Guaranteeing independent impact assessments

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The Committee on Legal Affairs adopted the own-initiative report by Angelika NIEBLER (EPP, DE) on guaranteeing independent impact assessments.

The report recalls that impact assessments make a positive contribution to the overall enhancement of the quality of EU legislation in the interest of better lawmaking and that the European Parliament has on a number of occasions expressed support for the use of independent impact assessments in the European Union. In this context, Members lay down a series of recommendations on the general requirements for impact assessments at European level with a view to enhancing efficiency and independence.

General requirements for impact assessments at European level: stressing that impact assessments are an important aid to smart and better lawmaking during the whole policy cycle which the makers of EU law should exploit more often in order to help them evaluate more effectively the economic, social, environmental and health related consequences of their policy options, Members emphasise that impact assessments should play a key role throughout the whole policy cycle, from design to implementation, enforcement, evaluation and to the revision of legislation and that they should be considered as a prerequisite for high-quality legislation and correct transposition, application and enforcement.

The report stresses that an impact assessment is in no way a substitute for political debate and the legislator’s decision-making process. They must respond to a certain number of standards. To summarise, they:

- need to be carried out in the early stages of policy development;
- should be completely independent and should always be based on an objective, reasoned analysis of potential effects;
- should involve external experts from all policy areas as well as all stakeholder groups affected in the impact assessment process in order to guarantee independence and objectivity;
- require the maximum of transparency when being drawen up, including the early publication of comprehensive Road Maps of proposed legislation to ensure equal access to the legislative procedure for all stakeholders;
- should be scrutinised by Member States *ex ante*, to assess the effects of proposed legislation on national laws and public policies;
- should be a suitable instrument for verifying the relevance of Commission proposals, and in particular compliance with the principles of subsidiarity and proportionality, and for explaining more clearly to the co-legislators and the public at large the reasons behind opting for a given measure;
- should quickly identify the problems such as the consultation of the parties concerned, definition of the objectives to be achieved and the elaboration of strategic policy options;
- should be updated during the course of the legislative process;
- examine the potential implications for small and medium-sized enterprises (SMEs);
- should look into the European added-value in terms of what savings will result from a European solution and/or what supplementary costs would arise for the Member States in the absence of a European solution;
- should consider the implications of choosing a specific European standard instead of an international standard;
- must fully consider the alternatives available to the legislator, which should always include a serious examination of the option of taking no action;
- must not lead to more bureaucracy and unnecessary delays in the legislative procedure;
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should not take place only before the adoption of a legislative text (ex-ante) but should also be carried out after its adoption (ex-post).

Underlining the Commission's primary responsibility for conducting high quality impact assessments of its proposals when exercising its right of initiative in accordance with the Treaty, Members consider it **important for new legislative proposals to be accompanied by an impact assessment**. They note that this may also apply to the simplification and recasting of EU law and to delegated acts and implementing acts pursuant to Articles 290 and 291 TFEU.

Potential for improvement at Commission level: Members stress that the members of the IAB are independent only in formal terms, since they are currently appointed by and subject to the instructions of the Commission President, and cannot therefore be said to be fully independent. They call, therefore, for the members of the IAB to be scrutinized by the European Parliament and the Council prior to appointment and no longer be subject to the instructions of the Commission President. In the interest of greater transparency, the report calls for the publication of the names of all experts and other participants in the impact assessment process as well as of their declaration of interests. It also calls for the involvement of experts from all policy areas as well as all stakeholder groups affected in the IAB's work.

Members make other suggestions, such as:

- stakeholder groups should be given the opportunity, as part of the public consultation process, to comment on impact assessments, and that this should take place in good time, before the Commission proposal is published;
- the Commission, in its impact assessments, should look systematically at the administrative burden imposed by proposed legislation, and always to state clearly which of the options assessed eliminates the most administrative burdens or creates fewest new ones;
- the early publication of documents at every stage of the legislative process, including the publication of the Commission's final impact assessment, as approved by the IAB, before inter-service consultations begins;
- all completed impact assessments by the Commission should be published in a special publication series by the Commission so that they can easily be referenced and searched by the public on a dedicated website.

Potential for improvement at European Parliament level: Members recall that Parliament should make more consistent use of the parliamentary impact assessment, an instrument which is already available. Recourse to a parliamentary impact assessment is particularly necessary when substantive changes to the initial proposal have been introduced. The report recalls further that impact assessments need not form part of a time-consuming study but may also take the form of limited studies, workshops and expert hearings.A standard citation should systematically be included by Parliament in its legislative resolutions, by which a reference is made to consideration of all impact assessments conducted by the EU institutions in the areas relevant to the legislation in question. The presentation of the impact assessment by the Commission to the relevant committees would be a valuable addition to the scrutiny undertaken in the Parliament according to Members.

The report stresses that Parliament impact assessments should be regarded as a corrective to the Commission's impact assessments. The decision to carry out a parliamentary impact assessment must be taken in Parliament's relevant committee with the participation of the rapporteur.

In this context, the report urges that its **Rules of Procedure be amended so as to enable one quarter of the committee's members to order an impact assessment to be carried out**. It also calls for individual Members to have the scope to request small studies to provide them with relevant facts or statistics in areas relating to their parliamentary work, and suggests that such studies may be undertaken by the European Parliament's library to complement its current functions.

Creation of an autonomous impact assessment structure for the European Parliament, and prospects for the future: Members call for the establishment of a common impact assessment procedure to be developed on the basis of a common system and methodology used by all committees. This process should take place under the aegis of an **autonomous structure** which makes use of the Parliament's own resources, for instance by involving the library and the policy departments. Members call for the necessary administrative infrastructure to be created to this end, making sure that any such infrastructure is **budget neutral**, by making use of existing resources. They have already called for a **common methodological approach to impact assessments in the European institutions** and they call on the Council to make more intensive use of impact assessments.