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ALDE Position paper

### **Advancing Better Regulation**

Generations of Europeans have benefitted from the European integration process and continue to do so. European policies and legislation have dismantled obstacles, barriers and play a vital role in contributing to strengthened cooperation, economic growth, environmental protection, job creation, safety and security in a number of areas.

Notwithstanding this, some EU policies and legislation have become too complex and their costs sometimes disproportionate compared to the envisaged benefits. This may be particularly true for small and medium-sized enterprises (SMEs). Moreover, some EU legislation might be outdated or may no longer fulfil objectives as originally intended.

Ensuring better regulation is essential to further European integration, whilst delivering a competitive European economy and a fair, safe and sustainable society. Disproportionate administrative burdens can discourage EU companies from operating optimally at both national and cross-border levels, stifle foreign direct investment into Europe and negatively impact economic growth and job creation.

We need to ensure that legislation proposed and adopted at EU level is clear, simple, effective and provides a clear added value. European policies and legislation should replace or pre-empt 28 different national laws and not be an additional burden. Impact assessments, cooperation with national parliaments and consultation with stakeholders are therefore required.

ALDE appreciates that after years of only modest efforts by the European Commission, the Juncker Commission Work Programme identifies "a strengthened Better Regulation agenda" and the review of the inter-institutional agreement on better law-making as priorities for 2015 and beyond.

ALDE will endeavour to ensure that the Commission's better regulation priorities are actioned. A more effective regulatory environment is crucial if we are to deliver growth, competitiveness and jobs in Europe.

Now, it's time to act: ALDE proposes the following concrete measures to put policy-making back on the right track.

#### **1. Ensure a growth friendly environment for SMEs**

SMEs are the backbone of our economy. We understand that EU laws often have a disproportionate impact on smaller companies, who may have fewer resources at their disposal to ensure compliance and fulfil legal requirements. Given that SME's generate most of Europe's growth and jobs, it is vital for ALDE that we do not create disproportionate or unnecessary administrative burden for SMEs and that we work to reduce those that already exist. Any new Commission proposal should therefore be accompanied by a review of its impact on existing legislation and normally by proposals to amend or replace existing provisions with a view to reduce the overall regulatory burden on SMEs. ALDE in this context invites the Commission to assess the British experience of implementing the one-in one-out principle and consider if it could be applied on European level. It also calls for the introduction,

wherever possible, of exemptions for micro-enterprises and to make EU public procurement rules more SME-friendly.

The Commission should apply an objective and clear mechanism to measure cost reductions, with the Parliament and the public being informed through annual progress reports. ALDE calls for the reinstatement of a net target for the reduction of economic costs linked to regulatory burdens for businesses by 20% by 2020 in each policy area.

ALDE also calls for an urgent review of the application procedures for EU funding programmes, especially within the context of the Horizon 2020 programme and structural funds, with a view to simplifying administrative requirements for applicants and recipients. Today many citizens, companies and organisations with excellent ideas avoid applying for EU funds because of the excessive administration involved and this is deeply regrettable.

## **2. Conduct independent impact assessments throughout the policy cycle**

Every Commission proposal should have a positive impact on citizen's lives with proportionate and bearable costs, or should not be put forward at all.

In respect of the principles of subsidiarity and proportionality, ALDE will not support any proposal if the necessity to act at EU level for the benefit of EU citizens' or businesses is not properly proven.

We need therefore to review and upgrade the current system of impact assessments to ensure well-informed political decisions. All legislative drafts should be accompanied by a comprehensive and high quality impact assessment, with particular attention on competitiveness and SMEs, including the digital dimension, which would seek quantification of benefits and costs wherever possible. Moreover, the impact assessments should indicate how the proposed legislation would affect existing laws in the same field in order to reduce red tape as much as possible, and should be public.

It is essential that impact assessments are undertaken throughout the whole policy cycle and not just at the very beginning of the legislative process (ex-ante and ex-post impact assessments). This means that both the European Parliament and the Council should undertake impact assessments prior to the adoption of any substantive amendment not covered by the initial impact assessment. The same applies to the Commission for its revised proposals. Moreover, impact assessments should be conducted to review existing legislation.

ALDE welcomes in this regard the Commission's plans to reform its Impact Assessment Board to enable it to perform ex-post evaluations and to include external experts in its composition. We call on the Commission to be more ambitious and to already aim to deliver an external regulatory scrutiny body for the whole policy cycle, common to all three institutions to supervise their respective impact assessments. This body should include members with experience relevant to the day-to-day effects of legislation on citizens and companies.

## **3. Improve citizens and stakeholders participation**

EU citizens need to be better and more directly informed about the discussions taking place in the three EU institutions. EU citizens want to be more involved in the decision-making process and have more influence on measures taken at EU level. We believe the European Institutions have a duty of care to put citizens first. Better regulation is one way of contributing to this aim.

ALDE expects the process of consultation with stakeholders to be further improved and reviewed to allow them to contribute through the whole policy cycle and not just at the very early stage of the legislative procedure.

Furthermore, ALDE calls on the Commission to establish a "European Stakeholder Forum" that is online and accessible to all. Such a bottom-up approach will serve as a platform for businesses, consumers' organisations and civil society to input directly on matters not necessarily already part of the legislative agenda, communicate examples of red tape or to be able to highlight need for legislative change. It could play an important role in supporting the better regulation principle and contribute to reducing bureaucracy in the different regulations applying to their sector.

We fully support the role of the Petitions Committee, which offers an excellent way for citizens to communicate directly with the EU institutions on issues that need to be addressed at European level. This direct exchange between Members of the European Parliament and the public needs to be reinforced and improved.

#### **4. Transparency in the legislative process**

Transparency within the decision making process is essential in order to achieve acceptance among EU citizens for European legislation and to explain why laws are necessary and add value to our society. Increased transparency also offers the chance for citizens to better understand how laws are shaped, what the different options and viewpoints are and how different institutions contributed.

For ALDE, it is an absolute priority that EU institutions ensure full transparency when it comes to access to documents as well as making sure debates are made public, so everyone can understand more clearly how and why decisions have been taken. Citizens have the right to know the position taken by a particular Member State or Political Group on any issue that might interest them or impact upon their lives, currently or in the future.

Citizens should at least have the possibility to follow Council debates and to know which issues their national Ministers pursue or block at European level and for what reason. Closer cooperation with national Parliaments should also be a priority in order to ensure that national parliaments have the appropriate means to hold their respective governments accountable for their work in the European institutions

We believe the European Parliament must also improve the transparency of its own procedures, especially in first reading agreements. The increasingly common practice of conducting trilogues to achieve first-reading agreements, in particular without the mandate of a plenary vote, lacks transparency and reduces the possibility for citizens and stakeholders to follow and give input during the fast-tracked process. ALDE has already been instrumental in creating rules to ensure transparency and a better use of all possibilities offered by all stages of the legislative procedure. ALDE will continue leading the fight to guarantee the enforcement of these rules and to further increase transparency during trilogues negotiations. This should include at least the publication of the progress of negotiations after each trilogue.

#### **5. Monitor transposition to avoid 'gold-plating'**

The transposition of EU legislation into national laws must also be addressed. Quite often, Member States exceed the mandatory provisions when implementing EU directives by adding additional measures ('gold-plating') at Member State level. ALDE believes that any 'gold-plating' should be made public (through correlation tables), in order to illustrate the origin of legislation as often the public is misled into believing that burdensome rules have been agreed at EU level ('in Brussels'), when in fact it's their national Parliament or Government that has imposed them.

ALDE highly recommends that Member States follow UK practice, which is to directly transpose EU directives straight into national law, without going beyond minimum requirements. This is indeed the best way to ensure that burdens are minimised and that businesses are not put at a competitive disadvantage compared with their European counterparts.

The Commission should also, while fully respecting the principle of subsidiarity, consider proposing regulations, wherever appropriate, rather than directives that have to be transposed at national level. A fair system of legislation with a level playing field for all Member States, companies and citizens is essential.

Furthermore, the implementation phase needs close monitoring from the Commission and must be reinforced. We call on the Commission to thoroughly and continuously monitor and evaluate the implementation process in EU Member States. This evaluation should include the correlation tables from different Member States and be open to the public. The Commission needs to take its responsibility seriously and better follow-up on EU laws also once they are transposed into national law. This monitoring could take the form of a scoreboard or yearly reports.

## **6. Ensure the adaptability of legislation**

As societal needs and market conditions change quickly, law needs to be drafted in a flexible way so as to be able to reflect new technologies or other future developments. Moreover, laws need to be checked against their objectives on a regular basis. ALDE will insist on the insertion of a review clause in each legislative proposal. Such a clause would ensure the monitoring of existing laws, but would also give the possibility after a defined time to cross-check the objective and the achieved results through ex-post impact assessments and thereby identify necessary corrective measures or the need for withdrawals. We should also, in useful cases, introduce a sunset clause where the Commission after a set deadline has to come up with a new proposal before the existing regulation lapses. Sunset clauses are in particular a useful tool for laws that may be particularly intrusive for our citizens.

Ex-post evaluation through regular ex-post impact assessments is also key to develop and strengthen the better regulation process and ensure the adaptability of legislation. A uniform set of criteria/indicators should be established with regards to the expected benefits of legislation and in particular on the ability of SMEs and micro-enterprises to realise them. National parliaments should be associated and contribute to it.