

A. HERE'S A LOOK BEHIND THE SCENES OF THE "BETTER REGULATION" MECHANISM AS ADOPTED BY THE COMMISSION FOR THE DRAFTING OF A LAW

How to make it difficult to propose a new law - and nearly impossible if it is about something other than "jobs and growth"

BETTER REGULATION - BARROSO STYLE

BETTER REGULATION - JUNKER STYLE

Political validation: one green light needed from the Commissioner responsible

"Early political validation": three green lights needed - by Commissioner responsible, relevant Vice-President and First Vice-President - with an enhanced role for the Secretariat-General... the big pre-selection in the name of jobs and growth!

Impact Assessment (IA)

1. Inception impact assessment

2. SME check: "Think Small First"

3. Robust prior evaluation of the efficiency, effectiveness, relevance, coherence and added value

4. Full Impact Assessment (IA) based on new guidelines and toolbox

Public consultation

Multiple stakeholder consultations: on roadmaps, inception impact assessment and when preparing new proposals (moving towards TTIP-style "notice and comment").

Need for positive opinion by the Impact Assessment Board

Need for positive opinion by new Regulatory Scrutiny Board with three external members

Approval by the College of the Commissioners

Quadruple approval needed: by Commissioner responsible, relevant Vice-President, First Vice-President and the College of Commissioners

In May 2015, the European Commission adopted the 'Better Regulation' package. It is the centre-piece of its new agenda to change what the Union does, and how it does it. 'Better Regulation' is meant to ensure that only the 'big things' that contribute to the ten priorities of President Juncker's Political Guidelines will be tackled. The European Commission decided it would do so by

establishing all kinds of new procedures in the name of 'Better Regulation'. Political control will be exercised right from the beginning, impact assessment procedures strengthened, new evaluations added, consultations multiplied. In reality, 'Better Regulation' stands for 'Better internal controls for less Regulation'. And this sad reality applies since May 2015.

B. HERE'S A LOOK BEHIND THE SCENES OF THE "BETTER REGULATION" MECHANISM AS PROPOSED BY THE COMMISSION FOR THE LEGISLATIVE PROCESS

How the Commission wanted to control the legislator – the power grab tried – but rejected!

ADDITIONS TO THE ORDINARY LEGISLATIVE PROCESS – JUNCKER'S WISH LIST

ORDINARY LEGISLATIVE PROCESS

Commission submits proposal and impact assessment to the European Parliament (EP) and Council

EP and Council each establish timetable for their work

EP and Council each adopt their position on changes to the law and then negotiate an agreement

EP and Council both agree to final agreement

Member States are free to add substantial or procedural rules in national implementation (unless the law provides maximum harmonisation)

Commission collects feedback of stakeholders after adoption of the law and submits them to EP and Council **REJECTED**

Adoption of joint indicative timetable between all three institutions **REJECTED**

Priority treatment for proposals that simplify existing legislation and that reduce regulatory burden, especially for SMEs **WEAKENED**

1. EP and Council to do impact assessment on any substantial amendments **REJECTED**

2. Following the adoption of any substantial amendment, each institution may call for an independent panel (with one Member per institution) to carry out an assessment of various elements of the substantial amendment **REJECTED**

If agreement is significantly different from COM proposal, impact assessment should be done before any final decision **REJECTED**

If Member States want to add substantial or procedural rules, they should justify this and do an impact assessment on them **REJECTED**

Having controlled its own house and established 'Better internal controls for less Regulation' (see related infographic), the European Commission wanted to ensure that the co-legislators – the Council of the European Union and the European Parliament – also play along. For that reason, they proposed a revision of the inter-institutional agreement on better law-making. With this new agreement between the three institutions, the Commission sought better control over the legislative process both in time and in substance. Above all, the Commission wanted to make it more difficult for Council and

the Parliament to make changes to the laws it had proposed. The co-legislators should oblige themselves to do impact assessments for substantive changes – and all institutions should be entitled to call upon an 'independent panel' to evaluate all kinds of things prior to the adoption of an agreement. In summary, Council and Parliament should hurry to work on Commission priorities – and be straight-jacketed if they wanted to deviate from them. In this context, 'Better Regulation' actually stood for 'Better controls of the co-legislators for less Regulation'. Council and Parliament rejected this power grab.