European Union regulatory fitness and subsidiarity and proportionality - report on Better Law Making covering the years 2017, 2018 and 2019

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The Committee on Legal Affairs adopted an own-initiative report by Mislav KOLAKUŠI (NI, HR) on European Union regulatory fitness and subsidiarity and proportionality - report on Better Law Making covering the years 2017, 2018 and 2019.

The report recalled the importance that the principle of subsidiarity as enshrined in Article 5 of the TEU, according to which decisions must be taken at the most appropriate policy level and as closely as possible to citizens and businesses, is constantly respected and that action at EU level is justified in the light of the possibilities available at national, regional or local level, while respecting the following three fundamental processes: retrospective assessment, impact assessment and consultation of stakeholders.

Members recalled for a **revision of the TFEU** and the introduction of a **direct right of legislative initiative of the European Parliament** since the European Parliament directly represents European citizens.

Better law making

The report emphasised the importance of the participation of national parliaments in the process of law-making at EU level. It noted that while the number of reasoned opinions received from national parliaments continued to fall between 2017 and 2019, with no reasoned opinions submitted in 2019, the number of opinions submitted to the Commission and contributions to the European Parliament, including on non-legislative initiatives, remains consistently high, which is testament to the positive and forward-looking engagement of national parliaments with the EU policy cycle. It noted that several of these submissions focused on important institutional issues such as the completion of the Economic and Monetary Union (EMU) and the activation of passerelle clauses. It observed that no proposals received more than four reasoned opinions.

Members regretted the practice whereby ‘efficiency of the institution’s decision-making process’ is routinely invoked to refuse access to legislative preparatory documents, which risks that exceptions to public access to documents become the *de facto* rule. On the other hand, they welcomed the conclusion of the Interinstitutional Agreement on a mandatory Transparency Register for the EU institutions, including the Council.

Impact assessments

The report also emphasised that *ex ante* impact assessments together with stakeholder consultations are important tools to reach well-informed decisions and are a key instrument to ensure that subsidiarity and proportionality are respected and to promote accountability and efficiency. While welcoming the use of better law-making tools, Members stressed the need to simplify these tools and make them easier to understand and use for stakeholders. Impact assessments in general should be improved when it comes to subsidiarity and proportionality.

Review of legislation

The report underlined that the systematic review of legislation plays an increasingly important role for achieving better regulation. It stressed, in this regard, the importance of the European Parliament, the Council and the Commission engaging in a more structured cooperation to assess the application and effectiveness of Union law with a view to its improvement.

Member States are called on to ensure the **swift and consistent transposition, implementation and enforcement of legislation**, and to avoid practices resulting in excessive and unjustified administrative requirements that can undermine the smooth functioning of the internal market.

Members considered that the cooperation between the Commission and the European Parliamentary Research Service could be improved, in order to achieve a streamlined, swift and thorough analysis of legislative action and its substantial amendments, the alternative solutions, their potential costs and benefits, the expected administrative burden, red tape for SMEs and the 'cost of non-Europe'.

The Commission is urged to make even greater use of **recasting and codification procedures** in order to streamline secondary legislation. The report stressed that an open, efficient, transparent and independent administrative and legislative decision-making process is a precondition for high-quality policies and regulation. The introduction of harmonised administrative procedures would contribute positively to good governance and regulatory practices in the EU and reinforce the connection between expert decision-making and democratic legitimacy.

Better law-making objectives need to be **regularly reviewed and evaluated** against the criteria of the better law-making agenda, including monitoring and reporting.