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Sustainability Growth Innovation

Position Paper

SGI Europe response to the Call for Evidence on the Communication on better regulation

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Position

Introduction

SGI Europe welcomes the European Commission's initiative to revise and strengthen the application of the better regulation framework. The European Commission has prioritised better regulation for many years, but the results remain mixed in terms of legislative quality, coherence and effective implementation. At the same time, the number and scope of EU legislative initiatives have increased significantly in recent years, contributing to growing regulatory complexity and cumulative compliance costs.

This reinforces the need for a robust and consistently applied better regulation agenda that ensures EU policymaking delivers **high-quality, clear and implementable rules**, providing legal certainty and predictability for all stakeholders and fully respecting the principles of **subsidiarity and proportionality**.

The renewed focus on better regulation is also consistent with recent high-level reflections, notably the Draghi and Letta reports, which underline the need to reduce administrative burdens and improve regulatory coherence as key elements to strengthen the Single Market and boost the competitiveness of the EU.

Simplification

Simplification has become a central pillar of the Commission's work in recent years. Meaningful simplification should aim to reduce unnecessary administrative and reporting burdens, avoid overlaps between legislative instruments, and improve coherence across policy areas, while fully preserving policy objectives and public interest goals.

Simplification must be practical, evidence-based, and focused on areas where compliance costs are disproportionate. However, simplification initiatives must not come at the expense of regulatory quality, transparency or stakeholder involvement. Proposals aiming for simplification should still be subject to appropriate scrutiny, impact assessment and consultation to ensure they do not create legal uncertainty, unintended consequences or implementation challenges.

An example of this are the Omnibus packages that were presented without impact assessments and after very limited stakeholder consultation. This has raised concerns, including from the European Ombudsman, regarding compliance with the Commission's own Better Regulation Guidelines. Such practices risk undermining the credibility of the better regulation framework and may result in insufficiently assessed impacts for affected sectors.

Simplifying rules also means using clear, consistent and simple language that makes interpretation and implementation easy and straightforward for all stakeholders. The quality and effectiveness of regulation depend less on the formal choice of legal instrument than on the clarity, precision and restraint with which rules are designed. Clear, short and active language, avoiding unnecessary complexity and technical jargon, is essential to ensure that EU legislation can be understood and implemented in practice. At the same time, subsidiarity should be taken seriously, by avoiding overly detailed regulation of situations that are better addressed through national practices adapted to local contexts.

Accelerated procedures

Accelerated legislative procedures may be justified by extraordinary circumstances, as proved by the COVID-19 pandemic or the effects of the war in Ukraine. However, such procedures should be used only when the urgency of the situation makes it strictly necessary, and it must not become a way to bypass the safeguards embedded in the ordinary legislative process.

Any derogation from better regulation requirements due to urgency should be clearly and duly justified, while still ensuring minimum standards of transparency, quality and both internal and external consultation. Even in crisis situations, open and transparent stakeholder involvement remains essential to avoid regulatory flaws and implementation problems.

Evidence-based legislation and impact assessments

Evidence-based legislation is a cornerstone of better regulation. EU measures must be designed based on sound evidence to ensure they are fit for the needs of citizens, enterprises and public administrations, and that they can be implemented and enforced in practice.

The Commission already operates as a continuous producer and user of evidence across its fields of competence, through observation, data collection, analysis and regular updating of information. New tools, including artificial intelligence, can further support these activities and help improve the timeliness and quality of evidence. However, the use of such tools must remain clearly embedded in human oversight and responsibility, ensuring that final assessments, judgments and policy choices remain transparent, accountable and politically owned.

Impact assessments are at the core of the better regulation framework and are essential to ensure the quality, effectiveness and proportionality of EU legislation. However, not all Commission proposals are accompanied by impact assessments and when they are, they are not always comprehensive enough.

Nevertheless, impact assessments must not lead to undue delays in the law-making process or prejudice the co-legislators' capacity to propose amendments.

In impact assessments, the need for EU legislation should always be strongly justified, and alternative policy options should be appropriately assessed. This includes a genuine examination of non-legislative and soft-law instruments, which can sometimes achieve the same or better results while better respecting subsidiarity and proportionality and avoiding unnecessary regulatory burdens. Better regulation gives answers to how to regulate but also to when to regulate. In some cases, Member States are better placed to address certain regulatory issues and this subsidiarity should be respected.

When impact assessments identify which sectors or areas may experience financial advantages or disadvantages/costs as a result of the proposal; it would be desirable to identify ways in which the additional financial burden created by the new rules could be offset.

Legislation is often assessed in isolation, while in practice stakeholders are subject to multiple, overlapping EU and national obligations. A better assessment of the cumulative impact of legislation is therefore essential to capture the real burden.

SGI Europe also calls for SGI-oriented impact assessments, recognising the specific legal, economic and social role of SGIs and the potential effects of legislation on the continuity, affordability and quality of essential services.

The Regulatory Scrutiny Board (RSB) plays a crucial role in safeguarding the quality of impact assessments and evaluations at early stages of the legislative process. However, SGI Europe has several concerns in relation to the lack of transparency regarding the nomination and composition of RSB members and their role.

Additionally, there has been a significant number of times where the Commission has proceeded with a legislative proposal despite negative opinions of the RSB. Under current rules, when the RSB issues two negative opinions, the responsible Commission Vice-President may still submit the initiative to the College of Commissioners, allowing proposals to proceed despite unresolved concerns. This risks weakening the authority of the RSB and the credibility of the quality-control system.

The fact that the RSB frequently issues negative or conditional opinions may also indicate that initial legislative proposals require better preparation, including more robust cost estimations, clearer identification of benefits, and stronger proportionality and subsidiarity analysis.

Stress Tests and Fitness Checks

Stress tests and fitness checks are important tools within the Better Regulation framework to assess whether existing legislation has achieved the intended goals and whether it remains fit for purpose under changing economic, social or technological conditions. These tools should be used more systematically and transparently to identify regulatory bottlenecks and unintended consequences.

When applying stress tests and fitness checks, it is important to ensure there is a consistent and transparent methodology, relying on relevant, complete and up-to-date data that has been provided by the relevant stakeholders and actors. It is also essential to identify whether certain problems arise from the rules themselves or from issues related to implementation and enforcement at Member State level.

Finally, while these are useful tools for continuous regulatory improvement, they should not lead to a feeling that the EU regulatory framework is always “up for revision”, which would create legal uncertainty and discourage long-term investment.

Stakeholder consultations

Stakeholder consultations are a key component of evidence-based policymaking. To be effective, consultations must be sufficiently long to allow for wide participation and meaningful contributions. This includes avoiding carrying consultations during scheduled holiday periods when possible. Providing the consultation information and relevant documents in all EU languages is equally important to ensure accessibility and opportunity for participation.

At the same time, transparency regarding how stakeholder contributions are taken into account is essential to maintain trust in the process and ensure future engagement. Consultations should not be conducted as a mere procedural formality; they should constitute a genuine input into decision-making and be clearly reflected in final assessments.

Stakeholders contribute most effectively to evidence-based policymaking when their input is organised, aggregated and representative. Organisations that bundle interests, expertise and practical experience play a key role in this regard. Making greater and more systematic use of existing representative structures, including those identified in the Transparency Register, can help the Commission gather high-quality input in a more efficient way, reduce duplication of requests and avoid consultation fatigue, while preserving flexibility as to how organisations organise their internal responses.

Targeted consultations can be appropriate where specific expertise is required, but they must remain transparent and ensure the identification of the right stakeholders, reflecting a diversity of perspectives. Overly narrow stakeholder targeting risks privileging big, well-resourced actors, leading to an unbalanced evidence base.

Standardised online questionnaires as part of public consultations can be inflexible and difficult to answer, particularly when questions are overly theoretical or impractical. Clear and concrete wording is essential. In addition, questions should be carefully framed so that they do not pre-empt responses or steer stakeholders toward particular choices or answers. This allows for genuine, meaningful contributions. Including open-text boxes is also highly beneficial, as they give respondents space to share comments, examples or suggestions that may not be captured through fixed-response questions.

Better regulation and EU social dialogue

When legislation in this area is put forward in the future, the simplification agenda for European labour law needs to be better taken into account. The guiding principle for the Commission and the legislator at EU level must be simple, concise, clear and enforceable legislation in its design in order to fulfil its purpose and to support Member States, employers, operators and workers at national level and in respect of the principles of subsidiarity and proportionality. It should look a *bit more like European labour law legislation was designed a couple of decades ago.* Complex and difficult to implement legislation risks hindering instead of helping. The Pay Transparency and Platform Directives are unfortunately two examples of the opposite. The objectives of the directives as such may be good, but the design is complex and difficult to implement at national level, with heavy practical and administrative burdens as a result, and a risk of overshooting the goal. As a result, some Member States and employers, for example, have drawn the Commission's attention to the need to postpone the date for the implementation of the Pay Transparency Directive at national level.

SGI Europe supports the principles of better regulation, including evidence-based policymaking, proportionality and transparency. At the same time, these principles must be applied in full respect of the specific role, autonomy and functioning of EU social dialogue as enshrined in the Treaties.

Social partner consultations and negotiations under Articles 154 and 155 TFEU constitute a distinct governance process, based on representative organisations that aggregate interests, knowledge and practical experience across sectors and Member States. They should therefore not be treated as a standard stakeholder consultation exercise.

The Commission itself recognises this unicity. Its Better Regulation Toolbox acknowledges the specific logic of Treaty-based social partner consultations, while its broader approach to social dialogue, including the 2023 Communication on strengthening social dialogue, highlights the unique contribution of social partners and their knowledge of realities on the ground.

SGI Europe does not seek a general exemption of social partner initiatives from better regulation principles. Rather, it calls for a coherent articulation between the better regulation framework and the unicity of social dialogue. Better regulation tools, including impact assessments, should be applied proportionately and at the appropriate stage, in a way that respects the sequencing and integrity of social partner consultations.

Avoiding parallel or overlapping consultation processes on the same initiative is essential to preserve meaningful social dialogue, reduce consultation fatigue and ensure high-quality, implementable outcomes. In this sense, respecting social dialogue is not only a Treaty requirement, but also a practical contribution to smarter and more effective EU policymaking.

Delegated and implementing acts

The delegation of powers to the European Commission is more and more common as a legislative tool. Delegated and implementing acts can be necessary to regulate technical and detailed aspects of legislation and their use can ensure that EU rules are clearer and easier to apply.

Nevertheless, these acts should be limited to supplementing or amending non-essential elements of the main legislative act, as determined by the EU treaties. Their use should not be abused as a way to bypass the safeguards of the ordinary legislative procedure. The European Parliament and the Council should also exercise a stronger scrutiny of these acts. Additionally, timely adoption of delegated and implementing acts is essential to ensure that the main legislative act can be implemented on time and in an adequate way.

Finally, SGI Europe calls for greater transparency and stakeholder involvement in the preparation of delegated and implementing acts. This includes the composition of expert groups. Transparency and coherence are essential to ensure legitimacy and trust in these instruments.

Implementation and ex-post evaluation of EU rules

Effective implementation and high-quality ex-post evaluations are key to ensuring EU rules deliver on their objectives. In reality, ex-post evaluations are often of mixed quality and frequently lack sufficient evidence and data. Stakeholders, who are the ones applying those rules on the ground, have limited chances to provide input on the implementation issues they encounter.

The initiative of the Commission to conduct implementation dialogues hosted by all Commissioners is very much welcome. However, there is still a lot of uncertainty regarding the choice of relevant stakeholders. These dialogues should be more transparent, structured and inclusive of relevant stakeholders. The outcomes should be made public to ensure that stakeholders can assess whether the concerns raised were addressed and translated into concrete improvements.

Regarding implementation of the rules, a better assessment of how the Commission's initial impact assessment differs from the final adopted text could support Member States in implementation and reduce unintended consequences.

It should also be taken into account that introducing requirements that go beyond EU legislation during its implementation, the so-called gold-plating by Member States, increases burdens and should be systematically monitored. Diverging national rules can undermine legal certainty, create an uneven playing field and increase compliance costs, especially for cross-border operators.

Engagement with stakeholders affected by legislation at local, regional, national and EU levels, including citizens, public authorities, enterprises and SMEs, should systematically feed into evaluations and implementation planning.

Better regulation as a shared institutional responsibility

Political ownership of better regulation must be strengthened. While responsibility for reducing administrative burdens and simplification currently sits within the broader portfolio of Commissioner Dombrovskis, better regulation should not be treated as a secondary objective. Stronger political oversight is required to ensure coherence, quality, proportionality and reduction of cumulative burden across EU legislation and policies.

While the European Commission is in the lead when renewing the existing framework, better regulation is a shared responsibility of the European Commission, the European Parliament and the Council. The Interinstitutional Agreement on Better Law-Making (signed in 2016) provides a framework for cooperation, but renewed political commitment is needed.

A revised interinstitutional agreement should strike to maintain the proper balance between the three institutions, but it should also be accompanied by stronger commitment from the Council and the Parliament in their respective work. This includes impact assessments of substantial amendments, which are foreseen in the 2016 agreement, but in practice remain very limited. While the Commission conducts impact assessments for most of its proposals, amendments introduced by the European Parliament and the Council are rarely subject to systematic assessment, even when they significantly modify the original text. As a result, adopted legislation may contain provisions whose impacts have not been properly assessed, leading to implementation difficulties, incoherence, or unexpected costs and burdens. Greater transparency of trilogues is also essential to ensure the legitimacy and accountability of the process.

Only a genuinely shared commitment by all three institutions will make the better regulation framework fully effective and credible, improving the transparency, legitimacy and accountability of the EU legislative process.

Conclusion

SGI Europe strongly supports the objectives of better regulation, but stresses that effective implementation of the better regulation toolbox in practice is essential. Exceptions to better regulation tools should remain limited, justified and accompanied by appropriate safeguards.

Better regulation must not become a box-ticking exercise. It should be a real process aimed at ensuring the quality, effectiveness and efficiency of EU policies and legislation, delivering tangible benefits for citizens, enterprises and public administrations alike.