Commission uses targeted consultations widely and systematically to complement its public consultations. Sometimes such consultations take the form of workshops or dedicated conferences addressed to regions where relevant. The better regulation toolbox has a special tool on territorial impacts (#34), which complements the Commission’s outreach to regions and that takes into account that impacts of Union legislation may be different across local and regional levels. The Committee of the Regions also helps us disseminate consultations and the new requirement to translate the Call for evidence in all official EU languages facilitates this dissemination and encourages regional and local engagement. Concerning consultations with young people and children, specific targeted consultations can be organised in a controlled environment, where appropriate, with full respect of the rules that should be applied when approaching young people and children. Furthermore, building on the success of the Conference on the Future of Europe, the Commission intends to enable Citizens Panels to deliberate and make recommendations ahead of certain key proposals. Young people should form a third of the participants.

Paragraphs 42, 46, 82 and 85: under the Interinstitutional Agreement on Better Law-Making (Article 13), the Commission is committed to present an impact assessment in support of its legislative proposals as a ‘general rule’. In this regard, the Commission prepares impact assessments when useful for the political decision-making process and when impacts are significant. The Commission does not agree, nor consider practically feasible, that an impact assessment is necessary for initiatives with minor impacts or if there is little choice over the content of the initiative. The ‘evaluate first’ principle, followed when necessary by an impact assessment, is used to identify if existing EU legislation is still fit for purpose and whether revisions or repeals are needed. The Commission recalls that draft impact assessments do constitute ‘work in progress’ and that, therefore, publication can only be contemplated of finalised impact assessment reports together with the adopted Commission proposals, when the analysis is complete and the report has received a final Opinion by the Regulatory Scrutiny Board to ensure its quality and analytical soundness.

Paragraphs 53 and 54: the revised better regulation toolbox (Tool #44) clarifies better the taxonomy of and quality standards for ex post reviews that are not evaluations. The revisions also responded to the European Court of Auditors’ report on ex-post evaluations. The Commission notes the Parliament’s invitation to develop an interinstitutional toolbox for ‘monitoring and review clauses’, in cooperation with both co-legislators. This is in line with the Commission’s call to the European Parliament and the Council to develop common definitions and identify best practices in this area.

Paragraph 57: the Commission welcomes the Parliament’s support to its renewed commitment to the transparency of the evaluation process. All information regarding the Commission’s planned and ongoing evaluations is available in the Interinstitutional Database on a multiannual basis. The database is already accessible by the Parliament, updated regularly and includes information on external studies used for evaluations. The Commission’s finalised evaluations and studies are also available in the Register of Commission Documents.

The Commission notes the Parliament’s call to make the Joint Legislative Portal fully operational by the end of 2022. It recalls that the Portal is a joint project under the common steer of the Parliament, the Council and the Commission. On 8 April 2022, the Steering Committee of the Joint Legislative Project agreed on the Project Charter and the provisional planning of the project. In this regard, the first version of the Portal is planned to be available to the public by the end of 2023 with basic search functions, displaying the most important events and information. The intention is to deliver the full product, with all the information and functionalities defined in the Project Charter, by the end of 2024. Provided that this will not delay the project, the first version will already be multilingual.

Paragraph 59: The Commission has reviewed its internal processes to accelerate the handling of the parliamentary questions. The timelines for replies to parliamentary questions are set unilaterally by the Parliament in its Rules of Procedure. Even though they are not legally binding for the Commission, it make all possible efforts to respect them. This is a challenge as the Commission receives 6,000 – 7,000 parliamentary questions per year, and it replies to all. Moreover, parliamentary questions very often contain several sub-questions that may refer to different topics. This often requires the Commission to make very wide consultations of various services and cabinets, which add to the complexity, and the time needed to prepare a reply for approval by the College. A meeting between the teams responsible for the handling of parliamentary questions in the Parliament and in the Commission took place on 16 March 2022. They discussed possible solutions to some of the procedural and technical issues hampering an optimal handling of this important political scrutiny tool, on both sides. These meetings will continue to take place on regular basis.

Paragraph 64: the Commission recalls that the overwhelming majority of interactions between citizens and the European administration happen when specific EU acts provide for it. These are diverse, mostly highly specialised activities, for which sector-specific rules have been laid down. The Commission supports having sector-specific rules to ensure the rights of the citizens and businesses and is not convinced that bringing the specific, tailor-made rules related to many different administrative procedures within one single legal act would increase the transparency and clarity of existing rules, but rather create complexities and rigidities.

Paragraph 74: the Commission agrees with the Parliament on the importance of carrying out ‘sustainability impact assessments’ prior to trade negotiations and on the need to analyse in greater depth some specific topics in trade negotiations. ‘Sustainability impact assessments’ are however a specific tool, which the Commission services carry out before major trade negotiations and that involves analysis which goes even further and deeper than a regular impact assessment. The Commission also recalls that it prepares impact assessments (including sustainability ones) when they are useful to take a political decision.

Paragraph 82: the Commission recalls that the Regulatory Scrutiny Board set-up is fully in line with the Organisation for Economic Co-operation and Development (OECD) ‘best regulatory practice’, which calls for a regulatory oversight body to be established close to the centre of government with an independent mandate. The Court of Auditors has also recognised the Board’s increasing impact on the quality control and noted that the Board’s mandate compared to that of its predecessor, the Impact Assessment Board, is a positive development which puts the Commission’s regulatory quality oversight body ahead of many of its peers in the EU and beyond[[3]](#footnote-3). The Board is established by a decision of the President of the Commission and the mandate of its members clearly specifies their duty to act ethically, in a personal capacity, and to declare any conflicts of interest. According to this mandate, the Board does not discuss individual impact assessments with stakeholders or lobbyists. The meetings of the Chair are published in the transparency register already. Upon their own initiative, Board Members publish the list of their meetings as of last year. The Board’s opinions are always made public immediately after adoption of the initiative, and without any exception.

Paragraphs 83 and 85: the Commission agrees with the Parliament that the ‘One-in, One-out’ approach should not, and will not, be applied mechanically. It should be flagged out that the ‘One-in, One-out’ calculator that was made available for Commission services for calculating and recording new and removed administrative burden is based on the standard cost model that is publicly available (Tool #58 of the Better Regulation toolbox[[4]](#footnote-4)) and that data to feed the calculator is taken from the impact assessments, which are also public documents. The Commission would also like to point out that it has in the meantime reported in its 2021 Annual Burden Survey of July 2022 on the first lessons learned from the ‘One-in one-out’ pilot project phase that started in the second half of 2021[[5]](#footnote-5). It flags that its implementation represents a paradigm change, that it adjusted working methods upon which some first benefits could be observed in terms of enhanced quantification of costs. Full implementation of the ‘One-in, One-out’ approach started with the 2022 Commission Work Programme across the Commission Services. The outcome of this exercise and the related annual offsetting will be reported transparently in the Commission’s Annual Burden Survey, as of next year.

Paragraph 90: the Commission has taken a clear political commitment in relation to the follow-up to resolutions under Article 225 of the Treaty on the Functioning of the European Union (TFEU). The Commission refers to the report prepared by Mr RANGEL (EPP/PT) in 2021 (adopted by the plenary of the Parliament on 9 June 2022), which fully acknowledges the Commission’s efforts to deliver on its political commitment. The Commission will continue to follow up on these resolutions as it has done so far.

In the Commission’s view, this shows that the current framework is working well. Therefore, it does not see the need to revise the 2010 Framework Agreement as regards the resolutions based on Article 225 TFEU, or the Interinstitutional Agreement on Better Law-Making.

Paragraphs 91 and 92: the Commission recalls its continuous commitment to engaging citizens and giving them a say in our policy-making. The Commission offers several ways and tools to do so already now; among these are the Have Your Say portal, the European Citizens’ Initiative and the thousands of citizens’ dialogues that have been conducted in recent years at EU, national, regional or local levels. Building on the success of the European Citizens’ Panels of the Conference for the Future of Europe, the Commission intends to enable Citizens Panels to deliberate and make recommendations ahead of certain key proposals, as part of its wider policy making and in line with better regulation principles. Depending on the issue, these can either be pan-European or smaller targeted panels to address specific policy issues. Participants of the panels will be randomly selected reflecting Europe’s diversity and demography. Young people should form a third of the participants. The first of this new generation of Citizens Panels will be launched in the context of the 2022 State of the Union address. In addition, as a part of its follow-up to the Conference on the Future of Europe, the Have Your Say portal will become a one-stop-shop for online citizen engagement. The Commission will integrate key features of the Conference's multilingual digital platform, making it easier for citizens to provide input.

Paragraph 95: the Commission agrees to examine the proposal for the establishment of a legislative calendar further if the Parliament and the Council agree on jointly setting targets on the files they want to advance upon. In this context, the Commission recalls the joint declaration on annual interinstitutional programming (the “joint declaration”), agreed upon by the three Institutions, setting out broad objectives and priorities for the following year and identifying initiatives that should receive priority treatment in the legislative process. It recalls that the Commission has no formal role in the special legislative procedure.

1. <https://ec.europa.eu/info/sites/default/files/c2021_1054_en.pdf> [↑](#footnote-ref-1)
2. <https://ec.europa.eu/info/law/law-making-process/evaluating-and-improving-existing-laws/refit-making-eu-law-simpler-less-costly-and-future-proof/fit-future-platform-f4f_en> [↑](#footnote-ref-2)
3. Special report No 16/2018: Ex-post review of EU legislation: a well-established system, but incomplete [↑](#footnote-ref-3)
4. [https://ec.europa.eu/info/sites/ default/files/br\_toolbox-nov\_2021\_en\_0.pdf](https://ec.europa.eu/info/sites/%20default/files/br_toolbox-nov_2021_en_0.pdf) [↑](#footnote-ref-4)
5. <https://ec.europa.eu/info/files/eus-efforts-simplify-legislation-2021-annual-burden-survey_en> [↑](#footnote-ref-5)