Interpretation and implementation of the interinstitutional agreement on better law-making

2016/2018(INI) - 30/05/2018 - Text adopted by Parliament, single reading

The European Parliament adopted by 497 votes to 76, with 111 abstentions, a resolution on the interpretation and implementation of the Interinstitutional Agreement on better law-making.

Members welcomed the progress made during the first year and a half of implementation of the new Interinstitutional Agreement which entered into force on 13 April 2016. They called for further steps to be taken to fully implement the agreement, the objective of which is to establish more open and transparent relations between the three institutions with a view to delivering high-quality legislation in the interest of EU citizens.

Programming: Parliament welcomed the three Institutions' agreement to reinforce the Union's annual and multiannual programming by means of a more structured procedure with a precise timeline. It considered that priority treatment for certain legislative files agreed upon in joint declarations should not be used to exert undue pressure on the colegislators and that greater speed should not be prioritised at the expense of legislative quality.

The Commission should present more inclusive, more detailed and more reliable Work Programmes and impact assessments should always encompass a thorough and rigorous analysis of the compliance of a proposal with the principles of subsidiarity and proportionality and specify its **European added value**. Parliament encouraged developing efficient legislation geared to developing employment protection and European competitiveness with a particular focus on small and medium-sized enterprises, across all sectors of the economy.

Members considered it essential that parliamentary committees are fully consulted throughout the joint declaration preparation and implementation process and stressed the importance of **transparent cooperation** in good faith between Parliament, the Council and the Commission. In this regard, it reminded the Commission of its obligation to respond promptly to legislative and non-legislative own initiative reports.

Tools for better law-making: Parliament underlined that **impact assessments** may inform but must never be a substitute for political decisions or cause undue delays to the legislative process. Particular attention must be paid to the potential impacts on those stakeholders who have least opportunity to present their concerns to decision-makers, including SMEs, civil society, trade unions and others who do not have the advantage of easy access to the Institutions. They must pay equal attention to the evaluation of **social, health and environmental consequences** in particular, and that the impact on the fundamental rights of citizens and on equality between women and men must be assessed.

Members recalled that the independence, transparency and objectiveness of the **Regulatory Scrutiny Board** and its work must be safeguarded and that the members of the Board should not be subjected to any political control. All of the Board's opinions, including negative ones, shall be made public. In addition, the Commission should clarify how it intends to assess the **cost of non-Europe**, including the cost to producers, consumers, workers, administrations and the environment of the lack of harmonised legislation at EU level.

All **parliamentary committees** should review Commission impact assessments and the Parliament's ex-ante impact assessment analysis as early as possible in the legislative process.

As regards **legislative instruments**, Members stressed the need for consistency between the explanatory memorandum and the impact assessment related to the same proposal. They stressed that the choice of the legal basis for a Commission proposal should be based on objective grounds subject to judicial review. However, Parliament, as co-legislator, should be able to amend the legal basis on the basis of its interpretation of the Treaties.

Delegated and implementing acts: Members reiterated that it is the competence of the legislator to decide, within the limits of the Treaties, and in the light of the case law of the Court of Justice of the European Union, whether and to what extent to use delegated acts and whether and to what extent to use implementing acts. They welcomed the Commission's effort to comply with the deadline for proposing the alignment of all basic acts which still refer to the regulatory procedure with scrutiny (RPS). However, they expressed concern that the Council is trying almost systematically to replace delegated acts with implementing acts.

Members recalled that politically significant elements, such as Union lists or registers of products or substances, should remain an integral part of a basic act and should therefore only be amended by means of delegated acts.

Transparency and coordination of the legislative process: Members called on the Commission to make available and, when feasible, public, all relevant documents relating to legislative proposals, including non-papers, to both legislators at the same time. The **flow of information from the Council** should also be improved. The Council, as a general rule, hold all its meetings in public, as does the European Parliament.

Parliament proposed that the Council meets Parliament at least once during the consultation procedure to allow Parliament to present and explain the reasons for the approved amendments, and the Council to state its position on each of them.

The three EU institutions are reminded that further progress is needed in establishing a dedicated joint **database** on the state of play of legislative files.

Members called on the other institutions to comply with the Treaties and regulations and to observe the relevant jurisprudence in order to ensure that Parliament is immediately, fully and accurately informed **during the whole life-cycle of international agreements**, without undermining the EU's negotiation position, and is accurately informed and involved in the implementation stage of the agreements.

Implementation and application of EU law: when the Member States, in the context of transposing directives into national law, choose to add elements that are in no way related to that Union legislation, such additions should be made identifiable either through the transposing act(s) or through associated documents. In order to **reduce the problems related to 'gold-plating'**, the three Institutions should commit to adopting EU legislation which is clear and easily transposable.

Simplification: Members welcomed the commitment for a more frequent use of the legislative technique of **recasting**. They considered that this technique should constitute the ordinary legislative technique as an invaluable tool to achieve simplification. However, in the event of a complete policy overhaul, the Commission should, instead of using the recasting technique, put forward a proposal for an entirely new legal act repealing existing legislation, so that the co-legislators can engage in broad and effective political discussions and see their prerogatives as enshrined in the Treaties fully preserved.

Parliament also stressed that the **reduction of administrative burdens** does not necessarily mean deregulation and that, in any event, it must not compromise fundamental rights and environmental, social, labour, health and safety, consumer protection, gender-equality or animal welfare standards.