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From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
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To:	Mr Uwe CORSEPIUS, Secretary-General of the Council of the European Union

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Delegations will find attached document COM(2015) 216 final.

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**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN  
PARLIAMENT AND THE COUNCIL**

**Proposal for an Interinstitutional Agreement on Better Regulation**

# COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL

## Proposal for an Interinstitutional Agreement on Better Regulation

THE EUROPEAN PARLIAMENT, THE COUNCIL OF THE EUROPEAN UNION AND THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union and in particular Article 295 thereof,

Whereas:

- (1) In exercising their powers and in accordance with the procedures laid down in the Treaties, the European Parliament, the Council and the Commission (the three institutions) reaffirm the importance that they attach to the "Community method", transparency of the legislative process, democratic legitimacy, subsidiarity, proportionality, legal certainty and simplicity, clarity and consistency in the drafting of legislation.
- (2) The three institutions recognise their joint responsibility in delivering better regulation, ensuring that Union legislation focuses on areas where it has the greatest added value, is as efficient and effective as possible in delivering the common policy objectives sought, is as simple and as clear as possible, implies the least possible burdens for stakeholders, and is designed with a view to facilitating its transposition and practical application and to strengthening the competitiveness and sustainability of the Union economy.
- (3) The three Institutions reiterate the role and responsibility of national Parliaments as laid down in the Treaties in the Protocol on the role of National Parliaments in the European Union and Protocol 2 on the application of the principles of subsidiarity and proportionality of the Treaty on the functioning of the European Union.
- (4) The three institutions consider that the use of stakeholder consultation, ex-post evaluation of existing legislation and impact assessments of new initiatives will help achieve the objective of better regulation.
- (5) The three institutions recall the Union obligation to legislate only where and to the extent it is necessary, in accordance with Article 5 of the Treaty on European Union on the application of the principles of subsidiarity and proportionality.
- (6) The three institutions affirm that the goals of simplifying Union legislation and reducing the regulatory burden should be pursued without prejudice to the achievement of the policy objectives of the Union, as specified in the Treaties, or to safeguarding the integrity of the single market.
- (7) This Agreement complements the following Agreements and declarations on better regulation, to which the three institutions remain fully committed:

- Interinstitutional Agreement of 20 December 1994 Accelerated working method for official codification of legislative texts<sup>1</sup>;
- Interinstitutional Agreement of 22 December 1998 on common guidelines for the quality of drafting Community legislation<sup>2</sup>;
- Interinstitutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts<sup>3</sup>;
- Joint Declaration of 13 June 2007 on practical arrangements for the co-decision procedure<sup>4</sup>;
- Joint Political Declaration of 27 October 2011 of the European Parliament, the Council and the Commission on explanatory documents<sup>5</sup>.

(8) This Agreement reflects the balance between and respective competences of the European Parliament, the Council and the Commission as set out in the Treaty. It is without prejudice to the Framework Agreement of 20 October 2010 on relations between the European Parliament and the European Commission<sup>6</sup>,

HAVE AGREED AS FOLLOWS:

### **I. Common commitments and objectives**

1. The European Parliament, the Council and the Commission (the three institutions) hereby agree to pursue better regulation by means of a series of initiatives and procedures as set out in this Interinstitutional Agreement.

### **II. Programming and planning**

2. The three institutions agree to reinforce the Union's annual and multiannual programming in line with Article 17(1) of the Treaty on European Union which entrusts the Commission with the task of initiating annual and multiannual programming.
3. The Commission will exchange views with the European Parliament and the Council ahead of the adoption of its annual Work Programme, on the basis of a written contribution from the President of the Commission setting out the main elements guiding the preparation of the Commission Work Programme. To facilitate longer-term planning, the three institutions will exchange views on multiannual

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<sup>1</sup> *OJ C 102, 4.4.1996, p. 2.*

<sup>2</sup> *OJ C 73, 17.3.1999, p. 1.*

<sup>3</sup> *OJ C 77, 28.3.2002, p. 1.*

<sup>4</sup> *OJ C 145, 30.6.2007, p. 5.*

<sup>5</sup> *OJ C 369, 17.12.2011, p.15.*

<sup>6</sup> *OJ L 304, 20.11.2010, p.47.*

priorities on the basis of the Political Guidelines of the President of the Commission.

4. The Commission will give serious consideration to the requests made by the European Parliament or the Council for the submission of legislative proposals. If the Commission does not submit a proposal, it will inform the institution concerned of the reasons.
5. Based on the Commission Work Programme, the three institutions will agree annually a list of proposals which will receive priority treatment in the legislative process. The list will include proposals to update or simplify existing legislation and to reduce the regulatory burden, especially for small and medium enterprises.
6. The Commission will provide appropriate detail on each point in its Work Programme and provide regular updates on its planning throughout the year. The Commission will report to the Conference of Presidents and the General Affairs Council regularly on implementation of the Commission Work Programme for the year in question.

### **III. Application of Better Regulation tools**

#### ***Impact assessment***

7. The three institutions agree on the positive contribution of impact assessment in improving the quality of Union legislation. They consider that impact assessments should address the existence, scale and consequences of a problem and whether Union action is needed. They should also map out alternative solutions assessing the economic, environmental and social impacts, using both qualitative and quantitative analyses. Impact assessments should be based on best available evidence and be proportionate with regard to their scope and focus.
8. The Commission will carry out impact assessments of its initiatives expected to have significant economic, environmental or social impacts. In its own impact assessment process it will consult stakeholders in accordance with its established minimum standards. The Commission's Regulatory Scrutiny Board will carry out a quality check of its impact assessments. The final results of the impact assessments will be made available to the European Parliament, the Council and national Parliaments and will be made public along with the opinion(s) of the Regulatory Scrutiny Board at the time of adoption of the Commission proposal.
9. The European Parliament and the Council will start their consideration of Commission proposals by examining the Commission's impact assessment.

10. Prior to the adoption of any substantial amendment to the Commission proposal, at any stage of the legislative process, the European Parliament and the Council will carry out impact assessment of the amendment. As a general rule, the Commission's impact assessment will be the starting point for that additional impact assessment work. The Commission may, on its own initiative or at the invitation of the European Parliament or the Council, assist the European Parliament and the Council in their impact assessment work by explaining its assessment and sharing the data used, or in duly justified cases by complementing its original impact assessment.
11. Each of the three institutions is responsible for determining how to organise its impact assessment work, including internal organisational resources and quality control. The aim of impact assessments is to inform the decision-making of each institution, in full respect of each institution's roles and responsibilities.
12. The European Parliament, the Council and the Commission agree that legislation should: be comprehensible and clear; allow parties to easily understand their rights and obligations; include appropriate reporting, monitoring and evaluation requirements; avoid disproportionate costs; and be practical to implement. Each institution may call for an independent panel to carry out an assessment of these factors following any substantial amendment to the Commission proposal. Such an assessment should be finalised and made public within a reasonable amount of time and take into account any existing impact assessment work. Each institution will appoint a member to the panel. Members will demonstrably have the specific expertise to carry out the requested analysis, have no conflict of interests, and will act independently from the appointing authority.
13. Through their respective impact assessment work and cooperation, the three institutions aim to ensure that information on the impacts of the act as adopted is available, and can be used as a basis for subsequent evaluation work.

#### ***Stakeholder consultation and feedback***

14. Stakeholder consultation is an integral component of better regulation. The Commission will conduct consultations in accordance with its established minimum standards. This will include public internet-based consultations to seek views and information from interested parties. The results of each consultation will be made public.
15. Stakeholders will be given the opportunity to voice their opinions during an eight week period following the adoption by the Commission of its proposal and the related impact assessment, in parallel with the consultation process established for national parliaments to submit their opinions on issues related to the principle of subsidiarity, subject to exceptions in case of urgency and without prejudice to the specific arrangements applying to the Commission's proposals under art 155 (2) TFEU. The opinions collected will be presented to the co-legislators at the start of the legislative process.

#### ***Ex-post evaluation of existing legislation***

16. The Commission's evaluation programming will, to the extent possible, respect the timing for reports and reviews set out in Union legislation. It will inform the European Parliament and the Council of its multiannual planning of evaluations of existing legislation.

17. The three institutions confirm the importance of the greatest possible consistency and coherence in the organisation of work to evaluate the performance of Union legislation, including related public and stakeholder consultations.
18. The three institutions agree that proposals for significant amendments or development of Union legislation should be rooted in robust prior evaluation of the efficiency, effectiveness, relevance, coherence and value added of existing law and policy. Such evaluations should provide the basis for impact assessment of options for further action. To support these processes, the European Parliament, the Council and the Commission agree to establish monitoring, evaluation and reporting requirements in legislation. Where appropriate, these can include measurable indicators as a basis to collect evidence of the effects of legislation on the ground.
19. The European Parliament, the Council and the Commission agree that all EU spending and non-spending activities should be evaluated in a proportionate way. The timing of the evaluation should be determined by the life cycle of the intervention, the operational and strategic decision-making needs, general requirements for evaluation as set out in the Financial Regulation, as well as any specific requirements set out in the legal basis of the relevant interventions. Therefore, the three institutions commit to systematically consider the use of review clauses. In cases where legislation should only apply for a fixed period of time, sunset clauses will be used.

#### **IV. Legislative instruments**

20. The Commission will explain to the European Parliament and to the Council its choice of legislative instrument in the explanatory memoranda which accompany its proposals. The Commission will also explain in its explanatory memoranda how the measures proposed are justified in the light of the principles of subsidiarity and proportionality and are compatible with fundamental rights. The Commission will also give an account of both the scope and the results of any stakeholder consultation, ex-post evaluation of existing legislation and impact assessment that it has undertaken.

#### **V. Delegated and implementing acts**

21. The three institutions underline the important role played by delegated and implementing acts in legislation. They are an integral tool of better regulation, contributing to simple, up-to-date legislation and its efficient, swift implementation.
22. The three institutions have agreed on the attached “Common Understanding on Delegated Acts”. In accordance with this Understanding and with a view to enhancing transparency and consultation, the Commission commits to gathering, prior to the adoption of delegated acts, all necessary expertise including through the consultation of experts from the Member States and through public consultations. Moreover and whenever broader expertise is needed in the early preparation of draft implementing acts, the Commission will make use of expert groups, consult targeted stakeholders and carry out public consultations, as appropriate.
23. The three institutions agree to refrain from adding, in Union legislation, procedural requirements, sui generis procedures or additional roles for committees, other than those set out in Regulation (EU) No 182/2011 of the European Parliament and of the

Council<sup>7</sup> concerning mechanisms for control by Member States of the Commission's exercise of implementing powers.

## **VI. Coordination of the legislative process**

24. The three institutions agree to improve coordination of their legislative activity.
25. In line with the Joint Declaration on practical arrangements for the co-decision procedure, the three institutions agree to improve the coordination of their preparatory and legislative work in the context of the ordinary legislative procedure. They also agree to make public that work in an appropriate fashion.
26. In particular, the European Parliament and the Council will seek to establish with the Commission an indicative timetable for the various stages leading to the final adoption of each legislative proposal. This timetable will include the appropriate use of second reading agreements. Where appropriate, the three institutions may agree to coordinate efforts to accelerate the legislative adoption process, both during each institution's internal preparatory steps and during the inter-institutional negotiations.
27. The three institutions will keep each other regularly informed about their work throughout the legislative process and about on-going negotiations among them via appropriate procedures, including dialogue between the European Parliament, in committee and plenary, and the Council Presidency and the Commission.
28. The three institutions will ensure an appropriate degree of transparency of the legislative process, including of trilateral negotiations between the three institutions.
29. The three institutions will, in the interests of efficiency, ensure a better synchronisation of the treatment of legislative proposals by the preparatory bodies of the European Parliament and of the Council.

## **VII. Implementation and application of Union legislation**

30. The three institutions call upon the Member States to swiftly and correctly apply Union legislation. In appropriate cases the use of common dates for the commencement of application of legislation in the Member States, on a limited number of dates in the year, shall be recommended. The time limit for transposition of directives will be as short as possible and, generally, not exceed two years.
31. The three institutions call upon the Member States, when they adopt measures to transpose or implement Union legislation or to ensure the implementation of the Union budget, to communicate clearly to their public on the national measures. In particular, Member States should make a clear distinction, where possible, in the text of the said measures, between those aspects that are the necessary consequence of Union legislation or budget implementation rules, and any additional element, whether substantial or procedural, that they decide to add at national, regional or local level. Before adopting such additional substantial or procedural rules, Member States should commit to assess their impact, in particular as regards the administrative burden on businesses, administrations and citizens, and provide a

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<sup>7</sup> OJ L 55, 28.2.2011, p. 13.



statement of reasons which specifically addresses those additional elements. Member States should distinguish, in their transposition notifications, between rules and procedures in order to transpose directives and additional rules and procedures.

32. The Commission will report annually to the European Parliament on the application of Union legislation.
33. The three institutions call upon Member States to cooperate with the Commission in obtaining information and data needed to monitor and evaluate the implementation of EU law. The three institutions recall and stress the importance of the two Joint Political Declarations on explanatory documents of 28 September and 27 October 2011 which accompany the notification of transposition measures.

### **VIII. Simplification**

34. The three institutions agree to cooperate continuously to update and simplify legislation and to reduce unnecessary regulatory burdens for business, administrations and citizens. They will take the Commission's Regulatory Fitness and Performance (REFIT) Programme, or any other future programme with a similar objective, as a basis for this task. The Commission will identify areas of current legislation for simplification and burden reduction and make proposals to that effect, among others through the repeal of obsolete acts, and by recasting or replacing acts where necessary. The potential for regulatory burden reduction will be quantified wherever possible as part of the REFIT Programme, based on input from the Member States and stakeholders. The Commission Work Programme will indicate which proposals the Commission will make to reduce the regulatory burden and which pending proposals will be withdrawn.

### **IX. Implementation and monitoring of this Agreement**

35. The three institutions will take the necessary steps to ensure that they have the means and resources required for the proper implementation of this Agreement.
36. The three institutions will monitor the implementation of this Agreement regularly, including through annual discussions in the Conference of Presidents and the General Affairs Council.

### **X. REPLACEMENT**

37. This Interinstitutional Agreement replaces the 2003 Interinstitutional Agreement on better law-making<sup>8</sup> and the 2005 Interinstitutional common approach to impact Assessment.

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<sup>8</sup> OJ C321, 31.12.2003, p. 1.