



EUROPEAN COMMISSION

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Dear President,

The Commission would like to thank the Senato della Repubblica for its Opinion on the Commission's Communication "Better regulation for better results – An EU agenda" and on the Commission's proposal for an Interinstitutional Agreement on Better Regulation {COM(2015) 215 final and COM(2015) 216 final}.

The Better Regulation package was presented by the Commission on 19 May 2015. It outlines measures to deliver better results for citizens and businesses through better EU rules. To this end, the package also includes a proposal for the revision of the 2003 Interinstitutional Agreement on Better Law Making. It also explains how the Commission intends to further open up policy-making and interact better with stakeholders. The measures focus on greater transparency around decision-making, wider public consultation, improved impact assessments and a new approach to reviewing the existing stock of EU legislation.

As regards the Interinstitutional Agreement on Better Law Making (IIA), the Commission is pleased to note that the negotiators of the European Parliament, the Council and the Commission concluded their negotiations in December 2015. However, any new agreement cannot enter into force until each institution has formally endorsed the text which is expected in the first quarter of 2016.

The Commission welcomes the broad support of the Senato della Repubblica for the goals of better regulation and has taken note of its concerns. The Commission is pleased to have this opportunity to provide a number of clarifications regarding its proposal and trusts that these will allay the concerns of the Senato della Repubblica.

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As regards the Senato della Repubblica's concern that the stakeholder consultation under the Better Regulation package implies that opinions of organisations and individuals receive more attention during the decision making-process than the views of national Parliaments, the Commission wishes to reassure the Senato della Repubblica that the Better Regulation package in no way diminishes the role of national Parliaments. On the contrary, the relationship between the Commission and the national Parliaments, particularly through the subsidiarity control mechanism and the political dialogue, is of a different institutional and perennial nature. In addition, the Commission is committed to respond to all opinions from national Parliaments in a way that goes far beyond a mere consultation on new initiatives. Finally national Parliaments have the possibility to submit opinions at any moment of the political process.

In response to the more specific observations in the Senato della Repubblica's opinion the Commission would like to refer to the attached annex.

The Commission hopes that the clarifications provided in this reply address the issues raised by the Senato della Repubblica and looks forward to continuing the political dialogue in the future.

Yours faithfully,

*Frans Timmermans
First Vice-President*

ANNEX

The Commission has carefully considered each of the issues raised by the Senato della Repubblica in its opinion and is pleased to offer the following clarifications.

Territorial tests in impact assessments

With regard to the Senato della Repubblica's comment that "territorial tests" should be included in the impact assessments, the Interinstitutional Agreement (IIA), that still needs to be endorsed by the European Parliament, specifies that impact assessments should address, whenever possible, the cost of non-Europe and the impact on competitiveness and the administrative burdens of the different options, having particular regard, among other, for the territorial impact. The toolbox that accompanies the Commission's new impact assessment guidelines include a specific tool (nr 29) that sets out how territorial impacts should be taken into account whenever such impacts are expected to be significant and how possible negative impacts on territories should be minimised.

Transposition to be part of evaluation

The Senato della Repubblica suggests that the transposition of legislative acts should be a fundamental part of the evaluation. Indeed, the collection of qualitative and quantitative information from Member States is critical to correctly monitor the implementation of EU law and carry out evaluations. This is why the better regulation guidelines stress the need to include Member States in monitoring arrangements.

Transparency in decision-making

With regard to greater transparency of the decision-making process and of the outcome of the trilogues in particular, it is the responsibility of the institutions to define the mandates of their representatives at these trilogue meetings and to make sure that they report back in full transparency to their respective institutions. As part of the new IIA, the three institutions plan to improve transparency and the communication to the public during the whole legislative cycle including trilateral negotiations.

Transposition of directives into national law

Concerning the transposition of directives into national law, the Commission confirms that its approach does not require or imply any restriction of Member State prerogatives to add additional requirements during this process. It simply invites Member States to be aware of the potential impacts and to inform their citizens of the national provisions that go beyond those of the EU legislation.

Role of impact assessments during the legislative process

The Senato della Repubblica expresses concerns as to the role of impact assessments during the legislative process in the European Parliament and Council. The new IIA states 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. The Commission would like to stress that better regulation does not require or imply any reduction in the authority and competence of the EU legislators to exercise their full discretion in the EU legislative procedure, nor will it slow down the political process. Better regulation is an aid to political decision making; it is simply about making relevant information available to decision makers so that choices are made on a well-informed basis.

Importance of impact assessments for national Parliaments

The Commission welcomes the Senato della Repubblica's observations concerning the importance of impact assessments for national Parliaments' participation in the EU decision-making process. The Commission generally encourages national Parliaments' involvement in EU decision-making. The publication of roadmaps and inception impact assessments provides authorities or other stakeholders an opportunity to give input early in the Commission's policy preparations, including on the problems to be addressed, policy options and the expected impact of an initiative as well as on how the Commission intends to further consult them. In that regard the Commission has since 2013 established a practice of sending email alerts to all national Parliaments whenever a new public consultation is launched or a new roadmap is published. Since the adoption of the Better Regulation package in May 2015 this practice also covers inception impact assessments. This will enable national Parliaments to improve their scrutiny of EU issues and to submit opinions at a very early stage in the political dialogue with the Commission.

Draft delegated acts

On the suggestion to carry out an analysis whether draft delegated acts should be forwarded officially not only to the European Parliament and the Council but also to national Parliaments, the Commission would like to underline that several important improvements in relation to transparency in the preparation of delegated acts are already on the way.

The new IIA contains in particular the Commission's commitment to always consult national experts on a draft delegated act before adoption by the Commission. It also provides in clear terms that the Commission systematically provides the European Parliament and the Council with all relevant documents (i.e. draft delegated acts, the draft agenda and any other relevant documents) at the same time as Member State experts. It is, however, important to underline that this information does not constitute a formal transmission of the draft delegated act to the European Parliament and the Council. Under Article 290 TFEU governing delegated acts the Commission is only subject to an ex-post control by the Council and the European Parliament, which is why the formal transmission of delegated acts takes place only after their adoption by the Commission.

The Commission would also like to recall that the new IIA includes a commitment to set up a joint functional register on delegated acts by the end of 2017 to enhance transparency, to facilitate planning and to enable traceability of the different stages in the lifecycle of a delegated act.

In addition, the Commission has made the commitment that draft delegated acts, subject to certain exceptions, will be made open for comments by the general public on the Commission's website for four weeks. This new feedback mechanism, which will be put in place in the course of this year, will thus bring another element of increased transparency of delegated acts. Once finally adopted by the Commission, delegated acts will in any event be made public on the Register of Commission Documents.

As regards a possible role for national Parliaments in this process, the Commission believes the new systems will provide sufficient guarantees in terms of transparency and access enabling Member States to organise democratic scrutiny by national Parliaments of their governments' actions in the field of delegated acts.

Principle of subsidiarity

With regard to the principle of subsidiarity, the Commission fully agrees with the Senato della Repubblica that this principle is not only a legal concept, but also a political principle. National Parliaments play an important role in ensuring that the principle of subsidiarity is respected and the Commission has a genuine interest in hearing their opinions, including arguments which may reflect different views on the application of the principle of subsidiarity.

Enhanced political dialogue

As concerns the suggestion made by several national Parliaments, including the Senato della Repubblica, that a group of national Parliaments should be able to ask the Commission to adopt proposals for new or amended legislation (the so-called "green card") the Commission has stated at several occasions that the Commission is always open to suggestions from national Parliaments. The Commission's reply from last year to the initiative on food waste from the House of Lords and supported by several chambers of national Parliaments, including the Senato della Repubblica, shows that the Commission is committed to take views expressed by national Parliaments into consideration.

Better Regulation agenda and social and environmental aspects

Finally, the Senato della Repubblica has raised concerns that the Better Regulation agenda could favour the competitiveness and economic aspects over the social and the environmental aspects. Impacts on competitiveness and on small and medium sized enterprises (SMEs) should indeed be covered, but this is in addition to all other relevant environmental, social and economic impacts. The Commission's impact assessment system is a tool to ensure that the social, environmental and economic pillars of sustainable development are mainstreamed into Union policy making. The new impact assessment guidelines provide greater guidance on how to assess the various impacts as part of an integrated impact assessment approach. The purpose of the impact assessment is in the end to inform policy-making which should take into account all relevant elements, but it cannot be seen as a substitute for a political decision.