Territorial Impact Assessment of European Directives

Professor Thomas B Fischer PhD MIEMA and Tom Gore MA[1]

Abstract

This paper presents the results of a project financed by the European Observation Network, Territorial Development and Cohesion (ESPON) on the assessment of territorial impacts of European policies (i.e. directives and regulations) at regional and local levels of decision making in EU member states, which was conducted from November 2010 to May 2012.

The methodological approach of the project consisted of two main elements; (a) an analytical element, which revolved around document/ literature reviews, modelling exercises and applied work; as well as (b) an interactive learning element, for which learning networks in each, the UK, Portugal and Slovenia were established. Each learning network consisted of up to 15-20 members, representing public and private sector representatives involved in spatial / sectoral planning and assessment at different decision making tiers and from different geographical and administrative levels of a specific member state. The main purpose of the learning networks was to critically and pro-actively evaluate, comment on and influence the work produced through the project's analytical element.

The outcome of the project is a territorial impact assessment (TIA) methodology which has been tested by local and regional administrations in Portugal, Slovenia and the UK. The methodology is flexible in order to allow for application in different EU member states which have very different planning traditions and approaches. It is hoped that TIA will allow to establish a more reliable picture of the territorial impacts of European policy proposals.

Introduction

Since the 1990s interest in territorial impact assessment (TIA) has emerged and taken hold in the EU. Whilst early thinking at the European level framed TIA in relation to projects, more recently it has been framed as a policy assessment tool (Böhme 2004) and as a solution to the problem of the occurrence of unanticipated impacts arising from EU sectoral policies in EU member states. To date, these have been found difficult to detect in advance.

Whilst a single approach to TIA has yet to take form, the ESPON (European Observation Network, Territorial Development and Cohesion) Programme has conducted some significant work in this area. This paper presents the outputs of a recent project in this field, proposing a practically orientated TIA methodology, developed in conjunction with practitioners. This has been designed to be applied at the EU member state level to allow member states to anticipate policy impacts and thus to respond to emerging EU policies to minimise negative and maximise positive outcomes.

The paper begins by outlining the background to the project and the methodology adopted. It then proceeds to detail the TIA approach developed and concludes by highlighting some of the possible barriers to implementation and further research needs.

[1] Department of Civic Design, School of Environmental Sciences, University of Liverpool, UK

Background to the ESPON EATIA project

Conceived as a follow-up to the Action Programme of the first Territorial Agenda (2007), which encouraged further work orientated towards the introduction of TIA into the policy making process, and building on the subsequent conclusions of an EU seminar on the territorial impact of EU policies held in Amsterdam in 2009, the ESPON EATIA project sought to develop an approach to TIA which differed in two main respects from much of the previous work in the area. Firstly, the concern was to develop an approach that could be embedded at the EU member state level, differing from other ESPON work which to date has focused largely on a top-down EU level of application often searching for possible complementarities with the European Commission's impact assessment (IA) procedure. Secondly, at the heart of the approach was a concern for operational considerations. The approach was to be sufficiently simple so as to be easily comprehensible to end users - policy makers - not to have onerous resource requirements, and also, where possible, able to be latched onto pre-existing member state arrangements and procedures rather than necessitate the formulation of entirely new specialist bodies or processes. Given the variety of member state structures and administrative procedures, this latter aspect meant that the approach, by necessity, also had to be suitably flexible to be applicable in a range of governance contexts.

TIA was interpreted in the project as a supportive tool in the policy making cycle. It was seen as a means of identifying and evaluating the spatially differentiated impacts of EU policies to promote policy coherence between EU, national and sub-national policies. These impacts include those on spatial usage, governance or on wider environmental, social, economic, dimensions of a territory. The TIA approach considered in the project was to be embedded at the member state level and involve the interaction of national, regional and local stakeholders in the process. For member states this would mean that they may better understand and respond appropriately to EU initiatives by drawing on the insight of regional and local actors, whilst at the same time giving regional and local stakeholders a channel through which they could feed into the EU and national (i.e. transposition) policy-making processes. From an EU perspective, potentially, it would mean the development of policies that may be more sensitive to the spatial dimension and responsive to the territorial diversity of the EU territory, overcoming some of the significant challenges (e.g. data) of accounting for the territorially heterogeneous nature of impacts in a top-down manner, e.g. through IA.

Methodology

In light of the project's ambition, central to the adopted methodological approach was a partnership with the public authorities responsible for spatial planning in three diverse member states, the UK, Portugal and Slovenia. These authorities constituted the project's stakeholders and the three countries were to function as case studies to facilitate the development of a flexible TIA approach that would have wider applicability.

Within each of the stakeholder countries, national networks of spatial planning and policy making practitioners were established in conjunction with the national stakeholders. These groups were entitled 'learning networks' and were each made up of between 15 and 20 national practitioners from various administrative levels. The idea behind these networks was to provide a point of contact between the research team and the potential end users of the approach which was seen as being vital

in developing an approach that had practical considerations at its heart. These groups were consulted throughout the lifetime of the project and provided feedback and suggestions on various aspects of the methodology as it developed. This included three parallel workshop sessions held in each of the stakeholder countries near the beginning, mid-point and end of the project, as well as dedicated testing workshops in which selected practitioners were invited to apply and evaluate various draft versions of the proposed approach. These groups were highly influential in the design of the proposed approach which should be seen as the product of this interactive process.

A proposal for a TIA approach

In this section the approach to TIA developed under the ESPON EATIA project is presented. Following more established impact assessment traditions the approach has been structured around four sequential stages, namely, screening, scoping, assessment/analysis and evaluation. For each of these stages (1) supporting techniques and (2) governance arrangements have been developed to support the implementation of the approach at the member state level.

Appropriate *techniques* were identified working closely with practitioners in the learning networks. Whilst these had to be theoretically sound, they also needed to be pragmatic. In particular, the project's stakeholders required methods that would not have extensive data requirements, could be applied in a relatively short time frame, and were readily comprehensible. This was considered to be important in ensuring that the approach wouldn't overburden member state agencies engaged in the process, which would be detrimental to the acceptance of the methodology, and would still produce information of value to policy makers. Three main techniques are central to the approach and warrant mention here: *checklists, matrices* and *causal/logical chains*[2].

- *Checklists* are often useful in the early stages of impact assessment to ensure that key impacts of an activity are not overlooked (Glasson et al 1999; Therivel & Morris 2009; Lohani et al 1997). In the proposed TIA approach, checklists are structured around assessment criteria representing predefined important dimensions of a territory and serve to promote an early consideration of potential policy impacts.

- *Impact matrices* are a firmly established and widely recognised impact assessment tool (Glasson et al 1999). Depending on their formulation they are generally used to facilitate the identification of the effect of an action, or its sub-components, on criteria or objectives (Therivel & Wood 2005). In the TIA methodology matrices are employed to structure the assessment stage of the process.

- *Causal / logical chains* are another established impact assessment tool and have been employed previously in the context of TIA (ESPON ARTS). This method utilises expert judgement to identify the outcomes of an action by deciphering the cause-effect pathways of the intervention diagrammatically (Therivel & Wood 2005). It also has an additional role of

[2] Whilst these three techniques form the basis of the methodology, in line with the philosophy of the approach, there use still remains flexible. It is possible for these techniques to be replaced or adapted to reflect the traditions of the host member state, or to account for experiences over time, whilst still adhering to the underlying principles of the methodology.

outlining any underlying assumptions, thus promoting transparency. This approach is used optionally throughout the methodology to facilitate the impact identification process.

The *governance* dimension concerns the practical operationalisation of the approach within the administrative context of a specific member state. That is, the roles and responsibilities of specific agencies. As part of the project, specific governance arrangements were considered for implementing the approach in the UK, Slovenia and Portugal. Whilst these specific arrangements will not be detailed in this paper, general principles will be outlined that have been informed by our experiences of accommodating the approach in these governance contexts.

The following sub-sections provide a descriptive overview of the TIA framework developed, structured around the four stages of the TIA process:

1. Screening

- As is common place in impact assessment, the application of the main methodological aspects of the approach is preceded by a screening stage. The aim of the screening mechanism is to narrow the application of the assessment instrument to only those policies where it could usefully contribute to the decision making process and thereby promote resource efficiency.

- Screening decisions should be based on the case-by-case judgement of a designated body with expertise related to the policy area under consideration and also to territorial matters in the member state. In most member states screening will therefore be led by the government department responsible for preparing the national position on the particular policy proposal, or for transposing the policy nationally, working collaboratively with other departments. In particular this will include the department responsible for spatial planning which should also seek to ensure consistency in the application of the approach across policy areas.

- In line with the study's conceptualisation outlined earlier, the application of TIA is likely to be particularly desirable in cases where a policy is perceived likely to have unintended or undesirable impacts on the territory that could be significant in terms of contradicting national and/or sub-national objectives or polices. Whilst screening is a flexible process and depending on the policy proposal may not always necessitate the application of specific techniques, the causal/logical chain approach and checklist approaches can be used optionally, in isolation or in concert, to facilitate decision making in this area. Employing these methods requires that important territorial dimensions are firstly established that relate closely to national, and possibly sub-national, policies or objectives to allow impacts to be evaluated. These constitute the criteria that form the basis of the checklist approach and can be used to focus the logical chain exercise.

2. Scoping

- Policies that receive a positive screening determination need to undergo scoping. This stage endeavours to further elaborate on the impacts that may have already been partly identified in the screening process and to lay the foundation for the subsequent assessment stage. Scoping

will necessitate the same degree of interdisciplinary expertise as required in the screening process and in the interests of efficiency it will often be appropriate for the same body to have both screening and scoping responsibilities.

- The scoping approach is structured around a mandatory checklist (Fischer & Phylip-Jones, 2008). Essentially, this is an extension of that used on an optional basis in the screening stage and is developed in the same way requiring the prior definition of territorial dimensions reflecting national and possibly sub-national policies or objectives which form the criteria in the checklist. Differing from the screening checklist, however, impacts are considered in more depth. The impact of policies can, for instance, be considered in relation to their individual constituent parts, or policy elements, and the types or features of areas where potential impacts could emerge geographically are considered.

- The completed checklist serves to inform the development of an Impact Assessment Matrix (IAM). This is formed from the assessment criteria and policy elements identified in the checklist and functions as the template on which the assessment is based, specifying for each of these interactions the dimensions of the impacts that should be considered. These dimensions, or characteristics, should be appropriate to enable the impacts to be sufficiently evaluated. Three characteristics are put forward below. These can however be supplemented with other dimensions if necessary (e.g. impact probability), or reduced as considered appropriate.

    - Magnitude: referring to the size or scale of the impact.
    - Orientation: this refers to an impacts direction of action, i.e. whether it will result in an increase or decrease in terms of a given criterion, e.g. ‘employment’.
    - Temporal distribution: this refers to the impacts duration, e.g. whether it is short, medium or long term.

- In the scoping stage the geographical extent of the assessment exercise can also be determined. Whilst it is preferable for the assessment to cover the entire territory in order to develop a comprehensive picture of the potential impacts, this will not always be feasible. The assessment exercise is conducted at the sub-national level and in some member states this may be hostile towards a comprehensive approach. In England, for instance, recent changes to the planning system mean that the TIA would most readily be conducted at the local administrative level. This geography encompasses over 300 units, the engagement of which would be impractical in a fit-for-purpose TIA approach. In these cases scoping can additionally incorporate the identification of specific case study localities that can serve to be indicative of wider potential impacts.

3. Assessment / Analysis

- The aim of the assessment/analysis stage is to identify potential change in a territory, or territorial unit, as a result of a policy. This stage is foreseen as a sub-national level activity and can be conducted at either the regional or local administrative levels.

- This exercise is structured around the IAM developed in the scoping process which specifies the impacts and the characteristics that should be considered in the locality. The completion

of the IAM should be undertaken in a participatory interdisciplinary setting based on the judgement of stakeholders familiar with the area concerned, drawing on available information and evidence whenever possible. Whilst top-down approaches to TIA have typically conducted the assessment based on NUTS regions, this approach necessitates the use of functional/administrative geography in order to engage agencies or bodies with existing operational familiarity with the sub-national territorial units in the member state. This in particular will include planning departments.

4. Evaluation

- The evaluation stage concludes the TIA process. This stage is concerned with synthesising the outputs of the sub-national assessments (e.g. mapping) and evaluating the significance of the likely policy impacts. Significance, as used here, is understood as being dependant on both the nature of the likely impacts and the context in which they occur. That is, whilst impact characteristics such as magnitude, probability, spatial distribution, and duration, etc, can be used to describe potential impacts, they alone do not determine whether they are significant (George 2010). The significance of the policy impacts is determined by looking at their characteristics in light of defined policy objectives (Fischer 2007).

- The evaluation exercise is conducted by employing an Evaluation Table. Here the collective impacts identified in the sub-national assessment exercise are interpreted in terms of their compliance with the policies or objectives on which the criteria used in the assessment stage were based. The evaluation is undertaken using a 5 point scale (-2, -1, 0, +1, +2), which indicates whether the anticipated policy impacts are considered to be positive or negative for a given objective and also their degree of significance in this regard (neutral to high). Whilst this is ultimately a judgement based exercise, the use of the Evaluation Table allows for a high degree of transparency with written justification required for each determination.

- In principle, the evaluation of a policy's potential impacts can be conducted at both national and sub-national levels. Whilst it should be seen as a mandatory requirement at the national level and will normally be led by the government body responsible for developing the member state's negotiating position, or transposition strategy, in collaboration with other departments. It can also be conducted at sub-national levels by the agencies engaged in the assessment stage, allowing for the evaluation of impacts against sub-national policies or objectives.

Conclusion

The TIA methodology has been developed in conjunction with stakeholders in the UK, Slovenia and Portugal and has been tested in each of these countries. Testing has shown that those with existing experience in impact assessment are likely to find the TIA methodology approach simple and straightforward to apply. Whilst inexperienced individuals will require more time to familiarise themselves with the approach, testing has also shown that once a person starts with the assessment, they usually find themselves handling the TIA methodology in an effective manner quickly.

Fundamental to the approach is expert judgement and, as part of this, collaborative working between government agencies across multiple sectors. Accordingly, one of the main barriers to the implementation of the approach is likely to include the resistance of different departments / administrations to co-operate in the manner envisaged. At the sub-national level, regional / local authorities may also be sceptical about the possibility to be able to influence the policy making process at the European and national levels, and may consequently be unwilling to invest even minimal resources in TIA. Getting around these potential issues will require that the approach is actively promoted and championed across government.

Whilst the TIA methodology has been shown to be a promising approach, further testing is still required. This includes applying it within the real time policy development process, to date testing has been confined to mock ex ante exercises, and also in other EU member states. How to deal with trans-boundary issues in the assessment process also needs further discussion.

References

Böhme, K. (2004) 'Future directions in European spatial policy', S. Brockett & M. Dahlström (eds) Spatial Development Trends. Nordic Countries in a European Context. Stockholm: Nordregio, pp 179-192.

Fischer, T.B. (2007). Theory and Practice of Strategic Environmental Assessment – towards a more systematic approach, Earthscan, London.

Fischer, T.B. and Phylip-Jones, J. (2008). Scoping in environmental assessment, in: Fischer, T. B.; Gazzola, P.; Jha-Thakur, U.; Belcakova, I. and Aschemann, R. (eds). Environmental Assessment Lecturers' Handbook, ROAD Bratislava, 136-142, downloadable at www.twoeam-eu.net ('Handbook').

George, C. (2010) ‘Proportionate Impact Assessment: Discretion, Formalism, and the Undefined Responsibilities of European Decision-Makers’. In Bizer, K., Lechner, S., Fuhr, M. (ed.) *The European Impact Assessment and the Environment.* Berlin: Springer pp. 103-117

Glasson, J., Therivel, R., Chadwick, A. (1999) *Introduction to Environmental Impact Assessment*. 2nd ed. London: Spon Press

Lohani, B., Evans, J., Everitt, R., Ludwig, H., Carpenter, R., Tu, S. (1997) *Environmental Impact Assessment for Developing Countries in Asia. Volume 1 – Overview*. [Online]. Available from: http://www.adb.org/sites/default/files/pub/1997/eia-developing-countries-asia.pdf (Accessed: 9 May 2012)

Therivel, R. Morris, P. (2009) ‘Introduction’. In Morris, P., Therivel, R.(ed.) *Methods of Environmental Impact Assessment.* 3rd ed. London: Routledge. pp. 3-21

Therivel, R., Wood, G. (2005) ‘Tools for SEA’. In Schmidt, M., Joao, E., Albrecht, E. (ed.) *Implementing Strategic Environmental Assessment.* Berlin: Springer. pp.349 - 362