



RSB

REGULATORY SCRUTINY BOARD

Annual Report 2023



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RSB

REGULATORY SCRUTINY BOARD

Annual Report 2023

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Foreword by the Chair



Rytis Martikonis
Chair

This report covers the eighth year of operation of the Regulatory Scrutiny Board, with a steady flow of files to be scrutinised. The Board scrutinised 50 impact assessments and 8 evaluations ⁽¹⁾, the decreased number reflecting the fact that 2023 covered the fourth year of the von der Leyen Commission's mandate.

The positive overall quality of impact assessments noted in last year's report was broadly maintained in 2023 when looking at all elements of the reports submitted. However, 2023 saw an increase in the number of negative opinions given to evaluations. Given their importance in assessing performance and in informing future legislative proposals, the Board paid particular attention to ensuring that these received detailed scrutiny.

In 2023 the Board started to scrutinise the newly introduced competitiveness check as part of the Commission's renewed focus on competitiveness. The Board's first experience with the application of this new better regulation requirement by the Commission services is reported in a special feature on the scrutiny of competitiveness impacts in the report. A second special feature is devoted to the scrutiny of consumer impacts.

As well as performing its core function of assessing the quality of impact assessments and evaluations, the Board continued to provide advice to Commission departments at early stages of the preparations of their reports. Over 18 upstream meetings took place for 19 files during 2023.

Throughout 2023 the Board remained below full strength at six members with the mandates of two members being extended. Following the December 2022 ⁽²⁾ decision to reinforce the Board with two extra members (one internal, one external), the recruitment decisions were finalised in December 2023 and two new external members of the Board joined in early 2024. I take this opportunity to welcome the Board's new members — Dr. Rolf Höijer and Dr. Marek Havrda.

As ever, I am grateful to the colleagues of Board secretariat for their dedicated support over the past year.

(1) When this report refers to 'evaluation', this usually includes both (ex post) evaluations and fitness checks.
(2) Decision of the President of the Commission P(2022)2 of 11.12.2022.

1

The Board



Left to right:

Dr. Rolf Höijer, Member of the Board; **James Morrison**, (Director) Member of the Board; **Dr. Michael Gremminger**, Member of the Board; **Dr. Dorota Denning**, Member of the Board; **Rytis Martikonis**, Chair of the Board; **Elisabetta Siracusa**, Member of the Board; **Philippe Mengal**, Member of the Board; **Dr. Marek Havrda**, Member of the Board

The Board has a central and precisely defined role in the Commission

The Regulatory Scrutiny Board ('the Board') was set up as part of the Commission's 2015 renewed better regulation agenda. Within the Commission, in line with its mandate³, the Board scrutinises the drafts of all impact assessments, fitness checks, and a selection of evaluations. It reports on its activities to the President of the Commission and to the Executive Vice-President for the European Green Deal, Interinstitutional Relations and Foresight.

The Board provides independent quality control within the Commission

The Board is a quality control body governed by a mandate. It performs its task independently and prepares its opinions autonomously. It acts during the internal Commission phases preceding the preparation of legislation and is designed to ensure that Commission impact assessment and evaluation reports are of high quality providing the best available evidence allowing informed decision making (see **Box 1**).

In fulfilling its mandate as an internal, independent, and objective scrutiny body, the Board neither seeks nor takes instructions from any internal or external actor.

The Board's role is analytical

The work of the Board supports the implementation of the Commission's better regulation commitments, including the application of the 'one in, one out' approach, impacts on competitiveness and the integration of foresight into policy making. In its work, the Board also assesses compliance with key principles such as 'do no significant harm', and 'digital by default', compatibility with the Climate Law, and the UN Sustainable Development Goals (SDGs).

The Board cannot and does not question the political objectives presented in the impact assessments accompanying draft proposals — that role belongs solely to the College of Commissioners — but instead focuses on the quality of evidence, analysis and the logic of intervention. The Board assesses the files submitted to it objectively and solely on the basis set out in the better regulation guidelines and toolbox.⁴

(3) Decisions C(2020)2 and C(2022)1.

(4) SWD(2021) 305 final. https://ec.europa.eu/info/law/law-making-process/planning-and-proposing-law/better-regulation-why-and-how/better-regulation-guidelines-and-toolbox_en.

The Board provides upstream advice

The Board provides independent quality control and support – via internal upstream meetings with Directorates General – for Commission evaluations and impact assessments at early stages preceding the Commission decision-making process.

Figure 1 shows how the Board’s internal quality control function fits within the Commission’s preparatory processes of the EU-law making cycle to make sure that the Commission proposals are based on clearly defined problems, on the best available evidence, are proportionate and take into account the full range of options and stakeholder views.

The Board issues opinions on draft reports

The Board issues different types of opinions on draft impact assessments and evaluations, with recommendations for improvements (for more details, see **Box 2**).

Given the Board's internal role, its opinions are published only with the final impact assessment

During the Commission’s internal policy preparation process, the Board shares its opinions only with the Commission departments responsible for the preparation of the proposal. This is the logical consequence of the quality assurance role of the Board. Once a legislative proposal has been drafted by the Commission department and adopted by the College of Commissioners, there is full transparency on the Board’s assessments and all its opinions are published together with the proposal and final impact assessment. Similarly, the opinions for evaluations are published together with the finalised evaluation.

1.1 How the Board performed in 2023

BOX 1: THE REGULATORY SCRUTINY BOARD AT A GLANCE

- The Board is an internal Commission quality control body set up to ensure the quality of all impact assessments and fitness checks and selected evaluations.
- The Board consists of nine members who serve three years – four are externally recruited and five drawn from within the Commission.
- The Board acts independently in carrying out its duties and neither seeks nor takes instructions from any internal or external stakeholders.
- The Board issues opinions on the quality of draft impact assessments, evaluations and fitness checks based on standards set out in the Better Regulation guidelines and toolbox.
- The Board does not take a view on the political objectives or advisability of initiatives: that role rests solely with the College of Commissioners.
- The Board’s opinions are published when an initiative has been adopted by the College of Commissioners, to protect the candour of the internal Commission preparatory processes and in line with the working procedures of the Commission.

BOX 2: HOW THE BOARD PROCESS WORKS

During the early preparatory stages of an impact assessment, the relevant Commission department(s) can ask the Board to have an upstream meeting. The department provides a copy of the 'call for evidence', which sets out the problem, proposed options and main expected impacts, as well as the outline/timeline for the public consultation and any studies. The meeting is an opportunity for the department to outline their intended methodological approach and to seek the informal, upstream advice from the Board on any likely weaknesses of the analysis, thereby allowing for adjustment of the problem definition, intervention logic, option structure and evidence gathering and methodology of the report prior to formal submission to the Board.

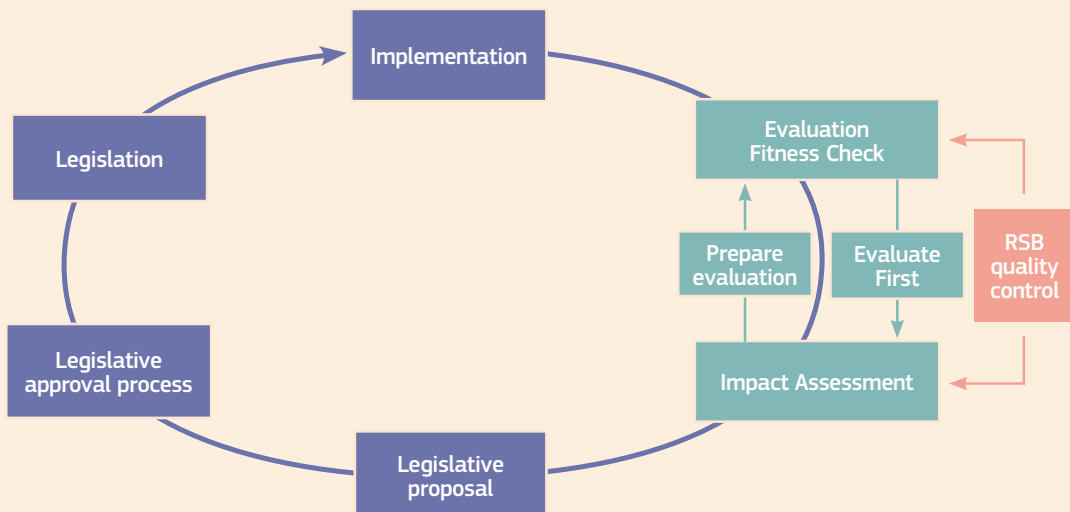
Once the Commission department has finalised its work on the draft impact assessment, it is formally submitted to the Board, normally four weeks before the Board meeting. All Board members read the full document and jointly produce a detailed impact assessment quality checklist (IAQC) using the criteria in the better regulation guidelines and toolbox, identifying any weaknesses, inconsistencies or lack of clarity in the report. The checklist is sent to the relevant departments three business days before the Board meeting. The department is invited to provide a written reply to the Board no later than the day before the Board meeting. Board members study any additional information provided in a written response to the checklist and take this into account in the questions they ask at the Board meeting. In some cases, the Chair may decide to submit certain matters to the Board for decision by Written Procedure.

The process is the same for evaluations. There is also a possibility to have an upstream meeting, the Board produces an evaluation quality checklist (EQC), and after discussion in the Board meeting, the Board issues an opinion.

Board meetings are normally held on Wednesdays. The relevant departments are informed at the beginning of the Board meeting that the Board has examined the impact assessment submitted and any written reply provided to the IAQC and that its opinion will be based solely on this information while taking into account any further information provided during the course of the subsequent discussion. Board meetings last about one hour per file and are followed by a discussion among Board members to determine collectively the nature of the opinion to be issued (see **Box 3**). The opinion is normally submitted to the department on the following Friday.

During the full process, the Board is supported by its Secretariat. The Secretariat plans and organises the Board meetings and provides drafts for the minutes of upstream meetings, the IAQCs or EQCs, and opinions.

Figure 1: The Regulatory Scrutiny Board's role in the preparatory stages of the EU law-making cycle



BOX 3: TYPES OF OPINION(S)

For impact assessments, there are three main types of Board opinion:

POSITIVE:

The Board is satisfied that the draft impact assessment overall meets the standards set out in the better regulation guidelines and toolbox. Comments in the opinion are advisory and the file may proceed.

POSITIVE WITH RESERVATIONS:

In some cases, the draft impact assessment is largely satisfactory, but some key weaknesses remain and should be fixed. In other cases, there are significant weaknesses, but the department has provided convincing responses to the quality checklist and in the discussion with the Board and has clearly indicated where they would make the necessary changes to the report. In both cases, the draft impact assessment must be amended to take account of the Board's comments set out in the opinion. Only then can the file proceed.

NEGATIVE:

The draft impact assessment is not satisfactory and falls short of the standards set out in the better regulation guidelines and toolbox. The file requires substantial revision. It must be resubmitted for a second opinion once the indicated changes have been made. To facilitate a satisfactory follow-up in case of an initial negative opinion the Secretariat-General immediately organises meetings of the cabinets and services concerned to address the issues identified in the Board's negative opinion. In most cases, a resubmitted file has been sufficiently improved to address the Board's concerns and will be given a positive or positive with reservations second opinion.

In a very few cases, the resubmitted text may still contain fundamental deficiencies that have not been satisfactorily addressed. In these cases, the Board issues a SECOND NEGATIVE OPINION: The Board is still not satisfied with the way in which the revised draft impact assessment meets the standard set out in the better regulation guidelines and toolbox. The Executive Vice-President for the European Green Deal, Interinstitutional Relations and Foresight then decides whether and in what form it may proceed.

For evaluations and fitness checks, there were only two types of Board opinions until the end of 2023: positive or negative. At the beginning of 2024 the Board decided to introduce the 'positive with reservations' opinion type also for evaluations as this practice has turned out to be very useful for impact assessments allowing for more nuanced feedback to be provided. There is no obligation to resubmit a new version of the evaluation / fitness check to the Board after a negative opinion. This is because the Board does not scrutinise all evaluations, which could lead to unequal treatment. Nevertheless, when the Commission department judges that it can address the Board's remarks and improve the evaluation, it can submit a second version for a new opinion. So far, the Board has never given a second negative opinion on an evaluation.

The Board's workload remained steady in 2023...

2023 was the fourth year of the von der Leyen Commission's mandate with the challenges of the ongoing Russian war of aggression in Ukraine including on inflation, the fluctuating price of raw materials and of energy, as well as the global impact of the Gaza conflict. The flow of new initiatives that characterised 2022 began to slow towards the end of the year with an increase in evaluations designed to assess the effectiveness and efficiency of key policy actions and to pave the way for their future revision. Board staffing was stable with the extension of the mandate of two members (one internal, one external) at six, the Board remained only at two thirds strength. Following the President's decision in December 2022 to reinforce the Board with an additional two members (one internal, one external), the recruitment process was launched. Two new external members took up their appointments in March and April of 2024.

The bi-weekly rhythm of Board meetings was maintained...

All Board meetings in 2023 were held in person with the Board regularly dealing with several files per meeting. For Board meetings, Commission services were invited to submit – if they wished – a maximum ten-page written response to the quality checklists issued by the Board. This facilitated discussions and Board deliberations. For more details on the Board’s working methods, see **BOX 2**.

1.2 Sustained high levels in scrutiny work

2023 saw continued, high levels of scrutiny work by the Board...

Consistent with the point in the von der Leyen Commission’s mandate, 2023 saw a reduction in the number of files submitted to the Regulatory Scrutiny Board, handled with 20 meetings. While this reflected the continued push to deliver the President’s ambitious agenda with the corresponding legislative proposals, it also reflected the fact that many legislative initiatives had already been launched and were in the process of being discussed and agreed by the co-legislators. The Board still scrutinised 50 impact assessments (compared to 70 in 2022) and 8 major evaluations (consistent with the 8 in 2022).

Table 1: Overview of the Board’s regulatory scrutiny work by year, 2016-2023

Year	Meetings	Cases	Negative first opinions		Negative second opinions	
Impact assessments						
2016	22	60	25	42 %	2	8 %
2017	23	53	23	43 %	1	4 %
2018	27	76	21	28 %	1	5 %
2019	9	1	1	100 %	0	0 %
2020	23	41	19	46 %	1	5 %
2021	27	83	31	37 %	4	13 %
2022	20	70	24	34 %	0	0 %
2023°	20	50	21	42 %	0	0 %
Evaluations*						
2016 ⁺		7	-	-	-	-
2017		17	7	41 %	0	0 %
2018		11	3	27 %	0	0 %
2019		17	8	47 %	0	0 %
2020		13	4	31 %	0	0 %
2021		15	3	20 %	0	0 %
2022		8	0	0 %	0	0 %
2023		8	4	50 %	0	0 %

° at the time of finalising the report, not all impact assessments with a first negative opinion had been resubmitted
* resubmission of evaluations after a first negative opinion is optional
⁺ in 2016, evaluations received opinions with comments, without mention ‘positive’ or ‘negative’

... the level of negative opinions increased...

The rate of negative opinions for initial submissions of impact assessments was 42%, which was higher than the 34% initial negative opinions in 2022. The initial negative opinion rate for the 8 evaluations scrutinised by the Board in 2023 was 50%, while there were none in the previous year for the same number of evaluations.

Table 2 shows that none of the evaluations that were planned for scrutiny in 2023 were delivered on time. However, eight of the scrutinised evaluations were delayed evaluations, which indicates that some of the existing backlog was caught up.

Table 2: Evaluation Scrutiny 2023 compared to 2017-2022

	2017-2022	2023
Selected evaluations per year*	15	13
Evaluations presented on time	7	0
Delayed evaluations	7	4
Scrutinised evaluations per year	14	8
Evaluations presented on time	7	0
Delayed evaluations	6	8

* excluding evaluations that were removed from the list of selected evaluations

1.3 Internal and external outreach

Outreach stepped up in 2023...

Board members held 10 meetings with stakeholders in 2023 and took part in events on better regulation.⁵ The Annual Report for 2022 was presented at the RSB Annual Conference on Regulatory Scrutiny on 31 May 2023, which was attended by 240 participants and included a panel to discuss the main trends and challenges of impact assessments and evaluations as well as a panel on cost-benefit analysis. Building on the success of the Annual Conference, the Board held a separate Scrutiniser event in December 2023 with over 30 participants based around two panel discussions on Competitiveness and Consumer Benefit respectively.

The well-established practice of the Board holding ‘upstream meetings’ with the Commission departments to provide targeted advice at early stages of elaboration of the impact assessments and evaluations continued in 2023 with 18 meetings with the responsible Commission departments. These concerned a corresponding number of different initiatives, reflecting the steady flow of policy initiatives in the fourth year of the von der Leyen Commission. In addition to upstream meetings the Board conducted also an ‘internal’ outreach exercise with individual Directorates-General to attend their internal management meetings and to provide an opportunity to explain the Board’s work and to answer questions.

(5) A detailed list of all meetings of Board members in 2023 is available on-line: <https://commission.europa.eu/system/files/2023-12/RSB%20-%20Meetings%20of%20Board%20Members%20-%20Version%20published%20on%20Europa%20December%202023.pdf>

2

Trends and challenges in impact assessments and evaluations

2.1 Impact assessments: trends and challenges

2.1.1. Evolution of overall impact assessment quality

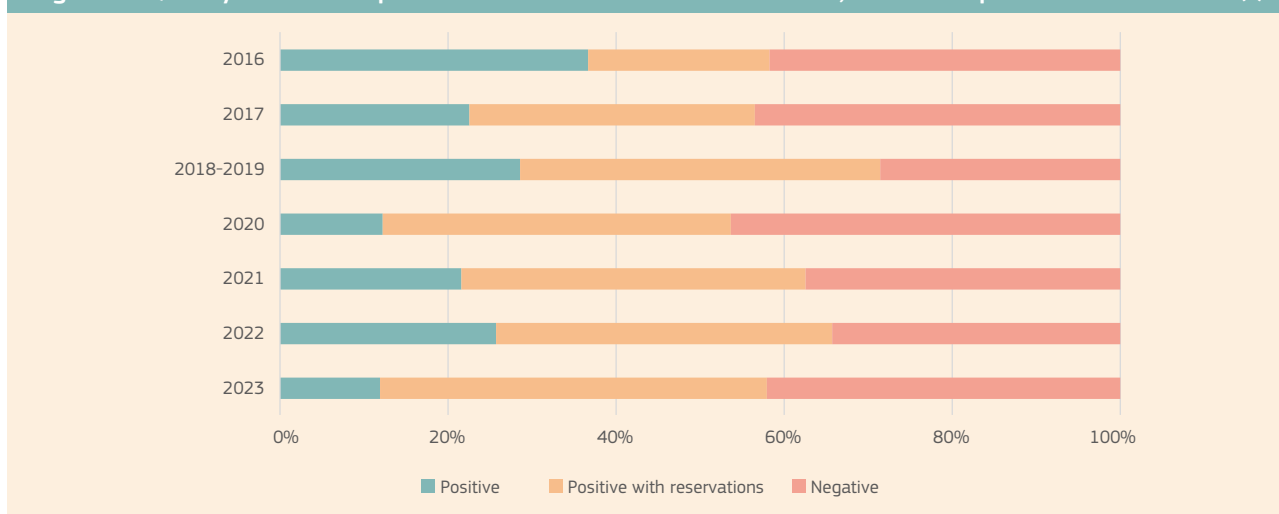
Impact assessment quality indicators show mixed results in 2023

The Board measures the overall quality of scrutinised impact assessments and its evolution over time based on two broad indicators. On the one hand, it uses the rate of opinions that received a 'positive' or 'positive with reservations' opinion type, on the other hand, a multi-criteria average quality score indicator based on 13 quality components. ⁽⁶⁾

More negative opinions but...

Regarding the first indicator – the share of 'positive' opinions – the Board's analysis indicates that the positive trend observed in the overall quality of draft impact assessments at first submission during the years 2021 and 2022 did not continue in 2023. The percentage of 'positive' opinions (12 %) on draft impact assessments is lower than in previous years while both the percentages of 'positive with reservations' opinions (46 %) and of 'negative opinions' (42 %) rose in 2023 compared in relation to 2022 and 2021 (see **Figure 2**). ⁽⁷⁾

Figure 2: Quality of draft impact assessments at first submission, 2023 compared to 2016-2022 ⁽⁷⁾



... no significant changes in average quality scores

However, the evolution of the complementary second indicator – the average quality score indicators across all opinion types (see **Figure 3**) – does not support an overall conclusion of a substantive change in the quality of first submission impact assessments in comparison to previous years.

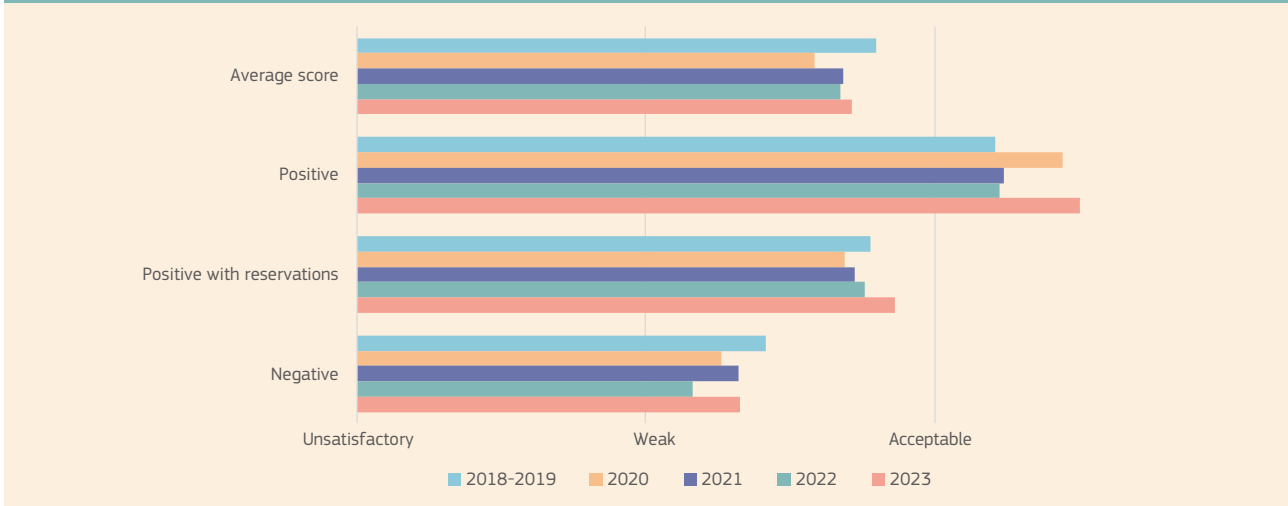
Looking in greater detail at the evolution of the composite 'average quality score' indicators of initial submissions of draft impact assessments shows that the average quality scores naturally continued to vary in a different manner depending on the opinion type, with 'positive' opinion types receiving the highest quality scores, followed by 'positive with reservations' and 'negative'.

(6) The 'average quality score' is calculated by taking the sum of each score per variable and dividing it with the number of variables (13), so that each variable (or quality component) has the same weight. The above scores refer to first submission opinions. The 13 quality variables are the same as presented in Figure 4. The RSB quality indicators and elements were set out in more detail in annex 2 of the RSB 2022 report.

(7) Note: 2018 and 2019 figures are indicated together due to the low cases in 2019, see table 1 above.

The evolution of the statistical analysis indicates marginally higher average scores in 2023 in comparison to the previous three years across all opinion types, especially for 'positive' but also for 'positive with reservation' and 'negative' opinions. This supports the view that based on a multi-criteria average quality scoring of draft impact assessments no significant quality deterioration can be testified in 2023, which as such is a positive finding given the high-quality levels achieved already in the year 2022.

Figure 3: Average quality scores overall and by type of opinion at first submission 2023 vs 2018-2022



Readability and clarity together with subsidiarity and EU value added were the strongest parts...

Looking at the quality of impact assessments by quality component allows a more differentiated and nuanced picture of the quality trends observed in 2023. In line with the findings of previous years, 'subsidiarity and EU value added' and 'readability and clarity' (criteria 3 and 13 in **Figure 4**), remained the quality elements of draft impact assessments that received overall the highest quality scores.

Regarding the **readability and clarity criteria**, the Board observed a further improvement, with for the first time all opinion types receiving on average a fully acceptable quality mark. Preparing clear and easily accessible impact assessment reports is not self-evident in view of the often very technical and scientific nature of many initiatives. The Board also noted that services made a greater effort in respecting the recommended pages length limit set in the Commission's better regulation guidelines, which is essential in facilitating the effective use of impact assessment reports by decision-makers.

Regarding the **subsidiarity and EU value added** component, the Board observed that the overall quality score stabilised on an acceptable level for 'positive' and 'positive with reservations' opinion types. However, draft reports that received a 'negative' opinion showed in several cases deficiencies in the demonstration of the necessity and added value of EU action. In the corresponding opinions the Board recommended for example to better explain and substantiate with evidence why the objectives of the initiative cannot be sufficiently achieved by Member States acting alone and being more explicit about which ability or possibility to enact appropriate measures is missing.

Several quality elements show overall sufficient quality scores

As illustrated in **Figure 4** the quality components '**context and scope**', '**objectives**', '**intervention logic**', '**future monitoring and evaluation**', '**consultation and information base**', and '**methodology**' (criteria 1, 4, 5, 10, and 12 respectively in **Figure 4**) received on average close to acceptable quality scores, with all 'positive' and 'positive with reservations' opinion types receiving fully acceptable scores.

A clear presentation of the policy **context**, including the links to existing legislation and planned initiatives and a clear identification of the issues that fall within the problem scope is an essential corner stone for a high-quality report, as it sets the scene for the development of a convincing narrative, intervention logic as well as dynamic baseline scenario. As in the past, the Board flagged serious contextual and scope issues predominantly in several negative opinions, while reports that received a 'positive' or 'positive with reservation' type of opinion usually had sufficient quality.

While the quality components definition of **objectives** and the **intervention logic** in most scrutinised reports were of fully acceptable quality, they were a highlighted problem in several negative opinions. In these cases, they often occurred together with other deficiencies, such as the link to an unclear problem definition or options that could not deliver on all objectives by design. In the corresponding opinions the Board recommended to establish a clear and consistent hierarchy of objectives, to express objectives in smarter terms ⁽⁸⁾, to coherently use them when comparing the effectiveness of options and to link them more clearly to key performance indicators when defining the **future monitoring and evaluation** arrangements. While the 2023 statistics on the latter quality component do not indicate any major deviations from the broadly acceptable 2022 quality findings, the improvement recommendations made by the Board in its previous report, such as to make better use of available best practices advocated in the better regulation toolbox, remain relevant.

Regarding the **consultation and information base** quality component, the Board's quality reporting did not identify any significant deviations from the 2022 findings. Some draft impact assessments receiving an initial 'negative' opinion presented deficiencies, such as not presenting contradictory views of different stakeholder categories in a sufficiently transparent, granular, and balanced manner or not paying sufficient attention to the non-representativeness of the stakeholder feedback received. On a more general note, the Board observed that several public consultations received only a limited number of responses, often those having a highly technical or scientific nature.

For the **methodology** component weak quality scores were reported in particular for first submissions receiving a negative opinion. In several cases the Board recommended to improve significantly the explanation of its methodological approach. It requested to present better the level of overall confidence in the modelling and the most relevant assumptions underpinning models. It also requested to indicate more explicitly how robust, credible and accurate the modelling results were.

(8) Objectives should be Specific, Measurable, Achievable, Relevant and Time-bound (i.e. 'S.M.A.R.T') according to Tool #15 of the Commission's Better Regulation Toolbox.

The analysis of options and impacts and their comparison were the weakest quality elements ...

As in previous years the **'problem definition and use of evaluations'**, the design of **'options'**, the analysis of **'impacts'** and the **'comparison of options and proportionality'** were the greatest analytical challenges for first submission impact assessments scrutinised in 2023 (see criteria 2, 7, 8 and 9 in **Figure 4**). These quality elements continued to receive the lowest quality markings, although there was a slight improvement when compared with the corresponding quality scores recorded for 2022. Taken together they explain to a large extent why certain first submission impact assessments received a negative opinion by the Board.

Figure 4: Quality of impact assessments at first submission by quality component, 2023



While the **problem definition and use of evaluation** component was usually not a problem for opinions with a positive opinion it was a key weakness of most reports that had an initial negative opinion. Getting the problem definition right is essential as it lays the groundwork for other essential quality components and presenting a clear and consistent intervention logic. Therefore, it is important that the findings of the preceding evaluation, if present, are of high quality and adequately used in the problem definition, including by concise explanation of the underlying regulatory or market failure and the magnitude of the problem. In several cases of first negative opinions the Board found that the identified problem definition was not supported by a robust and credible evidence base.

The definition of **options** was on average the weakest quality element across all first submission draft impact assessments scrutinised in 2023 (see criteria item 7 in figure 4). Both 'negative' as well as 'positive with reservations' opinion types had the lowest scores on this quality component. Options were often not designed in a way that brought out clearly the available policy choices and trade-offs, with positive opinions being on average acceptable. As in previous years the most problematic deficiencies included a too limited range of feasible options, options designed to support a preferred option or not sufficiently anticipating alternative combinations of options that were likely to emerge in the decision-making process, thereby limiting the choice for policy makers.

The analysis of **impacts** continued to provide challenges, although a slight improvement in overall scores was observed. The corresponding quality component score for first submissions receiving a negative first opinion was (together with the options quality component) the lowest of all quality indicators. In line with the findings of previous Board annual reports, deficiencies were often caused by the omission of certain impacts in the analysis, lack of or reliance on single sources of evidence, an unbalanced inclusion of stakeholder feedback, lack of depth and rigor of impact analyses as well as a lack of acknowledgement of uncertainties. This seems to indicate that in several cases services preparing an impact assessment did not pay sufficient attention to the adequate reporting or timely development of an adequate data collection approach as recommended in the better regulation guidelines and toolbox. ⁽⁹⁾

The Board also observed only very limited progress when it comes to the **comparison of options and proportionality** component (see criteria item 9 in figure 4). The quality standards required by the better regulation guidelines were in several cases not adequately met by first submission reports. This resulted in weak quality scores for many draft impact assessments irrespective of whether they received a 'negative' or 'positive with reservations' type of opinion. Some draft reports typically did not provide a clear comparison of all options in terms of effectiveness, efficiency, and coherence. The supporting cost-benefit or multi-criteria analyses often did not allow a solid comparison of options and justification of the preferred set of measures, including in terms of proportionality. There were also instances where the Board raised concerns when the preferred option was not selected based on the best benefit-cost ratio or highest net benefits or any other justification. On a positive note, the draft impact assessments

(9) See Tool #67 on data identification.

that got a positive opinion received an ‘acceptable’ quality score for the comparison of options and proportionality assessment.

The correct analysis of impacts and comparison of options relies on a sufficiently robust and developed baseline scenario. As in previous years, the Board observed that in several negative first opinion cases the **baseline** (see criteria 6 in figure 4) was not sufficiently dynamic and not paying enough attention to the expected impacts from parallel or recently adopted initiatives, innovation and evolutionary market developments and thus failed to establish an appropriate benchmark for comparison.

What quality difference does the scrutiny of the Board make?

The Board’s scrutiny plays a key role in ensuring the quality of impact assessments

The Board scrutinises submitted reports at a rather early stage of the policy development process to ensure sufficient time for the services to address any deficiencies identified in the Board’s opinion(s) ahead of the presentation of the final impact assessment and adoption of the legislative proposal. The ultimate objective of the scrutiny process is to ensure that the final impact assessment report that accompanies the legislative proposal for college decision is fit for purpose and allows a fully informed decision making. The Board’s quality indicator monitoring system therefore assesses the evolution of the quality of draft impact assessments at several stages of the policy development process at first (and in case of an initial negative opinion also at second) submission to the Board stage as well as at the subsequent interservice consultation (ISC) stage, before the formal adoption procedure for a proposal will be launched. This staged quality monitoring allows the Board to check to what extent its recommendations have been effectively incorporated.

At ISC stage all scrutinised impact assessments on average have an overall acceptable quality level

The left-hand graph of Figure 5 shows that at ISC stage all scrutinised impact assessments on average have an overall acceptable quality level and thus can be considered as ‘fit for purpose’. ⁽¹⁰⁾ The greatest improvement continued to take place between the first and second submission of draft impact assessments that received an initial negative opinion. This can be explained by the greater need present for services to address identified weaknesses that come with a negative type of opinion. This confirms the key role of the Board in ensuring that impact assessments are improved to the degree necessary to make them fit for purpose. When comparing the 2023 quality scores with the average scores of the 2017–2022 period a small average quality increase for all opinion types can be observed (see the dotted line for the ‘total’ score in both graphs underneath in Figure 5).

(10) Please note that the average quality scores presented in Figure 3 relate to the first submission stage.

Figure 5: Evolution of impact assessment quality in 2023 and compared to 2017-2022¹¹



Outlook

The analysis of the evolution of the disaggregated quality components of an impact assessment in the preceding sections showed that there are several more difficult to tackle quality challenges in the impact assessments scrutinised by the Board over the last years. These mainly concerned the problem definition together with the design, assessment and comparison of options. While there is in principle adequate guidance available in the better regulation guidelines and toolbox, the Board identified a need to reflect on how these apparently more deeply rooted quality deficiencies could be better anticipated and subsequently better addressed through adequate mitigating measures. This should include looking at how services could improve evidence collection and data quality and make better use of consultation work, contracted external studies and expertise while ensuring a proportionate level of analysis.

2.1.2 Trends in the types of impacts assessed and quantification

More impacts assessed in impact assessments and covered in Board opinions

In 2023, both the overall shares of impacts substantially assessed by the services in first submission draft impact assessments by the Commission Directorates-General as well as those covered by the Boards opinions are higher than the average of the previous years (2017-2022).

Among the impacts covered in first submission draft impact assessments, economic impacts continued to represent the most frequent broad category of impacts and were assessed in 2023 for the first time in all draft reports, followed by social and environmental impacts (see Figure 6).⁽¹²⁾ In absolute terms, the increase in the assessment of environmental impacts (+17%) was the highest (58%) in the 2023 draft impact assessments when compared to the pattern observed in the previous year (41%).⁽¹³⁾ This probably reflects application of the new mandatory better regulation requirements, such as the “do no significant harm” assessment or climate law consistency check. There was also a significant

(11) Figure 5 shows all cases where the interservice consultation was finalised in 2023.

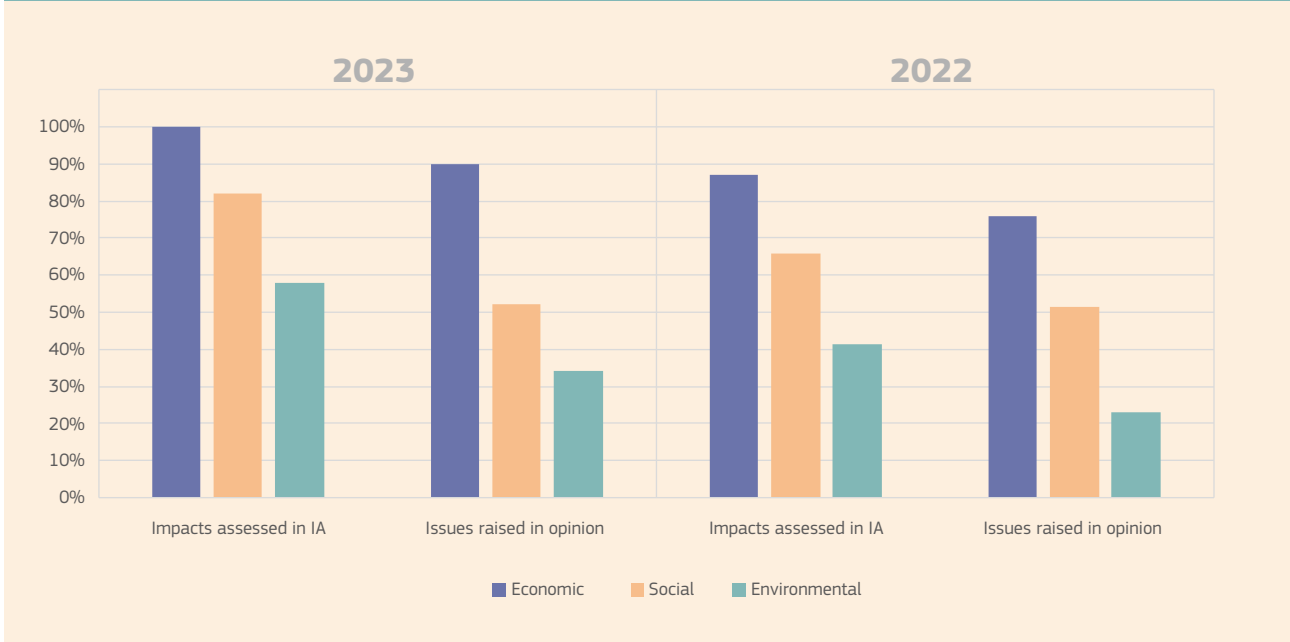
(12) Note that economic, social, and environmental impacts are aggregated impact categories (representing families of related more specific impacts).

(13) See Annex II for the underlying data sets used for the year 2023 to year 2022 comparisons in this section.

increase in the coverage of social impacts. With 82 % of all impact assessments covering social impacts in 2023, this represents an increase of 16 % compared to the previous year (66%).

2023 saw also an overall increase of impacts covered in Boards opinions (in comparison to 2022). The strongest increase was observed for environmental and economic impacts with 11 % and 14% respectively, while the share of social impacts covered in opinions remained stable with slightly above 50%.

Figure 6: Types of impacts assessed in impact assessments and concerns raised in the Board opinion, 2023 compared with 2022



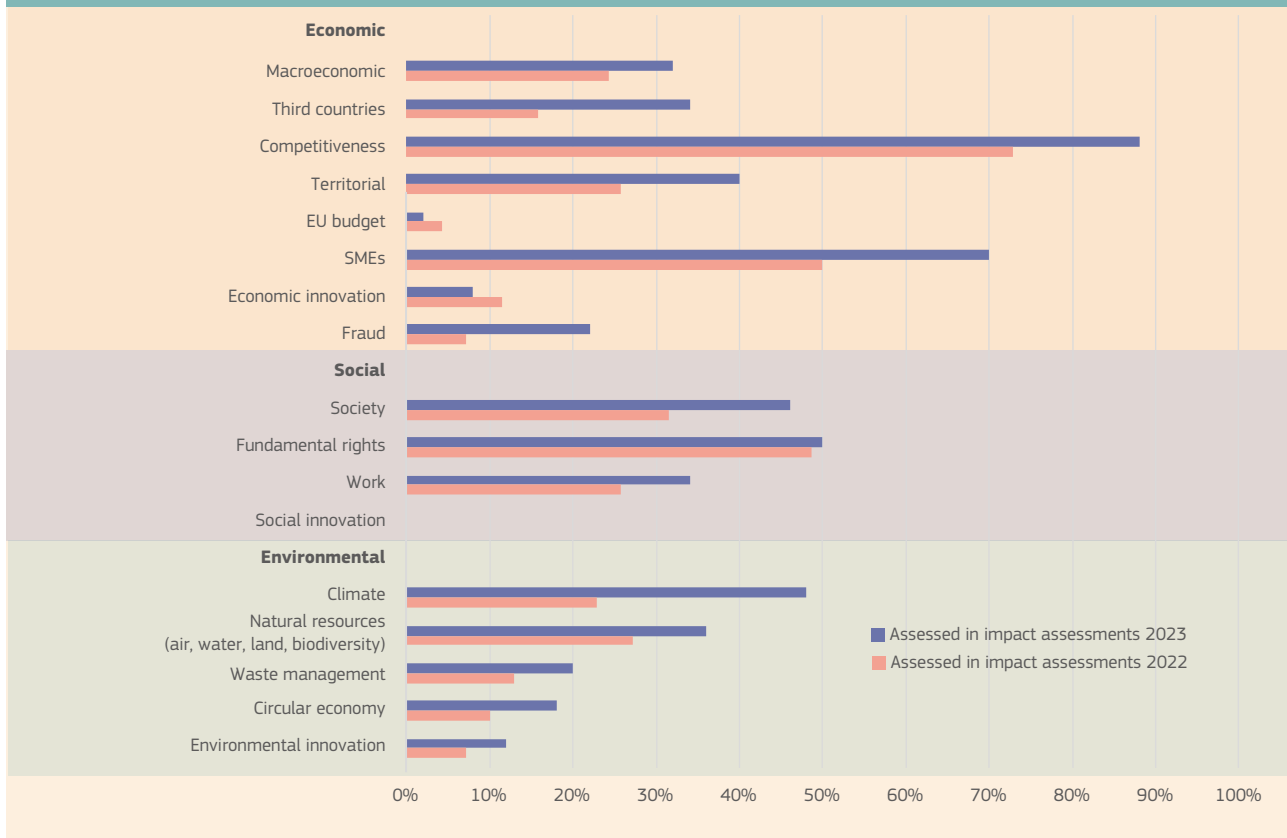
Impacts on competitiveness, societal and climate were more frequently assessed

Looking at the evolution of more specific impact categories, **Figures 7 and 8** provide a more nuanced picture (based on the 1st submission of draft impact assessments). They show that almost all types of specific impacts were assessed in impact assessments and, where relevant, also covered in Board opinions. The most frequently substantially assessed specific impacts in 2023 were competitiveness (88%), societal (50%) and climate (48%). When compared to the ranking of 2022 the most significant increases in 2023 were recorded for climate (+25%), SMEs (+20%), third countries (+18%), work (+15%), economic innovation (+15%), competitiveness (15%), employment (+14%), industry sectors (+14%), territorial (+14%), internal market (+13%) and fundamental rights (+12%).⁽¹⁴⁾

The more specific impacts that featured most prominently in the Board’s opinions on first submission impact assessments in 2023 were competitiveness (62%), industrial sectors (48%), and societal, territorial, and internal markets with each 44%.

(14) See Annex II for the underlying data for the years 2023 and 2022.

Figure 7: Types of impacts assessed in impact assessments, 2023 compared to 2022



The relatively strong increase in the assessment of competitiveness and SME related impacts is likely a result of the strengthened requirements introduced with the mandatory competitiveness check (as of 1 March 2023) and reflects the Commission's renewed focus on a growth enhancing regulatory framework as part of its long-term competitiveness strategy. ⁽¹⁵⁾ Similarly, the reinforced scrutiny of these aspects by the Board is also linked to the revised mandate of the Board, which in December 2022 asked the Board to pay special attention to the impacts on competitiveness. A more detailed analysis on how the Board has scrutinised the quality of competitiveness impacts and the application of the new competitiveness test is provided in the special feature of this report (see section 3.1.).

Quantification remains a challenge

While for partial quantification of costs there is an improvement compared to previous years, for full quantification there is a slight decrease. Overall quantification of costs is closer to the average of the previous years but remains still at relatively high levels. However, benefits are not quantified to the same extent when compared to 2022. This is, however, very much dependent on the subject matter of the submitted impact assessment reports, where for some of them it was impossible to quantify benefits. In its opinions, the Board continued to underline the need to quantify, to the extent possible and proportionate, both benefits and costs, especially those that are relevant for the 'one in, one out' approach.

(15) COM (2023) 558.

Figure 8: Types of impacts covered in the Board opinion, 2023 compared to 2022

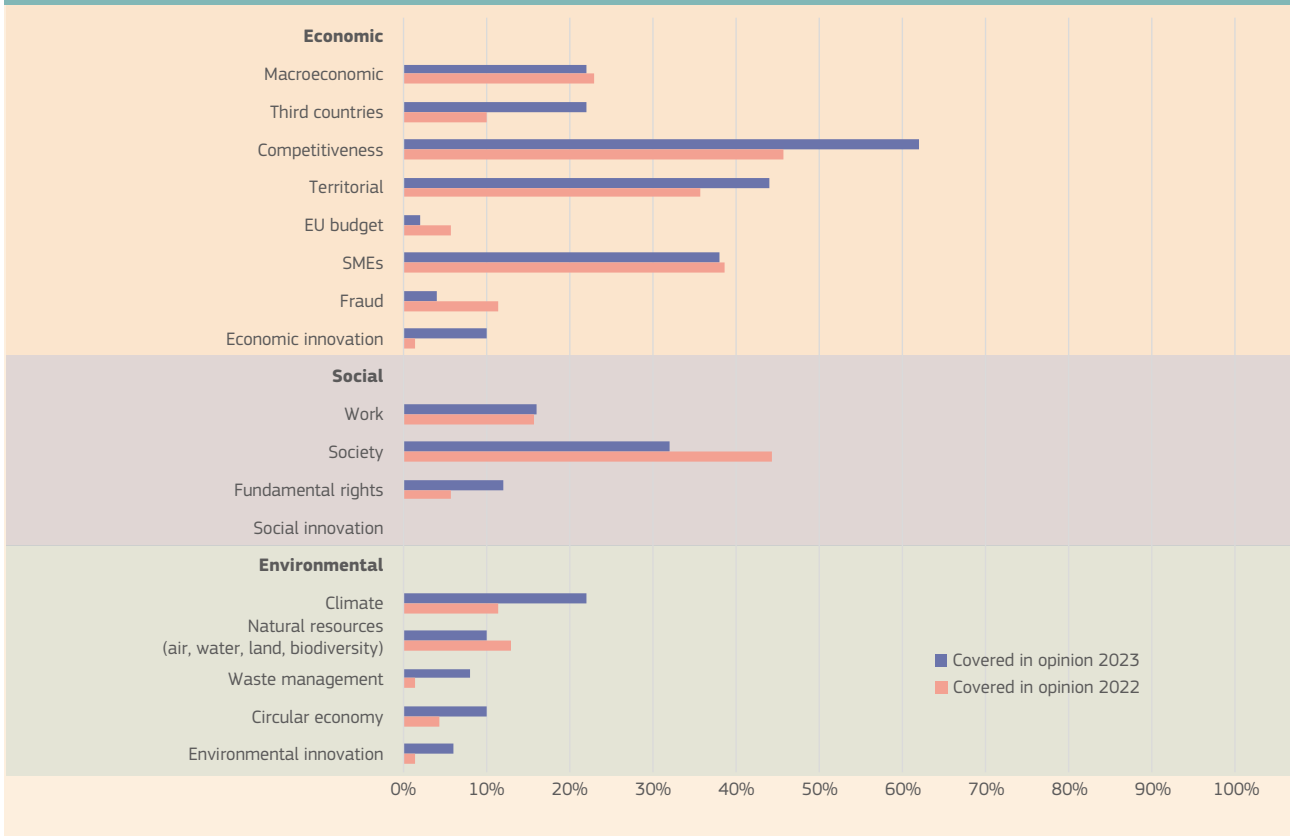
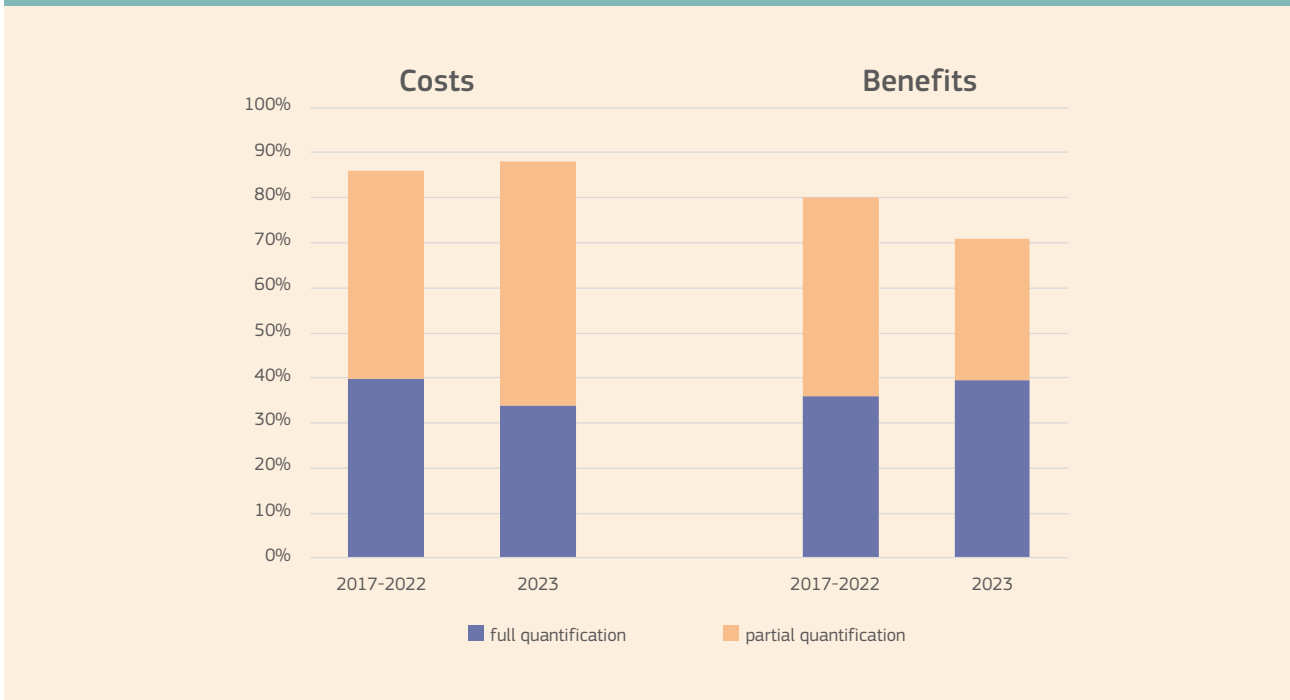


Figure 9: Trends in quantification of costs and benefits in draft impact assessments, 2023 vs 2017-2022¹⁶

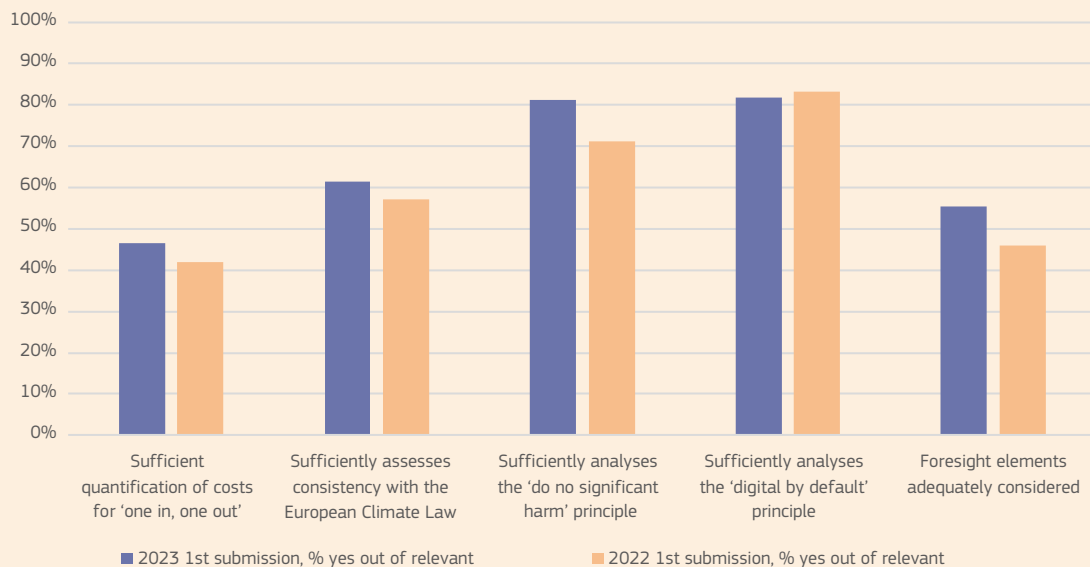


(16) Percentages include only cases where quantification was judged to be required on proportionality grounds.

Improved compliance with the new better regulation requirements ...

In its 2022 report the Board looked for the first time at how well first submission draft impact assessments performed on the new requirements that were introduced following the better regulation Communication of April 2021 and that are subject to quality scrutiny of the Board. ⁽¹⁷⁾ The results for 2023 (and compared to 2022) presented in **Figure 10** shows improvements on four of the five requirements while the so far best performing ‘digital by default’ requirement maintained its leading position (with 82%) with a marginal decrease. The most significant increases were achieved with respect to the ‘do no significant harm’ principle (+10%) and the consideration of foresight analysis (+9%). On the latter the Board observed that draft reports incorporated more systematically foresight elements when describing the expected evolution of the problem under the dynamic baseline scenario and the relevance assessment of existing measures in evaluations.

Figure 10: Assessment of new requirements in impact assessments 2023 compared to 2022



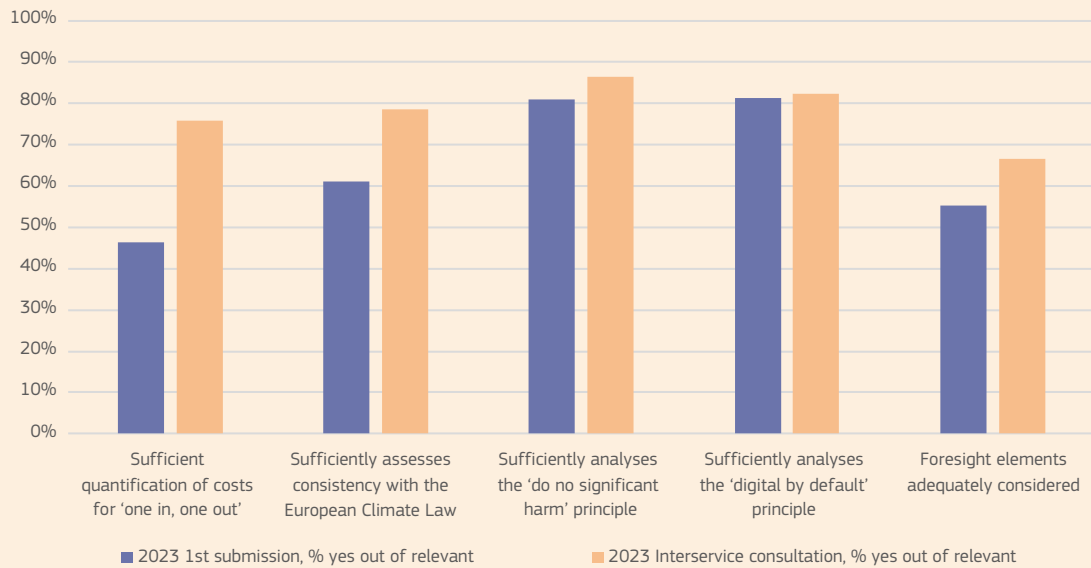
With a view to assess the full level of implementation progress achieved, **Figure 11** compares the performance level at the first submission stage with the subsequent stage of Interservice Consultation (ISC). ⁽¹⁸⁾ This allows to assess the difference that the Board’s scrutiny made in ensuring compliance with the new requirements. Figure 11 shows a significant further improvement at ISC stage, with sufficient quantification of costs for the ‘one in, one out’ approach (+29%), sufficient assessment with the European Climate Law (+18%) and the consideration of foresight analysis (+12%) experiencing the largest quality increases. ⁽¹⁹⁾

(17) These requirements concern the ‘one in, one out’ approach, the mainstreaming of the Sustainable Development Goals, ‘climate consistency check’, the integration of strategic foresight analysis, the application of the ‘do no significant harm’ and the ‘digital by default’ principles. They were announced in April 2021 and the toolbox updated accordingly in November 2021, while the competitiveness check was introduced in March 2023.

(18) Please note that the number of impact assessments that have completed the ISC stage (28) by 31.12.2023 is lower than the number of impacts assessments (50) scrutinised by the Board in 2023 due to the time lag between scrutiny and ISC launch.

(19) Impact assessments are still subject to further improvement up to their finalisation after the ISC stage. For the one-in; one-out there is a full quantification of administrative costs and savings which are entered in a dedicated calculator at the latest when the file is adopted by the Commission. However, the Board is not validating any changes to administrative costs in the post-ISC stage.

Figure 11: Assessment of new requirements in impact assessments at first submission and ISC stage



... but need to keep the positive momentum.

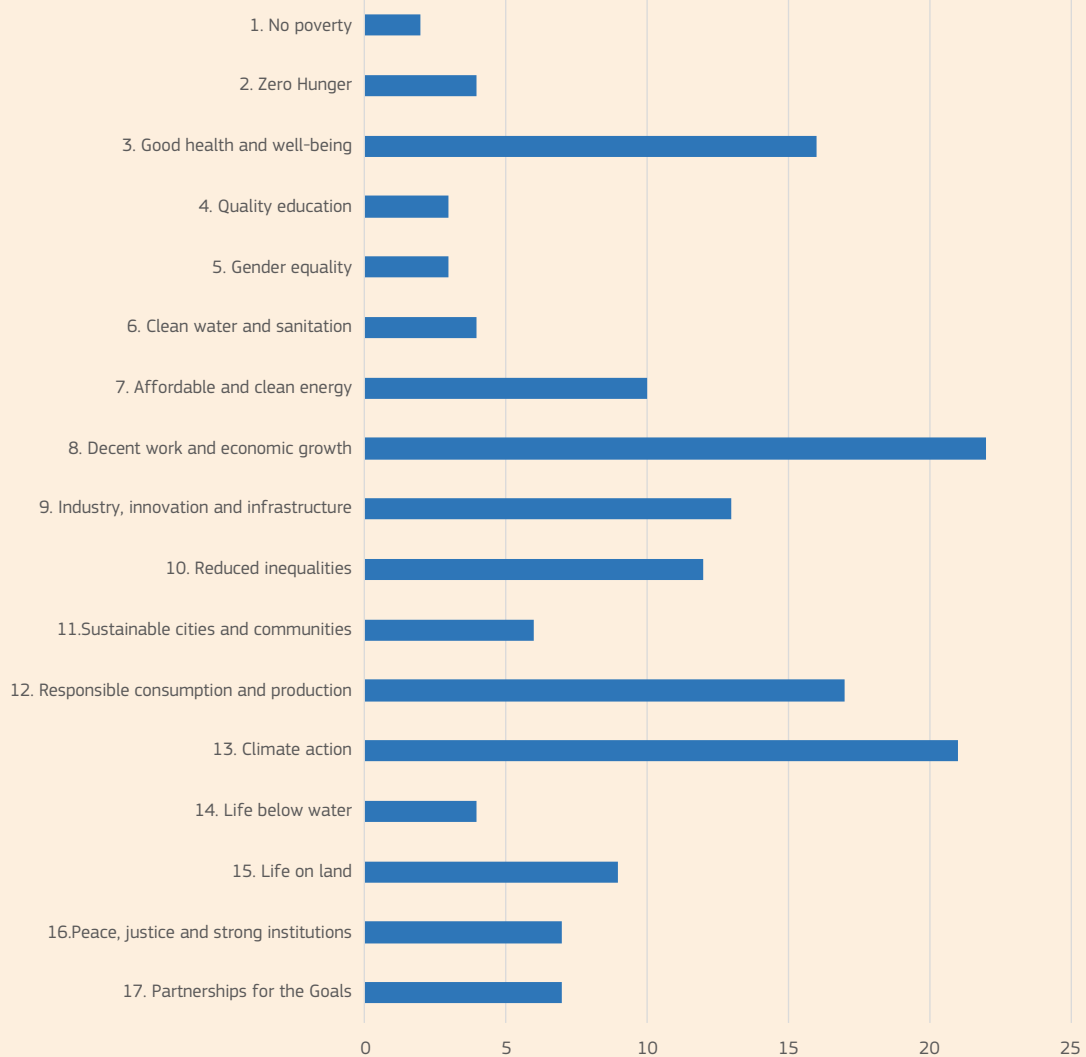
Taken together this represents a significant progress compared to last year and suggests that the new better regulation requirements are increasingly mainstreamed in the Commission's services policy development work and culture. The Board considers that it is now important to keep this positive momentum and to take further efforts with respect to those requirements having the greatest improvement potential, in particular quantification under 'one-in, one-out' and full use of foresight insights. ⁽²⁰⁾

Links to Sustainable Development Goals

With its 2022 report the Board started also to inform on the coverage of relevant UN Sustainable Development Goals (SDGs) that were identified in Commission impact assessments as being relevant for each Commission initiative. **Figure 12** shows, as in the previous year, that Commission proposals prepared in 2023 covered all SDGs, with good health and well-being (SDG 3), decent work and economic growth (SDG 8), responsible consumption and production (SDG 12) and climate action (SDG 13) most frequently mentioned.

(20) See COM(2023)376.

Figure 12: Sustainable Development Goals identified in impact assessments in 2023



2.2. Evaluations: trends and challenges

2.2.1. Evolution of evaluation quality

Number of scrutinised evaluations scrutinized remain small

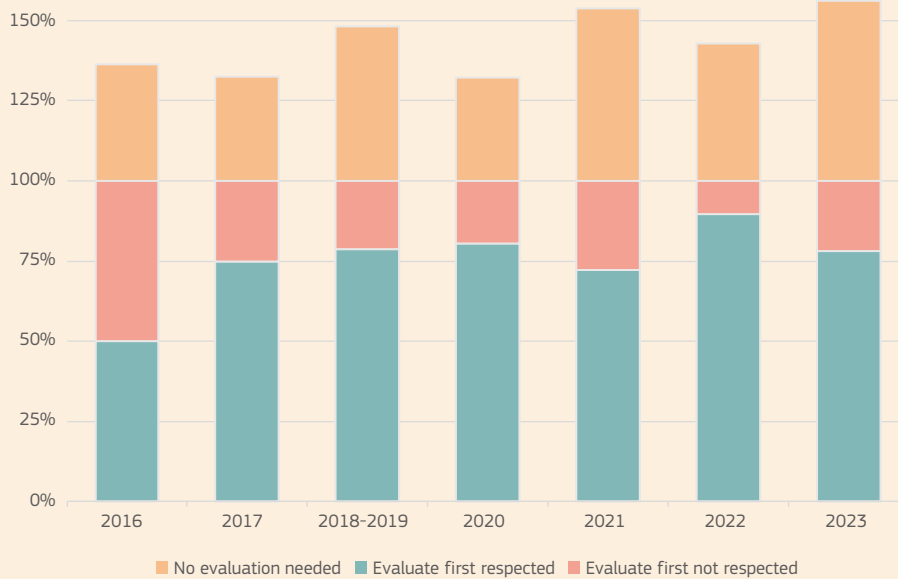
Like the situation last year, the Board scrutinised also in 2023 a relatively small number (8) of self-standing evaluation reports, well below the average of the previous years. Moreover, the scrutinised sample in 2023 is quite atypical as it comprised only one evaluation of existing legislation whereas the others concerned either spending programmes (3), agencies (2) or international agreements (2).

However, it should be noted that the Board scrutinised an additional ten so-called ‘back-to-back’ evaluations, which means these were annexed to and scrutinised as part of the corresponding impact assessments and thus did not receive a separate Board opinion. Opinions on such draft impact assessments also covered the quality of the evaluation and how its findings contributed to the problem analysis.

Compliance with the ‘evaluate first’ principle in line with average of previous years ...

Figure 13 shows that the compliance rate observed for the ‘evaluate first’ principle was lower than in the previous year (78% compared to 90%) but still broadly in line with the average compliance rate 2017-2022 (not counting the ‘no evaluation needed’). Nevertheless, the results show that mainstreaming evaluations into the policy development process and culture is a permanent task and requires continued efforts and clear commitments by all actors.

Figure 13: Evaluate first principle, 2016-2023²¹



... but 2023 saw a lower rate of positive opinions and lower average quality scores

The overall positive quality trend for evaluations observed between 2019 and 2022 did not continue in 2023. ⁽²²⁾ The share of positive opinions was among the lowest so far recorded and the average quality score for the 2023 evaluations was below the 2017-2022 average (see Figures 14 and 15). While these results require further reflection, they should nevertheless be interpreted with the necessary degree of caution given the limited size and atypical nature of the evaluation scrutinised, which as such does not allow a generalisation of findings.

(21) No evaluation is needed when the impact assessment concerns a new initiative in an area where the EU was not previously active.

(22) The statistical analysis refers exclusively to ‘stand-alone’ evaluations. They do not include back-to-back evaluations as their quality is assessed as part of the impact assessments to which these are annexed.

Figure 14: Share of positive opinions for evaluations, 2017-2023

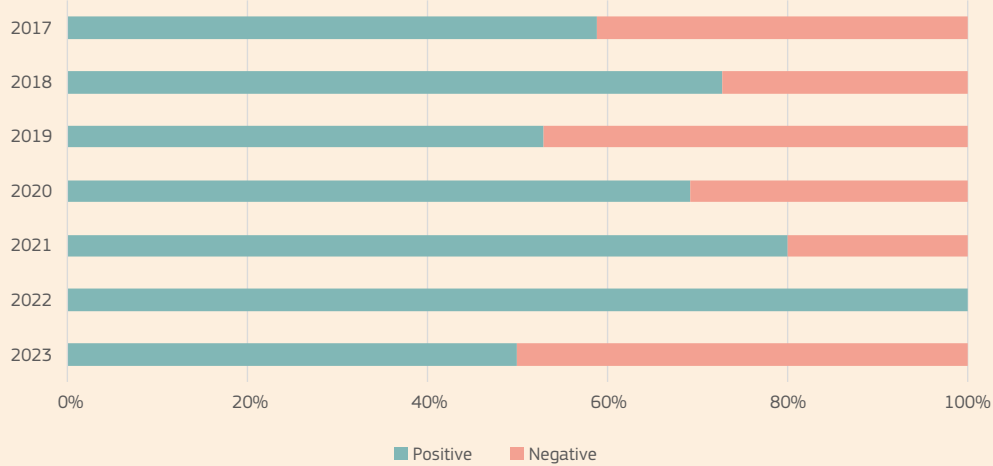
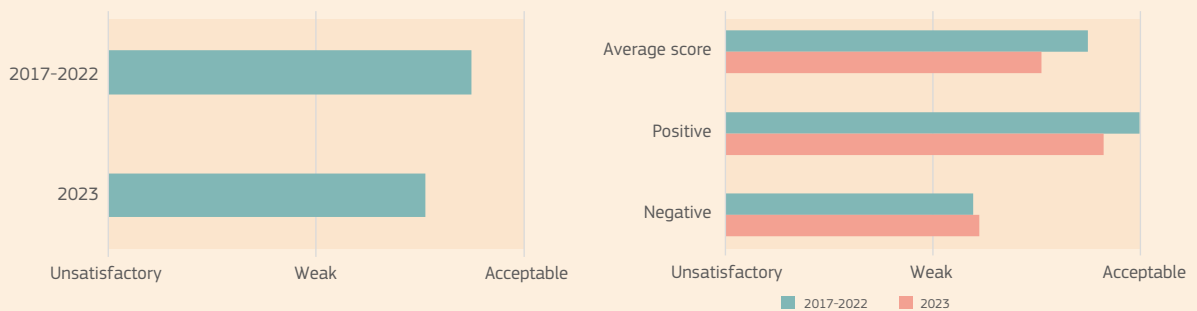


Figure 15: Average quality score of evaluations, 2017-2023

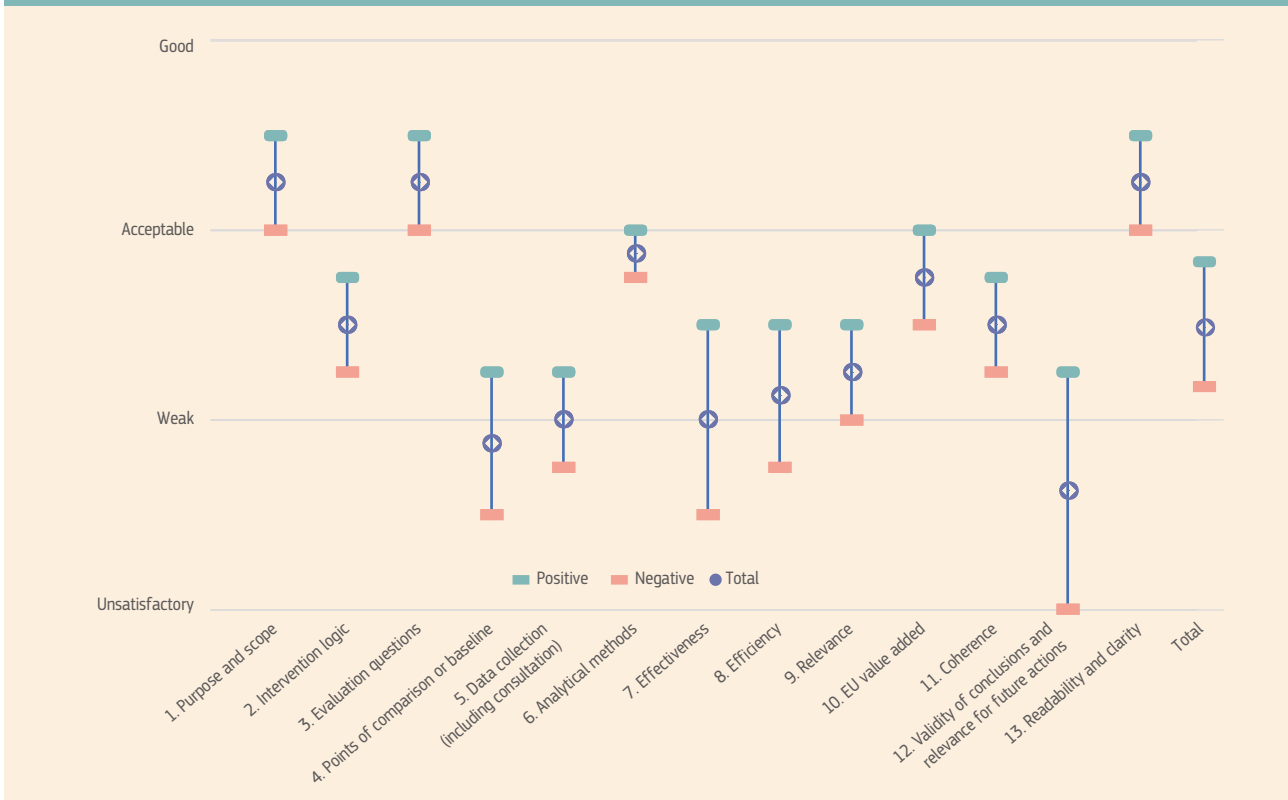


Several quality components of evaluations performed well

...

Looking at the quality of evaluations at component level allows some insights about why evaluations received a positive or a negative opinion. Out of the 13 components presented, **Figure 16** shows a clear contrast between the three components that performed overall well — **'purpose and scope'**, **'evaluation questions'** and **'readability and clarity'** (components 1, 3 and 13 respectively) – and four components that overall received a weak (or more than weak) quality score — **'points of comparison'**, **'validity of conclusions'**, **'data collection'** and **'effectiveness'** (components 4, 12, 5 and 7). This contrast was present for both 'positive' and 'negative' opinion types, though with the latter having significantly lower absolute scores.

Figure 16: Quality of evaluations at first submission by quality component, 2023



... others did perform not so well

The Board observed the lowest quality score for the **'validity of conclusions and relevance for future actions'** quality component (Nr. 12). All reports that received a negative first opinion had an unsatisfactory score on this component and the evaluations with a positive opinion were close to a weak score. In the relevant opinions the Board found that the conclusions did not adequately reflect the presented analysis or lacked a critical assessment of the robustness of the lessons learned, or conclusions reached in view of limitations of the evidence base. It also found that the lessons learned from some evaluations did not inform possible future actions or were not adequately grounded in the evidence base of the preceding analysis. As the validity of conclusions and relevance for future actions component is critical and essential for informed decision-making, it was — together with other poor performing quality elements — one of the main reasons why the Board had to give a negative opinion.

'Points of comparison or baseline' quality component (Nr. 4) was the quality element with the second lowest overall quality score. The Board scrutinized several evaluations that did not clearly set out the points of comparison against which the performance of the initiative was assessed or identified the original objectives in a sufficiently specific and measurable manner.

The **'effectiveness'** component (Nr. 7) also had overall an average weak score. The Board observed in several opinions that the analysis of effectiveness and efficiency was underdeveloped as regards the 'value for money' concept.

Component Nr. 5 on **'Data collection (including consultation)'** was another element with an overall weak score and also a challenge for evaluations that

overall had a positive opinion. Weak data collection is often the consequence of a deficient monitoring system. The Board observed that several evaluations did not sufficiently explain the limitations of the evidence base.

The Board also observed quality weaknesses with respect to the **'efficiency'** and **'relevance'** components (Nr. 8 and 9), in particular, for evaluations receiving a negative first opinion. In several opinions it found that evaluations did not sufficiently develop the potential for cost reduction, administrative burden reduction and simplification. It requested more convincing evidence that the administrative costs were not unduly high in comparison of the benefits. It also found that some evaluations did not adequately investigate current and future policy needs to assess the continued relevance of the initiative. It recommended that a foresight approach should complement the assessment of relevance to reflect on future needs in view of broader, long-term challenges.

While still slightly below an acceptable overall quality score **'analytical methods', 'EU value added'** (components 6 and 10) and to a minor extent also **'intervention logic'** and **'coherence'** (components 2 and 11) raised fewer quality issues and were easier to deliver by the services.

As indicated above, there are situations where the evaluation and the impact assessment are carried out as a single process, in a so-called 'back-to-back' manner. ⁽²³⁾ In 2023, 10 out of the 50 impact assessments scrutinised included a 'back-to-back' evaluation. As it can be seen from Table 4 in most cases the quality of the evaluation itself was adequate. However, the evaluation results were adequately used in the main impact assessment report at first submission stage only in 3 out of 10 cases. This is a missed opportunity, as the evaluation results should be a major source of evidence, in particular concerning the problem definition.

Table 4: Quality and use of 'back-to-back' evaluations in 2022

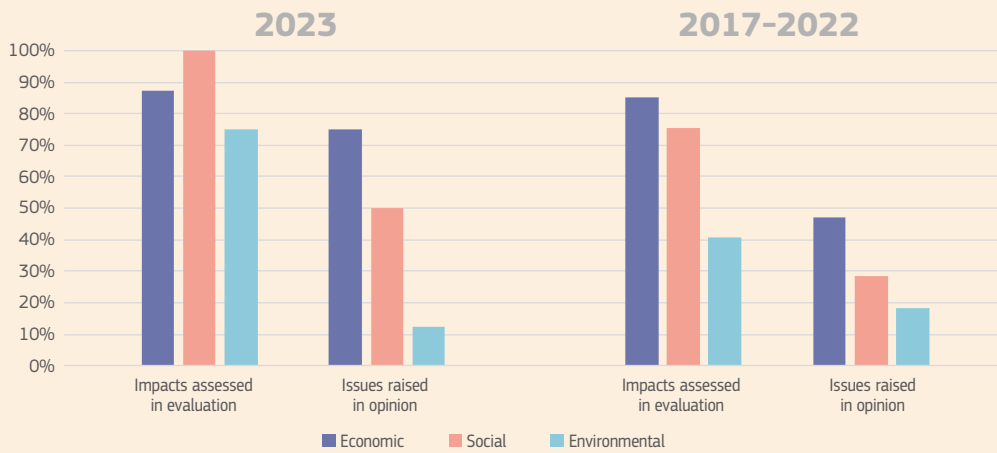
Back-to-back evaluations	Total IAs	yes	no	% yes
Adequate evaluation	10	7	3	70%
Evaluation results properly used in IA	10	3	7	30%

2.2.2. Trends in the types of impacts assessed and quantification in evaluations

Figure 17 shows that the three generic types of impacts (economic, social and environmental) were substantially assessed to a relatively high level in all scrutinised evaluations. Social impacts were substantially assessed in all scrutinised evaluations, economic impacts in line with the average of previous years while environmental impacts experienced the largest increase in absolute terms. The most significantly improved coverage over environmental impacts may explain why the Board raised fewer concerns on them than in the past. On the contrary, there were more issues raised in Board opinions related to economic and social impacts when compared to the average of 2017-2022. However, as indicated further above these findings concern only a small sample of evaluations.

(23) See Tool#50 of the better regulation Toolbox.

Figure 17: Types of impacts assessed in evaluations and covered in the Board opinion, 2023 compared to 2017-2022



When looking beyond the three generic impact categories discussed above, the analysis of the more specific impacts as presented in **Figure 18** shows that work and competitiveness and work impacts were most often substantially assessed in evaluations, followed by impacts on industry sectors, climate, natural resources, territorial and Member States. The latter two were most often mentioned in the Boards opinion, followed societal and competitiveness impacts.

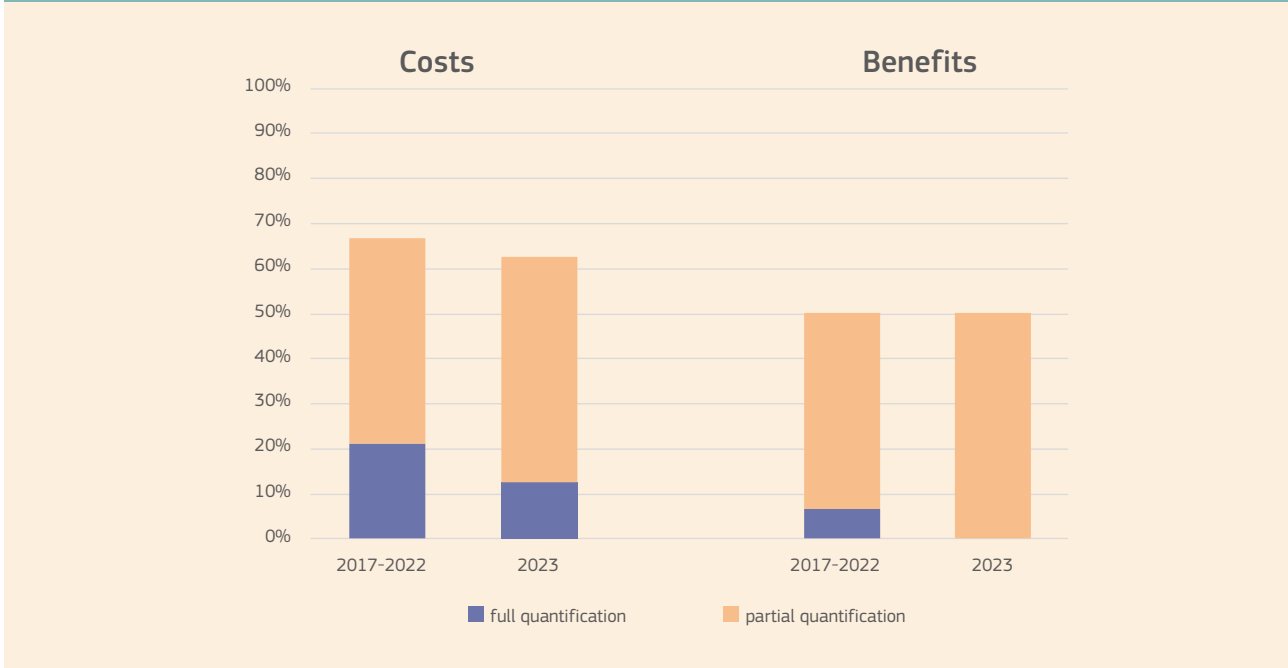
Figure 18: Types of impacts assessed in evaluations and covered in the Board opinion, 2023



Trends on quantification

While the level of overall quantification remained stable for benefits when compared with the 2017-2023 average it was slightly lower for costs. In contrast to the average of previous years, 2023 saw a decreasing share of full quantification, both for costs and benefits. However, given the small sample of evaluations scrutinized these findings cannot be generalised.

Figure 19: Trends in quantification of costs and benefits in evaluations, 2023 vs 2017-2024



Sustainable Development Goals covered

The Sustainable Development Goals identified as relevant across the draft evaluations covered 12 out of 17 areas. Only four Sustainable Development Goals were relevant in more than one evaluation (see Figure 20), with SDG 13 on climate action mentioned most often (in 3 of the 8 evaluations).

Outlook

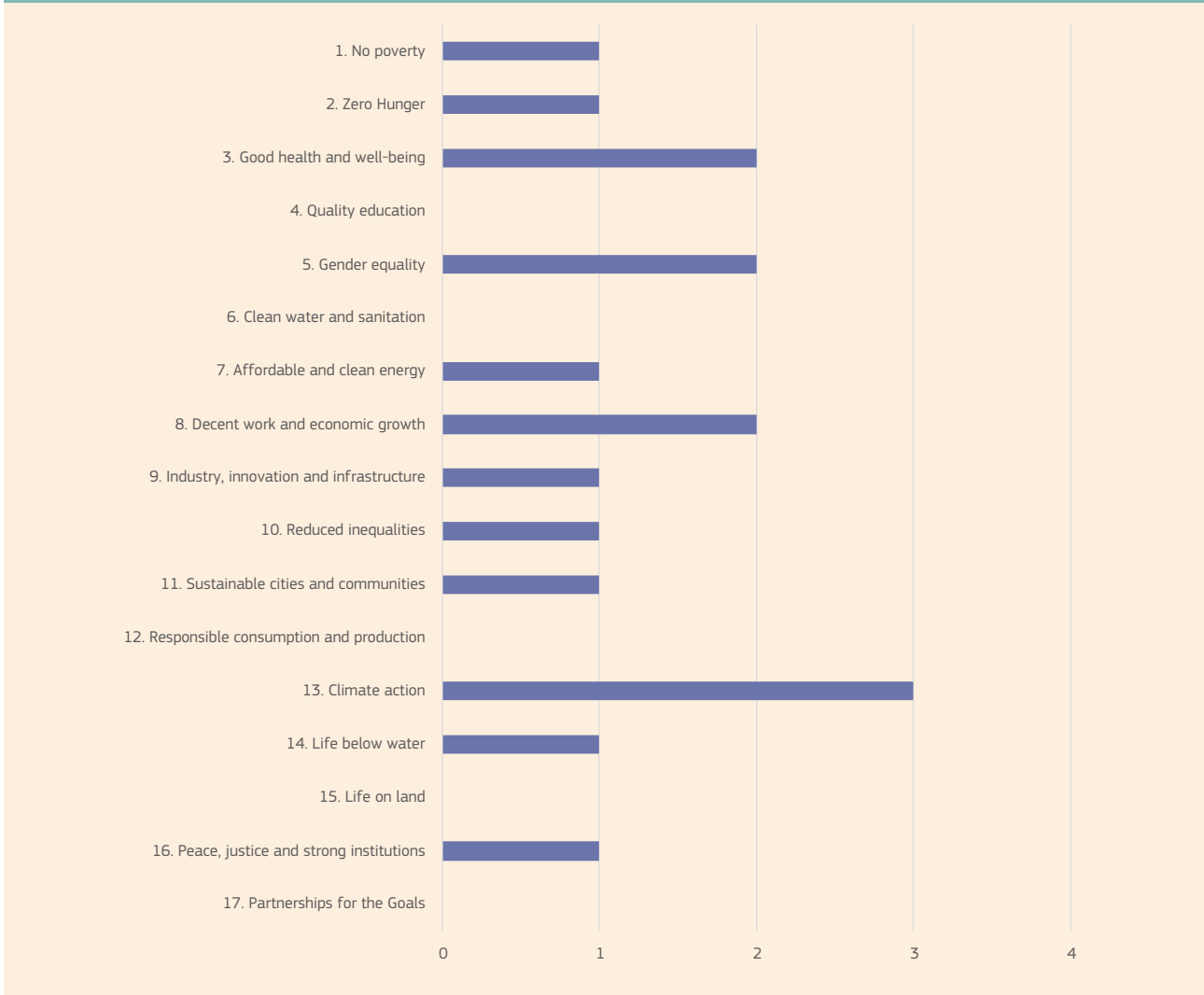
Given that the mandate of the current Commission reaches its end, most of the scrutiny work of the Board in 2024 will be devoted to evaluations. Some impact assessments are also expected, in accordance with the Commission Work Programme for 2024. The Board identified 29 major evaluations to be scrutinised in 2024 (in addition to several delayed evaluations previously identified). This represents a significant higher number than the yearly average and reflects the need for services to assess to what extent existing rules are fit for purpose before embarking on new policy development work under the upcoming policy cycle.

The evaluations selected for Board scrutiny concern to a large extent spending programs under the Multiannual Financial Framework as well as several EU agencies. In its upstream support meetings, the Board will point to the lessons learned with the evaluations scrutinised in 2023, particular regarding the 'points of comparison', 'validity of conclusions', 'data collection' and 'effectiveness' quality components. It will also pay particular attention to the adequate application of the value for money approach, the potential for administrative burden reduction and simplification as well as implementation challenges and emerging administrative capacity issues.

(24) Percentages include only cases where quantification was judged to be required on proportionality grounds.

The 2023 scrutiny experience also confirmed the Board's perceived need to be able to express its overall quality appreciation of evaluations in a more nuanced manner. It therefore introduced at the beginning of 2024 the 'positive with reservations' opinion type also for evaluations as this practice has turned out to be very useful for impact assessments. This should help to better differentiate quality levels of evaluations and to issue positive and negative opinions when these are fully justified.

Figure 20: Links to Sustainable Development Goals in evaluations 2023



3

Special features

3.1. Scrutiny of competitiveness impacts – RSB observations

Strengthened RSB oversight of competitiveness by the Board

Assessing impacts on competitiveness is a long-established requirement as part of the Commission’s better regulation Agenda. In 2010 the Commission introduced a Competitiveness Proofing Toolkit as integral part of its impact assessment system and guidelines. ⁽²⁵⁾ A simplified and shortened version of the toolkit was presented in 2017 as Tool #21 on “Sectoral competitiveness” in the better regulation toolbox.

To improve the analysis and visibility of the competitiveness dimension of all impact assessments submitted to the Board, the Commission included a compulsory annex on competitiveness check as of March 2023 as an appendix to the better regulation Toolbox. In parallel the Board has been tasked in its revised mandate of December 2022 to pay increased attention to competitiveness and the correct application of the Competitiveness Check.

A new competitiveness check

The new Competitiveness Check complements the required analysis in the main report. It aims to presents an integrated competitiveness analysis including an overview table with scores accompanied by a synthetic assessment. It brings together the four key competitiveness elements: cost and price competitiveness, innovation, international competitiveness, SME competitiveness.

The Competitiveness Check builds on the directly applicable existing guidance in the better regulation guidelines and toolbox (see Figure 21): sectoral competitiveness (Tool #21), innovation (Tool #22), SME test (Tool #23), Competition (Tool #24), Internal Market (Tool #25), Trade and Investment (Tool #27). It also explicitly refers also to the horizontal typology of costs (Tool #56), Method to assess cost and benefits (Tool #57), while it is also linked to the cost estimates and the ‘one-in, one out’ approach (Tool #59).

Figure 21: Overview of the new Competitiveness Check

Dimensions of competitiveness	Impact of the initiative (++ / + / 0 / - / -- / n.a.)	References to sub-sections of the main report or annexes
• Cost and price competitiveness		
• Capacity to innovate		
• International competitiveness		
• SME competitiveness		

Tools #56 (Typology of costs), #57 (Method to assess costs and benefits) #59 ('one-in, one out' approach)

Tool #23 (SME Test)

Tools #21 (Sectoral competitiveness), #24 (Competition), #25 (Internal Market),

Tools #21 (Sectoral competitiveness), #22 (Research & Innovation)

Tools #21 (Sectoral competitiveness), #27 (External Trade & competitiveness)

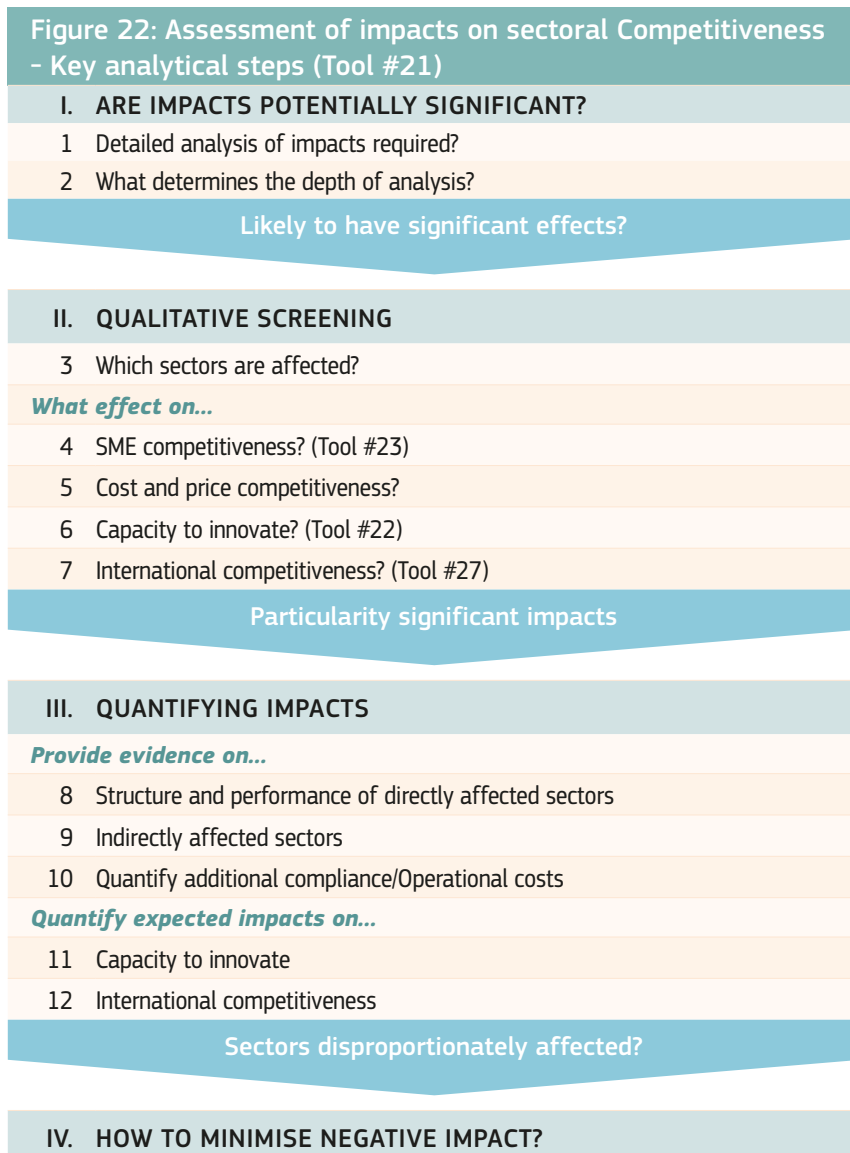
The largest part of guidance is provided in Tool #21 on sectoral competitiveness (see BOX 4). It also provides the methodology on how to assess impacts on competitiveness. It provides therefore most of the requirements Commission services need to follow when assessing the impacts on competitiveness. It sets key standards against which the Board scrutinises the quality of competitiveness assessments.

(25) COM(2010) 614 final.

BOX 4: SECTORAL COMPETITIVENESS TOOL #21 PROVIDES ESSENTIAL GUIDANCE

In line with the principle of proportionate analysis, not all impact assessment reports need be assessed on sectoral competitiveness in depth. In a nutshell Tool #21 suggests a 4-step approach which is illustrated in Figure 22. It first explores whether the impacts on sector competitiveness are potentially significant. The tool provides a checklist approach to find out if a detailed analysis of impacts is required. In principle the depth of analysis is determined by the magnitude and likelihood of the expected impacts and the number of affected sectors. If there is a certain likelihood, then a qualitative screening should follow. It can stay mainly qualitatively if only limited impact on competitiveness can be expected.

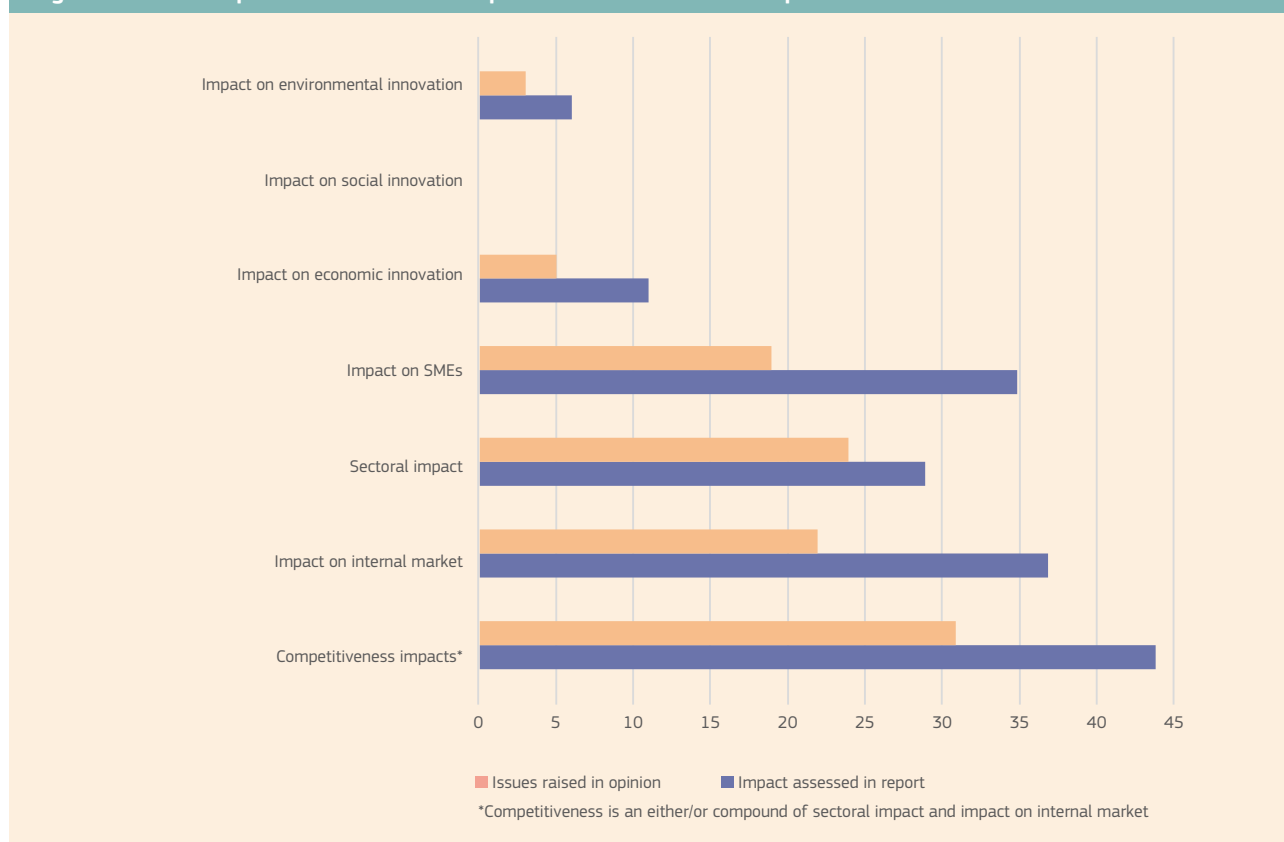
The qualitative screening should then answer the questions which sectors are affected and what the effect on cost and price competitiveness, the capacity to innovate, international competitiveness and SME competitiveness is. If impacts are expected to be particularly significant then there is a need for quantitative analysis. In such situations the report should provide evidence on the structure and performance of directly and indirectly affected sectors. It should quantify additional compliance and operational costs as well as the expected impacts on cost and price competitiveness, the capacity to innovate and international competitiveness. If the analysis shows that certain sectors are disproportional affected mitigating measures should be considered.



Main competitiveness impacts assessed in draft impact assessment reports and covered in RSB opinions in 2023

The Boards reporting system provides some basic descriptive statistics that can be used as starting point when looking at the quality of impacts on competitiveness assessments. ⁽²⁶⁾ **Figure 23** shows that impact on competitiveness issues were assessed in 44 out of the 50 impact assessment reports scrutinised in 2023. Most of these assessments were related to the internal market and SMEs followed by impacts on the affected sectors. The Board made recommendations on competitiveness in its first opinions in 31 of the 50 cases, with the highest number made regarding sectoral impacts. For the new Competitiveness Check it observed a 100% compliance rate as regards its inclusion, and it explicitly made recommendations on the application of the Competitiveness Check in 9 out of the 31 opinions covering competitiveness. The SME test was explicitly mentioned in 10 out of 50 opinions.

Figure 23: Main impacts assessed in IA reports and covered in RSB opinions in 2023



Scrutiny observations on competitiveness assessments in 2023

A qualitative analysis of the 50 opinions on first submission impact assessment in 2023 shows that the Board in its opinions often generally asked to provide a more comprehensive and developed analysis of competitiveness impacts, including for SMEs. It also frequently pointed in its recommendations to address specific deficiencies. The Board observed that several impact assessment reports did not sufficiently ...

- **assess all relevant dimensions of competitiveness.** For example, the Board pointed to missing or insufficiently assessed key elements of competitiveness, such as international or cost competitiveness and/or asked to be clearer on the total costs arising from preferred options and how these compare to those of 3rd country producers.

(26) The analysis in this section focuses on impact assessments given that the new competitiveness check applies by its nature only to impact assessments and there were only few evaluations scrutinised in 2023.

- **define at which level competitiveness is assessed.** The Board identified the need to be clear whether reports assess competitiveness at the EU, Member State, regional, sectoral, eco-system or firm / SME level and how particular sectors or actors in the value chain are affected. For larger initiatives several sectors are often impacted, and it is important to identify the most affected ones. Similarly, actors in the value chain might be differently affected (e.g., those focussed on production versus the distribution stage). This is important for the analytical clarity and granularity of the assessment and should help to identify trade-offs that exist between different sectors or actors and to assess the potential need for mitigating measures.
- **identify the factors that most significantly affect competitiveness.** The Board recommended to clearly establish the link between regulatory measures and competitiveness drivers (such as productivity), and to better differentiate direct from indirect factors or factors outside of the initiative.
- **better link the results of the competitiveness check to the main analysis** presented in the report. For example, the justification for the scoring of the four key competitiveness dimensions in the check was not always convincing or in line with the preceding analysis.
- **present the views of affected economic actors** on the impact of options on competitiveness.

In principle, the above observations for impact assessments do also apply to evaluations. However, given the small number of evaluations scrutinised by the Board and the specific nature of these evaluations the Board had to raise this issue only in very few opinions. ⁽²⁷⁾

“The report should improve the evaluation of the impact of Horizon 2020 on all dimensions of competitiveness, productivity, and industrial leadership of EU industry as part of the effectiveness analysis ... The lessons learned regarding the Programme’s capacity to contribute more effectively to the EU’s overall as well as sectoral competitiveness should be also discussed.”

RSB first opinion on the draft final evaluation of the Horizon 2020 Programme

More generally, there seems to exist an untapped potential in evaluations and fitness checks to better cover the impact on competitiveness issues. Fitness checks, for example, could look more systematically at the evolution of administrative burden and compliance costs for several related initiatives, check them against the initial estimates of the underlying impact assessments.

Challenges in assessing impacts on competitiveness

The above findings of the Board also point towards some more general challenges services face when preparing impact on competitiveness assessments. It raises the question of how better regulation systems and scrutiny bodies could better deal with them while acknowledging the analytical and conceptual complexities linked to the practical assessment of impacts on competitiveness.

The Board observed that **getting proportionality and the level of analysis right** is probably the most difficult challenge. Services sometimes struggled to ensure a holistic approach on competitiveness while focusing at the same time on the most important competitiveness drivers (e.g. productivity). They had problems in identifying the most significant impacts, as well as the analytical means to assess them, and in dealing with relevant factors that are outside the scope of the measures assessed in the impact assessment. Determining the right mix of qualitative and quantitative methodologies was another issue noted.

⁽²⁷⁾ In the 2024 sample of scrutinised evaluations impacts on competitiveness were substantially assessed in 75% of evaluations (6) and the Board covered them in 38% of its opinions (3).

The Board found that there is a **need for services to tackle early enough data and consultation needs**. Services need to ensure that competitiveness issues are adequately reflected in the terms of references of support studies and in the stakeholder consultation work be it for impact assessments or evaluations. The Board observed that consultations did not always include questions on the current competitiveness situation and how the options may affect it. There is also a need to ensure that the monitoring and evaluation arrangements of reports include indicators on competitiveness to provide an adequate evidence base for the ex-post evaluation of competitiveness impacts.

The Board observed that reports did not always **provide a sufficiently meaningful analysis** on competitiveness impacts. The new competitiveness check is clearly an important step in this direction, but its potential is not yet fully used by the services. More systematic and more comprehensive use of the existing guidance and support tools should be made. As indicated above, there seems also an untapped potential to make better use of evaluations and fitness checks when it comes to impacts on competitiveness.

Despite all the analytical and conceptual complexities around the assessment of impact on competitiveness, **the key aim remains to provide the most relevant and useful information on impacts on competitiveness for decision-makers**, including throughout the legislative process. In this respect, the adoption of a Commission proposal is just the beginning of the legislative process. Paying attention to the competitiveness impacts is a joint institutional responsibility, which also concerns any substantial changes to the Commission proposals introduced by the co-legislators, the European Parliament and the Council of the EU.

Outlook

The Board notes positive that overall, the comprehensive assessment of competitiveness impacts is increasingly mainstreamed in the impact assessment work of the Commission services. This finding is rather exceptional when compared to the practice observed in other advanced better regulation systems. However, as indicated above, some implementation challenges remain to be tackled. For its part, the Board will continue to highlight the importance of impact on competitiveness assessment issues in its upstream support meetings and will continue to share its experience and methodological guidance with the services preparing impact assessments and evaluations.

3.2. Scrutiny of consumer impacts – RSB observations in 2023

Continuous focus on consumer impacts

The identification and assessment of significant impacts, in line with the principle of proportionate analysis, is a core task of every impact assessment. This should be done for all relevant stakeholder groups including consumers. 'Consumers' is meant here to be an all-encompassing term to ensure that the impact on individuals is well covered and assessed. In some cases, 'households' may be a more relevant unit to consider.

Assessing impacts on consumers is a requirement in the Commission's better regulation Guidelines. Tool #33 is specifically designed to provide guidance how to do it (see **Box 5**). It provides the requirements that Commission services need to follow when assessing the impacts on consumers and sets the key standards the Board uses when scrutinising the quality of assessments of consumer impacts.

BOX 5: TOOL #33 IDENTIFYING IMPACTS IN EVALUATIONS, FITNESS CHECKS AND IMPACT ASSESSMENTS – CONSUMERS²⁸

Like for the competitiveness assessments, in line with the principle of proportionate analysis, not all impact assessment reports need to assess in-depth impacts on consumers. Tool #33 provides seven key questions that should be answered when screening for potentially significant impacts on consumers:

- (1) Would the policy option affect consumers' ability to benefit from the four fundamental freedoms of the internal market?
- (2) Would the policy option affect the prices, quality, availability, or choice of consumer goods and services?
- (3) Would the policy option affect consumer information, knowledge, trust, or protection?
- (4) Would the policy option affect the safety of consumer goods and services?
- (5) Would the policy option contribute to more sustainable consumption patterns?
- (6) Would the policy option impact consumers in the digital environment?
- (7) Would the policy option impact vulnerable consumers?

If the impacts are considered significant, they should be assessed in-depth. The Tool #33 provides the information, data sources, and methodological tools to assess the key concepts for measuring consumer impact which are: (i) consumer welfare, (ii) consumer detriment, (iii) consumer conditions, and (iv) consumer vulnerability.

Scrutiny observations on assessments of consumer impacts in 2023

Consumer impacts were mostly identified

In its scrutiny the Board noted that consumer impacts were identified in most reports. This included the analysis of the three areas that were critical to assessing how consumers may be impacted by new policies: changes in supply (i.e. how the proposal will change quality and supply of consumer goods and services or consumer choice), changes in demand – behavioural impacts (i.e. how the proposal will affect behaviour of consumers in terms of consumer demand) and changes in prices (i.e. how the proposal will change prices). The Board observed that in most reports the identification of consumer impacts was comprehensive, including both financial impacts (such as consumer savings) and non-financial ones (such as the impacts on consumer choice and trust).

A qualitative analysis of the 50 opinions on first submission impact assessments in 2023 shows that the main shortcomings were related to a lack of sufficient explanation and evidence on the likely consumer behaviour change in response to the policy proposals.

The Board often recommended that the reports should provide sufficient evidence on a likely consumer reaction to, for example, the provision of new information or spare parts. In the cases when the reports assumed significant changes in consumer behaviour that seemed to be contrary to current stated consumer preferences, the Board emphasised that this should be underpinned by evidence.

The Board also paid attention to the analysis on the impacts on different types of consumers, in particular in terms of affordability.

(28) [For the graphic designer: This should be presented as an information background box]

Good attempts to quantify and monetise consumer impacts but often insufficient analyses of cost pass-through and price changes

The Board noted good attempts to quantify and monetise consumer impacts. This included a range of analytical methods, including economic modelling and non-market valuation methods (such as willingness to pay).

The Board observed that the key shortcomings related to the use of modelling and the analyses of cost pass-through and of price changes.

The Board often recommended that the report should better explain how changes in consumer behaviour were factored into the modelling. In the cases where the reports modelled significant shifts in sales of certain consumer goods or significant consumer savings, the underpinning evidence and key assumptions related to consumer demand should be better explained. Uncertainty related to consumer behaviour should also be sufficiently addressed in the modelling by undertaking sensitivity analysis.

The Board also often recommended that the reports should provide further analyses of cost pass-through and of price changes. The reports should be clear who would be likely to bear the additional costs arising from the new obligations and whether, and to what extent, they would be passed on to consumers.

“The report should further develop the impact analysis of all measures, including combinations thereof. It should sufficiently assess all relevant significant impacts. In particular, it should explain how consumers will be impacted. This should include the analysis of possible additional fees (for the IBAN verification service) and any cost pass-through as well as the impact on fundamental rights of consumers”.

Example of RSB opinion on impact assessment on the review of Payment Services in the Internal Market Directive

Level of monetisation of consumer impacts not proportionate to the size of the problem or/and the order of magnitude of the expected impacts

The proportionate level of the analysis in impact assessments is about ensuring that the depth and scope of the overall analysis corresponds to the significance of the expected impacts. Other factors, such as the magnitude and complexity of the problem and the risk of significant unintended consequences, should also be taken into account. The level of analysis is also linked with the type of the initiative.

The Board observed that in some reports certain significant consumer impacts were not sufficiently identified and assessed. There was also a lack of sufficient monetisation without clear justification. It frequently asked for further quantification of expected significant costs to producers and consequently increases in prices or justification why this was not possible.

The Board also recommended that stakeholder evidence on consumer impacts should be better taken into account.

Net impact on consumers not always clear

In its scrutiny, the Board observed that one of the key questions that each impact assessment should answer — the net impact on consumers — was not always clear. The Board recognised the limitations and challenges of the analysis of the impacts on consumers. However, the role of an impact assessment is to inform policy making, therefore whether or not consumers would be better off in the end, considering all monetised and non-monetised costs and benefits, including likely cost pass-through, should thus always be clear.

4

Conclusions and outlook



During 2023, the scrutiny of impact assessments and evaluation contributed to raising the quality of information available to policy makers to support their decision making and to inform the public. In 2023, the Regulatory Scrutiny Board had another busy year with a high number of reports scrutinised. However, commensurate with the fourth year of the Commission's mandate the number of reports submitted for scrutiny tailed off somewhat when compared to 2022. This trend is likely to continue in 2024 which will mark the final year of the mandate.

Chapter 2 of the report reflects the Board's analysis of the quality of impact assessments and evaluations examined during 2023. The observed quality of the scrutinised impact assessments broadly maintained the level observed in 2022. However, the quality assessment of evaluations was less positive, though only a very small number of evaluations was scrutinised.

The Board notes positively the improved compliance of draft impact assessments with the new better regulation requirements, notably with regard to the increase of sufficient quantification of costs for the implementation of the 'one in, one out', while pointing to the need of keeping that momentum.

Looking ahead the Board will reflect on how to better support Commission services in tackling reoccurring key weaknesses of impact assessments and evaluations. It strives to make more effective use of its upstream support meetings with the Commission services.

The assessment of competitiveness impacts, including the correct application of the 'competitiveness check' as well as 'SME test' will continue to feature prominently in the scrutiny work of the Board in line with the findings reported in the special feature of this report.

Given that the mandate of the current Commission reaches its end a large part of the scrutiny work of the Board in 2024 will be devoted to evaluations. The Board identified 29 major evaluations to be scrutinised in 2024. This should help to ensure that the preparation of initiatives for the mandate of the next Commission is in line with the evaluation first principle.

In view of the next policy cycle and considering its scrutiny experience over the last years, the Board will reflect on how its role and procedures could further contribute to the Commission's evolving better regulation Agenda.

Board members are committed to their role to provide independent scrutiny and advice to Commission departments with the aim of improving impact assessment' and evaluations' quality.

The RSB team



From left: **Izabella Gyorfi**, Assistant; **Dr. Rolf Hojjer**, Member of the Board; **James Morrison**, Member of the Board (Director); **Dr. Michael Gremminger**, Member of the Board; **Dr. Dorota Denning**, Member of the Board; **Elisabetta Siracusa**, Member of the Board; **Rytis Martikonis**, Chair of the Board; **Claudia Di Dio**, Assistant; **Philippe Mengal**, Member of the Board; **Dr. Marek Havrda**, Member of the Board; **Deirdre Hughes**, Assistant.

The RSB Secretariat



From left to right front line: **Ima Gomez Lopez**, **Joanna Stainforth**, **Alexandra Manole**, **Ioana Cristina Condurat**, **Antonina Cipollone**, **Joanna Berlinska**, **Alexandra Berketi**, **Fabienne Corvers**, **Maria Gerolymatou** and **Mercedes De Miguel Cabeza**. Second line, **Christoffer Branzen**, **Stefan Padurar**, **Marius Weiler**, **Ulrik Mogensen**, **Nikos Archontas**, **Serge Legal**, **Manol Bengyuzov**, **Hans Moon** and **Pieter Bouwen**

Missing A2 staff members: **Alwine Fitzgibbon**, **Milena Forni**, **Julie Guermonprez**, **Michal Narozny**, **Joanna Pohl** and **Nicolas Tokalatzidis**.

ANNEX 1

Impact assessments and Evaluations 2023

IMPACT ASSESSMENTS

The Board's opinions are published with the impact assessment once the relevant legislative act has been adopted by the Commission.

(*) 2023 Impact assessment reports whose relevant legislative act has been adopted by 1 March 2024

Title	Adoption date	Overall opinion Submission 1	Overall opinion Submission 2	'Evaluate first' principle
EU measures for critical raw materials	16/03/2023	●	●	Not needed
Package of measures aimed at implementing the retail investment strategy	24/05/2023	●		Yes
Initiative to enhance the legal protection of vulnerable adults in cross-border situations in the European Union in civil matters	31/05/2023	●		Not needed
Proposal for a Regulation amending Regulation (EC) No 223/2009 of the European Parliament and of the Council on European statistics	10/07/2023	●	●	Yes
European Labour Market statistics on Business	28/07/2023	●		Yes
Revision of Directive 2011/93/EU on combating child sexual abuse	06/02/2024	●		Yes
Compulsory licensing for crisis management	27/04/2023	●		No
Regulatory measure on energy labelling requirements of local space heaters, room air conditioners and comfort fans	ONGOING			
Ecodesign requirements for air conditioners and comfort fans	ONGOING			
Proposal for a Directive of the European Parliament and of the Council amending Directive 2009/21/EC on compliance with flag State requirements	01/06/2023	●		Yes
Proposal for a Directive on protecting, sustainably managing and restoring EU soils - Soil Health Law	05/07/2023	●	●	Not needed
Revision of the plant and forest reproductive material legislation	05/07/2023	●		No
Legislative proposal for an EU Framework for Forest Monitoring and Strategic Plans	22/11/2023	●		Not needed
REGULATION/DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on an Open Finance Framework	28/06/2023	●		Not needed
Review of Payment Services in the internal market Directive (PSD2)	28/06/2023	●		Yes
Measures to better manage and coordinate international rail traffic	ONGOING			

Positive opinion ●
 Positive with reservations ●
 Negative opinion ●

Title	Adoption date	Overall opinion Submission 1	Overall opinion Submission 2	'Evaluate first' principle
Proposal for a Directive of the European Parliament and of the Council amending Directive 2008/98/EC on waste, establishing a Union-wide food waste reduction target to be met by 2030	05/07/2023	●	●	No
Legal framework for Standard Essential Patent	27/04/2023	●		Not needed
Proposal for a Regulation of the European Parliament and of the Council on the deliberate release, including placing of the market, of plants, and food and feed plant products, obtained by targeted mutagenesis or cisgenesis	05/07/2023	●	●	No
Review of EU legislation on end-of-life vehicles	13/07/2023	●	●	Yes
CountEmissions EU	11/07/2023	●		Not needed
Proposal for a Directive on cross-border activities of associations	05/09/2023	●	●	Not needed
Directive on the screening and registration of asbestos in buildings and on the coordination of Member States' national asbestos strategies	ONGOING			
Review of Directive on the Alternative Dispute Resolution	17/10/2023	●		Yes
Sustainable food system – setting up an EU framework	17/10/2023	●	●	Not needed
Proposal for a Council Directive to tackle the role of enablers that facilitate tax evasion and aggressive tax planning' in the European Union (Securing the Activity Framework of Enablers - SAFE)	ONGOING			
Consumer protection cooperation	ONGOING			
Revision of Directive 2011/7/EU on combating late payments in commercial transactions	12/09/2023	●		No
Proposal for revision for the DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the establishment of common rules for certain types of combined transport of goods between Member States (92/106/EEC)	07/11/2023	●	●	Yes
Revision of the EU legislation on animal welfare	ONGOING			
Regulation of the European Parliament and of the Council (...) regarding access to vehicle data, functions and resources, amending Regulation 858/2018 on the approval of motor vehicles	ONGOING			
Evaluation and revision of the Weights and Dimensions Directive	11/07/2023	●		Yes
Proposal for a Directive on Business in Europe: a Framework for Income Taxation	12/09/2023	●		Not needed

Positive opinion ●
Positive with reservations ●
Negative opinion ●

Title	Adoption date	Overall opinion Submission 1	Overall opinion Submission 2	'Evaluate first' principle
Better protection for passengers and their rights	29/11/2023	●		Yes
Package travel – review of EU rules	29/11/2023	●	●	Yes
Environmental impact of photovoltaic modules, inverters and systems - Ecodesign	ONGOING			
Legislative initiative on setting up the European Disability Card	06/09/2023	●		Not needed
Proposal for a Regulation of the European Parliament and of the Council addressing market challenges hampering the development of Multimodal Digital Mobility Services (MDMS)	ONGOING			
EU Talent Pool	15/11/2023	●		Not needed
Review of the EU school fruit, vegetables and milk scheme	ONGOING			
River Information Services	26/01/2024	●		Yes
Revision of the ecodesign requirements for external power supplies	ONGOING			
Revision of the protection of animals during transport	07/12/2023	●		Yes
Transparency of covert interference by third countries	12/12/2023	●		Not needed
Communication from the Commission to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions for a 2040 climate target	06/02/2024	●	●	Not needed
Initiative on the European Works Council Directive	24/01/2024	●		Yes
Directive of the European Parliament and of the Council on quality traineeships	ONGOING			
Proposal for a Regulation amending Council Regulation (EC) No 2252/2004 and Regulations (EU) No 2016/399 and (EU) 2017/2226 of the European Parliament and of the Council, as regards the digitalisation of travel documents and the facilitation of travel	ONGOING			
EU Space Law for safe, secure and sustainability space activities	ONGOING			
Roadworthiness package	ONGOING			

Positive opinion ●
 Positive with reservations ●
 Negative opinion ●

EVALUATIONS

Evaluations reviewed in 2023	First opinion	Second opinion
Ex post evaluation on the implementation of the EU-Colombia/Ecuador/Peru Trade Agreement	●	
Evaluation of the Programme for Employment and Social Innovation (EaSI) in including the final evaluation of the European Progress Microfinance Facility (EPMF)	ONGOING	
Evaluation of the European Union Aviation Safety Agency	●	
Evaluation of the Sustainable Fisheries Partnership Agreements	ONGOING	
Final evaluation of Horizon 2020 Programme	●	●
Evaluation of the Visa Code	ONGOING	
Evaluation of the impact of LEADER on balanced territorial development	ONGOING	
Evaluation of European Environment Agency (EEA) and the European Environment Information and Observation Network (EIONET) for the period 2017-2021	ONGOING	

Positive opinion ●
Negative opinion ●

ANNEX 2

Analytical Data

1. Quality scores by component and type of opinion for 2023

Criteria Name	Positive	Reservation	Negative	Total
1. Context and scope	4.00	3.09	2.33	2.88
2. Problem definition and use of evaluation	3.83	2.65	2.00	2.52
3. Subsidiarity and EU value added	4.17	3.09	2.71	3.06
4. Objectives	4.17	3.09	2.14	2.82
5. Intervention logic	3.83	3.00	2.24	2.78
6. Baseline	3.33	2.83	2.14	2.60
7. Options	3.17	2.22	1.90	2.20
8. Impacts	2.83	2.39	1.90	2.24
9. Comparison of options and proportionality	3.33	2.39	1.95	2.32
10. Future monitoring and evaluation	2.67	3.00	2.57	2.78
11. Consultation and information base	3.00	3.00	2.67	2.86
12. Methodology	3.50	3.04	2.38	2.82
13. Readability and clarity	3.67	3.70	3.10	3.44
total	3.50	2.88	2.31	2.72
Number of cases	6	23	21	50

Criteria Name	Positive	Negative	Total
1. Purpose and scope	3.50	3.00	3.25
2. Intervention logic	2.75	2.25	2.50
3. Evaluation questions	3.50	3.00	3.25
4. Points of comparison or baseline	2.25	1.50	1.88
5. Data collection (including consultation)	2.25	1.75	2.00
6. Analytical methods	3.00	2.75	2.88
7. Effectiveness	2.50	1.50	2.00
8. Efficiency	2.50	1.75	2.13
9. Relevance	2.50	2.00	2.25
10. EU value added	3.00	2.50	2.75
11. Coherence	2.75	2.25	2.50
12. Validity of conclusions and relevance for future actions	2.25	1.00	1.63
13. Readability and clarity	3.50	3.00	3.25
total	2.79	2.17	2.48
Number of cases	4	4	8

Scale: 1 = unsatisfactory, 2 = weak, 3 = acceptable, 4 = good, 5 = very good.

Note: The average quality score is calculated by taking the sum of each score per variable and dividing it with the number of variables (13), so that each variable (or quality component) has the same weight. The above scores refer to first submission opinions. The 13 quality variables are the same as presented in Figure 4 of this report. The RSB quality indicators and elements were explained in more detail in annex 2 of the RSB 2022 report.

2. Types of impacts assessed in impact assessments and covered in Board opinions in 2023 and 2022

All impact assessments	2023				2022			
	Assessed in impact assessment	Covered in opinion	Assessed in impact assessment	Covered in opinion	Assessed in impact assessment	Covered in opinion	Assessed in impact assessment	Covered in opinion
Economic	50	100%	45	90%	61	87%	53	76%
Macroeconomic	16	32%	11	22%	17	24%	16	23%
Third countries	17	34%	11	22%	11	16%	7	10%
Trade	10	20%	9	18%	6	9%	6	9%
Foreign direct investment	1	2%	0	0%	1	1%	0	0%
Other	6	12%	2	4%	5	7%	2	3%
Competitiveness	44	88%	31	62%	51	73%	32	46%
Internal market	37	74%	22	44%	43	61%	25	36%
Sectoral	29	58%	24	48%	31	44%	22	31%
Territorial	20	40%	22	44%	18	26%	25	36%
Member States	18	36%	22	44%	18	26%	24	34%
Regions	6	12%	2	4%	3	4%	3	4%
EU budget	1	2%	1	2%	3	4%	4	6%
SMEs	35	70%	19	38%	35	50%	27	39%
Fraud	4	8%	2	4%	8	11%	8	11%
Economic innovation	11	22%	5	10%	5	7%	1	1%
Social	41	82%	26	52%	46	66%	36	51%
Work	23	46%	8	16%	22	31%	11	16%
Employment	17	34%	3	6%	14	20%	5	7%
Working conditions and job quality	6	12%	1	2%	6	9%	2	3%
Health and safety	8	16%	3	6%	10	14%	8	11%
Governance, participation, social dialogue	4	8%	2	4%	1	1%	0	0%
Society	25	50%	16	32%	34	49%	31	44%
Income distribution, social inclusion, social security	2	4%	3	6%	3	4%	5	7%
Good administration, public services and citizens' rights	6	12%	3	6%	12	17%	11	16%
Public health	9	18%	6	12%	17	24%	11	16%
Consumers' protection	14	28%	6	12%	12	17%	8	11%
Education and culture	4	8%	1	2%	0	0%	0	0%
Fundamental rights	17	34%	6	12%	18	26%	4	6%
Human dignity	2	4%	0	0%	4	6%	0	0%
Freedoms	11	22%	3	6%	9	13%	2	3%
Equality	8	16%	2	4%	9	13%	2	3%
Justice	7	14%	2	4%	5	7%	2	3%
Social innovation	0	0%	0	0%	0	0%	0	0%
Environmental	29	58%	17	34%	29	41%	16	23%
Climate	24	48%	11	22%	16	23%	8	11%
Natural resources (air, water, land, biodiversity)	18	36%	5	10%	19	27%	9	13%
Waste management	10	20%	4	8%	9	13%	1	1%
Circular economy	9	18%	5	10%	7	10%	3	4%
Environmental innovation	6	12%	3	6%	5	7%	1	1%
Number of impact assessments	50		50		70		70	

3. Types of impacts assessed in evaluations and covered in Board opinions in 2023 & 2022

All evaluations and fitness checks	2023				2022			
	Assessed in evaluation		Covered in opinion		Assessed in evaluation		Covered in opinion	
Economic	7	88%	6	75%	8	100%	4	50%
Macroeconomic	3	38%	3	38%	1	13%	0	0%
Third countries	3	38%	1	13%	2	25%	1	13%
Trade	2	25%	1	13%	1	13%	1	13%
Foreign direct investment	2	25%	1	13%	0	0%	0	0%
Other	2	25%	0	0%	1	13%	0	0%
Competitiveness	6	75%	3	38%	6	75%	2	25%
Internal market	2	25%	1	13%	3	38%	2	25%
Sectoral	5	63%	3	38%	3	38%	1	13%
Territorial	4	50%	4	50%	2	25%	2	25%
Member States	4	50%	4	50%	2	25%	2	25%
Regions	2	25%	1	13%	0	0%	0	0%
EU budget	3	38%	3	38%	1	13%	0	0%
SMEs	3	38%	0	0%	1	13%	0	0%
Fraud	0	0%	0	0%	1	13%	1	13%
Economic innovation	3	38%	0	0%	2	25%	1	13%
Social	8	100%	4	50%	6	75%	3	38%
Work	6	75%	2	25%	3	38%	1	13%
Employment	5	63%	1	13%	0	0%	0	0%
Working conditions and job quality	3	38%	0	0%	1	13%	1	13%
Health and safety	1	13%	0	0%	2	25%	1	13%
Governance, participation, social dialogue	1	13%	1	13%	0	0%	0	0%
Society	3	38%	3	38%	5	63%	2	25%
Income distribution, social inclusion, social security	1	13%	1	13%	1	13%	1	13%
Good administration, public services and citizens' rights	1	13%	2	25%	3	38%	2	25%
Public health	0	0%	0	0%	1	13%	0	0%
Consumers' protection	1	13%	0	0%	0	0%	0	0%
Education and culture	0	0%	0	0%	0	0%	0	0%
Fundamental rights	3	38%	0	0%	1	13%	1	13%
Human dignity	1	13%	0	0%	1	13%	1	13%
Freedoms	1	13%	0	0%	0	0%	1	13%
Equality	3	38%	0	0%	0	0%	0	0%
Justice	0	0%	0	0%	1	13%	1	13%
Social innovation	2	25%	0	0%	0	0%	0	0%
Environmental	6	75%	1	13%	2	25%	1	13%
Climate	4	50%	0	0%	0	0%	0	0%
Natural resources (air, water, land, biodiversity)	4	50%	1	13%	2	25%	0	0%
Waste management	1	13%	0	0%	1	13%	0	0%
Circular economy	0	0%	0	0%	1	13%	0	0%
Environmental innovation	1	13%	0	0%	2	25%	1	13%
Number of evaluations/fitness checks	8		8		8		8	

GLOSSARY

better regulation

“Better Regulation” means designing EU policies and laws so that they achieve their objectives at minimum cost. It is a way of working to ensure that political decisions are prepared in an open and transparent manner, informed by the best available evidence and backed by the comprehensive involvement of stakeholders. better regulation covers the whole policy cycle, from policy design and preparation, to adoption, implementation (transposition, complementary non-regulatory actions), application (including enforcement), evaluation and revision ⁽²⁹⁾

Consultation

Consultation describes a process of gathering feedback, comments, evidence or other input on a particular measure from outside the Commission. There are various forms of consultation, including internet-based public consultation open to a broad audience and targeted consultation with the most concerned stakeholders.

Do no Significant Harm

No measure (i.e., no reform and no investment) should lead to significant harm to any of the six environmental objectives within the meaning of Article 17 of the framework to facilitate sustainable investment (the EU Taxonomy Regulation): (1) climate change mitigation; (2) climate change adaptation; (3) sustainable use & protection of water & marine resources; (4) circular economy; (5) pollution prevention & control and; (6) protection and restoration of biodiversity & ecosystems.

Evaluation

An evaluation is an evidence-based judgement of the extent to which an existing policy, programme or legislation is effective, efficient, relevant given the current needs, coherent internally and with other EU interventions and has achieved EU added value. In the Commission, the evaluation report is the Staff Working Document prepared by Commission departments. These reports are often based on underlying studies carried out by external consultants. The Regulatory Scrutiny Board examines major evaluations.

Fitness check

A Fitness check is an evaluation of the effectiveness, efficiency, coherence, relevance and EU added value of a number of related EU measures in a policy area or business sector. It identifies excessive burdens, inconsistencies and obsolete or ineffective measures and helps to identify the cumulative impact of legislation.

Fitness check report

A Fitness check report is prepared by the lead department. The Regulatory Scrutiny Board checks the quality of all Fitness check reports.

Impact

In an impact assessment process, the term impact describes all the changes which are expected to happen due to the implementation and application of a given policy option/intervention. Such impacts may occur over different timescales, affect different actors and be relevant at different scales (local, regional, national and EU). In an evaluation context, impact refers to the changes associated with a particular intervention which occur over the longer term.

Impact assessment

Impact assessment is an aid to policy-making. It collects evidence on the problem, assesses if future legislative or non-legislative EU action is justified and how such action can be best designed to achieve the desired policy objectives. In the Commission, the lead department prepares impact assessment reports, which need to be submitted to the Regulatory Scrutiny Board for quality check. A positive opinion from the Board is in principle required in order to launch the interservice consultation for the related initiative.

(29) More information on better regulationHarmonisation is available at https://ec.europa.eu/info/law/law-making-process/planning-and-proposing-law/better-regulation-why-and-how_en

Implementation

Implementation describes the process of making sure that the provisions of EU legislation can fully enter into application. For EU Directives, this is done via transposition of its requirements into national law, for other EU interventions such as Regulations or Decisions other measures may be necessary (e.g. in the case of Regulations, aligning other legislation that is not directly touched upon but affected indirectly by the Regulation with the definitions and requirement of the Regulation). Whilst EU legislation must be transposed correctly it must also be applied appropriately to deliver the desired policy objectives.

Initiative

An initiative is a policy proposal prepared by the European Commission to address a specific problem or societal need. An impact assessment assesses options to inform the policy content of the initiative.

Interservice consultation

Before the Commission takes its decisions, all relevant Commission departments are consulted on the draft legislative or non-legislative documents via “interservice consultations”.

Intervention logic

The intervention logic is the logical link between the problem that needs to be tackled (or the objective that needs to be pursued), the underlying drivers of the problem, and the available policy options (or the EU actions actually taken) to address the problem or achieve the objective. This intervention logic is used in both prospective impact assessments and retrospective evaluations.

One in, One Out (OIOO)

The Commission has committed to the one in, one out approach (OIOO). This means offsetting new administrative burdens resulting from the Commission’s proposals by reducing existing burdens, ideally in the same policy area. The better regulation-Communication of 29 April 2021, COM 2021 219 Final sets out the main principles of the approach ⁽³⁰⁾

REFIT

REFIT is the European Commission’s Regulatory Fitness and Performance programme. Under REFIT, action is taken to make EU law simpler, lighter, more efficient and less costly, thus contributing to a clear, stable, least burdensome and most predictable regulatory framework supporting growth and jobs.

Stakeholder

Stakeholder is any individual or entity impacted, addressed or otherwise concerned by an EU measure.

Stakeholder Consultation

Stakeholder consultation is a formal process of collecting input and views from citizens and stakeholders on new initiatives or evaluations/fitness checks, based on specific questions and/or consultation background documents or Commission documents launching a consultation process or Green Papers. When consulting, the Commission proactively seeks evidence (facts, views, opinions) on a specific issue.

Transposition

Transposition describes the process of incorporating the rights and obligations set out in an EU Directive into national legislation, thereby giving legal force to the provisions of the Directive. The Commission may take action if a Member State fails to transpose EU legislation and/or to communicate to the Commission what measures it has taken. In case of no or partial transposition, the Commission can open formal infringement proceedings and eventually refer the Member State to the European Court of Justice.

(30) COM(2021) 210 Final [better_regulation_joining_forces_to_make_better_laws_en_0.pdf \(europa.eu\)](#)

