Ex-Post Impact Assessment and Evaluation in the European Parliament

Method and Process
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The purpose of this working document is to develop the methodology used by the Ex-Post Impact Assessment Unit for the European Implementation Assessments (and also other evaluations carried out in Parliament), to ensure an objective analysis of available information on implementation, highlighting any possible biases.

This working document uses the concepts of 'evaluation' and 'ex-post impact assessment' on the following basis:

**Evaluation**
The periodic analysis of data and information, to study and assess performance of on-going and completed EU action. An evaluation aims at learning what works, what is not and why, in terms of leveraging change. It thus provides the intelligence required for good adaptive policies and supports programmatic improvement.

**Ex-post Impact Assessment**
A type of evaluation that goes beyond analysing the identification of outputs/outcomes, assessing the relevance of objectives, effectiveness and efficiency of organisation and management, to focus, as much as possible, on the identification and appreciation of the impacts of an intervention. This means going beyond describing what has happened by looking at causality.
1. Introduction

The European Union has a duty to deliver high quality policies and legislation which is not only easy to understand and to apply, but also relevant, effective and efficient. Political decisions on policies and legislation therefore need to be well-informed and evidence-based. This work starts with finding out what works and what does not.

In the European Parliament, ex-post Impact Assessments are designed to support parliamentary Committees in their work at successive stages of the policy cycle and to provide them with independent, objective and authoritative information through comprehensive research and analysis. Ex-post Impact Assessments constitute a key tool for Members, in providing the necessary evidence for the scrutiny of the executive’s proposals and can thus facilitate the shaping of Parliament’s political positions.

Parliament’s ex-post work is carried out by three units in the Directorate for Impact Assessment and European Added Value, in the Directorate-General for Parliamentary Research Services (EPRS):

- Ex-Post Impact Assessment Unit (IMPT)
- Policy Cycle Unit (CYCL)
- European Council Oversight Unit (ECOS)

This working document concentrates on the work of the Ex-Post Impact Assessment Unit (IMPT), which tracks and analyses the implementation and enforcement of EU law and policies and their effectiveness in practice. The Unit is an analysis service that assists parliamentary Committees in their scrutiny of how well a specific intervention has performed (or is working) and of whether the EU intervention continues to be justified or should be modified, notably by preparing European Implementation Assessments, its primary instrument.

A European Implementation Assessment is a core background document for Committees when they prepare an implementation report on the national transposition of an EU policy or law and its implementation into national law and enforcement in Member States. It gives Committees an evidence-based evaluation of the relevance, impact, effectiveness and efficiency of the EU action they scrutinise. A European Implementation Assessment ideally feeds into the design of modified proposals and is therefore a key component in the process of improving existing legislation.

When used in this document, ‘implementation’ – subject to the Committee’s mandate – generally refers to transposition, implementation and enforcement of EU secondary law, and on the impact, operation, effectiveness and delivery of EU law and policy, including spending programmes and international agreements.

This is a working document, which will be regularly updated on the basis of users’ needs and requirements.
2. Background

Evaluations, such as European Implementation Assessments (EIAs), support Committees\(^1\) when they prepare 'implementation reports', in the same way as 'European Added Value Assessments' (EAVAs) do when they prepare legislative initiative reports.

The internal methodology and approach developed by IMPT is intended mainly for EIAs, but also applies to other ex-post evaluations. It is designed to keep editorial control and to ensure that the product is both tailored to/responds to the Committee's needs and is an in-house service for Parliament. The assessment is either entirely written in-house or supported by external expertise; the latter being the case when information on implementation is not readily available, or for specific and multi-faceted issues needing in-depth exploration and explanation.

The methodology is based on extensive research, and draws on best practice and experience in EU institutions and Member States, as well as relevant stakeholder contributions. The methodology – naturally evolving and subject to periodical review – may not be fit for purpose in all scenarios, but it does provide insights into the most common and most useful considerations in qualitative and quantitative analysis for the European Parliament's ex-post evaluation work.

In addition, this working document presents key content items and a structure for drafting an implementation assessment, for presenting findings, and where relevant, recommendations. It also mentions some procedural aspects, which are mainly relevant at the beginning of the procedure.

The figure below shows where evaluation and the role of IMPT are placed in the overall policy cycle:

\(^1\) When mentioning 'Committees' in this document, also sub-committees are included, pursuant to Annex XVII of Parliament's Rules of Procedure on own-initiative reports.
3. Process

3.1 Triggers

The IMPT work is mainly triggered in two different ways, either

- by implementation reports drawn up by Committees in respect of all existing policies or legislation; or
- following ad hoc requests from Committees.

In order to ensure the proper follow-up for the first option, a systematic screening of committee documents is carried out by the competent IMPT policy analyst. Moreover, a centralised screening is also made at the level of the Directorate, regarding documents from the Conference of Committee Chairs.

The authorisation (by the Conference of Committee Chairs) of the drawing up of an implementation report means an administrative project team is set up. This team is coordinated by a committee administrator and also includes those who will ensure “analysitical support from the relevant EP policy departments and the Ex-Post Impact Assessment Unit of DG EPRS (notably European Implementation Assessments)”

The follow-up to a Committee’s ad hoc request largely depends on the individual request and the Committee's agenda planning.

Regardless of the type of trigger, early consultation with the Committee Secretariat is recommended, in order to advise Members on the relevant subjects, and to assess the feasibility of the work on the basis of IMPT resources.

Once the procedure has started for either scenario, the competent IMPT policy analyst will reflect, in coordination with the administrative project team, on the kind of product needed and whether in-house resources are sufficient or external expertise needs to be commissioned. The reflection will have to consider available human and budgetary resources and possible time constraints.

At the end of the process, virtually all IMPT research work is published and publicly accessible on Parliament’s website. Larger studies, notably the ones carried out by external experts, are normally presented, by their authors, at Committee meetings.

3.2 Coordination with other in-house research departments

Beyond the cooperation and information sharing within the administrative project team, systematic inter-service exchange about programmed work and ongoing work-in-progress – notably with colleagues from the Committees’ secretariats, the Members’ Research Service within DG EPRS, and the Policy Departments in the DGs for Internal (IPOL) and External (EXPO) Policies – helps to avoid duplication of work.

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2 Cf. Annex XVII (Article 1(e)) and Annex 3 hereto, of the Rules of Procedure (on granting authorisation to draw up own-initiative reports).

3 Ibid, pp. 5 and 6.
There may be cases where several publications on the same policy issue, by different units, are deemed complementary and hence justified. Close inter-service coordination can increase the impact of the executed research, e.g. through a clear definition of scope and objectives, coordinated timing of publications within the policy cycle, and cross-referencing.

Therefore, policy analysts who work on similar topics should routinely share information sources and ideally be open to discussing and reviewing each other's drafts. In general, informal contacts with in-house experts in any given area are strongly encouraged, to receive and provide input and feedback.

### 3.3 Form

IMPT presents its evaluation in a *European Implementation Assessment*, featuring an in-house summary of findings and analysis. Studies carried out by external experts include an introduction by the competent IMPT policy analyst, ensuring that the (external) expertise is accurately connected with the legislative process and the Committee's requirements.

The EIA takes the form of an *In-depth Analysis* or a *Study*, which presents detailed research on the state of play in transposition, implementation and enforcement of EU secondary law, policies and other measures in a given field. However, the *In-depth Analysis* is shorter (11 to 36 pages) than the *Study* (37 pages or more).

In duly justified cases IMPT can also present an *At a Glance Note* (1 to 2 pages) or a *Briefing* (3 to 10 pages) and can also draft 'Implementation in Action' reports, in particular concerning the state-of-play of transposition and implementation of directives following Committee scrutiny time. 'Implementation in Action' reports can take the form of a *Briefing* or of an *In-depth Analysis*.

### 3.4 Planning

During the initial planning phase, IMPT's policy analysts engage in thorough research of available information from academia, think tanks, NGOs and other relevant stakeholders.

Also, in addition to consulting Commission evaluations and the Commission evaluation plan, the use of pre-existing national implementation evaluation results helps avoiding double investigation of data. This ensures that national/regional conclusions, reflecting territorial specificities, are also better taken into account. To this end, contacts with colleagues in the Commission and other relevant institutions and bodies are of crucial importance at the preparatory stage.

The mapping carried out under the REFIT programme and the Commission's 5-year evaluation planning, should serve as a basis for this exercise, so as to minimise the risk of 'consultation fatigue' among stakeholders.

### 3.5 Timing

IMPT's aim is to always be responsive to Committees' requests and to ensure – within the limits of its human and financial resources – that its products are timely and tailored to the legislation or policy in question.

There is broad consensus that implementation assessments should not be made too early: at least 3 years after the policy intervention is recommended. If an implementation assessment is made too soon, the findings may be limited to an overview of the state of transposition rather than an
evidence-based evaluation of the relevance, impact, effectiveness and efficiency of the EU action (see also figure on p. 5).

Frequently, trade-offs must be made between when to conduct implementation assessments and the amount of data available, which is needed to provide a robust analysis and evidence base. Results should be meaningful and feed into the decision-making process. Also, in some cases, the costs related to data collection need to be taken into account.

The timing of an implementation assessment – and ideally of Parliament’s implementation report – should also take the Commission’s evaluation and review activities into account:

- If the Commission plans to conduct a specific evaluation (or review report) in the future, Parliament can aim at feeding into this work (with the EIA, implementation report and Resolution).
- If the Commission has already carried out a specific evaluation in the past, Parliament will carefully assess the findings.

Simultaneous evaluation activities by Commission and Parliament are to be avoided, unless duly justified.

4. The relevance of subsidiarity, proportionality and legal basis

For European Implementation Assessments, it should be generally assumed that the Union’s competence in the field under review – as well as the legal basis – is already clearly established. Accordingly, the EIA does not specifically look into questions about the legal basis for continued EU action, and does not necessarily include questions relating to the consistency with the principle of subsidiarity, nor does it seek to assess whether acting is consistent with the principle of proportionality.

However, certain questions relating to subsidiarity and proportionality may still be relevant, in particular issues relating to new action taken in the meantime or now planned by the EU and/or Member States, in the same or in linked policy areas.

There is sometimes a need to explain whether EU initiatives continue to add value and deliver results if run at EU rather than national level and in light of parallel, broader or overlapping initiatives or spending programmes that have been set up recently.

For these reasons, a European Implementation Assessment should reflect any subsidiarity concerns issued in reasoned opinions by national parliaments, pursuant to Protocol 2 to the Lisbon Treaty, particularly if they have triggered ‘yellow card’ or ‘orange card’ procedures.
5. The key assessment criteria

European Implementation Assessments should take a broad perspective when scrutinising the effects of EU interventions, drawing the attention to whether there are unintentional or unforeseen effects compared to the ex-ante Impact Assessment and the adopted act. EIAs should also examine if the act remains justified and/or observe alternatives for any review.

This broad scrutinising perspective is best achieved when using a set of established evaluation criteria, which generally correspond to those also used by the Commission, thus facilitating efficient comparison and (where opportune) cooperation with other EU institutions and national parliaments.

The use and respective ranking of the criteria depends on the subject matter of the EIA at hand. This will need to be explained in the EIA, as will the use of fewer or more/other criteria. The following order for presenting the criteria could nevertheless be used as an EIA template; if there is no or little added value or relevance, it matters less how coherent, effective or efficient an intervention has been.

- **EU added value**
  If there are effects/changes due to the intervention, could they have been equally or better achieved by the Member States themselves? 
  *[Subsidiarity]*

- **Relevance**
  Is the intervention still relevant and do the original objectives still correspond to EU needs?

- **Coherence**
  Is the intervention coherent with other comparable interventions, with itself and with the overall EU priorities?

- **Effectiveness**
  Have the objectives been achieved and are the effects/changes caused by the interventions?

- **Efficiency**
  Are the costs and time/work spent for the effects/changes due to the intervention justified and proportionate? 
  *[Proportionality]*

6. The EIA methodology – key considerations and components

The process of planning and preparing a European Implementation Assessment includes a set of key stages and questions, to which the assessment should provide clear and precise answers. This process builds on best practices in evaluation and ex-post Impact Assessment at European, national and international level.

The resulting standardised framework translates into a methodology for European Implementation Assessments, which can be adapted depending on the policy area, the type of instrument assessed, the depth of analysis needed and the requirements for the presentation of the findings.
The methodology also helps to identify weaknesses in the quality or quantity of available information – or outright gaps in knowledge – when assessing the state-of-play on implementation in a given policy field. This means that gaps in available evidence and further research requirements can be identified to complete the evidence base.

6.1 Justification

Verify whether the timing is right in relation to the transposition calendar, the Commission’s reporting obligations and planning and to the activities of the European Parliament.

6.2 Identification of topic and title

- To justify the EIA’s detailed substance, define the policy context it aims to address and frame the political priority –

  → from the perspective of the European Commission: by quoting the CWP, State of the Union address, or published Commission Presidency or Directorate General Priorities for the 5 year term in office such as a Flagship initiative or a specific policy initiative or spending programme within a broader policy framework;

  → from the perspective of the European Council / Council of the EU: by referring to relevant Council Conclusions, Statements or Decisions;

  → from the perspective of the European Parliament: by quoting a Parliament resolution on the CWP, a position of the Conference of Committee Chairs, a registered Petition, an Own Initiative Resolution, or a review clause in an adopted Resolution on a draft (1st or 2nd Reading Parliament position) or final legislative act;

  → from the perspective of any other EU institution: Court of Auditors, ECJ, Committee of the Regions, Economic and Social Committee, etc. by quoting relevant opinions, decisions, or rulings;

  → from the perspective of Member States’ national parliaments: subsidiarity concerns issued in reasoned opinions, particularly if they have triggered 'yellow card' or 'orange card' procedures;

  → from the public opinion perspective: citizens’ initiatives, Petitions or opinion polls (e.g. Eurobarometer).

- Explain the timeline, i.e. why the EIA is timely in relation to the activities of the European Parliament, specifying which Committee is responsible and which other Committees might have an interest.

6.3 Defining evaluation questions and additional criteria

In addition to the five key assessment criteria (EU added value, relevance, coherence, effectiveness and efficiency), other supplementary criteria can be used, subject to the type of intervention and the timing of the EIA.
It is worth taking into account the most common additional criteria used by the Commission:

- **Utility**
  To what extent do the changes/effects of an intervention satisfy (or not) stakeholders’ needs? How much does the degree of satisfaction differ according to the different stakeholder groups?

- **Complementarity**
  To what extent do EU policies and interventions support and usefully supplement other policies (in particular those pursued by the Member States)?

- **Coordination**
  To what extent are interventions organised to maximise their joint effects, e.g. by mobilising resources combined with harmonising measures?

- **Equity**
  How fairly are the different effects distributed across the different stakeholders / regions? / genders? / social groups?

- **Sustainability**
  How likely will the effects last after the intervention ends? It is often hoped that the changes caused by an intervention are permanent. It can be important to test this expectation for interventions which have a finite duration, such as particular programmes.

- **Acceptability**
  To what extent can we observe changes in the perception of the intervention (positive or negative) by the targeted stakeholders and/or by the general public?

### 6.4 Gathering relevant and objective evidence

For each evidence source, the following needs to be examined and/or justified:

- Is the methodology explained, in particular choices, limitations and uncertainties?
- Is information provided on how inputs from end-users/stakeholders inform analysis?
- Is feedback sought from the most affected subjects in consultations and data collection?
- Does the evidence provide representative data for the EU28?
- If specific feedback is discarded, is thorough examination included?
- Have details been provided on how indicators measured intended effects?
- Is qualitative and/or quantitative analysis presented in an easily comparable manner, and according to a clear set of criteria?
- Does the evidence cover the main economic, social and environmental impacts?
- Where relevant, does the evidence also examine regulatory, specific territorial, international impacts, or impacts on fundamental rights or any other relevant impact?

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6.5 Spending programme specificities

In addition to the sections 6.1 to 6.4 above, EIAs on spending programmes need to examine and/or justify the following aspects:

1. Why does public expenditure continue to be required to achieve the objectives of the spending programme (as opposed, for instance, to a ‘simple’ regulatory initiative)?

2. Why does expenditure specifically financed from the EU budget continue to be required to achieve these objectives? Answering this question requires looking further at:
   - Why does Member State expenditure alone continue to lack sufficiency? Would it continue to fail to achieve the sufficient scale (economies of scale)?
   - Would it continue to fail to take into account negative or positive externalities between Member States (insufficient provision of EU public good)?
   - Would it now risk overlaps/duplication of efforts (coordination failures/economies of scales) in light of newer expenditure programmes or initiatives? Why would expenditure financed from the EU budget continue to be needed?

6.6 Presentation of the findings

The EIA is not a tool to collect proof or to support anticipated findings. It should provide findings on the impact, operation, effectiveness and delivery of the intended objectives of the EU law and policy in question.

Any shortcomings or gaps in analysis should be clearly explained, taking into account transposition deficits, implementation by Member States, application and effects in practice.

Furthermore, the EIA should:
- clearly explain how specific findings are underpinned by the evidence analysed;
- present findings by order of importance and present them in a comparable format;
- ensure coherence between the findings and the justification for the EIA and its specific objectives;
- explain how the findings have covered all feasible aspects of the EU law and policy evaluated.

6.7 Recommendations or options

If the Committee makes a request the EIA should include some recommendations or options, to provide varied input to further decision making, these need to explain how they consider all feasible policy options (regulatory or non-regulatory), including the ho EU action’ option and alternatives to regulation and to further harmonisation.

Such requested recommendations or options should be given without preference and take their starting point in – and clearly link to – the findings for the respective evaluation criteria used in the EIA.
Annex – Working definitions

- **Effectiveness**
The extent to which the stated objectives of an EU action have been met or are advancing towards meeting.

- **Efficiency**
The degree of return of investment, i.e. the link between resources used and changes made.

- **Impact**
Long term changes related to an EU action, directly or indirectly, intended or unintended.
  - **Economic impact**
    This may be determined following a cost benefit analysis, an analysis of impacts on competition, on consumers, or on competitiveness, and including an SME test including an analysis of the case for allowing (a) exemptions for micro-enterprises with <10 employees and <€2 Million turnover or balance sheet, and (b) lighter regimes for SMEs and whether the 'think small first' principle is upheld by the initiative.
  - **Environmental impact**
    Impact on the climate, air, water and soil quality; impact on use of renewable or non-renewable resources; impact on the scale of environmental risks; impact on use of energy.
  - **Fundamental rights impact**
    Impact on human, fundamental or civil rights or liberties including the impact on transparency, data protection and freedom of information requirements.
  - **International impact**
    Impact on third countries and on parties outside the European Union; impact on international relations, commitments or treaties, whether bilateral or multilateral. This also covers compliance with international trade obligations. However the compliance costs for third country businesses should be covered in the Economic impact.
  - **Regulatory impact**
    Impact on regulatory costs including administrative burdens and associated compliance costs, for businesses or business operators, and/or public bodies (central, sub-central, regional local/municipal), and where relevant the impact of the transposition deadline on Member States' legislative processes.
  - **Social impact**
    Impact on employment or the labour market; impact on social inclusion and protection of particular groups; impact on workers' rights; impact on human health and safety.⁵
  - **Territorial impact**
    Impact on individual Member States; impact on individual EU regions or specific autonomous regions or territories; impact on EU localities or municipalities; impact on overseas territories or outermost regions.

• **Relevance**  
The link between the needs for change and the stated objectives of an EU action.

• **Representative data, statistics or proportion**  
A subset of a statistical population that adequately reflects the members of the entire population. A representative sample should be an unbiased reflection of the overall population studied. This sample must be large enough to capture the variations found within the entire group so that informed predictions can be made on the entire group. If the population is 28 Member States, \( \frac{1}{4} \) or 7 Member States would typically constitute minimum adequate representation, so long as there is also a balance of large and small Member States in the sample, and balance in the socio-economic landscape.