



## Policy and legislative evaluation in the EU

**SUMMARY** *Evaluating policy and legislative measures helps to improve the accountability and efficiency of the public sector.*

*At European Union level evaluations are located largely at the European Commission. Its evaluations focus mainly on EU expenditure programmes. Legislative evaluation, usually conducted in the form of Impact Assessments (IA), has also gained in importance. Moreover, some Member States produce their own evaluations of EU legislative proposals.*

*In response to criticism, the Commission has recently increased stakeholder participation and enhanced the transparency of the evaluation processes. However, experts still criticise the objectivity of Commission evaluations. Moreover, they claim insufficient integration into the policy cycle prevents efficient learning of lessons, with Commission evaluations being little used by stakeholders and citizens, as well as within the decision-making process. The scarcity of their use by MEPs is said to be due to lack of trust in their objectivity as well as their technical presentation.*

*The European Parliament has endeavoured to improve the use of evaluations and has created an institutional framework enabling it to conduct its own evaluations of Commission impact assessments as well as studies addressing the added value of EU actions.*



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### Background

#### **Types and goals of evaluation**

Formal evaluations of both policy and decision-making have emerged in response to calls for greater transparency, (cost-) efficiency and accountability in the public sector. Evaluations seek to provide information on impact and causality of the instrument concerned and to contribute to policy learning on the effects produced by different policy actions.<sup>1</sup>

Evaluations may be conducted either prior to the adoption of policy or legislative measures (*ex ante*), during their implementation (*mid-term*), in particular with multi-annual programmes, or after implementation (*ex post*).

**Ex ante evaluations** help to improve planning of policy actions. The [impact assessment](#) (IA) is a type of *ex ante* evaluation designed to assess the potential economic, social and environmental consequences of a proposed initiative. **Mid-term evaluations** focus on accountability aspects. Monitoring is a specific type of mid-term evaluation, of progress made against set targets. According to academic Elliot Stern, **ex post evaluations** seek to ensure accountability, lesson learning as well as causal analysis.<sup>2</sup> A specific regulatory *ex post* evaluation is the "[fitness check](#)" to assess the regulatory framework of a given

policy area through identifying legislative gaps, overlaps, obsolete instruments, etc.

### Evaluation at EU level

Most evaluations at EU level concern expenditure programmes, for instance within the Structural Funds and Cohesion Policy, as well as in the fields of research, employment, justice, etc.

Evaluations are conducted primarily by the European Commission, but some call for the European Parliament (EP) to increase its ability to conduct evaluations to gain its own perspective on measures being considered.<sup>3</sup>

The number of IAs conducted by or on behalf the Commission has increased from 21 in 2003 up to 97 in 2012.

objectivity of evaluations, the Commission has [extended](#) the minimum period for public consultation from eight to twelve weeks since January 2012. Moreover, SMEs have been invited to share their concerns in conferences organised in the MS.

### Legislative evaluation

The increase in the number of EU legislative acts prompted calls for better quality of EU legislation. With a view to reducing the administrative burden entailed by EU legislation, while simplifying and improving the regulatory framework, the Commission launched the [Better Regulation](#) agenda in 2006. As part of this agenda, the use of IAs was to be increased. Every year the Commission sets out [roadmaps](#) establishing for which of its planned initiatives an IA will be conducted. This is the case for legislative proposals with significant economic, social and environmental impacts, non-legislative initiatives defining future policies (white papers, action plans), and certain implementing measures and delegated acts.

In 2012, 78% of [IA reports](#) concerned legislative proposals, as opposed to non-legislative proposals.

In 2012 the Commission launched a public consultation on [Smart Regulation in the EU](#). Participants called for early involvement of stakeholders in policy development, for instance through public consultations on draft IAs. They also argued for legislative evaluation to pay greater attention to impacts on SMEs.

### Institutional setting of evaluation

Within the Commission, the different operational Directorates-General conduct evaluations in their respective fields. A central quality-control body was created in 2006 under the authority of the Commission President, the [Impact Assessment Board](#) (IAB). The IAB - composed of high-level officials from several DGs - issues [opinions](#) on the quality of all Commission IAs.

## The Commission approach

### Policy evaluation

EU evaluation activities received a boost with the 2001 White Paper on [Good Governance](#), which called for more evidence-based decision-making to comply with the principles of openness, participation, accountability, effectiveness and coherence of EU governance. Moreover, the Lisbon Treaty introduced a new obligation on the Commission, under Article 318 TFEU, to submit to the EP and the Council an evaluation report on the Union's finances.

The Commission has traditionally focused on evaluating expenditure programmes. Article 31(1) of the EU's [Financial Regulation](#) prescribes an ex ante financial evaluation of all proposals with budgetary implications. However, the Commission committed itself in the [2000](#) and [2007](#) communications on evaluation to conduct evaluations of legislation and other non-spending activities which have substantial impacts on citizens, businesses and the environment.

Evaluations are largely carried out by external contractors. In [2011](#), 118 financial evaluations (ex ante, mid-term and ex post) were conducted by or on behalf of the Commission. In order to democratise the evaluation process and enhance the

MS have recently become more involved in evaluations through national audit authorities. Furthermore, the [European Court of Auditors](#) (CoA) does performance audits of selected EU expenditure programmes such as Structural Funds, and issues public opinions on the Commission's [financial evaluations](#). The Court's reports are all published.

### Evaluation methods

The Commission advocates<sup>4</sup> combining different evaluation methods. However, some [studies](#) show that it expects evaluation results to be of quantitative rather than qualitative nature.

Some [argue](#) that the Commission, and the EU institutions in general, favour quantitative data due to their usefulness in communicating the added value of EU action. Moreover quantitative methods are said to be less expensive as they are based on existing data. Others doubt the scientific reliability of this approach and speak in this context about "number fetishism".<sup>5</sup>

Quantitative evaluation methods are based on macroeconomic models, input/output analyses, and statistics.

Qualitative methods consist of surveys of beneficiaries, stakeholder interviews, and case studies.

case for instance in the German *Bundestag* ([Office of Technology Assessment](#)) and the Polish *Sejm* ([Bureau of Research](#)). The [Scrutiny Unit](#) of the UK House of Commons supports parliamentary committees, including in their analysis of IAs and in conducting ex post legislative scrutiny.

Evaluations are often conducted under the mandate of a political body or a specific parliamentary committee. This is the case in France, where the Parliamentary Office for evaluation of scientific and technological options ([OPECST](#)) is made up of 18 members

of the *Assemblée Nationale* and 18 of the *Sénat*, assisted by a scientific committee. In Finland, the parliamentary [Committee for the Future](#) conducts research associated with future studies, as well as assessments of technological development and the effects of technology on society.

### IAs on EU legislation

Some MS's national governments and parliaments conduct IAs on EU initiatives. In Germany, the federal government must submit to the Bundestag an assessment of the legal, economic, social and environmental effects of EU legislative proposals, as well as an assessment of the costs, administrative burdens and need for implementation.<sup>7</sup> In the UK, IAs on significant Commission proposals are carried out to support its Permanent Representation in negotiations.<sup>8</sup>

## Evaluations at national level

### Evaluation bodies

As at EU level, evaluations are carried out at national level within both the executive and the legislature, and/or by external bodies (e.g. the UK [Regulatory Policy Committee](#)).<sup>6</sup>

The extent of policy and legislative evaluations varies considerably between countries. The US [Government Accountability Office](#) (GAO), for instance, has wide prerogatives. It supports the US Congress in scrutinising the performance of the government in evaluating its programmes and legislative proposals.

Many national parliaments receive support in assessing the technological and scientific impacts of legislation from research and evaluation administrative units. This is the

## Use of evaluations

Stakeholders and experts acknowledge that the EU evaluation system outmatches evaluations in many MS and point to considerable improvements in the evaluation of EU activities as regards transparency (evaluations are made [available](#) to the public) and objectivity (more involvement of stakeholders and experts). Not only the quality but also the number of evaluations has progressively

increased in recent years. Nevertheless, some shortcomings in the EU evaluation system seem to persist.

### Integration of evaluations into the policy cycle

Evaluations usually take between 12 and 18 months. Therefore, ex post evaluations are often not taken into account in IAs since they are sometimes published after the adoption of the programme for which the lessons learned should have been taken into account.<sup>9</sup> Therefore, stakeholders and experts call for evaluation to be better integrated into the policy cycle, to ensure that the links between evaluation and policy are accounted for.<sup>10</sup>

Evaluations are said not only to enhance the legitimacy and accountability of decision-making but also to contribute to better communication of the added value of the EU to Union citizens.<sup>11</sup> Thus, potential users of evaluations are not just decision-makers and stakeholders but citizens too.

Many commentators criticise the rarity of using evaluations for lesson-learning and for strategic policy objectives rather than as a mere management tool. The Commission's IAB noted in its [2012 report](#) that a significant number of IAs did not include the results of ex post evaluations of EU legislation and programmes. It intends therefore to examine in the future whether ex post evaluations are properly taken into account. In December 2012, the Commission announced in the [Communication on EU Regulatory Fitness](#) its intention to include – following the EP's suggestion – a standardised two-page summary sheet in its IA reports to facilitate quick identification of key results.

Several respondents to the Commission's 2012 [public consultation](#) on Smart Regulation in the EU called for better visibility of evaluation results, and the provision of feedback to

stakeholders on the next steps envisaged in the specific policy area. In its follow-up [Communication on Smart Regulation](#), the Commission committed itself to improving the political relevance of evaluation results by integrating them better into the policy cycle. To this end the Commission announced the adoption of a revised framework for policy and programme evaluation in 2013.

### Objectivity

A [2007 evaluation](#) of the Commission evaluation system showed that often stakeholders as well as members of the EP and of the Council perceive them to be a bureaucratic requirement focused mainly on justifying the proposed initiative and thus lacking objectivity. A 2010 report of the UK [House of Lords](#) EU Committee suggests that the 'do nothing' option and the 'non-regulatory' option are only superficially examined to show the superiority of the chosen regulatory option. According to the Open Europe think-tank, in only three cases has an IA led to a proposal being dropped.<sup>12</sup> In its [2010 report](#) on IAs in the EU institutions the CoA found that IAs are not used by the Commission to decide whether to go ahead with a proposal – which has already been decided before the IA is finalised. Rather, it uses IAs to improve its proposed initiative.

### Use of Commission evaluations by MEPs

An [evaluation of the Commission IA system](#) conducted in 2007 found scarce use of Commission IAs as an aid to decision-making by MEPs. This was also the conclusion of the CoA in its [2010 report](#). The CoA found that the Commission's IA reports

Evaluations are usually only published in one language (generally English), which hinders their usability for stakeholders and citizens.

are not systematically presented and discussed at committee meetings and that the Commission was only invited to present its IAs in exceptional cases. An analysis of over 12 000 EP Committee documents in the 2004-09 parliamentary term showed

that only one document made explicit reference to a Commission IA.

Some explain the lack of use of Commission evaluations, and in particular IAs, by MEPs by the way in which the information is presented, which often makes it difficult for them to find the key aspects and figures they want. The authors of the [2007 study](#) also claim that, whereas the Commission IAs usually limit themselves to presenting EU-wide results, MEPs are also interested in the impact on their particular constituencies or MS. Moreover, the EP itself demonstrated, in its [2011 resolution](#) on guaranteeing independent impact assessment, its lack of trust in the objectivity of evaluations. It stated that it regards Commission IAs as mere justifications of the Commission's proposal, lacking unbiased analysis of the different possible options.

However, a positive trend in referring to Commission IAs in EP legislative files can be observed in the activity of the EP's Impact Assessment Unit, which reviews some Commission IAs and includes these in the legislative file available online.

## The European Parliament

### A commitment to evaluation

Nearly all Commission proposals are modified by the legislator during the legislative procedure. Thus, the EP and the Council agreed in the Interinstitutional Agreement on [Better Law-Making](#) of 2003, and further in the 2005 Interinstitutional agreement on a [Common approach to IA](#), that where the codecision procedure applies, they may have IAs carried out prior to the adoption of any substantive amendments. Moreover, the Parliament resolution "Guaranteeing independent impact assessments" ([Niebler report](#)), adopted in June 2011 called for more transparency and effectiveness in the evaluation process and for the creation of an autonomous IA structure in the Parliament.

The need for the EP to exercise better scrutiny of the executive, involving evaluation at the different stages of the policy cycle, is stressed in the "European Parliament in 2025" paper by the EP's Secretary-General.<sup>13</sup> This document envisages systematic IAs of Commission legislative proposals, as well as monitoring and evaluation of the transposition, implementation and enforcement of legislation adopted. The evaluation results would then contribute to lesson-learning for the drafting of new legislation.

### Institutional setting

Following the EP resolution on guaranteeing independent IA and with a view to involving the EP at all stages of the legislative process, in January 2012 a new administrative capability, Directorate G for Impact Assessment and European Added Value was [established](#). Though in the Directorate-General for Internal Policies (DG IPOL), it serves all committees in the Parliament. Its [Impact Assessment Unit](#) (IMPA) provides for automatic [initial appraisals](#) of the IAs produced by the Commission. The committees may then invite the unit to undertake more [detailed analyses](#) or complementary IAs, as well as commission IAs on substantive amendments being considered in the legislative process. The Parliament's Conference of Committee Chairs has been tasked by the Conference of Presidents (of political groups) with coordinating and overseeing such work.

Moreover, the [European Added Value Unit](#) (EAVA) provides [European Added Value assessments](#) to set out in detail the justification for proposals made to the Commission by the Parliament under Article 225 TFEU. It also drafts "Cost of non-Europe Reports" for major areas of policy where there is still a significant public good to be realised by common action at European level

In addition, the Science and Technology Options Assessment Unit ([STOA](#)) carries out

studies, usually prepared by external experts, on major policy issues or challenges in the hard sciences and technology fields. All the work undertaken by STOA - like that of the Impact Assessment Unit and European Added Value Unit - are published on the [E-studies](#) webpage of the Parliament.

Parliamentary committees can also ask the corresponding Policy Department (five) to draft briefing notes or prepare studies, as well as to organise meetings with external experts.

Moreover, Parliament's [Library](#) provides easy access to public evaluations and other relevant studies carried out not only by EU institutions but also by national authorities and experts, as well as by international organisations.

## Further reading

[Evaluation Policy in the European Union and its Institutions](#) / E Stern, Evaluation policy and evaluation practice. New directions for Evaluation 2009 (123), p. 67-85.

[Comparative study on the purpose, scope and procedures of impact assessments carried out in the Member States of the EU](#) / Policy Department C, DG IPOL, 2011.

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## Endnotes

- <sup>1</sup> The purpose of evaluation in a democratic society / E Chemalsky, [The SAGE Handbook of Evaluation](#) 2007, p. 33.
- <sup>2</sup> [Evaluation Policy in the European Union and its Institutions](#) / E Stern, Evaluation policy and evaluation practice. New directions for Evaluation 2009 (123), p. 71.
- <sup>3</sup> Ibid, p. 82.
- <sup>4</sup> [2012 EVALSED guide](#): The resource for the evaluation of Socio-Economic Development, p. 77-79.
- <sup>5</sup> [Theoretical perspectives on approaches to policy evaluation in the EU: the case of cohesion policy](#) / J Hoerner, P Stephenson, Public Administration Vol. 90, 2012, p. 702.
- <sup>6</sup> See Comparative study on the purpose, scope and procedures of impact assessments carried out in the Member States of the EU / Policy Department C, DG IPOL, 2011.
- <sup>7</sup> Article 1(5) [Vereinbarung](#) zwischen dem Deutschen Bundestag und der Bundesregierung über die Zusammenarbeit in Angelegenheiten der Europäischen Union, 28.09.2006 (BGBl. I S. 2177).
- <sup>8</sup> [Impact Assessments in the EU institutions: Do they support decision-making?](#) / European Court of Auditors, Special Report No 3, 2010, p. 27.
- <sup>9</sup> For instance, the Commission ex-post evaluation of the Cohesion Policy programmes 2000-2006 was published in 2010, three years after the adoption of the 2007-2013 programme.
- <sup>10</sup> See in this context [The Magenta Book, Guidance for evaluation](#) / HM Treasury, April 2011, p.15.
- <sup>11</sup> [Communication](#) to the Commission from Ms Grybauskaitė in agreement with the President: Responding to Strategic Needs: Reinforcing the use of evaluation 2007 Communication on evaluation, 21.02.2007, p. 3.
- <sup>12</sup> According to Open Europe, these are [Proposals aiming to modernise and reinforce the organisational framework for inland waterway transport in Europe](#) in 2008, [Directive on the cross-border transfer of registered office](#) and [Proportionality between Capital and Control in Listed Companies](#) in 2007. See [Impact Assessments in the EU: room for improvement? Report with evidence](#), UK House of Lords, European Union Committee, March 2010.
- <sup>13</sup> [Preparing for complexity: European Parliament in 2015. The Answers](#) / European Parliament Secretary-General Klaus Welle, January 2013, p. 181.