



EAPN Response to the proposed Social Impact Assessment Guidelines

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In this note we set out the European Anti Poverty Network response to the questions set by the Commission relating to the proposed Impact Assessment Guidelines. The European Anti Poverty Network is an independent coalition of non-governmental organizations (NGOs) working with people experiencing poverty, dedicated to the fight against poverty and social exclusion in the Member States and candidate countries of the EU. Our concern in this response has been to assess how far the proposed guidelines are likely to be effective in assessing the social impact of proposed policies and to actively support the development of coherent proposals which will be based on social rights and actively support the eradication of poverty and social exclusion.

Introduction

Impact assessment is a tool used to help decision-makers in designing effective legislative and policy proposals by assessing the likely impacts. It has always been envisaged as an aid to decision-making, not a decision-making process in itself.

The Impact Assessment process is long established in the EU decision-making process and has been substantially revised since 2000. Following the 2001 Gothenburg and Laeken Councils the EU agreed to broaden the Impact Assessment process to include better economic, social and environmental dimensions, but also to “simplify and improve the regulatory environment”. In 2006, the Commission launched an independent evaluation of impact assessment and agreed to revise the guidelines. The current consultation is part of this revision process.

Good impact assessment are important tools which can play a key role in promoting and defending social rights in the EU by evaluating the positive or negative future impacts of legislative proposals. However, up to now the Impact Assessment in the EU has not delivered on these expectations.

EAPN Concerns

In the view of EAPN, the impact assessment has primarily served the economic interests of the EU and specifically the expansion of the internal market. An overriding concern since 2001 has been to use the impact assessment process to decide whether EU action is necessary, or is should be left to Member States, serving the better (or less regulation) agenda and according to the rules on subsidiarity.

The framework used appears to be geared to this end. New steps that have been incorporated reflect more classic environmental assessments used in local planning processes. Currently the social and environmental aspects often appear more as an add-on. A more radical and ambitious revision of the impact assessment procedure needs to be carried out to ensure an integrated and coherent approach which is based on fundamental rights.

For EAPN, this means basing the impact assessment on an agreed vision, values and principals based on social rights, putting the likely impact of proposed legislation/policy on social cohesion, poverty and social exclusion at the centre of the impact assessment and embedding the process in participative

appraisal/analysis and impact assessment methodologies. This must be considered separately from the decision over whether EU or national legislation/or other instrument is the appropriate channel.

The current approach has significant shortcomings particularly in the social field, where the current treaty basis for action is unclear and being proven to be inadequate to deal with the rising tensions and difficulties in preserving social cohesion, eradicating poverty and social exclusion across the EU and in achieving an adequate balance between market freedoms and social rights.

In our view, a more appropriate process would

1) Start from an explicit statement of the EU economic, social and environmental vision, confirm the values and principles which underpin the impact assessment. It should then draw on a more user-friendly criteria based scoreboard or checklist based on agreed values and principals of the EU social model and the objectives of the OMC on social inclusion and social protection, including the preservation of social standards.

2) A secondary step would be the decision over whether the proposed legislative action supported or undermined these criteria.

3) A third step would be the decision whether there was an EU value added and fulfilled the treaty criteria on subsidiarity.

Otherwise there is a key danger that if the reverse methodology is used, many important considerations for the social field are too readily dismissed out of hand, because they are seen not to come within the remit of EU action, based on a simplistic assumption of the limits of EU powers..

Participative methodologies, involving all stakeholders

The **methodology** used is also crucial. Currently the process is a traditional, top-down analytical framework, geared primarily to ensure ease of operation for the administrators, rather than effectiveness for the objectives of the assessment. It currently has minimal involvement of a limited range of stakeholders and where practiced, through traditional formal written consultation procedures. This is not a sufficiently dynamic method and fails to both engage a sufficiently wide range of stakeholders, particularly civil society and people most affected by these policies, neither does it give priority to active engagement., provide ownership or give adequate transparency to the impact of these consultations ie what the outcomes are, or adequate feedback on how their assessments have or have not been taken on board.

Learn from Good Practice

It is suggested that the Commission draws much more for inspiration from the wealth of experience, quality tools and instruments used currently in the Development World, which have increasingly recognized that no impact assessments can be viable or effective, without the participation of the people most affected. (for example see tools/instruments developed by the World Bank, Oxfam, Action Aid etc.)

These methods are primarily categorized as **participatory impact assessment** processes. (<http://info.worldbank.org>). We would highlight also the **International Principles on Social Impact Assessment** which defines social impact assessment as *“processes of analyzing, monitoring and managing intended and unintended social consequences, both positive and negative, of planned interventions and any social change processes invoked by those interventions, its primary purpose be to bring about a more sustainable and equitable biophysical and human environment.”* <http://www.iaia.org/modx/assets/files/SP2.pdfq>.

These International principles, highlight the need for the explicit statement of core values and principles - underpinning any social and ethical impact assessment, which are based on fundamental human rights and

on the right of citizens and people most affected, to be involved in any decision-making regarding planned interventions that will fundamentally affect their lives.

In addition, inspiration can also be drawn from the Poverty Impact Assessment Process developed in Ireland (previously known as poverty proofing), which represented a major step forward despite numerous implementation gaps¹.

Some key lessons

It is however, useful to draw some conclusions from the findings of NGO's actively involved in current successful Social Impact Assessments for example the Irish Poverty Impact Assessment process (See EAPN Ireland – www.eapn.ie.)

- The Irish PIA has been actively developed together with civil society and in many ways the NGO's are happy with the process, although they see it as a "work in progress"...
- Although the Irish PIA process actively involves civil society and people experiencing poverty, more steps should be taken to ensure **adequate support and funding** for this engagement and to ensure that the **involvement is meaningful**.
- The process must be applied to **all policies**, not just "cherry-picked" and a strategy developed to ensure **coherence** between the different policies being assessed. A clear example of this for example is the need to ensure coherence between the proposals made under the National Reform Programmes and for example the OMC on social protection and social inclusion.
- **Transparency** and accountability must also be addressed, as many IA processes are too secretive. The process and what happens to the results and impact must be widely publicized and easily accessible through internet and other methods. In the end stakeholders have a right to know how or not their views have been taken on board.
- **Implementation** is also crucial. The result of a social impact assessment should not just rest in the individual policy being screened. The overall aim should be to ensure that all EU policies take actively in consideration a social checklist (including the potential impact on poverty and social exclusion) when **designing and delivering new policies**,
- **Impact assessments** must be seen finally as only one tool aiming to support pro-active policy development and mainstreaming the findings through coherent policy approaches. In the end they are a safeguard and a limit on the negative effects of a policy proposal, rather than a pro-active proposal itself. Although effective social impact assessment on mainstream legislation could be vital, it cannot replace the decision to develop new policy and legislation initiatives in the social policy and other fields and to ensure effective mainstreaming in all areas, through more pro-active measures.

Explain sufficiently the logic of the steps to be followed in the impact assessment process (problem definition, objectives, policy options, assessment of impacts, comparison of options, monitoring and evaluation)?

Clearer starting point of testing preservation/improvement of social rights/ standards.

For EAPN the process outlined is more of a traditional process for policy analysis and development following the conventional cycle, than an impact assessment. The starting point for a social impact assessment should be based on a vision of fundamental rights (including those spelt out in the Fundamental Rights Charter) and the right to be involved in decision-making, as well as a clear idea of the standards to be ascribed to. The assessment of impacts should be related to a clear checklist of questions (similar to the questions used but more focused and concrete).

¹ For more information, please see http://www.eapn.ie/pdfs/23_Poverty%20proofing%20-%20the%20Irish%20experience.pdf, <http://www.socialinclusion.ie/pia.html>

1. Preserve the proper balance between economic, social and environmental impacts that is required in the integrated and balanced approach to impact assessment?

Overly driven by the economic agenda

The overriding focus continues to be economic/and the specific questions/and evidence sought driven by this focus, ie in the section on social the starting point is the labour market, rather than the objectives of the OMC. The labour market is clearly a crucial area, but more significantly whether the measures improve access to labour market for disadvantaged groups, and to quality, sustainable employment. There is a lack of awareness/reference to the Commission's own strategies ie active inclusion – with the inclusion of 3 key pillars, adequate income, access to services and the labour market.

Unclear how trade-offs managed between different areas

The three areas are dealt with separately, although as we have said above, the logic underpinning the process is primarily economic. It is not clear how trade-offs will be managed, ie how the three areas will be brought together, and what criteria or considerations will be given priority in the decision between them. Neither is it clear the process that will be used, other than a meeting of the IAB Board.

Insufficient civil society stakeholder involvement in process and decision-making

Below we highlight more concerns about the methodology used for the IA. In the questions of managing the trade-offs, the question of who is involved in the Impact Assessment Board becomes even more crucial. It is clearly a crucial decision how these are managed and the criteria used for the decision. EAPN would argue that there needs to be civil society representation as well as a broad range of other key stakeholders in all policy making and decision-making processes, as well as a transparent stakeholder selection procedure.

If this is to be made a reality, particularly the civil society and representatives from people experiencing poverty would have to receive compensation for their participation, and to ensure that they are fully able to play their representative role in liaison with civil society organizations.

2. Cover sufficiently the specific aspects of these impacts?

EAPN's concern is primarily related to the social impact. In our view, the approach proposed is not currently sufficient. The starting point should be more pro-active to evaluate how far any policy proposal undermines or supports the achievement of the objectives of the overarching objectives and priorities of the Open Method of Coordination for social protection and social inclusion. The format would be more user-friendly and effectively monitored and understood through a more accessible checklist/scoreboard approach.

(See EAPN scoreboard, used to assess the Lisbon National Reform Programmes). www.eapn.eu.

3. Cover a sufficiently broad range of analytical methods, and are these methods treated in sufficient detail?

The current approach is overly technical/administrative, top-down and based solely on a narrow range of quantitative indicators. The social field is notoriously difficult to integrate into a slick technical process, involving only quantitative indicators, despite all the intentions of traditional administrators. This is because it involves qualitative considerations, affecting real people and their lives. These cannot be reduced only to statistical analysis. Again the Participatory Planning and Appraisal approaches demand qualitative indicators and participative Impact assessment,, understanding that getting people on board, is vital both for better policy development, decision-making and ownership.

Key proposals would involve

- Better use of existing social indicators.
- Development of new social indicators particularly based on more qualitative indicators.
- More reliance on active stakeholder involvement (ie hearings/seminars/workshops) to evaluate impact through participative appraisal methodologies.

4. Indicate sufficiently clearly how input from experts and stakeholders should be collected during the preparatory stage based on the Commission's Minimum Standards for Consultation

This area is little developed currently in the document, but this is also due to the fact that the Commission's minimum standards are very minimum. We think that in such a crucial area as impact assessment, the normal standards of consultation cannot be the sole basis as the involvement and views of stakeholders are critical to the effectiveness of the assessment. Again we call for a more radical and ambitious approach. In terms of the current minimum standards, we would generally say that the current process is barely visible and the feedback given on the outcomes, not sufficiently adequate.

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