

6.3 LEGAL INTEROPERABILITY (EX- ICT IMPLICATIONS OF EU LEGISLATION) (2016.23)

6.3.1 IDENTIFICATION OF THE ACTION

Service in charge	DIGIT.D2
Associated Services	DG SG and any Commission DG wishing to assess the ICT impact of its legislation, especially those performing Impact Assessments and Evaluations, Parliament, Council, Publications Office

6.3.2 EXECUTIVE SUMMARY

This action is meant to serve the 'legal interoperability' part of the new European Interoperability Framework (EIF). It has to put in place the mechanism and means necessary to ensure that EU legislation applies equally to the digital and physical world and that ICT implications of new or revised legislation are well assessed the earliest possible. This need has been also recognised by the ministers in charge of eGovernment policy across the European Union, who called upon the Commission in their recent Tallinn declaration *"to fully integrate digital considerations into existing and future policy and regulatory initiatives"*¹⁰¹.

The problem of not considering interoperability and/or underestimating ICT impacts when EU legislation is prepared or evaluated results into legislation that does not take advantage of new digital technologies, may impose unrealistic deadlines and be more costly in its implementation. Also the lack of a mechanism to prove the value of interoperability may slow down or undermine investments on interoperability.

The action has succeeded as part of the ISA programme to promote the concept of 'digital checks' within the Commission and produced the supporting tools (ICT assessment method) necessary for ICT impacts to be well analysed as part of the Impact Assessment and Evaluation process. It has also produced a draft mechanism to allow measuring the costs and benefits of interoperability, still pending testing.

The scope of the action includes:

- All EU legislation under preparation or evaluation:
 - Digital checks are made for all new EU legislation;
 - Interoperability checks are made for all new EU legislation and for legislation under evaluation;
 - Common business processes are identified in EU legislation and described in a harmonised way.

¹⁰¹ Tallinn Declaration on eGovernment at the ministerial meeting during Estonian Presidency of the Council of the EU on 6 October 2017. Link: <https://ec.europa.eu/digital-single-market/en/news/ministerial-declaration-egovernment-tallinn-declaration>

Beneficiaries are the Commission DGs that will prepare coherent and interoperable ICT based legislation, as well as the legislation stakeholders, namely Member States, business and citizens. Member States public authorities involved in similar ICT and interoperability assessments of national legislation could also use the proposed methods (possibly) refined to fit their specific needs.

6.3.3 OBJECTIVES

The objective is to ensure that the EIF recommendation on legal interoperability is well served when EU legislation is prepared. This involves that legislation undergoes a), a 'digital check' to assess the ICT impact it may produce and b) an 'interoperability check' to identify possible lack of coherence with other similar legislation. The first is linked with the ISA² decision activity related to the 'assessment of ICT implications' (Article 3.c) and the second with the ISA² decision activities related to the 'identification of legislation gaps' (Article 3.d) and the 'development of a mechanism to measure the cost and benefit or interoperability' (Article 3.e).

6.3.4 SCOPE

In scope:

- All new EU legislation and all legislation under evaluation of the Commission Work Programme (CWP) 2017 and 2018;
- Perform digital checks: Monitor and report ICT implications of new Commission initiatives;
- Perform interoperability checks: Identify interoperability gaps in EU legislation;
- Screen EU legal bases to identify common business processes and harmonise the way they are described in legislation;
- Assist, coordinate, communicate with and report to the stakeholders within the Commission and the Member States.

Out of scope:

- Member States administrations should use by themselves the methods produced as tools for their own needs

6.3.5 ACTION PRIORITY

6.3.5.1 Contribution to the interoperability landscape

The contribution of the action to the interoperability landscape, measured by the importance and necessity of the action to complete the interoperability landscape across the Union

Question	Answer
<p><i>How does the proposal contribute to improving interoperability among public administrations and with their citizens and businesses across borders or policy sectors in Europe?</i></p> <p><i>In particular, how does it contribute to the implementation of:</i></p> <ul style="list-style-type: none"> • <i>the new European Interoperability Framework (EIF),</i> • <i>the Interoperability Action Plan and/or</i> • <i>the Connecting European Facility (CEF) Telecom guidelines</i> • <i>any other EU policy/initiative having interoperability requirements?</i> 	<p>The action contributes to all EU policies, as it is about ensuring that EU legislation, no matter the policy area, takes into account interoperability, ICT aspects and related impacts.</p> <p>The proposal:</p> <ul style="list-style-type: none"> • Implements recommendation 27 on legal interoperability of the EIF. • Implements the interoperability action plan action 3 of focus area 1 and actions 19 and 20 of focus area 5. • Implements 3 activities mentioned in the ISA² decision under Article 3.
<p><i>Does the proposal fulfil an interoperability need for which no other alternative action/solution is available?</i></p>	<p>The action is aligned with and serves the Better Regulation Guidelines which is considered to be the only guiding method for Impact Assessments and Evaluation of EU legislation. There is no other known action to fulfil such an interoperability need.</p>

6.3.5.2 Cross-sector

The scope of the action, measured by its horizontal impact, once completed, across the policy sectors concerned.

Question	Answer
<p><i>Will the proposal, once completed be useful, from the interoperability point of view and utilised in two (2) or more EU policy sectors? Detail your answer for each of the concerned sectors.</i></p>	
<p><i>For proposals completely or largely already in operational phase, indicate whether and how they have been utilised in two (2) or more EU</i></p>	<p>The action has been used for Impact Assessments and Evaluations in many different sectors, i.e. HOME, JUST, OLAF,</p>

<i>policy sectors.</i>	CLIMA and MOVE, which proves its cross-sector nature.
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6.3.5.3 Cross-border

The geographical reach of the action, measured by the number of Member States and of European public administrations involved.

Question	Answer
<i>Will the proposal, once completed, be useful from the interoperability point of view and used by public administrations of three (3) or more EU Members States? Detail your answer for each of the concerned Member State.</i>	The final ICT assessment method will be released in November 2017, while the method to perform interoperability checks on EU legislation is planned to be ready by July 2018. Both will focus on EU legislation prepared by the EU institutions. Member States will have to take them and adapt them to their national needs.
<i>For proposals completely or largely already in operational phase, indicate whether and how they have been utilised by public administrations of three (3) or more EU Members States.</i>	

6.3.5.4 Urgency

The urgency of the action, measured by its potential impact, taking into account the lack of other funding sources

Question	Answer
<i>Is your action urgent? Is its implementation foreseen in an EU policy as priority, or in EU legislation?</i>	The action is urgent in the sense that it serves an actual/running need, which is law-making and evaluation.
<i>How does the ISA² scope and financial capacity better fit for the implementation of the proposal as opposed to other identified and currently</i>	There is no other known instrument or funding mechanism to support the action.

<i>available sources?</i>	
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6.3.5.5 Reusability of action's outputs

Name of reusable solution to be produced (for new proposals) or produced (for existing actions)	ICT Register of roadmaps
Description	Repository of inception impact assessments (formerly known as roadmaps) assessed from the ICT point of view
Reference	https://webgate.ec.europa.eu/CITnet/confluence/x/PgXcHw (access is restricted to the Commission departments involved in new EU legislative initiatives)
Target release date / Status	Available since January 2016
Critical part of target user base	
For solutions already in operational phase - actual reuse level (as compared to the defined critical part)	The register of roadmaps is used by the IT Governance of the Commission to identify upcoming initiatives critical from the ICT point of view. In July 2017 the register of roadmaps contained 239 entries, 56 of which presented an ICT impact.

Name of reusable solution to be produced (for new proposals) or produced (for existing actions)	Method to assess ICT implications of EU legislation
Description	Method to perform assess ICT implications of EU legislation
Reference	http://ec.europa.eu/isa/documents/actions/ks-sc9-d04-03-ict-assessment-method_v5.00.pdf
Target release date / Status	Currently draft method of Q2/ 2015. A final release will be available as from November 2017.
Critical part of target user base	
For solutions already in operational phase - actual reuse level (as compared to the defined critical part)	The method has been used so far in about 10 concrete cases.

Name of reusable solution to be produced (for new proposals) or	Method to perform interoperability checks on EU legislation
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produced (for existing actions)	
Description	Methodology to explain the process to follow, to define the exact scope and the tools to use in order to ensure that EU legislation fulfils the interoperability criteria of the EIF.
Reference	not yet available
Target release date / Status	July 2018
Critical part of target user base	
For solutions already in operational phase - actual reuse level (as compared to the defined critical part)	

6.3.5.6 Level of reuse of existing solutions

The re-use by the action (following this proposal) of existing common frameworks and interoperability solutions.

Question	Answer
<i>Does the proposal intend to make use of any ISA², ISA or other relevant interoperability solution(s)? Which ones?</i>	
<i>For proposals completely or largely already in operational phase: has the action reused existing interoperability solutions? If yes, which ones and how?</i>	The action proposes on an ad-hoc basis interoperability solutions (ISA and other) that can be used as needed, subject to screened legislation.

6.3.5.7 Interlinked

The extent to which the action (following this proposal) contributes to Union's initiatives such as the DSM.

Question	Answer
<i>Does the proposal directly contribute to at least</i>	The action has a horizontal value as it can

<p><i>one of the Union's high political priorities such as the DSM? If yes, which ones? What is the level of contribution?</i></p>	<p>be used for the law-making/evaluation of every EU policy. Special contribution is indirectly made to the DSM, as the more the action is assessing EU legislations the more digital and interoperable they become.</p>
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6.3.6 PROBLEM STATEMENT

The problem of	not taking into account ICT implications of EU legislation during the legislative proposals' preparation stage or at legislation evaluation
affects	the Commission services involved in the preparation, adoption, implementation and evaluation of the concerned legislation and the legislation's target audience, usually EU Public Administrations, citizens and businesses
the impact of which is	moderate ICT implementation quality, at higher cost, unmet deadlines, lack of interoperability, possible sub-optimal implementation of the legislation due to insufficient ICT support, etc.
a successful solution would be	the early consideration of ICT impacts when EU legislation is prepared or evaluated to allow for efficient use of ICT technologies, timely identification of synergies with other IT systems, reusability and interoperability, provide guaranties of timely implementation and decrease the administrative burden/cost.

The problem of	not performing interoperability checks on EU legislation
affects	the Commission services involved in the preparation, adoption, implementation and evaluation of the concerned legislation and the legislation's target audience, usually EU Public Administrations, citizens and businesses
the impact of which is	to have EU legislation that is not coherent and may impose requirements which do not facilitate interoperability
a successful solution would be	to identify interoperability gaps in existing EU legislation and propose remediation.

The problem of	not having tangible means to assess costs and benefits of interoperability
affects	the Commission and the MS wishing to invest on interoperability initiatives
the impact of which is	hesitation to make proper interoperability investments etc.
a successful solution would be	to develop such a mechanism and make it publicly available

6.3.7 IMPACT OF THE ACTION

6.3.7.1 Main impact list

Impact	Why will this impact occur?	By when?	Beneficiaries
(+) Savings in money	Having assessed EU legislation at an early stage allows a proper technical evaluation and to identify reusable building blocks (software, specifications, services), thus saving cost. Also lifting interoperability gaps in EU legislation saves money from implementing technical work-arounds	Recurrent, this is not an one-off action	EU departments involved in law-making, Member States administrations and stakeholders impacted by EU legislation
(+) Savings in time	Having assessed EU legislation at an early stage allows for better planning and saves time due to reuse	Recurrent, this is not an one-off action	EU departments involved in law-making, Member States administrations and stakeholders impacted by EU legislation
(+) Better interoperability and quality of digital public service	Having assessed EU legislation at an early stage and – consequently – having identified and resolved interoperability gaps promotes a proper implementation of legal interoperability, the top layer	Recurrent, this is not an one-off action	EU departments involved in law-making, Member States administrations and stakeholders impacted by EU legislation

	of the EIF model, and safeguards that interoperability can be more easily applied at the layers below.		
(-) Integration or usage cost	Not foreseen		

6.3.7.2 User-centricity

The action has involved all related stakeholders from the Commission DGs and from the Member States representatives to ISA². Whenever the ICT implications method applied in practise, a report was produced to assess its effectiveness and results are all put together to conduct the final release in November 2017.

6.3.8 ORGANISATIONAL APPROACH

6.3.8.1 Expected stakeholders and their representatives

Stakeholders	Representatives	Involvement in the action
European Commission services	The Secretary General and any Commission DG in charge of preparing new or evaluating existing legislation.	Contribute to the register of roadmaps through reviewing ICT assessments and contributing domain specific knowledge. Also use the service and the method and give feedback for improvement.
Member States	MS representations to the ISA ² Committee and Coordination group.	Comment and give feedback from national experiences

6.3.8.2 Identified user groups

Impact Assessment Working Group (IAWG): It is a forum of exchange of best practises and experiences in Impact Assessments under the chairmanship of the Secretariat General, which can benefit from the results and evolution of the action.

6.3.8.3 Communication and dissemination plan

The communication plan includes:

- Promotion/consultation rounds with the Commission stakeholders namely, the IT heads, the Impact Assessment units and the concerned policy units of the Commission DGs;
- Communication with the Secretary General services responsible for Impact Assessment and Evaluations. The methods and outputs of screenings of EU legislation, interoperability checks and common descriptions of core business processes in EU legislation will be presented with the purpose of being integrated into the law-making process of the EU;
- Communication with the ICT Governance of the Commission to better align the law-making and the ICT development processes within the Commission thus ensuring policy coherence and maximising ICT rationalisation effects;
- Active participation to the Impact Assessment Working Group and communication of the benefits resulting from the assessment of the ICT impacts;
- Communication with the MS representatives through the regular ISA² management meetings and through webinars and dedicated workshops.

6.3.8.4 Key Performance indicators

Provide a list of KPIs allowing the measurement of the progress and completions of milestones and the action. In case of an on-going action with already identified metrics¹⁰² indicate the current values.

Description of the KPI	Target to achieve	Expected time for target
% of EU legislation to screen from the ICT point of view (digital checks)	100	Reached in 2016 and 2017, target remains the same for 2018
% of EU legislation under evaluation (REFIT) screened to identify common/core businesses processes	100	Reached in 2017, target remains the same for 2018
% of EU legislation under evaluation (REFIT) to screen for interoperability gaps (interoperability checks)	100	July 2018

6.3.8.5 Governance approach

The action will be managed by DIGIT with the support of an external contractor. Whenever major deliverables are to be published, the validation of the MS representatives will be sought.

¹⁰² For examples see the ISA2 dashboard <https://ec.europa.eu/isa2/dashboard/isadashboard> , effectiveness tab.

6.3.9 TECHNICAL APPROACH AND CURRENT STATUS

State-of-play:

- Since January 2016, all published Inception Impact Assessments and Roadmaps have been screened for possible ICT impacts and results have been communicated to the IT Governance of the Commission.
- A (draft) method on ICT implications of EU legislation has been used in a number of cases of Impact Assessments and Evaluations in the Commission. A final method will be made public by November 2017.
- By the end of 2017 core business processes will have been identified in EU legislation under evaluation and templates will be created to help legislator describe these processes in revised or new legislation.

Future development (Q2/2018 – Q1/2019):

- All new EU legislation in the CWP 2018 will undergo a digital check;
- All new EU legislation in the CWP 2018 will undergo an interoperability check to ensure coherence and compliance with the EIF;
- Results of the above tests will be maintained in electronic registers;
- DIGIT will offer a service to the Commission DGs to help them perform Impact Assessments and Evaluations;
- One of the above evaluations will that of the EIF foreseen to be completed by end 2019 that will be performed in the scope of EIF Implementation action (2016.33).
- The mechanism to measure costs and benefits of interoperability will be used more intensively to assess impact of interoperability on different occasions, included to assess the interoperability benefits of the ISA² actions.

6.3.10 COSTS AND MILESTONES

6.3.10.1 Breakdown of anticipated costs and related milestones

Phase: Initiation Planning Execution Closing/Final evaluation	Description of milestones reached or to be reached	Anticipated Allocations (KEUR)	Budget line ISA/ others (specify)	Start date (QX/YYYY)	End date (QX/YYYY)

	<ul style="list-style-type: none"> • Screen/Monitor all published Inception Impact Assessments and Roadmaps of the Commission to identify the need of ICT impact analysis; • Assess ICT implications of Impact Assessments and Evaluations as needed through a service provided by DG DIGIT; • Update the method as needed; • Pilot and finalise a measurement mechanism for costs and benefits of interoperability and make it available as a service 	745	ISA ²	Q2/2016	Q2/2018
	<ul style="list-style-type: none"> • Run digital checks to identify ICT implications of EU legislation • Run interoperability checks on EU legislation, identify interoperability gaps and propose measure to ensure compliance with the EIF for legislation relevant to interoperability • Support the application of and optimise the 	300		Q2/2018	Q2/2019

	mechanism to measure costs and benefits of interoperability				
	Total	1045			

6.3.10.2 Breakdown of ISA² funding per budget year

Budget Year	Phase	Anticipated allocations (in KEUR)	Executed budget (in KEUR)
2016		450	
2017		295	
2018		300	

6.3.11 ANNEX AND REFERENCES

Description	Reference link	Attached document
IDABC existing method and Draft updated method	http://ec.europa.eu/isa/actions/documents/isa_3.1_description_of_the_method.pdf http://ec.europa.eu/isa/documents/actions/ks-sc9-d04-03-ict-assessment-method_v5.00.pdf	