CONSULTATION IN LEGISLATIVE DRAFTING: GUIDELINES

1. Scope of application

Consultation means gathering of views, information and experiences of the stakeholders about the matter that is being prepared. For example authorities, experts, organisations, businesses and citizens are stakeholders.

These guidelines concern the drafting of acts, decrees and regulations including legal provisions. The guidelines concern also the implementation of legal acts of the EU and the drafting of national statutes that are needed to enforce international treaties. In addition, the guidelines are applied, as appropriate, in the national preparation of decision-making concerning the legal acts of the EU, along with the coordination system for EU affairs.

These guidelines are applied to the legislative projects started after the issue of the guidelines and to the ongoing projects to the possible extent.

2. Guidelines

2.1 Goals of consultation

The goals of consultation are openness and high quality of statute drafting. Consultation aims at finding out the different views, impacts and opportunities for practical implementation relating to the matter being prepared. With the help of consultation, the trust in statutes and in the democratic decision-making are also improved.

When consultation is conducted, the aim is that the key stakeholders participate in the drafting process or that their views are otherwise heard to a necessary extent during the drafting process. In the consultation, open and constructive interaction between the drafters and the stakeholders is pursued.

2.2 Planning of consultation

The planning of consultation of stakeholders constitutes a part of the planning of the legislative project. When planning the consultation, stakeholders relating to the legislative project at hand are defined, and it is established how citizens and other stakeholders than those that are known can be heard. Based on this, procedures, required resources and timetable for the consultation are planned.
2.3 Timing of consultation

Stakeholders are consulted in those stages of the drafting process where their input may have a significant effect on the contents of the matter being prepared. Stakeholders can, for example, be consulted regarding completed reports, starting a project, alternative solutions, impact assessments and proposed legislation. In extensive legislative projects, opportunities for influence are offered and arranged in several different stages of the process and even before the actual proposed legislation is completed.

2.4 Versatility of methods for consultation

The extensive participation of the stakeholders in the drafting process is promoted by applying different methods for consultation variably. Methods such as setting up preparatory bodies consisting of several members, written statements, discussion meetings, negotiations, unofficial communication, surveys and on-line discussions are used.

The applicable methods for consultation are chosen on the basis of the scope and goals of the project as well as the stakeholders concerned. Several different methods for consultation can be utilised in extensive statute drafting projects, if needed. When using the different methods, the stakeholders' equal opportunities to receive information and to participate shall be attended to. Information about the beginning and the progress of the drafting process and about the consultation process shall be offered in a clear and effective form and manner.

2.5 Broad-based preparation

Government proposals and decrees with significant impacts are principally prepared by preparatory bodies with several members, where the key authorities and stakeholders are presented. Organisation of the drafting process of government proposals and decrees with significant impacts is described and reasons for it are stated in the government Bill or in the presentation memorandum of a decree.

When appointing broad-based preparatory bodies, authorities and stakeholders shall be reserved sufficiently time to appoint their representatives. During the consultation, an opportunity for influence is arranged also for those stakeholders who do not have a representative in the preparatory body.

2.6 Written statements

During a legislative drafting process, the stakeholders are requested to issue written statements on the proposed legislation that has been drafted on the basis of the preparation. A written statement is requested on the proposed legislation even when comments have been requested or other methods for consultation have already been used in some earlier stage of the drafting process.

If justified reasons exist, written statements on proposed legislation need not be requested. When proceeding like this, however, the reasons for the procedure shall be
presented in the government Bill or in the presentation memorandum of a decree or a regulation.

When written statements are requested, a draft government Bill, a draft decree or a draft regulation, a memorandum including the reasons for the decree or regulation, and any other material necessary for understanding the contents of the proposed legislation shall be appended to the request.

Requests for statements are sent to the key stakeholders via e-mail or in some other way as requested by the stakeholder. It is recommended in the request that the statements be submitted via e-mail.

2.7 Period for issuing a statement

A minimum of six weeks and in extensive projects a minimum of eight weeks shall be reserved for issuing a written statement requested concerning proposed legislation. The period is longer if it partly or entirely occurs during the general holiday season.

The period may for justified reasons also be shorter than mentioned above. In that case, reasons for the duration of the period must be stated in the request for statement as well as in the government proposal and the presentation memorandum of a decree or a regulation.

2.8 Publication of requests for statement

Ministries publish requests for statement and the appended documents on their web pages and in the Government Project Register HARE, and other agencies publish them on their web pages. In connection to the publication, also those stakeholders who have not been separately requested to issue a statement are informed about a possibility to issue a statement.

2.9 Publication of statements

Written statements or a summary thereof concerning government Bills and decrees with significant impacts are published on the web page of the ministry in question and in the Government Project Register HARE. Statements, a summary or information on their publication shall be sent via e-mail to the stakeholders that were requested a statement.

2.10 Handling of comments

Comments received through the different methods for consultation during the drafting process are written down in the project documents, for example in a report of a working group set up for the preparation, minutes of meetings or separate memorandums.

After the period for issuing statements has expired, sufficient time shall be reserved for handling the statements and for further preparation of the legislation on the basis of the received comments.
It is recommended that the key stakeholders are provided information on how the comments have affected the further preparation of the proposed legislation and why some of the presented suggestions cannot be implemented.

2.11 Entering information on consultation and comments in reasons for proposed legislation

In legislative drafting, a summary of the consultation process, the received comments and the effects of the comments on the proposed legislation is written down in the reasons for the proposed legislation. Information on why and for which parts the central suggestions received could not be implemented is also included in the reasons.

In Bill drafting, a summary of the consultation and the received comments is presented in the reasons for the government Bill. In drafting of decrees and regulations, the summary is entered in the presentation memorandum.