



## CONFERENCE OF COMMITTEE CHAIRS

# Impact Assessment Handbook<sup>1</sup>

## Guidelines for Committees

### I. Preliminary considerations

1. The European Parliament shares with the Council and Commission the determination to and responsibility for improving the quality of legislation applicable throughout the Union. The Inter-Institutional Agreement on Better Law-Making,<sup>2</sup> which enshrines that joint commitment, identifies impact assessments as one of the tools which can help the institutions achieve the goal of clear, simple and effective legislation.

For the purpose of this Handbook, impact assessments are deemed to be ex-ante analyses of the likely or foreseeable effects of draft EU legislation or policies proposed for adoption at European Union level, as defined in the Inter-Institutional Common Approach to Impact Assessments of July 2006<sup>3</sup>, and which may be undertaken at successive stages in the legislative process.

2. In that connection, Parliament has given two undertakings, reiterated in a number of resolutions<sup>4</sup>:

- to take full account of the Commission's impact assessments<sup>5</sup>,

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<sup>1</sup> The arrangements for the oversight and coordination of impact assessment work within the Parliament were defined by the Conference of Presidents on 15 November 2012 (PV CPG 15.11.2012 PE 499.457/CPG). Administrative support is provided by the (Ex-Ante) Impact Assessment Unit of the Directorate for Impact Assessment and European Added Value, which works in close cooperation with the Parliament's committee secretariats, policy departments and other horizontal services.

<sup>2</sup> *Official Journal*, 31:12:03 (2003/C 321/01).

<sup>3</sup> NT/551/551547 PE 353.887.

<sup>4</sup> Resolution on assessment of the impact of Community legislation and the consultation procedures (2003/2079(INI)) – Rapporteur: Bert DOORN, 20 April 2004; Resolution on Better Lawmaking 2004: application of the principle of subsidiarity (2005/2055(INI)) – Rapporteur: Bert DOORN, 16 May 2006; Resolution on the implementation, consequences and impact of the internal market legislation in force (2004/2224(INI)) – Rapporteur: Arlene McCARTHY, 16 May 2006; Resolution on Better Lawmaking 2005: application of the principles of subsidiarity and proportionality – Rapporteur: Bert DOORN, 4 September 2007; Resolution on a strategic review of the Better Lawmaking programme – Rapporteur: Katalin LEVAI, 4 September 2007; Resolution on the Single Market Review (2007/2024(INI)) – Rapporteur: Jacques TOUBON, 4 September 2007; Resolution on Better Lawmaking 2006: application of the principles of subsidiarity and proportionality (2008/2045(INI)) – Rapporteur: Manuel MEDINA ORTEGA, 21 October 2008; Resolution on Better Lawmaking: application of the principles of subsidiarity and proportionality (2009/2142(INI)) – Rapporteur: Lidia Joanna GERINGER DE OEDENBERG, 9 September 2010; Resolution on guaranteeing independent impact assessments (2010/2016(INI)) – Rapporteur: Angelika NIEBLER, 8 June 2011.

<sup>5</sup> In that connection, Parliament insists that impact assessments should be the subject of quality control carried out by a body independent of the Commission.

- to carry out impact assessments on its own substantive amendments when it regards it as appropriate and necessary for the legislative process.

3. In practical terms, the three institutions have agreed on a Common Approach<sup>6</sup>, which clarifies their respective roles and lays down a number of basic rules to govern the conduct of their impact assessments.

**What is an *ex-ante* impact assessment?**

Under the terms of the Common Approach, the impact assessments of Commission proposals and substantive Parliament and Council amendments 'map out their potential impacts in an integrated and balanced way across their social, economic and environmental dimensions, and, where possible, their potential short- and long-term costs and benefits, including regulatory and budgetary implications'.

The objective is to identify systematically the evidence which can be used to assess the potential impact of a series of political options with a view to comparing their respective advantages and drawbacks.

4. An impact assessment is a tool to aid decision and policy-making in the three institutions. It is in no sense a substitute for a democratic, political decision-making process.

5. Impact assessments form an integral part of the process of shaping Union policies, without prejudice to the role conferred on each institution in the decision-making process and in keeping with their respective institutional roles and responsibilities.

6. Impact assessments must not cause excessive delays in the legislative process or be misused as a means of opposing an item of legislation with which an institution does not agree or undermining the legislator's ability to propose amendments.

**Why is a practical guide to impact assessments needed?**

The purpose of this guide is to help the parliamentary committees deal with impact assessments, in keeping with the undertakings given by Parliament. In that connection:

- it sets out the main principles governing impact assessments which are spread across several assessments<sup>7</sup>, and the Council Guide to dealing with impact assessments<sup>8</sup>;
- it brings together in one document details of the best practices tested in the committees and sets out some practical criteria so that the committees can enjoy the benefits of impact assessments in the context of negotiations under the co-decision procedure;
- it seeks to improve the degree of consistency in the way that the parliamentary committees deal with impact assessments.

This handbook is intended to be used flexibly by the committees.

<sup>6</sup> *Inter-Institutional Common Approach to Impact Assessment*, approved by the Conference of Presidents in July 2006.

<sup>7</sup> SEC(2009) 092.

<sup>8</sup> Document 9382/06 of 15 May 2006.

## II. Criteria for assessing and using Commission impact assessments

7. In keeping with its inter-institutional undertakings, Parliament 'will take the impact assessment of the Commission into full account when examining the Commission's legislative and non-legislative proposals'<sup>9</sup>.

### EP-Commission Framework Agreement

The EP-Commission Framework Agreement commits the Commission to ensure that its impact assessments are conducted under its responsibility by means of a transparent procedure which guarantees an independent assessment. Impact assessments shall be published in due time, taking into consideration a number of different scenarios, including a 'do nothing' option, and shall in principle be presented to the relevant parliamentary committee during the phase of the provision of information to national parliaments under TFEU Protocols 1 and 2.

8. The parliamentary committees may draw on the assistance of the Parliament's (Ex-Ante) Impact Assessment Unit, with a view to assessing the quality, methodology and the independence of the impact assessments provided by the Commission and their relevance for Parliament's work.

9. The road-maps accompanying the Commission's Work Programme are screened by the Impact Assessment Unit to check which legislative proposals will be accompanied by impact assessments. When a Commission proposal is referred to a parliamentary committee, the Unit checks whether it is duly accompanied by an impact assessment and provides a short summary and initial appraisal of the impact assessment in question.

### Is the proposal accompanied by an impact assessment?

The Commission's undertakings in the Common Approach: as a rule, proposals submitted as part of its annual Work Programme (CWP) are accompanied by an impact assessment.

The Commission's Guidelines state that:

Each year the Secretariat General/Impact Assessment Board and the departments concerned decide which Commission initiatives need to be accompanied by an IA. In general, IAs are necessary for the most important Commission initiatives and those which will have the most far-reaching impacts. This will be the case for:

- all legislative proposals contained in the CWP;
- all non-CWP legislative proposals which have clearly identifiable economic, social and environmental impacts (with the exception of routine implementing legislation);
- non-legislative initiatives which define future policies (such as white papers, action plans, expenditure programmes, negotiating guidelines for major international agreements);
- certain regulatory or implementing measures which are likely to have significant impacts.

10. If a proposal likely to have a substantial impact<sup>10</sup> is not accompanied by an impact assessment, the committee responsible, acting on a proposal from its rapporteur or the chairman, and in agreement with the coordinators may:

<sup>9</sup> Paragraph 13 of the Common Approach.

- suspend consideration of the proposal in question and ask the Commission to provide an impact assessment,
- ask the Impact Assessment Unit to carry out (or commission) the Parliament's own impact assessment of the proposal in question.

There must be broad political support for these decisions.

11. The impact assessment, drawn up in one of the Commission's working languages, is in principle preceded by a summary translated into all the official languages.

**What are the language arrangements for impact assessments?**

Commission Guidelines: the impact assessment may be drafted in English, French or German. It has the status of an internal Commission working document and is in principle not translated, therefore.  
Practice: since 2006, the summary has normally been made available in all the official languages.

12. In keeping with Parliament's calls that all Commission proposals should be accompanied by an impact assessment, the impact assessment is considered with a view to assessing its relevance for the on-going work in committee. With that aim in view, and on the basis of a decision by the coordinators, a committee may ask the Impact Assessment Unit to:

- provide a detailed appraisal of the quality and independence of the Commission's impact assessment;
- draw up a briefing note or a study analysing all or part of the impact assessment submitted by the Commission;
- organise a specific meeting, with the participation, where appropriate, of outside experts, to ask the Commission to present its analysis and submit to it any requests for clarification.

There must be broad political support for these decisions. The documents mentioned above will be drawn up by the Impact Assessment Unit or, where necessary, commissioned from outside experts.

13. The assessment above must enable the committee to determine whether the impact assessment will facilitate consideration of the substance of the proposal in full knowledge of the facts and whether the impact assessment meets, firstly, the standards which the Commission has laid down in its internal guidelines (cf. Annex I), and, secondly, the quality criteria which Parliament has defined in its resolutions.

Parliamentary committees may invite the Commission to present its impact assessment in a full committee meeting (as foreseen in Paragraph 42 of the Framework Agreement between the European Parliament and the Commission)<sup>11</sup> or, where appropriate, in a separate meeting agreed by coordinators, in order to explain its analysis and methodology, and respond to any criticisms or apparent shortcomings so far identified.

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<sup>10</sup> For example, a proposal not included in the CWP or a regulatory or implementing act.

<sup>11</sup> *Official Journal*, 20:11:10 (2010/L 304).

### **What quality criteria apply to impact assessments?**

The Commission's proposals - and by definition the impact assessments accompanying them - must respect Treaty obligations in respect of (inter alia):

- fundamental rights, including the Charter of Fundamental Rights, non-discrimination and European citizenship (Article 6 TEU and Articles 10 and 18 TFEU);
- requirements of the MFF and budgetary procedures (Article 310(4) TFEU);
- the precautionary principle (Article 191(1) TFEU);
- the potential costs owing to the lack of action in the field of environmental policy (Article 191(3) TFEU);
- requirements linked to the promotion of a high level of employment, the guarantee of adequate social protection, the fight against social exclusion, and a high level of education, training and protection of human health (Article 9 TFEU);
- consumer protection requirements (Article 12 TFEU);
- the conditions necessary for the competitiveness of the Union's industry (Article 173 TFEU);
- impact on developing countries (Article 208 TFEU).

Further requirements laid down by Parliament include:

- transparent and targeted public consultations, involving regional and local authorities;
- a rigorous, objective and exhaustive approach;
- an adequate choice of strategic scenarios and options (including the option of taking no action);
- proper justification of the options selected in the light of the principles of subsidiarity and proportionality;
- a balanced analysis of the impact on the economic, social and environmental pillars and on public health;
- more detailed consultations with stakeholders before impact assessments are prepared to offset any lack of methodology or data.
- consideration of other assessment criteria, such as:
  - impacts outside the Union, including on international trade;
  - impact on the four freedoms of the internal market ('Single market test');
  - impact on SMEs and micro-enterprises (SME test);
  - regional and local impacts;
  - impact in terms of administrative burdens,
  - the objective of effective application in the Member States,
  - as far as possible, qualitative criteria, such as the impact on vulnerable social groups (social benchmarking), gender equality;

The Commission's impact assessment process must be the subject of independent quality control.

14. If the methodology and the reasoning fail to meet these criteria or reveal shortcomings, the committee responsible, acting on a proposal from its rapporteur or from the chairman, and with the consent of the coordinators, may ask the Commission to revise its original impact assessment with a view to analysing certain aspects or policy options in greater detail or complementing or updating the analysis of certain aspects<sup>12</sup>.

15. The committee(s) responsible may, under the same procedure, ask the Impact Assessment Unit to undertake or commission the Parliament's own complementary or substitute impact

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<sup>12</sup> Paragraph 12 of the Common Approach: 'in duly justified cases, the Commission, on its own initiative or at the invitation of the European Parliament and/or the Council, may decide to complement its original impact assessment'.

assessment of the aspects dealt with inadequately or not at all in the Commission's original impact assessment. There must be broad political support for this decision. The terms of reference for such impact assessment work are defined, in each case, by the committee itself.

### **III. Criteria for analysing the impact of substantive Parliament amendments**

16. When it regards it as appropriate and essential to the legislative process, Parliament carries out impact assessments of its substantive amendments, without in any way undermining its ability to adopt such amendments. There must be broad political support for this decision.

#### **What is the definition of a substantive amendment?**

Under the terms of the Common Approach, it is up to each institution to define the concept of a 'substantive' amendment. In its guidelines for dealing with impact assessments, the Council gives no standard definition of its 'substantive modifications'. It is difficult to provide a definition of 'substantive' which is valid across the board - it is an assessment which must be made on a case-by-case basis.

17. It is up to the parliamentary committee(s) responsible to determine whether one or more of the amendments tabled during its consideration of a Commission proposal is 'substantive' and, if appropriate, whether it or they should be the subject of an impact assessment. The terms of reference for impact assessments on substantive amendments are defined, in each case, by the committee itself.

18. On a proposal from the rapporteur, the chairman or a member of the committee acting on behalf of his or her political group, the coordinators decide, in consultation with the rapporteur, to request an impact assessment of one or more specific substantive amendments.<sup>13</sup> There must be broad political support for that decision.

19. The associated committees involved, pursuant to the procedure under Rule 50, may, on the same basis, carry out impact assessments of the substantive amendments which fall within their spheres of responsibility, provided that this is compatible with the procedural timetable agreed with the committee responsible.

In the case of a procedure with Joint Committee Meetings, under Rule 51, decisions concerning the carrying out of impact assessments on substantive amendments are taken jointly by the committees concerned.

20. Impact assessments can be carried out at each stage of the legislative procedure, taking account of the time constraints specific to each reading, and provided that they do not unduly delay the legislative process.

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<sup>13</sup> Taking account of the deadlines and the procedures required to meet such requests.

21. As a rule, the committee responsible tries to identify substantive amendments likely to be the subject of an impact assessment before they are adopted in committee. However, it may regard it as more appropriate to carry out the impact assessment at a later date:

- prior to the vote in plenary, if that is possible, in particular in connection with a procedure with associated committees,
- after the vote in plenary.

There must be broad political support for this decision.

**At what stage of the legislative procedure should an impact assessment of a substantive amendment be carried out?**

The Inter-Institutional Agreement on Better Law-Making stipulates that 'where the co-decision procedure applies, the European Parliament and the Council may [...] have impact assessments carried out prior to the adoption of any substantive amendment, either at first reading or at the conciliation stage'. In practice, hitherto the parliamentary committees have had impact assessments of substantive amendments carried out at first reading, second reading and conciliation stage, and they may do so at any stage of an inter-institutional negotiation on a legislative proposal.

22. The task of carrying out impact assessments of substantive Parliament amendments is conferred on outside experts.

23. The decision by the committee responsible to request an impact assessment on amendments is forwarded to the Impact Assessment Unit, which selects outside experts, in keeping with the provisions of the Financial Regulation, EU law on public contracts and the Parliament's own internal procurement rules, in a way that ensures that the experts are as independent and objective as possible and the procedure for selecting them is as transparent as possible.

24. In methodological terms, if appropriate, the experts take as their starting-point the information contained in the impact assessment provided by the Commission and, as far as possible, structure their assessment in such a way as to facilitate comparisons with the Commission text, although without duplicating the Commission's work.

25. In keeping with the undertakings it has given, the Commission assists Parliament in its work by making available to it details of any specific methodology used in preparing an impact assessment (economic modelling, cost-benefit and/or cost-effectiveness analysis) and forwarding the data employed.

26. Impact assessments of substantive Parliament amendments are drafted in the working language most frequently used in the committee which submitted the original request, on the basis of its language profile. At the request of the coordinators for the political groups, a summary may be translated into the language of the rapporteur and/or into the three working languages most frequently used in the committee.

27. Parliamentary committees which ask for impact assessments to be drawn up inform any other committees which might be interested of the performance and results of the analyses requested.

28. The Impact Assessment Unit is responsible for monitoring and ensuring that the impact assessments performed by outside experts are consistent with Parliament's quality criteria.

29. Unless a duly justified decision to the contrary is taken by the committee responsible, impact assessments of substantive Parliament amendments are published on Parliament's Internet site.

30. Taking its cue from them, Parliament endeavours to keep the Council and Commission informed, regularly and in good time, about on-going impact assessment work.

## ANNEX

### Assessment sheet concerning the key components of an impact assessment

The Commission<sup>14</sup> has developed a standard format for its impact assessments (hereinafter IA) which identifies the key stages in the procedure and the questions to which the IA must provide a clear, precise answer:

#### 1 - Consultation of interested parties

- Have the Commission's relevant minimum standards<sup>15</sup> been observed?
- What stakeholders have been consulted? Were they sufficiently accurately targeted?
- How and at what stage were they consulted (transparency, minimum deadline, minimum time-limit for reply)?
- Did the Commission have recourse to outside experts?
- What are the main results of the consultations and how have they been taken into account?

#### 2 - Definition of the problem

- What is the issue or problem which is likely to give rise to action?
- What are the reasons underlying the issue or problem?
- Who is concerned by the problem, how and to what extent?
- How may the problem develop in the light of the action taken or planned by the Union, the Member States or other parties involved?
- Is Union action justifiable in the light of the principles of specificity (legal basis in the Treaties), subsidiarity and proportionality?

#### 3. Definition of the objectives

- What are the general objectives and the more specific and operational objectives being pursued?
- Are these objectives consistent with the Union's policies and strategies, such as the Lisbon Strategy and the Strategy for Sustainable Development, and with the promotion of fundamental rights?

#### 4. Strategic options

The IA must identify all the options which can be envisaged with a view to achieving the objectives set.

- Have all possible options been reviewed: regulatory and non-regulatory options, including the 'no EU action' option?
- What options were ruled out at an early stage and why?
- Why were options which enjoyed broad support amongst stakeholders ruled out?

<sup>14</sup> SEC (2005)791.

<sup>15</sup> General principles and minimum standards for consultation of interested parties (COM(2002)704).

## 5. Analysis of the impact per se

- What is the likely economic, environmental and social impact of each of the options short-listed?
- What will their positive and negative impact be, their direct and indirect impact?
- What will their impact be inside and outside the Union?
- Will certain options have a more immediate impact on certain social groups, economic sectors or specific regions?
- What are the uncertainties surrounding and the potential obstacles to implementation of the various options?
- What will their impact be in qualitative terms and, where this can be assessed, quantitative and/or monetary terms?
- What will their impact be on legal consistency and consistency with the *acquis communautaire* and other relevant proposals under consideration?

## 6. Comparison of the options

- The IA indicates the method of weighting the positive and negative impact of each option
- The IA sets out comprehensive and detailed results
- The IA confirms the added value of action at Community level
- If possible, the IA classifies the option on the basis of various assessment criteria
- If possible and appropriate, the IA indicates which is the preferred option

## 7 - Follow-up and assessment

- What are the main indicators that the objectives have been achieved?
- What monitoring and assessment procedures are there?