European Union
Regulatory Quality Index

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ΚΕΦίΜ
Μάρκος Δραγούμης

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What is ELF

The European Liberal Forum (ELF) is the official political foundation of the European Liberal Party, the ALDE Party. Together with 47 member organisations, we work all over Europe to bring new ideas into the political debate, to provide a platform for discussion, and to empower citizens to make their voices heard.

ELF was founded in 2007 to strengthen the liberal and democrat movement in Europe. Our work is guided by liberal ideals and a belief in the principle of freedom. We stand for a future-oriented Europe that offers opportunities for every citizen.

ELF is engaged on all political levels, from the local to the European. We bring together a diverse network of national foundations, think tanks and other experts. At the same time, we are also close to, but independent from, the ALDE Party and other Liberal actors in Europe. In this role, our forum serves as a space for an open and informed exchange of views between a wide range of different actors.

Center for Liberal Studies - Markos Dragoumis (KEFiM)

The Center for Liberal Studies - Markos Dragoumis (KEFiM) is Greece's foremost liberal, non-partisan, and independent think tank. It envisions Greece as a role model of economic and civil liberty that enables its citizens to pursue their dreams and aspirations. KEFiM's mission is to increase individual and economic freedoms of Greeks through the promotion of liberal ideas and policy proposals. To that end, KEFiM generates research, media content, organizes events, that aim to influence the climate of ideas in Greece. Finally, KEFiM partakes in the international policy and ideological dialogue through its participation into the Atlas Network (USA) and the European Liberal Forum (Belgium) and EPICENTER Network. It also partners on various projects with mission-aligned organizations such as the Friedrich Naumann Foundation (Germany), Timbro (Sweden), the Cato Institute (USA), the Foundation for Economic Education (USA), and the Institute of Economic Affairs (UK), the American Enterprise Institute (USA), Tax Foundation (USA), and Fraser Institute (Canada).

Executive Summary

- The quality of 2019's Directives, as measured by European Union Regulatory Quality Index, is relatively high. The average score is 72/100, while the highest is 87.4/100 and the lowest 52.8/100.

- The quality of 2020's Directives, as measured by European Union Regulatory Quality Index, is slightly lower. The average score is 65.3/100, while the highest is 84.2/100 and the lowest 36.2/100. However, these results should be treated cautiously, given limited number of the 2020 Directives and the exceptional regulatory environment due to the unprecedented challenges caused by the covid-19 pandemic.

- Drafting remains almost exclusively in the competences and initiative of the European Commission.

- The best practices identified in the regulatory process are the high quality of the regulatory text, the alignment of the regulations with the European Commission's Multiannual Action Plan and the respect of the Subsidiarity principle. On average, less than one Member State enacted the subsidiarity mechanism control.

- Consultation processes and stakeholders' engagement is of high standards, with the average consultation time being 13.4 weeks in and more than 90% of Directives being open to at least one form of public consultation.

- The bigger challenges of the regulatory framework in the European Union concern the inadequate compliance and poor implementation of the transposition measures. On average, only 13 Member States transpose at least one measure, while hardly ever the Directives are accompanied by an implementation plan.

Introduction

The importance of better regulation principles in the EU regulations

Laws and regulations affect the daily lives of every European citizen and every business operating in the European Union. During the last decades, the EU has become a key regulator in policy areas such as consumer protection, competition, and workplace safety. During the same time period, EU Member States became active policy makers by setting their own domestic regulations as well as through their involvement in shaping EU laws.

If laws and regulations are designed according to Better Regulation standards, they promote welfare and boost economic growth. On the contrary, badly designed and implemented laws hinder growth, harm the environment and put the wellbeing of citizens at risk.

Therefore, Better Regulation as a policy and a scientific discipline is vital both for the EU and its Member States in order to improve the regulatory quality. Better Regulation policy has become, in administrative practice, a toolkit that helps policymakers to comply with scientific, technological and environmental standards in the world.

Following the regulatory reform agenda, originally formed, in the Anglo-Saxon countries, regulatory policy in the EU and the member states has progressed under the better regulation agenda, which is, basically, a version of the original regulatory reforms of the 80's and 90's.

At the same time, EU Member States have adopted their own Better Regulation policies, even though this is not an obligation mandated by the Treaties. The Better Regulation agenda guarantees an evidence-based and fair regulatory process based on the aspects and interests of the stakeholders. Following the entry into force of the Treaty of Lisbon, the EU has an 'ordinary legislative procedure' – consisting of qualified majority voting of Member States' governments in the Council, and joint decision making power of the European Parliament.

Since the resignation of the Santer Commission in 1999, the European Commission has pursued an ambitious "better regulation" agenda in order to improve the quality of its policy proposals. The European Parliament has also been an active advocate for better regulation (Parliament, European, Council and Commission 2003). The Parliament even set up a directorate for impact assessment within its administration to better scrutinize the quality of Commission proposals. These policy streams led to the Commission's white paper "European Governance" and the Mandelkern Report (2003). Both documents recommended improved consultation and impact assessment as a strategy toward higher quality regulation. The Commission promised to deliver on both accounts. As to improved consultation, the strategy included a set of minimum standards to be followed by the Commission's departments. These official guidelines have been reiterated and complemented several times since.

The Better Regulation Agenda copes with the 30 'special legislative procedures'. These are, actually, cases where the Council or the EP have the main role in adopting the legislation concerned, while other institutions have a secondary role. According to the last Communication from the Commission (European Commission, 29 April 2021), it puts strong emphasis on the need for legislation to be efficient, bring benefits to citizens and businesses and minimize burdens for them.

The Commission stresses that the local and regional input is a key when the Commission prepares its proposals to inform evaluations and impact assessments. Local and regional authorities will benefit from all the new features. The voice of local and regional authorities will be better heard thanks to the "Fit for Future" platform. The Platform has selected 15 initiatives with the aim of helping to simplify EU law, cutting red tape for citizens and businesses, and ensuring that EU policies respond to new and emerging challenges. Among them the Revision of the Regulation on European Fishery Statistics, the Directive on the single permit for third country nationals, the Revision of Directive on the single permit INSPIRE and the Directive establishing an Infrastructure for Spatial Information in the European Community are included.

The Commission uses two key tools for the continuous evaluation and improvement of the EU laws. They are the Regulatory Impact Assessment (RIA) and the Public Consultation.

Regulatory Impact Assessment

Regulatory Impact Assessment (RIA) became popular in the EU three decades ago. It appeared as a fitness check of laws and regulations based on the economic analysis of law, public choice theory and theories of Democracy. Through an organized consultation with a wide range of actors, involved or influenced by the examined regulation, RIA is the key instrument to identify costs, benefits and risks at all stages of a Regulation life, namely, during its preparation/scrutiny, creation, implementation and revision.

RIA has been adopted by international organizations (OECD, 2002) and the European Commission. The Commission adopted Impact Assessment as a tool for a formal, transparent and accountable multi-level governance. Certain impact of regulation must be examined, such as the environment, the gender equality and the employment. A specific section of an IA is the burden reduction exercise. A common instrument for its wider use by the Commission and the Member States is the Standard Cost Modell, which became popular during the last decade. The analytical degree of Impact Assessment varies according to the available data and resources.

Public Consultation

As it has been stressed in the "Mandelkern Report on Better Regulation", an early text on a common EU policy on Better Regulation, "Consultation is a means of open governance, and as such early and effective consultation of interested parties by EU and national policymakers is an important requirement". It continues by emphasising that it does not usurp the role of civil servants, Ministers or Parliamentarians in the policymaking process but supplements the information they have on hand. "Correctly done, consultation can avoid delays in policy development due to late-breaking controversy and need not unduly hinder progress" it concludes.

EU Member States have invested heavily in tools to consult on draft laws and regulations. Among them: Project meeting, community and stakeholder meetings, stakeholder workshops, surveys and/or questionnaires, focused conversation and team building methods. Nevertheless, very often, stakeholders do not have the opportunity to provide their input at an early stage of the policy development.

Ex post review of regulations

The ex-post review of legislative acts is aimed at facilitating the achievement of public policy objectives in a way that improves the added value of EU interventions. Good practices, such as the fitness check (i.e. a comprehensive evaluation of a policy area that addresses how related regulations have contributed to the attainment of policy objectives) or the implementation report should be followed and adopted. Nevertheless, EU Member States rarely assess if regulations achieve their policy goals as initially planned.

Simplification

Simplification is one of the key tools used to update and simplify existing regulations. Simplification is aimed at preserving the existence of rules while making them more effective, less burdensome, and easier to understand and to comply with.

Regulatory management and EU law

The Commission checks whether Member States comply with EU law. Most of the Member States conduct RIA and stakeholder consultation when transposing EU directives. The use of these regulatory management tools is less common when Member States form their negotiation position during the EU legislative process, before a draft law is adopted at EU level.

Chapter 1:

The aim of the Index: why we need a regulatory quality index in the EU

Regulations need to be part of a system that works, one that strives to eliminate rules that contradict or duplicate each other. Making regulatory systems more efficient is complex. It can include cutting red tape for business, making policy more evidence-based, promoting the functioning of markets and improving the public's understanding of the law. The quality of EU's regulatory system depends largely on how regulations are conceived and made. EU's institutions shall concern to ensure that their regulations operate efficiently to boost economic growth, social welfare and environmental standards.

In order to assess the quality of a regulatory framework, the constraint of the scarcity of the systematic available data must be considered. Therefore, the process involves in-depth analysis of regulations and other sets of variables which cannot be easily translated into directly measurable indicators (OECD, 2018, p. 9).

The EU-RQI is designed as a composite indicator, which is a mathematical combination (or aggregation) of a set of indicators that have no common meaningful unit of measurement and there is no obvious way of weighting these sub-indicators (Lehtonen, 2015). The EU-RQI offers detailed information on the law-making practices in the EU, in relation to the following guiding principles for regulatory quality:

1.   Identify important linkages with other policy objectives and develop

policies to achieve those objectives in ways that support each other.

2.   Ensure that regulations, regulatory institutions charged with implementation, and regulatory processes are transparent and non-discriminatory.

3.   Assess impacts and review regulations systematically to ensure that they meet their intended objectives efficiently and effectively in a changing and complex economic and social environment.

Nevertheless, principles are not very helpful unless they are actually applied (Parker & Kirkpatrick, 2012). The EU-RQI measures whether EU's regulatory system meets the quality standards that reflect those principles. The EU-RQI does not provide specific information about the effectiveness of individual regulations, but it can help to analyse the European regulatory governance system as a whole, to diagnose key success factors and to identify priority areas for further reform.

The EU-RQI during its first implementation will measure the regulatory quality of the procedure and the system that leads to the enactment of the directives (specifically it will measure those directives that were enacted during the two years previous to the measurement date).

EU-RQI focuses on the regulatory process as well as the observance of the better regulation principles, because directly assessing the quality of a given regulation is a challenging task that requires significant analytical work, and attempting to examine the quality of the entire stock of regulation and make comparisons would not only be significantly more complex, but it would not deliver comparable results either. Therefore, the EU-RQI focuses on the regulatory management practices; that is, on how new rules are being prepared and how the various stakeholders and various EU institutions are involved in the process. Systematic quality assurance requires the use of a range of tools in a consistent and mutually reinforcing manner. The essential tools for improved regulatory decision-making are: regulatory impact analysis, public consultation, consideration of regulatory alternatives and compliance burden-reduction measures. The index examines the implementation of these tools.

Chapter 2:

Theoretical framework of better regulation

The wish for better laws was born simultaneously with the appearance of the first laws! During the centuries, several ideas, concepts and techniques have been used by the legislators, and several sciences, philosophical discourses, ideologies of all kind and religions contributed different approaches to combat the problem. To mention a few of them, the ancient direct Democracy, where each citizen was accountable when he proposed a regulation to the Agora (Parliament), the Roman legislator who tried to rationalize the law- making process by the invention of a systematic detailed description of the regulated objects and areas, the monumental Byzantine codifications, and, from the era of Modernity, the multi-faced efforts of all kind of social scientists by using several techniques for the achievement of better laws.

In the current era, and especially in the EU, the better law-making efforts have become a priority issue in the European policy agenda. The welfare state is directly connected to the expansion of regulatory quality. It seems that after '70s, where there is a clear establishment of the welfare state in Europe, a regulatory inflation has taken place (Aglietta, 2000).

It should be highlighted that the quality of Democracy and law-making institutions is defined by their ability to deal with major social, economic and political needs and problems, as the freedom of expression and assembly, the freedom of opinion or the free Media of mass communication. According to Laski "Regulation is the consequence of gregariousness; for we cannot live together without common rules", while regulation operates as a safeguard to secure the fundamental concept of liberty (Laski, 1926).

Looking carefully at the recent developments in Europe, but also in the

rest of the world (Arndt, Baker, Querbach, & Schultz, 2015), we see a rapid development of new players in State affairs, such as the markets, the media and the civil society, which do not only influence the quality of the work of the State powers, but also set a lot of questions pertaining to the validity of our analysis. Decision-making is not just the affair of an authorised organisation anymore, as it is the case in the classic approach of the division of powers, but a collective action of more stakeholders. Attention should be paid to the fact that Good Governance is not limited to the ways of exercising public authority, as shaped by institutions, processes and traditions, but expands to ways of participating and securing the expression of citizens' opinion in this exercise (Hisschemöller & Cuppen, 2015). Individuals in a society must feel that the government's rules are open to their scrutiny and criticism (Scott, 2000). In most of the Governance interpretations, the emphasis is given to the emergence of a collective way of designing, implementing and evaluating public policies.

In the governance era, the character of law-making process is widening from a strictly technical and legal, to a deeply political and social issue. On the other hand, the law-making process cannot be conceived as two separate procedures with a hierarchical relation among them anymore, as it was in the era of state supremacy, when it used to be understood as a matter of the state functions. The globalization and the Europeanization of the decision-making process requires new, global rules for all players in the field.

The better regulation principles[1]

Norm-flow, over-regulation, normative inflation, legitimization crisis are only few of the words that have been used in Europe during (Golberg, 2018) in order to reflect about normative inflation, which threats the legitimization of the law as an instrument of governing a modern state. The steadily increasing quantity of regulations provokes a series of collateral problems, such as the steady increase of the number of civil

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1   For an overall theoretical framework on the better regulation principles see OECD, 2014.

servants and the growing European bureaucracy.

Institutional capacity is also a key to improving the quality of new and existing rules (Arndt, Hermanutz, Kauffmann, & Schultz, 2016). The successful design and implementation of regulatory instruments depend on the right set of institutions to maintain consistency and a systematic approach across the entire administration to advocate regulatory quality. A range of specific institutions are serving such purposes. They include regulatory oversight bodies, which are often part of core government offices with a mandate to check the quality of the new proposed rules as well as to develop programs for cutting red tape. Independent regulatory authorities have also contributed to improving regulatory decision-making in specific sectors.

What seems to be most important, is that within the European Union, common principles on Better Regulation have been formulated – and accordingly, that it is feasible to design more clear and successful regulatory policies, to measure and evaluate their impact.

The seven European Principles on Better regulation are:

1. Necessity
2. Proportionality
3. Subsidiarity
4. Transparency
5. Accountability
6. Accessibility
7. Simplicity

1. Necessity

Necessity means "trying to avoid useless regulations". In most cases, the regulations have an incidental character. The number of regulations, which are necessary for the solution of a problem, or a dispute among social groups and interests, could be dramatically reduced, since the

dispute is often solved after a small time period, by making use of existing regulatory means or even by doing nothing. The legal statute is overloaded with many ad hoc regulations. Therefore, the first three questions should be answered by any regulator:

• Is a regulation necessary to resolve the problem?

• Is there any other way to resolve the problem?

• Will the proposed regulation resolve the problem?

in order to discourage the authorized institutions from regulating without having elaborated on a set of arguments for its satisfactory justification.

2. **Proportionality**

Proportionality means "not to go hunting for birds with cannons": Proportionality and efficiency are, most of the times, synonymous. In the sense that, if the means to be used are disproportionate to the goals which are supposed to be obtained, the law is going to face compliance issues. That's why, the first questions to be asked in this topic are:

• Have you taken all necessary measures for the law to be efficient?

• Are there any further administrative/legislative measures needed to enforce this law?

Often, we discover that a law cannot be implemented, because further measures or extra organisations necessary for its implementation are needed. Such practices are leading to a practical annulment of the regulations or in results totally different from those the legislators intended.

A basic element of proportionality is social justice. It means that costs and benefits should be justified in a fair way – so that no disproportionate outcomes are loaded to certain social groups. Therefore, the next question on the same topic is:

• **Are the means used by the law in balance with the result?**
This is an issue that the Impact Assessment tries to tackle. Many

indicators are used to predict the results of the law. For example, we are trying to evaluate if further bureaucratic burdens are going to be added, such as burdens to the economy and Small and Medium Enterprises, obstacles to the labor market, obstacles to competition, but also various social issues, such as the impact of the law on gender mainstreaming, the environment, etc. We are seeking to identify the impact of a regulation through its complete process, from the initial stages (drafting) to the implementation phase and afterwards, when the law has been implemented. In order to be certain that the desired results are going to be achieved, we need to ask the following question during the preparatory phase of drafting the law:

- **Have the necessary controls and audits been set in place?**
  Control has the character of a feedback mechanism – it informs us about the non-desirable results, about the reasons of non-compliance and this information can be extremely useful for the legislator. Control and audit mechanisms should be independent and refer to a body that has political responsibility – such as the European Parliament. Reporting mechanisms are quite developed in Europe and this is the most significant way legislators can have a clear view on the laws' implementation process.

3. Subsidiarity

Subsidiarity means to implement regulatory intervention at the level that is absolutely necessary (Timmermans, 2020). Subsidiarity is a guideline for the European acquis, since a European regulation should be created only if the regulated issues cannot be regulated at the national level. The subsidiarity principle dictates that the regulator finds out the most appropriate way to implement the regulation without adding further burdens. In order to benefit the citizens, a regulation should take into account successful local practices, and attitudes that lead to higher compliance.

When regulations are to be implemented at a local level, the legislators need to check the existence of adequate implementation agencies and local infrastructure to assure its implementation.

4. Transparency

Transparency means to provide every interested social, economic and political party the opportunity to express their views or to participate in the decision-making process. Therefore, in order to check the level of transparency, the first question to be asked is:

- Have stakeholders, who are going to be affected by the regulation, been asked for their opinions?
  According to the European Commission's better regulation agenda, transparency (along with legitimacy and accountability) are key priorities and *"The Commission is committed to the highest standards of transparency and accountability in the interests of democratic legitimacy"* (European Commission, 2017b, p. 5). Public consultation is the main tool the European Union institutions use to ensure that the right stakeholders are targeted in the most-effective manner to submit their opinions in the regulatory process. Moreover, the overall legitimacy and acceptance of the regulatory policy is enhanced by consultation and therefore it constitutes a key component of good governance and a foundation of the rule of law (Aitamuro, 2012).
  Public Consultation has many forms, such as *public consultation versus targeted consultation, exploratory consultations, consultation activities* (European Commission, 2017a, pp. 391-394). The better-known forms are the public consultation at a pre-parliamentary stage of drafting and the public hearings in the Parliament. Both are very important in ensuring better compliance to the law. Public Consultation should take place before the adoption of a regulation. Therefore, the notification of social partners should be done in due time, and the scope and duration of the consultation process should be known in advance.
  There are several different ways in which stakeholders evaluate regulatory quality, depending on their engagement with the policy. According to Radaelli and De Francesco (2012), experts, civil servants, politicians, companies and citizens have different criteria, methods of measuring success and ways of action, and therefore the consultation process for each specific policy should be carefully designed to apply to most of these groups.

The incorporation of remarks and recommendations by the social partners in the final draft should also be clearly described and presented to the participants of the public consultation. Therefore, having that in mind, the next two questions have to be asked:

- Was there enough time and means to express views properly?

- Have all appropriate consultation means been used?

The efforts to ensure transparency do not end at the drafting stage. Transparency should also be achieved during the implementation and evaluation phases of the law.

5. Accountability

Accountability means to undertake all necessary measures to assure that the regulation promotes ethical integrity and professionalism in the public service. The notion of accountability is one of the key principles (along with consultation and transparency) on which evidence-based decision-making is based and one of the primary better regulation policy recommendations in transnational guides (OECD, 1995). Linked to it is the requirement for the regulator to undertake all necessary means for combating corruption. In that direction, the regulator should carefully check the existence and quality of the institutions/organizations that are going to undertake controls and audits of the proper implementation of the regulation (Blanc, 2015).

6. Accessibility

Accessibility means that every necessary step for easy and transparent access by the stakeholders to the regulatory field should be designed and ensured (European Commission, 2017a, p. 397). Certain issues, such as defining the regulation's implementation timeframe, should be clearly defined. For example, a regulation's validity should start from the moment of its publication, and should not be postponed by connecting it to other, explicitly stated or hidden, actions. In that frame of logic, every previous useless regulation should also be removed.

Closely related to that issue, is the need to minimize the number of references in a parliamentary law. Therefore, a careful examination of the issues regulated through references should be implemented.

Specifically, the quality of the references should be checked as far as it concerns:

- their extent (not to be beyond the goal of the law),

- their clarity as far as it concerns the goals and the necessary means,

- their accordance with constitutional and legal provisions and

- their tightness and concreteness on the issues, which are going to be regulated by them.

7. Simplicity

Simplicity means to ensure that the new regulation shall use all relevant legislative techniques in order to express the goals of the regulator clearly. According to simplicity rules, the consistency among the articles of the regulation should be carefully examined. Moreover, simplification has been highlighted as a key determinant in enhancing economic performance (OECD, 2009). Articles, paragraphs and sentences should not be in internal contradiction and should follow the same key ideas of the Law. Therefore, the regulator should make sure that there are no contradictions and limit any unnecessary and unintended consequences of the regulation. The content of the regulation should be formulated in a plain language and any Information and Communication Technology (ICT) systems properly developed for the decision support should be used (Anderson, 2009).

Chapter 3:

The current EU regulatory process

Following the entry into force of the Treaty of Lisbon, the EU has established an 'ordinary legislative procedure'. The EU's ordinary legislative procedure provides for either one, two or three readings before a certain regulation is adopted. Most of the regulatory issues are agreed after one reading. The 'general approach' on regulation examined by the Council is another regulatory option. In this case there is no binding decision but an agreement at the level of the Member States' representatives to the EU (known as 'Coreper').[2]

The Lisbon Treaty added 40 further policy areas such as justice, freedom and security to the existing ones. According to its provisions, the Parliament decides on these matters on equal footing with the Council. Hence, the ordinary legislative procedure applies to 85 legal bases. The procedure consists of "qualified majority voting" of Member States' governments in the Council and joint decision-making power of the European Parliament. Several important policy fields (e.g. taxation) are not subjected to Qualified Majority Voting and unanimity is still required in the Council.

The Commission is responsible for planning, preparing and proposing new EU laws and policies. The work is guided by the annual Commission Work Program. When proposing laws, the Commission is assessing their expected impact. The preparation that takes place for the Directives is of major importance. Directives are

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2   The Permanent Representatives Committee or Coreper (Article 16[7] of the Treaty on European Union — TEU and Article 240[1] of the Treaty on the Functioning of the European Union — TFEU) is responsible for preparing the work of the Council of the European Union.

generally used to set up general policies. They are used in nearly every policy area of the EU. Directives are sometimes used to set out general principles in a certain policy area. They may also be used to set out very broad policies. Such directives are referred to as framework directives. Directives are meant to bridge the divide between the required uniformity of legislation at the EU level whilst at the same time paying heed to the diversity of national systems. Directives are not meant to create single, uniform rules at the EU-level but rather to have the member states strive for common results.

Implementing directives are bound by strict limits and as implementing acts are meant to further the implementation of existing legal acts and the mandate within which implementing acts are issued tends to be narrowly defined. Usually, if certain implementation measures need to be taken for the better enforcement of an EU legal act, the legal document stipulating those implementation measures is either an implementing regulation or an implementing decision. So, implementing directives are not common, and cannot be appealed in courts.

The Commission uses more and more Strategic Foresight when preparing a Directive. The Strategic Foresight is a key element in creating future-proof policies in all sectors, with particular focus on the green, digital, geopolitical and socio-economic areas.

The 2021 Strategic Foresight Report (European Commission, 8 September 2021) presents a forward-looking and multi-disciplinary perspective on the EU's capacity to act in the coming decades. The report provides the context for possible policy responses and introduces resilience as a new milestone for EU policymaking. According to the Report "The global trends towards 2050 that will affect the EU's capacity and freedom to act are: climate change and other environmental challenges; digital hyper-connectivity and technological transformations; pressure on democracy and values; shifts in the global order and demography".

The report stresses that the EU's future capacity and freedom to act will depend on whether the EU is able to make ambitious choices today,

guided by its values and interests, across the identified policy areas.

To foster Europe's capacity to deal with current challenges, it is more important than ever to legislate as efficiently as possible. As such, the Commission is implementing some improvements to suit the needs of tomorrow:

Removing regulatory obstacles and red tape that slow down investments. For this purpose, the EU relevant institutions are working closely with Member States, regions and key stakeholders, since 2007.

Cutting red tape is a key priority for the European Commission and the Member States. Administrative burden reduction is part of the Commission's growth and job strategy agreed in Lisbon in 2000. In 2007, the Commission set a goal of reducing, within five years, the administrative burden on businesses in the EU by 25% (European Commission, 2009). The program covers 43 pieces of legislation in 13 priority policy areas.

Simplifying public consultations by introducing a single 'Call for Evidence". The "call for evidence" is related to Better Regulation in the EU. The commitment of the Commission to a "call for evidence" is to be seen as an opportunity to showcase a research or innovation both to the Commission itself and to a wider audience when the Commission reports. When it takes place, it becomes a test for any European regulation in order to ensure it can deliver real value and results. An interesting example is the call for evidence on the EU regulatory framework for financial services. It is a key contribution to the Commission's Better Regulation agenda and the Regulatory Fitness and Performance (REFIT) program (European Commission), which ensures that EU legislation delivers results for citizens and businesses effectively, efficiently and at minimum cost.

The call for evidence has assisted the EU institutions to create an environment that protects consumers, promotes market integrity and supports investment, growth and jobs. The financial crisis triggered the adoption of more than 40 new pieces of EU legislation to restore financial stability and market confidence. These include increased

protection for consumers and increased transparency, as well as an improved regulatory framework for banks, insurance companies, securities markets and asset managers.

The Commission's impact assessments are increasingly discussed in the European Parliament and in Council at the start of each legislative procedure. The Commission also makes available to both institutions the views of stakeholders collected in the eight-week period after it adopts its proposals.

Introducing an 'one in, one out' approach. In some countries these rules have implied a one-to-one offset, whereas in other countries the provisions also imposed a reduction, as in the case of UK's one-in-two-out and one-in-three-out rules, and the US one-in-two-out rule.

In fact, the "one in, one out" (OIOO) approach is a specific form of burden reduction for citizens and businesses by paying special attention to the implications and costs of applying legislation, especially for small and medium-sized enterprises. This principle ensures that any newly introduced burdens are offset by removing equivalent burdens in the same policy area. The OIOO principle has pledged to be a key instrument for reducing the legal flood. Furthermore, Vice-President Markos Sefcovic in the previous Commission, was tasked with overseeing the Commission's BR efforts, introducing a new 'one in, one out' (OIOO) principle.

Figure 1 shows the ordinary legislative procedure as it is depicted by the Commission.

Figure 1: The ordinary legislative procedure
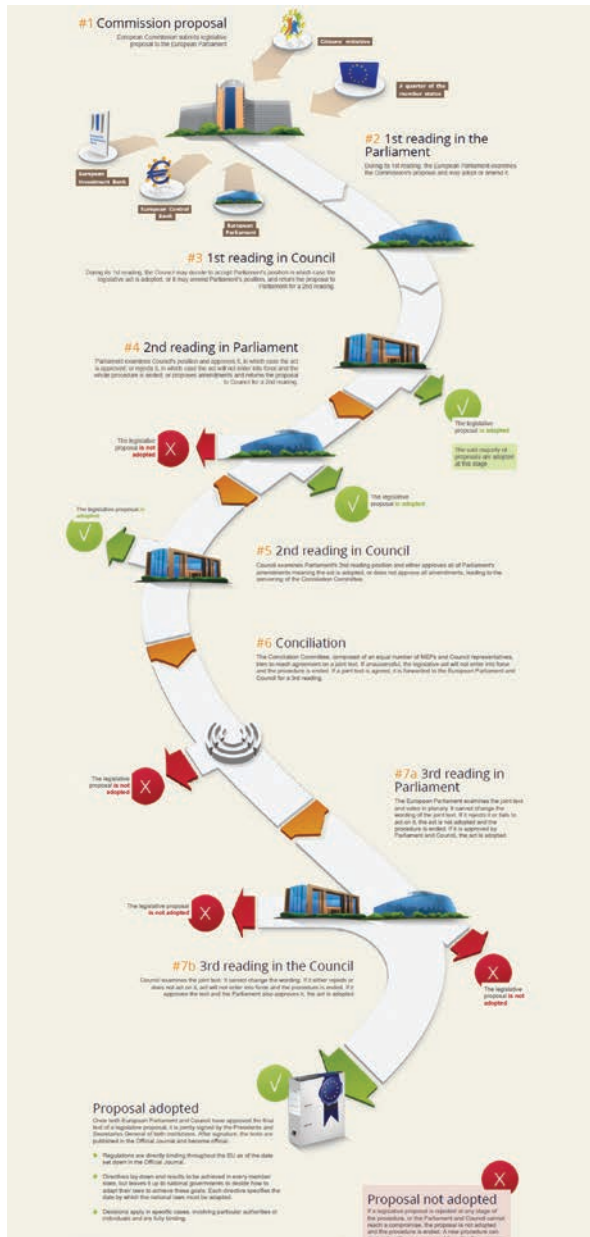
Chapter 4:

Methodology

What we measure and why

The EU-RQI is designed to measure the regulatory quality of the directives enacted during the year previous to the measurement date. The current publication evaluates the Directives of year 2019 and 2020. Since 2020 was a year with many particularities, given the covid-19 pandemic implications to every aspect of political and social life, we decided to measure 2019 as well, as the last year during which regulatory output of the European Union and Member States was in line with a concept of "normality". In addition, the regulatory output of 2020 was small; therefore, safer conclusions can only be drawn by a larger regulatory output, such as the one produced during 2019.[3] Based on the discussions that took place during our workshops and the relevant literature, directives are the legal acts that are usually considered having a greater impact on entrepreneurship and citizens' life.

The EU-RQI is a process oriented rather than a policy toolkit. It evaluates the regulatory output in terms of procedural and legal requirements and its alignment with the rule of law, regardless of the policy outcomes the regulation strives to achieve, as well as its ideological perspective.

The indicator captures the quality of the text and the legislative process for directives that have been introduced into the European legal system through the ordinary legislative procedure. Directives which, for example, introduce amendments to Council decisions or other cases which are exempted from the obligation to have an impact assessment or a preliminary impact assessment, are not measured by

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3   The full list and the rankings of the Directives evaluated with scores in each sub-component is available in the Appendix, pp.80-89.

this indicator. This is because the indicator is parameterised on the basis of the legislative procedure and any procedural deviation from it would give non-comparable results. Nevertheless, it is of particular research interest to identify, at some point in the future, how many of the regulations introduced by the EU fall into categories with various exceptions to the ordinary legislative procedure. If these are a significant proportion of the EU's legislative output, it may be possible to scientifically substantiate the argument that legislative deviations from the ordinary legislative procedure undermine the foundations of citizens' trust in the EU edifice.

Which directives does the EU-RQI measure?

The directives are divided into 3 categories:

I.   Directives of the European Parliament and the Council (referred to as directives hereafter),

II. Implementing directives and

III. Delegated directives.

They are all legally binding acts that must be transposed to national law, even though they vary in the procedure that is used to enact them and they also differ in their scope and purpose. The Directives are enacted through the ordinary legislative procedure with a first or a second reading in the parliament, public consultation etc.

Directives are generally used to set up general policies. They are used in nearly every policy area of the EU. Directives are sometimes used to set out general principles in a certain policy area. They may also be used to set out very broad policies. Such directives are referred to as framework directives. Directives are meant to bridge the divide between the required uniformity of legislation at the EU level whilst at the same time paying heed to the diversity of national systems. Directives are not meant to create single, uniform rules at the EU-level but rather to have the member states strive for common results.

The EU-RQI is applied in directives.

Implementing directives are bound by strict limits and as implementing acts are meant to further the implementation of existing legal acts and the mandate within which implementing acts are issued tends to be narrowly defined. Usually, if certain implementation measures need to be taken for the better enforcement of an EU legal act, the legal document stipulating those implementation measures is either an implementing regulation or an implementing decision. So, implementing directives are not that common, and they cannot be appealed in courts.

The EU-RQI is not applied in implementing directives.

Delegated directives are limited in what they can set out to regulate. Delegated directives can be used to supplement existing legislation on non-essential parts or amend specific and non-essential elements of a legislative act. Delegated directives cannot address anything outside of the framework of an existing legal act and a delegated regulation cannot broaden the scope of the legislative act it seeks to supplement or amend. A delegated directive addresses a specific, delineated topic. Delegated directives are mainly used to ensure proper implementation of legislative acts, as they flesh out and address detailed and often highly technical issues on which little or no political controversy exists, but that require attention and the member states involvement to ensure it meshes well with national conditions. The politically sensitive and key elements of legislation will have been addressed in the original legislative act. Delegated directives cannot be directly appealed in courts.

The EU-RQI is not applied in delegated directives.

The structure of the Index

The European Union Regulatory Quality Index consists of five main sub-components, which collect data for 58 indicators. From these, 52 indicators are evaluated based on the principles of better regulation and an overall score indicates the quality of the regulatory process (see Table 2). The other 6 indicators are used for classification purposes only.

Each of the five main sub-components of the European Union Regulatory Quality Index examines the quality of a specific aspect of regulatory quality by posing relevant questions, the so-called *indicators*.

Sub-components

1. The quality of the text

The questions posed examine if the essential message of the directive can easily detected. What is this message? It also examines whether the directive leaves out as many details of EU's procedures and inter-institutional formalities as possible, as they are meaningless to most readers and simply reinforce the EU's image as a bureaucratic and distant institution. In this pillar the EU-RQI also tests whether the legal act is simple and concise when each new term is explained, and whether the same term is consistently used throughout the document to describe the same situation. Short phrases, active voice and well-structured articles and paragraphs that also add to the document's simplicity and conciseness are, for example, considered.

2. Initiative

In this sub-component, the EU-RQI examines whether the regulation is aligned with the EU's declared policy priorities. The priorities set by the European Council and the European Commission guide the work on EU policies within a political context during a legislative mandate. The priorities are set for a five-year period, which coincides to the term of the Commission's service. They serve as a framework to guide the EU institutions on the priorities and set out how to deliver on them.

3. Subsidiarity

In this set of questions, the EU-RQI examines whether while exercising their legislative powers, the EU institutions consider the subsidiarity principle and if they state how they are doing so. Those questions mine information mainly from the Impact Assessments in order to find out if there are significant cross-border aspects to the problems being tackled by the regulation and if there might be another solution to deal with the problem at the local level. It also looks into data showing whether the subsidiarity control mechanism has been enacted for the regulation

under scrutiny by any national parliament in the EU member states.

4a. Drafting

In this set of questions, the EU-RQI examines the different pathways a bill may take during the negotiation process among the EU institutions. The main players are the Commission, the Council and the parliament and depending on their consent on a legislative proposal, there might be several rounds of "readings" and opinions.

4b. Impact assessment

In this set of questions, the EU-RQI examines the quality of the Impact Assessment accompanying the bill. It evaluates the description of the impact on the economy, the environment, society, competition, SMEs etc.

4c. Consultation

In this set of questions, the EU-RQI examines whether any kind of consultation has taken place and if the process fulfilled the standards for qualitative consultation. The involvement of stakeholders in the lawmaking procedure is essential in acquiring evidence & validating information necessary for quality proposals.

5. Implementation

In this set of questions, the EU-RQI examines if there is an implementation plan, if there are sunset clauses in the bill, if secondary legislation is needed for the regulation to be implemented, if transposition deadlines are observed and whether there is an opinion of the regulatory scrutiny board.

Indicators

The 52 evaluated indicators are questions related to each topic, which attempt to capture the extent that the overall concept of the better regulation principles (or the required processes) is met.[4]

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4   The full list of the 58 indicators, their evaluation and scoring system is available in Appendix, pp. 65-72.

The questions can take three possible answers:

a. *Yes or No.* This binary form answers if a procedural requirement is met. For example, indicator 4.8 "Has an Impact Assessment been carried out?".

b. *A given number.* For example, indicator 5.5 "How many member states have implemented at least one transposition measure?".

c. *Answer from a drop-down menu.* For example, indicator 4.3 "If the Council did not adopt the Parliament's first reading position and sent its own first reading position to the Parliament: (1) The Parliament approved the Council's position with amendment or (2) The Parliament proposed a new text".

Each answer is evaluated taking into account if the principles of better regulation as described in Chapter 2 are met. Then, answers are normalized to a common unit, and they receive the absolute high score (1) when the answer meets the better regulation criteria, while no points are given (0) if the answer fails to meet these certain criteria. Half of the points (0.5) may also be given to some indicators which receive quantitative answers (such as case b above) and can be between certain limits, according to the best practices of the criteria.[5]

In order to ensure that our evaluation process, which depends on unstructured content to a great extent, does not vary among different evaluators, for the first category of answers (*Yes* or *No*) we employ the Krippendorff's Alpha reliability coefficient. The coefficient measures the agreement among coders, judges, raters of unstructured phenomena for which computable values are assigned to them (Krippendorff, Computing Krippendorff's Alpha-Reliability, 2011). In our case, only the first answer category (*a*) relies upon the evaluator's judgement, thus the Krippendorff's Alpha reliability coefficient is required to verify that we measure the same concepts, the same way, no matter what. For this reason, two different coders – evaluators were employed to perform

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5   For similar scoring systems on how the different answer categories are evaluated see the iREG (OECD, 2017, p. 4).

Figure 2: The concept tree of the EU-RQI composite indicator.

EU Regulatory Quality Index score
score 0-100

1. Identity of the law
[coefficient 20]

2. Initiative
[coefficient 20]

3. Subsidiarity
[coefficient 20]

Is the legal act clear (easy to understand and unambiguous)?

Does the EU law respond to a priority of the Commission's multiannual plan?

Is there a detailed statement with qualitative and, where possible, quantitative indicators allowing an appraisal of whether the action can best be achieved at EU level?

Is the legal act simple and concise (avoiding unnecessary elements)?

Which priority of the Commission's multiannual plan does the EU law respond to?

Does the impact assessment contain an adequate justification regarding conformity with the principle of subsidiarity?

Is gender neutral language used?

Does the EU law respond to a priority of the Commission's annual work program?

Are there significant/appreciable transnational/cross-border aspects to the problems being tackled?

How many pages (excluding the annexes) does the legal act cover?

Is the problem tackled by the law widespread across the EU or limited to a few Member States?

How many articles has the act?

Does the title of the act give a good indication of the subject matter?

How many national parliaments enacted the subsidiarity control mechanism for the legislative proposal?

Are overly long articles and sentences, unnecessarily convoluted wording and excessive use of abbreviations avoided?

Is there an article included in the law, which defines the subject matter and scope of the act?

Are identical concepts expressed in the same terms?

Are obsolete acts and provisions expressly repealed in the act under examination?

Does the legal act follow the standard structure (title — preamble — enacting terms — annexes, where necessary)?

Do sentences express just one idea and do articles group together ideas with a logical link between them?

4. Drafting, IA, Consultation [coefficient 20]

4a. Drafting [coefficient 6,3]

- Did the Council adopt the Parliament's first reading position?
- If the Council did not adopt the Parliament's first reading position and sent its own first reading position to the Parliament: Did the Parliament approve the Council's position with amendment or did it propose a new text?
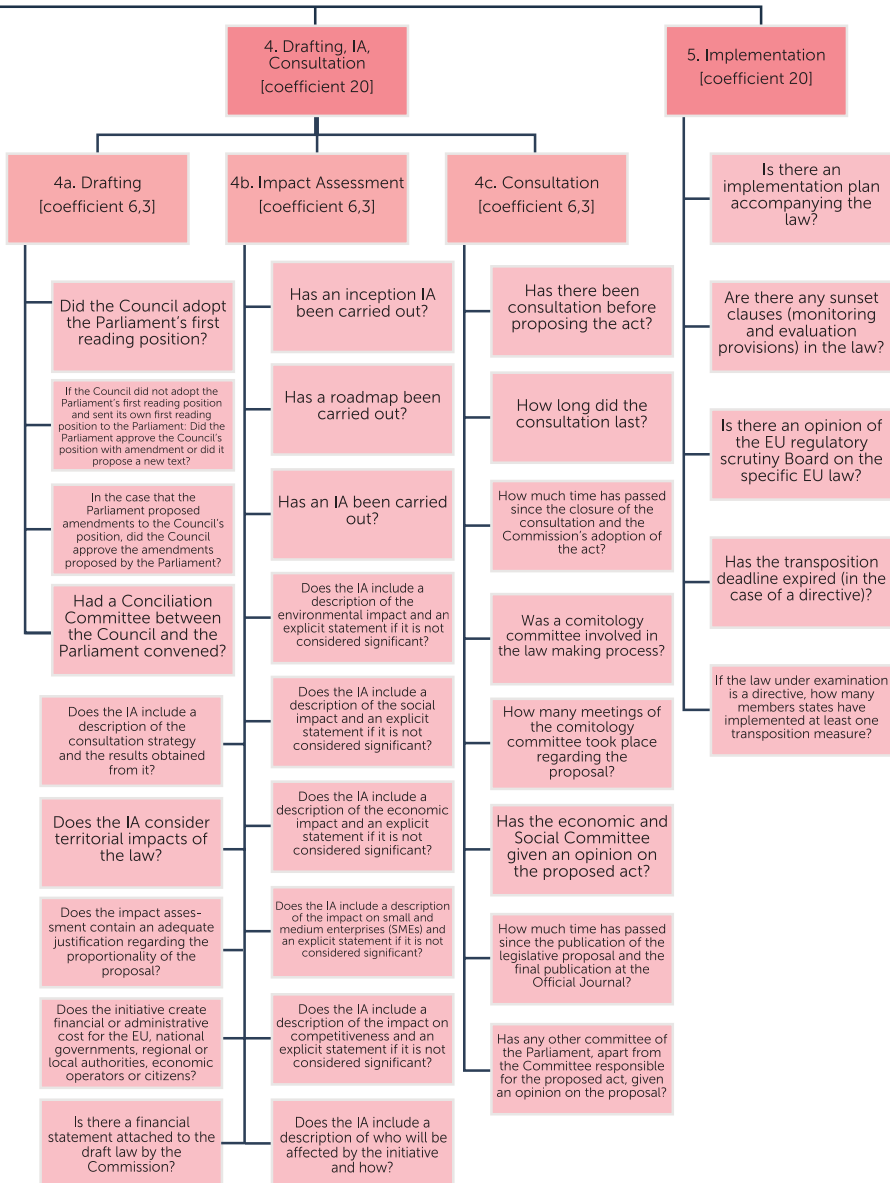- In the case that the Parliament proposed amendments to the Council's position, did the Council approve the amendments proposed by the Parliament?
- Had a Conciliation Committee between the Council and the Parliament convened?
- Does the IA include a description of the consultation strategy and the results obtained from it?
- Does the IA consider territorial impacts of the law?
- Does the impact assessment contain an adequate justification regarding the proportionality of the proposal?
- Does the initiative create financial or administrative cost for the EU, national governments, regional or local authorities, economic operators or citizens?
- Is there a financial statement attached to the draft law by the Commission?

4b. Impact Assessment [coefficient 6,3]

- Has an inception IA been carried out?
- Has a roadmap been carried out?
- Has an IA been carried out?
- Does the IA include a description of the environmental impact and an explicit statement if it is not considered significant?
- Does the IA include a description of the social impact and an explicit statement if it is not considered significant?
- Does the IA include a description of the economic impact and an explicit statement if it is not considered significant?
- Does the IA include a description of the impact on small and medium enterprises (SMEs) and an explicit statement if it is not considered significant?
- Does the IA include a description of the impact on competitiveness and an explicit statement if it is not considered significant?
- Does the IA include a description of who will be affected by the initiative and how?

4c. Consultation [coefficient 6,3]

- Has there been consultation before proposing the act?
- How long did the consultation last?
- How much time has passed since the closure of the consultation and the Commission's adoption of the act?
- Was a comitology committee involved in the law making process?
- How many meetings of the comitology committee took place regarding the proposal?
- Has the economic and Social Committee given an opinion on the proposed act?
- How much time has passed since the publication of the legislative proposal and the final publication at the Official Journal?
- Has any other committee of the Parliament, apart from the Committee responsible for the proposed act, given an opinion on the proposal?

5. Implementation [coefficient 20]

- Is there an implementation plan accompanying the law?
- Are there any sunset clauses (monitoring and evaluation provisions) in the law?
- Is there an opinion of the EU regulatory scrutiny Board on the specific EU law?
- Has the transposition deadline expired (in the case of a directive)?
- If the law under examination is a directive, how many members states have implemented at least one transposition measure?

the evaluation. The intercoder reliability was 0.74, which is higher than the acceptable a ≥ .667, which is the lowest conceivable limit (Krippendorff, 2004, p. 241).

Overall, the research team has collected and evaluated 2.080 data points, for 40 Directives over 52 indicators. The quantification concept of EU-RQI is also based upon the methodology of the *Regulatory Quality Index: Methodology and Implementation Guide for European Countries*, which measures the quality of domestic primary regulation of European countries (Karkatsoulis, Stefopoulou, Saravakos, Zlatanova, & Çoban, Regulatory Quality Index: Methodology and Implementation Guide for European Countries, 2019).

The estimation method

The total score of each Directive is given on a 0-to-100 scale. The best Directive, which ideally would have met all the best practices of better regulation, should score 100. Each sub-component of the European Union Regulatory Quality Index is assigned with a coefficient, which represents the significance of each step in the overall regulatory process. For this reason, the weighting method should be explicit and transparent, since different weighting schemes can produce results with great variance and no robustness.

Given that we use a 0-to-100 scale for the overall ranking we apply an equal weighting scheme in which all the components have a coefficient of 20 out 100, that is, they all have equal importance. This weighting scheme is preferred "*when there are no statistical or empirical grounds for choosing a different scheme ... it could be the result of insufficient knowledge of causal relationships, or ignorance about the correct model to apply*" (European Commission) and it is the prevailing weighing scheme of other major composite indicators such as the iREG from OECD (2017, p. 4) and the Fraser's *Economic Freedom of the World* (Gwartney, Lawson, Hall, & Murphy, 2019, pp. 5-6).

However, in order to ensure that we do not count a better regulation element, concept or principle twice, we also test our sub-components for possible statistical correlation, which allows examining the structure

and the dynamics of the sub-components and the indicators measured (European Commission; Greco, Ishizaka, Tasiou, & Torrisi , 2019, p. 70). We employ a Pearson correlation coefficient, in which we found that no sub-component is highly correlated with another (r<0.80).[6] Therefore, we can apply the equal weighting scheme knowing that no sub-component measures, to a great extent, the same concept as the others.[7]

Table 1 presents the Pearson correlation coefficient for each sub-component of the index with the others for the 40 Directives evaluated in the study. We can observe that no high correlations are found in general and only the relationship between the Subsidiarity sub-component and the Drafting, IA, consultation sub-component is strong.

Additionally, the fact that no negative correlation appears among the sub-components reveals no conceptual errors and supports the linear aggregation method opted (Becker, Saisana, Paruololne, & Vandecasteele, 2017, p. 14).

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6   We prefer correlation analysis instead of regression analysis to check aggregation scheme and sensitivity for reasons of simplicity (the index is in its first steps) and because regression models assume strict linearity, which is something hardly anyone can find in composite indices, in general. Both correlation and regression analysis belong to the so –called "data-driven techniques" (Decancq & Lugo, 2013) and do not suffer from the manipulation of the results problems (Greco, Ishizaka, Tasiou, & Torrisi , 2019, p. 69).

7   The dependence between input variables (sub-components) and the composite indicator score can be found in Appendix, p. 73.

Table 1: Correlation matrix among the sub-components of the EU-RQI composite indicator.

Pearson correlation coefficient	Regulatory Text	Initiative	Subsidiarity	Drafting, IA, consultation	Implementation
Regulatory Text	-	0.191 (0.237)	0.244 (0.129)	0.810 (0.620)	0.069 (0.672)
Initiative	0.191 (0.237)	-	0.081 (0.620)	0.110 (0.501)	0.162 (0.319)
Subsidiarity	0.244 (0.129)	0.081 (0.620)	-	0.624** (0.000)	0.164 (0.312)
Drafting, IA, consultation	0.081 (0.620)	0.110 (0.501)	0.624** (0.000)	-	0.222 (0.169)
Implementation	0.069 (0.672)	0.162 (0.319)	0.164 (0.312)	0.222 (0.169)	-

** Correlation is significant at the 0.01 level (2-tailed). P – value in parentheses. N=40

Table 2 presents the number of indicators evaluated in each sub-component, the coefficient of each sub-component and the coefficient of each indicator in each sub-component.

Table 2: Number of Indicators and coefficients of each sub-component of EU-RQI composite indicator.

Sub Components	Number of indicators evaluated (Np)	Coefficients of the pillars (Cp)	Coefficient of each indicator (Cv)
Regulatory Text	12	20	1.67
Initiative	3	20	6.67
Subsidiarity	5	20	4.00
Drafting, IA, consultation	27	20	0.77
Implementation	5	20	4.00
Total	52	100	-

The calculation of the EU-RQI score

The overall European Union Regulatory Quality Index score is equal to the sum of the score of each sub-component (Score$_p$), as follows:

RQI score = Score$_{p1}$ + Score$_{p2}$ + Score$_{p3}$ + Score$_{p4}$ + Score$_{p5}$

Each sub-component's score (Score$_p$) is the sum of all the scores of the indicators evaluated in the sub-component (N$_p$), over the number of the indicators evaluated in the pillar (N$_v$) times the coefficient determined for the sub-component (C$_p$). The following formula gives each sub-component score:

$$\text{Score}_p = \frac{\sum_{i=1}^{Np} x_{p,i}}{Np} \cdot C_p$$

Where we define X$_{p,I}$ to the i-th indicator of the p-th sub-component.

Chapter 5:

Results

The regulatory Output of 2019

The overall score and the score of each sub-component of the European Union Regulatory Index reveals in which stages of the regulatory process the legislation of Directives follows the Commission's Better Regulation agenda and the Regulatory Fitness and Performance program, aiming to reduce the costs and produce effective and efficient outcomes both for the citizens and businesses. While the EU-RQI produces a score for each better regulation sub-component, the raw data collected for various indicators can also be useful for understanding the regulatory quality in European Union.

Table 3 presents the descriptive statistics for all the Directives of 2019 for the all the quantitative (numeric) indicators.

The average number of pages of a Directive was 24, while the maximum number of pages was 67 and the minimum 6. A Directive has 21 articles on average, while the maximum number of articles was 74 and the minimum 4.

The average number of National parliaments enacting the subsidiarity control mechanism for Directives was below 1 (0.5), while the maximum number was 8 and the minimum 0.

The average duration of the consultation period was 12 weeks, while the maximum duration was 20 weeks and the minimum 7.

18 months was the average time passed from the closure of the Economic and Social Committee till the adoption of the Directive by the Commission, while the maximum time passed 37 months and the minimum 7.

There was no comitology meeting for 2019's Directives.

The average time passed from the final publication at the Official Journal till the publication of the legislative proposal was 23 months, while the maximum time passed was 43 months and the minimum 12.

The average number of Member States implementing at least one transposition measure was 13, while the maximum number was 27 and the minimum 1.

Table 3: Descriptive statistics of 2019 Directives for the all the quantitative (numeric) indicators.

Measurement	Average	Max	Min	SD
Pages	24	67	6	15
Articles	21	74	4	18
National parliaments enacted the subsidiarity control mechanism	0,5	8	0	1
Consultation duration (weeks)	12	20	7	2
Time (months) passed from the closure of the Economic and Social Committee till the adoption of the Directive by the Commission	18	37	7	8
Meetings of the comitology committee took place	0	0	0	0
Time (months) passed from the final publication at the Official Journal till the publication of the legislative proposal	23	43	12	9
Members states implemented at least one transposition measure	13	27	1	8

Figure 3 shows the performance of the highest, the average and the lowest scoring Directive in 2019 in the EU-RQI composite indicator, on a 0-to-100 scale. The best Directive was the "*Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union law*" with an overall score of 87.4/100. The average Directive scores are fairly

good (72), while the lower score is 52.8 for the Directive *"Directive (EU) 2019/2121 of the European Parliament and of the Council of 27 November 2019 amending Directive (EU) 2017/1132 as regards cross-border conversions, mergers and divisions (Text with EEA relevance)"*.

Figure 3: Highest, average and lowest scoring Directives of 2019
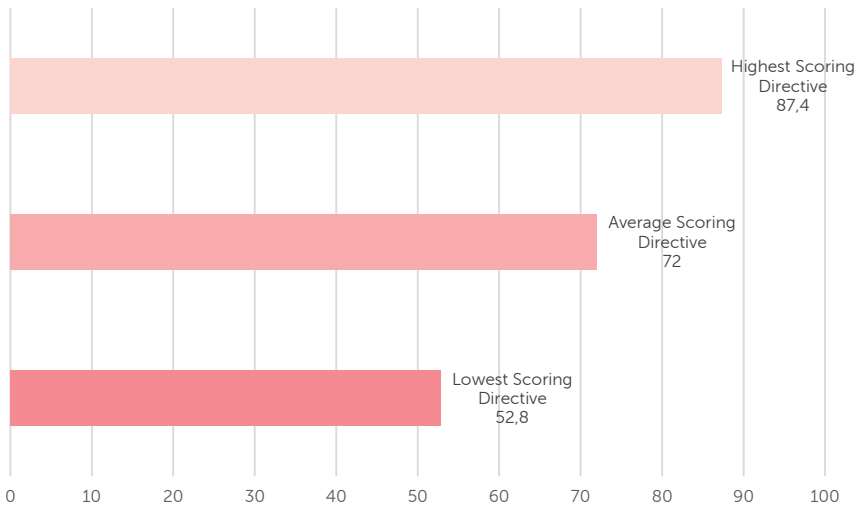
In regard with the sub-components, which follow the discrete stages of the regulatory process, Figure 4 presents the score of each one. The quality of the regulatory text and the subsidiarity principle scores are high with 17.3 and 18.8 out of 20 respectively. Quite high are also the scores for the Initiative and the Drafting, Impact Assessment and Consultation sub-components, which score 14.4 and 12.3 out 20 respectively. The lowest score belongs to the Implementation sub-component, which scores 7.9 out of 20, revealing significant inefficacies in the implementation process.

Figure 4: Average score of Directives in each EU-RQI sub-component, 2019.
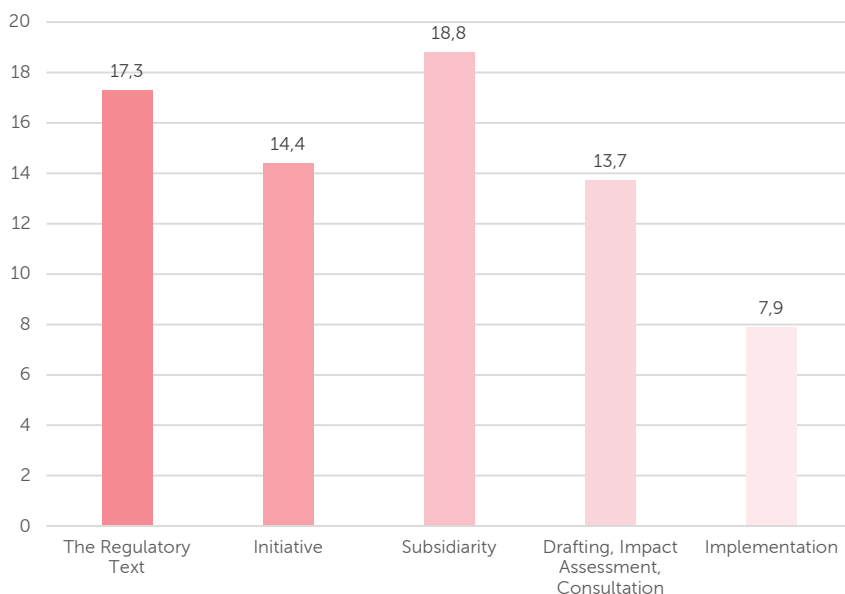
The regulatory Output of 2020

Table 4 presents the descriptive statistics for all the Directives of 2020 for the all the quantitative (numeric) indicators.

The average number of pages of a Directive was 22, while the maximum number of pages was 62 and the minimum 4. A Directive has 18 articles on average, while the maximum number of articles was 58 and the minimum 4.

The average number of National parliaments enacting the subsidiarity control mechanism for Directives was below 1 (0.8), while the maximum number was 4 and the minimum 0.

The average duration of the consultation period was 18 weeks, while the maximum duration was 44 weeks and the minimum 4.

22 months was the average time passed from closure of the Economic and Social Committee till the adoption of the Directive by the Commission, while the maximum time passed was 62 months and the minimum 4.

There was no comitology meeting for 2020's Directives.

The average time passed from the final publication at the Official Journal till the publication of the legislative proposal was 22 months, while the maximum time passed was 38 and the minimum 1.

The average number of Member States implementing at least one transposition measure was 4, while the maximum number was 15 and the minimum 0.

Table 4: Descriptive statistics of 2020 Directives for the all the quantitative (numeric) indicators.

Measurement	Average	Max	Min	SD
Pages	22	62	4	19,9
Articles	18	58	4	19,2
National parliaments enacted the subsidiarity control mechanism	0,8	4	0	1,5
Consultation duration (weeks)	18	44	4	14,3
Time (months) passed from the closure of the Economic and Social Committee till the adoption of the Directive by the Commission	12	31	0	11,4
Meetings of the comitology committee took place	0	0	0	-
Time (months) passed from the final publication at the Official Journal till the publication of the legislative proposal	22	38	1	12,5
Members states implemented at least one transposition measure	4	15	0	6,7

Figure 5 shows the performance of the highest, the average and the lowest scoring Directive in 2020 in the EU-RQI composite indicator, on a 0-to-100 scale. The best Directive was the "*Directive (EU) 2020/1828 of the European Parliament and of the Council of 25 November 2020 on representative actions for the protection of the collective interests of consumers and repealing Directive 2009/22/EC (Text with EEA relevance)*" with an overall score of 84.2/100. The average Directive scores a bit higher than the mean of the scale (65.3), while the lower score is 36.18 for the Directive "*Council Directive (EU) 2020/2020 of 7 December 2020 amending Directive 2006/112/EC as regards temporary measures in relation to value added tax applicable to COVID-19 vaccines and in vitro diagnostic medical devices in response to the COVID-19 pandemic*".

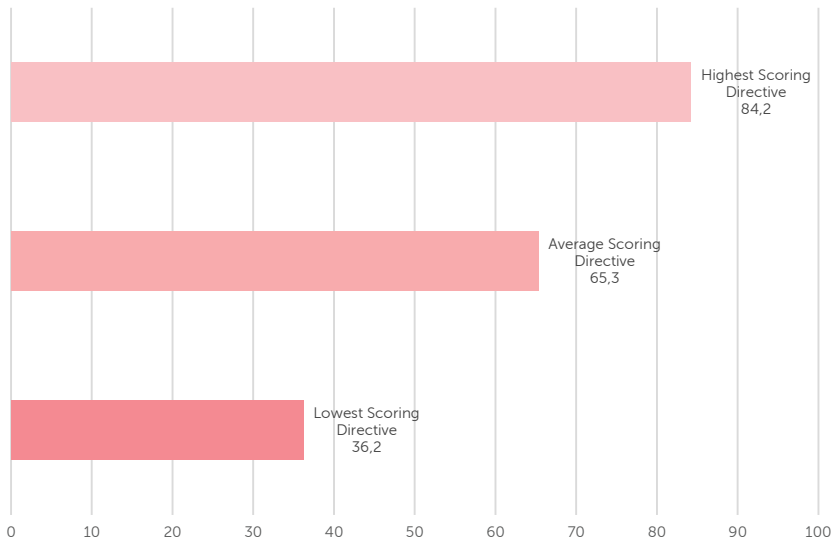*Figure 5: Highest, average and lowest scoring Directives of 2020.*

Figure 6 presents the score of each sub-component of the discrete stages of the regulatory process. On the one hand, the quality of the

regulatory text and the subsidiarity principle scores are quite high with 16.4 and 16.5 out of 20 respectively. Quite high are also the scores for the Initiative and the Drafting, Impact Assessment and Consultation sub-components, which score 14.2 and 12.3 out 20 respectively. The lowest score belongs to the Implementation sub-component which scores 6 out of 20.

Figure 6: Average score of Directives in each EU-RQI sub-component, 2020.
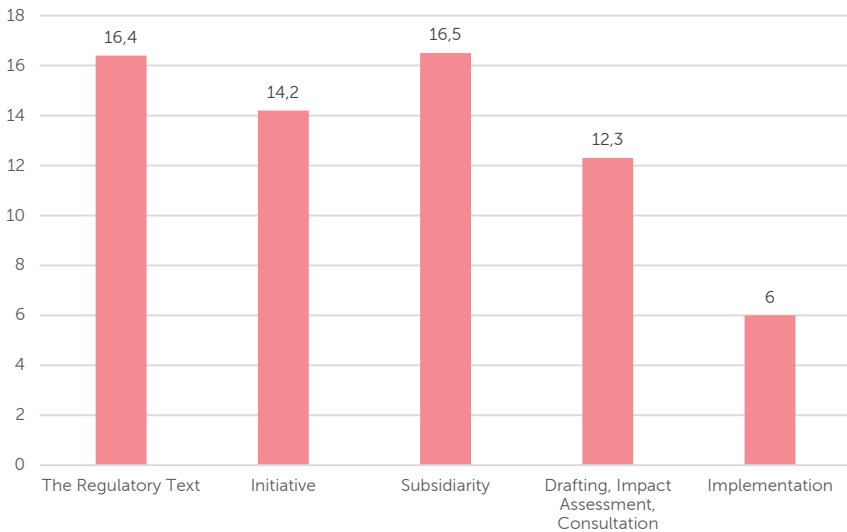
Chapter 6:

Discussion

The regulatory quality of Directives in 2019

The European legislation of the 2019's directives evaluated by the index shows a satisfactory performance in terms of quality. The fact that the average score of the 2019 directives measured is 72 out of 100, demonstrates that the European Union and its institutions respect, as a rule, the established procedures that ensure compliance with the principles of better regulation. Significantly, none of the directives measured fell below the baseline (50/100), with the lowest scoring directive getting 52.8 out of 100 on the index.

A closer look at the sub-components of the index, reveals the strengths and weaknesses of the European legislative process in 2019. In particular, it turns out that a lot of work has been done on the subsidiarity principle, and that the EU's sensitivity to subsidiarity issues has paid off. The average performance on subsidiarity, of the 2019 directives is 18.8 (out of 20). This shows that the public debate on the EU's democratic deficit and EU's systematic efforts to reduce this deficit are paying off.

As can be seen from the impact assessments of the directives studied, the EU institutions are not content with simply asserting that the subsidiarity principle is respected, but substantiate this position with facts and data. The quality of the texts of the directives studied is also high. The European Commission's clear instructions for drafting linguistically comprehensible legislative texts and the need to avoid ambiguities in an environment with dozens of languages into which every EU legislative text must be translated and implemented have led to a high level of linguistic drafting, given that directives remain a legal text bind by law-making constraints. The average quality score of the regulatory texts examined is 17.3 (out of 20). The measurements also showed a satisfactory effort in the use of gender free language; the use of gender-specific language in the texts of European directives can

serve as an example for all EU Member States.

There is a significant deficit in the quality of the implementation and transposition of the Directives into Member States' national laws. This is due not only to the poor transposition of directives by the Member States, but also to the absence of a systematic ex-post evaluation of the implementation of each directive. Even though there is use of sunset clauses, which provide a reminder to review and evaluate the implementation of each directive, the poor results of the EU-RQI reveal that this is more a procedural rather a substantial requirement.[8]

The poor implementation of a regulation could be a sign that there was no actual need[9] and in these cases the regulation is considered symbolic rather than functional. As Dwyer puts it *"[T]he enactment of symbolic legislation reflects a breakdown of the legislative policymaking machinery, a system that all too frequently addresses real social problems in an unrealistic fashion. It also creates a dilemma for regulators and judges. While they generally are reluctant to usurp the legislature's policymaking prerogatives by substituting their own version of appropriate public policy, they also are loath to implement and enforce a statute whose costs are grossly disproportionate to its benefits."* (1990, p. 234).

There also seems to be room for improvement in drafting, consultation, and impact assessment. Even though the EU relevant guidelines are detailed and clear, there are some cases where they are not followed, resulting in an average score of 13.7 (out of 20) for this category. What should be credited to the EU's legislative system is the sufficient time generally given during 2019 for consultation. The average consultation time for the directives measured was 12 weeks, with this time ranging from a minimum of 7 weeks (a time that seems long for many Member

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8   The table with all the non-numerical indicators in each subcomponent aggregated results for 2019 and 2020 can be found in Appendix, p. 74-78.
9   Other reasons could be that EU's regulations are not an implementation priority for Member States, or that they could be out of the government's agenda.

States) to a maximum of 20 weeks. This time may, of course, be sufficient for adequate consultation, but it is also one of the factors that make the legislative process particularly lengthy. The average time between the publication of the legislative initiative and the publication of the directive in the official gazette is two years (23 months). While this time may provide a guarantee of consultation and regulatory quality, it should also be seen in the light of recent crises (climate crisis, pandemic, etc.) which require an immediate response to specific issues.

Lastly, it is good that the directives are concise and comprehensive and do not go into excessive detail. The average number of pages of 2019 guidelines is 24 pages.

The regulatory quality of Directives in 2020

What can be observed from the results of the indicator for 2020, is that the trends recorded in 2019 remain, which is a strong sign that the indicator does indeed capture the strengths and weaknesses of the EU's legislative process. A slight drop of 7 percentage points in the average quality of 2020 directives can be attributed to the pandemic and the emergency procedures implemented during this period. However, this drop is small, or even insignificant, given the circumstances, and this demonstrates that the foundations of the EU regulatory architecture are strong. However, we should treat 2020's results cautiously, since the regulatory output is rather small and subject to unprecedented, urgent circumstances.

A strong point remains the respect of the subsidiarity principle, where the 2020 directives receive an average score of 16.5 out of 20 (compared to 18.8 in 2019) and the quality of the text, where the score for 2020 is 16.4 out of 20 (compared to 17.3 in 2019).

The uniformity in some typical features of the directives, observed between the 2019 and 2020 directives is exceptional. For example, the average number of pages of each directive, the number of articles, the duration of the consultation and the length of the legislative process remain almost unchanged. This means that the better regulation procedures and legislative rules in the EU have strong foundations and

the process is not susceptible to interference and exceptions, which undoubtedly enhances legal certainty within the EU.

Overall conclusions on EU regulatory quality

Even though comparisons among the two years measured are risky due to the small number of directives adopted in 2020 due to the pandemic, some interesting conclusions can be drawn based on the data in the table below.

Legislative and technical issues

There has been a notable progress with regard to the structure of the regulatory texts from 2019 to 2020. Abbreviations have been eliminated and the size of sentences and paragraphs has approached satisfactory levels. This progress should not be a one-off but it could be capitalised by the European legislators, so that it becomes a permanent feature of European regulatory production.

Despite the previous progress, there is still room for technical improvements. For example, by following a traditional better regulation practice, the titles of regulations can be improved. The titles should convey the content of the regulation, an area where there has been a decline in 2020 compared to 2019.

The same applies to summarising the content of the regulation in an article. The quality observed in 2019 (65.6%) fell to 50% in 2020. The concise presentation of the content of a regulation is extremely helpful for those dealing with European legislation and efforts should be made to follow the good practice of previous years.

Strategic planning and implementation

There has been a substantial improvement in the alignment of the regulations with the European Commission's Multiannual Action Plan.[10] The greater and better the alignment, the greater the chances that the

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10 https://op.europa.eu/en/publication-detail/-/publication/88d7a026-5ebb-11eb-b487-01aa75ed71a1/language-en

regulation will be implemented. A related indicator that points to an improvement in the quality of implementation of a regulation is the percentage of compliance with the subsidiarity principle. It is absolutely essential for the process of European integration that the subsidiarity principle is respected, not only because it embodies the European legal culture, but also because it is the only way to ensure that a regulation is better implemented.

There has been a significant decline in the percentage of Community directives produced following the standard legislative procedure. Both the failure to comply with what is stated and described in the standard legislative procedure and the growing discrepancy between the Council's and Parliament's assessments suggest that efforts should be made to further simplify the legislative process and communication between the institutions and bodies. The percentage of Directives accompanied by an action plan describing both the key points of the procedure and the required implementation steps is increasing but remains low.

The Impact Assessment is the most important tool for achieving better implementation of the regulations. For this reason, further efforts should be made to identify the impact of the regulations on society and the economy. In particular, the impact of the implementation of regulations on social cohesion should be more systematically investigated.

Conclusion and policy recommendations

The overall regulatory quality of European Union Institutions in 2019 and 2020 has been satisfactory, with an average score of the 2019 directives 72 out of 100 and of the 2020 directives 65 out of 100. The lower 2020 score by 7 percentage points can be attributed to the unprecedented challenges the covid-19 pandemic caused.

In general terms, the regulatory texts are understandable and concise, while the initiative of the regulation is, in most of the cases, aligned to the targets of the Commission and its multiannual plan with a few exceptions. The subsidiarity principle scores are quite high, which means that it is respected, at least in terms of providing the reasons and the extent the EU should act and regulate. On the other hand, the process of drafting, the impact assessment and the consultation are not of equally high standards. Nevertheless, we can identify that the drafting relies almost exclusively in the competences and initiatives of European Commission, the impact assessment informs the policy with evidence-based decision making, while the consultation is a key aspect of stakeholders' engagement, even though it can sometimes result to a particularly lengthy legislative process. The bigger challenge identified by the EU-RQI is the poor implementation and transposition of directives' measures. In most of the 2019 cases, more than a year after their enforcement at the EU level, only half of the Member States (13 on average) have transposed at least one measure, not to mention the transposition of all measures enforced.

Inadequate compliance is one of the key factors causing regulatory failure. Political actors often prefer to focus on adoption and communication of a rule rather than ensuring that it is respected (Karkatsoulis et al, 2019, p. 22). Even though EU's institutional framework

is quite different from a country's one, certain pathogenies can be identified and applied to both cases.

We should also highlight the fact that the EU-RQI is a new toolkit, not developed to its full potential, evaluating only a small part of EU's regulatory output. There are many regulations produced in the European Union level which are left out since they require a different methodological design to capture the various objectives, processes, and types of regulatory outputs. Even though the findings represent only a part of the two years regulation, we can argue that this sample is more than adequate, but it can be improved in the future with targeted policy recommendations.

Considering this, the Commission should monitor closely the implementation of the Directives by adopting sophisticated tools which assures the correct and timely implementation and transposition of EU laws and that it acts if not. In addition, more reform initiatives are needed to overcome the challenges identified both by the European Union Regulatory Quality Index and the corresponding literature.[11] The main purpose of these process-oriented reforms is to strengthen the best practices (such as consultation) and improve the drawbacks (such as poor implantation). More specifically, having examined the law making procedure and the quality requirements of the ordinary legislative procedure so far, we could suggest the following:

I.   A common method ("assessment grid") should be used by the Union's institutions and bodies and by national and regional Parliaments to assess issues linked to the principles of subsidiarity (including EU added value), proportionality and the legal basis of new and existing legislation. This initiative could contribute to better subsidiarity and impact assessment indicators results.

II.   Together with national Parliaments and the European Committee of the Regions, the Commission should raise the awareness of national, local and regional authorities of the opportunities they

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11 See for example Karkatsoulis, Stefopoulou, & Saravakos, 2021.

have to contribute to policymaking at an early stage. This initiative could contribute to better consultation indicators results.

III. The Commission should develop and adopt minimum standards for scientific integrity, covering study quality, assessment of studies, risk communication and selection of relevant and eminent experts that all directorates and agencies must respect. These could be set out, for instance, in a new decision.[12] This initiative could contribute to better impact assessment indicators results.

IV. The Commission should, as an integral part of its Better Regulation framework, ensure the enforcement of such standards for scientific integrity, as well as the coordination and active promotion of good practices across all EU institutions and bodies – for instance through the Scientific Advisory Mechanism, the Joint Research Centre, and the EU-ANSA network. This initiative could contribute to better implementation indicators results.

V. The Commission should actively promote the organisation of public hearings and other opportunities for interactive debate during the elaboration of regulatory proposals, including implementing measures. This initiative could contribute to better consultation indicators results.

VI. Commission guidelines for consultation with stakeholders should ensure that evidence from scientific assessments is not included in any single grouping of inputs, and that scientific papers or findings put forward by stakeholders are fully evaluated to ensure integrity and, if necessary, included with appropriate expert comments. This initiative could contribute to better consultation indicators results.

VII. The Commission should define the meaning and usage of the Proportionality Principle, possibly in the form of a Communication. It should explain how the principle should be used to improve the quality of regulatory decision-making, including implementation measures. The document should also recognise the need to

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12 Comments on European Commission's communication on Better Regulation, July 2021.

transparently appraise alternatives. That is, a new toolkit should be developed by the Commission that provides detailed operational guidance for the application of the Proportionality Principle. This initiative could contribute to better subsidiarity and impact assessment indicators results.

VIII. Compliance with such core tests of proportionate action should be one of the prominent formal 'quality' requirements applied by the Regulatory Scrutiny Board. This initiative could contribute to better subsidiarity and implementation indicators results.

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Appendix

The full list of the 58 indicators, their evaluation (for 52 indicators) and scoring system.

Identity of the law

1.   *Regulation Number.*

     – No score is assigned.

2.   *Date of publication.*

     – No score is assigned.

3.   *Title.*

     – No score is assigned.

The regulatory text

4.   *Which policy area does the legal act refer to?*

     – No score is assigned.

5.   *Is the legal act clear (easy to understand and unambiguous)?*

     – If Yes, it scores 1.67. If No it scores 0.

6.   *Is the legal act simple and concise (avoiding unnecessary elements)?*

     – If Yes, it scores 1.67. If No it scores 0.

7.   *Is gender neutral language used?*

     – If Yes, it scores 1.67. If No it scores 0.

8.   *How many pages (excluding the annexes) does the legal act cover?*

     – If it has from 1 to 40 pages, it scores 1.67. If it has from 41 to 80 pages, it scores 0.835. If it has over 81 pages, it scores 0.

9. *How many articles has the act?*

    – If it has from 1 to 30 articles, it scores 1.67. If it has from 31 to 50 articles, it scores 0.835. If it has over 51 articles, it scores 0.

10. *Are there overly long articles and sentences, unnecessarily convoluted wording and excessive use of abbreviations?*

    – If No, it scores 1.67. If Yes it scores 0.

11. *Are identical concepts expressed in the same terms?*

    – If Yes, it scores 1.67. If No it scores 0.

12. *Does the legal act follow the standard structure (title — preamble — enacting terms — annexes, where necessary)?*

    – If Yes, it scores 1.67. If No it scores 0.

13. *Does the title of the act give a good indication of the subject matter?*

    – If Yes, it scores 1.67. If No it scores 0.

14. *Is there an article included in the law, which defines the subject matter and scope of the act?*

    – If Yes, it scores 1.67. If No it scores 0.

15. *Are obsolete acts and provisions expressly repealed in the act under examination?*

    – If Yes, it scores 1.67. If No it scores 0.

16. *Do sentences express just one idea and do articles group together ideas with a logical link between them?*

    – If Yes, it scores 1.67. If No it scores 0.

Initiative

17. *Does the EU law respond to a priority of the Commission's multiannual plan?*

    – If Yes, it scores 6.67. If No it scores 0.

18. Which priority of the Commission's multiannual plan does the EU law respond to?

    – If it responds to one of the priorities, it scores 6.67. If it does not respond to any of these, it scores 0.

19. Does the EU law respond to a priority of the Commission's annual work program?

    – If Yes, it scores 6.67. If No it scores 0.

20. Is the law under examination:
    • a major new law or policy,
    • an evaluation/amendment of an existing law or policy.
    – No score is assigned.

21. The Commission proposed the law
    • On its own initiative.
    • Responding to an invitation from the European Council.
    • Responding to an invitation from the Council of the European Union.
    • Responding to an invitation from the European Parliament.
    • Responding to an invitation from citizens (following a successful European Citizens' Initiative).
    • Responding to an invitation from the European Central Bank.
    • Responding to an invitation from the Court of Justice.

    – No score is assigned.

Subsidiarity

22. Is there a detailed statement with qualitative and, where possible, quantitative indicators allowing an appraisal of whether the action can best be achieved at EU level?

    – If Yes, it scores 4.00. If No it scores 0.

23. Does the impact assessment contain an adequate justification regarding conformity with the principle of subsidiarity?

    – If Yes, it scores 4.00. If No it scores 0.

24. *Are there significant/appreciable transnational/cross-border aspects to the problems being tackled?*

    – If Yes, it scores 4.00. If No it scores 0.

25. *Is the problem tackled by the law widespread across the EU or limited to a few Member States?*

    – If Yes, it scores 4.00. If No it scores 0.

26. *How many national parliaments enacted the subsidiarity control mechanism for the legislative proposal?*

    – If less than 4 national parliaments enacted the subsidiarity control mechanism, it scores 4.00. If between 5 and 7 national parliaments enacted the subsidiarity control mechanism, it scores 2.00. If more than 8 national parliaments enacted the subsidiarity control mechanism, it scores 0.

Drafting, IA, Consultation

27. *Has the law been adopted through a 1) ordinary (COD) or a 2) special legislative procedure (Consultation procedure (CNS))?*

    – No score is assigned.

28. *Did the Council adopt the Parliament's first reading position?*

    – If Yes, it scores 0.77. If No it scores 0.

29. *If the Council did not adopt the Parliament's first reading position and sent its own first reading position to the Parliament:*
    • Did the Parliament approve the Council's position with amendment?
    • Did it propose a new text?
    • Not applicable.

    – If the Parliament approve the Council's position with amendment, it scores 0.77. If the Parliament proposes a new text it scores 0.

30. *In the case that the Parliament proposed amendments to the*

Council's position, did the Council approve the amendments proposed by the Parliament?

– If Yes, it scores 0.77. If No it scores 0.

31. *Had a Conciliation Committee between the Council and the Parliament convened?*

– If Yes, it scores 0.77. If No it scores 0.

32. *Has an inception IA been carried out?*

– If Yes, it scores 0.77. If No it scores 0.

33. *Has a roadmap been carried out?*

– If Yes, it scores 0.77. If No it scores 0.

34. *Has an IA been carried out?*

– If Yes, it scores 0.77. If No it scores 0.

35. *Does the IA include a description of the environmental impact and an explicit statement if it is not considered significant?*

– If Yes, it scores 0.77. If No it scores 0.

36. *Does the IA include a description of the social impact and an explicit statement if it is not considered significant?*

– If Yes, it scores 0.77. If No it scores 0.

37. *Does the IA include a description of the economic impact and an explicit statement if it is not considered significant?*

– If Yes, it scores 0.77. If No it scores 0.

38. *Does the IA include a description of the impact on small and medium enterprises (SMEs) and an explicit statement if it is not considered significant?*

– If Yes, it scores 0.77. If No it scores 0.

39. *Does the IA include a description of the impact on competitiveness and an explicit statement if it is not considered significant?*

    – If Yes, it scores 0.77. If No it scores 0.

40. *Does the IA include a description of who will be affected by the initiative and how?*

    – If Yes, it scores 0.77. If No it scores 0.

41. *Does the IA include a description of the consultation strategy and the results obtained from it?*

    – If Yes, it scores 0.77. If No it scores 0.

42. *Does the IA consider territorial impacts of the law?*

    – If Yes, it scores 0.77. If No it scores 0.

43. *Does the impact assessment contain an adequate justification regarding the proportionality of the proposal?*

    – If Yes, it scores 0.77. If No it scores 0.

44. *Does the Impact Assessment measure financial or administrative cost for the EU, national governments, regional or local authorities, economic operators or citizens?*

    – If Yes, it scores 0.77. If No it scores 0.

45. *Is there a financial statement attached to the draft law by the Commission?*

    – If Yes, it scores 0.77. If No it scores 0.

46. *Has there been consultation before proposing the act?*

    – If Yes, it scores 0.77. If No it scores 0.

47. *How long did the consultation last?*

    – If the consultation lasted more than 5 weeks, it scores 0.77. If the consultation lasted from 2 to 4 weeks, it scores 0.385. If the

consultation lasted less than 2 weeks, it scores 0.

48. *How much time (months) has passed since the closure of the economic and Social Committee the Commission adopted the act?*

    – If it has been less than 36 weeks since the closure, it scores 0.77. If it has been between 36 and 60 weeks since the closure, it scores 0.385. If it has been less than 60 weeks since the closure, it scores 0.

49. *Was a comitology committee involved in the law making process?*

    – If Yes, it scores 0.77. If No it scores 0.

50. *How many meetings of the comitology committee took place regarding the proposal?*

    – If Yes, it scores 0.77. If No it scores 0.

51. *Has the economic and Social Committee given an opinion on the proposed act?*

    – If Yes, it scores 0.77. If No it scores 0.

52. *How much time (months) has passed since the publication of the legislative proposal and the final publication at the Official Journal?*

    – If it has been less than 36 weeks since the publication, it scores 0.77. If it has been between 36 and 60 weeks since the publication, it scores 0.385. If it has been less than 60 weeks since the publication, it scores 0.

53. *Has any other committee of the Parliament, apart from the Committee responsible for the proposed act, given an opinion on the proposal?*

    – If Yes, it scores 0.77. If No it scores 0.

Implementation

54. *Is there an implementation plan accompanying the law?*

   *– If Yes, it scores 4.00. If No it scores 0.*

55. *Are there any sunset clauses (monitoring and evaluation provisions) in the law?*

    – If Yes, it scores 4.00. If No it scores 0.

56. *Is there an opinion of the EU regulatory scrutiny Board on the specific EU law?*

    – If Yes, it scores 4.00. If No it scores 0.

57. *Has the transposition deadline expired?*

    – If No, it scores 4.00. If Yes it scores 0.

58. *How many members states have implemented at least one transposition measure?*

    – IF the number of Member States implemented at least one transposition measure is more than 25, it scores 4.00. If the number of Member States implemented at least one transposition measure is between 14 and 25, it scores 2.00. If the number of Member States implemented at least one transposition measure is less than 14 weeks since the publication, it scores 0.

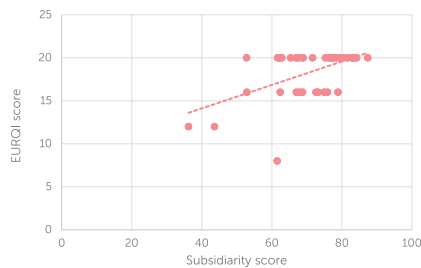## The influence of each sub-component to the overall EURQI score
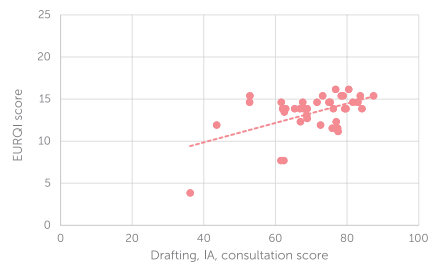
r (40) = .361, p < .016.
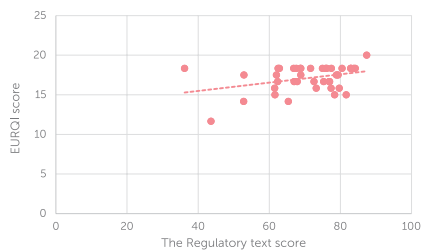
r (40) = .530, p < .016.
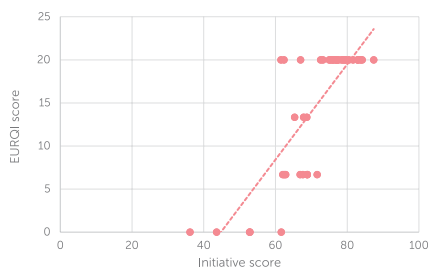
r (40) = .804, p < .000.

r (40) = .527, p < .000.

r (40) = .499, p < .001.

The non-numerical indicators in each sub-components aggregated results.

Indicators	2019 (N=32)	2020 (N=8)
The Regulatory Text indicators		
Percentage of Directives evaluated which the text is clear (easy to understand and unambiguous)	97,0%	100,0%
Percentage of Directives evaluated which the text is simple and concise	100,0%	87,5%
Percentage of Directives evaluated which the text has gender neutral language	100,0%	100,0%
Percentage of Directives evaluated with overly long articles and sentences (and/or unnecessarily convoluted wording and excessive use of abbreviations)	87,5%	100,0%
Percentage of Directives evaluated which the concepts expressed in the same terms	100,0%	100,0%
Percentage of Directives evaluated which the text follows the standard structure	87,5%	100,0%
Percentage of Directives evaluated in which the title of the act give a good indication of the subject matter	96,9%	75,0%
Percentage of Directives evaluated in which there is an article included in the law, which defines the subject matter and scope of the act	65,6%	50,0%
Percentage of Directives evaluated which obsolete acts and provisions expressly repealed in the act under examination	100,0%	100,0%
Percentage of Directives evaluated in which sentences express just one idea and articles group together ideas with a logical link between them	100,0%	87,5%

Indicators	2019 (N=32)	2020 (N=8)
The Initiative indicators		
Percentage of Directives evaluated which respond to a priority of the Commission's multiannual plan	65,6%	75,0%
Percentage of Directives evaluated which respond to a priority of the Commission's annual work program	84,4%	75,0%
Percentage of Directives evaluated which is evaluation/amendment of an existing law or policy	72,0%	75,0%
The Subsidiarity indicators		
Percentage of Directives evaluated in which there a detailed statement with qualitative and, where possible, quantitative indicators allowing an appraisal of whether the action can best be achieved at EU level	100,0%	100,0%
Percentage of Directives evaluated which the impact assessment contains an adequate justification regarding conformity with the principle of subsidiarity	78,1%	50,0%
Percentage of Directives evaluated in which here significant/appreciable transnational/cross-border aspects to the problems being tackled	90,6%	75,0%
Percentage of Directives evaluated in which the problem tackled by the law widespread across the EU or limited to a few Member States	93,8%	87,5%
The Drafting, IA, Consultation indicators		
Percentage of Directives evaluated which have been adopted through an ordinary legislative process (COD)	100,0%	37,5%

Indicators	2019 (N=32)	2020 (N=8)
Percentage of Directives evaluated in which the Council adopt the Parliament's first reading position	96,9%	62,5%
Percentage of Directives evaluated in which a Conciliation Committee between the Council and the Parliament convened?	0,0%	0,0%
Percentage of Directives evaluated in which an inception Impact Assessment has been carried out	53,1%	87,7%
Percentage of Directives evaluated in which a roadmap been carried out	28,1%	50,0%
Percentage of Directives evaluated in which an Impact Assessment has been carried out	93,8%	87,5%
Percentage of Directives evaluated in which Impact Assessment had a description of the environmental impact and an explicit statement if it is not considered significant	65,6%	50,0%
Percentage of Directives evaluated in which Impact Assessment had a description of the social impact and an explicit statement if it is not considered significant	84,4%	75,0%
Percentage of Directives evaluated in which Impact Assessment had a description of the economic impact and an explicit statement if it is not considered significant	87,5%	87,5%
Percentage of Directives evaluated in which Impact Assessment had a description of the impact on small and medium enterprises (SMEs) and an explicit statement if it is not considered significant	84,4%	87,5%
Percentage of Directives evaluated in which Impact Assessment had a description of the impact on competitiveness and an explicit statement if it is not considered significant	75,0%	75,0%

Indicators	2019 (N=32)	2020 (N=8)
Percentage of Directives evaluated in which Impact Assessment had a description of who will be affected by the initiative and how	87,5%	87,5%
Percentage of Directives evaluated in which Impact Assessment had a description of the consultation strategy and the results obtained from it	87,5%	87,5%
Percentage of Directives evaluated in which Impact Assessment considered territorial impacts of the law	9,4%	12,5%
Percentage of Directives evaluated in which Impact Assessment contained an adequate justification regarding the proportionality of the proposal	65,6%	75,0%
Percentage of Directives evaluated in which Impact Assessment measured financial or administrative cost for the EU, national governments, regional or local authorities, economic operators or citizens	87,5%	62,5%
Percentage of Directives evaluated in which Impact Assessment had a financial statement attached to the draft law by the Commission	0,0%	0,0%
Percentage of Directives evaluated which some kind of consultation took place	90,6%	87,5%
Percentage of Directives evaluated in which the economic and Social Committee given an opinion on the proposed act	96,9%	87,5%
Percentage of Directives evaluated in which any other committee of the Parliament, apart from the Committee responsible for the proposed act, given an opinion on the proposal	68,8%	25,0%

Indicators	2019 (N=32)	2020 (N=8)
The Implementation indicators		
Percentage of Directives evaluated in which there was an implementation plan accompanying the law	9,4%	0,0%
Percentage of Directives evaluated in which there was any sunset clauses (monitoring and evaluation provisions) in the law	93,8%	37,5%
Percentage of Directives evaluated in which there was an opinion of the EU regulatory scrutiny Board on the specific EU law	43,8%	25,0%
Percentage of Directives evaluated in which the transposition deadline had expired	75,0%	25,0%

List of experts and institutions contributing in the workshops of the methodology of European Union Regulatory Quality Index.

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Antonios Nestoras, Adjunct Professor International Affairs Vesalius College Brussels, Head of Policy and Research at the European Liberal Forum.

Olympios Raptis, European Union affairs professional.

List and ranking of 2019 Directives evaluated

Directive title
Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union law
Directive (EU) 2019/633 of the European Parliament and of the Council of 17 April 2019 on unfair trading practices in business-to-business relationships in the agricultural and food supply chain
Directive (EU) 2019/713 of the European Parliament and of the Council of 17 April 2019 on combating fraud and counterfeiting of non-cash means of payment and replacing Council Framework Decision 2001/413/JHA
Directive (EU) 2019/1160 of the European Parliament and of the Council of 20 June 2019 amending Directives 2009/65/EC and 2011/61/EU with regard to cross-border distribution of collective investment undertakings (Text with EEA relevance.)
Directive (EU) 2019/983 of the European Parliament and of the Council of 5 June 2019 amending Directive 2004/37/EC on the protection of workers from the risks related to exposure to carcinogens or mutagens at work (Text with EEA relevance)
Directive (EU) 2019/1161 of the European Parliament and of the Council of 20 June 2019 amending Directive 2009/33/EC on the promotion of clean and energy-efficient road transport vehicles (Text with EEA relevance.)
Directive (EU) 2019/879 of the European Parliament and of the Council of 20 May 2019 amending Directive 2014/59/EU as regards the loss-absorbing and recapitalisation capacity of credit institutions and investment firms and Directive 98/26/EC
Directive (EU) 2019/2162 of the European Parliament and of the Council of 27 November 2019 on the issue of covered bonds and covered bond public supervision and amending Directives 2009/65/EC and 2014/59/EU (Text with EEA relevance)
Directive (EU) 2019/1 of the European Parliament and of the Council of 11 December 2018 to empower the competition authorities of the Member States to be more effective enforcers and to ensure the proper functioning of the internal market (Text with EEA relevance.)

Ranking	EU-RQI score	The regulatory text score	Initiative score	Subsidia-rity score	Drafting, IA, Consultation score	Imple-mentation score
1	87,38	20	20	20	15,38	12
2	83,71	18,33	20	20	15,38	10
3	82,95	18,33	20	20	14,62	10
4	82,95	18,33	20	20	14,62	10
5	81,62	15	20	20	14,62	12
6	80,48	18,33	20	20	16,15	6
7	79,68	15,83	20	20	13,85	10
8	79,35	17,5	20	20	13,85	8
9	78,88	17,5	20	16	15,38	10

Directive title
Directive (EU) 2019/2161 of the European Parliament and of the Council of 27 November 2019 amending Council Directive 93/13/EEC and Directives 98/6/EC, 2005/29/EC and 2011/83/EU of the European Parliament and of the Council as regards the better enforcement and modernisation of Union consumer protection rules (Text with EEA relevance)
Directive (EU) 2019/884 of the European Parliament and of the Council of 17 April 2019 amending Council Framework Decision 2009/315/JHA, as regards the exchange of information on third-country nationals and as regards the European Criminal Records Information System (ECRIS), and replacing Council Decision 2009/316/JHA
Directive (EU) 2019/878 of the European Parliament and of the Council of 20 May 2019 amending Directive 2013/36/EU as regards exempted entities, financial holding companies, mixed financial holding companies, remuneration, supervisory measures and powers and capital conservation measures (Text with EEA relevance.)
Directive (EU) 2019/1151 of the European Parliament and of the Council of 20 June 2019 amending Directive (EU) 2017/1132 as regards the use of digital tools and processes in company law (Text with EEA relevance)
Directive (EU) 2019/770 of the European Parliament and of the Council of 20 May 2019 on certain aspects concerning contracts for the supply of digital content and digital services (Text with EEA relevance.)
Directive (EU) 2019/904 of the European Parliament and of the Council of 5 June 2019 on the reduction of the impact of certain plastic products on the environment (Text with EEA relevance)
Directive (EU) 2019/883 of the European Parliament and of the Council of 17 April 2019 on port reception facilities for the delivery of waste from ships, amending Directive 2010/65/EU and repealing Directive 2000/59/EC (Text with EEA relevance)
Directive (EU) 2019/944 of the European Parliament and of the Council of 5 June 2019 on common rules for the internal market for electricity and amending Directive 2012/27/EU (Text with EEA relevance.)
Directive (EU) 2019/1158 of the European Parliament and of the Council of 20 June 2019 on work-life balance for parents and carers and repealing Council Directive 2010/18/EU

Ranking	EU-RQI score	The regulatory text score	Initiative score	Subsidia-rity score	Drafting, IA, Consultation score	Imple-mentation score
10	78,38	15	20	20	15,38	8
11	77,48	18,33	20	20	11,15	8
12	77,37	15,83	20	20	11,54	10
13	76,98	16,67	20	20	12,31	8
14	76,18	18,33	20	20	13,85	4
15	75,87	18,33	20	16	11,54	10
16	74,95	18,33	20	16	14,62	6
17	73,21	15,83	20	16	15,38	6
18	71,62	18,33	6,67	20	14,62	12

Directive title
Directive (EU) 2019/882 of the European Parliament and of the Council of 17 April 2019 on the accessibility requirements for products and services (Text with EEA relevance)
Directive (EU) 2019/1153 of the European Parliament and of the Council of 20 June 2019 laying down rules facilitating the use of financial and other information for the prevention, detection, investigation or prosecution of certain criminal offences, and repealing Council Decision 2000/642/JHA
Directive (EU) 2019/130 of the European Parliament and of the Council of 16 January 2019 amending Directive 2004/37/EC on the protection of workers from the risks related to exposure to carcinogens or mutagens at work (Text with EEA relevance.)
Directive (EU) 2019/1024 of the European Parliament and of the Council of 20 June 2019 on open data and the re-use of public sector information
Directive (EU) 2019/1152 of the European Parliament and of the Council of 20 June 2019 on transparent and predictable working conditions in the European Union
Directive (EU) 2019/1023 of the European Parliament and of the Council of 20 June 2019 on preventive restructuring frameworks, on discharge of debt and disqualifications, and on measures to increase the efficiency of procedures concerning restructuring, insolvency and discharge of debt, and amending Directive (EU) 2017/1132 (Directive on restructuring and insolvency) (Text with EEA relevance.)
Directive (EU) 2019/789 of the European Parliament and of the Council of 17 April 2019 laying down rules on the exercise of copyright and related rights applicable to certain online transmissions of broadcasting organisations and retransmissions of television and radio programmes, and amending Council Directive 93/83/EEC (Text with EEA relevance.)
Directive (EU) 2019/771 of the European Parliament and of the Council of 20 May 2019 on certain aspects concerning contracts for the sale of goods, amending Regulation (EU) 2017/2394 and Directive 2009/22/EC, and repealing Directive 1999/44/EC (Text with EEA relevance.)
Directive (EU) 2019/692 of the European Parliament and of the Council of 17 April 2019 amending Directive 2009/73/EC concerning common rules for the internal market in natural gas (Text with EEA relevance.)

Ranking	EU-RQI score	The regulatory text score	Initiative score	Subsidia-rity score	Drafting, IA, Consultation score	Imple-mentation score
19	68,86	17,5	6,67	20	12,69	12
20	68,85	18,33	6,67	20	13,85	10
21	68,74	18,33	13,33	16	13,08	8
22	67,62	18,33	6,67	20	14,62	8
23	66,85	18,33	6,67	20	13,85	8
24	65,35	14,17	13,33	20	13,85	4
25	62,85	18,33	6,67	20	13,85	4
26	62,46	18,33	6,67	20	13,46	4
27	62,36	16,67	20	16	7,69	2

Directive title
Directive (EU) 2019/790 of the European Parliament and of the Council of 17 April 2019 on copyright and related rights in the Digital Single Market and amending Directives 96/9/EC and 2001/29/EC (Text with EEA relevance.)
Directive (EU) 2019/1936 of the European Parliament and of the Council of 23 October 2019 amending Directive 2008/96/EC on road infrastructure safety management
Directive (EU) 2019/2034 of the European Parliament and of the Council of 27 November 2019 on the prudential supervision of investment firms and amending Directives 2002/87/EC, 2009/65/EC, 2011/61/EU, 2013/36/EU, 2014/59/EU and 2014/65/EU (Text with EEA relevance)
Directive (EU) 2019/520 of the European Parliament and of the Council of 19 March 2019 on the interoperability of electronic road toll systems and facilitating cross-border exchange of information on the failure to pay road fees in the Union (Text with EEA relevance.)
Directive (EU) 2019/2121 of the European Parliament and of the Council of 27 November 2019 amending Directive (EU) 2017/1132 as regards cross-border conversions, mergers and divisions (Text with EEA relevance)

List and ranking of 2020 Directives evaluated

Directive title
Directive (EU) 2020/1828 of the European Parliament and of the Council of 25 November 2020 on representative actions for the protection of the collective interests of consumers and repealing Directive 2009/22/EC (Text with EEA relevance)
Council Directive (EU) 2020/285 of 18 February 2020 amending Directive 2006/112/EC on the common system of value added tax as regards the special scheme for small enterprises and Regulation (EU) No 904/2010 as regards the administrative cooperation and exchange of information for the purpose of monitoring the correct application of the special scheme for small enterprises

Ranking	EU-RQI score	The regulatory text score	Initiative score	Subsidia- rity score	Drafting, IA, Consultation score	Imple- mentation score
28	62,02	17,5	6,67	20	13,85	4
29	61,62	15	0	20	14,62	12
30	61,52	15,83	20	8	7,69	10
31	52,88	17,5	0	16	15,38	4
32	52,79	14,17	0	20	14,62	4

Ranking	EU-RQI score	The regu- latory text score	Initia- tive score	Subsidiari- ty score	Drafting, IA, Consultation score	Imple- mentation score
1	84,18	18,33	20	20	13,85	12
2	76,82	16,67	20	20	16,15	4

Directive title
Council Directive (EU) 2020/284 of 18 February 2020 amending Directive 2006/112/EC as regards introducing certain requirements for payment service providers
Council Directive (EU) 2020/1151 of 29 July 2020 amending Directive 92/83/EEC on the harmonization of the structures of excise duties on alcohol and alcoholic beverages
Directive (EU) 2020/2184 of the European Parliament and of the Council of 16 December 2020 on the quality of water intended for human consumption (recast) (Text with EEA relevance)
Council Directive (EU) 2020/262 of 19 December 2019 laying down the general arrangements for excise duty (recast)
Directive (EU) 2020/1057 of the European Parliament and of the Council of 15 July 2020 laying down specific rules with respect to Directive 96/71/EC and Directive 2014/67/EU for posting drivers in the road transport sector and amending Directive 2006/22/EC as regards enforcement requirements and Regulation (EU) No 1024/2012
Council Directive (EU) 2020/2020 of 7 December 2020 amending Directive 2006/112/EC as regards temporary measures in relation to value added tax applicable to COVID-19 vaccines and in vitro diagnostic medical devices in response to the COVID-19 pandemic

Ranking	EU-RQI score	The regulatory text score	Initiative score	Subsidiarity score	Drafting, IA, Consultation score	Implementation score
3	75,29	16,67	20	20	14,62	4
4	72,59	16,67	20	16	11,92	8
5	67,85	16,67	13,33	16	13,85	8
6	66,98	16,67	20	16	12,31	2
7	43,59	11,67	0	12	11,92	8
8	36,18	18,33	0	12	3,85	2

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