

**Příspěvek Svazu průmyslu a dopravy České republiky  
do veřejných konzultací  
k pokynům Komise ke konzultacím se zainteresovanými stranami  
a k revizi pokynů k posuzování dopadů**

**Public consultation on the Commission's Stakeholder Consultation guidelines**

**A) Background for the public consultation:**

Stakeholder consultation helps to ensure that EU law making is transparent, well targeted and coherent. It is enshrined in the Treaties. Consultations - together with impact assessments, evaluations and expertise - are a key tool for transparent and informed policy making, facilitating decision making that respects the principles of proportionality and subsidiarity and that is based on evidence and the experiences and views of those affected by the policies and involved in their implementation.

The Commission consults widely, at each stage of the policy cycle, respecting principles of openness and transparency and following minimum standards, which are generally acknowledged as appropriate and meeting standards of international best practice. Over the last five years, stakeholders' views were sought through more than 500 open consultations published on the 'Your Voice in Europe' website.

Following the 2012 public consultation on "Smart Regulation in the EU", the Commission reviewed its consultation policy in its Communication on EU Regulatory Fitness of December 2012. The review confirmed the validity of the Commission's consultation policy and tools, as well as the progress in implementation achieved over the years. Nevertheless, the review and stakeholders' views pointed to areas where further improvements in implementation could be made. The attached set of "Stakeholder Consultation Guidelines" has been prepared in this context and aim at strengthening the quality, scope and targeting of consultation.

These guidelines are for Commission services carrying out consultations with stakeholders and citizens outside the European institutions. Their aim is to flag the relevant issues that should be considered when preparing and running consultations as well as to help Commission services define the approach that best fits with their needs.

The guidelines focus on consultations carried out in policy preparation (of new policies, (spending) programmes, legislative proposals, delegated and implementing acts – with or without an impact assessment). They also apply to consultations in the context of evaluations. They provide advice and support on all aspects of carrying out consultations from the definition of the consultation's objectives to the evaluation of the consultation exercise.

While these guidelines are intended for internal Commission use only, stakeholder inputs are an essential element in ensuring the quality of the final product. The Commission therefore encourages stakeholders to participate in this consultation.

**B) Questions:**

Stakeholders are invited to answer the following questions and/or provide any other comments.

**1. Do you think the Stakeholder Consultation Guidelines cover all essential elements of consultation? Should any of these elements receive more attention or be covered more extensively?**

The Stakeholder Consultation Guidelines cover essential elements of consultations. However, we would welcome the inclusion of the guidelines about the proceedings in case of delegated and implementing acts. These acts are used more and more in the legislative process and therefore stakeholder's involvement in the early process of drafting should be ensured.

**2. Do you think the guidelines support the identification of the right target audiences? If not, how would you improve them?**

*"The same businesses/representative organisations should not always be exclusively consulted, as this would increase the risk (or perception thereof) of listening to only one or a limited number of interests." (p. 11) – National social partners and national umbrella business and employers'*

organizations should never be excluded! One of the basic criteria should be representativeness and relevancy of all national, regional, sector and local business and employers' organisations.

**3. Participation by stakeholders in open public consultations is often disappointingly low. How can the Commission encourage or enable more stakeholders to take part? How can the Commission better reach and engage underrepresented groups of stakeholders and assist them in replying to complex issues?**

If the aim is to seek a whole spectrum of views and to consult broadly and transparently, the following measures could make a difference in raising the participation:

- A "one-stop-shop" for all the EU open consultations: stakeholder consultations, consultations with interested parties, external parties, under the European Citizen Initiative, other specific consultations in certain policy fields (consultations of social partners, consultations in the area of environment, etc.);
- Sending automatic alerts to contacts of national social partners and business organizations (e.g. via the Transparency Register) so as to encourage participation early enough;
- To make consultation questionnaires available in national language versions so as to reach all relevant stakeholders (national umbrella and sector organisations representing for-profit interests and national business), so as even small-sized stakeholders had the opportunity to express their opinions. If the national language version is delayed, it would be useful when the 12-weeks period for responses was prolonged.
- To make consultation questionnaires available in Word (\*.doc). The text of the on-line questionnaire and the text of the questionnaire in the attached file must be identical. This simple feature will help stakeholders to prepare their responses effectively.
- To define the goal of the consultation and to communicate the consultation clearly using simple language of the targeted group. To provide stakeholders with transparent and accessible information about the process.
- To keep stakeholders' accounts gathering their inputs into all the consultations in which they participated.
- To provide feedback to stakeholders on how their contributions were processed by the European Commission.
- To make it always possible to check the answers after filling-in the on-line questionnaire and to save the completed questionnaire for further use and files.

In case of targeted consultations – meetings, conferences, workshops, seminars etc., prolonging the 20-working days' notice for invitations would be welcome by stakeholders for their preparations.

**4. Is there a risk of 'over consultation', making it difficult for you as a stakeholder to distinguish between important and less important consultations?**

A time line of consultations and informing social partners' and business organizations about consultation roadmaps can prevent this.

**5. Do you see a need to explain the limits of consultations in this guidance document?**

Yes, it could be useful.

**6. Do you think the guidelines provide enough guidance on how to analyse the results and assess the representativeness of respondents and how to provide feedback to stakeholders participating in a consultation? If not, how could this process be improved?**

It is necessary to make difference between single stakeholders participating in the consultations and their inputs. There is a difference between representativeness of European social partners and business umbrella federations e.g. BUSINESSEUROPE, national social partners and business umbrella federations and small associations and individual companies. The stress is put on the qualitative assessment of inputs, less on the relevance of the content of the contribution a on the

provider of the information. This should be elaborated more and stated clearly in “*Analysing the results: steps 8-10*”.

**7. Do you agree with the presentation of the different consultation steps (1-10)? Or, do you see additional steps?**

The proposals shaped on the inputs of stakeholders should be more qualified taking into account representativeness of the stakeholders.

**8. Do you think these consultation "tools" are adequate or do you see other tools which should be referred to in the guidelines?**

We would recommend to use the already existing tools in a proper and efficient way, rather than to develop any new ones.

**9. Do you have any other comments or suggestions, which could help make these Guidelines as comprehensive and clear as possible?**

Even if the rules are not foreseen to be changed, it would be useful to check the wording (language) and make it simple and more manageable and understandable for companies particularly SMEs and open them also to the new “customers” categories like social enterprises, innovation structures, industry clusters etc.

**10. An additional general comments:**

We are not convinced about the capacity and professionalism of the person assessing the public consultation results as well as about the quality of the outcomes and their proper utilisation.

## **Public consultation on the revision of the Commission's Impact Assessment Guidelines**

### **A) Background for the public consultation:**

The European Commission (“the Commission”) is determined to meet policy goals at minimum cost, benefitting citizens, businesses and workers while avoiding all unnecessary regulatory burden. This is key to support growth and job creation – allowing the EU to ensure its competitiveness in the global economy while maintaining social and environmental sustainability.

EU legislation must be smart in achieving its public objectives: demonstrating clear added value, delivering full benefits at minimum cost and respecting the principles of subsidiarity and proportionality. The final result must be a simple, clear, stable and predictable regulatory framework for businesses, workers and citizens. EU legislation must be fit for purpose and remain so as problems evolve, new solutions emerge and political priorities change.

To achieve this, the Commission employs a wide set of smart regulation tools covering the full policy-cycle, from when a policy is designed to when it is implemented, evaluated and revised. Impact assessment is one such tool, operating at the early stage of the policy cycle, when new proposals are being developed. It contributes to the quality of policy-making by ensuring that Commission initiatives and proposals for EU legislation are prepared on the basis of transparent, comprehensive and balanced evidence on the nature of the problem to be addressed, the added value of EU action and the cost and benefits of alternative courses of action for all stakeholders. While the adoption of a policy proposal remains a political decision by the Commission, better informed policy-making contributes to better policies.

The Commission's impact assessment system was first established in 2002 and is performed for all proposals likely to have significant direct impacts. It has undergone continuous strengthening over the years with the establishment of the Impact Assessment Board (IAB) in 2006 as an independent quality checker, the publication of revised guidelines in 2009 and complementary guidance on various categories of impacts (competitiveness and micro-enterprises, fundamental rights, social and territorial impacts) since then. The system has been assessed by numerous actors to be on par with international standards, ensuring comprehensive and transparent assessments subject to rigorous scrutiny.

As announced in 2012, the Commission committed itself to review its impact assessment guidelines in 2014. While the Commission considers the 2009 Guidelines to remain largely relevant, there is always scope for improvement, including by updating and streamlining some sectoral guidance that was developed after 2009. In its preliminary revision of the guidelines, the Commission has drawn upon an analysis of the experience so far, a European Court of Auditors' evaluation, annual IAB Reports, an ad-hoc preparatory study by leading experts in the field and relevant OECD documentation.

The new guidelines set out the parameters of the Commission's impact assessment system, outline the questions that must be asked during an impact assessment process, and explain the fundamental principles that should be respected when answering them.

## B) Questions:

Stakeholders are invited to answer the following questions and/or provide any other comments.

### General questions on the draft Impact Assessment Guidelines (annex I)

**1. In line with international best practice, the Commission's Impact Assessment system is an integrated one, covering costs and benefits; using qualitative and quantitative analysis; and examining impacts across the economic, environmental and social areas. Do you agree that this is the right approach?**

Taking into account development of other regions of the globe, the Impact Assessment should focus on the contribution of the new policy/proposal to competitiveness of Europe vis-à-vis the biggest global competitors and security of Europe.

The Commission's Impact Assessment system should focus more on industrial reality if competitiveness and climate protection is to be reached in a cost effective way.

**2. Do you agree with the scope of coverage of proposals requiring an impact assessment? If not, why not?**

The impact assessments must be done for all proposals likely to have significant direct impacts. An impact assessment shall be a part of each Commission's proposed action.

**3. Are the appropriate questions being asked in the Impact Assessment guidelines? Are there other issues that the impact assessment should examine? How would this help to improve the quality of Commission policy proposals?**

Readers have to get the full picture of Commission's presumptions and must be able to find sources which have to be free available. Description of methodology is crucial for a proper understanding. Therefore, numbers and graphs in impact assessments should be accompanied by an explanation how they have been figured out. The same applies for inputs and presumptions. Only with this information it is possible to deal with details. Models (e.g. Excel based) should be published as background information for each impact assessment.

**4. Do you have any other suggestion on how to improve the guidance provided to Commission services carrying out an impact assessment and drafting an impact assessment report?**

Monitoring and evaluation of actual impacts (p. 22): the key point is the situation when a legislation or policy based on the impact assessment report is not achieving expected results.

*“Actual results are likely to differ from those estimated or desired, regardless of the quality of the IA and the proposed initiative. However, when a policy is not achieving its objectives, or the costs and negative impacts are more significant than expected, one needs to know if this is the result of unexpected exogenous factors, problems with the design of the policy, amendments introduced during the legislative process (if relevant) or poor implementation.”* - This text can be agreed with, but in case this situation comes to pass, supervision and deducing and drawing conclusions are missing

here. This should be in the Impact Assessment from the very beginning so as the policy-makers know from the Impact Assessment Report that the scenarios can differ and have safeguards prepared.

Openness to stakeholder views (p. 27): the key is to include stakeholders into the into the Impact Assessment process, including preparation of methodology. (p. 27)

*“Stakeholder consultations should be used to gather relevant information and test initial views and estimates. It should not be approached as formal requirement or seen as a tool to gather support for preconceived views. For these reasons, all IARs must refer to stakeholder main views on all key IA questions, showing how they have been taken into account or why they have been discarded. All IARs should include an annex summarizing consultation processes and their results.”*

Many times stakeholders not knowing the intentions of the European Commission do not even guess potential impacts of its policy proposal. These data are usually known during the Impact Assessment. Stakeholders should be involved into the Impact Assessment process including preparation of its methods to avoid use of inappropriate ones.

Stakeholders have to be involved into the Impact Assessment process, including the discussion on methodology.

#### Specific questions (annex II)

**5. Problem analysis: do you think the draft text in annex II.B provides a clear description of the issues to be taken into account when analysing a problem? If not, how should it be improved?**

**6. Subsidiarity: do you think the draft text in annex II.C provides a clear description of the issues to be taken into account when verifying compliance with the subsidiarity principle? If not, how should it be improved?**

**7. Objectives: do you think the draft text in annex II.D provides a clear description of the issues to be taken into account when setting out objectives? If not, how should it be improved?**

**8. Option identification: do you think the draft text in annex II.E provides a clear description of the steps to be followed when identifying alternative policy options? If not, how should it be improved?**

Coherence among EU policy objectives is crucial. Visible problems can be found in the energy and climate policy when objectives overlap.

**9. Identification of impacts: Is the list of questions included in the 2009 guidelines (see annex II.F) considered complete and up-to-date? Are there any impacts that should be added or taken out?**

Add in key questions under Environmental Impacts - *“Transport and the use of energy”* the following ones:

*“Does the option affect the right of Member States to choose their own energy mix?”*

*“Is the option technology neutral?”*

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