

Handbook on the methodology for Legislative Impact Assessment

Second edition



Copyright © 2025 Parliamentary Centre and Agency for Legislative Initiatives

All rights reserved.

This Handbook was prepared within the framework of the Parliamentary Accountability for the Security Sector in Ukraine (PASS Ukraine) project. Financial support was provided through the Peacebuilding and Stabilisation Programme (PSOPs) of Global Affairs Canada (GAC).

No part of this publication may be reproduced, stored in a retrieval system, or transmitted in any form or by any means, electronic, mechanical, recording, or otherwise, without the prior permission of the Parliamentary Centre and the Agency for Legislative Initiatives.

The views expressed in this document do not necessarily reflect the views of Global Affairs Canada (GAC).

Contents

Preface	4
Opening remarks	5
Introduction	6
List of Abbreviations	7
Section I The essence of the Legislative Impact Assessment	8
1.1. What is Legislative Impact Assessment?	8
1.2. The Role of Legislative Impact Assessment in Lawmaking	11
Section II Impact assessment in the European Union	16
2.1. European Union's Practice of Impact Assessments	16
2.2. Regulatory Scrutiny Board's Role.	18
Section III Legislative Impact Assessment	21
3.1. Preparation for the Legislative Impact Assessment	21
3.2. Legislative Impact Assessment Methodology	22
3.3. Gender Impact Assessment.	30
Section IV Readiness of public authorities to conduct Legislative Impact Assessments	34
4.1. Readiness of the Verkhovna Rada of Ukraine to Conduct Legislative Impact Assessment	34
4.2. Readiness of the Cabinet of Ministers of Ukraine to Conduct Legislative Impact Assessment	37
4.3. Readiness of the President of Ukraine to Conduct Legislative Impact Assessment	39
4.4. Lobbying as a Means of Influencing Public Policy	40
Recommendations	42
Annex 1 Introducing ex-ante evaluations of draft laws	44
Annex 2 Typology of impacts	46
Annex 3 Gender impact assessment methodology	50

Preface

Legislation is an important tool for achieving public policy goals. According to the Organisation for Economic Co-operation and Development, the quality of both the regulatory environment and policy outcomes strongly depends on the quality of the processes and tools for developing, assessing and approving relevant policies.

Legislative impact assessment is a key tool to ensure the development and subsequent assessment of quality legislation. It is part of the conditions that arise in the process of negotiating Ukraine's accession to the European Union. The latest report of the European Commission states that the parliament should take practical measures to improve the overall procedural and methodological framework for impact assessment of draft legislation and ex-post legislative evaluation. The Commission also drew attention to the low quality of explanatory notes and impact assessments accompanying legislative proposals.

This handbook offers a flexible and efficient step-by-step mechanism for Legislative Impact Assessment, as well as historical context and EU experience, which primarily targets the initiators of draft laws. However, the information contained herein will be useful for the staff of the Secretariat of the Verkhovna Rada of Ukraine and the expert community.

Opening remarks

Oleksandr Korniyenko, First Deputy Chair of the Verkhovna Rada of Ukraine:

Ukraine, on its path to membership in the European Union, must implement several necessary reforms, particularly aimed at improving the work of state institutions, among which the Verkhovna Rada of Ukraine occupies the most crucial place as the sole legislative body. Among the whole set of standards and practices of the concept of “good regulation” professed by EU countries, special attention should be paid to the methodology of Legislative Impact Assessments as a highly effective mechanism for improving the quality of adopted decisions.

It is not surprising that the European Commission, in its report on Ukraine from November 2023, directly recommended the introduction of Legislative Impact Assessments at the level of the Verkhovna Rada. At the same time, I would like to emphasise that since 2020, the Verkhovna Rada has been working, particularly in partnership with the project “Parliamentary Accountability for the Security Sector in Ukraine”, on testing and adapting the methodology for gender-sensitive impact assessment in Ukrainian lawmaking realities. And an unconditional testament to the commitment to the chosen European future and the inevitability of changes in the legislative process for the better is the Law of Ukraine “On Lawmaking” adopted on August 24, 2023. It is a fundamental law that contains direct provisions for preparing a whole set of analytical documents (including Impact Assessments) to develop, consider and adopt legislative acts.

For MPs, who make decisions, analytical documents such as Legislative Impact Assessments provide an opportunity to better understand the consequences of adopting draft laws, the different impacts on different social groups and policy areas, and serve as a mechanism for effective communication with the public.

The Verkhovna Rada did not stop working even for a single day in the conditions of a full-scale invasion by the Russian Federation, and remains resilient to all the challenges of martial law. One of the most critical tasks for the Parliament today is to adopt laws that will meet the criteria of predictability of policies, especially in the harmonisation of Ukrainian and European Union legislation.

Despite the challenges of a full-scale war, the Verkhovna Rada continues not only to legislatively ensure the functioning of the state and society in extremely difficult conditions, but also to improve its work, implementing steps within the framework of Parliamentary reform, bringing Ukraine one step closer to a European future every day.

Introduction

This handbook aims to present a methodological approach for Legislative Impact Assessment and systematise its implementation process, supporting lawmakers in analysing and assessing the potential impact of legislative initiatives and justifying the selected regulatory approach.

The handbook consists of four main sections, recommendations, and annexes.

Section 1. “The Essence of the Legislative Impact Assessment” reveals its content and significance, representing the concept and role of the Legislative Impact Assessment in the lawmaking process.

Section 2. “Impact Assessment in the European Union” describes the experience of impact assessment in the European Union and the role of the Regulatory Scrutiny Board as an independent quality control body for impact assessments.

Section 3. “Legislative Impact Assessment” describes the practices and methodology of the Legislative Impact Assessment, as well as its stages. It proposes a unified structure of the Legislative Impact Assessment and defines the place of the Gender Impact Assessment therein.

Section 4. “Readiness of Public Authorities for Legislative Impact Assessment” provides a brief overview of the role of responsible bodies of different branches of government and their structural units involved in preparing legislative proposals and, accordingly, legislative impact assessments. It also describes the essence of expert and analytical support of draft laws provided by the structural units of the Verkhovna Rada of Ukraine.

The recommendations contain a list of steps to be implemented to ensure that policymakers, structural units, and responsible staff are prepared for Legislative Impact Assessments.

Annex 1 provides a brief overview of the chronology of legislative changes regarding ex-ante evaluation of draft laws.

Annex 2 contains a typology of impacts based on the EU's better regulation tools.

Annex 3 provides the Gender Impact Assessment methodology proposed by the European Institute for Gender Equality.

List of Abbreviations

EU	European Union
EC	European Commission
EU Council	Council of the European Union
RIA	Regulatory impact analysis
VRU	Verkhovna Rada of Ukraine
Assessment, Impact Assessment	Legislative Impact Assessment
Government	Cabinet of Ministers of Ukraine
Board	Regulatory Scrutiny Board
MP	Member of Parliament

Section I

The essence of the Legislative Impact Assessment

1.1. What is Legislative Impact Assessment?

Legal acts¹ are one of the most popular tools for achieving public policy goals, although not the only ones. It is obvious that the effectiveness of achieving public policy goals and their efficiency depends on the properly selected instrument. Selecting the right tool requires proper planning and preliminary analysis to help determine the appropriateness or inappropriateness of a particular tool for addressing a certain problem. Simply put, any public policy formulation should begin with proper planning and evaluation that considers all (or at least the obvious) alternative solutions to the problem.

Evidence-based policymaking is a clear and generally accepted principle of good governance in the EU. Policies and/or legislative acts should always be based on comprehensive information, reliable data, analysis, and scientific approach and consider all possible alternative solutions to the problem. However, public policies, laws, orders, regulations, etc. do not always fully take into account the potential impact of such actions during their development and planning. Such unpredictability in public policy can be detrimental to citizens, businesses, and society as a whole.

The unpredictability of consequences and the lack of planning of public policy actions are compounded by an imperfect legislative process. The Rules of Procedure of the Verkhovna Rada of Ukraine² do not provide sufficient tools to avoid the legislative spam phenomenon due to low content requirements for supporting documents and the nominal role of the Plan of Legislative Work.³ European Parliament's Needs Assessment Mission even described this phenomenon as a "legislative tsunami" due to the overwhelming amount of draft laws.⁴

¹ In this Handbook, "legal acts" means laws or subordinate legal acts (resolutions, orders, regulations, etc.) adopted by law-making bodies (e.g. parliament or government).

² The Rules of Procedure of the Verkhovna Rada of Ukraine, approved by the [Law of Ukraine "On the Rules of Procedure of the Verkhovna Rada of Ukraine" No. 1861-VI of 20 February 2010.](#)

³ Currently, the Plan of Legislative Work is more of a formality than an effective tool for planning the work of the Verkhovna Rada, due to the large number of draft laws therein, the failure of committees to meet their own deadlines for submitting draft laws for consideration, and the limited capacity of the VRU Secretariat's structural units to effectively process the proposed legislative initiatives. The 2025 Plan of Legislative Work includes a list of 417 draft laws. In previous years, their number could have been even higher. For example, the plan for 2020, approved for the first time after the relevant amendments to the VRU Rules of Procedure, included a record 878 draft laws. The plan for 2024 included 386 draft laws, 529 for 2023, 662 for 2022, and 376 for 2021.

⁴ European Parliament's Needs Assessment Mission to the Verkhovna Rada of Ukraine. [Report and Roadmap on internal reform and capacity-building for the Verkhovna Rada of Ukraine.](#)

According to the European Commission's Ukraine 2024 Report, the Parliament should take practical steps to improve the overall procedural and methodological framework for impact assessment of draft legislation and ex-post legislative evaluation. The European Commission also drew attention to the fact that parliamentary drafts often lack explanatory notes and proper impact assessments, which affects the quality of laws⁵. The decision-making process (not only as a legislative act) in the EU is most often accompanied by an Impact Assessment. Instead, for Ukraine, all problem-solving boils down to the adoption of laws without forecasting their impact. This approach does not lead to solving problems but to an increase in the number of laws. That is why, when previous laws fail to solve the problem, MPs pass new laws. To break this vicious circle, the European Commission recommends introducing a procedural and methodological framework for legislative impact assessments⁶.

An impact assessment is a structured process used to identify and assess the future consequences and potential effects of proposed measures (e.g., draft laws) before those measures are implemented. All developed democracies use impact assessment as an integral element of the policymaking process. It is a formalised and data-driven procedure that assesses the consequences of government actions. Legislative Impact Assessment can also serve as a tool for increasing transparency of the decision-making process, since it allows the policymaker to consult with stakeholders.

In this handbook, **the term “Legislative Impact Assessment” means a structured assessment of the need for certain government actions and measures proposed in the form of a draft law.**

The main value of Legislative Impact Assessment is that it helps authorised political decision-makers to assess whether a proposed measure (e.g., a draft law) is justified and it will achieve its intended goal. This analytical tool is particularly important when there is insufficient supporting information or justification for a draft law (or when the supporting material, such as an explanatory note, is formal and technical in nature). Legislative Impact Assessment can provide a comprehensive picture necessary for making evidence-based informed decisions.

The content and form of an Impact Assessment often differ in nature and structure depending on the problem the measure aims to address and how it is applied. In some cases, decision-makers require analysis and advice to select the best solution in a given situation, while in others, they need to evaluate a specific proposed solution.

In **Australia**, impact analysis is based on seven questions:

1. What is the policy problem you are trying to solve and what data is available?
2. What are the objectives, why is government intervention needed to achieve them, and how will success be measured?
3. What policy options are you considering?
4. What is the likely net benefit of each option?
5. Who will you consult and how will you consult them?
6. What is the best option from those you have considered and how will it be implemented?
7. How will you evaluate your chosen option against the success metrics?⁷

⁵ [Ukraine Report within the 2024 Enlargement Package.](#)

⁶ [On the Beaten Path: What Should the Verkhovna Rada of Ukraine Do to Get Closer to the European Union? Agency for Legislative Initiatives.](#)

⁷ [Australian Government Guide to Policy Impact Analysis.](#)

Legislative Impact Assessment analyses a draft law in the following aspects: implementation, impact on different social groups, and the consequences and risks if it is adopted or rejected. An Impact Assessment contributes to more effective decision-making, as the relevant actor clearly understands what the problem is and why it is important. They enable an adequate and impartial assessment of the provided evidence and arguments. In general, such an assessment typically consists of three key elements:

1. Policy Rationale (what problem is the proposed measure intended to address, and why is resolving it important?).
2. Context analysis (what measure is proposed, are there other solutions to the problem that do not require adopting a draft law, and have there been previous attempts to solve it?).
3. Impact analysis (what are the consequences of the proposed measure (draft law), and most importantly, will it achieve its objective?).

When should an Impact Assessment be conducted?

Not all draft laws or other non-regulatory public policy measures require a full Impact Assessment. Some countries apply a so-called threshold test to determine whether a full/simplified impact assessment is required and whether it is required at all. This means that a Legislative Impact Assessment should cover not all draft laws. The decision on how in-depth and thorough an Impact Assessment should be based on the context in which the draft law is developed and adopted, as well as its scope and potential impact. A threshold test can be based on various criteria, such as the amount of administrative costs or costs of businesses or citizens (i.e., how much money the measure will cost the state or business), its potential impact on various populations (youth, vulnerable populations, women and children), and its impact on trade, competitiveness, or small and medium-sized enterprises (SME)⁸.

There are no exemptions for impact assessments in **Austria**. However, a threshold test introduced in 2015 determines whether a simplified or full RIA has to be conducted for draft regulations. Laws and regulations with no impact on the state budget, no significant impacts in some areas (e.g. national economy, environment and social issues), no financial impacts greater than EUR 20 million and no long-term financial impacts are eligible for simplified RIA. A simplified RIA is now conducted for about two thirds of all regulations.

In addition, threshold tests help to ensure that regulations with significant societal impacts are adequately assessed. They ensure that government resources are not unduly wasted in assessing regulatory proposals with only minor impacts and reduce the burden on ministries conducting impact assessments⁹.

The scope and depth of an impact assessment should be proportionate to the content of the draft law and the significance of its expected impact. If the expected impact is significant, an extensive and thorough impact assessment should be conducted.

⁸ 13th OECD Conference on Measuring Regulatory Performance: Better Regulation — Meeting the Challenges of the 21st Century. Improving Regulatory Impact Assessment (RIA) Systems and RIAs. [Background paper](#).

⁹ OECD (2020), [“Regulatory Impact Assessment and Regulatory Oversight in Austria”](#).

1.2. The Role of Legislative Impact Assessment in Lawmaking

In Ukraine, MPs play the leading role in initiating and developing legislative proposals. The MPs are the authors of the majority of adopted draft laws. This distinguishes us from most other countries, where the executive branch plays a major role in initiating draft laws. These countries may have no parliamentary ex-ante (preliminary) analysis tools, which the government-centric decision-making model explains. On the other hand, as non-experts MPs often lack the resources or capacity to conduct high-quality ex-ante analysis, unlike the government, which has the resources and therefore prepares better draft laws that are more likely to be adopted. However, there are situations in Ukraine where government-proposed draft laws are submitted through MPs, which bypasses mandatory examinations or consultations that would be carried out by the government but not MPs.

Legislative spam causes problems with public policy planning and predictability and challenges the capacity of the Parliament, particularly its committees and structural units responsible for preparing draft laws for plenary consideration. Legislative Impact Assessment can serve as an auxiliary tool in addressing this issue, as it requires the drafter to answer the following questions:

- › What is the purpose of the legal regulation? And why does it matter now?
- › What does the regulation include?
- › What will be the positive and negative consequences?

The specifics of the Ukrainian legislative process are not limited to the leading role of parliamentarians. Legislative practices in developed democracies are based on the “end-to-end” concept of the legislative process. This means that a draft law goes through all stages, namely from planning and qualitative analysis of the initiative to monitoring its implementation. In developed democracies, Legislative Impact Assessments should be conducted at the initial stage of policy development and be based on all available data and stakeholder positions on possible solutions to the problem. Draft laws, as policy tools, are developed simultaneously with the Impact Assessment and guided by it.

The logic of the Ukrainian lawmaking process in this context is reversed: the initiator first registers a finished draft law and only then justifies how the approach proposed by the draft law can solve the problem. Moreover, the Ukrainian lawmaking process lacks an established practice of planning, evaluating, and monitoring the implementation of adopted draft laws. Key problems include: (1) lack of strategic planning in policymaking; (2) insufficient coordination between holders of legislative initiative; (3) lack of established communication between these holders and stakeholders; (4) the nominal role of documents intended to ensure a planned legislative process (the Government Action Programme, the agendas of the VRU sessions, etc.). This leads to a chaotic lawmaking process and legislative spam, as draft laws are registered without substantive review (typically, the presence of supporting documents is formally checked).

Ex-ante Evaluation in Ukraine

Ukraine has a practice of conducting ex-ante evaluations of legislation (see Annex 1 for more details). For example, regulatory acts¹⁰ are subject to regulatory impact analysis, which includes a justification for the need to adopt such a regulatory act, an analysis of the impact on the market environment, and ensuring the rights and interests of business entities, citizens, and the state¹¹. The scope of regulatory

¹⁰ Not all legal acts are regulatory acts. A regulatory act is a legal act which aims to regulate economic relations or the activity of regulatory bodies.

¹¹ [Law of Ukraine “On the Principles of Regulatory Policy in Economic Activity” No. 1160-IV of 11 September 2003.](#)

impact assessment is narrow and covers only regulatory acts that affect the business sector. Furthermore, a recent legislative amendment in 2022¹² introduced a blanket exception from RIA for all regulatory acts intended for the implementation of the European Union Association Agreement. This directly contradicts the recommendations of the European Commission. Given the transformational changes Ukraine is undergoing due to its accession to the European Union and the harmonisation of its legislation with EU law, such European integration legislative initiatives must be assessed to analyse the broadest possible impact in different areas of regulation and on various populations. Moreover, the ministries and other central executive authorities preparing regulations with business impacts are required to prepare RIAs and explanatory notes with overlapping contents. This does not help the final decision-making to be based on the overall analysis of all impacts and risks through one single instrument/report¹³.

The process of Legislative Impact Assessment should be carried out simultaneously with solution development, taking into account the problem to be addressed and the objectives to be achieved. The assessment should be carried out at an early stage of the decision-making policy cycle — before drafting the act, based on modern approaches to policy development and implementation. **A properly prepared Impact Assessment helps answer most of the questions about the draft law at the stage of its consideration by the parliament.**¹⁴ Legislative Impact Assessment should not be used only as a tool for justifying a decision that has already been proposed and chosen.

The current VRU Rules of Procedure require the holders of a legislative initiative to submit supporting documents, including an explanatory note. This document aims to help MPs of Ukraine, structural units of the VRU Secretariat, and the public to learn the purpose and key provisions of the draft law. According to the Rules of Procedure, an explanatory note shall include:

1. A justification of the necessity of adopting the draft law, its goals, objectives, main provisions, and its place in the legislation system;
2. A justification of the expected social and economic, legal, and other consequences of the law after its adoption;
3. Other information necessary for consideration of the draft law.

According to the established practice, these are the titles of the sections (parts) of this document. However, the established requirements are often fulfilled only *de jure*, and the justification of potential consequences may consist of only a few sentences. Obviously, these requirements alone are insufficient. As of today, the analysis of the Rules of Procedure and legislative practices in Ukraine shows the absence of regulation of such lawmaking stage as the development of a concept or the preparation of analytical public policy documents, coordination of key provisions of the draft law, etc., which has a significant negative impact:

- › It reduces the lawmaking effectiveness of holders of the right of legislative initiative and the quality of legislation itself;
- › It increases uncertainty and contradictions in legal regulation;
- › It reduces the transparency of the process of making and approving important political decisions.

¹² Law of Ukraine “On Materials and Items Intended to Come into Contact with Food” No. 2718-IX of 3 November 2022.

¹³ SIGMA Monitoring Reports. Public Administration in Ukraine. Assessment against the Principles of Public Administration. 6 February 2024.

¹⁴ EU-UNDP Parliamentary Reform Office. Concept Note on Improvement of the Legislative Process in Ukraine.

In August 2023, the Parliament adopted the Law of Ukraine “On Lawmaking”,¹⁵ which defined the hierarchy of legal acts, the principles of legislative drafting techniques, the documents for planning lawmaking activities, and, accordingly, public policy planning for the first time at the legislative level. Although this law will be enacted a year after the termination or cancellation of martial law in Ukraine, preparations for its implementation should begin now.

The Law of Ukraine “On Lawmaking” stipulates that public policy documents shall be developed to ensure the effective formulation, development, and assessment of public policy. The Law distinguishes three types of the following documents:

1. Analytical documents (green paper, **impact assessment**, white paper, and concept of the draft legal act);
2. Forecasting documents/legal forecasting documents (e.g., Scientific Concept of Ukrainian Legislation Development);
3. Policy documents (Presidential messages, Coalition Agreement, Government Action Programme, development programmes, doctrines, strategies, etc.).

The Law defines an Impact Assessment as an analytical document developed with due regard to the green paper and public consultations, which identifies options for addressing issues in public relations and assesses the impact of each option on society and/or certain social groups, sectors, or industries, as well as social, legal, political, economic, environmental, administrative and/or other potential consequences.

The Law of Ukraine “On Lawmaking” does not include the policy cycle concept, which prevents an assessment of the sequence of stages from the decision to regulate and shape/change policy to the adoption of the law and monitoring the results of its implementation. At the same time, the Law introduces the obligation to conduct an Impact Assessment. It is unclear at what stage of the policy cycle the legislator considered it necessary to conduct an Impact Assessment. The Impact Assessment of a draft legal act is one of the stages in drafting such an act, which to some extent contradicts its role as an analytical document at the stage of public policy planning, as previously assigned by law. It is unclear whether this implies that the Impact Assessment has a dual nature and should be conducted twice (first during the planning of public policy, and again during the drafting of a legal act), or whether the legislator means two different types of Impact Assessments (**impact assessment and impact assessment of a legal act**) that should be conducted independently.¹⁶ In addition, the Law stipulates that the first stage of drafting a legal act is the preparation of the text of the draft legal act, explanatory note and other supporting documents, while the second stage is the Impact Assessment. However, since the Impact Assessment must be included in the explanatory note to the legal act, this logically suggests that the Impact Assessment should be conducted before drafting the explanatory note, not after. The Law of Ukraine “On Lawmaking” shall become the fundamental law governing the lawmaking process in the future. So such shortcomings should be addressed before its enactment.

The Law defines the following elements of the Impact Assessment of a draft legal act:

1. The relevance and importance of the problem that needs to be resolved by adopting (issuing) a legal act;

¹⁵ Law of Ukraine “On Lawmaking” No. 3354-IX of 24 August 2023.

¹⁶ In addition, the legislator refers to “impact assessment of legal regulation on public relations” as one of the elements of legal forecasting documents and also uses the phrase “assessment of the potential impact of a draft legal act”, which hinders the development of uniform terminology.

2. Alternative solution to the problem that requires legal regulation, with an assessment of economic, social, financial, budgetary, environmental, demographic, regulatory, investment, gender, discriminatory, corruption, and other consequences, as well as the status of Ukraine's fulfilment of international obligations for each alternative;
3. Quantitative and qualitative indicators used to assess the forecast impact of each alternative on public relations;
4. The most optimal solution to the problem, with an explanation of the causal relationship between the chosen solution and the expected impact of the draft legal act on public relations;
5. Ways of legal monitoring and criteria (indicators) for its implementation in case of adoption of the draft legal act;
6. Criteria (indicators) to be used for legal monitoring in case of adoption of the draft legal act.

Unlike the methodology proposed in this Handbook, the Impact Assessment defined by the Law of Ukraine "On Lawmaking" does not provide for the impact assessment by social groups (women and men, SME, etc.) affected by the draft law, nor does it require examining practices of other countries or reflecting the results of public consultations.

Impact Assessment is useful at all stages of the policy cycle: during its development, to take into account the information obtained from the impact analysis, during preparation for and consideration in the Parliament, to ensure integrity (for example, whether amendments made to the draft law in the first and second readings affect the Impact Assessment analysis), and during the monitoring of the implementation of the adopted law, to assess whether the results of implementation and enforcement of the law align with those envisaged in the Impact Assessment.

The Law of Ukraine "On Lawmaking" will obviously change the "rules of the game" in the Parliament's activities, which will require amendments to the rules for the preparation and consideration of legislative proposals set out in the VRU Rules of Procedure. Currently, the Rules of Procedure have not been brought in line with the Law of Ukraine "On Lawmaking", nor has a methodology for conducting Impact Assessments in the Verkhovna Rada been developed, which significantly reduces the Parliament's analytical capacity.

In **Bulgaria**, the bills submitted by parliamentarians shall be accompanied by the motives to them and the preliminary impact assessment which shall be in accordance with the methodology, annex to the Rules. The preliminary impact assessment shall define: grounds for the legislative initiative, parties concerned, cost-benefit analysis, administrative burdens and structural changes, information on the need for immediate or subsequent changes to other statutory instruments, information on how the proposal contributes to the compliance with the principle of equality, etc.¹⁷

When to conduct a Legislative Impact Assessment and how extensively?

However, a Legislative Impact Assessment is not always necessary or appropriate. In a crisis where much of the evidence is incomplete, uncertain and information is evolving rapidly, it has been particularly challenging to anticipate, analyse and thoroughly discuss the impacts of regulations.

¹⁷ [Rules of Organisation and Procedure of the National Assembly of the Republic of Bulgaria.](#)

The urgent need left little room to carry out comprehensive stakeholder consultations or consider alternative regulatory or non-regulatory options in the policymaking process. Urgency has limited the capacity for more deliberative forms of policymaking involving the use of regulatory management tools and practices, such as impact assessments. This does not mean that emergency regulations should forgo some, although in some cases lighter, scrutiny of their impacts and effectiveness. Furthermore, once the immediate pressure from the crisis is over, regulations adopted through fast-track procedures can be subjected to careful ex-post scrutiny in order to examine their impacts and effectiveness¹⁸.

In March 2020, **the Government of New Zealand** decided to temporarily suspend the Regulatory Impact Analysis requirement in relation to acts directly related to COVID-19 response.¹⁹ The Government recognised that the obligation to conduct an Impact Assessment prevents timely responses to emergencies such as the COVID-19 pandemic.

The development of a Legislative Impact Assessment should be approached thoughtfully, with a critical evaluation of its content and necessity. **It is important to strike a balance between the “capacity” (information content) of the Impact Assessment and the need for conducting it.** The information included in the Legislative Impact Assessment should be relevant to the content of the draft law. It is also worth noting that the provisions of the VRU Rules of Procedure generally apply to “standard” draft laws (e.g., on amendments to the laws of Ukraine). The Law of Ukraine “On Lawmaking” also excludes some areas of public relations from its scope. For example, the law does not apply to draft laws amending the Constitution of Ukraine, laws on ratification or termination of international treaties, or relations arising in the exercise of powers in the field of national security and defence.

This does not mean that such laws have no impact on public relations or do not require any analysis at all. In any case, the initiator of a legislative proposal should describe the impact of the draft law in the explanatory note, regardless of whether a Legislative Impact Assessment has been conducted.

¹⁸ OECD (2021), *OECD Regulatory Policy Outlook 2021*, OECD Publishing, Paris.

¹⁹ Cabinet Minute: CAB-20-MIN-0138: Additional Item: Temporary Suspension of Regulatory Impact Analysis Requirements for Direct COVID-19 Responses.

Section II

Impact assessment in the European Union

2.1. European Union's Practice of Impact Assessments

In the European Union, the right to adopt regulations is shared between the EU Council and the European Parliament, while the European Commission has the right of legislative initiative.

The European Parliament cannot adopt legal acts independently. It can only participate in the legislative process jointly with the EU Council and the European Commission under established procedures. The European Parliament and the EU Council jointly adopt legislation in the vast majority of EU policy areas (e.g., economic governance, immigration, energy, transport, environment, consumer protection, agriculture, etc.).

In some policy areas (taxation, defence, anti-discrimination, etc.), the EU Council exercises legislative powers independently, although it must consult with the European Parliament. The EU Council asks the European Parliament's opinion about a proposed legislative act before it can adopt it. The European Parliament may approve or reject the legislative proposal or come up with amendments thereto. Currently, the consultation procedure is applied in a limited number of legislative areas, for example, when concluding international treaties in the field of common foreign and security policy. The European Parliament may also initiate the development and adoption of new legislation when reviewing the European Commission's annual work programme by requesting it to submit a draft act necessary to achieve the EU's objectives.²⁰

EU legislation can only be adopted based on the European Commission's proposal. Before developing and proposing draft acts, the European Commission reviews the existing legislation and conducts an Impact Assessment to analyse the potential economic, social and environmental impacts of any new legislative initiative. Impact Assessment in the EU is one of the tools of the better regulation — a concept aimed at creating targeted, effective and easy-to-use legislation.

In 2001, the European Commission prepared a White Paper on European Governance²¹, emphasising the need for a more open policymaking and decision-making process, as well as the involvement of stakeholders in the formulation and implementation of EU policies. Following the discussions initiated by the White Paper, the European Commission published three documents that form the basis of the better regulation policy:

²⁰ L. L. Prokopenko, O. M. Rudik, N. M. Rudik. *EU's Institutional System: Textbook*.

²¹ *European Governance: a White Paper*.

1. General Principles and Minimum Standards for Consultation of Interested Parties;²²
2. Action Plan “Simplifying and Improving the Regulatory Environment”;²³
3. On Impact Assessment.²⁴

The latter included the introduction of a Single Policy Impact Assessment Tool by the European Commission to consolidate all existing sectoral impact assessments into a common tool that analyses impacts across environmental, social, and economic domains. The new Impact Assessment has integrated sectoral analyses and proposed a broader approach to identifying the impact of proposed regulatory and non-regulatory measures. The Commission’s impact assessment system aims to enhance the coherence of initiatives across policy areas, and the quality of new policy proposals.²⁵

Impact Assessments are mandatory for regulatory acts and non-regulatory proposals if they have a significant economic, social, or environmental impact, for example, regarding expenditure programmes under the EU’s Multiannual Financial Framework²⁶ or an initiative to establish a new decentralised EU agency,²⁷ etc. At the same time, not all EC legislative proposals require an Impact Assessment. For example, proposals to codify several legislative acts do not require an impact assessment because there are no substantive changes to the underlying legislation and, therefore, no impacts. When the Commission does not present an Impact Assessment, it explains why in its explanatory note.²⁸

The European Commission repeatedly states in its documents that the Impact Assessment is only an aid to decision-making and not a substitute for it. It is not required to contain conclusions or recommendations. Based on collected evidence, an impact assessment should evaluate whether a proposed future EU regulatory or non-regulatory action is justified and, if so, how it can be best implemented to achieve the relevant policy objectives. An Impact Assessment shall:

- › Identify the problem, the affected parties, and describe its scope, causes, and consequences;
- › Analyse whether the Member States could resolve the issue on their own and whether EU-level intervention is justified (including the legal basis for intervention);
- › Determine the objective of the policy aimed at solving the problem, taking into account the EU’s long-term goals;
- › Formulate the most relevant policy options;
- › Determine which options meet the policy objective, compare the economic, social, and environmental impacts of the options, and identify the stakeholders;
- › Determine how the expected results will be monitored and evaluated.²⁹

²² Communication from the Commission — Towards a Reinforced Culture of Consultation and Dialogue — General Principles and Minimum Standards for Consultation of Interested Parties by the Commission. [COM/2002/0704 final](#).

²³ Communication from the Commission — Action Plan “Simplifying and Improving the Regulatory Environment” [COM/2002/0278 final](#).

²⁴ Communication from the Commission on Impact Assessment. [COM/2002/0276 final](#).

²⁵ [Gender Impact Assessment Gender Mainstreaming Toolkit](#). European Institute for Gender Equality.

²⁶ The EU’s Multiannual Financial Framework is a multi-year (at least five years) budget planning instrument that sets maximum threshold annual expenditures across various policy areas.

²⁷ Decentralised agencies are not EU institutions. They perform technical, scientific, or managerial tasks that help EU institutions develop and implement policies. For example, these are the European Labour Authority or Europol.

²⁸ [Commission Staff Working Document “Taking Stock of the Commission’s Better Regulation Agenda”](#).

²⁹ [Better Regulation Guidelines](#). European Commission.

In 2015, a new stage in the development of the better regulation began, which also introduced changes to the rules for Impact Assessments.³⁰ A more independent Regulatory Scrutiny Board was established instead of a structural unit of the European Commission that was responsible for quality control of Impact Assessments. The European Commission also called on the European Parliament and the EU Council to be more responsible for conducting Impact Assessments of any significant amendments they propose during the legislative process: where the European Parliament and the Council find an agreement significantly different from the initial Commission proposal, they should assess the likely economic, social, and environmental impact and regulatory burden before any final decision is taken.

According to a tripartite Interinstitutional Agreement on Better Law-Making³¹, the European Parliament, the Council of the European Union and the European Commission determined that public and stakeholder consultation, ex-post evaluation of existing legislation and impact assessments of new initiatives will help achieve the objective of Better Law-Making. The institutions recognised that impact assessments should help reach well-informed decisions and cover the existence, scale, and consequences of a problem and the question of whether or not Union action is needed. Impact assessments should map out alternative solutions and, where possible, potential short and long-term costs and benefits, assessing the economic, environmental and social impacts in an integrated and balanced way and using both qualitative and quantitative analyses. The agreement confirmed the role of the European Commission as the primary institution that is responsible for impact assessments of its legislative and non-legislative initiatives, delegated acts and implementing measures which are expected to have significant economic, environmental, or social impacts. The European Parliament and the Council, upon considering Commission legislative proposals, will take full account of the Commission's impact assessments. To that end, Impact Assessments shall be presented in such a way as to facilitate the consideration by the European Parliament and the Council of the choices made by the Commission. The European Parliament and the Council will, when they consider this to be appropriate and necessary for the legislative process, carry out Impact Assessments in relation to their substantial amendments. It was agreed that each of the three Institutions is responsible for determining how to organise its impact assessment work, including internal organisational resources and quality control.

2.2. Regulatory Scrutiny Board's Role

The Regulatory Scrutiny Board is responsible for reviewing the quality of Impact Assessments prepared by the European Commission. The Board is composed of nine members: the Chair, four Commission officials and four external members, to comply with the principle of independence. Five members of the Board constitute a quorum for the Board to make decisions, including the Chair. The Board shall seek to reach as many decisions as possible by consensus. If no consensus can be reached, the Board shall decide by a simple majority of the members present, including the Chair. In the event of a tie, the Chair shall hold the casting vote. The Board's meetings are closed to the public.³²

The Board provides an opinion on each draft Impact Assessment submitted to it. The Board does not assess the policy objectives of the Impact Assessment or the proposed measure. Its function is only to determine whether the Impact Assessment complies with the principles and recommendations of the

³⁰ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. [Com\(2015\) 215 Final](#).

³¹ [Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making of 13 April 2016](#).

³² [Rules of Procedure of the Regulatory Scrutiny Board](#).

better regulation. It also does not decide whether an initiative requires an Impact Assessment. If necessary, the Board provides recommendations to improve the quality of the draft Impact Assessment, taking into account the better regulation tools. The Board's opinions on Impact Assessments can be positive, positive with reservations, or negative. A positive opinion means that the impact assessment meets the standards set out in the better regulation guidelines and toolbox, while a positive opinion with reservations means that the draft impact assessment is largely satisfactory, but some key weaknesses remain and should be fixed. The Board provides a negative opinion if the draft impact assessment is not satisfactory and falls short of the standards set out in the better regulation guidelines and toolbox. In this case, the draft impact assessment requires substantial revision and must be resubmitted for a second opinion to the Board. In a very few cases, the resubmitted text may still contain fundamental deficiencies that have not been satisfactorily addressed. In these cases, the Board issues a second negative opinion.³³ The Board does not receive the text of the legislative proposal during the quality assessment process. This allows for an impartial review.

Checking Impact Assessments for compliance with the better regulation, the Board assesses: whether an impact assessment report is fit for its purpose, which is to inform policymakers; how well it examines alternative ways to address the problems targeted by each initiative; and whether the report adequately gathered, organised and presented the best available evidence regarding significant impacts and political trade-offs.³⁴

To check the quality of the impact assessment, the Board uses a set of 13 indicators,³⁵ ranging from “value from EU intervention” (justification for why the objectives of the initiative cannot be sufficiently achieved by individual Member States acting alone and why EU intervention is necessary) and the “context” (presenting a political context, including links to existing legislation and planned initiatives and a clear identification of the issues that fall within the problem scope) to “readability and clarity criteria” (preparing clear and easily accessible impact assessment reports, notwithstanding the scientific or technical nature of the initiative, and compliance with the recommended page limit).

It is important to emphasise that the Board does not decide on initiatives or policy goals, as this responsibility lies with the European Commission. The European Commission's proposal, the final impact assessment, and the opinion of the Regulatory Scrutiny Board on the impact assessment are made public and pave the way for EU legislators to make a decision.

At the same time, quality control of Impact Assessments and their compliance with the better regulation is not the only authority of the Board. To improve the practice of conducting Impact Assessments, the Board holds upstream meetings with European Commission departments upon request. The upstream meeting is an opportunity for the department to seek the informal advice to improve or remedy any likely weaknesses of the analysis, collect data, thereby allowing for adjustment of the structure and methodology of Impact Assessments at their early stages.³⁶

The European Parliament has its unit — the Ex-Ante Impact Assessment Unit (IMPA) — which double-checks the quality of Impact Assessments prepared by the European Commission, but specifically for the needs of the members of the European Parliament and committees. The

³³ Regulatory Scrutiny Board — Annual Report 2023.

³⁴ OECD (2018), “Case Studies of RegWatchEurope Regulatory Oversight Bodies and of the European Union Regulatory Scrutiny Board”.

³⁵ Regulatory Scrutiny Board — Annual Report 2022.

³⁶ European Parliamentary Research Service. Better Regulation Practices in National Parliaments.

IMPA Unit's initial appraisals support the informed and effective consideration of legislative proposals at committee stage by drawing the committees' attention to the Impact Assessment's content and the methodological strengths and weaknesses. Their findings can incite committees to invite the Commission to explain any potential weaknesses or unclear elements of an Impact Assessment.³⁷ The IMPA unit presents its assessments in the form of a short briefing (usually up to eight pages), which effectively transforms a lengthy Commission's Impact Assessment into an accessible and understandable summary.

In addition, the IMPA unit is also in charge of carrying out Parliament's own ex-ante impact assessments, which committees can request ad hoc, covering aspects the Commission impact assessment may not have adequately addressed, or conduct its own impact assessment in cases where the Commission did not present an impact assessment.³⁸

³⁷ European Parliamentary Research Service. [Quality analysis of European Commission impact assessments. Developments during the 2019–2024 term.](#)

³⁸ European Parliamentary Research Service. [Better Regulation Practices in National Parliaments.](#)

Section III

Legislative Impact Assessment

3.1. Preparation for the Legislative Impact Assessment

Planning a Legislative Impact Assessment helps the drafter identify the needs of the draft for an Assessment and organise its process. For example, the scope of the required Impact Assessment and the types of impacts to be assessed can be planned as early as the decision to require legislative regulation.

The UK Government carries out an Option Assessment at an early stage of regulatory development. The Option Assessment is not made publicly available, but departments may use the information during their consultations. When completing an Option Assessment, departments' focus should be on providing a convincing rationale for intervention, demonstrating consideration of a range of options (including non-regulatory alternatives) and reasons for choosing a particular regulatory option.³⁹

The Legislative Impact Assessment should be based on the following principles:

1. The Legislative Impact Assessment should be proportionate to the legislative proposal. This applies to both the scope of the Assessment and the depth of the impact analysis.
2. The Legislative Impact Assessment should be flexible. The methodology proposed in this section offers a unified framework for an Impact Assessment, but it is up to the drafters to decide how best to present the impact analysis to decision-makers.
3. The Legislative Impact Assessment should be evidence-based. The impact assessment should be based on facts, scientific evidence, and collected data, including information obtained through consultations with the public and other stakeholders. The assessment should analyse likely economic, environmental, social, gender, and other impacts, as well as the budgetary, regulatory, and bureaucratic implications of the draft law proposed.
4. The Legislative Impact Assessment should be objective. It is an aid to, but not a justification for, the chosen regulatory option. This is ensured, inter alia, by conducting an Impact Assessment at the initial stage of the drafting process and presenting both the positive and negative consequences, enabling the entity to make an unbiased decision.
5. The legislative process should be inclusive, i.e., include the interests of various groups and individuals, so that draft laws are not developed solely in the interests of certain stakeholders. All

³⁹ Department for Business and Trade. [Better Regulation Framework Guidance](#).

interested parties and stakeholders should have the opportunity to access the lawmaking process, be informed about it, and be able meaningfully to participate and contribute. Different groups and individuals, especially those who may be affected by the draft law, as well as stakeholder organisations should be identified early and included from the initial policymaking phase and throughout the lawmaking process.⁴⁰ The impact of a draft law on different populations can vary dramatically, sometimes in an unanticipated way. That is why it is important to conduct an Impact Assessment at an early stage of the policy cycle, as it allows identifying stakeholders and balancing their interests.

When collecting quantitative and qualitative data for a Legislative Impact Assessment, it is important to use reliable sources such as statistics, government reports, or even previous Impact Assessments. The Government of Ukraine has approved a list of datasets to be published as open data, which are managed by public authorities, such as the Verkhovna Rada, central executive authorities, state enterprises, and local governments.⁴¹ However, such statistical data often have gaps, or statistical data on certain parameters may not be collected, which complicates the process of finding reliable data.⁴²

The drafter of the Legislative Impact Assessment should assess how reliable and generalisable the information based on different sources is. During the Impact Assessment, it may turn out that the list of stakeholders affected by the adoption of the draft law is larger or smaller than initially identified. Previously collected data may be outdated due to societal changes or new legislative regulation, and differences between countries and legal systems may hinder the use of international experience. Despite these challenges, the gathered information can be useful for providing historical context and understanding current regulatory issues.

External expert assessments can be used in information collection or assessing impacts. They are particularly useful when the assessment requires special expertise in a certain field or method, assessments must be produced quickly, or to ensure that the assessments are independent. Research institutes and agencies in some administrative branches specialise in assessing specific types of impacts. Particularly where the expected impacts of the project are significant and where reliable information on them is not available, a separate study may be commissioned to support the impact assessment. Interviews may guide further work by identifying sources of information that can be used, or impacts that require particular attention in the Assessment.⁴³

3.2. Legislative Impact Assessment Methodology

The scope and scale of the Legislative Impact Assessment shall be proportionate to the proposed initiative. The Impact Assessment methodology proposed in this section is not intended to be exhaustive and inclusive in listing impacts to be analysed to ensure the effectiveness of the Assessment. The selection of impacts to be analysed may depend on the specifics of a particular problem, its social context, factors of its occurrence, etc. The most challenging task is to prepare a **Legislative Impact**

⁴⁰ [Guidelines on Democratic Lawmaking for Better Laws](#). OSCE Office for Democratic Institutions and Human Rights (ODIHR).

⁴¹ [Regulation on Datasets to be Disclosed in the Form of Open Data](#), approved by the Resolution of the Cabinet of Ministers of Ukraine No. 835 of 21 October 2015.

⁴² Due to the armed aggression of the Russian Federation, it is impossible to collect data from the occupied territories or territories where hostilities are taking place. In addition, at the beginning of martial law, the law allowing reporting after the termination or cancellation of martial law was adopted. This is the [Law of Ukraine "On the Protection of the Interests of Entities Submitting Reports and Other Documents during the Period of Martial Law or State of War" No. 2115-IX of 3 March 2022](#).

⁴³ Finnish Government. [Guidelines for Impact Assessment in Law Drafting](#).

Assessment that covers all aspects as much as possible, while remaining concise, accessible, or not very technical (to be understandable to decision-makers). A Legislative Impact Assessment helps understand what a draft law proposes, what its purpose is, and whether it will achieve the expected outcome:

1. Impact Assessments should start with a clear description of the problem to be addressed and why it is necessary to be resolved (**Policy Rationale**);
2. A brief analysis of the key features of the problem, the aspects to be addressed, whom they affect and how, possible solutions, a review of practices in other jurisdictions and international experience, etc. (**Context Analysis**);
3. An examination of the proposed measures in terms of expected outcomes and the mechanism for their implementation (**Impact Analysis**).

Consider the above components of the Impact Assessment in more detail using an example below.

Policy Rationale

The starting point for a Legislative Impact Assessment is a clear description of the problem to be addressed, and why addressing this problem is relevant and necessary. It should briefly summarise the goal the initiator aims to achieve with the draft law, and the key changes being proposed. A clear understanding of the problem, its causes, and the need to respond will help formulate further measures and actions. The main task at this stage is to analyse not only the signs of the problem (statistical data can be provided for this purpose), but also the causes of the problem. At this stage:

- ▶ The identified problem and its causes are determined.
- ▶ The populations affected by the problem (e.g., vulnerable populations, women, pensioners, military personnel, etc.) and its impact on them are listed.
- ▶ The goal that the drafter seeks to achieve and as the result of which the problem should be resolved is determined.
- ▶ The necessity of addressing the problem at this specific time is explained. For example, the Legislative Work Plan or the Government Action Programme envisages such an action. In addition, other reasons may include a decision of the Constitutional Court declaring a law of Ukraine unconstitutional, legal inconsistencies resulting in conflicting legal interpretations by the courts, etc.

Scenario Modelling:

The policymaker received the latest research findings on the harms of tobacco smoking. Upon further investigation, they determined that the majority of people start using tobacco products before the age of 21. This is largely due to aggressive marketing by the tobacco industry and the fact that adolescents who have smoking friends or relatives are more likely to start smoking themselves.

The policymaker has found that this issue poses not only obvious health risks to young people who use tobacco products, but also harms others through secondhand smoke. In addition, the problem leads to financial burdens on the healthcare system due to the costs borne by the state to treat smoking-related diseases, and affects life expectancy and mortality rates.

The policy goal identified by the policymaker is to reduce tobacco consumption among young people, as this group is more susceptible to nicotine addiction: the younger a person starts

smoking, the more likely they are to smoke for a long period and to continue smoking into adulthood.

The policymaker supported this rationale with available statistical data and information from open sources provided by NGOs, government agencies, and the World Health Organisation.

Context Analysis

The context analysis is the next step which helps to understand the concept of the proposed measures. The main purpose of this component of the Assessment is to provide lawmakers with a clear understanding of the factors that will determine a successful, neutral, or negative outcome of the draft law implementation. Within this component of the Impact Assessment, the drafter of the legislative initiative should identify alternative regulatory options, including a “zero option” that does not involve any measures. This option is the baseline for all other alternatives. Other regulation approaches may include non-legislative alternatives, pilot projects, guidelines, etc. In many cases, very little analysis will be needed to rule out several alternatives, for example, those that are not technically feasible, are not legally viable, do not respect fundamental rights, and have other unacceptable repercussions.⁴⁴ To select the most appropriate option:

- › A brief description of the current regulation (“zero option”) and an explanation as to why it is insufficient to address the problem and achieve the objectives of legislative intervention is provided.
- › Arguments are provided to justify the need for legislative intervention and demonstrate why the problem cannot be resolved effectively through other alternatives, for example, by improving existing regulations or increasing the efficiency of current administrative resources. A brief description of the measures proposed under the option chosen by the drafter, along with the explanation of target groups, is provided.

Example:

Current regulation (“zero option”)

Following an analysis of the current legislation, the drafter has identified the Law of Ukraine “On Measures of Prevention and Reduction of Use of Tobacco Products and Their Harmful Influence on People’s Health” as the main law regulating the state actions aimed at reducing tobacco use. This law defines the main directions of state policy to prevent and reduce tobacco consumption and its harmful effects on public health, establishes the powers of public authorities, and regulates the placement of health warnings on packages, etc.

The drafter has found that this law has been amended to reduce tobacco consumption. A law⁴⁵ was adopted to implement Directive 2014/40/EU, which provides for a set of measures to protect the public from the harms of tobacco products and e-cigarettes, namely:

- › A ban on consuming tobacco products, e-cigarettes, and hookahs in all public places, as well as on playgrounds, railway stations, public transport stops, underpasses, and public transport, including taxis.

⁴⁴ OECD (2021), Implementing Regulatory Impact Assessment at Peru’s National Superintendence of Sanitation Services.

⁴⁵ Law of Ukraine “On Amendment to Certain Laws of Ukraine on Public Health Protection from Harmful Effects of Tobacco” No. 1978-IX of 16 December 2021.

- › A ban on advertising electronic smoking devices and the sale of e-cigarettes and liquids with aromatic and flavouring additives.
- › Package labelling and increasing the area of health warnings to 65%.

In addition, the Tax Code was amended to increase excise tax rates on tobacco products, which will increase the cost of such products.⁴⁶

However, not all of these measures are effective. For example, one in four cases of illegal tobacco advertising in Ukraine is not prosecuted due to legal inconsistencies.⁴⁷ The tobacco industry specifically uses various marketing tactics aimed at attracting young people to consume tobacco products.⁴⁸

Alternative options:

The policymaker identified three regulatory alternatives:

Option 1 (“zero option”) offers no costs and benefits, and does not contribute to achieving the objective or solving the problem.

This option was rejected because adolescents and young people remain at risk of starting to use such products, which prevents the policy objective from being achieved.

Option 2 offers to conduct awareness-raising activities and social campaigns.

This option does not involve legislative intervention, as awareness-raising activities and campaigns may be carried out by state and local governments, healthcare facilities, and educational institutions. Such campaigns can be effective in delivering information, but they are not sufficiently effective to combat aggressive marketing. In addition, the industry can conduct such campaigns itself or finance corporate social responsibility activities to create a positive image of the industry or a particular product. For example, tobacco manufacturers, through manipulative aggressive marketing, have been able to mislead young people about the risks of using e-cigarettes and electric heating tobacco products.⁴⁹

Option 3 offers to increase the legal age for tobacco sales.

Most consumers who start smoking in their teens become addicted by the age of 21. Raising the legal age for tobacco sales to 21 would help counteract tobacco companies’ efforts to target young people during a critical period when many are moving from experimenting with tobacco to regular smoking. Such a tobacco policy would reinforce existing age restrictions on tobacco products and protect them from the long-term health consequences of smoking.

Given the proposed alternatives, the policymaker concluded that it was necessary to draft and adopt a law raising the minimum age for the sale of tobacco products to 21.

⁴⁶ Law of Ukraine “On Amendment to the Tax Code of Ukraine and Other Laws of Ukraine on Revision of the Excise Tax Rates on Tobacco Products” No. 4115-IX of 4 December 2024.

⁴⁷ Centre for Democracy and Rule of Law. One in Four Cases of Illegal Tobacco Advertising in Ukraine Is Not Prosecuted due to Legal Inconsistencies — Study.

⁴⁸ World Health Organisation. Hooking the Next Generation: How the Tobacco Industry Captures Young Customers.

⁴⁹ NGO “Life”. Information Campaigns Are an Effective Tool to Warn Young People about the Dangers of Electronic Smoking Devices. Research by the Kyiv International Institute of Sociology.

- › It is determined whether there have been previous attempts at legislative regulation, what they proposed, and reasons are provided for why they achieved/failed to achieve their goals.
- › Examples from international experience and the practices of other countries are provided on the settlement of identical/similar issues, along with an explanation of how the proposed legislative amendments are consistent with international legislation, primarily the Association Agreement with the European Union.

Example:

Previous legislative attempts

The policymaker found that there had been previous attempts to restrict the sale of tobacco products.

For example, Draft Law No. 2813 was registered in January 2020.⁵⁰ The drafter can provide information about the reasons for the draft law, its goals, etc.

International experience

While reviewing relevant international experience, the policymaker found that the legal age for tobacco consumption and/or sales was increased in the United States in 2019 at the federal level (to 21 years),⁵¹ and relevant legislative decisions to increase the legal age for tobacco sales were adopted in Ireland (to 21 years)⁵² and Latvia (to 20 years).⁵³

Given this, the drafter can provide information on the motivations behind these reforms in each country and assess whether they were effective in reducing tobacco consumption.

- › The results of public consultations and expert discussions, if any, are presented, or an explanation is given as to why such consultations and discussions did not take place.

Stakeholder consultations are an integral part of the policymaking process and, accordingly, of the Legislative Impact Assessment. Public consultations allow the policymaker to collect opinions and required information, and enable stakeholders to express their views, and provide recommendations or comments. It is important to consider involving not only those directly affected by the legislative proposal and those interested in its development and adoption, but also a wider group of people to avoid a distorted understanding of the issue.

The Law of Ukraine “On Public Consultations”⁵⁴ adopted in August 2024 stipulates that public consultations are held on the development, formation, and implementation of public policy in the relevant area, as well as on local issues through the preparation of draft programmatic documents and legal acts to reconcile public and private interests. One of the principles of public consultations established by the new law is the principle of efficiency. It provides for public consultations at those stages of problem

⁵⁰ Draft Law “On Amendment to Certain Laws of Ukraine on Public Health Protection from Harmful Effects of Tobacco” No. 2813 of 28 January 2020.

⁵¹ The United States Food and Drug Administration. [Tobacco 21](#).

⁵² Houses of the Oireachtas. [Public Health \(Tobacco\) \(Amendment\) Act 2024](#).

⁵³ Saeima of the Republic of Latvia. [Smoking age limit to be raised to 20](#).

⁵⁴ The law will come into force 12 months after the date of termination or cancellation of martial law in Ukraine. [Law of Ukraine “On Public Consultations” No. 3841-IX of 20 August 2024](#).

statement, development, shaping and implementation of public policy, and resolution of local issues when stakeholders can influence problem statement, the identification of potential solutions, key objectives, implementation methods, performance indicators, and relevant provisions of the draft acts. In other words, conducting public consultations is advisable during the Legislative Impact Assessment.

The Law stipulates that public consultations are not mandatory for MPs of Ukraine and committees of the Verkhovna Rada of Ukraine. However, other entities responsible for public consultations shall provide stakeholders with a consultation document that is somewhat similar to the structure of the Legislative Impact Assessment. For example, the consultation document shall include a description of the problem to be addressed, alternative solutions, the rationale for the proposed option, and information on potential impacts if the relevant decision is adopted. Such a document may also contain questions designed to clarify the stakeholders' attitudes toward the proposed (alternative) solutions and to collect information necessary to identify other potential solutions to a particular problem or future public policy in general.

Public consultations should not be considered as a separate process, but rather an integral part of the context analysis within the relevant regulatory area. Stakeholders may offer the drafter alternative solutions, additional justification, knowledge of the current situation, potential obstacles to the implementation of the legislative initiative, and criticism, which will undoubtedly contribute to the adoption of better-informed laws, help to identify and avoid unintended consequences.

Example:

Public consultations

In compliance with the Law of Ukraine "On Public Consultations", the drafter prepared a consultation document that included a description of the problem to be addressed (youth tobacco consumption), alternative solutions (options 1, 2, and 3), and the rationale for the preferred option (option 3 — increasing the legal age for sales). The drafter identified the following stakeholders: youth, healthcare facilities, NGOs, retailers, etc.

The drafter also took into account Article 5.3 of the WHO Framework Convention on Tobacco Control,⁵⁵ ratified by Ukraine, which states that in setting and implementing their public health policies with respect to tobacco control, Parties shall act to protect these policies from commercial and other vested interests of the tobacco industry in accordance with national law. WHO guidelines⁵⁶ recommend avoiding any interaction with the tobacco industry, except where necessary for the effective regulation of tobacco products and the tobacco industry. Transparency shall be ensured for those interactions that occur.

The drafter may refrain from holding consultations with representatives of the tobacco industry (which does not, however, preclude them from responding to proposed legislative initiatives), or conduct such consultations openly and provide information on such results in the public consultation report.

⁵⁵ [WHO Framework Convention on Tobacco Control.](#)

⁵⁶ [WHO Framework Convention on Tobacco Control: Guidelines for Implementation.](#)

Impact Analysis

Having prepared the ground and clearly defined the purpose and context, the impact analysis focuses on describing the expected impact and consequences of the proposed legislative changes. The purpose of this component is to thoroughly assess the consequences of adopting the draft law, focusing on whether the proposed measure will deliver the expected results and whether it is reasonable and appropriate. The specific elements of this analysis may vary depending on the situation, but they typically include most of the following aspects:

- › Benefits and risks of the draft law (ways to mitigate them), as well as technical and legal shortcomings are analysed; Impact of the draft law on various areas of life, including the economy, healthcare, gender equality, working conditions, the environment, innovation, etc. are examined (see Annex 2 for more details on the types of impact).

Example:

Benefits and risks of the draft law

Based on international experience, it is clear that reducing access to tobacco products for adolescents and young people helps prevent them from becoming regular tobacco users later in life. This is the main benefit of the draft law.

At the same time, young people may still access tobacco products through other people (relatives, friends, etc.) who are legally allowed to buy tobacco products. This could lead to a displacement effect, whereby tobacco sales increase among those who can still legally purchase them if they want to buy it for someone under the legal age, such as a friend or partner.

In addition, this option may increase the amount of time required by retailers to serve customers, since more customers will need to prove their age due to the broader age range of consumers prohibited from purchasing tobacco products.

At the same time, the drafter has determined that the short-term (in terms of preventing health deterioration among young people) and long-term (in terms of increased life expectancy and productivity) benefits of the legislative initiative outweigh the drawbacks.

Impacts

Using the typology of impacts proposed in this handbook, the drafter has identified the following impacts:

- › **Healthcare:** Health benefits from a decrease in the number of young people using tobacco products; long-term reductions in public healthcare expenditures due to fewer tobacco-related diseases among adults and children, including those caused by secondhand smoke.
- › **Consumption sector:** There is a possibility that increasing the minimum age for tobacco sales will raise purchasing power of young people and increase revenues in other areas of the economy, as potential consumers will spend money on other products.
- › **Trade and competitiveness:** A decrease in the number of potential purchasers of tobacco products may lead to decreased market share, and, consequently, a drop in sales and profits for manufacturers, wholesalers, and retailers.

- › **Environment sector:** Fewer fires caused by careless handling of fire while smoking, and reduced costs associated with fatalities, injuries, property damage, and losses in responding to smoking-related fires.⁵⁷

- › It is examined whether the draft law is consistent with other legal acts, including the Constitution of Ukraine, and other state policy documents such as strategies, plans, and concepts.
- › It is analysed whether the draft law will have an impact on the state and local budgets.
- › An opinion is provided on whether the relevant authorities have the powers, and financial, material, and human resources necessary to implement and enforce the legal provisions if the draft is approved.

Example:

Coherence with public policy

The policymaker shall determine whether such a draft law aligns with the course of state healthcare policy.

Impact on the state and local budget indicators

A decrease in the number of smokers will lead to a drop in tobacco sales, which in turn will reduce budget revenues from excise taxes on the retail sale of tobacco products.

Analysis of financial, material, and human resources

Based on the analysis of the current legislation, the drafter found that the National Police and the State Tax Service already monitor compliance with the current minimum legal age for tobacco sales (18 years) through such measures as test purchases, inspections, responses to public appeals, etc. Therefore, the draft law does not require new powers or increasing funding for these authorities.

- › It is analysed whether the legislative measure will have different impacts on various social groups, and whether the proposed actions have broader implications/impact beyond the target audience of the draft law. It is also determined whether the draft law will affect different social groups based on gender (**gender impact assessment**).⁵⁸
- › It is explained whether the draft law complies with recognised international standards and practices, especially whether it is consistent with European Union legislation, and how it will affect Ukraine's international obligations.

Example:

Compliance with international obligations

The WHO Framework Convention on Tobacco Control states that each Party shall adopt and implement effective legislative, executive, administrative, or other measures at the appropriate

⁵⁷ 98 Children Died in Smoking-Related Fires over 10 Years.

⁵⁸ For an example, see 3.3. Gender Impact Assessment.

governmental level to prohibit the sale of tobacco products to persons under the age set by domestic law, national law, or 18 years.

Article 426 of the EU-Ukraine Association Agreement stipulates that the Parties shall develop their cooperation in the public health field, to raise the level of public health safety and protection of human health as a precondition for sustainable development and economic growth.

Thus, the drafter has determined that the proposed legislative initiative does not contradict Ukraine's international obligations.

As a result of this component, provided all aspects have been analysed, the Impact Assessment shall answer the most important question:

Will the draft law achieve its goal?

3.3. Gender Impact Assessment

People may experience legislative impacts differently depending on their gender identity, age, ethnicity, or other characteristics. A Gender Impact Assessment is a tool designed to determine how draft laws or other non-regulatory measures differently affect various groups of people, including women and men. While a Gender Impact Assessment does not aim to eliminate gender discrimination, it does raise awareness and helps with identifying potential impacts of draft laws that may create or exacerbate existing gender inequalities at the drafting stage, helping prevent such negative impacts. This enables to adapt policy or ensure that any discriminatory effects are eliminated or mitigated.

Like many other countries, Ukraine has committed to gender equality. The Constitution of Ukraine stipulates that equality of the rights of women and men is ensured by providing women with opportunities equal to those of men in public, political, and cultural activity, obtaining education and professional training, work and remuneration for it; by special measures for the protection of work and health of women; by creating conditions that allow women to combine work and motherhood; by legal protection, material and moral support of motherhood and childhood. Ukraine has also joined the Beijing Declaration and Platform for Action adopted at the Fourth World Conference on Women on 15 September 1995⁵⁹ and has ratified key human rights treaties, including the Convention on the Elimination of All Forms of Discrimination against Women⁶⁰ and its Optional Protocol.⁶¹ The Convention obliges all States parties to implement a policy aimed at eliminating discrimination against women through all appropriate measures, including legislative ones, and to refrain from engaging in any acts of discrimination against women.

The main national laws regulating gender equality are the Law of Ukraine "On the Principles of Prevention and Counteracting Discrimination in Ukraine"⁶² and the Law of Ukraine "On Ensuring Equal Rights

⁵⁹ [Beijing Declaration and Platform for Action adopted at the Fourth World Conference on Women on 15 September 1995.](#)

⁶⁰ [United Nations Convention on the Elimination of All Forms of Discrimination against Women.](#)

⁶¹ [Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women.](#)

⁶² [Law of Ukraine "On the Principles of Prevention and Counteracting Discrimination in Ukraine" No. 5207-VI of 6 September 2012.](#)

and Opportunities for Women and Men”.⁶³ These laws stipulate that the development of draft legal acts must take into account the principle of non-discrimination and the principle of ensuring equal rights and opportunities for women and men. In addition, anti-discrimination and gender legal expertise shall be conducted for draft legal acts.

The Order of the Ministry of Social Policy of Ukraine approved the Instruction on Integration of Gender Approaches in Legal Developments,⁶⁴ which sets general requirements for applying gender approaches in the development of legal acts in line with the provisions of the Law of Ukraine “On Ensuring Equal Rights and Opportunities for Women and Men”. The purpose of the gender approach is to redistribute power, influence, and resources on the basis of gender equality and justice, by creating equal opportunities for women and men. The gender approach also takes into account that equal treatment of women and men does not always lead to equal outcomes, as it leaves out existing inequalities.⁶⁵ Applying a gender approach during the development of legal acts enables to identify differences in how the act may affect different populations and to find optimal ways to ensure that the needs and interests of different populations are included in the legal act. The Instruction defines a Gender Impact Assessment as a process for identifying the direct or indirect (positive, negative, or neutral) impact, short- and long-term consequences of public policy implementation on the status of different groups of boys and girls, women and men. It allows for timely elimination of imbalances and gender inequality.

The Gender Mainstreaming Strategy, officially adopted by **the Swedish Government** in 1994, means that government activities should be carried out in such a way that services and rights offered to citizens are equally accessible, of equally high quality, and equally well adapted for everyone, regardless of gender, to promote equality in society.⁶⁶

The main difference between a gender legal expertise and a Gender Impact Assessment is that the latter allows for a policy measure to be evaluated in terms of its different impact on various groups, so that these imbalances can be addressed before the proposal is adopted. A gender analysis helps to identify whether the needs of women and men are equally considered and met during the development of such a measure. A gender legal expertise is conducted on a drafted legal act, which reduces the likelihood of correcting discriminatory provisions. A Gender Impact Assessment checks whether the planned activity may have positive or negative consequences in terms of eliminating inequality between women and men and promoting equality within the relevant social context.

Thus, a Gender Impact Assessment is a valuable, evidence-based policymaking tool aimed at achieving the best possible outcome by integrating the gender dimension into the governance and enhancing its effectiveness. As part of the Gender Impact Assessment, the policymaker shall answer the following questions:

1. Could the implementation of the measures result in different consequences for women or men?
2. Will the draft law affect a larger group of people beyond the target audience?
3. Is there any information showing that the issue/initiative is perceived differently by various groups of people? If so, how?

⁶³ Law of Ukraine “On Ensuring Equal Rights and Opportunities for Women and Men” No. 2866-IV of 8 September 2005.

⁶⁴ Instruction on Integration of Gender Approaches in Legal Developments, approved by the Order of the Ministry of Social Policy of Ukraine No. 86 of 7 February 2020.

⁶⁵ Gender-Based Governance: A Practical Guide. T. Ivanina, O. Kyselova, M. Kolodii.

⁶⁶ The Government of Sweden. Gender Mainstreaming Manual, Gender Equality in Public Services.

4. How will the outcomes of the initiative's activities improve the current inequality between men and women and between different groups of people? (see Annex 3 for more details on the methodology of the Gender Impact Assessment).

Gender approach and Gender Impact Assessment contribute to the development of more gender-sensitive public policy, taking into account existing inequalities and replacing the gender-neutral approach. Decisions that target the entire population or its specific groups are made under a gender-neutral policy, without distinguishing between women and men, provided that such a policy equally benefits all members of society. However, even political decisions that may appear gender-neutral, may have a different impact on women and men, and may even strengthen social, cultural, or economic gender inequalities.⁶⁷ A gender-neutral decision becomes gender-blind without adequate analysis of existing inequalities.

Example:

Gender Impact Assessment

As outlined in the Problem Statement component, the purpose of the proposed draft law is to reduce tobacco consumption among young people. The consumption issue has a gender dimension, as more men than women consume such products, but the draft law does not provide for specific different regulations for these groups.

According to the drafter, the need for a Gender Impact Assessment arises from the following: 1) the legislative impact targets individuals, as it prohibits the sale of tobacco products to persons under the age of 21; and 2) the legislative impact relates to the health of both women and men.

While the current situation has been partially described in the Context Analysis component ("zero option"), the Gender Impact Assessment shall specify the gender aspect of the issue:

- ▶ What proportion of young men and women consume tobacco products?

The drafter found that the use of tobacco or nicotine products is significantly more common among men than women: 39.5% of men compared to 17% of women. Among all age groups, tobacco/nicotine use is higher among men. For example, among those aged 18–29, 41% of men and 24.5% of women use such products. Women are more likely to consume novel tobacco and nicotine products: 27% use electrically heated tobacco products (compared to 13% of men), and 25% use e-cigarettes (11% of men).⁶⁸ So, in general, this problem prevails more among men than women, though some types of tobacco products are more frequently used by women.

- ▶ Does tobacco consumption affect men's and women's health equally?

Tobacco consumption is linked to diseases such as cancer, respiratory, and cardiovascular diseases. It can cause fertility problems in both men and women and complications during pregnancy and childbirth.⁶⁹ The drafter may identify that parental tobacco use and secondhand smoke during pregnancy are associated with adverse fetal development,

⁶⁷ [Gender Impact Assessment Gender Mainstreaming Toolkit](#). European Institute for Gender Equality.

⁶⁸ [NGO "Life". Omnibus. Kyiv International Institute of Sociology. Analytical Report. Use of Tobacco and Nicotine Products and Attitudes towards Tobacco Control Activities: October 2024.](#)

⁶⁹ [WHO. FactSheet. The Effects of Tobacco Use on Health.](#)

perinatal complications, and higher infant mortality.⁷⁰ The drafter may identify the impact of tobacco use on women.⁷¹

- › Does the draft law take into account gender inequalities between women and men in access to healthcare services that may affect the treatment of tobacco-related diseases?

The drafter can identify whether gender stereotypes affect men's or women's access to healthcare services, potentially reducing their willingness to seek support to quit smoking. For example, international studies show that women are more likely than men to seek healthcare and are more health-conscious. However, there is a stereotype that women are more likely to "abuse" healthcare services or complain about their health.⁷²

In addition, the drafter found that women make up the majority of healthcare employees. Women constitute 62% of physicians and 94% of nursing staff.⁷³ Furthermore, women represent the vast majority providing unpaid home-based health and social care, including providing long-term assistance for chronic tobacco-related diseases (mostly among men) and caring for children affected by secondhand smoke exposure. So the burden of tobacco-related healthcare can be described as predominantly borne by women.

The drafter may identify other gender impacts as follows:

- › Are additional measures needed to minimise the differential impact of the draft law on women and men?
- › Are there any gender biases that could hinder the achievement of the draft law's objectives?

It is evident that reducing tobacco consumption, and therefore reducing health harm, has a positive impact on both women and men. However, the drafter should identify any gender biases or barriers that may obstruct the effective implementation of the draft law.

Only by answering these questions with due regard to qualitative and quantitative data can the drafter determine whether the legislative proposal is gender-sensitive, gender-neutral, or gender-blind.

⁷⁰ WHO. Tobacco Control to Improve Child Health and Development: [Thematic Brief](#).

⁷¹ WHO. FactSheet. [Women and Tobacco Use](#).

⁷² [Assessment of Gender Awareness Among Healthcare Professionals in Ukraine](#).

⁷³ UNFPA Ukraine. [Gender Perspective of the Healthcare Sector of Ukraine](#).

Section IV

Readiness of public authorities to conduct Legislative Impact Assessments

As a general rule, Legislative Impact Assessments should be carried out by the drafter of the legislative proposal. This is because it is the policymaker who defines the need for new regulation, describes the problem to be solved, and outlines the goal of the draft law, consults with stakeholders, determines the expected impacts of the legislative initiative, etc. The Law of Ukraine “On Lawmaking” follows the general rule: the holder of a legislative initiative assesses the impact of a draft legal act on public relations.

According to the Constitution, the right of legislative initiative in the Verkhovna Rada belongs to the President of Ukraine, MPs of Ukraine, and the Cabinet of Ministers of Ukraine. Since this handbook aims to describe the methodology for conducting Impact Assessments of draft laws as a public policy tool, taking into account the constitutional provisions, it is worth evaluating the readiness to conduct Legislative Impact Assessments and use their results within the Parliament-Government-President triangle.

4.1. Readiness of the Verkhovna Rada of Ukraine to Conduct Legislative Impact Assessment

There is great variation in type and level of parliament’s engagement in impact assessment in other countries, spanning from passive scrutiny of government action to active impact assessment. There is no standard model for parliamentary involvement, but instead, parliaments design their regulatory policy activities according to what works best in their specific context. One thing all parliaments have in common is that their level of resources cannot compare with governments. Therefore, parliamentary processes and outputs relating to impact assessment and evaluation may be quite distinctive from ones.⁷⁴

In the Ukrainian context, the majority of all adopted laws is registered by MPs. Unlimited legislative initiative and a low registration threshold for draft laws generate legislative spam, where quantity is the opposite of quality. All structural units of the Parliament involved in the legislative decision-making process suffer from the low quality of supporting documents and poorly prepared draft law. Moreover, MPs have limited subject-matter expertise. The majority of MPs also lack proficiency in

⁷⁴ European Parliamentary Research Service. [Better Regulation Practices in National Parliaments.](#)

quality analysis methodology of either public policy documents, draft laws, or Legislative Impact Assessments. Advising assistants, who perform organisational and communication work in addition to analytical tasks, cannot compensate for MPs' limited capacity to prepare high-quality draft laws and supporting documents. The problem is exacerbated by the fact that, unlike the Government, MPs (especially individually) lack access to statistical and other data on the implementation of a particular public policy. Therefore, they will need assistance in conducting Legislative Impact Assessments and analysing their quality, while the Government will take the main role in the legislative process in the future. At the VRU level, parliamentary committees, and expert and analytical units of the VRU Secretariat will play an important role.

The committees of the Verkhovna Rada of Ukraine have every chance of becoming the key structure in the process of legislative impact assessment. They are involved in public policy planning: their proposals are used to prepare the session agenda and the legislative work plan. The committees hold hearings to discuss key draft legislative acts, obtain comprehensive information on issues under their consideration, and engage the public in shaping national policy. As a separate body, a parliamentary committee usually has better communication with the ministry (or ministries) whose mandates fall within the committee's remit. Each committee has a secretariat that provides organisational, informational, legal, advisory, expert, analytical, and methodical support for its activities.⁷⁵ The above gives the committee an advantage in preparing Impact Assessments compared to individual MPs.

All draft laws should undergo several committee-level expert reviews, including considering by both the main and subsidiary committees. Based on the subject of the legislative initiative, the main committee is designated, accompanying the lawmaking activity at all stages: from its registration, preliminary analysis, and preparation for consideration in the Verkhovna Rada to the adoption of the final decision. There are 23 committees in the Verkhovna Rada of the 9th convocation, each responsible for a specific area of legislative work.

The Committees on Budget, Anti-Corruption Policy and Ukraine's Integration into the EU are responsible for mandatory preliminary reviews of draft laws in areas within their jurisdiction and prepare an opinion on the compliance of the draft law:

- ▶ The Committee on Budget evaluates the impact of the draft law on budget indicators and its compliance with the laws governing budgetary relations.
- ▶ The Committee on Ukraine's Integration into the European Union evaluates the compliance of the draft law with Ukraine's international legal obligations in the field of European integration, in particular, the EU-Ukraine Association Agreement and other international legal acts.
- ▶ The Committee on Anti-Corruption Policy analyses draft law for compliance with anti-corruption legislation and checks for corruption risks.

The parliamentary committee also has the right to develop draft laws and other acts of the Verkhovna Rada of Ukraine on its own initiative within its jurisdiction and submit them to the Parliament, or define assignments for the development of draft laws or their structural components within its jurisdiction (however, the MP who registered the draft law is considered to be its formal author). Furthermore, after the Law of Ukraine "On Lawmaking" comes into force, the committee will receive new powers, including approval of the concept of a draft code or primary law and legal monitoring of adopted laws. **The role and significance of the VRU committees will increase significantly, which will require efforts**

⁷⁵ Regulation on the Secretariat of the Committee of the Verkhovna Rada of Ukraine, approved by the Order of the Chairperson of the Verkhovna Rada of Ukraine No. 1241-k of 20 December 2021.

to expand the analytical capacity of the committees and their secretariats, and improve sustainable interaction and information exchange between relevant committees and ministries.⁷⁶

The Secretariat of the Verkhovna Rada and its structural units provide expert and organisational support to parliamentary committees and MPs of Ukraine. The organisational structure of the VRU Secretariat has not been substantially revised for 25 years,⁷⁷ and in the context of the ongoing parliamentary reform, the issue of assessing the institutional capacity and professional standards in the VRU Secretariat remains relevant.

The VRU Secretariat and its structural units have certain powers to ensure the Parliament's activities, in particular the Secretariat:

- › Participates in the drafting of legislative acts, acts of committees and commissions of the Verkhovna Rada of Ukraine as instructed by the leadership of the Verkhovna Rada of Ukraine;
- › Provides scientific and legal assistance to committees and commissions of the Verkhovna Rada of Ukraine in the preparation of draft laws and consults MPs on these issues;
- › Prepares reference and scientific and analytical materials on issues considered by the Verkhovna Rada of Ukraine, etc.⁷⁸

The Standing Orders of **the Sejm of the Republic of Poland** stipulate that before referring a Deputies' bill⁷⁹ or a bill introduced as a result of a people's initiative for the first reading, the Marshal of the Sejm shall instruct the Chancellery of the Sejm to prepare an opinion assessing the regulatory impact of the introduced bill.⁸⁰

The Bureau of Research⁸¹ is responsible for such assessments, whose main task is to carry out impact assessments of draft laws submitted to the Sejm, including, inter alia, defining the goal and nature of the regulation, analysing the expected social, economic, and financial consequences, identifying the subjects affected by the draft law, and assessing its impact on key sectors (public finance sector, labour market, economic competitiveness and entrepreneurship, and the social status of individuals).

In addition, the Bureau provides consultations on the Sejm's activities and the legal status of MPs, prepares opinions on the compliance of draft laws with the Constitution of the Republic of Poland, and EU law, and publishes a scientific journal in the field of legal studies. At the same

⁷⁶ Parliamentary Reform Office. [Concept note on Improvement of the Legislative Process in Ukraine](#).

⁷⁷ Resolution of the Verkhovna Rada of Ukraine "On the Structure of the Secretariat of the Verkhovna Rada of Ukraine" No. 1678-III of 20 April 2000. In 2020, the VRU Secretariat established the Anti-Corruption Department and the Press Service, while the Citizens' Appeals Department was reorganised into a division.

⁷⁸ Regulation on the Secretariat of the Verkhovna Rada of Ukraine, approved by the Order of the Chairperson of the Verkhovna Rada of Ukraine No. 769 of 25 August 2011 (as amended by the Order of the Chairperson of the Verkhovna Rada of Ukraine No. 734 of 20 November 2014).

⁷⁹ Parliamentary draft laws may be submitted by Sejm committees or at least 15 MPs who have signed the draft law.

⁸⁰ [The Standing Orders of the Sejm of the Republic of Poland](#).

⁸¹ In February 2024, the Chancellery of the Sejm was reorganised, resulting in the establishment of the Bureau of Research, which took over most of the powers of the liquidated Analytical Bureau.

time, the Bureau is not authorised to prepare draft laws, provide translations or interpretations, or consult on issues unrelated to legislative work or the mandate of the MP.⁸²

From the perspective of the policy cycle, the Main Scientific and Expert Department of the Secretariat of the Verkhovna Rada of Ukraine serves as the institution responsible for the preliminary analysis of draft laws and may also potentially analyse Legislative Impact Assessments. However, the lack of clear planning of legislative initiatives, poor coordination of the legislative process, and legislative spam affect the completeness of its opinions. In addition, this unit should have sufficient human and material resources to refuse to register drafts in a timely and reasonable manner, including those with poor supporting documents. Such a unit should not be subject to political pressure, for example, to refuse to register draft laws authored by opposition factions or, conversely, to register draft acts of the coalition even if they do not meet the established requirements.⁸³

The Research Service of the Verkhovna Rada of Ukraine provides research, information and analytical support for the activities of the Verkhovna Rada of Ukraine, its bodies, MPs, and parliamentary factions.⁸⁴ Its powers include research on urgent issues of public policy, advisory participation in drafting laws of Ukraine on key issues of societal and state development, elaborating scientific concept for the development of legislative regulation of public relations, etc. MPs are entitled to contact the Research Service, although they do not do it very actively. For example, in 2024, the Research Service prepared 652 analytical and informational papers, of which only about 11% (70 documents) were based on MPs' requests.⁸⁵

We can conclude that there are sufficient bodies and structural units within the parliamentary sphere capable of assisting MPs in conducting Legislative Impact Assessments. The VRU Secretariat has sufficient analytical capacity but lacks effective mechanisms (including statutory) to make Impact Assessment a truly effective tool for policy forecasting.

4.2. Readiness of the Cabinet of Ministers of Ukraine to Conduct Legislative Impact Assessment

In the majority of developed democracies, the **government plays a leading role in conducting legislative impact assessments**. The predominance of a government-centred model of decision-making in the world is explained by the fact that ministries and other agencies are responsible for specific areas of regulation and, therefore, are best versed to understand regulatory problems and offer possible solutions. Moreover, ministries or regulatory agencies typically have direct contacts with affected stakeholders and thus have a good understanding of the possible impact of proposed regulations on all the third parties. Conversely, these same regulatory agencies could have an entrenched conservative culture with little interest in developing new ideas or approaches to regulation. They could be “captured” by the stakeholders they cooperate with. This may lead to the fact that when developing new regulations, such agencies do not take into account the costs or benefits to society

⁸² [Biuro Ekspertyz i Oceny Skutków Regulacji. Kancelaria Sejmu.](#)

⁸³ [Agency for Legislative Initiatives. Explanatory Note as a Potential Tool in the Fight Against “Legislative Spam” and the Practice of Foreign Parliaments.](#)

⁸⁴ [Order of the Chairperson of the Verkhovna Rada of Ukraine “On the Research Service of the Verkhovna Rada of Ukraine” No. 438 of 11 August 2022.](#)

⁸⁵ The majority of materials were prepared upon requests of committees — 41% (269 documents) and the Chairperson of the VRU — 35% (228 documents).

at large, focusing only on the stakeholders they cooperate with. The impartiality (in relation to the interests of the whole society) of regulatory agencies may also be compromised when new regulation may increase the budget or expand the powers of such agencies.⁸⁶

The SIGMA Monitoring Report states that in the Ukrainian Government, ministries have primary responsibility for lawmaking and policymaking, while implementation is the responsibility of other executive authorities. Each ministry is empowered to draft laws and other legal acts within its competence. There are no internal ministry regulations for drafting laws and policies, and no consistent practices in place that would enable ministries to effectively co-ordinate and consult draft laws and policies within the ministry.⁸⁷

In **Finland**, the Ministry of Justice established a network of impact assessment experts that operated from December 2020 to March 2023.⁸⁸ The network was established as a group of contact persons from each ministry supporting legislative drafters in the preparation of impact assessments to strengthen inter-ministerial cooperation. Through these contact persons, the drafter can obtain additional information relevant to the area of each ministry. Given the positive experience of the network and the need for a permanent structure to support impact assessments, it was decided to extend the network for a second term of 2023–2027.⁸⁹

An analysis of interaction at the level of the Cabinet of Ministers shows that the Parliament is often not involved in the development of draft decisions. Although the Rules of Procedure of the Cabinet of Ministers stipulates that “to ensure interaction with the Verkhovna Rada, the heads of central executive bodies shall appoint officials from among their deputies responsible for performing the relevant functions”, in practice such interaction is unsystematic. For example, MPs or representatives of relevant committees are not involved in the development of governmental draft laws. This partly explains the rather low governmental efficiency.⁹⁰

Ministries sometimes abuse the practice of having their draft laws registered in the Verkhovna Rada by MPs. The submission and registration of governmental draft laws through MPs are due to stricter requirements for Governmental draft laws (for example, the obligation of ministries to conduct anti-discrimination and gender legal expertise of draft laws, as mentioned in subsection 3.3). Despite this, first, the government has more human resources, including special units for preparing analytical documents, and second, it has direct access to quantitative data and policy-related facts, and, therefore, has a higher level of expertise. This also affects the quality of explanatory notes prepared by the Government, which are somewhat better and less formal than those prepared by MPs.

In 2022, the Secondary Legislation Scrutiny Committee of the House of Lords, the upper house of **the UK Parliament**, issued a report identifying a deterioration in the quality or absence of Impact Assessments accompanying draft laws prepared by the government.⁹¹ The Committee

⁸⁶ Global Indicators of Regulatory Governance: Worldwide Practices of Regulatory Impact Assessments. World Bank Group.

⁸⁷ SIGMA Monitoring Reports. Public Administration in Ukraine. Assessment against the Principles of Public Administration.

⁸⁸ Valtioneuvoston vaikutusarvioinnin osaamisverkosto.

⁸⁹ OM; Valtioneuvoston vaikutusarvioinnin osaamisverkosto 2023-2027.

⁹⁰ Agency for Legislative Initiatives. The Concept of the ‘End-to-End’ Legislative Process (Policy paper).

⁹¹ Secondary Legislation Scrutiny Committee. Losing Impact: Why the Government’s Impact Assessment System is Failing Parliament and the Public.

noted that if the Parliament is to perform its critical function of holding the Government to account, it is of paramount importance that the two Houses are given complete and comprehensive information about the basis on which policy choices are made and the reasons why alternative options have been rejected.

The Rules of Procedure of the Cabinet of Ministers⁹² define that while drafting an act of the Cabinet of Ministers (including a draft law), the drafter shall:

- › Examine the state of affairs in the relevant area,
- › Identify the problem that needs to be addressed and analyse its causes,
- › Define the objectives and select ways to achieve them,
- › Identify the list of stakeholders and forecast the potential impact of the act on their interests,
- › Define the subject of legal regulation and the mechanism for addressing the issue (including the use of information and communication technologies),
- › Provide for rules and procedures that, inter alia, would prevent the commission of corruption-related offences,
- › Forecast the outcomes of the act's implementation and define the criteria (indicators) by which its effectiveness will be assessed.

This drafting process is indeed similar to the process of Legislative Impact Assessment. However, this process is impossible to track, as it may be described in different documents or not recorded at all, unlike the Impact Assessment, which provides information on each stage of drafting a law. Only part of the findings obtained during the Assessment is presented in the explanatory note: the essence of the problem and its causes, the stakeholders' position, and the forecasted outcomes of implementing the act. The decision-maker does not receive information on the potential social or environmental impact of legislative initiatives, the alternative solutions that were considered, whether a Gender Impact Assessment was conducted during the drafting of the law, etc.

As the highest body within the executive branch, the Cabinet of Ministers shall develop policies based on reliable data with the help of the Legislative Impact Assessment tool and direct access to information and stakeholders. The Government is responsible for implementing public policy and enforcing adopted laws, so it is in its interest to ensure that such policies and laws are as well-grounded and predictable as possible.

4.3. Readiness of the President of Ukraine to Conduct Legislative Impact Assessment

Conducting a quality Legislative Impact Assessment may be a **challenge for the President of Ukraine**. The procedure for preparing draft laws initiated by the President of Ukraine is governed by a relevant regulation adopted in 1995,⁹³ which has not been revised since 2006 and no longer meet

⁹² [The Rules of Procedure of the Cabinet of Ministers of Ukraine, approved by the Resolution of the Cabinet of Ministers of Ukraine No. 950 of 18 July 2007, as amended by the Resolution of the Cabinet of Ministers of Ukraine No. 1156 of 9 November 2011.](#)

⁹³ [Regulation on the Procedure for Working with Draft Laws and Other Documents Submitted by the President of Ukraine to the Verkhovna Rada of Ukraine, approved by the Decree of the President of Ukraine No. 270/95 of 30 March 1995.](#)

the requirements of the current Rules of Procedure of the Verkhovna Rada of Ukraine. The regulation stipulates that draft laws prepared for submission to the Verkhovna Rada of Ukraine at the initiative of the President of Ukraine shall be accompanied by an explanatory note. The note shall contain a justification to adopt them, an explanation of their place within the existing legislation system, and the expected social and economic and other outcomes of their implementation. The content of such an explanatory note hardly suggests that a Legislative Impact Assessment should be carried out on such draft laws.

The Law of Ukraine “On Lawmaking” contains an extensive list of exemptions from the areas of regulation and legal acts to which it does not apply. They also include areas under the authority of the President of Ukraine, exempting him from the obligation to conduct a Legislative Impact Assessment for his decrees. The Law of Ukraine “On Lawmaking” does not apply to decrees of the President of Ukraine enacting decisions of the National Security and Defence Council of Ukraine, or acts of the President of Ukraine of a political nature containing evaluations of facts, events, phenomena, circumstances, and processes. Moreover, the Law does not extend to certain public relations where the President has the prerogatives, in particular:

- ▶ The announcement of general or partial mobilisation, the introduction of martial law in Ukraine or certain regions, the declaration of a state of war and conclusion of peace upon the proposal of the President of Ukraine, the deployment of the Armed Forces of Ukraine and other military formations established in accordance with the Ukrainian legislation, the exercise of powers in the field of national security and defence, and the conduct of foreign policy;
- ▶ The introduction of a state of emergency in Ukraine or certain regions, the declaration of certain areas as zones of emergency ecological situation.

The President exercises the right of legislative initiative with certain specific features. First, the exercise of many powers envisaged by the Constitution does not require legislative changes or substantial cooperation with other authorities. This includes, for example, appointments to positions, conferring state awards, exercising powers as the Supreme Commander-in-Chief of the Armed Forces of Ukraine, approving strategies or programmes, etc. Second, decisions of the National Security and Defence Council of Ukraine, which are approved by Presidential Decree, often contain instructions to the Cabinet of Ministers to draft and/or submit legislative amendments to the Verkhovna Rada. This form of delegation means that although the President of Ukraine is actually the initiator of the amendments, it is the Government that exercises the right of legislative initiative and bears responsibility for drafting the law and conducting the Impact Assessment.

The President’s distancing from lawmaking activities in shaping domestic policy,⁹⁴ as well as outdated regulations governing the drafting of laws that the President should follow, hinders his full participation in the legislative process.

4.4. Lobbying as a Means of Influencing Public Policy

The individuals affected by public policy measures are not necessarily the same as those interested in the adoption of the draft law. Lobbying involves influencing a lawmaker to plan the drafting, drafting and/or adoption (issuance) of a legal act in the commercial interests of another individual, legal entity, or a foreign state. Lobbying is one of the methods of raising public awareness of some issues and it also can serve as a useful source of information for MPs regarding the effects of public policies.

⁹⁴ [Learn more about the legislative initiatives of the President of Ukraine in the Parliamentary Monitoring by the Agency for Legislative Initiatives.](#)

The purpose of lobbying is fundamentally opposite to the purpose of Legislative Impact Assessments. The main goal of lobbying is to influence decisions made by governmental authorities and achieve the desired results in the form of legal acts. On the other hand, an Impact Assessment should not influence political decisions or justify a legislative proposal, but rather provide impartial information about the potential consequences of a decision.

In February 2024, the Verkhovna Rada adopted the Law of Ukraine “On Lobbying”,⁹⁵ which, for the first time at the legislative level, established the procedure for influencing public officials to shape public policy in a particular area or to defend the interests of certain groups of people. This Law establishes lobbying methods, including the preparation and distribution of proposals, programme and position papers, analytical materials, results of sociological, and other studies on issues related to the legal act being lobbied for its development, adoption, or repeal.

The Law does not specify what documents may be considered analytical materials, so we may assume that the Legislative Impact Assessment, if prepared by a lobbying entity, may be regarded as such analytical document. When preparing an Impact Assessment, it may be directed not only at the lobbying target — the decision-maker — but also to other parties, since the lobbying entity has the right to communicate information about lobbying and issues related to the area and/or subject of lobbying through the media or the Internet.

At the same time, it is important to take a critical approach to the analytical materials provided by the lobbying entity. They can share their expertise, legitimate needs and evidence about policy problems and how to address them, provide valuable information on which to base their decisions. At times, they may abuse this legitimate process to provide unreliable or inaccurate information. For example, lobbyists may highlight selective findings of scientific studies, dismissing any doubts or criticisms in these studies. They may also highlight the results of studies financed by their own think tanks and institutes. Public officials may not be aware that the external analysis they consider useful guidance may be biased by private actors, or they may simply not have the time to assess the credibility of sources, and, as a result, base their decision on biased or false evidence.⁹⁶ Under such conditions, the Legislative Impact Assessment, which is based only on lobbyist data, loses its most important characteristics — objectivity and impartiality. The goal of the Impact Assessment is to find and recognise biases or false information. It is important to remember that what is good for one segment of society may be harmful to others, and it is the task of the policymaker to strike a balance in the course of legislative regulation.

⁹⁵ The law shall enter into force two months after the Transparency Register becomes operational, but no later than 1 September 2025. [Law of Ukraine “On Lobbying” No. 3606-IX of 23 February 2024.](#)

⁹⁶ OECD. [Lobbying in the 21st Century. Transparency, Integrity and Access.](#)

Recommendations

1. Given the adoption of new laws, it is necessary to update the current legislation governing the procedure for preparing legislative initiatives. Targeted amendments to the Rules of Procedure of the Verkhovna Rada and the Cabinet of Ministers, or outdated Presidential Decrees, do not provide efficient tools for planning and drafting effective laws. There is a need to change the mindset and approaches from the planning and drafting stages to implementation and “end-to-end” scrutiny of the laws.
2. It is worth considering the possibility of introducing “full” and “simplified” Legislative Impact Assessments, as well as defining procedures and criteria for selecting draft laws that require one type of Assessment or another. The principle of proportionality determines that the depth of policy analysis should be proportional to its consequences. The preparation of “full” Legislative Impact Assessments requires a lot of resources, which is not always justified. A “full” Legislative Impact Assessment of a draft law should be carried out only when the consequences of the draft law are significant, for example, when the implementation of the draft law requires considerable funds, or it affects a large part of the population. A “simplified” Impact Assessment model can have a narrower scope of analysis of the impacts of the draft law and be less voluminous in size.
3. To develop unified approaches to conducting the Legislative Impact Assessment, it is necessary to introduce a unified methodology with a standardised structure and stages, regardless of the initiator of the draft law.
4. In addition to introducing the methodology, it is advisable to supplement it with supporting materials for conducting Legislative Impact Assessments (instructions, guidelines, etc.). They should cover both procedural requirements for the Impact Assessment and key content aspects, such as guidelines on problem analysis, identification of alternatives, and international examples to make the recommendations as practical and informative as possible.
5. The results of the Legislative Impact Assessment should be published as a supporting document to the draft law. First, this will contribute to the openness and transparency of the Impact Assessment, as it will document the procedure for its conduct, including the results of public consultations. Second, public discussion of the draft laws and the potential consequences of their implementation is important for post-legislative monitoring and further public oversight. Legislative Impact Assessment should not be a mere formality; policymakers should demonstrate how and on what basis the proposed regulatory option was chosen. Impact Assessment should become an effective tool for open discussion of policy plans and drafts.
6. It is essential to provide education and training for employees of structural units responsible for Legislative Impact Assessments. Such training should include techniques for problem definition, identifying alternative solution, public consultations and stakeholder engagement.⁹⁷ The skills and knowledge of civil servants responsible for the Impact Assessment are essential to ensure that the Impact Assessment is professional, impartial, and accessible to decision-makers.

⁹⁷ OECD (2020), [Regulatory Impact Assessment, OECD Best Practice Principles for Regulatory Policy](#).

7. It is important to introduce the practice of checking the actual impact of adopted laws some time after their implementation. A good practice is to compare the actual impact of the adopted law during monitoring with the forecasted impact analysed in the Impact Assessment. This will not only help improve the quality of the legal acts, but also allow for the formulation of recommendations and feedback on the Legislative Impact Assessment process based on previous assessments.
8. A body or structural unit of the Secretariat of the Verkhovna Rada of Ukraine (or maybe even an independent body beyond the parliamentary branch) should be designated for quality assurance of the Legislative Impact Assessments. Such a body or unit may provide mandatory or advisory conclusions based on the quality assessment results, consult and publish recommendations or explanations on Legislative Impact Assessments, conduct training, and reject or return draft acts for revision if their supporting documents, including the Impact Assessments, do not meet the established legal requirements. Such a body or unit should have a high degree of independence — to protect it from political changes and partisan interests.⁹⁸

Legislative Impact Assessments are a tool for improving the policymaking process. The Assessment helps clarify the objectives of public policy and its consequences by introducing an effective procedure for problem analysis, data research, and identification of potential impacts. Impact Assessment allows comparing options for solving a problem and finding the most effective and financially viable one. In the course of consultations, the Assessment helps not only to identify the individuals most affected by the proposed legislative measure, but also to raise awareness among such individuals about public policy in the relevant regulatory fields and the initiated legislative proposals. The earlier a Legislative Impact Assessment is carried out, the broader its potential scope, which contributes to more effective policymaking and reduces the risk of poor-quality regulation.

⁹⁸ [Regulatory Impact Assessment and Public Consultations: Comparative Models, Lessons Learned & Recommendations for Belarus.](#)

Annex 1

Introducing ex-ante evaluations of draft laws

As early as 2002, the Verkhovna Rada adopted the Concept of the State Programme for Adaptation of Ukrainian Legislation to the Legislation of the European Union.⁹⁹ One of the programme's activities included **an economic, social, and political assessment of the changes** resulting from the implementation of relevant measures in the area of legislative adaptation, identification of institutional changes (creation of new institutions or changes in the nature of existing ones) and other consequences caused by the entry into force of new legal norms, including changes in administrative or judicial procedures, changes in procedures for monitoring compliance with technical standards, etc.

In 2003, the Parliament introduced the obligation to conduct a regulatory impact analysis for each draft regulatory act to receive comments and proposals. The regulatory impact analysis was one of the first analytical documents to **analyse the impact of a regulatory act on the market environment, ensuring the rights and interests of business entities, citizens, and the state.**¹⁰⁰

In 2006, the new Rules of Procedure of the Verkhovna Rada set out requirements for an explanatory note to accompany each draft law. An explanatory note had to contain **justification for the expected social and economic, legal, and other consequences** of the law after its adoption. This requirement has been unchanged in all subsequent Regulations and is still in force, although it is only formally enforced.

Ukraine's signing of the Association Agreement with the European Union in 2014 provided additional impetus for improving the quality of legislation. Currently, draft laws at different levels of development and consideration are subject to numerous ex-ante evaluations of draft laws: budgetary impact evaluation, anti-corruption evaluation, gender legal evaluation, evaluation of draft laws' compliance with Ukraine's international obligations in the field of European integration, etc.

In 2016, the European Parliament's Needs Assessment Mission recommended the introduction of an "end-to-end" legislative process, which allows for **early discussion of draft laws** and, in turn, increases the likelihood of reaching a consensus.¹⁰¹

In February 2019, the Verkhovna Rada amended the Constitution by 334 votes, which consolidated Ukraine's course toward full membership in the EU and NATO. On 23 June 2022, Ukraine was

⁹⁹ Law of Ukraine "On the Concept of the State Programme for Adaptation of Ukrainian Legislation to the Legislation of the European Union" No. 228-IV of 21 November 2002.

¹⁰⁰ Law of Ukraine "On the Principles of Regulatory Policy in Economic Activity" No. 1160-IV of 11 September 2003.

¹⁰¹ European Parliament's Needs Assessment Mission to the Verkhovna Rada of Ukraine. [Report and Roadmap on internal reform and capacity-building for the Verkhovna Rada of Ukraine.](#)

granted candidate status for accession to the European Union and subsequently began negotiations on Ukraine's accession to the EU.

In August 2023, the Parliament finally adopted the Law of Ukraine "On Lawmaking", which, for the first time, enshrined the requirement to conduct Impact Assessments on legal acts. The law will come into force one year after the termination or cancellation of martial law in Ukraine. Although the law establishes uniform requirements for the content of the Impact Assessment, it does not provide a methodology for conducting it, which is left to the drafter's discretion.

Annex 2

Typology of impacts

As part of the “better regulation” concept, the European Commission has prepared a document, a so-called toolbox¹⁰² which contains guidelines, tips, and practices for better regulation, including a table of key impacts that should be identified and assessed. Based on it, we propose our own list of questions that will help the policymaker to determine what impacts a legislative initiative has. While the most relevant and significant impacts will be relatively easy to identify, the list is an auxiliary tool that can help identify other less foreseeable or even unexpected impacts. At the same time, it is not enough to identify an impact; it is also important to describe its manifestations and consequences as fully as possible. This list of questions and regulatory areas is not exhaustive, and we encourage analysing the possible impacts of the draft law beyond this table when conducting a legislative impact assessment.

Sector	Possible Questions
Climate and Environment	<p>How does the draft law affect:</p> <ul style="list-style-type: none"> ▶ the environment? ▶ air pollution that may affect human health or environmental quality (soil, water bodies, etc.)? ▶ access to drinking water? ▶ water quality (especially in coastal or marine areas) due to possible discharge of wastewater, heavy metals, oil, or other pollutants? ▶ endangered species, their habitats, or nature reserves? ▶ the use of renewable or non-renewable natural resources? ▶ the generation/recycling/storage/disposal of waste, including radioactive waste? <p>Does the draft law lead to the loss of available land (e.g., due to construction) or a decrease/increase of usable land (e.g., due to land reclamation)?</p>
Employment	<p>How does the draft law affect:</p> <ul style="list-style-type: none"> ▶ the amount of salary or payroll procedure? ▶ employment opportunities? ▶ the level of protection of employees' labour rights? <p>Is the draft law aimed at combating undeclared labour?</p> <p>Does the draft law provide for measures that could prevent or increase the potential for creating new jobs or prevent job losses?</p>

¹⁰² European Commission. “Better Regulation” Toolbox.

Healthcare	<p>How does the draft law affect:</p> <ul style="list-style-type: none"> ▶ access to or quality of healthcare services? ▶ financing and organisation of the healthcare system/healthcare facilities in the settlements (cities, sparsely populated villages, towns, mountainous settlements, etc.)? ▶ public health, including expected impact on morbidity, fertility, and mortality? ▶ public health due to deterioration/improvement of soil, water, air quality, etc. ▶ lifestyle (due to physical activity, alcohol, tobacco, or drug use)? ▶ access to medicines?
Culture	<p>How does the draft law affect:</p> <ul style="list-style-type: none"> ▶ the preservation of cultural heritage and cultural values? ▶ access to cultural services? ▶ funding or the organisational system of cultural institutions (libraries, archives, theatres, museums, publishing houses, etc.)? ▶ the creative industries?¹⁰³
Governance	<p>How does the draft law affect:</p> <ul style="list-style-type: none"> ▶ state authorities or local governments in terms of their powers, structure, or funding? ▶ the public's right to access information on the activities of state authorities or local governments? <p>Does the draft law provide for the establishment of a new public authority?</p> <p>Will implementation of the draft law require additional administrative costs for public authorities?</p>
Education and Science	<p>How does the draft law affect:</p> <ul style="list-style-type: none"> ▶ funding or the organisational system of educational institutions at different levels? Will this affect the level of education organisation in settlements (cities, sparsely populated villages, towns, mountainous settlements, etc.)? ▶ access to education and/or vocational training? ▶ the organisation of inclusive education? ▶ the autonomy of higher education institutions? ▶ academic mobility of students, pupils, or teachers, and/or facilitate deeper cooperation between educational institutions? ▶ research and development capacity? <p>Does the draft law provide for support for domestic research (funding scientific or scientific and technical programmes, grant projects, etc.)?</p>

¹⁰³ The concept of "creative industries" covers many areas, such as media (including film, television, radio, and publishing), the arts, design (graphic, industrial, and web design), music, literature, architecture, advertising, fashion, exhibitions, video games, as well as culinary arts, theatre, etc. Ministry of Culture and Strategic Communications of Ukraine. [Creative Industries: Their Role and Place in Modern Ukrainian Society.](#)

Business Environment	<p>How does the draft law affect:</p> <ul style="list-style-type: none"> ▶ the operation of SME? Is this impact proportionate? ▶ the ability of business entities to engage in foreign economic activity (export/import of goods, works, and services)? ▶ investment activities or public-private partnerships? ▶ the increase/decrease in prices for goods, works, or services? <p>Does the draft law provide for the submission of new information by a business entity (which body, reporting period, type of data)?</p> <p>Does the draft law introduce any new type of licences or permits?</p>
Trade and Competitiveness	<p>Does the draft law regulate a business entity equally/differently depending on its size, location, income, etc.?</p> <p>Does the draft law impose stricter regulations on specific types of business?</p> <p>Will the draft law reduce products or services availability, create barriers to market access for new suppliers of goods and services, etc.?</p>
Consumer Affairs?	<p>How does the draft law affect:</p> <ul style="list-style-type: none"> ▶ the price, quality, availability, or variety of goods and services? ▶ consumers' access to information about goods or services? ▶ advertising of goods or services? <p>Does the draft law prohibit or withdraw certain products from the market?</p>
Social Protection	<p>How does the draft law affect:</p> <ul style="list-style-type: none"> ▶ access to and quality of social services, especially for vulnerable populations? ▶ the funding or organisation of the social service delivery system? <p>Does the draft law introduce new types of state social assistance or reduce existing ones?</p> <p>Does the draft law establish a new category of people eligible for social protection, or reduce the existing ones?</p>
Digitalisation and Technology	<p>Does the draft law introduce new e-government or e-democracy tools?</p> <p>Is the draft law consistent with the objectives of the state policy in the field of digital development?</p> <p>Does the draft law affect communication between business, citizens, and the state through digital tools?</p> <p>Does the draft law provide for measures to address the digital divide?¹⁰⁴</p>
Intellectual Property	<p>Does the draft law affect the protection and enforcement of intellectual property (copyright and related rights, patents, trademarks, etc.)?</p>

¹⁰⁴ The term "digital divide" refers to the problem of unequal access to information and communication technologies and the Internet among individuals, groups, categories of the population, or even regions, due to certain social, cultural, and economic factors.

Regional Impact	<p>How does the draft law affect:</p> <ul style="list-style-type: none"> ▶ economic activity, the environment, or people living in urban, rural, border, mountainous or sparsely populated areas? ▶ the capacity of territorial communities? <p>Is the draft law aimed at addressing issues specific to certain regions (e.g., rural areas)?</p> <p>Will the draft law affect the regions differently (due to different financial capacities, geographical location, etc.)?</p>
Combating Crime	<p>Does the draft law affect the ability of law enforcement agencies to counter criminal activity?</p> <p>Does the draft law criminalise/decriminalise offences? Will this lead to an increase/decrease in the number of offences?</p> <p>Does the draft law change the procedure for granting pardons or amnesties?</p> <p>Is the draft law aimed at reducing crime rates?</p>
Transport	<p>How does the draft law affect:</p> <ul style="list-style-type: none"> ▶ passenger or freight transportation? ▶ postal services? ▶ air transport or the use of airspace? ▶ commercial shipping?
Energy	<p>How does the draft law affect:</p> <ul style="list-style-type: none"> ▶ energy production? ▶ the use of alternative energy sources? <p>Will the draft law increase/decrease energy and fuel needs or consumption?</p>
International Relations	<p>How does the draft law affect:</p> <ul style="list-style-type: none"> ▶ migration policy? ▶ foreigners and stateless persons? ▶ Ukraine's commitments in the field of European integration, in particular the EU-Ukraine Association Agreement? <p>Does the draft law meet international requirements (international standards)?</p>
Fundamental Rights	<p>How does the draft law affect:</p> <ul style="list-style-type: none"> ▶ property rights? Is the individuals' right to freely dispose of their property restricted (acquisition, use, or disposal of property rights is restricted)? ▶ the activities of political parties or civil society organisations? ▶ the right to marriage and family? ▶ the electoral process? ▶ access to justice? <p>Is the interference with private life provided for in the draft law proportionate?</p> <p>Does the draft law aim to eliminate inequality based on gender, nationality, religion, age, disability, sexual orientation, etc.?</p>

Annex 3

Gender Impact Assessment methodology

The European Institute for Gender Equality suggests the following steps for a Gender Impact Assessment:¹⁰⁵

1. Identify the goal of the planned policy, draft law, or programme and whether it is related to gender equality. To do this, it is suggested to answer the following questions:
 - › What is the goal of the policy or legislative initiative?
 - › Is this goal aimed at solving a social problem?
 - › Does this social problem have a gender dimension?
 - › How does the goal of the intervention take into account this gender dimension?
2. Determine whether the planned intervention has a direct or indirect impact on gender equality. This step determines whether a Gender Impact Assessment is required. A Gender Impact Assessment is required if: 1) the legislative impact targets individuals or legal entities; 2) the proposed legislative initiative affects women's and men's access to or control over resources, which will change their social position.
3. Gender-sensitive analysis. Gender impact assessment of any initiative involves the analysis aimed at identifying the impact that an intervention may have on equality between women and men. On the one hand, such an analysis should attempt to describe the current situation in the area subject to regulation, taking into account qualitative and quantitative data, and on the other hand, it should determine to what extent the proposed measure will change this existing situation, given the following:
 - › Does the planned intervention meet the identified needs of both women and men?
 - › Does the intervention take into account the gender inequality identified in the current situation between women and men in terms of access to resources, such as health services, knowledge and training, personal security and well-being, etc., as well as access to fundamental civil, social, and political rights through prescribed gender roles?
 - › Is the targeted legislative intervention likely to lead to a disproportionate distribution of labour and/or representation of women, or gender-based violence?

¹⁰⁵ [Gender Impact Assessment Gender Mainstreaming Toolkit](#). European Institute for Gender Equality.

4. Gender Impact Assessment. After determining the impact of the proposed policy, it is necessary to identify whether the initiative has a positive, neutral, or negative gender impact. To do this, compare the forecast impact of the policy with the current situation of gender equality and find out whether the situation will improve, deteriorate or remain the same. A positive impact is one that will improve the situation of women and men and/or their groups, and help them realise their key interests and meet their needs.¹⁰⁶ For example, a positive impact includes balanced representation of the sexes in decision-making, the elimination, or reduction of gender gaps in access to and control over resources such as career, health, time, education, power, information, etc., and the promotion of social equality and elimination of stereotypes.
5. The findings and recommendations should be based on the identified consequences for gender equality. For this purpose, it is necessary to come up with proposals based on the findings aimed at ensuring gender equality at different stages of policy implementation. Identification of indicators that will allow monitoring and assessing the actual results of the legislative proposal is also an important element.

¹⁰⁶ Guidelines on Gender Impact Assessments of Draft Strategic and Programmatic Documents of Local Governments.