



EUROPEAN  
COMMISSION

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**DECISION OF THE PRESIDENT OF THE EUROPEAN COMMISSION**

**on an independent Regulatory Scrutiny Board**

## DECISION OF THE PRESIDENT OF THE EUROPEAN COMMISSION

### on an independent Regulatory Scrutiny Board

THE PRESIDENT OF THE EUROPEAN COMMISSION,

Having regard to the Treaty on European Union,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to the Treaty establishing the European Atomic Energy Community,

Having regard to the Rules of Procedure of the Commission<sup>1</sup>, and in particular Article 22 thereof,

Whereas:

- (1) The Commission's policy on better regulation guides the preparation of new initiatives and the implementation, monitoring and evaluation of existing policies and legislation.
- (2) A Regulatory Scrutiny Board ("the Board") was established by Decision C(2015) 3263 of the President of the European Commission<sup>2</sup> to give advice to the political level of the Commission. It performs its tasks independently and prepares its opinions independently from any national or European institution, body, office or agency. Decision C(2015)3263 was repealed and replaced by Decision C(2019)5565 of the President of the European Commission.<sup>3</sup>
- (3) It is appropriate to clarify some elements of the composition and mandate of the Board in order to ensure its smooth and independent functioning over time.
- (4) In order to ensure continuity of the activities of the Board, it should be possible, under exceptional circumstances, to extend the period of appointment of members by up to one year.
- (5) To support the commitments of the Commission expressed in the Political Guidelines of the President, and as part of its policy on better regulation, the Commission intends to implement the 'one-in, one-out' principle, meaning that every legislative proposal creating new burdens should relieve citizens and businesses of an equivalent burden currently existing at Union level in the same policy area. Moreover, it will integrate foresight into its policymaking. The Board should pay particular attention to these two new elements when scrutinising reports submitted to it.
- (6) The Regulatory Scrutiny Board should perform its tasks independently and prepare its opinion autonomously. Board members should not meet with organisations which are not listed in the Transparency Register for organisations and self-employed individuals

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<sup>1</sup> OJ L 55, 5.3.2010, p. 11

<sup>2</sup> Decision C(2015) 3263 of 19 May 2015 on the establishment of an independent Regulatory Scrutiny Board.

<sup>3</sup> Decision C(2019) 5565 of 19 July 2019 on an independent Regulatory Scrutiny Board.

engaged in Union policy-making and policy implementation.<sup>4</sup> They should not discuss individual files with directly concerned stakeholders, in order to ensure the independent treatment of files.

- (7) The Board should present a report on its activities to the President and the Vice-President for Interinstitutional Relations and Foresight each year. The report should be made public.
- (8) Whilst rights and obligations under Decision C(2019) 5565 should continue to apply for the purposes of this Decision and, in particular, the current members of the Regulatory Scrutiny Board should remain in place until the end of their mandate, it is appropriate to replace Decision C(2019) 5565, for reasons of clarity,

HAS DECIDED AS FOLLOWS:

#### *Article 1*

##### **Establishment**

An independent Regulatory Scrutiny Board ('the Board') is established. It shall be part of the Secretariat-General for administrative purposes.

#### *Article 2*

##### **Tasks**

1. The Board shall assess the quality of draft impact assessment reports, fitness check reports and major evaluation reports ('reports'). It shall issue an opinion on each report that has been submitted to it. Where necessary, the Board shall make recommendations on how the quality of a draft report should be improved.
2. The Board may offer advice to Commission services regarding the application and interpretation of the Better Regulation Guidelines<sup>5</sup> in particularly challenging assessments/evaluations and on methodological issues. The Board may also offer advice on horizontal issues relating to the further development of the Commission's policy on better regulation.
3. When assessing the quality of reports submitted to it, the Board shall pay special attention to the application of the 'one-in, one-out' principle and integration of the foresight dimension, in line with the guidance provided by the Commission. In doing so, the Board shall assess the quality of cost estimates and whether the reports sufficiently explore the

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<sup>4</sup> Agreement between the European Parliament and the European Commission on the transparency register for organisations and self-employed individuals engaged in EU policy-making and policy implementation (OJ L 277, 19.9.2014, p. 11).

<sup>5</sup> SWD(2017) 350.

potential to simplify legislation and to reduce unnecessary burdens for businesses and citizens.

4. Without prejudice to Article 4 and as long as it does not preclude the execution of the tasks listed in paragraphs 1 and 2, the Board may organise or take part in outreach activities in consultation with the Secretary-General and, where appropriate, the Vice-President for Interinstitutional Relations and Foresight. Those activities may include consultations and exchanges of views on horizontal, sectoral or methodological issues in the context of better regulation, with other institutions of the Union and of the Member States, think-tanks and international organisations, relevant institutions in third countries and other stakeholders involved in regulatory impact analysis and evaluation. The Board members shall not discuss individual files with directly concerned stakeholders.

### *Article 3*

#### **Composition**

1. The Board shall be composed of seven members: the Chair, three Commission officials ('internal members'), and three temporary agents ('external members'). The Chair of the Board shall be ranked as Director-General. One member of the Board shall be ranked as Director. The remaining members of the Board shall be ranked as Principal Advisors
2. The task of the Chair of the Board shall be to manage the entire regulatory scrutiny process and to ensure the proper functioning of the Board. He/she shall be appointed by the Commission upon a proposal of the President of the Commission, after having consulted the Member of the Vice-President for Interinstitutional Relations and Foresight and the Member of the Commission responsible for Budget and Administration. The Chair shall be entitled to the benefit provided for in the second paragraph of Article 44 of the Staff Regulations. The same applies to the members of the Board who were entitled to that benefit before being appointed to the Board.
3. Where the Chair is prevented from exercising his/her functions, he/she shall be replaced by the member of the Board ranked as Director.
4. The members of the Board shall have no other tasks than those which arise from their membership of the Board or which are entrusted to them by the Commission. They shall be appointed by the Appointing Authority and in agreement with the Vice-President for Interinstitutional Relations and Foresight for a non-renewable period of three years.<sup>6</sup> That period may exceptionally be extended by up to one year by the Appointing Authority, upon a proposal from the Chair and in agreement with the Vice-President for Interinstitutional Relations and Foresight, where necessary to ensure the continuity of the functioning of the Board, its balanced composition between internal and external members or its full capacity at times of exceptionally high workload.
5. The Board shall be supported by up to three assistants, to be selected by the Chair.

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<sup>6</sup> After the end of their mandate, the members of the Board who are Commission officials shall be entitled to return to their Directorate-General of origin.

*Article 4*

**Independence**

1. In the performance of their tasks, the members of the Board shall act independently and shall not seek or take instructions. They shall disclose any potential conflict of interest with respect to a particular report to the Chair, or, in the case of the Chair, to the President of the Commission. The Chair, or as the case may be the President of the Commission, after having consulted the Vice-President for Interinstitutional Relations and Foresight, shall take any appropriate measure, and may decide that the member concerned shall not participate in the scrutiny of that report.
2. In the exercise of their functions, Board members shall not meet with organisations which are not listed in the Transparency Register.

*Article 5*

**Functioning**

1. The Board shall deliver its opinions, recommendations and advice in accordance with the Commission's policy on better regulation, as laid down in the Better Regulation Guidelines<sup>7</sup>, and other relevant instructions to the services on agreed standards for impact assessment, evaluation, fitness checks and public consultation.
2. The Board shall only take decisions when at least four members are present, including the Chair, or where the Chair is prevented from exercising his/her functions, the member of the Board ranked as Director. The Board shall seek to reach as many decisions as possible by consensus. If no consensus can be reached, it shall decide by a simple majority of its members present at the meeting including the Chair, abstentions not counting as a vote. In the event of a tie, the Chair or, where the Chair is prevented from exercising his/her functions, the member of the Board ranked as Director, shall have the casting vote.
3. The Chair shall establish the Rules of Procedure of the Board, with the agreement of the President of the Commission, having consulted the Vice-President for Interinstitutional Relations and Foresight.
4. The Board shall operate in accordance with its Rules of Procedure. The meetings of the Board shall not be open to the public.
5. The secretariat of the Board shall be provided by the Secretariat-General.
6. The Board, acting through its Chair, may call upon any Commission service, Commission official or external expert as appropriate, for ad hoc advice when assessing an individual impact assessment, fitness check or evaluation report bearing in mind the need to avoid any potential conflict of interest.

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<sup>7</sup> SWD(2017) 350

*Article 6*  
**Transparency**

1. The Board's opinion(s) shall accompany the report relating to an initiative when that initiative is circulated to Commission services for formal consultation. It shall also be part of the documentation submitted to the College of Commissioners prior to the adoption of decisions on any related initiatives.
2. The Board's opinion(s) shall be made public on the Commission's website at the same time as the report concerned and, in the case of impact assessments, once the Commission has adopted the related policy initiative.
3. Each year, the Board shall submit a report on its activities during the previous year to the President and the Vice-President for Interinstitutional Relations and Foresight. That report may include conclusions or recommendations the Board wishes to draw from its regulatory scrutiny work. It shall be made public.

*Article 7*

**Repeal**

Decision C(2019) 5565 is repealed.

Done at Brussels, 23.01.2019



*The President*  
*Ursula von der Leyen*