



Almanach

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#KnowledgeAgainstManipulation

Almanach #1

To what extent does the European Union's regulatory simplification policy improve the efficiency of public action at the expense of its democratic legitimacy?

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Introduction

In March 2025, the European Commission unveiled its first “omnibus” simplification package. It bundled amendments to four major legislative frameworks — including the Corporate Sustainability Reporting Directive and the Carbon Border Adjustment Mechanism — into a single accelerated procedure, bypassing standard impact assessment requirements. The European Ombudsman swiftly characterised the move as “maladministration.” Procedural shortcuts, however politically convenient, erode the institutional trust on which the Union’s authority rests. This episode is not an anomaly. It crystallises a friction that has become constitutive in EU governance — between the drive to make public action faster and leaner, and the deliberative architecture that gives that action its democratic warrant.

Regulatory simplification, as developed under the Better Regulation Agenda since the early 2000s, is not synonymous with deregulation. Through instruments such as REFIT, the One-In-One-Out principle, targeted stakeholder consultations, and mandatory impact assessments overseen by the Regulatory Scrutiny Board, the Commission has built an apparatus designed to make EU law more evidence-based, more proportionate, and less burdensome — particularly for small and medium-sized enterprises.

Yet efficiency is only one dimension of political legitimacy. Fritz Scharpf’s distinction between output and input legitimacy clarifies what is at stake. Output legitimacy refers to a system’s capacity to deliver effective results. Input legitimacy refers to its grounding in participation, deliberation, and democratic control. To these two registers, Vivien Schmidt adds a third: throughput legitimacy, which concerns the quality, transparency, and inclusiveness of governance processes themselves. When simplification systematically privileges output at the expense of input and throughput, it does not merely streamline governance. It quietly redistributes political power.

This essay argues that the dilemma between efficiency and democratic legitimacy is neither accidental nor resolvable through technical adjustment alone. It is inscribed in the EU’s position as a polity that has historically legitimised itself through results rather than participation. Simplification generates real efficiency gains — measurable, documented, and consequential for the EU’s capacity to act globally. But it does so through mechanisms that concentrate agenda-setting power in the Commission, marginalise deliberative spaces, and structurally favour organised economic interests over citizens. The question is not whether simplification is legitimate or illegitimate. It is under what conditions — with what safeguards, what transparency requirements, what democratic counterweights — its efficiency gains can be made compatible with democratic ownership, without which European governance risks becoming effective, but hollow.

Part I — Regulatory simplification as a genuine driver of efficiency

Before assessing the democratic costs of regulatory simplification, it is necessary to take its efficiency gains seriously — not as political rhetoric, but as documented responses to real governance failures. By the early 2000s, European legislation had become, over decades of incremental layering, excessively complex and poorly adapted to the economic realities of the actors it governed. As Majone argued, regulatory states tend pathologically to accumulate rules without evaluating their continued relevance. The Better Regulation Agenda was designed to interrupt that tendency.

I.1 — The tools: REFIT, OIOO, and the Regulatory Scrutiny Board

The Better Regulation framework rests on three interlocking instruments. The first is REFIT — the Regulatory Fitness and Performance Programme — which mandates systematic retrospective evaluation of existing legislation, identifying provisions that are outdated, overlapping, or disproportionate. It operates under an “evaluate first” principle: existing law must be reviewed before any new proposal is introduced, preventing “regulation on a hunch.” The second is the One-In-One-Out principle: any new regulatory burden must be offset by removing an equivalent burden in the same policy area. The logic is mechanistic, but it represents a genuine commitment to containing the cumulative weight of the regulatory acquis. The third is the Regulatory Scrutiny Board, a semi-independent evidence gatekeeper whose opinions contain, on average, five major change requests per proposal. The quality control function is substantive, not ceremonial.

The aggregate results are significant. The Commission has committed to reducing administrative burdens by 25% overall, rising to 35% for SMEs. In 2022 alone, simplification measures reduced administrative costs by €7.3 billion. The burden calculation methodology is contested, and the distributional question of who captures the savings remains underexplored. But the efficiency agenda has produced quantifiable results.

1.2 — Output legitimacy: the democratic case for effectiveness

Fritz Scharpf's concept of output legitimacy provides the appropriate theoretical register. A political system structurally remote from its citizens cannot rely exclusively on participatory input for its authority. It must justify itself through the quality of its outcomes. EU legislation governs 450 million citizens across 27 member states with profoundly heterogeneous political cultures and administrative capacities. In that context, producing clear, proportionate, evidence-based rules consistently applied across the Single Market is itself a form of democratic service. The reduction of gold-plating reinforces this argument: when member states transpose EU directives faithfully rather than adding layers of national specification, the result is not a thinner regulatory state but a more legible and effective one.

1.3 — The Digital Services Act: simplification in practice

The Digital Services Act, adopted in 2022, illustrates how the Better Regulation logic can function constructively. The DSA consolidated a fragmented landscape of national platform regulations into a single coherent framework, reducing compliance complexity while simultaneously strengthening user protection obligations. The impact assessment process preceded the legislative proposal by over two years, incorporating input from consumer organisations, civil society, and industry. The 2000 E-Commerce Directive was systematically reviewed before the DSA was drafted. The result was legislation that was both more proportionate than its national predecessors and more protective than the baseline it replaced.

There is, however, an important complexity here. The DSA is not simply a market-making measure. In many ways, it is market-correcting. It imposes major obligations on large digital platforms and strengthens protections that fragmented national rules had failed to enforce effectively.

At first sight, this seems to contradict the argument that simplification mainly serves market-oriented goals. But the key distinction is between the regulatory tools themselves and the political agenda guiding their use. Better Regulation instruments are not inherently designed to weaken protections. Their effects depend on how political actors use them.

In the case of the DSA, the European Parliament and civil society organisations exerted enough pressure to push the process towards stronger consumer and platform regulation. The outcome, therefore, reflected political contestation as much as technical regulation.

This does not invalidate the critique of simplification as a market-making project. Instead, it shows why democratic deliberation matters. The same regulatory tools can produce very different outcomes depending on the balance of political forces shaping them. When simplification reduces the time and space available for democratic debate, it also reduces the capacity to redirect those tools towards stronger social or protective goals.

The DSA's trilogue negotiations were lengthy and opaque. But as an illustration of what Better Regulation achieves when its procedural logic is followed rather than circumvented, it demonstrates that simplification and substantive protection are not inherently in conflict.

1.4 — Crisis response: speed as democratic service

The efficiency case acquires its sharpest form in moments of acute crisis. During the COVID-19 pandemic, the EU's capacity to mobilise emergency procurement mechanisms, accelerate vaccine approvals, and coordinate cross-border health responses depended on streamlined legislative instruments. Procedural acceleration was not an evasion of democratic accountability. It was a precondition for the collective action that democratic publics demand under pressure. The same logic applied during the energy crisis of 2022, when adjusting gas storage requirements required a speed of response the ordinary legislative procedure could not have delivered. A polity that deliberates carefully but responds too slowly to a pandemic fails its citizens as surely as one that acts quickly but without democratic warrant. In these moments, output

legitimacy is not a theoretical abstraction. It is the practical test of whether European governance can protect its citizens.

I.5 — The limits of the steelman

These limits must be stated clearly. Measuring regulatory burdens in monetary terms tends to favour costs that are easy to calculate, especially those borne by businesses. By contrast, broader social benefits — such as public health protection, environmental resilience, or labour rights — are much harder to quantify and therefore receive less weight in the analysis.

This creates a structural bias within the simplification framework. Under the One-In-One-Out principle, two regulations can appear equivalent if they generate similar compliance costs, even when their social effects are completely different. A rule protecting workers from chemical exposure may be treated as comparable to a financial reporting obligation simply because both impose similar administrative expenses. The problem is not accidental. It reflects a broader political logic in which regulatory intervention must constantly justify itself, whereas market outcomes are treated as neutral by default.

The Commission's impact assessment methodology reinforces this tendency in ways that are often invisible. Long-term social and environmental benefits are converted into present monetary values using discount rates borrowed from financial economics. In practice, this means that future or uncertain benefits are valued less heavily than immediate and measurable business costs.

As a result, a regulation that prevents hundreds of premature deaths over twenty years could be assigned a lower value than the short-term software or compliance costs it imposes on firms. This is not simply a technical detail. It reflects political choices embedded within methods that are often presented as neutral and objective.

The Regulatory Scrutiny Board also faces limits. Although it exercises real oversight, it still operates within the Commission's institutional framework. When the Commission has already publicly committed itself to a policy direction, the Board's ability to resist political pressure becomes limited.

These problems do not invalidate the efficiency gains produced by Better Regulation. They do, however, qualify them. More importantly, they open onto the broader democratic critique that follows.

Part II — Democratic legitimacy under strain: technocratisation, capture, and the erosion of deliberative space

Efficiency and democratic legitimacy are not the same thing. The Better Regulation framework does more than simplify procedures. It also changes how democratic control operates within the EU.

Power over agenda-setting is increasingly concentrated in institutions that are relatively insulated from direct electoral accountability. At the same time, simplification often reduces the time available for public debate and legislative deliberation. Organised economic interests also tend to benefit more from these procedures than ordinary citizens, because they possess greater resources and technical expertise.

These outcomes are not accidental side effects. They reflect a model of governance that prioritises speed, efficiency, and burden reduction, while treating democratic deliberation as a secondary concern.

II.1 — The technocratisation of legislative authority

The main democratic cost of regulatory simplification is the growing dominance of technical expertise over political deliberation. The European Commission, which is appointed rather than directly elected, controls much of the process. It sets the legislative agenda, oversees impact assessments, and decides which laws are reviewed under REFIT. The Regulatory Scrutiny Board also evaluates proposals primarily through technical criteria.

As a result, questions that are fundamentally political — such as the acceptable level of environmental, labour, or consumer protection — are increasingly treated as technical issues of efficiency and proportionality. Decisions that should be openly debated among elected representatives are instead shaped through administrative procedures led by experts.

Majone anticipated part of this dynamic in his theory of the EU as a “regulatory state.” He argued that transferring power to non-majoritarian institutions would create tensions with democratic legitimacy, although he believed these tensions could be managed. The Better Regulation Agenda has intensified this trend by encouraging a form of depoliticisation in which political conflicts are reframed as technical problems to be optimised rather than publicly contested.

The creation of a dedicated Commissioner for Simplification during the 2024–2029 mandate reinforces this shift. Simplification is no longer just a policy instrument. It has become a broader political project with its own institutional momentum and limited Parliamentary oversight.

II.2 — Consultation capture: who actually participates?

The democratic deficit extends to the participatory mechanisms through which the Commission claims to incorporate civil society input. Studies of Commission consultation patterns show that for-profit business interests generate roughly four times more input than non-governmental organisations, a disparity documented across multiple consultation cycles in Commission transparency data and confirmed by recent analysis of the “*Have Your Say*” platform (Neumann, Lang, and Meng, 2025).

Business federations possess the legal expertise, administrative capacity, and financial resources to produce technically sophisticated submissions and to maintain permanent lobbying presences in Brussels. Citizens, by contrast, suffer from what researchers term “low EU participatory literacy”: a widespread unawareness of the existence and significance of these mechanisms. The consequences extend beyond procedure. The volume and technical sophistication of business submissions systematically shape what counts as a “burden” and what counts as a “benefit” in REFIT reviews. BEUC and the European Environmental Bureau have argued that Better Regulation has effectively become an instrument of covert deregulation.

The 2023 reform of the Common Agricultural Policy (CAP) makes this dynamic concrete. Under pressure from farming lobbies, the Commission used delegated acts to roll back environmental requirements introduced under the Green Deal’s *Farm to Fork* strategy, thereby bypassing the ordinary legislative procedure. Environmental NGOs that had participated extensively in the original consultations saw their input effectively nullified at the implementation stage. Participation occurred without influence — a precise definition of consultative capture.

II.3 — Cognitive bias and the limits of “evidence-based” governance

Impact assessments are often used less to explore policy options than to justify decisions that have already been made for political reasons. This creates a form of confirmation bias. Instead of supporting democratic debate, the appearance of objective and rigorous analysis can replace it.

The Commission’s institutional role makes this problem more likely. It both commissions the impact assessments and decides how to act on them. This means the same institution controls both the analysis and the resulting political decision.

Even when the Regulatory Scrutiny Board raises objections, the Commission is not required to change its political objectives. It only has to improve the technical quality of its justification. As a result, technical expertise shapes how decisions are presented, but political interests still shape the decisions.

II.4 — The “urgency” derogation: from exception to rule

Crisis conditions are repeatedly invoked to justify suspending procedural requirements whose purpose is precisely to maintain democratic accountability when the temptation to bypass it is strongest. Since 2025, the Commission has invoked geopolitical threats — the war in Ukraine, energy security pressures, competitive anxiety about the United States Inflation Reduction Act and Chinese industrial policy — to accelerate legislative procedures in ways that circumvent its own impact assessment requirements. They are no longer pragmatic crisis adaptations, but symptoms of a governance culture in which democratic process has been demoted from a foundational commitment to a negotiable constraint.

The European Parliament’s role in this dynamic deserves scrutiny. The EP is not simply a victim of procedural bypass — it has, at times, been a willing participant. Institutional incentives matter: the EP values the reputational benefits of being seen to act decisively in moments of crisis, and its leadership has on occasion

actively supported fast-track procedures that compress the deliberative process it nominally exists to protect. When all three institutions — Commission, Council, and Parliament — share an interest in appearing responsive, they collectively agree to procedures that none would individually endorse removing in principle. The result is a democratic accountability gap co-produced across the institutional architecture, not imposed by one actor upon another. This makes the problem considerably harder to resolve than a simple story of Commission overreach would suggest.

Part III — A constitutive antagonism, not a fatal contradiction: towards conditional compatibility

The dilemma between regulatory simplification and democratic legitimacy is a constitutive feature of supranational governance, not a correctable policy error. The EU has never fully resolved what kind of political authority it is — and simplification has, in effect, been answering that question by default. The productive task is to identify the conditions under which efficiency and democratic legitimacy can be made compatible, and to name the risks that arise when those conditions are systematically absent.

III.1 — A problem older than Better Regulation

The conflict between efficient governance and democratic legitimacy is inscribed in the founding logic of European integration. The EU was built around a deliberate insulation of key governance functions from mass democratic politics. The integration project's architects judged that democratic publics had proven insufficiently resistant to demagogic mobilisation. Jean Monnet's functionalist logic was precise: integration should proceed through technical problem-solving, accumulating solidarity incrementally through shared governance rather than political contestation.

Moravcsik's influential counter-argument holds that the EU's insulation from populist pressures is a constitutional asset, comparable to the independence of central banks or constitutional courts. This claim captures an important aspect of EU governance. However, it is only valid within clear limits. The legitimacy of non-majoritarian delegation depends on strong mechanisms of ex-post accountability — including parliamentary scrutiny, judicial review, and transparent reporting — which allow democratic principals to contest the decisions of their agents. When simplification weakens these mechanisms, it does not merely extend the EU's long-standing non-majoritarian logic. It removes the very accountability structures that made that logic democratically acceptable.

The Better Regulation Agenda has shifted the democratic deficit from a regrettable but manageable feature of a polity in construction into an active object of governance. In doing so, it transforms the deficit itself into something that is, at least in part, produced and deepened through institutional design.

III.2 — Rebalancing: throughput legitimacy as a reform framework

Schmidt's throughput legitimacy framework provides not only a diagnostic but a reform agenda. Better Regulation maximises efficacy while systematically underperforming on accountability, transparency, and inclusiveness. The reform agenda follows directly from this diagnosis.

On accountability, the most important reform would be stronger ex-post Parliamentary scrutiny of delegated acts. These instruments shape much of the practical content of EU regulation outside the ordinary legislative procedure. Dedicated oversight committees with real investigative powers, combined with mandatory reporting requirements when the Commission bypasses impact assessment procedures, would significantly reduce this accountability gap. The 2023 CAP rollback illustrates the problem clearly. Environmental commitments were weakened through delegated acts that avoided normal Parliamentary deliberation — precisely the kind of decision that stronger ex-post scrutiny could have challenged.

On transparency, the trilogue process remains the most urgent issue. Mandatory publication of negotiating positions, structured reporting at key stages, and observation rights for civil society organisations would increase public scrutiny without removing the practical advantages of trilogue negotiations. The DSA trilogue process — long, complex, but ultimately productive — shows that difficult negotiations can still function under greater transparency.

On inclusiveness, improving the interface of the "Have Your Say" portal is not enough. The deeper problem is unequal access to resources and expertise. Civil society organisations often lack the capacity to participate on equal terms with business interests. The Conference on the Future of Europe demonstrated both the

potential and the central limitation of deliberative mechanisms: its recommendations were largely ignored at the institutional level, a failure of follow-through that any future mechanism must be designed to prevent.

Policy recommendations

The following measures would make simplification's efficiency gains more democratically compatible without dismantling the Better Regulation framework:

- Strengthen Parliamentary scrutiny of delegated acts: Establish dedicated oversight committees with genuine investigative resources and mandatory Commission reporting whenever impact assessment requirements are waived.
- Mandate trilogue transparency: Require publication of institutional negotiating positions at defined stages, and extend civil society observation rights to the negotiation phase.
- Fund civil society participation: Create a dedicated budget line to build consultation capacity in NGOs and consumer organisations, and extend deadlines for complex dossiers to reduce the structural advantage of well-resourced business lobbies.
- Institutionalise deliberative mechanisms with binding follow-through: Design citizens' assemblies and structured stakeholder dialogues so that their outputs generate formal legislative obligations on the Commission to respond, rather than recommendations it can shelve.
- Reform impact assessment methodology: Require explicit accounting for diffuse social and environmental benefits alongside compliance costs, and subject discount rate assumptions to independent review.
- Codify urgency derogations: Establish in legislation the conditions under which impact assessment requirements may be waived, replacing a governance culture of informal exception with a rule-bound and auditable framework.

III.3 — What rebalancing cannot resolve

Institutional reforms are necessary if simplification is to remain democratically legitimate. But they are not enough on their own. The Better Regulation agenda is not a neutral technical project. It reflects a specific political and economic vision of regulation.

Majone and others describe this shift as a move from a market-correcting state to a market-making one. In this model, regulatory intervention must constantly justify itself, whereas market outcomes are often treated as normal or self-legitimising. This logic is built into the tools of evidence-based governance itself. Burden measurement, proportionality assessments, and One-In-One-Out calculations all appear technical and objective. Yet they still reflect political choices. They do not remove politics from governance. Instead, they make those political assumptions less visible and therefore harder to challenge.

Schmidt's concept of throughput legitimacy reaches its limits at this point. The framework helps evaluate whether governance procedures are effective, transparent, accountable, and inclusive. However, it cannot determine whether the political priorities behind those procedures are desirable or fair.

A simplification process could therefore be fully transparent and genuinely participatory while still consistently prioritising economic competitiveness over social protection. That outcome would persist if the broader political vision behind simplification remained unquestioned.

Improving procedures does not automatically change the agenda. Yet the agenda is where the deepest democratic issue lies. When the spaces in which that agenda can be openly debated become narrower, political conflict does not disappear. Instead, decisions are made by default in favour of those who define the measurement framework and set the terms of evaluation.

Conclusion

The European Union's regulatory simplification policy does not deliberately sacrifice democratic legitimacy; it structurally deprioritises it — a distinction that matters. The efficiency gains are real, and dismissing them as mere ideological cover for deregulation risks confusing the instrument with its political uses.

The democratic costs, however, are more deeply embedded than advocates of the efficiency agenda often acknowledge. They stem from structural features of governance rather than isolated failures. Institutional reforms — stronger parliamentary scrutiny, greater trilogue transparency, and sustained support for civil society participation — can mitigate some effects, but they cannot resolve the deeper displacement at work. Better Regulation reflects a market-making conception of the regulatory state, in which intervention must justify itself whereas market outcomes are treated as largely self-legitimizing. No procedural reform can fully correct a bias embedded in the epistemology of evidence-based governance itself. Addressing that bias ultimately requires a political challenge to the vision encoded within Better Regulation, and a democratic arena open enough to sustain such a challenge.

The extent of the trade-off, therefore, depends on how simplification is governed, by whom, and in whose interests. Under conditions of genuine transparency and inclusive participation, efficiency and democratic legitimacy can remain broadly compatible. Under the conditions that have increasingly prevailed — accelerated procedures, captured consultations, and a Commissioner whose mandate prioritises speed — the trade-off becomes real, cumulative, and self-reinforcing.

In an era of rising Euroscepticism and deepening public disaffection with EU institutions, this is not a sustainable foundation for political authority. The deeper danger goes further still. As a depoliticisation strategy, simplification does not merely produce democratic costs as a side effect. It actively redistributes constitutional authority — away from elected representatives and deliberative publics, and towards technical managers and market actors — without subjecting that redistribution to democratic scrutiny. Every procedural shortcut, every urgency derogation, and every delegated act constitutes, in this sense, a transfer of power. A polity that progressively dismantles the arenas in which such transfers can be contested may ultimately find that it has optimised itself beyond the reach of the citizens it was created to serve.

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