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#### **'I' ITEM NOTE**

From:	Presidency/General Secretariat of the Council
To:	Permanent Representatives Committee (Part 1)
No. prev. doc.:	6383/2/25 REV 2
Subject:	Handling of impact assessments within the Council - Annual report covering the period January-December 2024 - Endorsement

1. On 18 March 2025, the Mertens Group examined the draft annual report on the handling of impact assessments within the Council, covering the period January-December 2024. The draft report was prepared by the Presidency with the assistance of the General Secretariat of the Council.
2. COREPER is invited to endorse the resulting report “Handling of impact assessments within the Council – Annual report covering the period January-December 2024”.

**HANDLING OF IMPACT ASSESSMENTS WITHIN THE COUNCIL –  
ANNUAL REPORT COVERING THE PERIOD JANUARY–DECEMBER 2024**

<b>I.</b>	<b>INTRODUCTION .....</b>	<b>3</b>
A.	Previous reports .....	3
B.	Context of this year's report .....	5
<b>II.</b>	<b>FOLLOW-UP ON IMPACT ASSESSMENTS .....</b>	<b>9</b>
A.	Overview and evolution .....	10
B.	Proposals accompanied by an IA .....	12
C.	Proposals <i>not</i> accompanied by an IA .....	14
D.	Other IAs or requests .....	16
	Complementary IAs by the Commission .....	16
	Council IAs on its substantial amendments .....	16
	National impact assessments .....	17
<b>III.</b>	<b>USING AN IA AT AN EARLY STAGE OF THE LEGISLATIVE PROCESS .....</b>	<b>18</b>
A.	Use of the Guidance for Working Party Chairs .....	18
B.	Use of the indicative checklist .....	18
C.	Handling of IAs within the Council .....	19
D.	Follow-up by the Working Party on Competitiveness and Growth (Better Regulation) .....	19
E.	Examination of Commission IAs in other relevant Council bodies .....	20
F.	Role of COREPER .....	21
G.	Case law .....	21
H.	Examples of the handling of IAs in the Council .....	23
I.	Increasing awareness of IA procedures .....	25
<b>IV.</b>	<b>CONCLUSIONS AND WAY FORWARD .....</b>	<b>26</b>
	<b>ANNEX I .....</b>	<b>29</b>
	<b>ANNEX II .....</b>	<b>30</b>
	<b>ANNEX III .....</b>	<b>33</b>
	<b>ANNEX IV .....</b>	<b>34</b>
	<b>ANNEX V .....</b>	<b>35</b>

## I. INTRODUCTION

1. The Report on Impact Assessment within the Council endorsed by the Competitiveness Council of 29 and 30 May 2013<sup>1</sup>, recommended that the Presidency, assisted by the General Secretariat of the Council (GSC), monitor the implementation of the measures set out in that document and report back annually to COREPER.

### A. Previous reports

2. As a result, annual reports have been endorsed by COREPER<sup>2</sup>, providing recommendations and comprehensive overview of impact assessment (IA) developments within the Council. These reports also detail actions taken in response to previous recommendations.

Since 2016, the annual reports have also explored scenarios and included recommendations aimed at, *inter alia*, ensuring proper follow-up and implementation of the provisions of the Inter-Institutional Agreement on Better Law-Making (IIA) of 13 April 2016<sup>3</sup>, as appropriate. The reports also recommended continuing with awareness-raising measures and initiatives about the applicable procedures for the handling of IAs within the Council, including on the best use of the Guidance for the Working Party Chairs (“Handbook”)<sup>4</sup>, together with its indicative checklist<sup>5</sup>, in order to inform the Council’s decision-making process.

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<sup>1</sup> 8406/13.

<sup>2</sup> 10882/14, 8749/15, 9786/16, 9865/1/17 REV 1, 8900/18, 10014/19, 8532/20, 9735/21, 9633/22, 10082/23 + COR 1 and 9394/24.

<sup>3</sup> Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making, OJ L 123, 12.5.2016, p. 1–14 (IIA).

<sup>4</sup> 6270/18. An Indicative Guidance for Working Party Chairs, including an indicative checklist, was introduced in the 2013 IA report to ensure the effective consideration of Commission IAs at an early stage of discussions on a given proposal in relevant Council Working Parties. It was first updated in June 2016 following the entry into force of the new IIA on Better Law-Making of 13 April 2016.

<sup>5</sup> 6270/18 EXT 1.

3. **The last report**, endorsed by COREPER in April 2024<sup>6</sup>, covered the handling of IAs within the Council during the period from January–December 2023. Notably, it was the first report to cover the **new reporting period** aligned with the calendar year (January–December).

Building on previous findings, the report reaffirmed the Council’s commitment to evidence-based policymaking and acknowledged the progress made by the Commission under its Better Regulation agenda.

However, it also noted that over the years the proportion of proposals with an IA has fluctuated in the provision of IAs. Attention was drawn to delegated acts and implementing measures with significant economic, environmental, or social impacts, where the number of accompanying IAs remains low. To address this gap, the report pointed out the need of further monitoring and actions to improve IA coverage for these measures.

Furthermore, the report reiterated the importance of systematically integrating the impacts of future legislative proposals on the outermost regions as a dedicated criterion. It also invited the Commission to provide accessible quantitative data on the frequency and reasons for not producing an IAs, particularly in urgent cases, and to minimise the use of staff working documents as substitutes for IAs.

In the context of handling IAs within the Council, the Handbook and the indicative checklist continued to be recognised as essential tools to facilitate examination of IAs, together with ongoing awareness-raising activities targeting Working Party chairs, upcoming Presidencies, and GSC staff.

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<sup>6</sup> 9394/24.

## B. Context of this year's report

4. Based on paragraph 62 of the 2023 Annual Report, COREPER approved in January 2024<sup>7</sup> that IA reports would now cover a new reporting period that runs from 1 January to 31 December, replacing the previous reporting period running from June to May, which had been in place since June 2014<sup>8</sup>.

This report thus examines the **handling of IAs within the Council for the entire year of 2024**, including the follow-up of the provisions outlined in the IIA<sup>9</sup>. It encompasses the same timeframe as the Commission Work Programme 2024, published on 17 October 2023<sup>10</sup>. To provide a comprehensive view, the report also shows quantitative developments and trends in the area of IAs since 2014 in section II.B.

5. The year 2024 has been marked by a lower number of legislative proposals compared to previous years, reflecting the typical slowdown associated with the **end of the legislative cycle**. With the European Parliament elections taking place in June 2024, legislative activity focused largely on finalising pending files rather than introducing new initiatives. As a result, the overall volume of legislative proposals was lower compared to previous years.

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<sup>7</sup> 5429/24.

<sup>8</sup> 8406/13 + COR 1, paragraph 24.

<sup>9</sup> The information set out in this report on the handling of IAs within the Council, including its annex, was collected from GSC services dealing with the relevant policy files and was used for the preparation of this report, as part of the follow-up on the handling of IAs within the Council decided by COREPER (see reports referred to under paragraphs 1 and 2).

<sup>10</sup> COM(2023) 638 final, incl. Annexes 1 to 4.

6. In April 2024, the high-level report “**Much more than a market**”<sup>11</sup> by **Enrico Letta** was published. The report provides a comprehensive analysis of the European Single Market and proposes strategic enhancements to address contemporary challenges.

In the context of IAs, the Letta report, in its chapter *A Single Market to Go Fast and Go Far*, specifically in the section *Enhancing rule adoption through informed decision-making*, emphasises the need for a structured approach to adopting new rules in the Single Market. This approach should anticipate challenges and support growth, while ensuring informed decision-making. A key recommendation in this area is the introduction of a dynamic impact assessment<sup>12</sup> as a method to assess the potential implications of amendments introduced during the legislative process.

7. Following the publication and presentation of Letta’s report, the **Special European Council**, during its meeting on 17–18 April 2024, welcomed the Letta’s report in its conclusions<sup>13</sup>. The European Council recognised the value of the recommendations and invited the then “*current and future Council Presidencies to take work forward on the recommendations therein by the end of the year*”. Additionally, the European Council called upon the Commission to “*provide **high-quality, timely and thorough impact assessments and competitiveness checks**, including of **cumulative effects**, for legislative proposals with significant impact*”<sup>14</sup>.

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<sup>11</sup> <https://www.consilium.europa.eu/media/ny3j24sm/much-more-than-a-market-report-by-enrico-letta.pdf>.

<sup>12</sup> See page 124 of the Letta report: “*This approach would involve simplified update of the original impact assessment with 'back of the envelope' evaluations and explicit guesstimates to forecast the implications of amendments introduced in the opinion of the co-legislators.*”

<sup>13</sup> EUCO 12/24, para. 14.

<sup>14</sup> EUCO 12/24, para. 21.

8. Building on the calls by the European Council, the **Council** (Competitiveness) adopted on 24 May 2024 **Conclusions on a Single Market for the benefit of all**<sup>15</sup>, in which it stressed the need for “*relevant legislative initiatives as well as implementing and delegated acts which are expected to have a significant impact, to be accompanied by a timely, consistent and ex-ante **high-quality impact assessment** that fulfils all the applicable tests*”. To achieve this, the Council called on the Commission to: (a) ensure **synergies between different impact assessment checks**, with a special focus on the regional, territorial and local dimension; (b) systematically consider the **cumulative impacts** of new obligations; and to (c) consider **dynamic IAs** and checks to measure the impact of policy options.
9. On 9 September 2024, the report “**The Future of European competitiveness**”<sup>16</sup> by **Mario Draghi** was published. It consists of two parts: part A outlines a competitiveness strategy for Europe, while part B provides an in-depth analysis and recommendations. In the recommendations part, the Draghi report dedicates a chapter to simplifying rules, where it proposed to “[u]se a single, clear methodology to quantify the cost of new legislation for EU institutions and Member States. This methodology should be adopted by the Commission when making a proposal, by co-legislators when amending legislation, as well as by Member States when transposing it”. The report was discussed on 26 September 2024, when the Council (Competitiveness) held a policy discussion based on the Draghi report’s findings.

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<sup>15</sup> 10298/24.

<sup>16</sup> [https://commission.europa.eu/topics/eu-competitiveness/draghi-report\\_en#paragraph\\_47059](https://commission.europa.eu/topics/eu-competitiveness/draghi-report_en#paragraph_47059)

10. On 7 and 8 November 2024, the EU Leaders convened in Budapest for an **Informal meeting of heads of state or government**, where they adopted the **Budapest Declaration on the New European Competitiveness Deal**. The declaration outlines key priorities aimed at strengthening the EU's competitiveness and, among other things, sets key objectives to be implemented by the Commission without delay, which include *inter alia* “making concrete proposals on reducing reporting requirements by at least 25 % in the first half of 2025, and including red-tape and competitiveness impact assessments in its proposals”.
11. The new **Commission** took office in December 2024 and committed to further strengthening the Better Regulation agenda, with a renewed focus on competitiveness, regulatory simplification, burden reduction, and transparency in IAs for legislative proposals. These priorities are expected to shape the IA framework in the coming years, influencing both the scope and quality of IAs accompanying legislative proposals, including simplification proposals.
12. The Regulatory Scrutiny Board (RSB) published its 2023 annual report on 13 May 2024<sup>17</sup>, in which it acknowledged progress while emphasising areas in need of continued improvement. RSB reported that it scrutinised 50 IAs and 8 major evaluations in 2023. In its conclusions, the Board noted positively that there had been “*improved compliance of draft impact assessments with the new better regulation requirements, notably with regard to the increase of sufficient quantification of costs for the implementation of the ‘one in, one out’, while pointing to the need of keeping that momentum*”. Additionally, the Board reaffirmed its focus on competitiveness assessments, stating: “*The assessment of competitiveness impacts, including the correct application of the ‘competitiveness check’ as well as ‘SME test’ will continue to feature prominently in the scrutiny work of the Board in line with the findings reported in the special feature of [the] report*”.

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<sup>17</sup> [https://commission.europa.eu/publications/regulatory-scrutiny-board-annual-report-2023\\_en](https://commission.europa.eu/publications/regulatory-scrutiny-board-annual-report-2023_en).



## II. FOLLOW-UP ON IMPACT ASSESSMENTS

13. Under paragraph 13 of the IIA, the Commission committed to carrying out IAs of *“its legislative and non-legislative initiatives, delegated acts and implementing measures which are expected to have significant economic, environmental or social impacts. The initiatives included in the Commission Work Programme or in the joint declaration will, as a general rule, be accompanied by an IA”*.
14. The Commission’s Better Regulation Guidelines<sup>18</sup> specify that an IA is required for Commission initiatives that are likely to have significant economic, environmental or social impacts or which entail significant spending, and where the Commission has a choice of policy options. The rules on derogations, e.g., due to urgency, are provided in the Better Regulation Toolbox<sup>19</sup>.
15. Under paragraph 17 of the IIA, it is stipulated that each of the three institutions is responsible for determining how to organise its IA work, including internal organisational resources and quality control. The regular cooperation between the institutions is done by means of exchanging information on best practice and methodologies relating to impact assessments.

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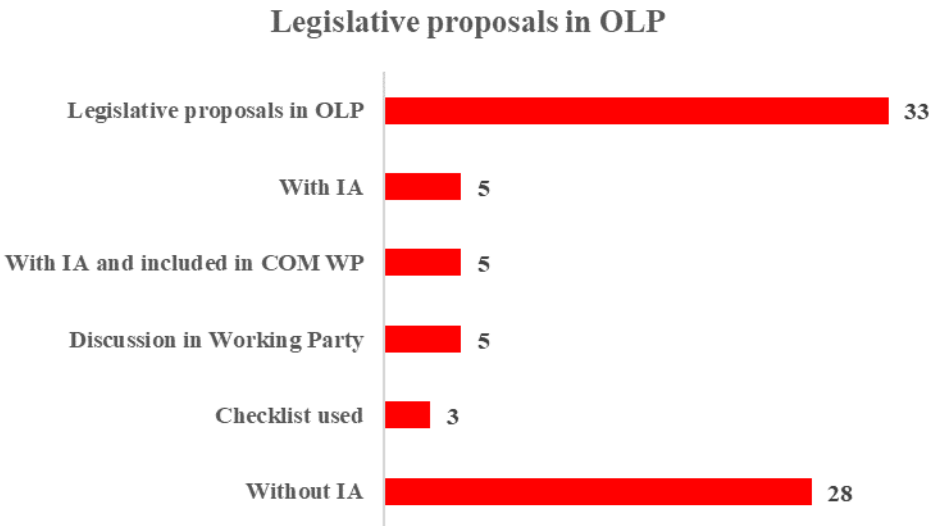
<sup>18</sup> 14004/21.

<sup>19</sup> [https://commission.europa.eu/document/download/9c8d2189-8abd-4f29-84e9-abc843cc68e0\\_en?filename=BR%20toolbox%20-%20Jul%202023%20-%20FINAL](https://commission.europa.eu/document/download/9c8d2189-8abd-4f29-84e9-abc843cc68e0_en?filename=BR%20toolbox%20-%20Jul%202023%20-%20FINAL).

**A. Overview and evolution**

16. Out of 33 legislative proposals subject to the ordinary legislative procedure<sup>20</sup> (OLP) presented by the Commission during the reporting period, 6 were initially included in the Commission Work Programme (2024 CWP). Of these, 5 were accompanied by an IA<sup>21</sup>, while for 1 the IA was not provided at the time the proposal was tabled, but was later supplemented by a staff working document (SWD) within three months, to provide justifications in place of a missing IA.

An overview including additional elements relating to the handling of IAs within the Council working parties is presented in the graph below.

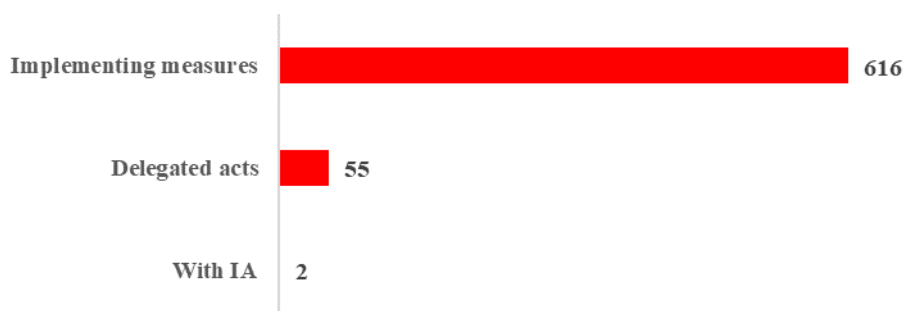


<sup>20</sup> According to internal rules of the Commission, not all legislative proposals under the ordinary legislative procedure (OLP) are eligible for an IA. The decision to prepare an IA depends on whether the proposal is expected to have significant economic, social, or environmental impacts, and whether policy options exist.

<sup>21</sup> This also applies to situations where a single IA accompanies multiple legislative or non-legislative proposals.

17. In the reporting period, 671 delegated acts and implementing measures were published. 616 of those were implementing acts, 55 were delegated acts. Out of these 671 delegated acts and implementing measures, 2 were accompanied by an IA. Both of these IAs were accompanying implementing measures.

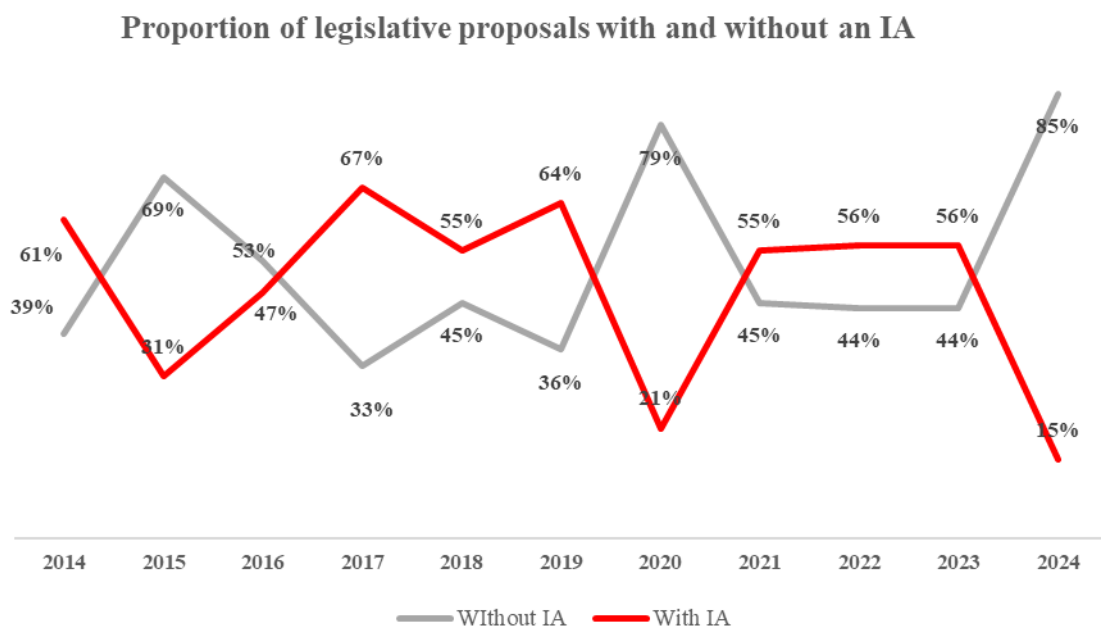
#### Delegated acts and implementing measures



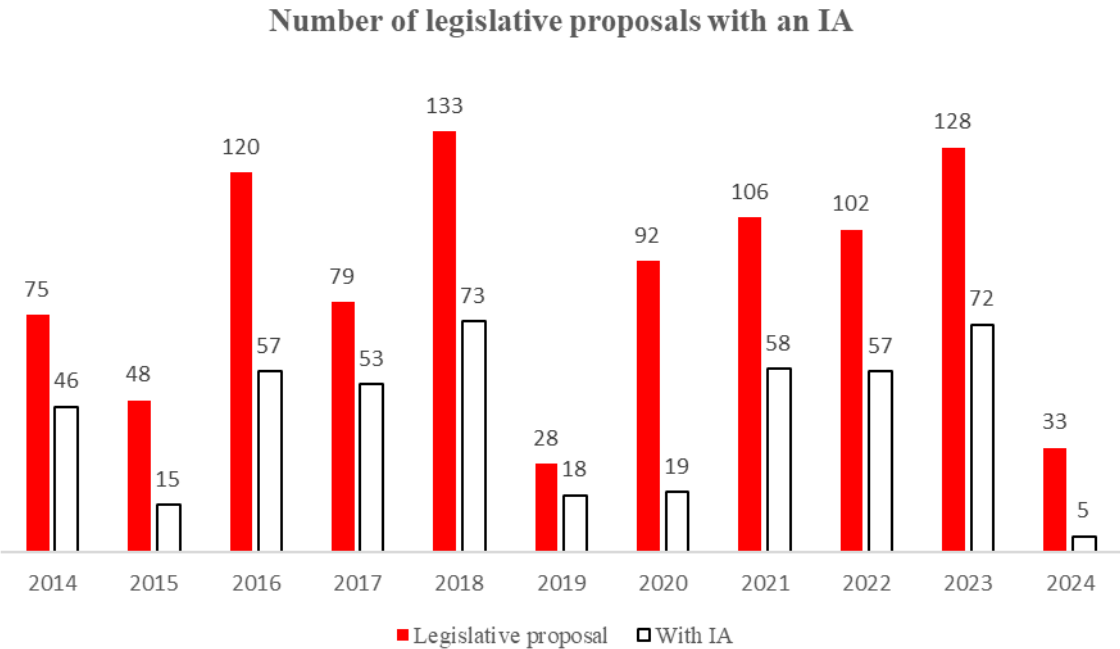
18. In addition, the Commission presented 2 IAs accompanying non-legislative initiatives: 1 accompanying a communication from the Commission and 1 accompanying a Council Recommendation (see Annex III for the list).
19. In 1 instance, the Commission presented a joint IA, accompanying more than one legislative or non-legislative proposal at the same time, namely 1 IA accompanying both a Communication and a legislative proposal subject to the OLP (see Annex V for the list).

## B. Proposals accompanied by an IA

20. Out of the 33 legislative proposals subject to the OLP and 671 delegated acts and implementing measures presented by the Commission to the Council during the reporting period, 5 legislative proposals, which represent 15 % of all legislative proposals subject to the OLP, and 2 implementing measures, which represent 0.3 % of the total delegated acts and implementing measures, were accompanied by an IA during the reporting period covered by this report (*see graphs in paragraphs 17 and 19; specific titles appear in the annexed lists*).
21. As illustrated in the chart below, the proportion of legislative proposals with IAs has shown fluctuations since 2014, ranging from a peak of 67 % in 2017 to a low of 15 % in 2024. On average, over the period from 2014 to 2024, 48 % of legislative proposals subject to the OLP were accompanied by an IA.



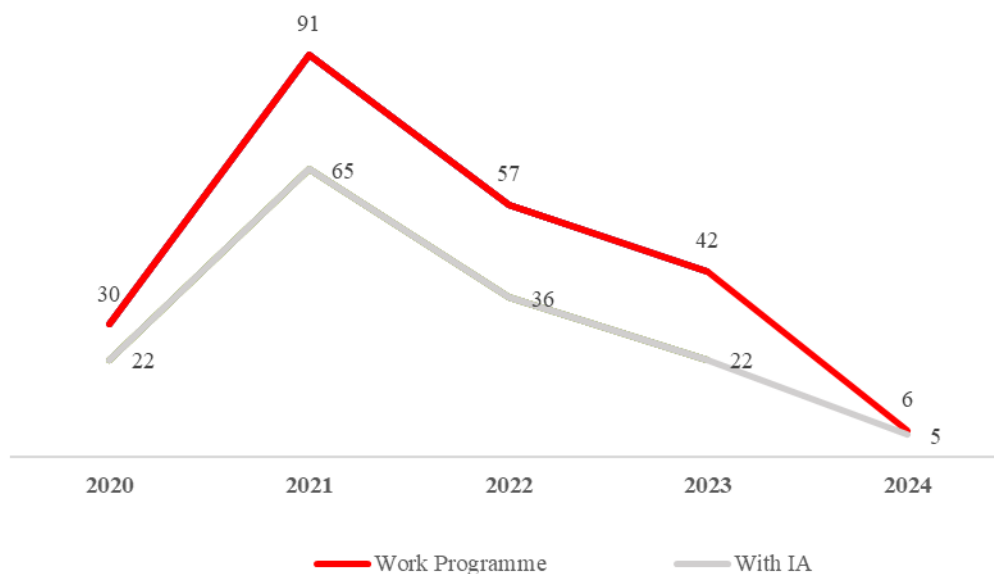
Since 2014, some 944 proposals subject to the OLP have been put forward by the Commission. 473 of these proposals were accompanied by an IA, 471 of the proposals have not been accompanied by an IA.



During the reporting period, out of a total of 33 legislative proposals subject to the OLP, 6 legislative proposals were identified as part of the 2024 CWP. Of these, 5 were accompanied by an IA, accounting for 83 % of the cases. For 1 legislative proposal subject to the OLP included in the 2024 CWP that were not accompanied by an IA, the Commission issued – due to urgency – a staff working document within three months after the publication of the proposal.

In contrast, none of the 27 legislative proposals subject to the OLP that were *not* part of the 2024 CWP had an accompanying IA.

### Legislative proposals in the OLP included in COM WP



### C. Proposals *not* accompanied by an IA

22. Regarding the initiatives presented by the Commission during the current reporting period, 28 legislative proposals (85 %) and 669 delegated acts and implementing measures (99.7 %) out of 671 were *not* accompanied by an IA.

The reasons for the Commission not to accompany a proposal with an IA are set out in the explanatory memoranda of the proposals and result from the application of the Commission’s Better Regulation Guidelines and Toolbox. In its explanation for the absence of an IA, the Commission refers to the principles stated in the IIA<sup>22</sup>.

<sup>22</sup> In its Communication “Better Regulation: taking stock and sustaining our commitment” of 15 April 2019 ([“Better regulation: taking stock and sustaining our commitment - European Commission”](#)), the Commission reiterates the reasons why “*not every initiative ... needs to be accompanied by an impact assessment*”.

The main reasons presented for the absence of IAs in the current reporting period are similar to those stated in the previous IA annual report<sup>23</sup>: the particular nature of the proposal where there is a lack of policy options (e.g. proposals addressing specific legal needs, recasts or codifications, or macro-financial assistance); proposals amending an existing legislative framework for which a previous IA had already been carried out or proposals where an IA is included in another proposal; the absence of direct economic, social or environmental impacts of the proposal; the urgency of the proposal.

23. In 3 reported cases, the Commission presented an SWD to provide justifications in place of a missing IA, and published it within 3 months after the adoption of the proposal (*see Annex IV for the list*). 1 of these proposals<sup>24</sup> was part of the 2024 CWP, while the other two<sup>25</sup> were not. Additionally, there was 1 reported case<sup>26</sup>, where the Commission is still preparing an SWD accompanying a legislative proposal that was not part of the 2024 CWP. The end of the prescribed 3-month period for submitting the staff working document falls outside the reporting period covered by this report.
24. In most cases where legislative proposals were not accompanied by an IA, delegations did not raise major concerns regarding its absence. However, some delegations queried whether the RSB could have a role in offering its opinion when IAs are not presented due to the proposed initiative not having a significant impact. In 1 reported case<sup>27</sup>, concerns were expressed, specifically regarding a proposal that was not included in the 2024 CWP.

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<sup>23</sup> According to the analysis of the Presidency, the reasons are as follows: the particular nature of the proposal (5 cases) where there is a lack of policy options (e.g. proposals addressing specific legal needs, recasts or codifications, or macro-financial assistance); proposals amending an existing legislative framework for which a previous IA had already been carried out or proposals where an IA is included in another proposal (10 cases); the absence of direct economic, social or environmental impacts of the proposal (14 cases); the urgency of the proposal (11 cases).

<sup>24</sup> See Annex IV, proposal 1.

<sup>25</sup> See Annex IV, proposal 2.

<sup>26</sup> See Annex II, proposal 4.

<sup>27</sup> See Annex II, proposal 1.

#### **D. Other IAs or requests Complementary IAs by the Commission**

25. Under paragraph 16 of the IIA, the Commission may, on its own initiative or upon invitation by the European Parliament or the Council, complement its own IA or undertake other analytical work it considers necessary. The Council Conclusions on Better Regulation of February 2020<sup>28</sup> called on the Commission to give due consideration, *inter alia*, to this possibility, should the proposal be significantly changed in the legislative process.
26. In the reporting period, however, no such cases were reported.

#### **Council IAs on its substantial amendments**

27. The IIA stipulates that the “*European Parliament and the Council will, when they consider this to be appropriate and necessary for the legislative process, carry out impact assessments in relation to their substantial amendments to the Commission’s proposal*” (see paragraph 15 of the IIA), COREPER decided in 2017 to set up a capability for the Council to carry out its own IAs when it considers this to be appropriate and necessary for the legislative process. The potential need for the Council to carry out an IA of a substantial amendment will continue to be covered through public procurement, namely through ***ad-hoc direct contracts***, outsourced to external contractors<sup>29</sup>.

No cases were reported of requests being made by delegations or a Working Party to carry out a Council IA on a substantial amendment by the Council during the period covered by this report. Although a procedure and established capability exist, a request to carry out an IA on a substantial amendment to a Commission proposal has never been triggered.

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<sup>28</sup> 6232/21.

<sup>29</sup> The Mertens Group was informed of the developments on 29 November 2022.



## **National impact assessments**

28. Delegations are encouraged to present, on a voluntary basis, their national or regional IAs in order to complement the Commission IA that is being examined. There were no reported cases where a delegation presented its national IA. However, in one reported case<sup>30</sup>, delegations referred to their national IAs without specifically presenting them during the discussion.

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<sup>30</sup> Annex I, proposal 4.

### III. USING AN IA AT AN EARLY STAGE OF THE LEGISLATIVE PROCESS

#### A. Use of the Guidance for Working Party Chairs

29. The Guidance for the Working Party Chairs (“Handbook”)<sup>31</sup>, and the attached indicative checklist, remain key reference tools for supporting work by Working Party chairs and delegations when examining Commission IAs. Through the reporting period, awareness-raising measures on the use of these tools continued, targeting in particular Working Party chairs, future Council Presidencies, delegations and GSC staff, to further support their effective application in Council discussions.

#### B. Use of the indicative checklist

30. The 2014 IA report recommended applying the indicative checklist-based examination procedure to all IAs accompanying legislative proposals. In line with these recommendations, delegations are generally informed in advance about upcoming IA examinations and provided with the indicative checklist ahead of the scheduled Working Party meeting. This approach aims to facilitate a **structured and consistent examination** of IAs, ensuring better-informed discussions within the Council.
31. During the reporting period, the indicative checklist was used in 5 reported cases. Of these, 3 cases (60 %) were used within the Council’s preparatory bodies when discussing legislative proposals subject to the OLP. The remaining 2 cases concerned discussions on non-legislative proposals, specifically a Communication and a Recommendation.

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<sup>31</sup> 6270/18.

### **C. Handling of IAs within the Council**

32. As in previous reporting periods, discussions by the Council preparatory bodies have underscored the role of IAs in supporting legislative decision-making. At the Working Party level, the Commission typically presents IAs together with the respective legislative proposals, providing delegations with a basis for understanding policy choices and the rationale behind the proposals. These discussions have been considered valuable for informing deliberations and structuring the examination of initiatives. At the same time, the discussions have also indicated that there is potential to further improve the systematic use of Commission's IAs into the Council's decision-making process.
33. IAs also serve as a good basis for addressing delegations' concerns about specific elements of a proposal and to clarify the potential impact of policy choices made.

### **D. Follow-up by the Working Party on Competitiveness and Growth (Better Regulation)**

34. The Working Party on Competitiveness and Growth (Better Regulation) continued to actively follow the topic of IAs within the Council and within its remit, namely in five meetings held on 18 March, 29 May, 27 September, 29 October and 14 November 2024. Agendas for the meetings included information points and exchanges of views on relevant developments in relation to IAs.
35. In 2024, meetings of the Working Party on Competitiveness and Growth (Better Regulation) focused on improving IA quality, strengthening regulatory oversight, and reducing administrative burdens. They also contributed to a broader discussion on the future of Better Regulation in the EU, exploring ways to ensure policy consistency and address future regulatory challenges.

36. In particular, the Working Party on Competitiveness and Growth (Better Regulation) closely followed the Council's handling of IAs to support the preparation of the draft annual report on the handling of IAs within the Council. This work was carried out in line with paragraphs 13–15 of the IIA. To support this objective, the Working Party dedicated two meetings specifically to discussions on the annual report on the handling of IAs within the Council.

#### **E. Examination of Commission IAs in other relevant Council bodies**

37. The 2013 IA report introduced two possibilities for examining a Commission IA in a Working Party other than the one in the lead on a specific proposal:
- invitation by COREPER to a relevant Working Party to analyse specific elements of a Commission IA;
  - invitation by the Presidency to a preparatory body of the Council (Competitiveness) to hold an additional discussion on a Commission IA.

During the reporting period, there was 1 case<sup>32</sup> where the IA accompanying a cross-sectoral legislative proposal for a non-OLP act was presented multiple times within the lead Working Party, with each session focusing on different sectoral aspects. Attachés from the relevant sectoral working parties were invited to participate in these discussions. Additionally, this IA was also presented outside the lead Working Party.

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<sup>32</sup> Annex III, initiative 4.

## **F. Role of COREPER**

38. During the reporting period, there were no reported cases of the Commission presenting its IA to COREPER<sup>33</sup>. However, COREPER was presented with the summary of the evaluation of IAs for 2 proposals subject to the OLP<sup>34</sup> and for 1 non-OLP act<sup>35</sup>.

## **G. Case law**

39. During the reporting period, the General Court examined Case T-745/20, brought by Symphony Environmental Technologies. The applicant argued that the Commission, the Council, and the European Parliament had infringed paragraphs 12 and 14 to 16 of the IIA by failing to conduct a comprehensive and compliant IA on an amendment. The applicant claimed that the IA process was limited and defective, particularly regarding the gathering and assessment of evidence.

However, in its judgment of 31 January 2024, the General Court dismissed the claim, ruling that IAs are not legally binding on the EU legislature, consistent with previous case-law<sup>36</sup>.

The Court confirmed that both the Parliament and the Council had sufficient scientific information to support their decision, and therefore, an additional IA was not necessary. As a result, it concluded that there had been no infringement of the relevant provisions of the IIA, since the IIA does not contain a definite obligation for the Parliament and the Council to carry out impact assessments nor does it contain an obligation for the Commission to complement its impact assessment.

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<sup>33</sup> Or, *mutatis mutandis*, of the Special Committee on Agriculture.

<sup>34</sup> Annex I, proposals 2 and 5.

<sup>35</sup> Annex III, initiative 3.

<sup>36</sup> See Case C-343/09 Afton Chemical, and Contribution from the Legal Service, ST 15726/11. See also the Court of Justice's decision in Case C-477/14 (Pillbox 38, 4 May 2016), which established that IAs serve as advisory tools rather than imposing legal obligations on legislators. Similarly, in Case C-128/17 (Poland v Parliament and Council, 13 March 2019), the Court reaffirmed that legislators are free to adopt measures beyond those assessed in an IA, provided their decisions are based on sufficient evidence.

40. During the reporting period, the Court gave its judgement in Joined Cases C-541/20 to C-555/20 on the "Mobility Package" – Regulation (EU) 2020/1054, brought by Lithuania, Bulgaria, Romania, Cyprus, Hungary, Malta, and Poland against the European Parliament and the Council. Those Member States argued that the obligation for vehicles to return to an operational centre, introduced during negotiations on the file, breached the principle of proportionality on the ground that the effects of that obligation were not properly evaluated.

In its judgment of 4 October 2024, the Court broadly upheld the validity of the Mobility Package but annulled the requirement related to the return of vehicles. The Court held *“that the Parliament and the Council, contrary to what they argue on the basis of the documents on which they rely before the Court, have not produced and set out clearly and unequivocally the basic data on the basis of which that obligation was adopted and on which the exercise of their discretion depended. They have thus failed to establish that, when Regulation 2020/1055 was adopted, they had sufficient information to enable them to assess the proportionality of the obligation for vehicles to return”*.

Failure to comply with this requirement constituted a breach of the principle of proportionality, and led to annulment of one provision of the Mobility Package by the Court. This judgment highlights that the absence of an impact assessment by the co-legislators may result in a legislative act being founded on an incorrect factual basis. It may also lead, as in this particular case, to perceptions of legal uncertainty among EU entrepreneurs and of unnecessary costs for them.

## H. Examples of the handling of IAs in the Council

41. Below there are some relevant examples provided in relation to the handling of IAs in the Council during the period covered by this report.
42. On the proposal for a “**Directive on river information services**”<sup>37</sup>, the accompanying IA was presented and examined during one meeting of a Council Working Party. Discussions focused primarily on the implications of the proposed extension of the directive’s scope to include all inland waterways within the trans-European transport network (TEN-T). Delegations expressed concerns that the Commission’s IA failed to address the financial and administrative consequences of this extension, underscoring the importance of comprehensive evaluations to support legislative decision-making. The lack of a proper assessment of the scope extension was a key factor in the decision to reject this element of the Commission’s proposal in the general approach.
43. On the proposal for a “**Regulation establishing the European Defence Industry Programme**”<sup>38</sup> the Commission announced its intention, when tabling the proposal, to present an SWD in place of an IA. However, the SWD did not arrive within the expected three-month timeframe, leading to multiple requests from delegations for its submission. It was eventually presented on 10 July, several weeks into the examination process. Following its presentation, the SWD appeared to address the key aspects of the proposal, and no further substantive exchanges on its content were deemed necessary within the Council’s preparatory bodies.

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<sup>37</sup> Proposal for a Directive of the European Parliament and of the Council amending Directive 2005/44/EC on harmonised river information services (RIS) on inland waterways in the Community, 6008/24.

<sup>38</sup> Proposal for a Regulation of the European Parliament and of the Council establishing the European Defence Industry Programme and a framework of measures to ensure the timely availability and supply of defence products (EDIP), 7340/24.

44. On the proposal for a **“Regulation on cross-border enforcement of UTPs”** (unfair Trading Practices)<sup>39</sup> several delegations expressed their regret during the first meeting of the Working Party on Agricultural Products that the proposal was not accompanied by an IA. In response, the Commission reiterated its argument that the proposal was solely aimed at implementing an obligation already established in the UTP Directive, suggesting that a full impact assessment was not deemed necessary.
45. On the proposal for a **“Directive amending the Directive on measuring instruments”**<sup>40</sup>, several delegations raised observations regarding the absence of an accompanying IA or of a staff working document, usually provided within a three-month period after the tabling of the proposal to justify the absence of an IA, and highlighted the need for a detailed evaluation, while others noted the proposal’s limited scope and its urgency. A similar debate arose during the examination of the proposal for a **“Decision on the equivalence of seed produced in the Republic of Moldova and in Ukraine”**<sup>41</sup>. While a number of delegations called for an assessment of the potential impacts before proceeding further, others considered this unnecessary. Ultimately, negotiations on the proposal advanced without an IA.

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<sup>39</sup> Proposal for a Regulation of the European Parliament and of the Council on cooperation among enforcement authorities responsible for the enforcement of Directive (EU) 2019/633 on unfair trading practices in business-to-business relationships in the agriculture and food supply chain, 16776/24.

<sup>40</sup> Proposal for a Directive of the European Parliament and of the Council amending Directive 2014/32/EU as regards electric vehicle supply equipment, compressed gas dispensers, and electricity, gas and thermal energy meters, 16426/24.

<sup>41</sup> Proposal for a Decision of the European Parliament and of the Council amending Council Decision 2003/17/EC as regards the equivalence of field inspections carried out in the Republic of Moldova on fodder plant seed-producing crops and on the equivalence of field inspections carried out in Ukraine on beet seed-producing crops and oil plant seed-producing crops and on the equivalence of beet seed and oil plant seed produced in Ukraine, 6264/24.



## **I. Increasing awareness of IA procedures**

46. Measures and initiatives to raise awareness about IA procedures among Council Presidencies, delegations and GSC staff have continued throughout the reporting period.
47. Depending on the priorities for information and training defined in agreement with future Presidencies, the GSC provides briefings to incoming Working Party chairs on the Council's IA procedures, including on procedures allowing a Working Party to request that an IA be carried out on behalf of the Council. As part of these efforts, the GSC continues to raise awareness about the Handbook and promote its use, along with the indicative checklist, in a way that is adapted to the specific nature of each legislative proposal. Additionally, Working Party chairs are reminded to apply the indicative checklist in a structured manner, considering the context of each proposal while ensuring that all relevant sections are duly considered. The possibility of examining IAs in other relevant Council bodies, upon invitation by COREPER or the Presidency, is also highlighted as part of these awareness-raising activities.
48. Within the GSC, measures are taken to continuously raise awareness among staff about the need to enhance and facilitate information exchange on the handling of IAs within the Council and on implementation of the Council's IA procedures. Those measures include, in particular:
- exchange of IA-related information within the network of GSC IA contact points;
  - an internal webpage containing all relevant information on the Council's IA procedures;
  - enhancing and fostering the use of the dedicated electronic platform to collect IA information within the GSC;
  - peer-to-peer training sessions on IAs;
  - information folders and documents on procedures and available tools for GSC staff.

49. The Presidency also carries out measures to raise awareness about IA procedures on a regular basis and with the assistance of the GSC. This includes regular communication with Working Party chairs on the important steps to be taken when handling IAs, while also recalling the importance of the Handbook and the indicative checklist.

#### IV. CONCLUSIONS AND WAY FORWARD

50. The reporting year was marked by a **lower number of legislative proposals**, reflecting the typical slowdown at the end of the legislative cycle and the focus on finalising pending files ahead of the European Parliament elections. While this resulted in a lower volume of legislative proposals subject to IA review, it also provided an opportunity to reflect on long-term IA trends and consider possible areas for improvement in the next legislative cycle (see section I.B).
51. In light of these reflections, the report underpins the Council's commitment to evidence-based policymaking and the importance of high-quality IAs in improving Union legislation. The Council has pointed to various areas of possible improvement.
52. The Commission has continued to advance its Better Regulation agenda, and the Council remains committed to taking full account of the Commission's IAs in its legislative work, as stipulated in the IIA. However, while recognising that not all legislative proposals require an IA, the proportion of legislative proposals accompanied by an IA has been substantially fluctuating (following the legislative cycle and in response to urgent situations) since the first report in 2014 on the handling of IAs within the Council. On average, 48% of proposals have been accompanied by an IA, with only 15% recorded in 2024. This variability highlights the need for greater consistency to ensure that legislative proposals, with significant economic, social, or environmental impacts, are systematically supported by IAs.

53. Particular attention continues to be paid to **IAs for delegated acts and implementing measures**, which are expected to have significant economic, environmental or social impacts. The number of delegated acts and implementing measures accompanied by an IA remains very low. The future rates and trends need to be continuously monitored, and further measures are needed to ensure that a greater proportion of such delegated acts and implementing measures are accompanied by an analysis of impacts, or by a cost or cost-savings analysis, or cost-savings analysis, when this is relevant.
54. Considering the need for improvement, the **Special European Council** of 17–18 April 2024 welcomed the Letta report and **called on the Commission to provide high-quality, timely, and thorough IAs and competitiveness checks**. In response, the Council (Competitiveness), in its conclusions of 24 May 2024<sup>42</sup>, reinforced the need for robust IAs for legislative initiatives, including delegated and implementing acts, and stressed that IAs should be timely, consistent, and of high-quality, ensuring synergies between different IA checks. To this end, it called for greater synergies between IA checks, systematic assessment of cumulative impacts, and the consideration of dynamic IAs for policy evaluation. In this context, some delegations also recalled the importance of taking into account the specific situation of the outermost regions in IAs, ensuring that the potential social, economic, and territorial effects of Union legislation on these regions are duly assessed, as referred to in the Council Conclusions on the future of cohesion policy<sup>43</sup>, adopted in November 2023. These developments reflect shared institutional endeavours to use IAs as a key tool for better regulation, manifested also in the commitments taken by the three institutions in the IIA to assess the impacts of their substantial amendments to the Commission proposal when they consider this to be appropriate and necessary for the legislative process.

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<sup>42</sup> 10298/24.

<sup>43</sup> 16230/23.

55. Looking ahead, strengthening the systematic provision, use and examination of IAs – alongside continued awareness-raising within Working Parties on their value and practical application – should be reinforced, for proposals with significant economic, social, or environmental impacts, and policy options. The report also highlights the need for easily accessible quantitative information on the frequency of and the grounds for the absence of the Commission IA, including when urgency is cited as the justification.
56. In the spirit of inter-institutional cooperation, there is a need to explore ways to promote the dynamic impact assessment mechanism, as recommended by the Letta Report and relevant Council conclusions<sup>44</sup>, and to consider possibilities of how to apply a simpler methodology to assess amendments introduced during the legislative process by the co-legislators, and to ensure a transparent and consistent sharing of data used for IAs between the three institutions.
57. The use of timely, consistent, thorough and high-quality IAs can further improve legislative decision-making and support the EU's better regulation agenda, including future simplification efforts.
58. Dedicated to evidence-based policymaking, the current Presidency trio will remain actively engaged with the topic of IA. It will encourage chairs to allocate sufficient time for delegations to review IAs using the indicative checklist more frequently and revisit the IAs at later stages of negotiations to address outstanding questions and uncertainties effectively. The trio will also seek to monitor the possible use of IAs on Council substantial amendments.

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<sup>44</sup> 10298/24.

**List of legislative proposals subject to the OLP, with an IA**  
– 1 January 2024 to 31 December 2024 –

No.	Title of the legislative proposal subject to the OLP
1	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing an application for the electronic submission of travel data (“EU Digital Travel application”) and amending Regulations (EU) 2016/399 and (EU) 2018/1726 of the European Parliament and of the Council and Council Regulation (EC) No 2252/2004, as regards the use of digital travel credentials
2	Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on improving and enforcing working conditions of trainees and combating regular employment relationships disguised as traineeships (“Traineeships Directive”)
3	Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on combating the sexual abuse and sexual exploitation of children and child sexual abuse material and replacing Council Framework Decision 2004/68/JHA (recast)
4	Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directive 2005/44/EC on harmonised river information services (RIS) on inland waterways in the Community
5	Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directive 2009/38/EC as regards the establishment and functioning of European Works Councils and the effective enforcement of transnational information and consultation rights

**List of legislative proposals subject to the OLP, without an IA**  
– 1 January 2024 to 31 December 2024 –

No.	Title of the legislative proposal subject to the OLP
1	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on cooperation among enforcement authorities responsible for the enforcement of Directive (EU) 2019/633 on unfair trading practices in business-to-business relationships in the agricultural and food supply chain
2	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on a temporary derogation from certain provisions of Regulation (EU) 2017/2226 and Regulation (EU) 2016/399 as regards a progressive start of operations of the Entry/Exit System
3	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on a public interface connected to the Internal Market Information System for the declaration of posting of workers and amending Regulation (EU) No 1024/2012
4	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on establishing the Reform and Growth Facility for the Republic of Moldova
5	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing the Ukraine Loan Cooperation Mechanism and providing exceptional macro-financial assistance to Ukraine
6	Proposal for a DECISION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the adoption by the Union of the Agreement on the interpretation and application of the Energy Charter Treaty between the European Union, the European Atomic Energy Community and their Member States
7	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the economic accounts for agriculture in the Union (codification)
8	Proposal for a DECISION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on providing macro-financial assistance to the Hashemite Kingdom of Jordan
9	Proposal for a DECISION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on providing macro-financial assistance to the Arab Republic of Egypt
10	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing the European Defence Industry Programme and a framework of measures to ensure the timely availability and supply of defence products (EDIP)
11	Proposal for a DECISION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the equivalence of field inspections carried out in third countries on seed-producing crops and on the equivalence of seed produced in third countries (codification)

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- 12 Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on temporary trade-liberalisation measures supplementing trade concessions applicable to products from the Republic of Moldova under the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Moldova, of the other part
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- 13 Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on temporary trade-liberalisation measures supplementing trade concessions applicable to Ukrainian products under the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Ukraine, of the other part
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- 14 Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the screening of foreign investments in the Union and repealing Regulation (EU) 2019/452 of the European Parliament and of the Council
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- 15 Proposal for a DECISION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL concerning the subscription by the European Union to additional shares in the capital of the European Bank for Reconstruction and Development (EBRD) and amending the Agreement establishing the EBRD as regards the extension of the geographic scope of EBRD operations to sub-Saharan Africa and Iraq in a limited and incremental manner, and removing the statutory capital limitation on ordinary operations
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- 16 Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulations (EU) No 1308/2013, (EU) 2021/2115 and (EU) 2021/2116 as regards the strengthening of the position of farmers in the food supply chain
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- 17 Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directive 2014/32/EU as regards electric vehicle supply equipment, compressed gas dispensers, and electricity, gas and thermal energy meters
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- 18 Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) 2020/2220 as regards specific measures under the European Agricultural Fund for Rural Development (EAFRD) to provide additional assistance to Member States affected by natural disasters
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- 19 Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL RESTORE – Regional Emergency Support to Reconstruction amending Regulation (EU) 2021/1058 and Regulation (EU) 2021/1057
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- 20 Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) 2023/1115 as regards provisions relating to the date of application
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- 21 Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 1026/2012 on certain measures for the purpose of the conservation of fish stocks in relation to countries allowing non-sustainable fishing
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- 22 Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) 2018/1806 as regards Vanuatu
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- 23 Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 2023/2124 of the European Parliament and of the Council of 4 October 2023 on certain provisions for fishing in the GFCM (General Fisheries Commission for the Mediterranean) Agreement area
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- 24 Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulations (EU) 2021/2115 and (EU) 2021/2116 as regards good agricultural and environmental condition standards, schemes for climate, environment and animal welfare, amendments to CAP Strategic Plans, review of CAP Strategic Plans and exemptions from controls and penalties
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- 25 Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL Amending Regulation (EU) 2021/1148 as regards the financial envelope and the allocation for the thematic facility
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- 26 Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulations (EU) 2021/522, (EU) 2021/1057, (EU) 2021/1060, (EU) 2021/1139, (EU) 2021/1229, and (EU) 2021/1755 as regards the changes to the amounts of funds for certain programmes and funds
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- 27 Proposal for a DECISION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Council Decision 2003/17/EC as regards the equivalence of field inspections carried out in the Republic of Moldova on fodder plant seed-producing crops and on the equivalence of fodder plant seed produced in the Republic of Moldova, and as regards the equivalence of field inspections carried out in Ukraine on beet seed-producing crops and oil plant seed-producing crops and on the equivalence of beet seed and oil plant seed produced in Ukraine
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- 28 Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulations (EU) 2017/745 and (EU) 2017/746 as regards a gradual roll-out of Eudamed, information obligation in case of interruption of supply and the transitional provisions for certain in vitro diagnostic medical devices
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**List of other non-OLP acts presented by the Commission, with an IA**  
 – 1 January 2024 to 31 December 2024 –

No.	Title of the initiative
1	COMMISSION REGULATION (EU) .../... implementing Directive 2009/125/EC of the European Parliament and of the Council with regard to ecodesign requirements for fans driven by motors with an electric input power between 125 W and 500 kW, and repealing Commission Regulation No (EU) 327/2011
2	COMMISSION REGULATION (EU) .../... implementing Directive 2009/125/EC of the European Parliament and of the Council as regards ecodesign requirements for local space heaters and separate related controls and repealing Regulation (EU) 2015/1188
3	Proposal for a COUNCIL RECOMMENDATION on a reinforced Quality Framework for Traineeships and replacing the Council Recommendation of 10 March 2014 on a Quality Framework for Traineeships
4	COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS Securing our future Europe's 2040 climate target and path to climate neutrality by 2050 building a sustainable, just and prosperous society

**List of legislative proposals subject to the OLP, for which the Commission tabled an  
assessment within 3 months after the publication of the proposal**  
– 1 January 2024 to 31 December 2024 –

No.	Title of the initiative
1	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing the European Defence Industry Programme and a framework of measures to ensure the timely availability and supply of defence products (EDIP)
2	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on a public interface connected to the Internal Market Information System for the declaration of posting of workers and amending Regulation (EU) No 1024/2012
3	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulations (EU) 2021/2115 and (EU) 2021/2116 as regards good agricultural and environmental condition standards, schemes for climate, environment and animal welfare, amendments to CAP Strategic Plans, review of CAP Strategic Plans and exemptions from controls and penalties

**List of joint IAs, accompanying more than one legislative or non-legislative proposal**

– 1 January 2024 to 31 December 2024 –

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No.	Title of the initiative
1	<p>Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on improving and enforcing working conditions of trainees and combating employment relationships disguised as traineeships, and</p> <p>Proposal for a COUNCIL RECOMMENDATION on a reinforced Quality Framework for Traineeships and replacing the Council Recommendation of 10 March 2014 on a Quality Framework for Traineeships</p>

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