

CONFERENCE OF EU AFFAIRS COMMITTEES (COSAC)
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I would like to welcome this opportunity to speak about the Commission's approach to impact assessment. COSAC's work in this area, as set out in the *Fourth bi-annual report: Developments in European Union Procedures and Practices relevant to Parliamentary Scrutiny*, clearly indicates a growing tendency for national Parliaments to examine and use the Commission's impact assessments as part of their scrutiny of EU legislation.

This is a welcomed and encouraging sign and demonstrates that interest in *better regulation* continues to grow. I would like therefore to reiterate the total commitment of the Commission to these principles and to good governance in general.

It is important for us to evaluate carefully and consult effectively before deciding whether to act. When action is considered necessary, the Commission would like to act in the most efficient and effective way. The decision on the nature of the required action has to be taken in the light of subsidiary requirements and of the evidence of its wider effects. Furthermore, any proposed action needs to be proportionate to the extent of the identified issue.

Impact assessment has been proposed and developed as the Commission's key tool to help ensure that these considerations are an integral part of the policy development process for all major legislative and policy-defining initiatives and proposals.

Evaluating the impact of its actions has a long history in the Commission, with most legislative departments of the Commission traditionally using a policy-development tool in a specific sectoral area. What has changed since the "Better Regulation Action Plan" of 2002 is the replacement of these fragmented approaches by an integrated and cross-sectoral approach which applies to all Commission areas of action. This facilitates earlier coordination in the development of the impact assessments and a more comprehensive analysis of potential impacts across the social, economic and environmental dimensions.

Since 2003, more than 100 impact assessments have been completed by the Commission and have been made publicly available on the "Europa" website. We have also embarked on an

extensive exercise to train and raise awareness on impact assessment notably across the Commission's administration.

In early 2004, we drew some lessons from early experiences. The main results of this exercise have been a more rigorous commitment, the simplification of our procedures for impact assessment and the preparation of much clearer guidance for Commission staff responsible for organising and carrying out an impact assessment.

From 2005, all major legislative and policy-defining proposals contained in the Commission Legislative and Work Programme are subject to impact assessment. For 2005 this will mean approximately 100 impact assessments.

Each of the proposals in the Commission Legislative and Work Programme is accompanied by a *roadmap*, which sets out the work already undertaken on the impact assessment and indicates the planning for the remaining work. These roadmaps are made publicly available at the time the Work Programme is adopted, thus enhancing transparency and facilitating stakeholder input in the consultation element which must form part of the impact assessment work. I would like in particular to highlight that respecting the principle of subsidiarity is raised as part of the first question asked in the roadmap.

The recently revised internal "Impact Assessment Guidelines" set out the procedural rules and key steps of the approach which Commission services need to follow in preparing the impact assessments.

A central consideration is ensuring that the principles of subsidiarity and proportionality are fully respected. The problem definition, which is the first key step in the impact assessment work, requires that the opportunity to act at Union level is verified and that, where there is shared competence, the so-called 'necessity test' is applied (i.e. that the problem cannot be sufficiently solved at the national level). The question of respect for the principle of subsidiarity features again when considering possible options for action: EU measures that would bring no added-value to national action must be discarded.

Ensuring that our impact assessments are comprehensive and high-quality is of critical importance to the Commission. This priority lies behind the guidance provided to

Commission staff. Indeed, we very much welcome that the COSAC report acknowledges that the revised internal Guidelines for Impact Assessment are part of our response in this regard.

Clearer guidance and support networks, most notably through our “Inter-Service Steering Groups” established to guide the work of an impact assessment, will help to improve quality and comprehensiveness. The more specific guidance on when and how to consult, and on the gathering of data and use of external expertise, will also be of major help in that respect.

The new Guidelines make it clear that the Commission’s minimum standards for stakeholder consultation should be respected, particularly in terms of providing feedback on the submissions received. It is pleasing to see that the progress made by the Commission in terms of consultation has been acknowledged in a recent report from the UK Better Regulation Task Force, although we also agree with the report that we can still do more to improve.

The importance of setting out in a transparent manner any assumptions or uncertainties in the data used in the preparation of the impact assessment is also underlined in the new guidance to Commission services.

I would like to stress that, for the Commission, impact assessment is not at all about justifying a pre-determined policy choice. This is why any impact assessment has to consider a range of options to tackle the identified problem. The option of ‘No EU Action’ has to be considered in every case (unless a Treaty obligation to act exists). The Guidelines also recommend that alternatives to ‘classical’ forms of regulation (such as co-regulation or self-regulation) are also considered, helping to ensure that the intensity of the response is appropriate and in proportion to the extent of the identified problem.

It seems to us important that the evidence base is drawn from as wide a range of sources as possible, and that the views of stakeholders are given full consideration. This is why we warmly appreciate the input we receive from a wide range of sources in the preparation of the impact assessment, including from Member States.

The Commission has adopted an approach to policy-development for all our major legislative and policy-defining proposals which aspires to be fully transparent and inclusive, and which

seeks to ensure that there is a systematic consideration of respect for the principles of subsidiarity and proportionality.

Clearly the Commission welcomes, and indeed encourages, the use of our impact assessments when the Council and the European Parliament are considering legislative proposals. We also welcome the increasing use of impact assessments by national Parliaments in their scrutiny of EU legislation. However, we should consider cautiously the idea of introducing a formalised mechanism for involving national Parliaments or the other EU Institutions in the preparation of Commission impact assessments. This could undermine the right/duty of initiative of the Commission and could have negative consequences for the guarantee of the EU general interest.

In view of the number of existing institutional checks and balances in the EU, we wonder if there is real need for such mechanism. The current system provides plenty of opportunities to voice concerns and oppose a proposal at deliberation and adoption stages. Not to mention all the possibilities of ex post judicial review. Continuous progress in consultation and collection of expertise ensure that the views of all interested parties and institutions are taken into account in the impact assessment.

Let me say in concluding that the interest that you have shown in the Commission's work on impact assessment is most welcome. I hope that this intervention can dispel any concern that may exist about our commitment to using this tool to ensure that we act only where we have the right to act, and that we do so only after careful consideration of the potential economic, social and environmental impacts of our possible actions and initiatives.