

High Level Group – Better Regulation
Working Group – Ex post Evaluation
FINAL REPORT

March 2012

Executive Summary

Introduction & Overview

This Report presents the findings of the High Level Group on Better Regulation (HLG) on ex post evaluation of legislation. The Report is based on the work of three working group discussions on 7 February, 26 May and 18 October 2011 and Member State feedback to a questionnaire on national evaluation practices. The HLG is very grateful to all those Member States who provided case studies and advice.

The Report both highlights good practice in Member States and offers recommendations to the Secretariat General on how European Commission services could strengthen their own ex post evaluation of legislation. We hope this Report will help the Commission to realise the objectives set out in the 2010 Communication on 'Smart Regulation in the European Union' (COM(2010)543). It aims to inform the "review of evaluation guidelines" announced in that Communication. It also aims to provide views on the pilot 'fitness checks' that could help maximise the potential of these in future (fitness checks are reviews of groups of laws).

These recommendations also reflect the Conclusions adopted by the Competitiveness Council on 20 February 2012 (COMPET 6341/12).

Summary findings on Member State practices

The HLG found that the majority of Member States who participated in our study conduct ex post evaluation of legislation. In the majority of cases we found that ex post evaluation systems are designed to achieve specific, prioritised outcomes (15 of 17 responding Member States). We also found that evaluations are generally responsive to stakeholder feedback (12 of 17 responding Member States).

The Report's annexes contain detailed information about Member State practices, and examples of successful evaluations. Annex B includes a best practice example from Denmark of 'end-user' focussed evaluation, with clear outcomes based on easing the burden for consumers. Luxembourg gave a best practice example where a working group including business representatives has rationalised the planning process.

Headline Recommendations

We recommend that the Commission and Member States should draw on the examples of Member State good practice identified in this report in their respective evaluation systems.

In particular, we recommend that the Commission should strengthen the Secretariat General's guidelines for evaluation by setting out:

1. **Clear overall aims for evaluations**, which make clear they should in particular:

(i) lead to practical improvements in **effectiveness of laws** in achieving their intended results;

(ii) **target a reduction in excessive burdens** - clarifying that evaluations must tackle “excessive burdens, inconsistencies, obsolete or ineffective measures” as stated in the 2010 Smart Regulation Communication.

(iii) aim to **identify the “cumulative impact of legislation”**, also in line with the 2010 Communication.

2. **Clear criteria** about which pieces of legislation or policy areas should be reviewed, when and why, **based on sound evidence and prioritisation**.

3. **Procedural steps** to be taken that require **substantial input be sought from stakeholders** and in particular from end-users of regulation.

We suggest that the Commission should also consider:

4. Placing **ex post evaluation and fitness checks at the heart of a systematic smart regulation programme**, designed to succeed the administrative burden reduction programme due to complete in 2012. This could involve conducting a set of evaluations or checks which have the explicit aim of reducing the overall regulatory burden, as called for in the Competitiveness Council Conclusions of 20 February.

5. Establishing a **central scrutiny mechanism to ensure consistent high standards of evaluation** carried out across the Commission.

Main report – our findings about evaluation in Member States and the implications for EU bodies

The High-Level Group (HLG) investigated evaluation, defined using the Commission's practice as being 'a judgement of interventions according to their results and impacts, and the needs they aim to satisfy' (Communication on Evaluation (SEC(2000)1051).

I: Overview of Member State practices

Our research shows that evaluation of laws and spending is already carried out in several Member States. Common to the majority of the evaluation systems surveyed are the following criteria:

- **Prioritisation:** how a Member State decides what it will evaluate
- **Outcomes:** what a Member State aims to achieve through evaluation
- **Methods:** what a Member State does to evaluate once it has decided what is in scope
- **Outputs:** what a Member State produces at the end of the evaluation process

Scrutiny of these common criteria revealed specific examples of good practice in Member States and we have grouped these for convenience under the above thematic headings. For details on the data provided by the 17 Member States who responded to the HLG survey see Annexes A and B.

Prioritisation:

- **External stakeholder feedback:** 13 of the 17 Member State respondents reported that ex post evaluation can be triggered by external stakeholder feedback (complaints, suggestions), including individual citizens, businesses, NGOs and social partners. Some of these states place particular emphasis on feedback from business (BU, LV, SK, UK); and some actively solicit feedback, for example through annual or ad hoc surveys, and / or joint committees comprised of civil servants and business representatives (BE, DK, FI, NL, SE).
 - Specific example: in **Luxembourg**, the Département de la Simplification administrative (DSA) invites, on its website, citizens and businesses to report administrative burdens, either by sending an email or filling out a form called *Fiche ex post*. Upon receipt the DSA contacts the concerned parties (eg. a government department, businesses etc.) and, if all parties agree, the problem is discussed in an ad hoc stakeholder working group.
 - Respondents in full: BE, BU, DE, DK, FI, LT, LU, LV, NL, SE, SI, SK, UK
- **'Non-executive' institutional feedback:** 6 of the 17 Member State respondents reported that there were specific roles with regard to ex

post evaluation for parliament (eg. parliamentary committees, a National Audit Office or Court of Auditors). These roles range from having the power to conduct their own evaluations (BE, DE) to having the power to audit a government's own evaluation programme (NL, UK).

- Specific example: In **Belgium**, a parliamentary committee is charged with evaluating laws that have been enacted for at least three years. Requests for evaluation can be sent in by stakeholders, including any administration in charge of implementing law; any authority in charge of law enforcement; any citizen; and deputies and senators. The work of the committee is also informed by reports from the Court of Cassation and tribunals on difficulties encountered with laws and from decisions of the Constitutional Court.
- Respondents in full: BE, DE, FI, NL, SE, SI
- **Mandatory programming:** 4 of the 17 Member State respondents reported that a duty to conduct ex post evaluation is regularly or always built into legislation – in other words, priorities are set in advance. A further 4 Member States responded that such a duty is attached to especially controversial or complex legislation.
 - Specific example: in **Germany**, the Federal Statistical Office **re-measures** ex ante evaluation of administrative burdens affecting businesses every two years.
 - Respondents in full: BE, BU, DE, DK, LU, RO, SI, UK

Outcomes:

- **Outcome-focussed evaluation:** 15 of the 17 Member State respondents reported that ex post evaluation was geared to achieving specific prioritised outcomes. This focus on outcomes is, in many cases, inherently linked to 'prompts' (see above).
 - Specific example: see below.
 - Respondents in full: BE, BU, DE, DK, ES, FI, LT, LU, LV, PL, RO, SE, SK, SI, UK
- **Promote growth / reduce burdens to business:** 9 of the 17 Member State respondents reported that ex post evaluation is specifically linked to identifying and removing burdens on business, with the intent of boosting growth and / or competitiveness.
 - Specific example: **Latvia** uses key 'ease of doing business' indicators from the World Bank's annual 'Doing Business' report to scrutinise domestic regulations with the aim of making them less burdensome for business. These indicators measure how regulations, and their enforcement, affect firms including SMEs during their life cycle.
 - Specific example: in **Germany**, targeted evaluations were and continue to be employed to reduce the compliance costs in specific areas, selected for instance based on the input from stakeholders
 - Respondents in full: BU, DE, DK, ES, LU, LV, NL, SK, UK
- **Improve regulatory outcomes:** 4 of the 17 Member State respondents reported that ex post evaluation is specifically linked to

improving effectiveness in getting desired regulatory outcomes, including by adjusting implementation, enforcement and service-delivery.

- Specific example: in **Germany**, ex post evaluation is linked to improving the effectiveness and enforceability of legislation.
- Respondents in full: BE, DE, LT, SE
- **Improve governance and law-making:** 6 of the 17 Member State respondents reported that ex post evaluation is specifically linked to improving the quality of future legislative drafting, removing obsolete legislation, and ensuring transparency
 - Specific example: in **Poland**, ex post evaluation has been used to help develop early warning systems for policy-makers, to ensure future legislation avoids pre-existing implementation problems.
 - Respondents in full: DE, PL, RO, SE, SI, SK

Methods:

- **End-user focus:** 6 of the 17 Member State respondents specifically reported that ex post evaluation focussed on or included analysis of 'end-user' experience of regulation. Data gathering practices varied, ranging from issuing 'call for evidence'-style consultation to interviews with individual businesses. All of these included analysis of the impact on business.
 - Specific example: the **Danish Competition and Consumer Authority** (KFST) conducted a '**user-centric**' **ex post evaluation** of regulations concerned with advertising and labelling in the retail sector. By actually engaging with end-users (in this case, businesses), KFST found that many businesses were not in full compliance due to a lack of understanding of the rules or because they felt compliance was administratively too burdensome. KFST then designed a new approach, focussed on improving compliance by making it easier for business to understand and comply with the regulations.
 - Respondents in full: BE, DE, DK, LT, NL, UK
- **Goals compared to results:** 6 of the 17 Member State respondents reported that ex post evaluation focussed on or included comparison of the intended outcome of a piece of legislation with actual results on the ground.
 - Specific example: in **Lithuania**, ex post assessment is explicitly carried out to verify if regulations have attained anticipated objectives and results; evaluate necessity, sufficiency and effectiveness of existing regulations as well as the need for amendment of regulations.
 - Respondents in full: BU, DE, DK, LT, PL, UK
- **Sectoral emphasis:** 3 of the 17 Member State respondents reported that ex post evaluation included impact analysis for specific sectors of the economy.
 - Specific example: in the **UK**, the '**Red Tape Challenge**' website invites the public to identify the regulations that they find most burdensome, with the explicit intent of getting rid of unnecessary

red tape. Specific regulatory areas, for example 'retail', 'health & safety' and 'environment', are highlighted on the website for five week blocs.

- Respondents in full: DE, NL, UK
- **Use of external and / or specialised expertise:** 4 of the 17 Member State respondents reported the use of external experts or external data to inform or drive ex post evaluation. This ranges from using international NGO reports, such as from the World Bank's 'Doing Business' Project, to using specialised public sector bodies, such as the Germany's Institute for Employment Research or Denmark's MindLab.
 - Specific example: in **Germany**, the Institute for Employment Research (IAB) has a specific mandate to conduct ex post evaluation of labour market policies. Part of the rationale for using arms-length research institutes such as the IAB and universities to carry out reviews is to help ensure **objectivity**.
 - Respondents in full: DE, DK, LV, NL
- **Administrative and regulatory burden reduction:** 8 of the 17 Member State respondents drew attention to their efforts to reduce administrative burdens, by using the Standard Cost Model (SCM) or other related measurement tools.
 - Specific example: in **Slovakia**, an external company carried out SCM measurements of 48 laws covering twelve areas (business law, citizen law, accounting, bankruptcy and restructuring, market regulation, taxes, custom duties, investment incentives, other financial regulations, as well as labour and employment, contributions – transfers, environment and intellectual property). These areas were chosen as they were considered to be the most burdensome from the point of view of tradesmen and SMEs.
 - Respondents in full: BE, CY, DE, DK, LU, RO, SI, SK

Outputs:

- **Public reporting:** 7 of the 17 Member State respondents reported that the results of ex post evaluation are made available to the public, either through the publication of a report or by reporting to parliament.
 - Specific example: in **Denmark** and **Germany**, progress against the government's administrative burden reduction programme was reported annually to parliament and 'scorecards' for how each department was contributing were published on a government website.
 - Respondents in full: BE, DE, DK, LT, LU, NL, UK

II: Implications for the EU institutions, our reflections

At EU level, the Commission's longstanding efforts to evaluate spending programmes are appreciated, and the 2010 Communication on Smart Regulation remains an important document which the European Parliament and Council have broadly welcomed. However, the HLG would like to see ex post evaluation become even more effective by taking inspiration from good practice in Member States.

Recommendations relating to forthcoming Evaluation Guidelines

DG responsibility to deliver evaluation to common Commission standards

The HLG accepts the current practice that individual Directorate Generals are responsible for evaluations in their policy areas. We agree that accountability for the quality of evaluations must lie with individual DGs. However, we do think that the Secretariat General needs to step in quickly to ensure there is consistency across the Commission on how evaluation is conducted. Both the 2008 DG Markt¹ and the 2011 DG Information Society and Media guides² to evaluating legislation are good in their own ways, but it would be even better to clearly establish a common, more **operational**, inter-service standard. We think the experience of the variations in the ways the pilot fitness checks have been conducted also shows that common standards would deliver more consistent prioritisation, stakeholder engagement and outcomes.

The forthcoming update of the common Secretariat General-owned guidelines should make a clear and explicit link between evaluation and fitness checks to impact assessments, and how both are equal parts in the policy cycle.

Choosing what to evaluate – prioritisation

As explored in the Overview, Member States use a mix of methods to identify priority laws for evaluation. Specific prompts for what is prioritised, and when, include complaints from 'end-users' of regulation and mandated evaluation – mandated either in the legislation itself or embodied by a parliamentary committee or Court of Auditors.

Drawing on this, we suggest that updated Commission evaluation guidelines should set out clearly on what basis evaluation and fitness checks should take place. As the 2010 Smart Regulation Communication commits, all significant new or revised legislation should be based on an evaluation of what is already in place.

¹ DG Markt Guide to Evaluating Legislation, Brussels, March 2008

² Evaluating Legislation and Non-Spending Interventions in the Area of Information Society and Media, 15 March 2011.

Reasons to conduct a fitness check should combine Member State best practice and include:

- those policy areas with the highest cost to businesses and citizens (administrative burdens and compliance costs);
- whether legislation is fit for purpose;
- impact on SMEs and micro enterprises;
- What Member States suggest, based, for example, on Member States' assessment of the relative costs and benefits of a particular policy area
- level of public and Parliamentary interest;
- business or citizen 'irritation';
- where there is potential for Member States to achieve results through greater use of alternatives to regulation;
- what surveys show end-users most dislike;
- what stakeholders recommend.

The reasons for both evaluations and fitness checks should always be transparent, evidence-based and focussed where burdens can be reduced. The HLG welcomes the pilot 'fitness checks'. The HLG believes the experience of how the pilots have been run so far offer a number of lessons that the new Guidelines could draw on. The first relates to **prioritisation**. Not all Member State officials, for instance, feel that the Commission has sufficiently explained why the regulatory framework for aviation was chosen for a fitness check. To some Member State officials, the legislation under review appears non-controversial.

The second reflection relates to being **outcome-focussed**. The pilot fitness check of the regulatory framework for fresh water has not so far demonstrated clearly how its overall aim is to 'identify excessive burdens, inconsistencies and obsolete or ineffective measures and to identify the cumulative impact of legislation' (COM(2010)543). To date, the work on water has generally appeared to focus on the gaps in the acquis and what further legislation may be necessary, rather than how the policy approach can be streamlined and made less burdensome. The Secretariat General must ensure that the stated objectives of fitness checks are honoured by DGs.

Thirdly, it is also important that an evaluation takes place at a **suitable time**, and only once the policy has been in effect 'on the ground' and major implementation milestones have been met across the European Union so that useful conclusions can be drawn. So for instance, the fitness check of the Water Framework Directive is happening at a time when the implementation of the national River Basin Management plans is only just being assessed. If evaluation is intended to look at the practical effects of legislation, it may be more useful to evaluate legislation with more established implementation processes.

The HLG appreciates that the Commission already introduces review, revision or sunset clauses into some legislative proposals. However, the HLG believes the Commission should consider a more systematic approach. It also believes the Commission should consider whether to make evaluation mandatory, or at least to make it mandatory if it imposes a very high cost or where the policy

context is likely to change quickly. This principle works well in Lithuania, Poland, Luxembourg, Germany, Denmark and the UK. In Germany, for instance, two years after a piece of legislation comes into force, ex ante estimates of administrative burden are re-measured and corrected, if necessary.

Linking evaluation to impact assessments

The HLG welcomes the link that the Commission makes between evaluation of a policy area and an impact assessment for a new or revised legislative proposal. We agree that the two are part of the cycle of good policy-making. This principle is also reflected in the evaluation practices of many Member States. We would like the Guidelines to expand clearly on the commitment in the 2010 Smart Regulation Communication that "all significant proposals for new or revised legislation are in principle based on evaluation of what is already in place" (p.5). Separately, we would also be pleased to hear how this principle has worked over the last year and what lessons can be applied to tighten the link between evaluation and new or revised proposal.

Process standards which require end-user consultation

At EU level, there are several existing DG guides offering a good insight into the thorough processes that the Commission applies to evaluation. What the HLG would like the proposed updated Commission-wide guidelines on evaluation to do is take the best from each DG guide and from Member State good practice and set out a common approach to achieve a basic level of common good practice.

Fundamental to the 'new' process should be a requirement in every evaluation programme for detailed input from independent stakeholders and, even more importantly, those involved at national levels. The national level stakeholder engagement must reach beyond Member State governments to include regulators and end-users who must implement European requirements. We recognise that this has resource implications but believe that an evaluation is only useful if it takes into account the 'real-world' impact of the relevant legislation. The HLG would prefer to see a smaller number of excellent evaluations based on rigorous prioritisation, than lots that do not have the resources to go beyond Brussels.

We ask that a process is set out clearly, which requires independent members on the steering group of an evaluation programme and that those running the evaluation set up evaluation networks (as mentioned in the 2007 Communication: 'Responding to Strategic Needs: Reinforcing the use of evaluation') with people involved at national level.

Given the varying degrees to which the four pilot fitness checks have involved national level stakeholders, the HLG believes abiding by a strict process of

national stakeholder consultation should be a requirement for anyone wishing to conduct a Commission evaluation.

Aside from this recommendation for a requirement to involve national representatives and end-users in ex post evaluation, we think the Commission's existing guides offer the basis for an effective process which the SecGen can build on in its Guidelines.

Reflections on strengthening and making best use of evaluation

Using evaluations or fitness checks as a tool in the push for European competitiveness

The HLG sees ex post evaluation as a key tool that the Commission can use to make the European acquis fitter and more agile for the European Union of 2012 and beyond, so the single market as well as the EU's 27 separate economies are able to grow in a challenging global market place. We believe evaluations/fitness checks do have the potential to be at the heart of a next generation smart regulation effort or programme, able to continue on from the good work of the administrative burdens reduction programme after it concludes this year.

Reflecting the 2010 Smart Regulation Communication, the HLG therefore believes revised evaluation guidelines should spell out that a priority set of Commission evaluations or fitness checks should focus on whether the regulatory framework for a policy area is not only fit for its defined purpose but is also putting proportionate cost demands on businesses when the other regulatory costs and EU priorities affecting them are considered. Their primary aim should be to identify and reduce excessive burdens and to pose stretching questions about whether the policy aim still needs to be met and, if so, whether it could be met in a less onerous way (including at a more appropriate level - principle of subsidiarity).

The HLG would like the primary aim of such "cost-hunting" evaluations to be capping or reducing the **cumulative burden** arising from EU law. It should be a coherent programme, spread across a wide area of policies. As such, we would like to see evaluations/fitness checks linked to individual targets to reduce burdens in the relevant areas. An annual report could then report on progress in making legislation more cost-effective. Other aims should be addressing stakeholder concerns about implementation and enforcement, better law-making, simplification, and transparency.

Establishing a body to drive up the quality of evaluation

If evaluations are to deliver the desired outcomes for the businesses and citizens of Europe, there needs to be a powerful body at the centre of the Commission that ensures rigorous quality. The HLG, as with other commentators like the European Court of Auditors, believes the Commission's Impact Assessment Board has had a very positive effect on the quality of

Commission IAs. Given the importance of evaluation and the strong similarities with impact assessment, the HLG urges the Commission to consider carefully how standards for evaluation could be scrutinised. Consideration should be given to how the SecGen can ensure its guidelines for evaluation are applied consistently.

The HLG believes that if rigorous standards are applied consistently to evaluations, the Commission has an excellent opportunity to reconnect to European 'end-users' and improve its reputation as a pragmatic and responsive policy-making body.

ANNEX A – HLG – Evaluation and Fitness Checks

Member State responses to the Working Group 3 (Evaluation) questionnaire

Member State	WHAT... What does your country do to ex post evaluate domestic legislation? For example: <ul style="list-style-type: none"> • What institutions or processes does it have in place to carry out evaluation? • What is the trigger for an evaluation? 	HOW... How does your country carry out ex post evaluation of domestic legislation? For example: <ul style="list-style-type: none"> • How does it decide what is in scope for evaluation? • How does it prioritise what should be evaluated? 	WHY... Why does your country conduct ex post evaluation? For example: <ul style="list-style-type: none"> • What is the rationale for evaluation? • How do you measure and communicate the benefits of evaluation? 	Are there studies or examples from outside the EU that you are aware of and think might be relevant to the methodology and practice of ex post evaluation by the Commission? If so, please provide a brief description and reference
България / Bălgarija	<p>In Bulgaria the Impact Assessment of legislation was partly introduced by Limitation of Administrative Regulation and Administrative Control on Economic Activity Law (LARACEAL), adopted in 2003. It concerns mainly the ex ante IA of regulatory regimes.</p> <p>Full implementation of the concept of Impact Assessment (including ex post evaluation of legislation) should be regulated by Amendments to the Law on Normative Acts. According to the Bulgarian Programme for Better Regulation 2010 - 2013 it is envisaged these amendments to be prepared by the end of 2011. The Programme also includes continuing training of public administration in order to increase the administrative capacity for Impact Assessment of regulations.</p>	<p>The selection of acts (or parts of them) for which to prepare ex post Impact Assessments is related to their importance to the business environment and the provision of administrative services. The scope is based on the practical evidence (statistics, reports, public discussions, expert evaluation, etc.) that reveals problems and burdens in the specific area. On this ground a motivated proposal is prepared by the respective ministry or business organization to the Working group. After a public discussion it is decided by Working group what the scope and priorities of IA will be.</p>	<p>The main reasons for ex post evaluation are: 1) substantial problems for businesses with existing legislation and administrative services found and proved by evidence; 2) necessity of analysis of legislation impacts; 3) comparison between goals and results of implementation of regulations; 4) suggestions for improved actions and policies.</p> <p>The Impact Assessments of legislation are subject of public discussions including on the internet via website: http://www.strategy.bg/.</p>	

Member State	WHAT... What does your country do to ex post evaluate domestic legislation? For example: <ul style="list-style-type: none"> • What institutions or processes does it have in place to carry out evaluation? • What is the trigger for an evaluation? 	HOW... How does your country carry out ex post evaluation of domestic legislation? For example: <ul style="list-style-type: none"> • How does it decide what is in scope for evaluation? • How does it prioritise what should be evaluated? 	WHY... Why does your country conduct ex post evaluation? For example: <ul style="list-style-type: none"> • What is the rationale for evaluation? • How do you measure and communicate the benefits of evaluation? 	Are there studies or examples from outside the EU that you are aware of and think might be relevant to the methodology and practice of ex post evaluation by the Commission? If so, please provide a brief description and reference
	<p>Until the enactment of the Amendments to the Law on Normative Acts, functions related to the Impact Assessment are assigned to the “Unit for Better Regulation” which includes the Strategic Development and Coordination Directorate at the Council of Ministers Administration and Inter-ministerial Working Group of experts for monitoring the Better Regulation Programme. The Working Group is chaired by the director of the Strategic Development and Coordination Directorate at the Council of Ministers Administration and includes representatives from key ministries – Ministry of Economy, Energy and Tourism; Ministry of Finance; Ministry of Justice; Ministry of Transport, Information Technology and Communication. Each ministry or business organization could make a motivated proposal to the above-mentioned Working Group for preparation of the Impact Assessment of regulations, which are essential to the business environment or create significant burden or irritation. On this basis a list of laws subject to an Impact Assessment in</p>			

Member State	WHAT... What does your country do to ex post evaluate domestic legislation? For example: <ul style="list-style-type: none"> • What institutions or processes does it have in place to carry out evaluation? • What is the trigger for an evaluation? 	HOW... How does your country carry out ex post evaluation of domestic legislation? For example: <ul style="list-style-type: none"> • How does it decide what is in scope for evaluation? • How does it prioritise what should be evaluated? 	WHY... Why does your country conduct ex post evaluation? For example: <ul style="list-style-type: none"> • What is the rationale for evaluation? • How do you measure and communicate the benefits of evaluation? 	Are there studies or examples from outside the EU that you are aware of and think might be relevant to the methodology and practice of ex post evaluation by the Commission? If so, please provide a brief description and reference
	2011 was prepared by the Working Group. This list contains four laws and is coordinated with all ministries, national representative employers' organizations and the Economic and Social Council. In the budgets of the respective ministries are provided funds for these Impact Assessments. Each ministry will initiate a public procurement procedure and will sign a contract with an external consultant. The final assessment is coordinated with all ministries and social partners and stakeholders. After that the regulations are included in the Legislative Programme of the Government.			
Belgie / Belgique	<p>[FED] The measurement bureau of the Administrative Simplification Agency (ASA) monitors the evolution of the administrative burdens caused by federal legislation. Annual reports are available.</p> <p>[FED] Perception survey (I). Upon request of the ASA, the Federal Planning Bureau conducts a biannual survey of enterprises across the whole</p>	The measurements are carried out using the Standard Cost Model. The survey concerns self-employed, SMEs and big enterprises. The survey focuses on the three most burdensome legislations: social, environment and fiscal. Quantitative, qualitative and other data are used to draw an overall picture and to assess trends and	Since the federal government, together with the regions, has put forward a reduction target of 25 % of the administrative burdens by 2012, the ASA conducts measurements/surveys and reports back on the evolution to the government, parliament and other	

Member State	WHAT... What does your country do to ex post evaluate domestic legislation? For example: <ul style="list-style-type: none"> • What institutions or processes does it have in place to carry out evaluation? • What is the trigger for an evaluation? 	HOW... How does your country carry out ex post evaluation of domestic legislation? For example: <ul style="list-style-type: none"> • How does it decide what is in scope for evaluation? • How does it prioritise what should be evaluated? 	WHY... Why does your country conduct ex post evaluation? For example: <ul style="list-style-type: none"> • What is the rationale for evaluation? • How do you measure and communicate the benefits of evaluation? 	Are there studies or examples from outside the EU that you are aware of and think might be relevant to the methodology and practice of ex post evaluation by the Commission? If so, please provide a brief description and reference
	<p>of Belgium to assess the cost and the perception of administrative burdens for businesses.</p> <p>[FED] Perception survey (II). Every three years, the FPS Ministry of Employment and Labour conducts a Customer Satisfaction Survey.</p> <p>[FED] The law of 25 April 2007 established the Parliamentary Committee for Legislative Monitoring (composed of 11 deputies and 11 senators).</p> <p>[FED] Inspections and enforcement follow the lines of Belgium's division of competences between governments. For areas of federal competence, inspections are under the responsibility of units of relevant ministries (such as the Directorate-General Enforcement and Mediation of the FPS Economy), or administrative agencies (AFSCA). The same structure applies to regions and communities with respect to their competences. Compliance and enforcement measures differ from one field to another (such as social and economic areas) and also within a single area.</p>	<p>needs. The survey highlights developments over time, since 2000.</p> <p>Sample size: 7,600 enterprises, stratified sample according to size and sector (postal mail and internet).</p> <p>The survey investigates and tracks satisfaction and perceptions of customers in relation to social law as well as of social regulations and services provided to mainly employers and employees by the ministry.</p> <p>Sample size: 1,134 respondents (online questionnaire and email).</p> <p>The Parliamentary Committee is charged with evaluating laws that have been enacted for at least three years. Requests can be sent by a large number of stakeholders (any administration in charge of implementing law; any authority in charge of law enforcement; any natural or legal person; and deputies and senators). The work of the committee is also to be fed by reports from the Court of Cassation and tribunals on difficulties encountered with</p>	<p>stakeholders.</p> <p>The purpose is to identify the strengths and weaknesses of the administration in order to improve the service to citizens.</p> <p>The Parliamentary Committee has to identify possible implementation difficulties (due to complexity, loops, incoherence, vagueness, contradictions) and assess how the law has effectively responded to its initial objective.</p>	

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	<p>[FED] Ex post review is indirectly addressed on an ad hoc basis by:</p> <ul style="list-style-type: none"> * the Court of Cassation * the Court of Audit <p>[FLANDERS]</p> <p>What institutions?</p> <p>IAVA (internal audit of the Flemish Administration)</p> <p>The internal audit is part of the Flemish administration but operates within an independent environment. IAVA concentrates on evaluation and recommendations on risk management:</p> <ol style="list-style-type: none"> 1. Are you doing the right things? 2. Are you doing things right? <p>IAVA has 3 kinds of audits:</p> <ol style="list-style-type: none"> 1. Planned audits 2. Random audits achieved? 3. Forensic audits (fraud) <p>Both planned and random audits can answer questions such as 'are policy goals achieved', this question can examine the quality of issued legislation.</p>	<p>laws and from the decisions of the Constitutional Court.</p> <p>The mission of inspections is to control the correct application of the law. Apart from 'live' control, they also cross-reference databases in order to highlight anomalies (to gain a broader scope, some inspections have signed a collaboration protocol).</p> <p>When compliance and enforcement are not met, there is a system of administrative penalties, in addition to classical penal sanctions (for example, in the field of social security). In addition to administrative penalties, some regulations provide for "alternative procedures". For example, the 1991 law on retail sales, consumer information and protection provides for a warning procedure.</p> <p>* Based on the appeal procedures and decisions carried out in the year, the Court of Cassation identifies legal difficulties which would require legislative modifications (due to divergences in</p>		

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	<p><u>Flemish Parliament</u></p> <p>→ ‘<u>Committee Decree Evaluation</u>’</p> <p>The committee was established in 2004. The committee does not have a specific mandate in the field of individual legislation. The committee functions as a watchdog that monitors the policy of Flemish government in the field of better regulation (e.g. in 2007 the committee recommended an evaluation of the existing IA approach) IA)</p> <p>→ <u>Flemish Parliament as smart regulator</u></p> <p>In his policy statement 2009 -2014 The president of Flemish parliament emphasized the role of parliament as smart regulator. During the current legislation several instruments for decree evaluation will be tested (green papers, IA ...). The statement also announces a</p>	<p>jurisprudence, implementation difficulties). * The Court of Audit also sometimes identifies issues relating to the quality of existing regulations (incoherence, inappropriate implementation procedures).</p> <p><u>What in scope?</u></p> <p>Five parameters;</p> <ul style="list-style-type: none"> - High risk legislation? Social implications? Proportionality? - Budgetary importance? - Added value? Policy recommendations possible? Margin? - Parliamentary interest? - Feasibility? Knowledge, data ...) <p>Definition of the term ‘proportionality’ in an evaluative context is subject of a study carried out by the Flemish Regulatory Management Unit.</p>		

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	<p>thorough decree evaluation per policy commission per year.</p> <p>Often evaluations are carried out by the <u>departments of the Flemish government</u> and/or by the <u>strategic advisory council</u>.</p> <p><u>Trigger?</u> Five parameters;</p> <ul style="list-style-type: none"> - High risk legislation? Social implications? Proportionality? - Budgetary importance? - Added value? Policy recommendations possible? Margin? - Parliamentary interest? - Feasibility? Knowledge, data ...? 			
Česka Republika				
Danmark	<p>In general, ex post evaluations are conducted. Since the parliamentary year of 1999/2000 there has been a "law supervision" programme in place. Specific laws on the government's annual</p>	<p>In general, the methods vary from ministry to ministry as each ministry conducts its own ex post evaluations. This also applies to evaluations under the "law supervision!"</p>	<p>In general, the specific rationale for conducting ex post evaluations varies from evaluation to evaluation because each ministry conducts its</p>	

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	<p>law programme are selected to be evaluated after 3 years. This is indicated when the law is proposed along with the evaluation criteria. However, there is no overview of all the ex post evaluations being conducted across all ministries because each ministry is free to conduct ex post evaluations within its own domain and at its own expense, also outside the “law supervision” programme. These evaluations do not have to be centrally approved. For example, the Ministry of Education evaluates its own programmes for better reading abilities among kids. Consequently, the individual evaluations are triggered by a wide range of different needs and goals.</p> <p>As an exemption to this general description, the ex post measurements of administrative burdens are coordinated centrally by the Danish Commerce and Companies Agency. These measurements are conducted in close cooperation with external consultants and the individual ministries and cover legislation from</p>	<p>programme and there are only very general guidelines. It is therefore difficult to provide a common approach. Some evaluations focus on cost-efficiency and others on attainment of policy goals.</p> <p>In relation to the ex post measurements of administrative burdens, the SCM method determines the scope of measurement, although confined by the mentioned thresholds. The reduction target is a government priority and therefore the ex post measurements are prioritised with a designated budget.</p>	<p>own evaluations. However, more generic rationales are present to a lesser or greater extent: budgetary scrutiny, cost-efficiency monitoring and control, and input to new legislation or to amendments to existing legislation. Measurement and communication of benefits are also handled by each ministry, why there is no common approach. The rationale behind the “law supervision” programme is to strengthen and systematise assessments of whether a policy goals has been reached or not and whether the preconditions for the law are still present. Each supervision ends with a report to the parliament and includes consultation with the authorities and organisations involved in the supervision.</p> <p>In relation to ex post measurements of administrative burdens the overall</p>	

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	the previous parliamentary year. Ex ante assessments of the burden level of individual pieces of legislation determine whether the piece of legislation is included in the measurement or not. Until now, new rules imposing less than 1000 hours of administrative work in businesses per year are excluded (the threshold is 100 hours for amendments to existing rules). Henceforth, all measurements are in principle going to be conducted ex ante. In cases of high uncertainty in the ex ante measurement, an ex post measurement will also be conducted. All measurements are triggered by a reduction target on administrative burdens.		rationale is improvement of framework conditions for businesses, to the benefit of growth and competitiveness. The measurements of administrative burdens are for each ministry communicated in a separate report and overall results are communicated yearly in a report to the parliament. As mentioned, the measurements of administrative burdens will change so the reporting thereof will also change. The annual reporting to the parliament will continue, although reflecting the changes in the measurement exercise.	
Deutschland	(1) Evaluation can be / is done by various institutions, also regarding whole policy fields (labour market, health, taxation etc.). E.g., the ministries and agencies themselves, specialized bodies attached to institutions (e.g., the Institute for Employment Research, IAB, for labour	According to Art. 44.7 of the Joint Rules of Procedure (JRP), new legislation should include in principle information on whether evaluation is regarded as necessary. The JRP points out the following aspects for evaluation: intended effects, costs and side	Re (1): To receive ex post information on the effectiveness, efficiency, quality of implementation of particular policies or policy areas, to inform the parliament as a basis and guide for policy decisions.	a) See e.g. the Australian productivity commission. The Productivity Commission is the

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	<p>market policies: www.iab.de).</p> <p>Evaluation is done at all levels of government: federal, regional, and local. Some <i>Länder</i>, for example, have implemented general sun-setting of legislation, which could be linked to evaluation: North Rhine-Westphalia, for instance, at one point suggested an “inversed burden of proof”, i.e. that it needs to be clearly laid out why a piece of legislation should be maintained; alternatively, the government can state in a legislative act that it will regularly be evaluated and the results be reported to the regional parliament.</p> <p>Many pieces of legislation contain an obligation to evaluate or report to parliament, in particular major proposals / regulations and legislation in areas which go hand in hand with considerable public expenditure. This obligation could also be added during the parliamentary discussion. Evaluations and/or reports are usually called for after first experiences have been made (usually to be posted about three years after coming into effect).</p>	<p>effects. Furthermore special aspects are picked up in the respective case. Which acts are put up for evaluation is based on decisions by the ministries and/or the parliament.</p> <p>With its extended mandate (entry into force: 22 March 2011), the NRCC <i>may</i> now check i.a. whether information was given in accordance with Art. 44.7 of the JRP.</p> <p>As pointed out in the first column, higher federal authorities are often charged with evaluations by their mandate. The Federal Court of Auditors (the college of its members) decides on its evaluations. See also the remarks in the column “what”.</p>	<p>Measurement: depending on the area concerned.</p> <p>As for communication aspects, the results of evaluations often have to be reported to the Bundestag (e.g. in the cases of the 2nd book of the German Social Security Code or the Nursing Care Insurance legislation). Evaluations of the Court of Auditors are published and submitted to the parliament and the federal government; the results of federal authorities are sent to the respective federal ministry in charge and are often published as well.</p> <p>Re (2): Results of the ex post assessments are addressed to the responsible ministries and the RCC. In addition the results are recorded in the public database and leave its marks on the government’s annual report to the parliament. The</p>	<p>Australian Government’s independent research and advisory body on major economic, social and environmental issues affecting the well-being of the community.</p> <p>b) compare the US president’s orders on his regulatory strategy (http://www.whitehouse.gov/the-press-office/2011/01/18/fact-sheet-presidents-regulatory-strategy).</p>

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	<p>A well-suited example is the field of labour market policies, which are regularly evaluated regarding their effectiveness (see, for instance, Art. 55 SGB II (2nd book of the German Social Security Code), or the evaluation of Section 6c of SGB II (See Annex B.3).</p> <p>As for the question of which institution conducts evaluations, universities or research institutes are often asked for support; responsibility for the evaluation / reports nevertheless remains with the ministry in charge.</p> <p>Important points to note are that these evaluations can in particular cases be quite time and resource consuming. Furthermore, a recurring tendency which is arguably inherent to evaluation systems in all countries is that there is sometimes a tendency to justify the original political / policy decision, sometimes combined with suggestions for minor changes, which makes it necessary to find ways to ensure maximum objectivity in the evaluations.</p> <p>Many higher federal authorities conduct</p>		<p>assessment is understood as an important part of the quality management of the fed. government's programme. Prime objectives are i.a. to arrive at more reliable figures to more adequately reflect the burden end users actually experience (given that figures are likely to differ from the original ones due to experience effects etc.), and to get a quantitative and more reliable idea of the effects of the actual practical implementation.</p> <p>Re (3): The results of these projects are mainly addressed to the participating parties, especially the administrative bodies. They ought to enhance the quality of law and administrative enforcement. All participating parties are free to decide how to make use of the results. Nevertheless, the reports are published on the NRCC website. The</p>	

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	<p>evaluations, which is often prescribed by their mandate (such as the already mentioned Institute for Employment Research (IAB) or the Federal Institute for Vocational Education and Training (BIBB)). In addition, the Federal Court of Auditors is charged with conducting evaluations regarding the (cost) effectiveness of policies, institutions etc.</p> <p>Worth mentioning in this context is also the new Art. 91d of the German Basic Law which allows for benchmarking among the <i>Länder</i> and also with the Federal level.</p> <p>(2) As regards administrative burdens, the results of the ex ante assessment for businesses are evaluated / re-measured by the federal statistical office two years after entry into force of the legislation. Exceptions are possible for regulations which undoubtedly do not cause relevant admin burdens. If necessary, the respective data in the publicly available administrative burden database have to be corrected accordingly.</p> <p>(3) Also within the framework of the federal</p>		<p>NRCC will request information on the status of implementation of the projects' results on a frequent basis. Both federal government and the NRCC reflect on these projects in their annual reports.</p>	

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	government's programme on better regulation and reduction of bureaucracy certain areas of live and law are evaluated ex post. These evaluations are organized with partners across the administrative levels and across the limits of single areas of law and include the national regulatory control council (NRCC).			
Eesti				
Ελλάδα / Ellada				
España	<p>The approval of the Sustainable Economy Law in 4th of March of 2011 is a new step forward to the establishment of a national ex post evaluation system of regulations.</p> <p>The Law is aimed at saving energy, the promotion of renewable energy, quality education, reform of the financial system, investment in research and development in both the public and private sectors, and in the area of town planning. The legislation also intends to get rid of red tape in company administration, to</p>			

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	<p>help with the creation of more industry, improve competitiveness and create greater gender equality.</p> <p>In this context, it establishes as one of the mandatory instruments of Public Administrations for Better Regulating ex post evaluations.</p> <p>As a result of this mandate, we will be working intensively in the design and implementation of this new system during the next period.</p>			
France				
Ireland / Éire				
Italia				
Κύπρος / Κίβρις / Kypros	<p>Unfortunately, here in Cyprus we are not yet in a position to answer the said questionnaire since the issue of Better Regulation is still at its early stages.</p> <p>For information purposes please note that we have started intensively working on the</p>			

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	<p>issue since 2007. We have prepared and put into force a National Action Plan for the promotion of BR in Cyprus. We are making slow but constant progress regarding its implementation. More emphasis is placed on the reduction of administrative burden on enterprises, and to a lesser extent, on promoting Impact Assessment.</p> <p>Currently we are at the last stage of completing a sectoral base line measurement project for the reduction of AB in all existing legislation relating to enterprises, based on 8 national priority areas. Adoption of the project's recommendations of AB reduction is expected to lead to the successful fulfilment of Cyprus's EU commitment for 20% reduction of AB in national legislation, by 2012.</p> <p>In view of the above, ex post evaluation will be considered at a later stage in the context of promoting a long-run national strategy on Impact Assessment.</p> <p>However, we are very interested in receiving the results of the Working Group on Ex post</p>			

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	Evaluation, as these will be of a great assistance to us in the future.			
Latvija	Latvia does not have specific ex post evaluation procedures in place. Although, the Ministry of Economics, being responsible for entrepreneurship has several procedures how to identify weak points in the existing legal acts which concerns entrepreneurs: <ol style="list-style-type: none"> 1) Analysis of existing legal acts is done concerning areas included in Doing Business ranking (methodology developed by the World Bank). 2) Survey on entrepreneurship legal environment is carried out every second year since 1999. The last survey was done in 2009; 3) The Investment and Development Agency of Latvia, the subordinated institution by the Ministry of Economics, offers the possibility 	1) First of all the detailed analysis of legislation concerning areas Doing Business ⁴ is done. Regulations affecting 11 areas of the life of a business are covered: starting a business, dealing with construction permits, registering property, getting credit, protecting investors, paying taxes, trading across borders, enforcing contracts, closing a business, getting electricity and employing workers. A special attention is paid to the areas where the rank is low or it is decreasing compared to the previous years. Areas are selected because they have a horizontal impact almost on all entrepreneurs.	The main idea is to promote business in the country, to attract foreign investors and finally to speed-up economic recovery.	Doing Business – developed by the World Bank ⁵ . Doing Business presents quantitative indicators on business regulations and the protection of property rights that can be compared across 183 economies including EU member states and over time.

⁴ www.doingbusiness.org

⁵ www.doingbusiness.org

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	<p>for all business units (companies, associations, self-employed) to report on bottlenecks, specific problems by filling in form.³ Received suggestions are evaluated and transferred to responsible authorities for extended evaluation.</p> <p>4) Regular feedback from NGOs incl. the Foreign Investors' Council, Latvian Chamber of Commerce and Industry, Employers' Confederation of Latvia, etc.).</p> <p>Proposals are analyzed and summarized in the Annual Action plan for Business Environment Improvement. The Ministry of Economics is responsible for submitting the Plan for approval to the Cabinet of Ministers. The implementing progress is reported to the government every quarter.</p> <p>The State Chancellery is responsible for other better regulation components such as</p>	<p>2) In the framework of business survey the focus groups were organized to determine the weakest points in the legislation. The areas were selected from Doing Business scope – starting a business, registering property, trading across the borders, paying taxes.</p>		

³ http://www.liaa.gov.lv/lv/par_liaa/darbibas_sferas/uznemejdarbibas_vides_uzlabosa/uznemejdarbibas_vides_sakartos1/

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	Regulatory Impact Assessment (RIA) which includes ex post evaluation but it is not compulsory part of RIA.			
Lietuva	Ex post assessment is established by resolution No 1244 on Law Making Rules adopted by the Government on 30 th September 2009, and is carried out by the ministries, which are responsible for legislation that is to be assessed. The Ministry of Justice co-ordinates the process of ex post evaluation. After taking into account the Government's Programme, strategic and annual plans and evaluating main problems and changes in the relevant field, line ministries adopt their own annual plans for ex post assessment of legislation. The Government may also request a ministry to carry out the evaluation of a particular legal act. Governmental and municipal institutions as well as other legal and natural persons may also offer suggestions on what pieces of legislation should be included into the annual plans for ex post assessment.	1) The scope of evaluation is determined by taking into account line ministries' strategic and annual plans, main issues and changes in the respective area of regulation, as well as problems which have arisen while implementing regulations in practice. It is also evaluated if regulations have attained anticipated objectives or if there have been unforeseen negative consequences or other important factors which could potentially influence future regulations. 2) Priorities are set by taking into account the importance of relevant field and objectives of the regulations; cases when existing regulations have proved to be insufficient or inconsistent; frequency of implementation problems.	1) The aim of ex post assessment is to improve existing regulations and decision making. Ex post assessment is carried out in order to evaluate existing regulations, verify if regulations have attained anticipated objectives and results; evaluate necessity, sufficiency and effectiveness of existing regulations as well as the need for amendment of regulations. Several main reasons for the ex post assessment of a particular legal act can be also outlined: implementation of legal act in practice has exposed problems; difficulties have been met in regulating particular area and solving significant issues; the objectives of regulation have not	

Member State	WHAT... What does your country do to ex post evaluate domestic legislation? For example: <ul style="list-style-type: none"> • What institutions or processes does it have in place to carry out evaluation? • What is the trigger for an evaluation? 	HOW... How does your country carry out ex post evaluation of domestic legislation? For example: <ul style="list-style-type: none"> • How does it decide what is in scope for evaluation? • How does it prioritise what should be evaluated? 	WHY... Why does your country conduct ex post evaluation? For example: <ul style="list-style-type: none"> • What is the rationale for evaluation? • How do you measure and communicate the benefits of evaluation? 	Are there studies or examples from outside the EU that you are aware of and think might be relevant to the methodology and practice of ex post evaluation by the Commission? If so, please provide a brief description and reference
	The adopted annual plans for ex post assessment are published on respective ministries official website. Ministries publish the list of regulations which are to be evaluated, indicate the contact person for inquiries and the deadline for evaluation. All legal and natural persons may offer suggestions regarding the regulations which are being evaluated. The results of ex post evaluation are presented in the report of ex post assessment which is published on respective ministry's website and also sent to the co-ordinating institution - Ministry of Justice. The latter prepares and publishes an annual report on ex post assessments conducted.		been attained. 2) The line ministries' reports of the results of ex post assessment are published on the ministries internet sites. These reports usually contain proposals for improving existing regulations. The benefit of ex post assessment is evident when new and improved regulations are being implemented.	
Luxembourg / Luxembourg	The "Département de la Simplification administrative (DSA) ⁶ ", which is also responsible for the ex ante procedure on Smart	Every five years, a market survey is carried out by the DSA and by the Ministry of Public Administration on the admin burden	The main rationale for ex post evaluation is the presence of problems and discontent of	The Swiss Government has an interesting ex post

⁶ National admin burden reduction department under the responsibility of the Prime Minister

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	<p>Regulation, has elaborated a very pragmatic ex post evaluation procedure.</p> <p>On the one hand, it has closed the circle with the <i>ex ante</i> procedure by analyzing systematically the new legislation, voted in the Parliament, on the presence of new admin burden and in the light of what had been detected during the <i>ex ante</i> procedure. If the DSA detects any disproportionate burden in the new text, a fiche <i>ex post</i> is carried out which points out the exact problem and suggests solutions. After that, discussions are started between the concerned private parties and public administration to find a solution. By this way, the <i>ex ante</i> procedure and <i>ex post</i> evaluation are linked.</p> <p>The DSA is reporting on an annual basis, to the Government and the Parliament, on the progresses made in smart regulation (<i>ex ante</i> and <i>ex post</i> procedures). In addition to that, the</p>	<p>perception and the quality of public services. This survey points out the areas which are the most in need for a modernisation, an admin burden reduction or an organizational reform. On the basis of this survey, a Five-Year Program in the field of Admin burden reduction and Admin Reform is adopted by the Government, together with the concerned private parties and the public administrations at stake. Prioritization lies generally in the biggest need of reform but in respect to other political priorities.</p>	<p>stakeholders with existing legislation and administrative procedures, detected by surveys and reports. Statistical results from surveys point out the areas which are the most in need of finding a solution.</p> <p>The results of the <i>ex post</i> evaluation are regularly communicated via electronic newsletters, the Internet site of the DSA (www.simplification.lu) and the annual report of the DSA, which is distributed to every Luxembourgish stakeholder. The Luxembourg Government is also regularly communicating its actions in public magazines.</p>	<p>evaluation procedure⁹.</p>




⁹ <http://www.gl.admin.ch/fr/gesetz/entree-en-vigueur-et/evaluer-retrospectivement/etapes-et-options.html>

Member State	WHAT... What does your country do to ex post evaluate domestic legislation? For example: <ul style="list-style-type: none"> • What institutions or processes does it have in place to carry out evaluation? • What is the trigger for an evaluation? 	HOW... How does your country carry out ex post evaluation of domestic legislation? For example: <ul style="list-style-type: none"> • How does it decide what is in scope for evaluation? • How does it prioritise what should be evaluated? 	WHY... Why does your country conduct ex post evaluation? For example: <ul style="list-style-type: none"> • What is the rationale for evaluation? • How do you measure and communicate the benefits of evaluation? 	Are there studies or examples from outside the EU that you are aware of and think might be relevant to the methodology and practice of ex post evaluation by the Commission? If so, please provide a brief description and reference
	<p>annual report is published and sent to all the concerned parties.</p> <p>The Luxembourg Government also determines regularly in its Five-Year Program certain domains which need an ex post evaluation. It chooses the areas where a major problem in admin burden had been detected beforehand. In the Five-Year Program of 2009-2014, four areas had been pointed out for a detailed ex post evaluation: social security, VAT, urbanism and environment.</p> <p>On the other hand, the DSA offers on his Internet site⁷ the possibility to all citizens and companies”, to report an admin burden, by sending an email or filling out a form named “Fiche ex post”. After such a report has reached the DSA or after it has been informed by other means of problems connected to an existing law or procedure, the concerned parties (public administration, ONG’s, etc.) are contacted to</p>			

⁷ www.simplification.lu

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	<p>take position. First of all, it is necessary to know if the problem concerns only a single company or citizen or if it is a widespread problem. If it concerns only a single person, it is asked to contact the national Ombudsman.</p> <p>If all parties agree, the problem is discussed in an ad-hoc working group composed by the main stakeholders and solutions are elaborated.</p> <p>Besides this external trigger, the Luxembourg Government is also making an ex post evaluation by itself on a regular basis in consequence of other information provided (like the annual report of the national ombudsman).</p> <p>The DSA observes official advices of professional chambers, the State Council, related to legislative proposals, in order to detect new admin burden. In addition to that, the DSA consults the ONG's of private parties and public administrations on a quarterly basis in its "Admin burden reduction Committee"⁸.</p>			

⁸ Comité de la Simplification administrative.

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	On demand of a concerned administration, a SCM is carried out to determine admin burden in existing legislation.			
Magyarország				
Malta				
Nederland	<p>Evaluation processes have been embedded in or are being developed for some of the specific programmes that make up Better Regulation in the Netherlands. Notably, the programme on administrative burden reduction for businesses has been the subject of regular audits commissioned by the Dutch Regulatory Reform Group (RRG), including from the OECD and World Bank.</p> <p>The RRG performs or commissions regular evaluations of progress in tackling substantial administrative burdens and other regulatory costs, and specific aspects such as the communications strategy.</p> <p>As a matter of fact - on the basis of the Dutch experience - both systemic evaluations assessing broader policy objectives and more</p>	<p>The Netherlands has been conducting mostly evaluations with a broad concentration scope for the entire stock with business impacts and scrap-and-build fundamental reviews, prioritising specific sectors and top domains. The scope depends very much on the nature of the regulatory cost involved.</p> <p>The independent Business Regulatory Burden Commission has fed as advocacy body the Dutch programme with valuable evaluations, leading for instance to less burdensome permits and an additional package of measures to help overcome the financial crisis.</p> <p>Another fruitful way to engage stakeholders in evaluations of business regulation was</p>	<p>Evaluation of communication activities overall is part of the RRG communication strategy using a “business sentiment monitor”. The different activities are also evaluated separately. For instance the commercial campaign is evaluated by a specialised research company.</p>	 GOVPGCREG(2004)6 Ex-Post Evaluation of  GOV_PGC(2004)4.pdf  GOV-PGC(2004)5- REGULATORY PERFO

Member State	WHAT... What does your country do to ex post evaluate domestic legislation? For example: <ul style="list-style-type: none"> • What institutions or processes does it have in place to carry out evaluation? • What is the trigger for an evaluation? 	HOW... How does your country carry out ex post evaluation of domestic legislation? For example: <ul style="list-style-type: none"> • How does it decide what is in scope for evaluation? • How does it prioritise what should be evaluated? 	WHY... Why does your country conduct ex post evaluation? For example: <ul style="list-style-type: none"> • What is the rationale for evaluation? • How do you measure and communicate the benefits of evaluation? 	Are there studies or examples from outside the EU that you are aware of and think might be relevant to the methodology and practice of ex post evaluation by the Commission? If so, please provide a brief description and reference
	<p>specific thematic or sectoral evaluations can be very useful, it very much depends on the policy phase, timing, maturity and capacity levels of the national regulatory programme.</p> <p>Towards the end of the first ambitious programme to reduce red tape on businesses by net 25% (2003-2007), the Netherlands benefited strongly from the above mentioned joint OECD/World Bank review of the Dutch regulatory reform programme thanks to valuable recommendations for consolidation and future improvement (focused and targeted approach as stepping stone for a broader and more comprehensive regulatory reform programme, with a balanced mix of quantitative and qualitative indicators).</p> <p>Progress on local Better Regulation initiatives (reduction of burdens, simplification of model regulations) has also been evaluated. For example, the effect of the work on model regulations for reducing administrative burdens has been evaluated by an external consultant.</p>	<p>the set-up of joint committees of civil servants from ministries and representatives of the business community.</p> <p>Some examples of measures inspired by such channels: faster business start-ups, easier tax returns, 70% less statistical burdens, fewer annual accounts, fewer building procedures, a single environmental permit, simplified health and safety regulations.</p>		

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	<p>There have also been some <i>ad hoc</i> evaluations of specific topics, for example the evaluation by ACTAL of awareness and capacities within government for tackling administrative burdens. There has not been any formal evaluation of the policies on law quality and on impact assessment for the development of new regulations.</p> <p>The Netherlands Court of Audit (NCA) steps in with relevant audits on an <i>ad hoc</i> basis. It has evaluated the business burdens reduction programme twice, in 2006 and again in 2008 (when it also looked at the citizen programme). The NCA, which checks whether government policies represent “value for money” and which decides for itself what it should audit, chose to review this programme because of its cost, the political attention that it attracted, and its ambitious reach.</p> <p>Last but not least, the Dutch Government formally introduced in April 2011 one single national comprehensive structural framework for evaluation to structurally assess and account for</p>			

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	<p>the quality of new policy and legislation. The new system replaces the previous four distinct processes and specific assessments. This framework integrates the multitude of checks, guidelines and evaluations that have been developed over time with respect to specific elements of policy and legislation. The goal is to simplify the application of these checks, as well as promote their use, thus reinforcing their impact. The integrated framework is meant to avoid unnecessary new burdens, to make the legislative process more transparent and to improve the relation between policy, legislation and implementation.</p> <p>A new Impact Assessment Commission will be established in September 2011 as coordination and quality control body.</p>			
Österreich				
Polska	There is a pilot project in the Polish Ministry of Economy to evaluate laws in the competence of the ministry every year. All of these laws issued by the parliament are subject of evaluation.		- To ensure, that there is any consciousness about the existing act (as it happened that the act was adopted and forgotten),	

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	Each law is assessed, and the result of the evaluation is presented in a simple form. Many of the fields (for example the aim of a law) are to be filled one in a law's lifetime. Only few have to be changed (revised) every year. Every evaluation is revised in order to check for possible errors. Evaluation is completed with a proposal what to do with presented problems - ignore them or start complete Impact Assessment. If later during a year there is a proposal to change the law, it is checked against the ex post evaluation.		- To develop an early warning system - some pathologies could be identified in the early stage, when they are small problems	
Portugal				
România	The ex post evaluations are carried out by each competent authority as regards the acts falling in their area of competence	Ex post evaluation is not expressly regulated at national level. However, on a case by case basis, ex post evaluations are conducted. The findings of such evaluations are later used as a basis for future ex ante evaluations which serve the continuous improvement of a particular legislative domain.	Ex post evaluations are carried out, for example, for particularly complex legislation, or in case of provisions causing difficulties in implementation and compliance or in cases where simplification is needed or administrative burdens reduced. At the moment, we do not have specific measures for the	

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			communication of the results or specific means of measurement.	
Slovenija	<p>Periodic ex post evaluation of existing regulation is not mandatory unless an impact assessment could not be conducted ex ante due to exceptional circumstances, such as for example a natural disaster.</p> <p>"For laws adopted under an emergency procedure, a report on impact assessment of consequences in individual fields shall be prepared after they have been applied for two years, and the report shall be sent to the National Assembly and published on web pages after having been debated by the Government." (Article 8b, Rules of Procedure of the Government of the Republic of Slovenia).</p> <p>The evaluation in Slovenia is not systematic. It varies from regulation to regulation, mostly depending on the processes of the relevant ministries. The evaluation is afterwards "presented" in the accompanying letter of the draft amending or changing the regulation (cycle</p>	<p>When entering -25% project the scope was decided based on the input by various representatives of public (chambers of commerce, crafts;...); individuals and the information gathered within administration (inspections)</p>	<p>In relations to the governmental provision: since the ex ante assessment was not done, two years time should be long enough to evaluate whether the act met its objectives;</p> <p>Regarding the -25% project: the rationale is to evaluate targeted legislation in order to identify the most burdensome and give suggestions how to make the legal setting business friendlier; the results are communicated via ministerial website (reports); and webportal (http://www.minus25.gov.si/)</p> <p>Offering info on the results of measured legislation in details with numbers and savings; proposals for amendments; also enabling (and inviting) proposals from the public</p>	

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	<p>logic).</p> <p>At the Ministry of Public Administration, which is responsible for RAB and project -25% by 2012; we are also linking it to do at least partial evaluation – when reports on administrative obligations are presented to the relevant ministries, they are also acquainted with inconsistencies of the procedural nature and sometimes also substance-wise.</p> <p>Regarding the experiences when checking for obsolete regulation; Government Office for Legislation was dealing with this a few years ago: they sent the list of all regulations to their “home” ministries to check whether the listed are still in force; and it was then on the ministries themselves to perform the check.</p>		and also answering their proposals (two-way communication)	
Slovensko	Based on this presidency conclusions (March 8,9 2007) as well as on previous work The Slovak Action plan to reduce AB was drafted by the Ministry of Economy and the Deputy prime minister Office involving strategic objective to reduce AB by 25% by 2012 and introduce	For the partial measurement SCM methodology was applied. During 2009 an external company carried out measurements of 48 laws covering 12 areas (business law, citizen law, accounting, bankruptcy and	First of all ex post evaluation presents a commitment against EC regarding strategic objective to reduce AB by 25% by 2012. Ex post evaluation is a useful tool for the government and public	

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	<p>measures for further AB reduction. It was adopted by Government Decision in 2007. Ministry of economy of the Slovak republic is a main coordinating unit responsible for implementation better regulation agenda in Slovakia.</p> <p>Besides the Action plan each year the National Agency for the Development of SME (NADSME) prepares an Ex post analysis of the most burdensome acts regulations regarding businesses (up to 20).</p>	<p>restructuralisation, market regulation, taxes, custom duties, investment incentives, other financial regulations, as well as labour and employment, contributions – transfers, environment and intellectual property). In the first phase only acts were being measured, leaving out the secondary legislation (decrees, regulations, etc.). These areas are the most burdensome from the point of view of tradesmen and SMEs. The 2nd phase of measurement embraces secondary legislation the area of labour and social affairs (Labour code, Act on Occupational Safety and Health Protection). Evaluation of regulation within the Ex post analysis of the most burdensome acts regulations regarding businesses (done by NADSME) contains detailed analysis and description of each act and related secondary legislation. The next step - quantification of all IOs, definition of all SME regulation obligations, evaluation of individual costs of regulation and proposal</p>	<p>administration. This methodology brings relevant information that could be helpful when adopting new legislation without negative impacts.</p>	

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		of possible legislative measures for reducing regulatory costs.		
Suomi	<p>The government occasionally lets the parliament know about its plan of evaluation regarding the proposed act in government bills, especially in cases where impact assessment is proved to be controversial. When passing a parliament act the parliament quite often also officially claims for evaluating the new legislation and reporting that to the parliament. The agencies review licensing practices and court cases and collect data on inspections. The findings of the agencies may lead up to further surveys or investigations. Generally speaking, a trigger for an evaluation can be for example disadvantages in some policy area, frequent shortcomings in compliance or complaints from the stakeholders.</p> <p>The evaluations are usually carried out by the state research institutes (like National Research Institute of Legal Policy or National Institute for Health and Welfare) or by the state agencies</p>	There is no systematic or coordinated system for deciding on evaluations. The decisions are made by the responsible ministries.	<p>The rationale of evaluation may be reassessing or reforming the current policy or collecting data on a recently introduced policy.</p> <p>The benefits of evaluation are advocated in the law drafting guidelines (RIA, Bill drafting) and in several planning and strategy documents. The benefits of evaluation are not especially measured.</p>	

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	responsible for enforcement of the legislation.			
Sverige	All ministries and government agencies have the possibility to initiate internal ex post evaluations at any time. NAO have the possibility to initiate ex post evaluations. In 2004 they carried out an ex post evaluation of the better regulation work in Sweden	There is no overall policy for priorities or scope of evaluation. However, the Swedish measurements are being updated with ex post measurements.	The Swedish NAO is one of the bodies charged with exercising the powers of scrutiny vested in the Swedish Parliament. The task is to audit state administration so as to contribute to the economic use of resources, and to effective and efficient administration. One important role of the Swedish NAO is to ensure democratic transparency, i. e. provide citizens with the opportunity to see how democratic decisions are made and implemented, how their tax money is used, and whether public administration follows directives, rules and regulations and achieves the objectives set for it. Financial audit assessments are presented in auditor's reports or auditor's certificates and, when	

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			necessary, in special auditor's reports or audit memoranda. The auditor's reports and auditor's certificates are submitted to the Government except as regards the agencies with the Swedish Parliament as principal. (www.riksrevisionen.se/english)	

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United Kingdom	<p>Historically, ex post evaluation occurred in two main forms - post-implementation review (PIR) and post-legislative scrutiny (PLS). Departments should indicate in the Impact Assessment (IA) for a policy whether they intend to conduct a PIR and revise their IA accordingly when the review is complete. There is no formal requirement to do a PIR but departments must explain why they haven't done so.</p> <p>Post-legislative scrutiny evaluates how primary legislation is working in practice, as opposed to the underlying policies. The main audience is Parliament, specifically departmental select committees. Departments submit a memorandum to the committees who may decide to conduct further enquiries. There is a formal requirement for PLS every 3-5 years but departments can arrange with the select committees not to do one. In practice, there have been relatively few instances of PLS in recent years.</p> <p>Building on PIR, a new reform introduces a compulsory sunset clause into all domestic</p>	<p>Departments are encouraged to weigh the costs and benefits of any PIR and discuss with Parliamentary select committees the value of proceeding with formal PLS. However, the recent introduction of sunseting introduces a 'blanket approach' that will, in theory, supersede previous prioritisation methods. Because the first sunset reviews are not scheduled to occur until 2016, we don't yet have direct experience of the new review rules in action.</p> <p>Departments also conduct ad hoc reviews of specific legislation or regulatory frameworks. For example, the Department for the Environment is currently reviewing the implementation in the UK of the Habitats and Birds Directives.</p>	<p>Rationale: Ex-post evaluation complements ex ante evaluation. It's specific purpose and benefits are:</p> <ul style="list-style-type: none"> • to identify whether the policy change is achieving the desired results; • to identify whether costs and benefits are in line with expectations; • to inform future policy development; • to improve delivery methods; • to develop the techniques used to assess the impact of policy interventions. • to contribute to better regulation; • to improve the focus on implementation and delivery of policy aims; and • to identify and disseminate 	

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	<p>regulation coming into force from April 2011 and which imposes a regulatory burden on businesses or civil society organisations. Regulations will expire unless action is taken to renew them – ordinarily after 7 years. There is a parallel obligation for a ministerial review of domestic legislation that enacts EU regulation, after 5 years.</p> <p>Ex post evaluation is also driven by the Government's programme of 'thematic reviews', by which departments are required to review all their past legislation (ie. the 'stock'). The purpose is to identify opportunities to review or revise legislation. This will help departments to comply with the One In, One Out rule for legislation by identifying 'outs'. Further review can be triggered externally through the new online platform 'Red Tape Challenge' (http://www.redtapechallenge.cabinetoffice.gov.uk/home/index/). Departments have put 21,000 statutory rules and regulations onto the website for members of the public to comment on. If a</p>		<p>good practice so that lessons may be drawn from the successes and failures revealed by the scrutiny work.</p> <p>The new sunset rule also complements the new One In, One Out rule, in that it helps departments generate deregulatory measures – ie. 'outs'.</p> <p>The National Audit Office (cf. Court of Auditors) scrutinises expenditure on behalf of Parliament, and aims to help public service managers improve performance and delivery. It also conducts value for money studies (about 60 per year), which look at how government projects, programmes and initiatives have been implemented.</p>	

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	citizen complains about one of these regulations and the department can't justify why a regulation should stay, the regulation will fall.			

ANNEX B: – HLG – Evaluation and Fitness Checks

Member State case studies on evaluation practice

1. Denmark

Best practice example: a user-centric ex post evaluation of regulation from the Danish Consumer authority

The example is an ex post evaluation of regulation from the Danish Consumer authority, among other things of regulation concerning advertisement of articles in the retail sector and regulation on labelling. The aim of the evaluation was to point out options for a better consumer regulation that on the one hand should sustain the level of consumer protection and on the other hand imply fewer administrative and perceived burdens on businesses.

Through a user-centric ex post evaluation of regulation from the Danish Consumer authority, it was found that a set of regulation, aiming to protect consumers, did not have the intended effect as numerous businesses did not comply with the regulation in question. Several reasons were found for this: lack of knowledge of the regulation; misinterpretation of and doubt about the requirements in the regulation; and in some cases intended non-compliance with the regulation as compliance in the view of the businesses would carry a disproportionate administrative burden.

The evaluation resulted in eight proposals for making the regulation easier for businesses to understand and comply with without compromising with consumer protection. On the basis of these proposals a bill on organised discount (discount agreements between retail and e.g. workplaces or associations) is currently being processed in the Danish Parliament.

Why is this best practice?

This example is proposed as a best practice example for several reasons:

First of all the evaluation has resulted in important insight in the effect of the consumer regulation and pointed out several reasons for a lack of compliance with the regulation by the retail sector. It was shown that non-compliance stemmed from intended as well as non-intended reasons and the evaluation has therefore given a greater understanding of how to make smarter business regulation.

The evaluation among other things showed that some pieces of legislation were overlapping and thereby contributing to confusion about the specific requirements in the regulation. An important element of smart regulation is therefore to avoid overlaps and inconsistencies in regulation. Moreover a greater focus on information campaigns and better guidance about the legal requirements of was another recommendation from the evaluation.

Secondly the evaluation was carried out with the aim to sustain the consumer protection level while at the same time making smarter business regulation.

The recommendations made on the basis of the evaluation show that there is not necessarily an antithesis between a better business regulation and a high consumer protection level. Instead these factors might be correlating as a greater compliance with the regulation also increases consumer protection.

Thirdly the recommendations from the evaluation are developed on the basis of insight to in the conduct and needs of the end-users of the consumer regulation, e.g. shop owners. End-users are the key to highlighting a problem and to judge whether an intervention will be effective. Through the involvement of end-users it has been possible to develop recommendations for regulatory solutions aiming to remove unnecessary administrative burdens and to improve businesses' perception of regulation without compromising with the protection level e.g. for consumers.

Methodology used for the ex post evaluation

The methodology used for the ex post evaluation is the so-called Burden Hunter technique which is a user-centric approach for cutting red tape. The Burden Hunter technique uses the principles and techniques of user-centric innovation, meaning that enterprises will play an active role in identifying potentials for the rethinking of business regulations. The focus is on the enterprises' experience of business regulations and on how these burdensome experiences can be reduced. The aim is not to deregulate but rather to make smarter business regulation.



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_technique.pdf

2. Luxembourg

Ex post evaluation best practice example

As indicated at the questionnaire on ex post evaluation, the main instrument for ex post evaluation in Luxembourg is a form named *Fiche ex post* (download on <http://www.simplification.public.lu/formulaires/index.html>).

In November 2008, the “*Département de la Simplification administrative (DSA)*” received a *Fiche ex post* concerning urbanism, which had been elaborated by business representatives. The document explained that the implementation of private as well as public real estate investments is extremely complicated and tedious due to a large number of authorizations which have to be asked for. Business representatives detected 11 different authorization procedures in order to create a new housing estate.

The DSA created a working group composed by business representatives and administrations to discuss the problem and to develop improvements. The working group elaborated concrete proposals in order to achieve substantial reductions of the time limits and simplifications of the procedures.

Large parts of these proposals, which affect 7 different legislations, have been transferred into legislative reforms, and are about to be put into action. One example of the proposals which will be realized in 2011 is the creation of a physical one-stop-shop concerning urbanism and environmental procedures.

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External contact person: Mr. Marc Gross, Chamber of Handcrafts (Member of the working group as business representative) (marc.gross@cdm.lu).

3. Germany

In the following, examples are listed concerning (1) specific “administrative / compliance cost” evaluations and (2) comprehensive policy effectiveness evaluations (labour market policy example):

(1) Multi-level, sectoral and compliance cost projects: several projects have been conducted so far, for an overview of the projects and the results please refer to the 2010 annual report of the Regulatory Control Council (sections 3.3.2 and 3.4) and the Federal Government’s upcoming and previous annual progress reports:

<http://www.bundesregierung.de/Webs/NKR/Content/DE/Publikationen/2011-09-20-Jahresbericht%202011.pdf?blob=publicationFile>

www.bundesregierung.de/Content/DE/Artikel/2009/02/2009-02-09-uebersicht-publikationen-buerokratieabbau.html

The detailed reports (available in German only) on the *multi-level projects* undertaken so far are available on the website of the Regulatory Control Council (“Einfacher zu ...” projects):

<http://www.normenkontrollrat.bund.de/Webs/NKR/DE/Publikationen/publikationen.html>

For more information and available documents in English please contact buerokratieabbau@bk.bund.de or nkr@bk.bund.de.

(2) Example for a comprehensive evaluation in a specific policy area (labour market policy): Evaluation of the experimentation clause Section 6c SGB II (Social Security Code) - comparative evaluation of the success on the labour market of the responsibility models of opting municipality (Optierende Kommune) and consortium (ARGE):

Summary in English:

<http://www.bmas.de/DE/Service/Publikationen/final-report-experiment-clause-pursuant-6c-sgb-III.html>

List of individual evaluation reports (in German):

<http://www.bmas.de/DE/Service/Publikationen/Forschungsberichte/Forschungsbericht-Evaluation-Experimentierklausel-SGBII/inhalt.html>

Efficiency analysis report:

<http://www.bmas.de/DE/Service/Publikationen/Forschungsberichte/Forschungsbericht-Evaluation-Experimentierklausel-SGBII/forschungsbericht-f387.html>