



Republika e Kosovës
Republika Kosova - Republic of Kosovo
Qeveria - Vlada - Government

GUIDELINES
**ON EX-POST EVALUATION
OF LEGISLATION IN THE
REPUBLIC OF KOSOVO**



Republika e Kosovës
Republika Kosova - Republic of Kosovo
Qeveria - Vlada - Government

Guidelines on Ex-post evaluation of legislation in the Republic of Kosovo¹

¹ Guidelines on Ex-post was approved on 38th meeting of the Government of the Republic of Kosovo with the decision no.03/38 date 15.07.2015

Foreword

The legislative reform in the Republic of Kosovo, as the youngest state in Europe, in comparison to other reformed European countries, have required and requires drafting of the entire legislation, implying inclusion of a number of new areas and institutions which did not exist earlier in the Republic of Kosovo. To support the full development of the legal system of the Republic of Kosovo, a necessary important effort is needed, and not only a legislative one.

The need to create hundreds of laws in a short period of time involves a high pressure for line ministries, both to conceptualize as well as implement new legal acts. This is as well, one of concerns of the Government of Republic of Kosovo. Its commitment to improve policy-making as well as legislation and at the same time improving the implementation of legislation and moving towards systematic development of regulatory impact assessments is articulated in the Strategy for Better Regulation 2014 - 2020, approved by the Government of the Republic of Kosovo, with Decision no. 03/189 dated 23 May 2014.

The ex-post evaluation is a tool of better regulation, defined with the Strategy for Better Regulation 2014 – 2020. The ex-post evaluation enables public administration to collect data, among others: as how a legal act is implemented; whether that piece of legislation has achieved the foreseen goals; whether the legislation is cost effective; as well as for possible reasons which have resulted in difficulties or unwanted effects. These data serves to proposal organs as well as to the Government in general to decide whether the assessed legislation through ex-post evaluation needs to be amended or replaced with the new provisions.

The main objective of the ex-post evaluation is: to assist policy makers and implementers of legal provisions (especially ministries and public administration) to evaluate whether legal framework is being properly applied by the final implementers (public administration, general public, local authorities, businesses) and to evaluate whether

initial aims and objectives have been achieved.

Ex-post evaluation should be differentiated from the monitoring function of the Assembly: firstly is a self-evaluation process performed by the Government of its policies and results whilst the latter is a parliamentary oversight function i.e. control against Government actions.

In this regard, the Government of the Republic of Kosovo, with its decision no. 03/38, on the meeting held on 15 July 2015 have approved Guidelines on Ex-post Evaluation of Legislation in the Republic of Kosovo which foresees the steps required to be undertaken to perform ex-post evaluation. Those practical steps which guide the procedure of ex-post evaluation are introduced.

The Government of Republic of Kosovo has introduced the methodology of ex-post evaluation in order to improve the level of information and enforcement issues. Prior to ex-post evaluation commencing the approach to evaluation must be determined clearly and carefully planned by following five steps: should the legislation be evaluated (Step 1); timeframe for the evaluation (Step 2); what should be evaluated/the scope of evaluation (Step 3); who are the implementers (Step 4); and sources of information as well as data needed for the Ex-post evaluation (Step 5).

The Guidelines have been drafted by all ministries with the continuous support by the OSCE - Mission in Kosovo, through the Project: “*Support for the implementation of draft-procedures on the ex-post evaluation of legislative reforms*”, who we thank for their support.

Comments and suggestions on improvement of the Guidelines are welcomed. They may be submitted in writing to the Legal Office of the Office of the Prime Minister.

Respectfully!

Besim M. Kajtazi

Director of Legal Office, Office of Prime Minister



Republika e Kosovës
Republika Kosova - Republic of Kosovo
Qeveria - Vlada - Government

No. 03/38
Date: 15.07.2015

Government of the Republic of Kosovo, pursuant to Articles 92, paragraph 4 and Article 93, paragraph (4) of the Constitution of the Republic of Kosovo, based on Article 4 of Regulation no. 02/2011 on the areas of administrative responsibilities of the Office of the Prime Minister and Ministries, amended and supplemented with Regulation no. 07/2011 and Article 19 of the Rules of Procedure of the Government of the Republic of Kosovo no. 09/2011, based on the Better Regulation Strategy 2014-2020, Annex 2 of the Action Plan, Reforms of existing Legislation for increasing the competitiveness, in its meeting held on 15 July 2015, issues this:

DECISION

1. It is approved the Guideline for Ex-post Evaluation of Legislation in Republic of Kosovo, which is attached to this Decision.
2. Proposing Ministries-bodies are responsible for conducting the analysis of Ex-post evaluation as it is defined in the Guideline.
3. Secretary General of the Office of the Prime Minister establishes the Supervisory Group with representatives of the legal departments from the line ministries that coordinate Ex-post evaluation for the laws of all ministries. Supervisory Group is chaired by a representative of the Legal Office of the Office of Prime Minister.
4. In the first six months after the entry into force of this Guideline, the Legal Office of the Office of Prime Minister in cooperation with ministries, based on the Guideline will identify up to two laws for evaluation, as a pilot project.
5. Legal Office of the Office of Prime Minister in close cooperation with the Supervisory Group is responsible for coordinating inter-ministerial work and drafts the Annual Program of Ex-post Evaluation.
6. Relevant Ministries may establish working groups for implementing the Ex-post evaluation of legislation in Kosovo, from their scope. Working Groups are approved by the General Secretaries of Ministries, in coordination with the Supervisory Group and in accordance with the Annual Program of Ex-post Evaluation.

7. All relevant departments/ units are obliged to provide support to the proposing body during the process of Ex-post evaluation as it is required in the Guideline.
8. Depending on what is determined by the Ex-post Evaluation Report for each evaluated law, proposing Ministries-bodies will ensure that the outcomes of Ex-post evaluation are reflected in future legislative programs and will ensure that the new draft-legislation will reflect the conclusions and recommendations of Ex-post Evaluation Report.
9. After the entry into force of this Guideline, the Legal Office of the Office of Prime Minister promotes and provides trainings for officials of legal departments and departments of the relevant field on the use of Ex-post evaluation in cooperation with the Kosovo Institute of Public Administration, line Ministries and various donors.
10. Legal Office of the Office of Prime Minister is responsible to review this guideline based on best practices and the feedbacks received from Ex-post evaluations.
11. Decision enters in force on the day of its signature.

Isa MUSTAFA

Prime Minister of the Republic of
Kosovo

Sent to:

- Deputy Prime Ministers
- All Ministries (Ministers)
- Secretary General of OPM
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1. Introduction

1. Rapid development of legislation, undertaken without sufficient planning and programming can lead to unexpected, often negative social and budgetary implications². Moreover, poorly drafted provisions endanger basic rule of law principles, including the principle of legal certainty: the application of the legislation must be foreseeable for individuals and this can be achieved only through clear and accessible legal provisions³. In the 1990s, in order to curtail the problems following the rapid development of legislation, but also as a response to the growing criticism of the legislative practices arising from citizens, businesses and lawyers,⁴ governments and international organizations, including the European Union, started examining their legislative practices.⁵ In response, European countries, as well as the US, Canada, and Australia, developed “Better Regulation” policies.
2. In the early developmental phases of the “**Better regulation**” policies, public authorities first focused on the preparatory phase of the legislative process.⁶ This focus, although important, was ineffective, as it could not guarantee a sufficiently adequate quality of the legal texts. In order to ensure a more comprehensive approach to the quality of legal texts, public authorities expanded their approach to “Better Regulation” policies towards the full legislative policy-cycle, which includes the legislations’: conception; drafting; implementation; evaluation; and revision.
3. In the past few years, in several jurisdictions,⁷ the focus in the evaluation of legislative practices has shifted towards “**Ex-post evaluation.**”⁸ Ex-post evaluation is

² “In the wake of worst economic downturn since the Great Depression, the importance of effective regulation has never been as obvious as it is now. EU 15 Project aims to stimulate debate on regulatory policy and how to do it better, to bring about real reform that improves lives.” See, OECD, “Better Regulation in Europe - The EU 15 project,” 2008, online at: <http://www.oecd.org/governance/regulatory-policy/betterregulationineurope-theeu15project.htm>.

³ See: *Commission v Kingdom of Denmark*, Case No. 143/8, European Court of Justice, judgment, 30 January 1985: “the principle of legal certainty (...) require and unequivocal statement of the rights (...) as to give the persons concerned (...) a clear and precise understanding of their rights and obligations and enable the courts to ensure that those rights and obligations are observed.”

⁴ The legislation was seen as overly complex and unnecessarily detailed.

⁵ See 1995 OECD Recommendation on Improving the Quality of Government Regulation: “Good regulation should: (i) serve clearly identified policy goals, and be effective in achieving those goals; (ii) have a sound legal and empirical basis; (iii) produce benefits that justify costs, considering the distribution of effects across society and taking economic, environmental and social effects into account; (iv) minimise costs and market distortions; (v) promote innovation through market incentives and goal-based approaches; (vi) be clear, simple, and practical for users; (vii) be consistent with other regulations and policies; and (viii) be compatible as far as possible with competition, trade and investment-facilitating principles at domestic and international levels”; “Make effective use of Ex-post evaluation”, OECD Guiding Principles for Regulatory Quality and Performance, 2005: “The European Union will rightly continue to be judged by the impact of its regulation on the ground. It must pay constant attention to improving the quality, effectiveness and simplicity of regulatory acts.” The step by step integration, which has characterised the Union’s development, has tended to slice policies into sectorial strands with different objectives and different tools: over time the capacity to ensure the coherence has diminished”, European governance - A white paper, COM/2001/0428, final, October 2001.

⁶ This is presumably why the Impact Assessment Methodology became a major tool in most OECD countries in legislative development.

⁷ See OECD (2014), *Framework for Regulatory Policy Evaluation*. online at: <http://www.oecd.org/regreform/framework-for-regulatory-policy-evaluation.htm>

⁸ Even though public officials consider Ex-post evaluation as an important Better Regulation tool, in 2012, OECD reported that only three OECD countries have formalized Ex-post evaluation of legislation (Australia, Germany, Sweden) whereas 19 OECD countries have developed a Regulatory Impact Assessment, noting that

designed to assess whether the objectives, the anticipated effects, costs and benefits of a piece of legislation have actualized, and to identify any difficulties or unintended effects that may have arisen from the legislation. Ex-post evaluation is seen as crucial in ensuring that primary and secondary legislation are implemented in the most effective manner and to revise it as appropriate.⁹

Moreover, Ex-post evaluation also assists in:

- Identifying regulatory outcomes;
- Measuring the overall socio-economic or environmental impacts of the laws;
- Providing guidance on the positive effects of the law;
- Providing guidance on the aspects of the legislation that need to be revised; and
- Identifying implementation issues and other potential concerns.

In addition to providing an insight on the effectiveness of legislation and the necessity for reform, Ex-post evaluation also reinforces a major rule of law principle: accountability of government.

The development and approval from the Government of a the Strategy on “Better regulation 2014-2020”¹⁰ was a symbol of a commitment to improve its policy and legislative drafting and a move towards the development of a systematic impact assessment of the legislation. In order to ensure that the “Better Regulation” policy is sufficiently comprehensive, Ex-post evaluation should also be undertaken. These guidelines serve to set out the requisite steps to undertake an Ex-post evaluation. They provide practical steps which guide the Ex-post evaluation process.¹¹

4. These guidelines are based on best practices and regulatory principles and aims at putting into function a comprehensive methodology for better regulation (see Better Regulation Strategy 2014-2020). These guidelines are designed to support officials of public institutions, as well as all stakeholders (the public and private actors involved in the implementation process) throughout the Ex-post evaluation process. Therefore, they are designed as a Handbook containing a very practical step-by-step methodology.
5. This methodology was prepared through a consultative process with line ministries. The Office of the Prime Minister (OPM) and ministries are responsible for ensuring that Ex-post evaluation process is undertaken as impartially and transparently as possible. OPM is also responsible for ensuring that this process adequately address all the required elements included in these guidelines. In order to achieve the best results,

EU Institutions developed both Impact Assessment and Ex post evaluation. Source: OECD (2014), *Framework for Regulatory Policy Evaluation*.

In Sweden and Germany, ex-post evaluation is a constitutional obligation, see Karlsruhe (Constitutional Federal Court) case-law: BVerfGE 88, 203 (263); Despite this 1988 Federal Constitutional Court case law, Germany established a systematic and federal approach to Ex-post evaluation only in 2013. Source: OECD (2014), *Framework for Regulatory Policy Evaluation*. In UK, in 2010, the Government and the House of Commons signed a protocol stated that the Government must conduct an internal review of a bill 3 to 5 years after enactment (See Cabinet Office, Guide to Making Legislation, July 2014, 41.5.)

⁹ L. Mader, *L'évaluation législative. Pour une analyse empirique des effets de la législation*, Payot, 1985.

¹⁰ Better Regulation Strategy 2014 – 2020 approved by the Government of the Republic of through a Decision 03/189 of 23.05.2014

¹¹ The present guidelines also aim to fulfil the concern expressed by all those implementing the laws in Kosovo: since 2009, an average of 65 laws were published. This caused significant pressure for the line ministries. Ex-post evaluation would also assist in the future legislative demands.

it is crucial that ministries get sufficient resources to competently fulfil ex-post evaluation requirements.

1.1. What is an Ex-post evaluation and existing state practices:

6. **Ex-post evaluation** is a Better regulation policy tool¹², as defined by the Better Regulation Strategy 2014-2020 of Kosovo¹³. It enables public administration to collect data on: how a piece of legislation has been implemented; if the legislation's anticipated goals were met; if the legislation is cost effective; and the potential reasons for the resulting difficulties/unintended effects etc. This information will enable the sponsor institutions and the government in general to decide whether the considered piece of legislation should be amended, repealed, or replaced by new provisions.
7. The main purpose of ex-post evaluation is to:
 - Help policy makers and those responsible for implementing the legal provisions (especially ministries and public administration), to measure whether a legal framework is effectively applied by its end-users (public administration, general public, local authorities, businesses); and
 - Evaluate whether the legislation meets its initial goals and objectives.
8. In order to ensure the most out of ex-post evaluation process, the causal effect between the legal framework and all its possible consequences must be identified, including desired and undesirable effects, especially on social welfare, economic growth, and on administrative procedure. For example, if evaluating a legal provision that seeks to simplify the administrative procedure process with the use of technology (such as data processing programs, electronic filing, etc.) the evaluator should measure whether the new process helps to:
 - Reduce the time necessary to accomplish the administrative task (desired effect);
 - Reduce the time necessary for the administration to answer the citizen's request (desired effects); and/or
 - Increase the time necessary to process the administrative task due to unforeseen delays of having to explain how to use the technology (undesirable effect).

Ex post analysis/Review of existing regulations

Definition:

“Systematic programme reviews of the stock of regulation assess regulations against clearly defined policy goals, including consideration of costs and benefits, to ensure that regulations remain up to date, are cost-justified, cost-effective and fit for purpose. This

¹² It is sometime referred to as: post-implementation review (see Australia PIR), monitoring, or assessment, each of these terms can be part of the Ex-post evaluation framework.

¹³ See the example from the European Commission: “Evaluation is a key tool within Smart Regulation, providing a critical, evidence-based judgement of whether an intervention has met the needs it aimed to satisfy and actually achieved its expected effects. It goes beyond an assessment of whether something happened or not, and looks at causality – whether the action taken by a given party altered behaviours and led to the expected changes”, Public consultation on Commission guidelines for evaluation, June 2014, http://ec.europa.eu/smart-regulation/evaluation/docs/20131111_guidelines_pc_part_i_ii_clean.pdf.

includes an assessment of the economic and social and/or environmental impacts”.

OECD (2014), Framework for Regulatory Policy Evaluation.

9. Ex-post evaluation should be distinguished from the monitor function of the Assembly or Parliament; the former is an auto-evaluation process conducted by the government on its own policy and results, whereas the latter is a parliamentary oversight function, i.e. control over the government’s actions¹⁴.
10. Ex-post evaluation is based on both quantitative and qualitative analysis. To fully measure the effects of a law, ex-post evaluators will rely on statistics, surveys, expert reports, studies etc. Statistics are a major source of quantitative analysis for public institutions, as they help to measure how the implementation is done (for example, how many people benefit from a new social security scheme). Surveys may be an effective tool for a qualitative evaluation of social impact of a legislative reform: by conducting surveys, the evaluator will be able to identify commonly held beliefs of the end-users of the law. Ex-post evaluation may also be conducted through experts’ reports and research studies, which combine both quantitative and qualitative approach. To be cost-effective though, such a methodology should be used mainly to evaluate large-scale legal reforms, such as those that may have a large scale impact on socio-economic or environmental issues.
11. Ex-post evaluation methodology, like all of the Better Regulation tools, is based on best practices and comparative approach from other jurisdictions. However, only a few countries have adopted guidelines on Ex-post evaluation. For example, Australia developed its own ex-post evaluation review through “Post Implementation Reviews mechanism” which is Australian terminology for Ex-post evaluation¹⁵ and Macedonia adopted an Ex-post evaluation methodology, thanks to OSCE’s support¹⁶
12. Ex-post evaluation itself is approached in different ways by the OSCE participating States. Some states focus on:
 - Mandatory periodic evaluation. The deadlines for the mandatory periodic evaluation could be enshrined in legal provisions of the legislation(see for example, France, with legislative evaluation clauses);
 - Standardized evaluation techniques (Germany, UK). Ex-post evaluation is systemic and based on a standardized methodology set out in guidelines for public administrations¹⁷;
 - Review of a cross-cutting thematic issue. The evaluation concerns not only one piece of legislation, but several laws that have been undertaken over the years in the same field – for example, on juvenile justice, or, on health care and health

¹⁴ See article 4.4 of the constitution which states that the government “*is responsible for implementation of laws and state policies and is subject to parliamentary control*”, as well as in article 6.9, and 47 of the Rules of Procedure of the Assembly of Kosovo, on the oversight role of the Assembly and the authority of the committees in monitoring the implementation of laws.

¹⁵ Department of finance and deregulation, Guidance note: Post-implementation Reviews, 2012, 24 p.

¹⁶ See the report “How to Apply the Methodology for ex-post Evaluation of Implementation of Regulation”, 2013, 53 p.

¹⁷ In Australia, Ex-post evaluation is to be conducted only in cases where no ex ante impact assessment was issued.

insurance etc. The evaluation of multiple laws may reveal discrepancies and overlaps in the laws;

- Public consultations (European Union)¹⁸;
- **Sunset legislation.** The legislation contains an automatic clause which terminates the law on a certain date, unless the legislature acts to renew the law. The sunset clause is generally accompanied by an evaluation clause, which sets the time when the law ought to be assessed/evaluated. (United States).

Approach to systematic Ex-post evaluation, initiated by governments, is rare, and is exemplified by practices in Germany and the UK, where a methodology is set out in governmental guidelines (which specify that there should be systematic evaluation of issued legislation). Within the OSCE participating states, the main example of a systematic evaluation methodology is given by the above-cited Macedonian experience. There are, however, examples of Ex-post evaluation being initiated in several regions with an objective of simplifying the administrative process, including: France, Belgium, UK and the European Union. In this approach, the focus is on evaluating the administrative burden resulting from the regulation, which impacts citizens and businesses. The obligation to engage in Ex-post evaluation in order to measure administrative burdens was enshrined in several laws, such as tax laws. For example, in an Ex-post evaluation examining value added tax, the European Union assessed the total sum of cost incurred by the businesses during their reporting obligations. European Union also introduced perception surveys in order to ascertain the public perception of the reporting obligations and to identify the type of businesses that are most impacted by the administrative burden.¹⁹

13. The various approaches to Ex-post evaluation can be applied separately or combined, depending on the object of the law under evaluation. The scope of evaluation should be proportionate to the importance of the legislation: for legislation with anticipated major social impact, the approach should combine several of the above-mentioned practices. It could include a mandatory evaluation clause enshrined in the law, and a need to engage in consultations in order to gather data on the perception of the law. Since the simplification of provisions in a law is determined to be a priority for Kosovo, then the evaluation undertaken should also combine several of the above mentioned practices: consultation, legislative evaluation clauses, evaluation of several laws at one time, and even a periodical evaluation of existing laws.²⁰
14. Combining various Ex-post evaluation approaches should be carefully considered, as this approach can be costly and time consuming. To minimize expenses, Ex-post evaluation can be undertaken only for a few select laws with a significant social or financial impact. For example, in France, legislative clauses within the laws focus on the priorities and ensure that the Assembly reviews the chosen pieces of legislation after the specified time passes. For example, an example of such a clause is found in

¹⁸ See Public consultation on Commission Guidelines for Evaluation, November 2013, online: http://ec.europa.eu/dgs/secretariat_general/evaluation/docs/20131111_guidelines_pc_part_i_ii_clean.pdf.

¹⁹ EU Project on Baseline Measurement and Reduction of Administrative Costs, Report on the Tax Law (VAT) Priority Area, 2009, http://ec.europa.eu/smart-regulation/refit/admin_burden/docs/enterprise/files/abst09_taxlaw_en.pdf.

²⁰ See for example, in Belgium, the Agency for administrative simplification conducts an annual evaluation of administrative burden.

laws on bioethics²¹ which ensures that the legal provisions reflect the scientific developments. In addition, similar clauses exist in social welfare legislation,²² which ensure that the social assistance provided meets the requisite social welfare standards.

15. In general, examples of Ex-post evaluation methodology and best practices are limited in number. However, many countries do conduct partial Ex-post evaluation.²³ The methodology foreseen in the Guidelines could rely on those good practices of the above mentioned countries, that inspired the principles in the present guidelines which are:
 - to set up clear evaluation rules and indicators to enlighten and ease the work of evaluators;
 - to design a clear process and clear division of responsibilities;
 - to have efficient reporting mechanism in order to get in depth information about implementation successes and failures;
 - to make sure that sufficient means are allocated to design and conduct the evaluation; and
 - to make sure that the results of the evaluation are effectively used to inform future decisions.
16. In order to minimize costs and ensure effective use of resources, the use of the Guidelines on ex-post evaluation should be done step by step using the methodology of this Guidelines. For example, one or two piece of legislation could be identified with significant social or economic impact, and/or with significant rule of law issues. Once the Ex-post evaluation is completed in these test-run cases, then the use of the Guidelines will be widen in other areas in systematic way.

1.2. Why do it?

17. Ex-post evaluation is conducted in order to inform the public authorities, including the ministries and the Assembly about the legislation about:
 - cost-efficiency issues (costs/benefit analysis of the implementation of the law);
 - effectiveness (does the law achieve its objective);
 - relevance (is the law appropriate to the socio-economic context);
 - legal inconsistencies;
 - cases of non-compliance; and
 - desirable effects resulting from the implementation of the legal provisions.
18. The ex post further helps identify the underlying reasons for the above noted concerns. This information about the underlying causes/concerns can be used by the public authorities to determine the most appropriate means to improve the legal framework.

²¹ For example see the French legislation: Article 21, of the Law 94-654; Article 26 of the Law 2004-800 and Article 47 of the Law 2011-814 (legifrance.gouv.fr).

²² See for example, Article 32 of the French Law 2008-1249 (legifrance.gouv.fr).

²³ See the recension done in the OECD report, Framework for Regulatory Policy Evaluation, 2014, table 3.2.

19. Moreover Ex-post evaluation findings can inform future impact assessments for upcoming and new legislation²⁴.
20. Finally, ex-post evaluation could assist governments in evaluating the impact of the law when no sufficient Ex-ante regulatory impact assessment²⁵ can be undertaken. Often, governments have to regulate matters quickly or in a context of circumstantial uncertainty, especially in matters regarding science and the environment. In such instances, it may be impossible to do an in depth assessment prior to the adoption of the law because of lack of time or because the potential impact remains unclear. For example, with regards to storage of nuclear waste, legislators may choose storage methods without knowing the full impact of a particular storage choice. In those instances, it is important to engage in a reassessment of the law, and to consider adding a provision within the law which obliges the legislators to reassess the law.

1.3. Why is an ex-post evaluation methodology needed

21. A well-defined Ex-post evaluation methodology in our country is needed in order to improve the level of information about implementation issues: reporting mechanisms are not systematic and feedback is very limited. As a result, it is difficult for the Republic of Kosovo authorities to identify: implementation problems; successes; and what specifically should be amended/modified in the legal provisions. The Ex-post evaluation method, it will provide a systematic manner for obtaining feedback from all the implementers (public administrations, municipalities, citizens and businesses etc.). Furthermore, the methodology will enable public authorities to gather information about:
 - If the law was implemented/how the law was implemented;
 - The difference the adoption of the law made/did not make;
 - Benefits/draw backs about the implementation;
 - Costs resulting from the implementation; and
 - If the costs of the legislation justify its implementation.
22. It is important to highlight that there are additional benefits to be obtained from a rigorous methodology. Rigorous methodology means that the Ex-post evaluation is based on a clear methodology and that there is a systematic approach to the implementation and review of legislation. This includes: defining the scope and objectives of the Ex-post evaluation; assessing if legal provisions are complied with (totally, partially, or not at all); effects of the legal provisions (changes in individual behaviour, benefits for individuals/businesses); impact of the legislation of the ground; and identification of further legislative activities that need to be undertaken and so forth. The additional benefits of a rigorous methodology include: increasing efficiency of the evaluation process; therefore greater benefits in terms of quality of review with lower costs. Therefore, the collection of data on the implementation of the laws and analysis of same can only be done effectively and efficiently, with greater benefits and lower costs, with a formalized methodology is in place. Rigorous

²⁴ "Evaluation examines the outturn of a policy, programme or project against what was expected, and is designed to ensure that the lessons learned are fed back into the decision-making process", UK, *The Green Book, Appraisal and Evaluation in Central Government*, Treasury Guidance 2011, 7.2.

²⁵ As defined by the Government of Kosovo's Better Regulation Strategy 2014-2020, Regulatory Impact Assessment.

evaluation is actually necessary in order to ensure that evidence gathered is accurate and that it reflects the issues resulting from the implementation of the legislation.

23. By highlighting actual outputs and outcomes of the legal provisions, ministries will be able to: identify cases of non-compliance; the underlying reasons for non-compliance; and engage in timely revisions of the problematic provisions.

Guidelines summary:

- **Key steps before starting an ex-post evaluation;**
- **Questions for the ex-post evaluators: how to evaluate (setting-up indicators, quantitative and qualitative evaluation, evaluation chart)? What to evaluate?**
- **Institutional framework, actors of the evaluation process, governance of the evaluation process;**
- **Reporting phase and drawing conclusions: Share, test, and discuss the findings.**

2 The methodology step by step

24. These guidelines are conceived as a practical tool, to sustain evaluation process and its actors along the way.

The Ex-post evaluation process (see for an example Annex 4) classically includes: Programming, Designing (including organizing and resourcing), Leading the Ex-post evaluation; and Drawing conclusions (see 3. below).

In order to address these different issues, the following section is divided into:

- Key steps to be taken before starting an Ex-post evaluation (2.1.);
- Performing the Ex-post evaluation (2.2.); and
- Responsibilities division and participation in the Ex-post evaluation (2.3.).

In order to ensure a proper follow up of all the steps listed below (2.1. and 2.2.), the line ministries should use a “Strategic planning sheet” (see description in Annex 1).

2.1. Key steps to be taken before starting an ex-post evaluation

25. Prior to starting an Ex-post evaluation, the approach to evaluation should be clearly delineated and carefully planned. In particular, prior to the evaluation commencing, the sponsoring institution needs to identify: should legislation be evaluated (Step 1); timeframe for the evaluation (Step 2); what should be evaluated/the scope of evaluation (Step 3); who are the implementers (Step 4); and sources of information and data needed for the Ex-post evaluation (Step 5).

Step 1: Should the law be submitted to an ex-post evaluation?

26. All legislation could be submitted to an ex-post evaluation, but not all should. So, how to decide which law should be subject to an ex-post evaluation?
27. The criteria for selecting of the laws are based on the nature of the legislation or the perceived impact of the law. For example, in the US, a piece of legislation is evaluated when it has a significant budgetary impact, or a significant social impact. The latter could refer to the high numbers of beneficiaries or characteristics of a particular group such as their vulnerable socio-economic status etc. In the United Kingdom, a cost threshold value is applied (evaluation is necessary only when compliance costs exceeds 5 million pounds). Note that the laws on budget generally do not fall within the scope of an Ex-post evaluation programme, as they are subject to a special examination scheme.²⁶
28. Ex-post evaluation is also usually not necessary for minor regulations, which have a minor impact on citizens, corporations, environment or the economy. It may not always be clear to the Ministry if the legislation has a minor impact. In those instances, where the ministry cannot identify if the legislation has a minor impact, the ministries should consult the OPM and seek clarification. Note that Ex-post evaluation should be undertaken with laws related to the protection of fundamental rights or that result in major reforms, in order to ensure that the safeguards provided by the law do not violate fundamental rights.²⁷
29. The ministries should also **identify the Ex-post evaluation clauses enshrined in the existing legislation**, and stick to the timeline provided in the clauses. The evaluation clause should explicitly mention: the goal of the evaluation; timeline to conduct the evaluation; and the possibility to revise the legal provisions, depending on the results of the evaluation.
30. A provision in the law which requires a report to be drafted is not an evaluation clause. For example, Article 14 of the Law on Chemicals Law No. 04/L-197 does not constitute an evaluation clause as it only requires that the government draft a report:

Not an evaluation clause:

Law on Chemicals Law No. 04/L-197

Article 14

1. The Ministry shall draft annual report on the state of chemicals.
2. The report on chemicals under the paragraph 1 of this Article will be part of the report on the state of environmental approved by the Government of the Republic of Kosovo.

²⁶ See for example, in France, guidance on the evaluation of law on budget derive from the by law on laws on budget (Loi organique n° 2001-692) (legifrance.gouv.fr)

²⁷ See for example, OSCE report on Multilingual Legislation in Kosovo and its Challenges (2012): “*The legal framework provides exemplary safeguards to protect the linguistic rights of the different communities. However, corresponding implementation and enforcement needs improvement. Failure to do so may lead to the indirect exclusion of communities from public affairs and other potential human rights violations*”; OSCE (2012), *Implementation Measures for Legislation Impacting Human Rights in Kosovo*, see Recommendations.

3. The report referred to in paragraph 2 of this Article contains mainly: data on the types of chemicals, information about the issued permits for the chemicals that are produced, imported, exported, information about researches conducted for chemicals, information about accredited laboratories and the implementation of the strategy and action plan for the management of chemicals.

Nevertheless, the data collected in a report could provide a useful insight for an Ex-post evaluation.

31. Third, the ministries should **consider evaluating a law if significant implementation difficulties have already been identified**, as for example, when a legal provision is not being applied or is excessively burdensome for citizens and businesses. These difficulties may be identified from jurisprudence or feedback from various implementers.
32. Fourth, an evaluation of the law is also necessary when the **law creates new rights and/or seeks to protect fundamental rights** (in the field of non-discrimination for example).
33. Once a determination has been made of laws to be evaluated, this list should then be submitted to OPM. Legal Office of the OPM will discuss this list in the steering group (see below) and will provide uniformity to the process so that ex post is applied in all instances where appropriate.

Step 2: When should the evaluation be launched?

34. Generally, the Ex-post evaluation shall commence within one to two years following the implementation of the law. The evaluation itself should be done at a time when the legal provisions have produced sufficient effects, which is generally not less than 6 months and to 2 years after the law enters into force. When a piece of legislation is complex, an early evaluation will not be accurate or helpful, as its unlikely that the law was able to produce its intended effects. However, Ex-post evaluation can be employed after a short period of implementation, especially when it appears that one piece of legislation or a legal provision have produced unintended effects.
35. The ex-post evaluation planning process should be initiated in the *early phase of implementation* in order to:
 - Identify the implementers and be able to get a feedback from them in a timely manner and when needed;
 - Set up an efficient data collection system early enough in the process; and
 - Define the scope of the evaluation.

Step 3: What should be evaluated? Define the scope of the evaluation

When defining the scope of the evaluation, it is important to consider the following questions:

1. Shall the Law be evaluated as:
 - a. a whole;
 - b. only a few legal provisions of the law; or
 - c. perhaps several laws from the same thematic issue (ie: laws dealing with public health)?
2. Shall secondary legislation be evaluated?
3. What are the issues to be taken into account in the evaluation of the law?

The following section will examine each of these questions in turn.

1. Shall the evaluation of the law include: (a) the whole law; (b) only a few provisions of the law or parts of a law; or (c) perhaps several laws with the same thematic issue (ie: the laws dealing with public health)?

36. The decision between the type of evaluation that ought to be undertaken depends on the specifics of potential implementation issues and government's strategic planning initiatives.

(a) When to evaluate the whole law?

37. The whole law should be evaluated when the law has significant social, economic or budgetary impact,²⁸ as described above, or when it affects fundamental human rights. Also, the law may be evaluated in its totality in instances where the legislation deals with an innovative approach, or where it deals with solutions to problems that have yet to be tested, also known as "experimental legislation."²⁹ Experimental legislation is usually adopted for a limited period of time which allows the solution to a particular problem to be tested. Sometimes the experimental legislation is applied only to a few municipalities or select regions, after which the legislation's impact can be tested, including its benefits/cost and long term feasibility. If the benefits justify the cost, the law could be applied to a greater region/territory. However, the use of experimental legislation should be limited to uncertain circumstances/situation.

38. Generally, all provisions that affect citizens and businesses have to be evaluated, whether they create rights or obligations. However, in most laws, there are only a few legal provisions that deal with the rights and obligations. In those instances, it may be appropriate to evaluate only a few provisions of the law (See section (b)).

(b) When to evaluate only few provisions of a law or a part of a law?

²⁸ See for example, Law No. 04/L-174 on Spatial Planning:

« 1. Purpose of this Law is to provide a sustainable and balanced development of spatial planning throughout the entire territory of Kosovo as a common national value, through good governance, rational use of space, environmental and cultural heritage protection.

2. Purpose of this Law is to provide sustainable governance, efficient use of public funds, preconditions for balanced economic development, sustainable space regulation, ensuring equal treatment, provision of free movement, and adequate access to public services for citizens »

²⁹ Evaluation législative et lois expérimentales. Séminaire en Valais, Crans-sur-Sierre, 7-9 October 1992, Charles-Albert Morand, Collectif; European countries, France, Switzerland, Germany etc, have enacted experimental legislation.

39. As briefly mentioned above, when the law has only a few provisions dealing with rights and obligations, and when these provisions can be isolated from the rest of the law, then the evaluation should concentrate first on those provisions. This will minimize the cost of the evaluation.
40. In other instances, the law may deal with different legal situations (topics), which need to be assessed separately: for instance, when evaluating the Law on Execution of Penal Sanctions, public authorities will evaluate separately the implementation of provisions on health care in prison, and those on the execution of fines.
41. In other instances, it may be more desirable to address particular implementation issues laid down in one or few provisions, or to address one particular issue of one piece of legislation. When appropriate,³⁰ the evaluation could focus only on cost-benefit issues: for example, in the evaluation of the Law on tourism, the focus could be only on the economic impact of the tourist packages. Moreover, one could also focus only on the resulting costs vs. estimated costs of environmental provisions.³¹

2. Shall secondary laws be evaluated?

42. The focus of Ex-post evaluation is generally on primary laws, but since secondary legislation is also relevant to implementation, it may be necessary to evaluate it as well. Secondary legislation should be evaluated when it has significant impact or when it sets out important details about the legal framework.³² Furthermore, secondary legislation should always be considered when the primary legislation is “framework legislation”³³ because in those instances, the only way to examine the outcome of the primary legislation is by the examination of secondary legislation.
43. Significant secondary legislation should also be subject to the assessment. The significance of the secondary legislation should be decided upon by the ministries prior to the commencement of the evaluation, and submitted to the OPM along with the annual list of laws under evaluation. In assessing what constitutes a significant secondary law, the ministries should consider the added value of the Ex-post evaluation for each secondary law.³⁴ Once the secondary legislation has been deemed sufficiently significant, the evaluator could examine various aspects of the secondary legislation. For example, the evaluator should determine if the secondary legislation:
 1. Has been issued as required by the primary law;
 2. What are the effects of secondary legislation, and in particular:
 - a. Does the secondary law meet the goal identified by the primary law;

³⁰ It will not be appropriate to concentrate on budgetary costs issues when evaluating Law No. 04/L-137 on Protection of Journalistic Sources.

³¹ See for example, Ex-post Estimated of Costs to Business of EU Environmental Legislation, Report to the European Commission, 2006: “addresses the question to what extent the ex-ante and ex-post estimates of costs to business resulting from EU environmental legislation differ, how these differences can be explained, and what the implications are for cost assessments”, http://ec.europa.eu/environment/enveco/ex_post/pdf/costs.pdf

³² UK government distinguish between «ex-post legislative review» (for primary law), and «post implementation review» for secondary legislation, noting that is part of one policy cycle.

³³ Framework legislation sets out the general objectives but allows for the detailed provisions to be drafted in secondary legislation.

³⁴ See what happened next? A study of Post-Implementation Reviews of secondary legislation: Government response, Report to the House of Lords, 2010.

- b. If it does not, what is the underlying reason?
44. Focus of the secondary legislation may also be contextual. For example, when a primary law sets out that the secondary legislation will establish requisite administrative or other procedures, an evaluation of the secondary law could focus on the unexpected burdens that may have been created by the provisions in the secondary law.

Law no.03/L-149 on Civil Service³⁵

“The Civil Service Law requires the adoption of a range of secondary legislation... in the following areas: procedures for equal opportunities, appeal procedures, recruitment, probation period, job description, performance appraisal, disciplinary procedures, working hours and attendance, annual leave procedures, personnel notes, and termination of work, and communities’ representation in the civil service”.

As of December 2012, 21 pieces of secondary legislation have been issued.

An Ex-post evaluation of the Law on Civil Service could examine:

- Whether all the secondary laws have been issued? *In this instance, it appears that not all of the secondary legislation has been issued;*
- From the secondary legislation in force, which ones should be subject to the Ex-post evaluation process?

The selection should be made by taking into account: the main objectives of the Law, including the Law’s major social impact; and the governmental priorities in Kosovo. A secondary law that meets this criteria and that ought to be subject to an evaluation/examination is the Regulation 04/2010 on “Procedures for the Fair and Proportional Representation of Communities Not in the Majority in the Civil Service of the Republic of Kosovo.”³⁶ Note in particular Article 11 of the law: “to ensure fair proportional representation of the communities in Kosovo Civil Service in central and local level, as foreseen in paragraph 3 of this Article”.

3. What are the issues to be taken into account in the evaluation of the law?

45. To conduct an efficient Ex-post evaluation, one should first identify the issues the Ex-post evaluation should concentrate on. In order to identify the issues of focus, it would be important to look at the main challenges of the law (ie its objectives). The objectives/challenges of the law can be found in the Regulatory Impact Assessment (RIA). If there is no RIA issued, the objectives/challenges of the law can be identified by looking to the law itself. In any case, the goals enshrined in the law should be examined.

³⁵ See OSCE Report “The Implementation of Civil Service Legislation in Kosovo,” February 2013.

³⁶ The examination should go beyond the simple mention of its adoption. Assessment on the employment of members of non-majority Communities in the Kosovo Civil service and publicly owned enterprises, Office of Prime Minister, 2013.

46. The objectives of the legislation is generally enshrined in the first articles of each Law (such as “general principles”, “general provisions”, “purpose”, “guiding principles”).³⁷ Also, objectives can be found in the explanatory note accompanying the draft law. In addition, as mentioned above, if a RIA has been conducted, it will also set out the objectives. In instances where a RIA has been conducted, its objectives should be reflected in the Ex-post evaluation’s objectives.
47. The Ex-post evaluation will explore whether:
- The particular objectives of the legislation are effectively and efficiently achieved;
 - The outcomes reflect the objectives; and
 - There are potential underlying reasons as to why the objectives were not met.
48. For example, in order to evaluate the broad objective of “universal access to quality and basic healthcare services,” it would be necessary to identify at least:
- Actions that must be undertaken to effectively establish universal access;
 - The indicators of “universal access”: An indicator of “universal access” could be the number and the identified profile of persons that should be able to access the basic healthcare services under the law. This figure could be compared/contrasted with the number of people who are accessing the healthcare system. An additional step in the analysis could examine the underlying reasons why some persons were not able to access the healthcare system.

Step 4: Identify the implementers

49. The implementation of legal provisions generally involves a large range of implementers, including administrative actors (national and local), and end-users (citizens, residents, businesses etc.). In order to ensure that the identification of potential implementers is sufficiently comprehensive, the line ministry should draft a map of all of the potential implementers and end users (see template Annex 2). To identify the relevant implementers consider to what extent: (a) the implementers can provide information about the implementation of the law; and (b) the implementers may be impacted by the law.

Who can provide information about the implementation of the law?
*The experience of EU member states*³⁸

Here are a few examples of potential providers of information as it relates to the implementation of the law:

³⁷ See for example: Law 2013/04-L-249 on Health Insurance identifies its main goal: to “*establish universal access of the citizens and residents of the Republic of Kosovo to quality basic healthcare services in order to improve healthcare indicators and assure financial protection against impoverishment due to high healthcare costs*”.

³⁸ Final Report of the High Level Group on Better Regulation, Working Group on Ex-post Evaluation, 2012, http://ec.europa.eu/smart-regulation/impact/docs/wg3_report_ex_post_evaluation_en.pdf.

External stakeholders' feedback: Request to obtain feedback, including complaints/suggestions, from citizens, businesses, NGOs, and trade union representatives.³⁹

Non-executive institutions: Examples include: parliamentary committees and National Audit Office or Court of Auditors.

Decentralized public authorities: Examples include municipalities and public services officials.

Independent bodies: For example, the Ombudsperson institution.

Step 5: Identify sources of information and data needed for the Ex-post evaluation

50. It is important for line ministries to identify all sources of information in order to get sufficient data on the implementation issues.

To address this key issue, the line ministry should:

- Determine which data needs to be collected, keeping in consideration the scope of the evaluation and key issues which need to be evaluated (above step 3). Each Ex-post evaluation will require a specific set of data to be collected;

Identify at an early stage of the implementation process what are the actual sources from which to collect data, whether they are public, from the private sector or the civil society. This identification could be done by the members of the working group and under the supervision of the line ministry as described in point 2.3.1 c) below. The implementers identified in step 4 can also provide useful information from the field. The main set of data may be gathered, by the line ministry from all relevant and existing public sources of information, such as public statistics and public databases, as well as reporting activities by the Assembly, Independent bodies (Ombudsperson), inspectorates, or Implementation Agencies⁴⁰. The line ministry should also identify all in-depth studies that may have been produced by International organizations, European experts etc., as well as all information and data delivered by NGOs and Civil Society etc.; and

* Identify data that may be missing but which is necessary to evaluate the key issues. If data is missing, consider establishing new data collection mechanisms that address the needs of that particular evaluation. For example, when evaluating a piece of legislation that sets out new criminal offenses in the field of environment, it will be necessary to create a reporting mechanism which includes courts and/or police services and which details cases relevant to the evaluation.

51. Once the data has been obtained, the line ministry will ensure that all the needed data is accessible and will be available on time for the Ex-post evaluation.

³⁹ 13 of the 17 Member State respondents reported that Ex-post evaluation can be triggered by external stakeholder feedback.

⁴⁰ All these reporting activities can be compulsory, if their obligation is enshrined in the legislation.

52. To address data collection issues, line ministries, in close cooperation with the Office of Prime Minister may consider answering the following set of questions established by the UK government:

The key considerations when planning for data collection

Magenta Book – UK – 2011 – 7.11

- What data need to be gathered to give reliable and consistent measurement against a policy's objectives?
- What additional data should be collected to meet the policy maker's requirements for feedback on the policy and to support any planned evaluations?
- Who will have responsibility for gathering data?
- When will the data be gathered?
- What are the key timeframes for collection?
- How will the data be gathered, transferred and stored?
- What format are the data required in?
- How will the data be verified to ensure it is accurate and consistent with the relevant requirements?

53. In order to conduct the Ex-post evaluation, a reliable data collection system is necessary. Kosovo needs to improve its data collection process.⁴¹ Ministries and relevant authorities should improve the data collection process. in a pragmatic manner, in accordance with best international standards. For example, in the field of judicial efficiency, the Council of Europe has defined indicators for judicial efficiency (quality and effectiveness of justice)⁴², and the type of data to be collected in order to measure the quality and effectiveness of a national justice system.

54. Should a reliable data collection system be established, an additional step for Kosovo's authorities would be to continuously reinforce their data collection system as it implements the present guidelines. The implementation of the guidelines could actually serve the relevant institutions as an opportunity to draw a diagnosis about its data collection system, and to identify the gaps in the data collected.

55. Line ministries should consider developing a database system and feedback mechanisms which will systematically gather and store the information from implementers. Although the ministries generally deal with a large and stable network of implementers, in most cases, the feedback mechanisms are not institutionalized or

⁴¹ According to the European Commission's Indicative Strategy Paper for Kosovo, on IPA II, for 2014-2020, "Kosovo needs to improve its statistical data collection as there are significant differences between the EU and Kosovo data on trade and many other sectors", p. 9.

⁴² Evaluations of the European Justice System, Council of Europe, see online: http://www.coe.int/t/dghl/cooperation/cepej/evaluation/default_EN.asp?

in place. Having said that, a potential area to improve in terms of feedback is from local actors, including, municipalities, police, justice, civil society etc.

56. Ad hoc feedback mechanisms could also be introduced via the working group (see point 2.3. below): members of the working group dedicated to the Ex-post evaluation of one piece of legislation should act as contact points for data collection. For example, representative from other ministries or other public bodies will be in charge of collecting data related to their field; the line ministry in charge of the working group would gather all the data collected.

The ex-post Evaluation of the Implementation of the Law on Prevention and Protection from Discrimination

*– Ministry of Labour and Social Policy, Macedonia –
Final Report, December 2013 (OSCE/MLSP)*

The analysis is based on official statistics, which are available to State Statistical Bureau, the Commission for protection from discrimination and Departments of the Ministry of Labour and Social Policy. The analysis is based on data included in the reports of state organs and institutions (inspectorate, agencies etc.), independent institutions (Ombudsperson, Academy for Judges and Public Prosecutors, constitutional Court), and social partners (trade unions), civic organizations, which are active in the field of prevention of discrimination.

The analysis was also based on the feedback of beneficiaries of the law (ie vulnerable, marginalized groups) through NGOs and individuals that directly submitted complaints to the Commission for protection from discrimination (18 NGOs representatives and 10 citizens participated to focus groups; NGOs also answered survey questionnaire).

57. An inclusive Ex-post evaluation process is one of the key requirements of the International Better Regulation Standards which helps assure the accuracy of the Ex-post evaluation. Finally, it is important to recall data from different sources must be cross-checked (i.e.: official conclusions should be cross referenced with civil society's feedback).

2.2. Performing the Ex-post evaluation

58. There are different models of Ex-post evaluation that can be used to help public authorities evaluate legislation.⁴³ The following section provides: practical guidance

⁴³ See the above cited OECD Framework for Regulatory Policy Evaluation, 2014, established a link between Ex-post evaluation of laws and policy. Ex-post evaluation is defined as a Systematic programme reviews of the stock of regulation assess regulations against clearly defined policy goals, including consideration of costs and benefits, to ensure that regulations remain up to date, are cost-justified, cost-effective and fit for purpose. This includes an assessment of the economic and social and/or environmental impacts. Susan Rose-Ackerman, Impact Assessment and Cost-Benefit Analysis: What do They Imply for Policymaking and Law Reform? in *REVUE FRANÇAISE D'ADMINISTRATION PUBLIQUE* 2011/4 (No 140)

on how to systematically assess the different issues identified in the early phase of the Ex-post evaluation process as described above (§50); the indicators to apply the evaluation; and methodological steps to perform the evaluation.

59. One of the most common evaluation models used for a regulatory evaluation is the cost-benefit analysis. Although it may be interesting to assess the efficiency of the law, this model is incomplete, as an Ex-post evaluation should go beyond the cost-benefit approach and include the overall impact of the legislation under scrutiny. Ex-post evaluation should examine: the efficiency of legal provisions (achievement of the objectives at a reasonable cost); their effectiveness and impact; unintended outcomes; reasons for failure, and factors contributing to legal provisions' success. This evaluation can be done using a quantitative or a qualitative analysis.

2.2.1 The guidance:

60. Performing the Ex-post evaluation requires analysing the data collected in order to verify a number of factors. The following are the questions that ought to be asked during the evaluation process:
- a) Whether provisions of the law were effectively implemented by end-users and in particular:
 - i) are the recipients complying with the provisions;
 - ii) has the law been infringed in any way;
 - iii) if yes, what are the potential reasons for non-compliance/failure to apply the law?
 - b) Do the results meet the initial goals? The evaluator shall identify all factors that have helped or hindered the effectiveness of the law.
 - c) Were the desirable effects of the legislation achieved or whether legal provisions produced the expected effects (i.e. changes in behaviours);
 - d) Did undesirable or unexpected effects occur?
 - e) Whether the initial goals of the law were achieved at a reasonable/anticipated costs;
 - f) Was the implementation efficient (objectives were met at a reasonable cost)?
 - g) What was the impact on social, economic and economic aspects resulting from the implementation of the legal provisions?
 - h) Can the positive impacts be sustained? Can undesirable or negative impacts be overcome?
 - i) What were the spill over effects?

2.2.2. The indicators

61. To answer the above-mentioned questions, the evaluator can rely on Ex-post evaluation indicators. Indicators can be established using existing Ex-post evaluation practices. It is important to note that data collected in the early phase of the implementation process will be used to measure the identified indicators.
62. According to Ex-post evaluation practices, there are 4 types of indicators for ex-post evaluation:

1. **Effectiveness (Objectives/actualization):** Effectiveness involves identifying objectives pursued and the gathering of the necessary data to verify objective's achievements. It raises the question: To what extent the initial objectives of the law are met?
 2. **Efficiency:** Efficiency compares objectives and results against incurred costs. It raises the question: Were the costs involved justified, given the changes that have been achieved?
 3. **Coherence:** Coherence examines if there are there inconsistencies or discrepancies in the implementation of legal provisions on the ground (from one institution to another)?
 4. **Appropriateness:** Appropriateness evaluates to what extent the legal provisions are complied with.
63. Kosovo has experience in establishing indicators in policy-making. For example, Kosovo has developed multiannual strategies and action plans (see for example, Strategy on Migration and Action Plan 2013-2018: Decreased number of asylum seekers in EU Member States and in Schengen zone). Efficiency indicator in the example of asylum seekers can also be evaluated using quantitative data: the % of the decreased number of asylum seekers will illustrate whether the objective was fully achieved, partially achieved, or not achieved at all.

2.2.3. The Methodology

64. The methodology sets the general framework that governs the evaluation of legal provisions and/or laws. It is standardized in nature and systematic. However, the scope of the actual analysis needs to be adapted to the law under scrutiny.⁴⁴ The following section sets out the three tests that should be performed as a standard methodological procedure in Ex-post evaluation. In the process of performing these tests and in order to ensure proper follow up to the findings of the evaluation, line ministry could use the Ex-post evaluation chart (see Annex 3).

a. Three main tests to perform an ex-post evaluation and to answer the questions in 2.2.1.:

1. **Compliance test:** consists of “evaluating formal compliance with a procedural requirements (...) as set out in laws, policies or guidelines as appropriate.”⁴⁵ This test ascertains if all of the provisions which demand compliance are fully implemented. This assessment could be done by answering questions such as:
 - Was the necessary secondary legislation issued and published?
 - Were the necessary administrative and budgetary measures adopted?
 - Were the institutional changes implemented as required?

By answering these questions, the evaluator will establish if the implementation of the legislation was effectively implemented by the public authorities.

⁴⁴ Ex-post evaluation should take into account the specificity of the law, and choose which impact or outcomes to assess: some legal reforms may induce major social impacts (on health care for example), where some others do not (for example: steel industry).

⁴⁵ OECD, Regulatory Performance: Ex-post Evaluation of Regulatory tools and Institutions, 2004, GOV/PGC/REG(2004)6.

To conduct the compliance test, the line ministries can rely on efficient and simple tools. For example, to ensure a follow up on the publication of the secondary legislation, some legal departments in Kosovo have established concordance tables, once the law has entered into force. The concordance tables track if secondary legislation is issued pursuant to the legal provisions. This practice should be extended to all ministries. Such tables could be expanded also to include administrative and budgetary measures, in order to indicate: whether they were adopted; if they were not adopted, the reasons for the failure to adopt them; and a general timeframe of their adoption.

The compliance test is generally conducted through standardized questionnaires addressed to implementers (see Annex 7). Note that questionnaires should be tailored differently for municipalities and civil society as their feedback and input will be different. The questionnaires should aim to measure to what extent the implemented provisions correspond with the needs, problems or issues that were to be addressed with the legislation.

2. **Performance test** (outputs): consists of measuring the efficiency of the achievements of initial goals. For example, in “preventing and protecting from discrimination,” a potential output may be the number of communication activities undertaken to raise awareness about discrimination issues.
3. **Function test** (outcomes and impacts): measures the effects of the implementation of the law on a broader scale. For example, if the initiative is to “prevent discrimination,” a measure that could be evaluated is the decrease of the number of persons that are discriminated against following the implementation of the law. Note that in order to evaluate this measure, data prior to the law coming into force would have to have existed in order to do a comparative analysis.

	Content	How to	Indicators	Measured
Compliance test	<ul style="list-style-type: none"> - Actions taken to comply with the law - Secondary legislation issued - Level of non-compliance/compliance 	<ul style="list-style-type: none"> - Table of concordance: legal provisions/secondary legislation - Questionnaires addressed to local implementers, relevant officials, and end-users 	<ul style="list-style-type: none"> - Effectiveness - Appropriateness 	<ul style="list-style-type: none"> - Level of compliance - Effects correspond to the needs, problems, issues
Performance test	<ul style="list-style-type: none"> - Identification of outputs 	<ul style="list-style-type: none"> - Questionnaire to implementers - Statistics 	<ul style="list-style-type: none"> - Efficiency 	<ul style="list-style-type: none"> - Achievement of legal provisions goals
Functions test Impacts	<ul style="list-style-type: none"> - Identification of outcomes - Expected and unexpected impacts 	<ul style="list-style-type: none"> - Surveys - Statistics - Studies - Focus group discussions 	<ul style="list-style-type: none"> - Economic, social, environmental effects are maximised or 	<ul style="list-style-type: none"> - Larger scale spillover effects (effects that goes beyond the

			undermined	expected effects) ⁴⁶
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Examples of outputs and outcomes – case of UK Ex-post evaluation
Example of “Performance” and “Function” tests

Policy area	Outputs	Outcomes
Job search / Job matching	Number of job seekers assisted	Value of extra output, or improvement in efficiency of job search
Development of skills	Number of training places and/or numbers completing training	Value of extra human capital, and / or earnings capacity
Social outputs: Schools; Health centres	Exam results (schools), People treated (health centres).	Improvements in human capital (schools) / Measures of health gain (health centres)
Environmental improvement	Hectares of derelict land freed of pollution.	Improvement to the productivity of the land

Source: The Green Book, Appraisal and Evaluation in Central Government, Treasury Guidance 2011

b. How to perform the three tests in practice

65. To perform the Ex-post evaluation, one should identify the main goals of the evaluated law or legal provisions. These goals serve as the main areas of focus for the ex post evaluator. For example, a law supporting victims of crimes could have the goals of: establishing legal aid; ensuring financial compensation; protection of victim’s rights during criminal proceedings (see “Initial goals of a legislative framework: the case of Swiss support for victims of crimes” below). In a law against discrimination, the main goals could be to prevent and protect individuals from discrimination (see Final report on Ex-post evaluation of the Implementation of the Law on Prevention and Protection from Discrimination, Macedonia, December 2013).

**Initial goals of a legislative framework:
the case of Swiss support for victims of crimes**

Measure provided by the law	Counselling services for victims	Financial compensation	Victims’ rights in criminal proceedings
Expected effects	Victims’ satisfaction	Victims’ satisfaction	Avoiding secondary victimization
	Reintegration into social life and into labor market	Reintegration into social life and into labor market	Balancing the rights of defendants and victims, restricted access of the general public to trials
	Social problem solving		Social ordering

Source: Werner Bussmann, Evaluation of Legislation: Skating on Thin Ice, Federal Office of Justice, Switzerland, in Evaluation (2010), 16(3) 279–293

The Swiss legislation on support to victims rests on three pillars:

- 1. Counselling offices give victims of crimes immediate support and advice (information about medical aid, psychological aid and legal advice).*

⁴⁶ There could be negative effect such as water pollution.

2. Schemes for providing financial compensation exist for those who are not compensated by the aggressor or through insurance and who belong to the lower income bracket.

3. Criminal procedures have been adapted to the needs of victims, e.g. by avoiding direct confrontation between the aggressor and the victim or by excluding the general public from the trial in certain circumstances (e.g. sexual abuse).

Pillars 1 and 2 are intended to help victims who are in danger of not obtaining justice. These measures should help victims to reintegrate into social and economic life (social problem-solving). Pillar 3 designs a legal framework that intends to regulate behaviour of persons or organizations.

66. Using the goals identified in the “Initial goals of a legislative framework” chart, the evaluators shall identify one or two related objectives:
- 1) For the victims of crimes potential objectives could be: the satisfaction of the victims after the process; protection of victims’ rights; avoiding secondary victimization; and balancing the rights of defendants and victims in criminal proceedings;
 - 2) For prevention and protection from discrimination potential objectives could be: measuring the strengthening of awareness; the action taken upon complaints; and the establishment of inter-institutional cooperation.

c. How to assess the impact of legislation?

67. The Ex-post evaluation is not limited to the evaluation of the intended goals of the legislation, as it also seeks to assess the impact of the legislation in practice. Specifically, Ex-post evaluation aims to monitor whether one particular change in the legal framework directly contributes to solving, reducing a problem, or reforming the situation on the ground⁴⁷. However, frequently, the direct link between the legal provisions and the change in practice cannot be clearly established. One should bear in mind that the implementation process of one piece of legislation generally comprises a complex chain of interventions, interactions, and impacts. Establishing a correct causal attribution arising from the legal framework to the situation on the ground is essential in order to determine whether a specific provision should be reinforced, modelled upon in an additional policy field, or if it should be abrogated. In order to ensure greater accuracy in the results of an Ex-post evaluation it is necessary to investigate the impact of legislation by using different research tools (e.g. in order to measure the reactions of target groups, the evaluator could rely on satisfaction surveys, as well as analysis of complaints).

68. Ex-post evaluation can be commenced either during the implementation of the law (“formative”) or after its implementation (“summative”). Both formative and summative evaluations can be undertaken as long as there are sufficient effects/impacts resulting from the legal framework.

69. In addition, consideration should be made so that ex-post evaluation is planned in a manner which will allow time to correct the problems identified in the evaluation.

2.3. Who conducts and participates in the evaluation process?

70. Before effectively launching the Ex-post evaluation, it is important to clearly define those in charge of:

⁴⁷ See for example, Treasury Board of Canada, *Handbook for Regulatory Proposals: Performance Measurement and Evaluation Plan*, 2009, <http://www.tbs-sct.gc.ca/rtrap-parfa/guides-eng.asp>

- data collection;
- analysis of the data; and
- reporting.

In addition, this process of specifying the responsibilities may assist in clarifying the role of the central administration.

71. In most countries Ex-post evaluation process is conducted by line ministries: they are responsible of drafting and implementing the legislation, they have access to public data and may develop the data collection mechanisms. This process is conducted under the general supervision of the Prime ministry services (see France for example), which coordinates this work. In some countries, such as Germany, Ex-post evaluation is not systematically produced in-house, but can be performed by external bodies, under the supervision of a line ministry. This approach is unique, and justified in Germany by its federal structure. Kosovo may prefer the in-house solution, which is cost-effective and would fit the objectives of the general strategy of Better Regulation.

2.3.1 The lead: line ministries' role

72. Line ministries should play a leading role in the Ex-post evaluation process as they are already involved in both the drafting and the implementation of the legislation in their thematic fields. Still, it is important to determine the respective responsibilities within the ministry, and to set up coordination mechanisms. This will help ensure that the line ministry gets sufficient data and feedback about the implementation issues of each piece of legislation under evaluation.
73. The following needs to be clarified:
- a. The thematic department's role;
 - b. The legal department's coordination role; and
 - c. Working groups' coordination and programming roles.

a. Thematic Department's role

74. Generally, the ministry responsible for the drafting of the law, and its implementation, will also take the lead of the Ex-post evaluation process whereas each thematic department should be responsible for conducting the evaluation of legal provisions within their field of responsibility. Notwithstanding, any division of responsibility ought to give primary consideration to the legal provisions setting out the division of competencies.
75. The thematic departments will have an easier time identifying: those responsible for implementing the law; the objectives of the law; potential effects; available data; and promising practices already in place. In addition, they will be better suited to analyse the laws and to assess the process of adopting the complementary secondary legislation.

b. Legal Department's coordination role

76. To ensure coordination between different Ministries and departments, each ministry

shall appoint a permanent ex-post evaluation focal point, preferably within the legal department as most legal departments already have an “implementation” section.

c. Working groups’ coordination and programming roles

77. A working group should be established for each law subject to the ex-post evaluation process. The working group should be closely involved (at least) in the following phases of the Ex-post evaluation: programming phase, in order to examine the evaluation mandate (scope of evaluation, evaluation criteria, schedule, map implementers etc.); and in the conclusion phase, in order to discuss the results of the evaluation. The working group needs to meet regularly.
78. Members of the working group shall share with the evaluator(s) their data or information on implementation issues.
The working group comprises of:
1. The legal department and the thematic department of the ministry in charge of the Ex-post evaluation (as the coordinator and co-coordinator of the working group);
 2. Line ministries’ thematic departments involved in the implementation of the law, or in the field of responsibility impacted by the law;
 3. Representatives of institutions and bodies impacted by the law, including agencies, Ombudsperson, audit authorities; and
 4. When appropriate, considering the purpose of the law, civil society representatives (which may include also representatives of particular professions affected by the law).

2.3.2. The coordinator: Inter-ministerial work, regulatory oversight bodies

a. Role of the Office of Prime Minister (OPM)

79. The OPM is responsible for the coordination of the inter-ministerial work: it is in charge of establishing the ex-post evaluations program, in close cooperation with the steering group (see below). The program shall be established on a multiannual basis, when such requirement is foreseen in the laws. While an annual program shall determine based on the proposals of the ministries that will determine the ex-post evaluation to be delivered each year, including the legislation to be evaluated, the responsible institution to conduct the evaluation, the timeframes and the justification for selecting the respective laws.
80. Once the Ex-post evaluation report is completed, the ministries - sponsoring intuitions will ensure that the results of the ex-post evaluation are reflected in the future legislative program, and will ensure that new drafted legislation echoes the conclusions and recommendations of the evaluation report.

b. Steering group

81. A Steering group shall be established and composed of representatives of all Legal Departments, and shall serve as a coordination point for Ex-post evaluation of line ministries. It shall be presided over by the representative of the OPM.

82. The Steering group will prepare and supervise the implementation of the programme and the results of the ex-post evaluation.
83. The steering group shall play an advisory role in helping develop an evaluation plan. Every year, in September, the Steering group will examine and finalise a draft list of legislation to be evaluated as proposed by the line ministries.
84. Each Director of Legal Department shall communicate to OPM the list of laws proposed by his/her ministry: the proposition of each line ministry shall be accompanied by a short explanatory note on the reasons as to why each law is proposed for an ex-post evaluation, the rationale behind the evaluation (goals, scope of evaluation), the main key issues of the evaluation (objectives to be evaluated), and evaluation's timeframe which will be sent to the steering group.
85. The OPM in cooperation with the steering group is responsible for the establishment of the final list of laws to be assessed during the upcoming year, and in setting the timeline for the ex-post evaluation.
86. Timeframe: Once the list of laws to be evaluated is adopted, each line ministry should set up its working group and have its first meeting within the month following the notification of the adopted list. The first draft of the Ex-post evaluation report should be submitted to the OPM within 3 months following the first meeting of the working group. The final draft of the Ex-post evaluation report should be submitted to the OPM. The OPM when will provide opinions and recommendations when necessary.
87. The steering group shall meet regularly (once a month and more often if necessary) to examine the progress of the line ministries' working groups in charge of an ex-post evaluation. For each piece of law under evaluation, the respective person, shall present the results of the ongoing evaluation(s) to the steering group.
88. The steering group may formulate an advisory opinion. The line ministry may produce a brief progress report. If recommendations are drafted by the steering group they should be addressed to the OPM.

2.3.3. Inclusive process of a comprehensive overview: including Civil Society representatives

89. Ensuring the inclusion of the citizens' perception and the civil society representatives, is crucial to establishing a comprehensive overview of the socio-economic impact of legislation. The inclusion of civil society representatives during the Ex-post evaluation serves two important purposes:
 1. Assists in ensuring that information about the socio-economic impact of the legal provisions under evaluation is more comprehensive; and
 2. Provides feedback on the acceptability of legal provisions. The consultation with Civil Society on the implementation of results may assist in identifying major concerns with the legislation. Furthermore, it could assist in identifying potential reasons for non-compliance/implementation of particular legal provisions.

90. In line with Government's Strategy for Cooperation with Civil Society 2013-2017 (objective n° 1: Ensure strong participation of civil society in drafting and implementation of policies and legislation), for each piece of legislation under Ex-post evaluation, line ministry shall define the scope of consultation (interested parties, NGOs...), and the most appropriate time for consultation.
91. Civil society, may, depending on the subject of the law being evaluated, also participate in the working groups established by line ministries.

3 Ex-post evaluation report and its consequences

92. There are at least two reasons for the ex-post evaluation report:
 1. It helps legislative drafters identify the necessary changes or improvements that need to be made to the existing legal framework; and
 2. It ensures that the government is held accountable as the report underlines difficulties/failure and underlying responsibilities for the failure to implement the legal framework.
93. To satisfy both reasons outlined above for the drafting of the ex-post evaluation report, its contents should:
 1. Recall the objectives of the law;
 2. Define the reasons, scope, mandate, rationale and method of the evaluation;
 3. Indicate whether and how objectives were achieved (identifying the key issues, and for each of the issues include the results of the compliance test, the performance test, and the impact test);
 4. Compare the outputs and outcomes against expected effects of the law;
 5. Identify unexpected effects, whether negative or positive, and the way to maximise the positive effects and overcome the negative ones;
 6. Contain a set of conclusions; and
 7. Contain a set of recommendations on further actions to be taken.
94. Ex-post evaluation report on a major piece of legislation (that deals with for example, fundamental rights, innovative solutions, large-scale of reforms etc.) should be widely disseminated, and published in both Albanian and Serbian on a public website. This wide-scale outreach and publication will assist in increasing public awareness about the legislative process.
95. The respective institutions are responsible for the implementation of the recommendations, and ensure that the results of the ex-post evaluation inform the future legislative program.

4. Implementation and review of the guidelines

4.1. Implementation

96. To ease the implementation of the Guidelines in the first six months after approval of

the Guidelines the OPM should choose one or two pieces of legislation that: require the implementation of several ministries; and have preferably significant impact, whether economic, social or other. After this initial experimentation, the OPM could then consider expanding the implementation of the Ex-post evaluation methodology, and defining the first annual Ex-post evaluation program.

97. To guarantee efficient Ex-post evaluations, it is important that the persons responsible for leading evaluations are at least as skilled as those responsible for drafting the legislation. So training should be considered as a priority, otherwise Ex-post evaluation will not be reliable enough to inform the need for legislative changes. It is crucial to build appropriate in-house skills within the government, within line ministries, as well as with local authorities. To that end, training sessions and workshops shall be regularly organised for civil servants of thematic and legal departments of line ministries to raise the awareness on implementation issues and concerns.
98. All ex-post evaluators, as well as Ex-post evaluations contact points of line ministries, shall be trained prior to their designation as evaluators or as contact points. They should also be trained during their mandate in order to improve their skills and methodology.
99. The guidelines should be largely disseminated to civil servants of the thematic and legal department of the line ministries, who are in charge of drafting and implementing the law. The guidelines should also be made available to governmental agencies, state administration bodies, and local authorities, as they are involved in the implementation process. The guidelines should be made available on the website of the government of Kosovo, in both Albanian and Serbian, and easily accessible to the general public.
100. OPM is responsible for the implementation and revision of the present guidelines, based on the best practices and feedback on Ex-post evaluation experiences.

4.2. Review

101. Ex-post evaluation guidelines should be a living tool, and should be amended to reflect the emerging promising practices in Kosovo. In order to further enrich the existing guidelines, an online forum could be created that includes: Q&A; comments/suggestions on how to improve the guidelines; reference to international standards and international developments on Ex-post evaluation.

Quality of Ex-post evaluations The Australian experience – Assess the assessment

- Does the evaluation contain all of the relevant information?
- Does it examine and discuss the ongoing appropriateness of the regulation?
- Does it discuss the impacts on all stakeholders?
- Does it describe the effect of government intervention in a way that helps readers

understand whether or not the intended outcomes have been achieved efficiently?

- Does it accurately report the impacts (both positive and negative) and identify any uncertainties in the data?
- Are the views of all stakeholders reported in a balanced manner?
- Are the conclusions logical based on the evidence and the strength of the data?

***(2012) Guidance Note on Post-Implementation Reviews
See also Annex 5***

**Ex post Analysis/Reviews of existing Regulations
Performance indicators
OECD Questionnaire**

	Yes, this indicator is publicly available	Yes, this indicator is internally available	No
Percentage of ex post analysis that comply with formal requirements/guidelines			
Indicator on the quality of ex post analysis (e. g. percentage of ex post reviews where the assessment of economic and social impacts was of sufficient quality)			
Results of perception/opinion surveys on the usefulness/quality of ex post analysis practices			

If you answered yes to any of the questions above, please explain how your government uses the indicators, i. e. what does your government/administration do with the results?

If you answered yes to "Results of perception/opinion surveys on the usefulness/quality of ex post analysis practices ", please specify who was surveyed.

Source: OECD (2014), Framework for Regulatory Policy Evaluation

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ANNEXES



ANNEX 1

Strategic planning sheet – Template

Line ministry should use this chart in the early phase of the evaluation in order to obtain: an overview of the implementation actions; the implementers; sources of data; instances where data will be necessary but is not available; the timeline needed to start and to achieve the evaluation; and indicators as set out in according to 2.2.2.

Example of a Law on Health Insurance

Objectives	Implementation actions	Implementers	Source of information on implementation	Unavailable data	Deadline to evaluate	Indicators of efficient implementation	Deadline to report
Universal Access to basic healthcare services	- administrative measures	- public administration (Ministry of Health, Ministry of budget etc.) - healthcare institutions	- Mapping of all institutions providing periodic reports on Health - Ombudsperson	What data? Actions to be taken to collect those	6 months		Mid-term report Final report
	- adaptation of healthcare institutions	- public administration (Ministry of Health, Ministry of budget etc.) - healthcare institutions			1 year		
	-communication actions	- public authorities - general public			6 months		

ANNEX 2
Mapping of the Implementers

		Implementers denomination	Role in the implementation process	Data provided	Impacted by the Law
Public authorities	Central administrations				
	Agencies				
	Localities				
Independent authorities	Ombudsperson				
End users	Trade work Organizations				
	Small entities				
	Citizens				

	Slightly impacted
	Moderately impacted
	Highly impacted

ANNEX 3
Ex-post evaluation chart

Inputs	Outputs	Outcomes	Impacts
Legal measure (new social security framework)			<u>Social impact</u> (more categories covered by social insurance system, impact on public health...)
			<u>Financial impact</u> (especially for public finances, like shortcuts)
			<u>Undesirable effects</u> (social security fraud)
Incentive (ex. exemption social charges for certain end users categories, for example SMEs)			<u>Economic impact</u> <u>Spillover effects</u>
Administrative measures (new procedure)			<u>Impact on red-tape</u>

- **Changes foreseen by the law**
- **Unexpected changes**
- **Undesirable effects**
- **Spillover effects (beyond the direct impact of the law)**

ANNEX 4 –

Evaluation process, European Commission model: Steps and Organization

Activities (chronology)	Specificities	Responsible actors
Screening		Evaluation function / Wider Direction general
Planning		
Set up steering group		
Mandate	Internal/External/Mixed	Operational Unit/ Evaluation manager
Methodology (and if external contract: Terms of reference)	Evaluation questions	
Research and Analysis		
Evaluation reports		
Quality Assessment		
Dissemination of results	Wider organizational learning (workshops) within European institutions (DGs, Member States, European Parliament, Council)	
Follow-up plan		
Implementation follow-up		
Feeding into new Impact Assessment and policy initiatives	Wider organizational learning (workshops) within European institutions	

Source: Public consultation on Commission Guidelines for Evaluation (November 2013)

ANNEX 5

Planning Ex-post evaluation – Tables – The Australian practice

(Source: Office of Best Practice Regulation's documents)

1. Ex-post evaluations required

Table 1: Post-implementation review status and compliance

PIR Status	Compliant	Non-compliant	TOTAL
Not implemented	13		13
Not started	47		47
Started	9	2	11
Completed – not yet published	3		3
TOTAL	72	2	74

Attorney-General's Department

Title of regulatory proposal					
Description of regulatory proposal	Reason for PIR	Date of implementation	Date PIR to commence	PIR status	PIR compliance
Organised Crime on the Waterfront					
A package of measures to combat organised crime and strengthen security on the waterfront.	Non-compliant	May 2013	May 2015	Not started	Compliant
Banning the Importation of Unauthorised Psychoactive Substances					
Institutes a 'reverse onus of proof' scheme to prohibit the importation of psychoactive substances unless they are authorised as safe and legal.	Non-compliant	Not implemented	..	Not started	Compliant
Resale Royalty Right for Visual Artists Bill 2008^a					
Establishes an inalienable resale royalty right for visual artists.	Non-compliant	June 2010	June 2013 ^b	Started	Compliant
Enhancements from the Review of the Australian Independent Screen Production Sector^a					

Implements a package of enhancements to the film tax offsets program.	Non-compliant	September 2011	September 2013	Started	Compliant
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2. Ex-post evaluations completed

Title of regulatory proposal					
Description of regulatory proposal	Reason for PIR	Date of implementation	Date PIR to commence	PIR status	PIR compliance
Telecommunications Service Provider (Mobile Premium Services) Determination 2010 (No.1)					
Prohibits premium SMS and MMS content providers from charging customers for services they did not authorise and requires clear information about the nature and cost of the service.	Non-compliant	May 2010	May 2012	Completed Published	Compliant
Telecommunications Service Provider (Mobile Premium Services) Determination 2010 (No.2)					
Empowers the ACMA to issue a temporary Do Not Bill order to stop suspect content providers from charging customers while it investigates a service.	Non-compliant	November 2010	November 2012	Completed Published	Compliant

ANNEX 6

Template of implementation questionnaire

To be distributed to the implementers (line ministries, local public administrations, municipalities)

1. In what context was the policy delivered?
2. What factors have facilitated or complicated the implementation of the law?
3. Did you encounter difficulties in implementing the law?
 - a. If yes, can you list the difficulties?
 - b. If yes, were you able to design solutions to overcome those difficulties? What were your solutions to the problems noted in 3 (a)
 - c. If you were not able to resolve the difficulties, indicate the possible reasons why those difficulties occurred?
4. To what extent do the end-users comply with the legal provisions?
 - a. Where applicable, list the non-compliances (such provision is too complex and leads to a lack of understanding from recipients and even staff)
 - b. Identify specific cases of non-compliances (indicates whether it affects specific groups of the recipients)
5. Was the law implemented consistently across localities?
 - a. If no, identify the differences, and the possible reasons of those difference
6. Were the goals of the law achieved?
 - a. If no, investigate causes of any difference between expectation and delivery
7. Were the goals achieved at acceptable costs? Were there unforeseen costs?