
27 October 2017

**PUBLIC GOVERNANCE DIRECTORATE
REGULATORY POLICY COMMITTEE**

Cancels & replaces the same document of 24 October 2017

Regulatory Policy Review of Slovenia

The Regulatory Policy Review of Slovenia aims to assess the regulatory management capacity of Slovenia by taking stock of regulatory policies, institutions and tools, describing trends and recent developments and identifying gaps in relation to good practices. The report presents the preliminary findings, assessment and recommendations to the review. It will be discussed at the 17th meeting of the RPC on 8 November 2017.

Delegates are invited to:

- DISCUSS the assessment and recommendations of the review in light of their own efforts towards strengthening regulatory policy and governance;
- SUGGEST policies and practices that could provide some guidance to Slovenia as it strengthens its own regulatory policy and governance;
- APPROVE the recommendations of the review aimed at supporting Slovenia's efforts towards supporting regulatory policy and governance.

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JT03421680

Table of contents

Country profile: Slovenia.....	5
Executive summary	6
Key findings.....	6
Key recommendations	7
1. Macroeconomic and political context: From independence to post-crisis recovery.....	9
1.1. Political context: Slovenia’s path from independence to EU membership.....	10
1.2. Government structure.....	11
1.3. Economic context	12
1.4. The well-being of Slovenia’s citizens.....	18
Bibliography	19
2. The context for Better Regulation in Slovenia.....	20
2.1. Regulatory policy and core principles	21
2.2. History of Better Regulation in Slovenia.....	22
2.3. Assessment and recommendations	31
Bibliography	33
3. Institutional framework and capacities for regulatory policy.....	34
3.1. Key institutions and regulatory policy oversight of the regulatory process in Slovenia.....	35
3.2. Co-ordination of the Better Regulation policy across government.....	38
3.3. Resources, training and guidance	41
3.4. Assessment and recommendations	42
Bibliography	44
Annex 3.A. Roles and Responsibilities of Municipalities in Slovenia	45
4. Stakeholder engagement and access to regulations.....	49
4.1. Stakeholder engagement and public consultations	50
4.2. Institutional set up for overseeing the quality of stakeholder engagement.....	59
4.3. Stakeholder engagement in reviewing regulations	59
4.4. Access to regulations	60
4.5. Assessment and recommendations	60
Bibliography	65
5. The development of new regulations in Slovenia.....	66
5.1. Legislative process in Slovenia.....	67
5.2. Trends in new regulation	68
5.3. Procedures for new regulation in Slovenia	70
5.4. Public communication and plain language drafting.....	71
5.5. Administrative procedures	74
5.6. Legal quality	77
5.7. <i>Ex ante</i> analysis of regulations in Slovenia	77
5.8. Public consultation.....	83
5.9. Considering alternatives to regulation in Slovenia	85
5.10. Performance-based regulation	87

5.11. Assessment and recommendations	88
Bibliography	91
6. The management and rationalisation of existing regulations in Slovenia	92
6.1. Regulatory burden reduction.....	93
6.2. <i>Ex post</i> reviews of regulations	95
6.3. ICTs and administrative simplification.....	100
6.4. Assessment and recommendations	102
Bibliography	104
7. Goal setting, priorities, monitoring and indicators	105
7.1. Goal setting and priorities in regulation in Slovenia.....	109
7.2. Assessment and recommendations	111
Bibliography	113
8. Compliance and enforcement.....	114
8.1. The baseline for reviewing inspection and enforcement reform.....	115
8.2. Compliance and enforcement policy framework	117
8.3. Risk-based approaches to compliance	119
8.4. Appeals	122
8.5. Assessment and recommendations	122
Bibliography	124
Annex 8.A. Inspections and compliance data from Slovenia	125
Market inspectorate.....	126
Labour Inspectorate	127
Inspection Council	127
Annex 8.B. The importance of inspections and enforcement	128
Relevance of inspections and enforcement issues	128
Drivers of compliance: striking the right balance.....	129
Best practice principles and fundamental elements for reform.....	130
Shared information systems for inspections: characteristics and benefits	133
Bibliography	136
Annex 8.C. 2015 Indicators of Regulatory Policy and Governance (iREG)	137

Tables

Table 1.1. Macroeconomic indicators and projections.....	15
Table 1.2. Long-term projection for age-related spending, % of GDP	16
Table 8.1. Inspection activities in 2015	127

Figures

Figure 1.1. GDP per Capita (PPP USD 2010) for select CEE countries, 1995 = 100.....	13
Figure 1.2. Gap to the upper half of OECD countries	14
Figure 1.3. 2013 OECD Product Market Indicators score for CEE Countries	17
Figure 2.1. World Bank Ease of Doing Business Index for OECD Countries by Distance-to-Frontier Metric, 2017	23
Figure 3.1. Inter-ministerial co-ordination via the IPP System Sample	40
Figure 3.2. Division of Competencies by State and Municipal Level in Slovenia.....	46

Figure 4.1. Stakeholder engagement in developing primary laws.....	50
Figure 4.2. Stakeholder engagement in developing subordinate regulations	51
Figure 4.3. Early stage and later stage consultations on regulatory drafts	52
Figure 4.4. Number of regulations published on the e-Democracy portal	57
Figure 4.5. Number of days regulatory drafts are published through the eDemocracy portal	57
Figure 5.1. New regulations and amendments passed by the National Assembly in the 2013-16 parliamentary term by procedure.....	69
Figure 5.2. Example of information available in Legal Information System of the Republic of Slovenia from the Patients Right Act	73
Figure 5.3. The law making process in Slovenia from draft law to presentation in the National Assembly	76
Figure 5.4. Regulatory impact assessment for developing primary laws	78
Figure 5.5. Regulatory impact assessment for developing subordinate regulations.....	78
Figure 5.6. Detail level of analysis of various impacts	79
Figure 6.1. <i>Ex post</i> evaluation for primary laws.....	98
Figure 7.1. OECD Country responses to “When developing regulation, are regulators required to identify a process for assessing progress in achieving a regulation’s goals?”	109
Figure 8.1. Proportion of administrative measures based on the number of inspections carried out in 2015	126
Figure 8.2. Proportion of offence proceedings based on the number of inspections carried out in 2015.....	126

Country profile: Slovenia

Geography, population and living standards	
Area (sq. km)	20 273
Population	2 064 840
Population density (sq. km)	101.8
Urban population	49.6%
Population growth rate	0.1% (2016 est.)
Total fertility rate	1.55 (2014 est.)
Life expectancy	78.2 years
Ethnic groups	83.06% Slovene, 1.98% Serb, 1.81% Croat, 1.10% Bosniak, 4.85% other minorities, 8.9% other (2002)
Government	
State structure	Parliamentary republic
Executive	President elected by popular vote every 5 years The prime minister of Slovenia is appointed by the National Assembly of the Republic of Slovenia
Legislative	Asymmetric Bicameral National Assembly: 90 Members of parliament (including 1 representing the Italian minority and 1 representing the Hungarian minority) National Council: 40 Councillors National Assembly members serve 4-year terms and National Council members serve 5-year terms.
Elections	Last parliamentary elections were held on 13 July 2014 (Next to be held in July 2018) Last presidential elections were held on 22 December 2012 (next to be held in December 2017)
Political situation	The Modern Centre Party led by Miror Cerar won 36 seats with the Slovenian Democratic Party in second with 21 seats. The current government is a centre/centre-left coalition of the Modern Centre Party, Democratic Party of Pensioners of Slovenia and Social Democrats.
Legal system	Civil law system; legal appeals are made to the Supreme Court of the Republic of Slovenia
Administrative-territorial structure	Slovenia has 212 municipalities and 11 urban areas. Each municipality has a mayor and a municipal council normally elected by proportional representation once every four years.

Source: Eurostat database; the World Bank database; Economist Intelligence Unit. The CIA World Factbook.

Executive summary

1. The OECD Regulatory Policy Review of Slovenia aims to assess the regulatory management capacity of Slovenia by taking stock of regulatory policies, institutions and tools, describing trends and recent developments and identifying gaps in relation to good practices. Improving the entire regulatory policy cycle ensures that the regulations are built on a foundation of solid evidence and public participation to improve the security, health and well-being of citizens at a reasonable cost.

2. The government of Slovenia has made great strides in improving its regulatory policy. Regulatory policy tools such as regulatory impact assessment and stakeholder engagement are required for line ministries while developing laws and regulations. However, challenges remain in ensuring that line ministries implement these regulatory policy tools effectively. Strengthening governance and oversight of the regulation process and evaluation in Slovenia would support good law-making.

Key findings

- In Slovenia, the requirements for better regulation are set in place in a variety of laws, government resolutions and other government documents. Despite great strides in improving regulatory policy in Slovenia over the past decade, critical regulatory policy tools, such as RIA, stakeholder engagement and *ex post* evaluation, are often not implemented in line with requirements.
- A number of line ministries, centre-of-government offices and other institutions are involved in regulatory policy oversight. However, none of the institutions has the authority or resources to perform a thorough quality check of RIA, stakeholder engagement, or *ex post* evaluation. As a result, implementation of regulatory policy tools remains uneven across ministries.
- The National Assembly of Slovenia has made a political commitment to a whole-of-government regulatory policy, which can be found in a number of policy documents and government resolutions. The two most important documents with respect to Slovenia's approach are the *Resolution on Legislative Regulation* and *Rules of Procedure of the Government of the Republic of Slovenia*.
- Regulation is also often developed quite rapidly in Slovenia. The government uses an urgent procedure to pass legislation, which should in theory only be used in case of a national emergency, more often than a standard or shortened procedure. Both the regular and the shortened procedure require a more thorough stakeholder engagement process and a more rigorous *ex ante* analysis.
- When RIA is done, the level of analysis is often limited to a qualitative assessment, although the situation has improved markedly since the Ministry of Public Administration introduced the SME Test – a tool to measure impacts on businesses – and developed more thorough guidance on RIA.
- The Slovenian legal and policy framework creates conditions for efficient stakeholder engagement in regulatory policy, especially with regard to developing new regulations and their amendments. However, there is a substantial need to strengthen the enforcement of this framework. Although a few ministries do engage with stakeholders early on in the regulation-making process, most of stakeholder engagement takes place at its final stage.

- *Ex post* evaluation is relatively rarely done in Slovenia, despite requirements for *ex post* evaluation for regulations passed through emergency procedure and for reviewing the state-of-play while drafting regulations. So far, *ex post* evaluations have focused on regulatory burdens rather than if a regulation met its objectives. Greater embedding of *ex post* evaluation could further enhance Slovenia's competitiveness.
- Slovenia already requires regulators to consider how to track the impact of regulations after they have been put into place. Guidance on RIA in Slovenia also includes some definitions on what makes a good indicator. However, currently few proposals actually include a strategy or framework for tracking results and impacts.
- Slovenia has made a number of amendments to its compliance and enforcement policies since 1995. Most of these amendments have focused on boosting co-ordination and co-operation between inspectorates. However, Regulatory enforcement strategies continue to focus on sanctions, although risk-based approaches to compliance are being introduced.

Key recommendations

- The Government of Slovenia should relaunch Better Regulation to bring evidence-based policy back into focus in Slovenia and it should accompany the relaunch with a high-level strategic plan to prioritize the implementation of regulatory policy.
- The Better Regulation agenda should move beyond administrative burden reduction. Slovenia's next steps should be strengthening the institutional frameworks and capacities for RIA, stakeholder engagement, and *ex post* evaluation. Slovenia should focus more on the benefits and overall efficiency of regulations rather than just the costs to create a fuller picture of regulatory frameworks.
- The Government of Slovenia should centralize oversight into one body and give the oversight body stronger powers. Currently, the General Secretariat checks RIAs and regulatory management tools for structure but not quality. It could add capacity to check the quality of RIAs and stakeholder engagement and could be able to send inadequately analysed proposals back to the ministries.
- The Ministry of Public Administration could expand training and guidance for regulatory policy tools. Currently, the Ministry of Public Administration only offers regular training on the SME test and administrative burden reduction. Adding training modules on cost-benefit analysis, evaluation, data collection, and survey methods could greatly increase the information on methodology available to regulators and thus the quality of RIA, stakeholder engagement, and *ex post* evaluation.
- The government policies on stakeholder engagement should be updated so they also cover the process of reviewing and enforcing regulations. The policy should make it clear that when reviewing the existing regulatory framework, stakeholders' views should always be taken into account.
- During the early stages of policy development, the Government should implement a prioritisation system for regulatory impact analysis. RIA is time consuming and resource intensive. Prioritizing which proposals should be subject to a full RIA could be done at the proposal stage, e.g. when the development of the regulation is added to the Government work programme.

- The Slovenian government should monitor if ministries perform *ex post* evaluation on regulations passed by urgent procedures and publish this information online to provide incentives for ministries to undertake evaluations.
- The Slovenian government should regularly evaluate how well ministries are implementing regulatory policy every 2 to 3 years. This could act as a catalyst for them to continue to improve procedures for RIA, stakeholder engagement and *ex post* evaluation. A high-level co-ordination body or the supreme audit institution could regularly undertake reviews on the implementation of regulatory policy and report publicly on the results.
- Line ministries should be required to develop frameworks for monitoring the impact of major regulations to ensure that they meet the objectives of government and the needs of citizens. This could be achieved with greater co-ordination with the Statistical Office and improved guidance.
- The Slovenia government could consider sector reviews and reviews of inspectorates' competencies where necessary to simplify administration of compliance and enforcement. A continuing challenge for compliance and enforcement in Slovenia is co-ordination.
- The government could bolster the use risk-based approaches to enforcement in Slovenia and should ensure that compliance and enforcement strategies are developed as part of the regulatory development process.

1. Macroeconomic and political context: From independence to post-crisis recovery

This chapter describes the main governance reforms of Slovenia since its independence in 1991 up until it joined the EU in 2004. It also describes the current economic context of regulatory reform efforts and points to the specific economic challenges that the country faces that hinder investment, economic growth, and well-being. The overall well-being of Slovenian citizens and their perception of government effectiveness are also briefly discussed.

1.1. Political context: Slovenia's path from independence to EU membership

3. Slovenia declared independence from Yugoslavia and became a democratic republic on 25 June 1991, just over a year after the first free election in the country. Prior to independence, structural economic reforms had already begun in part because of the economic crisis caused in part by hyperinflation of the in Yugoslavia in 1989.

4. Slovenia adopted a new constitution only a few months later on 23 December 1991. The new constitution reformed Slovenia's parliament. It eliminated one legislature and laid out the foundations of the state authority, the position of individuals in the new government as well as the rights of citizens. The Slovenian Constitution stipulates that laws may be proposed by the government, by any deputy or by a group of at least 5 000 voters.¹

5. Slovenia rapidly joined the international community as a newly independent country. Less than a year after independence, Slovenia became a member of the United Nations and shortly thereafter in 1993 Slovenia joined the World Bank and the International Monetary Fund.

6. With the loss of its key export markets in Yugoslavia, Slovenia looked to strengthen ties as quickly as possible with the rest of Europe to take advantage of the key political and economic benefits of integration. Slovenia began the process to join the EU in 1993 when the Copenhagen European Council outlined the requirements for Central and Eastern European (CEE) countries to join the EU. From 1994 to 2004, government reforms were primarily concerned with the EU accession process. The main strategic document for economic reform during this period was the Strategy for Economic Development of Slovenia, whose key objective was to accelerate growth to close the gap with the EU; to improve competition; to allow EU integration; and to focus on sustainable economic growth. According to Potoconik, EU accession would be considered "ultimate proof that the [economic and political] transition had succeeded." In 1997, the Commission gave an opinion on Slovenia's adherence to the Copenhagen criteria. According to the Commission, Slovenia could be considered a stable democracy, but it had considerable work to adopt and implement the *acquis communautaire*.

7. Formal negotiations between the EU and Slovenia began in 1998. However, Slovenia was well prepared as a result of its three key strategic documents:

- Strategy of International Economic Relations (1996)
- Strategy for Increasing Competitiveness Capabilities of Slovenian Industry (1997)
- and finally in 1998 the Strategy of Slovenia for Accession to the European Union.

8. The main objective of the final document was to outline the medium-term strategies and policies required for a full economic transition and to join the EU (*Potoconik*). Negotiations with the EU on the *acquis communautaire* began in April 1998 and concluded in December 2002. On May 1st, 2004 Slovenia joined the European Union as part of the biggest enlargement to date of the EU.²

1. Article 88, Official Gazette of the Republic of Slovenia Nos. 33/91-I, 42/97, 66/2000, 24/03, 69/04, 68/06, and 47/13

2. On 1 May 2004, Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland and Slovakia also became EU member countries.

Note by Turkey: The information in this document with reference to "Cyprus" relates to the southern part of the Island. There is no single authority representing both Turkish and Greek

1.2. Government structure

9. After independence Slovenia emerged as a unitary country with an asymmetric bicameral legislature. The legislature is divided in to two parts: the National Assembly and the National Council. The National Assembly is made up of 88 representatives elected by proportional representation and 2 minority representatives: one representing the Italian minority and one representing the Hungarian minority. The National Council has 40 representatives, who are chosen from different parts of Slovenian society, including:

- four representatives of employers
- four representatives of employees
- four representatives of farmers, crafts and trades, and independent professions
- six representatives of non-commercial fields
- and twenty-two representatives of local interests.

10. National Council representatives are selected every five years. Although there are two legislatures, most of the political power lies within the National Assembly and the National Council plays an exclusively advisory role with limited powers, which is why many scholars refer to Slovenia as an asymmetric or incomplete bicameral legislature (see for example Borak).

11. The president is elected every five years and may serve a maximum of two terms. Among other duties, he or she has the power to perform functions related to the operation of the government such as:

- calling election to the National Assembly;
- proposing a candidate for the President of the National Assembly;
- dissolving the national assembly and call new elections in certain cases;
- accrediting and recall Slovenian ambassadors;
- and appointing state officials in certain cases;

12. Currently, the Slovenian government consists of 14 ministries, 12 government offices, and 33 bodies of the ministries, which includes, for example, compliance and enforcement agencies. The prime minister and ministers operate fully independently within their own areas of concern and are held accountable only by the National Assembly.

13. The Government of Slovenia is both an executive body and the supreme body of the administration. The Government can propose state legislation, the state budget, national programmes and other functions within its jurisdiction. The government also represents Slovenia in EU affairs.

Cypriot people on the Island. Turkey recognises the Turkish Republic of Northern Cyprus (TRNC). Until a lasting and equitable solution is found within the context of the United Nations, Turkey shall preserve its position concerning the "Cyprus issue".

Note by all the European Union Member States of the OECD and the European Union: The Republic of Cyprus is recognised by all members of the United Nations with the exception of Turkey. The information in this document relates to the area under the effective control of the Government of the Republic of Cyprus.

1.2.1. Local government structure

14. At the local level, Slovenia is divided into 212 municipalities with 11 urban municipalities. Generally, mayors and local councillors are decided by popular vote held every 4 years. The Local Self-government Act stipulates that a municipality must have at least 5,000 people and an urban municipality must have at least 20,000 inhabitants.

15. A municipality comprises of a mayor, a council, and a supervisory committee. The mayor represents and acts on behalf of the municipality and also must be directly elected every four years. The municipal council is the highest decision-making body of a municipality.

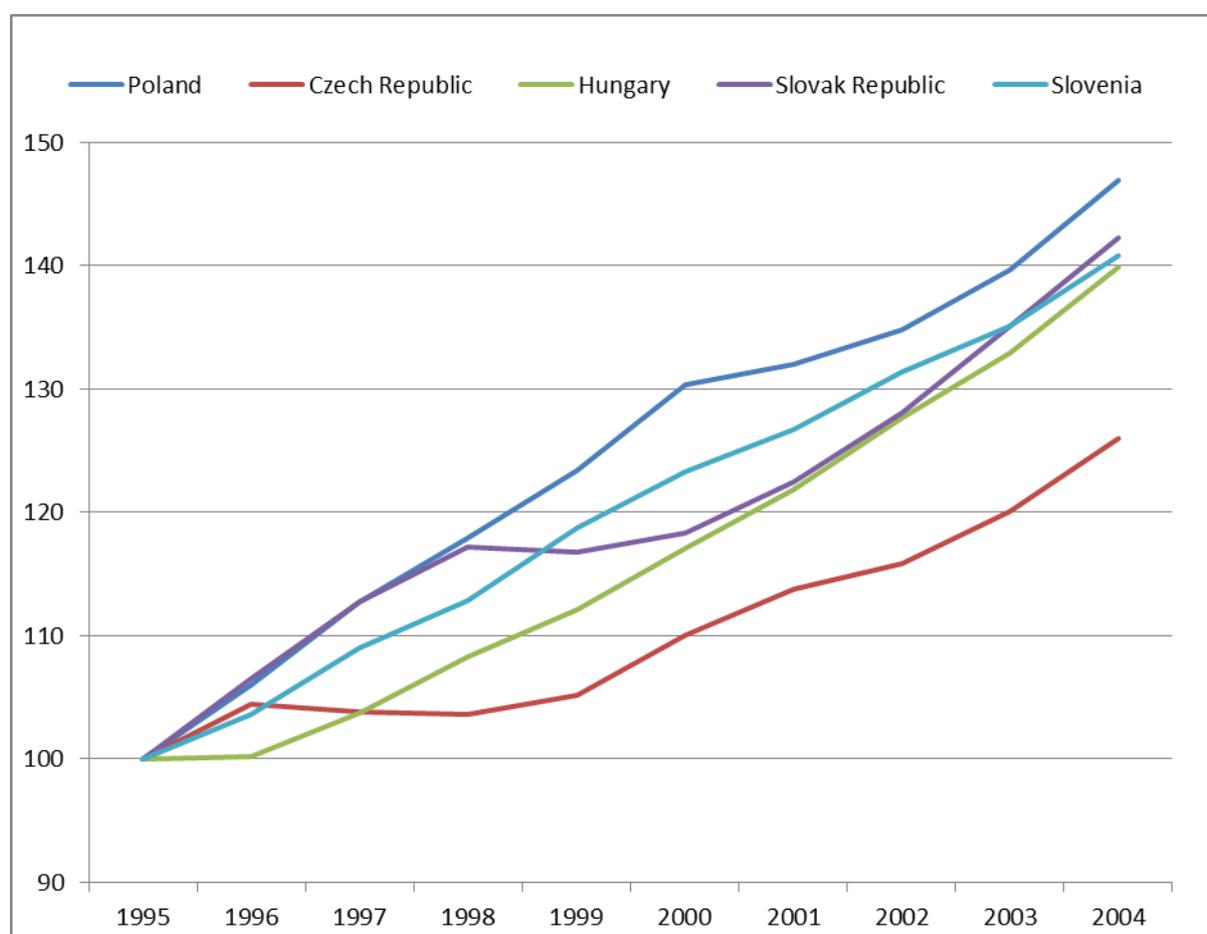
1.3. Economic context

16. Even before independence, Slovenia's economy was significantly wealthier compared to other parts of Yugoslavia. In 1990, Slovenia GDP per capita was \$6,100 USD compared to an average of just \$3,060 USD in the whole of Yugoslavia (Pleskovic and Sachs).

17. According to Pleskovic and Sachs, Slovenia also underwent the greatest reform after the dissolution of Yugoslavia and made the fastest transition to a market economy. In just two years from 1991 to 1993, Slovenia "achieved political independence, stabilised its economy, introduced its own currency, and carried out fundamental economic reforms." Already in 1993, Slovenia was a richer, more open economy than other countries from the former Yugoslavia.

18. However, with independence came the loss of Slovenia's important Yugoslavian markets, so the country immediately had to deal with a severe economic crisis. The government spent the early years of Slovenian independence managing the crisis and introducing much needed market reforms.

19. The major reforms towards a market economy combined with the relatively strong starting position eventually made Slovenia an economic leader in the region. As reforms took hold and Slovenia began to integrate into the broader European economy, it became one of the fastest growing countries in transition. GDP per capita rose from \$15,062 (USD\$ 2010) to \$21,218 from 1995 to when Slovenia joined the EU in 2004. Despite starting at a higher income level, Slovenia grew as rapidly as many CEE countries such as Poland, Hungary and Slovakia, although similar reforms were beginning in those countries (see Figure 1.1).

Figure 1.1. GDP per Capita (PPP USD 2010) for select CEE countries, 1995 = 100

Source: World Bank national accounts data, and OECD National Accounts data files.

20. Pleskovic and Sachs noted, however, that many challenges remained after independence. Inefficient banks and increasing losses and debt of state-owned enterprises remained risks to the nascent market economy.

1.3.1. Current economic situation: A recovering economy after a recession and austerity

21. Unless otherwise noted, the following section is largely drawn from the Economic survey of Slovenia, officially launched in Ljubljana on September 5th, 2017.

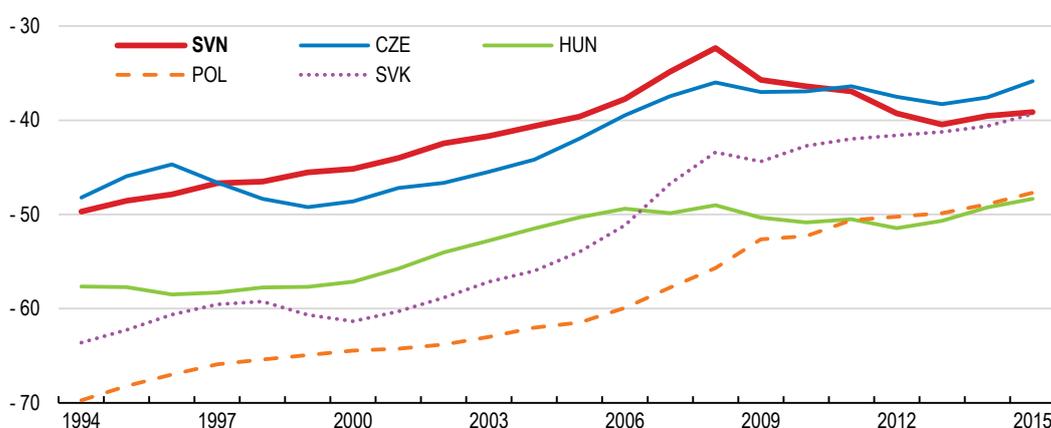
22. After many years of exceptional growth, the global financial crisis hit Slovenia particularly hard. For 15 years in a row, Slovenia's economy grew every quarter, but in 2009 the Slovenian economy shrank for the first time. The economic crisis shed a harsh light on Slovenia's need for further economic reforms despite its record of success since independence. Real GDP dropped markedly during the crisis, falling nearly 8% in 2009 alone.³

3. Measured in USD, 2011 prices, and purchasing power adjusted

23. After suffering a double dip recession in 2012, Slovenia's economy gradually began to turn around in 2013. The recovery was initially export-driven, but slowly domestic demand began to catch up as well. Unemployment remains much higher than pre-crisis level even 9 years later.

24. Previously, GDP per capita was converging to the OECD average. However, during the crisis, this process went into reverse and has only recently changed. GDP has only just reached its pre-crisis peak and Slovenia's growth has underperformed its peers since 2009. Weak business investment and labour shortages in manufacturing continue to be a drag on economic growth in Slovenia.

Figure 1.2. Gap to the upper half of OECD countries



Notes: Percentage gap with respect to the weighted average using population weights of the highest 17 OECD countries in terms of GDP per capita, GDP per hour worked and GDI per capita (in constant 2010 PPPs).

Source: OECD (2017), *OECD Economic Surveys: Slovenia 2017*, OECD Publishing, Paris, http://dx.doi.org/10.1787/eco_surveys-svn-2017-en.

1.3.2. Raising living standards by investing in capital and skills

25. Investment in Slovenia has been markedly lower than expected since the crisis in 2009. Boosting domestic growth will require higher domestic and foreign investment to encourage gains in labour productivity and to continue integration into global value chains.

26. Slovenia's FDI has fallen to one of the lowest in the region, resulting in slower adoption of advanced, productivity-enhancing technologies as well as improved management practices.

27. Slovenia also performs relatively poorly in logistics infrastructure. Its reliance on EU Structural funds for infrastructure investments has limited the social returns on such investments because project financing plays a more important role than social returns to investment.

28. Despite the slow recovery, the short-term economic future looks positive for Slovenia. Stronger domestic consumption supported in part by rising employment and stronger consumer confidence is also being bolstered by supportive euro area monetary policy. Even the fiscal position of Slovenia has started to improve. However, significant medium and long-term risks remain to the budgetary balance.

Table 1.1. Macroeconomic indicators and projections

Annual percentage change, volume (2010 prices)

	2012 Current prices (EURO billion)	2013	2014	2015	2016	2017	2018
Gross domestic product (GDP)	36.0	-1.1	3.1	2.3	2.5	2.4	2.3
Private consumption	20.4	-4.0	2.0	0.5	2.8	2.1	2.1
Government consumption	7.3	-2.1	-1.2	2.5	2.6	1.3	0.7
Gross fixed capital formation	6.9	3.2	1.4	1.0	-3.1	4.0	4.0
Housing	0.9	-7.9	-5.8	6.1	-1.0	2.7	2.4
Final domestic demand	34.7	-2.2	1.2	1.0	1.5	2.3	2.2
Stockbuilding ¹		0.2	0.6	0.4	0.8	0.0	0.0
Total domestic demand	34.5	-2.0	1.8	1.4	2.4	2.3	2.2
Exports of goods and services	26.4	3.1	5.7	5.6	5.9	4.3	4.2
Imports of goods and services	24.9	2.1	4.2	4.6	6.2	4.3	4.4
Net exports ¹	1.5	0.8	1.4	1.1	0.3	0.4	0.3
Other indicators (growth rates, unless specified)							
Potential GDP	..	0.6	1.1	1.1	1.1	1.2	1.3
Output gap ²	..	-6.2	-4.3	-3.2	-2.3	-1.1	-0.2
Employment	..	-1.9	1.2	0.1	0.0	1.5	1.0
Unemployment rate ³	..	10.1	9.7	9.0	7.8	7.1	6.9
GDP deflator	..	0.9	0.8	1.0	0.6	1.1	1.5
Consumer price index	..	1.9	0.4	-0.8	-0.2	0.8	1.2
Core consumer prices	..	0.9	0.7	0.3	0.7	0.7	1.2
Household saving ratio, net ⁴	..	5.4	5.4	6.9	7.0	7.8	8.8
Trade balance ⁵	..	2.0	3.2	3.9	2.6
Current account balance ⁵	..	4.8	6.2	5.2	6.8	7.7	8.0
General government fiscal balance ⁵	..	-15.0	-5.0	-2.7	-2.4	-1.6	-0.9
Underlying government primary fiscal balance ²	..	-0.5	-0.7	1.2	1.0	1.1	1.2
Gross government debt (Maastricht) ⁵	..	71.0	80.9	83.1	84.8	85.5	85.4
General government net debt ⁵	..	13.9	20.6	24.5	26.2	26.8	26.8
Three-month money market rate, average	..	0.2	0.2	0.0	-0.3	-0.3	-0.3
Ten-year government bond yield, average	..	5.8	3.3	1.7	1.1	0.8	0.8

1. Contribution to changes in real GDP.

2. As a percentage of potential GDP.

3. As a percentage of the labour force.

4. As a percentage of household disposable income.

5. As a percentage of GDP.

Source : OECD (2016), OECD Economic Outlook 100 database.

OECD (2017), *OECD Economic Surveys: Slovenia 2017*, OECD Publishing, Paris, http://dx.doi.org/10.1787/eco_surveys-svn-2017-en.

1.3.3. Fiscal situation: Dealing with age-related spending

29. The Slovenian government implemented economic austerity measures until 2014 and then slowly began to loosen them by relaxing wage and promotion freezes in the government, although the government undertook no new major spending initiatives.

30. The deficit reached 15% of GDP in 2013 but has now eased to a more modest 1.6%, although this is still higher than the cyclically-adjusted 1% of GDP required under the Maastricht Treaty.

31. With stronger economic growth, the fiscal position of Slovenia is expected to steady in the near term. However, Slovenia's fiscal situation faces significant long-term risk due to age-related spending. Age-related spending – particularly pensions and health care – could drive Slovenia's age-related spending to over 30% of GDP compared to just over 20% in Slovenia's OECD peer countries.

Table 1.2. Long-term projection for age-related spending, % of GDP

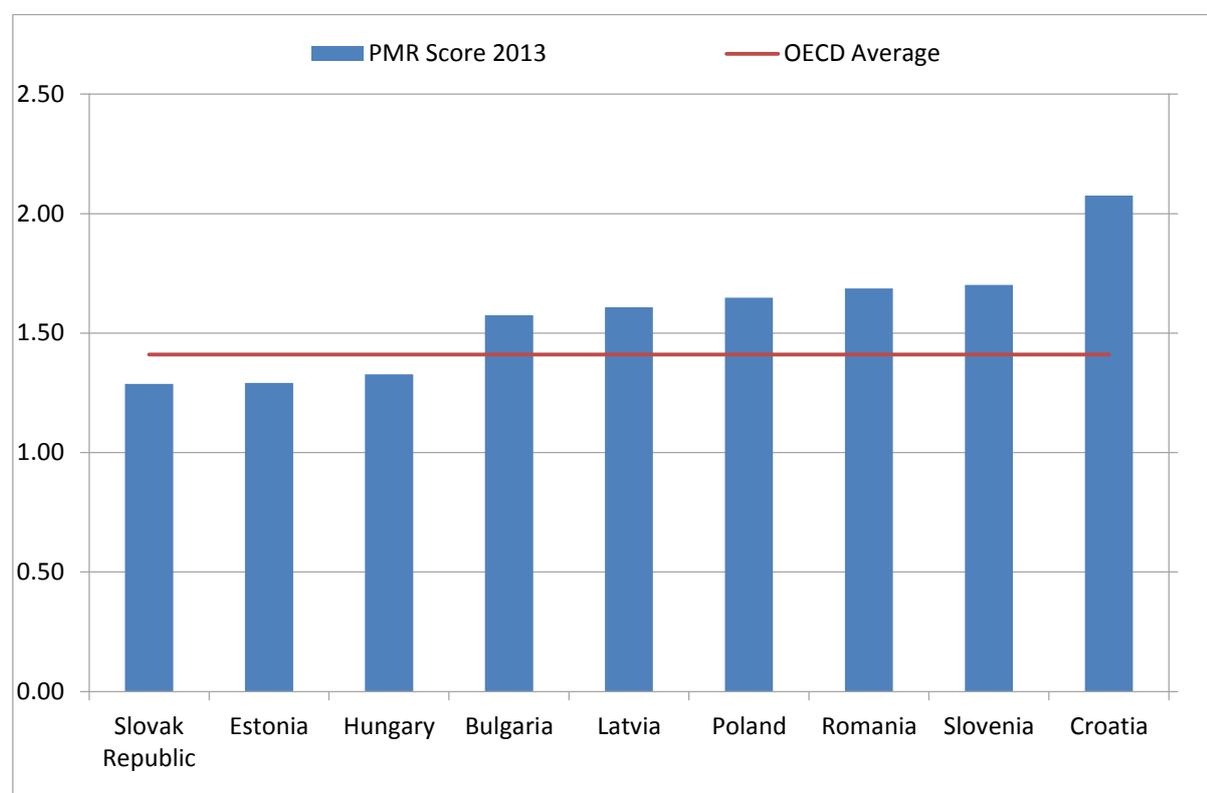
	Total age-related spending ¹			Gross public pension spending			Health care spending			Long-term care spending		
	2013	2030	2060	2013	2030	2060	2013	2030	2060	2013	2030	2060
Czech R.	19.1	20.4	22.5	9.0	9.0	9.7	5.7	6.3	7.0	0.7	1.0	1.5
Hungary	20.8	18.2	21.9	11.5	8.9	11.4	4.7	5.2	5.7	0.8	0.9	1.2
Poland	20.9	20.5	22.3	11.3	10.4	10.7	4.2	4.8	5.6	0.8	1.1	1.7
Slovenia	24.7	26.7	31.6	11.8	12.3	15.3	5.7	6.5	7.1	1.4	1.9	2.8
Slovakia	17.7	17.9	21.8	8.1	7.6	10.2	5.7	6.6	7.9	0.2	0.4	0.6
EU28	25.6	26.4	27.3	11.3	11.6	11.2	6.9	7.5	8.0	1.6	2.0	2.8
EA	26.8	27.7	28.5	12.3	12.9	12.3	7.0	7.5	7.9	1.7	2.1	3.0

Note: 1. Total age-related spending includes gross public pensions, health care, long-term care, education and unemployment benefits.

Source: Eurostat, population projection database ; OECD (2017), *OECD Economic Surveys: Slovenia 2017*, OECD Publishing, Paris, http://dx.doi.org/10.1787/eco_surveys-svn-2017-en.

1.3.4. Easing regulation and boosting competition

32. Slovenia remains a highly regulated economy and Slovenian businesses still face high administrative burdens. Slovenia ranks as the 6th most restrictive economy of OECD countries based on the OECD's product market regulation indicator and it also scores higher than most other CEE countries.

Figure 1.3. 2013 OECD Product Market Indicators score for CEE Countries

Note: Scores are from 0 to 6 (least restrictive to most restrictive).

Source: Koske, I. et al. (2015), “The 2013 update of the OECD product market regulation indicators: policy insights for OECD and non-OECD countries”, *OECD Economics Department Working Papers*, No. 1200.

33. Additionally, Slovenia has a high number of regulated professions – over 200 – and they often have high barriers to entry, such as high education or apprenticeship requirements. The poorly regulated professions result in below average labour productivity for services in Slovenia.

34. New market entry encourages established businesses to invest in the face of potential competition. However, foreign firms in Slovenia may only press charges through courts rather than a competition body. In addition, Slovenia lacks a comprehensive inward FDI strategy.

35. Public ownership is pervasive in Slovenia. The government owns or controls 650 enterprises that effectively control nearly a third of Slovenia’s GDP. These SOEs have generally lower productivity than their privately-run EU counterparts, particularly in the network sector that is dominated by SOEs.

36. Slovenia has been addressing this challenge through the introduction of the SME test (described in Chapter 5), consolidating regulatory reforms in the Single document to target particular regulatory irritants, and through certain sectoral reforms, such as simplifying regulations for spatial planning and construction permits.

1.4. The well-being of Slovenia's citizens

37. According to the OECD's Better Life Index, Slovenians enjoy a higher standard of living compared to the OECD average across a wide variety of measures, including safety and environment. Health and gender equality are also superior to many OECD countries.

38. However, civic engagement is relatively poor in Slovenia. Voter turnout was only 51.7% in the last election, 36th out of 38 countries in the Better Life Index. Social inequality is also still a relatively big concern. Slovenia ranked 26th out of 38 countries in social inequality.

39. Slovenia is also one of the first OECD countries to transfer the 17 UN Sustainable Development Goals into a national strategy based on 169 indicators. In late 2016, the government developed the Vision for Slovenia. The strategy focuses on 4 key areas of the SDGs:

- Learning for and through life
- An inclusive, resilient and responsible society
- An economy that creates value for everyone
- A high degree of co-operation, competence, and effectiveness

1.4.1. Satisfaction with government

40. Slovenians are relatively sceptical of their national government and judicial system. Only 25% of Slovenian citizens expressed confidence or satisfaction in their national government – one of the lowest in the OECD. Similarly, faith in the judiciary stood at only 28% in 2016, compared to an average of 54% across OECD members. Levels of disclosure of private interests across branches of government stand at a low level and fall well below the OECD average across all three branches, except the judicial branch.

41. Given that Slovenia perform well on a number of education and health outcomes, it is not surprising then that citizens have a favourable impression of their education and health systems. Slovenians attend school longer than most in the OECD – 18.3 years compared to an OECD average of 17.5 years. Furthermore, 86% of Slovenians have completed upper secondary education. Life expectancy and the percentage of people reporting to be in good health in Slovenia lies near the OECD average (OECD, 2017c).

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2. The context for Better Regulation in Slovenia

This chapter identifies the drivers of regulatory policy and assesses the communication with stakeholders on strategy and policies. It also looks at the policies, processes and institutions for evaluating the efficiency and effectiveness of programmes and policies aimed at improving the regulatory environment. It also briefly reviews the role of e-government in support of regulatory policy and governance.

2.1. Regulatory policy and core principles

42. Regulation, along with monetary and fiscal policy, is one of the three key levers for governments to shape economic development and societal well-being. A well-developed regulatory policy – the process governments use to develop policies and if necessary regulation – is absolutely critical for a country to meet its policy goals.

43. The objective of regulatory policy is to ensure that regulations are made in the public interest. It addresses the permanent need to ensure that regulations and regulatory frameworks are justified, of good quality and “fit-for-purpose” (OECD, 2010).

44. Building on that idea, the OECD Secretariat with the OECD Regulatory Policy Committee produced the 2012 *Recommendation of the Council on Regulatory Policy and Governance*, which lays the foundation for better policy making (see Box 2.1).

Box 2.1. The 2012 Recommendation of the OECD Council on Regulatory Policy and Governance

The 2012 Recommendation of the OECD Council on Regulatory Policy and Governance provides governments with clear and timely guidance on the principles, mechanisms and institutions required to improve the design, enforcement and review of their regulatory framework to the highest standards; it advises governments on the effective use of regulation to achieve better social, environmental and economic outcomes; and it calls for a “whole-of-government” approach to regulatory reform, with emphasis on the importance of consultation, co-ordination, communication, and co-operation to address the challenges posed by the inter-connectedness of sectors and economies. The Recommendation advises governments to:

1. Commit at the highest political level to an explicit whole-of-government policy for regulatory quality. The policy should have clear objectives and frameworks for implementation to ensure that, if regulation is used, the economic, social and environmental benefits justify the costs, the distributional effects are considered and the net benefits are maximised.
2. Adhere to principles of open government, including transparency and participation in the regulatory process to ensure that regulation serves the public interest and is informed by the legitimate needs of those interested in and affected by regulation. This includes providing meaningful opportunities (including online) for the public to contribute to the process of preparing draft regulatory proposals and to the quality of the supporting analysis. Governments should ensure that regulations are comprehensible and clear and that parties can easily understand their rights and obligations.
3. Establish mechanisms and institutions to actively provide oversight of regulatory policy, procedures and goals, support and implement regulatory policy, and thereby foster regulatory quality.
4. Integrate Regulatory Impact Assessment (RIA) into the early stages of the policy process for the formulation of new regulatory proposals. Clearly identify policy goals, and evaluate if regulation is necessary and how it can be most effective and efficient in achieving those goals. Consider means other than regulation and identify the trade-offs of the different approaches analysed to identify the best approach.

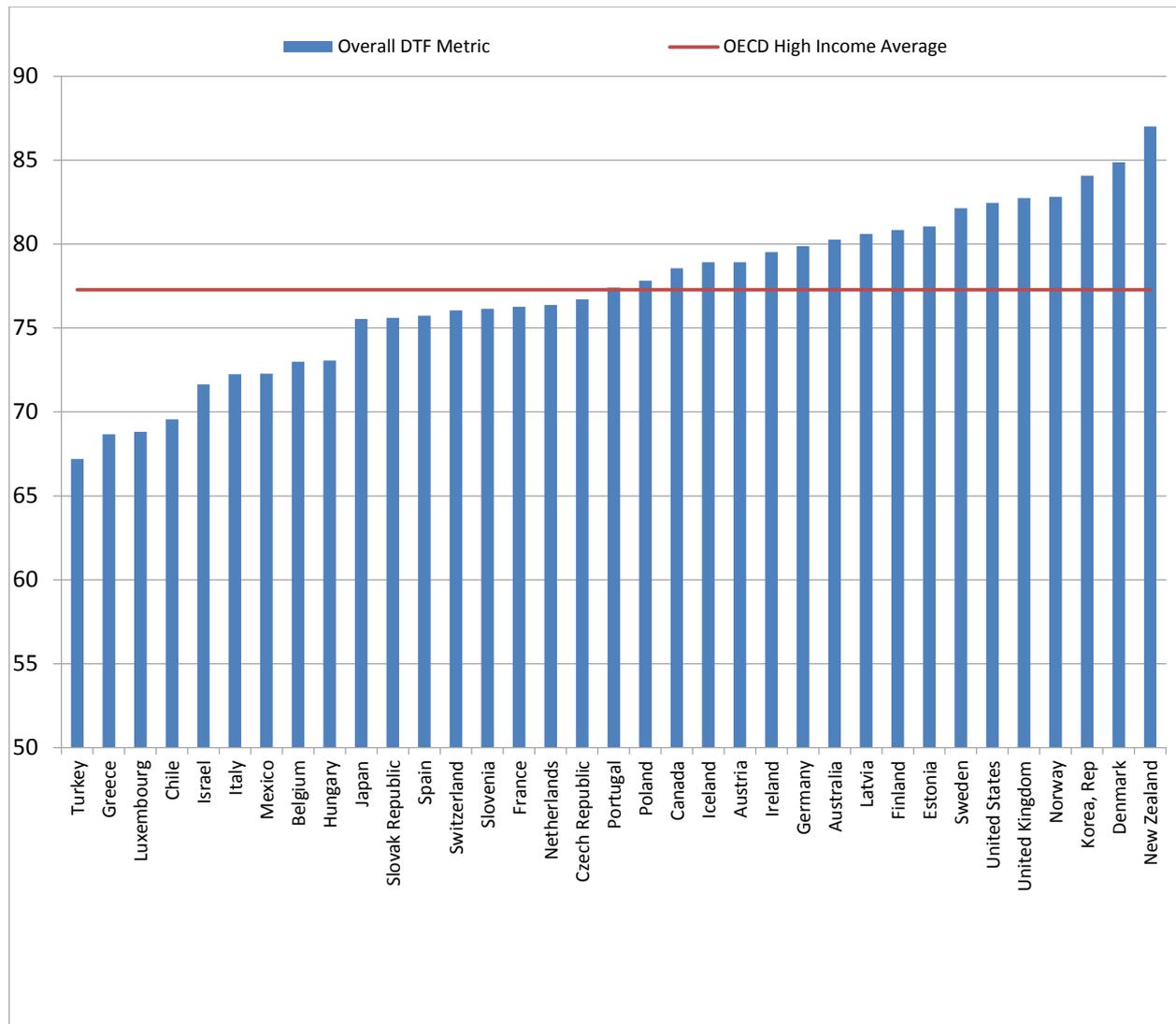
5. Conduct systematic programme reviews of the stock of significant regulation against clearly defined policy goals, including consideration of costs and benefits, to ensure that regulations remain up to date, cost justified, cost effective and consistent, and deliver the intended policy objectives.
6. Regularly publish reports on the performance of regulatory policy and reform programmes and the public authorities applying the regulations. Such reports should also include information on how regulatory tools such as RIA, public consultation practices and reviews of existing regulations are functioning in practice.
7. Develop a consistent policy covering the role and functions of regulatory agencies in order to provide greater confidence that regulatory decisions are made on an objective, impartial and consistent basis, without conflict of interest, bias or improper influence.
8. Ensure the effectiveness of systems for the review of the legality and procedural fairness of regulations and of decisions made by bodies empowered to issue regulatory sanctions. Ensure that citizens and businesses have access to these systems of review at reasonable cost and receive decisions in a timely manner.
9. As appropriate apply risk assessment, risk management, and risk communication strategies to the design and implementation of regulations to ensure that regulation is targeted and effective. Regulators should assess how regulations will be given effect and should design responsive implementation and enforcement strategies.
10. Where appropriate promote regulatory coherence through co-ordination mechanisms between the supranational, the national and sub-national levels of government. Identify cross-cutting regulatory issues at all levels of government, to promote coherence between regulatory approaches and avoid duplication or conflict of regulations.
11. Foster the development of regulatory management capacity and performance at sub-national levels of government.
12. In developing regulatory measures, give consideration to all relevant international standards and frameworks for co-operation in the same field and, where appropriate, their likely effects on parties outside the jurisdiction.

Source: OECD (2012), *Recommendation of the Council on Regulatory Policy and Governance*, OECD Publishing, Paris.

2.2. History of Better Regulation in Slovenia

45. Slovenia has made great strides in developing its regulatory policy framework. In fact, the development of a whole-of-government policy along with a strong focus on administrative burden reduction has substantially benefited Slovenia. For example, Slovenia has already improved its ranking in the World Bank Ease of Doing Business indicator. Between 2010 and 2016, Slovenia's Ease of Doing Business Index Ranking increased from 53rd to 30th. Based on the distance-to-frontier metric, the ease of doing business in Slovenia is now close to the OECD average (World Bank, 2017).

Figure 2.1. World Bank Ease of Doing Business Index for OECD Countries by Distance-to-Frontier Metric, 2017



Source: World Bank, “Ease of Doing Business Index: Distance-to-frontier Score, 2017”.

46. Most recently, reform efforts have focused on administrative burden reduction programs. In 2015, the Ministry of Public Administration (MPA) with two external consultants completed an evaluation of the effects of the administrative burden reduction programs from 2009 to 2015. They estimated that Slovenian businesses saved a total of 365 million euros across 146 measures (see Chapter 6 for more on *ex post* evaluation).

2.2.1. Development of a whole-of government regulatory policy in Slovenia

47. The National Assembly of Slovenia has made a political commitment to a whole-of-government regulatory policy. The two most important documents with respect to Slovenia’s whole-of-government approach are the *Resolution on Legislative Regulation* and *Rules of Procedure of the Government of the Republic of Slovenia*.

48. The first substantial amendments of the *Rules of Procedure of the Government of the Republic of Slovenia* were adopted in 2006. The changes concerned the information and documents that the proposer of the regulation should provide to the government, in order to ensure quality of decision-making. From then, regulatory proposals had to contain a statement that consultation with the public at large and that interdepartmental consultation, in particular with the ministry responsible for finance and the government service responsible for legislation, had been carried out. An impact assessment also became mandatory, but it was restricted to impacts in a few key areas: public finance, compliance with the acquis of the European Union, administrative burden, economy, environment and social areas, which involves taking into account the effects on the legal and welfare state. Furthermore, the adopted provisions did not require a check on the quality, only that regulators had completed the procedures.

49. Additionally, in 2006 the General Secretariat of the Government adopted instructions for the preparation of the work programme of the Government of the Republic of Slovenia. The instructions are still in use when planning the regulatory work of the government.

50. On 19 November 2009, the National Assembly made an official political commitment to respect the principles of better regulation. The *Resolution on Legislative Regulation* represents a starting point and basic orientation of legislative work. It sets principles for regulation drafting, guidelines for conducting the impact assessment and co-operation with experts and other interested public.

51. By preparing and adopting the rules, the government should pursue the following objectives while collaborating with the expert and other interested public:

- strengthening the rule of law
- ensuring legal certainty
- protecting human rights and fundamental freedoms
- respecting the principle of separation of powers at the national level, in relation to the local self-government and the European Union
- fully respecting the hierarchy of legal acts
- ensuring clarity, transparency, quality, and legal certainty of the regulations
- exercising civic participation
- performing an impact assessment of the regulations, and
- taking into consideration the efforts of the European Union and the Organisation for Economic Co-operation and Development in order to prepare better regulations.

52. Given that the resolution is not binding and represents primarily a political commitment, the Government of the Republic of Slovenia changed the *Rules of Procedure of the Government of the Republic of Slovenia*, through amendments the government implemented specific rules and procedures for impact assessments, stakeholder consultations as well as inter-ministerial co-ordination.

53. Even in 2006 ministries drafting regulation were responsible for co-ordinating regulatory development documents with the Ministry of Finance and the Government Office of Legislation. In 2010 Article 10 was amended so that material regarding development and planning documents must also first be harmonised with the ministry responsible for development. In accordance with the law regulating foreign affairs, material concerning the conclusion of international treaties and international acts other than treaties must be first co-ordinated with the ministry responsible for foreign affairs.

2.2.2. *The General Administrative Procedures Act*

54. Although the General Administrative Procedures Act is not a core element of regulatory policy in Slovenia, it still has an important role in certain aspects of its governance. The law, based on the constitutionally guaranteed right to equal procedural protection (Article 22 of the Constitution), regulates the procedural rights and obligations of participants in administrative procedures.

55. It regulates administrative procedures of administrative and other state bodies, local self-governing local communities and holders of public authority must act when deciding on administrative matters.

56. From the perspective of better regulation it is important since the authorities are obliged to exchange data from official records, which means that it is not necessary for parties in administrative procedures to provide evidence of data already in official records.

57. According to Kovac, the purpose of administrative procedural law in general in the word is:

- to protect the rights of the parties before the state or authority; and
- to pursue public interest through the most effective administrative procedure.

58. Kovac also noted that the trend in amendments to the GAPA since 2001 has been “focused on promoting efficiency of administrative decision-making” i.e. introducing rationality in the pursuit of greater competitiveness, rather than protecting the rights.

59. Nearly in parallel to the GAPA, the Slovenian government also introduced the *Rules of Procedure of the Government of Slovenia* in 2001, which elaborates on the specific procedures that should be undertaken when developing new regulations.

Box 2.2. Guiding Principles of Slovenian Regulation

As part of the 2009 Resolution on legislative Regulation, The National Assembly embedded a series of principles into the development of regulation. These principles include:

The principle of the necessity of legal regulation requires the regulating authority to conduct an in-depth analysis of the policy (which is initiated or amended and supplemented). This analysis must include the problems that need to be regulated, causes of problems, precise objectives, and methods of regulation. In doing so, regulating should be limited to only those issues that do not have an alternative solution.

The principle of self-restraint requires the legislator to make a responsible decision when regulating social relations by provision. Legislators may interfere with the rights and freedoms only to the extent strictly necessary to attain the policy's objectives.

The proportionality principle requires an assessment that the proposed regulation is necessary, appropriate and proportional when prescribing obligations (duties). Regulating social relations and interfering with rights and freedoms in order to attain objectives should only be done if they cannot be attained by other, less restrictive interventions.

The principle of the responsibility of the legislator presumes that the authorities shall act in accordance with the code of conduct of the profession when assuming political responsibility for the correctness of the adopted policies and the achievement of the objectives set, respect for the hierarchy of norms, legal system and nomotechnics.

The principle of definiteness requires authorities to prepare clear and commonly intelligible provisions securing legal certainty, clear expectations and equality before the law. The purpose of which is to limit various interpretations or implementations in practice.

The principle of accessibility requires authorities to ensure broad communication of new regulations within reasonable periods, which are only exceptionally shorter than the periods laid down by the constitution, and to enable access to provisions, as well as to updated and registers of applicable legislation.

The principle of simplification requires simple procedures with the possibility of the use of modern instruments and without undue burdens, transparency of regulations with a reasonable structure, correct and uniform terminology, codification of individual areas, and preparation of consolidated texts. It also prevents from modifying one regulation with provisions of the other regulation and delaying the application of a regulation already in force when there are no duly justified reasons therefore.

The principle of transparency presumes the presentation of the policy of regulation of a definite field to as broad a public as possible, especially to target groups to which it relates; announcement, preparation, and adoption of

regulations under the ordinary legislative procedure that enable a high-quality communication, as well as the response and influence of the public concerned.

Source: Responses to the Slovenia Regulatory Policy Review Questionnaire.

2.2.3. Transparency, e-government and Better Regulation

60. Under the *Access to Public Information Act* (APIA), public sector bodies are legally required to proactively publish certain information online. The aim of the APIA is to ensure that the work of official bodies is public and open (transparency) and to enable natural and legal entities to exercise their rights to acquire public information from any public authority that holds such information that falls within the scope of its public tasks. To achieve the aim of the APIA, public authorities must endeavour to inform the public about their work to the greatest extent possible.

61. In 2008, the *Manual for Planning, Managing and Evaluating of Public Participation Processes* was prepared. The manual fully explains and presents various options for public participation in the regulation process.

62. In 2009, the web portal predlagam.vladi.si (“my.suggestion.gov.si”) was established. It enables involvement of citizens in the decision-making process with the help of ICT tools. The primary purpose of the channel is to encourage citizens to express their opinions, suggestions and proposals for the regulation of certain substantive issues.

63. Since 2010 the government has given special attention to public participation, publication of material online and inter-ministerial co-ordination. From then on, the general public could participate in consultation on draft proposals for between 30 and 60 days. Consultation, however, is generally only online and often much shorter than the prescribed minimum. The proposer of a regulation was also required to reply to opinions and considerations from expert circles and the public within 15 days of the adoption of the regulation or the submission of the proposed regulation.

64. Slovenia has established an eDemocracy portal, which enables citizens to cooperate and participate in the decision making process. The system, implemented in April 2010, allows stakeholders to remain informed and submit comments about regulatory proposals.

65. In October 2011, the government opened the Minus 25 portal in accordance with the Action Programme for the Reducing Administrative Burdens by 25 per cent by 2012. The purpose of the portal was to provide the public with all current information regarding the implementation of the Programme for reducing administrative burdens or realisation of the ‘Minus 25%’ Programme. The portal was especially intended to publish best practices (at both national and EU levels), reports on administrative burdens in an individual regulation measured in the programme, and to convey additional proposals by users for simplification. The Minus 25 portal was redesigned in 2013 and renamed to Stop the Bureaucracy portal (www.stopbirokraciji.si).

66. In May 2015 new Manual for planning and implementation of consultative processes and Guidelines for stakeholder involvement in the preparation of regulations were prepared within the project Strengthening capacity to implement regulatory impact assessment and public involvement in preparation and implementation of public policies (See Chapter 4 for more on stakeholder engagement).

2.2.4. Ex Post evaluation of regulatory policy

67. Information on the performance of regulatory policy and regulatory reform programmes is necessary to identify if regulatory policy is being implemented effectively and if reforms are having the desired impact. They can also provide a benchmark for improving compliance by ministries and agencies with the requirements of regulatory policy such as reporting on the effective use of impact assessment, consultation, simplification measures and other practices (OECD, 2012a). Evaluations can furthermore help to target scarce resources to those reforms that result in the greatest improvements, and to generate the political support needed to implement regulatory policy reforms (OECD, 2015b). The European Commission for example undertook a comprehensive evaluation of its consultation system to inform the reform of the system (see Box 2.3)

68. Slovenia does not systemically monitor the impact of regulation policies, despite the fact that the *Resolution on Legislative Regulation* contains a provision that the National Assembly and the Government monitor the implementation of this resolution, with the exception of administrative burdens. The resolution also stipulates that the National Assembly will discuss the report on the implementation of the resolution. The opinion of the report will be considered by the working body of the National Assembly and the Government's at the end of the first year and at the beginning of the last year of the mandate. The National Assembly should adopt positions on the Resolution's implementation and if necessary make amendments and supplements.

69. The Court of Audit and Ministry of Public Administration have intermittently evaluated the implementation of good regulatory policy practices in RIA and stakeholder engagement. Most recently, in July and August 2016 the Ministry of Public Administration conducted a comprehensive analysis of government submissions of proposed regulations in the years 2011, 2013 and 2015.

70. Like many better regulation units in OECD countries, the MPA in Slovenia has also tracked the total impact measures to reduce administrative burden. Most recently, the MPA with two external consultants estimated that a total of 365 million euros were saved over 146 measures (see Chapter 6 for more information on Slovenia's regulatory cost and administrative reduction burden programmes).

Box 2.3. European Commission evaluation of its consultation practices

The [2012 review of the EU Commission's consultation policy](#) is a comprehensive report describing and reviewing current consultation practices. It addresses issues such as the openness and reach of consultation and the use of input received during consultation.

The review draws upon different sources. First, it contains an analysis of international standards, among them the [2012 OECD Recommendation of the Council on Regulatory Policy and Governance](#). Second, an open consultation of external stakeholders was used to gather a wide range of opinions. Third, input from different Commission services was sought, including data on consultations and impact assessments carried out between January 2010 and August 2012.

The report provides indicators concerning the Commission's consultation practices, for example on the type of consultation, consultation tools, languages and length, as well as the availability of consultation outputs, and percentage of consultations with external parties in which the minimum consultation period was respected. The report also identifies measures that could be taken to enhance the quality of consultation, for example:

- Adjusting the minimum standards;
- Improving planning, for example by publishing a rolling calendar of planned consultations online;
- Improving follow-up and feedback, for example through developing alert systems to notify respondents at key stages throughout the policy-making cycle.

The European Commission's consultation practices were further refined in the [Better Regulation guidelines](#) and accompanying [Better Regulation "Toolbox"](#), which were adopted by the European Commission in May 2015 as part of a "Better Regulation Package". Reforms include new opportunities for the general public to participate in consultations on inception impact assessments for new regulatory initiatives with major impacts, on regulatory proposals after adoption by the European Commission, and on draft texts of delegated acts before adoption by the Commission. In addition, new methods of engaging stakeholders in the *ex post* evaluation of regulations were also introduced, including public consultations on roadmaps for evaluations and Fitness Checks, and a website collecting the public's views on existing EU legislation and suggestions for burden reduction and regulatory improvements.

Source:: OECD (2014a), *OECD Framework for Regulatory Policy Evaluation*, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264214453-en>; European Commission (2015), "Better regulation for better results – An EU agenda", retrieved from http://ec.europa.eu/smart-regulation/better-regulation/documents/com_2015_215_en.pdf, last accessed 9 March 2016; *Source:* OECD Pilot database on stakeholder engagement practices in regulatory policy. www.oecd.org/gov/regulatory-policy/pilot-database-on-stakeholder-engagement-practices.htm.

71. Drawing on a comprehensive analysis of government materials related to proposed regulations in the years 2011, 2013 and 2015, preliminary findings indicate that the regular procedure for preparing regulations was used more frequently in 2015 (66%) than in 2011 (47%) compared to a "shortened procedure" ignoring some of the better regulation tools. Publication of draft regulation on the e-democracy portal has increased from 76% to 82%. Adherence to the minimum period for publishing draft is still low – about half of draft regulations are published for more than 30 days and quantification of

impacts is mostly missing. The report on the final results is currently under preparation by the MPA, but it is not planned to be published publically.

72. The Court of Audit of the Republic of Slovenia has also undertaken evaluations of the implementation of regulatory impact analysis in Slovenia with a first report published in 2007, followed by another report in 2012. The publically available reports provide rich information on the number of regulations accompanied by impact assessments, the types of impact assessed and whether RIA is undertaken only as an administrative obligation. The 2012 report found for example that 71.7% of draft laws did not indicate the results of *ex post* evaluation and in 78.3% monitoring of the proposed regulation was not defined. The reports also provided concrete recommendations for improvement with the aim of focusing on these recommendations in the following audit report to monitor whether these have been implemented. Recommendations from both reports have been partially implemented. For example, regulations are no longer prepared by external experts, except for very rare circumstances.

73. Perception surveys of those involved in the regulatory process including officials, business and citizens can also provide valuable information on the actual implementation of regulatory policy, its outcomes and reasons for implementation gaps. (OECD 2012b; OECD, 2014) (see Box 2.4). Positive perceptions can influence investment decisions and promote respect for and compliance with regulation. And sometimes irritation from experiences with regulation and frontline service counts more than burdens measured according to “objective” data. At the same time perceptions are complex and qualitative analysis is necessary to understand the factors driving the perceptions (OECD, 2012b). In the UK the National Audit Office has undertaken comprehensive evaluations of the administrative burden reduction programmes, drawing on perception surveys of businesses and interviews with officials involved in the programme in addition to quantified data on burden reduction (UK National audit office, 2008). The study helped inform the redesign of the UK’s government programmes to reduce burdens.

Box 2.4 Perception surveys on the quality of law and the administration in Germany

The Federal Statistical Office was commissioned by the Federal Government in 2015 to conduct surveys of individuals and companies on their subjective perception of public authorities and the body of law in specific life events. The survey exercise aims to identify measures for a more noticeable bureaucracy reduction and will be repeated every two years.

The approach identified typical life events in which citizens and companies interact with public authorities. 22 life events for individuals were selected ranging from the birth of a child to marriage, unemployment and need for long-term care. Similarly, 10 events for companies based on a company's life cycle were selected, including business start-up, the appointment of employees, and business discontinuation. For every life event, an interactive customer-journey map was constructed displaying the typical and most important offices citizens or businesses have to contact and the procedures they have to complete to obtain the respective service.

In telephone surveys, more than 5,500 individuals and ca. 1,500 companies indicated their satisfaction with public agencies. The interviews inquired about the level of satisfaction of the interviewees with the services provided and the subjective importance they attach to different factors of their experience (e.g. the comprehensibility of the law, access to relevant information, non-discrimination, trustworthiness and opening hours).

Results show that on average, both citizens and businesses are largely satisfied with government services. On an ordinal scale from +2 (very satisfied) to -2 (very unsatisfied), the aggregate rating was +1.06 for citizens and +0.94 for companies. Both citizens and businesses consider trustworthiness of the public authority, non-discrimination, incorruptibility and professional expertise of public authorities' staff the most important factors for their level of satisfaction. Respondents of both surveys were less satisfied with the comprehensibility of the law in general and of the forms in particular, as well as with information provided on the steps in the administrative process. While 61% of the businesses surveyed consider e-government as an important factor, only 30% of the citizens did.

In response to the survey results, the 2016 Work Programme on Better Regulation of the German government outlines several measures to further improve legislative procedures and reinforce a citizen and business-friendly administration/e-government. They include initiatives to increase the comprehensibility, transparency and accessibility of legislation, a training programme for legislators, and the examination of how innovative approaches can be used to ensure that legislation is geared towards the needs of citizens and businesses.

Source: OECD Pilot database on stakeholder engagement practices in regulatory policy. www.oecd.org/gov/regulatory-policy/pilot-database-on-stakeholder-engagement-practices.htm.

2.3. Assessment and recommendations

74. Since 2006, Slovenia has put in place a broad set of regulatory reforms that have already supported an improved business environment. The current better regulation agenda includes a whole-of-government political commitment as well as guiding documents to help regulators implement practices found in the 2012 *Recommendation on Regulatory Policy and Governance*. The Government of Slovenia should go beyond

current reforms to further implement better regulation and support the development of “fit-for-purpose” regulation that improves the safety, health and well-being of citizens.

75. While Slovenia has the elements of good regulatory policy, implementation remains a major challenge. As the Court of Audit and MPA analysis shows, the recommendations and guidelines for RIA and stakeholder engagement are often not followed. Regulatory policy tools are often completed as more of a check-box exercise rather than used as an integral part of the decision-making process. A lack of oversight over the quality of the process continues to hamper the better regulation agenda.

76. Turning the political commitment into action will require a high-level strategy that aligns the goals of decision-makers and politicians and a systematic process to tracking how well regulatory policy management tools are used in practice.

77. The Government of Slovenia should relaunch Better Regulation to bring evidence-based policy back into focus in Slovenia. Evidence-based quality requires not just the commitment for the government to perform evaluation and stakeholder engagement, but also that the public and businesses are engaged in the process and provide the information and opinions that the government needs to truly improve policy.

78. The Government of Slovenia should create a high-level strategic plan to prioritize the implementation of regulatory policy. A high level strategic-plan would lay out the specific responsibilities for different actors in the regulatory process and also ensure co-ordination between the various institutions such as the General Secretariat of Government, Government Office of Legislation, and National Assembly. The strategy would set forth roles for the scrutiny of RIA and SE as well as give them the authority to comment on the quality of the RIA and stakeholder engagement. The strategy could also include a renewed political commitment from the centre of government e.g. Cabinet and have a clear communication strategy to help engage the public in the scrutiny of the regulatory process.

79. The Government of Slovenia should continue to regularly monitor the state of regulatory policy in Slovenia. The Court of Audit and the Ministry of Public Administration have undertaken ad hoc reviews of the implementation of regulatory policy for RIA and stakeholder engagement. In addition, they could conduct reviews of *ex post* evaluation when they become a more common practice. However, regularly reviewing ministries’ progress in implementing regulatory policy tools could act as a catalyst for them to continue to improve procedures for RIA, stakeholder engagement, and *ex post* evaluation. A high-level co-ordination body or the Court of Audit could regularly undertake reviews and report on the results.

80. The reports could also include information on *ex post* evaluations conducted by ministries passed by emergency procedures (as highlighted in Chapter 6) and be discussed in parliament and with stakeholders to draw lessons from the findings.

81. The Better Regulation agenda should move beyond administrative burden reduction. The strong focus on administrative burden has so far yielded dividends for Slovenia as its place in the Doing Business rankings has steadily improved. However, like in many OECD countries, regulators should focus more on the benefits of regulations as well as the costs to create a fuller picture of regulatory impacts. Additionally, regulatory burden reduction programs should move from simple looking at administrative costs to businesses to also looking at how to improve competition, compliance costs, and the business environment more broadly.

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3. Institutional framework and capacities for regulatory policy

Regulatory management needs to find its place in a country's institutional architecture and have support from all the relevant institutions. The institutional framework extends well beyond the executive centre of government, although this is the main starting point. The legislature and the judiciary, regulatory agencies and the sub-national levels of government also play critical roles in the development, implementation and enforcement of policies and regulations. Continuous training and capacity building within government, supported by adequate financial resources, contributes to the effective application of Better Regulation. Beyond the technical need for training in certain processes such as impact assessment or plain drafting, training communicates the message to administrators that this is an important issue, recognised as such by the administrative and political hierarchy. It can be seen as a measure of the political commitment to Better Regulation. It also fosters a sense of ownership for reform initiatives, and enhances co-ordination and regulatory coherence.

3.1. Key institutions and regulatory policy oversight of the regulatory process in Slovenia

82. Oversight is a critical aspect of regulatory policy. Without proper oversight, undue political influence or a lack of evidence-based reasoning can undermine the ultimate objectives of policy. Careful, thoughtful analysis of policy and an external check of policy development are required to ensure that governments meet their objectives and provide the greatest benefits at the lowest costs to citizens (see Box 3.1). In Slovenia, a number of ministries and institutions are involved in oversight, but none of the institutions has the authority or resources to perform a thorough check of the quality of the use of regulatory policy tools.

Box 3.1. Main features of oversight bodies to promote regulatory quality

According to the 2012 OECD Recommendation of the Council on Regulatory Policy and Governance, oversight of regulatory procedures and goals should be promoted through:

A standing body charged with regulatory oversight should be established close to the centre of government, to ensure that regulation serves whole-of-government policy. The specific institutional solution must be adapted to each system of governance.

The authority of the regulatory oversight body should be set forth in mandate, such as statute or executive order. In the performance of its technical functions of assessing and advising on the quality of impact assessments, the oversight body should be independent from political influence.

The regulatory oversight body should be tasked with a variety of functions or tasks in order to promote high-quality evidence-based decision making. These tasks should include:

- Quality control through the review of the quality of impact assessments and returning proposed rules for which impact assessments are inadequate;
- Examining the potential for regulation to be more effective including promoting the consideration of regulatory measures in areas of policy where regulation is likely to be necessary;
- Contributing to the systematic improvement of the application of regulatory policy;
- Co-ordinating *ex post* evaluation for policy revision and for refinement of *ex ante* methods;
- Providing training and guidance on impact assessment and strategies for improving regulatory performance. The performance of the oversight body, including its review of impact assessments should be periodically assessed.

Source: OECD (2012), *Recommendation of the Council on Regulatory Policy and Governance*, Paris, OECD Publishing, Paris, www.oecd.org/governance/regulatory-policy/2012-recommendation.htm.

3.1.1. General Secretariat of the Government

83. The General Secretariat of the Government is responsible for preparation of the Legislative Work Programme of the Government of the Republic of Slovenia. The Programme is drawn up on the basis of data entered in the RLAF (Register of Legal Acts

in Force) and submitted to the Government for discussion prior to the beginning of the year for which it will be adopted.

84. The General Secretariat also ensures that government material conforms to the Rules of Procedure of the Government of the Republic of Slovenia and informs the proposer if something is missing. The General Secretariat may also require the proposer to submit legislative material to working groups or established government councils, if the working group or council has not yet considered the proposal.

85. If government material has not been prepared in accordance with these Rules of Procedure, the General Secretariat informs the proposer, explaining how the material should be supplemented or corrected. Only corrected material can be published in the Government Information System, while rejected material can only be published if the General Secretariat decides following consultation with the proposer because of the extent or urgency of the material.

86. If the material deals with issues falling within the scope of work of established government councils or working groups which have not yet considered it, the Secretary General calls on the proposer to submit the material to the competent body for preliminary consideration.

87. The General Secretariat sends a copy of material to the members of the Government that does not deal with issues requiring the Government to act or take a position, but is important for monitoring a situation or ensuring that members of the Government are kept informed. The Government doesn't consider such materials.

3.1.2. Government Office of Legislation

88. The Government Office for Legislation's (GoL) primary function is to examine law proposals and other acts submitted by the Government to the National Assembly and those acts for which the National Assembly seeks the opinion of the Government. If the GoL gives a negative opinion on a proposal, the ministry must amend it.

89. The Government Office for Legislation, in accordance with Article 10 of the Rules of Procedure of the Government of the Republic of Slovenia, has several roles in examining regulation in Slovenia. The GoL examines new laws in terms of conformity with the Constitution and the national legal system and the *acquis communautaire*, in terms of the rules of legal technique. Additionally, the GoL looks at law proposals and other acts submitted by the Government to the National Assembly of the Republic of Slovenia and those acts for which the National Assembly seeks the opinion of the Government, as well as proposals for legal acts of the Government and draft legal acts of ministers. It also addresses issues related to the development of the legal system and, in co-operation with the Government and line ministries, provides for the implementation of constitutionality and legality. To support the development of regulation, the GoL carries out comparative studies of the law of other countries and international organisations.

3.1.3. Ministry of Public Administration

90. Oversight of regulatory policy tools is primarily within the Ministry of Public Administration (MPA), which acts as a supervisor that checks the accuracy of the impact assessment in the area of administrative costs.

91. The Ministry of Public Administration does not only examine administrative costs and burdens, but also the impact on the functioning of local self-government,

administrative units, IT. It is also expected to conduct a review regarding the suitability and fit-to-purpose. The MPA draws attention to the barriers still left in the proposal. Proposers of regulation take into account feedback from the MPA through an interministerial consultation process, the same as other ministries.

92. In addition, the MPA organizes training and conferences in regulatory policy for line ministries. It has organised ad hoc training in stakeholder consultation and the new SME test. Training in consultation and on the SME test will become a permanent feature in the Academy of Public Service in 2018 at the latest

3.1.4. Ministry of Economic Development and Technology

93. The Ministry of Economic Development and Technology, through inter-ministerial co-ordination, reviews the drafts of regulations in terms of impact on the economy. The not only review impact assessments but also text of the draft of regulation.

94. The role of the ‘guardian’ of the regulatory impact assessment on SMEs (SME test) has also been taken by the Ministry of Economic Development and Technology, which verifies the adequacy of the assessments during interministerial co-ordination. Prior to the SME test, few RIAs had other costs or benefits quantified in 2011, 2013, or 2015. Generally, regulators simply stated that “no consequences were foreseen” or provided only a description of the impacts. Oversight of RIA in general is quite low (see Chapter 5 for more information).

3.1.5. Ministry of Finance

95. Line ministries are required to consult and obtain the opinion of the Ministry of Finance for all regulatory proposals.

96. All government materials, submitted to the government, must include an assessment of the financial implications for the budget, reflecting whether the proposed regulation increases or reduces the revenues or expenditures of the budget.

97. The financial statement of the government material must contain:

- A projection of changes in revenue and expenditure for the next three years,
- A proposals to cover increased expenditure in the budget, or
- A proposals to offset the reduced revenue budget and
- An opinion of the ministry responsible for public finances.

98. If the Ministry of Finance finds that the financial consequences for the State budget or municipal budgets are unacceptable, the draft law is sent back to the ministry preparing the regulation for amendments. Other Institutions

3.1.6. Other institutions

Parliament

99. In accordance with the Article 115 of *Rules of Procedure of the National Assembly* a draft law submitted to the National Assembly must contain the title of the law, an introduction, the text of the articles, and a statement of reasons. An assessment of the impacts by area is only contained in draft laws proposed by the Government.

100. If a draft law does not contain the required elements, the President of the National Assembly calls upon the proposer to supplement the draft law. If the proposer fails to supplement the draft law within 15 days from being called upon to do so, it is deemed that the draft law has not been tabled.

Court of audit

101. The Slovenian Court of Audit is the highest body in the country that monitors state accounts, budget and all other public spending. The Court of Audit is independent and its powers are provided by the constitution. Previously, it has conducted an evaluation of regulatory policy in 2006 and followed up on the initial report in 2012.

Judicial branch of government

102. After the final decision of the administrative authority, the individual always has the right to judicial protection by bringing the case to the Administrative Court or filing extraordinary legal remedies. The Supreme Court in accordance with the Law on Administrative Disputes decides on legal remedies.

103. The Administrative Court may decide on the legality of acts of bodies, issued in the form of a regulation, insofar as they regulate individual relationships. If the Court deems part of a regulation unconstitutional, it stays proceedings and initiates a review of the regulation's constitutionality.

104. The Constitutional Court determines the legality and constitutionality of regulations. It may abrogate laws that do not conform to the Constitution. Until a final decision, the Constitutional Court may also suspend the implementation of challenged regulations.

105. If the Supreme Court deems a law or part of a law unconstitutional, it stays proceedings in all cases in which it should apply such law or part of the law and it initiates proceedings for the review of its constitutionality.

Local governments

106. Slovenia has a unitary political system with one level of local government, whose powers and duties are laid out in the Local Governments Act. Like the national government, local governments are required to adhere to the GAPA. (See Chapter 2 for a brief overview of the act), which sets out the rights and responsibilities of local governments and citizens. Generally, local governments are in charge of service delivery rather than regulating, although they have some regulatory competencies in utilities, local roads, and town planning (see the Annex for the full detail of the roles and responsibilities of local governments).

107. According to the Local Government Act, national bodies supervise the lawfulness of the work of municipal bodies. The government and ministries exercise the state supervision of the work of a local community body. The ministries supervise the legal implementation of general acts and individual municipal acts relating to matters that fall under their jurisdiction.

3.2. Co-ordination of the Better Regulation policy across government

108. The Ministry of Public Administration co-ordinates better regulation policy as a whole, but each ministry ultimately decides on its level of co-operation with the ministry.

109. In 2013, the Government established a permanent inter-ministerial working group of the Government to ensure better regulatory and business environment and increased competitiveness. The main task of the working group was the implementation of measures and commitments to improve business environment and competitiveness, and regular reporting to the government on the objectives achieved. In addition to the working group, a Strategic Council was also established. The members of the Strategic Council are: minister responsible for public administration, minister for economic development and technology, Secretary General of the Government of the Republic of Slovenia, State Secretary from the Ministry of the Finance, Director of the Government Office for Legislation, State Secretary from the Government Office for Development and European Cohesion Policy.

110. The Strategic Council is responsible for managing, co-ordinating and supervising the field of better regulation and administrative burden reduction and has the following tasks:

- leads, co-ordinates, directs and supervises activities in the area of better regulation;
- considers and approves strategic guidelines in the area of better regulation;
- endorses the proposals for measures to complement the Single Database, action plans and other implementing acts on better law enforcement;
- discusses and approves the proposals submitted by the operational working group for consideration;
- and directs and supervises the work of the operational working group.

111. However, Slovenia does not have a working group or body that could help co-ordinate the practical implementation of better regulation policies, e.g. through experience and practice sharing in stakeholder engagement or RIA.

3.2.1. Interministerial co-ordination during the development of regulation

112. According to the Slovenian whole-of-government policy on regulation, inter-ministerial co-ordination should happen at the second stage of the proposal, after the initial draft of the legislation and stakeholder consultation via eDemocracy portal, which is connected to the Information support for the legislative procedure (IPP) system. At this stage, the minister in charge with the proposal discusses the draft with other units within the administration and collects their comments. The document may also be sent to other interest groups at this stage.

113. In accordance with *Article 10 of the Rules of Procedure of the Government of the Republic of Slovenia*, government materials must be co-ordinated with the ministries and government departments concerned before they are submitted for government consideration. Interministerial co-ordination is conducted through the Information support for the legislative procedure (IPP) system, which allows ministries to view and comment on other ministries' proposals.

114. Implemented in April 2010, the IPP system is used by ministries and government agencies to co-ordinate and inform each other during the preparation of regulation. A draft regulation is sent via the IPP system to the Government Information System. The Government can then in turn, send a regulation via the IPP system to the e-Democracy portal to keep interest groups, citizens and relevant ministries informed about the situation, including the text of the regulation.

115. All relevant ministries - not only the Ministry of Public Administration, Ministry of Finance and Ministry of Economic Development and Technology - review the drafts of regulations in the light of their work area during the inter-ministerial consultation. For example, the Ministry of Public Administration does not only examine administrative costs and burdens, but also the impact on the functioning of local self-government, administrative units, IT. It is also expected to conduct a review regarding the suitability and fit-to-purpose.

116. Proposers are not required to consider other ministries feedback, but usually positions are co-ordinated until a consensus is reached between the ministries.

117. According to the Rules of Procedure of the Government of the Republic of Slovenia the Minister or Director of the Government Office may request the material to be submitted to the Government for consideration, even if agreement in inter-ministerial co-ordination could not be achieved.

118. In the request, the minister or the director of the government service shall indicate the ministry or the government service, with which the reconciliation cannot be reached, the unco-ordinated questions and arguments for its decision.

Figure 3.1. Inter-ministerial co-ordination via the IPP System Sample

ID NUMBER OF DRAFT REGULATION	RESPONSIBLE MINISTRY	REGULATION	SZ	Faza	Zaznamek
2017-2611-0047	MDDSZ; REPUBLIKA SLOVENIJA, MINISTRSTVO ZA DELO, DRUŽINO,	Pravilnik o spremembi Pravilnika o izboru in sofinanciranju programov javnih del	21-08	V Med Usk In Na Svz.	LINK TO ALL RELEVANT INFO, DOCUMENTS, DRAFT TEXT
(1) Pravilnik o spremembi Pravilnika o izboru in sofinanciranju programov javnih del, 14.09.2017 [MDDSZ]					
(2) Mnenje - OAO, 15.09.2017 [MDDSZ]					
2017-2330-0052	MKGP; MINISTRSTVO ZA KMETIJSTVO, GOZDARSTVO IN	OPINION OF THE MPA ON THE REGULATION SENT TO THE RELEVANT MINISTRY VIA IPP	1	21-08	V Med Usk In Na Svz.
(1) pravilnik o evidenci za sektor mleka in tržno informacijskem sis 17 [MKGP]					
2017-2611-0038	MDDSZ; REPUBLIKA SLOVENIJA, MINISTRSTVO ZA DELO, DRUŽINO,	Resolucija o družinski politiki 2018-2028 "Vsem družinam prijazna družba"	21-08	V Med Usk In Na Svz.	
(1) Predlog Resolucije o družinski politiki, 12.09.2017 [MDDSZ]					
(2) Skupno mnenje NOE (pripravlja M.Čankovič) [MJU]					
(3) DI-brez pripomb, 13.09.2017 [MDDSZ]					
(4) Mnenje DSP, 15.09.2017 [MINISTRSTVO ZA JAVNO UPRAVO]					
(5) Skupno mnenje SPJS, 15.09.2017 [MDDSZ]					
2017-3130-0042	IPP - MJU; MINISTRSTVO ZA JAVNO UPRAVO; TRŽAŠKA CESTA 021; 1000;	Uredba o spremembi Uredbe o plačah in drugih prejemkih javnih uslužbencev za delo v tujini	233-11	V Med Usk In Na Svz.	

Source: Example provided by the Ministry of Public Administration.

119. In practice, the second stage of inter-ministerial co-ordination is sometimes skipped, although certain ministries (Finance, Public Administration, Economic Development and Technology and Office of Legislation) must be consulted. It happens occasionally that inter-ministerial co-ordination is not comprehensive because of the fear that it would prolong the whole process. Therefore, individual ministries are sometimes not consulted.

120. Similarly, in the 2012 public governance review of Slovenia, the OECD found that inter-ministerial co-ordination in practice was done late in the process (the third stage), although co-operative and collaborative capacity at the inter-ministerial level

works well for the most part (OECD 2012b). Furthermore, in workshops held in Ljubljana on December 2016, participants echoed that inter-ministerial co-ordination challenges continued to stymie the regulatory-making process in Slovenia.

3.3. Resources, training and guidance

121. As of October 2016, fifteen officials were responsible for reviewing government documents, co-ordination with and between departments, and monitoring the implementation of government decisions. At the Ministry of Public Administration, there are six officials involved in better regulation activities.

122. The MPA does provide some training on particular regulatory tools. However, ministries themselves do not have specific internal organisational units or contact points responsible for better regulation. Consequently, activities related to regulatory policy co-ordination and management are diversified across different authorities.

123. In early May 2015 the MPA in co-operation with Centre for Information, Cooperation and Development of NGOs (CNVOS) organised a national conference titled *Co-operation with the public – together towards good legislation*, the ceremonial closure of the project was titled *Strengthening capacity to implement regulatory impact assessment and public involvement in preparation and implementation of public policies*. Public officials received training on the planning and implementing consultation between February and May 2015. More than 130 public servants and 18 trainers, who are responsible for the training of public servants in ministries where they are employed, participated in the training.

124. In the context of the project, a new “Manual for planning and implementation of consultative processes” and “Guidelines for stakeholder involvement in the preparation of regulations” was prepared. Although Slovenia has a well-defined regulatory framework regarding the implementation of transparent regulatory process, it is often not taken into account sufficiently.

125. Furthermore, since 2015 the MPA has provided some training on the SME test and administrative burden reduction in Slovenia. The SME Test is similar to the Standard Cost Model to small businesses and looks at measuring not just administrative burden costs but also regulatory compliance costs. It includes a calculator with data built-in on population and statistics to simplify the administrative burden calculation (See Chapter 5 for more information on the SME Test).

126. The Slovenian government provides no permanent training in consultation, impact assessment, alternatives to regulation, or risk management. There are, however, plans to make permanent training modules on the SME Test available at the Administrative Academy in 2017.

127. The Ministry of Public Administration and Government Office of Legislation have prepared several guides to help regulators develop new proposals.

128. In 2004 the Government Office of Legislation produced the legal drafting guidelines for regulation. In the 11 chapters of this publication there are guidelines on the internal structure and constituent elements of a regulation, on linguistic expression, on the definition of obligations and exceptions, on legal terminology, referencing within regulations, consolidated texts, and they include recommendations for “plain language” drafting.

129. In 2011 the MPA developed the *Handbook for Impact Assessment* (aka *The Manual for the implementation of the Environmental Impact Assessment Legislation and Policies*), which has detailed guidance on how to develop and analyse new regulations. In 2015 the MPA also prepared the *Manual for planning and implementation of consultative processes and guidelines for stakeholder involvement* for the preparation of regulations. The guide contains illustrative and practical demonstrations and best practices.

3.4. Assessment and recommendations

130. The regulatory policy oversight in Slovenia is diffuse across a number of line ministries. Parts of the RIA impact process are checked individually by the MPA, Ministry of Economic Development and Technology, and Finance. As a result of the relatively weak authority to give guidance or check the quality of the use of RIA and stakeholder engagement, these tools continue to often not meet the standards set out in the Rules of Procedure.

131. At the centre of government, the GoL does check the legal quality of submission, but can only issue an opinion and recommend that proposals are updated. The Secretariat-General does check if RIA and stakeholder consultations are done, but lacks the human resources capacity and authority to check them for quality.

132. Co-ordination across ministries also remains a challenge. Line ministries that may have a stake in draft regulations are often consulted late in the process when a proposal is posted online. Ministries are also left to their own devices with respect to regulatory policy. As a result, the implementation of regulatory policy remains uneven across ministries.

133. **The Government of Slovenia should establish a high-level body to facilitate inter-ministerial co-ordination on regulation.** A high-level body including ministers or deputy ministers from line ministries, the Government Office of Legislation and the Secretariat-General could help identify strategic priorities for Better Regulation and facilitate inter-ministerial co-ordination when developing legislation. Earlier inter-ministerial co-ordination done within this body would help solve potential conflicts in policy objectives. Additionally, it would allow for a whole-of-government approach to prioritize policy objectives.

134. **The Government of Slovenia should centralize oversight into one body and give the oversight body stronger powers.** Currently, the General Secretariat checks RIAs and regulatory management tools for structure but not quality. It could add capacity to check the quality of RIAs and stakeholder engagement and could be able to send inadequately analysed proposals back to the ministries. Alternatively, this oversight function could be placed in the centre of government - in the General Secretariat or Government Office of Legislation - or as a separate arm's length body, like the UK Regulatory Policy Committee (even though this option does not seem to be ideal for Slovenia at this stage). Consolidating controls on the quality of impact within a lead institution and giving them a gate-keeping function would greatly improve the quality of RIA and thus policy. In addition, this oversight unit could also provide advice on how to analyse the impacts of regulation early on in the development of policy and could also ensure that ministries are doing *ex post* evaluation of laws and regulations passed under emergency procedure.

135. **Line ministries in conjunction with the Ministry of Public Administration could establish a network of Better Regulation champions within each line ministry**

to act as a contact point when they have questions on how to implement regulatory management tools or the principles of better regulation. Each Champion would receive special training in deploying the principles of Better Regulation in general, but would also be able to bring his or her own experience in his or her particular sector. Champions could share experiences in overcoming challenges to implementing regulatory through bi-annual or quarterly meetings.

136. **The Ministry of Public Administration could expand training and guidance to other regulatory policy tools.** Currently, the Ministry of Public Administration only offers regular training on the SME test and administrative burden reduction. Adding training modules on cost-benefit analysis, data collection, and survey methods could greatly increase the information on methodology available to regulators and thus the quality of RIA. Similarly, the MPA could also develop regular training modules on methods for identifying and engaging with external stakeholders.

137. Training can often be expensive and resource intensive. To reduce strain on the government resources, the MPA could help ministries who already implement good regulatory policy practices share their experiences with other ministries, encouraging good practice through government. The MPA could also provide easy access to publically available tools from other countries and if necessary could have them translated. Furthermore, Slovenia could take advantage of examples, guides, and trainings that are available publically from other countries.

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Annex 3.A. Roles and Responsibilities of Municipalities in Slovenia

138. Local matters of public interest (of the original tasks) determined by law or by the general act of a municipality shall be independently performed by the municipality. In order to satisfy the needs of its inhabitants, a municipality shall perform primarily the following duties and functions (Local Government Act, Article 21):

- manage the assets of the municipality;
- provide the conditions for the economic development of the municipality and in accordance with the law carry out tasks in the areas of catering, tourism and agriculture;
- plan spatial development, carry out tasks in the areas of encroachments in physical space and the construction of facilities in accordance with the law, and shall ensure the public service of the management of building land;
- create the conditions for the construction of housing and provide for an increase in the rent/social welfare-housing fund;
- regulate, manage and provide for local public services within its jurisdiction;
- promote the services of social welfare for pre-school institutions, for the basic welfare of children and the family, and for socially threatened, disabled and elderly people;
- provide for protection of the air, soil and water sources, for protection against noise and for collection and disposal of waste, and perform other activities related to protection of the environment;
- maintain water supply and power supply facilities;
- create conditions for adult education, important for the development of the municipality and for the quality of life of its population;
- promote activities related to upbringing and education, information and documentation, associations and other activities on its territory;
- promote cultural/artistic creativity, ensure accessibility to cultural programs, ensure library activity for general education purposes, and shall be responsible for preserving cultural heritage in its territory in accordance with the law;
- promote the development of sports and recreation;
- construct, maintain and regulate local public roads, public ways, recreational and other public areas; regulate traffic in the municipality and perform tasks of municipal public order;
- exercise supervision of local events;
- organize municipal services and local police, and ensure order in the municipality;
- provide for fire safety and organize rescue services;
- organise the performance of cemetery services;
- determine offences and fines for offences violating municipal regulations and inspect and supervise the implementation of municipal regulations and other acts, which it shall adopt to regulate matters falling under its jurisdiction, unless otherwise determined by law;
- organise primary health care;
- organise municipal administration.

Figure 3.2. Division of Competencies by State and Municipal Level in Slovenia

Function	Competent authority			Type of competence				Exercise of the competence				National standards (for mandatory powers)					Remarks *
	State	Intermediate ***	Municipality	Exclusive	Shared	Compulsory	Discretionary	Direct	Indirect	In own right	For another authority		Managerial	Decision making	Regulatory	Minimal involvement	
Police / Public Order																	
General administration																	
Security, police	•		•		•	•		•		•			•	•			
Fire protection			•	•		•			•					•			
Civil protection	•		•		•	•		•					•	•			
Justice	•			•		•		•		•			•				
Civil status register	•			•		•		•		•							
Statistical office	•			•		•		•		•							
Electoral register	•			•		•		•		•							
Social																	
Education**																	
Pre-school education			•	•		•			•	•		•	•	•			
Primary education	•		•		•	•			•	•		•	•	•			
Secondary education	•			•		•		•		•		•	•	•			

Function	Competent authority			Type of competence				Exercise of the competence				National standards (for mandatory powers)					Remarks *
	State	Intermediate ***	Municipality	Exclusive	Shared	Compulsory	Discretionary	Direct	Indirect	In own right	For another authority		Managerial	Decision making	Regulatory	Minimal involvement	
Vocational and technical	•			•		•		•		•		•	•	•			
Higher education	•			•		•		•		•		•	•	•			
Adult education	•		•		•		•		•	•				•	•		
Other																	
Public Health																	
Hospitals	•			•		•			•	•		•	•	•			
Health protection	•		•		•	•			•	•		•	•	•			
Social Welfare																	
Kindergarten and nursery			•	•		•			•	•		•	•				
Family welfare services	•		•		•	•		•	•	•		•	•	•			
Welfare homes	•		•		•	•	•	•	•	•		•		•			
Social security	•			•		•		•		•		•	•	•			
Other																	
Culture, leisure																	

Function	Competent authority			Type of competence				Exercise of the competence				National standards (for municipalities)	Managerial	Decision making	Regulatory	Minimal involvement	Remarks *
	State	Intermediate ***	Municipality	Exclusive	Shared	Compulsory	Discretionary	Direct	Indirect	In own right	For another authority						
Sports																	
Theatres & concerts	•		•	•			•		•	•			•	•			
Museums & libraries	•		•		•	•			•	•		•	•	•			
Parks & open spaces			•	•			•		•	•			•	•	•		
Sports & leisure	•		•		•		•		•	•					•		
Religious facilities																	
Other cultural facilities	•		•	•			•		•	•					•		
Economic																	
Economic Services																	
Gas			•	•			•		•	•					•		
District heating			•	•			•		•	•					•		
Water supply			•	•		•			•	•		•	•	•	•		
Agriculture, forests, fishing	•			•		•		•		•					•		
Electricity	•			•		•			•	•		•	•	•	•		
Economic promotion	•			•			•	•	•				•	•	•		

Function	Competent authority			Type of competence				Exercise of the competence				National standards (for municipalities)	Managerial	Decision making	Regulatory	Minimal involvement	Remarks *
	State	Intermediate ***	Municipality	Exclusive	Shared	Compulsory	Discretionary	Direct	Indirect	In own right	For another authority						
Trade & industry	•			•			•	•		•			•	•	•		
Tourism	•		•		•		•		•	•			•	•	•		
Other economic services																	
Traffic, transport**																	
Roads	•		•	•	•	•		•	•	•		•	•	•	•		
Transport	•			•		•		•		•		•	•	•	•		
Urban road transport			•	•			•		•	•			•	•	•		
Urban rail transport																	
Ports	•			•		•			•	•			•	•	•		
Airports	•			•		•			•	•			•	•	•		
Other traffic & transport																	
Town planning / environment																	
Housing and town planning																	

Function	Competent authority			Type of competence				Exercise of the competence				National standards (for municipalities)					Remarks *
	State	Intermediate ***	Municipality	Exclusive	Shared	Compulsory	Discretionary	Direct	Indirect	In own right	For another authority		Managerial	Decision making	Regulatory	Minimal involvement	
Housing	•		•		•	•	•	•	•	•		•	•	•			
Town planning			•	•		•		•		•		•	•	•			
Regional/spatial planning	•		•	•	•	•		•		•		•	•	•			
Environment, public sanitation																	
Water & sewage			•	•		•		•	•	•		•	•	•			
Refuse collection & disposal			•	•		•		•	•	•		•	•	•			
Cemeteries & crematoria			•	•		•		•	•	•		•	•	•			
Slaughterhouses																(1)	
Environmental protection	•		•	•	•	•		•	•	•		•	•	•			
Consumer protection	•			•		•		•	•	•			•	•			
Other functions																	

Source: Structure and Operation of Local and Regional Democracy, Council of Europe.

4. Stakeholder engagement and access to regulations

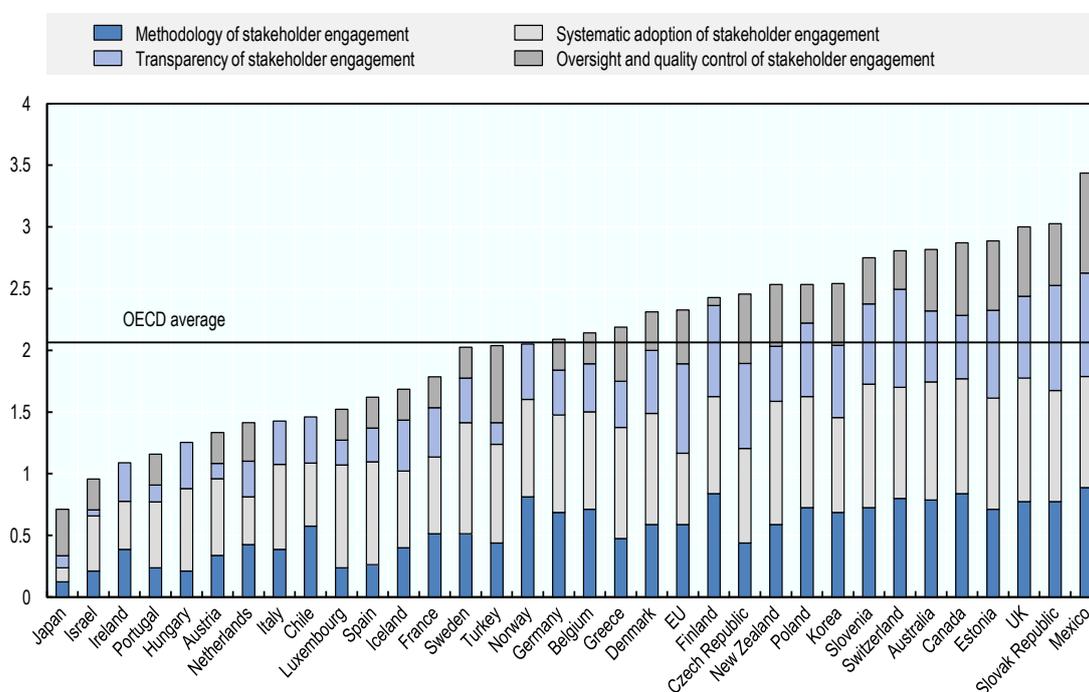
Transparency is one of the central pillars of effective regulation, supporting accountability, sustaining confidence in the legal environment, making regulations more secure and accessible, less influenced by special interests, and therefore more open to competition, trade and investment. It involves a range of actions including standardised procedures for making and changing regulations, consultation with stakeholders, effective communication and publication of regulations and plain language drafting, codification, controls on administrative discretion, and effective appeals processes. It can involve a mix of formal and informal processes. Techniques such as common commencement dates can make it easier for business to digest regulatory requirements. The contribution of e-government to improve transparency, consultation and communication is of growing importance.

4.1. Stakeholder engagement and public consultations

139. There is no government-wide, general policy on stakeholder engagement in drafting, implementing and reviewing regulations. There are, however, a number of legal and policy documents setting the formal obligation to engage with stakeholders, especially in the process of developing new regulations. Having in place these formal requirements is behind that fact that Slovenia scored relatively high in the 2014 OECD Indicators of Regulatory Quality (**Error! Reference source not found., Error! Reference source not found.**).

Figure 4.1. Stakeholder engagement in developing primary laws

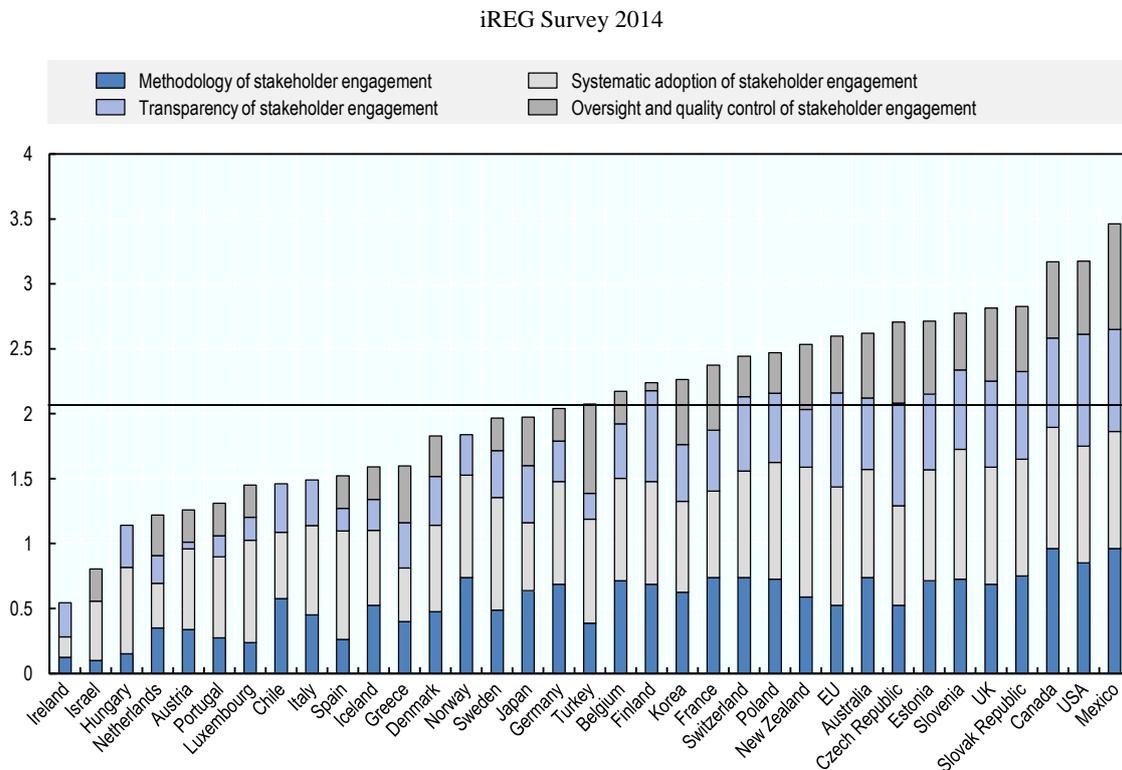
iREG Survey 2014



Note: The results apply exclusively to processes for developing primary laws initiated by the executive. The vertical axis represents the total aggregate score across the four separate categories of the composite indicators. The maximum score for each category is one, and the maximum aggregate score for the composite indicator is four. This figure excludes the United States where all primary laws are initiated by Congress. In the majority of countries, most primary laws are initiated by the executive, except for Mexico and Korea, where a higher share of primary laws are initiated by parliament/congress (respectively 90.6% and 84%). See the Annex A for a description of the methodology of the iREG indicators.

Source: 2014 Regulatory Indicators Survey results, www.oecd.org/gov/regulatory-policy/measuring-regulatory-performance.htm.

Figure 4.2. Stakeholder engagement in developing subordinate regulations

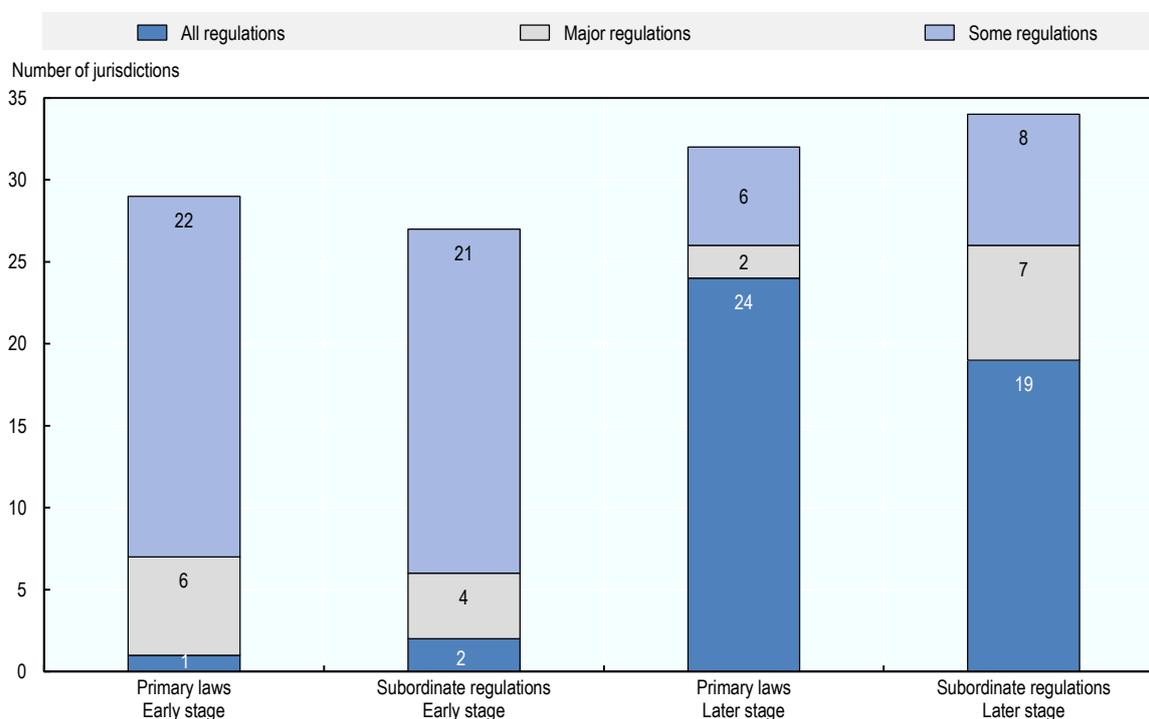


Note: The vertical axis represents the total aggregate score across the four separate categories of the composite indicators. The maximum score for each category is one, and the maximum aggregate score for the composite indicator is four.

Source: 2014 Regulatory Indicators Survey results, www.oecd.org/gov/regulatory-policy/measuring-regulatory-performance.htm.

140. Formally, consultations with outside stakeholders are compulsory for all primary and subordinate regulations. Some ministries organise consultations early in the legislation-making process with the use of green papers, consultation documents, public hearings, etc. However, most of the consultations take place late in the process, when a regulatory draft is almost ready and there might be limited willingness on the side of the administration to substantively change it. As **Error! Reference source not found.** shows, this is still the case in many OECD countries.

Figure 4.3. Early stage and later stage consultations on regulatory drafts



Source: OECD Indicators of Regulatory Policy and Governance (*iREG*), www.oecd.org/gov/regulatory-policy/indicators-regulatory-policy-and-governance.htm.

141. The *Resolution on Legislative Regulation*, adopted by the National Assembly on 19 November 2009, represents a commitment to involve general public in developing policies and drafting new regulations, however, it is not binding for the government. The Resolution sets the following principles for stakeholder engagement in the legislation-making process:

- *Timeliness*: the public (including experts, interested parties and general public) should be informed of newly prepared policies and regulations sufficiently in advance, ensuring reasonable time for their involvement in the process (including review of the draft and supporting materials and preparation of comments, opinions and proposals for change);
- *Openness*: public administration must enable the submission of comments, suggestions and opinions at the earliest possible stage in the regulation-making process;
- *Accessibility*: supporting materials and expert analyses used in the preparation of the regulatory draft should be made available to the consulted subjects;
- *Responsiveness*: consultees must be informed about the reasons for the acceptance or rejection of their comments, suggestions and opinions;
- *Transparency*: not just the regulatory draft and the accompanying documents, but also the decision-making process (its length, ways of involvement of stakeholders) should be presented in a transparent manner. All comments, suggestions and opinions provided should be also made available;

- *Traceability*: possibility of tracing received proposals, comments and opinions back to their sources, transparency of documents which result from the engagement process itself (i.e. minutes from meetings and public hearings).

142. Besides these general principles, the Resolution also sets minimum standards for stakeholder engagement processes:

- Public consultations when drafting new regulations should last between 30 and 60 days (with some exceptions - urgent matters, regulations on the state budget, declarations, proposals of acts on the ratification of international treaties);
- Explanatory documents should be drafted that summarise the draft, its key objectives and main issues to be solved and the background expert analysis;
- A report summarising public consultations, including impacts on the draft, should be published at the end of the process;
- Public consultations should be carried out in a way that ensures the response of all interested subjects and relevant experts, as well as the general public.

143. *The Rules of Procedure of the Government of the Republic of Slovenia* were amended in 2010, with a special focus on the process of impact assessment and stakeholder engagement. The technical aspects of these provisions were included in the Instruction No. 10 for Implementing the Provisions of the Rules of Procedure of the Government of the Republic of Slovenia. The Instruction specifically defines the content of a government material and the process of its preparation.

144. According to the Instruction, when drafting regulations, the drafting institution shall invite experts and general public to participate in public consultations organised through the dedicated government portal eDemocracy (see below). The deadline for submitting comments should be set to between 30 and 60 days from the publication of the draft. Besides public consultations, the drafting institution might individually address specific organisations, individual experts or stakeholders with a request to submit comments on the whole draft or specific issues. The drafting institution should inform those submitting comments in writing in case their significant comments were not taken into consideration including justification of why this was the case. The Instructions also sets exceptions from the process of public consultations (national budget, measures adopted under the emergency procedure, acts ratifying international treaties, etc.)

145. When a regulatory draft is published on the government website, the dossier should include the draft itself; all accompanying analyses including RIA, key issues and objectives; and the deadline for submitting comments including contacts. In case there will be a public hearing organised, the information on the date and a place should also be part of the dossier. The fact that stakeholders have a possibility to comment not just on the draft but also on other accompanying documents such as RIA is a good practice among OECD countries (see the example of Mexico in **Error! Reference source not found.**).

Box 4.1. Consultation as part of the RIA process in Mexico

Regulatory Impact Assessment (RIA) is conducted systematically in Mexico for all regulations issued by the Executive Branch of Government that impose compliance costs on the private sector and citizens. After ministries and regulatory agencies have prepared a regulatory proposal and an accompanying RIA, the RIA is formally submitted to the Federal Commission for Regulatory Improvement (COFEMER) in electronic format for scrutiny, and automatically published in COFEMER's online system for publishing and consulting on RIAs (SIMIR).

Stakeholders can provide comments on the draft proposal and the RIA. The general public can comment through the COFEMER consultation portal or send comments via e-mail, fax, or letters. Consultations are required to be open for at least 30 working days before the intended date of their issuance. In practice, much longer consultation periods are the norm. Besides the public online consultation process, COFEMER also uses other means to consult with stakeholders. These include advisory groups, media and social networks (tweets) to diffuse the regulatory proposals and promote participation.

Stakeholder comments are published on the COFEMER website and required to be taken into account by COFEMER and the agency sponsoring the regulation. COFEMER is obliged to take into account all comments received during the consultation process for its official opinion on the RIA. The sponsoring agency must provide a reply to each comment received during the consultation respond to the official opinion of COFEMER. Once a satisfactory response has been received, the COFEMER certifies the RIA as final and the regulatory process proceeds. In practice, regulators' responses to the COFEMER's comments on the draft RIA frequently fail to address adequately all of the concerns raised in relation to the analysis. In such circumstances, the revised draft may be deemed by the COFEMER to constitute another draft RIA rather than a final document and a second round of consultation is conducted.

Documentation on the consultation processes are publicly available. Each regulatory proposal has its file on the SIMIR system, which includes a summary of all documents received and issued (e.g. comments, opinions). Hence, the file shows the "life story" of a regulatory proposal, including how the regulatory draft was modified during the regulatory review process and how comments influenced the draft during public consultation. In addition, COFEMER's annual reports summarise information on the consultation processes, including information on the number of comments received grouped by government agency, and whether the comments were submitted by the private sector, government agencies or the general public.

Source: OECD Pilot database on stakeholder engagement practices in regulatory policy. www.oecd.org/gov/regulatory-policy/pilot-database-on-stakeholder-engagement-practices.htm.

146. The Instruction also sets an important exception from public consultations based on a request from the drafting institution. A minister or director of a government office may submit a request to the Secretary General of the Government that a regulatory draft

is submitted to the Government without going through the consultation process in cases where there is an “urgent need” to adopt such a proposal. The reasons for such a request have to be provided. The term “urgent need” is, however, defined rather vaguely. Therefore, according to the analysis done by the Ministry of Public Administration, a large proportion of regulatory drafts actually use this 'shortcut'.

147. To complement the regulatory framework for stakeholder engagement described above and as a result of the “Strengthening the capacity to implement the impact assessment of regulations and integrate the public in the preparation and implementation of public policies” project (**Error! Reference source not found.**), the Ministry of Public Administration prepared two additional guidance documents – the *Manual for planning and implementation of consultative processes* and *Guidelines for stakeholder involvement in the preparation of regulations*.

Box 4.2. Strengthening the capacity to implement the impact assessment of regulations and integrate the public in the preparation and implementation of public policies

With the aim of improving quality and efficiency of public participation in drafting regulations, the Ministry of Public Administration of the Republic of Slovenia carried out the project called “Strengthening the capacity to implement the impact assessment of regulations and integrate the public in the preparation and implementation of public policies”. The project was carried out in co-operation with a number of different stakeholder groups, including CNVOS (Centre for information service, co-operation and development of NGOs), Chamber of Commerce and Industry of Slovenia, Chamber of Craft of Slovenia, trade unions.

In the context of the implementation of the project trainings of public officials on the planning and implementation of consultative processes were carried out in the period between February and May 2015. The result of trainings is more than 130 basic-skilled public servants and 18 trainers who are responsible for the training of public servants in ministries where they are employed.

In the context of the project, new Manual for planning and implementation of consultative processes and Guidelines for stakeholder involvement in the preparation of regulations were prepared.

Source: Information provided by the Government of Slovenia.

148. The Manual focuses on the organisation of the process of public consultations, including careful planning of public consultation processes, setting their objectives, mapping and identification of potential stakeholders, selection of consultation methods and tools, collection of input and their analysis and processing, drafting on reports and, rather importantly, evaluation of consultation activities. The Manual includes helpful good practice examples from the Slovenian practice.

149. The Guidelines provide instructions on individual steps of the consultation process. The Guidelines, among other issues, instruct those drafting regulations to consult with general public electronically before a legislative text is actually drafted as well as at

the end of the process. Experts and interested parties should be, according to the Guidelines, consulted throughout the whole regulation-making process, not just at its end.

150. It is not entirely clear, why there are two separate guidance documents, on top of several legal documents covering public consultations. While providing guidance and technical assistance to those involved in the consultation processes is certainly useful, having a plethora of binding and non-binding documents might be actually confusing and counter-productive.

151. Open public consultations usually take place through the Government's eDemocracy⁴ portal. All regulatory drafts prepared at the level of the executive are published through the portal. Potential consultees can present their comments and views on the draft through the portal. The list of regulations is searchable by the title of the draft, responsible institution, area of regulation, etc. Most of the drafts that are published through the eDemocracy portal are in the final stage of preparation, however, the portal enables to publish drafts at any stage of the regulation-drafting process. The portal allows the public to follow the regulation making process through 'statuses' that are refreshed automatically as a regulation draft makes its way through different stages of the process. It also offers users the chance to subscribe to any news regarding regulation from areas that might interest them. The users then regularly receive e-mails with information regarding what regulation and which area are to be a subject of change and additional information on changes when they occur. Regarding its functionality, the portal is in line with the OECD best practice.

152. The project has a strong support of the CNVOS (Centre for information service, co-operation and development of NGOs) which has a strong advocating and supervisory role in the field of stakeholder engagement.⁵

153. The data provided by the Slovenian government show that the number of regulatory drafts that are published on the eDemocracy portal has been growing with a dip in 2013 (**Error! Reference source not found.**). Most of the drafts are now consulted through the portal, however, the 30 days minimum time for publication is not respected in almost half of the cases (**Error! Reference source not found.**).

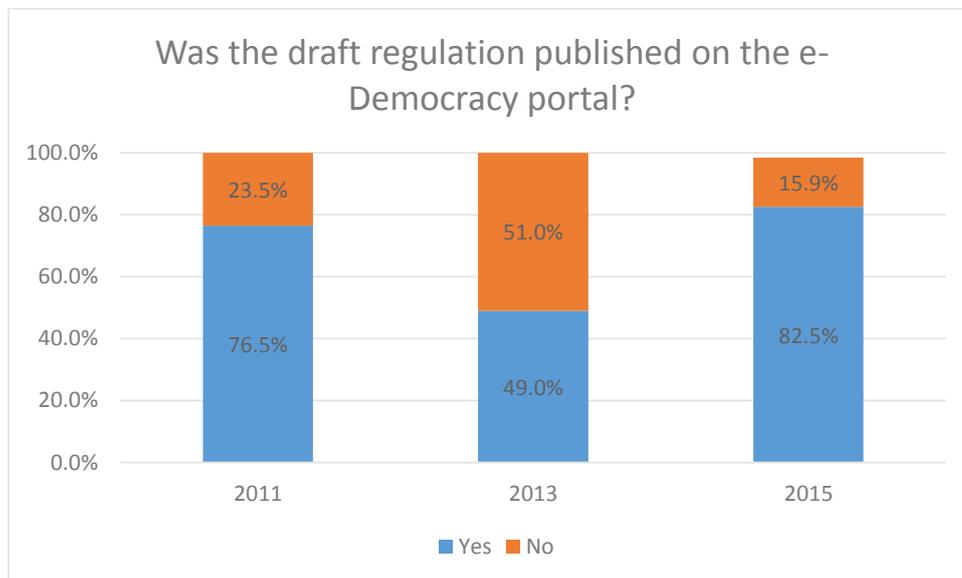
4. <http://e-uprava.gov.si/drzava-in-druzba/e-demokracija/predlogi-predpisov.html>.

5. CNVOS is national NGO umbrella network providing support through information service, consultancy, education, research, policy making, advocacy, networking and promotion. CNVOS regularly monitors proposed changes of legal acts and provides comments and proposals from NGO sector's point of view. Since 2009, CNVOS advocacy experts have been monitoring the openness of the governmental institutions toward the public and NGOs in policy making within the framework of the project 'The Mirror to the Government'. With special Counter of breaches (www.stevce-krsitev.si/ in Slovene) they count in how many cases and how severely different state bodies breached consultation deadlines that are set in the Government's rules of procedure (source: www.cnvos.si/article?path=/english/about_cnvos/cnvos_in_a_nutshell).

Counter of breaches shows the total number of draft regulations by individual ministries, the total number of proposals where the Resolution was violated; number of proposals put to public debate without deadline for comments; number of proposals put to public debate with a deadline for comments shorter than 30 days; number of proposals not put to public debate and total percentage of violations. The statistics is updated on a weekly basis (every Monday).

Based on the Counter of breaches the Resolution was not complied with in 59% (1 452 regulations) in this mandate (from 18 September 2014 until today).

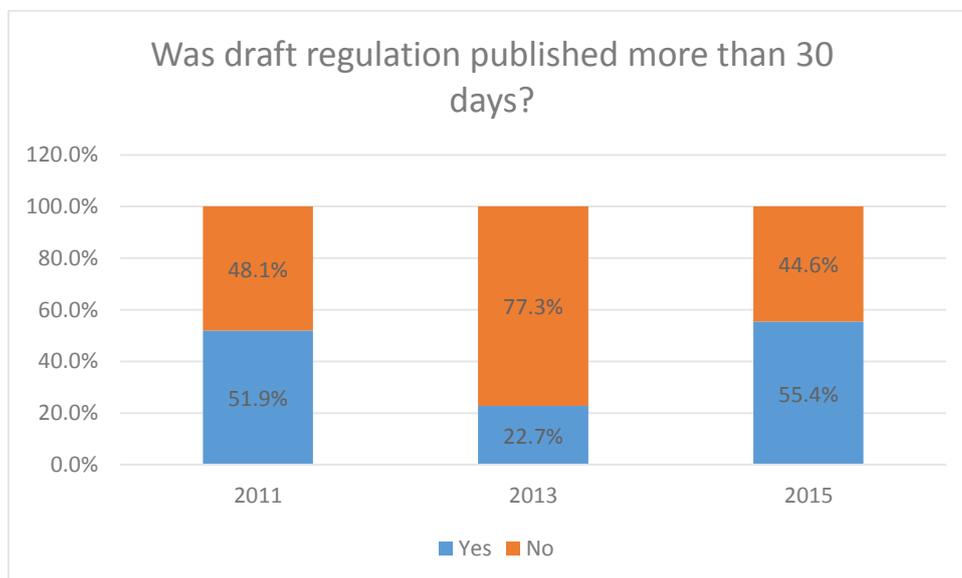
Figure 4.4. Number of regulations published on the e-Democracy portal



Source: Analysis of the Ministry of Public Administration

Note: In 2013, because of the economic crisis, Slovenia experienced a short period of political instability and government change. This led to an increase of regulations adopted through the fast-track procedure, where public consultation is not necessary.

Figure 4.5. Number of days regulatory drafts are published through the eDemocracy portal



Source: Analysis of the Ministry of Public Administration

154. When the draft is submitted to the government, the drafting institution has to, according to the Instruction No. 10, summarise the consultation process in the letter accompanying the submission to the government. It has to state whether the draft has been published on the eDemocracy portal (and if not, provide reasons why), and to list all

stakeholders that provided comments and their suggestions. In case of 'substantial'⁶ comments, the letter must provide reasons for disregarding these comments.

155. The drafting institution should also publish a summary of the process of public consultations, including the ways how the proposal was communicated to stakeholders (portals, public hearings), and a list of 'substantial' comments received. The summary is part of the dossier published on the government portal as well as on the website of the National Assembly.

156. Using the SME Test (an electronic tool to evaluate impacts of regulatory drafts) by individual stakeholders represents an interesting innovation in the area of stakeholder engagement. When a draft is published on the eDemocracy portal (including its impact assessment), those commenting on the draft might use the SME Test to evaluate impacts of the alternatives proposed by themselves. The analysis might then be used as a supporting argument for their suggestion.⁷

157. In addition to the above mentioned documents, the Access to Public Information Act also stipulates that public authorities must inform the public about their work to the greatest extent possible, including publication of regulatory drafts. The Act also sets the obligation to publish information on external experts that were involved in the preparation of any regulation that had entered into force. The Article 7 of the implementing regulation, the Decree on communication and re-use of public sector information, stipulates that official bodies must publish draft regulations, programmes, strategies and other documents on the internet for purposes of public announcement and consultation with the public and key stakeholders, and that regarding the method and deadlines, the provisions of the resolution governing regulatory activities and the Government Rules of Procedure should be applied *mutatis mutandis*.

158. The Access to Public Information Act also regulates the co-operation of representative trade unions in the procedure of adopting legal acts on the national level. The Government or competent minister must enable representative trade unions of the branch or professions in state bodies and local community administrations to give their opinion prior to the adoption of any regulation that affects the working conditions or status of civil servants in state bodies and local community administrations.

159. The Access to Public Information Act also regulates social partnership on the level of individual bodies. Prior to the adoption of a general act that affects the rights or duties of civil servants, the head of the body must also enable the representative union working in the body to offer an opinion. The Government or competent minister must send the draft regulation or act to the representative unions and set a reasonable deadline for them to formulate an opinion. The length of the deadline depends on the complexity and scope of the regulation being considered. If a union gives its opinion or remarks, they must be considered, or the union must be invited to participate in harmonisation. If regarding certain issues no harmonisation is achieved, a written explanation must be given as to why the union's opinion was not taken into account and the explanation must be sent to the unions.

6. Those that are not considered as unrelated, undefined or derogatory

7. The SME Test should be available as of October 2017

4.2. Institutional set up for overseeing the quality of stakeholder engagement

160. There is no specific body with a gatekeeping function overseeing the quality of stakeholder engagement processes. Formally, compliance with the *Rules of Procedure of the Government* is checked by the General Secretariat of the Government, however, it does not have enough powers nor capacities to control the actual quality and completeness of the engagement processes (see Chapter 3 for more information).

4.3. Stakeholder engagement in reviewing regulations

161. There is no binding policy on how to involve stakeholders in the process of reviewing regulations. It is left to the discretion of the ministries and government agencies whether they consult the regulated subjects and discuss potential issues with the quality of the regulatory framework. Some ministries have regular contact with stakeholders, especially businesses operating in the sectors regulated by those ministries (i.e. the Ministry of Economic Development and Technology, Finance or Agriculture). It is not, however, a general rule.

162. To open a channel for citizens, businesses and other stakeholders to communicate with the government and its institutions and to identify potential issues with the regulatory framework, the government created a website in 2009 called "predlagam.vladi.si" (mysuggestion.gov.si). The portal is run by the Government Communication Office (UKOM), a service that mediates information between the government, its representatives, public agencies, and different members of the public. The portal working with software originally developed for the Estonian government had, in its first five years, almost 13,000 registered users which contributed with 5,000 suggestions (on average 3 per day). The individual proposals might be commented on and can also receive positive and/or negative votes. 1,675 suggestions (33 percent) received the required level of support and were submitted for government response.. Policy makers are required to contribute to the discussion on the portal as well. So far, around two dozens of suggestions have been implemented which is a relatively low number compared to the number of suggestions. There is no formal mechanism on how to make sure that those suggestions receiving positive votes will be dealt with.

163. Another electronic tool that might be used by stakeholders to contribute to improving regulatory framework is the portal Stop Birokraciji (Stop the Bureaucracy). Through his portal, stakeholders may submit their proposals for reducing administrative burdens and simplifying administrative procedures. When a proposal is published on the portal, it is assigned to a responsible ministry that has to provide feedback which is then published on the portal. All comments are published and available on the portal by publishing the status of an individual proposal, whereby sorting according to individual fields or competent ministries considering the individual regulation to which a proposal/comment refers is also available. Currently the database includes 470 initiatives, 387 are already closed and accepted. Measures that the competent ministry considers to be appropriate for implementation and are included in its programme of work are also included in the Single Collection. Proposers can monitor the progress and the state of implementation of the proposed measure through the website.

4.4. Access to regulations

164. All regulations (including primary laws and secondary regulations) are published through the *Legal Information System of the Republic of Slovenia*⁸ administered by the Government Office for Legislation. The portal provides free access to the rules and other general acts in force and applicable to the territory of the Republic of Slovenia, along with links to the regulations of the European Union and the case law of the Republic of Slovenia, and other relevant information in connection the law of the Republic of Slovenia. All regulations are also published on the websites of the line ministries.

4.5. Assessment and recommendations

165. The Slovenian legal and policy framework creates conditions for efficient stakeholder engagement in regulatory policy, especially with regard to developing new regulations and their amendments. However, there is a substantial need to strengthen the enforcement of this framework, which is not often adhered to, to the extent that would enable successful engagement of stakeholders in the process of developing, implementing and reviewing regulations. This is similar to the situation concerning other regulatory management tools, such as the regulatory impact assessment.

166. Although some of the ministries engage with stakeholders early in the regulation-making process, this is still not systematic and mostly left to their discretion.

167. There is no systematic policy on engaging stakeholders in the process of reviewing existing regulations. While some ministries are in regular contact with regulated subjects, it is not a general rule. The portal "predlagam.vladi.si" could serve as a useful tool in this regards. However, as the experience of the UK shows (see **Error! Reference source not found.**), in case of such initiatives, formal mechanisms have to be established to make sure that proposals received through such portals are seriously considered by responsible ministries and, if possible, implemented.

8. www.pisrs.si/.

Box 4.3. UK Red Tape Challenge

The Red Tape Challenge was run by the UK government between 2011 and 2014 and aimed to reduce “cost to business” by removing regulatory burdens unless they could be justified. Specifically, the objective was to scrap or improve at least 3,000 regulations and save £850m per year for business. The Red Tape Challenge was designed to crowdsource the views from businesses, organisations and the public on which regulations should be improved, kept or scrapped. It invited the general public to comment via the internet on the usefulness of regulations within a set time limit. People could comment both publically through comments on the website or through a non-public e-mail inbox.

The initial scope included 21,000 statutory rules and regulations and the enforcement of regulations. Regulations in relation to tax or national security were excluded. The consultations during the Red Tape Challenge finally covered 5,662 regulations. These were clustered in 28 Themes and over 100 Sub-Themes. 6 Themes covered general regulations (e.g., Equalities, Environment) and were open throughout the entire time. 20 Themes covered a specific sector or industry and were open for consultation over several weeks each (“Theme Spotlight”). 2 additional Themes covered “Disruptive Business Models/Challenger Businesses” and “Enforcement” and were open for consultation during dedicated periods.

Over 30 000 comments from the public were received during the Red Tape Challenge, which were scrutinised by government and external actors. The responsible departments had 5-6 weeks to deliver proposals and arguments on whether to scrap, modify, improve or keep regulations. These proposals were challenged internally by so-called “Tiger Teams” made up of departmental staff who would review their own policies independently of the Red Tape Challenge, and externally by “Sector Champions” representing businesses, industries and stakeholder groups, as well as business panels. The proposals were then reviewed in the “Star Chamber”, which was chaired by the Cabinet Office and Business, Innovation and Skills ministers and involved key government advisors. The Star Chamber then issued a recommendation to which departments could respond. Finally, the Cabinet sub-committee decided on actual changes, supported by other Cabinet sub-committees where necessary.

The Red Tape Challenge has resulted in a range of regulatory changes. 3 095 regulations were to be scrapped or improved. 1 376 of the changes made had a material benefit (where “the reform has an impact for business/civil society, individuals or the taxpayer and that is over and above tidying the statute book”). Scrapped or improved regulations are reported to have led to annual savings for businesses over GBP 1.2 billion.

Source: OECD Pilot database on stakeholder engagement practices in regulatory policy. www.oecd.org/gov/regulatory-policy/pilot-database-on-stakeholder-engagement-practices.htm.

168. The access to regulation is in line with the OECD best practice, all regulations in force are available electronically through the government portal with free access. Links to international regulations including the EU legislation are provided.

169. **A body close to the centre of government should be held responsible for controlling the quality of the stakeholder engagement process in developing new regulations.** This could be closely linked to the process of checking the quality of the impact assessment process. The body should make it clear whether the draft was sufficiently discussed with all interested parties (or whether they were given sufficient opportunity to comment) and whether all respective timelines for consultations were adhered to. This information should be made public and should be available to the government in the moment of discussing the proposal.

170. **The government policies on stakeholder engagement should be updated so they cover also the process of reviewing and enforcing regulations. For the moment, the policy only covers the process of developing new or amending existing regulations.** The policy should make it clear that when reviewing the existing regulatory framework, stakeholders' views should always be taken into account. (see the example of the European Commission in Box 4.4)

Box 4.4. Stakeholder engagement throughout the policy cycle at the European Commission

Following the adoption of the 2015 Better Regulation Guidelines, the European Commission has extended its range of consultation methods to enable stakeholders to express their view over the entire lifecycle of a policy. It uses a range of different tools to engage with stakeholders at different points in the policy process. Feedback and consultation input is taken into account by the Commission when further developing the legislative proposal or delegated/implementing act, and when evaluating existing regulation.

At the initial stage of policy development, the public has the possibility to provide feedback on the Commission's policy plans through roadmaps and inception impact assessments (IIA), including data and information they may possess on all aspects of the intended initiative and impact assessment. Feedback is taken into account by the Commission services when further developing the policy proposal. The feedback period for roadmaps and IIAs is four weeks.

As a second step, a consultation strategy is prepared setting out consultation objectives, targeted stakeholders and the consultation activities for each initiative. For most major policy initiatives, a 12 week public consultation is conducted through the website “Your voice in Europe” and may be accompanied by other consultation methods. The consultation activities allow stakeholders to express their views on key aspects of the proposal and main elements of the impact assessment under preparation.

Stakeholders can provide feedback to the Commission on its proposals and their accompanying final impact assessments once they are adopted by the College. Stakeholder feedback is presented to the European Parliament and Council and aims to feed into the further legislative process. The consultation period for adopted proposals is 8 weeks. Draft delegated acts and important implementing acts are also published for stakeholder feedback on the European Commission’s website for a period of 4 weeks. At the end of the consultation work, an overall synopsis report should be drawn up covering the results of the different consultation activities that took place.

Finally, the Commission also consults stakeholders as part of the *ex post* evaluation of existing EU regulation. This includes feedback on evaluation roadmaps for the review of existing initiatives, and public consultations on evaluations of individual regulations and 'fitness checks' (i.e. “comprehensive policy evaluations assessing whether the regulatory framework for a policy sector is fit for purpose”). In addition, stakeholders can provide their views on existing EU regulation at any time on the website “Lighten the load – Have your say”.

Source: OECD Pilot database on stakeholder engagement practices in regulatory policy. www.oecd.org/gov/regulatory-policy/pilot-database-on-stakeholder-engagement-practices.htm.

171. At the same time, **the Government should consider codification of the different legal and policy documents governing stakeholder engagement.** It should be made clearer which provisions are obligatory and which ones have only a guidance character.

172. **Better links should exist between bodies developing new regulations and institutions responsible for their enforcement** (regulators, inspections). These might have valuable insights on the level of compliance with regulations and potential issues with the regulatory framework that might lead to not achieving the desired regulatory outcomes.

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5. The development of new regulations in Slovenia

This chapter reviews the processes for developing new regulations in Slovenia, with special attention to forward planning and trends; administrative procedures and legal quality; ex ante impact assessment; and considering alternatives to regulation.

173. This section reviews how current processes for making legislation and subordinate regulations support the application of core principles of good regulation. It describes and evaluates systematic capacities to generate high-quality regulation, and to ensure that both processes and decisions are transparent to the public.

5.1. Legislative process in Slovenia

174. According to the Article 88 of the Constitution of the Republic of Slovenia, laws can be proposed by the government, member(s) of the parliament or by at least five thousand voters, although the bulk of laws are proposed by the government. In total, the government proposed 81.4% of laws and amendments during the 2011 to 2014 parliamentary session and was 89,5% in 2016.

175. The preparation of Government Bills usually starts after it is included in the annual work programme of the Government. The preparations are carried out in a digital information system – known as the IPP-system (IT supported drafting of legislation) – which includes all documents that are related to a Bill. The IPP system has been in operation since April 2010.

176. The procedure can be divided into three phases, namely the preparation of material within the ministry or government department, the procedure within the Government and procedure in the National Assembly.

177. Laws are adopted in accordance with the procedure laid down by the Rules of Procedure of the Government and The National Assembly of Slovenia.

178. In accordance the Rules of Procedure of the National Assembly, a draft law submitted to the National Assembly must contain the title of the law, an introduction, the text of the articles, and a statement of reasons.

179. Introducing a new regulation to the National Assembly also requires several different elements; otherwise the regulation cannot be tabled, including:

- an evaluation of the state of affairs and reasons for adopting the law,
- the goals, principles, and main solutions of the draft law,
- an estimation of the financial implications of the draft law regarding the state budget and other public finance resources,
- a statement that the resources for the implementation of the law are provided in the state budget, if the draft law anticipates the use of budgetary resources in a period for which the state budget has already been adopted,
- a presentation of similar regulations in other legal systems and of the harmonisation of the proposed regulation with the law of the European Union;
- an assessment of the consequences in individual fields, namely:
 - an assessment of the administrative consequences,
 - an environmental impact assessment, including spatial and protection aspects,
 - an assessment of the consequences for the economy,
 - an assessment of the consequences in the field of social affairs,
 - an assessment of the consequences regarding development planning documents, and
 - an assessment of the consequences in other fields,
- a presentation of the participation of the public in the preparation of the draft law,
- a statement as to which representatives of the proposer will participate in the work of the National Assembly and its working bodies.(Part 1, V, 6)

5.2. Trends in new regulation

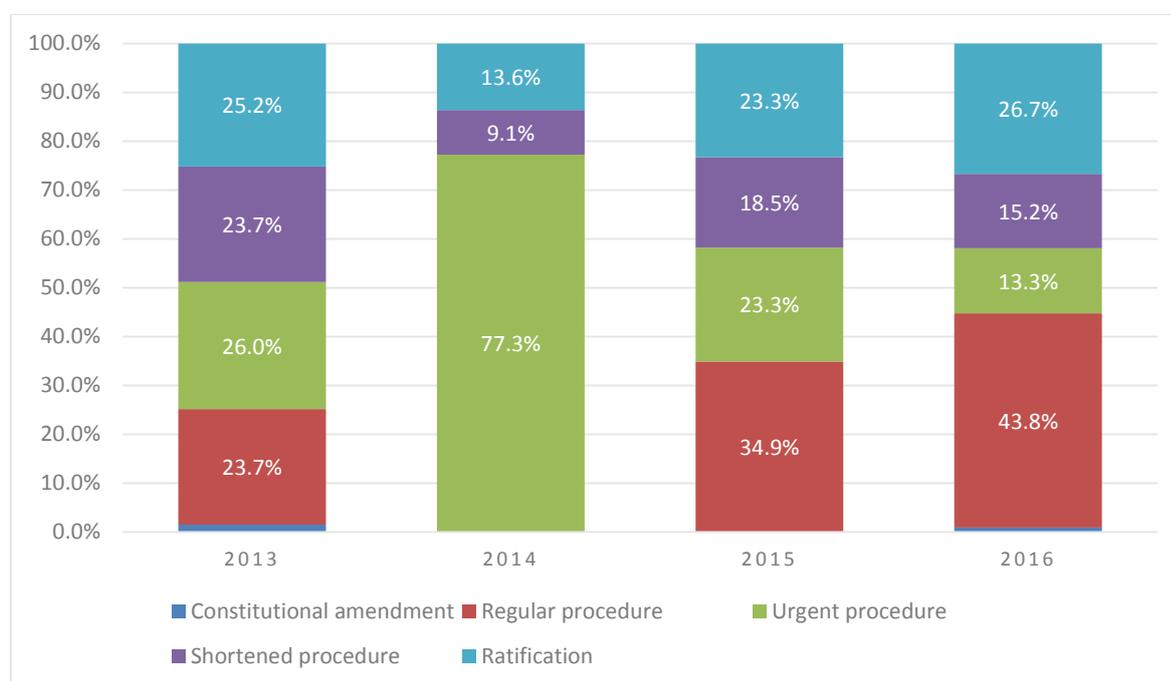
180. It is difficult to say if a country produces too many new laws and regulations. Different institutional and legal frameworks can require a country to pass more or fewer laws. Furthermore, different social and economic circumstances make it necessary for countries to legislate more or less. In Slovenia, however, businesses have pointed out that the volume of legislation every year is a significant irritant for them relative to other EU member states.

181. On average, approximately 115 new laws are adopted by the National Assembly every year. There are three common procedure types for adopting laws, not including constitutional amendments and ratifications (National Assembly).

- **Regular procedure with three readings of a law:** the first reading - held at a plenary session in the form of a general debate only on request of ten deputies - and the second and third readings; in specific cases, the second and third readings may be held at the same session
- **Shortened procedure:** to discuss minor amendments to a law, the expiration of a law or individual provisions, minor harmonisations with other laws or the EU law, or amendments relating to procedures before the Constitutional Court or a decision thereof;
- **Urgent procedure:** where so required in the interests of the security or defence of the state, or in order to eliminate the consequences of natural disasters, or to prevent consequences regarding the functioning of the state that would be difficult to remedy. Such procedure can only be proposed by the Government.

182. The urgent procedure is meant to be used in case of emergency, such as a natural disaster or serious threat to Slovenians, but the National Assembly continues to favour its use. In fact, more laws were adopted under an urgent procedure than a regular procedure during the 2011-2014 parliamentary period. The National Assembly is increasingly opting to use the urgent procedure. From 2009 to 2011, a similar number of laws were passed by the National Assembly, but the National Assembly used the regular procedure more often than either the shortened or urgent procedure, despite the economic recession that began in 2009.

Figure 5.1. New regulations and amendments passed by the National Assembly in the 2013-16 parliamentary term by procedure



Note: The year 2014 had a number of bills passed under urgent procedure due to a general election.

Source: National Assembly of Slovenia, Report on National Assembly's Work in Parliamentary Term 2011-2014.

183. According to the Ministry of Public Administration, a number of reasons are given for using a shortened procedure. The most common reasons for the use of a shortened procedure is because the regulation only proposes minor amendments to a law, which is determined by The College of the President of the National Assembly.

184. In addition to the number of new regulations, the National Assembly proposes and adopts well over one thousand amendments to proposed regulations per year. Amendments presented in the National Assembly range from minor wording changes to changes with potentially significant impacts on policy. Each proposed amendment should be presented with a reason for the amendment and the proposed impact, according to Article 129 of the Rules of Procedure of the National Assembly of Slovenia, but they are descriptive in nature and have limited analytical elements.

185. The regulation process is quite fast in Slovenia and has even been described as a "law factory" according to experts in Slovenia (Voermans). A number of authors have noted that the entire process under a normal procedure from a draft regulation to approval normally only lasts for a few months. The procedure can be as little as one week for regulations passed under an urgent procedure. In a number of interviews and during the Q&A period of the workshops in Slovenia, many experts and interviewees reported to the OECD and Voermans that they believed the high-speed with which regulation is passed in Slovenia often leads to a need for more amendments to fix errors.

186. Article 154 of the Rules of Procedure of the National Assembly may encourage the extremely rapid development of law. If parliament does not pass a bill during the parliamentary period, the bill in effect dies and must be completely restarted during the

subsequent period, contributing to the significant political pressure to act quickly on political priorities (Voermans).

5.3. Procedures for new regulation in Slovenia

5.3.1. Forward planning

187. The Government work programme lists the proposals for laws and other acts which the Government will submit to the National Assembly. It is published on the internet – on the website of the Government - based on what information ministries and other regulators enter into the Register of Legal Acts in Force (RLAF).

188. The RLAF contains data on proposed regulations that ministries are preparing, including:

- the title and the unified identification code of the regulation
- the publication of the regulation in the Official Journal of the Republic of Slovenia,
- the basis for the adoption or issue of the regulation,
- regulations adopted or issued on the basis of this regulation,
- the effect of this regulation on other regulations,
- the effect of another regulation on this regulation,
- the bodies adopting or issuing the regulation and/or implementing it,
- the date of the regulation being adopted, the date of its entry into force and the date of its application,
- data on the EU legal acts the regulation is being harmonised with and links to internet publications of the EU bodies regarding EU legal acts,
- data on the compliance of the regulation with the *acquis*,
- data on the notification of the regulation,
- data on infringement procedures,
- any other data regarding this regulation.

189. The General Secretariat draws up a proposal of the work programme on the basis of data entered in RLAF and submit it to the government for discussion prior to the beginning of the year for which it is adopted. The Government Work Programme is an extensive document containing a list of proposed laws and other acts that the Government will submit to the National Assembly. The Programme sets out the procedures and the deadlines for deliberation by the Government and for debate and adoption by the National Assembly.

190. The General Secretariat publishes instructions for the preparation of the work programme. It is also responsible for preparation of the programme and also for ensuring that the programme is adopted in good time.

191. The General Secretariat proposes amendments to the work programme quarterly and enters the adopted modifications to the work programme on the basis of RLAF.

192. The Government decides on modifications to the work programme relating to legally non-binding instruments and instruments of ratification normally at the end of the first half of the year on the basis of reasoned proposals by ministries and government agencies.

193. There is no overall priority list or plan for legislative proposals. Legislative priorities come from a variety of documents. For example, the government often defines priority areas for the year as well as achievements from the previous year. Priorities are also set through a variety of strategic documents, such as the coalition agreement and long-term and short-term sectoral strategies. In 2013 Slovenia also introduced the Single document to reduce regulatory burdens, which does set priorities on which policy areas should be improved. These measures are often proposed by economic associations, citizens and civil society. The Single document (later renamed to the Single set of measures) contains a definition of measures, commitments, and proposals for solutions to improve Slovenia's regulatory environment (see Chapter 6 for more on Slovenia's other *ex post* evaluation efforts).

Box 5.1. Threshold Tests for RIA in OECD Countries

Canada applies RIA to all subordinate regulations, but employs a Triage System to decide the extent of the analysis. The development of a Triage Statement (low, medium, high impact) early in the development of the regulatory proposal determines whether the proposal will require a full or expedited RIA. Also, when there is an immediate and serious risk to the health and safety of Canadians, their security, the environment, or the economy, the Triage Statement may be omitted and an expedited RIA process may be allowed.

Mexico operates a quantitative test to decide whether to require a RIA for draft primary and subordinate regulation. Regulators and line ministries must demonstrate zero compliance costs in order to be exempt of RIA. Otherwise, a RIA must be carried out. For ordinary RIAs comes a second test – qualitative and quantitative – what Mexico calls a “calculator for impact differentiation”, where as a result of a 10 questions checklist, the regulation can be subject to a High Impact RIA or a Moderate Impact RIA, where the latter contains less details in the analysis.

The United States operates a quantitative test to decide to apply RIA for subordinate regulation. Executive Order 12866 requires a full RIA for economically significant regulations. The threshold for “economically significant” regulations (which are a subset of all “significant” regulations) is set out in Section 3(f)(1) of Executive Order 12866: “Have an annual effect on the economy of USD 100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities”.

Source: OECD (2015a), *OECD Regulatory Policy Outlook 2015*, OECD Publishing, Paris. <http://dx.doi.org/10.1787/9789264238770-en>.

5.4. Public communication and plain language drafting

194. Stakeholders are informed on planned amendments of the primary laws through normative work program of the Government, published on the website of the Government for the next two years.⁹

9. www.vlada.si/delo_vlade/program_dela_vlade/.

195. All adopted regulations are published on the websites of the line ministries, irrespective of their nature (primary laws and subordinate regulations). Draft laws and subordinate regulations that are in the preparatory phase are published on the ministry's website and on the eDemocracy portal.

196. The primary source of all regulations in the Republic of Slovenia is the PIS RS (Legal Information System of the Republic of Slovenia), that provides access to the online version of the Government Gazette of the Republic of Slovenia, all primary and secondary legislation. (See Figure 5.2 for details.)

Figure 5.2. Example of information available in Legal Information System of the Republic of Slovenia from the Patients Right Act

basic professional analytical
Judicial practice

Patients Rights Act (PACPA)

● Patients Rights Act (Official Gazette of RS, no. [15/08](#))

Address Eng. Patient Rights Act

Date of adoption	29.01.2008		EVA	2005-2711-0080
Date of publication	11.02.2008		EPA	1503-IV
Effective Date	26.02.2008		SEA	2008-01-0455
Date of application	26.08.2008			

Note: The text of the basic regulation

THE LAW

Patients Rights (PACPA)

I. GENERAL PROVISIONS

Article 1

(The object and purpose of the Act)

basic professional analytical
Judicial practice

Patients Rights Act (PACPA)

[History of regulations](#) | [Quote](#)

● Patients Rights Act: Official Gazette of RS, no. [15/08](#)

Address Eng. Patient Rights Act

Date of adoption	29.01.2008		EVA	2005-2711-0080
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Effective Date	26.02.2008		SEA	2008-01-0455
Date of application	26.08.2008			

Regulations and other acts issued pursuant to this regulation

	Species	Publication in OJ	address
●	The Rules	63/10	Rules on maximum allowable waiting periods for individual health services and how the management of waiting lists
●	The Rules	14/10	Rules on the amount of compensation of the President and Members of the Commission of the Republic of Slovenia for the Protection of Patients' Rights and mediators
●	The Rules	23/09	Regulation laying down criteria for determining the amount of bonuses and reimbursement of the actual cost of work representative of patients' rights
●	Regulation	98/08	Regulation on transactions with users in public health
●	The Rules	91/08	Rules on waiting times for individual health services and the management of waiting lists
●	The Rules	83/08	Rules on the amount of material costs of accommodation for the care provider
●	The Rules	82/08	Rules on forms of written statements patient's will
●	The Rules	77/08	Rules on the method of determining the affiliation of the proxy statement and expressed intention to advance
●	The Rules	77/08	Rules on internal professional supervision of a provider of health services, against whom he filed another request

LIST OF ALL
SUBORDINATE/SECONDARY
LEGISLATION

Species	Publication in OJ	address
●	The Act	Law Amending the Law on Patient Rights
●	The Act	Law Amending the Law on Patient Rights (PACPA-A)
●	The Act	Law Amending the Law on the removal and transplantation of human body parts for treated (ZOPDCT-A)
●	The Act	Law Amending the Law on Patient Rights (PACPA-A)

The process of preparation and adoption of this regulation [E-Democracy](#)

The body, which suggested that provision

- Declaration of Conformity
- Correlation table

Data for this rule is not in the General Secretariat of the Government of the Republic of Slovenia.

Procedure of the National Assembly of the Republic of Slovenia

- first reading 06/11/2007 [31 December Regular 28/09/2007]
- Letter to Members on the publication of the bill in the network of the National Assembly
- Request for a general debate 26/06/2007
- Decision 09 28 2007 (parliament - the National Assembly of the Republic of Slovenia adopted)
- Other documents
 - Comments draft law on patients' rights 06.19.2007 (Friends of youth Association Slovenia Forum for the rights of the child in the hospital)
 - Comments on the draft law on patients' rights 06.27.2007 (Association of Cancer patient Slovenia)
 - Comments on the draft law on patients' rights 06.12/2007 (Association of nurses midwives and nurses Ljubljana)
 - Comments on the draft law on patients' rights 6/29/2007 (Ombudsman of the Republic of Slovenia)
 - Comments on the draft law on Patient Rights 07/12/2007 (Municipality of Maribor Ombudsman for Patients' Rights)
 - Opinion of the Commission for social activities to the draft law on patients' rights 07.19.2007 (DS - National Council of Slovenia)
- SECOND READING - MDT 09/28/2007
 - notification of award
 - 10/25/2007 Opinion (2 - legislative and legal service)
 - Opinion of 11.08.2007 (06 - the Commission for Petitions, human rights and equal Opportunity)
 - Report 11 / 09/2007 (20 - Committee on health)
 - Correction of report 12/10/2007 (20 - Committee on health)
 - tabled amendments
 - Amendment (K 1 Article) 10/30/2007 (SDS - Group of the Slovenian Democratic Party; NSI - New Slovenia Group; SLS - Group of the Slovenian People's Party)
 - Withdrawal of the amendment to Article 1 of 11/29/2007 (SDS - group of the Slovenian Democratic Party; NSI - New Slovenia group ORD - group of the Slovenian People's party)
 - Amendment (K 1 Article) 11/29/2007 (SDS - group of the Slovenian Democratic Party; NSI - New Slovenia group, ORD - group of the Slovenian People's party DeSUS - group of the Democratic party of pensioners of Slovenia)
 - Amendment (article 2) 10/30/2007 (SDS - group of the Slovenian Democratic Party; NSI - New Slovenia group, SLS - group slovenian People's party)
 - Withdrawal of amendment to Article 2 of 11/29 2007 (SDS - Group of the Slovenian Democratic Party; NSI - New Slovenia Group ORD - Group of the Slovenian People's Party)
 - Amendment (article 2) 23/11/2007 (SDS - group of the Slovenian Democratic Party; NSI - New Slovenia group, SLS - group of the Slovenian People's party DeSUS - group of the Democratic party of pensioners of Slovenia)
 - Amendment to the amendment (article 2) 5/12/2007 (20 - Committee health adopted)
 - amendment (Article 4) 23/11/2007 (SDS - group of the Slovenian Democratic Party; NSI - New Slovenia group, SLS - group of the Slovenian People's party DeSUS - group of the Democratic party of pensioners of Slovenia)
 - Amendment to the amendment (Article 4) 12.05.2007 (20 - Board of Health adopted)

Links to all documents produced in regulatory procedure

197. In accordance with the Official Journal of the Republic of Slovenia Act,¹⁰ the Official Gazette of the Republic of Slovenia is the official bulletin, where all governmental regulations and other acts are published.

198. With the intention of formulating high quality regulations, the Government Office for Legislation in 2004 issued Nomotehnične smernice, Podlage za izdelavo pravnih predpisov (Legal drafting guidelines, The basis for the creation of legal regulations).¹¹ In the 11 chapters of this publication there are guidelines on the internal structure and constituent elements of a regulation, on linguistic expression, on the definition of obligations and exceptions, on legal terminology, referencing within regulations, consolidated texts, including recommendations for “plain language” drafting.

5.5. Administrative procedures

199. When regulations are drafted within the line ministries, the process is carried out in accordance with the *Rules of Procedure of the Government of the Republic of Slovenia*, first adopted in 2001, and the *Resolution on Legislative Regulation*, adopted in 2009.

200. The *Rules of Procedure of the Government of the Republic of Slovenia* govern the requirements for new legislative proposals, including requirements for impact analysis, inter-ministerial co-ordination and public consultation.

201. The *Rules on Legislative Regulation* set out the core principles and objectives of Slovenia's regulatory policy when preparing and adopting rules. The directives of the non-binding *Resolution on Legislative Regulation* were implemented with the adoption of the *Amendments to the Rules of Procedure of the Government of the Republic of Slovenia*

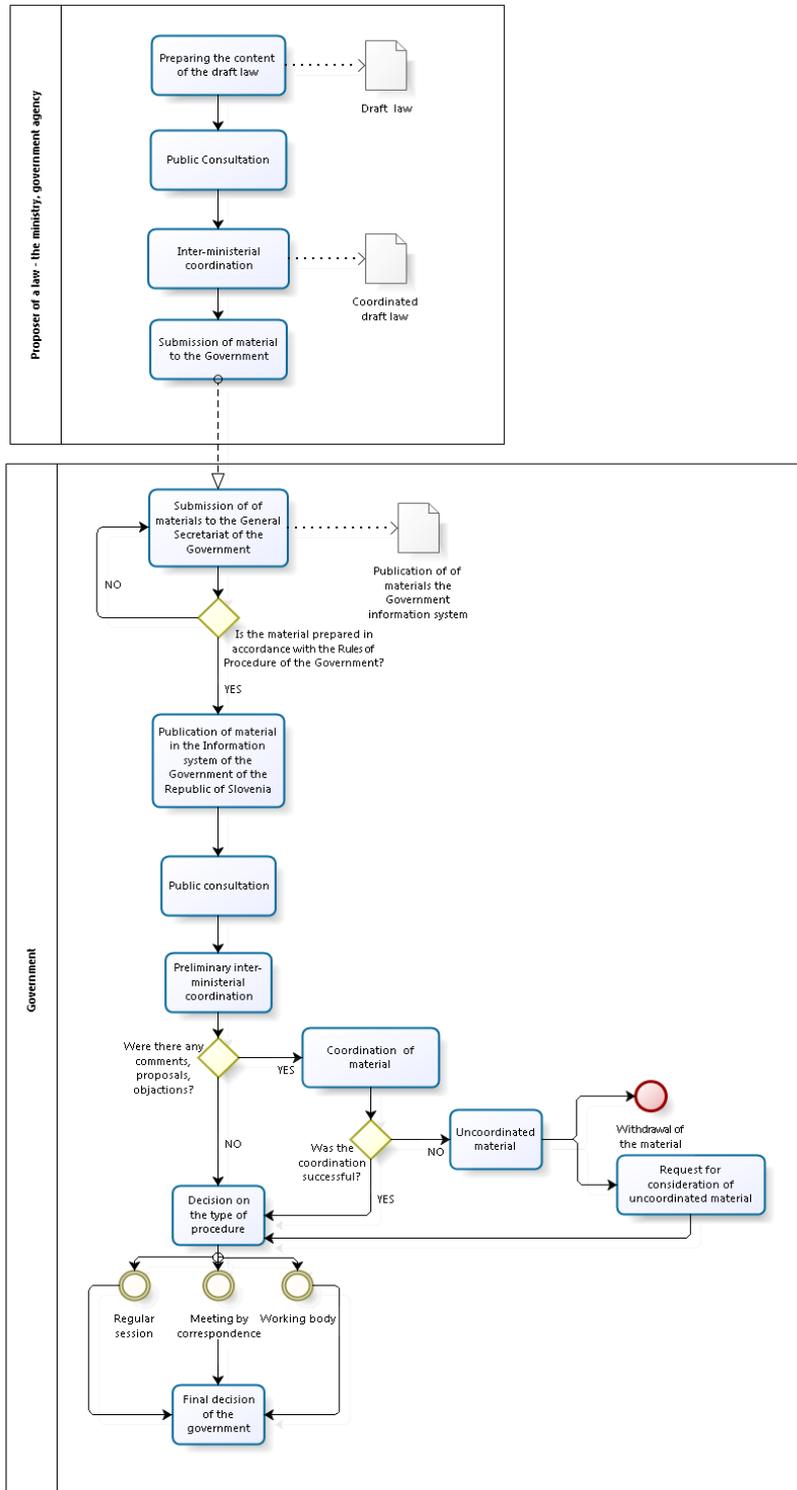
10. www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO470.

11. www.svz.gov.si/fileadmin/svz.gov.si/pageuploads/Dokumenti/Nomotehnicne_smer.pdf

and *Instruction No. 10 for Implementing the Provisions of the Rules of Procedure of the Government of the Republic of Slovenia* in 2010. Every proposal must include:

- analysis of the current state in the area concerned, major issues or problems, results of monitoring the implementation of a regulation in force;
- the goals, principles, and main solutions of the draft law,
- assessment of financial consequences of the proposed law for the national budget and other public funds;
- description of arrangements in other legal systems;
- an assessment of the consequences in individual fields, namely:
 - an assessment of the administrative consequences,
 - an environmental impact assessment, including spatial and protection aspects,
 - an assessment of the consequences for the economy,
 - an assessment of the consequences in the field of social affairs,
 - an assessment of the consequences regarding development planning documents, and
 - an assessment of the consequences in other fields,
- a presentation of the participation of the public in the preparation of the draft law.
- Planned activities for implementation of the adopted regulation (Presentation of the adopted law to target groups and general public; Monitoring the implementation of the adopted regulation).

Figure 5.3. The law making process in Slovenia from draft law to presentation in the National Assembly



Source: Provided by the Ministry of Public Administration.

5.6. Legal quality

202. The Government Office of Legislation (GoL) examines the legal quality of proposals and gives an opinion. The GoL will also carry out comparative studies of other countries and international organisations and perform other functions related to legal drafting.

203. Regulators drafting proposals should consult the GoL at several stages of the development process. First, regulators should get an opinion on legal quality with them during the first inter-ministerial co-ordination phase, but before the proposal is submitted to the government.

204. The Office of Legislation should be consulted again after the proposal is submitted to the Secretariat-General and the Secretariat-general has approved publication of the material, if it is in conformity with the Rules of Procedure.

205. If the Office of Legislation gives a negative advice at either stage, the ministry is required to amend the Bill and the Office of Legislation must once again, within five working days, give advice on the Bill in question. In this case, a new consultation period is initiated.

5.7. Ex ante analysis of regulations in Slovenia

5.7.1. Requirements for RIA

206. Slovenia formally introduced regulatory impact assessment to its legal regime in 2006 with an amendment to the Rules of Procedure of the Government. According to the Rules of Procedure, regulatory impact analysis (RIA) is a requirement for all proposed regulations submitted to government. The first RIA is made public when the regulator posts the draft proposal on the eDemocracy portal. If a draft regulation is changed during the consultation process, this consequently leads to a change in the impact assessment.

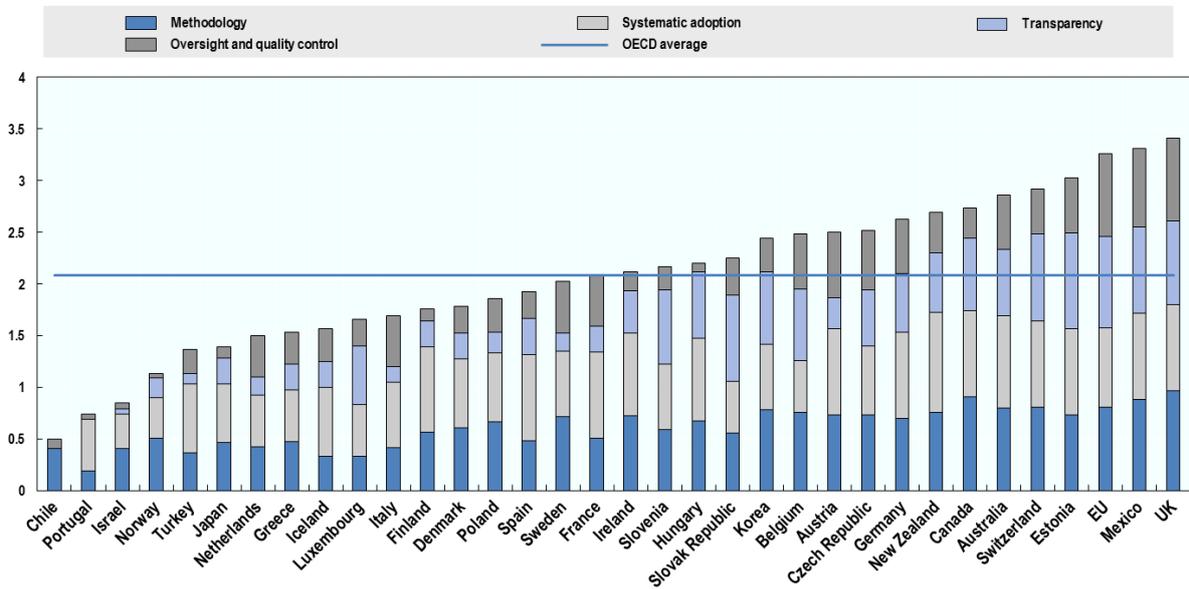
207. In 2013 the *Rules of Procedure of the National Assembly* were amended in a way, that all draft laws proposed by the Government (except draft law proposed for adoption by the urgent legislative procedure) have to include assessment in the areas of:

- administrative consequences,
- the environment,
- the economy,
- social affairs,
- the consequences regarding development planning documents,
- and an assessment of the consequences in other fields.

208. If a draft law does not contain the required elements, the President of the National Assembly calls upon the proposer to supplement the draft law. If the proposer fails to supplement the draft law within 15 days from being called upon to do so by the President of the National Assembly, it is deemed that the draft law has not been tabled.

209. Slovenia scored near the about average on the Indicators of Regulatory Policy and Governance, because most of the requirements are in place for RIA but oversight continues to lag.

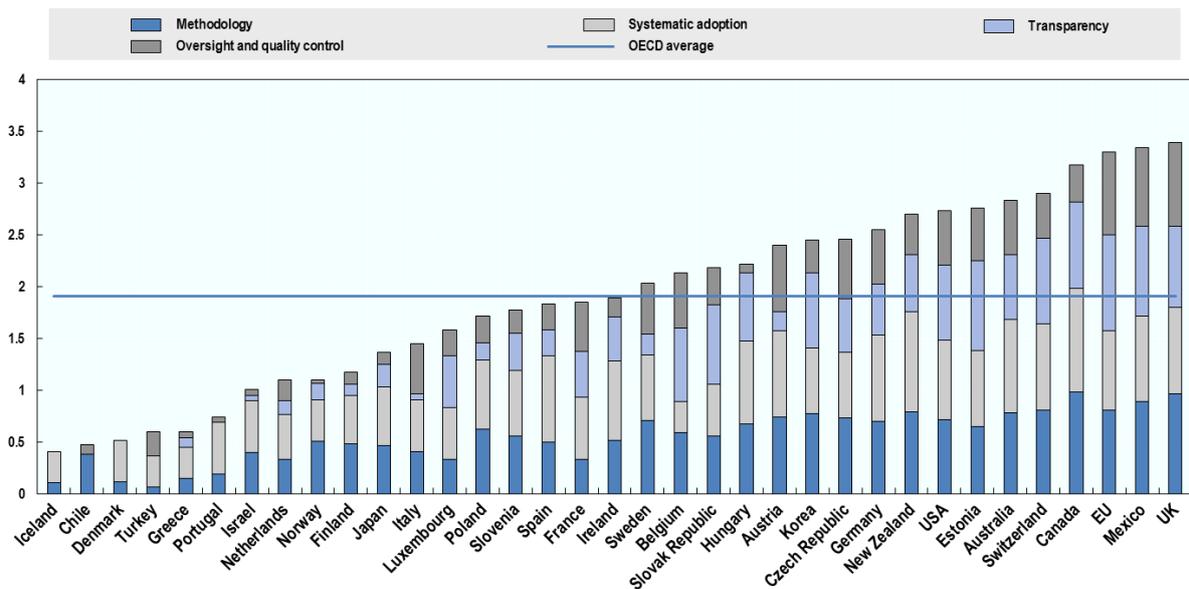
Figure 5.4. Regulatory impact assessment for developing primary laws



Note: The results apply exclusively to processes for developing primary laws initiated by the executive. The vertical axis represents the total aggregate score across the four separate categories of the composite indicators. The maximum score for each category is one, and the maximum aggregate score for the composite indicator is four. This figure excludes the United States where all primary laws are initiated by Congress. In the majority of countries, most primary laws are initiated by the executive, except for Mexico and Korea, where a higher share of primary laws are initiated by parliament/congress (respectively 90.6% and 84%). See the Annex A for a description of the methodology of the iREG indicators.

Source: OECD (2015), OECD Regulatory Policy Outlook 2015, <http://www.oecd.org/gov/regulatory-policy/indicators-regulatory-policy-and-governance.htm>.

Figure 5.5. Regulatory impact assessment for developing subordinate regulations

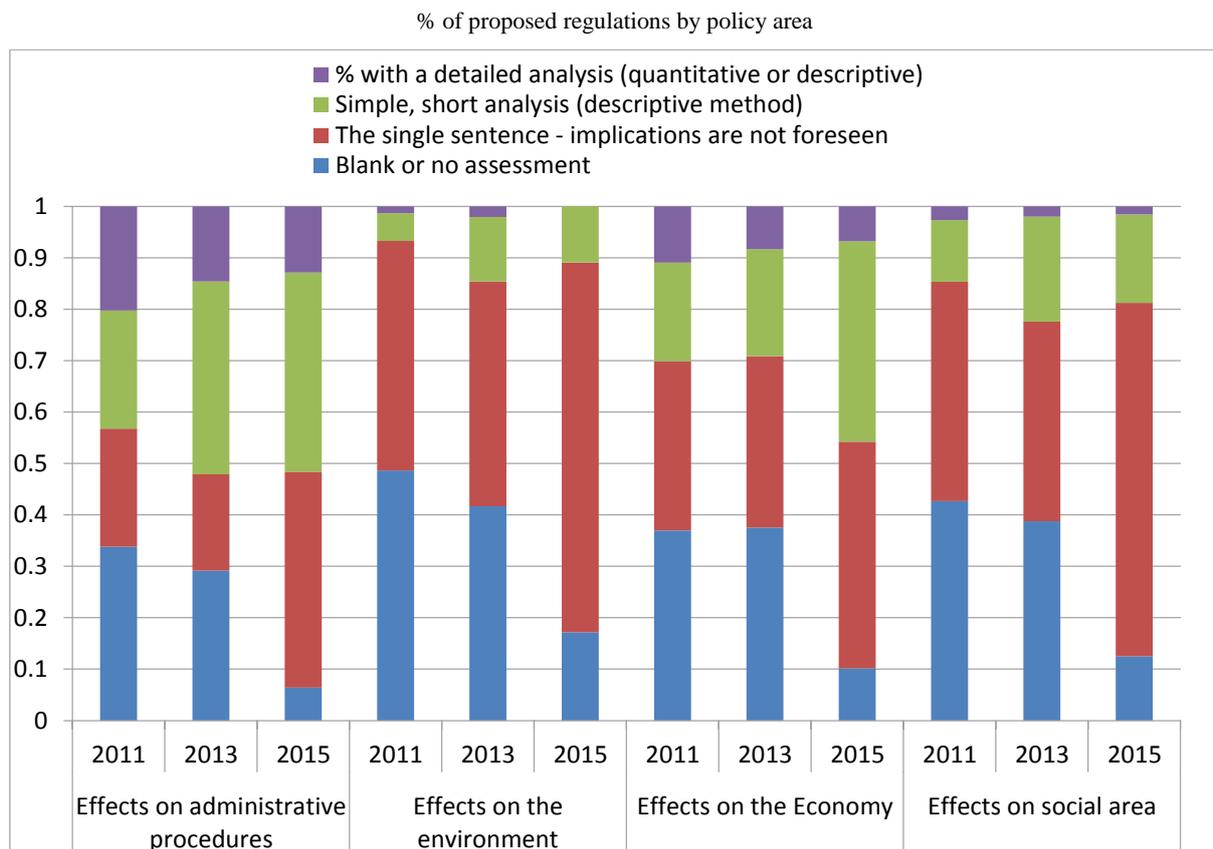


Note: The vertical axis represents the total aggregate score across the four separate categories of the composite indicators. The maximum score for each category is one, and the maximum aggregate score for the composite indicator is four.

Source: OECD (2015), OECD Regulatory Policy Outlook 2015, <http://www.oecd.org/gov/regulatory-policy/indicators-regulatory-policy-and-governance.htm>.

210. As a result of the limited oversight, regulators have generally not completed detailed impact analysis which often comes with very little quantification. Most proposals submitted in 2011, 2013, and 2015 either had no analysis or simply stated “no consequences/implications are foreseen”. Nevertheless, RIAs did show some improvement over time. Regulators started to more frequently include a short descriptive analysis of impacts on the economy and administrative burdens. Nevertheless, less than 10% of proposals quantified the effects on the economy and only about 15% include impacts on administrative procedures. Regarding the quantification of the effects on the economy, significant progress was made in 2015, when the SME test was introduced. Its use was made mandatory for all primary laws planned for adoption by regular or shortened procedure from the beginning of 2016.

Figure 5.6. Detail level of analysis of various impacts



Source: Data collected by the MPA for the Slovenia Regulatory Policy Review.

5.7.2. Institutional framework

211. Oversight and co-ordination on regulatory impact assessment is relatively limited in Slovenia. The duties to provide some quality check on the impacts are split across

ministries and ultimately the Secretariat-General only checks to see if a RIA was conducted, but it lacks a unit or human resources to check the quality of the RIA. Line ministries review impacts in their area of expertise through the inter-ministerial co-ordination process.

- **The Ministry of Public Administration** supervises on administrative burdens and regulatory costs
- **The Ministry of the Economic Development and Technology** supervises the impacts on the economy, with special emphasis on the quality of SME tests conducted by the
- **The Ministry of Finance** supervises the fiscal impacts of proposals
- **The Ministry of the Environment and Spatial Planning** supervises the impacts on the environment,
- **The Ministry of Labour, Family, Social Affairs and Equal Opportunities** supervises the impacts on the field of social affairs
- **Government Office of Legislation** checks that the draft law conforms to legal quality and language drafting standards
- **Secretariat-General of Slovenia** checks that a regulatory impact assessment has been completed, but does not check the quality of the assessment.

212. More information on the institutional setup for developing regulations in Slovenia may be found in Chapter 3.

5.7.3. Methodological guidance and training

213. The current guidance for RIA in Slovenia has instructions on how to identify issues and alternatives to regulation. However, the guide does not include a section on how to quantify benefits of regulation,¹² although it does suggest that regulators quantify benefits when possible.

Methodology and guidance

214. The Handbook on Impact Analysis serves as the primary guide to analysing proposals for new regulation. The Handbook was issued along with other changes to the Rules of Procedure of the Government of Slovenia in 2011.

215. The guidance includes instructions on seven different stages of the policy cycle, namely:

- Assessment of the situation
- Problem definition (overview of the policy options (list of topics will be addressed) and identification of areas which need to be provided)
- The establishment of a target
- The development of alternative solutions
- Impact assessment of alternative solutions in different areas
- A comparison on the basis of the assessment of alternative solutions
- The decision on the measures (implementation plan)

216. In addition, the Handbook of IA covers how to undertake consultation with outside stakeholders and with other ministries. It also includes sources for data and

12. The current guidance document is the Manual for the Implementation of the Environmental Impact Assessment Legislation and Policies.

information that may be useful during policy development and a questionnaire to help guide policy makers on different types of possible impacts by social area.

217. Policy makers will also find formulas for how to measure administrative costs. The Government of the Republic of Slovenia also adopted the methodology for measuring compliance costs in October 2013,¹³ following the example of SCM methodology and other international approaches to quantification of compliance costs, such as German Guidelines on the Identification and Presentation of Compliance Costs in Legislative Proposals by the Federal Government. These formulas are now embedded into the SME Test to make performing the calculations easier for line ministries.

Box 5.2. International experience on guidance to carry out RIA

In Australia, the Victorian Guide to Regulation provides a framework for the design and assessment of government regulation. The Victorian Competition and Efficiency Commission (VCEC) provides a good example of methodological guidance to prepare RIA. The Commission meets the departments preparing RIA early in the process of policy development and at key moments. It also offers regular and free training workshops for policy officers who prepare RIA to provide them with an introduction to the process and equip them to prepare high quality analyses (i.e., cost-benefit analysis). The VCEC may debate the quality of problem definition, data, analysis, and alternatives examined, but does not take policy positions. It may also provide lists of consultants to support departments in preparing RIA, but does not endorse any provider. Finally, the VCEC has developed guiding materials on cost effectiveness, cost recovery, costing methodologies, the suggested value of a statistical life, and consultation practices, among other topics.

In Canada, the Cabinet Directive on Streamlining Regulation (CDSR), published in 2007, has introduced a life-cycle approach to regulatory management and a number of new processes, co-ordination, and analytical requirements. It applies to all departments and agencies involved in the federal regulatory process. Government officials are responsible for abiding by the CDSR at all stages of the regulatory life cycle, i.e., development, implementation, evaluation, and review. The CDSR has marked a fundamental change in approach to federal regulation. It stresses that regulations are only one of several policy instruments available to government and that they may not always be the most effective option. When a public policy issue arises and it is determined that government intervention is required, regulatory organisations must assess the effectiveness and appropriateness of both regulatory and non-regulatory instruments before proceeding. Regulations must be viewed not in isolation but rather as part of a mix of complementary instruments that work together to address a public policy issue. They should be chosen only after the full range of instruments has been analysed.

Recognizing that it may take a number of years for regulatory organisations to fully develop the internal capacity to meet these requirements, the Treasury Board of Canada Secretariat has created the Centre of Regulatory Expertise (CORE) to assist in this endeavour. CORE provides expert advice and services to help departments build their internal capacity to develop sound, evidence-based regulatory proposals. CORE experts

13.

www.stopbirokraciji.si/fileadmin/user_upload/mju/boljsi_predpisi/publikacije/emms4112013_1.pdf.

offer the following guidance:

- Analytical services to support regulatory development work, especially in areas of risk assessment, cost-benefit analysis, performance measurement, and evaluation plans;
- Coaching and advisory services to assess progress in regulatory development and provide ongoing feedback and advice;
- Workshops and presentations on one or more aspects of regulatory development, tailored to your team's needs; and
- Peer review to critique and provide feedback on completed analyses before finalising a regulatory submission.

CORE also collaborates with the Community of Federal Regulators and the Canada School of Public Service (CSPS) to develop and promote best practices and learning opportunities for federal regulators. For example, a core curriculum of regulatory training has been developed by CSPS to provide participants with a basic understanding of the federal regulatory process, the regulatory life-cycle approach, and the changes occurring under the CDSR.

Source: Victorian Competition and Efficiency Commission (2015), www.vcec.vic.gov.au and Treasury Board of Canada Secretariat's website www.tbs-sct.gc.ca (both accessed 1 March 2016).

218. Since 2015, the Ministry of Public Administration has taken steps to further build capacity for regulators to quantify impacts. In the first half of 2016, the Ministry of Public Administration carried out extensive training of civil servants regarding the SME test, which measures administrative burdens on SMEs. Training continued in October and November 2016 for another 100 new civil servants with a focus on those public servants who will participate in drafting laws and in 2016 and 2017. In 2017, the SME training module will become a permanent module at the Administrative Academy.

Box 5.3. New tools for developing regulation in Slovenia: The SME Test and MOPED

In June 2016 Slovenia introduced an SME test to estimate regulatory costs to businesses, supported by the use of a database of costs, such as wages, to make it easier for regulators to perform the calculations. The application is a part of a modular environment of the Government for legislation designed for drafting regulations.

The Modular Environment for the Preparation of Electronic Documents (MOPED) is currently in the implementation phase. It will simplify the preparation of all documents, required in the legislative process. Within MOPED, all stages of the legislative process will be standardised, forming an integrated legislative cycle. It will combine different modules all based on the same information and applied the same standards, which will allow regulators to enter, store and manipulate data. The central part of the application will completely replace the existing Register of Regulations Slovenia (RPS), which over the years has become overloaded. The old RPS system is also not as transparent or user-friendly.

The Office for Legislation developed a system with its own staff. The layout of certain modules was developed in co-operation with other authorities, particularly the Ministry of Public Administration and the Secretariat-General. The Office for Legislation plans to make the use of MOPED mandatory for all ministries by 2017.

One of the first modules within MOPED is the SME test, which has been available since June 2016. It is available not only to those drafting regulations, but also to the interested members of the public. It is based on the Standard Cost Model (SCM) methodology and linked to the public records, so users don't need to obtain information on individual parameters required for the calculation of costs (e.g. population, business counts). Interested stakeholders will be able to access the SME test directly, or through a link published with a draft regulation on the eDemocracy and conduct their own, alternative analysis, and then send it to the regulatory drafter. It is expected that the public will be able to use the calculator from October 2017.

The Ministry of Economic Development and Technology supervises the quality of SME tests conducted by the ministries in the process of inter-ministerial co-ordination.

Source: Responses to the Slovenia Regulatory Policy Review Questionnaire.

219. There are, however, no current plans for permanent training sessions in how to conduct impact assessment, evaluate alternatives to regulation, or perform risk management.

5.8. Public consultation

220. The proposer of the draft legislation decides on how long to set the consultation period. Under the Rules of Procedure, the online consultation period should last between 30 and 60 days, but often consultation periods are often much less than that.

221. In practice, some ministries indicated that they use a combination of online tools, experts, and working groups to inform the development of regulation, although public consultation is quite strongly focused on the use of ICT tools like the eDemocracy portal. The Ministry of Agriculture, Forestry and Food, for example, used a collection of tools

while deciding on the best option for the new Agriculture Land Act (see Box 5.4). See Chapter 4 for more detail on public consultation during the development of regulation.

Box 5.4. Stakeholder engagement during the development of amendments to the Agricultural Land Act in Slovenia

The Ministry of Agriculture, Forestry and Food started preparing amendments to the Agricultural Land Act in the part referring to land operations, especially in the field of irrigation. The first meetings were held in spring 2015, in which representatives of the competent inspectorate, experts (faculty and institutes), and later the Chamber of Agriculture and Forestry of Slovenia, took part. The scenarios of proposed changes were identified in three directions:

1. Maintain the existing division of irrigation systems and the existing charges.
2. Deregulation of the area of irrigation and independent cost sharing among users.
3. The new division of irrigation systems and charging costs based on the actual use of the irrigation system and water and energy consumption.

All proposed concepts were presented to chambers and other relevant institutions. The selected model (the last among listed above) went out to public consultation through e-Democracy portal, to which other ministries were also invited. Based on consensus between the responses obtained, the interdepartmental coordination followed, under which other ministries commented on the chosen concept and its realisation in particular. After the final coordination between government departments and with the public, the amendments to the Act in question were published.

The expert review, which was prepared in February 2017, gives three possible models of legal regulation of the field of agricultural land policy. The first model supporting the development of family farms. The second model supports the development of viable holdings (both family farms and legal entities). Finally, the third model gives equal status of all agricultural holdings in Slovenia. Each model presents proposals for solutions to the agricultural land transactions, their leasing, protected farms and the management of state-owned land.

Public debate on the proposed models took place from 24. 2. 2017 to 31. 7. 2017. In the public debate, the public had the opportunity to express its views, which of the proposed models would best suit Slovenian agricultural land policies, as well as submit any other comments and proposals on the model chosen. During the public consultation period, the Ministry also organised 5 regional seminars.

Based on the results of the public debate, the Ministry will prepare starting points for the amendments to the Agricultural Land Act in the parts referring to the agricultural land transactions, leasing of agricultural land and area of protected farms.

Source: Provided by the Ministry of Public Administration

5.9. Considering alternatives to regulation in Slovenia

222. Often governments consider “command-and-control” instruments like regulation, before thoroughly considering alternatives to regulation that could deliver on the government’s policy objectives with a lower cost to society. Regulations are particularly politically appealing because they make it clear that the government is doing something, even if the prosed regulation does not actually solve the issue. The increased use of social media makes the effects of government regulations more apparent, but also may reinforce governments desire to solve issues with a regulation that is a clear.

Box 5.5 Alternative to regulation: A selection of non-regulatory options

Hepburn (2002) presents a number of non-regulatory options are available to governments. These approaches are more flexible, less prescriptive forms of traditional regulation. The aim is to minimise some of the major shortcomings of traditional regulation: Examples include performance-based and incentive regulation discussed in this section, as well as:

- **Co-regulation and self-regulation:** Co-regulation usually involves the industry or professions developing and administering its own rules but with government providing legislative backing to enable the arrangements to be enforced. Self-regulation is generally characterised by the industry (or profession etc.) formulating rules and codes of conduct, for which the industry itself is responsible for enforcing
- **Incentive and market based instruments:** Incentive-based approaches include the use of taxes, subsidies, etc. to change the incentives faced by economic agents to ensure that they correspond more closely with society’s objectives. Market-based approaches include tradable permits
- **Information approaches:** Education and persuasion can be used to achieve the community’s objectives. Strategies which attempt to address perceived problems by providing more information, or changing the distribution of information can improve market functioning by enabling people to make better informed decisions.

Source: Hepburn, G. (2002), “Alternatives to Traditional Regulation”, OECD, Paris, <http://www.oecd.org/gov/regulatory-policy/42245468.pdf> (accessed 13 October 2017).

223. In Slovenia, the Resolution on Legislative Regulation underlines a need to identify methods, alternatives (with presentation of advantages and disadvantages), tools and mechanisms, as well as levels and decision-making processes. However, there is no data on the use of provisions in practice, no guidelines available, and no training.

Box 5.6 Exploring the use of alternatives to regulation in OECD countries

The first response by governments to a perceived policy issue is often to regulate, but it may be appropriate to ask whether traditional regulation is the best possible course of action. In many situations there may be a range of options other than traditional “command and control” regulation available. The alternatives to traditional regulation fall into three main categories: market-based instruments, self-regulation and co-regulation approaches, and information and education schemes. OECD countries are increasingly experimenting with the use of alternatives to regulation, mainly in association with the use of RIA.

In **Australia**, the *Best Practice Regulation Handbook* requires that the Regulatory Impact Statement (RIS) include consideration of a range of regulatory and non-regulatory alternatives. The handbook promotes the early consideration of alternatives when examining the need for regulation. It provides guidance and identifies the strengths and weaknesses of a range of alternative approaches, including examples of where they could be applied. There is no preference expressed for a particular regulatory approach, the appropriate solution should be identified based on the features of the policy problem and deliver the greatest net benefit compared to other possible options. In all cases where new regulation is being considered, self-regulation is required to be examined in a RIS. The training for departments provided by the Office of Best Practice Regulation includes discussion of the range of alternative instruments and their application.

In **Germany**, the Joint Rules of Procedure of the federal ministries stipulate that draft regulations must be accompanied by an explanatory memorandum, which among others must establish:

- whether there are other possible alternatives to regulation
- whether the identified policy objective can be performed by private parties; and
- the considerations that led to the rejection of non-regulatory options.

An annex to the Joint Rules provides a checklist for identifying opportunities for self-regulation:

What kind of regulation arrangement is appropriate to address the problem? Is self-regulation sufficient? What structures or procedures should the State provide to enable self-regulation? Would it be possible for the State to make self-regulation mandatory?

Provided the task can be carried out by non-governmental or private bodies: how is it ensured that the non-governmental service companies will provide their services for the common good (nation-wide coverage, etc.)? What regulatory measures and bodies does this require? How is reassignment of tasks to governmental institutions ensured in the case of bad performance?

Can the problem be solved in co-operation with private bodies? What requirements for the legal design of such co-operative relationships should be imposed? What practical design is suitable and necessary to enable or support such co-operative relationships in organisational terms?

If it seems that the problem can only be solved adequately on the basis of a programme or other target-oriented basis: what minimum content of regulation is

required by the rule of law (i.e. stipulations on competence, aims, procedures, etc.).

In **Canada**, the Cabinet Directive on Regulatory Management supports the adoption of performance-based regulation, where appropriate.

Under the Radiation Emitting Devices Regulations (C.R.C., c. 1370), microwave oven components and shields must be constructed in a manner that does not allow the leakage of emissions in excess of limits prescribed elsewhere in the Regulations. The Regulations do not prescribe specific material or design to be used to achieve such outcomes, only the outcome itself. This allows regulated parties to choose their own materials and design to meet the performance requirements of the emissions limit.

In the **United States**, Executive Order 12866 requires agencies to identify and assess alternative forms of regulation and, to the extent feasible, specify performance objectives, rather than specifying the behaviour or manner of compliance that regulated entities must adopt.

The Transport Airplane Fuel Tank Flammability Reduction (73 FR 42444) rule requires operators and manufacturers of transport category airplanes to take steps that should greatly reduce the chances of a catastrophic fuel tank explosion. The final rule does not direct the adoption of specific inerting technology either by manufacturers or operators, but establishes a performance-based set of requirements that set acceptable flammability exposure values in tanks most prone to explosion or require the installation of an ignition mitigation means in an affected fuel tank.

Source: OECD (2005), *Alternatives to Traditional Regulation*, OECD Publishing; OECD (2010c), *Better Regulation in Europe: Germany 2010*, OECD Publishing, doi: [10.1787/9789264085886-en](https://doi.org/10.1787/9789264085886-en); Government of Australia (2010), *Best Practice Regulation Handbook*, Canberra. And OECD (2015), OECD Indicators of Regulatory Policy and Governance (iREG), www.oecd.org/gov/regulatory-policy/indicators-regulatory-policy-and-governance.htm.

5.10. Performance-based regulation

224. Performance-based regulation is a softer way to change the behaviour of markets that is not as restrictive as traditional command-and-control regulation. It imposes obligations stated in terms of outcomes to be achieved or avoided, giving regulated entities flexibility to determine the means to achieve the mandated or prohibited outcomes (OECD, 2015a). For example, an air pollution regulation that establishes an emissions limit that a regulated entity must not exceed is performance-based, as the entity may choose how it will reduce emissions to meet that limit. On the other hand, an air pollution regulation that mandates that a regulated entity install a specific pollution control device is not performance-based, as the entity has no choice but to install that specific device.

5.10.1. Benefits and challenges of using performance standards

225. By leaving the means of achieving the required outcome to the discretion of the regulated entity, performance standards allow firms to choose more effective or lower cost processes, promote innovation and facilitate harmonisation needed for international trade (Coglianese, 2017). Adoption of performance-based regulation can also simplify and clarify regulations, since they only require determining underlying objectives in terms of standards rather than detailed, prescriptive procedures (OECD, 2002).

226. The design of performance-based regulations can be associated with costs since regulators are required to specify the desired outcomes. Verification of compliance is likely to be more difficult and can result in increased administrative and monitoring costs due to the range of different compliance strategies that performance standards allow for. Similarly, they require the dissemination of sufficient operational guidance to ensure compliance by providing adequate understanding and knowledge of the requirements. Performance-based regulations can be a burden to small businesses in particular since they delegate the responsibility to develop appropriate compliance strategies to the regulated entity (OECD, 2002).

227. The effectiveness of performance standards depends on the ability of regulators to reliably measure or test performance (Coglianese, Nash and Olmstead, 2003). In cases where actual performance cannot be evaluated and verified, for instance in rare or catastrophic events, implementation of performance standards proves difficult (Coglianese, Nash and Olmstead, 2003). Access to reliable and appropriate information about performance is crucial to effectively measure outcomes and can be obtained more easily in scenarios where performance can be measured directly, for example when testing exhaust emissions of motorised vehicles. Thus, performance standards should be based on measurable events rather than on predictions.

228. As a result, policy-makers need to systematically look into the question of when performance-based regulations are likely to contribute to the achievement of the desired policy outcome and if there is sufficient information available to measure performance. Moreover, they have to ensure that those regulated understand the objectives and standards set out in the regulation and are therefore able to develop and implement compliance strategies (OECD, 2002).

5.10.2. The state of play of performance-based regulation in Slovenia

229. The *Resolution on Legislative Regulation* requires agencies to conduct an impact assessment of regulations that should take into account the alternatives of regulation. However, at this stage, Slovenia does not apply performance-based regulation. There are no guidelines and training on performance-based regulation available.

5.11. Assessment and recommendations

230. Regulators in Slovenia are required to write RIAs for draft legislation, but there is limited evidence that they actually inform and improve policy in Slovenia. RIAs are often conducted late – after a preferred option has been identified – and there is limited oversight of the analytical quality.

231. As a result of the limited analysis, regulators often do not consider alternatives, such as performance-based regulation or non-regulatory options.

232. **The Government should consolidate and build capacity for the oversight of regulatory impact assessment.** A lack of centralised oversight and control of the RIA process has resulted in a “checkbox” process that creates work for regulators, but does not always inform policy. Additionally, a patchwork of oversight from several different ministries limits a big-picture view of the quality of the regulatory impact assessments.

233. **Slovenia should centralize oversight for the RIA and stakeholder engagement into a single unit in the centre-of-government.** Furthermore, it should ensure that this unit has the necessary expertise to analyse the quality of legislative proposals. This unit

could also provide advice and guidance on regulatory policy tools during the development of regulations, such as providing assistance with the use of the SME test and on methodological challenges of measuring impacts.

234. During the early stages, **the Government should implement a prioritisation system for regulatory impact analysis.** Regulatory analysis is time consuming and resource intensive. Therefore, it only makes sense to have a full-fledged RIA for proposals that are likely to have a high impact on Slovenians. Prioritizing which proposals should be subject to a full RIA could be done at the proposal stage, e.g. when the development of the regulation is added to the Government work programme.

235. Given that the General Secretariat approves the Government work programme, it would make sense that it has the authority to determine which regulations require a more thorough RIA. Slovenia could draw on the experience of a number of countries that have threshold tests to determine which regulations require a more thorough analysis (see Box 5.1 above).

236. A standard methodology, training and guidance for quantifying costs and benefits should be made available to line ministries developing regulations. Slovenia currently publishes a handbook on conducting regulatory impact analysis, but as the MPA's own analysis shows the quantification of costs and benefits remains quite weak. There is currently no training or guidance on how exactly to measure costs and benefits, although the SME test does provide a tool for regulators to measure compliance costs to businesses. The Slovenian government could produce comprehensive guidance on different methods for valuing costs and benefits (see Box 5.2) and also make modules in their school of public service available for regulators.

237. **The Government could facilitate and co-ordinate access to statistics and other useful information,** especially between line ministries and the Statistics Office. Access to data and statistics is central to the development of regulation. Data can help identify where problems exist as well as inform regulators about the potential costs and benefits of certain proposals. Knowing the state-of-play and trends in indicators related to the policy is critical in defining a policy's potential impacts. The government of Slovenia could expand the role of the Statistical office to help further its Better Regulation agenda. For example, the Statistical Office could provide guidance and training on statistics available for regulators to analyse the current situation, the *ex ante* impact of regulations or to develop indicators (see Chapter 7 for more indicators).

238. **The SME Test should become embedded into the RIA process.** The SME test will help regulators measure compliance costs to business by making the process of estimating impacts more efficient. Ensuring that the SME test becomes embedded in the regulatory making process will greatly help regulators identify proposals that might overburden businesses in Slovenia. The government should continue to develop capacity to use the tool properly and provide feedback to ministries on whether they have used the tool correctly. Ideally, the suggested unit in charge of oversight of RIA in general would also provide guidance and oversight of the use of the /SME test.

239. **Considering alternatives to regulation should become standard practice during the development of regulation.** Regulation is often not the most efficient tool to solving policy issues, so it is important that when regulators are first investigating problems and their causes, they should be encouraged to consider alternatives to regulation before drafting a regulation. Slovenia could provide training and guidance on

how to consider alternatives to regulation and to track if alternatives to regulation are actually considered during the development of regulation.

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6. The management and rationalisation of existing regulations in Slovenia

This chapter focuses on how the Slovenia government rationalizes its existing stock of regulations, including how it undertakes reforms to improve regulation in specific areas or sectors to, for example, reduce administrative burdens and other compliance costs associated with regulation or evaluate the overall effectiveness of a regulation.

240. Slovenia has focused its efforts to manage the stock of regulation mainly on reducing administrative burdens, leading to significant reductions of burdens for business. It was among the early adopters of the Standard Cost Model to measure and reduce administrative burdens. The government has also undertaken major e-government reforms to simplify administrative procedures (OECD, 2015a). Furthermore, Slovenia's system of physical one-stop shops for business received the United Nations' Public Service Award

241. Slovenia would benefit from broadening the evaluation of the stock of regulations beyond administrative burdens to systematically assess the stock of regulation against achievement of objectives of regulation, unintended consequences and to ensure regulations are still necessary and the most efficient option for the policy problem at hand. In particular in-depth reviews of key sectors and policy areas could inform major policy reforms to trigger economic growth and enhance Slovenia's competitiveness.

6.1. Regulatory burden reduction

242. Slovenia started in 2005 its first efforts to reduce administrative burdens and has scaled up its effort significantly over the last decade. In 2005 the Economy Friendly Administration Council was established to reduce administrative barriers in the creation and operation of companies. A first programme for eliminating administrative barriers was adopted in 2006 and a permanent inter-ministerial working group for the better preparation of regulations and elimination of administrative barriers was formed in 2007.

243. In 2009, the Action Programme of the Government to reduce administrative burdens by 25% by 2012 in line with the target of the European Council was adopted and a list of acts and related executive acts to be assessed in terms of their burdens was approved. Special attention was paid in 2010 to the area of labour law including amendments to the Employment and Insurance against Unemployment Act, the Labour Market Regulation Act and the Occupational Health and Safety Act. Established in 2011, the Minus 25 portal provides the public with information on the implementation of the programme for reducing administrative burdens.

244. By 2012, 3,529 regulations were reviewed with a combined estimated EUR 1.5 billion of administrative burden. The measurement identified areas with high potential for reducing burdens including environment and spatial planning, labour legislation, cohesion, finance including taxes and excise duties and business or financial reports. While about 200 measures were implemented, the adoption of many acts that were planned to be amended failed and changes in acts in the area of labour law were rejected in referendums. The 2012 renewed Action Programme for eliminating administrative barriers included unrealised measures from the previous programme and additional measures stemming from the Contract for Slovenia 2012-2015.

245. In 2013, the Government combined a number of measures taken by different parts of the government to improve the regulatory environment for business and increase competitiveness. The so-called "Single document" (later renamed into a Single collection or Single set of measures) includes a description of each measure, proposals for solutions and deadlines for the realisation of measures. The government appointed a permanent inter-ministerial working group headed by the Minister for Public Administration and the Minister for Economic Development and Technology to oversee the implementation of measures and regular report to the government on progress made. Furthermore, a website application was established in 2014 to provide users with an overview of all measures and

information on progress in their implementation. By the end of September 2016, out of 299 measures, 164 were implemented, 2013 partly implemented and 32 not implemented. Key measures taken in 2016 and envisaged in 2017 include reforms in spatial planning and building construction, renovation of regulated professions, tax restructuring and better regulation policies such as the introduction of an SME test and burden reduction for business including simplification in the field of tourism.

246. Overall, the government estimates the combined effect of key measures taken in the period 2009 to 2015 to reduce burdens including also measures from the “Single document” at 365 million Euros of reduction for business entities and citizens. Prepared by two external consultants for the Ministry of Public Administration, the evaluation report finds that the highest savings were achieved in the Ministry of Labour, Family and Social Affairs & Equal Opportunities followed by the Ministry of Finance and the Ministry of Justice (Ministry of Public Administration of the Republic of Slovenia, 2016).

247. Target areas for burden reduction were identified based on both stakeholders’ suggestions submitted through the portals Stop the bureaucracy (see Box 7.1) and predlagam.vladi.si and according to the results of the baseline measurement carried out by the government as part of the Programme for eliminating administrative barriers and reducing burdens. In terms of the methodology for measuring administrative burdens, the Ministry of Public Administration prepared and published guidance for measuring regulatory costs based on the Standard Cost Model (SCM) which also includes a methodology for measuring direct financial costs and compliance costs.

Box 6.1 Stop the Bureaucracy portal

The **Stop the Bureaucracy portal** was set up by the Government of the Republic of Slovenia to improve the business environment and enhance the impact of entrepreneurship on the process of drafting and adoption of regulations. The portal targets a national and international audience of entrepreneurs and citizens.

Via the web portal, users may submit their proposals for eliminating burdens and simplifying procedures. After being published on the portal, proposals or comments will be assigned to the competent ministries, which may then express their opinions on the proposals and comments and give their feedback to the user issuing the proposal. Individual proposals and comments will be published and made available on the portal for users to review, sorted by topic and ministry responsible. The Slovenian Ministry of Public Administration, who manages, coordinates and harmonises the implementation of the Stop the Bureaucracy project, created a [video](#) explaining the process of submitting proposals to the portal in detail.

Since the launch of the portal in 2013, 181 measures for better regulation and a better business environment were realised.

Source: The responses of the Slovenian government to the OECD questionnaire; Ministry of Public Administration of the Republic of Slovenia (2015), *Stop the Bureaucracy! Reducing administrative and regulatory burdens for MSP and citizens*, www.stopbirokraciji.si/en/stop-the-bureaucracy/.

248. A recent academic study (Kalas and Baclija Brajnik, 2017) analyses the effect of reforms in the area of tax policy and accounting obligations that aimed to reduce burdens by creating a “flat rate taxation system”. It finds that these measures were less effective because Slovenian businesses were not all aware of the option to use the “flat rate taxation system” or did not choose this option. They conclude that stakeholders need to be included in all stages of the policy cycle to ensure impact of policy measures to reduce burdens and better understanding of the reasoning for regulations.

6.2. Ex post reviews of regulations

249. The *OECD Recommendation of the Council on Regulatory Policy and Governance* (OECD, 2012a) emphasises the need to conduct systematic programme reviews of the stock of significant regulation against clearly defined policy goals, including consideration of costs and benefits, to ensure that regulations remain up to date, cost justified, cost effective and consistent, and deliver the intended policy objectives. There are a number of reasons why *ex post* evaluation is necessary and useful. First, many regulations will not have been done well and others have passed their “use by date”. Second, the stock of regulation is much greater than the flow and gains are therefore potentially large. Third, *ex post* reviews can provide learnings for future regulatory actions (Banks, 2017).

250. While the impact of new regulations is usually evaluated through a regulatory impact analysis, there are a number of different approaches for *ex post* evaluation (see Box 6.2). Practical ways to embed *ex post* evaluation in a country’s policy system include

sunset clauses to require governments to review a regulation a certain amount of time after it has been promulgated, scheduled reviews that look at whole policy frameworks for different areas and specialised standing bodies, like the Australian Productivity Commission that have a mandate to review regulations and to make recommendations for improvement.

Box 6.2 Approaches to regulatory review

The Productivity Commission issued a research report that lists a number of good design features for each review approach which help ensure that they work effectively, drawn from Australian and international good practices. The Commission considered the following main approaches:

Stock management approaches (have an ongoing role that can be regarded as “good housekeeping”):

Regulator-based strategies refer to the way regulators interpret and administer the regulations for which they are responsible – for instance through monitoring performance indicators and complaints, with periodic reviews and consultation to test validity and develop strategies to address any problems. Ideally, the use of such mechanisms is part of a formal continuous improvement programme conducted by the regulator.

Stock-flow linkage rules work on the interface between *ex ante* and *ex post* evaluation. They constrain the flow of new regulation through rules and procedures linking it to the existing stock. Although not widely adopted, examples of this sort are the “regulatory budget” and the “one-in one-out” approaches.

Red tape reduction targets require regulators to reduce existing compliance costs by a certain percentage or value within a specified period of time. Typically, they are applied to administrative burdens reduction programmes.

Programmed review mechanisms (examine the performance of specific regulations at a specified time, or when a well-defined situation arises):

Sunsetting provides for an automatic annulment of a statutory act after a certain period (typically five to ten years), unless keeping the act in the books is explicitly justified. The logic can apply to specific regulations or to all regulations that are not specifically exempted. For sunsetting to be effective, exemptions and deferrals need to be contained and any regulations being re-made appropriately assessed first. This requires preparation and planning. For this reason, sunsetting is often made equivalent to introducing *review clauses*.

“*Process failure*” *post implementation reviews (PIR)* (in Australia) rest on the principle that *ex post* evaluation should be performed on any regulation that would have required an *ex ante* impact assessment. The PIR was introduced with the intention of providing a “fail-safe” mechanism to ensure that regulations made in haste or without sufficient assessment — and therefore having greater potential for adverse effects or unintended consequences — can be re-assessed before they have been in place too long.

Through *ex post review requirements in new regulation*, regulators outline how the regulation in question will be subsequently evaluated. Typically, this exercise should

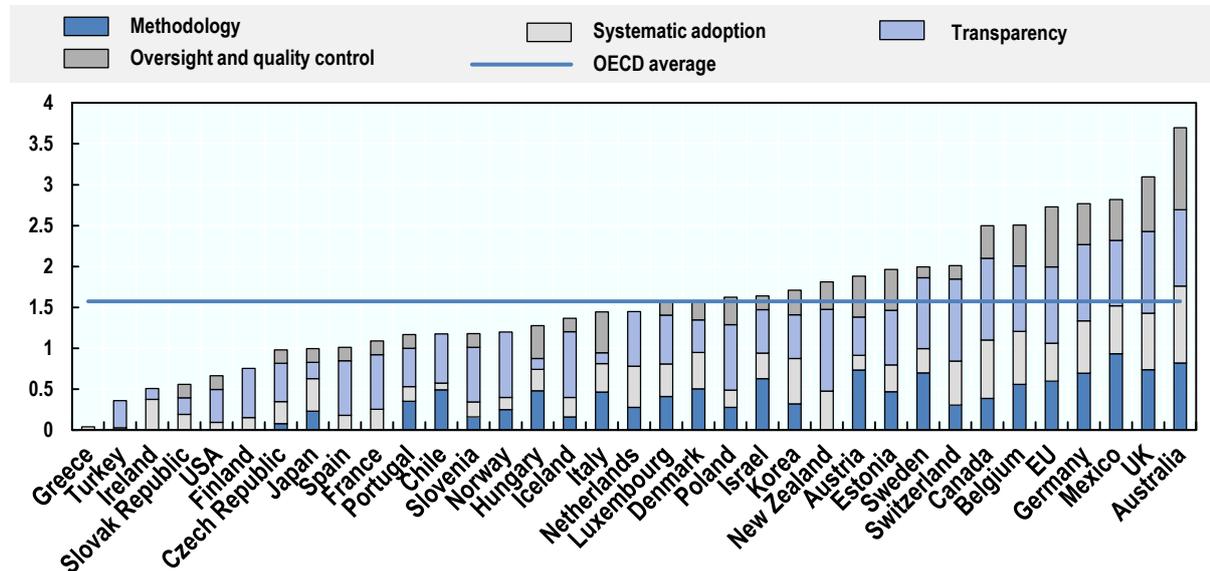
be made at the stage of the preparation of the RIA. Such review requirements may not provide a full review of the regulation, but are particularly effective where there are significant uncertainties about certain potential impacts. They are also used where elements of the regulation are transitional in nature, and can provide reassurance where regulatory changes have been controversial.

Ad hoc and special purpose reviews (take place as a need arises):

- “*Stocktakes*” of burdens on business are prompted or rely on business’ suggestions and complaints about regulation that imposes excessive compliance costs or other problems. This process can be highly effective in identifying improvements to regulations and identifying areas that warrant further examination, but their very complaint-based nature might limit the scope of the review.
- “*Principles-based*” review strategies apply a guiding principle being used to screen all regulation for reform – for instance removal of all statutory provisions impeding competition (unless duly justified), or the quest for policy integration. Principles-based approaches involve initial identification of candidates for reform, followed up by more detailed assessments where necessary. Approaches of this kind are accordingly more demanding and resource-intensive than general stocktakes. But if the filtering principle is robust and reviews are well conducted, they can be highly effective.
- *Benchmarking* can potentially provide useful information on comparative performance, leading practices and models for reform across jurisdictions and levels of government. Because it can be resource-intensive, it is crucial that topics for benchmarking are carefully selected. Benchmarking studies do not usually make recommendations for reform, but in providing information on leading practices they can assist in identifying reform options.
- “*In-depth*” reviews are most effective when applied to evaluating major areas of regulation with wide-ranging effects. They seek to assess the appropriateness, effectiveness and efficiency of regulation – and to do so within a wider policy context, in which other forms of intervention may also be in the mix. In the Australian context, extensive consultation has been a crucial element of this approach, including through public submissions and, importantly, the release of a draft report for public scrutiny. When done well, in-depth reviews have not only identified beneficial regulatory changes, but have also built community support, facilitating their implementation by government.

Source: Australian Productivity Commission (2011), “Identifying and Evaluating Regulation Reform”, Research Report, Canberra; OECD (2015), *OECD Regulatory Policy Outlook 2015*, OECD Publishing, Paris. <http://dx.doi.org/10.1787/9789264238770-en>.

251. While programmes to reduce administrative burdens are well established in Slovenia, *ex post* evaluation of regulations to assess whether regulations achieve their objectives are not systematically conducted in Slovenia. Slovenia scores below the OECD average on the Indicators of Regulatory Policy and Governance for *ex post* evaluation.

Figure 6.1. *Ex post* evaluation for primary laws

Note: The results apply exclusively to processes for developing primary laws initiated by the executive. The vertical axis represents the total aggregate score across the four separate categories of the composite indicators. The maximum score for each category is one, and the maximum aggregate score for the composite indicator is four. This figure excludes the United States where all primary laws are initiated by Congress. In the majority of countries, most primary laws are initiated by the executive, except for Mexico and Korea, where a higher share of primary laws are initiated by parliament/congress (respectively 90.6% and 84%). See the Annex A for a description of the methodology of the iREG indicators.

Source: OECD (2015), *OECD Regulatory Policy Outlook 2015*. <http://dx.doi.org/10.1787/9789264238770-en>.

252. The Government of Slovenia only requires review of laws that are passed under an emergency procedure,¹⁴ and it does not require systematic reviews of laws. However, few laws enacted under this procedure have been reviewed. At present, 76% of laws and regulations are completed under under this emergency procedure, but only recently have many of them been reviewed. In March 2017, the Government adopted a report on IAs on laws adopted by urgent procedure from 4 June 2010 to 31 December 2014. The Secretariat General of the Government obtained the data by asking all departments/ministries in January 2017 to conduct *ex-post* evaluation on the regulations under their jurisdiction that had been adopted by urgent procedure during that period.

253. Despite the good intent of the report, it contains impact assessments only on individual areas and whether or not the law has achieved its purpose. The *ex post* evaluations are often quite cursory. The report demonstrates a strong need to develop appropriate methodologies and training to build capacities in line ministries to do proper *ex post* analysis.

254. Requirements for systematic *ex post* evaluation are useful, yet not sufficient. Without sufficient skills and capacity the quality of *ex post* evaluations and their political impact might be low. Governments need to assist evaluators and desk officers to design,

14. Article 8b of the Rules of Procedure of the Government of the Republic of Slovenia.

manage and execute the evaluations (OECD, 2015). Box 7.3 provides some examples of building capacity and providing support to evaluators in OECD countries.

Box 6.3 Building capacity and providing support to evaluators: Canada, European Commission and Switzerland

In **Canada**, The TBS Regulatory Affairs Sector initiated a number of measures to assist in building evaluation skills across federal departments and agencies, including:

- the development of a core curriculum by the Canada School of Public Service, which features also a course on “Regulatory performance measurement and evaluation”;
- the creation of the Centre of Regulatory Expertise (CORE), which provides technical support concerning cost-benefit analysis, risk assessment, performance measurement and evaluation of regulations; and
- the establishment of the Centre of Excellence for Evaluation (CEE), which serves as a help-desk body in the planning and implementation of evaluations. This includes supporting the competent departments and agencies in the implementation and utilisation of evaluations, and helping to promote the further development of evaluation practices, not least through guidelines and manuals.

In the **European Commission**, in the framework of the Smart Regulation strategy, central support and co-ordination is ensured by the Secretariat-General (European Commission, 2015a). The latter issues guidance; provides in-house training; and organises dedicated workshops and seminars. The Secretariat-General oversees the EC’s evaluation activities and results and promotes, monitors and reports on good evaluation practice. Evaluation units are present in almost all Directorates-General. Several “evaluation networks” dedicated to specific policy areas are also at work (for instance in relation to research policy or regional policy).

Also in **Switzerland**, despite the fact that there is no central control body for the implementation and support of evaluation in the federal administration, experiences and expertise is shared thanks to an informal “evaluation network”. The network exists since 1995 and is directed at all persons interested in evaluation questions, and comprises around 120 members from various institutions.¹

1. www.bj.admin.ch/bj/de/home/staat/evaluation/netzwerk_evaluation.html.

Source: European Commission (2015a), “Evaluation”, *Better Regulation*, http://ec.europa.eu/smart-regulation/evaluation/index_en.htm (last update 11/08/2015); Australian Productivity Commission (2011); Prognos (2013), “Expert report on the implementation of *ex post* evaluations: Good practice and experience in other countries”, report commissioned by the National Regulatory Control Council, Berlin, www.normenkontrollrat.bund.de/webs/nkr/content/en/publikationen/2014_02_24_evaluation_report.pdf?blob=publicationfile&v=2.

255. The institutional setting for evaluation is key to successful implementation. As for RIA, minimum standards and oversight of *ex post* evaluations conducted in ministries is necessary to ensure evaluations are actually undertaken, are of sufficient quality and unbiased. Some countries such as Australia and New Zealand have also established a standing capacity to conduct in-depth reviews in high priority areas to inform large-scale reforms, often at the request of governments. Examples of recent reviews and public inquiries include reviews to boost the service sector, reform local government regulation and to develop capacity of land housing in New Zealand and reviews of telecommunication service obligations, Australia's overall productivity performance, regulation of agriculture and fisheries regulations in Australia. Reviews usually include public inquiries and the government has to respond publicly to findings. For example, the Australian's Productivity Commission conducted a review of barriers to setting up, transferring and closing a business. In the inquiry report, the Productivity Commission informed the Government of Australia about the nature and extent of barriers for businesses to enter and exit a market and their consequences for economic growth. It then developed recommendations for strategies to reduce these barriers where appropriate (Australian Productivity Commission, 2015). The Government of Australia supported many of these recommendations and as a result committed to eliminating the barriers identified by the Productivity Commission and to creating a new framework for entrepreneurial activity in order to encourage innovation (Australian Government the Treasury, 2017).

6.3. ICTs and administrative simplification

256. E-government plays an important role in Slovenia in simplifying administrative procedures. The e-government state portal e-Uprava, first established in 2001 and renewed in 2015, is the central state portal for electronic services. It links to information based on life events of citizens and businesses. The renewal paid special attention to preparing texts that are precise but simple enough for users to understand, to translate information into languages of Slovenia's national minorities (Italian and Hungarian) and to include a sub-portal with adapted content to meet the needs of the foreigners living in or moving to Slovenia. The portal receives on average 5000 unique visitors per day; in the first year of production approximately 40.000 electronic applications have been submitted. As part of the renewal, every authenticated user can use now their digital certificate to access private documents and view their personal data from public records such as personal information, information about their vehicle and real estate property. The module Moja eUprava (My eGovernment) enables users to access their submissions to government and provides information on progress made in their resolution.

257. The e-government portal is essential for facilitating exchanges between the state and its citizens. It lowers operating costs of public authorities, because they can provide their services in one place. Furthermore, it reduces transaction costs for citizens who no longer need to look for services on various websites of public authorities but can instead read all of the information on the portal, as well as electronically submit an application and monitor its progress.

Box 6.4. E-Vem Portal for Domestic Business Entities in Slovenia

The **One Stop Shop Business portal** or the [e-VEM portal](#) is a government portal which provides several public administration services at once to companies and sole traders with the goal of making the interaction between businesses and administration easy and simple.

The e-VEM portal enables users to conduct all administrative procedures related to starting and managing a company online. This includes the submission of forms for social insurance registration, declaration of modifications to information on family members, notification of needs for workers, etc. With the help of digital certificates, users can carry out many of these procedures independently. For more complicated procedures requiring assistance by the administration,¹³⁹ One Stop Shop contact points as well as a “VEM point” have been established.

The portal won the 2009 United Nations Public Service Award in competition with North American and European countries in the “improving the delivery of services” category.

Source: The response of the Slovenian government to the OECD questionnaire.

258. ICT has also been used to simplify access of businesses and citizens to information on the regulatory framework. In July 2010 the Slovenian government adopted an action plan for establishing a point of single contact to implement the EU Directive on services in the internal market and the Directive on the recognition of professional qualifications. At the same time, the database helped realise the national political goals to simply the business environment for national and foreign business entities, to establish a uniform and transparent database of regulated activities and professions, and to present legal contents in a transparent and structured manner.¹⁵ In a first stage, a database has been established to provide information to service providers and users in any member state on procedures for obtaining permits to practise regulated activities in Slovenia. The government is currently implementing the second stage of the project which will allow service providers from any EU member state to perform all formalities and procedures defined by the EU Services Directive on the web portal.

259. A key part of the project is the analysis of over 400 regulations determining the conditions and procedures for performing activities and profession in Slovenia. In co-operation with the competent line ministries, an inter-ministerial group for the renewal of legislation in the field of regulated activities and professions was founded that is comprised of a strategic and an expert section of members. It was tasked with studying relevant legislation and proposing reforms to eliminate administrative barriers, such as unnecessary conditions and procedures for performing activities and professions. It was also tasked to deregulate if the conditions and procedures do not comply with EU legislation or the practice of Member States and standardisation and to simplify procedures to facilitate implementation of the online support for performing formalities and procedures.

15. The databases by activity and profession are now available online in Slovenian and English through the Slovenia Business Point. Link: <http://eugo.gov.si/en/>.

260. In 2012 a programme for deregulating and simplifying access conditions in a number of professions was put in place. The government plans to extend this programme to include both some of those professional services that were covered in the 2012 measure (including construction and tourism), and new occupations, such as funeral parlours, chimney sweeping, real estate agencies, driving schools and legal professions (Government, 2016). So far, deregulation has been limited or postponed, for example in the construction sector (OECD, 2017).

6.4. Assessment and recommendations

261. **Despite requirements for *ex post* evaluation for regulations passed through emergency procedure and for reviewing the state-of-play while drafting regulations, *ex post* evaluation is relatively rarely done in Slovenia.** Current evaluations have mostly focused on reducing administrative burden. These evaluations have been successful in improving business conditions in Slovenia, but greater embedding of *ex post* evaluation could further enhance Slovenia's competitiveness and ensure regulations meet economic, social and environmental objectives.

262. **The Slovenian government should monitor if ministries perform *ex post* evaluation on regulations passed by emergency procedures and publish this information online to provide incentives for ministries to undertake evaluations.** A central oversight body could be tasked with regular monitoring. Putting pressure on ministries needs to be accompanied by measures to build capacities in ministries to help desk officers undertake evaluation and quality control of the evaluations to ensure they are not just a "tick the box exercise". Slovenia may consider establishing a procedure to regularly discuss evaluations of regulations passed by emergency procedures to improve regulations where necessary and be aware that some fast track regulations might in hindsight not be working.

263. **Slovenia should focus *ex post* evaluation efforts on priority areas.** The central government could identify together with stakeholders major policy areas and sectors and pilot fitness checks or in-depth reviews together with the corresponding ministries. Beyond looking at regulations in isolation, regular review of regulations and policy measures in key policy areas and sectors that are identified to be of particular economic or social importance can have very high returns. While Slovenia has conducted some target, sector wide reviews, such as the review of spatial planning and construction permits in 2015, there is not yet a systematic approach to in-depth reviews. Slovenia may consider establishing a standing capacity that regularly reviews priority areas to inform reforms and require governments to respond to the findings of major reviews.

264. **Slovenia would benefit from introducing a requirement to assess laws and regulations some time after their implementation to ensure they meet their objectives, are still relevant and the best policy option to address the problem at hand.** In a first step Slovenia may introduce automatic review requirements for major regulations, indicating already in the RIA when and how they will be assessed.. Staff in ministries needs to be trained to conduct evaluations or ensure the quality of evaluations contracted out to academics and to use evaluations of existing regulations before amending regulations. All evaluations should be published online in a central place that is easily accessible to the general public. Resources for evaluation could be focused on high-impact regulations to avoid evaluation fatigue.

265. **A central body could co-ordinate *ex post* evaluation efforts to identify priority areas for review together with stakeholders within and outside government. In a first step, the body could support ministries in evaluating key policy areas.** The central body could also help to build capacity and provide assistance to ministries for evaluation. Similarly to RIA, a central body with sufficient power and independence in its technical assessment could provide quality control of evaluations conducted in ministries. In order to avoid duplication, reduce transaction costs, and improve the link between *ex-ante* and *ex post* evaluation; Slovenia may consider assigning responsibility for quality control of *ex ante* and *ex post* evaluations as well as consultation to a single body.

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7. Goal setting, priorities, monitoring and indicators

This chapter reviews how Slovenia's regulatory policy encourages ministries to set goals, priorities and indicators when developing or amending regulation. Finally, it makes recommendations for how Slovenia could support the use of priorities and indicators in its regulatory to improve the effectiveness of regulation.

266. Data and analysis drives evidence-based policy, but the only way for governments to measure the impact of policy and spending is through the targeted development of indicators to track the effectiveness of policies and regulations. Both the 2012 Recommendation on Regulatory Policy and the 2015 Recommendation of the Council on Budgetary Governance repeatedly assert that governments should clearly define and track policy priorities to measure the success or failure of regulations, policies and spending. By monitoring the effects of policy after implementation, governments learn which policies and regulations are effective and which can be improved to support citizens' well-being.

Box 7.1. Goal setting, priorities, monitoring and evaluation of spending in the Recommendation of the Council on Budgetary Governance

Recommendation 2: Closely align budgets with the medium-term strategic priorities of government, through:

- a) developing a stronger medium-term dimension in the budgeting process, beyond the traditional annual cycle;
- b) organising and structuring the budget allocations in a way that corresponds readily with national objectives;
- c) recognising the potential usefulness of a medium-term expenditure framework (MTEF) in setting a basis for the annual budget, in an effective manner which (i) has real force in setting boundaries for the main categories of expenditure for each year of the medium-term horizon; (ii) is fully aligned with the top-down budgetary constraints agreed by government; (iii) is grounded upon realistic forecasts for baseline expenditure (i.e. using existing policies), including a clear outline of key assumptions used; (iv) shows the correspondence with expenditure objectives and deliverables from national strategic plans; and (v) includes sufficient institutional incentives and flexibility to ensure that expenditure boundaries are respected
- d) nurturing a close working relationship between the Central Budget Authority (CBA) and the other institutions at the centre of government (e.g. prime minister's office, cabinet office or planning ministry), given the inter-dependencies between the budget process and the achievement of government-wide policies; e) considering how to devise and implement regular processes for reviewing existing expenditure policies, including tax expenditures (see recommendation 8 below), in a manner that helps budgetary expectations to be set in line with government-wide developments.

Recommendation 8: Ensure that performance, evaluation and value for money are integral to the budget process, in particular through:

- a) helping parliament and citizens to understand not just what is being spent, but what is being bought on behalf of citizens – i.e. what public services are actually being delivered, to what standards of quality and with what levels of efficiency;
- b) routinely presenting performance information in a way which informs, and provides useful context for, the financial allocations in the budget report; noting that such information should clarify, and not obscure or impede, accountability and oversight;
- c) using performance information, therefore, which is (i) limited to a small number of relevant indicators for each policy programme or area; (ii) clear and easily understood; (iii) allows for tracking of results against targets and for comparison

- with international and other benchmarks; (iv) makes clear the link with government-wide strategic objectives;
- d) evaluating and reviewing expenditure programmes (including associated staffing resources as well as tax expenditures) in a manner that is objective, routine and regular, to inform resource allocation and re-prioritisation both within line ministries and across government as a whole;
 - e) ensuring the availability of high-quality (i.e. relevant, consistent, comprehensive and comparable) performance and evaluation information to facilitate an evidence-based review
 - f) conducting routine and open *ex ante* evaluations of all substantive new policy proposals to assess coherence with national priorities, clarity of objectives, and anticipated costs and benefits;
 - g) taking stock, periodically, of overall expenditure (including tax expenditure) and reassessing its alignment with fiscal objectives and national priorities, taking account of the results of evaluations; noting that for such a comprehensive review to be effective, it must be responsive to the practical needs of government as a whole.

Source: OECD (2015), Recommendation of the Council on Budgetary Governance, OECD Publishing, Paris.

267. Indicators tied to specific and measurable policy objectives make it easier and more efficient for governments evaluate the impact of policy and program spending and then, if necessary, make changes to legislation or spending programs to improve the lives of citizens. Connecting government goals to priorities to measurable indicators is critical for countries to be able to ascertain how well policy works in practice. Good monitoring can lead to better more targeted *ex post* evaluations. They also promote learning by doing, because ministries can track how well certain kinds of regulations have worked in the past.

Box 7.2. Recommendation 4 of the 2012 Recommendation of the Council on Regulatory Policy and Governance

Integrate Regulatory Impact Assessment (RIA) into the early stages of the policy process for the formulation of new regulatory proposals. Clearly identify policy goals, and evaluate if regulation is necessary and how it can be most effective and efficient in achieving those goals. Consider means other than regulation and identify the trade-offs of the different approaches analysed to identify the best approach.

Source: OECD, 2012 Recommendation of the Council on Regulatory Policy and Governance; OECD Publishing, Paris. <http://dx.doi.org/10.1787/9789264209022-en>.

268. Some OECD countries have developed frameworks to track the effectiveness of regulations, policies and spending. The systems to track effectiveness also help to spur change within their own administrations to make them more objective and data driven. Of course, developing indicators for a new regulation or amendment can be time consuming and costly. Many countries only require the development of indicators for significant reforms. For example, Canada only requires a performance measurement and evaluation plan for high impact regulations, i.e. those with more than \$10 million CAD in impacts on businesses and/or citizens (see Box 5.1 in Chapter 5 for a description of Canada's threshold test).

Box 7.3 Canada's Performance Measurement and Evaluation Plans

From 2007 to 2012, regulatory proposals with a high-level of impact (over \$10 million CAD to the economy) were required to be accompanied by a Performance Measurement and Evaluation Plan (PMEP) and they were optional for medium impact proposals. These PMEPs helped regulators in several key ways, according to the Treasury Board secretariat. These plans:

- ensured a clear and logical design that ties resources and activities to expected results;
- described the roles and responsibilities of the main players involved in the regulatory proposal;
- helped ministries make sound judgments on how to improve performance on an ongoing basis;
- demonstrated accountability and benefits to Canadians; 4 ensure reliable and timely information is available to decision makers in the regulatory organisations and central agencies as well as to Canadians;
- and ensured that the information gathered will effectively support an evaluation.

Along with a review from the Treasury Board Secretariat and the approval from the appropriate authority, each PMEPE had 6 key components to help integrate performance management into the regulatory policy cycle and broader departmental goals:

- Description and Overview of the Regulatory Proposal
- Logic Model - How the regulatory proposal is linked through activities and outputs to impact on stakeholders (e.g. businesses and beneficiaries).
- Indicators – A quantitative or qualitative means for gauging the initiatives performance.
- Measurement and Reporting – How to approach and present ongoing performance measurements and reporting of the indicators.
- Evaluation Strategy – A high-level framework to evaluate performance of the regulatory proposal over time.
- Linkage to the Program Activity Architecture – How the regulatory proposal links to the broader program goals.

The requirement to develop PMEPEs was removed when the Cabinet Directive on Regulatory Management (CDRM) replaced the CDSR in 2012 as a result of broader changes in how the Canadian government tracked ministry results. At the time, PMEPEs duplicated existing requirements in place across government under the natural evaluation and reporting cycle. For example, regulatory programs were subject to the evaluation requirements under the Treasury Board Policy on Evaluation.

In summer 2016 the Treasury Board Policy on Results replaced the Policy on Evaluation and the Policy on Management, Resources and Results Structures. Departments now must evaluate their performance, including that of their regulatory programs, according to the time frames and cycle established in the new Policy on Results.

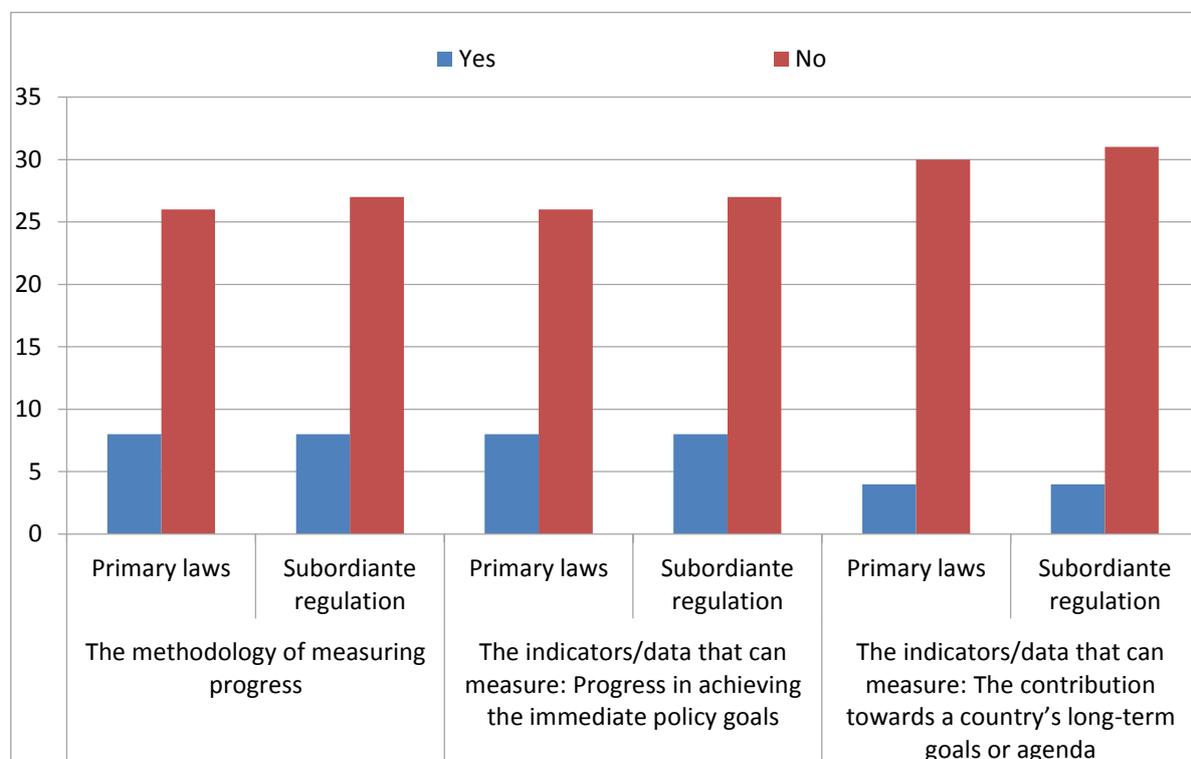
Source: Treasury Board Secretariat, *Handbook for Regulatory Proposals: Performance Measurement and Evaluation Plan*, December 2009. www.tbs-sct.gc.ca/hgw-cgf/priorities-priorites/rtrap-parfa/guides/pmep-pmre/pmep-pmre-eng.pdf

269. Good objectives should be SMART: Specific, measurable, attainable, real and time-based and should be measured using indicators that measure the real impact on citizens.

270. Despite the recommendation that countries develop SMART targets to see if regulations meet policy objectives, it is still quite rare for OECD members to require regulators to identify a process for assess progress in achieving the regulation's goals. Only 8 countries require regulators to develop indicators to measure progress in achieving goals of primary laws or subordinate regulation. Tying regulatory goals to long-term goals or agenda is even less common. Only 4 OECD members reported that the require

regulators to have a process to measure if the proposed regulation is contributing towards a country's long-term goals.

Figure 7.1. OECD Country responses to “When developing regulation, are regulators required to identify a process for assessing progress in achieving a regulation’s goals?”



Source: 2014 Indicators of Regulatory Policy and Governance Survey.

271. In Slovenia, public sector managers are not held to account for the achievement of government objectives which are operationalised through their individual organisations and collectively across the public service (OECD, 2012b). As a result, very few new regulations include plans to track the progress and impact of new regulations.

7.1. Goal setting and priorities in regulation in Slovenia

272. In Slovenia, the Rules of Procedure require that regulators develop indicators to monitor the impact of new or amended regulations. According to the Rules of Procedure, all regulatory drafters should conduct a comprehensive analysis of the problem and set achievable targets.

273. The targets should be:

- specified in a way, that leaves no room for different interpretations;
- measurable - measurements shall be carried out according to pre-established criteria or standards;
- acceptable to the political actors and stakeholders;
- and achievable within a reasonable time.

274. The Slovenian criteria include most of the SMART criteria recommended by the OECD and presented at the workshops in Ljubljana in December 2016. However, the Slovenian criteria are currently missing:

- Specific – Although the guidance does say that the target should be specified in a way that leaves no room for different interpretation, an indicator should be specific enough to the expected impacts of the regulation that there are relatively few external factors that could affect the indicators movement. This ensures that the indicator is actually measuring the impact of the regulation after promulgation.
- Attainability – The targets can be reasonably achieved by the proposed regulation, but the target is also not so easy that it does not promote action.
- Relevant – The indicator should be relevant to the proposed regulation. It should be closely linked to the desired benefits of the proposed regulation. e.g. a good indicator for food safety may be the number of *e. coli* infection cases thought to be caused by food poisoning, if the regulated products are susceptible to that bacteria.

275. A lack of targeted monitoring makes it harder for regulators in Slovenia to review the effectiveness of regulations and as a result *ex post* evaluations are often ad hoc or focus on reducing administrative burdens. It continues to be rare for *ex post* evaluations or RIAs to mention the effectiveness of current regulations (see more in Chapter 6).

276. In most cases, the objectives are not quantitative and performance is not systematically evaluated. The evaluation is theoretically conducted when amending regulation. According to the Court of Audit in 2012, however, 71.7% per cent of draft regulations provided no information on the monitoring and implementation of the regulation. The report also found that 78.3% of proposals had not planned a framework or indicators to track progress of the law after it was implemented.

277. A lack of effective indicators or monitoring also means that alternatives to regulation that require them, like performance-based regulation, are much less likely to be considered (see more on this in Chapter 5). Performance-based regulation tends to be more successful in countries that have developed performance indicators to use in the practice of a performance standard.

278. During workshops with Slovenia, the Statistical Office stated that it rarely received requests to develop indicators or to help monitor the implementation of specific regulations. On the other hand, the EU had a detailed program to develop indicators and data to monitor interventions after they have been put into place (see Box 7.4)

Box 7.4. Arrangements for Future Monitoring and Evaluation of Regulation in the European Commission

The Impact Assessment Guidelines of the European Commission require that new regulatory proposals “Identify core progress indicators for the key objectives of the possible intervention, provide a broad outline of possible monitoring and evaluation arrangements, and ensure that evaluations are designed and timed in a way that the results can be used as input for future impact assessments”

- They also state that where a preferred option has been identified, the agency should:
- describe briefly how the data needed for monitoring are to be collected;
- outline the nature, frequency and purpose of subsequent evaluation exercises.

And questions to be addressed in the Impact Assessment include:

- what will the monitoring data and evaluation findings be used for?
- to what extent do monitoring/evaluation structures already exist? Does new capacity need to be put in place?
- is the baseline situation sufficiently well-known or will further data collection be necessary once the proposal has been adopted?
- who are the key actors in providing and using such information? (e.g. the Commission, Member States, intermediaries such as Agencies, operators/beneficiaries, etc.)?
- in general terms, what will be the roles of these actors? How will information be shared and eventually aggregated?
- what will be the additional use for gathering this information? If they imply administrative burden which is significant, it should be measured through the Standard Cost Model as part of the IA.

Source: 2014 Regulatory Indicators Survey results and adapted from website http://ec.europa.eu/smart-regulation/impact/commission_guidelines/docs/iag_2009_en.pdf (accessed 9 August 2017).

7.2. Assessment and recommendations

279. Slovenia already requires regulators to consider how to track the impact of regulations after they have been put into place. Guidance on RIA in Slovenia also includes some definitions on what makes a good indicator. However, currently few proposals actually include any strategy for tracking results and impacts. The relative lack of oversight of this requirement may be why few proposals are compliant. However, efforts should be targeted towards those regulations with the highest impacts on society to ensure that resources are used effectively in enhancing evidenced-based policy in Slovenia.

280. Like detailed RIAs, **the Slovenian government could prioritize the development of indicators for high-impact regulations.** Few proposed regulations in Slovenia currently have indicators to track the impact and progress of new regulations. Given the resource constraints on proposers, the government should prioritize which regulations will need a more extensive performance management and tracking plan based

on how big the societal impacts are expected to be. This requirement could be tied to a new procedure for prioritizing RIA as discussed in Chapter 5. Ensuring that resources are spent on impactful regulations will give the government a better idea of which regulations are most in need of amendments.

281. As Slovenia also enhances its regulatory oversight process in general, a part of oversight towards the end of the development of the regulation should be the oversight of the performance management program to track the impact of regulations after promulgation. Of course, the oversight body would only need to look at those performance management programs and indicators for the draft proposals with the highest expected impacts.

282. **Line ministries could be encouraged to co-ordinate with the Slovenian Statistical Office.** During the workshops, the Statistical Office noted that it could be used as a source to help identify and develop indicators for tracking the impact of regulatory proposals. However, they were rarely contacted. As part of a broader reform on the requirements and guidance for indicators for high-impact regulations, regulators could be encouraged or required to co-ordinate with the Statistical Office when considering indicators to track the prospective goals of regulations. Drawing from the expertise and resources of the statistical, regulators will be able to ensure that any indicators are methodologically sound and that the statistical office and regulators are able to take advantage of economies of scale. For example, a proposer could just request an additional question or two on a survey the statistical office already conducts and is also related to the proposed regulation.

283. **The definition of good indicators should be expanded to include all of the criteria of a SMART indicator.** The guidance should also include a broader idea of a good performance management plan for a draft regulation to ensure that indicators are developed, tracked, and integrated back into policy making.

284. **The government should set goals and objectives for Better Regulation reforms to track progress of major regulatory reforms.** Slovenia is undertaking a number of recommended reforms to tackle continued barriers for businesses such as the spatial planning reform. These Better Regulation reforms should be matched with objectives and indicators to help track the actual effectiveness of reforms and to inform evaluation of the reforms.

285. As part of the annual regulatory planning, high-priority or importance regulations should also include a requirement to have matched objectives and indicators to track the performance of the regulations.

286. Over the long-term, indicators for high-impact regulations should be integrated into *ex post* evaluation and amendments to those regulations. The government should have a long-term strategy for integrating indicators and performance management data into *ex post* evaluation to inform new regulations and when modifying old ones. Current RIA guidance does include a requirement to “analyse the current situation”, however, this guidance could be strengthened to make explicit mention of indicators developed during the drafting of regulations.

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8. Compliance and enforcement

This chapter reviews how Slovenia's strategy for enforcement and compliance, including the appeals process. Finally, it makes recommendations for how Slovenia could improve its enforcement and compliance regime. Although this area was not the primary focus of the regulatory policy review, this chapter does make some general recommendations for compliance and enforcement in Slovenia. An in-depth review could be done using the OECD Compliance and Enforcement Toolkit, which the OECD is currently developing.

8.1. The baseline for reviewing inspection and enforcement reform

287. This section uses the eleven best-practice principles that the OECD has compiled, based on international experience, as reference point for assessing Slovenia's inspection and enforcement reform (Box 8.1).

**Box 8.1. The OECD Best Practice Principles for Regulatory Policy:
Regulatory Enforcement and Inspections**

1. Evidence based enforcement. Regulatory enforcement and inspections should be evidence-based and measurement-based: deciding what to inspect and how should be grounded on data and evidence, and results should be evaluated regularly.
2. Selectivity. Promoting compliance and enforcing rules should be left to market forces, private sector and civil society actions wherever possible: inspections and enforcement cannot be everywhere and address everything, and there are many other ways to achieve regulations' objectives.
3. Risk focus and proportionality. Enforcement needs to be risk-based and proportionate: the frequency of inspections and the resources employed should be proportional to the level of risk and enforcement actions should be aiming at reducing the actual risk posed by infractions.
4. Responsive regulation. Enforcement should be based on "responsive regulation" principles: inspection enforcement actions should be modulated depending on the profile and behaviour of specific businesses.
5. Long term vision. Governments should adopt policies on regulatory enforcement and inspections: clear objectives should be set and institutional mechanisms set up with clear objectives and a long-term road-map.
6. Co-ordination and consolidation. Inspection functions should be co-ordinated and, where needed, consolidated: less duplication and overlaps will ensure better use of public resources, minimise burden on regulated subjects, and maximise effectiveness.
7. Transparent governance. Governance structures and human resources policies for regulatory enforcement should support transparency, professionalism, and results-oriented management. Execution of regulatory enforcement should be independent from political influence, and compliance promotion efforts should be rewarded.
8. Information integration. Information and communication technologies should be used to maximise risk-focus, co-ordination and information-sharing – as well as optimal use of resources.
9. Clear and fair process. Governments should ensure clarity of rules and process for enforcement and inspections: coherent legislation to organise inspections and enforcement needs to be adopted and published, and clearly articulate rights and obligations of officials and of businesses.
10. Compliance promotion. Transparency and compliance should be promoted through the use of appropriate instruments such as guidance, toolkits and checklists.
11. Professionalism. Inspectors should be trained and managed to ensure professionalism, integrity, consistency and transparency: this requires substantial training focusing not only on technical but also on generic inspection skills, and official guidelines for inspectors to help ensure consistency and fairness.

Source: OECD (2014), *Regulatory Enforcement and Inspections*, OECD Best Practice Principles for Regulatory Policy, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264208117-en>

8.2. Compliance and enforcement policy framework in Slovenia

288. Regulations cannot be effective unless the regulation is “fit for purpose” and the regulated businesses and actors comply with the regulation. Well-designed regulation is not enough to bring benefits to citizens. Businesses and other regulatory actors must comply with the regulation for it to have any positive impact on citizens, such as better food safety, environmental protection and consumer safety.

289. In Slovenia, the Inspections Act, last updated in 2014, regulates most areas of compliance and enforcement, including:

- General principles of inspection,
- organisation of inspection,
- status,
- rights and duties of inspectors,
- inspectors’ powers,
- the inspection procedure,
- inspection measures and
- other issues relating to inspection.

290. The Inspections Act also contains 4 key principles to guide inspectors (see Box 8.2):

- Principle of independence (Article 4);
- Principle of the protection of the public interest and private interests (Article 5);
- Principle of publicity (Article 6);
- and the Principle of proportionality (Article 7).

Box 8.2. The 4 Principles of Inspections in Slovenia

Principle of independence: In performing inspection duties, inspectors shall, within the framework of their powers, act independently.

Principle of the protection of the public interest and private interests: Inspectors shall perform inspection duties with the purpose of protecting the public interest and the interests of legal and natural persons.

Principle of publicity: On the basis of and within the limits of the authorisation of the head, inspectors shall inform the public of their findings and measures taken if this is necessary to protect the rights of legal or natural persons and if this is necessary to ensure respect for the legal order or its provisions.

Principle of proportionality: Inspectors shall perform their duties in such a manner that, in exercising their powers, they shall interfere with the operation of legal and natural persons only to the extent necessary to ensure an effective inspection.

In the selection of measures, inspectors, taking account of the gravity of the violation, shall impose a measure more favourable to the person liable if this achieves the purpose of the regulation.

In setting the time limit for the elimination of irregularities, an inspector shall take into account the gravity of the violation, its consequences for the public interest and the circumstances determining the time period within which the natural or legal person supervised by the inspector (hereinafter: the person liable) can, by acting with due care, eliminate irregularities.

Source: Inspections Act, Official Gazette of the Republic of Slovenia, No. 56/2002, 26/2007, 40/2014 (accessed: 10 August 2017).

291. Compliance and enforcement reform has come in three major stages since independence. The first major reform to Slovenia's compliance and enforcement regime took place in 1995, when the Inspections Act was modified to split public administration between the state and municipal level. In addition the 1995 reform also placed inspectorates under their respective ministry and benefited from a higher level of autonomy.

292. In 2002, the Inspection Council was created to boost co-ordination between inspectorates, organising common inspections and encourage information exchange and legal aid. Changes to the Inspections Act have been generally minor since 2002. Later developments in 2005 and 2007 allowed the Inspection Council to conduct procedures for minor offences and strengthened regional co-ordination of inspections. According to the EU, the reforms led to a significant reduction in the number of appeals against inspectors' decisions.

293. Inspectors operate within inspectorates and agencies, which are bodies within line ministries. Currently, there are 34 administrative bodies within Slovenia's line ministries, including inspectorates, agencies, and other administrative bodies, such as the Archives of the Republic of Slovenia.

294. The Chief Inspector of each inspectorate must submit to the competent minister and to the Inspection Council annual reports containing information on the number of

cases, the time required for resolving a particular case, meeting time limits in resolving particular cases, and the implementation of annual work plans.

295. Unfortunately, according to Florentin Blanc, “gray areas” in which multiple inspectorates cover the same policy area still existed as late as 2012 (Blanc, 2012) even after reforms and the establishment of the Inspection Council. For example, several inspectorates and agencies in Slovenia are charged with the inspection of nuclear material. Some countries have completed sectoral reviews of enforcement regimes to reduce overlap and simplify co-ordination and administration of enforcement procedures (see Box 8.3 on the UK Hampton Review). The last amendments in 2014 were increasing the efficiency and co-ordination of inspection services. On the basis of amendments, the work of the inspectors is based on the annual work planning, about which the Government is notified in advance.

Box 8.3. The Hampton Principles

Sir Philip Hampton’s 2005 review, “Reducing administrative burdens: effective inspection and enforcement” considered how to reduce unnecessary administration for businesses. The Hampton Review set out some key principles that should be consistently applied throughout the regulatory system:

- regulators, and the regulatory system as a whole, should use comprehensive risk assessment to concentrate resources on the areas that need them most;
- regulators should be accountable for the efficiency and effectiveness of their activities, while remaining independent in the decisions they take;
- no inspection should take place without a reason;
- businesses should not have to give unnecessary information, nor give the same piece of information twice;
- the few businesses that persistently break regulations should be identified quickly and face proportionate and meaningful sanctions;
- regulators should provide authoritative, accessible advice easily and cheaply;
- regulators should be of the right size and scope, and no new regulator should be created where an existing one can do the work; and
- regulators should recognise that a key element of their activity will be to allow, or even encourage, economic progress and only to intervene when there is a clear case for protection.

Source: “Assessing our Regulatory System – The Hampton Review”, Department for Business Innovation and Skills (2005),

<http://webarchive.nationalarchives.gov.uk/20121212135622/www.bis.gov.uk/policies/better-regulation/improving-regulatory-delivery/assessing-our-regulatory-system>.

8.3. Risk-based approaches to compliance

296. Regulatory enforcement strategies in Slovenia are still mostly based on sanctions. However, there is some development in the use of alternative approaches such as:

- **Risk-based inspections planning:** Inspectorates are planning their work on the basis of risk-assessments and reallocate resources to in-depth audits in high-risk areas.
- **Co-ordination and joint planning:** Membership in the Inspection Council, a permanent interministerial working body, is rapidly increasing to enhance

co-ordination in inspections. In addition to the common long-term and short-term objectives, the work of inspections is co-ordinated in terms of better use of public resources.

- **Organisational measures:** In August 2014, mainly operative Customs Administration of the Republic of Slovenia (CURS) and mostly administrative Tax Administration of the Republic of Slovenia (DURS) merged into the Financial Administration of the Republic of Slovenia (Furs). The priority tasks of Furs are detection of tax evasions, and customs and excise duty irregularities, preventive activities, supervision of cash operation, combat against smuggling and detection of smuggled goods (illicit drugs, forgeries), with a special emphasis on fight against undeclared work.
- **Information integration:** At the Ministry of Public Administration is in the planning stage a project called eInspections, whose main aim is to use information and communication technologies to maximise risk-focus, co-ordination and information-sharing – as well as optimal use of resources.
- **Informing stakeholders:** On the websites of inspections we can find guidelines, frequently asked questions and answers, useful information and toolkits.
- **Public campaigns:** In recent years we have witnessed a number of public campaigns aimed at strengthening compliance (see Box 8.4).

Box 8.4. The use of public campaign compliance initiatives in Slovenia

The public campaign “Let’s stop undeclared work” – aimed at preventing undeclared work – was launched on 31 August 2010 by the Ministry of Labour, Family and Social Affairs, in co-operation with the relevant supervisory authorities and with the support of the social partners.

The campaign was aimed at the general public, especially enterprises, workers and consumers, and set out to:

- inform people about the benefits of paying taxes and to emphasise the fact that social security contributions provide social security,
- raise awareness regarding the negative effects for the consumers (i.e. no invoice = no warranty);
- promote a positive image of compliance with employment and social security regulation and to emphasise the importance and purpose of the payment of social security contributions and the payment of taxes.
- underline the negative effects of undeclared work that leads to unfair market competition: business entities that are operating in accordance with the regulations are disadvantaged as they cannot compete with those engaged in undeclared work.

Posters and leaflets aimed at the general public were available at all regional offices of the Employment Service of Slovenia, at social work centres, local administrative units, at the tax office. They were distributed also through the offices of all social partners participating in the campaign. Promotional materials were available also at various trade fair activities organised by these institutions. Promotional materials were posted on the state administration, supervisory authorities and e-government websites. Ads were published in various magazines aimed at entrepreneurs and craftsmen as well as on the radio. The campaign more precisely included the following promotional materials:

- print of hoardings and rental of poster sites at 60 different locations;
- print and distribution of leaflets in the range of 30,000 pieces;
- print and distribution of B2 size posters in the range of 700 pieces;
- production and release of radio ads on radio stations VAL 202 and Radio Centre (ads were playing for one week); www.protisiviekonomiji.si/fileadmin/template/vklopi_razum/images/slider/slider.jpg
- publication of ads in the journal Craftsman (Obrtnik), Entrepreneur (Podjetnik), in the gazette of Slovenian Chamber of Commerce;
- publication of campaign banners and logos on the websites of ministries, supervisory authorities and participant institutions.

In February 2015 the Government decided to launch a public campaign “Activate your mind - Request an invoice!”, aimed at raising public awareness of the negative impacts of the informal economy. In addition to promotional activities in the form of posters, leaflets, radio and TV advertising, a website www.protisiviekonomiji.si/ was created.

Citizens can use web application to scan received invoice and send it to the financial administration. On the website names of citizens receiving a prize of EUR 15 000 are published. Promotional video: <https://www.youtube.com/watch?v=7AQABkKSqao>.

Source: Responses to the Slovenia Regulatory Policy Review Survey.

8.4. Appeals

297. The Slovenian Constitution defines the right to legal remedies as one of the basic human rights and fundamental freedoms. Everyone is guaranteed the right to appeal or to any other legal remedy against the decisions of courts and other state authorities, local community authorities, and bearers of public authority that determines rights, duties, or legal interests.

298. The General Administrative Procedure Act,¹⁶ in force since 2000, regulates administrative procedures in Slovenia. Administrative sanctions issued as a result of administrative procedures are subject to an administrative appeal, which is mandatory before a review of legality by the Administrative Court. An administrative appeal is filed on average in approximately 1-3% of cases.

299. The General Administrative Procedure Act (GAPA) furthermore lists seven procedural failures, which are considered to be severe violations. These can be classed into three groups:

- issues relating to unlawfulness (illegality) linked to the administrative body (jurisdiction, the impartiality of officials),
- issues relating to the party (legal interest, proper representation, the right to be heard, communication in an official language), and
- issues relating to the administrative act as a prescribed form (such as the fact that it must be in writing and contain the prescribed elements).

300. In Slovenia, the judicial review in administrative matters is defined by the 2006 Administrative Dispute Act (Zakon o upravnem sporu, ZUS-1, ADA). After a decision by the Administrative Court or the appellate Supreme Court, parties may also pursue the matter before the Constitutional Court as well as the European Court of Human Rights. This sometimes makes the protection of parties' rights rather difficult since in order to have access to court the parties must exhaust all prior remedies, which is often quite ineffective due to the months-long procedures.

301. An appeal must be filed in 15 days, unless statute provides otherwise. In the case of regulatory enforcement decisions issued by the bodies affiliated to the ministries, the line ministry is the appellate authority. The ministry examines whether an appeal is allowed and due, and whether it was filed by an entitled person. If the appeal is not allowed, if it is late, or if it was not filed by an entitled person, it is rejected by an order.

8.5. Assessment and recommendations

302. The Slovenia government could consider sector reviews and reviews of inspectorates' competencies where necessary to simplify administration of compliance and enforcement. A continuing challenge for compliance and enforcement in Slovenia is co-ordination. Although the Inspection Council has greatly supported interagency co-ordination on compliance and enforcement, some institutional gaps remain. Specifically, areas of enforcement are sometimes still spread among several institutions when

16. <http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO1603>.

consolidation may simplify administration. On the other hand, the Market Inspectorate has an extremely wide-range of responsibilities across varied policy areas. In this case, it may be possible reorganize or consolidate inspection duties to be more effective.

303. **The government should bolster the use risk-based approaches to enforcement in Slovenia.** Regulatory enforcement strategies continue to be mostly based on prescribing sanctions to regulated businesses and individuals. The Government of Slovenia should introduce changes to the Inspections Act to encourage inspectors to use risk-based strategies, such as warnings for minor or unintentional infractions, so that strained inspection resources can be used to in-depth audits of high-risk areas. All inspectorates should move to focus on raising compliance rather than simply handing out sanctions. They could accomplish this by issuing guidance materials, providing inspection checklists, or through information portals (see Principle 10 of the Compliance and Enforcement Principles).

304. **Compliance and enforcement strategies should be developed along with the draft proposals.** In many cases in Slovenia, it appears that regulations were developed without considering how it would strain compliance and enforcement resources that are already spread thin. The Government of Slovenia's fiscal constraints over the past few years have created a situation where inspectorates' budgets have not always grown with their responsibilities. Ministries should always plan and account for the costs and implementation of enforcing a regulation during the development of regulation, so that resources can be targets to ensure compliance once the law is promulgated.

305. **Slovenia could develop a central information system to share information on specific businesses between inspectorates.** The central information system could include company profiles with information that helps inspectors make targeted decisions about which businesses may be the most likely to not be in compliance. The information system would be accessible to all inspectors and could also help them jointly plan inspections of specific businesses.

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Annex 8.A. Inspections and compliance data from Slovenia

306. Ministries who participated in the preparation of responses for the Slovenia regulatory policy review estimated generally high level of compliance with regulations, though compliance rates are not monitored systematically.

307. Inspection bodies act as bodies affiliated to the ministries:

- Ministry of Labour, Family, Social Affairs and Equal Opportunities
- Labour Inspectorate
- Ministry of Finance
- Financial Administration
- Public Payments Administration
- Ministry of Agriculture, Forestry and Food
- Inspectorate for Agriculture and the Environment
- The Administration for Food Safety, Veterinary and Plant Protection
- Ministry of Culture
- Culture and Media Inspectorate
- Ministry of the Interior
- Inspectorate for Interior Affairs
- Ministry of Public Administration
- Public Sector Inspectorate
- Ministry of Defence
- Defence Inspectorate
- Inspectorate for Protection against Natural and Other Disasters
- Ministry of Infrastructure
- Infrastructure Inspectorate
- Maritime Administration
- Ministry of the Environment and Spatial Planning
- Inspectorate of the Republic of Slovenia for the Environment and Spatial Planning
- Nuclear Safety Administration
- Ministry of Economic Development and Technology
- Market Inspectorate
- Metrology Institute of the Republic of Slovenia
- Ministry of Education, Science and Sport
- Inspectorate for Education and Sport
- Ministry of Health
- Health Inspectorate

308. Inspection bodies publish criteria to prioritize inspections, taking into account risk assessment in each area. They also publish annual reports and work plans for the coming year.

309. Some key findings of the inspection bodies:

Market inspectorate

310. Market Inspectorate carried out 16 982 inspections in 2015. It imposed 4 144 administrative measures (3 785 warnings based on the Inspection Act¹⁷ and 1 359 administrative decisions) and 6 950 offence proceedings.

Figure 8.1. Proportion of administrative measures based on the number of inspections carried out in 2015

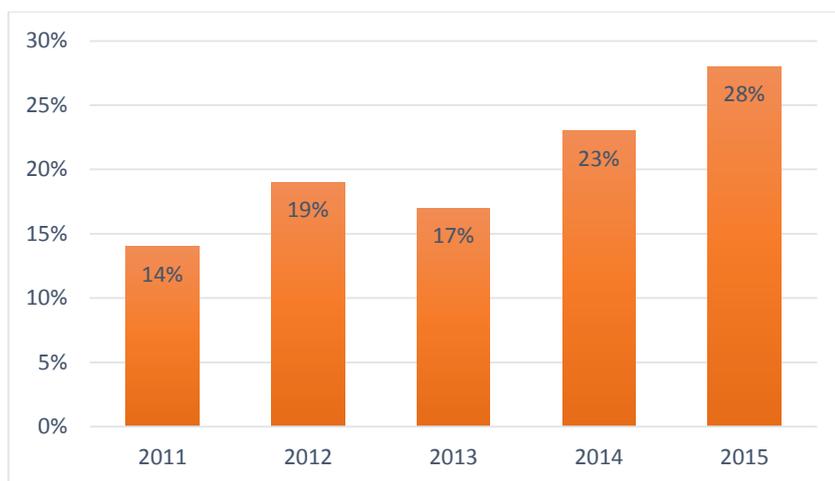
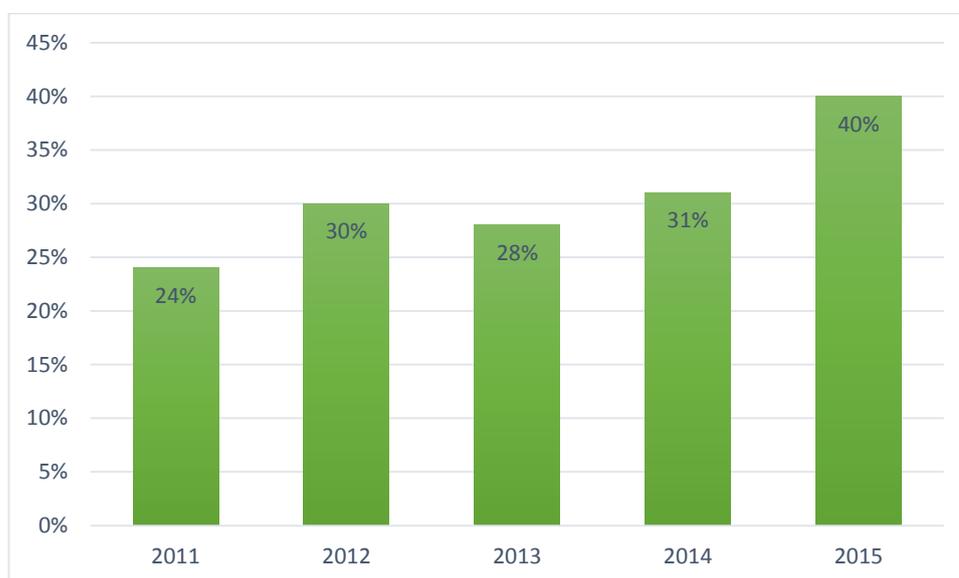


Figure 8.2. Proportion of offence proceedings based on the number of inspections carried out in 2015



17. www.pisrs.si/pis.web/pregledpredpisa?id=zako3209.

Labour Inspectorate

311. Labour Inspectorate conducted 16 077 inspections in 2015. It imposed 12 056 administrative measures and offence proceedings (12 122 2014). The Inspectorate finds that situation in the area of occupational safety and health is deteriorating, as the number of offenses detected increases over the years.¹⁸

Financial administration

Table 8.1. Inspection activities in 2015

Area of inspections	Number of inspections carried out	Number of irregularities detected	Proportion of irregularities (%)
Customs, excise duties	20 590	1 334	6.5
Taxes	20 736	2 052	9.9
Other sectors (transport legislation, Forest Act)	19 373	4 325	22.3
TOTAL	60 699	7 711	12.7

Source:

www.fu.gov.si/fileadmin/internet/o_financni_upravi/letna_porocila/furs/letno_porocilo_furs_2015.zip.

Inspection Council

312. Based on the Inspection Act¹⁹ (Official Gazette of RS, No. [43/07](#) - official consolidated text and [40/14](#)) Inspection Council, the permanent interministerial working body for the mutual co-ordination of work, was established.

313. According to data from the annual report 520.181 inspections were carried out in 2015. There were 88 157 imposed measures – 53 099 administrative measures and 35.058 offence proceedings.²⁰

314. In 2014, 519 097 inspections were carried out. There were 83 328 imposed measures – 53 134 administrative measures and 30 194 offence proceedings.

315. Compared to 2014, there were 4.01% more administrative measures and 2.04% less offence proceedings imposed in 2013.

18. www.id.gov.si/fileadmin/id.gov.si/pageuploads/splosno/letna_porocila/lp_irs_d_2015_www.pdf.

19. www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO3209.

20. www.mju.gov.si/fileadmin/mju.gov.si/pageuploads/JAVNA_UPRAVA/SOUS/mnenja/Letno_porocilo_Inspekcijskega_sveta_za_letno_2015.pdf.

Annex 8.B. The importance of inspections and enforcement

Relevance of inspections and enforcement issues

316. Designing and adopting sound regulations is of little use if they are not complied with – and, to promote such compliance, appropriate systems and measures need to be in place, including effective and efficient regulatory inspections and enforcement. International experience and research have shown that this is unfortunately often far from being the case, and that inspection and enforcement regimes are often simultaneously burdensome and ineffective (see e.g. Hampton, 2005; World Bank Group, 2011; OECD, 2012, 2014).

317. Such a combination of ineffectiveness at achieving the stated goals of regulation (safety, health, or any other type of public benefit and welfare), and of considerable economic burden (loss of time, turnover and resources for active businesses – and decreased investment because of regulatory uncertainty), is particularly sharply in evidence in “transition” economies, notably those of countries that used to be part of the former Soviet Union. The reasons for this are many, and include several traits that have been “carried over” from the previous command-economy system:

318. Regulatory regimes that are highly prescriptive and cover far more aspects of economic activity than accepted good practice – resulting in more fields and types of regulatory control

319. A large number of institutions in charge of regulatory control and enforcement, with relatively high staffing levels – which mechanically drive a larger number of inspections, a high degree of fragmentation, as well as an important “constituency” that tends to resist changes towards a different (somewhat “lighter touch”) system.

320. Crucially, an approach to regulatory enforcement and a vision of regulatory drivers that are founded on an “adversarial” approach to duty holders (businesses, and also citizens) – this approach emphasises deterrence rather than trust, and reflects a “presumed guilty” view.

321. In addition, in a number of countries, these aspects are compounded by an overall weak rule of law, insufficient compensation for inspectors, and deep ethical issues in public administration, and result in inspections being primarily an instrument of corruption.²¹ This, of course, results in inspections that also completely cease to fulfil their stated function – ensuring that the goals of regulations are achieved.

322. Improving regulatory inspections and enforcement regimes is thus a priority that corresponds to a set of objectives for governments: reducing the economic burden and thus facilitating investment and growth and maximising the regulatory effectiveness in terms of social welfare with constant or decreasing state resources (particularly important in times of economic crisis. In “transition” economies, reducing corruption (that

21. See for instance, successive survey reports published by the IFC in Ukraine, Tajikistan etc., for e.g.,
: www.ifc.org/wps/wcm/connect/regprojects_ext_content/ifc_external_corporate_site/tjbee_home/overview/survey/ and www.ifc.org/wps/wcm/connect/regprojects_ext_content/ifc_external_corporate_site/uspp_home/projectmaterials/pmsurveys/.

contributes to both objectives) is also often specifically articulated as a priority. More deeply, inspection regimes that are more effective, efficient and transparent (and, of course, not corrupt) strongly contribute to reinforcing the legitimacy of public action and authorities, and this in turn drives improved compliance.

Drivers of compliance: striking the right balance

323. A common view underpinning “heavy handed” inspection and enforcement approaches is that people comply with rules only if they are under supervision and there is a realistic threat of punishment for violations. This “dissuasion-based” view results in efforts to inspect each and every establishment as often as possible. It is found in every country around the world, but is particularly strong in post-Soviet regulatory regimes, fueled by a history of hostility towards and suspicion of private initiative. Business operators are held to be pure rational calculators, only likely to comply if the costs of non-compliance are high, and punishment close to certain.

324. In fact, decades of research and international examples show decisively that this view is mistaken, and that such an approach results in disappointing compliance levels. Across a number of countries and fields, it has been found that compliance is fostered by at least three types of drivers: moral values, legitimacy of authorities, and rational calculations (dissuasion) – but that dissuasion appears to be the weakest of the three. In addition, even though inspections and enforcement can promote compliance through dissuasion, when they are perceived as excessive, heavy-handed, unethical or otherwise not transparent, they produce negative effects in terms of compliance that tend to outweigh whatever benefits dissuasion may have produced (see e.g. Tyler, 2003; Kirchler 2007; Blanc et al., 2015).

325. Moral values are one of the strongest drivers of compliance. Though primarily formed during childhood, they can be influenced through public policy and regulatory interventions – but on the long term (e.g. through school education). For this reason, and because moral values are not always easily connected to regulations, it is not possible to design interventions to promote regulatory compliance that would rely exclusively on moral values.

326. Dissuasion is, clearly, a driver of compliance that is more “straightforward” to use in regulatory interventions – but it has important limitations. First, even to the extent that probability of detection and fear of punishment do play a role, their effects are mediated by the values of the regulated subjects (see Kirchler, 2007) – meaning that those whose moral values already tend to support compliance will experience a stronger dissuasion effect, but those whose moral values do not will be far less influenced (whereas these are precisely those that *need* to be influenced). Second, really strong dissuasion tends to have considerable costs – both in terms of finances and freedom (personal and economic). In practice, strong deterrence is impossible to achieve in most cases: the resources required would be far too high (in a world of limited resources, society cannot commit enough resources to deterring violations in each and every regulatory field), and the intrusion on privacy and limitations of individual freedoms would be far too high (see Tyler, 2003). Finally, when efforts at dissuasion are felt to be excessively intrusive or even abusive (indiscriminate visits and checks, as well as sanctions imposed regardless of the risk level, disrespectful and/or unethical behaviour by inspectors, requirements that hinder initiative too strongly etc.), they tend to negatively affect procedural justice, which in turn weakens what is probably the strongest of compliance drivers. This phenomenon is particularly well in evidence in post-Soviet states, where extensive regulations and heavy

enforcement are not accompanied by high compliance, but rather by a general disrespect of rules, which tend to be seen as being tools of oppression or graft, and not as instruments of safety and social welfare.

327. Indeed, the degree to which regulated subjects (citizens, business operators...) find authorities and rules legitimate has consistently been found to be one of the strongest drivers of compliance (possibly the strongest one). Most importantly, it is also the one that is most easily influenced (strengthened, or weakened) by the actions of public authorities. In turn, the strongest element influencing legitimacy has been found to be procedural justice – the extent to which actions of public authorities are perceived by those whom they affect as *fair*, not in terms of their results, but of the process which they follow. Key elements of procedural justice are fairness of interpersonal treatment, behaviour by authorities that fosters motive-based trust, giving duty holders a real voice in the process. It entails respectful treatment of duty holders, ethical behaviour and self-imposed limits on discretionary power (non-biased and consistent decision making), and demonstrating that regulated subjects are listened to and their arguments, issues, requests etc. carefully considered. When procedural justice is high, the legitimacy of authorities increases, and with it the legitimacy of the rules they edict and the decisions they take – and with increased legitimacy comes increased compliance (see Tyler, 2003). In addition procedural justice, and the legitimacy it fosters, are long-term drivers of compliance, and largely self-sustaining. They do not require an increase in resources – but a change in behaviours and approaches, in how authority is exercised, which may be very significant.

328. It is essential to design an approach to regulatory inspections and enforcement that finds the right balance between achieving the needed level of dissuasion, and fostering procedural justice. Repeated inspection visits, even handled in the most respectful and fair way possible, will still produce a feeling of accumulated burden which will reduce the feeling of procedural justice (one tends to feel unfairly treated when control is too frequent). This negative effect on compliance gets far worse when enforcement methods are not optimal in terms of behaviour, but feature abusive discretion, lack of transparency, disrespectful treatment, refusal to hear the duty holder's views or take them into account etc. Unfortunately, “oppressive enforcement and harassment” are quite frequent in regulatory inspection and enforcement practices, and this is a major factor in the failure of regulations to produce their desired effects, because of resistance by regulated subjects leading to low compliance. An optimal system should strike the right balance to fit all the different categories of regulated subjects – the majority which tend to comply voluntarily if the preconditions for compliance exist (legitimacy in particular, as well as knowledge, and regulations that are realistically within their means in terms of complexity and costs, investment etc.), as well as a minority which tend to be “rational calculators” (see Voermans, 2014; Elffers, 1997). For them, an element of dissuasion is essential to make them the “right” choice – and this dissuasion will also ensure the majority of “voluntary compliers” that there is a “level playing field” – but this dissuasion should not become so burdensome that it alienates the majority.

Best practice principles and fundamental elements for reform

329. Inspections and enforcement apply across a variety of regulatory fields: technical safety inspections (themselves quite diverse: food hygiene, environment, OSH, etc.), revenue inspections (taxes and customs), and often a number of other regulatory

compliance checks (on employment law, state language, gambling, currency regulations etc.). Institutions conducting inspections range from small specialised outfits with a few staff, to major structures with dozens of thousands of employees (in particular tax inspectorates). Institutions, their status, governance etc. are likewise diverse. On the other hand, there is a considerable level of agreement on what good practices for inspections are, and on how to conduct reforms to improve existing regimes.

Box 8.5. The OECD Best Practice Principles for Regulatory Enforcement and Inspections

1. **Evidence-based enforcement.** Regulatory enforcement and inspections should be evidence-based and measurement-based: deciding what to inspect and how should be grounded on data and evidence, and results should be evaluated regularly.
2. **Selectivity.** Promoting compliance and enforcing rules should be left to market forces, private sector and civil society actions wherever possible: inspections and enforcement cannot be everywhere and address everything, and there are many other ways to achieve regulations' objectives.
3. **Risk focus and proportionality.** Enforcement needs to be risk-based and proportionate: the frequency of inspections and the resources employed should be proportional to the level of risk and enforcement actions should be aiming at reducing the actual risk posed by infractions.
4. **Responsive regulation.** Enforcement should be based on "responsive regulation" principles: inspection enforcement actions should be modulated depending on the profile and behaviour of specific businesses.
5. **Long term vision.** Governments should adopt policies on regulatory enforcement and inspections: clear objectives should be set and institutional mechanisms set up with clear objectives and a long-term road-map.
6. **Co-ordination and consolidation.** Inspection functions should be co-ordinated and, where needed, consolidated: less duplication and overlaps will ensure better use of public resources, minimise burden on regulated subjects, and maximise effectiveness.
7. **Transparent governance.** Governance structures and human resources policies for regulatory enforcement should support transparency, professionalism, and results-oriented management. Execution of regulatory enforcement should be independent from political influence, and compliance promotion efforts should be rewarded.
8. **Information integration.** Information and communication technologies should be used to maximise risk-focus, co-ordination and information-sharing – as well as optimal use of resources.
9. **Clear and fair process.** Governments should ensure clarity of rules and process for enforcement and inspections: coherent legislation to organise inspections and enforcement needs to be adopted and published, and clearly articulate rights and obligations of officials and of businesses.
10. **Compliance promotion.** Transparency and compliance should be promoted through the use of appropriate instruments such as guidance, toolkits and checklists.
11. **Professionalism.** Inspectors should be trained and managed to ensure professionalism, integrity, consistency and transparency: this requires substantial training focusing not only on technical but also on generic inspection skills, and official guidelines for inspectors to help ensure consistency and fairness.

330. The OECD has compiled, based on international experience, a list of eleven good-practice principles for inspections and enforcement: evidence-based enforcement, selectivity, risk focus and proportionality, responsive regulation, long term vision,

co-ordination and consolidation, transparent governance, information integration, clear and fair process, compliance promotion, Professionalism (Box 8.5).

331. To implement these, the fundamental approaches on which reform should be based include:

- Risk focus and risk proportionality: inspection resources and targeting should be based on the level of risk presented by activities/establishments – and enforcement responses should be proportional to the risks identified during inspection visits.
- Co-ordination and consolidation: avoid duplication and overlaps in inspection mandates and missions – share information between different inspection fields
- Better inspection methods: tools (like checklists), training, guidelines, etc. should all contribute to more transparency and predictability in enforcement decisions, as well as more risk proportionality and more attention to compliance promotion.
- Compliance focus: all the work of inspectorates should be geared at improving compliance and public welfare outcomes – this means a major focus on information, outreach, guidance etc. – and a change in how inspectors interact with businesses.
- Governance and performance management: institutional design and structures, management, internal processes and procedures, compensation, performance management etc. should all be aligned with reform objectives, compliance promotion goal, and contribute to transparency, effectiveness, efficiency etc.

Shared information systems for inspections: characteristics and benefits

332. Risk-based planning cannot be done without each agency having data on all objects under supervision, which is costly and difficult to update – while, at the same time, because many of the risk dimensions are correlated, and because a non-compliant business tends to be thus in several areas, inspectorate would be able to improve their risk analysis if they also had data from other inspectorates. In addition, many inspectorates (even in OECD countries) have been found not to have proper information systems in the sense of systems allowing them to plan their activities based on risk, and to record the inspections results – setting up a system for each of these separately, and “populating” each separately with data on all objects, is far more costly than setting up a joint system. All these points speak strongly for setting up as much as possible joint information systems shared by most or all inspectorates.

333. The information system should be built on a database that includes the following data:

- List of all business entities and of all establishments (not only all companies/businesses, but also all separate premises) in the country.
- For each establishment, have data on a set of relevant parameters corresponding to different risk factors, some “general” risk parameters generally relevant to all or most types of inspections (e.g. size, volumes handled, type of technology or process, etc.), and other more specific ones grouped by risk dimensions (e.g. food safety, workplace safety etc.).
- List all inspections and their results.
- Automatically generate risk ratings for each business and establishment.
- Automatically generate inspections selection and schedule.
- Filter and analyse data reporting.

334. More advanced systems can also incorporate functions to plan activities inside the inspectorate and manage processes, have online checklists, etc. (Blanc, 2012).

335. Best practice today dictates that various inspectorates should ideally co-ordinate their activities to ensure that all relevant risks are properly addressed during a joint inspection process. However, experience shows that inspections tend to be unco-ordinated, unplanned and carried out in silos, regardless of industry or jurisdiction. Typically inspecting organisations do not share much information or regularly communicate. Information technology has a key role in improving efficiency, transparency, and accountability in business inspections. A select number of jurisdictions have made efforts to implement inspection management solutions that are shared across multiple inspectorates, albeit with various levels of success. Online research and a series of in-depth interviews with government officials who participated in this study showed that a successful SIMS implementation yields:

- Improved targeting through a better identification and follow up of risks.
- Decreased administrative burden for businesses and entrepreneurs to comply with regulation.
- Increased quality and effectiveness of inspections leading to improved regulatory compliance.
- Improved internal efficiency and reduced administrative costs for governments.
- Increased transparency of inspection operations for businesses and citizens leading to a decrease in corruption.

336. These benefits usually result from:

- Gathering and consolidating more consistent and comprehensive information on enterprises subject to inspection.
- Streamlining the inspection process to increase inspector efficiency.
- Formalising policy and procedures to ensure consistency.
- Automating and supporting decision-making to reduce subjectivity in operations and maximise the use of resources.
- Sharing information across inspectorates to co-ordinate inspection scope, improve preparation and outcomes, as well as reduce the inspection burden of individual inspectorates.
- Providing public access to relevant information leading to increased transparency and accountability.

337. Basic solutions incorporate information about businesses and entrepreneurs, their characteristics (e.g. locations, size, industry, etc.) and previous inspection results to allow for simple planning of future inspection activities. These systems typically provide a full inspection history by business and location and use a checklist to obtain consistency across inspections; however, there is typically very limited automation.

338. Intermediate solutions have functionality to trigger follow-up activities based on the outcome of an inspection and allow for automated integration of inspection practices across inspectorates. They are ideally integrated with government business registries or other sources of enterprise information.

339. Advanced solutions include a variety of other features and functions including:

- Risk-based inspection planning, which allows for the scheduling and planning of inspections based on a risk assessment of the business that includes key

information such as size of the business, previous inspection results, industry, geography, and data from other inspectorates or government information sources.

- Automated or real-time integration with other information sources, which generally fall under two broad categories: i) registry information (e.g., business/company registration information, licences and permits); and ii) risk information (e.g., business/company risk based on its activities and profile, results of inspections or reports from other inspectorates).
- Comprehensive mobile inspection capabilities, including tools and technologies that give inspectors the ability to view schedules and inspection records as well as record inspection results while onsite.
- Performance management capabilities enabled through business analytics, which are aligned with risk-based planning and provides capabilities for inspectorates to monitor the efficiency and output of their inspection programme and individual inspectors.
- Public portal capabilities involves, providing access to businesses and the general public to view inspection requirements and results, submit complaints, and appeal an inspection (Wille and Blanc, 2013).

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Annex 8.C. 2015 Indicators of Regulatory Policy and Governance (iREG)

340. The 2015 Indicators of Regulatory Policy and Governance (iREG) present up-to-date evidence of OECD member countries' and the European Commission's regulatory policy and governance practices advocated in the 2012 Recommendation of the Council on Regulatory Policy and Governance. They cover in detail three principles of the 2012 Recommendation: stakeholder engagement, Regulatory Impact Assessment (RIA) and *ex post* evaluation, and provide a baseline measurement to track countries' progress over time and identify areas for reform. The Indicators present information for all 34 OECD member countries and the European Commission as of 31 December 2014.

341. The 2015 Indicators draw upon responses to the 2014 Regulatory Indicators survey. Answers were provided by delegates to RPC and central government officials. Compared to previous surveys, the 2014 survey puts a stronger focus on evidence and examples to support country responses, as well as on insights into how different countries approach similar regulatory policy requirements. The survey questionnaire has been developed in close co-operation with RPC delegates and members of the OECD Steering Group on Measuring Regulatory Performance. Survey answers underwent a verification process carried out by the OECD Secretariat in co-operation with delegates to the RPC in order to enhance data quality and ensure comparability of answers across countries and over time.

342. The survey focuses on RIA and stakeholder engagement processes for developing regulations (both primary laws and subordinate regulations) that are carried out by the executive branch of the national government and that apply to all policy areas. Questions regarding *ex post* evaluation cover all national regulations regardless of whether they were initiated by parliament or the executive. Based on available information, most national regulations are covered by survey answers, with some variation across countries. Most countries in the sample have parliamentary systems. The majority of their national primary laws therefore largely originate from initiatives of the executive. This is not the case, however, for the United States where no primary laws are initiated by the executive, or, to a lesser extent, for Mexico and Korea where the share of primary laws initiated by the executive is low compared to other OECD member countries (4% over the period 2009-2012 and 30% in 2013 in Mexico and 16% in Korea over the period 2011-13).

343. Based on the information collected through the 2014 survey, the OECD has constructed three composite indicators on RIA, stakeholder engagement for developing regulations, and *ex post* evaluation of regulations in order to help present the information collected in an easily expressible format. Each composite indicator is composed of four equally weighted categories: systematic adoption, methodology, transparency, and oversight and quality control.

344. While composite indicators are useful in their ability to integrate large amounts of information into an easily understood format (Freudenberg, 2003), they cannot be context specific and cannot fully capture the complex realities of the quality, use and impact of regulatory policy. In-depth OECD country peer reviews are therefore required to complement the indicators and provide readers with an in-depth assessment of the quality of a country's regulatory policy, taking into account the specific governance structures, administrative cultures and institutional and constitutional settings to provide context-specific recommendations. Moreover, the results of the iREG indicators, as those of all

composite indicators, are sensitive to methodological choices. It is therefore not advisable to make statements about the relative performance of countries with similar scores. Please note that while the implementation of the measures assessed by the indicators aim to deliver better regulations, the indicators should not be interpreted as a measurement of the quality of regulation itself.

345. All underlying data and scores for the composite indicators are available at www.oecd.org/gov/regulatory-policy/indicators-regulatory-policy-and-governance.htm.

346. Further information on the indicator design and methodology, as well as the full list of survey questions covered by the indicators can be found in: Arndt, C., A. Custance Baker, T. Querbach and R. Schultz (2015), “2015 Indicators of Regulatory Policy and Governance: Design, Methodology and Key Results”, OECD Regulatory Policy Working Papers, No. 1, OECD Publishing, Paris. Results and first analysis of the indicators are available in the OECD Regulatory Policy Outlook 2015.

Source: www.oecd.org/gov/regulatory-policy/indicators-regulatory-policy-and-governance.htm.