

MEMO
The main changes in the 2009 Impact Assessment Guidelines
compared to 2005 Guidelines

New Impact Assessment Guidelines have been in force since January 2009. This document identifies the main changes in these Guidelines compared to the previous version.

PART I: BASICS AND PROCEDURES

Procedures

The 2009 Guidelines ...

- Highlight the role of the **Impact Assessment (IA) support unit/function** in individual services as the **key source of help and central contact point** for all IA related questions.
- **Identify additional sources of support**, including DG Justice Freedom and Security for help on the assessment of fundamental rights, and DG Enterprise and Industry on the assessment of administrative burdens and impacts on SMEs.
- **Extend the scope of IA approach** by applying the IA requirement to (i) **all legislative initiatives** – those included in the Commission Legislative and Work Programme (CLWP) as well as those which are not – having clearly identifiable economic, social and environmental impacts and (ii) all **non-legislative initiatives** (such as White Papers, Action Plans, expenditure programmes, and negotiating guidelines for international agreements) **which define future policies**.
- **Introduce a requirement to produce a roadmap for all non-CLWP legislative proposals** which have significant impacts (previously only CLWP proposals had to be accompanied by roadmaps).
- **Strengthen the role of Impact Assessment Steering Groups (IASG)**. Author services should ensure the participation of other relevant services in the IASG. In addition the Guidelines stress the benefits for other services from participating and introduce a new requirement for the IASG to review the IA report before it is submitted to the Impact Assessment Board (IAB). The **minutes of the last IASG meeting** where the draft IA report was discussed should be attached to the IA submitted to the IAB.
- Call for a **more transparent presentation of results**. The **executive summary** needs to provide a **clear presentation of the benefits and costs** (including appropriate quantification) of the various options, as well as the assessment of subsidiarity and proportionality. The executive summary should be submitted to the IAB together with the main IA report as a **separate document**. Annex 4 introduces a new format for the **executive summary**.
- **Increase management ownership of IAs**. Directors General need to personally sign-off on the IA report produced by their services, assuming responsibility for the content of the submitted IA documents.
- Clarify the **role of the IAB**. The Guidelines explicitly state that the IAB may ask for a resubmission and that this possibility should be incorporated into planning by services.

The IAB may also recommend **further work in the IASG**. The services should submit IA reports **4 weeks** (instead of 3) **before the envisaged IAB meeting**.

- **Upgrade planning requirements** to allow **better respect of IAB and Inter-Service Consultation (ISC) procedures**. Detailed planning guidance is provided in Annex 2. In particular, services should allow for 4 weeks between meeting the IAB and launching the ISC.
- **Require re-submission of the report to the IAB** if significant changes to the objectives, options, or conclusions of the IA are introduced following its examination by the IAB.
- Require services to set out in the **Explanatory Memorandum** of the proposal **how the recommendations of the IAB have been incorporated**.
- Have a new chapter on **defining the scope and level of analysis of the IA** including detailed **guidance for different types of initiatives**.

Public consultation

The 2009 Guidelines require that services...

- **Ensure that stakeholders can comment on a clear problem definition, subsidiarity analysis, description of the possible options and their impacts**. They provide additional guidance regarding the **nature of the questions** that are asked in consultations.
- **Go beyond the 8 week minimum** foreseen in the Minimum Standards **for complex and sensitive proposals** (the Minimum Standards already mention this possibility).
- Ensure that **all relevant stakeholders** are aware of and able to contribute to consultations. **When consultants carry out consultations** on behalf of the Commission they should also **adhere to the standards**.
- **Provide clear feedback on the stakeholder consultation** in the IA report. Services should provide details of **who, how and on what they consulted**, present the **different positions expressed** and explain **how these have been taken into account**.
- Make more **effective use of roadmaps** in contacts with stakeholders.

PART II: KEY ANALYTICAL STEPS

Problem definition

The 2009 Guidelines provide ...

- More guidance on the key **reasons for public intervention** (see also Annex 6).
- **More rigorous analysis of subsidiarity**, including more specific guidance based on a **set of structured questions** as suggested by the Committee of the Regions (Section 5.2)
- Stronger references to the assessment of **fundamental rights**. They emphasise the need to (i) ensure that the objectives of Commission initiatives are fully aligned with the EU Charter of Fundamental Rights, and (ii) assess whether all proposed policy options fully respect these rights.

- New sections on the development of the **baseline scenario** and **risk assessment**.

Options

For the initiatives revising existing legislation, the 2009 Guidelines require the inclusion of **better implementation and enforcement as an option**.

Impacts

The 2009 Guidelines strengthen the following aspects of assessing ...

- **Social impacts:** Reference to special guidance on **assessing social impacts within the integrated IA approach** in the areas of (1) Employment and labour market, (2) Standards and rights related to job quality; (3) Social inclusion and protection of particular groups; (4) Equality of treatment and opportunities, non-discrimination; (5) Access to and effects on social protection, health and educational systems; and (6) Public Health and Safety. Specific attention is given to **re-distributional impacts** and impacts **on poverty and social inclusion**, both in the EU and in third – especially developing – countries.
- **Impacts on consumer interests** (new Annex 8.3 added): Reference to a **Handbook to assess consumer detriment**.
- **Impacts on SMEs:** IAs should assess whether SMEs are **disproportionately affected** or disadvantaged compared to large companies. If so, options should cover alternative mechanisms and/or flexibilities in approach that help SMEs to comply. Annex 8.4 provides further guidance ("SME test") on assessing impacts on SMEs and possible mitigation measures. DG Enterprise and Industry provides the necessary advice and support to services.
- **Impacts on competition in the internal market and technological development/innovation** (in Annex 8.5).
- **Impacts at national and regional level:** Need for a more **differentiated presentation** of the likely impacts at regional and local levels, especially when proposed actions may have **concentrated effects in a limited number of localities and regions**.
- **Administrative burdens on businesses:** Improved and simplified guidance, and references to new **tools to facilitate the calculation of these burdens**.
- **Compliance and enforcement issues:** Structured list of questions in Section 8.6 which helps to identify potential obstacles to compliance and incentives that might increase compliance. The Guidelines also include a reference to the European Union Network for the Implementation and Enforcement of Environmental Law (IMPEL) checklist on the most frequently occurring problems with compliance and enforcement.
- **International impacts:** A new section is added and there is an upgraded guidance on assessing impacts on **developing countries** in Annex 8.8.

There is also a **stronger focus on quantification** throughout the Guidelines (including improved guidance on **cost-benefit approaches**). In particular, the Guidelines provide guidance on **quantifying and monetising CO₂** and additional advice **on assessing non-market impacts** especially on the environment and health (Annex 9).

Options comparison

The 2009 Guidelines provide additional guidance on **cost-benefit and cost-effectiveness analysis**.

Monitoring and evaluation

The 2009 Guidelines strengthen the **link between impact assessment and evaluation**.

PART III: ANNEXES

Besides the changes in Annexes already mentioned, the 2009 Guidelines introduce a new **Annex 14 – Best practice library**. This annex consists of practical examples from previous Commission IA reports and will be regularly up-dated on the IA website.

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Better Regulation and Impact Assessment
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