



European Parliament work in the fields of Impact Assessment and European Added Value

Activity Report for 2018

EPRS | European Parliamentary Research Service

Directorate for Impact Assessment and European Added Value

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List of Acronyms

AFCO	European Parliament Committee on Constitutional Affairs
AFET	European Parliament Committee on Foreign Affairs
CCC	European Parliament Conference of Committee Chairs
CoNE	Cost of Non-Europe Report
CULT	European Parliament Committee on Culture and Education
DG	Directorate-General
DG IPOL	Directorate-General for Internal Policies of the Union
EAVA	European Added Value Unit
ECA	European Court of Auditors
ECOS	European Council Oversight Unit
ENVI	European Parliament Committee on Environment, Public Health and Food Safety
EP	European Parliament
EPRS	European Parliamentary Research Service
EU	European Union
EVAL	Ex-Post Evaluation Unit
FEMM	European Parliament Committee on Women's Rights and Gender Equality
IA	Initial Appraisal
IIA	Inter-institutional Agreement
IMCO	European Parliament Committee on Internal Market and Consumer Protection
IMPA	Ex-Ante Impact Assessment Unit
INI	Own-initiative implementation reports
INTA	European Parliament Committee on International Trade
ITRE	European Parliament Committee on Industry, Research and Energy
JURI	European Parliament Committee on Legal Affairs
LIBE	European Parliament Committee on Civil Liberties, Justice and Home Affairs
MEP	Member of the European Parliament
PANA	European Parliament Committee of Inquiry on Money Laundering, Tax Avoidance and Tax Evasion
REFIT	Regulatory Fitness and Performance Programme
RSB	Regulatory Scrutiny Board
STOA	Scientific Foresight Unit
TERR	European Parliament Special Committee on Terrorism

TRAN	European Parliament Committee on Transport and Tourism
TREN	Global Trends Unit

1) Introduction

This is the fifth Activity Report on work undertaken by the European Parliament in the fields of impact assessment and European added value. It summarises work undertaken by the **Directorate for Impact Assessment and European Added Value** (and other services) of the European Parliamentary Research Service (EPRS), between January and December 2018. It focusses on its activities in support of oversight and scrutiny of the executive by parliamentary committees, specifically in the fields of: (i) ex-ante impact assessment; (ii) European added value; and (iii) ex-post evaluation. It also refers to the Directorate's work undertaken in the area of European Council oversight.

Overall, during these twelve months, the Directorate undertook and published a total of 185 pieces of work - all of which are available on the [Parliament's Think Tank](#) and [EPRS intranet](#) sites - representing some 8,000 pages of text.¹

This report is the fifth in a series. A [first Activity Report](#) was published in September 2014, covering the period from June 2012 to June 2014.² A [second report](#) published in April 2016, provided an overview of the work carried out during the eighteen-month period from July 2014 to December 2015.³ A [third report](#), released in March 2017, dealt with activities during the calendar year 2016, whilst a [fourth report](#), published in May 2018, covered the period from January to December 2017.

Background

Being the last full year of the current five-year legislative cycle (2014-19), 2018 was a very busy period for parliamentary committees and the Parliament as a whole. As most work done by the Directorate for Impact Assessment and European Added Value relates closely to the activities of parliamentary committees, this was reflected in a record high demand for the directorate's products and services in support of evidence-based policy-making throughout the EU legislative and policy cycles.

2018 was also the second full year of implementation of the current EU Inter-Institutional Agreement on Better Law-Making (IIA), which entered into force

¹ www.europarl.europa.eu/thinktank and www.eprs.sso.ep.parl.union.eu respectively.

² www.europarl.europa.eu/EPRS/EVAL_Activity-Report_June2012-June2014.pdf

³ www.europarl.europa.eu/EPRS/IA-EAV-Activity_Report-July_2014-December_2015.pdf

in April 2016.⁴ The IIA has provided a new impetus to the joint efforts of the European institutions to boost evidence-based policy-making at the various stages of the legislative and policy cycles, by emphasising the importance of effective programming, enactment and implementation of EU law. The IIA also includes a renewed commitment by the institutions to the use of certain better law-making tools, notably ex-ante impact assessment, advance public and stakeholder consultation, and ex-post policy evaluation of existing legislation.

Based on the IIA, the EU institutions have continued their efforts to firmly embed a culture of better law-making in the mind-set of all stakeholders and actors at all levels of policy preparation, decision-making and policy review. This includes increased attention to the notion of 'European added value', to better explain and justify the reasons for political initiatives undertaken at European level, as well as an assessment of the 'cost of non-Europe' in the absence of appropriate action at Union level. The aim of these efforts is to generate European legislation of the highest possible quality (in terms of simplicity, clarity and consistency) for the benefit of European citizens.

While all this constitutes a significant step forward and offers the prospect of further progress in the years to come, it should not be forgotten that common efforts by the EU institutions to enhance the quality of legislation are not new. As long ago as 2002, the European Commission began to accompany many of its various legislative proposals with ex-ante impact assessments, looking notably at the potential economic, social and environmental effects of each measure put forward. Some basic provisions in respect of such assessments were already included in the first Inter-institutional Agreement on Better Law-Making, which was signed jointly by the Commission, Parliament and Council in December 2003.⁵ Subsequently, in July 2005, the three institutions agreed on a Common Approach to Impact Assessments, which built on these commitments in greater detail.⁶

In a series of annual reports on better law-making, drafted by its Legal Affairs Committee (JURI), the European Parliament successfully encouraged the Commission to move to the (current) situation whereby every significant legislative proposal is now supposed to be accompanied by an ex-ante impact assessment (IA), sometimes running to several hundred pages.

⁴ [http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32016Q0512\(01\)&from=EN](http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32016Q0512(01)&from=EN)

⁵ *Official Journal*, 31:12:03 (2003/C 321/01).

⁶ NT/551/551547 PE 353.887.

In line with this spirit, the Parliament also began a limited amount of own ex-ante impact assessment work. Between 2004 and 2010, there were 29 occasions on which parliamentary committees undertook their own analyses of Commission IAs, in various forms, or did some kind of further, complementary work on them.

To assist the Parliament's committees in undertaking impact assessment work, the Conference of Committee Chairs (CCC) adopted an *Impact Assessment Handbook* in 2008. This was subsequently updated in November 2013, and then again in September 2017, in the latter case, to take account of the new Inter-Institutional Agreement. The *Handbook* in its current form is included as an annex to this Activity Report.⁷

In June 2011, the Parliament adopted an own-initiative report (Niebler Report) on 'guaranteeing independent impact assessment', which welcomed the ongoing development of the impact assessment process as an important aid to the legislator, and argued that the concept of 'impact assessment' in its broad sense, should be applied throughout the policy cycle - on both an *ex-ante* and an *ex-post* basis - from the design of legislation through to its implementation, evaluation and possible revision.⁸ It also advocated a proper assessment of European added value by the EU institutions, 'in terms of what savings will result from a European solution and/or what supplementary costs would arise ... in the absence of a European solution'. It suggested that, within the Parliament, there should be renewed emphasis on an 'integrated impact assessment process', underpinned by the development of a stronger common procedure and methodology for use in parliamentary committees.

Parliamentary structures and support

In response to the 2011 Niebler Report, and with a view to strengthening the capacity of parliamentary committees to engage in oversight and scrutiny work of various kinds, the Parliament's Bureau decided in 2011 to establish a dedicated Directorate for Impact Assessment and European Added Value, which started work in January 2012. The directorate was initially located in the Directorate-General for Internal Policies (DG IPOL); since November 2013, it has formed part of the new **Directorate-General for Parliamentary Research Services** (DG EPRS), otherwise known as the European Parliamentary Research Service.

⁷ www.europarl.europa.eu/EPRS/IA_Handbook_12_September_2017.pdf

⁸ 2010/2016(INI), 8 June 2011.

For reference, DG EPRS as a whole - within which the directorate is now located - aims to provide comprehensive research and analytical support for Members and, where appropriate, parliamentary committees, in all EU policy fields. It is organised into three directorates:

- *Directorate A*: the **Members' Research Service**, which provides tailored briefing and research for individual MEPs, as well as a wide range of publications - in the form of *At-a-Glance* notes, *Briefings*, *In-depth Analyses* and *Studies* - on all EU policies, issues and legislation;
- *Directorate B*: the Directorate for the **Library** (previously in DG Presidency), which provides on-site and online library services of various kinds, as well as handling the Parliament's historical archives and responding to citizens' enquiries; and
- *Directorate C*: the Directorate for **Impact Assessment and European Added Value** (previously in DG IPOL), which provides *inter alia* the products and services detailed in this Activity Report.

The third directorate, the Directorate for Impact Assessment and European Added Value, works to strengthen the Parliament's capacity for scrutiny and oversight of the executive at successive stages of the policy cycle - generating analysis in-house wherever possible and drawing on outside expertise as necessary - as well as contributing to the quality of law-making itself. European Parliamentary committees may commission a variety of products and services from the directorate to support their work in these fields.

Since July 2014, the Directorate for Impact Assessment and European Added Value has included the following **three units providing direct support to parliamentary committees** in various aspects of their oversight and scrutiny roles:

- the **Ex-Ante Impact Assessment Unit (IMPA)**, which undertakes an *initial appraisal* of the quality of each impact assessment accompanying the legislative proposals produced by the European Commission, checking that certain criteria are met and identifying the basic methodological strengths and weaknesses of the Commission impact assessment. At the request of individual committees, the unit can then provide *detailed appraisals* of the quality and independence of Commission impact assessments, or *complementary* or *substitute impact assessments* on aspects of a legislative proposal not dealt with adequately (or at all) by the Commission. At the

request of the committee concerned, the unit can also undertake *impact assessments of substantial amendments* to the Commission proposal. (In accordance with the procedures laid down in the Conference of Committee Chairs' *Impact Assessment Handbook*, the latter are always carried out by external experts);

- the **European Added Value Unit** (EAVA), which analyses the potential benefit of future action by the Union through *Cost of Non-Europe Reports* in policy areas where greater efficiency or a collective good could be realised through common action at European level. The unit also provides *European Added Value Assessments* to set out the rationale for legislative initiative reports put forward by parliamentary committees and it analyses the added value of existing EU policies in practice; and
- the **Ex-Post Evaluation Unit** (EVAL), which assists committees in ex-post evaluation work - including on the transposition, implementation and enforcement of EU policy or law at national level - notably by providing *European Implementation Assessments* to support own-initiative (INI) implementation reports being undertaken by parliamentary committees. Other ex-post evaluations, not linked to such reports, are also provided to committees on request. It also generates 'rolling check-lists' and synoptic overviews on relevant issues, and 'implementation appraisals' of the operation of existing legislation in practice, notably whenever a new proposal to update such legislation is announced in the Commission's annual work programme.

In addition, the **European Council Oversight Unit** (ECOS) provides horizontal analytical support to both parliamentary committees and Members as a whole, by monitoring and analysing the delivery of the European Council in respect of the commitments made in the conclusions of its meetings, as well as of its various responsibilities either in law or on the basis of intergovernmental agreements. The unit maintains a rolling check-list of all such commitments and/or responsibilities, provides routine briefing notes on their degree of attainment within the Council system, and undertakes detailed research in this field.

As of December 2018, 43 persons - comprising four heads of unit, 30 policy analysts, a special adviser, two national experts and six assistants - were assigned to work in the fields described above.

For reference, the Directorate for Impact Assessment and European Added Value also includes a **Scientific Foresight Unit** (STOA), which undertakes work specifically in the field of science and technology assessment for the Parliament's **Panel for the Future of Science and Technology** (STOA Panel), as well as a **Global Trends Unit** (TREN), which analyses medium- and long-term trends facing the European Union and the resulting potential policy challenges and choices for policy-makers.

In November 2012, the Parliament's Conference of Presidents tasked the **Conference of Committee Chairs** (CCC) with 'coordinating the parliamentary committees' approach towards impact assessment and European added value, and supervising the Parliament's work in this area, as well as developing a more consistent and integrated approach to the matter' (PE 499.457/CPG 28/38). The Directorate sends a monthly update of all completed, on-going and planned work to the CCC, of which the latter body takes note at its monthly meeting during each part-session in Strasbourg.

The **Parliament's 2018 budget** provided for €0.9 million (Budget item 95-0-3210-01) for the purpose of acquiring, as necessary, external expertise in the fields of impact assessment and European added value, in order to support the institution's activities in these fields. During the twelve-month period under review, 28 public procurement procedures were launched, for a total committed value of €486,680. Of this figure, 7.7 per cent (€37,400) was used for ex-ante impact assessment work, 41.7 per cent (€202,930) for European added value work, and 50.6 per cent (€246,350) for ex-post evaluation. In all, work was commissioned in support of on-going work by nine parliamentary committees. These were: for AFCO: €12,500; AFET: €32,000; AGRI: €30,000; ENVI: €51,280; ENVI/AGRI jointly: €118,850; IMCO: €15,000; INTA: €30,000; JURI: €125,700, LIBE: €56,450 and PECH: €14,900.

In April 2014, a framework contract, divided into eleven lots, had been concluded for the contracts in the fields of ex-ante impact assessment and European added value. Since March 2016, a second framework contract, divided into twelve lots, has been in operation for the conclusion of contracts in the field of ex-post impact assessment and evaluation. In addition, in April 2015, the Parliament published a multiannual call for expressions of interest (CEI), with a view to compiling a list of experts for the provision of external expertise in the fields of ex-ante impact assessment, ex-post evaluation and foresight, for use as necessary. Negotiated procedures are also used in some cases, if appropriate. The renewal of arrangements for both ex-ante and ex-post work is currently being undertaken. The directorate may also use the

framework contracts of other administrative services, notably of the Directorate-General for Internal Policies (IPOL), if this is required.

Recent developments and outlook

The precise rhythm of the work of the various units within the Directorate for Impact Assessment and European Added Value varies depending on the balance between pro-actively generated background analysis for parliamentary committees and more detailed work undertaken in response to specific requests for detailed research from committees.

In general, the workload and output of the directorate has increased fairly steadily over the years since its creation. This trend reached its peak in 2018, because of both enhanced (cyclical) parliamentary activity and a greater interest by parliamentary committees in the directorate's products and services in the better law-making fields.

As the European Commission tends to produce most of its legislative proposals during the middle and latter part of its five-year term of office, the directorate produced a record number of Initial Appraisals of Commission impact assessments during 2018, including of impact assessments for MFF-related spending programmes. Many of the latter did not fully meet the quality standards of regular impact assessments, although the Commission at least made an effort to accompany these proposals with impact assessments when forwarding them to the co-legislators for consideration.

Unfortunately, contrary to the political commitment to provide impact assessments for all proposals of major potential impact, the Commission failed to provide impact assessments for a third of proposals (11 out of 34) which the Parliament, Council and Commission had jointly deemed to be priority files - namely, ones of strategic importance and earmarked for rapid adoption.

In parallel, parliamentary committees have continued to pay increased attention to the evaluation of existing policies, and to focus on their implementation and effectiveness on the ground. This has resulted in a continuously increasing demand for implementation-related work throughout this parliamentary term. By April 2019, the Parliament, in line with this trend, will have adopted more than double the number of Implementation Reports that it did during the previous five-year legislative term.

For its part, European added value work, in its various forms, is undertaken fairly continuously throughout the legislative term, although it has recently been requested for new policy areas previously not covered by our research, notably in the fields of civil liberties and international trade.

In general, the new IIA on Better Law-Making has provided guidance on a number of important issues of direct relevance to the work described in this Activity Report. As well as reinforcing existing mechanisms related to ex-ante impact assessment and making reference for the first time to the importance of 'European added value' and the 'cost of non-Europe' in identifying the potential for European-level initiatives, it also includes a specific chapter on the ex-post evaluation of existing legislation, which now forms an important part of the text.

On 15 May 2018, the Parliament adopted an own-initiative report on the interpretation and implementation of the Inter-institutional Agreement on Better Law-Making, thus providing a first political judgement on the results of the IIA reached so far. This was based on intensive work organised and led jointly by the Parliament's Legal Affairs Committee (JURI) and Constitutional Affairs Committee (AFCO) (Rapporteurs: Pavel Svoboda (EPP, CZ) and Richard Corbett (S&D, UK)). This involved input from many committees and services, and provided additional stimulus and insight on how best to exploit the potential of the new agreement within the Parliament.

Based on this and other inputs, the Commission has now embarked on its own stock-taking exercise of its Better Regulation policy, in order to evaluate from their perspective what actually worked and how to improve its functioning in the future.

Whilst there is a common understanding that better law-making as a philosophy and guiding principle, is here to stay, evidence-based policy-making has come under threat in various forms, including from a generalised attack on the role of truth and fact in public policy. Nevertheless, within the Parliament, there seems broad agreement that the use of better law-making tools can contribute positively to better legislation, on the condition that these tools remain a support for, and do not become a substitute for, political decision-making, and that they do not unduly delay the legislative process.

As reflected in the IIA, the three main EU institutions - the Parliament, Council and Commission - seem to share the same aspirations as far as the achievement

of genuinely 'better' EU law-making is concerned. The challenge for all concerned is to ensure that those aspirations are put into practice as a matter of routine.

To this end, representatives of these three institutions meet on a regular basis at political and administrative level to engage in inter-institutional dialogue and cooperation, to evaluate progress and to find appropriate ways and means to best enhance the quality of the process. The Parliament's Directorate for Impact Assessment and European Added Value, at its level, is part of these discussions. The directorate's main objective, however, remains to supply the institution and its committees with the research and analysis required to help enable it to better evaluate, justify and quantify its legislative priorities and options, and to exercise effective oversight and scrutiny of the executive, at all stages of the EU policy cycle.

For reference, all of the directorate's publications are available for consultation and download on the European Parliament's [Think Tank](#) internet page, as well as on the EPRS [intranet webpage](#) and [blog](#). Studies and in-depth analysis can also be found at the [EU Bookshop](#) of the Publications Office of the European Union.

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2) Work on ex-ante impact assessment

The Ex-Ante Impact Assessment Unit of the Directorate for Impact Assessment and European Added Value has since 2012 developed a series of products and services which provide targetted, timely and specialised support to parliamentary committees in their work on ex-ante impact assessment, covering all policy areas and available at any stage in the law-making process.

The support begins with the proactive provision by the unit of **initial appraisals which provide a critical overview of, and analyse the quality of, European Commission impact assessments** (IAs) accompanying the latter's legislative proposals. These appraisals take the form of short briefing papers, usually of up to eight pages in length, which check that certain quality criteria have been met and identify the basic methodological strengths and weaknesses of the Commission's text, in the light of the latter's own [Better Regulation Guidelines](#) and relevant European Parliament resolutions. At the request of individual parliamentary committees, the unit can provide more **detailed appraisals** of the quality, completeness and independence of Commission IAs, and/or **complementary or substitute impact assessments** on aspects of a legislative proposal not dealt with adequately (or at all) by the Commission in its IA. At the request of the committee responsible, the unit can also undertake **impact assessments of substantial amendments** being considered by the Parliament to a Commission proposal. (Under the provisions of the Parliament's *Impact Assessment Handbook*, such impact assessments of amendments are always carried out by external experts).

Contribution to EP committee work

Between July 2012 and December 2018, the Ex-Ante Impact Assessment Unit produced 244 initial appraisals, six detailed appraisals, five complementary or substitute impact assessments, one full impact assessment and eight impact assessments of EP substantial amendments, covering a total of 42 amendments. During the twelve-month period under review (January-December 2018), the unit produced 64 initial appraisals, one detailed appraisal and one 'ad hoc' impact assessment (whilst also starting work on a complementary impact assessment and a substitute impact assessment).

The unit's work takes account of, but is also not bound by, the Commission's guidelines and toolbox on Better Regulation, updated in July 2017, which cover all stages of the policy cycle, from planning to implementation, including monitoring, evaluation and impact assessment, with 'mandatory requirements

and obligations for each step' (Guidelines 2017, p. 4). As agreed in the [Inter-Institutional Agreement \(IIA\) on Better Law-Making](#), impact assessment is considered as a tool to support political decision-making, not a substitute for it (point 12). Generally, it should involve the ex-ante assessment of all relevant and significant expected impacts, including in any case economic, social and environmental effects.

- *Initial appraisals of Commission impact assessments*

In light of the Parliament's commitment in the [IIA](#) to take full account of the Commission's impact assessments when considering the latter's legislative proposals, the **initial appraisals** of the Commission's impact assessments seek to support the informed and effective consideration of legislative proposals at committee stage by providing a focussed and timely input, geared at promoting evidence-based policy-making. Initial appraisals provide an overview and critical assessment of the content, quality and evidence-base of Commission IAs, and in particular, alert parliamentary committees to their strengths and weaknesses, flagging up issues that Members may wish to scrutinise and investigate further. These initial appraisals may prompt committees to invite the Commission to explain the reasoning and methodology of its impact assessment, to respond to any criticisms or shortcomings identified, and/or to complement its own impact assessment, as foreseen in the IIA. In this context, committees may also request further support from the Ex-Ante Impact Assessment Unit, to address weaknesses or omissions in the Commission's texts.

Consequently, the unit's concise briefings on the quality of the Commission's IAs, provided, whenever possible, at the initial stages of the Committees' consideration of the corresponding legislative proposal, contribute to strengthening the Parliament's role as effective co-legislator and its capacity for scrutiny of the executive. They also raise awareness in the Commission that scrutiny of the quality of impact assessments continues after the Commission's own internal review board, the Regulatory Scrutiny Board (RSB), has considered the draft (not final) impact assessments. This also helps to ensure a more consistent and coherent approach by the Commission to the justification of its proposals and its assessment of their likely effects.

With 2018 being the last full year of the current (2014-19) legislature, it saw a very high number of legislative proposals submitted, accompanied by impact assessments which required appraisal by the Ex-Ante Impact Assessment Unit. Accordingly, the unit significantly intensified its work during the year, with a

total of 64 initial appraisals of Commission impact assessments produced in 2018, compared to 42 in 2017.

The impact assessments appraised by the Ex-Ante Impact Assessment Unit in 2018 were generally found to comply with the formal requirements of the Commission's Better Regulation guidelines,⁹ but this compliance did not always follow through in terms of substance, and a number of impact assessments - in particular in relation to the Multiannual Financial Framework proposals - departed both formally and substantially from the requirements of the guidelines. Overall, in spite of the progress achieved, the quality of the impact assessments analysed varied considerably and was not entirely consistent across the different Commission services, with some recurrent shortcomings already identified in previous years still being found.¹⁰

In line with the clear efforts undertaken by the Commission in this regard, the **evidence-base** of the Commission's impact assessments was solid overall, with relevant and reliable data and extensive internal and external research, as was positively noted in several initial appraisals. At the same time, in several cases, a lack of information, coherence and/or transparency regarding the quality of data, the assumptions underlying the analysis, the use of models and the methodologies of the impact assessments reduced their overall accessibility. Also, contrary to the Commission's commitment in the IIA, impact assessments were not always presented 'in such a way as to facilitate the consideration...of the choices made by the Commission'. In some cases, important information featured in complex annexes, instead of in the main text, making it difficult to find and process. In several other cases, the main support studies of an impact assessment were not publicly available, making it impossible to check the analysis properly, undermining the transparency of the process.

A positive feature was, in many cases, the rather good quality of the **problem definition**. Occasionally, however, the definition was less convincing, and in a few instances the problem to be addressed was identified as being simply the absence of the proposed legislation itself. Generally, the links between the problems, their drivers and the corresponding objectives and policy options

⁹ For a detailed explanation of the features of the Better Regulation Guidelines with regard to ex-ante impact assessment, please see C. Collovà, Ex-ante impact assessment in the European Commission's new Better Regulation Guidelines, Better Law-Making in Action, EPRS, December 2015, available at [http://www.europarl.europa.eu/thinktank/en/document.html?reference=EPRS_BRI\(2015\)528825](http://www.europarl.europa.eu/thinktank/en/document.html?reference=EPRS_BRI(2015)528825)

¹⁰ For typical shortcomings previously identified in IAs, please refer to the analysis of the first 100 initial appraisals of Commission impact assessments produced by the Ex-Ante Impact Assessment Unit between June 2012 and June 2015, available at http://www.europarl.europa.eu/EPRS/IA-EAV-Activity_Report-July_2014-December_2015.pdf

were clear. However, the three categories of **objectives** set out in the Better Regulation Guidelines - general, specific and operational - were not found in all impact assessments. Furthermore, the distinction between the categories of different objectives and their definition remained sometimes unclear. Compliance with the so-called 'SMART' (specific, measurable, achievable, realistic and time-bound) criteria in the Better Regulation Guidelines was not always immediately apparent, especially for the operational objectives, which were often too broadly formulated and rarely time-bound.

In general, the Commission clearly made efforts to provide more **quantification of impacts**, in line with the increased focus put on quantification in the revised Better Regulation Guidelines. However, this remained challenging, either due to limited availability of reliable data, or, conversely, due to a great complexity of both data and modelling methods. The Commission usually acknowledged such limitations, but did not always provide transparent explanations in this respect. Other issues identified in the initial appraisals concerned the fact that economic impacts continued to be afforded greater attention, at the expense of environmental or social impacts, for example, and that the options considered, albeit sufficiently broad in their range overall, did not always constitute realistic/viable alternatives, sometimes pre-empting the choice of the preferred option. In several cases, the description (and substantiation) of the options, including the baseline scenario, were considered insufficient.

The lack of depth or quality of the analysis of impacts on SMEs and competitiveness remained also an issue in 2018, with the majority of impact assessments only briefly and/or generally discussing these impacts, and very few engaging in the SME test, as defined in the Better Regulation Toolbox (tool 22).

The Commission's revised Better Regulation Guidelines explicitly mention that, where possible, the '**cost of non-Europe**' should be identified, in line with the Commission's commitment in the IIA on Better Law-Making (Toolbox 2017, p.69). However, it was found that whilst the majority of impact assessments appraised in 2018 looked generally at the added value of the legislative initiatives, they did not specifically assess the cost of non-Europe.

Despite the greater attention afforded to **stakeholder consultation** in the revised Better Regulation Guidelines, which also corresponds to the Parliament's requests on the matter, the mandatory twelve-week, open public consultation period was not respected in all cases, with instances where no public consultation or only a shorter public consultation was conducted. When

carried out, open public consultations were also frequently limited in terms of replies or representativeness. The outcomes of stakeholder consultations were generally presented in a dedicated annex of the impact assessments along with the views of the different stakeholders. In some instances, however, information on the stakeholders - regarding their number, type or breakdown - was missing or rather vague, with recurring use of ambiguous statements such as 'the majority of stakeholders think that...'.

Ex-post monitoring and evaluation requirements were included in a more systematic way than before and generally accompanied by relevant indicators. The legislative proposals themselves were usually aligned with the impact assessment, even if in some cases, technical details went beyond the impact assessment or suggested monitoring mechanisms were not referred to in the proposal itself.

Last, but not least, with the end of the five-year legislature approaching, many 2018 Commission impact assessments appear to have been prepared under substantial time and/or political pressure. Time constraints were cited explicitly in a number of cases to justify the lack of, or shorter, stakeholder consultations, for example. This problem is also evident in some cases in the short time-span between the RSB's first, negative opinion on an impact assessment and its second, positive opinion, or in the short time between the 'positive with reservations' opinion and the adoption of the proposal, raising questions as to how significant the changes incorporated in that time could really be.

The increasing time-pressure was also evidenced by the growing tendency to run ex-ante impact assessment and ex-post evaluation work in parallel, instead of keeping with the normal sequence of running the evaluation first, in order to feed into the subsequent impact assessment. Overall, this practice was not found to contribute to the quality of either the evaluation or the impact assessment, because of the different methodologies applied to ex-ante and ex-post work and because of the challenges posed in running a single stakeholder consultation that would strike a balance between backward-looking and forward-looking questions.

Severe time constraints and political pressure appear to have also been decisive when it came to the impact assessment process for the legislative proposals tabled for the **next Multiannual Financial Framework** (MFF). The Commission President, Jean-Claude Juncker, had committed, in his 2017 State of the Union address, to present all MFF-related legislative proposals by May/June 2018,

where the proposals for the spending programmes were presented almost in parallel with the proposal on the overall financial framework. In this context, the MFF proposals on spending programmes were accompanied by ‘simplified’ impact assessments, with their format and scope differing considerably from the standard impact assessments, as defined in the Commission's Better Regulation Guidelines (see also Toolbox 10 Financial Programmes and Instruments).

In fact, the **initial appraisals of the majority of the 19 MFF impact assessments** found that these did not comply with many of the requirements set out in the Better Regulation Guidelines and in the IIA (point 12). While the description of the problem and lessons learned from previous programmes were considered pertinent in most cases, the impact assessments focussed principally on presenting the expected positive effects of the proposals, rather than providing a balanced assessment of *alternative* policy options and assessing all relevant direct and indirect impacts. Furthermore, the Commission conducted six online public consultations for the MFF proposals, clustered by policy area, instead of carrying out an online public consultation for each impact assessment, as normally required by the Better Regulation Guidelines. Instead of the mandatory 12-week duration, these consultations ran for eight weeks, and in some cases, hardly covered the subject matter of some proposals.

Overall, the level of analysis conducted and the extent of the departure from the standard methodology and format of impact assessments observed in these files was found to be questionable by the Ex-Ante Impact Assessment Unit and was generally considered to weaken these impact assessments’ potential to inform the decision-making process.

Finally, most Commission’s impact assessments were generally transparent about the recommendations for improvements made by the RSB and indicated how they had addressed them in a specific annex, as required by the Better Regulation Guidelines. However, compliance with those recommendations as regards their substance was not always apparent. The requirement in principle for a positive opinion from the RSB on the impact assessment prior to the adoption of the proposal appears to have been respected in the impact assessments appraised in 2018.

A full **list of the 64 initial appraisals** of Commission impact assessments produced in 2018, with hyperlinks, can be found on pages 27-30, below.

- **Detailed Appraisal of Commission Impact Assessments**

The Ex-Ante Impact Assessment Unit can also prepare, at the request of parliamentary committees, detailed appraisals of Commission impact assessments. Paragraph 11 of the Parliament's *Impact Assessment Handbook* states that 'a committee, on the basis of a decision by the coordinators, may ask the Ex-Ante Impact Assessment Unit to provide a detailed appraisal of the quality and independence of the Commission's impact assessment...The appraisals...are drawn up by the Ex-Ante Impact Assessment Unit, or where necessary, commissioned from external experts. The scope of the assignment is to be defined by the requesting committee itself.'

In 2018, the Ex-Ante Impact Assessment Unit carried out an in-house detailed appraisal of the impact assessment accompanying the third amendment of the **Carcinogens and Mutagens Directive** on the protection of workers from the risks related to exposure to carcinogens or mutagens at work (COM (2018)171), which would establish binding occupational exposure limit values (OEL) for five carcinogenic chemical agents. This followed a request from the Parliament's Committee on Employment and Social Affairs (EMPL) in October 2018, focussed on the process and evidence-base used in the impact assessment for setting the limit values for two of these substances, cadmium and beryllium, as well as on some of the limitations of the analysis acknowledged in the impact assessment.

As regards the evidence base for setting the preferred OEL values, the detailed appraisal found that the impact assessment relied on a vast amount of up-to-date and reliable sources, making the overall analysis convincing and robust. As regards the number of workers exposed to cadmium, it concluded that the estimate considered by the Commission's external contractors for their modelling (and taken over in the impact assessment), was coherently justified and reasonable (based on the availability of data at national and EU levels, and the way some of them were gathered). As regards the estimated number of workers exposed to beryllium, the study concluded that the value identified in the IA, appeared to be plausible, based on the justifications provided.

In line with the Employment Committee's request, a draft version of the detailed appraisal was provided to the committee within four weeks, on 13 November 2018, in time for the committee's vote, which also included a mandate to open inter-institutional negotiations on this file. The final version of the detailed appraisal was delivered on 13 December 2018 and published four days later. The EMPL Committee considered the usefulness of the detailed

appraisal of the impact assessment to be substantial, as it allowed the elimination of the doubts of some Members regarding cadmium, in particular.

- *'Ad hoc' Impact Assessment*

The Parliament's *Impact Assessment Handbook* provides that, 'apart from impact assessment work referred to in this Handbook, parliamentary committees may ask the Ex-Ante Impact Assessment Unit to produce other work related to impact assessment according to specific needs. The modalities for the performance of such work are to be agreed on an ad hoc basis between the committee responsible and the Ex-Ante Impact Assessment Unit.' (Paragraph 26, footnote 18).

In this context, the Ex-Ante Impact Assessment Unit carried out, at the request of the Parliament's Committee for Legal Affairs (JURI), a pilot project in producing a full impact assessment, by way of a follow-up to the Parliament's legislative own-initiative [resolution for an open, efficient and independent European Union administration](#) of June 2016. The resolution included the specific proposal for a draft regulation in this field (which closely followed the main recommendations included in another resolution on the matter, adopted in 2013) and invited the European Commission to examine the suggested proposal for a regulation and to come forward with a legislative proposal to be included in its work programme for the year 2017.

In November 2016, the Commission replied that it was 'not convinced that the benefits of using a legislative instrument that would codify administrative law would outweigh the costs', adding that the text proposed by the Parliament did not 'assess the concrete impact of the provisions it contains'. This prompted the JURI Committee to ask the EPRS to conduct an impact assessment for the Parliament to analyse the costs and benefits of possible alternative options - in particular, their impact on the accessibility of the EU administration, their impact on the transparency of the EU administration, the extent to which they would guarantee legal certainty and adequately protect citizens' rights, and their impact on trust in the institutions and on the efficiency and effectiveness of administrative procedures.

The Ex-Ante Impact Assessment Unit presented the requested impact assessment at a JURI Committee hearing on 10 July 2018. This impact assessment process was accompanied by an open public consultation, run with the assistance of the European Added Value Unit of EPRS, which was open to respondents worldwide from 15 December 2017 to 9 March 2018, in all official

EU languages. 166 fully completed online responses were received from people in 20 Member States.

The impact assessment compared the option of 'doing nothing' with two alternative policy options: (i) making the 2001 Code of Good Administrative Behaviour binding, and (ii) adopting the regulatory framework proposed by the Parliament in 2016. It concluded that adopting the Parliament's regulatory framework would be the preferred option, since it would lead to clear advantages in terms of cost savings for the public, as well as in accessibility, transparency, legal certainty and predictability, and in the legitimacy of, and trust in, EU institutions. This option would also offer additional advantages in terms of its compatibility with Member States' administrative law and readiness for the transition towards e-government and e-administration tools, which promise further efficiency increases in the EU administration.

At the hearing in July 2018, the impact assessment was well received by the Rapporteur of the 2016 resolution, Heidi Hautala MEP, and by the Members of the JURI Committee. Frans Timmermans, First Vice-President of the European Commission, who was present for the hearing, expressed his gratitude for the work performed by the Parliament and indicated that the Commission would carefully examine the outcome of the impact assessment and continue working with the Parliament on all options and arguments in this field.

- *Other impact assessment work*

In 2018, the Ex-Ante Impact Assessment Unit continued to improve its procedures for the early identification and tracking of legislative files, including in particular those not accompanied by a Commission impact assessment but for which one might be considered justified, and continued informing parliamentary committees accordingly. There were several such instances in 2018, with some Commission proposals containing no, limited or unconvincing explanations for the absence of impact assessments. It is noteworthy that, as was the case for the 2017 joint declaration between the Parliament, the Council and the Commission, about one third of the new legislative proposals included in the joint declaration on the EU's legislative priorities for 2018-19 (11 out of 34) were not accompanied by an impact assessment, despite the Commission's commitment in the IIA on Better Law-Making to do so for initiatives included in the Commission Work Programme or the joint declaration.

Urgency in the context of political priorities established by the European Council was often given as reason for the absence of an impact assessment, but

this claim does not appear to be entirely justified in all cases. Among the 2018 proposals in the joint declaration, the absence of ex-ante impact assessments affected in particular files in the policy fields of citizens' security and migration. The increasing time-pressure under which Commission impact assessments were produced also appears to have had an effect on the publication of the corresponding, up-stream, 'inception' impact assessments, with several instances where no inception impact assessment was published, therefore denying stakeholders the opportunity to provide an early input in the process.

The Ex-Ante Impact Assessment Unit remained committed to raising awareness within the Parliament of inter-institutional undertakings and best practice in the area of ex-ante impact assessment. The unit also continued to enhance the visibility of its work, both within the Parliament and among external stakeholders. For example, it presented its initial appraisal of the impact assessment accompanying the Commission proposal on the European Labour Authority to a workshop of the EMPL Committee in May 2018 and it participated actively in a number of 'legislative project teams' throughout the year. The unit's contacts with an increasing number of committees, notably through its active participation in the inter-directorate-general steering groups within the Parliament's administration confirm a rising curve of interest across the institution in ex-ante impact assessment work. Increased awareness of the value of ex-ante impact assessment as an aid to decision-making can also be gauged through the increased enquiries received from committee secretariats, political group staff and Members' offices requesting advice on the existing possibilities and modalities for the performance of such work. The unit also presented its activities at KU Leuven and Maastricht Universities and to a regular flow of national parliamentary and/or oversight institutions.

As in previous years, the Ex-Ante Impact Assessment Unit maintained close contacts with other EU institutions by exchanging information on best practice and methodologies relating to ex-ante impact assessment. Within the context of the Council's pilot project on impact assessment, the unit made presentations to, and had exchanges with, the Council secretariat to discuss the Parliament's experience in the field of ex-ante impact assessment. The unit also had regular exchanges with the Commission's own impact assessment unit and has been following closely the current stock-taking of the Better Regulation policy launched by the Commission.

At the end of 2018, the unit started working on two important new committee requests for impact assessment work, namely, a complementary impact assessment on a multi-annual plan for the Western Mediterranean Sea, at the

request of the Fisheries Committee (PECH), and a substitute impact assessment on the proposed recast of the return directive, at the request of the Civil Liberties, Justice and Home Affairs Committee (LIBE). In the latter case, the Commission has presented its legislative proposal without an impact assessment. These studies will be published in spring 2019.

Publications

The following publications in the field of ex-ante impact assessment were produced between January and December 2018:

Initial appraisals of European Commission Impact Assessments (64)

- [European Market Infrastructure Regulation - Authorisation of central counterparties \(CCPs\) and recognition of third-country CCPs](#), January 2018, PE 611.002.
- [Common rules for certain types of combined transport of goods](#), January 2018, PE 611.034.
- [Rail passengers' rights and obligations](#), January 2018, PE 611.033.
- [Review of CO2 emission standards for new cars and vans](#), January 2018, PE 615.640.
- [Access to the international market for coach and bus services](#), January 2018, PE 615.641.
- [Free flow of non-personal data in the European Union](#), February 2018, PE 615.647.
- [Interoperability between EU information systems for security, border and migration management](#), February 2018, PE 615.649.
- [EU free trade agreement with Australia and New Zealand](#), February 2018, PE 615.648.
- [Transparent and predictable working conditions](#), February 2018, PE 615.650.
- [Port reception facilities for the delivery of waste from ships](#), March 2018, PE 615.659.
- [Clean Vehicle Directive](#), March 2018, PE 615.654.
- [Revision of the drinking water directive](#), March 2018, PE 615.661.
- [Strengthening the market surveillance of products](#), March 2018, PE 615.652.
- [Mutual recognition of goods lawfully marketed in another Member State](#), March 2018, PE 615.657.

- [A renewed partnership with the countries of Africa, the Caribbean and the Pacific](#), April 2018, PE 615.670.
- [Rates of value added tax](#), April 2018, PE 615.677.
- [Revision of the visa code](#), April 2018, PE 615.671.
- [A framework for EU covered bonds](#), May 2018, PE 615.679.
- [European Labour Authority](#), May 2018, PE 621.820.
- [European crowdfunding service providers for business](#), May 2018, PE 621.814.
- [Multi-annual plan for western Mediterranean demersal fisheries](#), June 2018, PE 621.819.
- [Strengthening EU cooperation on health technology assessment](#), June 2018, PE 621.813.
- [Fostering cross-border investment – Law applicable to the third-party effects of assignments of claims](#), June 2018, PE 621.828.
- [Access to financial data by law enforcement authorities](#), June 2018, PE 621.827.
- [Protection of workers from exposure to carcinogens or mutagens: third proposal](#), June 2018, PE 621.826.
- [Minimum loss coverage for non performing exposures](#), July 2018, PE 621.829.
- [Unfair trading practices in the food supply chain](#), July 2018, PE 621.831.
- [Marine litter: single-use plastics and fishing gear](#), July 2018, PE 621.843
- [Levelling off European cross-border payments in euros](#), July 2018, PE 621.836.
- [Revision of the Explosives Precursors Regulation](#), July 2018, PE 621.839.
- [EU consumer protection rules](#), July 2018, PE 621.825.
- [Improving road infrastructure safety management](#), July 2018, PE 621.840.
- [Security of ID cards and of residence documents issued to EU citizens and their families](#), July 2018, PE 621.846.
- [European production and preservation orders and the appointment of legal representatives for gathering electronic evidence](#), July 2018, PE 621.844.
- [Cross-border distribution of collective investment funds](#), July 2018, PE 621.849.
- [Streamlining measures for advancing the realisation of the Trans-European Transport Network](#), August 2018, PE 621.848.
- [Setting minimum requirements for water reuse](#), September 2018, PE 621.857

- [Setting CO2 emission performance standards for new heavy-duty vehicles](#), September 2018, PE 621.850.
- [Cross-border mobility of companies and use of digital solutions in company law](#), September 2018, PE 621.851.
- [European Regional Development Fund, Cohesion Fund, a cross-border mechanism and Interreg](#), September 2018, PE 627.111.
- [Type-approval requirements for the general safety of vehicles](#), September 2018, PE 621.856.
- [Promoting fairness and transparency in the online platform environment](#), September 2018, PE 627.112.
- [Launching the Digital Europe programme](#), October 2018, PE 627.116.
- [European Social Fund Plus and European Globalisation Adjustment Fund](#), October 2018, PE 627.119.
- [Establishing the Neighbourhood, Development and International Cooperation Instrument](#), October 2018, PE 627.124.
- [Implementation and functioning of the '.eu' top level domain name](#), October 2018, PE 627.122.
- [Reform Support Programme](#), October 2018, PE 627.125.
- [Revision of the Fisheries Control System](#), October 2018, PE 627.132.
- [Establishing the European Defence Fund](#), October 2018, PE 627.121.
- [Establishing the InvestEU programme](#), October 2018, PE 627.133.
- [Establishing the Connecting Europe Facility 2021-2027](#), November 2018, PE 621.858.
- [Promoting the Rights and Values, Justice, and Creative Europe programmes](#), November 2018, PE 627.143.
- [Establishing the European space programme](#), November 2018, PE 627.142.
- [Erasmus 2021-2027](#), November 2018, PE 627.139.
- [Revising the Visa Information System](#), November 2018, PE 627.140.
- [Establishing a programme for the environment and climate action \(LIFE\)](#), November 2018, PE 627.145.
- [The Horizon Europe framework programme for research and innovation 2021-2027](#), November 2018, PE 627.147.
- [Establishing the single market programme](#), November 2018, PE 627.149.
- [Loan servicers and buyers and recovery of collateral](#), November 2018, PE 627.138.
- [Establishing the 'Customs' programme 2021-2027](#), November 2018, PE 627.156.
- [Enabling sovereign bond-backed securities](#), November 2018, PE 627.151.

- [Revising the rules on the re-use of public sector information](#), December 2018, PE 627.157.
- [The migration, borders and security cluster of the 2021-2027 MFF](#), December 2018, PE 627.158.
- [European Maritime Single Window environment](#), December 2018, PE 627.160.

Detailed Appraisals of Impact Assessments (1)

- [Protection of workers from exposure to carcinogens or mutagens: Third proposal](#), December 2018, PE 627.144.

Impact Assessments (1)

- [Possible action at EU level for an open, efficient and independent EU administration](#), July 2018, PE 621.841.

Each of these publications can be accessed by clicking on the **hyperlinks** above (in the electronic version of this Activity Report) or through the EPRS catalogue of research publications.

3) Work on European added value

The **European Added Value Unit** analyses the potential benefit of future action by the European Union. It mainly provides three types of services to EP committees, drawing on external expertise if necessary:

- **European Added Value Assessments (EAVAs)** to evaluate the potential impacts of, and identify the advantages of, proposals made in **legislative own-initiative reports** by the Parliament, based on Article 225 TFEU. These assessments are undertaken on an automatic basis once the drafting of a legislative initiative report by a parliamentary committee has been authorised by the EP Conference of Presidents. (They may also explain the legal and practical basis for EU policy actions, and consider any subsidiarity or proportionality issues);
- **Cost of Non-Europe Reports (CoNEs)** on policy areas where there is significant potential for greater efficiency and/or the realisation of a 'public good' through common action at EU level, and where such action is currently absent. These reports are normally drafted at the request of committees;
- **European Added Value in Action** briefings to analyse the added value of existing EU policies in practice.

During 2018, the European Added Value Unit supported parliamentary committees by producing six European Added Value Assessments (EAVAs), three Cost of Non-Europe Reports (CoNEs), seven European Added Value in Action briefings, and four other publications.

Contribution to EP committee work

In specific support for parliamentary committees' work on legislative initiative reports, drawn-up under Article 225 TFEU, the European Added Value Unit completed **six European Added Value Assessments** in 2018. They were drafted at the request of the Committees on Legal Affairs (JURI), Transport and Tourism (TRAN), Economic and Monetary Affairs (ECON), and Civil Liberties, Justice and Home Affairs (LIBE). Below you will find a short summary of the **six assessments** carried out in 2018 (presented in chronological order):

- A European Added Value Assessment on **odometer manipulation in motor vehicles** was prepared in relation to an own-initiative legislative report by the Parliament's Committee on Transport and Tourism (TRAN). It focussed on potential regulatory and technological solutions, which could limit odometer fraud in cross-border second-hand car sales in the EU. It found that this malpractice affects up to 50 per cent of used cars traded across the border in the EU, that European consumers bear the main negative effects and that road safety is impacted. The study found that odometer fraud was costing around €8.7 billion per year, and outlined potential policy measures that could be taken at EU level to combat this situation through greater coordination and harmonisation in this field.
- A European Added Value Assessment on a **common EU approach to liability rules and insurance for connected and autonomous vehicles** was prepared for the Parliament's Legal Affairs Committee (JURI). It assessed whether European regulatory action on the civil liability of autonomous vehicles (AVs) is necessary and justified, and if so what would be the expected benefits, as well as costs, of such an initiative. It focussed on the applicability of existing EU civil liability rules, including the EU Product Liability and Motor Insurance Directives, to the expected roll-out of AVs, as well as possible gaps in the application of those rules. It argued for the revision of the current legislative EU framework for liability rules and insurance for connected and autonomous vehicles, to ensure legal coherence and better safeguarding of consumers rights, as well as the generation of potential economic gains of approximately €148 billion per year.
- A European Added Value Assessment on a **pan-European pension product** (PEPP), prepared for the Economic and Monetary Affairs Committee (ECON), found that a PEPP would facilitate cross-border mobility, by providing a simpler pension product for people who have worked or who plan to work in several Member States, and would thus contribute to the free movement of people. The potential economic gain - estimated at around €58 billion per year - derives from supranational operations delivering greater benefits to Member States (increased voluntary pension savings), savers (better and cheaper products, larger variety of products) and service providers (larger customer base, simplified legislation, fewer cross-border transaction costs).

- A European Added Value Assessment, carried out for the Parliament's Committee on Legal Affairs (JURI), analysed the shortcomings of the existing **European Citizens' Initiative** (ECI) procedure and assessed the benefit of the main reform proposals put forward by various stakeholders to improve its functioning. In order to do this, it looked at political and policy added value, and concluded that a reformed ECI could contribute to further solidifying the EU's democratic basis, by bringing the Union closer to its citizens and giving the latter a greater say in policy- and decision-making processes at the European level.
- A European Added Value Assessment on **humanitarian visas**, prepared for the Civil Liberties, Justice and Home Affairs Committee (LIBE), analysed the situation whereby 90 per cent of those granted international protection reach the EU through irregular means. It argued that Member States' failure to offer regular entry pathways to those seeking international protection undermines the achievement of their Treaty and fundamental rights obligations. This situation also has severe individual impacts, in terms of mortality and damage to health, and negative budgetary and economic impacts. It concluded that EU legislation on humanitarian visas could close one of the major effectiveness and fundamental rights protection gaps in EU asylum policy, by offering safe-entry pathways, reducing irregular migration and result in increased management, coordination and efficiency in the asylum process, as well as promoting fair cost-sharing.
- A European Added Value Assessment on **expedited settlement of commercial disputes** in the EU, carried out for the Legal Affairs Committee (JURI), focussed on business-to-business (B2B) commercial litigation and assessed the benefits of taking action to promote competitiveness in this area. It argued that the EU litigation market has strong potential for growth, provided further measures are taken at national and EU levels. It suggested that EU action to expedite settlement of commercial disputes could generate added value for the EU economy in the range of €4.6 to 5.7 billion annually, through an increase in litigation service revenue and a reduction in the opportunity cost to business associated with the length of judicial proceedings.

These European Added Value Assessments resulted in five presentations by the European Added Value Unit to three parliamentary committees - the JURI,

TREN and LIBE Committees - during the course of 2018. All EAVAs, other than that on a pan-European pension product, were so presented in committees.

Three Cost of Non-Europe Reports (CoNEs) were undertaken in 2018, all in relation to the Area of Freedom, Security and Justice (AFSJ). The three form part of a broader, on-going project carried out by the European Added Value Unit for the Committee on Civil Liberties, Justice and Home Affairs (LIBE), to assess the cost of non-Europe in various dimensions of AFSJ. They specifically looked at the cost of non-Europe in the fight against racism and xenophobia, the fight against terrorism, and in asylum policy. All reports aimed at contributing to the work of the LIBE Committee, with a view to preparing the ground for future legislative or other initiatives in these policy areas. Below is a short summary of the three Cost of Non-Europe Reports:

- The CoNE on **equality and the fight against racism and xenophobia** argued that, despite existing EU legislation and action, there are still significant gaps and barriers to equal treatment and to adequate prevention and prosecution of, and compensation for, hate crimes within the Union. It detailed the impact of these shortcomings on the individuals concerned, in terms of denial of their rights and material and immaterial damage, including educational achievement, health status, risk of assault, earnings, housing conditions and pension entitlements. Finally, it looks at some options for EU action that would contribute to closing these gaps and taking further steps to ensure the effective protection of the rights of individuals.
- The CoNE on the **fight against terrorism** estimated that, since 2004, terrorism had cost the EU about €185 billion in lost GDP and around €5.6 billion in lost lives, injuries and damage to infrastructure. In this context, it argued that significant benefits could be achieved by the EU and its Member States by addressing certain gaps and barriers in the area of the fight against terrorism, notably by developing an evidence-based EU criminal policy cycle involving the European Parliament and national parliaments. It also argued that the effectiveness and fundamental rights compliance of counter-radicalisation programmes should be further monitored, that the framework for countering terrorist financing needs to be further refined, and that a European law-enforcement culture should be fostered.

- The CoNE on **asylum policy** argued that current structural weaknesses and shortcomings in the design and implementation of the Common European Asylum System (CEAS) have a number of impacts in terms of fundamental rights protection, as well as significant economic costs - of about €49 billion per year - including costs due to irregular migration, poor living conditions and health, and diminished employment prospects leading to lower generation of tax revenue. The adoption of the policy options identified by the study to address such gaps/barriers could bring about many benefits, including lower levels of irregular migration to the EU and lower costs of border security and surveillance, leading to an economic gain of at least €22.5 billion per year.

The three Cost of Non-Europe Reports resulted in three presentations by the European Added Value Unit to the LIBE Committee.

Analysis of existing added value and other publications

A third type of product, **European Added Value in Action** Briefings, highlights the added value of existing EU policies in practice. Seven such briefings were published in 2018, covering policies such as the **Common Agricultural Policy**, the **free movement of goods, capital and people**, **cohesion policy**, EU action to fight **climate change**, and the EU policy in respect of **intellectual property**. These briefings sought to identify the contribution to the economy and society, and benefits for citizens, of EU action in given policy areas, compared to what would otherwise be the case if Member States simply acted alone.

For example, the Briefing on the **free movements of goods** shows how, thanks to the single market, EU policy has boosted economic growth, competitiveness and therefore employment, with 2.75 million jobs created between 1992 and 2006. The briefing on the **cohesion policy** shows how EU action is helping more than 7.4 million unemployed people to find a job, 8.9 million people to gain new qualifications, and 6.8 million children to gain access to new or modernised schools and childcare facilities.

In addition, the European Added Value Unit supports the work of parliamentary committees through **other publications** drafted at the latter's request.

For instance, in 2017, the unit was requested to support the work of the Legal Affairs Committee (JURI) by organising a public consultation on an **EU law for an open independent and efficient European administration** (otherwise

known as a law of EU administrative procedure). The public consultation resulted in a in-depth analysis produced by the unit in 2018, presenting and analysing the results of that consultation, in order to help the JURI Committee in its work. The public generally supported the view that fragmentation of current rules, procedures and guidelines is problematic for European citizens and that there should be additional measures at the EU level to reinforce the fundamental right to good administration, as provided for in Article 41 of the Charter of Fundamental Rights.

A study on **retrofitting smart tachographs by 2020** was carried out for the Parliament's Committee on Transport and Tourism (TRAN) as part of its work on updating Regulation (EC) No 561/2006 on driving time and rest periods. Using a cost-benefit approach, it analysed the economic consequences of retrofitting smart tachographs in heavy-duty vehicles operating in international transport by January 2020. It argued that such retrofitting should be pursued, but on longer time horizon than that envisaged.

A study on **shell companies in the EU** was requested by the Parliament's Special Committee on Financial Crimes, Tax Evasion and Tax Avoidance (TAX3). It identified the main common features of shell companies in the EU, focussing on the absence of real economic activity in the Member State of registration. It sought to contribute to a better understanding of the phenomenon by seeking to estimate the incidence of such companies, by means of a set of 'proxy' indicators at Member State level. Even if the use of shell companies can be legal, the study underlined that, when associated with anonymity, circumvention of the Posting of Workers Directive or Treaty abuse, they entail serious risks of tax avoidance, tax evasion, money laundering and abuse of social rights. Such misuse of shell companies impact on the economy and society as a whole, with economic, social and security consequences.

All EU Member States have incentives in place to attract foreign investment from non-EU nationals. Most have **Citizenship by Investment (CBI)** and/or **Residency by Investment (RBI)** schemes - known as 'golden passports' and 'golden visas' - providing access to residency or citizenship in exchange for investment and via a clear process. The study on CBI and RBI schemes in the EU analysed the state of play and issues surrounding these schemes and examined the risks these schemes carry regarding corruption, money laundering and tax evasion. It also looked at the economic, social and political impacts of such schemes and explored the potential for EU action in this field.

Mapping the Cost of Non-Europe 2019-24

During 2018, the European Added Value Unit worked intensively on a forthcoming flagship publication, *Mapping the Cost of Non-Europe 2019-24*, to be published in spring 2019. This study will bring together on-going work to identify and analyse the cost of non-Europe in a very broad range of policy fields, and is designed to contribute to the discussion about EU policy priorities over the coming five-year institutional cycle, from 2019 to 2024. The latest publication is the result of a project which has been under way since 2014, with the results of research being updated regularly. In the first edition, in March 2014, an initial figure for the cumulative potential GDP gain from a series of policy initiatives advocated by the Parliament at European level, when fully realised, was estimated at over €800 billion. This figure rose to around €1.75 trillion per year – or 12 per cent of EU-28 GDP (2016) – in the three successive editions of the publication.

Publications

The following publications in the field of European added value were produced from January to December 2018:

European Added Value Assessments (6)

- [Odometer manipulation in motor vehicles: Revision of the legal framework](#), January 2018, PE 615.637
- [A common EU approach to liability rules and insurance for connected and autonomous vehicles](#), February 2018, PE 615.635
- [Pan-European pension product](#), March 2018, PE 615.656
- [The added value of the European Citizens' Initiative \(ECI\) and its revision](#), April 2018, PE 615.666
- [Humanitarian visas](#), October 2018, PE 621.823
- [Expedited settlement of commercial disputes in the European Union](#), December 2018, PE 627.120

Cost of Non-Europe Reports (3)

- [Equality and the Fight against Racism and Xenophobia](#), March 2018, PE 615.660
- [The Fight against Terrorism](#), May 2018, PE 621.817
- [The Cost of Non-Europe in Asylum Policy](#), October 2018

European Added Value in Action (7)

- [Common Agricultural Policy](#), January 2018, PE 611.029
- [Free movement of goods within the EU single market](#), January 2018, PE 615.638
- [An EU intellectual property policy to boost innovation](#), April 2018, PE 615.662
- [The EU: a world leader in fighting climate change](#), May 2018, PE 621.818
- [Free movement of capital within the European Union](#), May 2018, PE 621.822
- [A Europe without internal borders? Free movement of persons](#), June 2018, PE 621.815
- [The added value of European cohesion policy](#), September 2018, PE 621.845

Other publications (4)

- [Retrofitting smart tachographs by 2020: Costs and benefits](#), February 2018, PE 615.643
- [EU law for an open independent and efficient European administration - Summary report of the public consultation](#), July 2018, PE 621.830
- [An overview of shell companies in the European Union](#), September 2018, PE 621.845
- [Citizenship by Investment \(CBI\) and Residency by Investment \(RBI\) schemes in the EU: State of play, issues and impacts](#), October 2018, PE 627.128¹¹

Each of these publications can be accessed by clicking on the **hyperlinks** above (in the electronic version of this Activity Report) or through the catalogue of EPRS publications.

¹¹ Two of these publications (PE 621.845 and PE 627.128) were prepared jointly by the EU Added Value Unit and the Ex-Post Evaluation Unit of EPRS.

4) Work on ex-post evaluation

The Directorate for Impact Assessment and European Added Value provides a wide range of products and services to support parliamentary committees in the growing field of ex-post evaluation of EU law and policy in practice. During the first half of the 2014-19 parliamentary term, this work was undertaken by two parallel units within the Directorate - the **Ex-Post Impact Assessment Unit** and the **Policy Cycle Unit** - and since April 2017, it has been performed by a single merged unit called the **Ex-Post Evaluation Unit**.

The Ex-Post Evaluation Unit provides *inter alia* the following products and services:

- a *central information and support service* on work being done by the European Parliament, European Commission and other bodies on the implementation and effectiveness of EU law and policies in practice, and on all those phases of the EU policy cycle downstream of the adoption of EU law;
- horizontal '*rolling check-lists*' to provide key reference material, in easily accessible form, to assist parliamentary committees in deciding what type of scrutiny of the Commission and EU policies to engage in, and when and how best to undertake it;
- short (four- to twelve-page) *Implementation Appraisals* of the operation of existing EU legislation in practice, whenever a new proposal to update such legislation is foreseen in the Commission's Annual Work Programme. These appraisals are delivered to the relevant parliamentary committee in advance of the latter's consideration of the new proposal in question;
- much longer and more detailed *European Implementation Assessments* on how specific existing EU laws or policies operate in practice, drafted each time a parliamentary committee decides to undertake an own-initiative Implementation Report on an existing EU policy or law, providing a detailed analysis of the experience to date; and
- any **other analyses or studies** on implementation issues as required.

The material generated on ex-post evaluation draws on available in-puts *inter alia* from the EU institutions, including the two Advisory Committees, the European Court of Auditors, from national governments and parliaments, and from any other external consultation and outreach exercises.

Contribution to EP committee work

During the year in question, 15 **European Implementation Assessments** were produced for nine parliamentary committees, to provide them with an evidence-based evaluation for their own-initiative Implementation Reports. They were:

EU legislation

- Regulation (EC) 1107/2009 on the Placing of Plant Protection Products on the Market;
- Directive 2011/7/EU on late payments in commercial transactions;
- Regulation (EC) No 1/2005 on the protection of animals during transport and related operations;
- Directive 2009/128/EC on the sustainable use of pesticides;
- The Generalised Scheme of Preferences Regulation (No 978/2012).

EU policies

- EU Humanitarian aid: Lessons identified and the way forward;
- EU Youth Strategy;
- Association agreements between the EU and Moldova, Georgia and Ukraine;
- Trade agreement between the European Union and Colombia and Peru;
- The Trade Pillar in the EU-Central America Association Agreement;
- EU external financing instruments and the post-2020 architecture;
- Union Customs Code.

EU institutions/process

- Parliamentary scrutiny of the European Commission: implementation of the Treaty provisions;
- EU Agencies, Common Approach and Parliamentary Scrutiny;
- Implementation of the Treaty provisions concerning enhanced cooperation.

In addition, the unit drafted five **other ex-post evaluations** for four parliamentary committees. Three of these studies were produced at the request of the Special Committee on Financial Crimes, Tax Evasion and Tax Avoidance (TAX3) and concerned free ports, golden visas and shell companies; another study was drafted at the request of the Special Committee on Terrorism and concerned the return of foreign fighters to EU soil.

To these studies should be added five **Implementation in Action** Briefings¹². Two were generic - on 'Implementation Appraisals following the Commission Work Programme 2019' and the transposition, implementation and enforcement of EU law - and three dealt with specific pieces of legislation.

These three categories of publications resulted in 13 presentations in committee, and seven other presentations to other EU institutions, think tanks and academia.

During 2018, 15 **Implementation Appraisals** were also produced, to assist seven parliamentary committees in their work. They analysed the implementation, application and effectiveness of existing EU legislation which the Commission has announced will be subject to an amending proposal to update the current text. These appraisals included texts on upgrading EU company law for digital solutions and cross-border operations, road infrastructure and tunnel safety, general arrangements for excise duty, revision of the common visa code / visa information system, the Trans-European Transport Network, cross-border distribution of investment funds, revision of consumer law directives, law enforcement access to financial data, review of the directive on the re-use of public sector information, electronic documents for freight transport, European Single Maritime Window, modernising judicial cooperation, the REFIT revision of the regulation on marketing and use of explosive precursors, the fitness check on reporting and monitoring of environmental legislation and revision of the immigration liaison officers regulation'.

It should be noted that due to the forthcoming end of 2014-19 legislative term, the Commission decided to table all legislative proposals from their 2018 Work Programme before the end of May 2018. As a result, no Implementation Appraisals were produced in the second half of 2018.

Publications

The following publications in the field of ex-post evaluation were produced during 2018:

¹² One being a briefing to parliamentary committees of the Commission's Work Programme 2019 and four being briefings for an Interparliamentary Committee Meeting on 27 November 2018 (Empowering parliaments and enforcing citizens' rights in the implementation and application of Union law).

European Implementation Assessments (15)

- [EU Humanitarian Aid: Lessons identified and the way forward](#), January 2018; PE 615.369
- [EU Youth Strategy](#), February 2018; PE 615.645
- [EU external financing instruments and the post-2020 architecture](#), March 2018; PE 615.636
- [Regulation \(EC\) 1107/2009 on the Placing of Plant Protection Products on the Market](#), April 2018, PE 615.668
- [Association Agreements between the EU and Moldova, Georgia and Ukraine](#), June 2018; PE 621.833
- [Directive 2011/7/EU on late payments in commercial transactions](#), July 2018; PE 621.842
- [Trade agreement between the European Union and Colombia and Peru](#), August 2018; PE 621.834
- [Union Customs Code](#), September 2018; PE 621.854
- [Parliamentary scrutiny of the European Commission: Implementation of the Treaty provisions](#), October 2018; PE 627.115
- [Regulation \(EC\) No 1/2005 on the protection of animals during transport and related operations](#), October 2018; PE 621.853
- [Directive 2009/128/EC on the sustainable use of pesticides](#), October 2018; PE 627.113
- [The Trade Pillar in the EU-Central America Association Agreement](#), October 2018; PE 621.852
- [EU Agencies, Common Approach and Parliamentary Scrutiny](#), November 2018, PE 627.131
- [The Generalised Scheme of Preferences Regulation \(No 978/2012\)](#), December 2018, PE 627.134
- [Implementation of the Treaty provisions concerning enhanced cooperation](#), December 2018; PE 627.152.

Implementation Appraisals (15)

- [Upgrading EU Company Law for digital solutions and cross-border operations](#), January 2018; PE 611.014
- [Road infrastructure and tunnel safety](#), January 2018; PE 611.028
- [General arrangements for excise duty](#), March 2018; PE 615.653
- [Revision of the visa code](#), March 2018; PE 615.646

- [Trans-European Transport Network \(TEN-T\)](#), April 2018; PE 615.664
- [Law enforcement access to financial data](#), April 2018; PE 615.665
- [Revision of consumer law directives \(including injunctions\):the 'New Deal for Consumers'](#), April 2018; PE 615.672
- [Cross-border distribution of investment funds](#), April 2018; PE 615.675
- [Review of the Directive on the Re-use of Public Sector Information \(Directive 2013/37/EU\)](#), April 2018; PE 615.674
- [Electronic documents for freight transport](#), May 2018; PE 615.673
- [European Maritime Single Window](#), May 2018; PE 615.681
- [Modernising judicial cooperation in civil and commercial matters](#), May 2018; PE 615.676
- [Revision of the immigration liaison officers network](#), May 2018; PE 621.810
- [Environmental Reporting Initiative](#), May 2018; PE 615.682
- [Regulation 98/2013 on the marketing and use of explosives precursors](#), May 2018; PE 621.809.

Other ex-post evaluations (6)

- [The return of foreign fighters to EU soil](#), May 2018; PE 621.811
- [Peace and Security in 2018: An evaluation of EU peacebuilding in the Western Balkans](#), May 2018; PE 621.816
- [Money laundering and tax evasion risks in free ports](#), October 2018; PE 627.114
- [Creative Europe Programme \(2014 to 2020\)](#), October 2018; PE 627.127
- [An overview of shell companies in the European Union](#), October 2018; PE 627.129¹³
- [Citizenship by investment \(CBI\) and residency by investment \(RBI\) schemes in the EU](#), October 2018; PE 627.128.¹⁴

Implementation in Action (5)

- [Transposition, implementation and enforcement of Union law](#), November 2018; PE 627.141
- [Mediation Directive 2008/52/EC](#), November 2018; PE 627.135
- [Environmental Impact Assessment Directive 2011/92/EU](#), November 2018; PE 627.136

¹³ In collaboration with the European Added Value Unit.

¹⁴ In collaboration with the European Added Value Unit.

- [Flight Compensation Regulation \(EC\) 261/2004](#), November 2018; PE 627.130
- [Implementation Appraisals following the Commission work programme 2019](#), November 2018; PE 627.146.

Each of these publications can be accessed by clicking on the **hyperlinks** above (in the electronic version of this Activity Report) or through the [EPRS catalogue](#) of research publications.

5) Wider horizontal support

In addition to the various specific products and services referred to above - which are provided by the Directorate for Impact Assessment and European Added Value to support parliamentary committees in their role in providing scrutiny and oversight of the executive - the committees can also draw upon a series of **horizontal analytical publications** prepared for use in the Parliament as a whole.

Scrutiny throughout the policy cycle

In this context, the **Ex-Post Evaluation Unit** acts as a central information and analysis centre for work at all points in the policy cycle, and during 2018, it continued to produce a series of **rolling check-lists**, which bring together in a simple and accessible form a large amount of otherwise disparate or complex material.

These rolling check-lists provide a simple reference tool for all existing EU legislation and international agreements which contain provision for any kind of ex-post evaluation or review, for all ex-post evaluation or review work which is being undertaken by the Commission, and for relevant recent analysis by the Court of Auditors in its special reports. More precisely, the rolling check-lists published in 2018 were:

- A *rolling check-list of review clauses in EU legislation*, which provides parliamentary committees with a structured overview, by subject area and individual legislative act, of such clauses and the timelines for up-coming reviews and other reporting provisions in EU law. This check-list, launched in 2014, is updated yearly, and is now in its sixth edition.
- A *rolling check-list of review and monitoring clauses in international agreements*, which provides an overview of review and monitoring clauses, sunset clauses and management and implementation clauses included in international agreements concluded between the EU and third countries. The check-list features an analysis of both multilateral and bilateral agreements. The part on bilateral agreements includes international agreements concluded between the EU and 125 countries throughout the world, including the US, China, Australia and the Russian Federation, and describes the monitoring and management mechanisms in each of these agreements. This check-list, launched in 2015, is updated yearly, and is now in its third edition.

- *A rolling check-list of the findings of European Court of Auditors' special reports*, which presents a comprehensive overview of these reports, concentrating on those bearing on the annual EU discharge procedure. It summarises the main findings of each ECA special report and seeks to link them to the relevant debates and positions of the European Parliament, including, notably, the working documents of the Budgetary Control Committee, as well as to the work of the specialised parliamentary committees, and to individual Members' questions. This check-list, launched in 2015, is updated yearly, and is now in its fourth edition.

Scrutiny of the European Council

In order to support Members of the European Parliament in their scrutiny role of the executive, the **European Council Oversight Unit (ECOS)** monitors and analyses the delivery on commitments made by the European Council (EU heads of state or government) in the conclusions of its summit meetings, as well as in respect to various responsibilities either in law or on the basis of intergovernmental agreements. The unit's publications take the form listed below.

- *A Rolling Check-List of European Council Conclusions*, which has been published quarterly since 2014, is the core product of the unit. In 2018, it produced a fully revamped version of the rolling check-list, based upon a new methodology. The publication lists EU Heads of state or governments' policy pronouncements by subject area since 2014, distinguishing between four types of European Council conclusions - commitments, reviews, endorsements and statements - indicating the follow-up given to calls for action and the degree of implementation. It also offers an introductory analysis of each policy area, highlighting the background to the main orientations given by the European Council, as well as the follow-up to them and future challenges. To increase the precision of the analysis and enable re-use of the data, the unit has developed a comprehensive database of European Council conclusions and responsibilities. The rolling check-list and the database are updated four times a year.
- *Outlook and Outcome of European Council meetings*: The unit produces timely briefing notes issued in advance of, and following, each European Council meeting, providing respectively an analysis of the outlook for, and the outcome of, these regular summits. The Outlook briefings are accompanied by an At-a-glance note on the *Current membership of the European Council*, including the Heads of State or Governments' political

affiliation at European level. The unit produced 16 Outlook or Outcome Briefings in 2018.

- ***In-house thematic analyses:*** In addition to routine briefings, the unit also analyses the general activities and role of the European Council as an institution. In 2018, it undertook research on the role of the European Council in the Multiannual Financial Framework (MFF) process, in internal security policy, in the field of defence, and with regard to policy towards the Western Balkans. It also carried out an In-depth Analysis, entitled *From Rome to Sibiu: The European Council and the Future of Europe debate*, which assessed the progress achieved in the delivery on the priorities set in the declaration adopted in Rome on 25 March 2017 on the occasion of the 60th anniversary of the Treaties of Rome. The analysis shows that in the first year since Rome, and a year before the special summit on the future of Europe, to be held in the Romanian city of Sibiu on 9 May 2019, substantive progress was made in the implementation of the policy priorities identified in the 'Bratislava Roadmap' and the Rome Declaration.

The European Council Oversight Unit also produced an annual report on the activities of the European Council - entitled *The European Council in 2017: Overview of Decisions and Discussions* - and a Briefing, *The European Council: Facts and Figures*, which provides detailed statistics on this institution, detailing its membership, political make-up over time, historical development and roles, as well as the main topics on its agenda, and the number and format of its meetings.

- ***External studies:*** In 2018, DG EPRS commissioned one piece of research on the European Council from an outside expert, a study on *Relations between the European Parliament and the European Council*. The paper explores the development of relations between the two institutions that have become increasingly central to the operation of the EU political system, especially since the 2009 Lisbon Treaty. It explains the Treaty framework for relations, traces their practical evolution over time, and examines points of contention in the relationship to date, including in relation to 'legislative trespassing' by the European Council and the Spitzenkandidaten process.
- ***Events:*** In addition to its various publications, the unit regularly organises policy roundtables in the EP Library Reading Room looking at the role of the European Council in various policy areas and in the institutional architecture of the European Union. An event in April 2017, entitled 'The European Council since the Rome Declaration', brought together representatives from the EP and the Council, as well as academic experts, to reflect on whether and to what extent the European Council has delivered on commitments made in the Rome Declaration. A second event, held in

November 2018, focussed on 'The rise of the European Council: Implications for the EU's institutional balance', and explored whether the increasing role of the European Council automatically meant that other institutions would see their role reduced or impaired in any way.

Publications

Rolling check-lists (3)

- [Special Reports of the European Court of Auditors: A rolling Check-List of recent findings \(reports relevant for 2016 discharge procedure\)](#), March 2018; PE 615.658
- [International Agreements: A Rolling Check-List](#), March 2018; PE 615.651
- [Review Clauses in EU Legislation: A Rolling Checklist](#) (sixth edition), June 2018; PE 621.821.

European Council conclusions: Rolling check-lists of commitments to date (1)

- [European Council conclusions: A rolling check-list of commitments to date](#), fifteenth edition, December 2018; PE 627.148.

European Council in Action (8)

- [The European Council and the Multiannual Financial Framework](#), February 2018, PE 615.644
- [From Rome to Sibiu: The European Council and the Future of Europe debate](#), April 2018; PE 615.667
- [The European Council and the Western Balkans: Overview of discussions since the Lisbon Treaty](#), May 2018, PE 615.678
- [The European Council's 'rolling agenda' on European defence cooperation](#), June 2018; PE 621.832
- [The European Council in 2017: Overview of decisions and discussions](#), June 2018; PE 621.824
- [European Council: Facts and Figures](#), July 2018; PE 625.119
- [The role of the European Council in internal security policy](#), October 2018; PE 627.118
- [Relations between the European Council and the European Parliament](#), November 2018; PE 630.288.

Pre-European Council Briefings (9)

- [Current membership of the European Council](#), January 2018; PE 608.781
- [Outlook for the meetings of EU leaders, 22-23 March 2018](#), March 2018; PE 615.663
- [Current membership of the European Council](#), March 2018; PE 608.781
- [Current membership of the European Council](#), June 2018; PE 608.781
- [Outlook for the meetings of EU leaders, 28-29 June 2018](#), June 2018; PE 621.837
- [Outlook for the meetings of EU Heads of State or Government, 17-18 October 2018](#), October 2018; PE 627.123
- [Current membership of the European Council](#), June 2018; PE 608.781
- [Outlook for the special European Council \(Article 50\), 25 November 2018](#), November 2018; PE 627.150
- [Outlook for the European Council and Euro Summit, 13-14 December 2018](#), December 2018; PE 627.154.

Post-European Council Briefings (7)

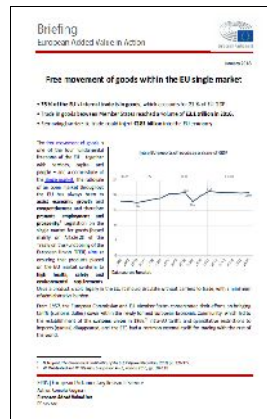
- [Outcome of the meetings of EU leaders, 14-15 December 2017](#), January 2018; PE 611.026
- [Outcome of the informal meeting of the 27 Heads of State or Government, 23 February 2018](#), February 2018; PE 615.655
- [Outcome of the EU leaders' meetings, 22 and 23 March 2018, April 2018](#); PE 615.669
- [Outcome of the meetings of EU leaders, 28-29 June 2018](#), July 2018; PE 621.838
- [Outcome of the meetings of EU Heads of State or Government, 17-18 October 2018](#), October 2018; PE 627.137
- [Outcome of the special European Council \(Article 50\), 25 November 2018](#), November 2018; PE 627.153
- [Outcome of the meetings of EU Heads of State or Government, 13-14 December 2018](#), December 2018; PE 627.155.

Each of these publications can be accessed by clicking on the **hyperlinks** above (in the electronic version of this Activity Report) or through the [EPRS catalogue](#) of research publications.¹⁵

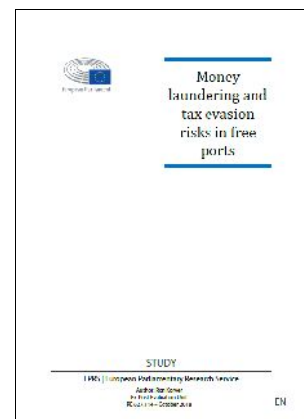
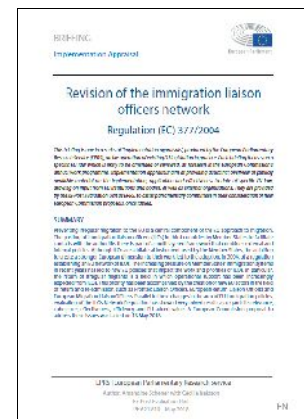
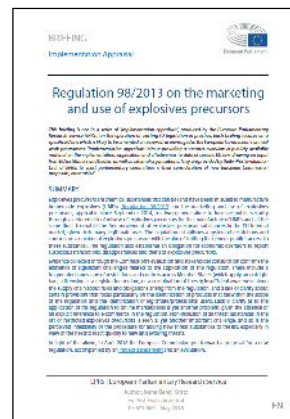
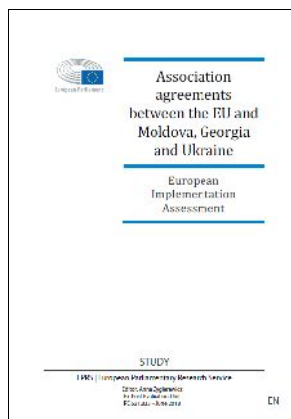
¹⁵ The 2017 version of this catalogue is in the process of being published.

1. Ex-ante impact assessment

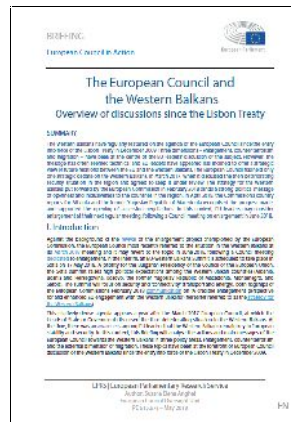
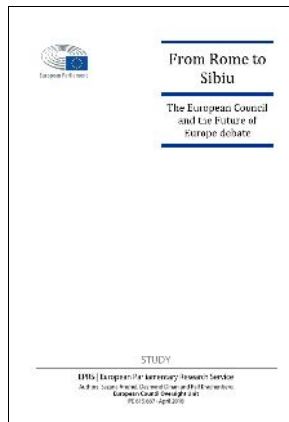
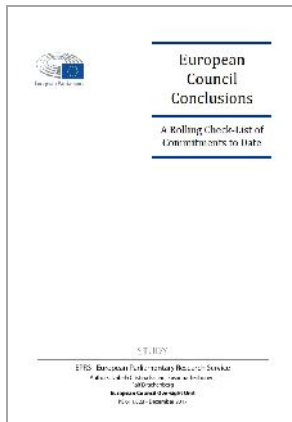




3. Ex-post evaluation



4. European Council oversight



Annex:

EP Impact Assessment Handbook (as updated in September 2017)

12 September 2017

CONFERENCE OF COMMITTEE CHAIRS

Impact Assessment Handbook¹⁶

Guidelines for Committees

I. Preliminary considerations

1. The European Parliament shares with the Council and Commission the determination to and responsibility for improving the quality of legislation applicable throughout the Union. The Interinstitutional Agreement on Better Law-Making¹⁷, which enshrines that joint commitment, identifies impact assessment as one of the tools which can help the institutions reach well informed decisions and achieve the goal of high-quality, clear, simple and effective legislation.

For the purpose of this Handbook, impact assessments are deemed to be ex-ante analyses of the likely or foreseeable effects of draft EU legislation or policies proposed for adoption at European Union level, as defined in the Interinstitutional Agreement on Better Law-Making¹⁸.

2. In that connection, Parliament has given two undertakings, reiterated in a number of resolutions¹⁹ and enshrined in the Interinstitutional Agreement on Better Law-Making²⁰:

- to take full account of the Commission's impact assessments;
- to carry out impact assessments on its own substantial amendments when it regards it as appropriate and necessary for the legislative process.

¹⁶ The arrangements for the oversight and coordination of impact assessment work within the Parliament were defined by the Conference of Presidents on 15 November 2012 (PV CPG 15.11.2012 PE 499.457/CPG). Administrative support is provided by the Ex-Ante Impact Assessment Unit of the Directorate for Impact Assessment and European Added Value, which works in close cooperation with the Parliament's committee secretariats, policy departments and other horizontal services.

¹⁷ Official Journal, 12:05:16 (2016/L 123).

¹⁸ Article 12.

¹⁹ Resolution on guaranteeing independent impact assessments (2010/2016(INI)) – Rapporteur: Angelika NIEBLER, 8 June 2011 and resolutions cited therein; Resolution on the 18th report on Better legislation - Application of the principles of subsidiarity and proportionality (2010) (2011/2276(INI)) - Rapporteur: Sajjad KARIM, 13 September 2012; Resolution on EU Regulatory Fitness and Subsidiarity and Proportionality - 19th report on Better Lawmaking covering the year 2011 (2013/2077(INI)) - Rapporteur: Sajjad KARIM, 4 February 2014; Resolution on the revision of the Commission's impact assessment guidelines and the role of the SME test (2014/2967(RSP)) - 27 November 2014; Resolution on the Annual reports 2012-2013 on subsidiarity and proportionality (2014/2252(INI)) - Rapporteur: Sajjad KARIM, 12 April 2016; Resolution on Regulatory Fitness and Performance Programme (REFIT): State of Play and Outlook (2014/2150(INI)) - Rapporteur: Sylvia-Yvonne KAUFMANN, 12 April 2016.

²⁰ Articles 14 and 15.

3. In practical terms, the three institutions have included in the Interinstitutional agreement on Better Law-Making a specific section on impact assessment²¹, which clarifies their respective roles and lays down a number of basic rules to govern the conduct of their use of this tool

What is an ex-ante impact assessment?

Under the terms of the Interinstitutional Agreement, impact assessments 'should cover the existence, scale and consequences of a problem and the question whether or not Union action is needed. They should map out alternative solutions and, where possible, potential short and long-term costs and benefits, assessing the economic, environmental and social impacts in an integrated and balanced way and using both qualitative and quantitative analyses. The principles of subsidiarity and proportionality should be fully respected, as should fundamental rights. Impact assessments should also address, whenever possible, the "cost of non-Europe" and the impact on competitiveness and the administrative burdens of the different options, having particular regard to SMEs ("Think Small First"), digital aspects and territorial impact'²².

The objective is to identify systematically the evidence which can be used to assess the potential impact of a series of political options with a view to comparing their respective advantages and drawbacks.

4. An impact assessment is a tool to aid decision and policy-making in the three institutions. It is in no sense a substitute for political decisions within the democratic decision-making process.

5. Impact assessments form an integral part of the process of shaping Union policies, without prejudice to the role conferred on each institution in the decision-making process and in keeping with their respective institutional roles and responsibilities.

6. Impact assessments must not lead to undue delays in the law-making process or prejudice the co-legislators' capacity to propose amendments.

Why is a practical guide to impact assessments needed?

The purpose of this guide is to help the parliamentary committees deal with impact assessments, in keeping with the undertakings given by Parliament. In that connection:

- it sets out the main principles governing impact assessments as also outlined in article 12 of the Interinstitutional Agreement on Better Law-Making²³;
- it brings together in one document details of the best practices tested in the

²¹ Articles 12 to 18 of the Interinstitutional Agreement on Better Law-Making

²² Article 12.

²³ Reference may also be made to the Commission's Better Regulation Guidelines SWD (2017) 350 and the Council Guide to dealing with impact assessments Document 9790/16 of 9 June 2016.

committees and sets out some practical criteria so that the committees can enjoy the benefits of impact assessments in the context of negotiations under the ordinary legislative procedure;

- it seeks to improve the degree of consistency in the way that the parliamentary committees deal with impact assessments.

This Handbook is intended to be used flexibly by the committees.

II. Criteria for assessing and using Commission impact assessments

7. In keeping with its inter-institutional undertakings, Parliament, ‘upon considering Commission legislative proposals, will take full account of the Commission’s impact assessments’²⁴.

EP-Commission Framework Agreement

The EP-Commission Framework Agreement²⁵ commits the Commission to ensure that its impact assessments are conducted under its responsibility by means of a transparent procedure which guarantees an independent assessment. Impact assessments shall be published in due time, taking into consideration a number of different scenarios, including a 'do nothing' option, and shall in principle be presented to the relevant parliamentary committee during the phase of the provision of information to national parliaments under TFEU Protocols 1 and 2.

8. The parliamentary committees may draw on the assistance of the Parliament’s Ex-Ante Impact Assessment Unit, with a view to assessing the quality, methodology and the independence of the impact assessments provided by the Commission and their relevance for Parliament’s work.

9. The road-maps and inception impact assessments accompanying the Commission’s Work Programme are screened by the Ex-Ante Impact Assessment Unit to check which legislative proposals will be accompanied by impact assessments. When a Commission proposal is referred to a parliamentary committee, the Unit checks whether it is duly accompanied by an impact assessment and routinely provides an initial appraisal of the strengths and weaknesses of the impact assessment in question. This initial appraisal provides an overview of the Commission’s impact assessment and analyses whether the principal criteria laid down in the Commission’s own better Regulation Guidelines, as well as additional factors identified by the Parliament in this Handbook, appear to be met by the Commission impact assessment.

When should a proposal be accompanied by an impact assessment?

According to the Interinstitutional Agreement on Better Law-Making ‘initiatives included in the Commission Work Programme or in the joint declaration²⁶ will, as a general rule, be

²⁴ Article 14 of the Interinstitutional Agreement on Better Law-Making.

²⁵ OJ L 304, 20.11.2010, p. 47.

²⁶ The joint declaration referred to here is the joint declaration on interinstitutional programming mentioned in Article 7 of the Interinstitutional Agreement, which follows the adoption of the Commission Work Programme.

accompanied by an impact assessment'.²⁷

The Commission's Better Regulation Guidelines²⁸ state that:

An IA is required for Commission initiatives that are likely to have significant economic, environmental or social impacts.

Provided that the above conditions are fulfilled, impact assessments should be carried out for:

- both legislative and non-legislative initiatives, as well as
- delegated acts and implementing measures, taking into account the principle of proportionate analysis.

10. If a proposal likely to have a substantial impact²⁹ is not accompanied by an impact assessment, the committee responsible, on the basis of a decision by the coordinators, may, with or without suspending consideration of the proposal in question:

- ask the Commission to provide an impact assessment, or,
- ask the Ex-Ante Impact Assessment Unit to carry out or commission the Parliament's own impact assessment of the proposal in question.

There must be broad political support for these decisions.

11. In keeping with Parliament's calls that all Commission proposals should be accompanied by an impact assessment, the impact assessment is considered with a view to assessing its relevance for the ongoing work in committee. With that aim in view, a committee, on the basis of a decision by the coordinators, may ask the Ex-Ante Impact Assessment Unit to:

- provide a detailed appraisal of the quality and independence of the Commission's impact assessment;
- assist the committee in organising a specific meeting, with the participation, where appropriate, of external experts, to ask the Commission to present its analysis and submit to it any requests for clarification.

If such a request is made by a committee other than a committee responsible, that request is to be made in agreement with the committee(s) responsible.

There must be broad political support for these decisions.

The appraisal mentioned above, in this point, are drawn up by the Ex-Ante Impact Assessment Unit or, where necessary, commissioned from external experts. The scope of the assignment is to be defined by the requesting committee itself.

12. The initial appraisal mentioned in point 9, and the detailed appraisal mentioned in point 11, must enable the committee to determine whether the impact assessment will facilitate

²⁷ The Commission's Better Regulation Guidelines require Commission impact assessments to be accompanied by a two-page executive summary translated into all the official languages.

²⁸ Better Regulation Guidelines (SWD (2017) 350 final), p. 15. See also Tool 9 on when an impact assessment is necessary for more detail.

²⁹ For example, a proposal not included in the Commission Work Programme or a regulatory or implementing act.

consideration of the substance of the proposal in full knowledge of the facts and whether the impact assessment meets, firstly, the standards which the Commission has laid down in its internal guidelines (cf. Annex I), and, secondly, the quality criteria which Parliament has defined in its resolutions.

Parliamentary committees may invite the Commission to present its impact assessment in a full committee meeting (as foreseen in Paragraph 42 of the Framework Agreement between the European Parliament and the Commission³⁰) or, where appropriate, in a separate meeting agreed by coordinators, in order to explain its analysis and methodology, and respond to any criticisms or apparent shortcomings so far identified.

Whenever the Commission is invited to present its impact assessment, the Ex-Ante Impact Assessment Unit may also be invited to present, where possible, its initial appraisal or other work it produced in relation to that impact assessment.

What quality criteria apply to impact assessments?

The Commission's proposals - and by definition the impact assessments accompanying them - must respect Treaty obligations in respect of (inter alia):

- fundamental rights, including the Charter of Fundamental Rights, non-discrimination and European citizenship (Article 6 TEU and Articles 10 and 18 TFEU);
- requirements of the MFF and budgetary procedures (Article 310(4) TFEU);
- the precautionary principle (Article 191(1) TFEU);
- the potential costs owing to the lack of action in the field of environmental policy (Article 191(3) TFEU);
- requirements linked to the promotion of a high level of employment, the guarantee of adequate social protection, the fight against social exclusion, and a high level of education, training and protection of human health (Article 9 TFEU);
- consumer protection requirements (Article 12 TFEU);
- the conditions necessary for the competitiveness of the Union's industry (Article 173 TFEU);
- impact on developing countries (Article 208 TFEU).

Further requirements laid down by Parliament include:

- transparent and targeted public consultations, involving regional and local authorities;
- a rigorous, objective and exhaustive approach;
- an adequate choice of strategic scenarios and options (including the option of taking no action);
- proper justification of the options selected in the light of the principles of subsidiarity and proportionality;
- a balanced analysis of the impact on the economic, social and environmental pillars and on public health;
- more detailed consultations with stakeholders before impact assessments are

³⁰ Official Journal, 20:11:10 (2010/ L 304)

prepared to offset any lack of methodology or data.

- consideration of other assessment criteria, such as:
- impacts outside the Union, including on international trade;
- impact on the four freedoms of the internal market ('Single market test');
- impact on SMEs and micro-enterprises (SME test);
- regional and local impacts;
- impact in terms of administrative burdens,
- the objective of effective application in the Member States,
- as far as possible, qualitative criteria, such as the impact on vulnerable social groups (social benchmarking), gender equality;

13. If the Commission's methodology and reasoning fail to meet these criteria or reveal shortcomings, the committee responsible, on the basis of a decision by the coordinators, may ask the Commission to revise its original impact assessment with a view to analysing certain aspects or policy options in greater detail or complementing or updating the analysis of certain aspects³¹. There must be broad political support for this decision.

14. Alternatively or in parallel to the procedure in point 13, the committee(s) responsible, on the basis of a decision by the coordinators, may ask the Ex-Ante Impact Assessment Unit to undertake or commission the Parliament's own complementary or substitute impact assessment of the aspects dealt with inadequately or not at all in the Commission's original impact assessment. There must be broad political support for this decision. The terms of reference for such impact assessment work are defined, in each case, by the committee itself.

III. Criteria for analysing the impact of *substantial* Parliament amendments

15. When it regards it as appropriate and necessary to the legislative process, Parliament carries out impact assessments of its substantial amendments, without in any way undermining its ability to adopt such amendments. There must be broad political support for this decision.

What is the definition of a *substantial* amendment?

The Interinstitutional Agreement on Better Law-Making states in Article 15 that 'the definition of a 'substantial' amendment should be for the respective Institution to determine.' It is difficult to provide a definition of 'substantial' which is valid across the board - it is an assessment which must be made on a case-by-case basis.

16. It is up to the parliamentary committee(s) responsible to determine whether one or more of the amendments tabled during its consideration of a Commission proposal is 'substantial' and, if appropriate, whether it or they should be the subject of an impact

³¹ Article 16 of the IIA on Better Law-Making: 'The Commission may, on its own initiative or upon invitation of the European Parliament or the Council, complement its own impact assessment or undertake other analytical work it considers necessary'.

assessment. The terms of reference for impact assessments on such amendments are defined, in each case, by the committee itself.

17. The committee responsible, on the basis of a decision by the coordinators, may request an impact assessment of one or more specific substantial amendments³². There must be broad political support for that decision.

18. The associated committees involved, pursuant to the procedure under Rule 54, may, on the same basis, carry out impact assessments of the substantial amendments which fall within their spheres of responsibility, provided that this is compatible with the procedural timetable agreed with the committee responsible.

In the case of a procedure with Joint Committee Meetings, under Rule 55, decisions concerning the carrying out of impact assessments on substantial amendments are taken jointly by the committees concerned.

19. Impact assessments can be carried out at any stage of the legislative procedure, taking account of the time constraints specific to each reading, and provided that they do not unduly delay the legislative process.

20. As a rule, the committee responsible tries to identify substantial amendments likely to be the subject of an impact assessment before they are adopted in committee. However, it may regard it as more appropriate to carry out the impact assessment at a later date:

- prior to the vote in plenary, if that is possible, in particular in connection with a procedure with associated committees,
- after the vote in plenary.

There must be broad political support for this decision.

At what stage of the legislative procedure should an impact assessment of a substantial amendment be carried out?

The Inter-Institutional Agreement on Better Law-Making does not stipulate at which stage an impact assessment of a substantial amendment should be carried out. In practice, the parliamentary committees have had impact assessments of substantial amendments carried out at first reading, second reading and conciliation stage, and they may do so at any stage of an inter-institutional negotiation on a legislative proposal.

21. The task of carrying out impact assessments of substantial Parliament amendments is conferred on external experts.

22. The decision by the committee responsible to request an impact assessment on substantial amendments is forwarded to the Ex-Ante Impact Assessment Unit, which selects external experts, in keeping with the provisions of the Financial Regulation, EU law on

³² Taking account of the deadlines and the procedures required to meet such requests.

public contracts and the Parliament's own internal procurement rules, in a way that ensures that the experts are as independent and objective as possible and the procedure for selecting them is as transparent as possible.

23. In methodological terms, in accordance with Article 15 of the Interinstitutional Agreement on Better Law-Making, impact assessments of substantial amendments take, as a general rule, the Commission's impact assessment as their starting point. As far as possible, the impact assessment is structured in such a way as to facilitate comparisons with the Commission text, although without duplicating the Commission's work.

24. It follows from Article 17 of the Interinstitutional Agreement on Better Law-Making, that, in keeping with a spirit of sincere cooperation, the Commission is expected to assist Parliament in its work by making available to it details of any specific methodology used in preparing an impact assessment (economic modelling, cost-benefit and/or cost-effectiveness analysis) and forwarding the data employed.

25. Impact assessments of substantial Parliament amendments are made available in the language requested by the Committee. At the request of the coordinators, a summary may be translated into the language of the rapporteur and/or into no more than three working languages.

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26. Parliamentary committees should take account of the deadlines and procedures required to meet their requests for impact assessment work³³ and allow in their work timetable sufficient time for the completion of the requested impact assessment work and for its due consideration by the requesting committee.

27. Parliamentary committees which ask for impact assessment work to be drawn up should inform any other committees to which the performance and results of the analyses requested might be of interest.

28. The Ex-Ante Impact Assessment Unit is responsible for monitoring and ensuring that impact assessment-related work performed by external experts is consistent with Parliament's quality criteria.

29. Impact assessment-related work referred to in this Handbook is published on Parliament's Internet site, in line with Article 18 of the Interinstitutional Agreement on Better Law-Making, unless a duly justified decision to the contrary is taken by the committee responsible.

³³ Apart from impact assessment work referred to in this Handbook, parliamentary committees may ask the Ex-Ante Impact Assessment Unit to produce other work related to impact assessment according to specific needs. The modalities for the performance of such work are to be agreed on an ad hoc basis between the committee responsible and the Ex-Ante Impact Assessment Unit.

30. In accordance with Article 17 of the Interinstitutional Agreement on Better Law-Making, the three institutions will, on a regular basis, cooperate by exchanging information on best practice and methodologies relating to impact assessments, enabling each Institution to further improve its own methodology and procedures and the coherence of the overall impact assessment work.

31. Parliament endeavours to keep the Council and Commission informed, regularly and in good time, about on-going impact assessment work.

ANNEX

Assessment sheet concerning the key components of an impact assessment

The Commission³⁴ has developed a standard format for its impact assessments (hereinafter IA) which identifies the key stages in the procedure and the questions to which the IA must provide a clear, precise answer. This annex is based on it.

General requirements for the main IA report

- Is the main IA report a self-standing document written using non-technical language with non-expert readers in mind? Does the IA meet the benchmark length of 30-40 pages (excluding annexes but including tables and figures)?
- Are underlying data, statistics, information, expert contributions and stakeholder views all referenced, particularly where choices are made or conclusions are made based on them?
- Is consultation of interested parties integrated throughout the text of the IA? A compulsory annex on Stakeholder consultation must be included in the impact assessment report. Questions to be answered include:
 - o Have the Commission's relevant minimum standards³⁵ been observed? If not, why not?
 - o Which stakeholders have been consulted?
 - o How, at what stage in the IA process were they consulted (transparency, minimum deadline of 12 weeks for online public consultation, minimum time-limit for reply)?
 - o What are the main results of the consultations and how have they been taken into account?

Detailed structure and content of the main IA report

1. What is the problem and why is it a problem?

- What is the issue or problem that may require action? What is the size of the problem?
- Why is it a problem? What are the main drivers?
- Who is affected by the problem, in what ways, and to what extent? Whose behaviour would have to change to improve the situation?
- What is the EU dimension of the problem?
- How would the problem evolve, all things being equal?
- Has any fitness check/retrospective evaluation been carried out of the existing policy framework? What was concluded from the evaluation/fitness check?

2. Why should the EU act?

³⁴ SWD (2017)350. [Commission's Better Regulation Toolbox, tool 12 on the 'Format of the IA report'](#)

³⁵ General principles and minimum standards for consultation of interested parties (COM(2002)704), complemented by COM(2012) 746 and accompanying SWD(2012) 422 and by COM(2014) 368

- Does the EU have the right to act?
- Why could Member States not achieve the objectives of the proposed action sufficiently by themselves?
- What would be the added-value of action at EU-level?

3. What should be achieved?

- What are the general policy objectives? What are the more specific objectives?
- How do they link to the problem? How do the objectives relate to each other, i.e. are there any synergies or trade-offs?
- Are these objectives consistent with other EU policies and with the Charter for fundamental rights?

4. What are the various options to achieve the objectives?

- What are the possible options for meeting the objectives and tackling the problem? Have all possible options been considered (including the option of changing nothing and a non-regulatory option, where appropriate)?
- Which options have been discarded at an early stage and why?
- Who would be targeted by the different policy options? Have different digital solutions been considered?
- Has the Think Small Principle been applied? Are micro-SMEs a priori exempted from new regulations unless appropriately justified? Are "lighter" regimes considered for SMEs generally?

5. What are the impacts of the different policy options and who will be affected?

- What are the likely economic, social and environmental impacts of each of the short-listed options?
- Are all impacts (positive and negative, direct and indirect, intended and unintended, including those outside the EU) listed?
- Are impacts on SMEs assessed, as far as possible including quantitative estimates of administrative and compliance costs?
- Are impacts on competitiveness assessed, in particular on the most affected businesses sectors?
- Who would be affected (e.g. businesses, citizens, workers, consumers, public administrations, regions, third country actors) and how? Which actions/measures would those affected by the measure need to take to comply with the requirements (see also Annex 3)? Are uncertainties specified? In particular, how the estimated impact may be affected by changes in parameters?
- Which impacts are likely to change over time and how?
- What are the potential obstacles that might be encountered for an effective implementation of the option and compliance by Member States and targeted entities?

6. How do the options compare?

- How do options compare, with regard to:
 - o The extent to which they would achieve the objectives (effectiveness)?
 - o Their respective key economic, social and environmental impacts and

benefit/cost ratio, cost-effectiveness (efficiency), other means of ranking options such as multi-criteria analysis? And

- The coherence of each option with other EU policy objectives, including the Charter for fundamental rights, and with other policy initiatives and instruments (coherence)?
- What are the trade-offs and synergies associated with each option?
- What is the likely uncertainty in the key findings and conclusions? How these might affect the choice of preferred option?
- Which policy option is preferred and why? Alternatively, why no preferred option is presented?
- How do the options, and in particular the preferred one, conform to the principles of subsidiarity and proportionality, given the size and nature of the identified problem?

7. How would actual impacts be monitored and evaluated?

- What should be monitored and evaluated and when? In particular:
 - What are the core monitoring indicators for the main policy objectives? What are the corresponding benchmarks against which progress will be evaluated?
 - Are monitoring arrangements in place from the outset? Are evaluations designed and scheduled in a way whereby the results can be used as input for future impact assessments?
 - For the preferred policy option:
 - Are operational objectives and the corresponding monitoring indicators identified?
 - What would be monitored and evaluated, by whom, and how will the results be used?

Annexes that must be included in the impact assessment report

Annex 1: Procedural information

Annex 2: Stakeholder consultation

Annex 3: Who is affected by the initiative and how

Annex 4: Analytical models used in preparing the impact assessment

This is the fifth Activity Report on work by the European Parliament in the fields of impact assessment and European added value. It summarises work undertaken by the Directorate for Impact Assessment and European Added Value and other services of the European Parliamentary Research Service (EPRS) between January and December 2018. It focusses on its activities in support of oversight and scrutiny of the executive by parliamentary committees, specifically in the fields of: ex-ante impact assessment; European added value; and ex-post evaluation. It also details wider horizontal support provided to the institution as a whole. During the twelve months in question, a total of 185 pieces of work were undertaken and published by the Directorate.
