

Towards High-Quality Law Drafting

Quality Indicators of the Law Drafting Process
in Finland – English Summary

Petri Uusikylä, Anssi Keinänen, Niko Vartiainen, Kaijus Ervasti, Vesa Salminen,
Juha Kettinen, Urho Lintinen, Lassi Köppä, Elina Lindström

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Towards High-Quality Law Drafting

Quality Indicators of the Legislative Drafting Process in Finland – English Summary

Publications of the Government's analysis, assessment and research activities 2023:37**Publisher** Prime Minister's Office**Author(s)** Petri Uusikylä, Anssi Keinänen, Niko Vartiainen, Kaijus Tuomo Ervasti, Vesa Salminen, Juha Kettinen, Urho Lintinen, Lassi Köppä, Elina Lindström**Editor(s)** Petri Uusikylä and Urho Lintinen**Group author** Frisky & Anjoy Oy, University of Eastern Finland, 4FRONT Oy**Language** English**Pages** 48

Abstract

This paper summarizes the main findings of a research publication called "Towards High-Quality Law Drafting. Quality Indicators of the Legislative Drafting Process in Finland" which is available in Finnish (Publications of the Government's analysis, assessment, and research activities 2023:13).

There is little international research on the quality of the legislative drafting process and national research is both spotty and haphazard. There are no comprehensive and reliable monitoring data available on the quality of the legislative drafting process. Data reserves of databases or systems related to legislative projects should be further developed to improve the monitoring of the quality of law drafting.

This project created a quality indicator system for the law drafting process which consists of seven sections: 1) initiative, need, and relevance, 2) organisation and management of legislative drafting projects in ministries, 3) resourcing and capabilities, 4) knowledge base, 5) participation and consultation, 6) quality and flow of the legislative drafting process, 7) impact assessment.

The piloted barometers revealed that the legislative drafting process' resourcing, management, process planning and impact assessment are most in need of further development. Furthermore, stakeholders hoped that more interactive consultation and participation practices would also be developed.

This publication has undergone an external scientific review.

Provision This publication is part of the implementation of the Government Plan for Analysis, Assessment and Research. (tietokayttoon.fi) The content is the responsibility of the producers of the information and does not necessarily represent the view of the Government.**Keywords** research, research activities, legislation, law drafting

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Kohti laadukasta lainvalmistelua

Lainvalmisteluprosessin laatuindikaattorit – Englanninkielinen tiivistelmä

Valtioneuvoston selvitys- ja tutkimustoiminnan julkaisusarja 2023:37

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Kieli englanti

Sivumäärä

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Tiivistelmä

Tämä tiivistelmä esittelee "Kohti laadukasta lainvalmistelua: Lainvalmisteluprosessin laatuindikaattorit" -tutkimusjulkaisun keskeisimmät löydökset (Valtioneuvoston selvitys- ja tutkimustoiminnan julkaisusarja 2023:13).

Lainvalmisteluprosessin laatua käsittelevä kansainvälinen tutkimus on vähäistä ja kotimainen tutkimus on pistemäistä ja sattumanvaraista. Lainvalmisteluprosessin laadusta ei ole saatavilla kattavaa ja luotettavaa seurantatietoa. Säädöshankkeiden tietokantojen tai järjestelmien tietovarantoja tulee kehittää lainvalmistelun laadun seurannan parantamiseksi.

Hankkeessa kehitettiin lainvalmistelun laatuindikaattorijärjestelmä, joka perustuu seitsemään osa-alueeseen: 1) aloite, tarve ja relevanssi 2) organisointi ja johtaminen ministeriöissä 3) resursointi ja kyvykkyydet 4) tietoperusta 5) osallisuus ja kuuleminen 6) prosessin laatu ja sujuvuus 7) lain vaikutusten arviointi.

Pilotoidut barometrit osoittivat, että eniten kehitettävää on lainvalmisteluprosessin resursoinnissa, johtamisessa, prosessien suunnittelussa ja vaikutusten arvioinnissa. Lisäksi sidosryhmät toivoivat, että kuulemis- ja osallisuuskäytäntöjen vuorovaikutteellisuutta kehitettäisiin enemmän.

Julkaisu on läpikäynyt ulkopuolisen tieteellisen arvioinnin.

Klausuuli

Tämä julkaisu on toteutettu osana valtioneuvoston selvitys- ja tutkimussuunnitelman toimeenpanoa. (tietokayttoon.fi) Julkaisun sisällöstä vastaavat tiedon tuottajat, eikä tekstisisältö välttämättä edusta valtioneuvoston näkemystä.

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Högkvalitativ lagstiftningsberedning

Kvalitetsindikatorer för lagstiftningsprocessen – Engelsk sammanfattning

Publikationsserie för statsrådets utrednings- och forskningsverksamhet 2023:37**Utgivare** Statsrådets kansli**Författare** Petri Uusikylä, Anssi Keinänen, Niko Vartiainen, Kaijus Tuomo Ervasti, Vesa Salminen, Juha Kettinen, Urho Lintinen, Lassi Köppä, Elina Lindström**Redigerare** Petri Uusikylä och Urho Lintinen**Utarbetad av** Frisky & Anjoy Oy, Östra Finlands Universitet, 4FRONT Oy**Språk** engelska**Sidantal**

48

Referat

I detta sammandrag presenteras de viktigaste resultaten av forskningspublikationen "Högkvalitativ lagstiftningsberedning: Kvalitetsindikatorer för lagstiftningsprocessen" (Publikationsserie för statsrådets utrednings- och forskningsverksamhet 2023:13).

Det finns föga internationell forskning om kvaliteten på lagberedningsprocessen och den inhemska forskningen är sporadisk och slumpartad. Det finns inga omfattande och tillförlitliga uppföljningsuppgifter tillgängliga om kvaliteten på lagberedningsprocessen. Datalagren i databaserna eller informationssystemen för lagstiftningsprojekt bör utvecklas för att förbättra uppföljningen av kvaliteten på lagberedningen.

I projektet utvecklades ett kvalitetsindikatorsystem för lagberedning som bygger på sju områden: 1) initiativ, behov och relevans 2) organisation och ledning i ministeriet 3) resurser och förmågor 4) kunskapsbas 5) delaktighet och hörande 6) kvalitet och smidighet i processen 7) konsekvensbedömning.

De testade barometrarna visade att det största behovet till utveckling finns inom lagberedningsprocessens resurser, ledning, processplanering och konsekvensbedömning. Dessutom hoppades intressentgrupperna på ökad växelverkan i metoderna och förfarandena vid hörandet och deltagandet.

Publikationen har genomgått en extern vetenskaplig utvärdering.

Klausul

Den här publikation är en del i genomförandet av statsrådets utrednings- och forskningsplan. (tietokayttoon.fi) De som producerar informationen ansvarar för innehållet i publikationen. Textinnehållet återspeglar inte nödvändigtvis statsrådets ståndpunkt

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1 Introduction

Concerted efforts have been made to improve the quality of legislative drafting and legislation both in Finland and across the OECD more generally. The challenges in law drafting range from the accelerating pace of technical change to interdependencies strengthened by globalisation, as well as the increasing pressure for transparency, openness and efficiency. The quality of law drafting has also been referred to in Sanna Marin's government programme, which includes statements such as "*good quality law drafting is central to credibility and legitimacy*".¹ There are already a large number of different guidelines and recommendations supporting law drafting, but comprehensive quality indicators have not been drawn up. There is some monitoring data and research on the quality and shortcomings of the legislative drafting process, but consistent monitoring and evaluation, based on uniform quality standards or indicators, is lacking in Finland. In addition, there are, currently, no established indicators for the legislative drafting process through which systematic monitoring and research data could be collected.

The quality indicators of the legislative drafting process would provide tools to evaluate the working methods and results of law drafting. They would enable the monitoring of the legislative drafting process at the level of the entire Government and, if desired, ministry-specific reviews. Monitoring and evaluation would enable better transparency and accountability of the legislative drafting process as well as improving its overall quality. The tasks for this research project, "Towards High-Quality Law Drafting" included:

- describing and analysing domestic research data and guidelines on the subject, finding out the key characteristics of a good legislative drafting process and, based on these, preparing a proposal for indicators that can be used to assess the quality of the legislative drafting process (first part of the project)
- carrying out a study that maps the current state of the legislative drafting process based on the selected indicators, analyses its strengths and weaknesses and their causes and makes proposals for the development of the legislative drafting process based on these findings (second part of the project)

1 Prime Minister Sanna Marin's government programme "Inclusive and competent Finland – a socially, economically and ecologically sustainable society" (2019), <https://valtioneuvosto.fi/en/marin/government-programme>

This summary report presents the main observations and conclusions of the actual research publication which is only available in Finnish. The report focuses on the technical quality factors of the law drafting process. It is thus not an evaluation of the impact of regulative policy or legislation.

Chapter 2 provides an overview of the international debate on development of law drafting, as well as an overview of the Finnish guidelines and practices concerning law drafting.

Chapter 3 presents the quality indicator model for the legislative drafting process developed and piloted in this project. The model is based on seven indicator areas (initiative, need and relevance of the legislative drafting project - organisation and management of the legislative drafting project - resourcing and capabilities of the legislative drafting project - information base of the legislative drafting project - participation and consultation in the legislative drafting project – quality and flow of the process - impact assessment) and each area consists of individual indicator questions. The chapter also presents the results of the law drafter barometer and stakeholder barometer pilots that were carried out during the fall of 2022. Additionally, the development of information systems supporting the monitoring of the law drafting process is discussed.

Chapter 4 presents recommendations for improving the quality of the legislative drafting process based on the analysis of the research project.

2 International and Finnish debates on the quality of law drafting

2.1 Development of the legislative drafting process in international benchmarks

Since the beginning of the 1980s, Finland and other comparable OECD countries have worked continuously to improve the quality of laws and lawmaking. According to Tala (2005), quality has been improved by means of access to a broad and versatile knowledge base, evaluation of regulatory alternatives and effects and consultation with stakeholders. In improving the quality of legislative drafting, one of the key issues relates to quality measurement. With systematic measurement, it is possible to assess not only the current state of the quality of law drafting, but also its development over time. Measuring quality is not straightforward and can be approached from different perspectives. The purpose of this sub-section is to present the measurement of the quality of law drafting from the perspective of the methods used in the international research literature and the key policy guidelines of the OECD and the European Commission.² The second sub-section focuses on the characteristics of good law drafting which are emphasized in various Finnish law drafting guidelines.

The development of regulatory policy, an important focus of the OECD

The key body in the field is the OECD's *Regulatory Policy Committee* (RPC), one of the OECD's approximately 300 committees and working groups. Members of the RPC include government representatives, universities, business life and the third sector. The RPC was established in 2009. Its mission is to support the organisation's member countries and other countries in activities related to regulatory reform. The *Regulatory Policy Division* (RPD) functions as the committee secretariat.

2 The information search was carried out using the databases and search services of the library of the University of Eastern Finland and the functions of the Google search engine. The information search was carried out using several different Finnish and English keywords related to measuring the quality of law drafting. In addition, the research group's previous studies and their reference lists were used in the data collection.

In recent years, the OECD has issued several recommendations and good practice principles for the development of regulatory policy. The Recommendation of the Council on Regulatory Policy and Governance (OECD 2012) is still in force.³ According to the recommendation, it is desirable for each member country to establish mechanisms and institutions that monitor regulatory policy procedures and goals and support regulatory policy and regulatory quality.⁴ Currently, there are three key recommendations related to the development of regulation and a set of good practice principles.⁵

According to a 2018 report from the OECD, the monitoring of regulation consists of a set of functions and tasks performed by bodies or units when exercising executive power or with some degree of independence from it, with the aim of promoting high-quality, evidence-based regulatory decision-making. In this case, the review carried out by the OECD did not distinguish between the ex-ante and ex-post evaluation of legislation and other regulations. The OECD classifies the functions and tasks of regulatory monitoring into five types: 1) *scrutiny of process*, 2) *scrutiny of substance*, 3) *scrutiny of system*, 4) *coherence of the approach*, 5) *guidance, advice and support capacity*.⁶

The OECD also regularly assesses the quality of regulatory policy in its member countries with common indicators and country-specific reports⁷. The latest quality assessment report is from 2021⁸. Its analysis focuses on three subject areas: 1) involvement of stakeholders, 2) ex ante impact assessment and 3) ex post impact assessment. The subject areas were divided into four categories, based on the formed composite indicators. The categories related to compliance with the instructions given on law drafting, the utilisation of methods, quality control processes of law drafting and transparency of decision-making. These categories consisted of numerous sub-questions. For example, in the stakeholder participation method category, respondents from member countries were asked how common consultation is in law drafting and how consultation is carried out. As

3 OECD (2012), Recommendation of the council on regulatory policy and government, <https://www.oecd.org/gov/regulatory-policy/49990817.pdf>.

4 OECD (2012), principle 3.

5 A list of recommendations and principles of best practice is found here: <https://www.oecd.org/gov/regulatory-policy/recommendations-guidelines.htm>.

6 OECD (2018), Regulatory Policy Outlook 2018, <http://www.oecd.org/gov/regulatory-policy/oecd-regulatory-policy-outlook-2018-9789264303072-en.htm>

7 See for instance Schultz, R. et al. (2019). Better Indicators for Better Regulation: The OECD iREG Experience, <https://www.oecd.org/gov/regulatory-policy/Better-indicators-for-better-regulation.pdf><https://www.oecd.org/gov/regulatory-policy/Better-indicators-for-better-regulation.pdf>.

8 OECD (2021), OECD Regulatory Policy Outlook 2021, OECD Publishing, Paris, <https://doi.org/10.1787/38b0fdb1-en><https://doi.org/10.1787/38b0fdb1-en>.

regards the transparency of ex post evaluation, the respondents were asked whether ex post evaluations of regulatory measures have been presented publicly on the internet or whether stakeholders have been actively involved in ex post evaluations.

Each subject area formed a kind of composite indicator, which summarised an overview of the practices of a certain country. It was possible to get one point from each category, so the maximum score for each composite indicator was four points. The indicators were also calculated separately for legislation and regulations below the law.

In terms of stakeholder participation and ex-ante impact assessment of legislation, Finland ranked in the middle in a comparison that includes 38 OECD/EU countries. On the other hand, in the ex-ante and ex-post impact assessment of lower-level regulations, Finland's ranking was at the bottom end, well below the OECD average.⁹ For example, in the ex post evaluation of legislation, Finland's score was only 0.4 out of a possible four. However, in the OECD comparisons, it should be remembered that the administrative systems and legislative drafting processes of different countries are very different. For example, EU legal acts are implemented in several countries in such a way that the law under discussion in the parliament practically authorises the country's government to issue the detailed regulation necessary for implementation. In addition, the information is collected through questionnaires sent to the administrations of the member countries, so different respondents and the data base used as a basis for the answers in different countries may vary greatly. However, the report contains a wide range of indicator questions from different areas of legislative drafting, and the report's indicators can also be used in the planning of domestic quality indicators, where appropriate.

In the summer of 2022, the OECD published a comparison of the state of regulatory policy in European Union member states. The iREG Survey instrument developed by the OECD was used in the comparison (OECD 2022). Each of the 27 EU countries had a responsible body for regulatory development. Still, the differences between OECD countries were large in relation to the duration and comprehensiveness of the development (cf. whole-of-government thinking). The best coverage (in the sense of how many of the member countries utilise certain development tools) in respect of the member countries were found in the application of ex-ante assessments, transparency and consultation and reducing regulatory burden. Finland was one of the top performing countries here in a European comparison. In the 2022 report, Finland received particularly positive feedback

9 It should be borne in mind here that in Finland, normative acts below the law are decrees of the Government or a ministry. In addition, with the fundamental rights reform in Finland, the issues on which lower-level regulation can be issued have been significantly limited.

on the development of participation and consultations, the establishment and activities of the Council of Regulatory Impact Analysis and the reform of the impact assessment guidelines.

The European Union's openings towards better regulation also support the development of the quality of the process

During the term of Ursula von der Leyen (2019–2024), the European Commission has strongly supported the REFIT programme (Regulatory Fitness and Performance Programme) which began in 2012 and has introduced various openings emphasising citizen consultation and participation more strongly than before. The Fit For Future forum, established in May 2020, supports the Commission in its work to simplify EU legislation. Its goal is to look for opportunities to lighten the regulatory burden. The Fit for Future Platform is a high-level group of experts helping the Commission in its efforts to simplify EU legislation and reduce unnecessary regulatory costs. This also enables the Commission to ensure that its policies are future-proof and innovation-friendly while making full use of the digital opportunities available. Strategic foresight work has also become a central part of Commission's better regulation agenda. Through its "Fit for Future" -forum the Commission seeks to collect proof to support its regulatory work and provide national authorities, citizens and national stakeholders with the opportunity to participate in making EU legislation more efficient.

In the "Fit for Future" -forum, citizens and stakeholders can provide feedback on the simplification of legislation through a participatory portal. This provides everyone with the opportunity to put forward proposals on how to simplify, lighten and modernise EU legislation. People can also express their views on current laws and new EU policy programmes through the "Have your say" -portal. The Commission undertakes to produce summaries of the hearings within eight weeks of the end of the hearing. As part of the Commission's digital strategy goals, it also aims to improve access to the information behind legislative proposals, for example by linking different registers and portals (e.g. EUR-lex, Have your say) and, over time, to gradually make its internal databases publicly available. The Commission has also proposed a new joint register of legislative matters (Joint Legislative Portal) with the Council and the European Parliament. This would allow the public to better familiarise themselves with EU decision-making and the documents behind it.

On the 29th April 2021 the Commission published a communication titled “Improving regulation - better EU legislation that meets future needs through cooperation.”¹⁰ According to the Commission, the agenda for better regulation strengthens the sustainable economic development of Europe by, among other things, systematically analysing the economic, social and environmental effects of the proposals. The Commission also intends to mainstream the UN Sustainable Development Goals as part of the better regulation agenda to support the EU’s 2030 Sustainable Development Agenda. The intention is to ensure that better regulation more fully supports the green and digital transitions.

The ‘Better Regulation Toolbox’ is a tool designed to aid the Commission’s internal work – a kind of good practice handbook with tips, instructions, examples and good practices for better regulation. The tools are numbered from one to sixty-nine and are compiled under main chapters e.g. on monitoring, impact assessments and stakeholder consultation. The handbook is, in effect, a constantly updated information bank, the latest version of which at the current time of writing was published in November 2021¹¹.

Research literature focuses on impact assessments

The various ways of improving the quality of law drafting identified by Tala (2005) mainly relate to questions involving impact assessment and the utilisation of its knowledge base, as well as an assessment of alternatives and stakeholder views.¹² Impact assessments can be carried out either as an ex ante assessment before the law reform enters into force or as an ex post assessment after it does so. The international literature on measuring the quality of legislative drafting has largely focused on the analysis of legislative drafting documents, specifically with regard to advance impact assessment (so-called Regulatory Impact Assessment or RIA documents). A broad literature related to the topic already exists, focusing in particular on the United States and the European Union.

10 COM (2021) 219 Final.

11 The Council also drafts its own annual report on Impact Assessments, (*Impact Assessment Report*). The Council’s 2021 impact assessment report also presents findings on the effects of the Covid-19 crisis on the EU’s legislative procedure.

12 Vartiainen 2021, p. 21.

Based on this literature, two ways to assess quality on the basis of documents can be identified, dividing quality assessment into quantitative and qualitative assessment indicators.¹³ In addition to carrying out simple document analyses, the quality of law drafting has also been assessed by comparing the expected impacts with the ex post assessments' identified impacts.¹⁴ Quality has also been assessed through surveys targeting authorities and experts, not dissimilar to the characteristics of quality identified in the quality barometers presented in this report.¹⁵

Quantitative evaluation indicators typically analyse certain criteria in law drafting in the form of binary Yes/No -assessment. The criteria used here can, for example, be guidelines for the preparation of laws or international good practices.¹⁶ In other words, the purpose of the analysis is to calculate the percentage of the documents that fulfil a certain criterion. For example, Hahn et al. (2000) analysed the RIA documents in respect of significant environmental, health and safety regulatory projects using US data. The study examined the occurrence of the criteria for a good financial evaluation mentioned in the impact assessment guidelines. Among other things, the criteria used were the presentation of costs and benefits or cost-effectiveness estimates converted into money and the evaluation of alternative regulatory solutions. In this particular analysis, for example, the number of impact assessment documents that had not presented the impact assessment as a net benefit converted into money was calculated.

A good example of the use of quantitative evaluation indicators can also be found in Cecot et al.'s (2008) study on European Union regulation, in which a total of 111 impact assessment documents were examined. In the analysis, each document was scored on the basis of an index format. Various indicators were used as the basis for scoring, such as whether the document contained a quantification of costs, benefits and alternatives. In total, the index consisted of 15 sub-areas, based on which the documents were given

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- 13 Quantitative and qualitative evaluation indicators are detailed in this report according to the quality measurement methods presented in Vartiainen and Härkönen's (2022) study. As Vartiainen and Härkönen (2022, p. 5) also note, quantitative and qualitative evaluation measures should not be confused with quantitative and qualitative variables or quantitative and qualitative research methods. In this study, a quantitative evaluation indicator means, for example, a situation in which the presence of a certain sub-area (such as the evaluation of alternatives) is analysed from the law drafting documents with a qualitative, yes/no-type variable. On the other hand, quality assessment can be done with qualitative assessment indicators using quantitative research methods.
- 14 The measurement methods for law drafting quality have been summarised in Vartiainen & Härkönen, *op.cit* (2022).
- 15 See Johns and Saltane (2016) and Radaelli & De Francesco (2007).
- 16 Fritsch and Kamkhaji 2016, p. 400.

values between zero and one. The document received the highest possible score (i.e. value one) if it contained all 15 points. Finally, the development of the quality of impact assessments was analysed over time using regression analyses.

The strength of quantitative evaluation indicators is their reliability. In other words, the objectivity of the indicators contributes to the fact that the quality assessment leads to consistent results regardless of the evaluator. For example, alternative regulatory solutions either exist or are not recorded in the law drafting documents and the situation does not change regardless of whether the evaluator is familiar with the matter. In addition, the assessment carried out using quantitative indicators is relatively fast, which enables the utilisation of extensive research material.

The weakness of this approach is however that a certain regulatory project can appear successful in the light of these quality indicators, even if the project is not very well implemented in reality. The legislative drafting document may, for example, contain all the necessary information required in the legislative drafting instructions, in which case the document receives high 'scores' in the quality assessment, but in reality, the information has not been presented to a very high standard. An example of this can be the evaluation of alternatives: alternatives have been evaluated according to a quantitative evaluation metric, but the metric does not say anything about how relevant the evaluated alternatives are or how research data has been used in the evaluation of the alternatives.

Similarly, a certain regulatory project's quality can appear poor in the light of the indicators, even if in reality the preparation was of a relatively high standard. Such a situation may emerge for example, where, according to quantitative indicators, environmental effects were not included in the document, although, in reality, the environmental effects were not relevant for the regulatory project in question. If, for example, environmental impacts have been assessed in a certain proportion of documents, it is not possible to know whether environmental impacts *should* have been assessed in the remaining documents, or whether the regulatory projects were such that environmental impacts were not relevant to these presentations.¹⁷

Utilising qualitative evaluation indicators means not looking at the prevalence of certain indicators in terms of a binary Yes/no -assessment, but focusing instead on how well certain criteria have been taken into account. For instance, Lee and Kirkpatrick (2004) analysed the reports of the European Commission's so-called expanded impact

17 On the strengths and weaknesses of quantitative indicators, see Cecot et al. 2008, p. 409; Fritsch et al. 2012, p. 4–5; Fritsch et al. 2013, p. 451; Fritsch and Kamkhaji 2016, p. 406, Hahn and Dudley 2004, p. 8–9 and in a more synthesising manner, Vartiainen and Härkönen 2022, p. 5.

assessment. The quality assessment was divided into four sub-areas which were further divided into lower categories. For example, in the evaluation of alternatives, the evaluators evaluate the reports by answering the questions: Is the choice of the preferred sufficiently justified? Or, what approach has been adopted towards the handling of risk and uncertainty in the options analysis? Two evaluators evaluated the reports independently on a six-point scale. After the independent review process, the reviewers discussed with each other and decided on the final grades. Based on the grades assigned to the different categories, an overall grade was formed for each report.

Another example is provided by Elling et al. (2013), whose US study covered a total of 111 economically important RIA-reports. A group of economists and doctoral students read all the reports and gave the reports points on a scale utilising 12 criteria. These 12 evaluation criteria were divided into sub-questions which were scored on a scale from zero to five. The criteria were, for example, related to how well the reports assessed costs and benefits or how well the social problem that the regulation aimed to fix was identified and described in the reports. The grades for the criteria were formed by the average of the scores of the sub-questions.¹⁸ Finally, the total score, based on the evaluation criteria, was used as an explanatory variable in the regression analyses. The purpose of the regression analyses was to study the differences in the quality of impact assessments between different administrative periods by standardising other factors affecting the quality of legislative drafting.

The weakness of qualitative assessment indicators compared to quantitative assessment is their lower reliability due to higher subjectivity. In other words, different reviewers may have different views on how certain review categories should be scored. Subjectivity can however be reduced and reliability can be increased within a certain evaluation project, for example by going over evaluation practices with the evaluators through discussions or written instructions. In addition, the assessment carried out with qualitative indicators is more laborious compared to that with quantitative indicators, which is why the assessment may have to be carried out with a smaller number of observations. The strength of qualitative evaluation indicators is however that they can be used to attain a more precise evaluation than quantitative indicators. For example, in the case of regulatory alternatives, it is possible to evaluate not only whether the document under evaluation contains alternatives or not, but also how widely the alternatives have been evaluated.¹⁹

18 See also Ellig and McLaughlin 2012, and Belcore & Ellig 2008.

19 On this subject, see also Ellig et al 2013, p. 159; Ellig and McLaughlin 2012, p. 860 and Vartiainen and Härkönen 2022, p. 5.

If ex ante evaluations are unable to predict the effects of regulation, according to Harrington and Morgenstern (2004, p. 8), those evaluations lose credibility and thus their importance in decision-making processes. As an example of the comparison between ex-ante and ex-post evaluations, the study by Harrington et al. (2000) can be brought up, in which the ex-ante evaluation was considered accurate if the result of the ex-post evaluation fell within ± 25 percent of the point estimate of the ex-ante evaluation.

The following issues have been highlighted as weaknesses in the comparison between pre- and post-assessments. Firstly, there are very few ex-post evaluations due, in part, to the lack of research materials and funding as well as the authorities' low interest in, or lack of incentive to, carry out such evaluations. Secondly, the comparison is based on the assumption that ex post evaluation is more accurate than ex ante evaluation though this may not be true in all situations. Compared to ex ante evaluation however, ex post evaluation uses more information and often utilises the opportunity to create a counterfactual which is why ex post evaluations are more likely to get closer to the real state of affairs.²⁰

Quality assessment based on quantitative and qualitative assessment indicators has largely been related to the analysis of RIA documents. However, advance impact assessment is only one aspect of improving the quality of law drafting. For example, according to Argy and Johnson (2003, XIX–XX), among other things, consultation with stakeholders, the use of clear language in legislation and evaluations of regulatory alternatives are important areas that complement and support impact assessment. The quality of legislation can indeed be improved by focusing independently on, for example, the subject areas mentioned above, but in 'best use' situations, the subject areas support each other. It can be stated then that impact assessment is not the only factor that determines the quality of law drafting and that it is also closely connected to other areas of law drafting. For example, the consultation procedure provides important information about the effects of the planned law change from the stakeholder point of view.²¹ Another central part of ex ante assessment consists of weighing the pros and cons of alternative regulative choices.²²

The evaluation indicators used in studies based on RIA reports can also be used in the broader context of law drafting. Even if the indicators presented above were used in previous international literature mainly to measure the quality of ex ante impact

20 Cecot et al. 2008, p. 409; Hahn and Tetlock 2008, p. 77–78; Harrington et al. 2000, p. 298, 304–305.

21 See, for instance, Ahtonen and Keinänen 2012, p. 11.

22 Vartiainen 2021, p. 43.

assessment, there are no obstacles to using similar indicators in other areas of law drafting, too. Quantitative or qualitative evaluation indicators could be used, for example, to evaluate the quality of the consultation phase. For example, in Ellig and Fike's (2016) study, the quality of RIA reports was explained by regression analysis with variables related to stakeholder consultation.

Quality assessment of stakeholder consultation and participation has been carried out, for example, in a report produced by the World Bank. In the report by Johns and Saltane (2016), the participation of stakeholders was approached from the perspectives of administrative transparency (such as informing regulatory target groups about the preparation of legislation) and consultation practices. In addition, the report analysed the scope of the advance impact assessment and the linking of the impact assessment to the consultation process. The survey analysed and compared survey data from 185 countries. The survey was structured around the following five main questions: Do ministries or regulatory agencies in your jurisdiction give notice of proposed regulations to the general public? Do they publish the text of proposed regulations before those regulations are adopted? Do they request comments on proposed regulations from the general public? Do they report on the results of the consultation on proposed regulations? Do ministries or regulatory agencies in your jurisdiction conduct an impact assessment of proposed regulations? Below the main questions, additional questions were asked, inquiring in more detail about what certain practices entail. Johns and Saltane (2016) then formed a comprehensive stakeholder indicator based on the analysed subject areas. The different subject areas were scored between zero and one with the combined stakeholder indicator formed by summing the scores of the subject areas.

The study by Johns and Saltane (2016) is also noteworthy in that the measurement of the quality of legislative drafting has been approached with the help of a survey instead of a document analysis. The approach is therefore of the same type as in the legislative drafting barometers developed in this research project. The strength of the survey-based approach is the opportunity it provides to delve into the legislative drafting process more deeply than, for example, is possible by means of a document analysis. It is often difficult to find information about certain stages of legislative drafting and how they were carried out in any other way than by asking the legislative drafters themselves or by interviewing them. For example, evaluations of alternative regulatory solutions are not necessarily recorded in government proposals, even if alternatives have been considered in the early stages of the legislative drafting process.²³ The weakness of a survey approach lies in people not responding correctly or honestly. In addition, the expertise and knowledge

23 Ahtonen et al. 2011.

of the respondents may vary.²⁴ It must also be taken into account that the perceptions of legislative drafters or stakeholders can often differ from actual practice. All in all, survey-based quality assessment is particularly suitable for situations where the object of interest is to obtain information about the experiences and views of certain actors, such as legislative drafters or stakeholders.

The survey-based approach was not only used by Johns and Saltane (2016), but also in Radaelli and De Francesco's (2007) work on the quality of legislative drafting in the European Union and its member states. The purpose of the survey by Radaelli and De Francesco was to map the practices of the EU member states regarding the principles of better regulation. In the survey, the authorities of the member countries were asked, among other things, about setting measurable regulatory goals and monitoring their implementation, the development of resources used for better regulation measures and the number of cost-benefit-assessed regulatory projects in a certain period of time.

In addition to the survey, Radaelli and De Francesco (2007) dealt with questions related to the quality of legislative drafting by creating different types of indicators to measure quality which comprehensively took into account aspects affecting the quality of different legislation. Quality measurement was built on the basis of three indicator structures. The first consisted of indicators of a more general level rather than individual legislative drafting documents and contained questions about, for example, the content of the law drafting instructions, the training organised for legislative drafters, or how the target groups of the regulation could highlight problems that have arisen in complying with the regulation.

The second structure consisted of a checklist which focused, among other things, on the impact assessments and consultation processes of regulatory projects, as well as on the comprehensibility and accessibility of the regulation. The checklist contained questions related, among other things, to the identification of all the relevant target groups of the regulation and the effects on the target groups, as well as the open availability of draft law documents on the internet. In addition to the checklist, another structure measured the success of the policy of better regulation, for example by surveying the views of the regulatory target groups on the quality of the regulation.

The third structure differs from the previous two in the sense that it is intended to be implemented by external evaluators rather than through internal evaluation (e.g. by a ministry in Finland). Such external parties can, for example, be researchers. The indicator questions presented in the structure were related, among other things, to the

24 Van den Bos 2020, p. 56–57.

clear definition of the social problem, the quality of the materials used in the impact assessments and the quality of the reaction to the views presented by the stakeholders during the consultation phase.

2.2 Law drafting guidelines as a basis for good law drafting in Finland

From the research perspective, the literature on rational law drafting and the quality of law drafting, the characteristics of good law drafting can be identified in the key law drafting guidelines in Finland – Guidelines for the Preparation of Government Proposals (known as HELO), Guidelines for Impact Assessment in Law Drafting (updated English translation will be released in 2023) and the Legislative Drafting Process Guide²⁵. The more fully these factors are taken into account in law drafting and brought forward in government proposals, the higher the quality of the preparation can be assumed to be. For example, the OECD's Regulatory Policy Outlook – one of the most well-known, if not *the* most well-known, indicators describing the quality of legislative drafting – focuses on evaluating the participation of stakeholders and the ex-ante and ex-post consideration and quality of impact assessments.

Other legislative drafting guidelines also include principles for good quality law-making, and these principles should not be ignored in evaluating the quality of lawmaking, even if they are not recognised in an international review context. For example, the legal writer's guide discusses constitutionality and fundamental and human rights in law drafting, legal technique, good legal language and the issue of referring to decrees. Correspondingly, in international publications describing the quality of legislative drafting (e.g. scientific reports, guidelines, recommendations and principles) these issues are not nearly as prominent.²⁶ From the perspective of a decision-making system based on representative democracy, the realisation of representative democracy and the Parliament's right to information is another perspective on good law drafting.

Good legislative drafting is based on the existence of a good knowledge base. Various types of information are required in the preparation of legislation. The government proposal must describe the current situation relevant to the proposal and highlight what works in the current situation and what are the problems or shortcomings that require a change to the current situation. The proposal must also explain the relevant

²⁵ Legislative Drafting Process Guide, <http://lainvalmistelu.finlex.fi/en/>

²⁶ See for instance Tala 2005.

legislation, official and court practice and societal situation more generally. Likewise, the government proposal must explain the relevant research evidence and its sources. The government proposal must also explain, if necessary, the impact of EU law, international obligations binding on Finland as well as the practice of the EU Court of Justice and the European Court of Human Rights and other international courts on the current situation. In some cases, explaining the origins of the legislation is also necessary to understand the proposals included in the proposal.

If necessary, the government proposal must also include a brief description of what has been done in other countries, such as other Nordic countries and/or EU member states, to achieve similar goals. According to the guidelines, it is generally appropriate to include in the review only those countries whose legal order and culture are so similar to Finland that the means used there could be considered in Finland.

A good knowledge base also includes investigating stakeholder views, identifying alternative solutions and assessing their impacts. In addition, it is necessary to plan the implementation and monitoring of the legislation. In law drafting, the magnitude of the regulatory burden caused by the regulation and the ability of the subjects of the regulation to take advantage of the opportunities brought about by it should also be assessed. As such, legislative drafting and drafters face significant demands of a good knowledge base - both from the point of view of an individual project (court practice) and more broadly (the functionality of different regulatory options in different situations).

What is essential in preparing the government proposal is a sufficient and relevant information base that serves society best as a basis for legislative drafting and decision-making (HELO). In what follows, issues have been raised that can be taken into account in the evaluation of the quality of the legislative drafting process. The legislative drafting guidelines serve as the principles of good law preparation against which the realised government proposal can be compared. The quality assessment can be quantitative, such as whether the economic effects have been assessed numerically (yes/no). The evaluation can also be qualitative, such as how well the government proposal highlights the problems associated with the current situation and their causes.

Current state of affairs. Evaluating the current situation requires information about the functionality of the current situation and the shortcomings that require addressing. In the case of an EU-based government proposal, it must be clarified to what extent the EU legal act requires changes to national legislation and what kinds of restrictions the constitution, other national legislation or the legal order imposes on the implementation or supplementing of the EU legal act. In the justifications of proposals based on international treaties, it is necessary to briefly explain how and where the agreement has been prepared at the international level, as well as the key provisions with which the goals are to be achieved.

Objectives. The government proposal must include a section in which the proposal's main societal goals and other goals are briefly explained. The goals must be presented in such a concrete way that the importance of the law as well as how the the goals can be realised can be understood. Legislative drafters are not instructed to set and describe goals very precisely. Goals, means and effects that are not in harmony in legislative drafting has often been recognised as an issue of concern.

Stakeholder participation. In legislative drafting, the consultation guide for legislative drafting provides information on consultation planning, methods and the processing of received feedback. Consultation means obtaining the views, information and experiences of different stakeholders on the law being prepared. The goal of consultation is to try to find out the various aspects, effects and practical implementation possibilities related to the matter. The law drafter must choose the means of consultation that would best achieve the set goals. The consultation is carried out based on the scope of the project and the need for information.

In addition, supporting and deviating positions that came up during the hearings must be presented with justifications for each. It is also necessary to outline how these points of view were taken into account or ignored in the proposal. The information obtained during the preparation from consultations is important for decision makers.

Impact assessment. The Guidelines for Impact Assessment in Law Drafting describe, by impact area, what is meant by different impacts, how different impacts are evaluated and what methods and data sources are available for this purpose. Impacts mean the essential consequences resulting from the application of the proposed regulation which are divided into economic, environmental and other human and societal impacts. The aim of the impact assessment is to provide legislative drafters, decision-makers and stakeholders with information about the effects of the planned legislation, the significance of the effects and the possibilities of mitigating harmful effects. In addition to the general guideline, there are more detailed guidelines on thematic issues such as different impact types.

The impact assessment also produces information on the essential impacts of alternative options. Secondly, it improves the opportunity for target and stakeholder groups and other parties to participate in the preparation. Thirdly, it increases transparency and trust in preparation and decision-making when justifying a certain option or course of action. Finally, impact assessment enables decision-makers to have at their disposal sufficient reliable information about different solution alternatives and their consequences.

The scope, detail and methods used in the assessment must be proportional to the content of the proposal and the significance of the expected effects. As the preparation progresses, the impact assessment must be deepened and monitored. Impact assessment can be done from the point of view of benefits, costs or possible negative effects. The legislative drafter should strive to identify risks and unexpected effects and distinguish between direct and indirect effects. Information that the proposal does not have effects in a certain direction may also be important information to support decision-making. When choosing data sources and methods for impact assessment, the most cost-effective method should be used.

According to the HELO guideline, with regard to alternative solutions, the proposal describes the main alternatives that have been considered and compares their estimated effects. In particular, the justifications must pay attention to why the objectives of the presentation were not considered achievable by the described alternative means.

Constitutionality. In law drafting, the starting point is to prepare law proposals that are in accordance with the Constitution. The regulation must also meet the requirements arising from international human rights obligations binding on Finland and EU fundamental rights. If the proposed law contains a provision whose constitutionality or relationship to human rights obligations needs to be assessed, the proposal must specifically mention the legal provision and explain under what conditions a certain proposal can be executed in the Finnish constitutional order and, in addition, clearly highlight and identify the provisions contained in the proposal that seem subject to interpretation in light of the Constitution or jurisprudence (in the government proposal's section "Relationship with the Constitution and legislative procedure").

In support of the proposal, the grounds for the compatibility of the provisions with the Constitution and the identifiable practice of the Constitutional Law Committee and the jurisprudence of the courts are presented. A separate section on the relationship between the law and the Constitution should be prepared in the government proposal. When the content of the provision is connected to an international obligation binding on Finland or EU law, the proposal must separately mention the relationship. In proposals with an EU background, it must be explained to what extent the proposals result from the provisions of the EU legal act. In addition, it should be noted how it is proposed that the provisions are to be implemented. In law drafting, it is necessary to state the extent to which the law is to be supplemented, mentioning the legal provisions authorising the issuance of norms and describing the main content of the proposed decree.

Ex post evaluation / monitoring. The implementation of the law should be monitored afterwards. In monitoring impacts, the focus is on whether the desired effects of the reform have been realised or whether there have been effects that were not predicted beforehand. The purpose of monitoring is to produce information on how the objectives of the legislation have been attained and what changes potentially need to be made in this light. The impact assessment reports and other information obtained during law drafting must be retained as support for potential later decision-making or for conducting an ex-post evaluation. According to HELO, with regard to the entry into force of the proposal, the planned date of entry into force of the law and the factors affecting its determination must be stated, as well as how the functioning of the law will be monitored.

2.3 The quality of law drafting in Finland is monitored and assessed sporadically

In Finland, the ministries have presented their assessments of the state of law drafting and plans for developing the quality of law drafting since the 1980s. The parliamentary committees also take positions in their reports and opinions on the quality of law drafting. The supervisors of legality do the same in their statements. The State Audit Office (VTV) has previously carried out inspections on the law drafting of ministries, but in recent years, VTV's inspection activities have not been oriented towards quality issues of law drafting. As a new actor in the evaluation of the quality of legislative preparation, the Council of Regulatory Impact Analysis began its activities in the spring of 2016, focusing on evaluating the impact assessments of draft government proposals. Based on the statements issued by the Council, it is possible to describe the quality of legislative preparation from the perspective of impact assessments in the long term, and the annual reviews it issues also provide a systematic picture of the state of law drafting. The views of legislative drafters on the quality of law drafting have however been used rather sparingly in evaluating the quality of law drafting. Today in Finland, there are numerous studies on the quality of law drafting providing versatile descriptions of the current situation.

Finnish law drafting has rarely been directly compared to law drafting in other countries. The OECD's Regulatory Policy Outlook publications are probably the only reports in which it is possible to compare domestic law drafting with that of other countries. However, due to the general nature such reports, their usefulness in developing legislation is limited. In Finland, the study of the quality of law drafting has not really extended to the evaluation of legal technique and legal language. For example, utilising the Ministry of Justice's legal revision could add value to the debate on the quality of law drafting. Although information about law drafting is available from several different sources, the production of information has not been systematic. As such, it is difficult to assess how

the quality of law drafting has developed in the long term. For example, the ministries do not systematically produce information describing the preparation of legislation (resources, number of government proposals, how many government proposals have had a consultation round or have been reviewed by the Ministry of Justice's legal revision, etc.). Researchers' analyses of law drafting usually concern government proposals of a certain year while proper follow-up research on the development of impact assessments, for example, is not really available.

Studies in Finland have often been based on verifying how government proposals comply with law drafting guidelines. Quality has been measured, for example, by looking at the occurrence of the following criteria: quantitative impact assessments, negative effects, assessments of regulatory alternatives, utilisation of information, ex post monitoring/evaluation. The parliamentary committee's reaction to the government proposals has also been used as a quality indicator.

In addition, parliamentary committees occasionally give feedback on the law drafting process while the same observation also applies to the supervisors of legality. In any case, the different sources of information provide a good picture of the development needs in law drafting. These findings can be used when developing law drafting and planning which indicators to use to monitor its quality.

Rantala et al. (2021) carried out a study on regulatory ex-post evaluations in Finland. The study examined how the implementation, impacts and effectiveness of regulations are monitored and evaluated in Finland and internationally. Analyses of domestic practices focus on the organization of ex-post evaluations, their methods and quality assurance, as well as the use of the proposals presented by evaluations. Study found out that political impulses largely guide which regulations will be assessed as separate projects. Ex-post evaluation practices correspond well with the usual division of evaluation activities into formative process evaluation and summative impact assessment. Process evaluations often use a wide range of data, and those evaluations provide a wealth of recommendations for the enhancement of legislation and its implementation. Impact and effectiveness assessments emphasize the need for as controlled quantitative analysis as possible. The report proposes general principles for the coordination and implementation of ex-post evaluations of legislation: for example, it is important to be aware that evaluation approaches need to be decided on a case-by-case basis. In addition, the project presents a process model for the planning and implementation of the ex-post evaluations of legislation, as well as a checklist of issues that should be taken into account when preparing ex-post evaluation reports.

3 Quality indicators for law drafting

3.1 Starting points for drafting indicators

When setting out to define indicators that measure the quality of law drafting, precise boundaries must be drawn regarding the different areas of quality measurement. The review can be undertaken either in a process-oriented manner (cf. the legislative drafting process described in the previous chapter) or thematically (e.g. need, data base, resourcing, consultations and participation, technical quality of the law or impact assessments). Criteria related to the availability of material, the realism of quality assessment, or the comparability of different administrative branches can also provide the basis for the drawing of boundaries. It must however be remembered that, even at best, the used indicators are indicative descriptions of several different components of the quality of law drafting. Their purpose is not to exhaustively measure quality, but to serve as a set of guidelines for operational development.

The general requirements for quality indicators can be considered in terms of their relevance, validity and reliability. The relevance issue suggests that the indicators describe only the most central aspects from the point of view of law drafting. The validity of a measure means its competence, i.e. its ability to measure exactly what it is intended to measure. The issue of reliability refers to the consistency of the measurement, i.e. that it always (even when repeated) measures the same thing.

Figure 1. The main components of quality indicators for law drafting

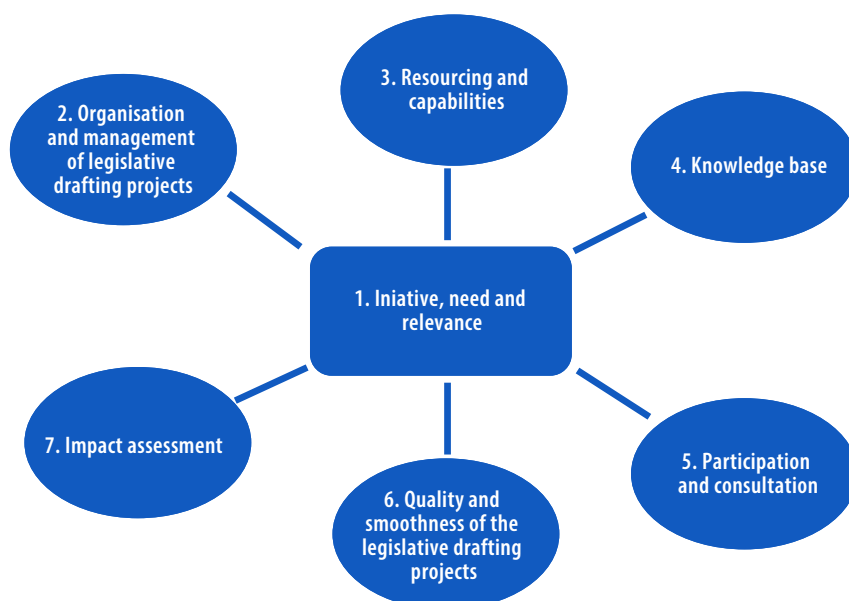


Figure 1 outlines the main components of the empirically tested law drafting quality indicator system. The model has a total of seven measurable areas (so-called baskets of indicators): 1) initiative, need and relevance, 2) organisation and management of legislative drafting projects, 3) resourcing and capabilities, 4) knowledge base, 5) participation and consultation, 6) quality and flow of the legislative drafting process, 7) impact assessment. The final indicator baskets were arrived at after workshops held with the research project's steering group and the commentaries provided at the steering group meetings. Additionally, in-depth interviews with people working in law drafting that were carried out during the project on the quality of law drafting and developing indicators for it were used in developing the indicator model. The original set of indicators also included parliamentary proceedings and implementation. However, these were waived because, in accordance with the project's mandate, the review was to be limited to the internal processes of ministries.

Each of the indicator baskets or main components consists of several separate indicator questions. In other words, the assessment of the area of quality of legislative drafting (indicator/main component) consists of the answers given to the indicator questions related to it.²⁷ Both the legislative drafter and stakeholder barometer include common indicators thus allowing for comparisons.

The barometer sent to legislative drafters, ministry management and experts supporting the preparation of legislative projects has far more detailed indicator questions than the stakeholder barometer. In order to clarify the structure of the legislative drafter barometer, the questions of each indicator basket have been further divided into subgroups. In other words, the stakeholder barometer is a stripped-down version of the legislative drafter barometer, whose indicator questions were chosen in such a way that external stakeholders participating in legislative drafting projects would have sufficient knowledge to answer them. For example, the lower subgroups of the indicators were omitted from the stakeholder barometer in order to make the survey easier to answer. It should however be noted that in both barometers respondents were asked to evaluate the general quality of law drafting in the mentioned areas, not only from the perspective of an individual project (although it can be assumed that the most recent experience with a legislative drafting project has significantly influenced the answers given). In addition, the law drafting quality indicator system has been tested with the help of five projects selected for

27 The indicator questions used in the piloted barometers were selected based on the feedback and joint discussions received from the steering group (whose members, for example, tested the electronic versions of the barometers before the actual piloting). However, the table of indicator questions in the separate appendix of this report has also included the questions that were left out of the piloted barometers. Thus they can be used in future.

individual review, where the legislative drafters who participated in these projects were asked to respond to a separate regulatory project barometer. In addition, the indicator questions of this barometer largely corresponded to the indicator questions contained in the legislative drafter barometer, although their formulation was changed to better reflect the project-specific examination. A Likert scale is used as the answer scale for the indicator questions of the barometers, where the respondents express both their positive and negative attitude to the presented claim on a five-point scale. In the following chapters, the results of the legislative drafter and stakeholder barometers are presented in a simplified three-step scale.²⁸

3.2 Quality barometers for law drafting

The law drafting quality barometer is intended as a survey application with which different ministries can measure the state of the quality of law drafting and identify key development needs. The survey could be carried out each year with different administrative branches adding their own complementary additional questions to the survey. The barometer model is based on a questionnaire which is to be answered by all legislative drafters and parliamentary committee advisors in the timeframe mentioned in the survey. The response link can be added to the ministry's intranet website, where legislative drafters are informed separately. Alternatively, each employee can be sent a one-time response link directly from the system via email. At the end of the response time, the system calculates response summaries by background variables. The results can be reported in a versatile manner via different reports. Reports concerning own employees can be printed for each sub-unit of the organisation. The results are not reported per respondent, but only per group, so that the opinions of individual respondents are not revealed. However, a lower limit should be set for the size of the group which does not allow the printouts of smaller groups from the system.²⁹

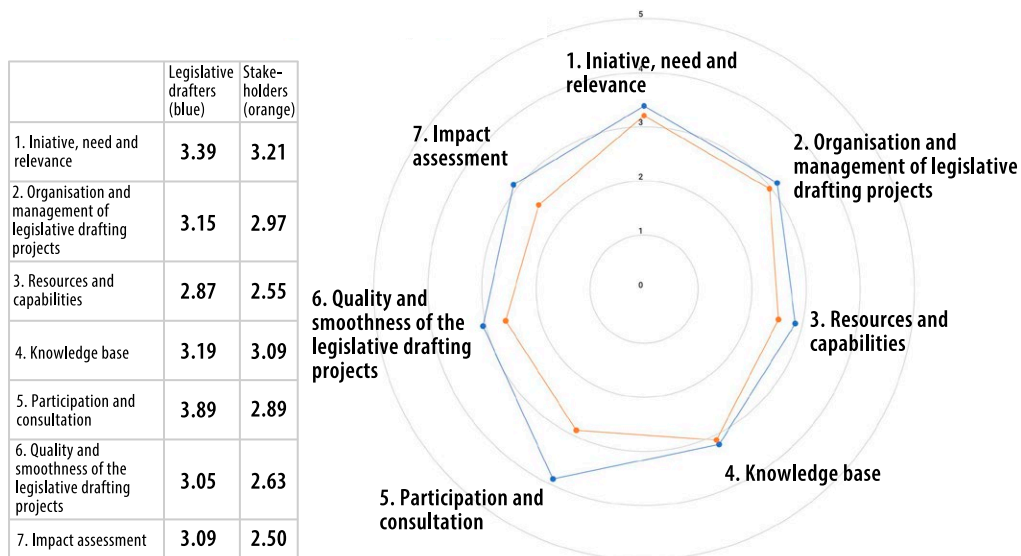
28 In total, the legislative drafter barometer consisted of 75 indicator questions, the stakeholder barometer 44 indicator questions, and the regulatory project barometer 71 indicator questions (excluding background questions and free/open comments). Since it is a monitoring tool for the quality of legislative drafting intended for use by the administration, statistical methods intended for the validation of sum variables, such as e.g. Cronbach's alpha test, have not been applied in the construction and testing of sum variables.

29 Similar practice is used in the "VM Baro" <https://www.vmbaro.fi/>.

The legislative drafter and stakeholder pilot barometers were carried out simultaneously in September 2022. The legislative drafter barometer was sent by the Ministry of Justice to experts participating in the law drafting of various ministries. By the deadline, answers were received from 193 respondents.³⁰ The stakeholder barometer was distributed using open lists available through the opinion service Lausuntopalvelu.fi³¹. A total of 752 respondents answered the barometer by the deadline.³²

Figure 2 presents the views of both groups of respondents according to the indicator baskets.

Figure 2 Aggregated responses from the legislative drafter and stakeholder barometers, organised by indicator baskets



30 The representativeness of the results of the legislative drafter barometers cannot be assessed with certainty because exact information on the size of the target group is not available.

31 Lausuntopalvelu.fi is an online opinion service used by public administration organizations to gather statements from stakeholders, <https://www.lausuntopalvelu.fi/FI>

32 The stakeholder barometer’s respondent list was compiled from legislative projects that had collected more than 150 opinions and also from opinions from projects that had collected less than that number for ministries where legislative work is done less than other ministries (e.g. the Ministry of Foreign Affairs and Ministry of Defence). In the next step, duplicates and individuals were removed from this list, as in this way it was possible to improve the chances of getting respondents who have a wider experience and insight into legislative drafting projects. Exact information on the size of the target group of the stakeholder barometer is not available because some respondents hoped that they could forward the survey link to their own stakeholder group. However, based on the information received, the size of the target group has settled in the 4,000–4,500 range.

Figure 2 shows that, for the most part, the average responses of legislative drafters coincide with those of stakeholders.³³ Across the board, the views of stakeholder respondents are to some extent more critical than those of the legislative drafters. The biggest differences can be found in terms of participation and consultation in the legislative project, as well as on impact assessment. In terms of participation and consultations, the main point of criticism from stakeholders are tight deadlines for statements and the fact that consultations should be held at an earlier stage of the law drafting cycle, when the contents and goals have not yet been locked in place. The late timing aroused criticism from the stakeholders also in relation to impact assessments. Some respondents considered that the results of the impact assessments could not be utilised to a sufficient extent in the substantive revisions of government proposals. The ministries' ability to carry out high-quality impact assessments was also doubted. In addition, respondents to both the legislative drafter barometer and the stakeholder barometer were critical of the resourcing of legislative projects. This is a concern that should be taken seriously in the development of the legislative drafting process. Under-resourced and hastily implemented legislative drafting processes may, at worst, weaken citizens' and companies' trust in the ministries' ability to operate.

3.2.1 The results of the 2022 legislative drafter barometer

The average score for the answers given to the indicator questions included in indicator basket 1 (initiative, need and relevance) of the legislative drafter barometer was 3.39 on a scale of 1–5. Of the subgroups, subgroup 1.4 (relationship with the Constitution and human rights obligations) got the highest result (3.6) while the subgroup 1.2 (clarity of goals) the lowest (3.26). In the open answers, the challenge of defining the social significance of legislative drafting projects was brought up, as well as the fact that a socially significant legislative drafting project is not necessarily the same as a politically significant project. On the other hand, the clarity of the goals of legislative drafting projects is considered to vary per project and sometimes the goals are specified only as the project progresses. Although, according to the respondents, alternative solutions are evaluated in connection with legislative projects, the evaluation of alternatives was limited by e.g. schedule pressures and previously agreed political policies.

33 The average values have been calculated from the averages of the answers to the individual indicator questions included in each indicator basket. The response scale used is the so-called Likert scale (1–5), where statements are evaluated in such a way that 1 = Totally disagree and 5 = Totally agree.

According to the respondents, the consideration of constitutional and human rights obligations related to legislative drafting projects had developed into a normal part of the legislative drafting process, although receiving support for evaluating and considering these obligations was still considered important.

The average score for the answers given in indicator basket 2 (organisation and management of legislative drafting projects) was 3.15. Subgroup 2.1 (management of legislative drafting projects) had a mean of 3.03, while subgroup 2.2 (division and organisation of work) had a slightly higher mean (3.26). Those who gave open-ended answers considered that the practices of managing and organising legislative projects varied significantly both by project and by ministry. The teamwork model was considered something worth striving for in terms of the quality of law drafting, but often limited resources and other tasks limit compliance with the model. On the other hand, it was hoped that the civil service leadership of the ministries would ensure the fulfillment of the conditions for good law drafting because the political leadership does not necessarily have a very deep view of the realities of law drafting.

The average score for indicator basket 3 (resourcing and capabilities) was 2.87 which was the lowest result of the indicator baskets included in the legislative drafter barometer. Among subgroups, subgroup 3.3 (ensuring competence) got the best result (3.28), while subgroup 3.1 (resources) got the lowest average (2.16). In the open answers, schedule pressures and a lack of resources were also repeatedly brought up which is partly explained by the increase in the requirements for law drafting. In cooperation between ministries, there is a lot of ministry- and project-specific variation which is influenced e.g. by forming a common vision regarding the legislative drafting project, the flow of information and the resources available to each ministry. The legislative drafters' expertise in substance and law drafting was deemed to need additional investment: although the required (special) expertise is found in the ministries, only a few people may have it which in turn makes the system vulnerable. Even though there is training available to support law drafting, those who would benefit the most from it do not always apply for it, or there is simply not enough time to take advantage of it. According to many respondents however, law drafting work is something that is learned by doing.

The average score for the responses received for indicator basket 4 (knowledge base) was 3.19, of which the average for subgroup 4.1 (relation to other legislative drafting projects and strategic goals) was 3.29 and for subgroup 4.2 (utilisation of research data) 2.98. Based on the open answers, there is still room for improvement in terms of the identification of information flow and links between legislative drafting projects. It would also be possible to improve the utilisation of research data: Legislative drafters try to follow the latest research data themselves, but lack of time often becomes an obstacle to this. Closer cooperation with representatives of the scientific world was considered desirable, e.g. in matters that lie outside the legislative drafter's own expertise.

Indicator basket 5 (participation and consultation) scored an average of 3.89 which was the highest result of the indicator baskets of the legislative preparation barometer. Among the subgroups, 5.4 (usability) got the best result (4.13), but subgroup 5.2 (timeliness and communications) which got the lowest result (3.78), was not far behind. According to the open-ended answers, there is project-specific variation in participation and consultation in legislative drafting projects. In general, the involvement of large interest organisations in legislative drafting projects works best, because the interest organisations are already familiar to legislative drafters and they also have sufficient resources and 'know-how' to support participation. Room for development was however seen in the participation of silent stakeholders and ordinary citizens. Improving the interactivity of the hearings and taking into account the views of stakeholders was seen here to depend not only on the competence of the legislative drafter, but also on e.g. given schedules and the role of political guidance.

The average score for the indicator questions in indicator basket 6 (quality and flow of the legislative drafting process) was 3.05, while subgroup 6.1 (process phasing and quality) within it scored an average of 3.01 and subgroup 6.2 (reflection and learning) scored 3.09. In the open answers, it was noted that legislative projects often involve unforeseen events and surprises that cannot be anticipated in advance. For this reason, project plans are often not realised as initially expected which is particularly evident in the case of large or politically sensitive projects. Post-reflection discussions on the legislative drafting project usually take place when a working group is responsible for the project. Although there are discussions around law drafting among legislative drafters, for example, established practice in respect of post-reflection on legislative drafting projects has yet to be developed.

Indicator basket 7 (impact assessment) scored an average of 3.09 in the answers to the indicator questions. Among the subgroups of this indicator, 7.1 (pros and cons of the government proposals) received the highest result (3.36), while the average for subgroup 7.5 (ex-post evaluation) was the lowest (2.43). Impact assessments are often perceived as challenging: although the impact mechanisms, benefits and disadvantages of various legislative projects are identified, their verification is considered challenging. Although the quality requirements of impact assessments have increased and the importance of impact assessments has received more attention, skills gaps and schedule pressures limit the possibilities of carrying out assessments. The lack of resources and tight schedules are perhaps best reflected in the sporadic implementation of ex-post evaluations which, according to the legislative drafter barometer, should be developed towards a more systematic practice.

3.2.2 The results of the 2022 stakeholder barometer

The average score for the answers given to the indicator questions included in **indicator basket 1** (initiative, need and relevance) of the stakeholder barometer was 3.21 on a scale of 1–5. According to those who left an open answer, there are differences in law drafting depending on the ministry, project and legislative drafter. The importance of legislative drafting projects was seen to be based on the government programme and other political interests which can have a significant impact on how the legislative project is carried out and how the solution is chosen. In some situations, the public debate, hearings and impact assessments related to the legislative drafting project can often have little impact on the preparation process. According to the respondents, greater effort should be made to identify the fundamental and human rights obligations of legislative drafting projects and to assess their related effects more comprehensively and accurately, such that, for example, the special characteristics of different groups would be better taken into account.

The average score for the answers given in **indicator basket 2** (organisation and management of the legislative drafting project) was 2.97. Based on the open answers, the management practices of legislative drafting projects are not always open to stakeholders. The importance of political leadership, on the other hand, is viewed in two ways: legislative drafting projects that are seen as politically interesting generally also receive political support while less interesting projects may be overshadowed and delayed. In addition, active political management is seen to include the risk that the views of stakeholders or research data are not utilised sufficiently in the project. More generally, respondents wondered about the actual impact possibilities of various consultations. In terms of the inclusion of legislative projects, greater effort should be made to be broad-based in order to make better use of the full range of views held by stakeholders, although some of the respondents to the barometer recognised the practical challenges related to this.

The average score for **indicator basket 3** (resourcing and capabilities) was 2.55, where, according to the open answers, the scheduling pressures of legislative projects and the scarcity of resourcing are clearly visible to stakeholders. This manifests itself in particular in terms of the shortness of the consultation periods and the quick processing of opinions which raises the question of how well feedback has been utilised in the preparation of the legislative drafting project. Cooperation between ministries was considered to need improvement, as well as the utilisation of expertise for substance and law drafting, as the necessary expertise was considered to be already available in ministries and among stakeholders.

Indicator basket 4 (knowledge base) received an average score of 3,09. The connection of legislative drafting projects to existing legislation, other projects and the government programme are mostly well identified, although there are exceptions. It is difficult for stakeholders to assess the social significance of legislative projects if the connections between different projects and legislation have not been brought out clearly enough. Efforts should therefore be made to further strengthen the information base of legislative drafting projects as some of the respondents felt that the information base was one-sided or incomplete. Moreover, stakeholders do not always have a clear idea of how the information has affected the content of the government's presentation or, indeed, whether it has had an effect at all.

Indicator basket 5 (participation and consultation) received an average score of 2.89. The main concern here related to the consultations and whether they have enough influence over the shaping of the contents of the legislative drafting projects. In the respondents' opinion, participation should be promoted in the organisation of hearings, so that the views of various stakeholders – and their diverse views - would be better taken into account when defining the contents of legislative drafting projects.

The average score for the indicator questions of **indicator basket 6** (quality and flow of the legislative drafting projects) was 2.63. Those who left an open answer also considered the processes of legislative drafting projects to be reasonably transparent, but project delays were perceived as a common phenomenon. The respondents had little first-hand experience of the actual aftermath follow-ups of legislative drafting projects, but the idea of organising them was viewed very positively.

Indicator basket 7 (impact assessment) received an average score of 2.5 in the answers to the indicator questions. According to the open answers, political guidance can bind impact assessments in such a way that a versatile assessment of impacts is not considered appropriate or the results of the evaluations are not disclosed sufficiently, if the results are in conflict with the political guidance. There should be further investment in carrying out impact assessments and related expertise so that impact assessments could be carried out in a more versatile and timely manner than at present in order to improve their usability. Similarly, in the ex-post evaluations of regulations, greater effort should be made to develop a more systematic model, as the respondents think that the monitoring of the effects of regulations is now rare.

3.3 Information systems supporting the monitoring of the law drafting process should be developed

The Government and Parliament have several information systems connected to the various stages of the legislative process through which a lot of different information related to the legislative process is accumulated. In this report, from the point of view of monitoring and evaluating the quality of the law drafting process, the following were identified as key data sources: 1) Hankeikkuna³⁴ 2) Lausuntopalvelu.fi, 3) the Parliament's online service and 4) the Finlex Data Bank³⁵ containing government proposals and regulations. At best, with the help of the information obtained through these information systems, it would be possible to produce a more up-to-date picture of the current state of the legislative process and possible bottlenecks to support a more accurate analysis. Access to information itself is also an important part of an open and transparent legislative process.

There are however various challenges associated with the utilisation of all datasets: the information is often variable in quality and consistency and therefore poorly usable from the point of view of data analysis. From the point of view of this report however, the primary challenge is more qualitative in nature: although the materials enable many types of analysis, most of the information is either related to the end products of the process (government proposals, regulations) or to the parliamentary processing phase. In other words, only a small part of the data is relevant for monitoring and evaluating the quality of the law drafting process. Several aspects that affect the quality of the law drafting process, such as competence, management and resourcing as well as the phasing of the preparation, are factors that are difficult to measure and for which little (or no) data-based information is currently available.

The challenges described above are not only technical in nature, relating to the utilisation of data, but also more broadly development targets related to the quality of the legislative drafting process. In terms of the transparency and traceability of the legislative drafting process, it is important to be able to produce as comprehensive and up-to-date a picture of the legislative process as possible through data materials. Currently this is not happening at least to a sufficient level.

34 Hankeikkuna is an online database which contains information about all the projects implemented by ministries (only available in Finnish)

35 Finlex is an online database of up-to-date legislative and other juridical information of Finland, <https://www.finlex.fi/en/>

Clearly, the most relevant and useful dataset is Hankeikkuna, which offers some interesting and worthwhile opportunities for monitoring and evaluating the quality of the legislative drafting process. Although at the level of an individual project, for example, information on project budgets or the duration of different phases does not tell much about the quality of an individual project, Hankeikkuna would enable monitoring and analysis of the project portfolio at the level of the entire government (or, for example, at the level of an individual administrative branch). For example, a more systematic monitoring of the duration, timing or resourcing of the different phases of legislative projects would provide useful information about potential bottlenecks in the legislative drafting process.

Although Hankeikkuna is not primarily intended for monitoring the quality of the legislative process, its data model already contains data fields that are useful in terms of the legislative process. The information contained within it is not however updated comprehensively or systematically. If the updating of data in the Hankeikkuna were more systematic (all relevant information available for all projects) and more uniform (data exported to the Hankeikkuna in the same way), the information contained in the Hankeikkuna could already be used to produce useful background information to support the monitoring of the quality of the legislative process. This would however require that the updating of the data be made mandatory, or at least that the importance of updating the data be stressed more strongly as part of the preparation of regulatory projects. This would entail some additional work for law drafters. As stated above however, the availability and up-to-date nature of information is important from the point of view of the transparency and traceability of the legislative drafting process and thus investing in it would be justified.

In future, the development of new data fields (e.g. stage or situation data) would also enable more in-depth data to be produced. This would however require some technical development work and its resourcing. In itself, the development of the Hankeikkuna for this purpose is technically relatively simple. However, the dependence of the VAHVA case management system³⁶ and the Hankeikkuna on each other in the information production and transmission process could cause development bottlenecks, as the opening of projects and part of the basic data entry takes place in the VAHVA-system.

36 VAHVA -case management system is for the internal use of ministries only.

4 Recommendations

Finally, based on the project's analysis, a set of recommendations is presented to improve the quality of the legislative drafting process. The recommendations presented below require both government-level and ministry-specific measures. The feasibility of the recommendations would be improved if general guidelines for the development of the quality of the legislative drafting process were drawn up at the level of the government. Such guidelines could then be adapted by individual ministries to meet the needs and special characteristics of each administrative branch.

1. **The monitoring, evaluation and research of the quality of law drafting should be strengthened and made more systematic.** A significant amount of research has been done in Finland on the quality of legislative drafting, but a systematic overall assessment (e.g. regular monitoring of the same issues) has not, thus far, been possible. Only the annual report of the Council of Impact Analysis 'meets' the criteria for systematic monitoring. **In future, care must be taken to ensure that there is sufficient statistical, monitoring and research data to support the development of law drafting.**
2. **The management of the legislative drafting process should be clarified and strengthened, both on the civil service and the political level.** This could be facilitated by the creation of general and common guidelines for the development of the quality of legislative drafting, although each ministry itself is responsible for concrete definition and implementation. Similarly, the roles of the political leadership and the civil service leadership in ministries should be clarified in guiding and leading the legislative drafting process. Ministries should prepare clear goals for the coming years in the development of law drafting and define the resources required to implement them. **In addition, the ministries should include the development of the quality of legislative drafting as part of their ministry-specific performance targets.**

3. **The resourcing of law drafting should be strengthened and the development of the quality of the legislative drafting process should be recorded as a goal of the 2023 government programme with a separate development project launched to support it.**

4. **‘Regulatory maintenance’ should be strengthened.** ‘Regulatory maintenance’ of a technical nature is often not a matter of political interest, but one of the goals here should nevertheless be to keep the existing regulation up to date. Each ministry is responsible for the development of ‘regulatory maintenance’ in its own administrative area. The development of ‘regulatory maintenance’ is also strongly connected to improving the quality of the legislative drafting process.

5. **The barometers developed in this project to measure the quality of legislative drafting should be included in the continuous development of legislative drafting.** In future, the legislative drafter and stakeholder barometers should be repeated at regular intervals (e.g. once a year or every two years). In this way, systematic monitoring information can be obtained and changes in the results of quality indicators over time can be followed. It would be desirable to have ministry-specific summaries also available for evaluation and the development of operations. In addition to the above, a separate assessment should be prepared for legislative projects that are significant or designated by the leadership of ministries or the political leadership. This could be carried out either as a self-assessment or by an external party. Responsibility for carrying out the barometers should be assigned to one entity. **It would be appropriate if the Ministry of Justice took responsibility for carrying out the legislative drafter and stakeholder barometers. The ministries, in turn, must determine the criteria on the basis of which legislative projects to be selected for separate review are identified.**

6. **Information systems producing information and materials connected to the legislative drafting process and its utilisation should be further developed. In the development of information systems, cost efficiency remains important and instead of undertaking major system reforms, efforts should be made to utilise existing systems.** In particular, efforts should be made to utilise the possibilities of the Hankeikkuna by ensuring the up-to-date nature and consistency of the information, which is also important from the point of view of the transparency and traceability of the legislative process. **This requires that the updating of data is prioritised more than is currently the case as part of the legislative process and that the**

importance and benefits of recording data are clearly communicated to law drafters. At the same time, clear instructions for legislative drafters must be drawn up to update the information as uniformly as possible and it must be ensured that the administrative burden on legislative drafters from updating the information remains as manageable as possible. The greatest added value from the point of view of monitoring the quality of the legislative process would be obtained by using the stage data made possible by the Hankeikkuna more efficiently than at present and by analysing the timing and duration of the different stages of the process in relation to the target levels and general guidelines.

Appendix 1: Quality Indicators of the Legislative Drafting Process

The quality indicator model for law drafting consists of seven main indicator baskets which in turn are divided into subgroups. Each subgroup contains from three to five indicator questions (or rather statements to be evaluated by the respondent) covering various aspects of the Finnish legislative process. In this appendix, we present the legislative drafter barometer which was the most extensive of the three barometers tested in this project. Additionally, the questions used in the stakeholder barometer are underlined.

1. Main Indicator Basket: Initiative, need and relevance

1.1. Subgroup: Societal significance

- 1.1.1. The societal significance of legislative drafting projects can be determined with sufficient clarity.
- 1.1.2. The societal significance of legislative drafting projects affects the way how they are prepared and resourced.
- 1.1.3. Discussions are held over the societal significance of legislative drafting projects.

1.2. Subgroup: Clarity of goals

- 1.2.1. The objectives of legislative drafting projects are determined with sufficient clarity.
- 1.2.2. The connections between ends and means are well-recognized in legislative drafting projects.
- 1.2.3. The objectives set for the legislative drafting projects are measurable.

1.3. Subgroup: Determination of need and alternatives

- 1.3.1. The need for changes in legislation is accounted for in legislative drafting projects.
- 1.3.2. The possible use of other steering instruments is evaluated sufficiently in legislative drafting projects (e.g., recommendations, incentives, guidance, and standards)
- 1.3.3. The possible use of alternative instruments within existing legislation is evaluated sufficiently.

1.4. Subgroup: Relationship with the constitution and human rights obligations

- 1.4.1. Constitutional and human rights requirements related to the legislative drafting projects are well-recognized.
- 1.4.2. Legislative drafters have sufficient know-how in matters related to constitutional and human rights requirements and/or the opportunity to seek assistance outside their own ministries if needed.
- 1.4.3. Legislative drafting projects' impacts on fundamental and human rights are sufficiently well-recognized.

2. Main Indicator Basket: Organisation and management of legislative drafting projects

2.1. Subgroup: Management of legislative drafting projects

- 2.1.1. Management of legislative drafting projects is organised clearly.
- 2.1.2. Political leadership provides sufficient support for legislative drafting projects.
- 2.1.3. The senior management of ministries provides sufficient steering for legislative drafting projects.

2.2. Subgroup: Division and organisation of work

- 2.2.1. Division of work and responsibilities related to legislative drafting projects is clearly organised.
- 2.2.2. The organisation of legislative drafting projects is sufficiently broad-based (e.g., the use of working groups and committees)
- 2.2.3. Legislative drafters' different skills and capabilities are considered during the organisation of legislative drafting projects.
- 2.2.4. Teamwork is sufficiently utilised in legislative drafting.

3. Main Indicator Basket: Resourcing and capabilities

3.1. Subgroup: Resources

- 3.1.1. Resources available for the preparation of legislative drafting projects are sufficient.
- 3.1.2. Resources available for the legislative drafting projects are purposefully allocated.
- 3.1.3. There is sufficient amount of time allocated to the legislative drafting projects.

3.2. Subgroup: Utilisation of external resources and cross-administrative cooperation

- 3.2.1. There are enough resources available for the acquisition of external support in legislative drafting projects (e.g., required expert know-how)
- 3.2.2. Cross-administrative legislative drafting projects are sufficiently designed in cooperation between representatives of different ministries.
- 3.2.3. Cooperation between the ministries functions well in legislative drafting projects.

3.3. Subgroup: Ensure competence

- 3.3.1. There is enough legislative drafting know-how available for legislative drafting projects.
- 3.3.2. There is enough substantive know-how (specific knowledge about the legislative issue at hand) available for legislative drafting projects.
- 3.3.3. There is enough methodological know-how available for legislative drafting projects (e.g., concerning the utilisation of research, organisation of hearings and assessing impacts)
- 3.3.4. There is enough know-how related to EU legislation available and/or the opportunity to seek outside assistance if needed for legislative drafting projects.

3.4. Subgroup: Induction and training

- 3.4.1. Legislative drafters receive sufficient induction training.
- 3.4.2. Legislative drafters are provided sufficient general level legislative drafting training.
- 3.4.3. Legislative drafters are provided sufficient training about substantive matters (issues relevant to the legislative drafting projects)

4. Main Indicator Basket: Knowledge base

4.1. Subgroup: Relation to other legislative drafting projects and strategic goals

- 4.1.1. Legislative drafting projects' relation to other existing legislation is sufficiently well-recognized.
- 4.1.2. Legislative drafting projects' relation to the government programme and other legislative drafting projects is sufficiently clarified.
- 4.1.3. Legislative drafting projects' relation to other guiding strategic documents of the public administration is sufficiently clarified.

4.2. *Subgroup: Utilisation of research data*

- 4.2.1. Legislative drafting projects utilise sufficiently research data about existing legislation.
- 4.2.2. Legislative drafting projects utilise sufficiently other existing research data.
- 4.2.3. Legislative drafting projects utilise sufficiently EU-related and other international comparative data.

5. **Main Indicator Basket: Participation and consultation**

5.1. *Subgroup: Participation*

- 5.1.1. Key stakeholders are recognised in legislative drafting projects.
- 5.1.2. Representatives of key stakeholders are involved in legislative drafting projects.
- 5.1.3. Representatives of so-called “silent stakeholders” are sufficiently considered (e.g., minority groups which lack official/formal representation)

5.2. *Subgroup: Timeliness and communications*

- 5.2.1. Consultation of stakeholders are held timely in legislative drafting projects.
- 5.2.2. Communications about the legislative drafting projects is sufficient.
- 5.2.3. There is enough public information available about legislative drafting projects.

5.3. *Subgroup: Consultation*

- 5.3.1. Consulted stakeholders form a representative sample in legislative drafting projects.
- 5.3.2. Stakeholders are given an equal hearing during legislative drafting projects.
- 5.3.3. Consultations are organised openly in legislative drafting projects.
- 5.3.4. Versatile consultation methods are utilised in legislative drafting projects.

5.4. *Subgroup: Usability*

- 5.4.1. Statements and consultations of stakeholders are well taken into consideration.
- 5.4.2. Views of stakeholders are openly presented in government proposals and/or in summaries of stakeholders’ given statements.
- 5.4.3. Statements given by the Chancellor of Justice are well taken into consideration in government proposals.
- 5.4.4. Statements given by the Council of Regulatory Impact Analysis are taken into consideration during the preparation of government proposals.
- 5.4.5. Government proposals and/or summaries of statements contain a good description how received statements have affected the preparation of each government proposal.

6. Main Indicator Basket: Quality and flow of the legislative drafting process

6.1. Subgroup: Process phasing and quality

- 6.1.1. Processes of the legislative drafting projects are open and transparent.
- 6.1.2. Legislative drafting projects are phased successfully according to their size and significance.
- 6.1.3. Different phases of the legislative drafting projects are carried out as designed.

6.2. Subgroup: Reflection and learning

- 6.2.1. Participants of the legislative drafting projects engage in active conversation during the implementation of these projects.
- 6.2.2. Post-reflection discussions are held after the completion of legislative drafting projects (e.g., with the members of the working group, with senior officials of the ministry and/or with the representatives of stakeholders).
- 6.2.3. In ministries, there is an open discussion culture which is supportive of legislative drafting work.

7. Main Indicator Basket: Impact assessment

7.1. Subgroup: Pros and cons of the government proposals

- 7.1.1. Impact chains and mechanisms relevant to the legislative drafting projects are sufficiently well-recognised.
- 7.1.2. Advantages of the government proposals are sufficiently well-recognised.
- 7.1.3. Disadvantages and/or costs of the government proposals are sufficiently well-recognised.

7.2. Subgroup: Selection and comprehensiveness of the impact assessments

- 7.2.1. Impacts of government proposals are identified in sufficiently different ways and in different impact type categories.
- 7.2.2. Impacts are assessed in a sufficiently comprehensive manner for the essential impacts of the legislative drafting projects.
- 7.2.3. In legislative drafting projects, reasons are given for the consideration and omission of certain types of impacts.

7.3. Subgroup: Knowledge base of impact assessments

- 7.3.1. Impact assessments produce a sufficiently comprehensive view of the impacts of the proposed regulation.
- 7.3.2. Impacts of alternative solutions are assessed in legislative drafting projects.
- 7.3.3. In legislative drafting projects, alternative solutions are compared based on their advantages and disadvantages.

7.4. Subgroup: Carrying out and reporting of impact assessments

- 7.4.1. Impact assessments related to the legislative drafting projects are carried out in a timely manner.
- 7.4.2. Impacts related to the legislative drafting projects are openly described in government proposals.
- 7.4.3. Sufficient justifications, why the selected measure is the best for the attainment of set objectives, are presented in government proposals.

7.5. Subgroup: Ex-post evaluation

- 7.5.1. Ex-post evaluations of government proposals are sufficiently planned during legislative drafting.
- 7.5.2. Impacts of the passed laws are sufficiently monitored.
- 7.5.3. Methods used in ex-post evaluations are sufficiently diverse.
- 7.5.4. Results of ex-post evaluation are taken into consideration sufficiently in legislative drafting work (e.g., in 'maintenance work' of existing legislation and in new legislative drafting projects).

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