



Republika e Kosovës

Republika Kosova - Republic of Kosovo

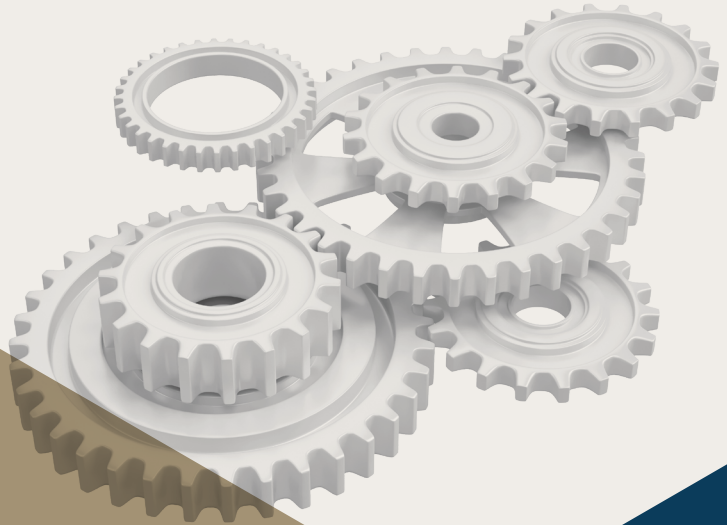
Qeveria - Vlada - Government

Zyra e Kryeministrit- Ured Premiera - Office of the Prime Minister

Sekretariati Koordinues i Qeverisë/ Koordinacioni Sekretarijat Vlade/ Coordination Secretariat of the Government

GUIDELINES AND MANUAL

FOR DEVELOPING CONCEPT DOCUMENTS



PRISTINA, MARCH 2018

These Guidelines and Manual for Developing Concept Documents set out how Concept Documents should be developed. The guidelines define the general framework for policy analysis and impact assessment. The manual provides tools, checklists and suggestions that support making the analysis for Concept Documents.

The Manual for Developing Concept Documents was approved by the Secretary General of the Office of the Prime Minister based on the mandate as defined in the Rules of Procedure of the Government and in line with the Government decision No. 20/20 from 20.12.2017 for approval of the Guidelines for Developing Concept Documents.

In case of questions regarding the Guidelines and Manual for Developing Concept Documents and for requests for support on drafting Concept Documents, please contact the following persons:

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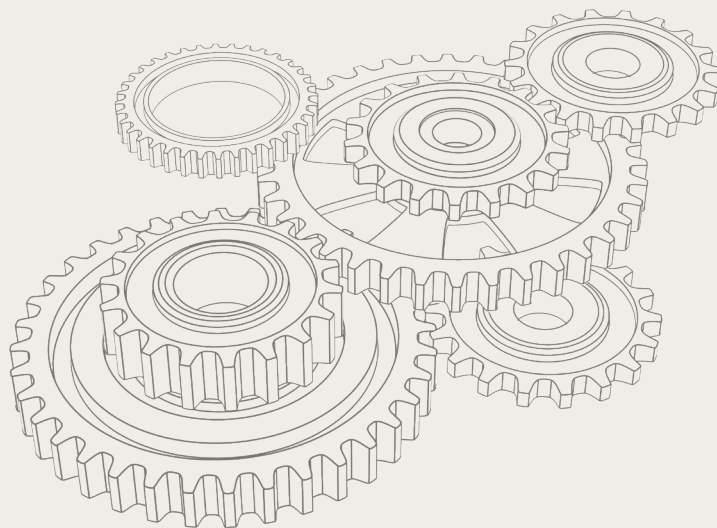
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GUIDELINES

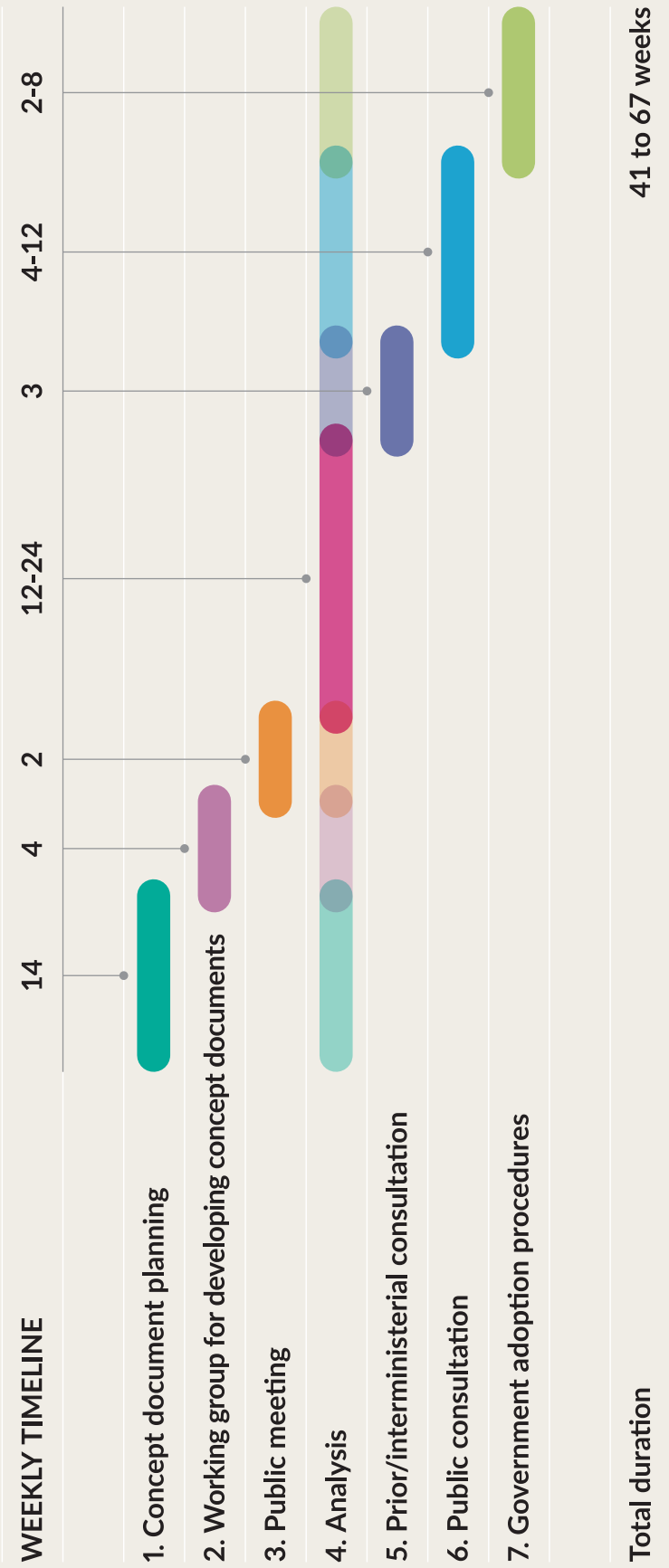
FOR DEVELOPING CONCEPT DOCUMENTS



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STEPS FOR DEVELOPING AND COMPLETION OF CONCEPT DOCUMENTS AND INDICATIVE TIMELINE



GUIDELINES FOR DEVELOPING CONCEPT DOCUMENTS

The purpose of these guidelines is to explain the requirements that apply to drafting Concept Documents that have to be developed in line with the Rules of Procedure of the Government of Kosovo. The attachments to the guidelines show how Concept Documents have to be completed for adoption by the Government once the analysis and stakeholder consultation are finished.

These guidelines are interlinked with the **Manual for Developing Concept Documents**. This manual provides additional explanation on how to perform the analysis. It contains several tools that assist with structuring and conducting the analytical process and stakeholder consultation. The tools are regularly referenced in these guidelines. They provide practical explanation, overviews, checklists and tips on how to perform the analysis for a Concept Document.

The Government Coordination Secretariat (GCS) is responsible for quality scrutiny of Concept Documents. Please contact the Secretariat (1) in case of questions; (2) for a discussion on how to structure and conduct the analysis; (3) for presentations on the guidelines, the manual or specific tools; and (4) for training of staff for a ministry or a Working Group that is preparing a Concept Document.

INTRODUCTION

The introduction must provide the general background information about the Concept Document. The minimum information that must be provided is listed in the table below.

When necessary, this table can be expanded.

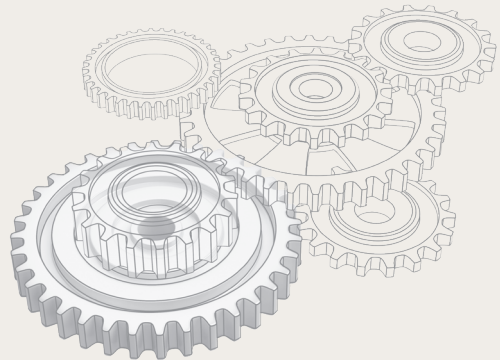


Figure 1: Table with background information on the Concept Document

Title	(State the title of the Concept Document)
Responsible Ministry	(Name of Ministry); (Department); (Division)
Contact person	(Name); (Office phone number)
GAWP	(State the number of the activity for developing the Concept Document in the GAWP.)
Strategic priority	(If no, state 'no'. If yes, state in which strategic document(s) the preparation of this Concept Document was announced. Also list the strategic objective(s) that the CD is meant to implement.)
Working Group	(List the organisations and their representatives that were members of the Working Group for the Concept Document.)
Additional information	(This section can be used to provide information that is not captured above. For example, when a Concept Document follows from an Evaluation or an international treaty, the information can be provided here.)



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CHAPTER 1: PROBLEM DEFINITION

The problem definition provides the foundation for a Concept Document. All further analysis that is made for the Concept Document follows from the problem definition. A good problem definition makes developing the Concept Document much easier since the analysis will flow logically from it. The conclusions of the analysis will be solid, understandable and justifiable.

The problem definition needs to be made before further analysis for the Concept Document is conducted. However, the first version of the problem definition is most often not the final one. While the analysis progresses, the problem definition might have to be changed. This is perfectly normal since developing the Concept Document improves the insight into the issues that are being dealt with. Insight leads to understanding. Understanding leads to improvements. Improvements lead to changes.

DESCRIPTION OF THE EXISTING POLICY AND LEGAL FRAMEWORK

Each Concept Document and each problem definition is different. However, the starting point for each Concept Document should be a detailed description of the existing policy and legal framework, state institutions responsible for implementation and their roles and responsibilities, as presented in the table below. This description needs to address all issues that are relevant in relation to the subjects that are analysed in the Concept Document. This description provides the information needed to assess options in relation to existing measures. It forms the basis for assessing how (non-) regulatory options considered in the Concept Document would interlink with existing policies and legal requirements.



Figure 2: Description of the existing policy and legal framework

Policy document, law or sub-legal act	Link to policy or planning document online and to legal acts in the Official Gazette	State institution (s) responsible for implementation	The role and tasks of the institution(s)
Name of the policy or planning document (see also the overview of possible policy documents in Section 2 of the Manual for Developing Concept Documents)		Name of the state institution	
Title of the Law		Name of the state institution	
Title of the sub-legal act		Name of the state institution	
Title of the Law		Name of the state institution	
Etc.		Etc.	

Alongside the existing policy and legal framework, the Concept Document needs to identify all relevant non-regulatory interventions such as information campaigns, training programmes etc. when these are relevant for the issues that are analysed in the Concept Document. It is also useful to list all documents and reports that contributed to the development of the problem definition.

MAIN PROBLEM, CAUSES, EFFECTS AND AFFECTED STAKEHOLDERS

A problem definition needs to contain special elements that provide a detailed description of the current situation. The elements are the following:

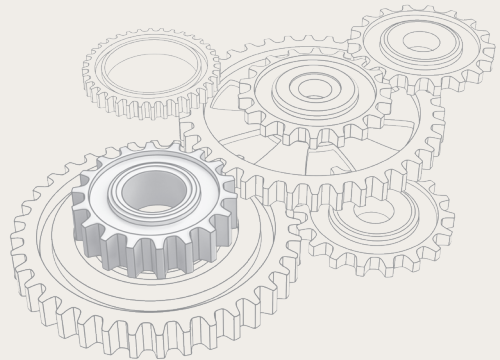
- » The main problem
- » The causes of the problem
- » The effects of the problem
- » Identification of the affected stakeholders

The main problem shows what is going on. The causes of the problem show why the problem exists. The effects of the problem indicate what the consequences are. The affected stakeholders include all organisations and (groups of) individuals that are somehow connected to the problem.

The Manual for Developing Concept Documents provides useful tools that support the process of working out the problem definition. It lists the types of Legal and Regulatory Shortcomings that can occur. It also shows the Market Shortcomings that can be linked to specific problems in the economic sphere. These overviews can be consulted to structure the problem definition for the Concept Document. In addition, the Manual provides guidance on identifying the relevant stakeholders.

Finally, the Manual lists two tools that can be used to develop and present the problem definition effectively. These are Tool 1: The Problem Tree and Tool 2: The baseline scenario.

02



CHAPTER 2: OBJECTIVES



The problem definition makes clear what problem, causes and effects need to be addressed. The section that follows after the problem definition in the Concept Document is the section on setting and describing the Policy Goal; the Strategic Objective; and the Specific Objective(s). These elements show in detail what the Government aims to achieve. They provide the information that is needed to understand the reason behind the development of a Concept Document.

The Goals and Objectives are the foundation of the measures that are proposed for changing existing policies or introducing new ones. Goals and Objectives need to be linked directly to the identified problem. They have to provide the description of the intended future situation in which the problem is effectively solved.

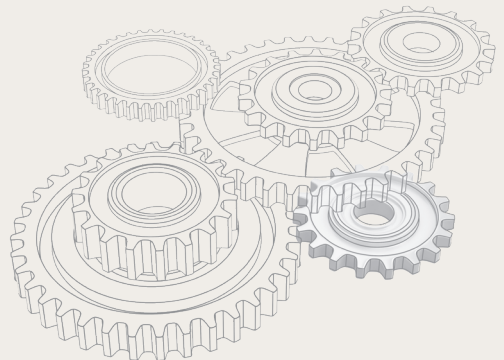
The Goals and Objectives need to be presented based on the S.M.A.R.T. way as described in the figure below. They also need to be explained in detail. The Manual for Developing Concept Documents provides additional information on this.



Figure 3: The S.M.A.R.T. classification for Policy Goals, Strategic Objectives and Specific Objectives

Specific	The goals and objectives have to be precise and concrete. They have to be clear and not leave room for interpretation.
Measurable	The goals and objectives must be described based on very clear targets. That means setting clear indicators for the changes that are supposed to happen. This applies in particular to the Specific Objectives.
Achievable	Whatever the goals and objectives are, they have to be achievable. It does not add value to plan too much and then not to be able to deliver upon the promises. Goals and objectives need to be set in a realistic manner. This means that they have to be based on the available human and budget resources.
Relevant	Goals and objectives have to be linked directly to the problem definition. The aim is to either remove the problem by eliminating its causes or to address the effects that the problem causes.
Time-bound	Goals and objectives have to be implemented within reasonable time. This links back to making sure that they are achievable. The deadlines also have to be set in such a way that the achieved results can be evaluated.

03



CHAPTER 3: OPTIONS



The problem definition shows the issues that could be addressed. The Policy Goal and Strategic Objectives show what the Government aims to achieve. They indicate the place of the Concept Document within the policy framework. The Specific Objectives, in particular, show the concrete targets that need to be reached.

The type of the problem, its causes and effects regularly provide a framework for the options that can be used to address a problem effectively. Analysing options is useful since they help to think about possible options that would not lead to additional legislation or amendments to the existing regulatory framework. They allow a comparison between options to use legislation and other, non-regulatory possibilities to address a problem effectively.

At least three options should be analysed in each Concept Document.

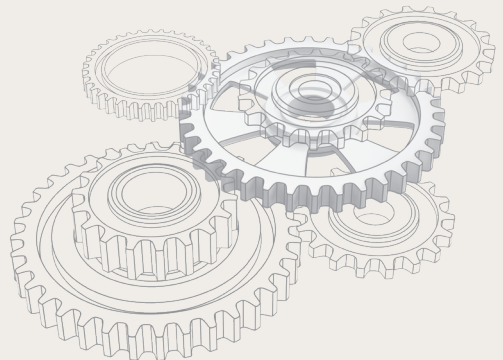
The first option is the status-quo option that is called the 'no change option'. This option is based on a summary of the problem definition. This option serves as a comparison for the other options. It describes how the situation would look like if no changes would be made. Tool 2: The baseline scenario shows how the no-change option can be presented.

Secondly, when the Concept Document addresses issues with existing rules, the option to improve the implementation and enforcement of these rules always has to be assessed. When necessary, this option can be replaced by a more viable option when this improves the quality of the analysis of the Concept Document.

The third option will depend on the nature of the topic that is analysed in the Concept Document. It depends on the actual shortcomings and needs to be a proper alternative to the other options that are analysed. The third option should consider possibilities to address a problem without using legislation. Such options are often available and can be implemented relatively quickly since no legal changes are needed.

The Manual for Developing Concept Documents provides overviews of possible options that are linked to specific problems which might apply to the situation that is analysed in the Concept Document.

04



CHAPTER 4: IDENTIFYING AND ASSESSING FUTURE IMPACTS OF OPTIONS

When it is clear what could be done to solve a problem, the analysis for the Concept Document goes into the details of different options and what is expected to happen in the future. The analysis of different options will demand different budget and human resources. After all, the activities and outputs needed to implement these options will be different.

The actions of the Government need to be put in a wide context that takes account of all possible effects that Government actions can have. This means analysing the following five potential impact categories:

- 1 economic impacts: impacts on businesses, employees, economic growth, Foreign Direct Investment, etc.;
- 2 social impacts: impacts on education, the social position of sub-groups within society, pensions, etc.;
- 3 environmental impacts: impacts on air quality, pollution, waste levels, water quality etc.;
- 4 crosscutting impacts: impacts on gender equality, rights of citizens etc.; and
- 5 budget impacts: impacts on the income and expenditure of the Republic of Kosovo.

The categories for the impacts are very broad. The actual impacts in these categories can be positive or negative. This flexibility is provided on purpose. It guarantees that the options that are suggested in a Concept Document take account of all types of impacts that the implementation of these options can have on society.

Which issues should be analysed within the impact categories depends on (1) the problem, its causes and effects; and (2) on the options that are available to tackle the problem effectively.

The Manual for Developing Concept Documents lists tools that can be used for identifying the expected impacts and determining certain impacts in more detail. The impact categories and tools are shown in the overview below. Each tool has a separate section in the Manual.

In addition, the tools explain how the importance of impacts and the depth of analysis can best be determined, what possibilities exist for data collection and how a Concept Document for the implementation of an EU Directive or Regulation can best be developed. These tools provide support for structuring the analysis for the Concept Document.

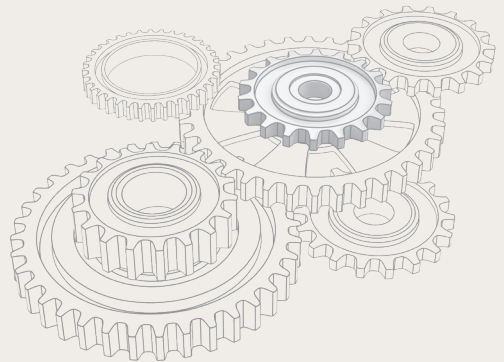
Finally, the Manual contains the tools that support the analysis for a Concept Document. These tools focus specifically on setting appropriate standards and the possibilities for implementing them. Of these tools, the Standard Cost Model must be applied when the Concept Document addresses problems that link to the manner in which businesses are regulated.



Figure 4: Impact categories and tools for structuring and conducting policy analysis

Section	Relevant tools in the Manual for Developing Concept Documents
1) Economic impacts	Tool 3: Identification of economic impacts
2) Social impacts	Tool 4: Identification of social impacts
3) Environmental impacts	Tool 5: Identification of environmental impacts
4) Crosscutting impacts	Tool 6: Impacts on Fundamental Rights
	Tool 7: Gender Impact Assessment
	Tool 8: Social Equity Analysis
	Tool 9: Youth Impact Assessment
5) Budget impacts	Tool 10: Implementation Plan for policy options
	Tool 11: Costing for Concept Documents
	Tool 12: Complying with Budget Impact Assessment
6) Structuring the analysis for a Concept Document	Tool 13: Determining the importance of impacts
	Tool 14: Data collection
	Tool 15: Policy analysis for transposing the EU Acquis
7) Setting and implementing appropriate standards	Tool 16: Standard Cost Model
	Tool 17: SME Test
	Tool 18: Regulatory Competitiveness Check

05



CHAPTER 5: COMMUNICATION AND CONSULTATION

Communication and consultation are very useful means for collecting data, verifying information, gaining new insights and presenting and explaining policies and decisions.

The aim of consultation is to bring the administration and stakeholders together in order to discuss the problems in detail, to discuss options to address these and to assess which kind of benefits and costs could occur. The purpose of communication is to make stakeholders aware of public consultations and to share Government intentions with the wider public.

Public consultation fosters the exchange of information, views and data which can then feed into the decision-making by the Government. Together with effective communication it enables active participation of citizens, companies, Civil Society Organisations, business representatives and Development Partners in policy development.

Determining the problem definition, defining objectives and options, identifying and assessing impacts, comparing the various options, determining the implementation plan and other segments of a Concept Document improve in quality thanks to internal consultation and public consultation.

The purpose of the consultation is gathering input for a Concept Document, but it is also about communicating the intentions of the Government for changing or improving policies and the motivation behind these intentions. If performed well, they foster understanding and thus acceptance of policies. This, in turn, results in better and more effective implementation.

The potential benefits from stakeholder consultation are many. In order to reap them, the consultation activities need to be prepared with care and planned well. This is mainly due to the fact that stakeholder consultation covers all activities in which people from outside the administration are asked to provide their comments, ideas, suggestions, data, etc. on the issues that are relevant for the Concept Document. Another important reason is that stakeholders are actually a very diverse group of people and organisations. Different stakeholders need to be contacted differently so that their participation in the consultation process is made as easy as possible.

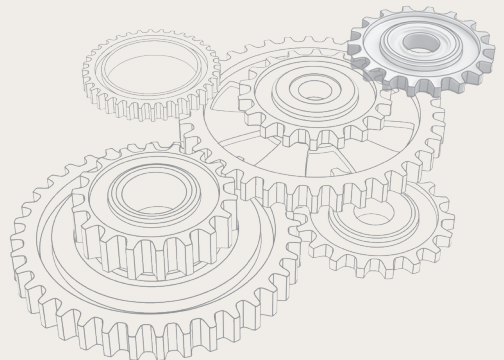
This means that consultation activities have to adapt to the resources of the stakeholders that have to be consulted. They have to be communicated properly and messages have to be tailor made for the target audience. And even more importantly, the administration needs to acknowledge the time and efforts that stakeholders invest in public consultation by showing that these efforts are valued and treated accordingly.

Two consultation activities are obligatory for each Concept Document. These are 1) the organization of a public meeting during the early phase of developing the Concept Document and 2) the online public consultation on the Concept Document through the website <http://konsultimet.rks-gov.net>. For them to be useful, they need to be communicated effectively to all relevant stakeholders. It is important to consult stakeholders beyond these two events through, for example, involvement in Working Groups and targeted consultations.

For structuring and planning the consultation activities for a Concept Document, the Manual for Developing Concept Documents provides the following practical tools: Tool 19: Adhering to the Minimum Standards for Consultation; Tool 20: Identifying stakeholders; Tool 21: Selecting consultation methods; Tool 22: Communication during the development of a Concept Document; Tool 23: Planning the communication for a Concept Document; Tool 24: Planning the communication and consultation for a Concept Document; and Tool 25: Example of a Communication and Consultation plan. The consultation tools are in line with the requirements set out in the Minimum Standards for Public Consultation.



06



CHAPTER 6: COMPARING OPTIONS



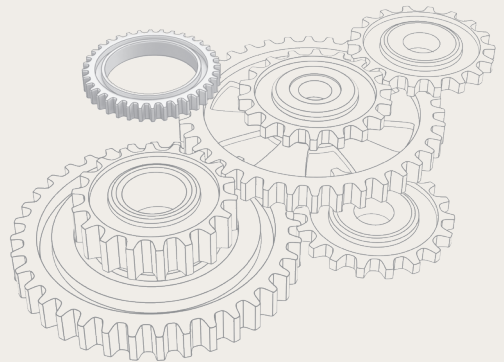
A lot of information is collected during the development of a Concept Document. For the policy professionals that are involved in the process of preparation and analysis of the issues, the Concept Document can be clear since they have worked on it from the start. However, people that have not been involved before in the drafting of the Concept Document need to have the information presented in a logical and easy-to-understand way.

The Manual for Developing Concept Documents lists three comparison tools and also explains how these can be used. The tools are Cost-Effectiveness Analysis (CEA); Cost-Benefit Analysis (CBA) and Multi-criteria Analysis (MCA).

The comparison of options will show which option is the most advantageous to choose based on the benefits and costs that it will bring about.



07



CHAPTER 7: CONCLUSION AND FUTURE STEPS

The Concept Document is one step within the wider process of developing policies and legislation and improving the regulatory framework in general. Two topics therefore need to be presented in the document so that the link to the future steps is sufficiently explained.

FOUNDATION FOR LEGAL DRAFTING

When the conclusion of the Concept Document is to develop a new law, a sub-legal act or to amend existing rules, the intended framework for future legislation needs to be made explicit. This means that the actual legal measures that need to be developed in order to implement the preferred option need to be presented in a practical overview. This overview will be the start of the process for drafting the legislation and ensures the link between the policy analysis conducted for the Concept Document and the legal drafting process.

FUTURE EVALUATION

Since the decision that follows from the Concept Document needs to be implemented, the manner in which the implementation will be monitored has to be defined. Also, the actual effects might have to be evaluated. This is especially the case when the expected impacts are highly significant.

Important questions need to be addressed effectively. These are whether monitoring can take place through existing reporting structures or whether a specific monitoring scheme needs to be developed. Also, the indicators used for monitoring need to be clearly defined and the tasks of the involved organisations have to be stipulated and agreed.

Guidelines for Legislative Evaluation were adopted in 2015 and every year several evaluations are run under the umbrella of the Better Regulation Strategy 2.0. The work planning of the Government is extended and has a medium-term focus. Activities that are planned to take place several years from now can already be added to the indicative work planning of the Government.

Tool 10: Implementation Plan can be used to present the future steps of the preferred option.

ANNEX 1: OVERVIEW OF DOCUMENTATION FOR GOVERNMENT ADOPTION OF A CONCEPT DOCUMENT

Document	Explanation
Summary sheet	This document presents key information and must accompany the Concept Document in the procedure for adoption by the Government.
Concept Document	<p>Analysis performed in line with the Guidelines for Developing Concept Documents. The following chapters are obligatory for a Concept Document:</p> <p>Introduction Chapter 1: Problem definition Chapter 2: Objectives Chapter 3: Options Chapter 4: Identifying and assessing future impacts of options Chapter 5: Communication and Consultation Chapter 6: Comparing options Chapter 7: Conclusion and future steps</p>
Report on prior consultation	<p>This document provides the detailed information on the prior consultation that was organised for the Concept Document. It should at least cover the composition of the Working Group, the comments obtained during and the summary of the outcome of the prior consultation according to the Rules of Procedure (RoP Articles 7).</p> <p>It is a separate document, but the ministry must integrate the most important information about the prior consultation into the Concept Document and the Summary Sheet.</p>
Report on the public consultation	This document provides the detailed information on the public consultation that was organised for the Concept Document. It is a separate document, but the ministry must integrate the most important information about the public consultation into the Concept Document and the Summary Sheet (RoP Article 32).

Document	Explanation
<p>The official recommendation signed by the Minister stating briefly the action that the Government is recommended to take;</p> <p>The draft decision, The Concept Document, Financial Impact Assessment (where required), Statement of Compliance with the provisions of the regulation, Opinion of the Ministry of Finance, Opinion of the Ministry of European Integration, Opinion of the respective Offices of the Prime Minister, The table listing the comments received from other institutions (as required in article 7 RoP), The report or advice following from the Council of General Secretaries meeting at which the Concept Document was discussed.</p>	<p>Those are accompanying documents in official languages to be submitted to the GCS with the proposal for inclusion in the Government agenda (RoP Article 34) and when the final proposal is submitted to the Government meeting (RoP Article 36).</p>

ANNEX 2: OBLIGATORY CHAPTERS FOR A CONCEPT DOCUMENT

INTRODUCTION

Title	(State the title of the Concept Document)
Responsible ministry	(Name of Ministry); (Department); (Division)
Contact person	(Name); (Office phone number)
GAWP	(State the number of the activity for developing the Concept Document in the GAWP)
Strategic priority	(If no, state 'no'. If yes, state in which strategic document(s) the preparation of this Concept Document was announced. Also list the strategic objective(s) that the CD is meant to implement)
Working Group	(List the organisations and their representatives that were members of the Working Group for the Concept Document)
Additional information	(This section can be used to provide information that is not captured above. For example, when a Concept Document follows from an Evaluation or an international treaty, the information can be stated here.)

CHAPTER 1: PROBLEM DEFINITION

CHAPTER 2: OBJECTIVES

CHAPTER 3: OPTIONS

- » No Change Option
- » Option on Improving implementation and enforcement
- » Third Option (to be determined individually for each Concept Document)

CHAPTER 4: IDENTIFYING AND ASSESSING FUTURE IMPACTS OF OPTIONS

CHAPTER 5: COMMUNICATION AND CONSULTATION

CHAPTER 6: COMPARING OPTIONS

CHAPTER 7: CONCLUSION AND FUTURE STEPS

ANNEX 3: SUMMARY SHEET FOR CONCEPT DOCUMENTS

(The text between brackets has to be deleted when the information is provided.)

(The table below can be filled during the development of the Concept Document. It can only be finalised once the analysis for the CD and the CD itself are ready. Limit this summary sheet to a maximum of three pages.)

(This document provides the key information about the Concept Document. All information listed here must come directly from this Concept Document and cannot contain new information. The information that must be listed in this document relates directly back to the analytical tools in the Manual for Developing Concept Documents.)

(This presentation is for internal use by the Government. This presentation of key information must accompany the Concept Document in the procedure for adoption by the Government.)

General information	
Title	(State the title of the Concept Document)
Responsible Ministry	(Name of Ministry); (Department); (Division)
Contact person	(Name); (Office phone number)
GAWP	(State the number of the activity for developing the Concept Document in the GAWP)
Strategic priority	(If no, state 'no'. If yes, state in which strategic document(s) the preparation of this Concept Document was announced. Also list the strategic objective(s) that the CD is meant to implement.)

The decision

Main issue	(List here a summary of the problem definition.)
Consultation summary	(List here the main conclusions from the inter-ministerial consultation process that was conducted for the Concept Document. If there is no disagreement with other line ministries or when all initial disagreements have been addressed, state this clearly. If disagreements remain, list these here and indicate why these have not been taken forward.)
	(List the main public consultation activities that were conducted. Also state the starting date and the end date of the written online public consultation. List the number of organisations that provided responses to this consultation, the number of comments received and the main conclusions from the public consultation process. Refer to the report on the public consultation that must be submitted together with the Concept Document for adoption by the Government.)
Proposed option	(State here the preferred option that is presented in the CD.)

Main expected impacts

Budget Impact	(State the impact to the budget. If the proposed option is covered by the current budget ceiling, state 'implemented under current budget ceiling')
Economic Impacts	(State the most important impacts in this category. If there are no relevant impacts, state 'no relevant impacts expected in this category'.)
Social impacts	(State the most important impacts in this category. If there are no relevant impacts, state 'no relevant impacts expected in this category'.)
Environmental impacts	(State the most important impacts in this category. If there are no relevant impacts, state 'no relevant impacts expected in this category'.)
Crosscutting impacts	(State the most important impacts in this category. If there are no relevant impacts, state 'no relevant impacts expected in this category'.)
Administrative burdens for companies	(If no administrative burdens for companies are created, state 'does not apply'. Otherwise list the expected total decrease or increase in administrative burdens.)
SME Test	(Indicate whether the SME Test was applied. If not, state why. If yes, indicate the main findings.)

Next steps	
Short-term	(List the most important activities that will be developed within one year after adoption of the Concept Document.)
Medium-term	(List the most important activities that will be developed within two to five years after adoption of the Concept Document.)

MANUAL

FOR DEVELOPING CONCEPT DOCUMENTS

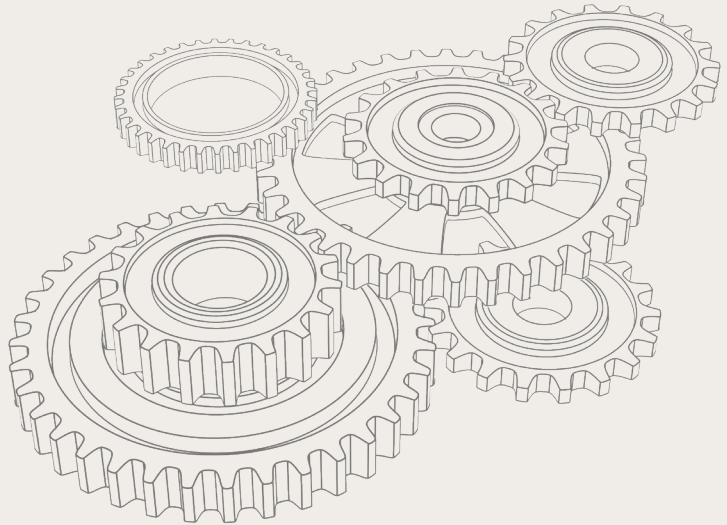


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LIST OF STEPS FOR DEVELOPING AND COMPLETION OF CONCEPT DOCUMENTS

STEPS AND INDICATIVE TIMELINE

RESPONSIBLE INSTITUTIONS

1

CONCEPT DOCUMENT PLANNING

Roadmap throughout the year

GAWP : 3.5 months (Oct-Dec-January)

- Preparation of the roadmap for the Concept Document depending on the start of preparation of the Concept Document
- Identification of the issues for which Concept Documents are to be prepared and to be submitted for Government decision making during the following year
- Development of the draft list of Concept Documents for the following year as part of the GAWP¹
- Sending the draft list of Concept Documents for public consultation²
- Finalization of the draft list of Concept Documents
- Approval of the List of Concept Documents to be developed the following year

Ministries

GCS, Ministries

GCS, other CoG bodies,
General Secretary/ OPM

GCS, OGG

GCS

GCS,
General Secretary OPM

¹ Pursuant to the article 29 (3) and 48 (7) of the RoP of the Government No.09/2011

² Pursuant to the article 5 (1.4) of the Regulation No. 05/2016 on Minimum Standards for Public Consultation Process.

STEPS AND INDICATIVE TIMELINE

RESPONSIBLE INSTITUTIONS

2

**WORKING GROUP FOR DEVELOPING
CONCEPT DOCUMENTS**

1 month

- Determining the composition of the Working Group to include Chair of the Working Group, other members of the ministry, CoG bodies, institutions and stakeholders

General Secretary of the Originating Body, GCS

- Establishment of the Working Group:
Recommended members of the group:
 - » Chair of the Working Group (official from the relevant policy unit)
 - » Deputy Chair
 - » Relevant policy officials
 - » Official from Department for European Integration and Policy Coordination
 - » Official from the Legal Department
 - » Official from Budget department
 - » Official from Public Communication Department
 - » Gender Equality official
 - » Officials responsible for organising stakeholder consultation

General Secretary of the Originating Body, GCS

Topic dependent members:

- » Officials from other line ministries and agencies
- » Officials from relevant Government organisations (GCS, SPO, LO, PCO, MF, MEI and AGE)

External members (around three selected based on expertise):

- » CSOs
- » International organizations

- Experts and consultants

- Development of the list of tasks, including the activities needed for the completion of the Concept Document:

- » Analytical focus and tools to use (in consultation with GCS)
- » Keeping minutes/action points
- » Data gathering
- » Consultation and communication plan
- » Writing the Concept Document

Chair of the Working Group appointed by the Originating Body for drafting the Concept Document
GCS

- First meeting, suggested agenda for the second meeting and planned meeting schedule for the complete process needed to finalise the Concept Document

Chair of the Working Group, Working Group

STEPS AND INDICATIVE TIMELINE	RESPONSIBLE INSTITUTIONS
<p>3 PUBLIC MEETING³ 2 weeks</p> <ul style="list-style-type: none"> • Before drafting the Concept Document: preparation of the outline of the main issues and topics to be included in the analysis for the Concept Document • Discussions with parties that have expressed their interest 	<p>Working Group of the Ministry</p>
<p>4 ANALYSIS 3-6 months</p> <ul style="list-style-type: none"> • Preparing respective sections of the Concept Document • Discussions in the Working Group • Targeted consultations • Other consultation forms • Communication • Intra-ministerial consultation • Finalise initial Concept Document 	<p>Working Group</p>
<p>5 PRIOR/INTERMINISTERIAL CONSULTATION⁴ 3 weeks</p> <ul style="list-style-type: none"> • Consultation with CoG institutions, line ministries and other relevant state administration bodies • Completion/improvement of the initial Concept Document, including integration of the most important information from the prior consultation phase into the Concept Document • Preparation of the table listing comments received during the prior consultation phase and explaining how they were incorporated in the CD and, if not, why⁵ 	<p>Originating body / Working Group of the Ministry</p>

³ Pursuant Articles 8 and 13 of the Regulation on Minimum Standards for Public Consultation Process

⁴ Pursuant to the article 7 of the RoP of the Government No.09/2011

⁵ Ibid, point 4

STEPS AND INDICATIVE TIMELINE

RESPONSIBLE INSTITUTIONS

6 PUBLIC CONSULTATION⁶
1-3 months

- Prepare and conduct wide consultation in writing
- Closely cooperate with the Public Communication Office during this process
- Collect and analyse comments
- Decide how to take comments forward
- Preparing the consultation section on the draft Concept Document which must include the description of the outcome of the public consultation process
- Prepare consultation report⁷
- Last Working Group meeting and finalization of the draft Concept Document

Chair of the Working Group for developing the Concept Document, in cooperation with the public consultation coordinator

7 GOVERNMENT ADOPTION PROCEDURES
1-2 months

- Submission to the GCS of the draft final Concept Document for the Government meeting⁸
- Improvement and finalization of the draft Concept Document if the GCS returns it back to the originating body⁹
- Review of the draft Concept Document by relevant CoG institutions¹⁰ and update of the Concept Document if necessary
- Review of and discussion on the draft Concept Document at the regular General Secretaries meetings
- Submission of the final draft Concept Document at the Government meeting¹¹
- Discussion/decision on the draft Concept Document at the Government meeting
- Informing the public on the decision of the Government¹²

Originating Body

General Secretaries, GCS

OPM (GCS, SPO, LO, PCO), MoF and MEI

GCS, Originating Body

GCS

Government

Government Spokesperson, PCO/OPM

⁶ Pursuant to the article 32 of the RoP of the Government; Articles 9 to 16 of the Regulation on Minimum Standards for Public Consultation Process

⁷ Pursuant to the article 6 and 11 of the Regulation on Minimum Standards for Public Consultation Process

⁸ Pursuant to the articles 10 and 34 of the RoP of the Government

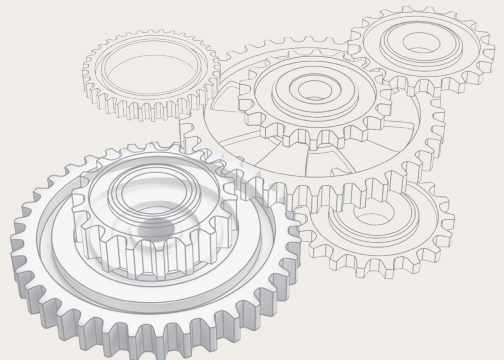
⁹ Pursuant to the article 10 of the RoP of the Government.

¹⁰ Pursuant to the article 35 of the RoP of the Government.

¹¹ Pursuant to the article 36 of the RoP of the Government.

¹² Pursuant to the article 72 of the RoP of the Government.

01



SECTION 01: THE PROBLEM DEFINITION



The problem definition provides the foundation for the Concept Document and it provides the answer why the Government needs to act. This section helps you to:

- Describe the existing policy and legal framework, institutional set up and responsibilities in relations to the policy issues analysed in the Concept Document
- Describe non-regulatory interventions relevant for the policy issues analysed in the Concept Document
- Present the problem definition by describing the current situation, the causes and the consequences
- Describe possible overlaps, shortcomings, inefficiencies and contradictions in the regulatory framework
- Identify the stakeholders affected and describe their connection to the problem.

The first step in policy development is providing the answer to the question why the Government needs to promote changes in society. This is called developing the problem definition. It is the most important step in policy development.

The problem definition provides the foundation for a Concept Document. All further analysis that is made for the Concept Document follows from the problem definition. A good problem definition makes developing the Concept Document much easier since the analysis will flow logically from it. The conclusions of the analysis will be solid, understandable and justifiable.

The contrary is true as well. Defining a problem poorly makes it very difficult to conduct proper analysis. A building with a weak foundation will collapse. Likewise, a Concept Document with a bad problem definition will be hard to understand and is likely to contain contradictions.

This section explains the different possible elements that a problem definition might contain. It provides insight into how a problem definition can be constructed. It explains the use of the Problem Tree and the baseline, two tools that can be used when developing and presenting the problem definition for a Concept Document.

HOW TO DEVELOP A GOOD PROBLEM DEFINITION?

Concept Documents are made for very different topics and each problem definition is case-specific. Sometimes a problem definition is relatively easy to construct. More often, though, it takes considerable time and effort to develop the problem definition. This is time that is well-invested and worthwhile since the problem definition is the basis of further analysis for the Concept Document.

The problem definition needs to be made before further analysis for the Concept Document is conducted. However, the first version of the problem definition is most often not the final one. While the analysis progresses, the problem definition might have to be changed. This is perfectly normal since developing the Concept Document improves the insight into the issues that are being dealt with. Insight leads to understanding. Understanding leads to improvements. Improvements lead to changes.

DESCRIPTION OF THE EXISTING POLICY AND LEGAL FRAMEWORK

Each Concept Document and each problem definition is different. However, the starting part for each Concept Document should be a detailed description of the existing policy and legal framework, the state institutions responsible for implementation and their roles and responsibilities.

The problem definition provides the basis for the analysis for the Concept Document. In order to have a complete picture of the issues that are dealt with and to identify the elements that are not complete or not functioning, it is important to show what the current policy and legal framework around this issue is. Such a description provides the information needed to assess options in relation to existing measures. It forms the basis for assessing how (non-) regulatory options considered in the Concept Document would interlink with existing policies and legal requirements.

The presentation of the problem definition should therefore start with the overview of the policies, laws and sub-legal acts that are connected to the issues that are addressed. Such an overview shows the position of the Concept Document (and therefore the analysis and the proposed solutions) within the policy and legal framework. It also provides a useful basis for determining which Government organisations could be relevant.

It can happen that one state institution is responsible for the implementation of several policies, laws and/or sub-legal acts. If this is the case, this needs to be explicitly mentioned. Also, a policy, law or sub-legal act might be implemented by two or more state institutions that cover different parts. If this is the case, this needs to be highlighted as well.



Figure 1: Sample of the description of the existing policy and legal framework

Policy document, law or sub-legal act	Link to policy or planning document online or to legal acts in the Official Gazette	State institution(s) responsible for implementation	The role and tasks of the institution(s)
Name of the policy or planning document (see also the overview of possible policy documents in Section 2 of the Manual for Developing Concept Documents)		Name of the state institution	
Title of the Law		Name of the state institution	
Title of the sub-legal act		Name of the state institution	
Title of the Law		Name of the state institution	
Etc.		Etc.	

The overview that the figure above provides helps to identify possible overlaps, shortcomings, inefficiencies and contradictions in the policy and legal framework. The presentation of the overview needs to be supplemented with an explanation of the quality of these frameworks. If this is regarded as insufficient, this needs to be reflected in the problem definition.

Alongside the existing policy and legal framework, the Concept Document needs to identify all relevant non-regulatory interventions such as information campaigns, training programmes etc. when these are relevant for the issues that are analysed in the Concept Document.

THE ELEMENTS OF THE PROBLEM

Each Concept Document and good problem definition contains special elements that provide a detailed description of the current situation. The elements are the following:

- The main problem
- The causes of the problem
- The effects of the problem
- Identification of the affected stakeholders

SUPPORTING DOCUMENTATION

For the description of the problem, it is useful to list the documents that were analysed to assess the main problem, the causes and effects. These documents can be reports and articles from ministries, media outlets, NGOs, international organisations and donors.

THE MAIN PROBLEM

The main problem summarizes the reason for the Concept Document in one sentence or just a few words. The main problem is listed first in the overview since it is the central theme in the Concept Document. It sets the framework for all activities and work that need to be conducted for the policy analysis. The main problem is the conclusion that is drawn from the analysis that is conducted in order to develop a clear problem definition.

The main problem can be identified and presented effectively through *Tool 1: Problem Tree*.

Determining the main problem is not a linear process in which the main issues are decided at the start. It is a dynamic process in which the issues are thought through time and again. The insights gained during the analysis can also lead to changes in the problem definition. Such changes are a normal feature of policy analysis.

THE CAUSES OF THE PROBLEM

The causes of the problem are the reasons why the problem exists. There are three main causes of problems:

- 1 Legal and Regulatory Shortcomings;
- 2 Market Shortcomings; and
- 3 Societal Issues.

Legal and Regulatory shortcomings are problems related to the implementation of the existing framework of legislation and sub-legal acts. Due to these problems, the rules and requirements do not function properly and therefore do not achieve the intended effect.

Market shortcomings are problems that show up in the economy. They have a negative impact on economic development.

Societal issues are complex problems that relate to the development of the entire country in economic, social and environmental aspects.

The problem definition normally can be linked to one of these three categories. It is crucial to identify the real cause behind a problem. Knowing these causes enables the originating body to design an effective solution.

The causes that are listed below are those that occur most often. Of course, in specific cases, they might be very different. It may also be that there are two or more causes for a problem instead of just a single one. The overview below provides the guidance to structure the problem definition and provides direction for the analysis that has to be made for the Concept Document.

LEGAL AND REGULATORY SHORTCOMINGS

As the name already indicates, Legal and Regulatory Shortcomings occur when there are already rules in place, but these rules do not function well. When the problem is caused by a legal or regulatory shortcoming, solving the problem means adjusting the legal and regulatory framework. To come up with the best solution, the type of shortcoming needs to be assessed properly. The table below lists the most common types of legal and regulatory shortcomings and some of their potential effects.



Figure 2: Examples of Legal and Regulatory Framework Shortcomings

Type of Legal and Regulatory Shortcoming	Explanation and examples
<p>Rules are not implemented properly</p>	<p>Implementation of legislation and sub-legal acts is essential. If rules are not implemented at all, they might not be necessary. In such cases, rules can be abolished. Alternatively, if the rules are seen as essential, then the reason for not being implemented must be found and the way to make them work needs to be identified. Improper implementation of rules can give the misleading impression that the legislative framework is not complete and additional rules are necessary. Improper implementation can also mean that the burdens for companies and citizens that have to comply with these rules are unnecessarily high.</p> <p>When the Concept Document deals with legal and regulatory shortcoming, the way in which the rules are implemented always has to be analysed. When the problem exists because 'rules are not implemented properly', means to improve implementation have to be defined. This can mean that rules have to be simplified or that they might have to be abolished when they cannot be implemented at all. In other cases additional budget might have to be reserved or other measures taken to make sure that the rules are implemented.</p>
<p>Rules are incomplete</p>	<p>During the drafting of legislation and sublegal acts people involved in the process sometimes overlook or forget something. This, unfortunately, can also happen when legislation is developed by the Government and adopted – with or without amendments – by the Parliament.</p> <p>Society changes and new opportunities and demands arise. Legislation can become incomplete because of these changes and new opportunities.</p> <p>There might be no rules in place in some policy areas. To regulate new business activities, for example in the IT sector, rules have to be developed from scratch.</p> <p>Aligning legislation with EU directives also can show that legislation needs to be adjusted so that it complies with EU rules.</p> <p>When the problem exists because 'rules are incomplete', the actual gap needs to be defined and corrected.</p>

Type of Legal and Regulatory Shortcoming	Explanation and examples
Rules are conflicting	<p>Laws and sub-legal acts can be drafted in ways in which they conflict with each other. This can become clear, for example, in court when laws are set against each other or during the implementation phase. There may also be conflicting provisions within legal acts.</p> <p>Conflicting rules create legal uncertainty. They cause confusion, impede the functioning of institutions and can block individuals and companies from enjoying their rights fully.</p> <p>When the problem exists because 'rules are conflicting', these conflicts have to be clearly identified and removed.</p>
Rules regulating State institutions are out of date	<p>Public administration comprises a multitude of public institutions at national, regional and local level. Ministries, municipalities, agencies, etc. are all part of the public administration.</p> <p>Over time, the tasks that public institutions fulfil, change. Agencies, for example, might have been set up to achieve a certain goal and when the goal is reached, they are not needed anymore. Responsibilities of two institutions might overlap and the legislation that governs them has to be adapted. Ministries might be abolished or merged based on political priorities. Costs might be saved by merging two institutions that fulfil complementary tasks.</p> <p>At the same time, new Government institutions might have to be established to fulfil new tasks or improve the way in which legislation is implemented and executed. New ministries might be created to cover the political priorities of the Government.</p> <p>When the problem exists because 'the public administration needs to be improved', the reasons for this have to be analysed and justified, including benefits and costs.</p>

Type of Legal and Regulatory Shortcoming	Explanation and examples
<p>Rules cause unnecessary burdens</p>	<p>Legislation and sub-legal acts set requirements with which companies and citizens have to comply. These requirements come in many forms: permits, licences, minimum standards, environmental norms and many more.</p> <p>These requirements can be (or over time, become) unnecessarily burdensome. For example, legislation might demand that certain information is provided in paper form while an electronic format of the same information exists. One company might have to apply for several permits for the same business activity, such as opening a restaurant.</p> <p>When the burdens caused by legislation are unjustified, they impose an unnecessary cost on society. These burdens can have very negative consequences. They might restrict competition, they could demotivate people from starting or registering their business etc.</p> <p>When the problem exists because ‘rules cause unnecessary burdens’, they need to be simplified on order to reduce the burdens.</p>
<p>Rules are not necessary anymore</p>	<p>Legislative and sub-legal acts can lose their relevance completely. This can happen because other legislation slowly replaces the elements that these acts deal with. Societal and political priorities might change. The transposition of EU Directives and Regulations might render existing legislative and sub-legal acts unnecessary.</p> <p>What applies to acts in general, also applies to certain parts of legislative and sub-legal acts.</p> <p>When the problem exists because ‘rules are not necessary anymore’, those rules need to be abolished.</p>

MARKET SHORTCOMINGS

Market shortcomings occur when the market economy is not working properly with negative impacts as a result. This sounds very complex, but often is not. Market shortcomings show up in very practical problems. Examples of market shortcomings are listed in the table below in connection with some effects that might occur.



Figure 3: Examples of Market Shortcomings

Type of Market Shortcoming	Explanation and examples
<p>Prices do not reflect the real costs for society</p>	<p>Producing and/or consuming certain products has costs. Sometimes, the real costs for society are not part of the price of a product. This leads to situations where the negative effects for society can be very high due to wrong incentives caused by a wrong price.</p> <p>Pollution often is a good example of a price that does not cover all costs. The burning of coal in winter is a logical choice since the material is cheap and a house needs to be heated. However, the pollution that is caused by many people using coal to heat their house has severe consequences such as lung diseases and earlier death. These are costs that are not reflected in the price of coal.</p> <p>Smoking is proven to be very unhealthy, not just for the person that smokes, but also others that breathe in the smoke. Smoking harms everyone, but especially children are at great risk, in particular in small spaces such as cars and houses. Smoking and breathing in cigarette smoke causes many diseases. These diseases have costs as well. They are not reflected in the price of cigarettes.</p> <p>Throwing away garbage in the countryside and on the street is another example. For individuals it is cheap to throw garbage away because it has no costs for them. Yet, the garbage spoils the countryside and cities. It often has to be cleaned up by the state.</p> <p>When prices do not reflect the actual cost, taking products of the market or obliging companies to adjust their production processes (such as obliging them to install filters to prevent air pollution) are examples of ways to correct this.</p> <p>Other examples are imposing taxes and fines to increase prices so that they reflect the actual costs. However, in order to be able to solve a problem like this, it is very important to assess whether alternative options are present and/or whether people can afford to switch to other products.</p>

Lack of public goods

The private sector produces goods and provides services with the aim to make a profit. It is not possible, however, to make a profit on everything. Yet, investments can be needed to make sure that society gets the benefits. When the private sector does not provide a certain good or service, the Government has to provide it when analysis shows that it is necessary. Goods and services provided by the Government are public goods.

Public parks and nature reserves are good examples of public goods. They provide a nice place for people to enjoy their day, but it is not possible to charge people for entering each park, forest etc.

National defence, police forces, emergency care and disaster prevention also are public goods. They have to be organized by the state to make sure that everyone benefits from them.

Education, social benefits, unemployment benefits and other examples where the state supports individuals can also be labelled as public goods. The state needs to organize them to ensure social mobility, prevent poverty and unlock other benefits for society that the private sector cannot.

When the problem is caused by the 'lack of a public good', the state might have to assess whether it is possible to reserve the necessary resources to provide this good. Subsidies can also provide incentives for companies to provide public goods.

Lack of market incentives

The private sector invests to make a profit. The expectation is that there will be a positive return on these investments. When investments are made, companies will also keep account of the potential risks that projects will fail or deliver less profit than expected. When the upfront investments are too high and/or the risks are too great, investments will not be made. As a result, activities will not be developed either.

Building a highway is very costly, but with the right type of concessions, private investors may be willing to take on the costs of building and maintaining the road. This is especially the case when the expectation is that many people will make use of the road.

Introducing new farming methods can be very expensive, especially for farmers with small farms. Subsidies can lower the costs for new technology, for example. When this encourages much better farming, a significant reduction in the use of pesticides etc., the costs can be justified.

A lack of incentive also occurs when the person who has to make the investment does not get benefit. The owner that rents his house to someone else does not pay the energy bill. There is little reason for the owner to invest in expensive house insulation unless the rent can be increased.

A 'lack of market incentives' can be addressed in various ways. Providing tax incentives on investment and subsidies are two ways in which the Government can directly cover part of the investment costs. Developing clear and enforceable rules can provide the legal certainty that is needed for investments, including foreign investments.

Important to note: the problem caused by 'lack of market incentives' and 'lack of public goods' are closely related. The difference between the two is that public goods cannot provide a profit and therefore will not attract business investment. It is, for example, not possible to charge drivers for each road that they use. Such roads are public goods. However, companies can charge for the use of canals, some highways and other infrastructure. The key difference between the two causes of the problem is whether there is the possibility to gain a profit at a reasonable cost.

Lack of competition

Market competition has several positive effects. It leads to lower prices for goods and services. This enables more people to buy them. Competition also supports investment in innovation and leads to better quality of goods and services.

The opposite is true as well. When competition is low or does not exist, prices are often higher than necessary. Since consumers have no alternatives to choose from, improving a service is less of a priority and investments in innovation can be very low.

A lack of competition can be a 'normal' market situation. This especially applies when the cost of providing a good is very high. Water supply and electricity markets tend to have just one or few providers because building the network for distributing water and electricity is very expensive. It does not make economic sense to have a house with more than one pipe that delivers water, for example. The result is that there will be one company that delivers water in a country or region.

When the problem is caused by a 'lack of competition', the market needs to be analysed to see whether the setting of prices has to be controlled. This needs to be done with care, of course.

Important: a lack of competition can also be caused by a legal or regulatory shortcoming, for example when regulation is very complex and needlessly expensive to comply with. This prevents other companies from entering the market. This is addressed in the section on 'Legal and Regulatory Shortcomings'.

Unequal levels of information

It can happen that the market does not function well because not everyone has the same information or knows the rules that apply. When people do not know their rights, they have a clear disadvantage.

A cheap car might be cheap because it is inefficient and uses a lot of petrol. A car that is more fuel-efficient uses less petrol, but is more expensive to buy. Which car is more appropriate to have depends on how often the buyer of the car intends to use it and how many kilometres they expect to drive per year. The buyer of the car needs to know the amount of fuel that a car uses per 100 km in order to be able to make the best decision.

Companies often know the rights of consumers, but the consumers do not necessarily know the rights that they have. An airline might not inform its passengers that they can get free meals or other compensation when a flight is cancelled or severely delayed. When the passengers do not know their rights, they will not claim them. Consumers would thus miss out on their rights while the intention was to grant them the rights and make sure that they are properly compensated.

When the problem is caused by 'unequal levels of information', the solution to the problem lies in ensuring that everyone gets the essential information. Providing information on the energy consumption of consumer goods such as fridges; obligatory handing out of flyers that show the rights of consumers; and information campaigns organized by the Government are examples of promoting equal access to information.

SOCIETAL ISSUES

Societal issues are issues that affect the society at large. When compared to Market Shortcomings and Legal and Regulatory Shortcomings, societal issues tend to have a much wider scope. The problems are often caused by multiple factors and affect many stakeholders. They also tend to cover several policy areas and therefore a range of Government organisations can be involved when it comes to solving the identified problem. The causes of societal issues are often complex because they link back to many factors such as cultural attitudes; perceptions based on socio-economic status; social norms; and much more.

Societal issues are policy issues such as a lack of gender equality; discrimination; corruption; children not finishing secondary school; persistently high youth unemployment; property rights etc.. These topics are highly complex and when addressed, they need to be analysed in-depth and with great care. This means reserving the necessary time to make sure that the problem, its causes and its effects are properly identified.

IDENTIFICATION OF STAKEHOLDERS

The identification of stakeholders follows directly from the identified causes, the effects and the involved Government organisations.

A practical way to present the involved stakeholders is presented in the overview below. Knowing which stakeholders are affected by the problem is useful since it helps with developing the analysis for the Concept Document. The stakeholders that are singled out should be directly consulted and/or their participation in public consultation should be promoted.



Figure 4: Overview of stakeholders based on the problem definition

Name of the stakeholder	Cause(s) to which the stakeholder is linked	Effect(s) to which the stakeholder is linked	The way in which the stakeholder is linked to these cause(s) or effect(s)
Name of the Government institution	Lack of quality regarding the inspection of companies		Does not implement the existing rules due to lack of staff training
Name of external stakeholder		Competition is distorted	Companies that follow the rules have higher costs than those that break the law. Those that break the law, have a price advantage.
Etc.	Etc.		Etc.

IDENTIFYING THE PROBLEM, ITS CAUSES AND ITS EFFECTS

The categorisation of the causes of a problem into Legal and Regulatory Shortcomings, Market Shortcomings and Societal issues helps with the initial structuring of the problem definition.

It is essential to work out the problem definition at the start of the preparation of the Concept Document. However, the problem definition will most likely have to be refined while the analysis progresses. This is the result of good analysis and use of evidence.

Since developing the problem definition is the foundation of the Concept Document, it is worthwhile and justified to invest considerable time in this process. A good problem definition will make it easier to develop the Concept Document. The other steps that are needed to complete the Concept Document tend to follow logically from the problem definition. A problem definition is a good one when it provides answers and clarity to those who read it.



Figure 5: Gender Impact Assessment and Problem Definition

Tool 7: Gender Impact Assessment provides the information needed to assess gender-related issues for each Concept Document. This tool – and the supporting Manual for Gender Impact Assessment – also provides useful information to improve the problem definition by assessing the problem, causes and effects from the gender perspective. Gender Impact Assessment is thus a tool to further improve the quality of the Problem Definition.

The opposite is true as well. When the problem definition is incomplete or even wrong, the analysis for the Concept Document will be much harder. Mistakes can happen. If they are corrected, it is part of the normal analytical process. When mistakes are deliberately ignored or when people do not want to improve their way of thinking, the Concept Document will be illogical and may contain contradictions. A Concept Document with a bad problem definition will trigger questions and confuse those who read it. Naturally, this has to be avoided.

The figure below shows the process that will be helpful for developing a good problem definition.



Figure 6: The process of defining the problem, its causes and effects

Step 1	Data collection	<p>Gather all relevant data that you are aware of. This data can include reports, news articles, parliamentary questions, the Government programme and any other source of information that helps to understand the problem. Tool 14 on Data Collection provides suggestions on relevant data sources.</p>
Step 2	Data analysis	<p>Since the relevant information can be spread over various documents, these documents have to be read and analysed. Only useful information should be used for the Concept Document. Useful information is the information that helps to understand the problem.</p>
Step 3	Summarise your data and make your first draft of the problem definition	<p>While you analyse the data, you should start writing the summary. This will be the first version of your problem definition.</p> <p>When you draft the summary, make sure that you very clearly show what the problem is, what its causes are and what effects it has. Also show who is affected by the problem, which Government institutions are responsible for policies and legislation linked to the problem and who might be causing the problem.</p> <p>Make sure that you refer properly to the documents that you used for defining the problem.</p> <p>TIP: Tool 1 explains how the Problem Tree can be used to define and present a problem. You can use this tool to develop your summary.</p>

<p>Step 4</p>	<p>Verify the data you have and finalise your second draft of the problem definition</p>	<p>When you have identified the problem, its causes and its effects, you can verify whether there is additional information available. You can, for example, search the internet for information about the causes that you identified or the effects that you singled out.</p> <p>The data verification helps you to further improve the quality of your problem definition.</p> <p>Make sure that when you add information that you refer to the additional documents that you used for defining the problem.</p>
<p>Step 5</p>	<p>Consult your summary</p>	<p>Discuss the summary with the following professionals:</p> <ul style="list-style-type: none"> » your colleagues » the members of the Working Group for the Concept Document » your contact person at the Government Coordination Secretariat <p>If useful, you can consider also consulting other stakeholders:</p> <ul style="list-style-type: none"> » Staff from line ministries that are responsible for policies that are related to the problem definition, its causes and effects » Implementing Agencies » Civil society organisations » International donor organisations » Business representatives » Individual businesses » External experts » Other affected groups <p>Consulting external stakeholders is very useful when you have identified them as being affected by the problem or when they are linked to the causes of the problem</p>
<p>Step 6</p>	<p>Finalise the third draft of the problem definition</p>	<p>Based on your consultation round, you can finalise the third version of your problem definition. This will be the version that provides the basis for your analysis and finalisation of the Concept Document.</p>

Step 7	Refine your problem definition while you work on the Concept Document	<p>Read your problem definition several times per month. When you do that, you are able to spot whether it has to be changed slightly. This can be necessary since you might discover new information and insight into the causes of the problem and its effects. It also helps you to keep your analysis focussed on the topics that really matter.</p> <p>Important to note: While you are working on your Concept Document, you may discover that you did not have all the relevant information when you started developing your problem definition. In turn, this can mean that you have to drastically change the problem definition. Sometimes you might even have to replace it.</p> <p>It is perfectly normal when this happens. It is part of improving the quality of the analysis. For example, stakeholders can provide information that was not available before. The importance of specific causes or effects can be over- or underestimated at the beginning. Adapting to the information and evidence that you have is the central pillar for developing policies and legislation.</p> <p>When you see that the problem definition needs to be adapted significantly, start again from Step 4. When you consult on the improved problem definition, explain clearly why it had to be updated. Since there is a Working Group for the Concept Document, the consultation on the improved problem definition can be done through this Group.</p>
Step 8	Finalise the problem definition before the Concept Document is send for approval to the Government	<p>While the problem definition is the start of your work on the Concept Document, it also is the focal point for finalising the Concept Document. When the Concept Document is considered to be ready for adoption by the Government, you should do a final check of the problem definition. This is important since it is the foundation of the Concept Document.</p>

TOOL 1: THE PROBLEM TREE

Identifying the actual problems, their causes and the effects that are caused by them is a process that is made easier when it is well structured. The 'Problem Tree' is a tool that helps to present the problem definition in a graphical way that shows logically the distinction between problems, the issues that drive them and the effects that they cause. The Problem Tree can be used from the start and can be a part of the Concept Document.

The Problem Tree is split in three parts: trunk, roots and branches. The main problem is listed on the trunk. The roots that cause the problem show why it exists. The branches show the effects that the problem has.



Figure 7: The Problem Tree



The benefits of the Problem Tree are manifold. First of all, it provides a useful presentation of the problem definition and helps to make the problem definition specific. It is easy to understand and streamlines the presentation of the problem, its causes and its effects. As such, the Problem Tree is a useful tool to discuss the problem definition. This, in turn, helps to develop good solutions for tackling the origins and negative effects of a problem.

Through the identification of causes and effects, the Problem Tree helps with the identification of relevant stakeholders: those that are negatively affected by it, those that cause or contribute to the problem and those that need to be involved in solving the problem.

By splitting the problem into different causes and effects, the Problem Tree shows what kind of information would be useful for the analysis for the Concept Document. The Problem Tree can also help with prioritising the work that needs to be done for the Concept Document. Some causes and effects of the problem will be more important than others. The analysis for the Concept Document could focus on these in particular.

While the Problem Tree makes it easier to present a problem, it is important to keep an open mind about it. It is very good to keep the Problem Tree as a reference point that can be improved while the analysis for the Concept Document progresses. Defining the problem works best when it is an open process that involves experts from relevant organisations through a targeted consultation. It is even possible to organise a public consultation for a problem definition to get input from stakeholders very early in the process. An open mind and the involvement of stakeholders is useful since it is not always possible to identify all causes and effects from the start. It can also be that the main problem that is identified at first needs to be adapted because discussions and analysis show that it was not the best one. Such changes show the strength of the analytical work. Consulting stakeholders also helps with identifying the most important causes of a problem and therefore with setting the priorities for the analysis for the Concept Document and the ways to tackle the problem.

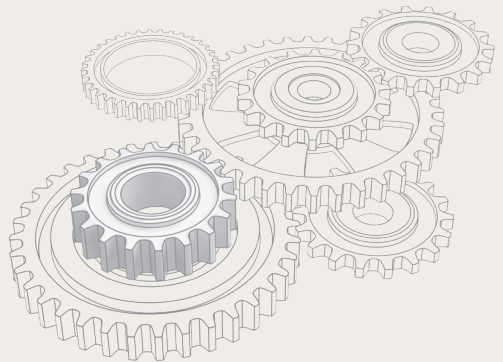
TOOL 2: THE BASELINE SCENARIO

The Problem Tree provides an overview of the causes of a problem and the effects as they stand when the Problem Tree is made. Such a presentation will often be enough for the development of a Concept Document.

However, when the problem is expected to worsen in the future, or when the costs caused by a problem are very high per year, developing a baseline scenario can be very useful to justify investments and budget expenditure.

The function of the baseline scenario is to show how a problem is expected to develop. It is a prediction of the future under the assumption that there will be no actions to address the problem and its causes. This information can then be used to justify that the Government takes action. A baseline scenario can be useful in order to justify the costs needed to tackle a problem; to show that only Government intervention can take away the causes; or to show that high upfront investments are justified over time.

02



SECTION 02: SETTING/DESCRIBING GOALS AND OBJECTIVES



Setting goals and objectives shows what the Government aims to achieve in certain policy areas and how. This section helps you to:

- Identify all relevant medium-term planning documents of the Government setting the general goals of the Government
- Identify Policy Goals and Strategic Objectives relevant to the policy issue being addressed

The problem definition makes clear what problem, causes and effects need to be addressed. The section that follows after the problem definition in the Concept Document is the section on setting and describing the Policy Goal; the Strategic Objective; and the Specific Objective(s). These elements show in detail what the Government aims to achieve. They provide the information that is needed to understand the reason behind the development of a Concept Document. The Goals and Objectives are the foundation of the measures that are proposed in it for changing existing policies or introducing new ones. Goals and Objectives need to be linked directly to the identified problem. They have to provide a description of the intended future situation in which the problem is effectively solved. Goals and Objectives also have to show the role and position of the Concept Document within the Government's or ministerial priorities when a Concept Document follows directly from such priorities.



Figure 8: Definition of Strategic and Specific Objectives

Strategic Objectives - are long-term goals that help to breakdown the policy goal from a broader vision into more specific plans and projects. They set the factors of success and are designed to be measurable, specific and provide a real breakdown of the mission statement/purpose that can be used by the Government and management within the administration to guide decision-making. Strategic Objectives are usually developed as part of a longer-term plan and they define specific expectations that will allow a particular institution to achieve its broader mission or fulfil its vision.

Specific Objectives - Strategic Objectives can be divided into smaller, specific parts that are logically interlinked. These are the Specific Objectives. They are more short-term than Strategic Objectives and focus on concrete activities. The Strategic Objective is achieved by meeting all the specific objectives.

The Government sets general goals in a range of policy planning documents, such as the Government Programme, the National Development Strategy, the Declaration of Medium Term Priorities, the National Plan for Implementation of the SAA, the European Reform Agenda, the Economic Reform Programme and (sectoral or cross-sectoral) strategies. Most Concept Documents follow logically from the high-level policy goals.

In addition to these documents, the Government often explains its goals in more detail. This is done in discussions with the Parliament, in interviews with the media and many other ways. In addition, some Concept Documents might have to be developed based on requests that the Parliament makes or they find their origin elsewhere. A Concept Document can, for example, also be the logical step to implementing the findings from the evaluation of the implementation of a certain law. The link between the Concept Document and the Government's goals needs to be presented in a clear way.

The goals and objectives that are presented in the Concept Document have to be set in a S.M.A.R.T. way. This applies in particular to the Specific Objectives that are defined in the Concept Document.

Since the Policy Goals are often set before a Concept Document is developed, they should not be changed any more. They can be copied from the relevant Government documents that preceded the Concept Document.

What applies to the Policy Goals, can also apply to the Strategic Objectives. Unless there is a clear need to revise these, they should be kept as they were published before in the Government documents.

The Specific Objectives need to receive detailed attention in a Concept Document. These are often only developed in the Concept Documents. They are about solving the problem and turning the policy goals and Strategic Objectives into reality through concrete policy measures such as amending existing legislation, changing the organisational structure of the administration etc.



Figure 9: The S.M.A.R.T. classification for Policy Goals, Strategic Objectives and Specific Objectives

Specific	The goals and objectives have to be precise and concrete. They have to be clear and not leave room for interpretation.
Measurable	The goals and objectives must be described based on very clear targets. That means setting clear indicators for the changes that are supposed to happen. This applies in particular to the Specific Objectives.
Achievable	Whatever the goals and objectives are, they have to be achievable. It does not add value to plan too much and then not to be able to deliver upon the promises. Goals and objectives need to be set in a realistic manner. This means that they have to be based on the available human and budget resources.
Relevant	Goals and objectives have to be linked directly to the problem definition. The aim is to either remove the problem by eliminating its causes or to take away the effects that the problem causes.
Time-bound	Goals and objectives have to be implemented within reasonable time. This links back to making sure that they are achievable. The deadlines also have to be set in such a way that the achieved results can be evaluated.

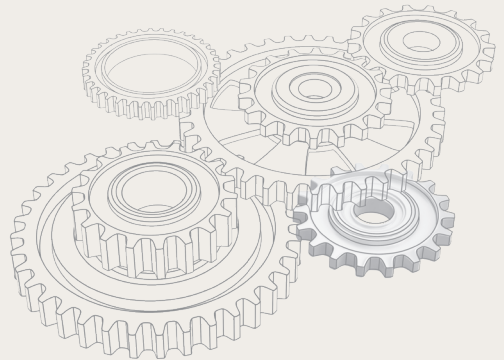
In the Concept Document, the goal and objectives need to be explained in detail. The easiest way to do this is to present them in a table like the one shown in the figure below. The figure shows Policy Goals, Strategic Objectives and Specific Objectives that have been formulated and the document from which they originate. The presentation of the goal and objectives is meant to show the logic and reasoning behind the development of a Concept Document. If the Concept Document does not follow from a strategic document, the overview below can address only the Specific Objectives.



Figure 10: Table format for presenting the origin of Policy Goals; Strategic Objectives; and Specific Objectives

Objective type	Origin
<p>Policy Goal</p> <p>(Defined in strategic/policy documents and need to be kept the same)</p>	<ul style="list-style-type: none"> » Government Programme » National Development Strategy » Declaration of Medium Term Priorities » NPISAA » European Reform Agenda » Economic Reform Programme » (Sectoral or Cross-Sectoral) Strategies » Kosovo Program for Gender Equality » And similar high level Assembly and Government documents
<p>Strategic Objective</p> <p>(Defined in strategies and worked out in activity plans; they need to be kept the same unless there is a clear reason to amend them)</p>	<ul style="list-style-type: none"> » Roadmap for the National Development Strategy » Activities linked to the priority measures presented in the Economic Reform Programme » Objectives set in (Sectoral or Cross-Sectoral) Strategies
<p>Specific Objectives</p> <p>(These objectives have to be set in the Concept Document based on the problem definition; Specific Objectives, for example, address the causes and the effects of the problem)</p>	<ul style="list-style-type: none"> » Specific objectives aim at either removing one or more causes of the problem; at addressing the effects that the problem brings about; or a combination of the two. » Specific objectives link directly to the issues that the Government aims to solve. » Specific objectives show expected improvements that the Government wants to achieve.

03



SECTION 03: DEFINING THE OPTIONS



Options are the possibilities to address the problem effectively within and beyond the existing regulatory framework. This section helps you to:

- Identify the shortcomings that derive from the problem definition
- Consider potential options that might apply to specific shortcomings and situations
- Analyse at least three options that could serve addressing the main policy problem
 - 1 the “no change option” to show the current situation of the policy issue and its continuation if changes do not happen
 - 2 the option of improving implementation and enforcement of existing policies and legislation
 - 3 the option that is a proper alternative and, when relevant, considers means other than legislative ones to address the identified problem

The problem definition shows the issues that could be addressed. The Policy Goal and Strategic Objectives show what the Government aims to achieve. They indicate the place of the Concept Document within the entire policy framework. The Specific Objectives, in particular, show the concrete targets that need to be reached.

This section on options lists possibilities that exist to achieve the Specific Objectives. These options are the activities and outputs that have to be developed in order to fix the problem by removing the causes, by addressing its effects or a combination of the two.

The type of problem, its causes and effects regularly provide a framework for the options that can be used to address a problem effectively. Analysing options is useful since they help to think about possible options that would not lead to additional legislation or amendments to the existing regulatory framework. They also allow a comparison between options to use legislation and other, non-regulatory possibilities to address a problem effectively.

Sometimes, the number of options to solve a problem can look very limited. For example, when the problem is caused by a Legal or Regulatory Shortcoming, changing the law might appear to be the most useful option. However, such decisions have to be taken with care. Even when the path seems to be clear, other options could still deliver better results.

Which options should be analysed depends on the nature of the problem and the goals and objectives. Several tables in this Section show examples of options that can be relevant for policy development and therefore for a Concept Document. Most Concept Documents will make use of these options or a combination of them. However, the list is not complete and other options still might have to be considered, especially for complex societal issues.

THREE OPTIONS TO BE ANALYSED

At least three options should be analysed in each Concept Document.

The first option is the status-quo option that is called the 'no change option'. This option can often be developed based on a summary of the problem definition. This option serves as a comparison for the other options. It describes how the situation would look like if no changes would be made. Tool 2: The baseline scenario shows how the no-change option can be presented.

Secondly, when the Concept Document addresses issues with existing rules, the option to improve the implementation and enforcement of these rules has to be assessed. Analysing this option serves several purposes and is useful beyond the option itself. Insight into the way existing rules are implemented helps with defining the possible solutions to a problem since it shows very clearly where responsibilities lie. When the option to improve the implementation and enforcement of existing rules does not add sufficient value for the comparison of options in the Concept Document, it can be replaced by a more viable option. This choice needs to be explained in the Concept Document.

The third option will depend on the nature of the topic that is analysed under the Concept Document. This depends on the actual shortcomings and needs to be a proper alternative to the other options that are analysed. The third option should consider possibilities to address a problem without using legislation. Such options are often available and can be implemented relatively fast since no legal changes are needed.

The two following figures provide an overview of Legal and Regulatory Shortcomings and Market Shortcomings. This information is connected with potential options to address these shortcomings. The overview is meant to guide the identification of options. It is not an exhaustive list. A third figure quickly touches upon societal issues. However, since such issues are highly complex, no specific overview of options is provided.



Figure 11: Legal and regulatory shortcomings and possible options to tackle them

Type of Legal and Regulatory Shortcoming	Options that can be considered	Explanation and link to problem causes
Rules are not implemented properly	Improving implementation of existing rules	<p>This option has to be analysed in every Concept Document that covers shortcomings with existing rules. Analysing the actual implementation of these rules provides essential information on how to tackle the problem that has blocked proper implementation.</p> <p>The analysis has to explain:</p> <ol style="list-style-type: none"> 1. what is regulated by the law/sub-legal act 2. what are the obligations deriving from the law/sub-legal act 3. which organisations are involved in the implementation of the law/sub-legal act 4. whether their tasks are properly defined 5. whether they are able to perform the tasks properly <p>For example, the implementation of rules might show shortcomings because the institutions that are supposed to implement them do not know or understand their obligations. This can apply to both Government institutions on one side and stakeholders on the other side (business community, civil society and/or citizens). The option to solve this kind of problem is to make sure that everyone properly understands what they are expected to do. An information campaign is an option to solve such a shortcoming.</p>
	Abolish rules	<p>When rules are so complex or costly that they cannot be implemented, they could be abolished.</p> <p>This removes the obligation for the administration to implement them, cleans up the regulatory framework and makes sure that the Government is not held legally responsible anymore for rules that it cannot implement in the first place. It also makes the legal framework clearer for citizens and companies.</p> <p>An alternative to abolishing rules would be to officially postpone their implementation or implementation of certain regulatory provisions.</p>

	Reserve sufficient budget for implementation	The lack of proper implementation of rules might be the result of a lack of necessary resources for the organisation(s) that are tasked with the implementation. In such cases, reserving the necessary budget is an option to solve the problem.
Rules are conflicting	Solve the contradictions and adjust all relevant legislation	<p>Rules set in different pieces of legislation or sub-legal acts can be in contradiction with each other and there can also be conflicting provisions within the same legal act. Such contradictions cause confusion and legal uncertainty. Therefore, they need to be properly addressed and harmonised. The definitions that are used in legislation and the requirements that legislation sets have to be defined properly.</p> <p>Addressing this issue means explaining properly what the different contradictions are, which laws and sub-legal acts are affected and what problems are caused by the contradiction.</p> <p>A clear explanation should set out how the different contradictions will be addressed; which changes need to be made to which laws and sub-legal acts; and who is responsible for the implementation of the improved legislation.</p>

<p>Rules are incomplete</p>	<p>Amending an existing law or sub-legal act</p>	<p>When shortcomings in the current regulatory framework are the cause of the problem, the existing rules might have to be updated.</p> <p>Rules can be incomplete in three main ways.</p> <ol style="list-style-type: none"> 6. They allow activities that should not be allowed. 7. They do not allow activities that should be allowed. 8. They have set requirements but these do not cover all relevant issues. <p>There are five aspects that have to be met when analysing this option:</p> <ol style="list-style-type: none"> 1. The problem clearly has to show that the fact that rules are incomplete is indeed the cause of the problem. 2. These shortcoming have to be clearly explained. 3. The Concept Document needs to show that other, non-regulatory options will not be successful. 4. The costs to the budget for implementation of the amended law must be analysed (see Tool 11: Costing for Concept Documents). 5. The costs of implementation for the business community have to be determined (see Tool 16: Standard Cost Model).
	<p>Drafting a new law or sub-legal act</p>	<p>When shortcomings in the current regulatory framework are the cause of the problem, drafting a new law can be an option to solve a problem. However, it is an option that should be treated with care.</p> <p>There are six aspects that have to be met when analysing this option. First of all, the problem clearly has to show that the absence of laws or sub-legal acts is indeed the cause of the problem. Second, the shortcoming has to be clearly explained. Third, the analysis must show that the problem cannot be solved with adapting the existing legal framework. Fourth, the Concept Document needs to show that other, non-regulatory options will not be successful. Fifth, the costs to the budget for implementation of the new rules must be analysed (see Tool 11: Costing for Concept Documents). Sixth, the costs of implementation for the business community have to be determined (see Tool 16: Standard Cost Model).</p>

<p>Establish voluntary rules and standards (self-regulation)</p>	<p>When rules are incomplete, legislation does not have to be the best way to tackle the problem. An alternative option is to discuss with the stakeholders that cause the problem and to see whether they are willing to set voluntary standards and procedures to solve the causes of the problem.</p> <p>This option can work when the counterpart is trustworthy and has an interest in solving the problem. This can be a financial interest, an interest related to the image of a sector or other interest. The group that has to work with the self-imposed rules should be small. This makes it possible to check whether the rules are actually followed.</p> <p>Voluntary rules and standards can be agreed upon with conditions. For example, when the problem is not solved or when the self-imposed rules are not properly implemented, legislation could still be developed in the future.</p> <p>The important benefit of self-regulation is that the ownership lies with those that design the rules. The administration can limit its role to checking whether the rules work in practice. The administration can also steer the content of self-regulation through documents that are not legally binding, such as guidance notes and proposals on what should be achieved through self-regulation.</p>
<p>Develop co-regulation</p>	<p>Co-regulation is a mix between legislation and self-regulation. The rules are set in legislation and sub-legal acts, but the implementation and enforcement is done by the industry sector that is regulated.</p> <p>This option is stronger than self-regulation. If the rules are not implemented, they can be legally enforced. But since enforcement is left to the industry itself, the ownership still lies with those that have to apply the rules.</p> <p>Just like with self-regulation, the number of stakeholders that have to implement the rules should be small. This makes it possible to check whether the rules are actually implemented.</p>

<p>Rules regulating State institutions are out of date</p>	<p>Amending the legal basis of institution to make them function better</p>	<p>It is possible that the legal basis of an institution does not allow certain responsibilities that should be performed, forces a Government institution to implement rules in an inefficient way or provides an unclear mandate of the institution. In these cases, the existing legal framework has to be updated so that the institution can execute its tasks effectively and efficiently.</p>
	<p>Establishing new institutions</p>	<p>For the implementation of legislation (e.g. EU Directives) or the implementation of a political priority, new institutions might have to be established. This has to be explained well and the institution should be designed in line with the tasks that it is expected to fulfil.</p> <p>An important aspect to consider is whether the institution should be of permanent nature or whether its existence should be limited in time linked to its performance. The latter option is preferable since it places a clear expectation on what an institution is expected to achieve.</p>
	<p>Ensuring sufficient budget for the execution tasks</p>	<p>Organisations might have difficulties in functioning properly because the tasks that they are expected to perform demand far more human and budget resources than are available. In situations like these, the gap between tasks executed and tasks that have to be executed has to be significant. The option should assess whether the problem is the lack of staff and budget or a wrong allocation of the existing resources. Organisations can also be ineffective because of bad management or work arrangements that are needlessly complex.</p>
	<p>Abolishing unnecessary organisations</p>	<p>An organisation that is not necessary any more should be abolished. Of course, the implications for the staff, such as respecting their work contracts etc., need to be taken into account and dealt in accordance with the regulation in force.</p>

	<p>Merging organisations into one</p>	<p>Institutions can also be inefficient or become so over time. These inefficiencies say nothing about the usefulness of the tasks that are performed. These might still be necessary and appreciated. However, inefficiencies demand budget resources that could be spent more effectively. A ratio between staff working on the actual tasks of the organisation and the number of people involved in ensuring that an institution exists can be a good indication for inefficiencies. When institutions are merged (for example because they perform tasks that are similar or overlapping on the level of activities), they can combine tasks such as human resource management and financial administration. They can share and make better use of office space, cars and others items. Larger institutions can also have a stronger position to negotiate lower prices for goods and services.</p>
<p>Rules cause unnecessary burdens</p>	<p>Adjust the existing rules so that burdens decrease</p>	<p>Requirements for companies to apply for licenses and permits, to file their taxes and other exchanges of information that they have to send to the administration can be needlessly costly. When rules are designed in an inefficient way, they will impose costs that are not necessary. Over time, new technologies and insights develop. Those should be applied to the implementation of rules to make sure that they are easier to comply with. The benefits from making rules more efficient can be assessed by applying Tool 16: Standard Cost Model.</p> <p>Next to the demands for information, legislation sets requirements for how companies have to conduct their business activities. These investments can be related to reducing the emission of pollutants, investments into technology, changes to the production processes and other actual activities that directly impact the work processes of companies. These costs can be justified when they yield benefits that outweigh these costs manifold. However, the costs for complying with legislation also have to be kept as low as possible.</p>

	Merge existing laws and sub-legal acts and the obligations they set out	Several pieces of legislation might look useful and appropriate when looked at individually. However, when the effect of these pieces of legislation on society is taken into account, they can cause unnecessary burdens. For example, five Government organisations might demand permits for certain business activities that are justified. However, when all these permit requirements have to be fulfilled by individual companies, merging the permits would increase efficiency, reduce costs and potentially save budget resources.
	Abolish rules	Rules need to have added value. When the costs of rules to society (costs to the budget, implementation costs of companies and citizens) are higher than the benefits, and when improving them does not provide added value either, the rules should be abolished.
Rules are not necessary anymore	Abolish rules	When there is general agreement that rules are not necessary any more, they should be abolished.



Figure 12: Market shortcomings and possible options to tackle them

Type of Market Shortcoming	Options that can be considered	Explanation
Prices do not reflect the real costs for society	Impose requirements that change the price of goods or services	<p>'Economic incentives' is a catch-all phrase for a wide range of possibilities that can be used to influence the functioning of the economy. Instead of altering entire pieces of legislation, such changes can be very small and only cover one or a few article(s).</p> <p>Imposing taxes, such as VAT, changes the costs of certain products and services. When costs increase, sales are likely to go down as well. Fewer people are able to afford the goods and services that have higher costs.</p> <p>Fines for unwanted behaviour, such as littering and throwing garbage away in public places, make that kind of behaviour more expensive. When the chances of getting caught are very high at the same time, many people will stop such unwanted behaviour.</p>
	Restrict the use of goods	Certain goods, such as chemicals, can be very harmful. Yet, with the proper equipment (such as protective clothing) for applying them and education on how to use them safely, their harm can be reduced. The use of such goods can be restricted by requiring companies to apply these goods under specific conditions and to make sure that such goods are not sold to consumers who lack the equipment or training.
	Ban goods that cause excessive harm	Goods might cause such harm that they should not be sold at all, especially when there is a good alternative that can be used in its place. The effects of such bans should be analysed.

Lack of public goods or services	Define the actual need and budget cost of providing these goods or services	When it is clear that the market does not provide a certain good and the problem definition shows that this has very negative effects, the state has the option to cover the costs for providing the public good or services.
Lack of market incentives	Positive economic incentives	<p>Reducing taxes, such as VAT, changes the costs of certain products and services. When costs are lowered, sales are likely to go up. More people are able to afford the goods and services that have lower costs.</p> <p>Subsidies enable companies and citizens to make use of a possibility, without obliging everyone to comply with certain rules.</p> <p>Changes to the tax code, such as increased deduction of the costs related to investment, can convince companies to invest in factories etc. On a personal level, being allowed to deduct the costs of education for oneself could convince individuals to learn new skills and expand their knowledge.</p>
	Conditions to Government expenditure	The Government invests a sizeable portion of the taxes it receives back into society. This expenditure can be linked to specific conditions. For example, procurement procedures for certain goods could contain conditions that products have to be in line with specific environmental standards and much more. For example, the purchase of diesel might be linked to the demand that a certain percentage has to be bio-diesel.
Lack of competition as a market shortcoming	Impose clear rules for dominant firms to protect consumers	<p>The provision of certain goods and services can be so costly, that there will be no competition. Supplying water is a good example. It does not make sense to build two or even more water connections for a house.</p> <p>When there is a natural monopoly or when only a few companies dominate the market, the way in which these companies set prices might have to be regulated. For example, a ceiling on the increase in the price could be imposed to avoid excessive changes in prices.</p>

<p>Lack of competition as a legal or regulatory shortcoming</p>	<p>Adjust the regulatory framework</p>	<p>Legislation can impose needless restrictions to competition. For example, this happens when there are certification and educational requirements for certain professions. These could be needlessly restricting. A heart surgeon needs to comply with strong professional requirements because of the responsibilities that come with the position. Other professions, such as cooks or tour guides, have very different risk levels. They should be regulated in line with the risks that are associated with the profession.</p>
<p>Unequal levels of information</p>	<p>Information and education</p>	<p>The lack of information can be an important reason why rules do not work or do not work properly.</p> <p>Improving the knowledge that people have and making sure that they have access to all relevant information can be a straightforward way of addressing problems that are caused by the fact that people do not claim their rights.</p> <p>Information and education campaigns can also be relevant when new policies and legislation are being implemented.</p>

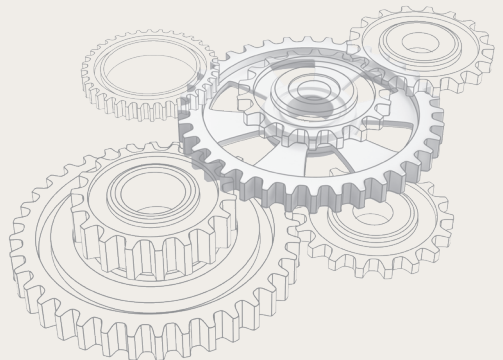


Figure 13: Societal issues and possible options to tackle them

The section on the problem definition at the start of this manual already stated that societal issues often have a multitude of causes. These can be a combination of legal and regulatory shortcoming, market shortcomings and others. Given the complexity of the societal issues, no specific causes of a problem have been identified. As a result, nor have specific solutions to such causes been formulated.

Identifying the solutions to societal problems needs to be a careful process. The problem is likely to be very significant. Developing a solution to the problems should also be done with care. This means developing a proper and detailed overview of the problem, its causes and effects. This will avoid potential difficulties and new problems later on.

04



SECTION 04: IDENTIFYING AND ASSESSING FUTURE IMPACTS



The implementation of the identified options leads to different types of impacts on society. This section helps you to:

- Analyse five potential impact categories: economic impacts, social impacts, environmental impacts, crosscutting impacts and budget impacts
- Identify the issues to be analysed within these impact categories
- Define the data collection process
- Adjust the analysis for a Concept Document in case it addresses the implementation of EU legislation
- Use the principle of proportionate analysis to determine the depth of impact analysis
- Set appropriate standards and the possibilities for implementing them
- Develop the implementation plan including the output-activity logic for possible solutions to address the policy problem
- Determine the costs for implementation of the options based on the implementation plan
- Apply the rules of the Ministry of Finance when the costing shows that the budget ceiling of a ministry is exceeded

When it is clear what could be done to solve a problem, as defined by the Specific Objectives, the analysis for the Concept Document goes into detail in analysing different options of what is expected to happen in the future. Different options will demand different budget and human resources. After all, the activities and outputs needed to implement these options will be different.

This section serves the identification of the potential impacts and shows how these should be analysed.



Figure 14: Effectiveness, efficiency and expected impacts

Effectiveness relates to achieving the goals. A measure is effective when a goal is fully reached.

Efficiency relates to the way in which these goals are reached. It is about reaching the goals without wasting budget and human resources (since these are limited).

Expected impacts are the positive changes and associated costs that will occur if the Government decides to turn an option into concrete steps to implement and enforce it.

When effectiveness, efficiency and expected impacts are combined, it is possible to determine whether a goal can be reached with reasonable budget and human resources and with sufficient positive and acceptable negative impacts.

For the analysis for a Concept Document, it is not sufficient to state that the causes of the problem will be removed and that the problem will therefore be solved. The actions of the Government need to be put in a wide context that takes account of all possible effects that Government actions can have. This means analysing the following five potential impact categories:

- 1 economic impacts: for example impacts on businesses, employees, economic growth, Foreign Direct Investments;
- 2 social impacts: for example impacts on education, the social position of sub-groups within society, pensions, etc.;
- 3 environmental impacts: impacts on air quality, pollution, waste levels, water quality etc.;
- 4 cross-cutting impacts: impacts on gender equality, rights of citizens etc.; and
- 5 budget impacts: impacts on the incomes and expenditures of the Republic of Kosovo.

The categories for the impacts are very broad. The actual impacts in these categories can be positive or negative. This flexibility is provided on purpose. It guarantees that the options that are suggested in a Concept Document take account of all types of impacts that the implementation of these options can have on society.

Which issues should be analysed within the impact categories depends on (1) the problem, its causes and effects; and (2) on the options that are available to tackle the problem effectively. This manual works with checklists and questions that are useful to determine whether an impact is expected to occur. When this is the case, the importance of the impact should be assessed.

This helps with choosing the impacts that should be analysed in detail and those for which the analysis can be kept on a general level. A checklist always lists a range of potential impacts. Of course, more than one of these can be relevant for the Concept Document. Also when just one impact is thought to be relevant, it can be of such importance that it needs to be analysed in depth.

The tools can be used for identifying the expected impacts and determining certain impacts in more detail. This should be done for each option to which they apply. The impact categories and tools are shown in the overview below. Each tool is described separately in this section.

In addition, three tools explain how the importance of impacts and the depth of analysis can best be determined, what possibilities exist for data collection and how a Concept Document for the implementation of an EU Directive or Regulation can best be developed. These tools provide support for structuring the analysis for the Concept Document.

This section closes with the presentation of three tools that support the analysis for a Concept Document. These tools focus specifically on setting appropriate standards and the possibilities for implementing them.

*Figure 15: Impact categories and tools for structuring and conducting policy analysis*

Section	Relevant tools
1) Economic impacts	Tool 3: Identification of economic impacts
2) Social impacts	Tool 4: Identification of social impacts
3) Environmental impacts	Tool 5: Identification of environmental impacts
4) Cross-cutting impacts	Tool 6: Impacts on Fundamental Rights
	Tool 7: Gender Impact Assessment
	Tool 8: Social equity analysis
	Tool 9: Youth Impact Assessment
5) Budget impacts	Tool 10: Implementation Plan for policy options
	Tool 11: Costing for Concept Documents
	Tool 12: Complying with Budget Impact Assessment
6) Structuring the analysis for a Concept Document	Tool 13: Determining the importance of impacts
	Tool 14: Data collection
	Tool 15: Transposing EU directives
7) Setting and implementing appropriate standards	Tool 16: Standard Cost Model
	Tool 17: SME Test
	Tool 18: Regulatory Competitiveness Check

TOOL 3: IDENTIFICATION OF ECONOMIC IMPACTS

An option will have important economic impacts when it directly affects the way in which businesses should work. Economic development, after all, results from businesses being opened, investments being made and jobs being created. Therefore, the main questions are whether the option directly affects the possibilities to conduct business, affects the activities of businesses and/or has impacts on their employees.

If the answer is 'no', the option is not expected to have important economic impacts.

If the answer is 'yes', there will surely be economic impacts. The checklist below lists the main economic impact categories that assist with determining the expected impacts. It is likely that there will be several questions to which the answer is 'yes'. All of these need to be analysed. How detailed the analysis needs to be, can be decided based on the importance of the impact. 'Tool 13: Determining the importance of impacts' sets out how the importance of impacts can be identified.



Figure 16: Checklist with lead questions for singling out economic impacts

Economic impact category	Key impact	Is this impact expected to occur?	
		Yes	No
Jobs ¹³	Will the number of available jobs increase?		
	Will the number of available jobs decrease?		
	Will there be an effect on the level of payment?		
	Will there be an effect on the ease of finding a job?		
Conducting business	Will there be an effect on the access to finance for business?		
	Will certain products be removed from the market?		
	Will certain products be allowed on the market?		
	Will businesses have to be closed down?		
	Will new businesses be created?		

¹³ When there is an impact on jobs, there will be social impacts as well.

Administrative burdens	Will businesses have to comply with new information obligations?	If yes, apply	
	Are information obligations for businesses simplified?	Tool 16: Standard Cost Model	
Trade	Are the current import flows expected to change?		
	Are the current export flows expected to change?		
Transport	Will there be an effect on how passengers and/or goods are going to be transported?		
	Will there be a change in time that is needed to transport passengers and/or goods?		
Investment	Are companies expected to invest in new activities?		
	Are companies expected to cancel or postpone investments?		
	Will investments by the diaspora increase?		
	Will investments by the diaspora decrease?		
	Will Foreign Direct Investment increase?		
	Will Foreign Direct Investment decrease?		
Competitiveness	Will the price of business inputs, such as electricity, increase?		
	Will the price of business inputs, such as electricity, decrease?		
	Are innovation or research likely to be promoted?		
	Are innovation and research likely to be hindered?		

SME Impact	Are the companies that are affected mainly SMEs?	If yes, apply Tool 17: SME Test	
Prices and competition	Will the number of goods and services available for business or consumers increase?		
	Will the number of goods and services available for business or consumers decrease?		
	Will the prices of existing goods and services increase?		
	Will the prices of existing goods and services decrease?		
Regional economic impacts	Will a specific business sector be affected?		
	Is this sector concentrated in a certain region?		
Overall economic development	Will future economic growth be affected?		
	Could there be an effect on the inflation rate?		

TOOL 4: IDENTIFICATION OF SOCIAL IMPACTS

The category of social impacts is a very diverse one. It is very likely that an option will have social impacts. The overview below provides the leading questions for identifying the social impacts that matter.

The checklist below lists the main social impact categories that assist with determining the expected impacts. It is likely that there will be several questions to which the answer is 'yes'. All of these need to be analysed. How detailed the analysis needs to be, can be decided based on the importance of the impact. 'Tool 13: Determining the importance of impacts' sets out how the importance of impacts can be identified.



Figure 17: Checklist with lead questions for singling out social impacts

Social inclusion	Key impact	Is this impact expected to occur?	
		Yes	No
Jobs ¹⁴	Will the number of available jobs increase?		
	Will the number of available jobs decrease?		
	Are jobs in a specific business sector affected?		
	Will there be an effect on the level of payment?		
Regional social impacts	Are the social impacts concentrated in a certain region or specific cities?		
Working conditions	Are the rights of workers affected?		
	Are standards for working under dangerous conditions introduced or abolished?		
	Will there be an effect on how the social dialogue between employees and employers takes place?		

¹⁴ When there is an impact on jobs, there will be economic impacts as well.

Social inclusion	Will there be an impact on poverty?		
	Is access to social protection schemes affected?		
	Will the price of basic goods and services change?		
	Will there be an impact on the financing or organisation of social protection schemes?		
Education	Will there be an effect on primary education?		
	Will there be an effect on secondary education?		
	Will there be an effect on tertiary education?		
	Will there be an effect on vocational training?		
	Will there be an effect on education of workers and life-long learning?		
	Will there be an effect on the organisation or structure of the educational system?		
	Will there be an impact on academic freedom and self-governance?		
Culture	Does the option affect the cultural diversity?		
	Does the option affect the funding of cultural organisations?		
	Does the option influence opportunities for people to enjoy cultural activities or participate in them?		
	Does the option affect the preservation of cultural heritage?		
Governance	Does the option affect citizens' ability to participate in the democratic process?		
	Is every person treated equally?		
	Will the public be better informed about certain issues?		
	Does the option affect the way that political parties operate?		
	Will there be an impact on civil society?		

Public health and safety ¹⁵	Will there be an effect on the lives of people, such as life expectancy or mortality rates?		
	Will there be an effect on the quality of food?		
	Will the health risk increase or decrease due to harmful substances?		
	Will there be health effects due to changes in noise levels or the quality of air, water and/or soil?		
	Will there be health effects due to changes in the use of energy?		
	Will there be health effects due to changes in waste disposal?		
	Will there be an effect on the lifestyle of people, such as take-up levels for sports, diet changes, or changes in the use of tobacco or alcohol?		
	Are there specific groups that face much higher risks than others (determined by factors such as age, gender, disability, social group or region)?		
Crime and security	Are the chances that criminals get caught affected?		
	Is the potential gain from crime affected?		
	Is there an effect on corruption levels?		
	Is the capacity of law enforcement affected?		
	Is there an effect on the rights and security of victims of crime?		

¹⁵ When there are public health and safety impacts, there regularly are environmental impacts as well.

TOOL 5: IDENTIFICATION OF ENVIRONMENTAL IMPACTS

Environmental impacts are most often linked to economic and social impacts. The overview below provides the leading questions for identifying the environmental impacts that matter.



Figure 18: Checklist with lead questions for singling out environmental impacts

Environmental impact category	Key impact	Is this impact expected to occur?	
		Yes	No
Climate and sustainable environment	Will there be an effect on the emission of greenhouse gases (carbon dioxide, methane etc.)?		
	Will fuel consumption be affected?		
	Will the mix of resources that are used for energy production change?		
	Will there be a change in price for environmentally friendly products?		
Air quality	Will there be an effect on the emission of air pollutants?		
Water quality	Does the option affect the quality of freshwater?		
	Does the option affect the quality of groundwater?		
	Does the option affect drinking water resources?		
Soil quality and land use	Will there be an effect on the quality of soil (related to acidification, contamination, use of pesticides or herbicides)?		
	Will there be an effect on soil erosion?		
	Will soil be lost (through construction etc.)?		
	Will soil be gained (through decontamination etc.)?		

	Will there be a change in land use (e.g. from forest to agricultural or urban use)?		
Waste and recycling	Will the amount of waste that is generated change?		
	Will the ways in which waste is treated change?		
	Will there be an effect on the recycling possibilities for waste?		
Use of resources	Does the option affect the use of renewable resources (fish stocks, hydropower, solar power etc.)?		
	Does the option affect the use of resources that are not renewable (groundwater, minerals, coal etc.)?		
Scale of environmental risks	Will there be an effect on the chances of risks such as fires, explosions or accidents?		
	Will there be an effect on the readiness when natural disasters occur?		
	Is the protection of society against natural disasters affected?		
Biodiversity, flora and fauna	Will there be an effect on protected or endangered species or the areas where they live?		
	Will the size of or the connections between nature zones be affected?		
	Will there be an effect on the number of species in a given area?		
Animal welfare	Will there be an effect on the treatment of animals?		
	Will there be an effect on the health of animals?		
	Will there be an effect on the quality and safety of animal feed?		

TOOL 6: IMPACTS ON FUNDAMENTAL RIGHTS

Fundamental rights provide the basic legal protection for political, social and procedural rights that individuals and legal entities enjoy.

Some fundamental rights are absolute rights. They cannot be changed. Others are rights that should be guaranteed to the greatest extent possible. They should only be limited in justified and well-explained situations.

In case a fundamental right is potentially affected, there always needs to be more research into how this might work out in practice. Fundamental rights should be promoted and strengthened as much as possible. Limitations to fundamental rights have to be carefully dealt with. They have to be duly justified before they can be enacted.



Figure 19: Checklist with lead questions for singling out impacts on Fundamental Rights

Fundamental rights impact category	Key impact	Is this impact expected to occur?	
		Yes	No
Dignity	Does the option affect the dignity of humans, their right to life or the integrity of a person?		
Freedom	Does the option affect the right to liberty of individuals?		
	Does the option affect a person's right to privacy?		
	Does the option affect the right to marry or start a family?		
	Does the option affect the legal, economic or social protection of individuals or the family?		
	Does the option affect the freedom of thought, conscience or religion?		
	Does the option affect the freedom of expression?		
	Does the option affect the freedom of assembly or association?		

Personal data	Does the option involve the processing of personal data?		
	Are the individual's right to access, rectification and objection guaranteed?		
	Is the way in which personal data is processed clear and well-protected?		
Asylum	Does the option affect the right of asylum?		
Property rights	Will property rights be affected?		
	Does the option affect the freedom to conduct business?		
Equal treatment ¹⁶	Does the option safeguard the principle of equality before the law?		
	Are there chances that certain groups would suffer directly or indirectly from discrimination (e.g. any discrimination based on any ground such as sex, race, color, ethnicity, national minority, political or any other opinion, age or sexual orientation)?		
	Does the option affect the rights of people with a disability?		
Children's rights	Does the option affect the rights of children?		
Good administration	Will administrative procedures become more burdensome?		
	Is the way in which the administration takes decisions affected (transparency, procedural time, right to access to a file etc.)?		
	For criminal law and envisioned sanctions: are the rights of the accused affected?		
	Is access to justice affected?		

¹⁶ Gender equality is addressed in *Tool 7: Gender Impact Assessment*

TOOL 7: GENDER IMPACT ASSESSMENT

Kosovo's Constitution views Gender Equality as "a fundamental value for the democratic development of the society and for that to be achieved, equal opportunities for both female and male participation in the political, economic, social, cultural and other areas of societal life ought to be provided." Also, Article 22 of the Constitution has accorded constitutional rank to the provisions of the Convention for the Elimination of all Forms of Discrimination Against Women (CEDAW). The Constitution as the country's fundamental law is an essential precondition for the implementation of the gender equality principle.

Kosovo has a well-developed legal and institutional framework for ensuring the protection and promotion of gender equality and non-discrimination. Legal guarantees and provisions that provide equal rights, means for claiming such rights and gender-responsive structures for enforcement are relied upon to create conceptual clarity and set standards. The Law on Gender Equality (LGE), Nr.05/L-020, is the most important one in the hierarchy of all enacted gender equality and non-discriminatory laws. The Law guarantees, protects and promotes gender equality at all levels and all sectors of Kosovo society.



Figure 20: The Articles of the Law on Gender Equality most relevant for Gender Impact Assessment

- Article 4, "Prohibition of Gender Discrimination"
- Article 5 "General Measures to Prevent Gender Discrimination and Ensure Gender Equality".

The Law stipulates that gender equality principles and mainstreaming need to be applied at all stages of analysis, planning, budgeting, and implementation of policies and legislation by public and private entities. All public institutions - legislative, executive, judicial and beyond - need to ensure that fundamental elements of gender equality are included in the design and implementation of their policy and legal frameworks. This includes concepts, processes, systems and instruments. Naturally, this therefore also implies that Gender Impact Assessment, as an instrument for conducting gender analysis, has to be an integral part of policy development and the process for developing Concept Documents. The figure below sums up the key requirements of the LGE.



Figure 21: Summary of Gender Mainstreaming Requirements as defined by the Law on Gender Equality

- » Gender disaggregated data collection on a regular basis and dissemination of data
- » Gender analysis of data and analysis regarding the status of men and women in the respective sector/s or the problem/s at hand
- » Gender mainstreaming of all policies, documents and legislation
- » Adoption of strategies and action plans for the promotion and establishment of gender equality in accordance with the Kosovo Program for Gender Equality (KPGE)
- » Inclusion of gender responsive budgeting in all areas, as a necessary tool to guarantee that the principle of gender equality is respected in collection, distribution and allocation of resources
- » Allocation of adequate human and financial resources to policy frameworks for the achievement of gender equality

Regarding Gender Equality, Kosovo follows in the steps of key international institutional platforms that aspires to join.



Figure 22: Gender Equality in Kosovo in international perspective

As noted, Kosovo's Constitution gives constitutional status to the provisions of the CEDAW. In CEDAW gender inequalities are understood to have been produced by sex-based discrimination. They are further perpetuated and reproduced by state and societal institutional structures. To overcome gender-based discrimination and inequalities, CEDAW takes a three dimensional view of equality. Rather than considering equality in formal and legalistic terms, and saying that laws and policies ensure equality between women and men simply by being gender neutral, CEDAW requires that their actual impact and effect also be considered. Under CEDAW, the State has not only the obligation to abolish laws that directly discriminate based on gender, but also must ensure that all of the necessary arrangements are put in place and allow women to experience equality and enjoy rights in their lives. CEDAW considers that States are responsible not only for their own actions, but that they should eliminate discrimination and inequalities that are being perpetrated by private individuals and organizations. (see also: Convention on the Elimination of All Forms of Discrimination against Women (1979), <http://www.un.org/womenwatch/daw/cedaw/>)

Kosovo's approach adheres to the global platform for action, adopted at the Fourth World Conference on Women in Beijing 1995. This action platform demands that all governments and other actors mainstream the gender perspective into all policies and programmes so that, before decisions are taken, an analysis is made of the effects on women and men respectively. (see also: Fourth World Conference on Women (1995), <http://www.un.org/womenwatch/daw/beijing/platform/>)

The Treaty of Amsterdam formalized the mainstreaming commitment at the European level. Articles (2) & (3) explicitly call for the elimination of inequalities and promotion of equality between women and men among the tasks and objectives of the Community. The Amsterdam Treaty remains a breakthrough in the European Union Treaties and Directives by expanding the scope of gender equality beyond the area of employment and formally treating it as a question of social policy, by demanding the application of gender mainstreaming at all levels and all policies. In addition, a number of EU directives and guidelines reflect this later expansion. (see also: Treaty of Amsterdam (1997), <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=legisum:a10000>)

With regards to the gender mainstreaming, the European Commission adopted in 1996 a Communication on gender mainstreaming and defined it as: 'The principle of "gender mainstreaming" consists of taking systematic account of the differences between the conditions, situations and needs of women and men in all Community policies and actions.' (see also: COM(96) 67 final of 21 February 1996 entitled 'Incorporating equal opportunities for women and men into all Community policies and activities')

Placing gender equality and women's empowerment at the centre of the national democratization agenda recognizes that achieving inclusive growth, reducing poverty and building a peaceful and sustainable society requires the equal utilization of human talents and capital. Kosovo institutions and society need to unlock the potential of men and women alike. This requires that Kosovo's institutions consider gender equality an integral part of all programmes, policies and legal frameworks. Contributing to gender equality means acknowledging that policies and legal frameworks affect women and men differently. Also, it means that new and relevant tools need to be embedded in the process of policy and legislation design that enable policy makers and involved stakeholders to capture such differences and adjust the policy agenda accordingly.

One of the key measures, methods and tools to achieve and instil gender mainstreaming at all policy-making levels and within all sectors, to ultimately achieve gender equality is the gender impact assessment.



Figure 23: Definition of Gender Impact Assessment

Gender Impact Assessment (GIA) is the process of comparing and assessing according to gender relevant criteria the current situation and trend with the expected development resulting from the introduction of the proposed policy. Gender Impact Assessment is the estimation of the different effects (positive, negative or neutral) of any policy or activity implemented to specific items in terms of gender equality.

(see also: European Commission (1998), A Guide to Gender Impact Assessment, <http://eige.europa.eu/gender-mainstreaming/toolkits/gender-impact-assessment/what-gender-impact-assessment>)

WHAT BENEFITS CAN BE GAINED FROM GENDER IMPACT ASSESSMENT?

Gender Impact Assessment, both as an analytical tool and as a mainstreaming process, enables policy-makers and stakeholders involved in the process to determine whether the proposed policy, law or programme reduces, maintains or intensifies gender inequalities between men and women.

As an ex-ante analysis, GIA equips the policy-makers with the right tool and enables them to detect the positive or negative consequences of the proposed policy or law during the design stage.

This enables policy makers to predict, in advance, the impacts of the new initiative on the status of men and women. This is especially relevant since nowadays public policies are expected, throughout their life-cycle, to incorporate in their design and implementation a few crucial operational principles such as: equity in the distribution of wealth and resources, equal opportunities, inclusiveness, cost-efficiency and effectiveness, cost-opportunity, be evidence-based, and play a significant role in social transformation.

Public policy is often said to consist of the distribution of scarce, valuable resources and benefits through the mechanisms of the public sector. Yet, it is widely acknowledged that how the resources are allocated and utilized will significantly affect the orientation of society. When the benefits of public policies are limited to the well-being of a small group within society, their cost increases, they become ineffective interventions, and more often than not, they become the source of societal tensions and conflicts. Therefore, it becomes paramount that during the design process of the proposed public policy, policy-makers and involved stakeholders answer the question whether the proposed policy affects the orientation of society, either towards a more integrated, inclusive society, or exclusive, polarized and disintegrated one.

As a public policy tool, GIA is well-positioned to facilitate the discourse and assess the proposed policy impact on men and women. Simultaneously, the application of GIA challenges the hierarchies of power, seeks the transformation of the existing working patterns and radically questions policy processes and actors.

Summarised, Gender Impact Assessment as a tool and a process, enables the involved actors to gain in-depth understanding of the problem under scrutiny, to design policies and laws that promote equitable distribution and equal opportunities, and remains an important step of due diligence in meeting gender equality obligations. In practice, this takes place through the analysis and utilization of specific concepts and key blocks related to gender equality which enable the following key aspects to be determined:

- a) whether the proposed policy or law equally and adequately provides for both women and men and therefore the involved actors should pursue its implementation,
- b) whether the proposed policy or law presents challenges adequately and equally serving both women and men, and whether the circumstances, as GIA-based analysis results may reveal, allow for adjustments and in which case the involved actors should accordingly adjust the proposed policy or law objective/s, resources or capacities needed to effectively implement the proposed policy or law
- c) whether the proposed policy or law negatively affects women, widens the disparities between the status of women and men, and it further fosters discrimination; when no options exist or actions can be taken within the proposed policy or law that mitigate the potential negative impact upon gender relations, then the proposed policy or law should be abandoned altogether.

Public institutions play a critical role in advancing the gender equality agenda through policy reforms and sectoral policies that aim at creating socially just societies and strengthening democracy. By employing GIA, public institutions improve their planning processes, administration and resource management. Applying GIA during the policy-making and implementation process makes public institutions more predictable and transparent, efficient and effective in the use of resources, inclusive and accountable to citizens. Consequently, GIA contributes directly to the enhancement of good governance of public institutions' decision-making processes and systems.



Figure 24: Manual for Gender Impact Assessment

This tool on Gender Impact Assessment provides a working summary about Gender Impact Assessment and how it should be applied. The Manual for Gender Impact Assessment shows in detail how to conduct this kind of impact assessment.

GENDER IMPACT ASSESSMENT: BASIC CONCEPTS AND DEFINITIONS

There are some concepts, which are at the very core of Gender Impact Assessment. These are defined also in “Gender Definition and Concepts” developed by the Agency on Gender Equality:

Gender and sex – Gender is a socially constructed definition of women and men. It is the social design of a biological sex, determined by the conception of tasks, functions and roles attributed to women and men in society and in public and private life. It is a culture-specific definition of femininity and masculinity and therefore varies in time and space (Council of Europe 1998). Gender is not a synonym for sex or for women. It shifts the focus from the individual to the interpersonal and institutional arenas. It is not a simple property of an individual, but rather a principle of social organization.

Gender relations – These are the social relations between women and men. They are concerned with the distribution of power between the sexes. They define the way in which responsibilities and social expectations are allocated, and the way in which each is given a value. Gender relations vary according to time and place, and between different groups of people. That is, they vary according to other social relations such as class, race, ethnicity, disability, age and culture. A gender relations approach to policy means attending to the ways in which interactions between diverse women and men, and the circumstances under which they interact, are relevant to the existing or proposed policy. From this perspective, gender is a process rather than a characteristic of a person. We do not have gender; we do gender.

Gender equality – means an equal visibility, empowerment and participation of both sexes in all spheres of public and private life (Council of Europe 1998). This understanding of equality moves us past a simple equal treatment approach, which establishes men and their conditions as the norm. It is important to acknowledge that minority women’s concerns regarding equity are most often not driven by the desire for equality with men, but by community based issues and fundamental human rights.

Gender equity – is the outcome of being fair to women and men. This necessitates addressing and redressing factors that contribute to women’s subordination.

Gender and cultural analysis – broadens the ‘gender based’ framework to include and reflect the multi-dimensional experiences of indigenous women, and of women from culturally and linguistically diverse backgrounds.

Gender-neutral analysis – assumes that policies/programs/projects affect all people in the same way, or that a policy/program/project has a neutral impact on people. Gender-neutral analysis does not result in equitable outcomes for women and men. If you adopt a gender-neutral approach, you will miss out on possibilities to improve gender equality and unintentionally perpetuate existing inequities in the lives of men and women.

Gendered organization of work – refers to the ways in which women in our society have primary responsibility for tasks performed in the domestic realm, in particular the care and nurture of children and those who are dependent. By contrast, it is assumed that men are generally free to commit themselves full-time to labour outside the home. This unequal division of caring responsibilities often means that women are located in particular sectors of the labour market, working part-time for example. The caring and nurturing roles that women hold are also reflected in the industry and occupational segregation of the workforce.

Gendered organization of personal relations – refers to inter-personal and intra-familial relations. It captures the ways in which heterosexual norms presume a dominant male and a subservient female, and create non-heterosexual relationships as deviant. It includes all the complex decision-making around pregnancy and care of children, and the ways in which these activities are devalued socially.



Figure 25: Example of Gender Impact

The transport and infrastructure sector is usually perceived as gender neutral. However, this is not the case when analysing **participation, resources, rights, norms and values**. The Manual on GIA Implementation presents this and other cases for each of the cited socio-economic sectors and public management sectors that are mentioned in this tool.

Example: Looking at an apparently neutral policy sector, such as **transport**, closer scrutiny reveals substantial differences between women and men in the patterns of use and access to public and private means of transport. While women less frequently than men have access to a private car, they are more frequent users of public transport. Women consequently stand most to gain from improvements in the availability and cost profile of public transport. These inequalities have implications for the **participation** of women and men respectively among various target groups of the transport sector. They are influenced by the lack of gender balance among decision-makers in the field. They reflect gender differences in the distribution of **resources** (such as a private car) and reinforce existing inequalities with regard to time constraints (to the extent that a private car represents time efficiency). The decision-making process within the family regarding the use of a limited resource, such as the family car, is likely to be influenced by social **norms and values** as to the relative importance attributed to the needs of the husband and wife respectively. (Adapted from “A guide to gender impact assessment”, (EC 1998), www.ec.europa.eu/social/BlobServlet?docId=4376)

GENDER IMPACT ASSESSMENT RELEVANCE

Regardless of the belief that policies are chiefly gender neutral, the reality demonstrates that they are not. Upon closer investigation, policies often affect women and men differently. Gender is a structural difference, which affects the entire population and often reinforces differences in the lives of women and men. It increases vulnerabilities of people that are related to other structural differences, such as race/ethnicity class, age, disability, sexual orientation, etc. These differences may cause apparently neutral policies to impact differently on women and men. This may thus reinforce or worsen existing inequalities.

Therefore, the application of Gender Impact Assessment should exclude no policy framework of any socio-economic sector.



Figure 26: Relevant Socio-Economic Sectors for GIA Application

- Agriculture & Food Security
- Art
- Climate Change
- Education
 - » Pres-school system and services
 - » Primary & Secondary Education system
 - » Tertiary Education
 - » Teacher training
 - » Education, Leadership & Management
 - » Curriculum & Textbooks Development
- Employment & Labour
- Energy
- Forestry
- Health
 - » Reproductive & Sexual Health
 - » Maternal & Infant Health
 - » HIV/AIDs
 - » Health Services & Systems
 - » Mental Health
- Mining
- Natural Resources Management
- Safety and Security
- Science, Research & Technology
- Transportation & Infrastructure
- Trade & Industry
 - » Small & Medium Enterprise Development
 - » Trade policies
- Urban Planning
- Welfare & Social Protection

In the following areas of public sector management, the application of the GIA should be considered de rigueur:

- » Economic management
- » Public fiscal management and public expenditure
- » Public administration
- » Decentralization
- » Law and judiciary
- » Democratization (election reform)
- » European integration.

These sectors and areas that require the application of GIA are further expanded in the GIA Manual. The first step to establish whether Gender Impact Assessment is relevant to the proposed policy initiative is to ask the following questions:

- » Does the proposed policy concern one or more target groups?
- » Are there differences between women and men in this policy field (with regard to rights, resources, participation, values and norms) related to gender?
- » Does the new proposed policy consider the relevance of gender in the organization of work, the organization of personal relations, and the organization of citizenship?

If the answer to either of these questions is positive, gender is relevant for the Concept Document and a Gender Impact Assessment needs to be conducted. The following criteria should be taken into account in order to carry out Gender Impact Assessment of the proposed policy framework initiative.



Figure 27: Criteria for Gender Impact Assessment

Differences between women and men in the policy field, such as:

- » **participation** (sex-composition of the target/population group(s), representation of women and men in decision-making positions)
- » **resources** (distribution of crucial resources such as time, space, information and money, political and economic power, education and training, job and professional career, new technologies, health care services, housing, means of transport, leisure)
- » **norms** and values which influence gender roles, division of labour by gender, the attitudes and behaviour of women and men respectively, and inequalities in the value attached to men and women or to masculine and feminine characteristics
- » **rights** pertaining to direct or indirect sex-discrimination, human rights (including freedom from sexual violence and degradation), and access to justice, in the legal, political or socio-economic environment. (see also: “A guide to gender impact assessment”, (EC 1998))

During the GIA a key element are sex-disaggregated data. The Law on Gender Equality requires that all public institutions gather, process and publicly disseminate gender disaggregated data. The gender disaggregated data can be obtained through Kosovo public administration institutions, the Kosovo Agency of Statistics, and any other publicly funded institution. The following publications can assist during this process:

- **Women and Men in Kosova:** Women and Men in Kosova is a biannual publication of the Kosovo Agency of Statistics that offers up-to-date gender disaggregated statistics.
- **Kosovo Gender Profile:** Kosovo Gender Profile provides data and analysis on differences between women and men in their assigned gender roles: in their socio-economic position, needs, participation rates, access to resources, control of assets, decision making powers, individual freedoms and human rights conditions. The publication can be found on the website of the Agency for Gender Equality: www.abgj.rks-gov.net.
- **Kosovo Gender Equality Index:** The first Kosovo Gender Equality Index will be published by 2018. The work will be led by the Agency for Gender Equality and in close cooperation with the Kosovo Agency of Statistics.



Figure 28: Stages of Gender Impact Assessment

GIA Stages	Explanation
Stage 1	<p>Assess and describe the current situation:</p> <ul style="list-style-type: none"> ● Gather any available gender disaggregated statistics, facts and information being addressed by the proposed action/objective ● Identify what is known about the different experiences, situations and roles of men and women using qualitative and quantitative measurement, e.g. low waged group – and determine whether there is a gender dimension ● Identify norms and values which influence gender segregation and division of labour ● Expand the legal analysis conducted for the Problem Definition and assess whether the current legal framework is discriminatory or not, or whether legal framework insufficiently supports gender equality or is insufficiently implemented ● Consult with women and men who are likely to be affected by the policy priorities being pursued ● Consult with and involve the Gender Equality Officers in the respective line ministries, municipalities and public institutions in the Working Group ● Consult with the Agency for Gender Equality throughout the process for guidance and as a resourceful actor in the process ● If needed, seek and engage the services of experts outside Kosovo public institutions.
Stage 2	<p>Assess and describe the potential impacts of the proposed policy:</p> <ul style="list-style-type: none"> ● Analyse future trends and probable developments without policy intervention ● Assess the trends in men's and women's positions independently of the effects of any proposed policy ● What are the potential impacts on w/m and gender relations? ● Who would be directly targeted or indirectly affected? ● Which men/women in particular groups? ● Participation, resources and rights ● What is the difference between anticipated and actual gender impact? ● Based on that assessment identify which tools are more relevant in order to achieve the desired performance

<p>Stage 3</p>	<p>Policy adjustment:</p> <ul style="list-style-type: none"> ● Based upon the findings from stages (1) & (2), determine whether the following changes need to be made: <ol style="list-style-type: none"> a) Redefining the problem definition b) Redefining objectives of the proposed policies c) Reconsidering and determining which priorities can actively promote gender equality and have positive impact on both men and women ● Recognize that some policies may have no specific commitment to gender equality but may otherwise have a very positive or negative effect ● Discuss the changes based on the assessment conducted with the Working Group for the Concept Document ● Discuss the changes through targeted consultations with relevant stakeholders
<p>Stage 4</p>	<p>Determine the priority to be attached to adopting policies that actively promote gender equality and determine whether specific policy approaches or actions are needed to ensure that specific groups within men and women groups benefit from the proposed policy intervention.</p>
<p>Stage 5</p>	<p>Identify what actions must be taken from all the public institutions involved to ensure progress given that there is a shortfall in knowledge of gender issues at all levels of policy-making. Integrate these actions into Tool 10: Implementation Plan for policy options.</p>
<p>Stage 6</p>	<p>If your analysis in stages (1) & (2) demonstrates that the policy is gender neutral, state this clearly in the Concept Document</p>
<p>Stage 7</p>	<p>If your proposed policy outlined in the Concept Document, is linked to gender issues highlight this and make sure that during public consultation, the Agency for Gender Equality, the GEOs in line ministries (of all sectors affected by the proposed policy), and other entities outside the public institutions are closely involved in the public consultation process and their contributions are duly considered.</p>



Figure 29: Guiding questions for Gender Impact Assessment

The following guiding questions should not be treated as an exhaustive list, they should be adapted and changed accordingly by the users to better suit their needs and the proposed policy initiative.

Transport and Infrastructure (guiding questions)

- Are there any discriminatory provisions or implicit gender biases in the policy framework for infrastructure development, or other provisions that could disadvantage women? For example:
- Is the national infrastructure investment strategy biased toward infrastructure development for commercial use (rather than toward use by households)?
- Are there inadequate mechanisms to consult with local women on the location and design of facilities and on resettlement arrangements?
- Are there high up-front connection fees and high tariffs for utilities (without a lifeline block or an instalment payment scheme for poor households)?
- Is the enforcement of labour laws weak in construction campsites?
- Do civil works contractors pay lower wages to women for equivalent construction work on the project?

- Are there any other **formal or informal barriers** to women's participation in the sector? These could include:
 - » Traditional male control of community decision making;
 - » Rural women's limited literacy and numeracy (but consider what level of literacy/numeracy is needed for women to participate in the sector)
 - » Women's lack of time, mobility, or confidence to participate in consultations on infrastructure design and resettlement arrangements.
- What is the **gender balance** in key organizations in the sector (including infrastructure ministries, their local offices, and construction contractors)? What are the possible causes of any gender imbalance? Do these organizations provide equal pay for equal work? Do they provide culturally appropriate facilities for men and women?
- What changes in the **policy framework** are proposed under the project/program? Will these changes address gender biases in the law and policy framework? Could any of the proposed changes inadvertently disadvantage women (e.g. increases in transport tariffs without pro-poor exemptions; establishment of road maintenance funds or new institutions in resettled communities without adequate representation of women; inadequate monitoring of working conditions at construction sites; or inadequate funding and monitoring of community-awareness programs on the risks of HIV transmission and trafficking)?
- Possible **gender-responsive actions** could include the following:
 - » Development of either a **gender specific strategy of the sector or specific actions** proposed within the framework of the proposed policy framework to address gender issues and gaps
 - » **Amendments or supplements to existing laws and policies** to correct gender biases or gaps, or repeal of discriminatory provisions
 - » **Training of infrastructure ministry staff** in gender awareness and strategies to involve women in infrastructure activities
 - » **Mechanisms to facilitate women's involvement** in the design of infrastructure facilities, in employment in construction and maintenance, and in resettlement planning and management (such as employment targets, provisions for equal pay and safe working conditions, formation of women's construction groups, and targets for women's participation in the governance structure of resettled communities)
 - » **Awareness-raising campaigns** on road safety, HIV, and trafficking risks, involving locally elected female officials, community leaders, and women's groups
 - » **Partnerships with local NGOs or CBOs** to support resettled women in claiming their entitlements to basic services, land, and other compensation.

TOOL 8: SOCIAL EQUITY ANALYSIS

Social equity and its benefits

Social Equity refers to the fair, just and equal provision of public goods and services for citizens. It views the implementation of public policies from the perspective of citizens. Policies are designed for them. Citizens face both benefits and obligations that they have to deal with as recipients of policy actions. However, not every group in society has the same starting point nor has everyone the same possibilities to enjoy the benefits that policies are expected to bring. Simultaneously, certain groups will find it easier to shoulder certain obligations than others.

Many policies affect different groups differently. Policies might, in practice, be implemented much more effectively and efficiently for some groups. Other groups, however, might not be reached by the policies which results in inequality, unfairness and injustice. The desired policy outcome is therefore not achieved.

It is essential to note that policy shortcomings can often be traced back to improper analysis and consultation during policy development. This then leads to the adoption of a policy that is incomplete. Instead of enabling citizens to make use of public goods and services, ineffective policies foster exclusion. This risks creating negative discourse and instability between various societal groups. Social cohesion suffers as a result and social unrest might follow, especially when policy shortcomings are not mitigated on time. The policy development process therefore needs to address the possible impacts on specific groups in relation to their needs.

Social Equity Analysis means applying equal justice and fairness to policies, especially those that have a social dimension. The central aim is to ensure that all people in society have the same status with regards to civic rights and are able to equally enjoy access to public goods and services. This includes in particular groups that can be considered to be disadvantaged compared to others.

Social Equity addresses issues such as unbiased access, procedural fairness and equal quality of the provision of public goods and services.



Figure 30: Issues addressed under Social Equity

Unbiased access: every person should have equal access to goods and services that are provided publicly; no individuals or groups of people should be limited in their access to these public goods and services as a result of Government actions or because of the disadvantageous conditions they are in. They should in fact, based on their needs, be provided with additional opportunities for accessing these goods and services.

Procedural fairness: ensuring fair and just procedures so that decision-makers and public authorities – after identifying the needs of affected parties – reach a correct decision.

Equal outcomes of the provision of public goods and services: procedures are upheld, deadlines are always respected and decisions apply unequivocally for everyone.

By analysing fairness, justice and equality of proposed policies and means to promote these three concepts, social cohesion is strengthened. Government policies should be guided by “the need” principle of affected groups. Various characteristics make these groups different from each other, which makes their needs different as well. These differences should not lead to a situation in which specific groups are systematically put at a disadvantage because of characteristics that set them apart from others.



Figure 31: The need principle

The ‘need principle’ refers to the understanding that the type of interventions from public authorities and how these interventions are actually implemented can matter significantly when it comes to achieving the expected equal outcomes for all affected groups. In short, the degree to which a group can access public services and goods, and can make use of possibilities offered, matter in achieving policy goals.



Figure 32: Quick Check for Social Equity Analysis as obligatory step for each Concept Document

The tool on Social Equity Analysis is a mandatory tool to be read by members of the Working Group on Concept Documents. The Social Equity quick-check (point 2 below) should always be performed in order to decide whether to conduct a more detailed Social Equity Analysis.

Social Equity Analysis contributes to a better policy definition by assessing impacts on people's lives, particularly of those that might – for whatever reason – be at a disadvantage. SEA triggers the discussion about impartiality and fairness of Government policies. It discloses actual and potential inequalities and their consequences. This, in turn, enables the Government to address these and, wherever possible, eliminate them. Performing SEA increases the likelihood that policies achieve the outcomes that they intend to achieve. During the implementation of policies, this will foster acceptance by the affected groups. This results in a more efficient and effective use of Government resources since policy goals are achieved better and with fewer complaints. Eventually, the confidence in the Government's work increases and social cohesion is maintained.

Social Equity quick-check

This tool on Social Equity Analysis needs to be discussed by every Working Group that develops a Concept Document. Whether a detailed analysis is needed depends on the issues that the CD addresses and the conclusions the Working Group draws from internal discussions and consultation of external stakeholders. As a rule of thumb, Social Equity Analysis is very likely to be relevant when the topic of the Concept Document links to the living conditions of people, influences their social status or determines factors of social mobility. The relevance of SEA shows itself especially with regard to the following life dimensions: material living conditions; productive activities; health; education; leisure; social interactions; economic stability; physical safety; means of governance; basic rights; and the living environment.



Figure 33: Life dimensions and examples

- Material living conditions (ability to shoulder living costs given income levels, consumption, housing and basic necessities; water, electricity, heating, internet availability and access)
- Productive activities (availability of jobs and their quality - working hours, wages, safety at work)
- Health (access to and quality of health care; mortality)
- Education (access to and quality of kindergartens, elementary and high schools; vocational education and training; higher education; life-long learning)
- Leisure and social interactions (participation in activities related to Arts, Culture and Sports)
- Economic stability (resilience to economic (mis-)fortunes)
- Physical safety (probability of becoming a crime victim; safety risks)
- Governance and basic rights (non-discrimination; participation in public and political life – political parties, unions)
- Living environment (protection from air, water and noise pollution; non-exposure to risk from disasters)

When the Problem Definition, objectives and options of the Concept Document appear to have a direct or indirect impact on these dimensions, Social Equity Analysis should be conducted rigorously. In particular, experts from within the administration and from external stakeholders should be consulted. Naturally, Social Equity Analysis will not be relevant for each and every Concept Document.

This is likely to be the case when Concept Documents deal exclusively with the restructuring of the internal organization of public bodies. However, when such CDs include also aspects of service delivery by the administration, SEA still might be relevant.



Figure 34: Service delivery

Service delivery refers to the processes used to deliver public services to citizens and companies. Examples of such services are provision of social benefits; provision of education; issuing licenses and permits; distribution of water, heating and electricity; provision of housing etc.

Effective and efficient service delivery is based on principles, standards, policies and constraints that are used to guide the design, development, deployment and operation of services delivered by the Government as a service provider. The overall aim is to offer a consistent high quality of services, ensure a consistent service experience for all users and to adjust services to specific groups when this is necessary to effectively deliver the service.

Conducting Social Equity Analysis

When performing Social Equity Analysis, the following aspects should be determined: 1) the future benefits and obligations that are being considered under the policy options of the Concept Document; and 2) the groups that are affected by the proposed actions, their specific characteristics and particular needs, as well as dividers between them. Identifying these aspects is essential to assess their inter-relation and for determining the expected group-specific impacts.

Benefits of policies include all goods and services that are provided to people by public institutions. Benefits are expected to improve the lives of citizens. Obligations, on the other hand, include the responsibilities of people towards public institutions. These obligations are inherently linked to the benefits that policies provide since individuals must perform certain activities in order to enjoy the benefits provided by public institutions. The benefits, obligations and their impacts must be analysed for all proposed policy options.

Is it important to keep in mind that while laws and policies do not explicitly exclude certain groups, the actual implementation of laws and policies might do so in practice. Groups have different capacities to fulfil the required obligations. Differences might be quite straightforward, such as those between a family of a widowed woman with a part-time job supporting five children and a family of a married couple who both have jobs and have two children. In the school example used in this tool, the same obligations for each family will be harder to deal with for a low-earning family compared with a high-earning family. Social Equity Analysis aims at uncovering these differences so that these are being addressed effectively.



Figure 35: Examples of benefits and obligations in primary education

Possible benefits from primary education are:

- Mandatory regular education provided for free to children according to Government curricula;
- Priced extra-curricular non-mandatory education;
- School books and other materials provided free for children up to the 5th grade.

These benefits inherently lead to obligations, such as:

- The responsibility of parents/custodians to send children to regular education;
- The responsibility of parents/custodians to provide children with meals and transport;
- The responsibility of parents/custodians of children attending the 6th grade and above to provide school books and other materials.

Identifying affected groups

Government policies are developed to provide benefits for society in general and individuals in particular. Government policies need to set obligations in order to work properly: taxes need to be paid; companies need to respect measures to increase safety at work; and citizens need to provide information in order to obtain personal documents. These are just three examples of the wide range of obligations that are embedded in policies and implemented through legislation. Every policy is different and therefore affects different groups in different ways. When a policy is being developed, these groups can be identified through research, consultation and targeted communication.

Identifying affected groups builds on the analysis of stakeholders that are expected to be affected under the policy options that are considered through the Concept Document. Additional research is required to specify the target groups and to split general groups into subgroups. This research should include materials such as strategies, legal acts, reports, news articles, parliamentary questions, international research and any other information sources, including social media. The research must answer the question whether specific groups might experience a different impact.

This research must be complemented with consultation of public bodies and other stakeholders. Internal consultation means, for example, discussions with implementing bodies of that policy and should cover both the central and local level. When SEA is particularly relevant, experts from these bodies should be asked to participate in the Working Group for the Concept Document or at least be asked to provide a detailed presentation.

Social Equity Analysis needs to be supplemented with consultation of groups that are affected by the current policy and would be affected by the changes proposed in the options. In particular CSOs representing the interests of these groups or CSOs working in a specific policy area should be reached. To identify CSOs that are relevant for SEA, the chair of the Working Group for a Concept Document should get in touch with framework organizations such as CIVIKOS and KCSF (see also Section 05 of the Manual on 'Communication & Consultation').



Figure 36: The importance of Communication when performing Social Equity Analysis

To effectively conduct SEA, groups anticipated to experience a less favourable impact from the proposal should be identified. These are groups that are often more disadvantaged than other identified groups. Naturally, the disadvantaged groups face more difficulties in revealing their needs. Illiteracy could be higher amongst them, they could have less opportunities in accessing and effectively using internet, or have a limited access to newspapers and other types of information.

These groups probably cannot be reached through standard consultation and communication activities. For this reason, it is of great importance that specific communication activities are designed for those disadvantaged groups, in accordance to their characteristics. This would enable an accurate identification of their needs.

During SEA and especially during the stakeholder consultation as part of SEA, attention needs to be paid to (sub-)groups that at first instance are not seen as specifically significant for the policy. The risk is that groups are not analysed sufficiently and that important characteristics of sub-groups are overlooked.

For example, for Government policy aiming to build additional schools in a specific region, only the children living in that region might be seen as the relevant target group. Social Equity Analysis is meant to check also whether the needs of children living in other regions are properly considered. These children are an affected group as well since they do not get additional schools.

The affected groups should be identified as precisely as possible. This means considering various social and other characteristics that might have an effect on how Government policies work out in practice.



Figure 37: Groups that might be affected differently by policies

- » Men/Women
- » Ethnic groups (Albanians, Serbs, RAE, Turks, Bosniaks, Gorani, etc.)
- » Urban/Rural residency
- » Persons with disabilities
- » Pensioners/persons receiving social assistance
- » Public servants (Teachers, Doctors, Judges, etc.)
- » Unemployed persons
- » High/low level of education
- » (Computer) Literate or not
- » Students
- » Farmers

Determining needs and dividers

In the process of identifying affected groups, their needs must be determined as well. A need refers to an issue that specifically relates to a particular group. They can differ from one group to another. Needs can be determined based on the experience that the affected groups had with the existing policy or from the expectations they have from the proposed options. It should be noted that the needs identified from desk research and those from consultation process (self-identified needs of groups) may differ and contradict each other. A careful assessment is therefore essential to determine the real needs of groups as accurately as possible.

Additionally, essential dividers between affected groups – such as ideological, ethnic or cultural differences and shortage of basic necessities – should be determined. Dividers can potentially lead to different experience or treatment of different groups. This, in turn, might lead to (feelings of) exclusion and other tensions which are the driving factors behind social instability.



Figure 38: Guiding questions to identify needs and determine dividers

- » Are there indications that certain groups are disadvantaged compared with others?
- » Is the existing legal framework non-discriminatory?
- » Has a group experienced any issues with procedural fairness?
- » Has a group experienced difficulties in accessing benefits?
- » Was a group overburdened by the demands for implementation of a policy and therefore could not enjoy the benefits on offer?
- » Has a group experienced a different level in the quality of benefits or demands set in obligations?
- » Are people from a group disadvantaged for the sole reason that they belong to that group?
- » Is a group disadvantaged because of the lack of material or non-material resources?
- » Has the policy affected relations, between this group and other groups, because it is seen as favouring one group over the other?
- » Do members of a group feel particularly different from the other group?
- » Does a group find the proposed policy an improvement to the current situation? If not, why not?



Figure 39: Example of affected groups and their needs in primary education policy

Benefits	Groups	Needs
Mandatory regular education provided for free to children according to Government curricula	Children (grade 1-9)	Attend regular education, extra-curricular education, meals, school books and other materials
Priced extra-curricular non-mandatory education	Parents/custodians of children (grade 1-5) with low income and more than 2 children	Money to cover meals, transport and extra-curricular education of their children
School books and other materials provided free for children up to the 5th grade	Parents/custodians of children (grade 1-5) with high income and 1 or 2 children	No specific needs
	Parents/custodians of children (grade 6-9) with low income and more than 2 children	Money to cover meals, transport, school books and other materials, as well as extra-curricular education
	Parents/custodians of children (grade 6-9) with high income and 1 or 2 children	No specific needs

As seen from the example above, Social Equity Analysis provides the information whether it is justified to provide certain groups with additional possibilities to actually enjoy the benefits that Government policies are meant to provide. When groups are not able to fulfil the obligations that Government policies (in-)directly impose on them, the policies will not reach their intended outcome of equality. In the example used, the notion of having the majority of children from wealthier families educated and limiting educational chances for children from poorer families establishes a permanent divider between them. At the same time, providing a service such as a school bus benefits especially families with less financial means, but makes the life of every family easier. Such a service for all is also likely increase the willingness to support such a measure.

Assessing the impact of proposed options on affected groups

When the benefits and obligations for every proposed option and the affected groups are identified, the next step is to assess the actual expected impacts.



Figure 40: Guiding questions to assess the impact of proposed options on affected groups

- » Do the proposed benefits and obligations of every option meet the needs of affected groups?
- » Do the proposed benefits and obligations strengthen or reduce dividers between affected groups?
- » Do the proposed benefits and obligations reduce current inequalities?
- » Do the proposed benefits and obligations make living conditions of affected groups better or worse?
- » Do the proposed benefits and obligations positively or negatively impact groups that do not have particular identified needs?

Based on the guiding questions listed in the box above, mitigating actions can be taken to reduce negative impacts. These can address the specific needs of groups and must be used to update and improve the identified options.


Social Equity Analysis can, for example, provide the insights needed to amend a law to provide a different treatment to a particular group with the aim of enhancing equity; to organise training of officials to adjust implementing practices that resulted in de facto inequality; promote inclusion of a certain group by providing them with specific support; foresee activities to promote groups to interconnect more (language, religion, culture, trade, school, common infrastructure); and other measures to mitigate existing or potential future situations that lead to situations in which groups are not able to enjoy the benefits of Government policies.



Figure 41: Example of mitigating actions for the policy on primary education above

Groups	Mitigating actions
Parents/custodians of children (grade 1-5) with low income and more than 2 children	Subsidies for parents/Free meals. Free school bus. Transform extra-curricular education to regular free education
Parents/custodians of children (grade 6-9) with low income and more than 2 children	Subsidies for parents/Free meals. Free school transport. Free books and other materials. Transform extra-curricular education to regular free education

The mitigating actions have to be prioritized based on the cost of implementation; the magnitude of the impact(s) on (sub)-groups; the risk of exacerbating existing or creating new tensions; and the relation to the Government’s strategic objectives and policies.

 *Figura 42: Final table*

	Benefits	Obligations	Groups affected	Positive impacts (on needs and dividers)	Negative impacts (on needs and dividers)	Mitigating actions
Option 1						(do not apply, as Option 1 should always be the status-quo)
Option 2						
Option 3						

Findings from the table above should be presented in the form of a narrative report in chapter 4 of the Concept Document. The report should elaborate on positive and negative impacts of benefits and obligations from every option proposed on the affected groups. Mitigating actions, if relevant, need to be integrated in chapter 3 of the CD as adjustments to proposed options.



Figure 43: Performing Social Equity Analysis

<input type="checkbox"/>	Analyse the Concept Document again, in particular the sections on the Problem Definition, Objectives, Options and expected impacts.
<input type="checkbox"/>	Identify which groups are expected to enjoy which benefits. Focus here on the goods and services that are provided, for example subsidies, pensions, social assistance, education services, healthcare services and dispute resolution.
<input type="checkbox"/>	Identify the obligations that the various groups will have to comply with. Focus here on responsibilities, for example time needed (and at which time of the day), payment of contributions or taxes, need for utilities and transport requirements.
<input type="checkbox"/>	List the identified benefits and obligations for every option proposed.
<input type="checkbox"/>	Search for specific groups mentioned in the problem definition, specific objectives and options proposed. Based on the guiding questions for Social Equity Analysis, identify whether a group or sub-group was affected differently compared with other groups. Assess whether this is still the case and if yes, identify needs and dividers.
<input type="checkbox"/>	Engage in internal consultation with implementing bodies/officers of both central and local level.
<input type="checkbox"/>	Conduct consultation with stakeholders, especially with affected groups and CSOs working in the sector related to the topic covered under the Concept Document.
<input type="checkbox"/>	List the groups affected, their needs and dividers between them based on the table for presenting SEA in a Concept Document.
<input type="checkbox"/>	Discuss the findings from the Social Equity Analysis at a meeting of the Working Group for the Concept Document. If relevant, invite stakeholders and other public bodies to discuss these findings at that meeting.

TOOL 9: YOUTH IMPACT ASSESSMENT

Importance of Youth Impact Assessment (YIA)

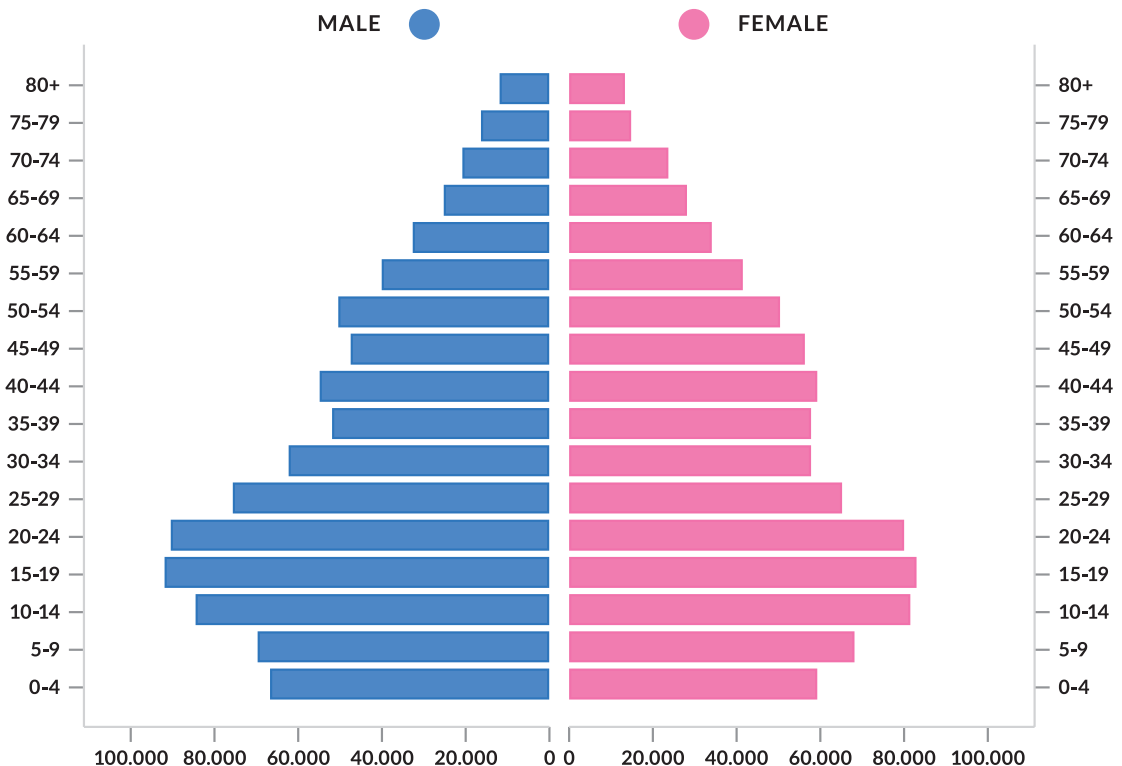
Youth are the largest age group of the Kosovo population. They play a key role for the future of society and the country. It is essential to set conditions that enable the youth of today to develop a successful life. Their socio-economic opportunities need to be boosted in order to unleash and benefit from the youth's potential.

 Figure 44: The legal definition of youth

Law No. 03/L-145 on Empowerment and Participation of Youth, Article 3(1.1) defines youth as follows:

“Youth age or ‘a young person’ - the age group of young people between fifteen (15) and twenty four (24) years.”

 Figure 45: Population Pyramid, 2015



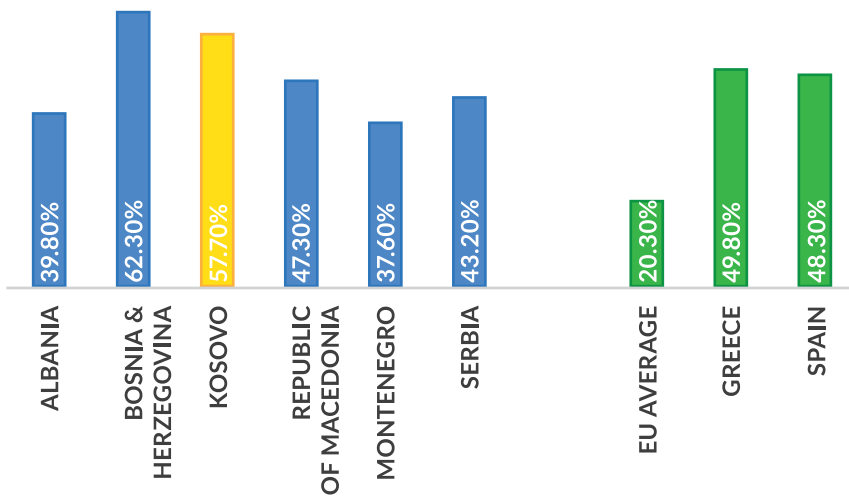
Source: Women and Men in Kosovo. Kosovo Agency of Statistics 2016.

Unfortunately, the youth in Kosovo has to cope with a range of challenges and difficulties. These have a negative effect on their chances in life, the development of their professional career and the possibilities they have to live their lives independently. The challenges and difficulties relate mainly to the following aspects: access to education; quality of education; employment, health; civic and political participation; and security.

The unemployment amongst youth of Kosovo is one of the highest in the region, three times higher than the EU average, and around 10% higher than in EU youth employment outliers such as Greece and Spain.



Figure 46: 2015 Youth unemployment rate



Source: European Commission Country Reports 2016 and Eurostat: Unemployment Statistics 2015

Incomplete and ineffective policies can create unintended and additional difficulties. A chance missed for the youth produces immediate negative effects. However, the eventual consequences for individuals and society might only show up much later. For example, chances for employment are undermined by a lack of education or low quality of existing education. The educational level that the youth can reach in the next five years has a severe impact on chances later in life. Insufficient education might lead to unemployment. Unemployment brings poverty. Being poor, with no health insurance, makes it harder to address health problems. Chances missed for the youth today means that more of them might, when they become adults, work in the grey or black economy. In the worst case, some individuals might turn to crime, be subject to exploitation or emigrate illegally. Inappropriate policies risk disadvantaging youngsters from the current youth generation. The effect will be felt in the future through missed opportunities or lowered prospects for economic, civic and political development.

These in turn will have very high direct and indirect costs for society.

Government actions that aim to support the youth mostly produce the desired effects after 5 to 10 years. Considering this, policy proposals should aim to identify immediate and eventual effects on young people and society. The purpose is to develop good policies that single out and mitigate negative effects as much as possible. Such policies improve chances for the youth to lead independent lives and prosper in the future.



Figure 47: NEET group

NEET is the acronym for 'persons Not in Education, Employment or Training'. Nearly one-third – 30.1% of young people in Kosovo belong to this group. This figure is 26.5 % for young men and 34.2% for young women.

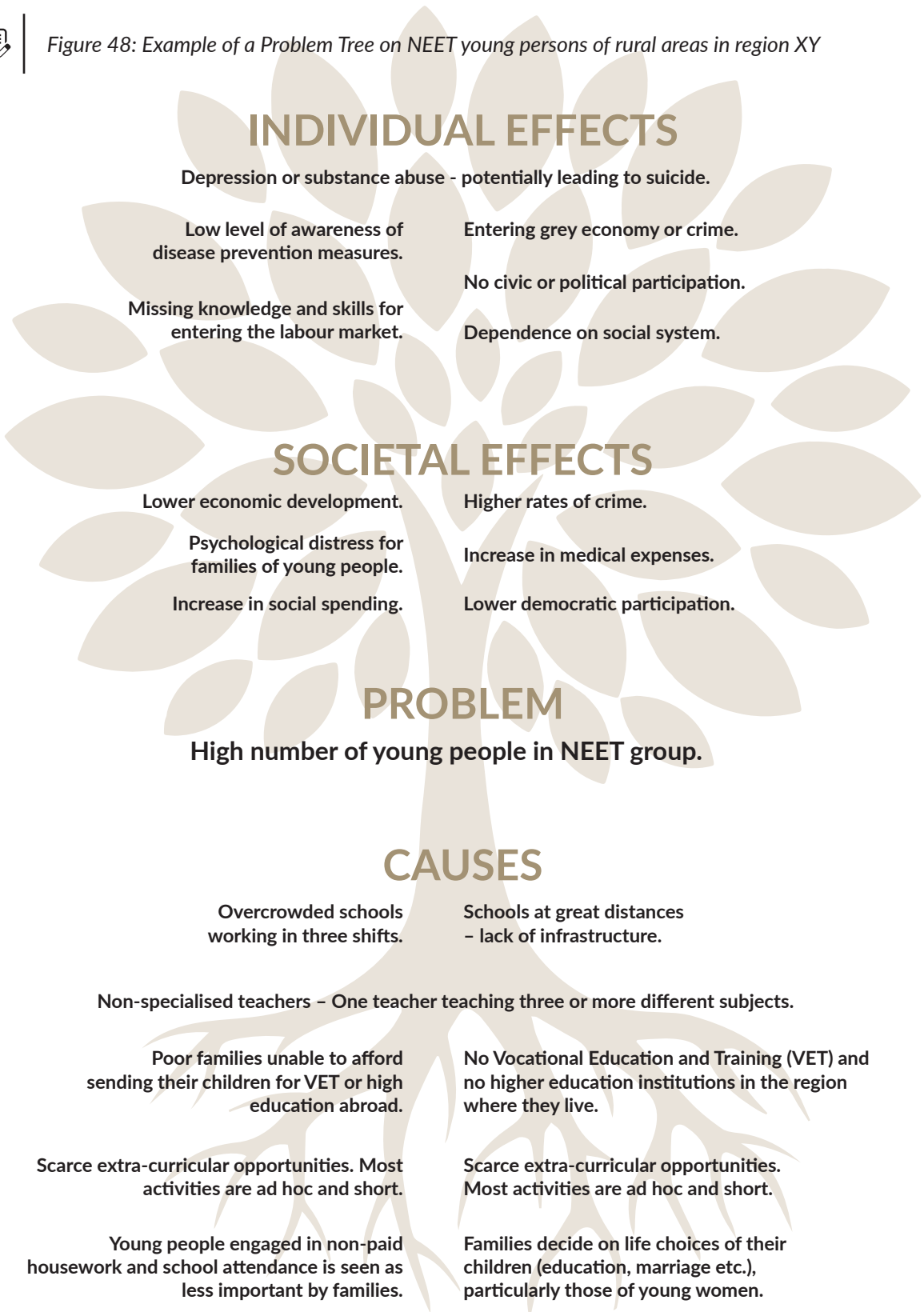
The NEET group should get specific attention when conducting Youth Impact Assessment.

The source of this data is the 'Labour Force Survey 2016' of Kosovo Agency of Statistics.

The Problem Tree example below shows how factors such as policy and other shortcomings affect the future success of the youth since they lead to a high number of young people that is part of the NEET group.



Figure 48: Example of a Problem Tree on NEET young persons of rural areas in region XY



Youth Impact Assessment quick-check

Whether Youth Impact Assessment is relevant for a Concept Document depends on the issue that it addresses. YIA is relevant only for policies that affect the dimensions of the youth’s future success. This success is connected in particular with education and skills; employment; health; civic participation; and security.

The measures considered under the proposed options need to be checked in detail to see whether they relate to any of the dimensions that determine the youth’s future success.




Figure 49: Aspects of future success dimensions

Education and skills		Employment	Health
<ul style="list-style-type: none"> • Access to education • Quality of education • Extra-curricular education • VET • Life-long learning 		<ul style="list-style-type: none"> • Access to employment • Quality of jobs • Entrepreneurship opportunities • Job training • Apprenticeship/Internship 	<ul style="list-style-type: none"> • Prevention of diseases • Youth-friendly health facilities • Sexual and reproductive health • Substance abuse (drugs, alcohol, cigarettes, etc.)
Civic participation		Security	
<ul style="list-style-type: none"> • Associations • Political engagement • Volunteering • Cooperation amongst youth of different backgrounds • Youth participation in Government decision-making • Cultural, sports and recreational activities 		<ul style="list-style-type: none"> • Crime prevention • Traffic safety • Environment protection 	

The Working Group for the CD should discuss the relation of the proposed options with aspects listed in the table above. To strengthen the analysis, youth representatives, youth experts and policy experts from the respective dimensions should be consulted. These experts should include both professionals from the administration and external stakeholders.

When the Working Group concludes that youth dimensions will be affected, then Youth Impact Assessment should be conducted. The analysis should focus on the future success dimensions that the WG considers to be impacted.


 Figure 50: Example of measures impacting aspects of the youth's future success dimensions

A policy proposal on reorganisation of the health system foresees measures for renovating existing and constructing new health facilities. This proposal undoubtedly impacts youth dimension of health and all its aspects. To assess the impact, it should be determined whether the policy foresees establishment of, for instance, youth friendly health facilities, particularly in schools.

Youth friendly health facilities are those tailored specifically for young people to meet their specific needs. They should be equitable, accessible, acceptable, appropriate and effective. For example, a reproductive youth-friendly health service should be accessible geographically and financially, and include trained providers, protection of confidentiality and privacy of youth.

Assessing the impact of proposed policies on youth

When the quick-check shows that Youth Impact Assessment is necessary, the context of affected dimensions needs to be analysed. The analysis should cover three features: existing conditions; views and needs; and future effects.


 Figure 51: Guiding questions for Youth Impact Assessment

Existing conditions of young people on the impacted dimension.	Young people views and needs on proposed measures in CD	Future immediate and eventual effects of proposed measures
<ol style="list-style-type: none"> 1 What is the opinion of youth about the present situation? 2 Are there any difficulties that youth face? 3 If yes, which are these difficulties? 4 Are there good examples and best practices that can be used? 5 Is a particular youth group disadvantaged more than other groups? 6 If yes, for what reason? 	<ol style="list-style-type: none"> 1 What are the youth views on the proposal? 2 What are the youth specific needs (transport to school, more sports facilities, etc.)? 3 Is the proposal going to change the present situation? 4 Are anticipated changes positive or negative? 5 How could the proposal, in their view or according to experts, be improved? 	<ol style="list-style-type: none"> 6 What are the positive or negative immediate and eventual effects on young people? 7 What are the positive or negative immediate and eventual effects on society?

Relevant and reliable information needs to be collected to analyse the youth specific context and to provide answers to relevant questions such as presented in the figure above.

Desk research will often provide a substantial amount of relevant information. This information can be used to further define the problem definition, objectives and options. Information that is relevant for YIA can come from various sources: government and other reports, news articles, press statements, online discussions, etc.

Desk research should be complemented with internal consultation and a targeted consultation that involves the youth and/or relevant experts. This means specifically singling out young people for the communication activities for the CD and the consultation process. The messages and communication channels need to be carefully selected to ensure effective consultation.



Figure 52: Ensuring a proper communication and consultation process for Youth Impact Assessment

- 1 Consult internally** with relevant institutions (Directorates for Education, Culture, Youth, Sports and Health within municipalities; Ministry of Culture, Youth and Sports, in particular the Youth Department; Ministry of Education, Science and Technology; Ministry of Labour and Social Welfare; Ministry of Health; Ministry of Internal Affairs; Ministry of Justice; Ministry of Environment and Spatial Planning; and Office of the Prime Minister.
- 2 Inform youth** about the proposed policy, its measures and objectives. Consider conducting youth-specific communication campaigns. Use all relevant channels to convey relevant messages, in particular social media. Inform the target audience in an appropriate way that makes it easy for young people to understand the information and the relevance of their involvement.
- 3 Consult youth** and their associations. Assess the best setting and location for consultation since official meetings might not yield the results that are hoped for. Discuss the consultation process and specific activities in advance with key persons.
- 4 Ensure communication with youth groups** who are not easily reachable, e.g. youth with disabilities, youth living in rural areas or belonging to minorities.
- 5 Consult with non-governmental organizations and development partners** working on issues related to economic development, education, employment, health, environment, security, justice and political issues. Aim to obtain their opinion about the existing situation, youth views and needs, as well as on the immediate and eventual effects on the youth and society. Relevant organizations could be an international organization implementing a project in the field of education; a think tank analysing factors relevant for Kosovo's economic development; or grassroots organisations looking into for the driving factors of high youth unemployment.

It is highly important to keep in mind that the youth is not a homogenous group. Due to different characteristics, particular youth groups will experience a different impact from other groups. These youth groups can differ in their gender, ethnicity, urban/rural residency, disability and other characteristics. When this is the case, the use of *Tool #8 Social Equity Analysis* should be considered to ensure equal outcomes for all youth groups.

After desk research and consultation, the final step is to assess the impacts of the measures proposed in the CD. The WG should specifically assess:

- » the impact of proposed measures on existing conditions of youth;
- » whether those measures meet youth views and needs;
- » and their effects on young people and society.



Figure 53: Example of assessing the impact of youth friendly health services

Measure	Impact
Establishment of youth friendly health facilities on re-productive health	<p><i>Existing conditions</i> – No such facilities. Youth currently receive services from general providers who are not geared up for youth specific needs.</p> <p>The impact of the measure is therefore positive.</p>
	<p><i>Views and needs</i> – Youth affected by the proposal are of the view that youth friendly health services are needed and positive for their re-productive health. Healthcare and youth experts share these views.</p> <p>Their views and needs are therefore met.</p>
	<p><i>Effects on young people – Immediate:</i> Protection of reproductive health. Prevention of transmitted diseases. Prevention of early pregnancy. <i>Eventual:</i> Increase of their chances for leading an independent life and employment. Social inclusion.</p> <p><i>Effects on society – Immediate:</i> Increase in immediate medical care costs. Fewer transmitted diseases. <i>Eventual:</i> Decrease in general healthcare and social assistance costs. Fewer abandoned children and distressed families. Higher tax revenues.</p>

The proposed measures and assessment results should be listed in the table below. If the impact is negative, the WG should develop mitigating actions, in the form of recommendations for adjustments of proposed options. Such actions, depending on the topic, may include e.g. establishment of centres for extra-curricular education; campaigns against substance abuse; installation of security cameras in schools, etc. The table should be elaborated in the CD: the anticipated impacts in Chapter 4 and mitigating actions in Chapter 3 on Options.



Figure 54: Youth Impact Assessment: Overview

	Measures	Impact on existing conditions	Are the youth views and needs addressed?	Effects on young people and society	Mitigating actions
Option 1 (status-quo)					No policy change foreseen
Option 2					
Option 3					



Figure 55: Performing Youth Impact Assessment

<input type="checkbox"/>	Analyse the CD again, in particular the sections on the Problem Definition, Objectives, Options and expected impacts.
<input type="checkbox"/>	Identify measures foreseen by the options presented in the CD.
<input type="checkbox"/>	Assess whether these measures impact the youth's future success dimensions, and identify how these dimensions are impacted.
<input type="checkbox"/>	Analyse the context of future success dimensions impacted. Analyse the existing conditions of young people, their views and needs and future immediate and eventual effects for them and society.
<input type="checkbox"/>	Obtain information from desk research and consultation.
<input type="checkbox"/>	Structure the impact of proposed measures on the youth by using the guiding questions and the Youth Impact Assessment Overview. If the impact is negative, develop mitigating actions in the form of recommendations for policy adjustment.
<input type="checkbox"/>	List your findings in the Concept Document.

TOOL 10: IMPLEMENTATION PLAN FOR POLICY OPTIONS

The problem definition shows the causes and the effects of the problem that is identified. The options indicate the possible solutions to tackle the drivers or alleviate the negative causes.

The options need to be made to work in practice. If they stay on paper only, the actual situation will not change at all. Each option, including the no-change-option, is the basis for work that needs to be done: work by the administration, work by companies, work by civil society and work by citizens.

This work demands resources. This can be work time that civil servants need to invest in training; budget that needs to be reserved for procuring materials; activities by companies that are needed to comply with new legislation; and the time that citizens need to spend on complying with regulations.



Figure 56: Implementation Plan and output-activity logic

An implementation plan is a tool that illustrates, in detail, the work that is required to implement policy options and to achieve the policy goals and objectives. It lists activities, outputs and timelines in order to implement policy options.

The relation between the outputs and activities needs to be logical. For example, a service cannot be provided without creating the organizational arrangements for providing the service. Benefits cannot be paid to certain citizens unless there is a department tasked with making the payments. This department needs to have the right amount of staff and IT infrastructure.

The Implementation Plan is an overview of the outputs and resources that are needed from the administration. It defines the outputs that need to be developed, the activities that need to be executed to deliver these outputs, indicates who is responsible for these activities and shows the deadlines for finishing these tasks. The Implementation Plan needs to contain all relevant outputs that are needed to successfully implement a policy option.



Figure 57: Examples of outputs and activities

Example 1

Output: Trained inspectors to improve implementation of existing rules.

Activities: develop training programme and certification of future inspectors; reserve budget for implementation of the programme; identify trainers; train future inspectors; ensure certification of inspectors.

Example 2

Output: Information campaign to address the problem.

Activities: develop a communication plan together with the Division for Communication; plan the budget for the information campaign; procure services; launch the campaign; monitor the campaign activities; evaluate the effect of the information campaign.

Example 3

Output: amended law to address a regulatory shortcoming

Activities: draft the amendments to the law; consult relevant ministries and stakeholders during the development of the amendments; submit the draft amendments for interministerial consultation; submit the draft amendments for public consultation through the online consultation website; submit the draft amendments with all relevant supporting documents for adoption by the Government; ensure approval of the draft amendments by the Parliament; ensure that the implementing organisations have sufficient time, human and budget resources to implement the amendments; inform citizens/companies/organisations about the changes.

Concept Documents are the basis for the development of new laws, for amending existing ones and many other measures that the Government approves. The activities that follow from a Concept Document take time. For example, drafting the proposal for a new law, consulting on this proposal with stakeholders, having the proposal adopted by the Government and approved by the Parliament can take a year or more. Actually preparing for the application of a new law through training of inspectors, informing citizens and companies and procuring/developing the relevant materials/services will add several months at least. Only once all these activities are finalised, does a law actually apply in practice.

As the figure above shows, implementing a policy needs to be based on medium-term implementation. An Implementation Plan should therefore cover a period of 3 to 5 years. This period is needed to make sure that, for example, capacities are developed and organisations and people are informed. This time is also necessary to integrate a new policy into the policy framework and ensure that its implementation becomes a standard process. The overview below provides a template for an Implementation Plan.



Figure 58: Example of an Implementation Plan

Policy Goal								
Strategic Objective								
		Output, activities, year and responsible organisation / department						
Specific Objective 1	Output 1.1		Year 1	Year 2	Year 3	Year 4	Year 5	Responsible organisation / department
		Activity 1.1.1						
	Activity 1.1.2							
	Activity 1.1.3							
	Output 1.2		Year 1	Year 2	Year 3	Year 4	Year 5	Responsible organisation / department
		Activity 1.2.1						
Specific Objective 2	Output 2.1	Etc.						
	Output 2.2	Etc.						
Specific Objective N	Output N.1	Etc.						

The Implementation Plan serves as useful input for central planning documents of the Government. For example, activities could be taken up in the Government Annual Work Plan. The Implementation Plan can also serve as the basis for the budgeting process when additional resources are needed to implement options. This issue is addressed in *Tool 11: Costing for Concept Documents* and *Tool 12: Complying with Budget Impact Assessment*.

TOOL 11: COSTING FOR CONCEPT DOCUMENTS

The outputs and activities provide the basis for determining the costs that will be made when an option is implemented. These are solely the costs to the Kosovo budget. Other costs, like those for companies and citizens, are calculated through other tools.

The costs to the budget are surely worthwhile when they are needed to address a very significant problem. When the expected costs are low and the foreseen benefits high, it is also worthwhile to implement an option.

Assessing the future costs of implementation of policy options is an important factor in deciding which option to choose. It also helps with reassessing the practical feasibility of options, the deadlines that are set for implementation and the potential bottlenecks. A detailed costing of options, in short, improves the quality of the analysis for a Concept Document. It provides essential insight into the funding needs of the organisations involved in the implementation of policies.



Figure 59: Main categories of costs that need to be determined during policy development

1. Human resources (Salaries and Wages)
2. Procurement of services (Goods and Services)
3. Procurement of goods (Goods and Services)
4. Direct support to beneficiaries (Subsidies and Transfers)
5. Investments in equipment (Capital Expenditures)
6. Investments in infrastructure (Capital Expenditures)

The Implementation Plan is the key tool to determine the costs for the implementation of the decisions presented in a Concept Document. The plan provides the overview of outputs and the activities needed to achieve them. The costs of individual activities can be assessed by estimating the human resources and budget needed to make them happen. Adding up the costs of all activities for one output then provides the cost of that output. Since the Implementation Plan already lists the activities and shows who is responsible for implementing it, costing means estimating the effort needed to make sure that the activities can be performed. The overview below shows the steps necessary to perform a proper costing of policy options.



Figure 60: Process of costing policy options

Step	Description
Step 1: Define outputs and timeframe for delivery	The Implementation Plan already provides this information. If such a plan was not made, the outputs need to be stated clearly, together with the timeframe in which they need to be delivered.
Step 2: Define Activities	Activities are required to make sure that the outputs are delivered. These activities need to be clearly listed. When an Implementation Plan has been developed before, this information is already part of the plan.
Step 3: Identify required resources	<p>For each activity, resources are required. They need to be clearly identified. At this stage, the distinction has to be made between the use of existing resources and new resources.</p> <p>For example, in order to develop a law, existing human resources within a line ministry will often be sufficient. Yet, in order to implement the law, additional resources might be necessary. This can be additional staff, but also vehicles and other materials. If these are not yet provided, new costs will be created. These costs will have to be covered by the budget in order to make sure that implementation is not hindered.</p>
Step 4: Contact budget department for finalisation of costing	<p>Each budget department has specialists that are used to costing policies. They are familiar with the detailed costing methodology. They can also build on previous experience with policy costing.</p> <p>Important: even when a representative of the Budget Department is part of the Working Group for Concept Document, plan in a separate meeting on the costing of the options.</p>
Step 5: Finalise the costs per activity	<p>Policy costing is based on the process developed by the Ministry of Finance. Different kinds of costs, e.g. those for human resources or equipment, are labelled with different codes. This makes it easier to analyse the costing figures. When the Concept Document is adopted, the codes allow for an easier integration of the costing figures into the budget process.</p> <p>To complete the costing for Concept Documents, a specific excel file has been developed. This is available online, has been shared with all Budget Departments of line ministries and can also be requested from the GCS. The budget specialists will be able to assist you with finalising the costing calculations.</p>
Step 6: Add up costs	When you use the costing form for Concept Documents, the total costs will be automatically calculated. If you do not use the form, make sure that you add up all the costs for all activities and outputs properly. This is essential for the next step.

<p>Step 7: Identify and add up savings</p>	<p>Next to additional activities being started and new costs emerging, there can be possibilities to cease certain activities or to simplify them. This will lead to a reduction in costs for implementing policies. These cost reductions have to be taken into account when assessing the future budget needs. They will determine whether additional budget is necessary or whether a shift of budget or a shift of activities would be sufficient to implement the options that are analysed in the Concept Document.</p>
<p>Step 8: Determine whether Budget Impact Assessment is needed</p>	<p>Concept Documents are the basis for new policy actions of the Government. The implementation of the option that is eventually chosen, needs to be planned well so that the expected benefits will materialise. In practice this means that if there is no (sufficient) budget reserved for implementing a policy, the intended improvements will not be realised. If this happens, a lot of work has been done in vain. Expectations that a situation would improve would be shattered.</p> <p>Based on the costing and savings figures that result from the calculation, it is possible to determine whether the total costs fall within the available budget of a ministry. Each ministry has so-called budget ceilings. If the costs needed for implementation stays below the budget ceiling for a ministry, the next step would be to allocate the necessary budget so that it is clear that the funds are available when implementation starts.</p> <p>It may be that there is not enough budget available for the implementation of the decisions that follow from a Concept Document. In that case, the Ministry of Finance needs to be informed and negotiations on budget reallocation need to be held. In practice this comes down to working together with the Budget Department to apply <i>Tool 12: Complying with Budget Impact Assessment</i>.</p>
<p>Step 9: Add costing numbers in the Implementation Plan</p>	<p>If a Budget Impact Assessment is not required, the costing figures and information on the budget lines in which the costs have been integrated, needs to be added to the Concept Document. The cost per output and activity can be added in the Implementation Plan. Alternatively, the total costs can be added in the costing section and the excel file for the costing of the Concept Document can be attached to the Concept Document as an annex.</p>

TOOL 12: COMPLYING WITH BUDGET IMPACT ASSESSMENT

When the costing for a Concept Document shows that the budget ceiling of a ministry would be exceeded, the process of preparing the Budget Impact Assessment (BIA) starts. The Ministry of Finance works with a detailed Administrative Instruction and Manual that enables finalisation of the required forms. These forms will be based on the costing that has already been made for the Concept Document.

A ministry's Budget Department has access to the information needed for Budget Impact Assessment. It has experience with completing these forms in line with the standards that need to be applied to the budgeting process. The Department also leads the negotiations with the Ministry of Finance. Of course, this needs to happen in close cooperation with the policy department that is responsible for the Concept Document and the implementation of all commitments that follow from it.

Budget Impact Assessment is based on the same outputs and activities as the costing that has been developed under the Tool 11: Costing for Concept Documents. But since the cost ceiling of a ministry is exceeded, the funding sources still need to be identified. This needs to be based on the available budget, the actual expenditures per ministry and the projections for the budget for the mid-term.

A Budget Impact Assessment is necessary when substantial efforts need to be made to ensure that the commitments that follow from the Concept Document can be realised. Since the budget ceiling is exceeded, new funding sources have to be identified. This can be looking for saving options, e.g. reducing the budget for another ministry; apportioning additional future budget from one ministry to the other; ensuring direct budget support from development partners; or borrowing additional funds. All of these options need to be approved by the Government and that is why the Budget Impact Assessment process has been developed. It does provide the possibility to design Government policies that mean that a ministry goes beyond its set budget ceiling. But since such a development affects the future plans of the Government, such a decision needs to be properly prepared.



Figure 61: Relevant documents for Budget Impact Assessment

The aim of the Manual on Budget Impact Assessment of New Initiatives is to provide instructions to budget organizations. The manual assists them with identifying costs associated with any new initiative within their field of responsibility and to ensure that the necessary funding sources are identified. The manual is relevant for professionals who develop and propose new initiatives in a budget organization such as a line ministry.

The documents relevant for Budget Impact Assessment can be found here:

[http://www.kryeministri-ks.net/repository/docs/Doracaku_per_Vleresimin_e_Ndikimit_Buxhetor_te_Nismave_te_Reja_Qeveritar...\(1\).pdf](http://www.kryeministri-ks.net/repository/docs/Doracaku_per_Vleresimin_e_Ndikimit_Buxhetor_te_Nismave_te_Reja_Qeveritar...(1).pdf)

http://www.kryeministri-ks.net/repository/docs/Formulari_i_vlersimit_te_ndikimt_buxhetor_anglisht.xlsx

TOOL 13: DETERMINING THE IMPORTANCE OF IMPACTS

The analysis for the Concept Document should address as many issues as possible. However, to make sure that the analysis is done efficiently, a limit needs to be set that considers the importance of an impact. In practice this means that Concept Documents that address topics with a problem that is limited in scope, the analysis can be concise. Concept Documents that address societal issues, naturally, will have a longer list of important impacts that have to be analysed. The nature of the expected impacts and their importance is therefore a pivotal factor that determines the time that is needed to complete the analysis for a Concept Document. When the planning for completing the Concept Document is done, this needs to be taken into account.

The importance of impacts is determined based on the following factors:

1. the number of organisations, companies and/or individuals affected by the impact
2. the expected benefit or cost of the impact.



Figure 62: The principle of proportionate analysis

Policy analysis serves a purpose: making informed decisions on policies and legislation. In turn, this helps with improving the quality of these policies and legislation.

Yet, it is not possible to analyse everything in depth. This would require too much time, too many person hours and too much budget. Therefore, a practical decision needs to be made on what to analyse and how.

The principle of proportionate analysis provides the framework for such practical decisions. The basic question that this principle is based on is: does the analysis still provide sufficient added value for the Concept Document given the effort that is needed to do this analysis?

For important impacts, for new laws and substantial overhauls of an existing policy framework it is justified to invest heavily in policy analysis. But still, the effort invested in the analysis needs to be judged against the question of whether the effort needed to conduct this analysis is justified. This tool help with determining the depth of analysis that should be conducted for a Concept Document.

The importance of the impact also should guide the way in which it is analysed. Data gathering should be prioritised for impacts that are expected to be important. These impacts should also be consulted on while the Concept Document is developed, for example through consultation and discussions with the affected stakeholders.

The two factors together determine the importance of impacts. The four combinations of the two define the preferred level of analysis for the impacts as is shown in the overview below.



Figure 63: Determining the importance of impacts and the preferred level of analysis

Factors that determine importance of impacts		Preferred level of analysis
High number of affected organisations, companies and/or individuals	High expected benefit or cost of the impact	Impacts need to be analysed in depth and supported by (targeted) consultation and data
High number of affected organisations, companies and/or individuals	Low expected benefit or cost of the impact	Impacts need to be presented in qualitative terms and supported by targeted consultation; present data when it is easy to obtain
Low number of affected organisations, companies and/or individuals	High expected benefit or cost of the impact	Impacts need to be analysed in depth and supported by (targeted) consultation and data
Low number of affected organisations, companies and/or individuals	Low expected benefit or cost of the impact	Impacts can be presented in qualitative terms; only present data when it is easy to obtain

TOOL 14: DATA COLLECTION

Developing a Concept Document is about identifying the problem and finding solutions to its causes and effects. This tool presents a range of possibilities for gathering data for a Concept Document. By no means does this specific tool provide a complete overview of data collection possibilities. Policy development and policy analysis are important and complex tasks. The information that helps to develop a Concept Document can be found in many places.

Data collection takes place during the entire process of developing the Concept Document. This is due to the nature of policy analysis. This analysis leads to insight; insight leads to questions; questions lead to research; and research leads to answers.

Concept Documents deal with very different topics. There is not one process for data collection that can be applied to all Concept Documents. There are several approaches that can be helpful. These are presented in the overview below.



Figure 64: Collecting data

Approach	Explanation
Consultation	<p>The quality of policy analysis benefits from the input from experts, people that are affected by a problem, specialists that have worked on specific issues and many more.</p> <p>Involving such groups in the analysis for a Concept Document provides a short-cut to useful information. Stakeholders can provide information about (1) the problems, its causes and effects; (2) existing reports and other information sources; (3) provide feedback on expected impacts and how to assess them; (4) any other issue that could be relevant for the analysis.</p> <p>Consultation plays a crucial role in policy analysis. It is described in more detail in the section on Stakeholder Consultation.</p>

<p>Data collection programme</p>	<p>Data can often be gathered within a reasonable amount of time. This is work that is worthwhile since it provides a much better picture of the situation and can show in a straightforward way what kind of problems exist. As a consequence, the data that is collected for a Concept Document often directly leads to insight into possible options to address the problem.</p> <p>A data collection programme can often be combined with targeted and public consultation. Stakeholders can provide reports, analysis and other relevant input.</p>
<p>Kosovo Statistics: http://ask.rks-gov.net</p>	<p>The Kosovo Agency of Statistics (KAS) collects and publishes a wide range of statistics that can be used for policy development. These statistics, for example, describe the situation of economic sectors or provide an overview of the existing transport infrastructure. When statistics are collected by KAS, they can be very useful, in particular for developing the problem definition, setting objectives and identifying options.</p>
<p>Reports etc. developed by Government bodies</p>	<p>The administration is a vast collection of different organisations. Contacting the ones that seem relevant for the issues that the Concept Document is made for, can be a quick way for getting data, reports and other information that is useful for the Concept Document.</p>
<p>Reports etc. developed by other countries and international organisations</p>	<p>Kosovo has a broad community of civil society organisations. Contacting those that seem relevant for the particular Concept Document, can be a quick way for getting data, reports and other information that is useful for the Concept Document. If it is unclear which civil society organisations are relevant for the Concept Document, it is possible to contact, for example, the Kosovar Civil Society Foundation (KCSF) or the CIVIKOS Platform. They can assist with identifying relevant civil society organisations. They might also directly provide information that is useful for a Concept Document.</p>

Reports etc. developed by other countries and international organisations	<p>A lot of policy information exists. Organisations that are used to analysing the expected effects of policies and legislation through Impact Assessment (and/or conduct evaluations to check which effects actually materialised), normally publish those reports online. The European Union, the UK and Germany are just three examples of where relevant information could be found. They also provide reports in languages that someone in the Working Group for developing a Concept Document might speak.</p>
	<p>The Impact Assessment reports of the European Commission can, for example, be used to determine the reason why the EU developed a certain piece of law. These reports also will list the most relevant positive and negative impacts.</p>
	<p>Important note: Impact Assessments, Evaluations and other reports drafted by international organisations and other countries are developed with regards to their specific political and legal environment. This means that the use of information from such reports has to be double-checked and critically assessed on their relevance for Kosovo.</p>



Figure 65: Development of the Impact Assessment Database

The Better Regulation Strategy 2.0 announces that the current system of Concept Documents will eventually be replaced by a fully-fledged Impact Assessment system. Concept Documents are already a type of Impact Assessment. For policy development, Kosovo is judged to be within the group of leading countries in the region. This is an achievement to be proud of, but not a reason to lean back. There are still clear challenges ahead before the policy development process is in line with international standards and best practices.

In particular, clear gaps in the quality of policy analysis still exist. In part these are due to the lack of data or the difficulties that exist with finding this data. To solve these issues, the Government Coordination Secretariat and the Legal Office within the Office of the Prime Minister will develop an overview of data that would have improved the quality of a Concept Document, but was not available. The aim is to gather this data when it is judged as essential for the future. This information will be listed in the Impact Assessment Database that will be developed over the coming years. In order to make sure that the database contains as much useful information as possible, the data gaps for every Concept Document have to be clearly identified and listed in the document. In addition, the data collected for Concept Documents that could be useful in the future will also be stored and made available through the Impact Assessment Database.

TOOL 15: POLICY ANALYSIS FOR TRANSPOSING THE EU ACQUIS

European Integration is a strategic aim of the Government. Amongst other things, this means transposing European legislation into the national legal framework. When a Concept Document deals specifically with the transposition of EU legislation, this tool provides the information and process steps needed to develop the Concept Document by linking back to the policy analysis performed by the European Union, in particular the European Commission.



Figure 66: Tables of Compliance and policy analysis for European Integration files

When legislation is developed to transpose the EU Acquis, specific requirements apply. Most importantly, a Table of Compliance and Statement of Compliance need to be drafted. Article 30.3 of the 'Administrative Instruction on drafting normative acts' defines them as follows: the Tables of Compliance and Statement of Compliance are working comparative documents that demonstrate the level of compliance between a domestic draft normative act and the EU Acquis.

These Tables of Compliance show in detail whether the specific European legal requirements were transposed and whether this transposition is complete or partial. The Tables of Compliance also have a section in which an explanation can be provided (in particular when transposition is not complete). The information listed in this section can flow from the analysis that is conducted for the Concept Document.

The analysis that needs to be conducted for the transposition of EU legislation is quite specific. The reason for this is that the legal requirements are already set in the EU Acquis and there are only limited possibilities to deviate from these. The Concept Document should focus on how these requirements can best be transposed. Naturally, the analysis follows the same methodology as a Concept Document that does not cover EU transposition. Policy analysis, after all, follows similar steps each time. However, the starting point for the Concept Document is very different. The key analytical steps are listed in the overview below.



Figure 67: Policy analysis for transposition of the EU Acquis

Analytical step	Explanation
<p>1) List the relevant EU legislation</p>	<p>When a Concept Document addresses the transposition of EU Acquis, the directives, regulations and other legal acts that are to be transposed need to be clearly stated.</p> <p>The EU Acquis can be found on the website of the Official Journal of the European Union: http://eur-lex.europa.eu/homepage.html.</p>
<p>2) Assess the current level of alignment and clearly specify which EU acts are left to be transposed</p>	<p>With Step 1 as the basis, determine which parts of relevant EU legislation have already been transposed. Use existing Tables and Statements of Compliance for these legal acts and make a list of parts that have not yet been transposed.</p>
<p>3) Check whether the legislation that is expected to be transposed is under procedure in the EU</p>	<p>The EU regularly updates and amends its legalisation. This can have an effect on the manner in which the transposition of the legislation can best be conducted and planned.</p> <p>The European Parliament presents all legislative files that it discusses in its Legislative Observatory: http://www.europarl.europa.eu/oeil/home/home.do</p> <p>The Legislative Train presents the progress on the proposals that directly link to the main priorities of the European Commission: http://www.europarl.europa.eu/legislative-train</p> <p>The Commission Work Programme and the management plans of individual Directorates-General can be found through this link: https://ec.europa.eu/info/strategy-documents_en</p> <p>Inception Impact Assessments and Roadmaps, through which the European Commission announces that it is preparing policy and legislative proposals are listed here: http://ec.europa.eu/smart-regulation/roadmaps/index_en.htm</p> <p>The planning for evaluations can be found here: https://ec.europa.eu/info/planned-evaluations_en</p>

<p>4) Find the supporting analysis conducted by Institutions of the European Union</p>	<p>The European Commission regularly develops Impact Assessments for its proposals and also evaluates existing European legislation. These analyses provide useful information regarding the reasons why legislation was developed, the most affected stakeholders and the benefits and costs of legislation.</p> <p>Impacts Assessment are listed on this website: http://ec.europa.eu/smart-regulation/impact/ia_carried_out/cia_2016_en.htm The Commission's database of its Impact Assessments goes back to 2003. This means that many directives and regulations have been prepared through IA.</p> <p>Evaluation database can be found on this website: http://ec.europa.eu/smart-regulation/evaluation/search/search.do The database can be searched based on the policy area. This makes it easier to check whether an evaluation has been conducted.</p> <p>An Internet search based on the name of the EU legislation can also lead to the website of the European Commission on which all relevant research and publications related to that legislation is published. Of course, this website can also be found through the website of the responsible DG within the Commission. It is also possible to contact the Commission directly through its contact website: https://europa.eu/european-union/contact_en.</p>
<p>5) Summarise the analysis conducted by the EU and determine which information is relevant for Kosovo</p>	<p>The policy analysis conducted by the European Union provides a wealth of information and data. This can be very useful when constructing the policy analysis for the transposition of the EU Acquis.</p> <p>In particular, Impact Assessments developed by the European Commission show the reasons behind the development of legislation through the problem definition, objectives and considered options. The analysis also shows what kind of impacts are the most relevant and which stakeholders are likely to be affected. For very complex and demanding pieces of legislation, Impact Assessments can also provide information for the budget impact and the process for transposing the legal provisions.</p> <p>Tool 18: Regulatory Competitiveness Check can be used to assess how other countries chose to transpose the EU Acquis.</p>
<p>6) Distinguish between obligatory and non-obligatory provisions</p>	<p>EU directives contain both obligatory and non-obligatory provisions. For the Concept Document and the policy analysis, the distinction between the two categories is essential since these need to be addressed differently. For obligatory provisions, the two leading questions that need to be answered are how and when these should be transposed. For non-obligatory provisions the main question is whether or not they should be transposed.</p>

<p>7) Define expected societal benefits and costs</p>	<p>EU legislation is expected to have net benefits for the European Union as a whole. Impact Assessments indicate the benefits that the European Commission expects to generate. The Commission's overview is a useful starting point to define the benefits that are expected to result from implementing and enforcing such EU legislation in Kosovo.</p> <p>EU legislation comes both with benefits and costs. Impact Assessments developed by the Commission do clearly acknowledge that. So again, such a document can be the starting point for assessing the societal costs for Kosovo.</p> <p>It is important to note that the Concept Document for EU transposition cases needs to take into account the actual transposition options. These need to be analysed in the Kosovo context, in particular relating to the question how legal requirements can be implemented. The expected impacts for the EU cannot be assumed to apply to Kosovo, especially not when only parts of a Directive or Regulation are transposed.</p> <p><i>Tool 3: Identification of economic impacts; Tool 4: Identification of social impacts; Tool 5: Identification of environmental impacts; and Tool 6: Impacts on Fundamental Rights, Tool 7: Gender Impact Assessment and other tools provide the framework to identify the main impacts that can be expected to occur.</i></p> <p><i>Tool 13: Determining the importance of impacts and Tool 14: Data collection provide the basis to determine the relevance of impacts and how these can best be analysed.</i></p>
<p>8) Assess when the obligatory provisions can best be transposed</p>	<p>The overview of legal obligations shows the provisions that have to be transposed. There are three options for applying the legal obligations: (1) ensure that they apply once Kosovo joins the EU; (2) start application of the legal provisions in the medium-term; (3) ensure application immediately after the adoption of the law or sub-legal act through which these legal provisions are transposed. These three options are the ones that need to be analysed in the Concept Document.</p> <p>When the EU provisions should be transposed, depends on the requirements that follow from them. Many factors play a role in the choice on when exactly to transpose legal provisions. In part, political and societal reasons affect such choices. Transposing EU standards can provide immediate benefits for the economy since this can pave the way for investments and provides the basis that companies need when they want to export goods and services. In short, the choice on when to let legal requirements in EU legislation apply in practice, should be based on analysis with regards to its merits and benefits.</p>

<p>9) Assess whether the non-obligatory provisions are worthwhile transposing</p>	<p>In order to be in line with the EU Acquis, only the legal obligations need to be transposed. The optional parts of EU Acquis should not be transposed unless this is clearly beneficial. This benefit should be shown through a Cost-Benefit Analysis.</p> <p>Tool 18: Regulatory Competitiveness Check can be used to determine how other countries implemented EU requirements. The check helps to identify the least burdensome options applied by other countries when implementing EU legislation.</p>
<p>10) Draft the Implementation Plan</p>	<p>Implementation of EU Acquis needs to be linked to the possibilities that the organisations tasked with implementation and enforcement have to actually make the legal provisions work in practice. Tool 10: <i>Implementation Plan</i> can be adjusted for the implementation of the EU Acquis so that it covers a longer time frame than the 5 years applied currently.</p>
<p>11) Determine the budget costs of implementation based on the Implementation Plan</p>	<p>The actual costs for implementing EU legislation can be determined based on <i>Tool 11: Costing for Concept Documents</i>. If this tool shows that the costs are very high and that additional funds are needed, <i>Tool 12: Complying with Budget Impact Assessment</i> needs to be followed.</p> <p>The availability of funds is essential for any policy so also for the implementation of EU Acquis. If the lack of availability of budget is an issue, this need to be discussed with the MoF. It is relevant also to involve the MEI. Together, the proposing ministry, MoF and MEI can assess how the necessary funds for implementation can be found.</p>
<p>12) Consult with relevant stakeholders</p>	<p>Since the expected benefits and costs are assessed for the EU as a whole, they need to be checked against the situation in Kosovo. Economically, socially and environmentally, the situation in Kosovo can differ significantly from the situation in the European Union.</p> <p>The Working Group that develops the Concept Document should be closely involved in discussing and determining the benefits and costs that can be expected. In addition, expected benefits and costs should be consulted with stakeholders to see whether they are fully identified. In addition, the suggested timeline for transposition should be consulted as well in order to assess whether it is realistic. Consultation should be conducted through targeted consultation in which specific stakeholders that have a clear link to and/or interest in the topic of the Concept Document and through the online public consultation website.</p>
<p>13) Complete the Concept Document based on the further obligatory steps</p>	<p>When the analysis for the Concept Document is finished, it has to follow the standard procedures before it can be adopted. These are presented in the overview of the development process for Concept Documents that is presented at the start of this manual.</p>

TOOL 16: STANDARD COST MODEL

Legislation obliges companies to undertake actions. This can be reporting on their financial expenditures, complying with zoning rules for building houses and many more.

A specific sub-set of legal obligations is referred to as administrative costs. These are the costs that are caused because legal requirements demand that companies submit information to a public authority or share this information with others. Since the SCM calculates the costs from legal requirements, it only needs to be used for the options that either include drafting a new law, drafting a new sub-legal act or for amending existing legal requirements and that deal with requirements for business that relate to administrative costs.



Figure 68: Definition of Administrative Costs

Administrative costs are Information Obligations (IOs) that companies are legally obliged to comply with.

Internationally, the Standard Cost Model is mainly used for determining the administrative costs for companies. It can also be used to calculate the administrative costs for citizens and public authorities. Eventually, the application of the SCM can be broadened. The SCM is a new tool for policy development for civil servants. Information sources and capacities need to be developed to ensure proper application. Therefore, it will only be obligatory for Concept Documents that address administrative costs for companies.

Under the SCM, the provision of information based on legal obligations is defined very broadly. The concept refers to all activities related to labelling, reporting, registration, monitoring, research, assessment and quality control that is necessary to be able to provide the information.

The transfer of information is defined in two ways. Some information has to be actively provided to public authorities or private parties. Other information can be stored so that it is available for inspection or can be provided upon request. Both types of information fall under the definition of administrative costs.

Administrative costs are split into recurring administrative costs and one-off administrative costs. Applying for a permit, for example is a recurring cost since a permit has to be renewed after a number of years. Investing in training or other activities to make sure that staff understands new legal requirements is an example of a one-off administrative cost.



Figure 69: Standard Cost Model Manual

This tool on the Standard Cost Model provides a working summary about the model and how it is applied. The Standard Cost Model Manual shows in detail how the calculations with the model have to be made.

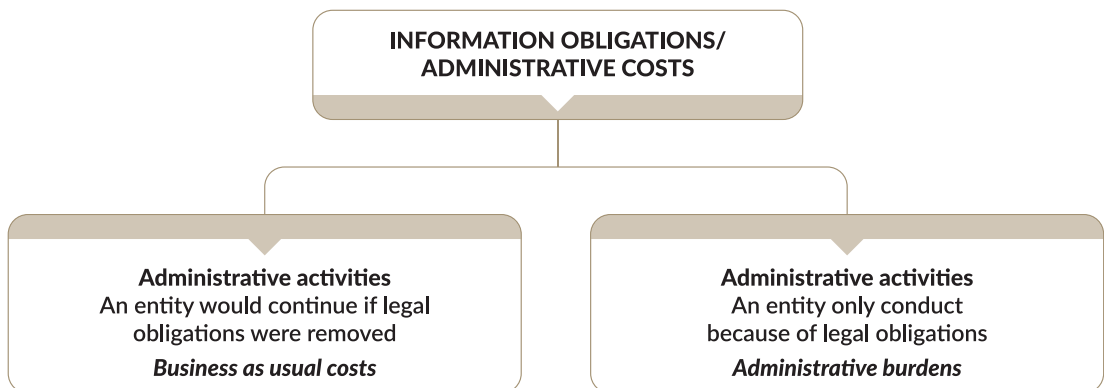
Finally, administrative costs are split into two different components: business-as-usual costs and administrative burdens.

Business-as-usual costs are caused by collecting and processing information that is essential to the functioning of the business. This information would also be collected if there would be no legislation. For example, large companies would always collect information on the number of people they employ and what their salaries are.

Administrative burdens are caused when information is only collected because there is a legal obligation. To build on the previous example, large companies need to collect and share information with the tax authorities. They must make sure that their systems for paying salaries also provide information on income tax and other tax related issues. In addition, companies must inform their staff about the taxes that were withheld as income tax. Companies only do this because they are legally obliged to.



Figure 70: Administrative costs, business-as-usual costs and administrative burdens



SCM to measure efficiency

Administrative costs are calculated through the Standard Cost Model (SCM). This model also allows the split between business-as-usual costs and administrative burdens.

The SCM measures the efficiency of the implementation of legislation. It does not judge a legal requirement as such. The example of large companies that must collect information since they must pay taxes is a good example. The fact that the information is needed is clear. The SCM takes the need for information for granted. However, the SCM assesses the efficiency of the process and detailed requirements that companies must comply with when they provide information. De facto, the SCM assesses the quality of implementation of legal requirements and provides information on how to make the implementation more efficient.

SCM calculations

Administrative costs and burdens can be determined when a Concept Document is developed. The SCM works with four key variables: (1) wage per hour; (2) time needed to complete the information obligation; (3) the number of companies that must complete the information obligation; and (4) the frequency at which the information obligation must be completed.

The variables *wage per hour* and *time needed* have to be estimated. The SCM Manual explains in detail how the wage level is determined with standardised values. The time that is needed to comply with an information obligation builds largely on common sense and some testing of ideas, for example through interviews with businesses. A Concept Document needs to set the framework for these two variables by determining ways to ask for the information that will keep administrative burdens as low as possible.

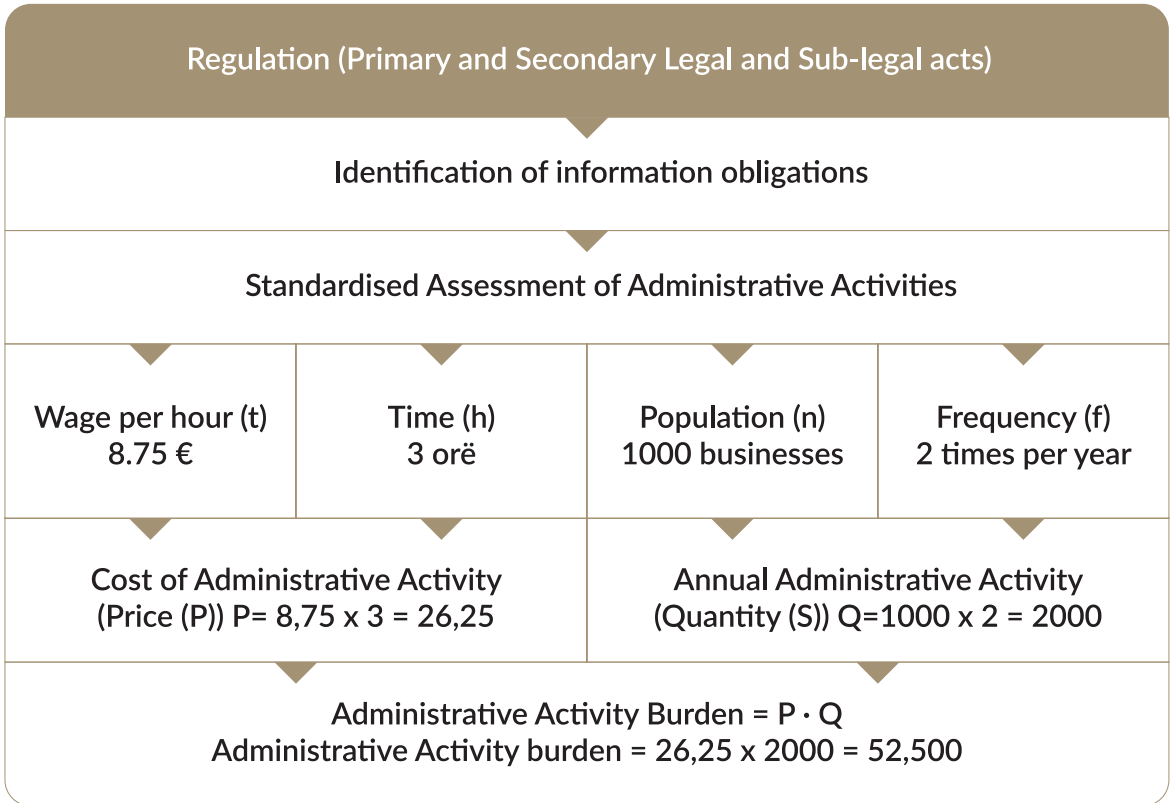
The *number of companies* that must complete the information obligation is defined by law. The analysis for the Concept Document should analyse and clearly define which companies have to comply with the information obligation.

The *frequency* at which information has to be provided is also set in legislation. Therefore, the Concept Document should analyse the optimal frequency in which the benefits of the information provision and the administrative burdens are weighed against each other. The frequency also depends on the mix of measures that are available to steer the activities of companies. It is important to note that higher administrative burdens for companies and citizens most often also result in higher costs for implementation of policies by the Government. After all, the information that is provided needs to be processed and stored by the Government administration too.

The figure below shows graphically how the SCM combines these four variables and shows how they originate from a law or sub-legal act.



Figure 71: Calculating administrative costs and burdens



Two tools can be very useful to determine the four SCM factors: Tool 17: SME Test and Tool 18: Regulatory Competitiveness Check.



Figure 72: Frequency of Information Obligations: two examples

EXAMPLE 1: VAT payments

The frequency of an information obligation depends on the actual need for and added value of the information. In the tax domain, many countries have chosen the option to legally oblige companies with a large turnover to submit their VAT declaration on a monthly basis. For companies with a small turnover, the VAT declaration has to be submitted only every 3 months.

The logic behind this choice is to focus on the largest payments since these are the most important ones. For a tax authority that receives VAT payments, it also makes sense to receive larger payments each time instead of lots of small ones. The tax authority must process every payment and that has costs as well. If many small companies would have to pay their VAT every month, the costs for administering the VAT system would increase sharply while the total amount of VAT paid would stay the same. This would lead, in practice, to less VAT income for the Government and a substantial increase in administrative burdens for companies. The SCM enables the prediction of such costs and helps to find efficient solutions to implementing legislation.

EXAMPLE 2: Permit and inspection

The Government can make use of a set of tools that affects the activities and behaviour of companies. By demanding a permit for certain business activities, the number of companies performing these activities can be limited to those that follow strict professional standards. A chemical processing plant, for example, needs to have a permit to make sure that the company takes the necessary measures to prevent disasters and has employees that are well-trained.

How often this permit needs to be renewed is an important factor for investment decisions. It is important for a company to know that its permit will be valid for a long time so that the investments will also provide a profit.

However, a permit provides information at specific points, for example every 5, 10 or 20 years. Of course, during the years between the permit applications the administration can make use of inspections to ensure that companies comply with legal requirements and that risks are kept low.

By combining permits with inspections, the administration has a powerful set of tools. They can work very well together when they are adjusted to each other and consider the needs of companies and their investments. The opposite is also true: permits with short durations and excessive inspections will deter companies from starting business activities. For high risk activities this can be justified, but for many other business activities it only leads to a loss of economic growth and a lack of jobs.

Building a chemical processing plant takes several years. It also can take a year or two before the plant is operating at full capacity. The new equipment has to be tested, supply chains have to be worked out in detail and other factors mean that a plant also needs time before it is in use fully. If a company gets a permit for 5 years, the risk is that the permit is not renewed and no investments will be made. No jobs will be created. The state does not see increased income from taxes.

Providing a permit for 20 years - or more - provides a basic guarantee to a company that it can build and expand its business over time. Inspections enable the administration to keep track of what happens in the chemical plant and whether legal requirements are being followed. If the latter is not the case, the company can receive a fine. When the company causes severe risks, its operations can even be shut down. Inspections thus provide a guarantee that risks are kept low and that companies follow the legal requirements.

Permits and inspections can work well together. The SCM provides insight into the costs of complying with both information obligations. This is useful for the analysis for a Concept Document and helps with setting proper criteria for both.

Calculating administrative burdens

Administrative burdens are an important factor when deciding on how legal requirements should be drafted. The analysis for the Concept Document is therefore of pivotal importance. The overview below shows the steps that need to be completed in order to make SCM calculations.



Figure 73: Making a SCM calculation

Step in the calculation process	Explanation
Step 1: Gather all relevant information	Collect the latest version of the law(s) and/or sub-legal act(s) that you are dealing with in your Concept Document. Also collect the forms and other documents that are linked to the implementation of the legal requirements.
Step 2: Identify all Information Obligations	Make sure that you have the SCM Manual at hand.
Step 3: Make the first SCM calculation	Screen the law(s) and/or sub-legal act(s) on information obligations. List them in a separate excel document for making SCM calculations that is provided together with the SCM Manual.

<p>Step 4: Contact the GCS for further support</p>	<p>Get in touch with the Government Coordination Secretariat on completing the SCM calculations. The Secretariat can help you with the collection of statistics on the number of companies, setting the wage levels and the other SCM factors.</p>
<p>Step 5: Consult with business organisations and individual businesses</p>	<p>This step is essential when completing the SCM calculations. It is necessary to validate the data of the SCM calculations.</p>
<p>Step 6: Define detailed options for the legislation</p>	<p>The Government Coordination Secretariat can assist with this process as well and can work with you together on this step and the following ones.</p>
<p>Step 7: Choose the least burdensome option for new Information Obligations</p>	<p>With the SCM data at hand, you can choose the least burdensome option for business that still allows you to reach the Specific Objectives.</p>
<p>Step 8: Check whether existing Information Obligations can be simplified</p>	<p>When your Concept Document is covering the option to change legislation, also check whether it is possible to simplify existing information obligations. You should do this even when your problem definition did not cover administrative burdens as a cause or effect of the problem. The SCM allows you to improve the efficiency of legal requirements. Every opportunity to lower administrative burdens should be used.</p>

TOOL 17: SME TEST

SMEs are the backbone of the economy. Most companies in Kosovo are SMEs. Since they are small and employ a few people only, SMEs face much higher costs of regulation than large companies. SMEs, for example, often have to work with external specialists such as accountants and lawyers. Big companies have specialists that work in finance or legal departments. Most SMEs lack the scale to employ financial and legal specialists directly.



Figure 74: SME definition according to Law no. 04/L-220 on Foreign Investments

The legal definition of SMEs is:

- » Micro-enterprise: must have up to nine (9) employees;
- » Small company: must have ten (10) to forty-nine (49) employees;
- » Medium-sized enterprise: must have employees of fifty (50) to two hundred and forty-nine (249) workers.

From this it follows that companies with 250 or more employees are large companies.

The goal of the SME Test is to make legislation, administrative rules and procedures SME friendly. They have to be easy to understand and easy to apply. To achieve this goal, the situation of SMEs should be analysed for a Concept Document.



Figure 75: The 10 goals of SME-friendly policies and legislation

- 1 Create an environment in which entrepreneurs and family businesses can thrive and entrepreneurship is rewarded
- 2 Ensure that honest entrepreneurs who have faced bankruptcy quickly get a second chance
- 3 Design rules that SMEs can easily comply with
- 4 Make public administrations responsive to the needs of SMEs
- 5 Adapt public policy tools, such as public procurement procedures, to SME needs
- 6 Facilitate SMEs' access to finance
- 7 Promote a positive legal and business environment for SMEs and apply legislation to SMEs only when necessary
- 8 Promote the upgrading of skills in SMEs and all forms of innovation
- 9 Enable SMEs to turn environmental challenges into opportunities
- 10 Encourage and support SMEs to benefit from the growth of markets

The SME Test is a combination of analysis and consultation that improves the insight into the challenges and opportunities that SMEs face. The test enables the development of legislation that is attuned to the needs and specifics of SMEs. The test is executed in four steps, listed in the overview below.



Figure 76: Executing the SME Test

Step in the SME Test	Explanation
1) Consulting SME stakeholders	<p>When the Concept Document deals with issues that are relevant for SMEs, they should be consulted directly. This should be done in addition to any public consultation. Consultation actions could include interviews, round table discussions, focus group meetings and/or hearings. SMEs should be engaged in these consultation activities to the greatest extent possible. Alternatively, consultation could be directed at organisations that represent SMEs.</p>
2) Identifying affected SMEs	<p>While you consult, you can determine more precisely which SMEs and which business sectors could be affected. This enables you to find important information, such as the number of SMEs, the number of staff they employ, their role in business supply chains, the value of their sales to consumers and more.</p>
3) Measuring the impact on SMEs	<p>This manual provides tools to assess the effects on SMEs. The most relevant ones are the costs related to complying with legal requirements. These costs, in relative terms, are always much higher for SMEs than for large companies. This reduces the possibilities for SMEs to compete. In turn, this hinders economic growth and blocks the creation of new jobs.</p> <p>Costs also arise from issues such as the obligation to pay fees or duties; adapting work processes; purchasing new equipment, training of staff and other investments.</p> <p>Administrative burdens can be assessed based on <i>Tool 16: Standard Cost Model</i>.</p> <p>Tip: The costs of the identified impacts for SMEs can be compared with those of large enterprises. One possibility is to compare the costs based on the size of companies. The costs are calculated per company per employee. This shows the relative costs and makes it easy to compare the effects between companies of different sizes.</p>

<p>4) Setting SME-friendly policies</p>	<p>In many cases, it does not add value to impose “one-size fits all” legal requirements on SMEs and large companies alike. Such solutions normally impose much higher costs on SMEs and these costs are often not justified. Only when SMEs and big companies are in the same situation (for example when they deal with the same amount of hazardous substances or when risks to workers are the same), should the rules be equal for both.</p> <p>The aim of the SME Test is to align legislation to the needs and specific situation of SMEs. When new requirements are necessary, they should be introduced. But the introduction should be done in a SME-friendly way.</p> <p>There are many possibilities to design legislation and sub-legal acts in line with the needs of SMEs. Some of the options are:</p> <ol style="list-style-type: none"> 1 Full or partial exemptions from legal obligations based on company size 2 Full or partial exemptions from legal obligations based on the risk that a company causes 3 Longer deadlines for SMEs to comply with legal requirements 4 Reduced fees based on company size 5 Simplified reporting obligations 6 Specific information campaigns or user guides, training and dedicated helpdesks/ offices 7 Simplified inspections
<p>5) Define how SMEs will be informed about the new measures</p>	<p>Developing SME-friendly policies needs to be effectively communicated to those that benefit from such policies. Existing SMEs need to be informed about the measures that are meant to benefit them. In addition, people that might be willing to start businesses or move their business activity from the informal sector to the formal economy need to be made aware of the improved conditions under which they can operate.</p> <p>The Implementation Plan needs to address the issue of informing the relevant target groups. This can be done through information campaigns, leaflets, conferences etc. and needs to be pinpointed at the target groups that are specifically relevant.</p>

TOOL 18: REGULATORY COMPETITIVENESS CHECK

The quality of legislation and sub-legal acts is based on two aspects: (1) the quality of the language and the legal drafting and (2) the actual effects the rules have and the added value that they bring. These effects can be beneficial, but will always impose some costs. The efficiency of legislation – the relation to the costs that it takes to achieve a certain goal – is relevant for many reasons. Inefficient procedures can block investments into society. They cost a lot of time for those that must comply with procedures. This applies to citizens, companies and the administrations alike.

It is not always easy to set legal standards and requirements. When they are too demanding and too complex, they might miss their goal completely. When they are too soft, they might not reach the intended goals either.

The Regulatory Competitiveness Check helps with setting legal standards that are comparable with those set by countries in the region and in the European Union.

The Regulatory Competitiveness Check also assists with finding ways in which legal requirements are executed. This includes measures aimed at providing information to those that are regulated (e.g. leaflets, information on website etc.) and the types and content of forms used for implementation (including IT solutions).

The overview below shows the different steps that should be executed for the Regulatory Competitiveness Check. It also shows how the collected data should be used.



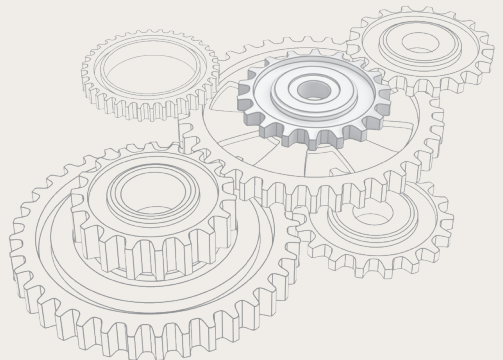
Figure 77: Conducting the Regulatory Competitiveness Check

Step in the Regulatory Competitiveness Check	Explanation
Step 1	Identify the issues for which you want to analyse how other countries dealt with them.
Step 2	Select the countries for the comparison. The suggestion is to compare with Albania, Montenegro and Croatia. If necessary, the comparison can be extended to other countries as well when these are more relevant for the analysis. This selection should, of course, be linked to the language skills of those working on the Regulatory Competitiveness Check or the translation capacities that are available.
Step 3	Search the internet for relevant documentation: laws, sub-legal acts, forms, procedures etc.

Step 4	Analyse and summarise the main issues in a table in which the analysed countries are compared with each other.
Step 5	If you need more information, contact the ministries and other Government organisations in the countries that you analyse.
Step 6	Discuss the analysis in the Working Group for the Concept Document. Decide on the line to take.
Step 7	<p>Choose from one of the following three options:</p> <ol style="list-style-type: none"><li data-bbox="534 586 1231 744">1 Apply the general legal standards to Kosovo as other countries do; always adjust the texts and formulations so that they are in line with applicable law; use forms and procedures developed by other countries as inspiration to design Kosovo-specific solutions.<li data-bbox="534 748 1231 934">2 When possible, apply legal norms that are less strict than in the comparison countries; this will reduce the implementation costs and make the regulatory framework less burdensome; use forms and procedures developed by other countries as inspiration to design Kosovo-specific solutions.<li data-bbox="534 938 1231 1068">3 When necessary, apply stricter legal norms; always explain and justify this choice in the Concept Document; use forms and procedures developed by other countries as inspiration to design Kosovo-specific solutions.



05



SECTION 05: COMMUNICATION AND CONSULTATION

Communication and consultation are about gathering input for a Concept Document, but also about communicating the intentions of the Government for changing or improving policies and the motivation behind these intentions. This section helps you to:

- Communicate effectively during the development of a Concept Document
- Conduct internal consultation within the administration and public consultation with all stakeholders that are not part of the administration
- Identify the target groups for communication activities
- Ensure that public consultation maximizes participation, is transparent and adds value for all involved
- Identify the right stakeholders that need to be consulted for public consultation
- Effectively plan consultation activities, including the obligatory public meeting and online public consultation
- Align consultation and communication activities
- Organise targeted consultations throughout the development of the Concept Document

Communication is about bringing the Government's messages across to relevant target audiences. The main aim of communicating during the development of a Concept Document is to inform relevant persons and organisations about the plans that are under consideration. In addition, it enables the Government to show that it is working on solutions to address problems and issues that are relevant for all citizens or specific relevant sub-groups. Communication can also strengthen activities related to consulting the wider public and specific stakeholders.

Consultation is a very useful method for collecting data, verifying information and gaining new insights. The aim of consultation is to bring the administration and stakeholders together in order to discuss the problems in detail, to address options to address these and to assess which kind of benefits and costs could occur. Public consultation fosters the exchange of information, views and data which can then feed into the decision-making by the Government. It enables active participation of citizens, companies, Civil Society Organisations, business representatives and Development Partners in policy development.

For these reasons mentioned above, both communication and consultation have to be integral parts of the process for developing a Concept Document. Determining the problem definition, defining objectives and options, identifying and assessing impacts, comparing the various options, determining the implementation plan and other segments of a Concept Document gain quality thanks to internal consultation and public consultation. For this consultation to be effective, it has to be communicated properly. This section of the manual focusses mainly on communication and consultation beyond the administration and the line ministries that are responsible for developing policies.

TOOL 19: ADHERING TO THE MINIMUM STANDARDS FOR CONSULTATION

The purpose of the consultation is gathering input for a Concept Document, but also about communicating the intentions of the Government for changing or improving policies and the motivation behind these intentions. If performed well, consultation fosters understanding and thus acceptance of policies. This, in turn, results in better and more effective implementation.



Figure 78: Public consultation and internal consultation

Two distinct types of consultation have to be conducted when a Concept Document is developed: internal consultation and public consultation.

Internal consultation refers to the consultation within the administration. This process covers, among others, discussions as part of the preparation of a Concept Document, the participation in Working Groups and the process of prior consultation based on Article 7 RoP which has to be conducted before a proposal is submitted for inclusion in the Government session for discussion and adoption. For a Concept Document, the organisations that are responsible for the implementation of existing rules and/or the implementation of future requirements deriving from the Concept Document are of particular importance. They should always be consulted.

Working Groups are responsible for involving important stakeholders from within and beyond the administration into the development of a Concept Document. This practice is a targeted consultation in which a specific group of stakeholders is asked to share their knowledge and expertise. However, a Working Group that involves a diverse group of organisations is not expected to regard this as a substitute for public consultation.

Public consultation covers the consultation of all stakeholders that are not part of the administration. This includes businesses, NGOs, citizens and international organisations. These stakeholders are the ones that will eventually have to comply with requirements that are developed through a Concept Document. Stakeholders that are part of administrations could also be part of public consultation.

The potential benefits from stakeholder consultation are manifold. In order to reap them, the consultation activities need to be prepared with care and planned well. This is mainly due to the fact that stakeholder consultation covers all activities in which people from outside the administration are asked to provide their comments, ideas, suggestions, data and more on the issues that are relevant for the Concept Document. Another important reason is that stakeholders are actually a very diverse group of people and organisations. Different stakeholders need to be contacted differently so that their participation in the consultation process is made as easy as possible.

When consulting stakeholders, four principles guide the process. These principles are presented in the figure below. They are relevant since stakeholder consultation is about motivating people and organisations to work with the administration and submit their views. This does of course take time and demands resources from the Government. Equally important is that it takes time and effort on the side of stakeholders as well.

When conducting stakeholder consultation it is essential to realise that others will have to set aside their daily work in order to participate in the consultation. This will not be an issue for some organisations, such as professional NGOs (e.g. Kosovo Chamber of Commerce and organisations that work in specific fields, e.g. human rights, rule of law, anticorruption, media etc.). Such organisations can rely on highly professional staff whose job it is to participate in consultations. This makes it more likely that they can participate in a consultation. However, the effort that such organisations need to make – for example in the form of research, analysis and discussion with other organisations – does still place a clear demand on the time and budget that these organisations have at their disposal.

It is essential to realise that most civil society organizations and companies do not have extensive capacities or specialized staff such as lawyers and economists who earn a part of their salary by giving their contribution during the stakeholder consultation for Government policies. In fact, the vast majority of companies are SMEs that will have to decide between running their business and contributing to a consultation. Most civil society organisations can only operate thanks to the efforts and time invested by dedicated volunteers. As the Kosovar Civil Society Index 2016 – published by the Kosovo Civil Society Foundation – shows, around one third of Civil Society Organisations operate only thanks to volunteers and they operate without employees or funding. Of those that have employees, two-thirds operate with up to four employees. It is essential to keep in mind that when Civil Society Organisations participate in a consultation, their volunteers and employees might actually be giving up their own free time. When a person participates in a consultation as a individual citizens, this person is also investing her or his leisure time. This means that consultation activities have to adapt to the resources of the stakeholders that have to be consulted. And even more importantly, the administration needs to acknowledge the time and effort that stakeholders invest into public consultation by showing that these efforts are valued and treated accordingly.



Figure 79: The four public consultation principles

The consultation principle	Explanation and suggestions
1) Always aim for maximum participation	<p>Consultation adds value when many stakeholders can participate in it. This means that they need to have sufficient time and information about the consultation, the relevant issues and the purpose of the consultation. There is always a wide choice of consultation techniques and activities that can be applied. This depends on the topic and needs to be tailored to the specific situation in which stakeholders operate.</p> <p>How a consultation is planned and how it is conducted determines to a great extent the success of a consultation. As a general rule, the better a consultation activity is adjusted to the specific circumstances of stakeholders, the more useful and eye-opening the consultation will be. Consultations also need to be properly communicated and supported by concise and clear explanation that shows the importance of the consultation. This enables stakeholders to quickly understand the consultation and they will not miss out on important consultations.</p> <p>Example: The consultation activities for a highly complex policy proposal on Bank Resolution and Recovery need to make sure that those that are consulted are involved and well-informed. Banks will probably face no difficulties when they analyse a Concept Document on this issue with the aim of providing a consultation response. Just sending the draft Concept Document for comments will not be an effective way to involve consumer organisations, SME representatives and other relevant organisations in the consultation. These organisations are unlikely to have detailed regulatory expertise in banking and financial services. In order to involve these organisations, it is essential to adapt to their circumstances. This can mean organising a two-day workshop on the content of the Concept Document. During this workshop, the most relevant parts of the Concept Document can be discussed in more detail and stakeholders can gain a better understanding on which issues they should focus their attention.</p>

<p>2) Always be transparent and provide feedback</p>	<p>Consultation should never turn into a black box for stakeholders. The efforts that it takes to participate in the consultation process need to be respected. This means communicating openly with stakeholders about their contributions and how they have been taken into account. This also means providing feedback to stakeholders on their suggestions after the written online public consultation.</p> <p>In practice this comes down to showing and explaining how contributions from stakeholders were treated. There are three possibilities for this. Contributions can be (1) fully or (2) partially integrated into the Concept Document. Option (3) is that a stakeholder contribution is rejected. It is obligatory to explain why any of these options was chosen.</p>
<p>3) Always make sure that consultation adds value</p>	<p>It takes time and effort to organise a consultation. Stakeholders invest a lot of time in participating in a consultation organised by the administration. It adds no value when the consultation takes place too late or when the consultation deals with aspects that have already been decided, for example when a policy has already been developed.</p> <p>The earlier consultation starts, the more value it adds. Such an early start allows everyone to work with the consultation, to discuss issues in detail, to collect data and develop a clear overview of the issues that matter. Consultations can and should be organised as a part of the process of developing the Concept Document. Consultation should not be regarded as a one-off activity while a Concept Document is drafted.</p>
<p>4) Always make sure that consultation activities strengthen each other</p>	<p>‘Consultation’ is a general phrase that includes a very broad range of activities. There are many possibilities to consult stakeholders. A detailed overview is presented in <i>Tool 21: Selecting consultation methods</i>.</p> <p>Consultation works best when it is aiming to develop a dialogue with stakeholders. A good dialogue is based on a regular exchange of views. Consultation activities should, therefore, promote such an exchange.</p>

Minimum Standards for Public Consultation for Concept Documents

Requirements for consultation are covered by the Government’s regulation on Minimum Standards for Public Consultation¹⁷. These standards apply to a range of decision making processes and documents that are developed for line ministries. This manual has embedded the requirements that apply to developing Concept Documents.

The regulation sets specific requirements that are particularly relevant for developing Concept Documents.

The official that is responsible for the development of a Concept Document is also responsible for the consultation activities and the implementation of the consultation plan.

¹⁷ Regulation (GRK) No.05/2016 on minimum standards for public consultation process, was approved on meeting 86 of the Government of Kosovo, with the decision No.06/86, from 29.04.2016.

This does, however, not mean that that person has to conduct all consultation activities. The official responsible for consultation should get the support of others to make consultation a success. Each ministry also has a dedicated Public Consultation Coordinator. This person is responsible for providing advice on how to implement consultation effectively. In particular, this person can support with the organisation of the written public consultation that is organised online through the official consultation website:

<http://konsultimet.rks-gov.net>

The Minimum Standards for Public Consultation stipulate that two consultation activities are obligatory: public meetings and public written consultations online. While these are indispensable, the reference to “minimum standards” and the regulation as such suggest that a range of stakeholder consultation techniques and activities should be applied. These need to be adjusted to the relevant target groups.



Figure 80: Publishing a Concept Document on the online public consultation platform

After the inter-ministerial consultation, the proposing body must organize a written public consultation online with the aim of requesting comments on the content of the Concept Document. This online public consultation has to be organized through ‘<http://konsultimet.rks-gov.net>’.

When the Concept Document is ready for public consultation, the Public Consultation Coordinator of the ministry can upload the documentation on the online public consultation platform. The Concept Document must be published in Albanian and Serbian. If it is available in English, publish it in all three languages.

An explanation accompanying the Concept Document must be published as well in Albanian and Serbian. It must present the reasons behind the public consultation, the main issues addressed in the Concept Document and the contact details of relevant persons. If possible, publish this explanation in English as well.

At the end of the public consultation process, a report must be published on how the different comments from stakeholders were taken into account. This report must list practical information about the consultation process and the show the reasons for (partially) accepting or not accepting the suggestions that were brought forward by stakeholders. This report must be published on the public consultation website.

Formats for both the explanation document and the report on the public consultation are available on the public consultation website.

It is recommended that the outcome of a consultation is communicated directly to stakeholders that have participated in the consultation. Depending on the issues raised during the public consultation and the importance of the discussion, the outcome could be communicated to the general public as well.

In addition, the Minimum Standards set out the requirements that need to be followed when the public meeting and other consultation meetings are organised. These requirements are presented in the overview below.



Figure 81: Requirements for organising the public meeting and other consultation events

The Proposing Body is always responsible for organizing consultation activities when developing Concept Documents.

During the drafting of a Concept Document, it is essential to engage the public and interested parties directly. At least, a public meeting needs to be organized for the stakeholders and individuals that have expressed their interest in being involved in the topic that the Concept Document addresses. The invitation needs to be sent to the organizations and individuals that have registered through the consultation website. In addition, the public meeting needs to be open to all other interested parties and therefore needs to be published by the ministry.

The announcement for the public meeting should be e-mailed to the stakeholders and individuals who have expressed interest in being part of the public consultation on the online platform and are already registered on this platform. Other methods of announcing the meeting need to be applied as well, such as announcing the meeting on the online consultation platform and via civil society partners such as KCSF and CiviKos, social media, TV, etc.

Stakeholders may only be asked to initially confirm their participation for logistical reasons. No stakeholder or individual may be excluded from the public meeting and registration may not be required. An attendance list and notes of the public meeting must be published.

The information about the public meeting and all materials and available data have to be equally accessible to everyone: to the public, stakeholder representatives, Working Groups and all other organizations and individuals that might be interested to be involved in the drafting of the Concept Document.

The Minimum Standards on Public Consultation regulate the following practical aspects regarding the organisation of public meetings:

- 1) The meeting must be announced at least seven calendar days in advance
- 2) The invitation should, if it exists, include the analysis that has been conducted for the Concept Document already, e.g. sharing the draft of the problem definition
- 3) The invitation should provide the information, documents etc. that the Working Group is using for developing the Concept Document
- 4) The invitation must include the time and place of the public meeting
- 5) The invitation should state clearly who is responsible for the organisation of the public meeting and therefore is the contact person for the organisation of the meeting
- 6) The representatives from the public authority that organises the meeting lead the meeting and take notes
- 7) The official notes of the meeting are presented within seven working days after the public meeting took place; these notes must reflect the discussion that took place, must contain the main conclusions from the meeting and must provide a summary of the meeting; these notes must be sent by e-mail to the persons that participated in the public meeting.

These aspects are regulated in Article 8 of the Minimum Standards on Public Consultation and the overview has been adjusted to the development of Concept Documents. They apply to the organisation of the public meeting and other consultation meetings.

TOOL 20: IDENTIFYING STAKEHOLDERS

The usefulness and success of communication and consultation organised for a Concept Document depends on the identification of the stakeholders and relevant target audiences. The basic rule is to communicate and consult broadly and transparently.

In most cases it is straightforward to identify the stakeholders that matter most. The problem definition, especially when it is organised based on the Problem Tree, lists the problem, its causes and effects. Organisations and people that are affected by these causes and effects should always be consulted. This can be done directly and/or indirectly through their representative organisations.



Figure 82: The three main stakeholder groups

1. Stakeholders affected by the policy
2. Stakeholders who will have to implement the policy
3. Stakeholders who have a stated interest in the policy

TIP: a wide variety of stakeholders have registered on the online consultation platform. These stakeholders also indicated the policy areas in which they are interested. The OGG manages this platform and can provide an overview of stakeholders that might be interested in a specific Concept Document.

The three stakeholder groups vary per policy area and per specific topic. They therefore will vary for each Concept Document. The broad groups that should be involved in consultation are listed in the overview below. A useful first step to identifying stakeholders would be to review the list of stakeholders that have registered on the online consultation platform and have indicated to be interested in the policy proposals of certain ministries.



Figure 83: Groups that should be considered for communication and consultation activities

Citizens

Civil Society Organisations representing citizens' interests and specific groups

Trade Unions in case citizens are affected in their position as workers

Companies (domestic and multi-national)

Small and Medium-sized Enterprises

Chambers of Commerce

Organisations that represent the interests of businesses

Organisations representing professions and crafts

Public authorities on national, regional and local levels (internal consultation)

Agencies and inspections (internal consultation)

Civil Society Organisations representing general interests

Think-tanks

Universities

Schools

Research institutes

Internal and external experts

International organisations

Donor organisations

TOOL 21: SELECTING CONSULTATION METHODS

Consultation covers all activities in which stakeholders are asked to provide their opinions, ideas, information etc. on issues that are raised by the Government. Consultation is about communicating with stakeholders through targeted consultation activities and written online public consultation. There is a wide range of activities that can be developed in order to consult.

Two consultation activities are obligatory for every Concept Document: the organisation of a public meeting early in the development process of the Concept Document to initiate the public consultation process and the **written online public consultation** that is organised through the official consultation website after the prior consultation with all relevant state administration bodies. The online consultation takes place through the publication of the Draft Concept Document and the supporting Consultation Document on the website. Every person and every organisation that is interested in the issues then has the opportunity to send in their views.

However, before written online public consultation takes place, the proposing institution needs to organise additional consultation activities to ensure that many issues are addressed properly.

Targeted consultations are those activities in which specific stakeholders are interviewed or invited for discussions. Such consultations are useful to discuss issues in-depth and to allow more focused interactions or dialogue. They are also essential to involve individuals and organisations in the consultation process that do not have the time and resources to react to documents published by the administration.



Figure 84: Reaching out to grassroots organisations and individual citizens

Civil society has become more widely involved in drafting laws and influencing policies. There are numerous occasions in which Civil Society Organizations campaigned to advocate changes to policies and laws. They can provide their expertise by participating in Working Groups for Concept Documents.

Since grassroots organisations are close to their community, consulting them and individual citizens can be highly relevant when a Concept Document is developed. This is especially the case when impacts are likely to occur in a specific region or town.

Reaching out to grassroots organisations and individual citizens can be very difficult since they are not always organised in a conventional manner as an NGO and since they might not have a website either. However, many grassroots organizations and individuals organise themselves through linking to local networks of NGOs or social networks such as Facebook and LinkedIn. A search on these and other social platforms using relevant key words and geographical indications can provide an overview of relevant grassroots organisations and individual citizens. A discussion on the issues addressed in the Concept Document will quickly show whether it is relevant to involve the identified groups and individuals.

Consultation activities also include the **organisation of meetings, conferences, hearings** or other events. Depending on the role that the consultation plays, these events can be widely announced and open to everyone that is interested. They can also include meetings for which a specific group of stakeholders is invited. In addition, interviews, surveys and opinions polls can provide useful insight.



Figure 85: Existing opinions polls

Opinions polls are regularly organised in Kosovo and the Balkans. A few examples are listed in this overview:

Public Pulse Opinions Polls: targeted polls and focus groups that provide first hand evidence on the perceptions and opinions of the public on the development issues. Public Pulse covers four standard areas: (1) political and institutional stability; (2) economic and social stability; (3) inter-ethnic relations; and (4) public and personal security.

Link: http://www.ks.undp.org/content/kosovo/en/home/operations/projects/democratic_governance/PublicPulse.html

Balkan Opinion Barometer: survey on attitudes from citizens of the Western Balkan countries

Link: <http://www.rcc.int/seeds/results/2/balkan-opinion-barometer>

Balkan Business Barometer: survey on attitudes from businesses operating the Western Balkan countries

Link: <http://www.rcc.int/seeds/results/3/balkan-business-barometer>

For consultation to be effective, various consultation tools need to be combined and the administration needs to ensure that regular interactions with stakeholders take place. Consultation starts already with making a phone call to stakeholders and asking them whether they think an issue is of importance to them. Consultation is, most often, relatively easy to organise. The three main requirements that need to be met are that there is sufficient time to consult; that it is clear what the consultation is about; and that the replies from stakeholders are properly analysed.

TOOL 22: COMMUNICATION DURING THE DEVELOPMENT OF A CONCEPT DOCUMENT

Communication is essential for developing and implementing policies. Government communication is more than appointing a spokesman who will answer journalists' questions, delivering a press release, or holding a press conference. It is an instrument of the Government during the entire policy development process. It needs to be considered at each step in this process.

Effective communication with the public helps establish cooperation with citizens to design the Government program, to understand the real needs of citizens and to develop and implement policies that fit their needs. Effective communication, moreover, makes Government decision-making more transparent and increases accountability.



Figure 86: The two main functions of communication in society

Communication is a process through which organizations emerge and evolve. It is the basic process through which individuals, groups and organizations relate to each other. Communication is essential in every decision-making process and especially relevant for policy development. The two main functions of communication are providing information and persuading people to change the way they are working.

Information consists of facts, figures and data arranged for specific purposes. This can be statistics, reports, discussions, examples and any other types of data that explain the issues that need to be communicated.

Persuasion builds on this information and on the way in which it is communicated. Persuasion is meant to change or influence attitudes and/or behaviour. This can be best achieved by using the best arguments to convince others and win them over.

The Government's overall aim is to improve the lives of the people of our country. It collects taxes and duties. It spends these in line with the political priorities. The Government's decisions affect everyone. Therefore, everyone has the right to know what the Government is doing, how its decisions will affect their lives and what their rights, opportunities and obligations are or will be.

Effective communication serves the Government's overall aim to develop and improve the country. For communication to be effective it needs to be planned, coordinated and conducted by responsible people who know how to convey the Government's message in a timely and appropriate manner. A coordinated approach to communication by the Government enables effective communication with external audiences during the policy development process. Good internal communication contributes to Government employees feeling involved and motivated to perform their duties efficiently. It also contributes to better functioning of the Government in day-to-day activities.

Contribution of Communication to Policy Development

Governmental communication involves many activities, for example:

- providing information to the public
- explaining certain policies, in particular Government priorities
- raising citizens' awareness of the policy effects
- enabling interaction and two-way communication between the Government and the public.

Communicating policies - during the process in which they are developed - means:

- that the Government involves the public in future decisions
- that the Government communicates the decisions it takes
- helping to solve problems
- creating more understanding
- leaving room for fewer questions
- reducing misunderstandings
- explaining why certain suggestions were not taken forward
- gaining more support
- helping in the preparation, adoption and implementation of policies.

This can be achieved through various means of communication such as awareness raising campaigns, public discussions or roundtables with targeted groups (civil society, teachers, doctors, business community, media ...), the creation of specific platforms for communication with the public, informative sessions, press conferences, use of websites and social networks, authoring publications that reflect the views of the Prime Minister or Ministers, etc.

Since public consultation is meant to promote active participation of citizens, companies, Civil Society Organisations, business representatives and Development Partners in policy development, communicating regularly during this process is very important. This enables the administration to inform the public more effectively about its consultation activities. This, in turn, provides the information that the public needs to actively participate in these consultation activities.



Figure 87: Principles for Good Communication

Principles	Explanations	Impact on the Concept Document development
Open	In communication with citizens, it is important for the Government to be open, clear and accessible	Informing citizens about the new policy in the early stages of policy development
Outreaching	The Government should ensure that its communication activities reach all citizens	Reaching out to as many citizens as possible in different parts of the country during the policy development process
Inclusive	Ensuring involvement of people affected by certain policies and accepting relevant input to increase public confidence in the Government's decisions	Taking into consideration suggestions of citizens regarding a certain policy, develop consultation activities that enable a wide range of citizens to be involved
Active	It is the responsibility of the Government to communicate, to initiate communication activities and to do this in a timely manner to inform citizens about their rights, obligations and opportunities	Proactive approach to reach out to the public during the policy development process in order to engage citizens
Coherent	Government communication should be reasonable and coordinated and perceived as such	Integrating Government priorities in the policy development process, planning communication activities well in advance , ensuring that relevant Government bodies are involved in these communication activities and ensuring that messages and events are aligned

Communication Structure of the Government

The Government Communication Service consists of civil servants and political advisors. They are responsible for ensuring effective and clear communication of policies and activities of public institutions to target groups and stakeholders.

The Public Communication Office within OPM plans and coordinates Government communications; ensures that the Government Spokesperson and the Prime Minister are briefed on the key issues and activities of the Government; informs the public about the work and decisions of the Government through the development of media relations; plans the development of media and publicity campaigns; is responsible for updating the website; and provides regular reports from local and international media for the Prime Minister, Government Spokesperson and Ministries.

The Public Communication Offices in the Ministries offer professional support to the Minister, the Ministry Spokesperson and the Ministry as such by offering advice on the most effective ways of presenting policies; preparing, maintaining and implementing the communication plan based on the work plan of the Ministry; cooperating with the Ministry Spokesperson in organising press conferences and interviews; drafting and issuing press releases, statements, reports and other publications to the public; updating the information on the official website of the Ministry; ensuring access to the information that is communicated; providing a daily report of the media coverage of the Minister and the Ministry regarding the policies and activities that fall under their responsibility.



Figure 88: Characteristics of Effectiveness in Policy Communication

Characteristics of efficiency in communication	Explanation and suggestions
1) Identifying the relevant audience for specific issues	In the process of policy making, time is valuable. The clear definition of the audience and the issue to be communicated saves time both for the Government and the public. It is also important to clarify the relevance of the information for the audience to make sure that the relevant target group invests sufficient time to absorb the message
2) Clarifying the role of the audience	Policy communication is more than just presenting information. It also needs to take account of the possibilities and the responsibilities of the audience. In order for policy communication to have a positive impact, the role of the audience needs to be properly clarified (for example: to clarify whether the audience with which to communicate are citizens, field experts, civil society representatives, business community representatives, Government officials or other). The message needs to take account of these roles.
3) Using the right communication tool	A range of tools can be used to communicate policies (press release, media conference, interview, web site publishing, interactive communication through social networks, debate with the audience, information session, etc.). The chosen communication tool(s), the language, the document type and style must support the intended purpose of the communication activity and fit to the expectations of the target audience.
4) Appropriate design	In order to encourage participation in the policy-making process, it is important that the documents are well structured and that the content is clear and comprehensible.

TOOL 23: PLANNING THE COMMUNICATION FOR A CONCEPT DOCUMENT

Effective and useful communication begins with a good planning of all communication activities. Communication is needed continuously during the process of drafting a Concept Document. It links directly with the public consultation process, which enables active participation of the public and companies in policy development. All communication activities should be planned in a timely way and should include:

- » the key message(s) for the foreseen policy
- » the key objective of communication
- » identification of stakeholder groups (who is affected by policy change, other partner groups that assist the institution in the implementation)
- » specific objectives for each interest group
- » communication activities, timing of execution and responsibilities for their implementation
- » selected means of communication
- » achievement indicators
- » budget required for the implementation of communication activities.



Figure 89: Steps for communication during the process of developing a Concept Document

Step	Explanations
Step 1	Involvement of the communications officer in consultations regarding the planning the Concept Document
Step 2	Involvement of the communications officer in the Working Group for drafting the Concept Document
Step 3	<p>Preparing the communication plan at the beginning of the Concept Document development process, in addition to the preparation of the consultation plan. Communication of the public consultation process will be supported through:</p> <ul style="list-style-type: none"> » developing appropriate messages related to the purpose of the policy, in order to make it more comprehensible to the main target groups and the media » organizing press conferences / informing journalists at the beginning of the consultation process to present draft documents and explaining the methods of consultations and opportunities so that citizens, CSOs and other stakeholders are involved in this process » increasing media coverage of public debates / public meetings on Concept Documents and dissemination of notices of comments derived from these discussions through social networks and other communication channels » presentation of reports on the results of public consultations with the media and the general public
Step 4	Analysing how communication activities can support the aims that the Government wants to achieve; integrating these into the implementation plan (see also Tool 10: Implementation plan for policy options)
Step 5	For the adoption of the Concept Document, preparing a press release for the media and the public regarding the Government's decision on the Concept Document and further steps
Step 6	Realization of communication activities based on the Concept Document implementation plan after the adoption by the Government

TOOL 24: PLANNING THE COMMUNICATION AND CONSULTATION FOR A CONCEPT DOCUMENT

Effective and useful communication and consultation starts with a good planning of all relevant activities. Communication and consultation are not a one-off activity. It is a dynamic, on-going process that happens during the development of a Concept Document.

All communication and consultation activities need to be reflected in the Communication and Consultation Plan. This plan needs to include:

- » the aims of communication activities and the target groups;
- » the aims of the consultation activities and the target groups;
- » the link between the problem definition and the consultation activities;
- » the preparation of all documents that will be presented to an audience outside the administration;
- » the preparation of consultation documents that will be used in addition to the draft Concept Document;
- » the consultation activities that will be organised and how they will be communicated;
- » all relevant stakeholder groups for targeted consultation activities;
- » for stakeholders that are not specialised in responding to Government consultations, actions to make sure that they will be likely to respond;
- » the required time and resources to carry out the different consultation activities;
- » the person(s) responsible for the implementation of the Communication and Consultation Plan;
- » the people responsible for each individual activity.

A Communication and Consultation Plan is always specific for the Concept Document that it is made for. It needs to be developed at the very start and it must be discussed during the first meeting of the Working Group of the Concept Document.



Figure 90: Schematic overview for a communication and consultation process for a Concept Document

Step	Explanation
Step 1	Developing the first draft of the Communication and Consultation Plan for the Concept Document
Step 2	Discussing the Communication and Consultation Plan during the first meeting of the Working Group for the Concept Document to agree: <ul style="list-style-type: none"> » the list of stakeholders » the list of planned communication activities » the list of planned consultation activities » the work distribution for the consultation work » the senior management and political involvement in the communication and consultation activities
Step 3	In case it is relevant for the development of the Concept Document, communicate the start of its development through a press release
Step 4	Organisation of the public meeting with the parties who expressed their interest in developing Concept Document; this meeting needs to be widely communicated; in case the development of the Concept Document is a priority for the Government, consideration should be given to involving the minister directly in major communication and consultation activities
Step 5	Organising targeted consultations and publicly accessible consultation activities <ul style="list-style-type: none"> » implementation of the activities agreed upon in the consultation plan » an overview of how these activities will be communicated » reporting on the implementation of consultation activities during meetings of the Working Group
Step 6	Written public consultation through the consultation website
Step 7	Analyse the written consultation responses
Step 8	Drafting the report for the written public consultation based on the methodology and format set in the Minimum Standards for Public Consultation.
Step 9	Publishing the report for the written public consultation
Step 10	Integrating the summary of relevant consultation recommendations in the Concept Document; communicate the main findings from the consultation to stakeholders that participated in the consultation process and potentially interested organisations/individuals
Step 11	Communicate the adoption of the Concept Document based on the Implementation Plan; the adoption of a Concept Document always needs to be accompanied by the publication of a press release

TOOL 25: EXAMPLE OF A COMMUNICATION AND CONSULTATION PLAN

A plan for structuring communication and consultation provides an overview of activities that are to be developed in order to improve the quality of a Concept Document. The figure below shows the different aspects that could be addressed in the plan.

The plan needs to cover both communication and consultation activities since the two are closely related. Communication activities are relevant for showing that the Government has started work on a relevant topic and that it is implementing its priorities. Consultation is relevant to engage with stakeholders and to ensure that useful input for the Concept Document is provided by these stakeholders.

For each communication activity that is conducted for a Concept Document it is essential to keep in mind that stakeholders will also receive the information that is communicated. And when a consultation activity is organised, it is essential to keep in mind that these activities need to be properly communicated and fit in the wider communication approach of a ministry and the Government.



Figure 91: Example of a Communication and Consultation Plan

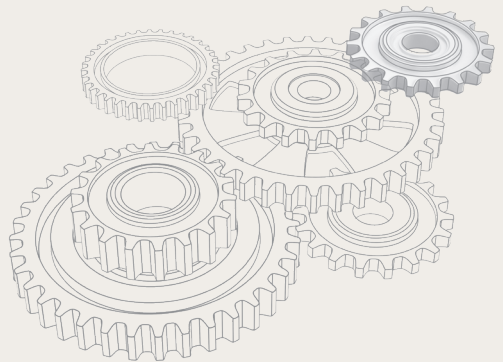
The consultation process aims to:

- » - improve the problem definition through targeted consultation
- » - discuss potential impacts with affected stakeholders
- » - obtain new proposals from stakeholders

Main aim	Target group	Activity	Communication/ Announcement	Indicative timing	Budget need	Responsible person
Inform the public and interested parties about start of the work	Public and interested parties	Publishing press release	Press release	January	None	Name of person
Raise awareness about the CD	Public and interested parties	Interview minister on TV and radio	TV and radio interview	February	None	Name of person
First discussion with stakeholders	Interested parties	Public meeting	Press release, publication on consultation website and invitation via email	Mars	None	Name of person



06



SECTION 06: SELECTING AND PRESENTING THE BEST SOLUTION: COMPARING OPTIONS AND THEIR IMPACTS



The optimal option that will be developed further and implemented needs to be determined. This section helps you to:

- Present the relevant benefits and costs through concrete statistics, figures and numbers
- Present the information in a logical and easy-to-understand way
- Assess and compare the options based on the added value that they provide

While analysing options that enable the Government to reach the Specific Objectives, a lot of information is collected. For those that are involved in the process of preparation and analysis of the issues, the Concept Document can be clear since they have worked on it from the start. However, people who have not been involved before in the drafting of the Concept Document need to have the information presented in a logical and easy-to-understand way.

There are several comparison tools that can be used to summarize and present the data that was collected for the Concept Document. These tools also serve to determine the optimal option that will be developed further and actually be implemented.

The prerequisites that need to be fulfilled in order to apply these comparison tools vary. The most important determinant is whether the relevant benefits and costs can be presented through concrete statistics, figures and numbers (also referred to as quantitative terms). In a way, the topic that is analysed in the Concept Document, the data that is available and other conditions, such as time available, political guidance etc., define to a great extent the type of comparison tool that can best be used. The comparison tools – and their most useful application – are presented in the overview below. The three tools are Cost-Effectiveness Analysis (CEA); Cost-Benefit Analysis (CBA) and Multi-criteria Analysis (MCA).



Figure 92: Cost-Effectiveness Analysis, Cost-Benefit Analysis and Multi-criteria Analysis

CEA compares the costs needed to achieve a specific result. It assesses options based on the value for money that they provide.

CBA compares the options through calculating the monetary value of the costs and benefits. It assesses options based on the net benefits.

MCA is a default tool that should only be applied when CEA and CBA cannot be applied. It needs to be handled with great care. It is used to compare options that cannot be quantified or easily compared.

TOOL 26: COST-EFFECTIVENESS ANALYSIS (CEA)

Cost-Effectiveness analysis (CEA) compares the options based on the costs needed to achieve the intended result. These results can be benefits that sometimes are hard to quantify in monetary terms. This applies, for example, to benefits such as increased life expectancy, improved quality of education and reduced pollution. CEA shows the value-for-money that an option delivers.

For a CEA, the intended result has to be clear and easily comparable. CEA is a useful tool when the Goals and Strategic Objectives are defined in detail, for example when they follow from a strategic document or from clear political commitment to achieve a specific result. The approach requires detailed understanding of the costs necessary in order to implement actions and how the activities that are financed will achieve the required result.

CEA works best when there is one main target that should be reached and when this target is clear. The target as such should be supported politically and is endorsed by all affected stakeholders. When the expected target is achieved, there can, of course, be lots of additional benefits coming from it. These do not need to be added to the CEA, but should always be presented in the analysis for the Concept Document.

CEA can also be performed by setting a fixed maximum budget for reaching Strategic or Specific Objectives. That budget must be realistic and therefore be within the budget ceiling of a ministry unless the Government on the proposal of the Ministry of Finance agreed to make additional budget available.

The overview below shows a fictitious example of a Cost-Effectiveness Analysis. This way of presenting information can be used in Concept Documents.



Figure 93: Example of a Cost-Effectiveness Analysis

Overall target: decrease the school drop-out percentage at primary school level			
Cost/benefit	Option 1: no change	Option 2: adjust school curriculum	Option 3: increased school inspections and visits to parent
Expected decrease in drop-out rates based on analysis	0	50% on average per school	12% on average per school
Changes needed	-	One additional part-time teacher and one additional support staff per school	One school inspector per school
Cost	-	8000 euro per school per year	5000 euro per school per year
Total extra costs based on 1000 schools		8 million euro per year	5 million euro per year
Result	No change	160.000 euro per percentage drop (8 million euro/50%)	417.000 euro per percentage drop (5 million euro/12%)

The example shows the relation between the costs and the value-for-money that these costs bring about. However, it does not automatically follow that the most cost-effective option - in this simplified case it is Option 2 - is also the one that can be implemented.

The final factor that needs to be considered, is the actual budget that is available. The total costs for all schools still have to be within the budget that is actually available for decreasing school drop-out rates. This is a decision that needs to be addressed in the Concept Document as well and relates to Tool 10: Implementation Plan, Tool 11: Costing for Concept Documents and potentially also to Tool 12: Complying with Budget Impact Assessment.



Figure 94: Steps for conducting Cost-Effectiveness Analysis

Step	Explanation
<p>Step 1: Identify the result that needs to be achieved</p>	<p>Cost-Effectiveness Analysis is a method of comparing various options that intend to achieve a specific result. This result has to be the same for each option otherwise the comparison cannot be made properly. This result can often be related to eliminating the problem or its most important drivers or effects.</p> <p>The result that needs to be achieved can be broadly formulated. For example, reducing lead levels in a certain river by at least 50% within 5 years. This target can be achieved through various means, such as legislation on pollution levels that factories and mines are allowed to cause, subsidies or tax incentives to install equipment that prevents pollution, relocating industry, closing factories/mines or options that are very different from these.</p>
<p>Step 2: List the options</p>	<p>Identify the possible options to achieve the result during the analysis for the Concept Document. They will always include the no-change-option and, if the options refer to improving the existing regulatory framework, also the option to improve implementation.</p>
<p>Step 3: Determine the actions needed for implementation</p>	<p>The options will differ in the way in which they need to be implemented. For each option, the Tool 10: Implementation Plan needs to be used to develop a detailed overview of the activities that are necessary to make an option work in practice. For the CEA, a summary of this Implementation Plan can be used in the comparison table.</p> <p>A CEA needs to take into account the activities that have to be developed by all affected organisations: ministries, municipalities, agencies, companies, citizens etc. The logic of the Implementation Plan can be applied to organisations that are not part of the administration. Companies and citizens are meant to comply with policies and legislation. This means that they will have to change the way in which they are used to doing things, just like the administration has to.</p>

<p>Step 4: Determine the costs for society</p>	<p>The Implementation Plan provides the basis to determine the costs for each option. <i>Tool 11: Costing for Concept Documents</i> provides the guidance for this.</p> <p>In addition, the actions that have to be performed by companies and citizens, municipalities and other organisations need to be costed as well. This provides a complete picture of the total costs for society that are linked to the implementation of an option. <i>Tool 16: Standard Cost Model</i> provides a practical method to determine the costs that follow from the implementation of legislation. In addition to this tool, other methods of defining the costs will probably have to be used. The logic behind the Standard Cost Model provides a useful approach for doing so.</p>
<p>Step 5: Compare costs and choose the best option</p>	<p>The final step in the CEA is comparing the options and choosing the one that is (1) the most cost-effective and (2) fits within the set budget. This can be either the budget ceiling of a ministry or the additional budget allocated by the Ministry of Finance and/or donors for achieving the result.</p>

TOOL 27: COST-BENEFIT ANALYSIS (CBA)

Cost-Benefit analysis (CBA) compares the options through calculating the monetary value of the costs and benefits. It builds on the possibility to express the significant benefits and costs in monetary values, i.e. in euros. This approach requires substantial amounts of data and is therefore more demanding than CEA. CBA is useful when the options presented in the Concept Document include introducing completely new programmes or legal requirements. CBA provides information on the actual added value of new initiatives.

The main advantage of CBA is that it provides a useful comparison between very different kinds of impacts of the options. It can also be used to compare options that would contribute to reaching two or more targets.

There are two types of CBA analysis: (1) a 'full CBA' in which all relevant costs and benefits are monetised and (2) a 'partial CBA' which is applied only when the most significant costs and most significant benefits can be expressed in euro values.

CBA is very useful when the Concept Document addresses the possibility to start a completely new intervention. A CBA shows the added value of new interventions as 'net benefits' and therefore provides the insight to assess whether interventions are worthwhile.

The final factor that needs to be considered is the actual budget that is available and relates to *Tool 10: Implementation Plan*, *Tool 11: Costing for Concept Documents* and potentially also to *Tool 12: Complying with Budget Impact Assessment*.



Figure 95: Steps for conducting Cost-Benefit Analysis

Step	Explanation
<p>Step 1: List the options and all benefits and costs</p>	<p>A CBA lists the options that were identified during the analysis for the Concept Document and all relevant benefits and costs. The options will always include the no-change-option and, if the options refer to improving the existing regulatory framework, also the option to improve implementation.</p> <p>The approach behind the CBA is straightforward. The expected costs are deducted from the expected benefits. Those that matter need to be identified and listed in the CBA overview.</p>
<p>Step 2: Determine the value of the benefits</p>	<p>The benefits are the reasons behind policies and legislation. Government action has to improve the situation of people, companies and society. A CBA only adds value when the relevant benefits can be assessed properly in monetary terms. This enables the data to be presented in a partial CBA.</p> <p>Unfortunately, it is not always straightforward to express the benefits in monetary terms. Economic benefits often are the easiest to determine since there is a lot of research and experience that can be tapped into. Environmental benefits can be assessed when, for example, the costs of pollution can be determined and, as a result, the monetary benefits from pollution reduction can be set against the investments needed to reach these pollution reductions.</p> <p>For a CBA, the benefits regularly need to be assessed on a case-by-case basis with clear assumptions underpinning them. It can be very valuable to use the process of public consultation to find out more about the benefits, the reasonable assumptions that can be used and/or to verify the data that has been collected for the Concept Document. Comparison with policy analysis developed by other countries could be considered as well since certain benefits might have been quantified elsewhere already. The methodology developed by others might be applied as well as long as it is adjusted to the specific context for Kosovo.</p> <p>Important: if during this step you find out that the relevant benefits cannot be easily determined in monetary terms, it is probably more useful to select another tool for comparing the options in the Concept Document. In such cases, a Cost-Effectiveness Analysis is likely to be more appropriate. If a CEA would not be possible either a Multi-criteria Analysis needs to be developed.</p>

<p>Step 3: Determine the actions needed for implementation</p>	<p>The Implementation Plans provides the basis to determine the costs for each option. <i>Tool 11: Costing for Concept Documents</i> provides the guidance for this.</p> <p>In addition, the actions that have to be performed by companies and citizens, municipalities and other organisations need to be costed. This provides a complete picture of the total costs for society that are linked to the implementation of an option. <i>Tool 16: Standard Cost Model</i> provides a practical method to determine the costs that follow from the implementation of legislation. In addition to this tool, other methods of defining the costs will probably have to be used. The logic behind the Standard Cost Model provides a useful approach for doing so.</p>
<p>Step 4: Determine the costs for society</p>	<p>The options will differ in the way in which they need to be implemented. For each option, the Tool 10: Implementation Plan can be used to develop a detailed overview of the activities that are necessary to make an option work in practice. For the MCA, a summary of this Implementation Plan can be developed for the comparison table.</p> <p>A MCA needs to take into account the activities that have to be developed by all affected organisations: ministries, municipalities, agencies, companies, citizens etc. The logic of the Implementation Plan can be applied to organisations that are not part of the administration, such as companies and citizens.</p>
<p>Step 5: Compare costs and choose the best option</p>	<p>The final step in the CBA is comparing the options and choosing the one that (1) yields the most net benefit and (2) fits within the set budget. This can be either the budget ceiling of a ministry or the additional budget allocated by the Ministry of Finance and/or donors for achieving the result.</p>

TOOL 28: MULTI-CRITERIA ANALYSIS (MCA)

Multi-criteria Analysis (MCA) often is a challenging method for comparing options. MCA is used as a default option when CEA and CBA would not be useful. MCA is applied when a policy aims at achieving multiple results or very different results while the main benefits and costs cannot be expressed in monetary terms. It can also be useful when the costs and/or benefits of options affect certain groups disproportionately.

However, MCA is complex since the decisions that are prepared based on this analysis approach are hard to pin down and can be very subjective and, as a consequence, can be very political as well.

The final factor that needs to be considered, is the actual budget that is available and relates to *Tool 10: Implementation Plan*, *Tool 11: Costing for Concept Documents* and potentially also to *Tool 12: Complying with Budget Impact Assessment*.

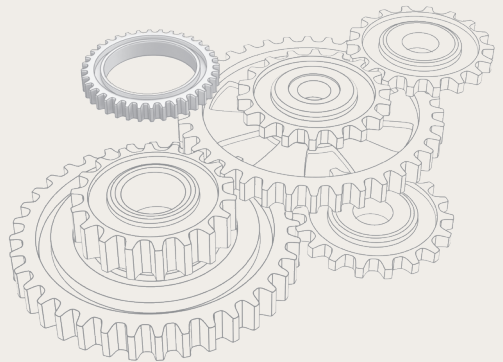


Figure 96: Steps for conducting Multi-criteria Analysis

Step	Explanation
Step 1: List the options and all benefits and costs	Identify the possible options to achieve the result. These options will be identified during the analysis for the Concept Document. They will always include the no-change-option and, if the options refer to improving the existing regulatory framework, also the option to improve implementation. In addition to the options, the costs and benefits need to be listed.
Step 2: Determine the value of the benefits that can be monetised	<p>The benefits are the reasons behind policies and legislation. Government action has to improve the situation of people, companies and society. MCA is used because the most important benefits cannot be quantified. Yet, when some benefits can still be expressed in monetary terms, this should still be done.</p> <p>There are not specific tools to determine the value of the benefits. It is nearly always harder to express the benefits in monetary terms than it is to determine the costs. The benefits often need to be assessed on a case-by-case basis with clear assumptions underpinning them. It can be very valuable to use the process of public consultation to find out more about the benefits, the reasonable assumptions that can be used and/or to verify the data that has been collected for the Concept Document. Comparison with policy analysis developed by other countries could be considered as well since certain benefits might have been quantified elsewhere already. The methodology developed by others might be applied as well as long as it is adjusted to the specific context for Kosovo.</p>

<p>Step 3: Provide additional data on non-quantifiable benefits that is available</p>	<p>An explanation needs to be provided for the benefits that cannot be expressed in monetary terms. Where possible, useful data should be added in the comparison table. This can be data on the number of positively affected citizens, for example.</p>
<p>Step 4: Determine the actions needed for implementation</p>	<p>The options will differ in the way in which they need to be implemented. For each option, the Tool 10: Implementation Plan can be used to develop a detailed overview of the activities that are necessary to make an option work in practice. For the MCA, a summary of this Implementation Plan can be developed for the comparison table.</p> <p>A MCA needs to take into account the activities that have to be developed by all affected organisations: ministries, municipalities, agencies, companies, citizens etc. The logic of the Implementation Plan can be applied to organisations that are not part of the administration, such as companies and citizens.</p>
<p>Step 5: Determine the costs for society</p>	<p>The Implementation Plans provides the basis to determine the costs for each option. <i>Tool 11: Costing for Concept Documents</i> provides the guidance for this.</p> <p>In addition, the actions that have to be performed by companies and citizens, municipalities and other organisations need to be costed as well. This provides a complete picture of the total costs for society that are linked to the implementation of an option. <i>Tool 16: Standard Cost Model</i> provides a practical method to determine the costs that follow from the implementation of legislation. In addition to this tool, other methods to define the costs will probably have to be used as well. The logic behind the Standard Cost Model provides a useful approach for doing so.</p>
<p>Step 6: Provide additional data on non-quantifiable costs that is available</p>	<p>An explanation needs to be provided for the societal costs that cannot be expressed in monetary terms. Where possible, useful data should be added in the comparison table.</p>
<p>Step 7: Compare options and choose the most appropriate one</p>	<p>The final step in the MCA is comparing the options and choosing the one that is deemed the best way forward. This is a choice that needs to rely on professional judgement and consultation. A MCA, after all, does not provide the easy manner of comparison like a CEA or CBA do. In addition, the best option needs to fit within the set financial resources that are defined by the budget ceiling of a ministry. Alternatively, additional budget needs to be allocated by the Ministry of Finance and/or provided for by donors.</p>

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07



SECTION 07: PRESENTING THE CONCLUSION AND FUTURE STEPS FOR THE CONCEPT DOCUMENT



The preferred option serves as a base for the next steps that are identified in the Implementation Plan. This section helps you to:

- List the measures that derive from the preferred option and present these in a practical overview
- Link the policy analysis of the Concept Document with the legal drafting process
- Describe the processes for monitoring and evaluation to assess the actual effects that follow from implementing the decisions presented in the Concept Document

The comparison of options through Cost-Effectiveness Analysis, Cost-Benefit Analysis and Multi-criteria Analysis yields one option that is the preferred one. This option will be presented to the Government for adoption. When adopted, it needs to be implemented. This means that the preferred option serves as a base for the next steps that are identified in the Implementation Plan.



Figure 97: Drafting the Concept Document

A Concept Document that is sent to the Government for adoption is the product of the entire analytical process. The text for a Concept Document is written and redrafted while the analysis is progressing. A draft CD is an excellent basis for discussions within the Working Group and for sharing information with stakeholders.

At times, it can be very challenging to write a long text that addresses a large number of issues. Concept Documents can be very complex, especially when they address very difficult topics or cover several laws or policies in one analysis. It can be useful to structure the text in numbered paragraphs to make discussions on the text easier.

The final part of the Concept Document is the part that presents the summary of the all the work that was invested in the analysis, the public consultation and the internal consultation. A special summary sheet needs to be filled in. To enable quick analysis of the summary sheet, it is positioned at the beginning of the Concept Document.

The information that should be added in the summary sheet is the key information that the Government needs to know in order to take its decision. The overview below shows the information that should be part of the summary sheet.



Figure 98: Key information for the summary of the Concept Document

- Problem definition
- Objectives
- Preferred option
- Type of comparison analysis used
- Expected positive impacts
- Expected negative impacts
- Costs and budget impact
- Summary of the consultation process
- Main next steps from the Implementation Plan

EMBEDDING THE CONCEPT DOCUMENT INTO THE POLICY DEVELOPMENT CYCLE

The Concept Document is one step within the wider process of developing policies and legislation and improving the regulatory framework in general. Two topics therefore need to be presented in the document so that the link to the future steps is sufficiently explained.

Foundation for legal drafting

When the conclusion of the Concept Document is to develop a new law, a sublegal act or to amend existing rules, the intended framework for future legislation needs to be made explicit. This means that the actual legal measures that need to be drafted in order to implement the preferred option need to be presented in a practical overview. This overview will be the start of the process for drafting the legislation and ensures the link between the policy analysis conducted for the Concept Document and the legal drafting process. The figure below shows the issues that should be considered to prepare the development of legal acts after a Concept Document is adopted.

Law changes that trigger amendments to other laws

When the conclusion of the Concept Document is to draft a new law or amend a law, this might mean that eventually also other laws will have to be brought in line with the new legal requirements. The laws that eventually will have to be brought in line with the newly developed legal requirements have to be listed in the Concept Document. When this is done, the Concept Document provides the basis for all required legal changes that will follow the implementation of the decision that the Concept Document presents.



Figure 99: Concept Document as the foundation for legal proposals

When the step that follows the adoption of the Concept Document is to draft a law or sublegal act, the analysis that has been conducted is the basis for legal drafting. In order to simplify the work of the team that will develop the legal proposal, the summary of the analysis needs to show the framework for the legal text. How this framework looks like, depends on the topic that is analysed in the Concept Document.

The overview can be a very specific list of articles in laws and sublegal acts that need to be changed. This is likely to be the case when the Concept Document addresses specific regulatory shortcomings and the conclusion is to improve the legal framework. This can also be the case when the aim is to reduce administrative burdens. Specific legal changes are often sufficient to achieve a substantial burden reduction.

When a new law or sublegal act is going to be developed, the framework could be of a more general nature. The analysis of a Concept Document could set the principles for the legal text in terms of what will be covered. It could also indicate which principles need to be defined in primary law or in a sub-legal act.

The analysis conducted based on Tool 16: Standard Cost Model; Tool 17: SME Test; and Tool 18: Regulatory Competitiveness Check directly provide information on how a law should be drafted in the future.

Important to note is that the foundation for legal proposals should be as complete as possible. However, it should not be assumed that the Concept Document analysis will always provide a complete picture on how legal and sublegal acts have to be developed. After all, during the drafting of legal proposals and the subsequent public consultation on the suggested texts, new issues might arise. What matters is that these new issues should be set against the analysis. When they mean that there is a deviation from the conclusions of the Concept Document, the Government needs to be informed specifically about this. An updated Concept Document might then be submitted together with the draft proposal when it is presented to the Government for adoption.

The Concept Document has to be updated and submitted for Government approval when the changes regarding the expected impacts are substantial. This is the case, for example, when the impact to the budget has changed or when very different stakeholders will be affected by the decisions than initially expected.

Monitoring and Evaluation

Since the decision that follows from the Concept Document needs to be implemented, the manner in which the implementation will be monitored has to be defined. Also, the effects might have to be evaluated. This is especially the case when the expected impacts are highly significant.

Important questions need to be addressed effectively. These are whether the monitoring can take place through existing reporting structures or whether a specific monitoring scheme needs to be developed. Also, the indicators used for monitoring need to be clearly defined and the tasks of the organisations involved have to be stipulated and agreed.

Guidelines for Legislative Evaluation were adopted in 2015 and every year several evaluations are run under the umbrella of the Better Regulation Strategy 2.0. The work planning of the Government is extended and has a medium-term focus. Activities that are planned to take place in several years from now can already be added to the indicative work planning of the Government.

The concluding part of the Concept Document should therefore also contain a clear description regarding monitoring and evaluation. The overview below shows several items that should be considered. The activities for evaluation and monitoring have to be integrated in the Implementation Plan for the preferred option presented in the Concept Document.



Figure 100: Monitoring and Evaluation for implementing decisions that follow from Concept Documents

The decisions that follow from the Concept Document will have to be made to work. In practice this comes down to ministries, agencies or other Government bodies implementing these decisions. They must make sure that (1) policy and legal requirements are implemented; (2) staff is trained; (3) the necessary documentation is available for the affected public; (4) the changes are effectively communicated to the target audience; etc.

The monitoring approach needs to identify key indicators that show whether the decisions following from the Concept Document are actually being implemented and whether they trigger the expected impacts. The Implementation Plan should be the basis for activity monitoring.

The evaluation planning needs to relate to the question when and how the decisions following from the Concept Document will be evaluated. This must address the question whether the evaluation could be integrated into a planned policy or legislative evaluation; whether a separate evaluation should be organised within a few years after implementation; or whether the changes do not merit such an evaluation.

Colophon

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