

Revision of Better Regulation Guidelines & Toolbox: What's changed?

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The need for a democratic change in the EU that could enhance the legitimacy of EU actions, has put better regulation at the heart of the policymaking process. Better regulation has its origins in the desire for better European Governance. It is about legislating when needed in order to deliver on shared objectives that can be more effectively achieved at European level.

In 2015 the European Commission's better regulation policy developed into a set of tools and guidelines intended to guide, improve, control, and harmonise the process of EU policy making. Four years later, in 2019, a stock taking exercise was launched to identify what was working well, what was problematic and what the main lessons to be learned were. Despite the overall message that Better Regulation has positively contributed to the way policies were designed, opportunities for further improvements were identified. Responding to these findings and following the Communication on *Better Regulation: Joining forces for better laws* the EC revised the Better Regulation guidelines and toolbox in 2021. This revision was also influenced by the pandemic crisis and its ensuing consequences for the economy and especially those on SMEs.

Better Regulations changes and its dimensions

(a) the integration of strategic foresight into policy making. (b) the introduction of the “on the one in one out” principle (c) the promotion of “digital by default principle” and (d) the “do no significant harm” principle linked to the achievement of Sustainable Development Goals

(SDGs). These dimensions have been introduced in the following ways:

- The integration of strategic foresight and the mainstreaming of Sustainable development Goals reflected the need to anticipate tomorrow's challenges in the process of policy making, and make sure that all legislative proposals contribute to the 2030 sustainable Agenda.
 - For Impact Assessments this means that the problem definition, the policy objectives and the policy options should be validated against possible future developments (i.e. those identified in the context of a foresight exercise) and the overarching long term objectives reflected in SDGs
 - In evaluations, the analysis of the relevance of the intervention should also look at future needs that may arise from the upcoming changes (technological, social, environmental and economic) or those identified in the strategic foresight analysis. The evaluation should make reference to the contribution of policy to the relevant SDGs and use SDG data sets and indicators to assess the performance of the intervention. It should also assess whether the intervention is coherent with the objectives of the European Green Deal and other policies targeting the environment
- The promotion of “digital by default” principle is considered an important instrument to support digital transformation. When assessing the preferred option in impact assessments, this principle must be considered.
- Better regulation is also important for Member States. The changes introduced

aim to remove obstacles and reduce red tape in order to support the recovery and resilience of EU. “The one in one out” approach that (complements the REFIT programme) and the associated Fit4Future platform, play an important role in supporting efforts to simplify EU law and reduce administrative burden especially for small and medium-sized enterprises (SMEs).

Stakeholder consultation and increased transparency and ownership

Two more changes are worth mentioning:

The process of consulting with Stakeholders has been simplified. The Call for Evidence (CFE) replaced Inception Impact Assessments and Evaluation Roadmaps and consolidated all public consultations into a single call. This aimed at providing flexibility to Commission services in organising consultation activities and reducing consultation fatigue as evidenced by the stock taking exercise.

Increasing transparency and promoting shared ownership among Commission services is at the heart of the better regulation agenda. The setting up of the Interservice Steering Group (ISG) immediately after the initiative is validated, provides the opportunity to Commission services to influence the decision making as early as the design phase of the initiative.

Towards a comprehensive system of better regulation

What started as a set of tools and guidelines is now taking the form of a system, the system of

“Better Regulation (BR)”. All proposed policies must be comprehensive in scope, appropriately resourced and organised, coherent, participative, evidence-informed and fit for purpose, in order to deliver the expected impacts without imposing unnecessary burden to businesses and citizens.

The results of the performance of EU Better Regulation policy are encouraging. According to the OECD regulatory outlook (2021) the EU scores higher than any individual OECD Country in the composite indicators of Stakeholder engagement and Ex-post evaluation, whilst also performing in the top 5 in Regulatory Impact Assessments.

The Commission declared its commitment to constantly improving the quality of Better Regulation instruments and making the relevant procedures more effective and efficient. The changes introduced are in line with this commitment, and were positively perceived by Stakeholders and Member States. It remains to be seen in practice how they will deliver the intended benefits internally as well as to businesses and citizens.

EIPA is organising a series of hands-on trainings on Better Regulation instruments and EC practices aiming to enhance evaluation skills of trainees and disseminate information on the best practices at the national and EU level.

More information on these trainings can be found here.

The views expressed in this blog are those of the authors and not necessarily those of EIPA.