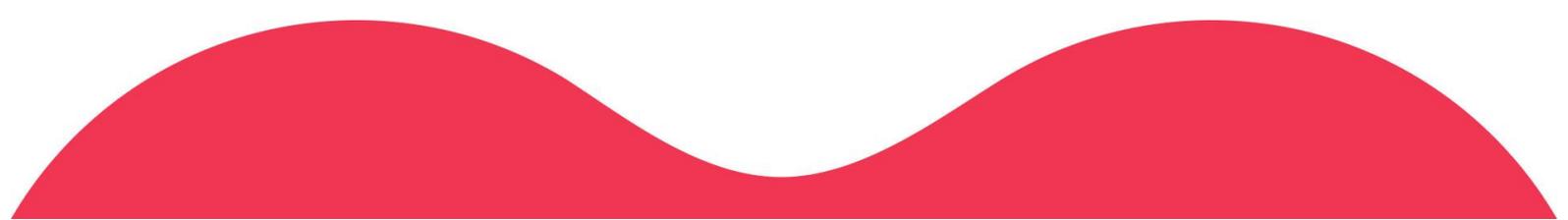


04/02/2026

Philea Legal Affairs Committee comments on the Communication on Better Regulation



Introduction and executive summary

Executive Summary

As Philea we see a dual entry around the debate on "better regulation for everyone" with our long-standing ask for creating a single market for public good (and removing red tape) and the need for ensuring participatory and evidence-based EU policymaking.

We monitor and analyse the space for philanthropy at national and EU level and we have observed that our sector (and the wider civil society sector) does not yet benefit from a single market, hence we see room for better regulation for our sector. Barriers exist when foundations want to move their seat across-borders, merge across borders or when individual and corporate donors want to give or invest across-borders in a tax-effective way. We have been calling for creating a level playing field for philanthropy and foundations and for overcoming existing barriers and simplifying rules, in particular for cross-border philanthropy. A new legal instrument for foundations and associations such as the European Cross-Border Association Stature and a similar legal tool for foundations could hence reduce red tape and make it easier for cross-border work to be done.

We also believe that good regulation/good policymaking requires an evidence-based approach as well as participatory practices. Policymaking must be evidence-based and take the views of different societal actors into account. It must be based on democratic values, rule of law and fundamental rights. Urgent societal challenges and geopolitical challenges must not put consultative mechanisms such as impact assessments for EU actions and consultation practices in question. Political urgency actions should only in very clearly defined and exceptional cases based on necessity and proportionality justify derogations from consultative processes and impact assessments. The European Commission should ensure predictable, consistent and non-arbitrary application of the better regulation rules.

I Towards a Single Market for the Public Good

Philanthropy sector

The economic contribution from philanthropy is significant. Europe is home to more than 175,000 philanthropic organisations, with annual giving of €76 billion and combined assets of over €516 billion (Philea, 2025).



Philanthropy supports areas that benefit society broadly, such as education, health, science, environment, culture, democracy and international development and often via partner CSOs. Its added value lies in its flexibility: responding rapidly to urgent needs while also taking a longer-term view. Beyond grantmaking, philanthropic organisations innovate, convene and leverage their independence and resources to affect positive change. To fully harness this potential, policymakers should ensure an enabling environment where philanthropy and the wider civil society can thrive as key partners in building a resilient, inclusive and forward-looking Europe.

<https://philea.eu/philea-releases-latest-data-on-the-institutional-philanthropy-landscape-in-europe/>

Challenges faced by philanthropy: red tape and other restrictions

As Philea, we are monitoring the space for philanthropy and have observed restrictions as follows:

- Barriers to move the seat across-border
- Barriers to merge across-border
- Questioning of tax incentives for cross-border philanthropy
- Questioning of political activities when receiving tax exemption or public support
- Considering associations and foundations as obliged entities with increased reporting requirements on their partners beneficial owners
- Foreign agent type of laws being suggested in Hungary, Slovakia and Türkiye

<https://philea.eu/obstacles-to-cross-border-philanthropy-are-real-and-the-time-to-remove-them-is-now/>

The 4 Philea Manifesto recommendations

Philanthropy needs **stable legal and policy environments** at both EU and national levels; EU policies and legislative proposals should not unduly restrict philanthropic organisations and impact assessments should be done in this regard. To ensure a safe and supportive environment for philanthropic organisations, four measures are key from the perspective of our sector to create [a Single Market for Public Good](#).

First, provide for an **enabling environment for philanthropy** with a toolbox that allows for impact investing approaches and political engagement as well provides for tax incentives for philanthropy as vital tools for expanding social investment, strengthening pluralism and mobilising private resources for the public good.



Second, an **enabling framework for cross-border public benefit work** is urgently needed. This requires applying the principle of non-discrimination to tax-effective cross-border philanthropy, as well as a directive on mutual recognition of tax-exempt public-benefit organisations and their legal personality across Member States. It should also allow cross-border mergers, relocation of seats, and swiftly adopt the European Cross-Border Association (ECBA) proposal and consider a similar national legal form for organised philanthropy.

Third, more dialogue among the philanthropy sector and policymakers is needed. At EU level, Article 11 TEU establishes that EU institutions must maintain an open, transparent and regular dialogue with philanthropy and wider civil society, laying the foundations for meaningful participation in decision-making. While further implementation is needed, several positive practices exist.

Institutionalised dialogue mechanisms between public authorities and representatives of the philanthropy and civil society sector, such as advisory or consultative councils at the strategic level, provide a practical model for regular, transparent engagement. These mechanisms enable policymakers to draw on sectoral expertise, better anticipate regulatory impacts and build mutual trust, while preserving the independence and plurality of civil society actors. Such practices give concrete effect to the principles set out in Article 11 TEU and the EU Civil Society Strategy and should be more explicitly embedded within the Better Regulation framework.

The new EU [Civil Society Strategy](#) includes 10 guiding principles for dialogue with civil society (page 6). The revision of the Better Regulation framework must implement the dialogue with civil society through clear procedures under the Better Regulation guidelines. To build stronger trust and impact, EU institutions should embed civil dialogue throughout the policymaking cycle, ensure transparency through clear feedback loops, resource participation adequately and design inclusive processes that reflect the diversity of Europe's civil society. The EU needs to put in place a dedicated platform for civil dialogue with civil society organisations.

For philanthropic organisations, a dedicated cross-DG dialogue mechanism (interservice) would allow foundations to share perspectives on a broad range of policy areas - from research, climate and democracy to defence and competitiveness - recognising that these issues impact the missions and strategies of foundations. Such engagement would not only strengthen policy relevance but also foster innovation and societal impact. This platform should also include a donor dialogue, enabling public and private funders to make better-informed decisions and align resources more effectively with EU priorities.

We specifically call for:

- Interinstitutional Agreement on Civil Dialogue: a binding agreement between the European Commission, the European Parliament and the Council of the European Union to establish structured practices of engagement of civil society across all stages of the policy cycle.
- Include specific provisions dedicated to civil dialogue within the Better Regulation toolbox, to ensure the European Commission's engagement with civil society is meaningful and result-oriented.
- Set up the Civil Society Platform: as a mechanism to support systematic, transversal and vertical dialogue between the EU Commission and civil society organisations and strengthen civic participation in shaping the political agenda, to be co-created with organised civil society.
- For philanthropic organisations, a dedicated cross-DG dialogue mechanism (interservice) to allow foundations to share perspectives on a broad range of policy areas - from research, climate, and democracy to defence and competitiveness - recognising that these issues impact the missions and strategies of foundations. This platform should also include a donor dialogue, enabling public and private funders to make better-informed decisions and align resources more effectively with EU priorities.

Fourth, new ways to partner and co-grant and co-invest between philanthropy and the EU should be explored, and we have made proposals in the MFF consultation of how we see this improve.

II On better regulation approaches

We welcome the European Commission's intention to make EU policymaking smarter, more effective and more responsive to today's challenges. Expediency and efficiency must however take into account democratic values, rule of law, fundamental rights and evidence-based and participatory policymaking. EU policymaking must always reflect the complexity of reality and the multiplicity of stakeholders affected, while also being future-oriented.

In a world of increasing complexity and urgent geopolitical, environmental and social challenges, evidence-based decision-making is more important than ever. Impact assessments are needed for all decisions with significant economic, environmental, social and fundamental rights.



Exceptions due to “political urgency” should only be applied in clearly-defined, highly exceptional cases and applied in a predictable, non-arbitrary manner and based on necessity and proportionality in line with rule of law and international Human Rights standards. As highlighted by the Ombudsman in her [recommendation](#) of 25 November 2025, the application of the Better Regulation rules must be predictable, consistent and non-arbitrary.

As mentioned above, the Commission committed itself to upholding dialogue with civil society and respecting related principles in its Civil Society Strategy; this needs to be implemented through clear procedures under the Better Regulation guidelines. **The revision of the Better Regulation framework must implement the 10 guiding principles for dialogue with civil society, as outlined in the Civil Society Strategy (p. 6) through the development of ad hoc guidelines.**

Furthermore, the Commission should strengthen existing public consultation processes in line with EU values (Art. 2 TEU). The new EU civil society strategy outlines the importance of CSOs in the policymaking process and calls to empower, support and protect civil society. The requirement to consult civil society arises from the EU Treaties and international law requirements (Article 10 and 11 TEU, Article 8 Aarhus Convention, etc.). The current Better Regulation guidelines only establish procedures to fulfil these requirements.

To ensure a holistic approach to impact assessments, they should always incorporate intergenerational fairness. [Intergenerational fairness \(IGF\)](#) is a horizontal legal principle that considers long-term risks and challenges. To foster long-term sustainability of EU laws, **the revised framework should include in impact assessments and evidence-gathering an assessment of the proposals’ impacts on [intergenerational fairness](#).** This assessment would provide valuable insight into planning the legislative agenda and evaluating the implementation of existing legislation, and avoiding the unsustainable practice of [short-termism in policymaking](#).

The Better Regulation framework should also consider the external and enlargement-related impacts of EU legislation. In candidate and neighbouring countries, such as Serbia and other Western Balkan states, EU rules increasingly apply de facto through alignment with the *acquis*, participation in EU-funded programmes, and cross-border cooperation with EU-based philanthropic organisations. Civil society and philanthropic actors in these countries are often required to comply with regulatory standards shaped at EU level, including in areas such as transparency, anti-money laundering and public-benefit activity, without having systematic opportunities to contribute evidence or perspectives during the EU policymaking process. To ensure coherent, effective and values-based regulation, impact assessments and consultation practices should therefore consider effects beyond the EU’s borders where regulatory alignment is expected, and include relevant stakeholders, at least through intermediary membership

associations such as Philea, from accession contexts when EU initiatives are likely to shape their legal and operating environments.

All EU policymaking should integrate the precautionary principle (Article 191 TFEU), the UN Sustainable Development Goals and the 'Do no harm' principle in all its policies, and impact assessments should have these principles and goals at their core.

About Philea

With individual philanthropies and national-level infrastructure organisations in over 30 countries as members, we unite almost 9000 public-benefit foundations that seek to improve life for people and communities in Europe and around the world.

Our vision is for philanthropy to use its full potential to co-shape and support a pluralistic, just and resilient society that centres people and planet.

Our mission is to enable, encourage and empower the philanthropic community to build a better today and tomorrow.

We galvanise collective action and amplify the voice of European philanthropy. Together we:

- Co-create knowledge and learn from effective practices
- Collaborate around current and emerging issues
- Promote enabling environments for doing good

The Philea Legal Affairs Committee is guiding the policy work of Philea with a focus on promoting an enabling environment for philanthropy including good dialogue and collaboration opportunities with the EU.

www.philea.eu

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