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

6.3.1 IDENTIFICATION OF THE ACTION

Service in charge	DIGIT.D2
Associated Services	The Commission's Secretariat-General and Legal Service, and any Directorates-General wishing to assess the ICT impacts and interoperability aspects of its legislation, especially those performing Impact Assessments and Evaluations

6.3.2 EXECUTIVE SUMMARY

This action is meant to serve the 'legal interoperability' part of the new European Interoperability Framework (EIF). According to the EIF, legal interoperability is about ensuring that organisations operating under different legal frameworks, policies and strategies are able to work together. The EIF recommends that the first step towards addressing legal interoperability is to perform 'interoperability checks' by screening existing legislation to identify interoperability barriers (like sectoral or geographical restrictions in the use and storage of data, over-restrictive obligations to use specific digital technologies or delivery modes to provide public services, etc.).

This action aims to pilot, improve and promote the methodology of **interoperability checks**, which should be run for both existing EU legal acts and new policy initiatives in order to ensure their coherence and smooth application. The possibility to automate the currently manually performed checks will be considered. The action also intends to explore more in depth the **legal interoperability aspects of regulatory reporting**. Reporting requirements often form part of EU legal acts and experience shows that they can create interoperability barriers if not wisely defined and implemented.

As required by the ISA^2 legal basis, the action works on the **mechanism to measure the cost and benefit of interoperability** as well. This tool could become particularly useful to convince decision makers to invest in interoperability thus address interoperability gaps.

In line with the EIF recommendation on legal interoperability, the action has put in place, maintains and improves the **'digital checks'** and related means necessary to ensure that EU

legislation applies equally to the digital and physical world and that ICT impacts 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 Tallinn declaration *"to fully integrate digital considerations into existing and future policy and regulatory initiatives"*[121].

Finally, in 2019, the action will investigate how to ensure the sustainability of its various deliverables, which should become operational after their ongoing piloting. This future-oriented study will also consider the transition from the ISA^2 programme to its successor programme under the 2021-2027 Multiannual Financial Framework and the impacts of this change on the 'legal interoperability action'.

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 costlier 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, which promoted the concept of 'digital checks' within the Commission and produced the draft ICT impact assessment method necessary for ICT impacts to be well analysed as part of the Impact Assessment 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 essentially includes EU legislation under preparation or evaluation. However when the solutions offered by this action become mature enough, they may apply to national legislation as well.

Beneficiaries are the Commission DGs that will prepare coherent and interoperable ICT based EU 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.

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[121] 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

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 ISA[2] decision activity related to the 'assessment of ICT implications' (Article 3.c) and the second with the ISA[2] decision activities related to the 'identification of legislation gaps' (Article 3.d) and the 'development of a mechanism to measure the cost and benefit of interoperability' (Article 3.e).

6.3.4   SCOPE

In scope:

- All new EU legislation and all legislation under evaluation mentioned in the Commission Work Programme (CWP):
  - o Perform digital checks: Monitor and report ICT impacts of new Commission initiatives;
  - o Perform interoperability checks: Identify interoperability gaps in existing EU legislation but also in new initiatives;
- Existing tools, which may be reused to automate the digital and interoperability checks;
- Regulatory reporting requirements set in various EU legal acts (both in primary and secondary legislation);
- Interoperability solutions used in European Public Administrations in order to measure the costs and benefits of interoperability;
- 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
How does the proposal contribute to improving interoperability among public administrations and with their citizens and businesses across borders or policy sectors in	The action contributes to all EU policies, as it is about ensuring that EU legislation, no matter the policy area, takes into account ICT aspects and related impacts and fosters cross-

Question	Answer
Europe? *In particular, how does it contribute to the implementation of:* • *the new European Interoperability Framework (EIF),* • *the Interoperability Action Plan and/or* • *the Connecting European Facility (CEF) Telecom guidelines* • *any other EU policy/initiative having interoperability requirements?*	sector and cross-border interoperability. The proposal: • 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 ISA^2 decision under Article 3.
Does the proposal fulfil an interoperability need for which no other alternative action/solution is available?	Yes. The need is to raise awareness about the importance to consider ICT and interoperability impacts in EU legislation from its conception. To address this need, the action is aligned with and serves the Better Regulation Guidelines of the Commission 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.

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
*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.*	Yes. The new work strand on regulatory reporting is a fine example for the action's cross-sector fertilizing effect. In fact, the action aims to identify good reporting practices of certain policy domains (like environment or financial markets), then generalise and promote them so policy drafters could rely on them in all policy sectors.
*For proposals completely or largely **already in operational phase,** indicate whether and how they have been utilised in two (2) or more EU policy sectors.*	The ICT impact assessment service and support of the action have been used for Impact Assessments and Evaluations in many different sectors, i.e. HOME, JUST, OLAF, CLIMA and MOVE, which proves its cross-sector nature.

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
*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.*	Possibly yes. The updated ICT impact assessment guidelines were released in July 2018, while the draft method to perform interoperability checks on EU legislation has been piloted since April 2018. At this stage, both tools focus on EU legislation prepared by the EU institutions.

Question	Answer
	When these solutions become mature enough, Member States may decide to take them and adapt them to their national needs.
*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.*	

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
Is your action urgent? Is its implementation foreseen in an EU policy as priority, or in EU legislation?	The action is urgent in the sense that it serves an actual/running need, which is law-making and evaluation. In October 2017, the ministers in charge of eGovernment policy across the European Union also called upon the Commission in the Tallinn declaration *"to fully integrate digital considerations into existing and future policy and regulatory initiatives"*[121].
How does the ISA^2 scope and financial capacity better fit for the implementation of the proposal as opposed to other identified and currently available sources?	There is no other known instrument or funding mechanism to support the action.

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 (specific type of 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	IT governance colleagues, policy officers and IT experts of the lead DG working on the assessed legislation
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 2018 the register of roadmaps contained around 280 entries, one third of which presented an ICT impact.

Name of reusable solution to be produced (for new proposals) or produced (for existing actions)	Updated ICT impact assessment guidelines
Description	Method to assess the ICT impacts of EU legislation
Reference	https://ec.europa.eu/isa2/sites/isa/files/ict_impact_assessment_guidelines.pdf
Target release date / Status	Available since July 2018.
Critical part of target user base	Policy officers working on new policy proposals accompanied by an impact assessment and presenting ICT impacts.
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 11 concrete cases.

Name of reusable solution to be produced (for new proposals) or produced (for existing actions)	Method and text mining tool to perform interoperability checks on EU legislation
Description	Methodology – supported by a text mining tool if feasible – 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 published.
Target release date / Status	Draft methodology is available since March 2018. Text mining tool is not yet developed.
Critical part of target user base	Policy officers and IT experts of the lead DG responsible for the evaluation of the assessed legislation.
For solutions already in operational phase, actual reuse level (as compared to the defined critical part)	Piloting of the draft method is ongoing – first results are expected in autumn 2018.

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
Does the proposal intend to make use of any ISA², ISA or other relevant interoperability solution(s)? Which ones?	Financial data standardisation (2016.15) led by DG FISMA – supervisory reporting and machine learning
*For proposals completely or largely **already in operational phase**: has the action reused existing interoperability solutions? If yes, which ones and how?*	The action proposes the use of various interoperability solutions (ISA² and other)

Question	Answer
	depending on the need identified in the screened legislation (either during digital or interoperability checks) among which EIF, **EIRA** – European Interoperability Reference Architecture, TESCart, Core Vocabularies.

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
Does the proposal directly contribute to at least one of the Union's high political priorities such as the DSM? If yes, which ones? What is the level of contribution?	The action has a horizontal value as it can 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.

6.3.6 PROBLEM STATEMENT

The problem of	not taking into account ICT impacts 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, potential organisational inefficiency created by legislative rules, 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 Member States wishing to invest on interoperability initiatives
the impact of which is	hesitation to make proper interoperability investments
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 a 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 a one-off action	EU departments involved in law-making, Member States administrations and stakeholders impacted by EU legislation

Impact	Why will this impact occur?	By when?	Beneficiaries
(+) 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 of the EIF model, and safeguards that interoperability can be more easily applied at the layers below thus increasing the efficiency of public administrations.	Recurrent, this is not a one-off action	EU departments involved in law-making, Member States administrations and any stakeholders impacted by EU legislation
(-) 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 ISA[2]. Whenever the ICT impact assessment method was applied in practise, a report was produced to assess its effectiveness and results were all put together to conduct the final release in July 2018.

This user-centric approach is maintained in ongoing and future activities around digital and interoperability checks, interoperability cost-benefit mechanism and regulatory reporting.

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 DGs in charge of preparing new or evaluating existing legislation.	Contribute to the digital and interoperability checks with domain specific knowledge. Also benefit from the results of these checks and from the related DIGIT support. Use the ICT impact assessment guidelines and give feedback for improvement.
Legal Service of the European Commission	The Legal Service is in charge of giving legal advice to other services.	Provide legal advice concerning the regulatory reporting work strand.
Member States	Member States 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.

Monitoring and Quantification Working Group (MQWG): The aim of the group is to support the Commission work on improving monitoring and quantification of the impacts of EU actions, through increasing knowledge and sharing of experiences. The output of the group can contribute to the commitments to quantification and better monitoring included in the

Better Regulation Communication[122] and the Inter-Institutional Agreement on Better Law Making.

6.3.8.3   Communication and dissemination plan

The communication plan includes:

for digital and interoperability checks (including the interoperability cost-benefit mechanism):

- Promotion/consultation rounds with the Commission stakeholders such as, 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 digital and interoperability checks of EU legislation will be presented with the purpose of being (better) integrated into the law-making process and better regulation agenda of the Commission;
- 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;
- Promotion of the tool automating the Digital and interoperability check.

for regulatory reporting:

- Communication with Commission services via the MQWG in order to get input of intermediate results and primary data, share findings and get further feedback to produce fit for purpose artefacts. This communication channel should also allow reaching users for testing our solutions.
- Communication and strong collaboration with the Legal Service to clarify and establish the legal value to digital assets, which is important in order to improve the regulatory reporting practice of the Commission.

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[122] http://ec.europa.eu/smart-regulation/better_regulation/documents/com_2015_215_en.pdf

for all activities:

- Communication with the MS representatives through the regular ISA^2 management meetings – and if relevant – through ad-hoc webinars and 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 metrics[123] indicate the current values.

Description of the KPI	Target to achieve	Expected time for target
% of new EU legislation[124] to screen from the ICT point of view (digital checks)	100	Reached in 2016, 2017 and 2018, target remains the same for 2019
% of EU legislation under evaluation (REFIT) screened to identify common/core businesses processes	100	Reached in 2017. KPI is abandoned though as from 2018 based on the outcome of the related ISA^2 project, which suggested to focus on one specific core business process, namely on regulatory reporting instead[125].
% of EU legislation under evaluation (REFIT) to screen for interoperability gaps (interoperability checks)	100	The draft interoperability checks methodology is applied for all evaluations announced on the Europa portal since April 2018. Target remains the same for 2019.

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[123] For examples see the ISA2 dashboard https://ec.europa.eu/isa2/dashboard/isadashboard, **effectiveness** tab.

[124] Announced through an „Inception Impact Assessment" roadmap on the Europa „Have your say" website: https://ec.europa.eu/info/law/better-regulation/have-your-say#initial-ideas-roadmaps-and-inception-impact-assessments

[125] New KPI may be defined in the future depending on the involvement of ISA^2 in regulatory reporting.

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.

A reflexion on the governance model to adopt when the interoperability checks will be automated and decentralized in policy DGs is also needed.

6.3.9   TECHNICAL APPROACH AND CURRENT STATUS

State-of-play:

- Since January 2016, all published Inception Impact Assessments have been screened for possible ICT impacts and results have been communicated to the IT Governance of the Commission. Since early 2018, systematic follow-up is provided to new Commission proposals with detected ICT impacts: DIGIT offers its support to the Directorate-General in charge of the given policy initiative and asks to get involved in the inter-service group working on the proposal.
- The updated ICT impact assessment guidelines became public in July 2018.
- The first draft of the interoperability checks methodology was finalised in March 2018 and it is now being piloted on various pieces of EU legislation under evaluation.
- Piloting of the interoperability cost-benefit mechanism (re-)started in the second half of 2018.
- From the core business processes, which were analysed for their potential of harmonisation across different policy domains, regulatory reporting was found as the most promising.

Future development (Q2/2019 – Q2/2020):

- All new EU legislation in the CWP 2019 will undergo a digital check to identify potential ICT impacts and an interoperability check to ensure coherence and compliance with the EIF;
- All EU legislation announced in the CWP 2019 for evaluation will undergo an interoperability check;
- Results of the above tests will be maintained in electronic registers;
- DIGIT will maintain and promote the updated ICT impact assessment guidelines and it will support the Commission DGs to apply it during the impact assessment of their new policy initiative;
- In broader terms, DIGIT will refine its legal interoperability support offered to policy DGs and will put in place its missing elements. Gradually the needs of Member States will be considered and possibly addressed as well – for example by sharing good practices and reusable methodologies.
- Building on the results of the pilot cases using the interoperability cost-benefit mechanism, a clear value proposition will be elaborated and promoted for this solution;

- The legal interoperability aspects of regulatory reporting will be further investigated. The scope of the related ISA^2 project will be carefully defined after identifying the ongoing activities of the different Commission actors and groups (like the Monitoring and Quantification Working Group led by the Secretariat-General, the sectorial activities of DG ENV and FISMA, etc.).

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)
	• 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	745	ISA^2	Q2/2016	Q2/2018

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)
	needed; • Pilot and finalise a measurement mechanism for costs and benefits of interoperability and make it available as a service				
	• 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	300	ISA[2]	Q2/2018	Q3/2019

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)
	• Support the application of and optimise the mechanism to measure costs and benefits of interoperability				
	• Run digital and interoperability checks on EU legislation • Build up and provide appropriate support for policy DGs to address the ICT impacts and interoperability aspects of their legislations • Promote the application of and optimise the mechanism to measure costs and benefits of interoperability • Further explore	530	ISA^2	Q2/2019	Q2/2020

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)
	how to improve the regulatory reporting aspects of EU legislation in order to foster legal interoperability • Assess and improve the sustainability of the legal interoperability action • Ensure the involvement of appropriate technical expertise in the delivery of this action.				
	Total	**1575**			

6.3.10.2 Breakdown of ISA^2 funding per budget year

Budget Year	Phase	Anticipated allocations (in KEUR)	Executed budget (in KEUR)
2016		450	
2017		295	
2018		300	
2019		530	

6.3.11 ANNEX AND REFERENCES

Description	Reference link	Attached document
Updated ICT Impact Assessment Guidelines 2018	https://ec.europa.eu/isa2/sites/isa/files/ict_impact_assessment_guidelines.pdf	