

Quality of Public Administration

A Toolbox for
Practitioners



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Quality of Public Administration

A Toolbox for Practitioners

European Commission

Directorate-General for Employment, Social Affairs and Inclusion

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Foreword

The quality of its institutions, both governmental and judicial, is a key determining factor for a country's well-being. Administrative capacity is increasingly recognised as a pre-requisite for delivering the EU's treaty obligations and objectives, such as creating sustainable growth and jobs.

Public authorities must be able to adjust to the dynamic and often disruptive changes in the economy and society. In an increasingly 'connected' but uncertain world, policies and structures that have been successful in the past might not be sufficient or appropriate to serve citizens and business in the future. The ability to reflect today's needs and to anticipate tomorrow's, agile enough to adapt, have to become permanent features of the public sector. Most of all, administrations must build on a solid foundation: ethical, efficient, effective and accountable.

The EU supports Member States' administrations to become fit for the future. During the European Semester process, the European Commission reviews Member State administrations' performance and any underlying areas for improvement. The European Council adopts country-specific recommendations on the basis of this analysis. The European Structural and Investment Funds have a dedicated thematic objective for investing in the quality and capacity of public authorities. For the 2014-2020 period, it is expected that eighteen Member States will invest at least EUR 4.7 billion from the European Social Fund and the European Regional Development Fund for that purpose.

This EU Quality of Public Administration Toolbox aims to support, guide, encourage and inspire those who want to build public administrations that will create prosperous, fair and resilient societies. The Toolbox tries to help countries with addressing country-specific recommendations and with delivering successful strategies and operational programmes. There is no panacea – one solution for all – to building quality administrations, but we have sought to capture the various dimensions and complexities and to make them easily accessible to the practitioner.

The Toolbox is not a new EU policy statement. The Toolbox brings together various existing EU policies and international standards that concern the quality of public administration in any country. Most of all, the application of principles and tools is illustrated with almost 170 case studies from Member States and around the world.

This is not the end of the story, but rather a starting point. The Toolbox has been assembled and published within a relatively tight timeframe, in order to start a dialogue and stimulate thinking. Given the dynamic environment of public administration, it will need to evolve into an interactive tool, where its contents can be discussed, updated, and co-created by users.

We expect the Toolbox to become a key instrument to manage, share and develop knowledge to enable European authorities to design and deliver quality policies and public services. We hope that you find valuable, inspiration and practical tools inside, and that you will join us on the Toolbox future journey.



Michel Servoz, Director-General for Employment, Social Affairs and Inclusion, European Commission

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- Communications Networks, Content and Technology (CNECT)
- Informatics (DIGIT)
- Economic and Financial Affairs (ECFIN)
- Employment, Social Affairs and Inclusion (EMPL)
- Internal Market, Industry, Entrepreneurship and SMEs (GROW)
- Human Resources and Security (HR)
- Justice and Consumers (JUST)
- Migration and Home Affairs (HOME)
- Regional and Urban Policy (REGIO)
- Research and Innovation (RTD)
- Health and Food Safety (SANTE)
- Taxation and Customs Union (TAXUD)

The Toolbox was presented and discussed in several fora and to various stakeholder audiences, including: a European Commission seminar on Modernising Public Administration (1-2 October 2014); the SME Assembly (Naples, 2 October 2014); the European Network for Public Administration (EUPAN) meeting under the Italian EU Presidency (16-17 October 2014); the European Social Fund Committee (17 October 2014); the eGovernment Expert Group (11 December 2014)

The Toolbox and its draft chapters further benefitted greatly from reviews and comments by: DG EMPL's counterparts in Member States; DG GROW's *Network of SME Envoys*; Benedict Wauters, Vladimir Kvača and the *Community of Practice for Results Based Management*; Professor Gerhard Hammerschmidt, faculty and research staff at the Hertie School of Governance in Berlin; Professor John Bachtler (*European Policies Research Centre*, Strathclyde University); and Professor Wouter van Dooren (University of Antwerp).

Invaluable inputs were provided by public administrations in all 28 Member States, especially by the key officials that took time out of their very busy schedules to review, update and expand draft materials for the Toolbox's case studies, and the 22 representatives from Member State administrations who provided feedback and some detailed suggestions on the early drafts. Special thanks go to all those, who made the Toolbox possible.

The work on the Toolbox was coordinated by the European Commission's Directorate General for *Employment, Social Affairs and Inclusion*, which engaged the services of the *European Institute of Public Administration (EIPA)* for producing the Toolbox, with Nick Thijs as the project manager and Iain Mackie as the main contributor.

Why a Toolbox on Public Administration?

“Much more important than the size of government is its quality ... There is a very powerful correlation between the quality of government and good economic and social outcomes”. Professor Francis Fukuyama, *Political Order and Political Decay*, 2014.

Linking policy to funding

Given its potential contribution to economic growth, strengthening public administration is a recurring priority of the [Annual Growth Survey](#) that kicks-off each [European Semester](#) of economic policy coordination between the European Commission and Member States, and the resulting [country-specific recommendations \(CSRs\)](#) for civil and judicial administrations.

The size, structure and scope of public institutions is unique to each country, and their architecture and organisation is a national competence. At the same time, good governance is recognisably in the interests of the EU as a whole, as well as individual Member States, to achieve maximum value from limited public funds. Without effective public administrations and high quality, efficient and independent judicial systems, the EU's *acquis* cannot be effectively implemented, the internal European market cannot be completed, and the [Europe 2020](#) goals of smart, inclusive and sustainable growth cannot be realistically achieved.

This Toolbox is intended as a reference and resource, not a prescription or a panacea, by **signposting the reader to relevant and interesting practices** - inspiring examples that are potentially transferable to their own situations - to help Member States in following up their CSRs.

The [European Structural and Investment Funds \(ESIF\) in 2014-2020](#) explicitly encourage and enable Member States to strengthen governance under the thematic objective 11: *“enhancing institutional capacity of public authorities and stakeholders and efficient public administration”*. TO11 is expected to co-fund operational programmes (OPs) in excess of EUR 4 billion. Implicit but also important support may be provided under thematic objective 2 *“enhancing access to, and use and quality of, information and communication technologies”*, as well as the other objectives, triggering reforms in the management and delivery of particular public services (for example, water and waste management under thematic objective 6, or employment and social services under thematic objectives 8 and 9).⁽¹⁾

More specifically, institutional capacity building in the administration and judiciary under TO11 will be supported by the [European Social Fund \(ESF\)](#) and the [European Regional Development Fund \(ERDF\)](#) with the objective of creating institutions which are stable and predictable, but also flexible enough to react to the many societal challenges, open for dialogue with the public, able to introduce new policy solutions and deliver better services. The investment in the human capital of the public sector is oriented towards better policy making and administrative service delivery, more efficient organisational processes, modern management, and motivated and skilled civil servants and magistrates.

⁽¹⁾ Regulation (EC) 1301/2013 of the European Parliament and the Council, Article 9.

Potential action	Examples of coverage	Available source
Improving policy formulation and implementation	Systems and methods for evidence-based policy making, establishing forward planning and policy coordination units, tools for monitoring and evaluation, co-design and co-production mechanisms, etc.	ESF, for Member States with at least one less developed region and/or which are eligible for Cohesion Fund assistance
Developing appropriate organisational structures	Structural analysis, decentralisation, reallocation of functions, management of reforms, etc.	
Designing and implementing human resources strategies	Functional mapping and staffing analysis, training needs assessment, performance appraisal and career development methodologies	
Improving the delivery and quality of services	Reforms to reduce administrative burdens, integration of services (focus on back office), one-stop shop delivery (focus on front office)	
Skills development at all levels in administration and judiciary	Magistrates and judicial administration, traineeship programmes, coaching, mentoring, e-learning networks,	
Developing e-government	Investing in electronic service delivery, interoperability, e-procurement, e-invoicing, e-justice, e-health, etc.	
Improving the interaction between institutions	Mechanisms for public participation, actions for better law implementation and enforcement, tools for increased transparency and accountability, etc.	
Enhancing the capacity of stakeholders to contribute to employment, education & social policies	Social partners and non-governmental organisations	ESF, for all Member States and regions
Developing sectorial and territorial pacts	Employment, social inclusion, health and education domains at all territorial levels.	
Strengthening administrative capacity related to the implementation of ERDF (including ETC)	Managing authorities, intermediate bodies, paying authorities, audit authorities	ERDF, where eligible
Support of actions in institutional capacity and in the efficient public administration supported by the ESF.	Where necessary, provision of equipment and infrastructure to support the modernisation of public administration.	

ESF support will focus on horizontal reforms for promotion of good governance at national, regional and local levels. Capacity-building actions might cover a single authority or several responsible for a specific field (for example, policy formulation, supervision, tax administration, etc.) in a cross-cutting approach. Other EU programmes are also applicable, such as: Connecting Europe Facility (digital), Europe for Citizens, Horizon 2020, Justice Programme, and The Rights, Equality and Citizenship Programme.

This Toolbox is intended to provide ideas for initiatives, which can help national authorities to meet the ex-ante conditionality and to implement TO11 programmes successfully with ESIF and other EU funding sources, including managing authorities, intermediate bodies and prospective beneficiaries.

The foundation of socio-economic success

With around 75 million employees, the public sector is Europe's biggest single 'industry', employing around 25% of the workforce (around 16% in central government alone) and responsible for almost 50% of GDP. Given its scale and scope, public administration – the organisation and management of publicly-funded resources – has enormous importance for the daily lives of our citizens, and the performance and prospects of our businesses.

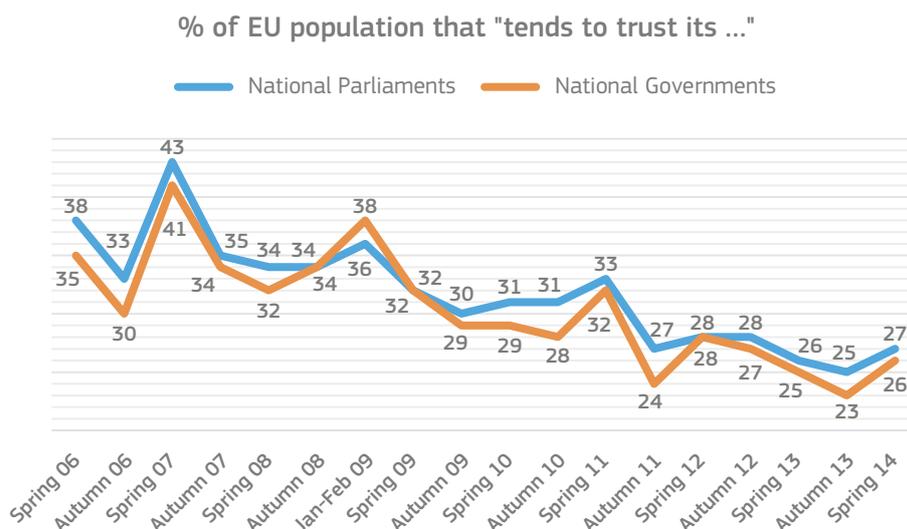
Governance is the manner in which power is exercised in the management of a country's economic and social resources for development. Good governance is considered the ability to achieve stated policy goals, in line with the principles and values of integrity, rule of law, transparency, accountability, effectiveness and efficiency, among others.

Globally, the quality of public administration is pivotal to both economic productivity and societal well-being. There is overwhelming evidence that high income per capita economies have the most effective and efficient public institutions. Good governance and legal certainty are necessary for a stable business environment. It is essential that the institutions that govern economic and social interactions within a country fulfil a number of key criteria, such as the absence of corruption, a workable approach to competition and procurement policy, an effective legal environment, and an efficient judicial system. Moreover, strengthening institutional and administrative capacity, reducing the administrative burden and improving the quality of legislation underpin structural adjustments and foster economic growth and employment.⁽²⁾

Capacity-building that creates efficiencies in public administration can increase productivity in the whole economy, through faster procedures, improved and more accessible services, quicker start-ups, and fewer unproductive demands on existing businesses. Well-functioning institutions are a pre-condition for the successful design and implementation of policies to promote socio-economic development and to contribute to growth and employment, in line with the Europe 2020 goals.

“Productivity is not simply the result of the availability of capital and technology, of differences in the skills of individual workers. In the modern world, skills can be developed everywhere, and capital and technology flow freely between countries. The economic lives of individuals are the product of the systems within which they operate. The difference between rich and poor states is the result of differences in the quality of their economic institutions”. Professor John Kay, *The Truth About Markets*, 2004.

Fundamentally, good governance is based on trust: the silent covenant by which ‘the governed’ give consent to allow authority to be exercised by civil and judicial administrations on their behalf. If public administrations are to fulfil their mandates effectively as the stewards of public power and resources, steering their economies towards prosperity and their people towards a secure and better quality of life, they need legitimacy and credibility in the eyes of the public (as citizens, voters, service users and potential entrepreneurs), existing businesses and prospective investors, and other administrations. They should be good employers, fair regulators and reliable partners.



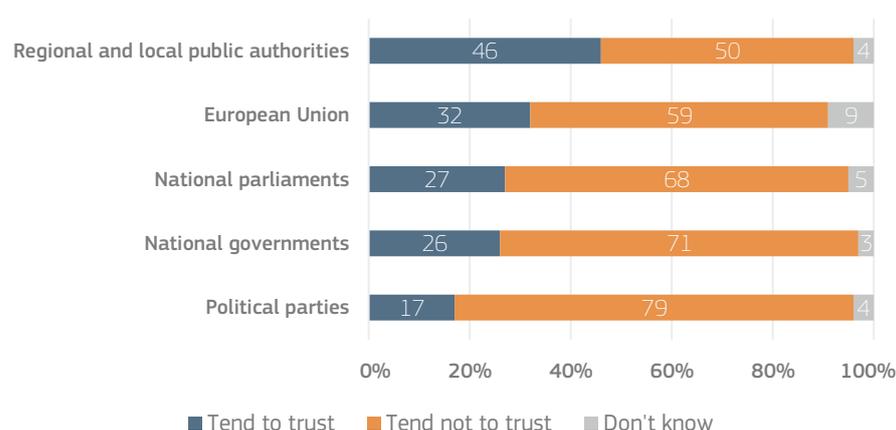
Over the last eight years, the [Commission's Eurobarometer surveys](#) have traced a general downward trend in the public's tendency to trust its national parliaments and governments, which stood at an average of just 27% and 26% (respectively) of the EU population by March 2014. Confidence in the EU has also slipped, although from a higher base.

⁽²⁾ European Commission, DG Enterprise (2012), "Excellence in public administration for competitiveness in EU Member States", http://ec.europa.eu/europe2020/pdf/themes/34_quality_of_public_administration_final.pdf.

Trust is subjective, and can be negatively influenced by a variety of factors. Irrespective of the efforts of individual organisations and officials, perceptions can be highly corrosive if they undermine confidence in public administrations and lead citizens and businesses to turn to ‘informal channels’ and the ‘grey economy’, starving governments of much-needed revenue to pay for public services and welfare. The rise of ‘anti-establishment sentiment’ across Europe in opinion polls and voting patterns is an embodiment of lack of trust in established administrations. At the same time, the advent of the global financial and economic crisis may be a contributory factor in the observed fall in the ‘tendency to trust’, as citizens react to hard times and high unemployment across the EU, and administrations struggle to stimulate economic uplift and raise living standards.

“Nurturing trust represents an investment in economic recovery and social well-being for the future. Trust is both an input to economic reforms – necessary for the implementation of reforms – and, at the same time, an outcome of reforms, as they influence people’s and organisations’ attitudes and decisions relevant for economic and social well-being. As a result, trust in government by citizens and businesses is essential for effective and efficient policy making, both in good times and bad ... While trust takes time to be established, it can be lost quickly.” OECD, *Government at a Glance*, 2013.

Trust in institutions among EU-28 population, March 2014



Trust is shaped by both expectations and experience. While there are limits to how far governments can influence aspirations in an era of 24/7 news and social media, expectations present a benchmark against which public administrations can calibrate their performance.

In this light, it is notable that confidence tends to be higher on average in regional and local authorities (46%) that are generally seen as closer to citizens and businesses.⁽³⁾ Administrations can also build on the ‘micro-level’ trust in individual public services, which is typically much higher than the ‘macro-trust’ in governments as a whole. On average across its member countries, [OECD surveys](#) in 2012 found confidence was highest in local police services (72%), followed by healthcare (71%), education (66%) and judicial systems (51%), but lowest in national governments (40%).⁽⁴⁾

Gaining and retaining trust requires public administration to adhere to underlying principles, such as legality (rule of law), integrity and impartiality, and to demonstrate values such as openness, efficiency and accountability. Please see [principles and values of good governance](#), which highlights the importance of not only stating and sharing values across civil and judicial administrations at all levels, but also applying them as well.

⁽³⁾ [Special Eurobarometer 415, “Europeans in 2014”](#)

⁽⁴⁾ For more analysis of the intricate relationships of trust between public administrations and citizens, see Bouckaert, G., “Trust and public administration”, *Administration*, vol. 60, no. 1 (2012), pp. 91–115.

This means **smart reform**: building strong and agile administrations that are able to understand and meet the immediate needs of citizens and business, proactive and fit for the future, ready for the needs of both an ageing and ever more mobile society, to respond to the challenges of climate change, and to adapt to the digitisation of virtually every aspect of our lives. Strengthening the quality of public administration requires a regular reflection on how institutions add value, as a basis for designing and delivering policies that deliver economic and social development. This implies, for example:

- Re-thinking the scope of government;
- Re-engineering administrative processes and becoming more user-centric;
- Investing in the capacity of civil servants and civil society;
- Making better use of ICT to meet the needs of an “online society”; and
- Improving the business climate by having fewer, smarter regulations.

“Public administration reform is usually thought as a means to an end, not an end in itself. To be more precise we should perhaps say that it is potentially a means to multiple ends. These include making savings in public expenditure, improving the quality of public services, making the operations of government more efficient and increasing the chances that the policies will be effective. On the way to achieving these important objectives, public management reform may also serve a number of intermediate ends, including those of strengthening the control of politicians over the bureaucracy, freeing public officials from bureaucratic constraints that inhibit their opportunities to manage and enhancing the government’s accountability to the legislature and the citizenry for its policies and programmes”. Professor Christopher Pollitt and Professor Geert Bouckaert, “Public Management Reform: A Comparative Analysis”, 2011.

There is no simple formula for improving governance. Each country and its tiers of civil and judicial administration needs to find the most suitable solutions that fit its structures and systems and the challenges it faces. Equally, there is no single ‘correct’ way to set out policy guidance on the quality of public administration.

The Toolbox aims to help Member States move **from the aspirational to the operational**: improving the quality of administration (behaviour, decisions and performance) by proposing practical techniques and tools from across and beyond the EU

Readers' Guide

This Toolbox was conceived as a helpful and practical guide for civil and judicial administrations to the challenges of good governance in a constantly changing environment. It examines the key elements of good governance and highlights positive real-world responses in Member States to dilemmas in administration, signposting the way that others may also wish to follow.

The Toolbox concentrates solely on the *administration* of public policy and services, including both civil and judicial systems. It is about governance as a **process**. It does not cover the specifics of individual policies or services - for example regarding education, taxation, health, customs, competition, training, etc. Policy guidance on these matters can be found in other European Commission and Member State documents.

The audience

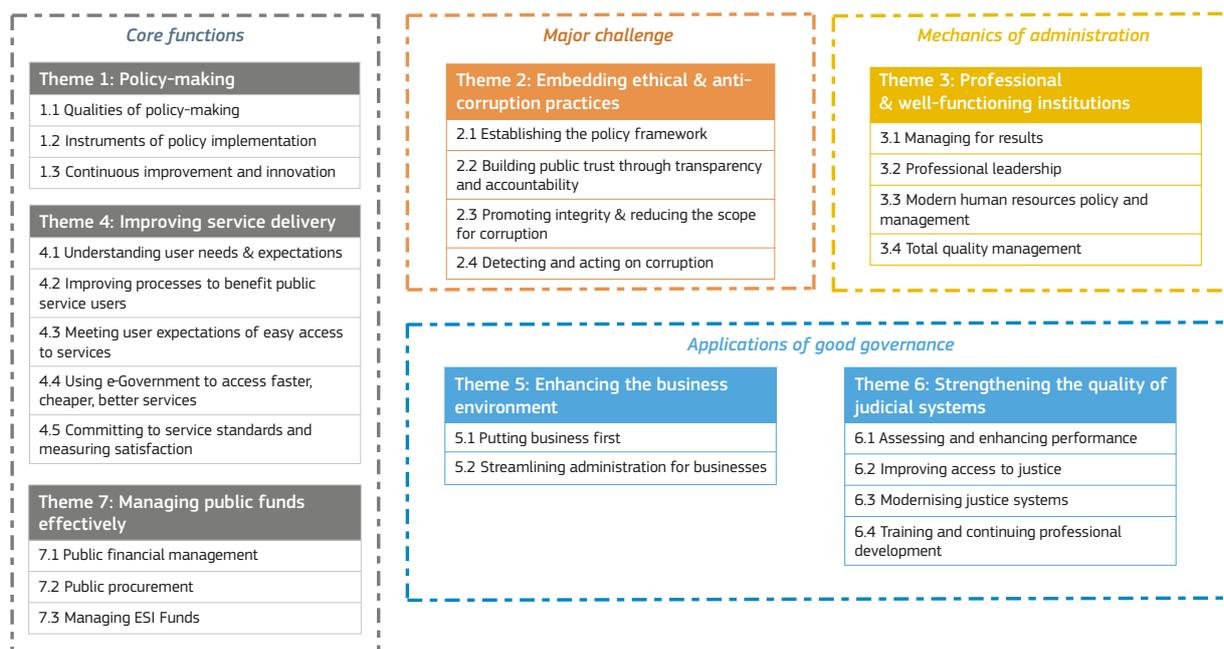
This Toolbox is intended to benefit Member State policy-makers in public administration reform, at all levels - national, regional and local - along with managing authorities and others involved in implementing ESI Funds. At the same time, we hope that the Toolbox appeals to a wider readership among staff in public authorities, academics and students of public administration, as well as citizens and civil society organisations.

The structure

In order to inspire reforms towards good governance, to support fulfilment of the ESIF TO11 and operationalising policy ideas, we have followed a **thematic structure** in this Toolbox that should help Member States with implementing their programmes and responding to their CSRs:

- Three chapters deal with **core functions** of public administration, namely policy-making and its implementation, monitoring and evaluation (**theme 1**), service delivery (**theme 4**) and public finance management (**theme 7**).
- One chapter focuses specifically on the **major challenge** to good governance from ensuring ethical behaviour and tackling corruption (**theme 2**);
- Another chapter considers the **mechanics** of public administration, namely the role of institutions and their officials in delivering the government's policies and services (**theme 3**);
- Finally, two chapters look at the **application** of good governance in policy fields that are crucial to the European Semester and CSRs, namely the business environment (**theme 5**) and the justice system (**theme 6**).

Toolbox overview by theme and topic



Individual themes do not stand-alone. Many topics cut across more than one theme, and hence are highlighted by [links](#) the reader can click on and jump to the relevant sections of other chapters.

The style

The Toolbox is intended to guide the reader towards stimulating practices and useful materials that can be customised by civil and judicial administrations at all levels. Local context is critical here: every country has its own legal, institutional and cultural environment. The guide, therefore, looks to draw out underlying messages and lessons learned in a pragmatic way. It is not a detailed road map to solving all the challenges facing governments and judiciaries, nor does it present a series of instructions which, if followed, will lead to public administration nirvana. It recognises that public officials know their own systems and situations and are best placed to dip into the Toolbox and find what would work well within their administrative cultures and conditions.

What it does do, however, is bring together **in one place** three valuable sources for enhancing institutional capacity and implementing reforms in Member State administrations. These are mainly presented in colour-coded boxes (although there are also occasional references within the main text of each chapter):

- **Blue boxes:** These set out European Commission thinking, by presenting **policy and initiatives** from Directorates-General in the Inter-Service Group, namely directives, regulations, studies, reports, communications, agendas, and funding programmes.
- **Green boxes:** These contain **case studies** of countries' own experiences, and are intended to inspire ideas in readers' own Member States (see below).
- **Orange boxes:** These summarises the findings of **key studies and speeches**, relevant to the topic, which the reader may find interesting in support of the policy and practice in the other boxes.

These are the main ‘tools’ in the Toolbox. The linking text between the boxes is designed to steer the reader through these materials and highlight the most interesting lessons, tips and pointer that might be transferable to their circumstances, in the context of the European Semester CSRs and the implementation of ESIF, especially under TO11. You will also find [hyperlinks](#) and ^{footnotes} throughout the chapters of the Toolbox to lead you to further information.

The case studies

Almost 170 case studies form the centrepiece of the Toolbox, drawn mainly from countries across the EU: north and south, east and west. The examples used here are intended to inform and inspire, and to point towards principles and promising practices that may be capable of being adopted and adapted to your own situations. They are not claimed to be “best practice”, although many examples have been awarded honours under the [European Public Service Awards \(EPSA\)](#) and the “[Crystal Scales of Justice](#)” Prize. Other sources include:

- EU-funded studies, published by the European Commission;
- Meetings of the [European Public Administration Network \(EUPAN\)](#) and the [EUPAN thematic paper on enhancing institutional and administrative capacity](#);
- European & [Common Assessment Framework \(CAF\)](#) Public Sector Quality Conferences;
- Report published by the [Organisation for Economic Co-operation and Development \(OECD\)](#);
- Sources provided by Commission Services, their High-Level Groups and Expert Groups, and the [European Institute of Public Administration \(EIPA\)](#).

The vast majority are drawn from national, regional and local administrations of the EU-28, including judiciaries, but occasionally examples are taken from the wider world that are especially illustrative. Some (shown in lighter [green](#)) are taken from existing studies and practical guides, many of which have been published by the European Commission in recent years and remain just as relevant today. Most (shown in [darker green](#)) have been prepared/updated, checked and agreed with the original sources between July and December 2014, and represent the state-of-the-art in these public administrations; these case studies include contact names and e-mails that readers can follow up for further information.

Principles and values of good governance

“The most important thing to remember is that you are working for the public. If you consider things from the perspective of the individual citizen, you’ll find it easier to know how to proceed and arrive at a good decision, an appropriate next step, or an approach that will engender trust.” Swedish Council for Strategic Human Resources Development, “An Introduction to Shared Values for Civil Servants”.

Public administrations exist to serve the public interest. In the words of the Honourable Jocelyne Bourgon, Canada’s former Clerk of the Privy Council: *“Public organisations and institutions serve a public purpose. Whatever the political inclination of the governing party, the objectives of public institutions are to build a better future and to improve the welfare of its citizens”*.⁽⁵⁾ In a functioning democracy, elected representatives are held accountable to the people for the choices they make, and whether they result in better outcomes, such as greater prosperity, security, and quality of life, for the individual, family, community and society. But what about the public servants that advise them and administer their decisions? What governs the practical performance of public duties on a day-to-day basis?

Principles and values are the foundations of good governance, shaping behaviour in public administration. As the Irish Government’s Committee for Public Management Research (CPMR) neatly summarised:

*“Values are essential components of organisational culture and instrumental in determining, guiding and informing behaviour. For bureaucracies, adherence to high-level public service values can generate substantial public trust and confidence. Conversely, weak application of values or promotion of inappropriate values can lead to reductions in these essential elements of democratic governance, as well as to ethical and decision-making dilemmas.”**

(*) MacCarthaigh, M., (2008), “Public Service Values”, CPMR Discussion Paper 39, Institute of Public Administration, www.ipa.ie

Principles and values provide a clear direction, but only if they are accepted, adopted and applied in practice.

What do we mean by ‘principles’ and ‘values’?

‘Principles’ and ‘values’ are often used interchangeably by administrations, but for the purposes of this toolbox, we make the distinction in terms of durability:

- **Principles should be fundamental and enduring.** For example, *honesty* is a value, but also a core principle that should apply to all public officials, irrespective of time or place. In some cases, these principles are adopted in laws or regulations, as rights or obligations on the administration, including in the form of civil service acts, as shown in the [comparative analysis of civil service legislation](#) in Australia, Canada, New Zealand and the United Kingdom. The right to good administration, for example, is enshrined in the [Charter of Fundamental Rights of the EU](#).
- **Values may also be constant, but equally can emerge and evolve over time as conditions change.** While values might appear to be timeless, new values do arise as a product of circumstance. For example, *transparency* of processes and performance is a value adopted by most administrations relatively recently, in response to both technological possibilities (communication

⁽⁵⁾ “Reclaiming Public Administration” presented by the Honourable Jocelyne Bourgon, P.C., Q.C. President, Public Governance International, April 22, 2014

technologies, most recently the Internet) and societal demands (social media). *Openness* continues to be regularly re-defined, as citizens and businesses move from passive engagement (receiving public information) to active interaction with administrations (accessing data and, in some cases, developing hybrid public-private services) with the aid of ICT (see [theme 4](#)).

In some cases, values become tenets of public administration, usually because they have been accepted at a whole societal level, and can then also be described as fundamental principles. For example, *equal treatment* by administrations of all people, irrespective of gender, age, race or belief, was not a commonly accepted value for most of human history. However, it is now firmly established as a principle in the [European Convention on Human Rights](#).⁽⁶⁾ In other words, all principles are also values, but not all values become established as principles.

Moreover, the **emphasis given to specific values can shift over time, as the context changes**. For example, a 2008 study of [values in the Irish public administration](#) reported that most civil servants considered *accountability* (to the public) to be the dominant value – it is unlikely that this was the case 50 years previously, when government was less well connected to voters than it is now. Similarly, it found that austerity measures had put a higher premium on *efficiency*.⁽⁷⁾

Values can also be **inter-linked and inter-dependent**. *Accountability*, for example, demands *transparency* and *openness*. Sometimes all three are connected – for example, some administrations have ‘open and accountable’ as a single value. There can be different permutations and language to convey what is important to them – the jargon is a lot less significant than the underlying concepts they embody. Most important of all is translating them into the real experience of citizens, businesses and other beneficiaries of public policy and services.

In some administrations, these principles and values focus on *integrity*, usually in the form of codes of ethics or codes of conduct (see [topic 2.1](#)). But the activities of administrations are **not just about ethical behaviour**, such as ‘doing the right thing’ or avoiding conflicts of interest, although these are highly important. There are many other aspects of good governance which are equally essential, in the public administration’s role as custodians, regulators, employers and facilitators.

The value of stating and sharing values

Distinguishing principles as durable values is less important than ensuring the set of values governing public behaviour is clear and widely shared. Every administration operates with its own set of values – whether these are implicit or explicit – which reveal themselves in the daily delivery of public policies and services:

- In those public administrations that **do not acknowledge their existence**, these values can be said to be the aggregation of every official’s personal conduct and performance, which is in turn influenced by character, education, upbringing, culture, tradition, legal constraints, and the interventions of their managers and political leaders. This runs the risk of inconsistency in making decisions: that values will clash, or at least vary widely across institutions, offices and individuals. Without common values that are widely communicated, citizens and business will be uncertain what they can expect from the administration, undermining stability, cohesion and growth.
- In other administrations, a decision has been taken to recognise openly that all day-to-day decisions should be shaped by both principles and values,

⁽⁶⁾ “Protocol No. 12: 1. The enjoyment of any right set forth by law shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status. 2. No one shall be discriminated against by any public authority on any ground such as those mentioned in paragraph 1.”

⁽⁷⁾ See also [topic 1.2.2](#) on institutional structures and reforms, and the reference to the Europe-wide, EU-funded study ‘Coordinating for Cohesion in the Public Sector of the Future’ (COCOPS)

and to **give them a focus, structure and visibility** by codifying them so that they are common, not personal. Such administrations usually take the next step, and ensure that all public servants are aware of them and follow them (see also [topic 3.1](#)). This typically takes the form of high-level statements and codes, sometimes backed up with training workshops or staff discussions, and possibly also supervisory mechanisms to hold officials to these value systems. To ensure their sustainability, these value sets are normally designed around core propositions that are capable of surviving changes of government, so that the faces may change in leadership at the top of the administration, but the values stay the same.

There are many examples of the second approach from within and beyond the EU, such as the Shared Values for Swedish Civil Servants.

Shared values for civil servants (Sweden)

Shared Values for Swedish Civil Servants are based on laws and ordinances. These are presented in the form of six principles, which together, provide guidelines for how government agencies and employees should conduct their work. Although the nature of agency operations and professions may differ, these basic principles remain the same. As a Swedish civil servant, you must therefore know these principles and understand their importance for your work in your agency, and in your encounters with citizens and other parties. You must also be prepared for situations where these principles come into conflict with each other, and you must use good judgement in approaching these situations and taking action. Although these principles offer you guidance, as a civil servant, you are responsible for transmitting their words into actions:

- **Democracy:** All public power in Sweden stems from the people - universal suffrage, representative democracy and parliamentary system.
- **Legality:** Public power shall be exercised under the law.
- **Objectivity, impartiality and equal treatment:** Equality of all persons before the law. Government agencies and courts must treat all persons equally.
- **Free formation of opinions and freedom of expression:** Swedish democracy is founded on the free formation of opinions.
- **Respect:** Public power shall be exercised with respect for the freedom and equality of every person.
- **Efficiency and service:** Public sector activities must be conducted as inexpensively.

You have now read a short description of the six principles that apply to government operations. A more extensive text (*Den gemensamma värdegrunden för de statsanställda*) is available in Swedish.

Source: <http://www.krus.nu/Global/Offentligt%20etos/Shared%20Values%20for%20Civil%20Servants.pdf>

In some cases, it is not just the public administration themselves that define the values, but bodies with the **responsibility for holding the administration to account**. In the United Kingdom, for example, the Seven Principles of Public Life (see [topic 2.1](#)), are complemented by the Parliamentary and Health Service Ombudsman's Principles of Good Administration.

Principles of Good Administration (UK Ombudsman)

This document gives our views on the Principles of Good Administration. It should be read in conjunction with our Principles of Good Complaint Handling and Principles for Remedy. These principles draw on over 40 years' experience of investigating and reporting on complaints to propose a clear framework within which public bodies should seek to work. At the same time, the Principles of Good Administration helps clarify the expectations against which the Parliamentary and Health Service Ombudsman will judge performance. The Principles set out here are intended to promote a shared understanding of what is meant by good administration and to help public bodies in the Ombudsman's jurisdiction provide a first-class public service to their customers. Good administration by public bodies means:

- **Getting it right:** • Acting in accordance with the law and with regard for the rights of those concerned. • Acting in accordance with the public body's policy and guidance (published or internal). • Taking proper account of established good practice. • Providing effective services, using appropriately trained and competent staff. • Taking reasonable decisions, based on all relevant considerations.
- **Being customer focused** • Ensuring people can access services easily. • Informing customers what they can expect and what the public body expects of them. • Keeping to its commitments, including any published service standards. • Dealing with people helpfully, promptly and sensitively, bearing in mind their individual circumstances. • Responding to customers' needs flexibly, including, where appropriate, co-ordinating a response with other service providers.
- **Being open and accountable** • Being open and clear about policies and procedures and ensuring that information, and any advice provided, is clear, accurate and complete. • Stating its criteria for decision making and giving reasons for decisions. • Handling information properly and appropriately. • Keeping proper and appropriate records. • Taking responsibility for its actions.
- **Acting fairly and proportionately** • Treating people impartially, with respect and courtesy. • Treating people without unlawful discrimination or prejudice, and ensuring no conflict of interests. • Dealing with people and issues objectively and consistently. • Ensuring that decisions and actions are proportionate, appropriate and fair.
- **Putting things right** • Acknowledging mistakes and apologising where appropriate. • Correcting mistakes quickly and effectively. • Providing clear and timely information on how and when to appeal or complain. • Operating an effective complaints procedure, which includes offering a fair and appropriate remedy when a complaint is upheld.
- **Seeking continuous improvement** • Reviewing policies and procedures regularly to ensure they are effective. • Asking for feedback and using it to improve services and performance. • Ensuring that the public body learns lessons from complaints and uses these to improve services and performance.

These principles are not a checklist to be applied mechanically. Public bodies should use their judgment in applying the principles to produce reasonable, fair and proportionate results in the circumstances. The Ombudsman will adopt a similar approach in deciding whether maladministration or service failure has occurred.

Source: <http://www.ombudsman.org.uk/improving-public-service/ombudsmansprinciples/principles-of-good-administration>

An amalgam of European principles and values

Good governance starts with an agreed set of principles and values widely shared. There is no 'right' or 'wrong' formulation: each administration has its own typology and terminology. As expected, however, there are recurring themes. Drawing on codified statements and common practices across the EU, and an OECD review of its comprehensive Public Governance Reviews⁽⁸⁾, a **consensus view** of modern public administration can be summarised in 16 values, some of which can also be described as representing principles (signified by 'P') that should appear in every values statement. In each case, the table describes the underlying concept, and offers some alternative or related terms in *italics*.

⁽⁸⁾ OECD (2012), "Strategic lessons from the comprehensive public governance reviews", GOV/PGC(2012)14

Value	Description
Legality (P)	Good governance starts with applying the rule of law (see theme 1 on legislative instruments and theme 2 on ethics and anti-corruption). This is a <i>sine qua non</i> condition for economic prosperity and societal stability. The civil administration's actions must be in accordance with legislation and judicial decisions, and fully respect human and other fundamental rights. In the context of fiscal governance, legality is also referred to as ' regularity ' (see theme 7 on public financial management). The rule of law can only be enforced if the judiciary is independent, efficient and of high quality (see theme 6).
Integrity (P)	Good governance goes beyond operating within legal constraints. It means doing the right thing – ensuring the executive (government) is trustworthy in the eyes of the electorate (citizens). Social cohesion relies on citizens having the confidence in their civil and judicial administrations to act in the interests of the public, rather than narrow political or private agendas. To commit to new business, investment and innovation, entrepreneurs must believe that the government is a reliable partner, operating fairly and predictably, as well as upholding the rule of law. Integrity is at the heart of action to tackle anti-corruption, and is about how the system functions as a whole, not just individual ethics and honesty which are integral elements (see theme 2). In the context of fiscal governance, public funds should be managed with ' propriety ' (see theme 7).
Impartiality (P)	Public administrations should apply equal treatment to all citizens and businesses, in their roles as regulators, employers, enablers of economic growth, and enforcers of the rule of law. Impartiality implies showing respect to all, fairness and equity ,: not favouring one interest over another (see theme 2), exercising objectivity in decision-making, and avoiding discrimination or prejudice in staff recruitment (see theme 3 on HR) and service delivery (see theme 4). For enterprises, this value would materialise, for example, in avoiding the breach of State aid rules.
Inclusiveness	This value goes further than impartiality (which suggests a neutral approach), and carries more positive connotations – ensuring that governance is <i>participatory</i> . In other words, all members of society should feel that they have access to decision-making, including the most disadvantaged and vulnerable, and more importantly can be party to the policy process (see for example, theme 1 on e-Participation, co-design, co-production and co-evaluation, theme 4 on service delivery, and theme 7 on participatory budgeting). This does not mean that each decision must be taken to satisfy every interest, but participation should be actively encouraged and facilitated, as well as <i>partnership</i> with stakeholders (including business and citizen representatives), with the aim that the administration becomes <i>consensus-oriented</i> .
Openness	The starting point for openness is transparency : enabling the outside world of citizens and businesses a window into the inner workings of government, for example, by publishing information about structures, operations and performance (see theme 3 on professional and well-performing institutions) – who does what, why and how well – which helps to build trust in the administration's integrity (see theme 2), as well as improving communication about its service delivery (see theme 4). Appropriate information should be freely available, but in a format which is understandable and avoids bias in its presentation as far as feasible. However, open government goes further than providing a passive insight, by pro-actively putting public information ('open data') into the public domain that citizens and businesses can use productively to create new services and jobs, through ICT-enabled innovation (see theme 1 on co-design and co-production and theme 3 on service delivery). The public should be able to follow and understand decisions, and hence openness is closely related to inclusivity , as well as accountability .
User-centricity	In providing information and other services (including transactions), public administrations are increasingly looked to be citizen-oriented and business-friendly , ensuring the priority is to put the users' needs first (including civil society organisation and other public administrations). This affects both policy design and implementation (see theme 1 on co-design and co-delivery, theme 4 on service delivery, and theme 5 on the business environment). User-centricity is also related to inclusiveness, and emphasises values of professionalism , reliability , respect and courtesy .

Value	Description
Responsiveness	User-centricity implies that public administrations are responsive, which has several dimensions. First, civil and judicial administrations should ensure that information and other services are provided in a timely manner (see theme 3 on quality management, theme 4 on service delivery, theme 5 on the business environment, and theme 6 on the efficiency of judicial systems). Second, administrations should be responsive when things are not going well, recognising mistakes and putting them right (see theme 4 in respect of customer satisfaction and especially complaints handling). This value recognises the dilemmas of governance in pursuing inclusiveness (trying to meet the needs of the entire community), which can involve a balancing act of competing interests. Responsiveness also refers to agility , resilience and flexibility : the ability to respond to global crises, socio-economic developments and other external pressures, and to move or adjust resources (budget and staff) to where they are most needed. It also implies an ongoing dialogue with stakeholders.
Connectivity	From a service user's perspective, Government should be 'indivisible', so that citizens and businesses can approach any part, and receive the same standard of care, and ideally either access all services through one or any portal, or be able to assemble portfolios of services at their convenience (see both theme 4 on service delivery and theme 5 on business environment, regarding one-stop shops and the role of e-government). For efficient management, administrations will always assign roles and responsibilities operate to individual units at national, regional and local levels, in line with the subsidiarity principle (to the lowest appropriate level of government, closest to the citizen), but need to take a ' whole of government ' approach to organising resources and facing outwards. In practical terms, when different units of the administration have to work together, this requires interoperability (see topic 4.4). In any case, good governance involves coordination , typically involving a strong centre, to ensure joined-up government .
Efficiency	Efficiency is about the relationship between inputs and outputs in policies, programmes, projects, services and organisations. Modern public administrations manage their processes and available resources – people, their knowledge (institutional memory), the processing and networking potential of ICT, other physical and intellectual assets, and administrative structures – to achieve the best results for their communities. This is a matter of <i>value for money</i> : the best result with the most productive use of inputs, and a key performance indicator in monitoring and evaluation (see topic 1.3). Efficiency at the organisational level requires innovative human resources management and adherence to the principles of quality management (see theme 3 on professional and well-performing institutions), and is factored into service delivery (see theme 4). Administrations have a duty to deploy scarce resources to the maximum effect, as embodied in <i>sound financial management</i> (theme 7 , both national and EU funds, including public procurement).
Effectiveness	Effectiveness concerns the extent to which objectives have been or should be achieved due to the policy, programme, project, service or the organisation's activities. Increasingly, administrations are expected to exhibit results orientation , to select and implement the most suitable instruments to achieve high level objectives (see theme 1) and meet societal needs and challenges, especially through service delivery (see theme 4) and the management of ESI Funds (see topic 7.3). Effectiveness is concerned with ensuring that, as far as can reasonably be foreseen, the public sector's high quality outputs achieved the desired outcomes. Effectiveness is closely related to efficiency, as finite resources must be well marshalled to attain these goals, and is another indicator of performance in monitoring and evaluation (see topic 1.3).
Sustainability	This is a good example of a relatively modern value, which has gained prominence in recent decades. Depending on the context, the focus might be the durability of outcomes (financial and/or technical sustainability) beyond the life of the policy intervention, which is again a performance indicator for monitoring and evaluation (see topic 1.3). Alternatively, the focus might be the use of finite resources and the impact on the natural environment and climate change (environmental sustainability). The latter forms part of social responsibility when also linked to inclusiveness in considering the impact of policy decisions and the delivery on the community.

Value	Description
Vision	The public interest is not only served by focusing on the 'here and now', but by considering the impact of decisions for years to come, moving from a reactive to a pro-active approach, and anticipating future challenges and changes (demographics, economic trends, climate change, resource limits etc). In the interests of sustainability , administrations need to think about medium-long term optimising (what the country needs in the future), as well as short term satisficing (what citizens and businesses want now), for future generations. This involves forward-thinking: planning for future scenarios, and anticipating the effects of policy beyond electoral cycles (see topic 1.1). This demands leadership at the political and organisational levels (see theme 3 on professional & well-performing institutions).
Reflection	Excellence is challenging the status quo, searching and striving for improvement, effecting change by continuous learning to create innovation opportunities. Good practice in policy-making and implementation requires an opportunity to review policies, processes and procedures, and to reflect on progress and performance, especially in the context of results-based management. This requires feedback loops to be put in place, to check where things stand, where a new direction may be required, where an injection of new ideas is needed, and where short-term operational goals may need to be adjusted to achieve high-level strategic objectives (see topic 1.3 on monitoring and evaluation, theme 3 on its application to organisation, and theme 7 on its application to public finance management, including ESI Funds). It also means mechanisms to handle problems (including complaints and suggestions), learn lessons and take corrective action to improve services and performance (see theme 4).
Innovation	The pursuit of continuous improvement should translate into openness to transformation, and creating systems which encourage fresh thinking and creative ways to solve new or existing challenges, both from inside and outside the administration. Public sector innovation takes many forms, including policy design and improvement (see theme 1), creative ways to deliver public services (see theme 4 and theme 5), public procurement of R&D and innovation (see topic 7.2) and using ESI Funds to stimulate innovation (see topic 7.3). To turn theory into reality, public sector organisations must be capable of <i>managing change</i> (see theme 3).
Accountability	Ultimately, governments and their administrations are accountable to the public, and have an obligation to report and explain, and hence to be answerable for the decisions they take on behalf of whatever communities they represent, whatever the level (supra-national, national, regional or local). This puts a premium on their legality, integrity and openness / transparency .

Introducing values into the administrative culture

How do these values - which are inevitably abstract by their nature - become integrated and ingrained in the culture of public administrations? There is very little rigorous research on this process, only examples of administrations that have sought to introduce values, and some surveys of participating public officials, which provide indications of successful elements, approaches and practices. Public administration values are typically developed at two levels:

- **Whole administration:** A decision is taken at the top of the civil service that a value system should be established for the whole of government. This becomes a top-down exercise, setting a common standard for every public body.
- **Individual institutions:** The top management of public sector organisations takes an independent decision to develop their own value systems, either as standalone initiative (in the absence of a common standard) or within the specific framework of the whole administration's values (see [theme 3](#)).

Within a common standard that focuses on core values, such as the aforementioned Shared Values for Swedish Civil Servants and the United Kingdom’s Seven Principles of Public Life, there is a strong case for individual public sector organisations to consider and **customise their own value systems** in line with their specific mandates and missions, as set out by Ireland’s CMPR. This seems especially relevant when there has been a change of status (e.g. a reorganisation, relocation or outsourcing) that has produced a ‘shock’ to established structures and practices. Equally, under-performing organisations may benefit from a review and re-discovery of purpose through a re-statement of its values, to harmonise staff around a common vision.

Customising values to each organisation’s circumstances

While a core set of public service values is necessary, it is also true that different values apply to different parts of the public service. For example, a distinction may be made between technical, regulatory and administrative tasks, or between those parts of a bureaucracy in direct contact with the public and those which are not. Given the increasing range of demands on the public service, as well as the frequent ambiguity in terms of goals, relationships and responsibilities, value conflicts are not unusual. As values can differ within different parts of the public service, one of the principal tasks of managers and leaders is to co-ordinate, reconcile or cope with differing values between individuals or even between parts of the organisation. Also, there are a number of dynamics challenging traditional values in the public service. These include new modes of governance and the fragmentation of authority, market-based reforms (such as New Public Management), politicisation and political expectations, the growth in the use of agencies, decentralisation or relocation, changes in human resource management and recruitment, and the advent of new technologies and methods of information sharing.

Source: CMPR (2008), op. cit.

Good practice suggests that these values should be developed in each institution as a *participatory* exercise – in accordance with the consensus value set out already. By engaging the institution’s staff in producing a long-list of values, and narrowing it down to a shortlist through dialogue and consensus, the process can engender **ownership**.

Value statements are typically limited to a relatively small number (fewer than 10), each with a short description. The key is to keep the set of values **manageable**, so that officials can easily recall them during their daily activities.

Such concise statements can be readily reproduced and **publicised** in information materials aimed at both staff and stakeholders, including citizens and businesses, for example posters in the workplace and covers of government documents (such as annual reports), positioned to maximise visibility and impact. The values should form the basis of organisational strategies (see [theme 3](#)), and customer service charters (see [theme 4](#)).

But a list of values by itself means nothing. They have to be **acted upon**:

- The values statement can be backed up with **codes and guidelines**, containing more detailed elaboration of the values and how they might be applied in different situations. The format can be an official ‘code of conduct’, which sets out formal guidelines regarding the standards of behaviour that officials should follow (as happens with ethical standards, see [topic 2.1](#)). The alternative is a more informal guidebook, which articulates the values in plain language and can provide examples of real-life circumstances that are relevant to a range of public sector disciplines. These codes and guides are usually made widely available and distributed to all officials.

- Value statements, accompanied by guidance, can be followed up with **awareness-raising and training workshops**, either on a compulsory or voluntary basis, to talk through the values face-to-face with groups of public servants, answer questions, and discuss their application in practice. These exercises are likely to be approached with more enthusiasm if the values emerge from consultation and they have genuine staff ownership. Such workshops already exist for the specific sub-set of ethical values (see [topic 2.2](#) on ethics and dilemma training). Although values might appear straightforward when first sighted, they can raise practical concerns and tensions in their realisation. For example: the pursuit of *efficiency* can discourage *innovation* by incentivising officials to be risk averse; *openness* in government is a value adopted by many administrations relatively recently, but the pursuit of transparency must weigh the right to freedom of information against the right to data privacy, and also the realities of *effective* policy advice in government (see below).

Dilemmas in applying values: hypothetical example

How should officials behave under a newly-introduced right of the public to freedom of information (transparency as an enforceable principle), when ministers ask them for full appraisals (in writing) of the pros and cons of politically contentious policy options? Does the official set out all the possible scenarios even if this *implies* that some more controversial ones were being considered seriously, in the event of their advice being published, irrespective of the minister's final decision (which might be fully in line with mainstream public opinion)? Alternatively, does the official hold back from setting out all the scenarios, to avoid potential embarrassment to the minister later, even if this means providing an incomplete picture of the options?

- In some cases, public administrations can also introduce **monitoring and enforcement mechanisms**, in order to 'give teeth' to values, with both recognition when applied but also the threat of sanctions if they are not followed. This is inevitable if the values are principles that have been formulated as rights or obligations in law. In other cases, where the stated value is more abstract (as they typically are), public administrations may have to rely on other means to encourage and enable compliance, including peer pressure, the oversight of line managers, performance appraisals, etc.

Above all, embedding values demands **leadership**. Senior managers can set the example and send out the right signals, through their own behaviour and actions, that the values are relevant to the organisation. Some public sector organisations have ethics or values committees which can oversee the implementation and monitoring of the values system, and even update it over time in consultation with staff.

The example of the State of South Australia (population around 1.7 million) is illustrative of all these points, as the State Government has adopted a public sector value system for all institutions (service, professionalism, trust, respect, collaboration & engagement, honesty & integrity, courage & tenacity, and sustainability) after widespread consultation, and offers assistance on how each public sector organisation can apply them and still create or maintain their own value system if so desired.

Values in action (South Australia)

“A strong set of values can transform the way we work. Values help to clarify who we are, why we are here, and where we are going. They define who we are as public servants.

Whether collaborating across agencies, with partners in other sectors or with members of the community, when our actions align to our values we create productive working relationships founded on mutual trust and respect. The public sector values are, in part, based on the great tradition of public service and include service, professionalism, respect, trust, honesty and integrity. They also reflect the ongoing evolution of the public sector and the world in which we work and include collaboration and engagement, courage and tenacity, and sustainability. They reflect that as a public sector we are focussed on the ever changing needs of South Australians and the place of Government in helping to grow the State’s prosperity and wellbeing. I am often asked how the public sector values relate to values already established by individual public sector organisations. The public sector values, which are provided in detail at the end of this guide, were developed by more than 600 public sector employees of varying professions working together with the South Australian Government, Senior Management Council and organisational development specialists. They are a guide to behaviours and practices that apply to all employees, regardless of position, technical expertise, or location. The most important thing about the public sector values is they will make it easier for us to work together by forming a culture and a vision that we will all share.

Collectively our most senior leaders have agreed the public sector values will provide a foundation for progress and change. We should now use these values to guide decision making, direct strategies, manage performance and development and plan our future and the future of South Australia. There are a number of ways you can bring values to life in your workplace. A good starting point is to use this document to guide informal discussions at team meetings. At the right time you should also work through a more formal approach to embedding values across your organisation. The Office for Public Sector Renewal can help you bring the values to life in your workplace by providing advice and direction, and facilitating discussions and workshops at a team, business unit, divisional or organisational level.”

Erma Ranieri Chief Executive, Office for Public Sector Renewal Chair, Change@SouthAustralia Taskforce.

When to begin the values journey

Introducing values into an organisation can begin at any time. However, there are times when a formal approach to values is essential and this is invariably associated with a period of change. This can include:

- A change to machinery of government;
- A change of leadership;
- A change of strategic direction;
- The establishment of a new programme or project team;
- A time of structural or cultural change within an organisation.

The values journey, particularly in any of these situations, must start with a discussion about values.

Having a discussion about values

Discussions about values have to be founded on openness and recognising and embracing a diverse set of opinions. Each value you discuss can be interpreted in many different ways, and everyone’s perspective needs to be considered if it’s to be a robust discussion. The result of these discussions should be an agreement on:

- What the values mean to your team or organisation and what behaviours embody those values;
- The team or organisational practices and cultures required to underpin and sustain those behaviours;
- The behaviours that contravene those values and will not be accepted.

Examples of organisational practices, successful personal behaviours and taboos are provided at the back of this document (see ‘sustainability’ below). These examples provide a good starting point for thinking about what values look like in your team or organisation.

Sustainability We work to get the best results for current and future generations of South Australians		
Organisational practices	Successful personal behaviours	Taboos
Designing structures, systems and services to consume resources more efficiently over time	Considering the long-term outcomes of the decisions you make today	Designing short-term solutions to long-term problems
Taking collective action to improve productivity and maximise the impact on limited resources	Collaborating with colleagues and stakeholders to design and deliver the best possible services with the resources that are available and considering the future availability of resources	Implementing unconsidered solutions in order to achieve quick wins
Taking a sector-wide, holistic approach to strategic planning	Prudent management of resources, including people, money and physical assets	Not balancing the predicted benefits against the amount of time and resources necessary to achieve success
Working together to leave a lasting legacy for future generations	Focusing on solutions which continue to produce outcomes over the long term	Doing what is easiest or cheapest rather than looking for the best solution

Comparing organisational and public sector values

Where organisations or teams have existing values it is important that employees are engaged in a discussion on how they relate to the public sector values. This process should be overseen by the organisation’s most senior executives. Questions to consider include:

- What organisation values represent or are most closely aligned to the Public Sector Values?
- If our organisation has placed more emphasis on one of the Public Sector Values than another, what strategies will we put in place to ensure employees uphold all of the Public Sector Values?
- How will our organisation ensure that our values do not override the Public Sector Values?

Embedding the values

Successful integration of the values into your team or organisation needs to be based on action - how you ‘live the values’ through your work. This is what we mean by embedding the values. There are three key elements to ensuring that values are properly embedded in any organisation:

<p>Commitment from leaders Leaders champion the values by modelling the highest standards of behaviour. They:</p>	<p>Values-based management Managers work within cultures and systems that reflect the values. They</p>	<p>Assurance mechanisms Leaders and managers oversee mechanisms to properly implement the values. They:</p>
<ul style="list-style-type: none"> ➢ Lead culture change, mentor others on how to behave according to values and reinforce the importance of values to employees ➢ Ensure that strategic decisions at all levels are aligned to the values ➢ Embed values in accountability frameworks ➢ Ensure that service design aligns to values 	<ul style="list-style-type: none"> ➢ Provide informal & formal feedback and performance management integrated with reward and recognition programmes ➢ Ensure recruitment, induction, development, management and transition processes are informed by valuesbased behavioural competencies ➢ Promptly and effectively manage behaviour inconsistent with values 	<ul style="list-style-type: none"> ➢ Communicate & make accessible employee grievance, review and whistleblowing avenues ➢ Apply the High Performance Framework to assess organisational performance in embedding values ➢ Seek feedback from citizens and employees to gauge the effectiveness of values-based service delivery and organisational culture.

More formal approaches to evaluating values in your organisation

It is important to periodically assess and adapt your activities to ensure they are as effective as they can be. Evaluation can help you identify areas for improvement and ultimately help you embed the values more effectively. The High Performance Framework is the South Australian public sector’s performance evaluation tool for organisations. It recognises that having a strong set of values, and behaving and making decisions using those values, is a key element of any high-performing organisation. When evaluating your team or organisation, the

High Performance Framework:

- Provides the impetus and tools for self-evaluation;
- Provides advice on what it looks like when values have been successfully embedded;
- Helps you identify areas for improvement;
- Provides recommendations for continued success.

You can access the High Performance Framework at www.hpf.sa.gov.au.

Source: Extracted from “Values in action: A guide to the South Australian public sector values”, Government of South Australia, Office for Public Sector Renewal

http://change.sa.gov.au/wp-content/uploads/Values_in_action.pdf

SIGMA - Principles of Public Administration – a holistic approach in the context of EU enlargement

The joint EU – OECD initiative SIGMA (principally financed by the EU) has outlined a series of **Principles of Public Administration**⁽⁹⁾ specifically relevant for EU candidate countries. These Principles define what good governance entails in practice and outline the main requirements to be followed by countries during the EU integration process. The Principles also feature a monitoring framework enabling regular analysis of the progress made in applying the Principles and setting country benchmarks. Despite the specific enlargement context, many of the principles apply and could provide useful guidance to any European administration.

⁽⁹⁾ November 2014

Theme 1: Better policy-making



Governments will always face difficult policy choices, even in times of peace and prosperity, and will be judged on the outcomes they produce. Policy decision taken at all levels (supra-national, national, regional and local) will shape the strength of economic renewal and social well-being in the EU in the coming years. This theme poses a series of questions: How is policy designed in practice? What instruments are available? How can more creative solutions be found? In seeking answers, it explores the qualities of good policy-making, approaches to longer-term strategic planning, stakeholder consultation and the advent of co-responsibility with citizens and businesses (co-design, co-production, co-evaluation, etc.). It also sets out tools and techniques for regulatory and institutional reforms. In pursuing continuous improvement, it emphasises the importance of systematic feedback, the value of external scrutiny in driving up standards, and public sector innovation in its myriad forms.

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Good governance is all about policy choices: how administrations make best use of the powers and resources entrusted to them by the public, and manage their relationships with citizens, businesses and other stakeholders. This chapter:

- ✓ Sets out the rudiments of policy design and decision-making, and describes techniques to the strength-test the policy-making process;
- ✓ Explores how governments are looking beyond immediate policy pressures, and envisioning socio-economic development over long-term planning horizons;
- ✓ Describes the new ways that administrations are connecting with citizens and businesses through consultation and co-design;
- ✓ Examines the challenges in policy delivery - managing performance-based spending within a sound fiscal framework, creating a regulatory framework that is conducive to growth, choosing the best organisational mode ('make or buy'), and co-producing with businesses and citizens;
- ✓ Recognises the pressures for continuous improvement in public policy, and reviews the contributions of evaluation, external scrutiny and public sector innovation.

Policy-making is neatly summed up in these guidelines, issued by the Office of the First Minister and Deputy First Minister of Northern Ireland in 2003:

Policy-making is the process by which governments translate their political vision into programmes and actions to deliver 'outcomes' - desired change in the real world. [It] is about establishing what needs to be done - examining the underlying rationale for and effectiveness of policies - then working out how to do it and reviewing on an ongoing basis how well the desired outcomes are being delivered. (A Practical Guide to Policy Making in Northern Ireland).

Every public official has a concept of what 'policy' means in his or her field, but a quick scan of government guidance and independent research globally finds no precise and universally agreed definition, except perhaps the dictionary consensus: a definite course of action. Asked to describe policy in a specific domain, an official might see it as:

- The government's intentions ("as the minister / mayor said ...");
- The administration's actions ("a change in the law is being put to the assembly", "we have just launched a new programme", "the government is planning to decentralise delivery", "the agency's functions will be put out to tender", etc.);
- A review of alternative options ("you'll find the policy document on our website with details of the government's analysis and its proposals for discussion").

Rather than attempt a comprehensive definition, this Toolbox focuses instead on the characteristics of policy in SDs. Every policy should be a clear statement of direction. It should be the product of a robust assessment and hence deliberation over the pros and cons of prospective solutions, to enable a decision on the best way forward. Policy sets out a course of action, so must lead to delivery, otherwise statements of intent are just warm words. Policy-making should also be dynamic, taking account of changing circumstances, and flexible enough to adapt to experience and events.

The Toolbox also distinguishes between the concepts of policy and strategy (especially as not all policies are accompanied by strategies). The direction set out in the policy might be elaborated in a strategy, describing how resources are marshalled to achieve the government's objectives. Policy-making is deciding on a definite

‘path’ to be pursued, the strategy is the ‘road map’ for getting there. This chapter considers further how high-level objectives are articulated in policy-oriented strategies (see [theme 3](#) for how operational goals are translated into organisational strategies).

This chapter explores three fundamental aspects of policy-making - designing policy, choosing the instruments of implementation, and seeking continuous improvement - and the ways and means to achieve them:

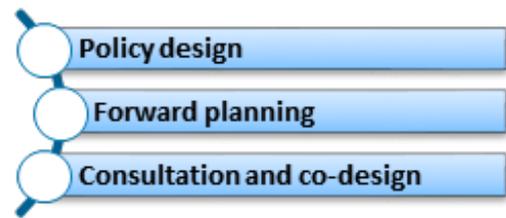
Key questions	Ways and tools
How is policy designed ? What and who informs decision-making? How can governments move from reactive and <i>ad hoc</i> policy decisions to more reflective, long-term planning?	<ul style="list-style-type: none"> → Policy fundamentals → Forward planning → Strategy preparation → Consultation and co-design
What instruments are available to policy-makers to achieve their policy goals? What are their relative merits? How best should they be implemented?	<ul style="list-style-type: none"> → Public spending (see topic 7.1) → Laws and the regulatory framework → Institutional structures and reforms → Co-production
How does the administration know if the policy has been achieved? How can the administration strive for still-better performance and more creative solutions to established and emerging problems?	<ul style="list-style-type: none"> → Monitoring and evaluation (including co-evaluation) → Performance audits → External scrutiny → Public sector innovation

The policy choices taken by governments at all levels (supra-national, national, regional and local) will shape the strength of economic renewal in the EU in the coming years and the success in attaining [Europe 2020](#) goals of smart, inclusive and sustainable growth. This is particularly true of the effect of policy decisions on public administrations. Public policy determines whether the most suitable institutional structures and staffing are put in place ([theme 3](#)), whether the delivery of public services meets needs and expectations ([theme 4](#)), whether businesses are helped or hindered in delivering economic prosperity ([theme 5](#)), whether the judiciary is able to operate independently and to the highest standards of quality and efficiency ([theme 6](#)), and whether scarce public resources are managed prudently ([theme 7](#)). Ethics are integral to good policy-making, but policy can also dictate the extent to which integrity is integrated into the functioning of the administration itself ([theme 2](#)).

Ultimately, every government at whatever level is judged by its policy choices and their outcomes, which places a high premium on strengthening policy-making as a process, in order to try and achieve the desired results.

1.1. Qualities of good policy-making

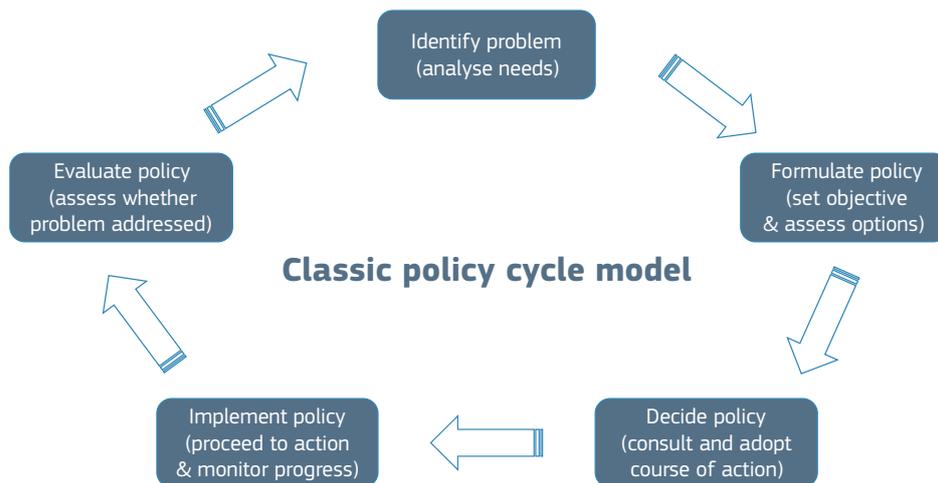
Policy-making is usually described as a cyclical process, from problem identification to programme evaluation, which in turn informs the next round of policy design. But the lack of a consensus definition reflects the reality that policy-making is a flexible concept, which in practice does not follow rigid rules. Decision-making should be underpinned by certain principles, however, that can be applied whatever the context. While unexpected events mean that policy-making is sometimes sporadic and reactive (policy ‘on the hoof’), governments also face demographic, economic and environmental challenges which extend beyond the short term, and often demand pan-European or global solutions. In this light, many public administrations are finding the time and space for forward policy planning over medium-long term horizons, covering more than one electoral cycle. They are also increasingly looking to actively involve citizens and businesses in policy-making, rather than as the passive recipients of policy decisions.



The ‘policy cycle’ is a well-established concept, which is typically taught as the rational model of policy decision-making. While some version set out more or fewer stages to the process than others, and the terminology and may vary, the basic sequence of stages follows a common pattern:

- A problem is **identified**, and the underlying causes and needs are analysed, to determine whether there is a rationale for public policy intervention, for example due to market failure or government.
- A policy response is **formulated**, based on setting out a number of scenarios that will resolve the problem and satisfy the needs and expectations of the affected parties (whether citizens, businesses, public institutions, etc.), and an options appraisal is performed that weighs the pros and cons of alternative approaches.
- The preferred solution is **selected**, usually at the political or senior management level, following consultation with interested stakeholders that will be directly affected by the outcome, wherever possible.
- The policy is **implemented** as agreed and subjected to monitoring, as a management tool to track performance and measure progress against the plan, including any deviations or unforeseen outcomes.
- Finally, the policy is **evaluated**, to determine whether it has been successful in addressing the original problem and meeting the needs of affected parties. If so, the evaluation seeks to draw out learning points for future interventions, and if not, the evaluation notes whether the original objective has been overtaken by subsequent developments or recommends an alternative course of action, thereby feeding back into policy design.

This traditional policy-making model is presented below. It is widely recognised that this is an **idealised** view of the policy process, and that the model is intended to be illustrative.



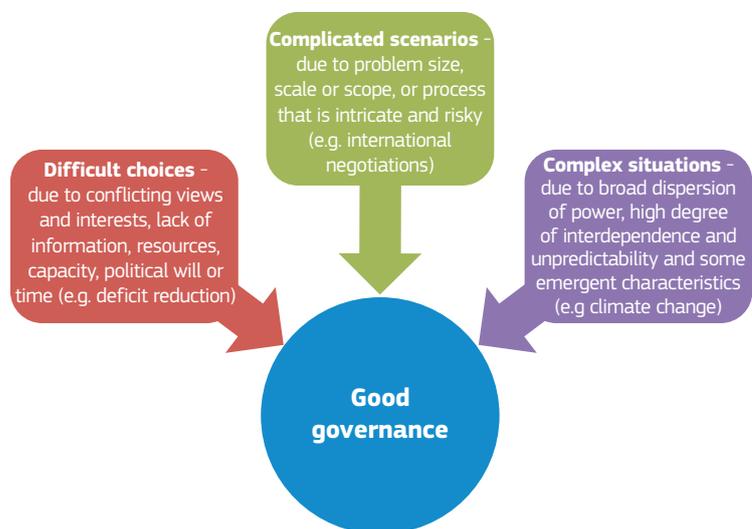
In practice, the reality is usually **more complicated** and sometimes chaotic too:

- Administrations rarely start with a blank sheet of paper. The **initiative** for policy design can come from a variety of sources: political commitments made at election time, the priorities of individual elected officials (ministers, mayors, etc.), obligations from EU directives and international treaties, public pressure, emerging crises, new approaches to old policy problems, lobbying by think tanks and associations, and many more. This ‘frames’ the problem identification and policy formulation within a pre-existing set of ideas and proposals. If allowed, the administration might wish to challenge these assumptions, in the interests of policy rigour, but in any case, they represent the initial parameters for policy-making most of the time.
- The conventional model suggests that policy-making is a linear, sequential, end-to-end process, and that administrations have sufficient time to conduct each phase and reflect on the outcome before proceeding to the next. In practice, the stages in the ‘cycle’ are inter-dependent, can happen **simultaneously** and often cannot be separated from each other. Elected officials at any level (supra-national, national, regional or local) may require or request policy advice which is all-encompassing and all-at-once: immediate solutions to current problems, including scenarios, a recommendation on the best way forward, and a proposal for how the policy will be delivered, including budget and responsible body. The policy decision may involve a number of **iterations**, with goals, potential actions and preferred option all evolving, often together, as new inputs or information are sought.
- Policy-makers can reach decisions without being able to consider all available options thoroughly, either because of limited information or time constraints. In many cases, the solution is announced on the basis of political **expediency** or parliamentary timetables, rather than objective evidence. In the real world of unforeseen events and 24 hour news, decision-makers sometimes have to make policy pronouncements quickly in response to emerging situations.
- The chain of supposed events in the policy cycle is **easily broken**, especially when there is a change of government. Even when the government is stable, elected officials may resign, retire or be replaced before a policy is fully formulated, implemented or evaluated. Their successors may wish to change the direction of policy. Evaluation is often the poor relation of the policy-making process, either being neglected completely, or the findings arrive too late to influence changes in policy design.

- Monitoring is more common, but **not necessarily systematic** (using base-lines, indicators and benchmarks). Elected officials will often know when a policy is not performing anyway through the less formal channels of public opinion, critical media and business lobbying. At this point, any stage of the policy-making process – goals, delivery options, actual implementation – may need to be adjusted or even abandoned.

For these reasons, the policy-making process can be thorough or flawed, and all points in between. Even the best of intentions can become ‘bad policy’ at the point of implementation, with unexpected and unfortunate consequences. The policy-making process will never be an exact science, as the environment is ever changing. In a dynamic world, public administrations face difficult choices, must steer a path through complicated scenarios, and manage uncertainties created in complex situations (see below).⁽¹⁾ Policy is prone to exogenous factors and its effects are never entirely predictable, which puts a premium on **‘adopt-and-adapt’**. Administrations should focus on high-level objectives and always keep them in sight, but remain ready to respond to events as they arise, and willing to adjust short-term operational goals and activities accordingly.

Public policy-making is inseparable from the democratic mandate, so policy development should reflect the **relationship** between the political priorities of elected officials (national, regional or local) and the ‘wise counsel’ of appointed officials (civil servants). Given the importance of evidence-based policy, this requires clear strategic direction and leadership from politicians to be married to balanced and professional advice from the administration.



An alternative approach to the ‘policy cycle’ model, which reflects reality more closely, is to concentrate on creating the right culture, working environment and organisational structures for sound policy design. This approach relies on applying flexibly the **qualities of policy-making**. The UK’s Institute for Government has set out a vision of the policy process which takes ‘policy fundamentals’ as its building blocks, and the sequence in which they are assembled is a secondary concern.

⁽¹⁾ See Bourgon, J. with Milley, P. (2010), “The New Frontiers of Public Administration”.

Policy fundamentals

Many existing models of policy making are increasingly inappropriate in a world of decentralised services and complex policy problems. In the face of these challenges, we need to give a more realistic account of what good policy making should look like – and then ensure the surrounding system increases its resilience to the inevitable pressures to depart from good practice. The starting point is our analysis that there are certain fundamentals of good policy making which need to be observed at some point in the policy process:

- Clarity on goals;
- Open and evidence-based idea generation;
- Rigorous policy design;
- Responsive external engagement;
- Thorough appraisal;
- Clarity on the role of central government and accountabilities;
- Establishment of effective mechanisms for feedback and evaluation.

The fundamentals draw on elements of current policy making models, but place additional emphasis on policy design and clear roles and accountabilities. They need to be seen alongside the need to ensure long-term affordability and effective prioritisation of policy goals. Overlaying these criteria has to be a decision on resources and resource availability. Individual policies have to be affordable over their life time and represent good long-term value for money.

By policy design, we mean the stage in the process which turns policy ideas into implementable actions. Policy design is a fundamental yet under-developed part of the policy process. Many ideas which look good on paper are not feasible to implement – and it is often too late to change course when the legislation is on the statute book and political capital has been expended. Those failures can come from multiple causes, but one recurrent theme is the failure to understand the likely behaviours of those whose actions the policy is designed to affect. Policy makers need to be able to use prototypes and stress-test policies to ensure they are implementable, which will require new partnerships and a greater involvement of service users in policy development. More radically, policy makers (and Parliament) will need to move on from the idea that central government creates fixed designs for policies, and start creating designs that are flexible enough so others can adapt them to changing circumstances.

Source: Extracted from Hallsworth M., and Rutter J., “Making policy better: improving Whitehall’s core business”, Institute for Government, UK

With some minor adjustments to increase transferability to European administrations, the Institute for Government’s **checklist** is a useful mechanism to assess whether all the fundamentals have been achieved during the policy process, irrespective of the order they are performed. These seven building blocks are explored in more detail in the topics and tools in the rest of this chapter.

'Fundamental'	Key questions	References
Clear goals	<ul style="list-style-type: none"> → Has the issue been adequately defined and properly framed? → How will the policy achieve the high-level objectives of the government / ministry / municipality? 	Topics 1.1.1, 1.1.2 and 1.3.3
Evidence-based ideas	<ul style="list-style-type: none"> → Has the policy process been informed by evidence that is high quality and up to date? → Has account been taken of evaluations of previous policies? → Has there been an opportunity or licence for innovative thinking? → Have policy-makers sought out and analysed ideas and experience from the 'front line' or other European administrations? 	
Rigorous design	<ul style="list-style-type: none"> → Have policy-makers rigorously tested or assessed whether the policy design is realistic, involving implementers and/or end users? → Have the policy-makers addressed common implementation problems? → Is the design resilient to adaptation by implementers? 	
External engagement	<ul style="list-style-type: none"> → Have those affected by the policy been engaged in the process? → Have policy-makers identified and responded reasonably to their views? 	Topics 1.1.3, 1.2.3 and 1.3.2
Thorough appraisal	<ul style="list-style-type: none"> → Have the options been robustly assessed? → Are they cost-effective over the appropriate time horizon? → Are they resilient to changes in the external environment? → Have the risks been identified and weighed fairly against potential benefits? 	Topic 1.2.1
Clear roles and accountabilities	<ul style="list-style-type: none"> → Have policy-makers judged the appropriate level of (central) government involvement? → Is it clear who is responsible for what, who will hold them to account, and how? 	Topic 1.2.2
Feedback mechanisms	<ul style="list-style-type: none"> → Is there a realistic plan for obtaining timely feedback on how the policy is being realised in practice? → Does the policy allow for effective evaluation, even if government is not doing it? 	Topic 1.3.1

The [New Synthesis \(NS\) Initiative](#) has developed an evolving theoretical framework for helping governments to face the challenges of the time, whether the response involves policies, programmes, projects, services, structures or systems. The approach focuses on applying a series of techniques, summarised in a [Self-Help Guide for Practitioners](#):

Technique	Overview
Positioning	The Power of a "Broader Mental Map" : the way we think about the role of government in society and the way we frame issues transform the way we address the issues, the relationship with citizens and the impact of government actions. Positioning recognises that public policies, programmes and agencies are instruments to serve a broader public purpose. They are important insofar as they move society forward and contribute to better societal results. Positioning is about: exploring the inter-relationship between agency, system-wide and societal results; gaining an appreciation of the ripple effects of government actions across government and across society; and expanding the space of possibilities and the range of options open to government. Positioning is a pragmatic search for what is feasible with the resources and capabilities available at the time.
Leveraging	The Power of Others : discovering how government can achieve the greatest possible impact with the least amount of effort and economy of resources by enrolling the contribution of others to bring viable and sustainable solutions to the problems we face as a society. Leveraging is about pooling capabilities and resources across multiple boundaries and interfaces to achieve results of higher public value at a lower overall cost to society. Government does not need to do it all to serve the collective interest well. It can achieve better results by focusing on what it is best positioned to do while building on the strength of others. Government actions form part of long chains of intermediate results where the contributions of multiple agents are necessary to achieve the desired public outcome.

Technique	Overview
<p>Engaging</p>	<p>The Power of People: transforming the relationship between government and citizens from one where government is the primary agent responsible for serving the public good to one of mutuality and reciprocity. Engagement is about:</p> <ul style="list-style-type: none"> • Exploring what government is best positioned to do, what citizens can do for themselves, what can best be accomplished by working together and how it may all fit together; • Designing public policies, programmes and services that give citizens, users and beneficiaries an active role in working with public agencies to create and produce public results; • Creating an enabling environment that encourages and promotes self-organisation and self-governing practices by citizens. This means encouraging citizens to work together to take charge of addressing issues of concern to them in a manner that also promotes the collective interest. • Building resilience by encouraging participation, shaping policy responses that reduce the risks of dependency, building trust and confidence in the collective capacity to invent solutions to the challenges we face as a society.

Positioning is about framing the policy problem and the response, so that it looks beyond the performance of individual organisations ('agencies'), and lifts sights towards higher-level objectives and outcomes: societal results. *Leveraging* is about breaking down silo thinking, within and beyond the public administration, and seeking new ways to coordinate and cooperate. Societal problems increasingly require an integrated approach that cuts across several policy fields, and may necessitate inter-agency programmes with a coordinating project leader. In the Netherlands, for example, such initiatives within the public administration can last several years, and thereby justify the setting-up of an inter-ministerial programme department. *Engaging* takes government into the often unfamiliar territory of co-responsibility: transforming the relationship with citizens to one of shared responsibility (see topic 1.1.3).

1.1.1. Policy design



The strength of the **evidence base** is the foundation of successful policy-making, along with its interpretation. Policy advisors should cast a wide net when thinking about potential sources, including: official statistics; existing studies from in-house, academia, associations, think-tanks, etc.; evaluation findings; surveys, panels and other original research (if appropriate and affordable); expert inputs; and evidence from stake-

holders, both interested and affected parties. ICT can play an important role in evidence-based policy-making in the use of 'big data', simulation and prototyping.

One option is to outsource the gathering and assessment of evidence to a dedicated public authority with specific expertise in research and analysis, such as the CPB Netherlands Bureau for Economic Policy Analysis, which is part of the Ministry of Economic Affairs, but functions independently.

Inspiring example: CPB Netherlands Bureau for Economic Policy Analysis

CPB Netherlands Bureau for Economic Policy Analysis (CPB) conducts scientific research aimed at contributing to the economic decision-making process of politicians and policymakers. It was founded in 1945 and has been a part of the Ministry of Economic Affairs ever since. Its director is appointed by the Minister, in consultation with other members of the government, but CPB is fully independent as far as the contents of its work are concerned. It also has its own legal mandate and an independent advisory committee. Research at CPB is carried out on CPB's own initiative, or at the request of the government, parliament, individual members of parliament, or for example national trade unions or employers' federations. It is largely publicly financed. To ensure its independence, a maximum of 20% of its annual budget may originate from external assignments. However, CPB is not allowed to compete with commercial research bureaus, and external assignments are limited to local and national governments, European institutions or international governmental organisations.

The output for which CPB is best known includes its quarterly economic forecasts of the development of the Dutch economy. The main forecasts are the Central Economic Plan (CEP), published every spring, and the Macro Economic Outlook (MEV), which is published jointly with the Annual Budget at the Opening of the Parliamentary Year in September. A special forecast is the Medium-Term Forecast, which is published at the start of each election cycle. This forecast differs from the above-mentioned CPB forecasts by covering a four-year period. It offers a foundation for the development of policy plans by political parties and the negotiations for a new government after the general elections. From 1986 onwards, CPB has offered interested political parties an analysis of the economic effects of the policy proposals in their election manifestos. The plans of the participating parties are analysed identically, thus offering voters a comprehensive tool for comparison of the parties, contributing to the transparency of the election process. After the elections, CPB is often requested to analyse all or some of the policy proposals put forward during the negotiations for a new government. These analyses use the same methods as those used during the analysis of the election manifestos.

CPB analyses policy proposals in a number of different ways and also evaluates the effects of policy measures that have already been implemented. Since the early 1950s, the bureau analyses the costs and benefits of large infrastructural projects. These studies are known in Dutch by the acronym MKBA (Societal Cost Benefits Analysis). Examples include the Delta plan, the construction of the East Flevoland polder and the Betuwelijn freight railway. CPB also conducts research into numerous other areas - for example, the economic effects of ageing, globalisation, health care, education, the financial crisis, or the regulation of market orders. Such work is sometimes co-financed externally—in particular, by Dutch ministries or the European Commission.

For further information: Edwin van de Haar, Executive Secretary, e.r.van.de.haar@cpb.nl, <http://www.cpb.nl/en>

Another well-known example is the Productivity Commission⁽²⁾, which is the Government of Australia's independent research and advisory body on a range of economic, social and environmental concerns, with a mandate to help governments make better policies in the long term interest of the Australian community. In a 2009 speech, the former Chairman emphasised heavily the value of the evidence base, and its contribution to avoiding false assumptions and flawed policy proposals, including as a check on the validity of the high-level objective.

⁽²⁾ The Productivity Commission advises on a range of economic, social and environmental issues. Its independence is underpinned by an Act of Parliament. Its processes and outputs are open to public scrutiny and are driven by concern for the wellbeing of the community as a whole. For further information: <http://www.pc.gov.au/>

Inspiring example: Productivity Commission (Australia)

“Without evidence, policy makers must fall back on intuition, ideology, or conventional wisdom — or, at best, theory alone. And many policy decisions have indeed been made in those ways. But the resulting policies can go seriously astray, given the complexities and interdependencies in our society and economy, and the unpredictability of people’s reactions to change. From the many examples that I could give, a few from recent Productivity Commission reviews come readily to mind:

- In our research on the economic implications of Australia’s ageing population, we demonstrated that common policy prescriptions to increase immigration, or raise the birth rate, would have little impact on the demographic profile or its fiscal consequences (indeed, higher fertility would initially exacerbate fiscal pressures);
- Our report into road and rail infrastructure pricing showed that the presumption that road use was systematically subsidised relative to rail was not borne out by the facts (facts that were quite difficult to discern);
- In our inquiry into waste management policy, we found that the objective of zero solid waste was not only economically costly, but environmentally unsound;
- Our inquiry into state assistance to industry showed that the bidding wars for investment and major events the state governments engaged in generally constituted not only a negative sum game nationally, but in many cases a zero sum game for the winning state;
- Our recent study on Australian’s innovation system reaffirmed that, contrary to conventional opinion, the general tax concession for R & D mainly acted as a ‘reward’ for research that firms would have performed anyway, rather than prompting much additional R & D;
- Our recent draft report on parental leave, indicated that binary views in relation to whether childcare was a good or a bad thing were both wrong, depending on which age group you were looking at, and that there were many subtle influences involved.
- Now I am not saying that policy should never proceed without rigorous evidence. Often you can’t get sufficiently good evidence, particularly when decisions must be made quickly. And you can never have certainty in public policy. All policy effectively is experimentation. But that does not mean flying blind — we still need a good rationale or a good theory. Rationales and theories themselves can be subjected to scrutiny and debate, and in a sense that constitutes a form of evidence that can give some assurance about the likely outcomes. Importantly though, all policy experiments need to be monitored and evaluated and, over time, corrected or terminated if they turn out to be failures. These are things that Governments typically find hard to do — particularly the termination part.”

Source: Banks, G. (2009), “Evidence-based policy making: What is it? How do we get it?” (ANU Public Lecture Series, presented by ANZS OG, 4 February), Productivity Commission, Canberra.

Officials may need to draw on **fresh thinking** to solve often well-established and intractable policy dilemmas. In seeking creative solutions, public administrations may need to look beyond their own internal know-how experience, and search for answers further afield – from front-line staff, affected stakeholders, other administrations, academia and think-tanks, etc. This can create insecurity, as policy officials feel they are either ceding responsibility or acknowledging they don’t have all the answers, but it also empowers them by bringing different perspectives and new intelligence to the table.

Policy design can embody **innovation** by being inventive (entirely new concepts) or incremental (improving on existing practice). Ultimately, administrations may need to experiment, in order to find elusive routes to desired outcomes, when other ways have been found lacking, by launching prototype actions, evaluating their performance, jettisoning some practices and expanding others (see also [topic 1.3](#)). There are risks with experimentation, however, as the media and public can be critical of failure and what is seen as wasted public resources. This highlights the value of

shared ownership with citizens and businesses by co-opting all interested parties into the decision-making process (see also [topic 1.1.3](#)). One of the best known examples of putting this principle into practice is Denmark's MindLab, a cross-governmental and multi-disciplinary innovation unit which involves citizens and businesses in creating new solutions for society. MindLab is both an organisation with its own permanent staff and secondments, and a physical space that can provide a neutral location for exercising creativity and collaboration.

Inspiring example: MindLab (Denmark)

Established in 2002, MindLab is jointly owned by three ministries (Ministry of Business and Growth, Ministry of Education, and Ministry of Employment) and one municipality (Odense), and collaborates formally with the Ministry for Economic Affairs and the Interior. MindLab's mission is to work with its owners to create change which generates the desired value for citizens, businesses and society. MindLab is instrumental in helping key decision-makers and employees to view their efforts from the outside-in and see them from a citizen's perspective, as a platform for co-creating better ideas. MindLab has three strategic objectives:

1. **Public sector innovation:** MindLab will strengthen the outcomes of public policies through systematic insight into the perspective of citizens and businesses, and active involvement of the stakeholders which can turn new ideas into practice.
2. **Change capacity:** MindLab will build knowledge about new approaches to public problems. This knowledge shall enhance the owners' competencies to take courageous change initiatives.
3. **Visibility and legitimacy:** MindLab will work actively to qualify the public sector innovation agenda and to share the owners' role as co-creators of one of the world's leading innovation environments.

MindLab was originally created for the Ministry of Economic and Business Affairs as an internal incubator for invention and innovation, with five employees. At that time, the vision of an in-house laboratory as a centre of creativity and innovation was unique for a ministry. In the years that followed, MindLab conducted over 300 workshops, both within the ministry and for a broad range of other public and private organisations. In 2007, a new strategy and new goal were set for MindLab: its focus would be the active involvement of both citizens and businesses in developing new public sector solutions. At the same time, MindLab acquired two additional parent ministries, namely the Ministries of Taxation and Employment. In this manner, MindLab also became a fulcrum of intra-governmental cooperation. Finally, the strategy involved MindLab taking on a number of professional researchers, with the aim of establishing a more robust methodological foundation for its work.

Today, MindLab has considerable experience with innovation processes that are based on the realities experienced by citizens and businesses, and which also promote collaboration across the public sector. MindLab's core staff consists of:

- Seven project managers with a background in design, political science, anthropology, sociology and communication.
- Seconded project managers heading up some substantial user-centred development projects within one or more of the parent ministries, for between six and twelve months.
- A research manager responsible for working with experts, think tanks, researchers and other knowledge environments to generate valuable change in MindLab's parent ministries.
- Trainees and students with a background in public administration, sociology, communication and design.

MindLab's strategic direction is set by the Board, which meets three to four times a year, and comprises the Permanent Secretaries of the three Ministries and the Chief Executive of Odense Municipality. The Board also gives final approval to MindLab's portfolio of projects. An international Advisory Board has been established to provide the Board with expert input drawn from Denmark, Australia, Canada, United Kingdom and United States. MindLab resides in the Ministry of Business and Growth in a specially designed and flexible office space, which can be easily reconfigured. The space comprises several zones. The Mind is the characteristic egg-shaped space lined on the inside with whiteboards. Architects NORD have developed the concept in collaboration with designers All the Way to Paris. They have created the Workshop Zone, which is the largest section, and is where most of MindLab's workshops take place. The library consists of mobile shelving that contains MindLab's literature, plus a high table that is used for meetings, lunches and informal gatherings.

For further information: info@mind-lab.dk, see also <http://www.mind-lab.dk/en>

The fear of failure can also be mitigated by conducting rigorous **options appraisals** before embarking in a new direction, as a well-established method and a crucial component of impact assessment, which is described further in [topic 1.2](#) in the context of assessing proposed legislation, but is applicable to all policy proposals that have an economic, social or environmental effect. Options appraisal applies cost-benefit analysis (CBA) techniques to several implementation scenarios, typically involving the *status quo* option ('do nothing'), the proposed solution and at least one other alternative. The appraisal must be genuinely impartial and indifferent to the options to add any value, otherwise it is just a *post hoc* rationalisation of a pre-selected way forward.

In finalising the choice of policy instrument, policy-makers need to consider the **role of the public administration** and its relationship to the chosen mode of implementation, especially if it involves decentralisation, outsourcing or co-production. The government may wish to devolve responsibility for the details of implementation to the organisation(s) tasked with delivery, especially if the policy subject is complex and front-line providers are far better placed to determine what is best. It may seek to pilot a variety of methodologies, to see what works most effectively. It may wish also to select an array of providers with strengths among different target groups to promote diversity. These considerations have been codified by the Institute for Government (op. cit.) as four criteria:

Criteria	Key questions
Risk	<ul style="list-style-type: none"> → Does the government action need to be 'right first time'? → Is the priority to achieve a specific goal as efficiently or efficiently as possible, or to explore new possibilities?
Uniformity	<ul style="list-style-type: none"> → What is the appetite for variety and divergence in service provision?
Complexity	<ul style="list-style-type: none"> → Is the issue so complex that it is better for the system of actors to address it through adaptation, rather than specifying a solution in advance? → How likely is it, that central direction will be able to control the actors responsible for realising the policy in practice?
Capacity	<ul style="list-style-type: none"> → What is the capacity of the actors in the system to address the policy issue through their own agency? → Is central government able to intervene to build such capacity? → To what extent is guidance or direction being requested?

1.1.2. Forward planning



Increasingly, governments are looking to engage in longer-term strategic planning over horizons of typically up to 10–20 years into the future. Such techniques were first introduced during post-war reconstruction in military and spatial planning, and started to appear in corporate planning in the 1960s. Within mainstream public administration, **foresight units** came to prominence in the 1980s and 1990s, usually focusing on

scientific and technological development. The European Commission has published a [set of principles](#) that, if followed, should ensure that foresight makes an effective contribution to policy development, and guidelines and checklists for implementing these principles.

The Commission itself has the [Joint Research Centre \(JRC\)](#), as its in-house science service, with a mission to provide EU policies with independent, evidence-based scientific and technical support throughout the whole policy cycle. Among the services offered by the JRC is 'foresight and horizon scanning' to look into the longer-term impact of policies and technologies and anticipate emerging societal challenges.

European Commission's Joint Research Centre (JRC)

Working in close cooperation with policy Directorates-General, the JRC addresses key societal challenges while stimulating innovation through developing new methods, tools and standards, and sharing its know-how with the Member States, the scientific community and international partners.

JRC's foresight work explores the future of scientific and technological achievements and their potential impacts on society. It aims to identify the areas of scientific research and technological development most likely to bring about change and drive economic, environmental and social benefits for the future. Foresight studies at the JRC identify and analyse societal challenges that have implications on research and EU policies in extended period of time - from five to thirty years.

They follow a defined methodological approach based on a combination of qualitative and quantitative methods and techniques (e.g. scenario analysis, trend analysis, etc.). They are highly participatory, engaging experts from different backgrounds as well as stakeholders from the European Commission's policy Directorates-General (DGs), industry, industrial associations, research organisations, universities and NGOs. The topics selected for the foresight studies are identified through high-level political priorities or together with client DGs.

Horizon scanning entails the gathering of information on emerging issues and trends across the policy spectrum in the political, economic, social, technological and environmental setting. It looks further into the future than the timeframe of already planned activities.

The JRC is linked to the European Foresight Platform (EFP), which is a network building programme supported by the European Commission. It aims at building a global network that brings together different communities and individual professionals to share their knowledge about foresight, forecasting and other methods of future studies. You can find information about current and past foresight projects, conferences, workshops, press articles and other future studies information, e.g. the successor of the well-known [ForLearn](#) foresight guide, here: <http://www.foresight-platform.eu/community/forlearn/>

Rather than establish permanent units, some Member States conduct **futures research** that is time-limited, but wide-ranging and far-reaching in scope, such as Finland's futures reports, which have been an integral element of the Parliamentary cycle for over 20 years. The latest Finnish analysis to 2030 is pan-Governmental and connected to wider networks and expert sources. During preparation of the latest report, the Prime Minister's Office announced it was contemplating a more permanent arrangement⁽³⁾ to establish a foresight model, *"to provide Finnish decision-makers with the best possible perspectives into the future"*. This would include: appointing a Foresight Group comprising permanent and non-permanent members, tasked with coordination and innovation relating to Finnish foresight activities; creating a national foresight network; inviting 'foresight actors' to convene at regular foresight forums; commissioning an international foresight report to complement the national one; providing training on foresight expertise; and the possibility of an online portal known as [Tulevaisuuskartasto.fi](#) ("the future atlas"), for the distribution of foresight data, analysis and discussion.

⁽³⁾ "Cooperative and continuous foresight. A proposal for a national foresight approach" <http://vnk.fi/en/national-foresight-cooperation>

Inspiring example: Well-being and sustainable growth in 2030 (Finland)

Once in each electoral period, the Government of Finland submits its Foresight Report to Parliament on the long-term perspectives and options faced by society relating to policy decisions to be taken in a 10-20 year period, with the aim to encourage a broad debate in society. The Prime Minister's Office is responsible for the Government Foresight Report and promoting the implementation of policies within the given time frame. The most recent 'Government Report on the Future' was adopted by the Government in October 2013, focusing on well-being and sustainable growth to 2030. The report is not an action programme, but instead seeks to highlight factors and development paths that will facilitate sustainable growth in the future.

Preparation of the report was led by a Government-appointed ministerial working group representing all parties in Government and chaired by the Minister of Economic Affairs. For the first time, a separate foresight phase formed part of the report's preparation, with the purpose of seeking new directions for Finland in a new way. The foresight phase was carried out as a collaborative exercise between the Prime Minister's Office, the Finnish Innovation Fund Sitra, the Academy of Finland, and Tekes, the Finnish Funding Agency for Technology and Innovation, alongside a host of independent specialists and experts from research institutions, enterprises and NGOs. Extensive analysis material was produced for the range of themes subjected to foresight work: participating organisations' material on trends and drivers, an extensive analysis and a summary of global and domestic research and analysis reports, plus a questionnaire making use of social media.

Discussions were held on the report website at www.2030.fi, and regional discussion events, led by ministers, were organised in seven cities in the autumn of 2012, in which citizens were urged to come forward with ideas, and to discuss and ponder Finland's future and the possibilities that lie ahead. The results were published in February 2013 at <http://tulevaisuus.2030.fi/en/>. Use was also made of the preliminary results of the 'Sustainable Growth Model', an independent international research project that was carried out concurrently. Expert workshops and broad-based crowd sourcing were utilised in selecting the themes. As well as four horizontal themes (flexibility and crisis resilience, skills and competences, use of ICT, and global perspective), the end result comprised six content themes:

- Public administration as an enabler;
- Citizens' well-being and inclusion;
- Working life in the future;
- Business regeneration;
- A new geography for the North; and
- Opportunities in the midst of scarcity.

The report's key findings include that: the present trend growth trajectory will not provide sustained well-being for the ageing population in 2030; a new approach towards structural change and renewal is needed throughout Finnish society; the growth sectors or areas of sectors cannot be selected, but an environment that is conducive for sustainable growth can be established; half of the value created will be digital in the 2030s (the exact figures or dates are of lesser relevance); and resilience against shocks and 'black swans' will be a main condition for wealth creation in 2030; the economy that re-establishes itself first after global or regional shock can gain and re-invent itself more smoothly.

In addition to the Government, Parliament participates in the consideration of the report, which also provides issues for a broader-based debate within society. The Parliament has a specific 'Committee for the Future', established in 1993, whose main task is to respond formally to the Foresight Report. The Committee also deliberates on parliamentary documents and make submissions to other committees on futures-related matters within their spheres of responsibility, as well as conducting research associated with futures studies, including their methodology. The Committee also functions as a parliamentary body that conducts assessments of technological development and the effects on society of technology.

The Parliament concurred with the main findings of the Foresight report in its formal response to the Government in autumn 2014. The Resolution that was drafted by the Committee of the Future after hearings in six other committees, underlines for example the importance of experimentation in government and further development of the participatory foresight procedures. A Cabinet meeting responded formally to the Resolution and forwarded it to relevant ministries for action, in particular within the perspective of spring 2014 elections and subsequent government program preparations. The ministries also published their future reviews in autumn 2014, this being the fourth time. The reviews are also designed as background documentation for the next government.

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Forward planning implies a break with existing patterns of development and hence will most likely meet some **resistance**, as there will be interested parties that might lose out from change, even when the cumulative benefits for economy and society exceed individual costs. However, these long planning horizons have the advantage of allowing greater time for adjustment than conventional policy timescales, including investing in research and infrastructure, and building capacity within both the public administration and business community. Europe's experience with seismic policy changes in the past has shown that industry is able to find the technological solutions, and to adjust business models and investment plans accordingly, if the following ingredients are in place.

Smoothing the path to forward planning

- A period of consultation and reflection, to understand the implications for affected parties (usually business) and take them on board;
- An unambiguous policy, based on a clear statement of intent and unwavering commitment from the public administration, which requires leadership from the top;
- A 'level playing field' to ensure fairness in the policy's application, including sanctions for non-compliance;
- Sufficient time to adjust, for example to find technological solutions, adjust business models, access investment finance, develop requisite skills and competences, etc.

In the past, such policy shifts have often emerged from environmental risks and dangers (for example, banning CFCs and reducing toxic engine emissions). It can be easier to create a consensus around forward plans, including internationally, when faced with a clear prospective crisis, such as droughts or flooding caused by climate change, ageing populations, financial instability, etc. The focus of foresight should not be forecasting the future, but shaping it – a process of experimentation, not simply extrapolation. It is about having a vision for where the country would like to be in 10, 20, 30 years' time, setting out on **the journey**, and finding the incremental steps and sometimes huge leaps that are needed to get there. This means that the public administration must be willing to stop and check position regularly, and change direction if necessary, in a series of moves to get to the ultimate destination. If events on the way means the end-point is no longer attainable or desirable, then the plan itself must be reconsidered. Whatever happens, the journey will only be successful, or indeed gain any momentum at all, if citizens and businesses are brought along too. In the journey to achieve the high-level objective (such as, for example, fossil free road transport) – the public administration is the Sherpa, in service to the public.

In converting plans into action, **strategy documents** can guide all interested parties, inside and outside the administration, to deal with deep-rooted challenges that require medium-to-long term planning horizons. The word strategy comes from the Greek for 'general-ship' and is about how best to organise resources and direct operations to achieve the desired outcome, originally to a military objective.

This rationalisation of resources is undermined when a country has a plethora of strategy documents that are overlapping in coverage and timescales, and inconsistent with each other. One medium-sized Member State with a population below 10 million has over 200 national strategy documents alone, including multiple strategies within the same sector (health, education, environment, emergencies, etc.), which argues for streamlining to provide a coherent framework for follow-up actions. The following checklist provides seven criteria for **assessing the quality and internal consistency** of individual strategies.

Criteria	Key questions
Scope	<ul style="list-style-type: none"> → Does the strategy set out its boundaries, and is explicit about its coverage (what falls inside and outside its scope)? → Are the meanings of key terms clearly defined, avoiding any ambiguity, and consistent with other documents from the public administration? → Does the strategy describe links to any other national, regional or local strategies that are relevant to its performance? → Does the document refer to existing laws, treaty or other international obligations, institutions and stakeholders that provide the context for the strategy, or might be affected by the strategy?

Criteria	Key questions
Analysis	<ul style="list-style-type: none"> → Does the strategy set out the evidence base clearly and comprehensively, present a rounded picture of the challenges facing the sector and any contextual factors? → Are any statistics used the most recent available (as relevance deteriorates with time) and qualified by definitions, sources and interpretation? Do they include data series, in order to discount any one-off blips or irregularities, and projections (where this is both feasible and credible) with all underpinning assumptions and caveats? → Are trends and patterns assessed and placed in the context of wider socio-economic and contingent factors, including international comparisons where they are relevant and provide useful benchmarks? → Does qualitative information include stakeholder consultations and the views of independent commentators, if available?
Vision	<ul style="list-style-type: none"> → Does the strategy set out an achievable vision of the desired future state at the end of the period, in the form of the ultimate outcomes for beneficiaries (rather than inputs, processes or intermediate steps)? → Is this vision articulated as a set of complementary objectives which are unambiguous, follow logically from the analysis, can be achieved with the available resources? → Do the objectives form a balanced and cohesive whole (the sum of their effects should contribute jointly to accomplishing the vision)?
Measures	<ul style="list-style-type: none"> → Are the objectives translated into shorter-term operational solutions, in the form of measures, each with their distinct rationale? → Does the choice of measures reflect lessons learned from past practice, including interventions to be built upon and mistakes to be learned from? → Does the strategy consider all appropriate public policy instruments in designing measures? Have the pros and cons of different options been assessed for their likely costs and consequences, especially impact and sustainability? (see topic 1.2). → Does the strategy describe the underlying assumptions, pre-conditions and risks affecting the prospects for its measures?
Adaptability	<ul style="list-style-type: none"> → If the strategy is a 'road map', is it clear about the direction of travel, the ultimate destination, and the milestones that can be used to measure progress? → Do monitoring indicators avoid being captured by 'quantification' (counting what can most easily be counted)? → Is the strategy sufficiently flexible to adapt to evolving circumstances which cannot reasonably be anticipated?
Ownership	<ul style="list-style-type: none"> → Does the strategy demonstrate that it is widely accepted by affected parties (public bodies, citizens, businesses, socio-economic partners and civil society), including summarising the consultation process (possibly as an annex)? → As the strategy may outlast one electoral cycle, is there a political consensus around the systemic problems being addressed and the selected solutions, which crosses party boundaries?
Presentation	<ul style="list-style-type: none"> → Is the strategy as succinct as possible, clear in its use of language, and easy to read? → Does the document flow logically from analysis to vision / objectives to measures to implementation?

1.1.3. Consultation and co-responsibility

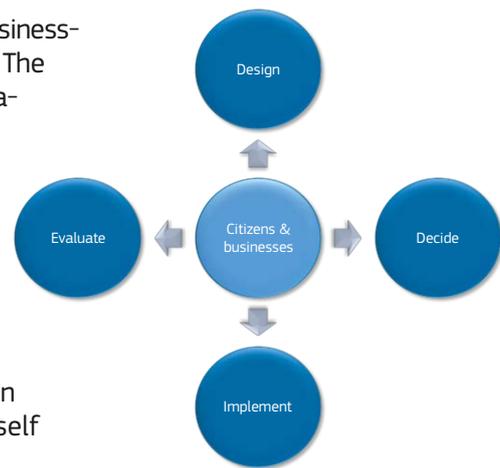


Policy-makers increasingly recognise the role that citizens, businesses and other interested parties can and should play in designing policy. These potential partners have a stake in the success of public sector governance, insights that are not available to the administration, and a potential role in implementation. Forward-thinking administrations look to capture these perspectives in their policy development.

Public service providers and their clients often see more clearly than policy officials the situation 'on the ground', what is needed, what has worked in the past or not, and why. They can spot potential obstacles and pitfalls, and steer officials away from expensive and embarrassing errors in policy implementation at a later stage. The **consultation**

of the ultimate beneficiaries of public policy, both citizens and businesses, should provide crucial inputs throughout the policy process. The interests of good governance are served by the intended beneficiary being integral to all steps in policy-making, not just as an end recipient of government programmes, funds or services.

As an example, the [Small Business Act \(SBA\)](#) has made SMEs and their representatives pivotal to policy-making at the European level. The SBA commits the European Commission, and invites Member States, to consult stakeholders, including SME organisations, for at least 12 weeks prior to making any legislative or administrative proposal that has an impact on businesses (see also [theme 5](#)). The preparation of the SBA itself was subject to a public hearing and online consultation.



European Commission consultation with small businesses

The Small Business Act has established strong governance mechanisms based on the close cooperation with Member States and SME stakeholders. The implementation of the SBA is now supported by the **SME Envoys**, a network of high-level representatives from Member States. The nomination of a single point of contact for all issues related to the SBA in the Member States has reinforced the application of its principles and allows Member States to exchange best practices. To involve stakeholders directly, representative SME business organisations at European level participate as observers in the meetings of the network. These activities aim to ensure that regulatory burden reduction becomes a priority in the Member States through an enhanced sharing of best practices. For example, the Network has been instrumental in reducing the time to start-up a business in Europe (see [theme 5](#)). Furthermore, the Commission has proposed that the appointment of an SME Envoy and the implementation of the SME Test by Member States are introduced as criteria for Member States to receive SME-related support from the European Regional Development Fund (see [theme 7](#)).

Regular annual meetings between SME associations and the Commission are also now held to identify and monitor SME relevant priority initiatives in the Commission Work Programme for SME impacts. The Commission is using the **Enterprise Europe Network (EEN)** to consult SMEs, including micro enterprises, directly on forthcoming legislation ('SME Panel' consultation) and to collect their feed-back on the existing EU legislation ('SME feed-back' database). Business organisations and Member States have welcomed such developments as important for SME policy.

In addition, the Commission has organised **conferences** with SMEs from Germany, Italy, the Netherlands, Poland, Sweden, and the UK. These conferences allowed entrepreneurs from SMEs to raise their concerns, in different areas like labour law, the regulation of the marketing of products and the related process of the setting of European product standards confirming the compliance of products with regulatory requirements, health and safety, environment, VAT and food hygiene and labelling. The conferences also allowed face-to-face discussion and the exchange of detailed information and positions.

The Commission is also consulting SME employers' organisations regularly through EU **social partner consultations** and through the work of European social dialogue committees. SME associations have been contributing actively to the definition and implementation of the work programme of the European social partners.

Some Member States have adopted **national standards for stakeholder consultation**, such as Austria's 'Standards of Public Participation', and the UK's 'Code of Practice on Consultation', through inter-ministerial working groups and the involvement of NGOs, external experts and interest groups.

The example of public consultation over the Development Strategy of the Malopolska Region for 2011–2020 in Poland shows the value of using multiple mechanisms, including offline and online media, to draw in the community and connect with as many residents as possible.

Some of the techniques for going beyond consultation into more community participation at the local level are contained in a guide from the New Economics Foundation, "[Participation Works](#)", which was published in 1999 but remains relevant today.

Inspiring example: Malopolska 2020: unlimited opportunities – unlimited debate (Poland)

In parallel to the work on the consecutive drafts of the Development Strategy of the Malopolska Region for 2011-2020 (DSMR), the Marshal Office of the Malopolska Region carried out a broad regional debate on the future of Malopolska. Public consultations included a range of initiatives and events aimed at opening up the preparations for the new strategy to the region's inhabitants, from October 2009 (following approval and publishing of the DSMR update guidelines) until September 2011 (final adoption of the Strategy by the Regional Assembly of the Malopolska Region).

Using communication tools resulted in DSMR consultations within the framework of a multi-platform regional debate about the future of Malopolska, lasting several months. Over the course of the debate, all stakeholders representing social, professional and local community groups, as well as the inhabitants of the region, had the opportunity to express their opinions about the document and suggest changes. At each stage of the work on the strategic document, they could familiarise themselves with the content using the specific website www.Strategia2020.malopolskie.pl. Due to the range of activities undertaken, it was decided formally to extend the timeframe beyond the 35 day term designated by law. This increased the fundamental quality of the document, but also raised awareness among the intended audience. The events and initiatives organised during the course of the regional debate related to the work on the Development Strategy of the Malopolska Region for 2011-2020 were as follows:

1. Public events:

- a) Public consultations through the internet: enabling stakeholders to acquaint themselves with the document and to communicate their opinions, as well the updated DSMR draft;
- b) Territorial consultations consisting of five meetings located in the centres of Malopolska sub-regions. These meetings allowed guidelines to be drafted and agreed on individual conduct for the development of Malopolska in the sub-regional dimension;
- c) Thematic consultations consisting of conferences and seminars on the key areas of the strategy: higher education, culture, rural areas, cities, economy and entrepreneurship;
- d) Promotional campaign involving broad use of the media: regional television, both public channel TVP Krakow and internet television of the Marshal Office, as well as the regional and local press, internet (Facebook and an internet competition 'My idea on Malopolska', where any Malopolska resident could submit an initiative aimed at improving the life of local or regional community or development of the region).

2. Experts' activities, which included discussion on the DSMR drafts within the framework of DSMR 2020 update team; Malopolska Council for Observatories of Regional Development and Evaluation; Malopolska Innovation Council; Malopolska Council for the Public Benefit; Regional Urban and Architectural Commission.

3. Discussion within formal bodies: the Regional Assembly's Committees and Regional Board; Malopolska Mayor's Forum and Convent of the Powiat Starostes of Malopolska Region; Joint Commission of the Central Government and Territorial Self-Governments.

Around 1500 of the region's residents took part in the public participation on the updating of the DSMR for the years 2011-2020.

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Public administrations are increasingly taking **e-Participation** on board, as citizens use governmental websites and social media to convey their expectations to policy-makers. ICT offers new tools to better engage with citizens and businesses, and gather evidence to improve the impact of policy. This is a worldwide phenomenon. At the EU level, the 'Your Voice in Europe' platform is the European Commission's single access point to a wide variety of consultations, discussions and other tools which enable citizens to play an active role in the European policy-making process.

Participatory governance through online platforms

Over the last few years, a significant number of countries have been adopting citizen inclusion as part of their e-government agenda, leveraging multiple technology channels to enable e-participation e.g. through online surveys or feedback forms, chat rooms, listservs, newsgroups and social media such as Twitter and Facebook.

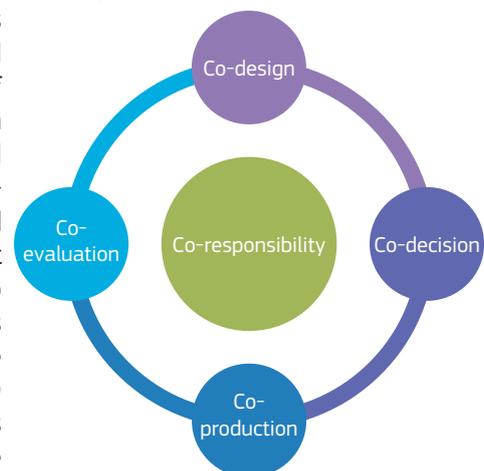
Some of these initiatives include:

- Have Your Say section (National Portal), Australia – citizens can send their inputs on draft regulations to the respective ministry by email (<http://www.australia.gov.au>);
- e-Government Site, Brazil – Forum section allowing users to send comments regarding accessibility and integration of services and also contains a public consultation section on draft regulations (<http://www.governoeletronico.gov.br>);
- e-Democracy Site, Hungary – Government officials/agencies respond to citizens' comments and conduct moderation activities (<https://edemokracia.magyarorszag.hu>);
- Ministry of Education and Ministry of Health websites, Mozambique – online discussion forums for users' inputs on policy issues regarding education (<http://www.mec.gov.mz>) and health (<http://www.misau.gov.mz>);
- Citizen Participation Portal, Panama – blog section enabling users to comment on Government programmes (<http://www.participa.gob.pa>);
- e-Petition (National Portal), UK – citizens can lodge online petitions for Governments to propose to Parliament if enough signatures are acquired (<https://www.gov.uk/petition-government>);

With an increasing number of people using social networking in their personal lives, online platforms are becoming powerful tools for engagement between governments and their constituents.

Source: PwC (2013), "Future of Government: Tomorrow's leading public body", www.psrc.pwc.com

Increasingly, administrations are looking to move from consultation to **co-responsibility**, giving citizens and businesses a much greater stake in policy-making, and sharing ownership of policy decisions with the community that is most affected by them. The traditional model of policy-making is administration-centric and hierarchical: political and administrative leaders determine what programmes and services are to be provided, on what terms and to whom, and officials and professionals subsequently organise and deliver them. The role of the intended beneficiary is largely passive. Recent years have seen a paradigm shift, however, with a growing range of actors involved institutionally or on an *ad hoc* basis in the design, production, delivery and evaluation of public policy, and the role of citizens and businesses has become more and more active.⁽⁴⁾ This implies that public agencies evolve from closed, self-centred service providers to open networking organisations that the public can trust. This occurs through transparent processes and accountability, developing the democratic dialogue from an internal focus (resources and activities) to an external one (outputs and outcomes), involving stakeholders in every step of the policy process. Citizens and businesses become co-designers, co-deciders, co-producers and co-evaluators.⁽⁵⁾



In the spirit of co-decision⁽⁶⁾, policy-makers are specifically seeking to engage with the citizens and businesses that will be affected by **legislation**, inviting their inputs in the shaping of new laws and regulations. This includes e-Participation tools at the EU level, such as **European Citizens' Initiative (ECI)** which allows EU citizens to participate directly in the development of EU policies, by calling on the European Commission to make a legislative proposal.

⁽⁴⁾ N. Thijs & P. Staes (2009), "European Primer in Customer Satisfaction Management", EIPA, Maastricht.

⁽⁵⁾ Thijs N. (2011), "Measure to improve. Improving public sector performance by using citizen-user satisfaction information", EIPA, p.104

⁽⁶⁾ Co-production is explored further in [topic 1.2](#), and co-evaluation in [topic 1.3](#).

Co-creation of legislation is well illustrated by the example of the Basque Government's approach to housing policy, in which citizens were invited to participate in the housing master plan, shaping the housing law and influencing policy management.

Inspiring example: Creating housing together (Spain)

One of the Basque Government's priorities for the 2009-2013 legislature was to apply the principles of good governance to housing policy. The principles of consensus, transparency and participation are particularly noteworthy. Housing is one of the main concerns of Basque citizens, which is only exceeded by unemployment and the current economic situation.

In the context of the deep financial and economic crisis with high unemployment rates, the contraction in credit availability and restrictions on public resources, the Basque Government considers it more necessary than ever to join forces and to search for a wide consensus to ensure all citizens have the right of access to adequate housing. As a result of this public concern, and the need to define a new housing policy and make essential legislative changes in order to apply it, the Department of Housing, Public Works and Transport of the Basque Government designed and implemented a participative process structured into three public participation sub-processes, through which it aimed to foster the full participation of the Basque Society in drawing up housing strategy, policy lines and legislation:

- **Housing Social Pact:** Basque Housing Strategy 2010-2025. The target population was institutional, social and political agents (December 2009 - June 2010).
- **Housing and Urban Regeneration Master Plan 2010 – 2013**, "On Housing, your opinion counts": The target population was citizens and experts groups (April 2010 - July 2010).
- **Basque Housing Law:** The target population was citizens (January 2011- May 2011).

The overall **objective** was to promote the participation of the Basque population in order to enhance the strategy, policy lines and legislation that may help to facilitate access to housing for Basque citizens. Other specific objectives were: to find out the opinion of the Basque people in relation to housing strategy, policy lines and legislation; to receive proposals that may enhance the strategy, policy lines and legislation proposed by the Housing Department; to establish long-term cooperation relations between the institutional, economic and social agents involved in the housing market in order to help fulfil the desired objectives; to take advantage of the potential of the new technologies to promote the participation processes; to achieve a high level of participation in the process; and to achieve a high level of satisfaction with the process.

The initiative was a **social innovation** process, because it generated value (social benefit) for the Basque society in a field which is of prime concern for citizens, in addition to being one of the fundamental rights of a modern and united society, and an **open innovation** process of transparency, plurality and client orientation, because it takes advantage of joint intelligence to develop innovative solutions in relation to housing. Furthermore, in this case, the Public Administration opens its doors to ensure that the groups directly affected by the actions developed are involved in them).

The implementation had three parts:

- **Design:** Definition of the aim, participation channels and duration of the participative process, evaluation and decision whether to foster processes with specific groups in relation to certain questions on which the group's opinion is important, and explanation of the rules of the game.
- **Launch activation and monitoring:** Pre-testing of the participation tools and communication of the initiation of the process. Liaising with the media is extremely important, so that information on the process reaches its target population, particularly when this is the general public. Cooperation with associations or other types of representative social groups is recommended, in order to raise awareness of the process among specific groups. During the open participation, on-going monitoring and introduction of the planned participative elements and new elements that have arisen from the process, performing the necessary communication actions to foster participation.
- **Termination:** Evaluation of the proposals received for their possible inclusion in the strategy, policies or regulations put forward for social debate, preparation and presentation of a report on the participative process. Evaluation of the process from three points of view: level of participation, satisfaction with the participative process and impact of the participation. Satisfaction with the participative process is measured by means of a survey that is carried out at the end of the process. The impact of the participation is measured in accordance with the number of proposals put forward and the number of which are

adopted in order to improve the Department 's initial proposal.

As a **result** of the initiative:

- 78 social and economic agents signed the **Housing Social Pact**: agents, social organisations and citizens (12); professional agents (14); sectoral agents (11); municipal urban development companies (13); public and partly-owned companies (6); universities (3); financial entities (18); and the Basque Government.
- 45 citizen proposals were evaluated for their potential inclusion in the **Housing and Urban Regeneration Master Plan**, of which 30 (67%) were included in the Master Plan. Of the remaining 15 proposals, eight were not included because they were already implemented and the other seven were dismissed because the Department lacked the capabilities for their development or were proposals that needed to be analysed in the debate on the future Housing Law. In practice, therefore, 85% of the proposals were included in the Housing Master Plan. In total, 15 748 people participated, 5 230 surveys were answered, 569 opinions were expressed through the forums, and 120 suggestions were made through proposals.
- Concerning the **Basque Housing Law**, there were 17 187 web visits, 2 223 opinions received, 188 citizen proposals received and 312 social networks followers.

The process focused on the establishment of more democratic forms of governance at regional level, following the guidelines of the White Paper on European Governance (European Commission, 2001), where the Commission argued that good governance must build on the core principles of openness, participation, accountability, effectiveness and coherence. Therefore, it was a valuable experience at three different levels:

1. **Department of Housing**: the internal dynamics of the process can be implemented in any other projects developed
2. **Basque Government**: it is an innovative process in the framework of new legislation process within the Basque Administration
3. **Good practice**: it constitutes an example for other public administrations, at local, regional or even national level.

In 2012, this public participation project won 1st place in the 2012 United Nations Public Service Award in the category of "Fostering participation in policy-making decisions through innovative mechanisms", because our initiative's outstanding achievement demonstrated excellence in serving the public interest and made a significant contribution to the improvement of public administration in our country. Indeed, we are convinced it will serve as an inspiration and encouragement for others working for public service.

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The principle of co-design has been integrated with the concept of **forward planning** in the example of 'MijnBorne2030' in which citizen and business representatives shaped the 20-year vision and development programme for this Dutch municipality.

Inspiring example: Mijn Borne 2030 (The Netherlands)

Borne is a municipality in the province of Overijssel in the eastern part of the Netherlands. It has 21 500 inhabitants, living in three population centres: Borne, Zenderen and Hertme. With the project 'MijnBorne2030', civil society organisations (CSOs) and citizens came together to determine the future development of the community of Borne. The project's objective was to create a widely shared vision as a starting point for joint action.

The city council and assembly decided to delegate this responsibility to CSOs: 20 took on this challenge, representing entrepreneurs, housing corporations, district representatives, health care, sports, education, youth and elderly people. Together they formed a steering committee 'regiegroep'. The steering committee was responsible for organising an interactive process with the community of Borne, leading to a new vision for, by, and of the community. Unique to the Netherlands, with this process, the project 'MijnBorne2030' reached the highest rung on the participation ladder: delegated power. It was the first time that this level of participation has been reached while creating a vision for a whole community.

The process consisted of six steps: (i) a trend report; (ii) identity study; (iii) formulating ambitions by citizens; (iv) formulating scenarios; (v) election of the preferred scenario by citizens; and (vi) drawing up and determining the new vision 'MijnBorne2030'.

The trend report (i) was written with the help of local and regional experts on health, well-being, community building, spatial planning, housing, economics, entrepreneurship, governance and sustainable development. To determine the identity of the community (ii), research was carried out by the University of Twente. Over 200 inhabitants returned the questionnaire. Citizens were invited to take part in one of the 27 workshops to determine the most important ambitions for the community in 2030 (iii); 470 people contributed to these workshops and over 400 people completed the (online) questionnaire. With these three building blocks, the steering committee created four scenarios for the community (iv). In April 2011, elections were organised during which all of the municipality's inhabitants (aged 15 and above) had the right to vote on their preferred scenario (v). This resulted in a majority vote for the scenario 'dynamische dorpen' – dynamic villages. Based on this scenario a new vision was drawn up (vi) and formally ratified by the city council (September 2011).

Following the ratification of 'MijnBorne2030: dynamic villages', both the municipal government and four CSOs committed themselves to the realisation of this vision, working to ensure the continued effects of the process. These partners come together on a yearly basis to hold each other accountable for actions – centred around yearly themes such as safety, sustainability, social activation – and to set new goals. The partners are also challenged to find new ways to embed the vision in future activities. As during the initial process, this realization strategy makes use of joint action and social media. As a result, MijnBorne2030 informs many government policies, projects and goals, while CSOs use the knowledge, energy, and goodwill of the empowered community to reach shared goals.

The process itself has been evaluated by the University of Twente, to learn from this unique form of participation and make the lessons learned transferable, while the project has been lauded both nationally and internationally.

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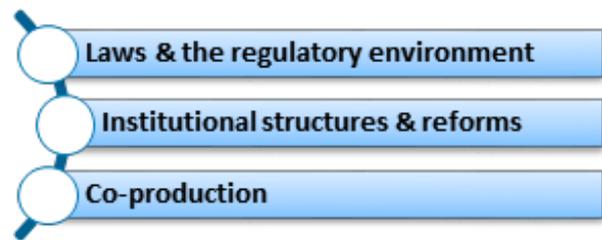
Stakeholder participation in public policy is accentuated by administrations that subscribe to the principle of open government (see [principles and values of good governance](#)), and open up their public service information (PSI) to citizens and businesses, in line with the [PSI Directive](#)⁽⁷⁾. By providing managed access to PSI, often described as open data⁽⁸⁾, public administrations can help stakeholders become better informed about what their governments are doing on their behalf, and better equipped to participate and collaborate in the policy process. This includes information on public services through online channels (see [theme 4](#)).

(7) PSI is all the data produced, collected or financed by public bodies in the European Union.

(8) See European Commission (2014), "Delivering on the European Advantage? How European Governments can and should benefit from innovative public services". <https://ec.europa.eu/digital-agenda/en/news/eu-e-government-report-2014-shows-usability-online-public-services-improving-not-fast>

1.2. Instruments of policy implementation

Good policy-making considers the implications for implementation during policy design: translating the desired state-of-affairs (the high-level objective) into practical steps, weighing up the pros and cons of all available instruments, and choosing the most effective options to achieve the policy goal. This is easy to recognise but harder to realise, as the instinct of different units and competences within public administrations is often to opt for the most readily available policy tool. If you are a ministry or municipal department with a budget allocation, the first response to policy problems tends to be spending. If you are the centre of government or cabinet with responsibility for organisation, it is natural to look towards institutional change for solutions, such as restructuring or outsourcing. If you are a legislator, you tend to see the answer in more regulation or possibly de-regulation.

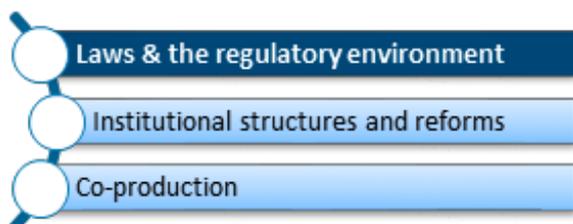


Every instrument has its place - its potential to incentivise behaviour, influence performance, and achieve certain results. These outcomes can often be anticipated with confidence, but many times the full consequences cannot be foreseen, leading to unintended effects both good and bad. Each policy tool has its values and virtues, but each also brings its costs and risks:

- **Public spending** can have a direct impact on essential services and infrastructure where the market does not operate effectively or at all (e.g. education, health, environment), or should not operate (e.g. defence, police) and can intervene positively to stimulate enterprise, investment and innovation. Expenditure can have a 'multiplier' or ripple effect, by invigorating local economies, energising communities, securing the environment and local cultures and traditions, and providing the risk capital and leverage for long-term changes. But it can also have a distortionary effect on private behaviour (favouring some interests over another), and always comes with a price tag, given that public expenditure is financed through taxes, duties, fees, charges and borrowing. Public finance management is explored further in [theme 7](#).
- **Laws and regulations** are essential in many policy fields, to ensure public safety and security, set standards and protect the public interest. They can have beneficial incentive effects, shaping personal and private behaviour by permitting some activities and proscribing others. Regulating is often seen as a more attractive option for administrations than spending, especially in times of tight finances, as it can appear 'cost-free'. The reality, of course, is that there are always costs that must be taken into account. The most immediate and visible ones to the administration are the institutional implications of executing and enforcing the regulation. But it is the public, and more so the private sector, which usually faces the much greater burden from regulatory compliance - from 'hidden' costs (e.g. person time, extra spending, use of space, lost opportunities) in the home, office, factory, site or transit.
- **Institutional reforms** can have a positive impact in finding better ways to achieve policy goals, whether it involves: creating, abolishing or merging public bodies; allocating functions differently across the administration; centralising or decentralising powers; pooling resources across authorities; outsourcing, privatising, bringing under public ownership or control, or creating public-private partnerships. As with other instruments, each scenario has its merits and its drawbacks. Institutional reforms are disruptive and have short-term costs as a minimum, which must be justified by the longer-term benefits. Responsibilities rely on resources, so reallocating functions should have budgetary implications, may affect revenue collection, and often the administration of regulatory authority too.

In reaching a balanced and conscious decision about which policy tool is best deployed in any situation, the costs as well as the benefits must be carefully weighed, and all instruments put in the mix. Administrations are also increasingly looking to **co-production** as a fourth instrument: involving citizens and businesses directly in the implementation of public goods and services.

1.2.1. Laws and the regulatory environment



Legislation makes a vital contribution to cohesive societies and prosperous economies in many ways. Through laws and standards, the regulatory framework aims to ensure that food, water, products, buildings, infrastructure, transportation and workplaces are safe, air is protected from pollution and land from contamination, borders are secured against illegal activity, and the rights of consumers, employees, innovators

and investors are respected. By creating a level playing field for enterprises and ensuring fair competition, laws and regulations stimulate productivity, job creation and economic growth, both nationally and across the EU's internal market.

While legislation plays an important and indispensable role, every regulation comes with a 'price tag' for businesses, citizens and administrations too. For businesses, the cost of regulatory compliance takes many forms:

- Taking **time** for registrations, applications, permissions, providing statistics, completing reports and other 'paperwork' to meet information obligations;
- Dedicating **staff** to act as compliance or information officers (full or part-time);
- Incurring **expenses** on equipment and contracted-in services (e.g. legal, financial and other advice) etc.;
- Reserving **space** for keeping records, goods and materials required for regulatory compliance; and
- Changing **products or processes**, for example, due to changes in minimum standards or specifications, or the introduction of prohibitions.

These represent opportunity costs for both the enterprise and the economy - time, staff, expenses and space that could be used in productive business activities, and hence must be well justified. The actual and potential costs for compliance tend to be disproportionately much greater for small and medium-sized enterprises (SMEs).⁽⁹⁾ On average, where a large enterprise spends one euro per employee to comply with a regulatory requirement, a medium-sized enterprise might have to spend around four euros, and a small business up to ten euros.⁽¹⁰⁾

Reducing regulatory burdens

Given actual and potential regulatory impact, public administrations have an implicit duty to justify both new and existing regulations, to check that the compliance costs are more than offset by benefits to the economy, society, and environment, and to seek out the least burdensome solutions that are compatible with delivering policy objectives and priorities (see theme 4 on service delivery and theme 5 on the business environment).

⁽⁹⁾ The definition of an SME covers all enterprises with less than 250 employees, and equal to or less than either EUR 50 million turnover or EUR 43 million balance sheet total. Micro-enterprises are the smallest category of SME, with less than ten employees and a turnover or balance sheet total equal to or less than EUR 2 million.

⁽¹⁰⁾ Report from the Expert Group on "Models to Reduce the Disproportionate Regulatory burden on SMEs", May 2007.

Laws and regulations can prove problematic if their **preparation** is performed without proper and full consideration of their consequences, including how they will be put into operation, and the implications of secondary legislation. This can happen if the law or regulation is a rapid response to an emergent situation that could not reasonably have been foreseen. It can also occur if the responsible authority is facing a tight timeline due to parliamentary timetables, the imminent lapsing of an earlier law, or an upcoming deadline for transposing a directive. Weaknesses in legal provisions, especially regarding the practicalities of implementation, can be the result of allowing insufficient time to consult with affected parties. Sometimes, legal flaws and anomalies arise from unclear or poorly formulated language, errors in scope or coverage creating gaps, or conflicts that emerge with other legislation. The positive effects of beneficial legislation can be undermined by either failure to follow it up by passing the necessary by-laws to put it into practice, or alternatively by creating badly-worded by-laws that unravel the primary law's intentions.

Some governments have sought to anticipate potential problems by setting out **guidance for the public administration**, including the EU institutions themselves through a [joint practical guide of the Parliament, Council and the Commission](#). One example is Finland's bill-drafting instructions, which lay down principles and standards, which should be observed *"so that the Parliament will receive the information it needs on the legislative proposals it is to consider, and so that the Bills will be of sufficiently uniform quality. No derogations should be made without a good reason. These instructions should be brought to the attention of every official involved in drafting work, as well as of the various drafting organs."* Another example is [Estonia's Guidelines for Development of Legislative Policy until 2018](#).

Inspiring example: Instructions to officials on drafting laws (Finland)

These instructions provide general guidance for the drafting of legislative Bills. The instructions cover the specifics of Bill structure and style, such as the various parts of the reasons, their purpose, extent and interrelationship. In addition, the instructions contain a brief description of the stages of a legislative project and of project scheduling. That said, the internal structure and the technical aspects of the proposed Act itself are covered only in outline, because more detailed guidance on these issues is available in the Legal Writer's Manual (2013, "Lainkirjoittajan opas") and in other similar manuals. In order to make it easier to make sense of Bills, they must be drafted to the same basic structure, using the same standard headings. Derogations from these instructions should not be made unless there is a special reason for the same.

The instructions are based on

- A good explanation must be given for why the proposed legislation is necessary.
- The Bill must be brief and concise.
- Proper, plain language must be used.
- The factual basis of the Bill must be correct.
- The impact and the alternatives must be assessed and explained.
- The constitutional issues must be settled.
- The proposed legislation must be linguistically and technically complete and legally flawless.

A Bill constitutes a proposal for a decision to be made by the Parliament. The Bill must be drafted so that it supports parliamentary decision-making. The Bill must explain, concisely and to the point, what the proposed Act or legislative package is all about, concentrating especially on the issues that are relevant as to the background, objectives and regulatory choices in the Bill. The current situation and the problems inherent in it must be described and reasons supplied why, precisely, the proposed legislation is the correct solution to the problems. The minimum requirements for appropriate law drafting are that the proposed legislation is indeed necessary, that it achieves the objectives set to it, and that it is the best possible way of achieving those objectives. Bills must be drafted in proper, plain language. It is very important that a coherent and clear overall picture is provided in the Bill of all of the essential impacts of the proposed legislation. Reasoned justification must be supplied about how the stated objectives can be achieved by the proposed legislation. Open discussion is required about the pros and cons and about the anticipated costs, not only of the proposed legislation, but also of any alternative legislative or regulatory arrangements. A Bill must also contain information about its relationship to solutions reached in other countries. If there is a link to EU legislation or other EU decisions, an appropriate account of these circumstances is also necessary. Moreover, the Bill must contain an account of how the proposed legislation is intended to be implemented and how the follow-up regarding the achievement of its objectives is to be arranged.

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The Finnish instructions place particular emphasis on performing an **impact assessment (IA)** during the drafting of the law, and presenting a summary of the findings with the bill itself. IA is an increasingly well-established technique in the European institutions and across European administrations for ensuring that the consequences of a law or regulation are fully taken into consideration before a decision is reached. IAs typically cover the economic, social and environmental impact, positive and negative, both direct and indirect, short-term and long-term. They are a mechanism for testing whether there is a need for a public intervention at all, whether the objective of the law or regulation is precisely and clearly formulated, and whether alternative courses of action have been fully explored, including the ‘do nothing’ option. The [Commission’s impact assessment guidelines](#) are a valuable reference tool in this respect, as they set quality standards and include both general guidance on conducting IAs and thematic guidance for assessing specific impacts. These guidelines are currently under revision.

The [OECD](#) also published guidance in 2008 on performing regulatory IAs specifically, which might also be a useful source, along with their 2012 recommendations for regulatory policy and governance, while some Member States, such as [Poland](#), have also prepared their own national guidelines.

It is important for the completeness and credibility of IAs that they are planned well, allow for stakeholder input, that they are subject to quality control and publicised. The Commission has laid down a series of steps for conducting IAs, which are transferable to other administrations:

- Draft and publish a ‘roadmap’ to inform stakeholders about the upcoming work, feed in comments at an early stage, and plan ahead including for possible impact assessments and public consultation;
- Set up an inter-service steering group, which involves all relevant departments with an interest in the IA’s preparation (in the Commission’s case, all relevant Commission services);
- Consult interested parties, collecting expertise and all available data;
- Carry out the IA analysis, in accordance with the guidelines and best practice;
- Finalise the IA report, prepare an executive summary & disseminate the report in accordance with the guidelines.⁽¹¹⁾

The **roadmap** is an information tool for all planned major initiatives, covering not just legislative proposals, but also white papers, spending programmes, implementing measures, etc. Roadmaps describe the problem that the initiative aims to address and possible policy options. They provide an overview of the different planned stages in the development of the initiative, including consultation of stakeholders and impact assessment work. If an impact assessment will not be carried out, the roadmap explains why.

There are various methods for measuring and assessing the **costs and benefits of regulation**. An example is the Standard Cost Model (SCM), which was originally developed in the Netherlands, and measures the administrative costs imposed by government on business from information obligations. The Dutch SCM was adapted by the European Commission to become the EU Standard Cost Model (described in section 10 of the impact assessment guidelines), with additional elements including one-off costs, and is applicable also to citizens, public administrations, and the voluntary sector. The Netherlands has also evolved the original model into SCM 2.0. Many Member States have adopted the SCM for measuring administrative burdens, and in some cases, extended their cost-benefit analysis (CBA) further, by encompassing other categories of cost beyond information

⁽¹¹⁾ In the Commission’s case, draft IA reports are subject to quality control by the Impact Assessment Board (IAB), which comprises senior officials appointed by the Commission President that are independent from the IA preparation itself. The revised IA report, together with the IAB opinion, goes into inter-service consultation along with the draft proposal, and then submitted to College of Commissioners, with the findings published on Europa.

obligations, to capture more fully compliance or regulatory costs. For example, France has completed the use of the SCM model with an evaluation of the compliance costs and/or the costs related to reducing burden and the assessment of the time lost or gained by a company in terms of business development. A review of techniques, including the merits of the SCM, is set out in a [2013 study on cost-benefit analysis](#) for the Commission. Other mechanisms which are used for administrative burden evaluation, include an indexed system in Belgium called “score board” that maps the administrative burden landscape.

The Standard Cost Model: core methodology

The Standard Cost Model (SCM) measures the administrative costs imposed on business by central government regulation. The costs are primarily determined through business interviews where it is possible to specify in detail the time companies use to fulfil the government regulation.

The SCM breaks down regulation into three manageable components that can be measured:

- **Information obligations** are obligations to provide information and data to the public sector or third parties (e.g. reports about labour conditions, labelling provisions).
- A **data requirement** is each element of information that must be provided in complying with an information obligation. Each information obligation consists of one or more data requirements (e.g. VAT number, identity of business).
- To provide information for each data requirement a number of specific **administrative activities** have to be carried out. These may be done internally or be outsourced. They can be measured (e.g. description, calculation, archiving information).

The SCM then estimates the costs of completing each activity on the basis of a couple of basic cost parameters:

- **Price** consists of a tariff, wage costs plus overhead for administrative activities done internally or hourly costs for external services.
- The amount of **time** required to complete the administrative activity.
- **Quantity** comprises of the size of the population of businesses affected and the frequency that the activity must be carried out each year.

The combination of these elements gives the basic SCM formula:

$$\text{Cost per administrative activity} = \text{price} \times \text{time} \times \text{quantity}.$$

Source: OECD (2006), *Cutting Red Tape: National Strategies for Administrative Simplification*, OECD Publishing, Paris.

In the context of the [European Semester](#) and [Europe 2020](#), the priority for policy-makers is identifying regulatory and other initiatives that stimulate smart, sustainable and inclusive economic competitiveness: an economy’s ability to provide its population with high and rising standards of living and high rates of employment on a sustainable basis.⁽¹²⁾ The key ingredient of competitiveness, whether of the whole economy or a single enterprise, is productivity – the value that each unit of input adds to output. Where policy proposals have a potential economic impact, the assessment of **competitiveness impacts** (“competitiveness proofing”) within the framework of IAs is about paying special attention to the factors that are widely recognised as important to productivity, namely:

- **Costs of doing business (cost competitiveness):** this includes the costs of regulatory compliance, but also changes in the prices of inputs (including energy) and factors of production (labour and capital);
- **Capacity to innovate:** the potential for businesses to produce more and/or higher quality products and services that better meet customers’ preferences in their design, specifications, functionality, efficiency, etc.;
- **International competitiveness:** the likely impact on the comparative advantage of European industries and their share of global markets; and
- **Better allocation of resources:** reducing barriers to the reallocation of capital and labour within sectors helps ensuring that the most productive firms can achieve their growth potential and that less efficient ones leave the industry (or get restructured).

⁽¹²⁾ http://ec.europa.eu/smart-regulation/impact/key_docs/docs/sec_2012_0091_en.pdf

The objective of competitiveness proofing is to identify these potential impacts and, where they are present, and measuring them would involve proportionate effort, to quantify them. Competitiveness proofing is not a ‘make or break’ test of new policy proposals. Its purpose is to deepen the IA analysis and provide evidence to policy-makers that may lead to the ranking of policy options (favouring the most positive net impact) and/or the introduction of mitigating measures to alleviate any negative consequences for growth and jobs. Quantifying the potential impact of reforms and provide evidence-based policy is a necessary task, but it is often a challenge, as data availability can be a serious constraint, it is difficult to infer causality, and the indicators of reforms’ effects can be hard to construct. Therefore, any effort from Member States to generate data, in particular at the micro level, will help to improve such assessments.

The Commission provides guidance in 12 steps, as a simple, effective and flexible tool for competitiveness proofing within IAs.

Competitiveness proofing in 12 steps

Getting started

1. Does your IA require a specific analysis of impacts on sectoral competitiveness in the first place?
2. If the answer to step 1 is yes, what is the proportionate level of this analysis?

Qualitative screening

3. Which are the affected sectors?
4. What is the effect on SME competitiveness?
5. What is the effect on cost and price competitiveness?
6. What is the effect on the enterprises’ capacity to innovate?
7. What might be the effect on the sector’s international competitiveness?

Quantifying the impacts: data sources

8. Provide evidence on the structure and performance of the directly affected sector(s)
 - Take stock of existing sectoral studies and ex-post evaluations
 - Update existing data
9. Provide data evidence on indirectly affected sectors
10. Quantify additional compliance and/or operational costs related to the assessed initiative
11. Quantify the expected impacts on the capacity of affected enterprises to innovate
12. Quantify the expected impacts on affected sectors’ international competitiveness

Source: Commission Staff Working Document, “Operational Guidance for Assessing Impacts on Sectoral Competitiveness within the Commission Impact Assessment System: A “Competitiveness Proofing” Toolkit for use in Impact Assessments”, SEC(2012) 91 final of 27 January 2012

As well as being step 4 of the competitiveness proofing process, the **SME test** has been an integral element of the Commission’s IA methodology since 2009. This evaluates the economic impact of policy proposals on SMEs, which can be disproportionate for two reasons. First, regulatory compliance costs tend to be higher on average for SMEs as a proportion of total revenues, and they face greater difficulties and higher costs in accessing finance. Without the scale economies that larger firms enjoy, they lack the information, staff and time to find out about regulations and deal with administrative rules. Second, SMEs account for the majority of innovative firms, and on average are more reliant on innovation to compete and prosper than larger firms. The four steps of the Commission’s SME Test are broadly applicable in Member States’ practices, subject to data availability.

Four steps to the SME Test

(1) Consult with SMEs representatives

Care should be taken to ensure there is a sufficient representation of SMEs from the affected industrial sector(s) in the consultation process. Techniques can include: roundtable discussions with stakeholders; test panels of entrepreneurs to check new initiatives in flexible and quick manner; and use of IT tools (on-line consultations, forum).

(2) Assess businesses likely to be affected

During this stage, you should establish whether SMEs are among the affected population. You should identify the characteristics of the businesses / sector(s) likely to be affected. Relevant sources of information should be explored including SME representatives. A non-exhaustive list of elements to consider includes, when applicable:

- Number of businesses and their size - micro, small, medium-sized or large enterprises;
- Proportion of the employment concerned in the different categories of enterprises affected;
- Weight of the different kind of SMEs in the sector(s) - micro, small and medium-sized ones;
- Links with other sectors and possible effect on subcontracting.

If the preliminary assessment leads to the conclusion that SMEs are amongst the affected parties, further analysis should be carried out and – where appropriate – taken into account when defining the objectives and developing the policy options in the impact assessment.

(3) Measure the impact on SMEs

The analysis of the costs and benefits of the policy or legislative proposal should be performed with respect to the business size, differentiating between micro, small, medium and large enterprises, both qualitatively and, if possible and proportionate, quantitatively. It is important to establish to which extent the proposal affects SMEs' competitiveness or the business environment in which it will affect their operations. It is likely that an EU measure would have direct and indirect beneficial effects on SMEs. The direct benefits, such as improved working conditions, legal certainty, increased competition, and new market opportunities, should (at some stage) be reflected in reduced costs to SMEs. Yet, these benefits may be offset by various costs, some of which may be disproportionately felt by SMEs, notably:

- Financial costs: created by the obligation to pay fees or duties;
- Substantive costs: created by the obligation to adapt the nature of the product/service and/or production/ service delivery process to meet economic, social or environmental standards (e.g. the purchase of new equipment, training of staff, additional investments to be made);
- Administrative costs: created by the obligation to provide information on the activities or products of the company, including one-off and recurring administrative costs (e.g. resources to acquire or provide information).

The economic impact can be compared between SMEs and large enterprises, using average cost per employee, or average cost per average turnover or overheads. In addition, it would be useful to consider the following additional elements:

- Possible loss of competitiveness due to external factors such as the availability of finance, tax regimes, access to resources or skills, etc.
- Possible changes in the behaviour of competitors, suppliers or customers.
- Possible impacts on barriers to entry, competition in the market and market structure, for example in terms of possibilities for SMEs to enter markets.
- Possible impact on innovation, understood as both technological and non-technological innovation (process, marketing, etc.).
- Benefits, if applicable, coming from the proposal (burden reduction, improved productivity and competitiveness, greater investments or innovation etc.).

(4) Assess alternative options and mitigating measures

If the chosen option creates disproportionate burden for SMEs relative to large enterprises, then consider the use of mitigating measures in order to ensure a level playing field and the respect of the proportionality principle. This can include changes to the legislation to apply permanent or temporary exemptions, extended transition periods, or simplified reporting obligations. It could also include fiscal measures, such as tax relief, direct financial aid, or lower fees and charges. The cost of the application of mitigating measures should also be fully considered and included in the final assessment. Mitigating measures are explored further under [theme 5](#).

For further information: http://ec.europa.eu/growth/smes/business-friendly-environment/small-business-act/sme-test/index_en.htm

While IAs are most commonly applied to proposed new regulations in *ex ante* evaluation, public administrations need to take care of the **existing stock of legislation** through *ex post* evaluation, including both primary and secondary legislation. If the existing legal base is not addressed, then the flow of new laws and regula-

tions automatically increases the stock, and hence the burden on business, with the potential for legal anomalies. The following checklist sets out a series of questions that Member States can apply to systematically evaluate each policy domain:

Stock-take checklist of existing laws and regulations

Question	Clarification	Suggestion
1. Does the law or regulation create an excessive administrative burden on businesses?	It is assumed that laws/regulations are always justified, before they are adopted. But they should also always take account of the impact on business of their implementation. Many existing laws/regulations pre-date the introduction of IAs, or the IA was performed but there were unforeseen effects, possibly due to subsequent revisions or the impact of by-laws.	IAs could be performed on the stock of existing laws. One option would be to conduct stock-takes according to sector, so that the combined effect of a body of laws/regulations can be analysed and corrective measures applied collectively.
2. Is there an overlap between one or more laws or regulations?	The drafting of new laws and regulations should take account of existing ones, but discrepancies may remain. For example, new EU regulations may overlap with existing national legislation, in which the case the EU law has primacy. In addition, there is a need to eliminate duplications and improve the coordination between layers of the administration (local, regional and central government) and within layers (e.g. a business might receive the same administrative requirement from different ministries).	During the stock-take of existing laws and regulations, administrations could perform a comprehensive mapping exercise, to ensure that provisions are not duplicated, which may lead to inconsistencies (see Q3) or obsolete laws / regulations (see Q5).
3. Where there is more than one law / regulation covering a policy area, are there gaps in provision, which create legal 'blind spots'?	The flipside of overlap in laws and regulations in a specific field is gaps, where practice has shown that the legal base did not anticipate an eventuality, and hence there is no legal provision to either permit or prevent it from happening.	The administration should propose amendment to existing laws or regulations, or the creation of a new legal base to replace outdated laws if appropriate. This process may lead to <i>more</i> rules, but they should be appropriate rules – carefully designed and consulted with businesses, as any new law or regulation would be.
4. Are any laws or regulations now obsolete , but remain in place?	Obsolete measures may be the reason why there is more than one law/ regulation in a specific policy field that is creating overlaps, inconsistencies or excessive burdens.	Following the ex post evaluation (stock-take), legislation should be adopted to 'tidy up the statute book' by repealing obsolete laws & regulations and/or codifying or re-casting amended laws into one consolidated law. ⁽¹³⁾ To prevent obsolescence being repeated, and force future legislatures to decide consciously whether a law or regulation should continue, the administration should consider introducing 'sunset clauses' into new laws, at which time the legislation is automatically repealed.

⁽¹³⁾ Codification is the process of bringing together a legislative act and all its amendments in a single new act. Recasting is like codification in that it brings together in a single new act, a legislative act and all the amendments made to it, but unlike codification, recasting involves new substantive changes, as amendments are made to the original act during preparation of the recast text. In both cases, the new act passes through the full legislative process and replaces the acts being codified (Source: REFIT Progress Report, 2013)

The European Commission has led the way on reducing the administrative burdens on business from **EU legislation** by developing the **Smart Regulation** agenda, a concerted campaign to intervene only where necessary, involve stakeholders through consultation, and keep burdens on public authorities, businesses and citizens to the minimum necessary to achieve societal goals. This is fully in line with the **Small Business Act**, which extols policy-makers to ‘think small first’ in designing legislation to reduce the burden on micro, small and medium-sized enterprises (see [theme 5](#)). The Commission has been particularly active in pushing forward this agenda in recent years with a series of decisive actions, in partnership with Member States and the European Parliament.

Smarter EU legislation: leading by example

In January 2007, the Commission presented an ambitious **ABR Action Programme** to eliminate unnecessary administrative burdens on businesses in the EU. The **European Council** endorsed the programme in March 2007 and agreed that administrative burdens arising from EU legislation, including national measures implementing or transposing this legislation, should be **reduced over five years by a target of 25% (2012)**. According to the Commission, this could add EUR 150 billion to the EU’s GDP in the medium term. The European Council also invited Member States to “*set national targets of comparable ambition*”.

In pursuit of the ABR Action Programme target, EU legislation is estimated to generate administrative burdens of EUR 124 billion, equivalent to around one-third to one-half of the total burdens on businesses⁽¹⁴⁾. In 2009, the Commission made a commitment to present **Sectoral Reduction Plans** for 13 priority areas: agriculture and agricultural subsidies; annual accounts/company law; cohesion policy; environment; financial services; fisheries; food safety; pharmaceutical legislation; public procurement; statistics; taxation / customs; transport; and working environment / employment relations.

Since 2010, as part of its **Smart Regulation** strategy, the Commission has developed **Fitness Checks** to assess the overall regulatory framework in the 13 policy areas. These checks are designed to evaluate entire sectors, identify excessive administrative burdens, examine regulatory overlaps, gaps, inconsistencies and/or obsolete measures and assess the cumulative impact of legislation. Their findings serve as a basis for policy decisions on the future of the regulatory framework and to improve the quality of new legislation.

The Commission’s November 2011 report “**Minimising regulatory burden for SMEs**” outlined ways of taking the concept of “Think Small First” a step further to deliver rapid results. It set out how the Commission planned to strengthen the use of **exemptions for micro enterprises** and **lighter legislative regimes for SMEs**. It also explains how this will be followed up through the legislative process and implementation.

Between 2007 and 2012, the ABR programme **achieved its ABR Action Programme target**, covering 72 EU legal acts in the 13 domains, or around 80% of the main sources of administrative burden. Measures equalling 25% have since been adopted by the co-legislators. The Commission itself went beyond the target by presenting proposals to cut the administrative burden by 33%, or the equivalent of close to EUR 41 billion.

As part of its commitment to stakeholder consultation, the Commission invited SMEs and their representative organisations to identify the **top 10 most burdensome regulations** through an EU-wide, internet-based consultation from October to December 2012, eliciting 1000 responses, including 600 from individual SMEs based in the EU, 40% of which were micro-enterprises.

The smart regulation policy has since evolved further, with a dual focus on helping the Member States to implement the ABR measures (‘ABR Plus’), while also reviewing the entire stock of EU legislation. The Commission’s **Regulatory Fitness and Performance Programme (REFIT)**, initiated in December 2012, aims to achieve a simple, clear, stable and predictable regulatory framework for businesses, workers and citizens. Under **REFIT**, the Commission is building on the pilot Fitness Checks and consolidating other ongoing work on ABR with SMEs, to conduct regulatory analysis that involves all relevant levels of government, based on published plans and wide stakeholder participation. The REFIT process starts with a mapping exercise of the EU *acquis* to identify the areas with the greatest potential for simplifying rules and reducing cost for businesses and citizens without compromising public policy objectives⁽¹⁵⁾, which then leads to more in-depth regulatory evaluation. A tracking system (scoreboard) has been set up to assess the progress of proposals.

The Commission has also produced a short guide on **regulatory screening for effects on innovation**, to see if the regulation is a stimulus or a hindrance, based on a full study report, ‘**Screening of regulatory framework**’, commissioned by DG RTD.

⁽¹⁴⁾ Communication from the Commission to the Council and the European Parliament “Action Programme for Reducing Administrative Burdens in the EU: Sectoral Reduction Plans and 2009 Actions”, Brussels, 22.10.2009 COM(2009) 544 final.

⁽¹⁵⁾ The first findings of the mapping & screening exercise are presented in the Commission’s 2013 Staff Working Document “Regulatory Fitness and Performance Programme (REFIT): Initial Results of the Mapping of the Acquis”, SWD(2013) 401.

Like the Commission with its survey of the top 10 most burdensome EU regulations, many Member States are especially committed to **getting the views of citizens and businesses** concerning where they see the biggest burdens. A prime example is Belgium’s ‘Kafka’ initiative, which had resulted in 130 laws being repealed, as well as contributing to administrative simplification of service delivery (see [theme 4](#)). Other well-known initiatives include the UK’s Red Tape Challenge.

Inspiring example: ‘Kafka’ (Belgium)

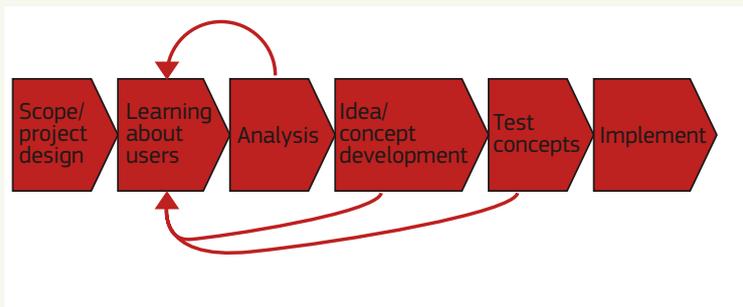
With its motto “la simplification fait la force” (inspired by the national motto “l’union fait la force”), the Belgium government launched the Kafka initiative in 2003 as an innovative way to cut red tape. The website www.kafka.be is managed by the Administrative Simplification Agency (ASA) and allows a user-friendly approach in order to collect and consider views and priorities from all stakeholders, citizens and businesses, affected by regulations. The success of Kafka is partly linked to the publicity around the initiative and the continuous political backing, but also the fact that the national action is mirrored by efforts at the regional level. The website was redesigned in 2014 and is now easily accessible from mobile devices. Many reform projects that took place are resulting from this unusually accessible and unbureaucratic contact point.

For further information: ASA@premier.fed.be; www.kafka.be

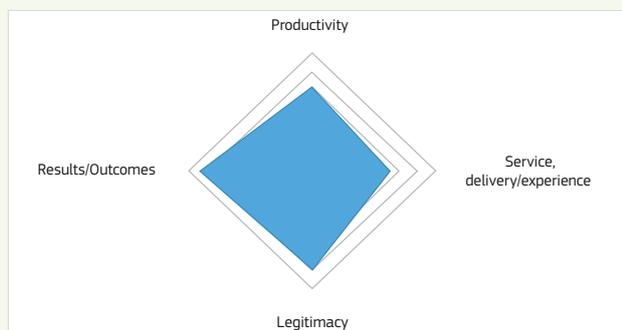
More ambitiously, the Danish ‘Burden Hunter’ initiative does not wait for businesses to come to the administration to complain – the civil servants go out to enterprises to see the impact of regulations for themselves, especially those which are “irritating”, as much as time-consuming or costly.

Inspiring example: ‘Burden hunter’ - hunting administrative burdens and red tape (Denmark)

Burden hunters are civil servants who involve businesses in developing smart regulation that can remove red tape. Burden hunting is an integral part of the Danish better regulation effort, and is a mind-set (always keep the end users in mind), as well as a method (systematically involve end-users). The burden hunter approach allows authorities to focus on removing the administrative requirements that businesses perceive as the most burdensome.



By using qualitative methods - observation studies, process mapping, expert interviews, focus groups, co-production, ‘nudging’ (see [1.3.3](#)), service design and user-centred innovation - the authorities can gain insight into how businesses perceive the regulation and how they perform the administrative task that derives from the rules. The process in a burden hunter project is structured as shown in the model (right). Important for using the model is the circular way concepts are developed: sometimes the testing shows that you will have to go back to the users to gather more information, sometimes by using different methods than the ones used in the first round.



When you engage in burden hunting, you need to go to the person (‘end-user’) in the company facing the red tape, who must perform the administrative tasks required by the authorities, and can help identify the real problem and develop an appropriate solution.

By using burden hunter thinking, we can address a number of different ‘bottom lines’ at the same time: productivity; service delivery/experience; results/outcomes; and legitimacy/rule of law. Productivity refers to the effectiveness or productivity increase – getting more with the same or fewer resources because of innovation. The service delivery/experience would be documented by a user survey. The results/outcome is what has happened in the real world in the final analysis – not just the result of the project (e.g. has compliance improved or do you in other ways meet the objective of the policy better). Finally the legitimacy/rule of law refers to a perception of due process and increased transparency.

We have found that the burden hunter approach to better regulation makes it possible to find solutions that create an impact on several bottom lines simultaneously and can actually work for both businesses and the relevant authority. This means that burden hunting basically can become a win-win-win-win situation. What is important with the four bottom lines is, however, that not all projects necessarily will give positive results on all four and that a project should not give unintended negative results on any of the four bottom lines. The objective of a burden hunter project must always be to make the area in the spider web bigger, not smaller (right).

Burden hunting requires a different skillset than traditional “public governance”, therefore it also requires a different educational background. On projects, there is always a person who has an anthropological or design background, or is used to working with a qualitative approach. Projects should always be handled as a collaboration between people with different skills

Burden hunting methodologies can be used for both broad and narrow projects.

- Broad projects aim at uncovering the burdens in a specific area or from a specific law. This approach can be used when you reduce the burdens but do not know where to begin. It can give you a better understanding of the real challenges businesses face. This approach has, for instance, been used for discovering growth barriers for start-up companies in Denmark. In this project, the burden hunters visited several companies with an open questionnaire to let them guide us to where the barriers could be found.
- Narrow projects give you concrete solutions to specific problems. This type of project can create the groundwork for decisions about concrete workflows, guidelines or input for digital solutions. The narrow approach has, for instance, been used for making it easier for companies to do the administrative tasks in connection to getting environmental permits in Denmark. The project with a narrow scope gave us specific input to things that could be changed.

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Administrative burden reduction is a joint endeavour and a shared responsibility of the European institutions and Member States. Commission initiatives - such as mapping and screening the EU *acquis*, performing fitness checks, and codifying or recasting laws - tackle business burdens at source, but the regulatory process does not end with better crafted legislation. The High Level Group’s authoritative 2011 study found that almost a third of the administrative burden arising from EU legislation was caused by **how EU laws are interpreted and implemented by Member States**. Action to introduce EU legislation more efficiently at the national, regional and local levels could reduce the burden on businesses by nearly EUR 40 billion. This will be the focus of ‘ABR Plus’ under REFIT.

All Member States are obliged to **transpose** EU directives by the deadline in the legislation itself, or risk infringement proceedings, but how they are transposed is matter of national discretion.⁽¹⁶⁾ For example, some Member States pass one over-arching law during the Parliamentary session to put all outstanding EU directives on the national statute, which ‘mops up’ their obligations across all policy fields in one sweeping motion, without tailoring them to domestic circumstances or tidying up loose ends from existing laws, creating an overall increase in the regulatory base and potential legal minefields. When transposing EU directives, it is important that Member States do not ‘gold-plate’ them, inserting additional provision that go beyond what was agreed by the co-legislators, which is estimated to account for 4% of the ABR arising from EU regulations and is entirely avoidable. They should also use this opportunity to reconcile new and existing laws in a harmonised legal base. In order to ensure that the *acquis* is transposed on time, and without gold plating which will put businesses at a disadvantage, the UK has published transposition guidelines for all authorities engaged in law-making.

⁽¹⁶⁾ Member States’ performances on transposition and infringements are considered in the [Annual Report on monitoring the application of EU law](#) and the [EU Single Market Scoreboard](#).

Inspiring example: Guidelines on transposing EU directives (UK)

The Guiding Principles are aimed at ensuring the UK systematically transposes so that burdens are minimised and UK businesses are not put at a disadvantage relative to their European competitors. The Principles state that, when transposing EU law, the Government will:

- Ensure that (save in exceptional circumstances) the UK does not go beyond the minimum requirements of the measure which is being transposed;
- Wherever possible, seek to implement EU policy and legal obligations through the use of alternatives to regulation;
- Endeavour to ensure that UK businesses are not put at a competitive disadvantage compared with their European counterparts;
- Always use copy-out for transposition where it is available, except where doing so would adversely affect UK interests e.g. by putting UK businesses at a competitive disadvantage compared with their European counterparts or going beyond the minimum requirements of the measure that is being transposed. If departments do not use copy-out, they will need to explain to the Reducing Regulation Committee (RRC) the reasons for their choice;
- Ensure the necessary implementing measures come into force on (rather than before) the transposition deadline specified in a Directive, unless there are compelling reasons for earlier implementation; and
- Include a statutory duty for ministerial review every five years.

Source: *“Transposition Guidance: How to implement European Directives effectively”* (April 2013)

All Member States have adopted their own **national targets for business ABR**, some on a gross basis (counting just burdens that have been removed) and some on a net basis (counting also the negative effects of new burdens introduced over the same period), ranging from 15% (Luxemburg and Malta) to 30% reductions (Lithuania and Spain). In some cases, these targets include all EU legislation, in others they are nationally derived only. Some Member States have met initial targets and subsequently set new ones. Others have also set targets for administrative burdens on citizens, or focused on specific metrics (i.e. compliance costs).⁽¹⁷⁾ The basis of measurement and timescales mean they cannot be directly compared across the EU-28, but they show the priority given to tackling regulatory burdens and compliance costs that now exists across Europe.

The role of targets is open for debate. Regulation remains an essential instrument in the public administration’s armoury, especially in the fields of safety, consumer, environmental and employee protection, and where it creates a fairer and more efficient marketplace, but there is no justification for badly conceived and poorly implemented rules that exceed what is necessary to achieve policy objectives. There is a consensus that if an existing rule is unnecessary, out-dated or ineffective, it should be removed or replaced, which requires targeted and systematic action.

Portugal’s ‘Simplegis’ programme is among the most successful initiatives in recent years to **cut the regulatory stock through repealing obsolete laws and avoiding unnecessary law-making**, but also to ensure what is left is more easily accessed by citizens and businesses, and more effectively enforced. This initiative is one facet of the national ‘Simplex’ programme of administrative burden reduction, which has been driven from the very top of Government, and started off aimed at ministries, but has since devolved to the municipal level, including ‘Simplis’ within Lisbon City Council (see [theme 4](#)).

⁽¹⁷⁾ 2011 HLGAB study, op. cit.

Inspiring example: 'Simplegis' programme (Portugal)

The goals of 'Simplegis' can be summed up in three ideas: fewer laws, more access, and improved enforcement. Although the programme is currently in progress, we are in a position to highlight the following achievements reached so far:

- In 2010, more than 300 obsolete legislative acts have been repealed;
- During the same year, the number of new decree-laws enacted by the Government was the lowest of the last ten years as they were approved solely when necessary and after thoughtful consideration of the regulatory needs, in order to avoid unnecessary law-making;
- Also in 2010, the rate of flawless legislative acts - therefore, with no need of correction by means of amending statement - was above 95% (a record in the last decade).

Since October 2010, the decree-laws and implementing decrees that are published at the online version of the official journal are accompanied by a plain language summary, both in Portuguese and English. Portugal was the first EU Member State to offer such service to citizens and businesses totally free of charge. A new legislative and legal information web portal is currently being put together, due to be launched online by the second semester of 2011, and it will not only feature the online version of the official journal, but also added-value legal information (free of charge), consolidated versions of relevant pieces of legislation and online public consultations with direct and straightforward questions in order to make participation accessible and simple for everyone.

In September 2010, a wide variety of acts were eliminated from the official gazette (hunting ground-related acts, for instance) and were assigned to specialised websites, thus making it easier to search through the gazette for the most relevant acts. From January, 2011, a new method of thorough *ex ante* impact assessment has been in place and applied to all government acts, with good results. Moreover, we have been training impact assessment teams in all ministries that will perform *ex post* assessments.

Sources: http://ec.europa.eu/smart-regulation/refit/admin_burden/best_practice_report/report_example_en.htm
http://ec.europa.eu/enterprise/policies/smart-regulation/administrative-burdens/high-level-group/files/hlg_pt_simplegis_201010_faq_en.pdf

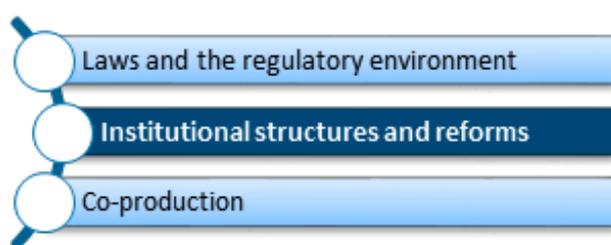
Some Member States, such as the Netherlands and the UK, have introduced **common commencement dates (CCDs)** to improve communication and predictability of necessary laws and regulations for businesses. The government sets fixed dates on which new business legislation will come into force – for example, 6 April and 1 October in the UK's case, preceded by the publication of guidance material at least 12 weeks before new regulations with impacts on business enter into force⁽¹⁸⁾. By publishing and providing advance notice of forthcoming legislation, public administrations can give businesses time to plan ahead, prepare for compliance, and budget for the costs of new rules that might affect them. There are exceptions and exemptions, inevitably, but these should be kept to a minimum. In the UK, it is cautiously estimated that CCDs could save SMEs anything between £10 -20 million a year.

Once adopted, Member States have a range of options to ease the regulatory burden during the **implementation and enforcement** of EU-derived and national legislation, which are considered further elsewhere in this toolbox.

⁽¹⁸⁾ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/211981/bis-13-1038-better-regulation-framework-manual-guidance-for-officials.pdf

Question	Refer next
Has the national administration ensured that legislation is accompanied by appropriate institutional arrangements to implement & enforce it, so that businesses are clear which organisation is tasked with providing information and responsible for transactions and can respond to queries and concerns? Is this accountable body sufficiently equipped and staffed?	<ul style="list-style-type: none"> • Institutional structures (see topic 1.2.3) • Professional and well-performing institutions (see theme 3)
Has the national administration ensured that the implementation of the regulation is kept as simple, fast, easy and user-friendly as possible, with respect to deadlines, documents, steps, costs, etc., and made best use of service delivery channels, including one-stop shops and e-government?	<ul style="list-style-type: none"> • Service delivery (theme 4) • Enhancing the business environment (theme 5).

1.2.2. Institutional structures and reforms



The organisation of public administration is a hot topic for effective governance and applying the principle of subsidiarity, and the subject of many country-specific recommendations. Every Member State has its own approach to **multi-level governance**, assigning responsibilities and resources to discharge the duties of government and seeking greater efficiency from relations between public

authorities, both vertical (supra-national, national, regional and local) and horizontal (coordination across ministries, municipalities, etc.).⁽¹⁹⁾

Over the years, governments have sought new ways to improve public sector performance and service delivery through organisational change. A regular feature of the political landscape has been to re-allocate roles across ministries, resulting in **reorganisation of the machinery of government** at the central level, with the intention of achieving better policy-making and implementation. This leads to ministries (and their subordinate bodies) gaining or losing functions, and the transfer of staff and budgets. Given the inter-dependence of many policy fields, the effect can be a zero net sum – simply re-arranging the ‘silos’ – unless the restructuring is linked to **better coordination and communication** across the whole of Government, or specific changes are designed solely to produce productivity gains within a narrow policy domain.

More radically, central, federal and local governments have also engaged over time in **creating, disbanding or amalgamating sub-national tiers** of the public administration (regions, counties, districts, municipalities etc.). Local government reorganisation has been a recurring theme in Europe for many years, usually with the aim of cutting the number of administrative levels and bodies that citizens and businesses must interact with, and increasing the average size of administrative units to improve their efficiency through scale economies. An example is the recent merger of districts within the Austrian federal state of Steiermark, which resulted in a reduction on the number of district commissions responsible for administrative tasks (business licenses, environmental protection etc.) from 16 to 13, saving EUR 10 million a year over the long-term through natural wastage (not replacing retired staff), and improving service delivery by making better use of the expertise of highly qualified staff.

⁽¹⁹⁾ See <http://www.oecd.org/gov/regional-policy/multi-levelgovernance.htm>

Inspiring example: Merging the districts of Judenburg and Knittelfeld (Austria)

Austria is a federal republic divided into nine federal states, each of which is sub-divided into specific districts. Administrative tasks at the federal state level are carried out by the district commissions, which must implement federal and regional laws, e.g. the authorisation of businesses, monitoring of public health, protection of the environment, etc. District commissions contribute greatly to regional development, especially in rural areas. The federal state of Steiermark was divided into 16 districts, each with its own district commission.

In the framework of this project, the existing administrative framework was substantially changed for the first time in Austria since the 19th century. A process model was developed on how to merge two districts, namely Judenburg with some 44 000 inhabitants and Knittelfeld with some 30 000 inhabitants, and its two district commissions to form one bigger administrative unit. All administrative tasks that can be executed quickly and non-bureaucratically are offered at two locations, enabling the authorities to remain accessible to citizens. However, all administrative tasks that require expert knowledge by the authorities were centralised. The new district 'Murtal' came into existence on 1 January 2012, having some 74 000 inhabitants and a new district commission. The project has been implemented without the help of external experts. The new district commission provides the same range of services for its citizens and functions more efficiently at lower costs. The administrative costs of the new district 'Murtal', and thus the costs for the citizen, were lowered. The first year of the new structure led to savings amounting to EUR 550 000, which should reach EUR 850 000 by the end of 2013. Further savings are expected. These financial means can be used to foster innovative projects and to strengthen the local economy in the future.

The cost savings mainly result from centralisation and the reduction of human resources. The reduction of staff is not based on dismissals, however, but rather from not filling the posts of some staff members that left for retirement. Moreover, highly qualified staff members are now used in different positions requiring expert knowledge. This results in faster and better services for citizens. Six other districts in this federal state have been merged, from 16 to 13 administrative units. The potential financial savings are estimated at EUR 10 million per year in the long term.

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An even more ambitious overhaul was achieved in the Swiss Canton of Glarus, which merged a total of 68 municipalities and corporations providing public services in a major **streamlining** exercise to form three new and large municipalities in 2011, following agreement at two citizens' assemblies.

Inspiring example: GL2011 (Switzerland)

Canton Glarus is now equipped to face the challenges of the future. The municipal structures have been fundamentally streamlined and 25 village municipalities, 18 educational corporations, 16 social service corporations and 9 natural citizens' corporations have merged to form three large and strong municipalities. The directive for the municipal structural reform was given by the Glarner citizens at the citizens' assembly (Landsgemeinde) in 2006 and confirmed at the extraordinary citizens' assembly in 2007. In only a few years, Canton Glarus has been given completely new municipal structures. In this connection, there was a clarification of the tasks allocated to the municipalities and the Canton, an optimisation of the financial channels and an improvement in the public services. On 1 January 2010, the newly elected authorities of Glarus south, Glarus and Glarus north started working in order to prepare themselves for the scheduled start of their municipality a year later. On 1 July 2010, they finally took over the duties from the authorities of the former municipalities. More than 500 Glarner people worked on this reform project for four years. At the end of 2010, the project phase was completed and on 1 January 2011 the three new municipalities officially 'took off'.

The municipal structural reform has strengthened the Canton, the municipalities and the citizens at all levels. The residents enjoy the benefits of a good and professional infrastructure and an up-to-date public service, and the children have a modern school system at their disposal. Industry profits from improved general provisions and the municipalities have become more powerful and self-assertive. All three municipalities have a collective municipal archive, a collective electronic information system and collective technical services as well as old age and nursing homes. The chances for the Canton Glarus have markedly improved in respect of the competitive situation regarding the location of industry and housing. The structure of the municipalities was optimised; provisions were made for a more efficient, professional and accessible structure. The social and welfare services have been under the administration of the Canton since 2008 and have now all become more professional. The municipalities and the Canton have a uniform financial administration law by decree. It is now possible to compare the accounts. Together, all can benefit from the efficient and therefore economical utilisation of the financial resources.

The Canton Glarus has become more competitive and is an excellent residential and industrial location. The radical reform caused a sensation across the whole of Switzerland. This is seen in the comments in the Swiss press. 'Glarus wipes out 22 municipalities' was the title in the Tages Anzeiger. The Neue Zürcher Zeitung wrote of an "exciting surprise", and that the citizens had unexpectedly shown themselves to be liberal and reform friendly. The 'Blick' commented that "the Glarner had revolutionised their Canton" and the 'St. Galler Tagblatt' wrote "no other Canton has in a short space of time made such substantial changes as Glarus". Even in the French-speaking part of Switzerland the decision of the citizens' assembly was acknowledged. The L'Express' in Neuchâtel wrote: "Un vent de révolution a soufflé sur la Landsgemeinde de Glaris".

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VNG International, founded by the Association of Netherlands Municipalities, has produced an [introductory guide to successful inter-municipal cooperation](#) (IMC) in its various forms. IMC may be the appropriate solution when there is a business case for example for promoting a larger territory (for example, to attract tourism or investment), sharing the costs of researching and developing a new service or purchasing specialist equipment, for example (see [topic 7.2](#) on public procurement), achieving scale economies or tackling cross-border problems which cut across administrative boundaries (such as environmental protection).

In recent years, institutional change has been prompted by the global financial and economic crisis of the late 2000s, which has driven public administrations to seek savings in spending in the context of squeezed revenues. In particular, governments across Europe at all levels have engaged in deep **cuts in staffing and closure of administrative units** to reduce public expenditure. Forthcoming research by the EU's European Foundation for the Improvement of Living and Working Conditions ([Eurofound](#)), "Mapping Restructuring in the Public Sector Following the Crisis", will highlight the difficulties in accurately defining and counting jobs within the 'public sector', but estimate that employment in public administration across the EU is 5% lower than 2008, while education, health and 'services of general interest' are all higher.

The research project ‘Coordinating for Cohesion in the Public Sector of the Future’ (COCOPS), funded by the EU’s Seventh Framework Programme, has taken a longer term perspective and examined *inter alia* the changing role of government in Europe from 1980 to 2010, correlating reforms with public sector employment and expenditure as a share of GDP. COCOPS analysis has found that **decentralisation** has tended to correspond with cuts in public expenditure. The implication is that transferring responsibility from central to sub-national government tends not to be accompanied by a commensurate transfer of resources.⁽²⁰⁾ However, it is worth noting there have been functional transfers in both directions, for example in provision of careers advice, responsibility for making social welfare payments, and the monitoring of public health.

Necessity being the mother of invention, many municipalities have responded to financial pressures by exhibiting levels of imagination and innovation that are usually associated in the public’s mind with the private sector, and have instigated major **internal reforms** to improve effectiveness and efficiency. The Change² project in the German city of Mannheim is a prime example of such an initiative (this case study is set out under [topic 3.2](#)).

Some public administrations have **pooled resources**, in order to produce scale economies, synergies and cost savings, by sharing support services. This usually implies staff transfer to shared service units, and staff cutbacks in the decentralised units⁽²¹⁾ (see [theme 3](#)).

By contrast with decentralisation, the COCOPS research found that **outsourcing** did not reduce overall public spending. The real change occurs in governance arrangements. Governments can delegate functions and seek to transfer risk to private providers through contractual arrangements which spell out delivery obligations, quality standards and pricing. However, governments will always remain accountable to the electorate, which means it must retain oversight, and in the event of contract failure, risk and responsibility will return to the public sector. A [2009 UK study](#) by PricewaterhouseCoopers and the Institute for Public Policy Research found that the public tends to hold central government responsible for core parts of public service performance, and can accept the transfer of power and accountability to other bodies as long it is well communicated and unambiguous, and even then takes time to register in the public’s perceptions.

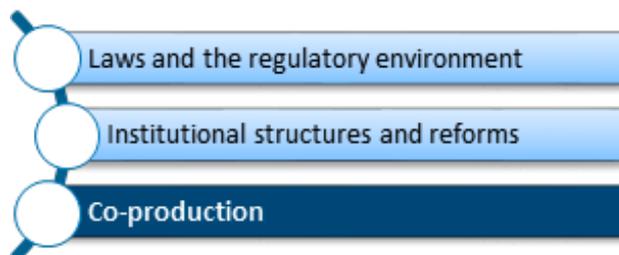
Whichever organisation, the outsourcing process is presented with two challenges. First, the contractor often finds it difficult to accurately cost the services to be provided over the long-term, and therefore to estimate the price in the tender. Second, it is hard to build flexibility into the contract specification, to accommodate any required changes in the terms of service provision due to changing circumstances (such as advances in technology), in a way which is comparable with an in-house provider. As outsourcing falls under **public procurement**, this subject is considered further under [theme 7](#).

The [Eurofound](#) mapping study features case studies of recent public sector reforms, which are excellent examples for Member States to see how their counterparts have approached **restructuring** at a time of austerity. Many of these cases have drawn upon a range of human resources management (HRM) techniques to achieve their goals, including recruitment and promotion freezes, staff redeployment, job sharing, phased retirement, flexible working time, unpaid leave, and changes in employment structures (e.g. increased use of temporary contracts). The subject of institutional organisation is explored further in [theme 3](#), including leadership, HRM and quality management.

⁽²⁰⁾ Alonso, J.M., Clifton, J., and Díaz-Fuentes, D., (2011), “Did new public management matter? An empirical analysis of the outsourcing and decentralization effects on public sector size”, COCOPS Deliverable 2.1.

⁽²¹⁾ OECD (2013), “Building on Basics: Final report of the OECD Value for Money Study”.

1.2.3. Co-production



Co-production is a form of ‘outsourcing’ which involves citizens and businesses directly in the implementation of public policies from which they benefit. Public administrations are increasingly aware that they can overcome their limitations in policy delivery by working with programme and service users, empowering them to develop solutions as equal partners. Delivery becomes co-

owned, more visible and more understandable for the partners in the process. In this way, policy ceases to be a ‘black box’ to beneficiaries, and where citizens are involved, becomes more legitimate in the eyes of the public and potentially more sustainable.

Co-production is a complex term, since it implies a permanent or temporary involvement of different actors in different stages of a sometimes complicated process. These actors can include for-profit businesses or non-profit associations in public-private partnerships (PPPs), and citizens who play a role in service delivery, which can happen individually (for example, as a parent, as a guide, as a fire service volunteer), or collectively (for example, via NGOs for social services or park maintenance, etc.)

“Co-production: 1+1=3”

“Co-delivery of public services is about citizens and the public sector working TOGETHER in new creative, innovative and collaborative ways. This joint working between professionals and service users, building on each other’s assets, experiences and expertise, enables the service to be delivered more efficiently.”

Elke Löffler, Governance International at the 7th European Quality Conference in Vilnius, 2013.

When users and communities help to deliver services, it brings immediate and direct **benefits**:

- More resources to the service, in terms of the knowledge, expertise, skills, co-operation and commitment of service users;
- Better quality services, focused on the features and outcomes that users value most highly;
- More innovative ideas for public agencies to try out; and
- Greater transparency in the way services are delivered, supporting greater community involvement and open government.

Co-production is not a new idea, it has been around for around 30 years at least, as testified by the examples of Italy’s social cooperatives and Sweden’s children’s day care cooperatives. The **cooperative** is a well-established organisational form, has the advantage of a democratic governance structure (each member has an equal stake), and as a legal entity, provides a corporate vehicle through which public authorities can contract with citizens, subject to procurement rules.

Inspiring example: Social cooperatives (Italy)

After the Second World War, Italian local authorities provided health and education services but not social care, and over time the traditional role of families providing support started to diminish. As needs and expectations rose, the social cooperative model grew as a way of providing better care. The cooperatives were also seen as a way of improving service efficiency. In 1991, a new law created a specific legal framework for social cooperatives in Italy. As their purpose they have 'to pursue the general interest of the community in promoting human concerns and in the social integration of citizens.' Today, there are more than 7 000 cooperatives and they have become a core element in the delivery of social care for many local authorities. Social cooperatives are permitted to distribute profits, as long as distributed profits are restricted to 80% of total profits and the profit per share is no higher than 2% of the rate on bonds issued by the Italian post office.

Inspiring example: Children's day care cooperatives (Sweden)

Cooperative provision of children's day care was developed in Sweden in the 1980s as a response to the growing demand for services and the inability of local authorities to provide sufficient capacity. The Swedish government made a decision to finance specialist cooperative development agencies. These agencies grew up in different ways in different parts of Sweden, and then federated into a national support body, which in 2006 decided to work under the name of Coompanion. The Coompanion network of support agencies is funded centrally by the Swedish Agency for Economic and Regional Growth. Specialist advisers have played an important role in the development of new cooperatives and the continuing success of existing ones. In Sweden, there are around 1 200 cooperatives providing pre-school day care for about 30 000 children, representing about 7% of the total.

Source: European Commission, Directorate-General for Research and Innovation (2013), "Powering European Public Sector Innovation, Towards a New Architecture", Report of the Expert Group on Public Sector Innovation

Co-production is relevant to many policy areas. Care services have proven a particularly fruitful field. An award-winning example is the care of elderly residents in Denmark's Fredericia, which is now organised to happen at home wherever possible, with multi-disciplinary support from the municipality, so that they continue to live independent and fulfilling lives within their own communities. Given the trend towards an ageing population across Europe, the principles are now being exported to other municipalities in Denmark, and attracting attention in Norway and elsewhere internationally.

Inspiring example: "Life Long Living" in Fredericia and beyond (Denmark)

"Life Long Living" is a new model of interaction between the elderly citizens of Fredericia who request practical or personal care and assistance, and the municipality - providing everyday rehabilitation and prevention, rather than just offering traditional and expensive compensatory care. The objective is to maintain physical, social and cognitive abilities, in order to postpone age-related weakening and dependence. "Life Long Living" is an innovative initiative whose purpose is to maintain independent living as long as possible - to change the conditions of future care by focusing on the resources of each individual, and support empowerment instead of delivering traditional, compensatory and pacifying care.

In 2008, it was projected that there would be at least 2000 more people over the age of 65 in Fredericia municipality by 2020, including a significant increase in the number of citizens aged over 80. This development presents an economic challenge, which in 2020 would lead to an additional annual cost in elderly care of at least DKK 46 million (around EUR 6.2 million). This innovation in service delivery started when the managers in Fredericia's social care division asked themselves: 'Should we really continue to provide ever-cheaper in-home cleaning, cooking, and personal care to older citizens? Or should we find out what kind of life they want to live, and then invest in their ability to live it?' To meet this challenge, the City Council in Fredericia municipality decided to launch an ambitious project within the municipal budget.

The aim of the project was to turn the interaction between the elder citizen and the municipality 180 degrees; by meeting each individual with a focus on his/her resources and personal experience of meaningful everyday activities, rather than a reduced focus on lack of functions and limitations. This 180 degree turn of perspective - from looking at our senior citizens as passive patients, to now meeting them as resourceful, active individuals -



has required a change of paradigm throughout the entire organisation. In “Life Long Living”, the elderly citizens requesting practical or personal assistance from the municipality are now offered to join an intensive everyday-rehabilitation-programme in their own home, where they are trained to regain their ability to perform meaningful everyday tasks. The programme is conducted by our care providers (who have gone through special training in the approach and methods within everyday-rehabilita-

tion) under the guidance of interdisciplinary teams - with occupational therapists, nurses, physiotherapists and nurses’ assistants.

When joining “Life Long Living”, every citizen gets an individual “Citizen Plan”, with set goals for developing or maintaining their ability to perform everyday tasks. The goals are set in cooperation between the elderly citizen, his/her care provider and the interdisciplinary team, in order to assure a focus on meaningful activities, along with a cross-professional assessment. A home-training-programme is set up and the need for useful assistive technology to support independent daily living is assessed and tested. The training is provided by the care providers as part of the daily care and assistance, not in a training centre, and the goals and activities in the “Citizen Plan” are adjusted continuously as abilities and motivation changes. Previously, these elderly citizens were offered compensatory and pacifying care, which often resulted in losing more everyday functions, and their need for help almost always increased over time. After implementing “Life Long Living”, and thereby meeting the elderly citizens with the expectations and individual approach in our everyday-rehabilitation-programme, their need for practical and personal assistance drops off significantly.

Independent evaluations of the economic effects and organizational outcome of “Life Long Living” for citizens and staff have been conducted by DSI (the Danish Institute of Health), later named KORA (National Institute of analysis and research in municipalities and regions).

The results are promising. Joining the everyday-rehabilitation-programme often means a dramatic increase in provided services in the beginning, followed by significant decrease in provided services on a longer term, relatively to the regaining of abilities. All together the need for practical and personal care is reduced considerably: 45.9% of the referred citizens become completely self-reliant and 38.9% become partly self-reliant. The number of requested services and the total cost for the municipality has decreased significantly, corresponding to approximately EUR 2 million per year. Along with the economic benefits, the impact of “Life Long Living” can be summarised as:

- ✓ Satisfied citizens with a high degree of self-sufficiency, who express pride and improved quality of life by regaining independent everyday life;
- ✓ Satisfied employees, who express significantly greater job satisfaction and commitment working with the new empowering model;
- ✓ Significant reduced need for care services, leading to a considerable decrease in total costs, enabling the municipality to provide more welfare for the elderly for the same amount of money.

Since 2012, the model has been integrated into the Danish national budget as best practice for all Danish municipalities on how to conduct care and services for the elderly in a rehabilitative and empowering manner, to meet the requests from an increasing number of older citizens in the future. By 2014, all Danish municipalities had adopted the “Life Long Living” approach in their Health and Care Departments. “Life Long Living” has also attracted great attention throughout Europe, on a political as well as on a professional level. The municipality of Fredericia is currently a partner in the Age Friendly Environments – Innovative Network (“AFE-INNOVNET”) with the main objective to share and develop age-friendly solutions across European countries. From outside Europe, the Singapore Senior Minister for Health and Manpower has visited “Life Long Living” with a delegation of public and private stakeholders, and found the project to be inspiring for future homecare in Singapore.

In 2010, the Fredericia Municipality received the great innovation prize for the project from Local Government Denmark (LGDK), the interest group and association of Danish municipalities. This was followed by a best practice certificate in the European Public Sector Award 2011, and being honoured in The European Year for Active Ageing 2012 under the category “Towards age friendly environments”.

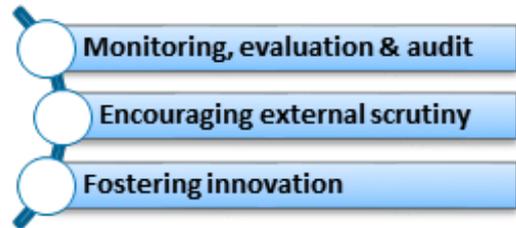
For further information: Britta Hallin, Adviser of communications, britta.hallin@fredericia.dk;

See also: http://fredericia.dk/FFF_ny/LMIEL/Sider/About-the-project.aspx; presentation of “Life Long Living” by Project Manager Helle Aavild Juhl (AFE-INNOVNET Webinar 2): <http://www.youtube.com/watch?v=48C0be6RIFE> (minutes: 28.30 – 40.40).

Clearly, co-production is not for everybody and the costs/benefits of harnessing service users and communities in the delivery of a specific public service will vary. To help weigh up the pros and cons of co-production and ways forward, further case studies, research and resources are available from existing organisations, such as [Governance International's good practice hub](#).

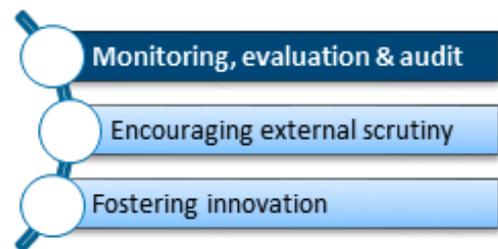
1.3. Continuous improvement and innovation

One of the key qualities of good policy development is that implementation and application is subject to review and reflection, so that lessons are learned, adaptations are made, or even policy is abandoned in response to findings. . This section examines: systematic monitoring, planning and managing evaluations, and the growing role of performance audits in assessing whether implementation and application is progressing to plan, policies are achieving their high-level objectives, and value-for-money is being delivered; and the value of external scrutiny in driving up the standards of public administration. In the spirit of continuous improvement, the section looks finally at public sector innovation in its myriad forms, and how public administrations are creating innovative cultures to stimulate new ways of working.



1.3.1. Monitoring, evaluation and performance audit

Monitoring and evaluation has often been seen as an unwelcome distraction, sometimes imposed by funding providers on recipients and sometimes required according to internal procedures to check whether initial objectives of specific actions are met and how efficiently and effectively. Monitoring and evaluation can be treated as an add-on to the policy process. Increasingly, however, monitoring and evaluation is recognised as integral to policy success. –Public policy interventions are adopted to achieve certain objectives and it is inherent part of the process for a check to be made whether the intervention has been successful, whether a successful outcome can be attained and, if so, how the intervention should be changed to ensure a successful result (see [topic 1.1](#)).



Monitoring can mean different things. For some, monitoring is supervision; for others, it is synonymous with control. For the sake of clarity, monitoring is defined here as a **systematic process of collecting data**, in order to track inputs, outputs, results and impacts throughout the application of an intervention, and to inform management and stakeholders on progress and performance. Monitoring can be applied to policies, programmes, regulations, projects and public services, but also organisations (see [topic 3.1](#)), and systems of governance.

Most public sector organisations are familiar with **evaluation** in the context of policies and programmes, taking the information from monitoring (and other sources) at key moments in time, and assessing relevance, coherence, efficiency, effectiveness, impact and sustainability. While monitoring provides a flow of data, evaluation is a comprehensive stock-take of how things stand. This can occur before, during or after an intervention. Alongside evaluations, **performance audits**, conducted by supreme audit institutions (SAIs), but as the SAI's main remit is always financial audit, performance audits are a relatively recent development in the context of European policy-making.

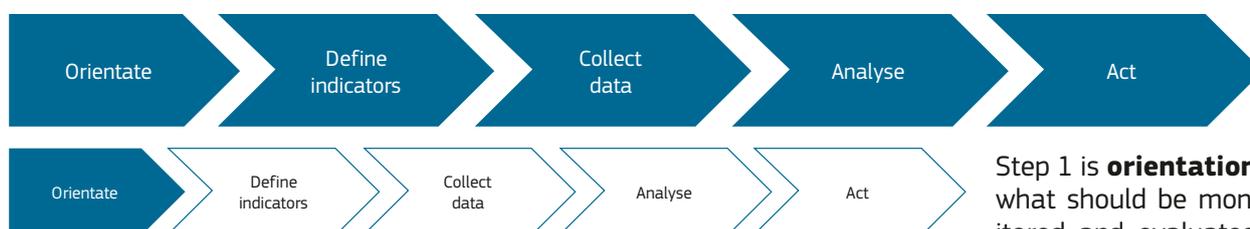
In the interests of a common understanding, the following table summarises the key and sometimes overlapping, aspects of monitoring, evaluation and performance audit.⁽²²⁾

⁽²²⁾ As performance audit is an explicit responsibility of SAIs outside the administration, the rest of this [topic](#) mainly focuses on monitoring and evaluation, with performance audit described by way of contrast with evaluation.

	Monitoring	Evaluation	Performance audit
What	Tracking progress and performance against planning and objectives (expectation)	Assessing the relevance, coherence, efficiency, effectiveness, impact and sustainability of policies and programmes	Assessing the relevance, coherence, efficiency, effectiveness impact and sustainability of policies and programmes
Why	For operational reasons – to learn lessons and take corrective action in real-time, if required, and to collect information for subsequent evaluation	For strategic reasons – to ensure the policy efficiently and effectively addresses the identified problems & objectives, and identify improvements	For accountability reasons – to ensure public funds are being used efficiently and effectively and identify improvements, if necessary
When	Regular intervals during application	Usually at specific points, (before, during and after application).	Usually at specific points, (during and after application).
Who	Managers and staff involved in implementation	Managers and staff and external consultants	Usually qualified auditors from the SAI, <u>independent</u> of design and application

On likely trend is that the boundaries between monitoring and evaluation are becoming increasingly blurred, as evaluation can take place in real-time, during the early stages of a new policy or programme or an ongoing basis, as recent experimentation in [Rural Development Programmes](#) shows.

The reality is that all administrations engage in some form of monitoring and evaluation of their activities, whatever they call it. The only question is whether this is casual or structured. The latter is an essential condition of receiving EU funds, especially under ESIF regulations. As a **systematic process**, monitoring and evaluation has five steps, shown below.



Step 1 is **orientation**: what should be monitored and evaluated,

why, and what information will be collected and how will it be used? This preparatory phase, however short or long, informs the following four steps. The main ingredients of orientation are set out below.

Ingredient	Purpose
Objectives	There must be clarity about what the policy, programme, project, service or organisation is seeking to achieve. In other words, clear objectives that performance can be assessed against (which can be both strategic and specific / operational), as well as the actions required to get there.
Responsibility	The role of defining indicators, collecting data, and analysing the findings assessing progress and performance is assigned to an official or unit (including possible use of external experts), as well as reporting lines established to management and policy-makers.
Methodology	The monitoring arrangement must include a system to gather data. As an integral element of designing indicators, it must be known from the outset what the source of the information will be and how often the information should be collected.
Management	Once information is gathered by the responsible official(s) on performance, including against indicators, this must be assessed and conclusions drawn and fed into the policy process as part of the evidence base for adjusting policy. This means there must be an outlet for the information to be used.

Useful guidance in preparing for monitoring and evaluation can be found, for example, in the [European Commission evaluation guidelines](#), EU-financed [Community of Practitioners on Results Based Management \(COP RBM\)](#), the [OECD's Summary of Key Norms and Standards for Evaluation](#)⁽²³⁾, [Learning Forward's Workbook on Professional Learning Systems](#), and the [Civicus Toolkit on Monitoring & Evaluation](#).

Public administrations may also find **outcome mapping** useful as a complementary tool and approach for planning, monitoring and evaluation, as its focus is on the behavioural changes brought about by interventions in socio-economic development. Guidance is available from the aforementioned COP RBM⁽²⁴⁾, and also the [United Kingdom's Overseas Development Institute](#) and the [Outcome Mapping Learning Community](#).

At the outset, it is essential that there is **political buy-in** to monitoring and evaluation, to have confidence that the learning points will be internalised when they emerge. This willingness to absorb findings can be built over time by collecting and presenting relevant information that satisfies the information needs of decision-takers and policy-makers, in usable formats.

Evaluations can suffer from poor planning, which leads to ambiguity in purpose and objectives, vagueness in scope, lack of rigour in the analysis, rushed delivery and ultimately blandness in the conclusions which makes it hard to extract useful outcomes. Centres of Government and line ministries can improve the governance of evaluation by publishing **procedures** with clear guidelines on the timing of evaluations for different purposes (*ex ante*, interim, etc.), the standards they should meet, and the techniques that should be employed. The European Commission's website includes [useful guidance](#) on planning and performing evaluations, especially within the context of evaluating ESIF programmes for 2014–2020 (see also [topic 7.3](#)).

The decision to move into performance audits can only be taken by the SAI itself, with the consent of parliaments that vote directly for SAI funding. However, there is useful guidance on the websites of the International Organisation of Supreme Audit Institutions (INTOSAI), as well as the European Court of Auditors (ECA). INTO-SAI has published implementation guidelines⁽²⁵⁾, which are the basis of the [ECA's Performance Audit Manual](#). With their focus on effectiveness, efficiency and economy, performance audits serve a similar purpose to evaluations. The ECA's manual usefully distinguishes between the two disciplines, the principal difference being the status of the SAI in holding administrations to account. Unlike financial audit, which follows a standardised methodology, performance audits tailor their methods to the subject under consideration, in accordance with INTOSAI guidelines⁽²⁶⁾.

⁽²³⁾ This is aimed at developing development cooperation, but interesting nonetheless.

⁽²⁴⁾ [Sourcebook on Results Based Management](#), pages 179–182

⁽²⁵⁾ ISSAI 3000 Implementation Guidelines for Performance Auditing: Standards and guidelines for performance auditing based on INTOSAI's Auditing Standards and practical experience and ISSAI 3100 Performance Audit Guidelines – Key Principles.

⁽²⁶⁾ *"Performance auditing is not overly subject to specific requirements and expectations. While financial auditing tends to apply relatively fixed standards, performance auditing is more flexible in its choice of subjects, audit objects, methods, and opinions. Performance auditing is not a regular audit with formalized opinions, and it does not have its roots in private auditing. It is an independent examination made on a non-recurring basis. It is by nature wide-ranging and open to interpretations. It must have at its disposal a wide selection of investigative and evaluative methods and operate from a quite different knowledge base to that of traditional auditing. It is not a checklist-based form of auditing"* (INTOSAI Performance Audit Guidelines, ISSAIs 3000, 1.2).

Evaluation v performance audit

Both activities involve the examination of policy design, implementation and application processes and their consequences to provide an assessment of economy, efficiency and effectiveness, coherence, relevance and impact of an entity or activity. They require similar knowledge, skills and experience and involve similar methods for collecting and analysing data. The main difference is the context in which they take place and the purpose of each. Performance audit is superimposed on an accountability framework, which implies that the Commission and other institutions and organisations concerned are held responsible for the management of EU policy instruments and should provide meaningful and reliable information to demonstrate performance and take responsibility for their actions in light of agreed objectives. Performance audits are carried out by auditors who maintain their independence to select and determine the manner in which to conduct their work, and report the results to the discharge authority (European Parliament acting on the recommendation of the Council). It is therefore not the purpose of the Court's performance audits to deliver comprehensive evaluations of all EU activities. This is the responsibility of the Commission, Member States and other managers of EU activities. However, performance audits will usually include evaluative elements of selected subjects and consider evaluation systems and information with a view to assessing their quality and, when they are considered to be satisfactory and relevant, use evaluation information as audit evidence.

Source: *European Court of Auditor's Performance Audit Manual*

In accordance with INTOSAI guidelines (ISSAI 3000, 2.1), “the mandate of performance auditing should cover the state budget and all corresponding government programmes. The auditor must be free to select audit areas within its mandate. Political decisions and goals established by the legislature are the basic frame of reference. A performance audit may, as a result of its findings, question the merits of existing policies. Performance audits are in general ex post audits that deal with current issues. High levels of quality in the work must be promoted and secured.”



At the heart of the monitoring system are **performance indicators**. These can be ei-

ther quantitative or qualitative, depending on the nature of the indicator (or ‘metric’). The indicators that are considered to be the most important are often called ‘key performance indicators’ or KPIs. As the COP RBM has highlighted in its Sourcebook, different terms are used for indicator types by various organisations (including the EU and OECD⁽²⁷⁾), and hence the following is a guide for common understanding on terms in the rest of this section.

Type	Brief description
Inputs	These are the resources used in the policy, programme, project, service or organisation, whether financial, human, material, or technological. In practice, this indicator is often shown simply in price/cost terms (the amount spent on activities).
Outputs	These arise from the activities of the policy, programme, project, service or organisation and are deliverables (such as products, services, buildings and infrastructure). Monitoring and evaluation should consider not just the existence of the output, but its quality, characteristics, functionality, and timeliness too.
Results	These are the direct changes that are brought about by the activity. For example, if the output of the activity ‘rehabilitate railways’ was 50km of track re-built, then the immediate benefits might be measured as higher design speed and/or higher maximum load, faster travel time, more trains using the track or improved safety record which would be the specific / operational objectives.
Impact	These developments in society or the economy that accrue from the results of the activity (corresponding to strategic objectives). Using the railways example, the impact might be better socio-economic performance, such as GDP, jobs and well-being, but these are harder to link causally to the activity and its outputs.
Context	These are variables in the wider socio-economic environment that can have an exogenous effect on the inputs, activities, outputs, results and impacts.

⁽²⁷⁾ For example, OECD refers to ‘results’ in the table as ‘outcomes’, and sees ‘outputs, outcomes and impact’ as three levels of ‘results’ instead.

A performance indicator may contain around five components for the sake of completeness.

Component	Purpose
Definition	The indicator should be clearly stated, so that there is no ambiguity in the minds of the reader, or indeed the people providing or collecting the information, about its content and meaning. While the indicator may be described in shorthand (such as 'jobs created'), it can include explanations, and if necessary references to official definitions, statistical sources and documents, that the reader can follow to understand fully the use of specific terms (e.g. "‘jobs created’ means the additional employment by beneficiary organisations of persons that undertook the activity supported under the programme and were still in post 12 months after the activity was completed").
Source	Again, the indicator should be clear on how information will be gathered, whether it is quantitative or qualitative. This might involve officially recognised sources (such as Eurostat, national statistics agency, ministry, etc.) or other authoritative source (stakeholder feedback, credible research organisation, academic institution, etc.). It might necessitate an original survey, in which case the methodology must be robust and ideally elaborated at the same time as the indicator is designed.
Timescale	The indicator should be accompanied by a statement of the frequency with which information will be collected and reported, and over what timeframe. In other words, it should state whether the intervals that information will be gathered (e.g. ongoing/real-time, monthly, quarterly, six-monthly, annually, biannually). Depending on the indicator and source, this might be highly specified to reflect publication dates of official data (e.g. "on 15 March and 15 September each year"). The indicator should state 'from when – to when'. For example, it might be appropriate to start gathering information as soon as the activity starts and to stop assessing performance after, say, 3 years.
Baseline	In many cases, the purpose of the indicator will be to track performance over time, in which case the reader needs to know the starting point. Typically, the baseline position will be set out at the same time as the indicator is adopted, so that there is no ambiguity later.
Benchmarks	Whether the comparison is over time or with peer performance (other countries, regions, localities, etc.), it is common to establish 'comparators' as reference points. If the aim is to achieve eventually a certain level or threshold of performance, these benchmarks are usually called 'targets', usually stated with a time by which the target will be achieved (e.g. "in three years" or "by 2020").

Performance indicators are an easy concept to grasp, but harder to **design and operationalise** in practice. Generating indicators raises a number of questions:

- **Does the indicator reflect accurately the objective?** Does it capture what we are trying to do and achieve?
- **Is the information available?** We can try and design the 'perfect' indicator, but can it be measured? Is the cost of gathering information manageable? Does a baseline exist, or is it too late to gather the information to make one? If it is a qualitative indicator, how can we compare it over time or with our peers' performance? Are we falling into the trap of designing indicators around the available data – only measuring the measurable?
- **Is the situation too complex to 'collapse' it into an indicator?** Will it give us a false impression of our performance? Or worse still, by simplifying a complex situation in an indicator, will it push us to emphasise certain elements at the expense of others, potentially contributing to 'bad policy'?
- **Does the indicator really tell us what we think it tells us?** For example, if the indicator is 'number of complaints', does an increase mean that the service is performing worse than before, or that the institution has been successful in becoming more open and welcoming feedback? In the example, is 'number' the best choice of metric – what does it tell you, if the number of service users is also going up, should it be 'percentage' instead and does that tell you much more?

- **Does measuring performance create its own incentives?** Will the presence of an indicator by itself change behaviour: in either a good way (focus implementers on what is most important) or a bad way (concentrate on doing only enough to satisfy the indicator)?

When approaching monitoring and evaluation, a careful choice of indicators is critical, as is their content. This includes decisions on details (e.g. whether ‘number’ or ‘percentage’), but also not relying too heavily on qualitative indicators. The risks of over-simplicity can be compounded if administrations ‘go public’ with their indicators, and expect citizens to judge performance on the outcome. It is almost impossible to design indicators which encapsulate all the dimensions and subtleties of a policy in a single metric, especially those which are behavioural, cultural or otherwise qualitative, and therefore hard to quantify.

There is also the risk of the **observer effect**: the act of monitoring itself changing the performance of the observed (the person or body applying the measure). It is essential that ‘the tail doesn’t wag the dog’: striving to hit targets can end up driving decision-making, potentially distorting priorities, and directing resources into less productive areas at the expense of others. Indicators themselves are not solutions; they are only guides to whether proposed solutions are working.

Targets are one step further - something to aim for, as the name suggests. If they are not hit, the challenge is to understand why the target was missed, by how much, and to alter direction to get closer. In some cases, it may be the target itself that is unrealistic and unattainable, and the sensible response is to adjust or to abandon it, or to embark on a new course of action.

Designing indicators for usefulness
<ul style="list-style-type: none"> • <i>Develop a portfolio of indicators</i> which capture many different aspects of a policy challenge, in order to build up a fuller and more sophisticated picture, while avoiding information overload.
<ul style="list-style-type: none"> • <i>Don't rely on indicators alone to inform you about performance.</i> A more rounded assessment of accompanying indicators with insights into what is happening on the ground. For example, a programme might achieve its goal of laying 50km of highway, but unless the supervising engineer can validate that the road has been constructed to agreed specification and standards, the output will be poor value for money and not built to last.
<ul style="list-style-type: none"> • <i>Above all, emphasise interpretation (step 4) and application (step 5).</i> Indicators should be treated as a management tool for improving governance and the future design of policies, programmes and projects/ services, not an absolute test of validity, given all sort of factors might be in play.



Step 3 is **data collection**. Clearly, how information is gathered will depend on

the source and the frequency with which data can be made available. These factors will be determined when the indicator itself is defined. The frequency may vary from continuous (in the case of price-based input data) to, at the other extreme, once a decade (in the case of a population census, for example); administrations will wish to tend towards regular flows of information for practical reasons. Ideally, all chosen indicators will be capable of monitoring and evaluation at minimum administrative cost. Information that is automatically generated through day-to-day activities, or regularly assembled by official sources (such as statistics agencies, ministries or municipalities) are ideal, but administrations should not be constrained by immediate availability. In some cases, surveys, panels, self-assessments and other forms of original research might be necessary – but the cost will need to be weighed up and the organisation factored into the planning.

The **United Nations Development Programme** has identified innovative approaches to monitoring and evaluation, which include novel and user-centric ways of data collection. These include methods for increased participation of citizens, either di-

rectly such as providing input through SMS reporting or story-telling, or indirectly, with information being collected and analysed remotely and in the aggregate. The example of Italy's OpenCoesione platform and 'monithon' (see [topic 2.2.1](#)) is a prime example of a participatory approach, in this case to monitoring ESIF performance.

Innovations in monitoring & evaluating results

Innovation	Overview
1. Crowdsourcing	A large number of people <i>actively</i> report on a situation around them, often using mobile phone technology and open source software platforms.
2. Real-time, simple reporting	A means to reduce to a minimum the formal reporting requirements for programme and project managers and free up their time to provide <i>more frequent, real-time</i> updates, which may include text, pictures, videos that can be made by computer or mobile devices.
3. Participatory statistics	An approach in which local people themselves generate statistics; participatory techniques are replicated with a large number of groups to produce robust quantitative data.
4. Mobile data collection	The targeted gathering of structured information using mobile phones, tablets or PDAs using a special software application.
5. The micro-narrative	The collection and aggregation of thousands of short stories from citizens using special algorithms to gain insight into real-time issues and changes in society.
6. Data exhaust	Massive and passive collection of transactional data from people's use of digital services like mobile phones and web content such as news media and social media interactions.
7. Intelligent infrastructure	Equipping all – or a sample of – infrastructure or items, such as roads, bridges, buildings, water treatment systems, hand-washing stations, latrines, cook stoves, etc., with low-cost, remotely accessible electronic sensors.
8. Remote sensing	Observing and analysing a distant target using information from the electromagnetic spectrum of satellites, aircrafts or other airborne devices.
9. Data visualisation	Representation of data graphically and interactively, often in the form of videos, interactive websites, infographs, timelines, data dashboards, maps, etc.
10. Multi-level mixed evaluation method	This approach includes the deliberate, massive and creative use of mixed (quantitative and qualitative) methods on <i>multiple</i> levels for complex evaluations, particularly for service delivery systems.
11. Outcome harvesting	An evaluation approach that does not measure progress towards predetermined outcomes, but rather collects evidence of what has been achieved, and works backward to determine whether and how the project or intervention contributed to the change.

Source: UNDP (2013), "Innovations in Monitoring & Evaluating Results, Discussion paper"

Step 4 is **analysing the data**. This is the point at which monitoring and evaluation have



a shared interest. Both instruments are about interpreting information to learn lessons, the main differences being when these reviews take place and by whom. Monitoring can be seen as a form of ongoing, internal, informal 'evaluation' with an operational focus; formal evaluations tend to be external, a more 'static' snapshot, and for strategic purposes.

In both cases, the administration needs to **create the time and space** for reflecting on the findings from performance measurement. With evaluations, this happens as an automatic by-product of the process; by commissioning evaluators, the administration is creating an external stimulus for scrutinising its own performance. Even if it chooses not to publish the product or take on board the recommendations, the very fact of evaluation causes questions to be asked. The same should happen with all monitoring, as a series of 'mini-reviews'. Monitoring can be a regulatory requirement. The challenge is to translate the monitoring mentality into standard public sector practice, and to make the process fit the purpose of day-to-day management, whether of policies, programmes, regulations, projects, services

or organisations. This applies equally to policy management in general or to the particular context of managing ESI funds.

In analysing data, administrations can consider **international governance indices**. These are a form of context indicator, in the sense of describing the global environment in which their policies, programmes, projects, services and organisations are operating, and in some cases constitute exogenous factors (for example, a country's performance on rule of law has an influence on the success of activities to stimulate investment). But they also offer interesting and useful benchmarks for the whole reform process itself. The table overleaf provides an overview of widely recognised indices and reports. The extent to which global indices have mushroomed in recent years is an indicator itself of the growing interest in administrative reform. The fact that recent international studies have featured titles like "Democracy in limbo" (EIU) and "Stuck in transition" (EBRD) is a sign of the pressure on public administrations to deliver good governance.

International experts have been active in producing guidance on how to use these indices, including the OECD's 2006 "[Uses and Abuses of Governance Indicators](#)", the UNDP's 2009 "[User's Guide to Measuring Public Administration Performance](#)" and the Hertie School of Governance's 2014 "[Governance Report](#)".

Governance indices are very valuable, but should be used and interpreted with care, to avoid reading too much into individual numbers without understanding first what lies behind them. In particular, many indices employ a 'league table' style to show the performance of individual countries in relation to others. This is an eye-catching device and can help on the underlying problems, but must be treated with caution. Like all indicators, every index has both its valued features and its flaws. Many are composites, meaning each factor must be weighted, a process which is open to debate (and hence, the authors typically present the methodology and rationale). Moreover, comparative positions of countries will always remain relative: there must be a first and last. While movement up and down the table over the years is an interesting guide to the effect of changes in policy and practice, public administrations are not in competition except with themselves. The prize for improving governance is not promotion to a super-league of public authorities, but better societal outcomes: prosperous economies, cohesive societies, sustainable environments.

Hence, the key is to dig below the headline numbers and 'league' positions, and to pose the following questions:

- What are the factors that explain **our performance**? What are the elements of a composite index that the author has considered? What can we learn from the author's underlying analysis of our policies and practices?
- What are the reasons for **higher-placed countries** showing a relatively better performance? What can we learn from their policies and practices? Is there anything that is transferable?
- If we are showing a better / worse position over time in the 'league table', is this down to changes we have made, or has **everyone** got better / worse? If everyone has got worse, then doing better is no basis for complacency - what else can we improve?

How are we doing? International Governance Indices & Regular Reports

Index	Source	Description
Corruption Perception Index (CPI)	Transparency International	The CPI scores and ranks countries/territories based on how corrupt a country's public sector is perceived to be. It is a composite index, a combination of surveys and assessments of corruption, collected by a variety of reputable institutions. A country/territory's score indicates the perceived level of public sector corruption on a scale of 0-100, where 0 means that a country is perceived as highly corrupt and a 100 means that a country is perceived as very clean. A country's rank indicates its position relative to the other countries/territories included in the index. Ranks can change merely if the number of countries included in the index changes. Annual update.
Democracy Index	Economist Intelligence Unit	The Economist Intelligence Unit's index of democracy, on a 0 to 10 scale, is based on the ratings for 60 indicators grouped in five categories: electoral process and pluralism; civil liberties; the functioning of government; political participation; and political culture. Each category has a rating on a 0 to 10 scale, and the overall index of democracy is the simple average of the five category indexes. Annual update.
Doing Business Indicators	World Bank	<i>Doing Business</i> measures the quality of the business environment. In 2015, the report covers the following categories: 1) Starting a business, 2) Dealing with construction permits, 3) Getting electricity, 4) Registering property, 5) Getting credit, 6) Protecting minority investors, 7) Paying taxes, 8) Trading across borders, 9) Enforcing contracts, 10) Resolving insolvency, and 11) Labour market regulation. The methodology evolves over time; therefore year-to-year performance comparisons might not automatically be meaningful. Data is not based on firm or household surveys but on expert assessments.
Freedom in the World	Freedom House	Freedom in the World is a survey-based annual global report on political rights and civil liberties, composed of numerical ratings and descriptive texts for each country. The report's methodology is derived in large measure from the Universal Declaration of Human Rights, adopted by the UN General Assembly in 1948. Freedom in the World operates from the assumption that freedom for all peoples is best achieved in liberal democratic societies. The report assesses the real-world rights and freedoms enjoyed by individuals, rather than governments or government performance per se. Political rights and civil liberties can be affected by both state and non-state actors. While both laws and actual practices are factored into the ratings decisions, greater emphasis is placed on implementation.
Global Competitiveness Index (GCI)	World Economic Forum	The GCI defines competitiveness as the set of institutions, policies, and factors that determine the level of productivity of a country. It measures 12 pillars of competitiveness, of which, the first pillar concerns the "quality of Institutions". It considers the legal and administrative framework within which individuals, firms, and governments interact to generate wealth. This includes, for example, factors such as: a sound and fair institutional environment, protection of property rights, government attitudes toward markets and freedoms and the efficiency of its operations, in relation to excessive bureaucracy and red tape, overregulation, corruption, dishonesty in dealing with public contracts, lack of transparency and trustworthiness, inability to provide appropriate services for the business sector, and political dependence of the judicial system, the proper management of public finances (pillar 3) and private sector ethics and transparency through the use of standards as well as auditing and accounting practices. Annual Report. The 2014 report covers 144 economies. It is based on a mixture of data sets – both quantitative and opinion survey based.

Index	Source	Description
Government at a Glance	OECD	<i>Government at a Glance</i> provides a dashboard of key indicators contributing to the analysis and international comparison of public sector performance. Indicators on government revenues, expenditures, and employment are provided alongside key output and outcome data in the sectors of education and health. Government at a Glance also includes indicators on key governance and public management issues, such as transparency in governance, regulatory governance, new ways of delivering public services and HRM and compensation practices in the public service. It is published every two years, and covers only OECD members, thus some EU countries are not included (BG, CY, HR, MT, LT, LV, RO).
Prosperity Index	Legatum Institute	<p>The Legatum Prosperity Index offers an insight into how prosperity is forming and changing across the world. The Index is a measurement of prosperity based on both income and well-being. Traditionally, a nation's prosperity has been based solely on macroeconomic indicators such as a country's income, represented either by GDP or by average income per person (GDP per capita). However, most people would agree that prosperity is more than just the accumulation of material wealth. It is also the joy of everyday life and the prospect of being able to build an even better life in the future.</p> <p>One of the eight pillars of the index covers governance. Variables for assessing governance include government stability, government effectiveness, and rule of law, including subcategories of: regulation, separation of powers, political rights, government type, political constraints, efforts to address poverty, confidence in the judicial system, business and government, corruption, government effectiveness, environmental preservation, separation of powers, government approval, voiced concern, confidence in military, confidence in honesty of elections. The annual report covers 142 countries.</p>
Quality of Government (QoG)	Quality of Government Institute, University of Gothenburg	The QoG is a survey with an information data set on the structure and behaviour of public administration. The data is based on a web survey of 1035 experts from 135 countries. The dataset covers different dimensions of Quality of Government, such as politicization, professionalization, openness, and impartiality. The QoG web survey is an ongoing project and data is continuously updated to increase the number of participating experts and the number of countries represented by the survey.
Sustainable Governance Indicators (SGI)	Bertelsmann Foundation	SGI is a platform built on a cross-national survey of governance that identifies reform needs in 41 EU and OECD countries. The SGI brings together a broad network of experts and practitioners aiming to understand what works best in sustainable governance. SGI themes include: <i>Policy Performance</i> – including economic policies, social policies, environmental policies; <i>Democracy</i> - quality of democracy; and <i>Governance</i> - executive capacity, executive accountability

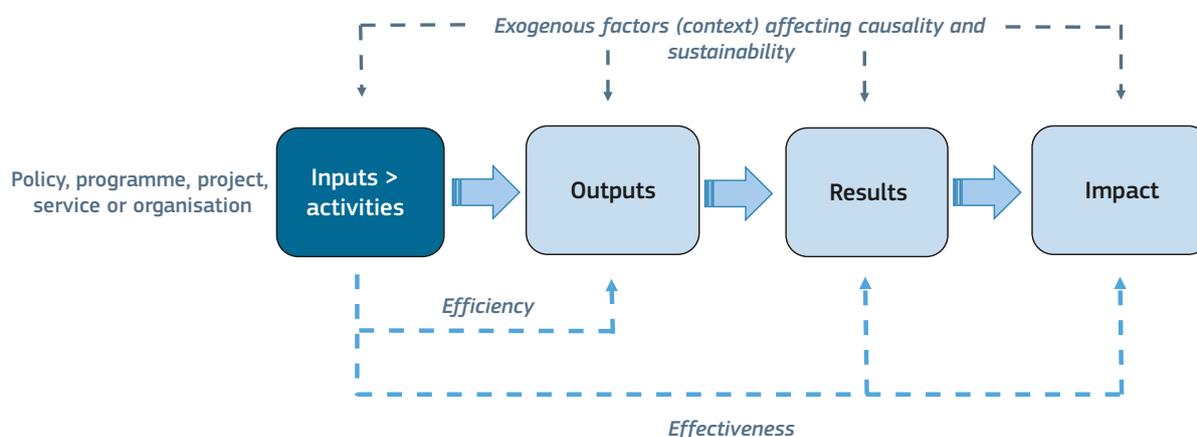
Index	Source	Description
Transformation Index	Bertelsmann Foundation	The Bertelsmann Transformation Index (BTI) is based on 129 country reports. As the focus is on emerging economies only 11 EU countries from the latest accessions are covered (not CY). The BTI analyses and evaluates whether and how developing countries and countries in transition are steering social change toward democracy and a market economy. The BTI aggregates the results of this comprehensive study of transformation processes and political management into two indices: the <i>Status Index</i> and the <i>Management Index</i> . The Status Index, with its two analytic dimensions – one assessing the state of political transformation, the other the state of economic transformation – identifies where each of the 129 countries stand on their path toward democracy under the rule of law and a market economy anchored in principles of social justice. Focusing on the quality of governance, the Management Index assesses the acumen with which decision-makers steer political processes. The BTI is published every two years. The BTI does not cover countries that were members of the Organisation for Economic Cooperation and Development (OECD) by the year 1989. The Transformation Index is based on a qualitative expert survey in which written assessments are translated into numerical ratings and examined in a multi-stage review process so as to make them comparable both within and across regions. Assessed variables include: I. Democracy: 1 Stateness, 2 Political Participation, 3 Rule of Law, 4 Stability of Democratic Institutions, 5 Political and Social Integration; II. Market Economy, 6 Level of Socioeconomic Development, 7 Organisation of the Market and Competition, 8 Currency and Price Stability, 9 Private Property, 10 Welfare Regime, 11 Economic Performance, 12 Sustainability; Transformation Management: I. Level of Difficulty, II. Management Performance: 14 Steering Capability, 15 Resource Efficiency, 16 Consensus Building, 17 Internal Cooperation, Strategic Outlook
Transition Report	European Bank for Reconstruction and Development	The <i>Transition Report 2013</i> looks into the relationship between transition and democratisation, the scope for strengthening economic institutions, the state of human capital in the transition region, and the inclusiveness of economic systems. Of the EU countries, it only covers the member States of the 2004 and 2007 accessions.
WJP Rule of Law Index	World Justice Project	The WJP Rule of Law Index offers a detailed, multidimensional view of the extent to which countries adhere to the rule of law in practice, and is the most comprehensive index of its kind. To date, over 100 000 citizens and experts have been interviewed in 99 countries. Index findings have been referenced by heads of state, chief justices, business leaders, public officials, and the press, including cites by more than 500 media outlets in nearly 80 countries. The Index measures the rule of law using 47 indicators organised around eight themes: constraints on government powers, absence of corruption, open government, fundamental rights, order and security, regulatory enforcement, civil justice, and criminal justice. More than 500 variables are computed to produce these indicators for every country.
Worldwide Governance Indicators (WGI)	World Bank Institute	The WGI project reports aggregate and individual governance indicators for 215 economies over the period 1996–2013, for six dimensions of governance: Voice and Accountability; Political Stability and Absence of Violence; Government Effectiveness; Regulatory Quality; Rule of Law; Control of Corruption. These aggregate indicators combine the views of a large number of enterprise, citizen and expert survey respondents in industrial and developing countries. They are based on 32 individual data sources produced by a variety of survey institutes, think tanks, non-governmental organisations, international organisations, and private sector firms.

Some indices use the difference in position between individual countries and ‘best in class’ to show the **distance** that the country still needs to cover. This concept of a journey is helpful, as long as contextual factors are also taken into account, because it focuses on the absolute improvements that are needed in the administration under consideration, and in which areas.

As a feedback mechanism, monitoring is invaluable in steering policies and programmes towards success, but sometimes more in-depth explanations are needed for what is happening and why. For **more fundamental reviews** of plans and performance, one step removed from implementation, public administrations should engage in evaluation, drawing on monitoring data where it is available, and conducting original research (interviews and surveys) where it is not. Both evaluation and performance audit have efficiency and effectiveness as core concepts, but also take account of the sustainability of policy outcomes.

Ratio	Key questions
Efficiency	How well have the various inputs and resources (funds, expertise, time, etc.) been converted through activities into expected outputs? Could the same outputs have been achieved at lower cost, or better outputs for the same cost?
Effectiveness	To what extent have the objectives (specific / operational and strategic) been achieved or are expected to be achieved? Have the interventions and instruments used produced the desired outcomes (results and impacts), or could better effects be obtained by using different instruments?
Sustainability	Are the policy outcomes (including institutional changes) durable over time? Will they continue if there is no more public funding? How resilient are they?

The relationship between inputs, outputs, results and ultimate impact is illustrated below:



Evaluations and performance audits should also consider **causality** and the **magnitude** of effects. This is about assessing the extent to which policy interventions create the expected effects, or whether there are other exogenous factors which influence outcomes and led to unintended consequences. This has two components: contribution and attribution.

Factor	Key questions	Analysis
Contribution	Is the intervention in fact one of the causes of observed change?	Rank the assessed intervention among the various causes explaining the observed change
Attribution	What proportion of the observed change can really be attributed to the evaluated intervention?	Build a counterfactual scenario: what would have happened without the intervention?

For an example of using counterfactuals, please see employment programme innovation practised in Denmark using randomised controlled trial experiments ([topic 1.3.3](#)).

Step 5 of the process is **action**. Ultimately, there is no merit in monitoring, evaluation or audit unless it has an effect on performance.



If there is deviation from the plan, which might be positive or negative, the point is to understand why and to make adjustments (or not) in either the policy, programme, project / service or indeed the plan itself, to achieve the objective.

This starts with **reporting**: the format in which performance information is presented should be appropriate to the target audience, which includes management, but often external audiences too, including politicians and the public. This may require different styles and levels of detail.

Evaluations can have limited impact on policy-making, either because: their timing is out of step with the policy process (the findings arrive too late to influence policy design); there are conflicts of interest (the same staff that designed the policy do not supervise or conduct its evaluation sufficiently objectively); the recipients are not interested or incentivised to learn lessons from the past; or they are simply not commissioned in the first place. The independence of performance audits is one of their key strengths, although this can also be a weakness if their timing is uncoordinated with the policy process, in which case the public administration's main concern can be defending past decisions, rather than focusing on the future. The following table sets out some potential answers to these weaknesses.

Challenge	Solution
Evaluation are not a systematic part of the policy process	<ul style="list-style-type: none"> Introduce a law or code of conduct which commits the administration to evaluate policies and programmes, subject to the expected benefits exceeding the costs; Publish an annual evaluation plan, which sets out the priorities for evaluations over the coming year with clear timetable.
Evaluation is not sufficiently impartial	<ul style="list-style-type: none"> Ensure the conditions to apply to constrain any possible attempts to produce a pre-determined outcome; Request the SAI to audit the evaluation process.
Evaluation findings are ignored	<ul style="list-style-type: none"> Pre-commit through a law or code of conduct to publish all evaluation findings on a website; Introduce 'real-time' monitoring including evaluation elements, to be conducted in parallel with implementation and application and hence have a greater chance of influencing ongoing policy development.

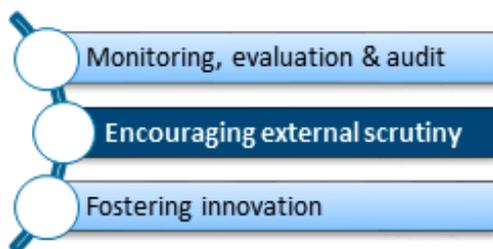
The evaluation process itself can be used to take forward **organisational learning**, by involving the public administration in its preparation and implementation, not just as the recipient of the report(s). This is where it is very important to build capacity within the administration to plan and oversee evaluations, and use the findings (see also [topic 7.3.3](#) on working with consultants).

In addition to formal evaluations, **peer reviews** (including 'gateway reviews'⁽²⁸⁾) can be valuable in drawing on the knowledge of expert practitioners - independent from the process - in short, focused inputs to strengthen policy design and implementation. Another alternative to evaluation being organised solely by governments is **co-evaluation**: the active involvement of stakeholders in evaluating public policy and programmes, as exemplified by Italy's pilot 'Civil Evaluation' (see [topic 4.5](#)), which has the innovative aim of promoting wide collaboration between

⁽²⁸⁾ Conducted at key stages in the implementation of a programme or project.

public administrations and citizens (users) in assessing public services. The principles underlying this case study are explored further in the context of customer satisfaction of service delivery.

1.3.2. Encouraging external scrutiny



The transparency of government helps to stimulate policy development in public administrations, much in the same way that competition entices enterprises to find better ways to satisfy customers' needs, through external pressure. **Parliaments and assemblies** have the principal role in holding governments to account at all levels, aided by SAIs, independent regulatory bodies, and Ombudsmen that conventionally report directly to them. They channel the views of the elec-

torate and ensure that their expectations have an outlet.

Other institutions outside of the public sector also play essential roles. An **independent and investigative media** may not always be welcomed by governments, but it provides a window into the workings of public administrations and a source of scrutiny that drives up the standards of government and is especially valuable in putting ethics and integrity in the spotlight. Through discourse and dissent, the media provides a 'safety valve' that is vital for political stability and economic prosperity.

Similarly, the 'third sector' of **civil society organisations (CSOs)** provides a voice to local communities and interest groups, with a combination of campaigning energy and expertise, often in specific policy domains, such as environment, enterprise, etc. Civil society is highly heterogeneous, covering everything from humanitarian aid to lobbyists and think tanks, business associations to trade unions to educational bodies, and active in all the fields in which both the public and private sectors are also present. What CSOs have in common is two 'negatives': not being part of the government and not distributing profit to their members. However, while any surpluses are retained to reinvest in activities, the reality is that CSOs frequently experience financial insecurity, being dependent on donations and project funding. As few CSOs have the scale to operate at national or international levels, most tend to remain small and localised, leaving the sector fragmented, fragile and constantly facing an uncertain future. This is where public administrations can intervene to good effect, while preserving the CSO's independence. While many CSOs rely on ESIF funding for their project-based finance (see [theme 7](#)), there is also the option of **core funding** from national budgets voted by parliaments.

The ongoing focus on finding funds distracts many CSOs from pursuing their primary objectives, but weaknesses in governance structures and coordination can also play their part. The sector is sometimes characterised more by competition over scarce resources than cooperation over a shared vision, making the CSO community reactive to the public administration's agenda, rather than anticipating and advocating change. Inadequate networking among CSOs can undermine their effectiveness and miss the opportunity to engage better with businesses and citizens over common causes. Some public administrations have reached out to representatives of the CSO community, to better understand their development needs and to formalise their advocacy role in an advisory capacity with **standing committees**, such as Croatia's Council for Civil Society Development (CCSD), whose members are elected by NGOs.

Inspiring example: Fostering structured civil dialogue (Croatia)

Developed as the most important institutional mechanism for civil dialogue, the Council for Civil Society Development (CCSD) aims at involving wider civil society in the shaping of public policies in Croatia. Given the difficulties most governments face when trying to set criteria for identifying and nominating civil society representatives (CSRs), the procedure for the election of CSRs is an example of good practice, with a great potential for replication in other countries.

The CCSD was established in 2002 as an advisory body, providing a forum for direct and formal dialogue between government bodies and civil society. It is composed of 31 members:

- 15 representatives of government bodies;
- 16 representatives of civil society organisations, namely: 13 representatives of NGOs/citizens' associations, elected by NGOs themselves through public elections; one representative of trade unions, nominated by the coordination of trade union federations; one representative of employers' associations, nominated by the Croatian Union of Employers; and one representative of foundations, nominated by Croatian Network of Foundations;

The CCSD is based on the notion of openness and inclusion as drivers to a more efficient and transparent public administration. The idea is to achieve structured co-operation between public administration and civil society, as well as creating the conditions for sustainable development. In line with the actual problems, i.e. the lack of a structured dialogue and the social doubts about the transparency within public administrations, the introduction of the CCSD brought a new dimension to the system. The Council enables regular and valuable exchange of opinions, know-how and experience between the representatives of different sectors, contributing also to building mutual trust and understanding.

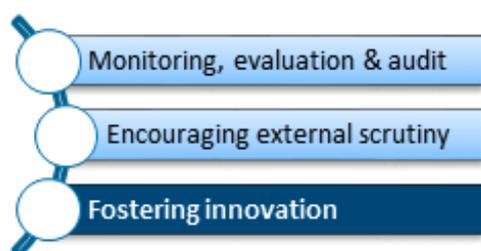
Members of the Council representing NGOs (as the most numerous and diverse actors of civil society) are elected by NGOs themselves through a transparent and democratic procedure, on the basis of a public call for nominations and public call for voting for eligible candidates. The two stage procedure of electing Council members begins with a public call for nominations widely disseminated and published in all media. NGOs nominate candidates solely for the area in which they operate, taking into account that every NGO or a formal network or association of NGOs can nominate only one candidate for member and substitute member of the Council. Nominations are sent by post using a standard nomination form with a set of required supporting documents. The expert commission checks the eligibility of candidates and establishes the list of candidates with valid nominations, which is published on the website of the Office for Cooperation with NGOs. After that, a public call for voting for eligible candidates is published on the Office website and NGOs vote for eligible candidates submitting a standard voting form available on the Internet by regular post, respecting the principle that one organisation can vote only once. Finally, the expert commission (nominated by the previous Council) proceeds to counting votes, and those candidates with the largest number of votes are proposed to be appointed members and substitute members of the Council by the Act of the Government of the Republic of Croatia. For the purpose of ensuring transparency, detailed information on all valid and invalid votes by candidates is available on the Internet. In addition, all organisations are able to access all supporting documentation and check the validity of votes sent by post, which contributes to the transparency of the process.

At the 2010 CCSD elections, 787 NGOs sent their voting ballots for candidates for the council members (and substitute members) in different sectors, showing a high level of concern and interest in who represents the civil society and what kind of expertise will be added to this advisory body of the Croatian Government.

The CCSD's work is well complemented by the activities of the Government Office for Cooperation with NGOs (founded in 1998) and the National Foundation for Civil Society Development (established in 2003). These three institutions form a three-pillar framework for creating a more enabling environment for civil society development in Croatia. The role and importance of the CCSD has been continuously growing over the past 12 years. Its contribution has been additionally recognised in regard to ensuring participatory programming of EU funds, improving standards of public funding for CSO programmes, as well as developing the normative framework for public consultations on new draft laws, other regulations and acts. The widespread acceptance and positive reviews of its work show the great potential for the CCSD to contribute towards more open, participatory and collaborative approaches to public policy-making across the Croatian public sector.

For further information: Igor Vidačak, Head of the Office, info@uzuvrh.hr

1.3.3. Fostering innovation



Innovation is central to achieving the goals of [Europe 2020](#) – and public administrations are pivotal to stimulating innovation. The public sector is directly responsible for around one-third of all research and development (R&D) in Europe, as well as ensuring and enforcing the right regulatory environment for private R&D, through patenting and protecting intellectual property rights. Through public funding, governments have driven the development and demonstration of key technologies,

such as renewable energy sources, biotechnology and nanotechnology, at the early stages when the returns are too long-term and the risks too high for private investors. Through the state's role in funding healthcare, education, defence and infrastructure, public procurement offers considerable leverage over private innovation in high technology industries, such as pharmaceuticals, ICT, aerospace, transport, energy and environment (see also [topic 7.2.4](#)). The role of innovation within public administrations is equally important in improving services, strengthening productivity, and bringing new thinking to old problems.

Making the case for public sector innovation

In addition to the public sector's role in catalysing innovation in the wider economy, there is an urgent need to power innovation within the public sector itself in order to unlock radical productivity improvements and efficiency gains, to foster the creation of more public value and a better response to societal challenges. Innovation in the public sector ... can be defined as the process of generating new ideas and implementing them to create value for society, covering new or improved processes (internal focus) and services (external focus). It takes on a variety of forms, ranging from smarter procurement, mobilising new forms of innovation financing, creating digital platforms and citizen-centric services, as well as driving a new entrepreneurial culture among public managers.

Source: European Commission, Directorate-General for Research and Innovation (2013), Powering European Public Sector Innovation, Towards A New Architecture, Report of the Expert Group on Public Sector Innovation.

Statistics indicate that the demand for public services in many advanced countries is growing faster than the rest of the economy – a trend started before the onset of the recent global financial and economic crisis, and the resultant fiscal deficits.⁽²⁹⁾ To reduce indebtedness, the public sector is subject to major budgetary constraints, but the expectations of public services have never been higher. Innovation is vital for increasing public sector efficiency (value for money, better for less) and for delivering new and better quality services. In fact, innovation in public sector organisations can be defined even more broadly, as comprising **seven dimensions**:⁽³⁰⁾

Type	Clarification
Product	Developing new or enhanced products, such as electronic ID cards, better laws and smarter regulations.
Process	Re-designing organisational processes to improve their performance and efficiency, such as lean production, reorganisation of back-office processes, etc. (see theme 4)
Service	Discovering new ways to provide public services to citizens and businesses, such as through smartphones, social media, co-delivery, etc. (see theme 4 and theme 5)
Position	Identifying new contexts or 'customers' for public services, and increasing the tailoring and targeting towards specific groups and individuals, such as offering personalised online services through MyPage, or repositioning the relationship between government and immigrants
Strategic	Defining new goals or purposes for the organisation, such as the role of public sector in the sustainability and social responsibility debate.

⁽²⁹⁾ See Mulgan, G. (2007) "Ready or not? Taking innovation in the public sector seriously", NESTA; and Kelman, S. (2008) "The 'Kennedy School' of research on innovation in government", pp28-51 in Borins, S., (ed.) (2008) "Innovations in government: research, recognition and replication", Brookings Institution

⁽³⁰⁾ See also Hartley, J. (2005) "Innovation in governance and public services: past and present", Public Money and Management, 25:1.

Type	Clarification
Governance	Finding new forms of citizen engagement and democratic institutions, such as area forums, e-Participation, devolved administration, etc.
Rhetorical	Introducing new language and concepts into public administration, such as the concept of 'congestion charging' in city centres, or 'nudging' to influence the behaviour of citizens and businesses to achieve policy goals.

The stimulus for innovation can come from different sources, and can be policy-driven, organisation-driven, professional-driven or user-driven. Unfortunately, evidence suggests that public sector innovation today mostly happens through *ad hoc* and uncoordinated initiatives, rather than as a result of deliberate and systematic efforts.⁽³¹⁾ The European Commission's Expert Group on Public Sector Innovation has identified **internal barriers** which hold back public administrations from becoming more innovative in four broad categories:⁽³²⁾

Obstacles to innovation	Challenges
Weak enabling factors or unfavourable framework conditions	Public sector organisations face structural obstacles (scattered competences, ineffective governance mechanisms, and diverse legal and administrative cultures), resource constraints to develop and deploy staff and to finance roll-out, and inadequate coordination within and across organisations to share, spread and scale-up successful initiatives.
Lack of innovation leadership at all levels	Ultimately, innovation is down to individuals. Public administrations need leaders that can envisage and manage change at all levels: politicians, top civil servants, mid-level managers, policy advisers, front-line staff, etc. However, the public sector can be slow to recognise and reward innovation, tending to prefer caution (avoiding failure) to creativity (finding new paths to success). Rigid rules and risk-averse managers can discourage staff and stifle the diffusion of innovative ideas.
Limited knowledge and application of innovative processes & methods	To move from theory to practice, innovation needs access to capabilities (systems, skills, tools and methods), which is often absent, and collaboration (with other parts and levels of government, businesses, citizens and third sector organisations) which needs to be nurtured.
Insufficiently precise & systematic use of measurement and data	Public administrations are constrained in pursuing innovation by inadequate information on sources of new and improved products, processes and services, and monitoring data to sell the benefits for policy outcomes.

By its nature, there is no blueprint for innovation: do A, get B. Tomorrow's innovations are unknown, otherwise they would be today's. The main challenge for the public sector is to engineer the conditions and the climate for creativity to flourish. This is about **organisational culture** and can only happen with the acquiescence of the top leadership (politicians and senior management), communicated to all levels and units, and backed-up by systems and day-to-day experiences. Innovation can be embedded into institutions, if employees are encouraged and enabled to act as public sector 'entrepreneurs'.

⁽³¹⁾ European Commission, Directorate-General for Research and Innovation (2013), Powering European Public Sector Innovation, Towards A New Architecture, Report of the Expert Group on Public Sector Innovation, p.5

⁽³²⁾ Op cit.

Entrenching innovation in organisational values

An organisational culture that supports innovative working encourages risk taking and the exchange of ideas; promotes participation in decision-making; has clear goals and rewards for innovation; and provides psychological safety in relation to idea generation. The evidence shows there to be clear sector differences. Further, innovation behaviours, such as challenging current thinking and non-conformity, in one organisation, may manifest differently in another.

Our survey results confirm that organisations that actively promote and reward innovation are most effective at bringing about innovation. For example providing ‘individual and team incentives or reward programmes that encourage innovation’ and having ‘work time devoted to developing new ideas’ were listed as among the most effective initiatives for facilitating innovation. Evidence from our interviewees also reflects the literature findings. In order to flourish, innovation must be entrenched as one of the core values of the organisation and the organisational objectives must be visibly aligned with those values.

“Culture and history are the main catalysts. The view that innovation is the right way forward for the business occurs from the top down and it has been engrained in the company since its formation, over 170 years ago. It is absolutely true that innovation is the lifeblood of the organisation” (Mike Addison, Open Innovator, Procter & Gamble). “P&G now also augments its internal innovation by constantly striving to create and nurture an organisational culture that is always looking externally for solutions and is proudly championing the adoption of ideas found elsewhere. We believe that the customer is the boss, and we constantly strive to make products more relevant – using the best ideas, regardless of their origin to achieve this”.

Different challenges in developing a culture to support innovation are observed across sectors and organisations. For example, one interviewee in local government suggested that middle to senior managers are the key to thinking creatively and having the confidence to move forward with new ideas. “The culture is risk adverse in the organisation, the community and the press. Many councils may have a political dogma with [political] members in place for many years – their response is often, ‘we’ve been so successful in the past why change?’ Innovation to them sounds risky. Changing culture is about influencing member’s innovativeness as well as the employees of the council.” (Martin Collett, Head of Organisational Development, Tameside Metropolitan Borough Council).

Source: Extracted from Nesta (2009), “Everyday innovation: How to enhance innovative working in employees and organisations”, <http://www.nesta.org.uk/publications/everyday-innovation>

The aim should be an atmosphere in which it is accepted – and expected – that public servants can think laterally and radically about problems and policy solutions. They should be able to put forward their ideas internally, without inhibition. The policy-making process still needs to be evidence-based and rigorous, with robust options appraisal (see [topic 1.1](#)). But staff should be actively encouraged to challenge conventional wisdoms, question the assumptions that underlie how things are done currently, and not accept existing paradigms at face value. A good place to start is objectives and outcomes: what does the beneficiary want and how can we help them to achieve it?

In a sense, this makes the creative process a **form of ongoing ‘internal consultation’**. When public bodies plan to go outside to consult citizens, businesses and other organisations on their policies and programmes, they have *unlimited* expectations of the reaction they might receive. Some of the ideas from beneficiaries might be very insightful and open up whole new avenues of thinking to be explored, for example, while others might add little value and can be discarded quickly. For external consultations, public administrations can frame the discussion with their choice of questions, but they cannot control the feedback, only their response to it, irrespective of whether the format is a survey, a focus group, an SME panel, a public hearing, or a suggestions box (see [theme 4](#)). All invited views are valid, but must be screened against the criteria of what is achievable and desirable, and a decision taken on next steps. The same principle should apply to ‘internal consultations’, but on a continuous basis. This does not mean that permanent revolution serves the public interest: it takes time for adopted innovations to be implemented and intended beneficiaries to adjust to them, in order to give change a chance.

Public administrations can create the mechanisms for ‘innovation through internal consultation’ through **systems** for both structures and staffing:

Mechanism	Challenge
Structures	<ul style="list-style-type: none"> Nominate ‘innovation champions’ or ‘innovation coordinators’ across the administration to campaign for innovation, to encourage fresh ideas and to spot new practices (products, processes, services, etc.) that can be disseminated across the organisation and into other public bodies.
Staffing	<ul style="list-style-type: none"> Encourage and incentivise innovation by targeting creative talent through recruitment, staff development, performance appraisal and bonus payments, and integrating innovation as a competence into profiles and frameworks (see theme 3).

Some Member States have sought to institutionalise innovation by creating **dedicated units** (like the foresight ones under [topic 1.1](#)) with a specific agenda to think creatively, and to act as an advisory body within the administration. Denmark’s MindLab is a high profile example (see [topic 1.1](#)). The UK’s Behavioural Insights Team (or ‘Nudge Unit’ as it is known) is another example of creating a unit that is tasked with thinking ‘outside the box’ - in this case on how behavioural sciences can be employed to incentivise certain policy outcomes. The aim is to understand how individuals take decisions in practice and how they are likely to respond to options. These insights are then employed to design policies or interventions that can encourage and enable people to make better choices for themselves and society.

Inspiring example: Behavioural Insights Team (UK)

Governments have always used a wide range of tools to achieve policy objectives. ‘Traditional’ tools, including legislation, regulation or fiscal measures (tax and spending) have been used throughout history to provide incentives to people to behave in certain ways. Many of the most dramatic improvements in the quality of life of British citizens have resulted from the use of instruments of this kind. The background thinking here is that many of the most pressing policy issues we face today are equally influenced by how we, as individuals, behave. We can all cite instances in which we know we should act differently in our own self-interest or in the wider interest, but for one reason or another do not. The traditional tools of Government have proven to be less successful in addressing these behavioural problems. We need to think about ways of supplementing the more traditional tools of Government with policy that helps to encourage behaviour change of this kind.

The Behavioural Insights Team, often called the ‘Nudge Unit’, has been established to do just that, by applying insights from academic research in behavioural economics, psychology, and social anthropology to public policy. It is a small team of 13, with backgrounds in academia (behavioural sciences and experimental methodology), policy-making and marketing. Starting life inside the UK Prime Minister’s Office, the Behavioural Insights Team is now incorporated as a social enterprise with three owners: the employees, the UK government, and Nesta (the UK’s leading innovation charity) as the winners of a competitive process to become the team’s joint venture partners.

Behavioural insights interventions are usually simple, highly cost-effective, and often yield surprising results. For example:

- ✓ Automatically enrolling individuals on to pension schemes has increased saving rates for those employed by large firms in the UK from 61 to 83%;
- ✓ Informing people who failed to pay their tax that most other people had already paid increased payment rates by over five percentage points;
- ✓ Encouraging jobseekers to actively commit to undertaking job search activities increased their chance of finding a new job;
- ✓ Prompting people to join the Organ Donor Register using reciprocity messages (‘if you needed an organ, would you take one?’) adds 100 000 people to the register in one year.

The Behavioural Insights Team has a methodological approach with four discrete steps. We begin by defining the outcome we want to see – whether it is more people back in to work; more people saving for a pension; or fewer people failing to pay their tax on time. The next step draws on ethnography to understand better how individuals experience the service or situation in question. This understanding allows us to move to the next stage: building new interventions to improve outcomes. During this third phase, we draw explicitly on our own MINDSPACE and

EAST frameworks, as well as relevant academic studies. Finally, we test and trial our interventions, often using randomised controlled trials that enable us to demonstrate how effective the new intervention is relative to the old way of operating. Our paper ‘Test, Learn, Adapt’ sets out nine steps for running randomised controlled trials. This four-part methodology enables us to identify what works and what can be scaled up, as well as what is less likely to be effective.

- ✓ Define your outcome
- ✓ Understand the context
- ✓ Build your behavioural insights
- ✓ Test, learn, adapt

We continue our programme of work with No.10 and the Cabinet Office and currently have a two year programme of work with the Government of New South Wales, supporting them to put in place a behavioural insights team which is testing interventions that have previously proved highly successful in the UK. We are working with Jobcentre Plus, the Department for Energy and Climate Change, the Department for Business, Innovation and Skills, the Metropolitan Police, and numerous other organisations in the UK and overseas to develop and test new interventions that draw on insights from the behavioural sciences. In addition to providing workshops for central Government departments and Local Authorities, we have supported the United Nations Development Programme, UNICEF, the World Bank, the Government of Singapore and numerous other organisations that have wanted to understand better how they can draw on insights from the behavioural sciences to help them deliver more efficient and effective services.

Source: <http://www.behaviouralinsights.co.uk/about-us>

The ‘Nudge Unit’ works in partnership with an array of bodies, which is essential to maximising the influence and impact. Apart from the obvious advantages of a concentration of expertise on tap, it is not necessary to create specialist units to achieve this type of cooperation and co-creation. The Netherlands’ Smarter Network is an alternative model which seeks to **connect public servants with innovative ideas** from across all levels and territories of the Dutch public administration.

Inspiring example: The Smarter Network (The Netherlands)

The main goal of ‘The Smarter Network’ (in Dutch, het slimmer network) is to connect networks of innovating professionals throughout the public sector, and to design support structures and learning programs that help them increase their innovative capacity. As a secondary goal, Slimmernetwerk has been used as an object of research on the question: to what extent can bottom-up innovation stimulate the innovative capacity of professionals and organizations, as a mean to improve public value creation?

In practice, the network is organised through a set of activities and approaches:

- An online information knowledge-hub that serves the community (www.slimmernetwerk.nl);
- A ‘doetank’: an iterative innovation approach, consisting of several fixed steps that will guide small interdisciplinary groups of professionals through the process of multi-stakeholder problem defining, through in situ experimenting and reflection, to implementing. Doetanks are assisted by coaches, gatekeepers (to safeguard progress) and supported by high commissioners from government, science and society;
- Smarter Network Cafés (Slimmernetwerk Cafés): meetings aiming to support the community in terms of physical meeting, stand-up inspiration and the connection of Doetanks to networks; and
- A LinkedIn discussion group named ‘slimmer werken in de publieke sector’ (smarter working in the public sector) to share knowledge, thoughts and connect participants online.

The 4-year programme underlying the network is in its final stage. It is highly expected that some organisations within government will adopt the network and some of its activities in some form.

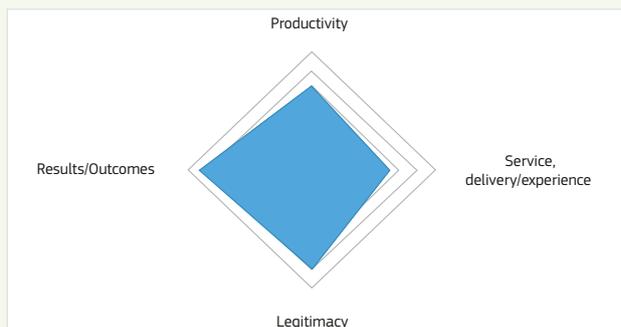
For further information: Adri Stet, Senior Policy Advisor, Ministry of the Interior and Kingdom Relations, adri.stet@minbzk.nl; Thomas van Andel, Kennisland Foundation, ta@kl.nl, www.kl.nl

The proof of innovation is its **application**. ‘Nudging’ (using behavioural insights) has been employed by specific agencies of government to help businesses comply more easily with regulatory obligations as illustrated by the Danish Business Authority (DBA). In the example below, the DBA - among other things - is helping enterprises avoid errors in the submission of annual reports and to check the quality of their business data in a user-friendly manner.

Nudging (Denmark)

‘Nudging’ is one of the newest tools used by the Danish Business Authority (DBA) in attempting to create the best conditions for growth of business in Europe, and to make it easy and attractive to run a business. By using behavioural insights, we develop new ways of identifying burdens and creating solutions. Using nudging as a tool combines using trials (preferably randomised control trials) and data analysis with knowledge of behaviour. The nudging tool is primarily used in the context of better regulation and is often combined with more qualitative research focused on identifying the behavioural patterns that might create inopportune outcomes for businesses as well as for the Danish Business Authority. In particular, we use nudging to tackle situations where businesses unwittingly follow a behavioural pattern that leads them to make mistakes, which are not intentional.

The DBA has run a number of initial trials that have showed that nudging is a relevant tool for tackling diverse issues ranging from getting businesses to discover services that the authority provides to getting more businesses to turn in their annual report correctly. Going forward, the DBA will run even more initiatives that will focus on improving businesses take up of growth programmes and on improving registration systems to relieve burdens and boost case management.



When developing nudging initiatives, we address a number of different ‘bottom lines’ at the same time. These are: productivity; service delivery/experience; results/outcomes; and legitimacy/rule of law (see ‘burden hunter’ case study in 1.2.1 for definitions of terms). We have found that more often than not new solutions can create an impact on several bottom lines simultaneously and can actually work for both businesses and for the relevant authority. What is important with the four bottom lines is, however, that not all projects necessarily will give positive results on all four and that an initiative should not give

unintended negative results on any of the four bottom lines. The objective of a nudge initiative must always be to make the area in the spider web bigger, not smaller.

The following examples show that it is possible to create nudge solutions that benefit both business and the DBA, thus, without it, incurring extra expenses for the businesses or the DBA itself. The lessons learned can be reused across other areas where the DBA is charged with quality control and where newly digitised data gives us the opportunity to nudge to avoid specific mistakes:

- A marked improvement in annual reports submitted to the DBA via a digital solution: All Danish businesses are required to send an end-of-year financial report. There are, however, different requirements regarding the amount of information required, based on the type and size of the business. DBA targeted the smaller businesses that have relatively uncomplicated annual reports and use the so-called “Regnskab Basis” digital solution, which involves: creating a draft of the annual report in Regnskabs Basis; printing out the information; getting the management and board to approve and sign off the annual report (if required, the accountant has to sign off as well); and getting approval of the report from the general meeting of the involved partners. The person charged with reporting controls the draft and makes sure the information is identical to what has been approved, but there is a tendency to create the draft of the annual report after the general meeting, which indicates that the submitted report is not necessarily identical to the one approved by the management and board. In 2013, 20 000 annual reports (under the responsibility of around 5 000 different individuals - in many cases, company accountants) did not follow the correct procedure, which represents about 43% of the annual reports submitted through the Regnskabs Basis digital solution. In order to change behaviour and address systematic errors, 5 000 ‘nudging’ mails were sent out, leading to 50% fewer mistakes over the same three-month period in 2014 compared with last year. The trial has reduced the rate of reoffending (committing the same mistake again) from 61% to 36% when compared to the same period last year. This action has helped to reduce the risk of penalties if the company’s annual report is subject to control, and led to time savings from getting it right in the first instance.

- A marked improvement in quality of business data: With the introduction of more and more digital services and data-based business models, the area of data quality is ever growing in importance. The nudge consisted of introducing a pop-up that allows for the businesses to see and control their own data as part of the normal log-on to the digital platform (www.virk.dk). The nudge worked on the premise that businesses do not know that their data is outdated and that they don't know how or where to correct the information. During the trial, 15 000 businesses were presented with their currently registered data and were asked to verify them – 53% of the businesses confirmed their data by pressing the “verify” button and 42% pressed the “correct” button, giving us strong indications on the current data quality and the need for further measures that can help manage the problem.

For further information: Kristine Poulsen-Hansen, Danish Business Authority, KriPou@erst.dk

In the context of good fiscal governance (see [theme 7](#)), public administrations have to take an informed approach to risk-taking with innovation. To make progress, administrations need the freedom to exercise ‘trial and error’, which will inevitably bring both successes and failures. It also encourages **prototyping and controlled testing** before proliferation, in order to manage the risk with small-scale and iterative experimentation. One example is the use of randomised controlled trials in Denmark’s employment service, which has been practised since 2005.

Inspiring example: Employment programme innovation via randomised controlled trials (Denmark)

To find out what works, randomised controlled trials (RCTs) have been used since 2005 in Danish Agency for Labour Market and Recruitment. In these randomised experiments, two identical and comparable groups are randomly selected. One group receives the “new treatment”, the control group gets the “normal treatment”.

A large number of local jobcentres are involved and supported through these trials. Input and outcome are measured, as well as the costs and benefits. The impact of the “new treatment” is evaluated by external evaluators with qualitative and quantitative methods, providing the answer to whether programmes are effective in bringing unemployed into ordinary jobs or education – that means that, on average, participation in these programmes increases the chances of the unemployed getting a job or an education and whether it is cost-effective.

The results from RCTs are included in the evidence base that the Danish Agency for Labour Market and Recruitment is building up. For the purpose of structuring the results from many effect studies (Danish as well as international), the Danish Agency for Labour Market and Recruitment has published the web-based knowledge bank “jobeffekter.dk”. The evidence base helps support the political decision making process.

The RCT “fast moving into jobs” is an example of a treatment of frequent client meetings with the jobcentre (every second week) that proved very effective. It reduces the first period of unemployment compared to client meetings held every three months. Another example is the RCT “mentoring vulnerable young benefit recipients without education”. A mentor increases the share of young people entering education or getting a job compared not getting a mentor.

For further information: Simon Lamech, Head of Section, Danish National Labour Market Authority, sil@star.dk

Such exercises need to be financed by public funds. The ideal scenario is that policy experimentation is integrated into budget preparation, so that each ministry or municipality has dedicated monies assigned to policy R&D. This set-aside should be seen as **public sector ‘venture capital’**, higher risk than mainstream public spending, but with the opportunity for longer-term returns from better policy outcomes to justify the investment.

An indirect but cost-effective alternative to public expenditure is to build the incentive to innovate into the regulatory framework, by establishing a **‘right to challenge’ principle**, which exempts public authorities, businesses and/or third sector organisations from the effects of legislation if they can demonstrate they can achieve the policy objective more effectively or efficiently with their own innovation (links to [topic 1.2](#)).

The **dissemination** of good practice relies on high calibre intelligence on what works in public sector innovation. In recent years, several pan-European organisations, including the European Commission, EIPA and OECD, have established networks, awards or best practice websites to collect and diffuse innovative practices.

Benchmarking & learning from good practice

Benchmarking and learning from good practice are widely recognised as having a positive impact on peers. In particular, good practice serves as a source of inspiration for decision makers in the public sector for their own plans to innovate. Good practice awards have undoubtedly great potential to drive innovation through the recognition of achievements and the fact that they provide role models for imitation and replication. The ultimate goal must be to become part of a continuous learning process within and outside public administration. This implies inspiring and empowering people to take part in that process. It further implies sharing and transferring knowledge and know-how thereby influencing the learning curve of a given organisation saving time and money.

The oldest source is the [European Public Administration Network \(EUPAN\)](#), an informal network of the Directors-General responsible for Public Administration in the Member States of the European Union, the European Commission and observer countries. The informal structure of the Network is steered by the Ministers responsible for Public Administration. It is EUPAN's mission to improve the performance and quality of European public administrations by developing new tools and methods in the field of public administration, based on the exchange of views, experiences and good practices among EU Member States, the European Commission, observer countries and other organisations.

The [OECD's Observatory of Public Sector Innovation \(OPSI\)](#) collects and analyses examples and shared experiences of public sector innovation to provide practical advice to countries on how to make innovations work. It provides a place for sharing, discussing and co-creating solutions that work. The OPSI's online platform is a place where users interested in public sector innovation can: access information on innovations; share their own experiences; and collaborate with other users. The Observatory is led by a Task Force of OECD countries, chaired by Canada and France. OPSI benefits from a wide range of experience and research that is relevant to public sector innovation but exists beyond national governments. For instance, highly distinguished experts on public sector innovation from academia and research organisations provide analytical advice to the project.

During almost a decade (2001-2010), the European e-Government Awards aimed to promote technology-enabled innovation in government and the health sector. The purpose of these Awards was to encourage community-building and knowledge exchange on e-Government across the EU. A strong policy link was established to the Ministerial Declarations and the European Commission Action Plans on e-government under the umbrella of the Lisbon Strategy. The projects and lessons learned were utilised in a number of EU funded studies and the [epractice portal](#).

Another example is the [European Public Sector Award \(EPSA\)](#) launched in 2007. Since 2009 this biannual award scheme is being organised and managed by the [European Institute of Public Administration \(EIPA\)](#) with the support of several EU Member States, the European Commission, the City of Maastricht and the Dutch Province of Limburg. EPSA aims to support national modernisation processes by awarding projects which have proven their success by tangible results and impact. EPSA wants to make this experience transparent, available and usable. It targets all public administrations at the different levels of government, with an emphasis on specific themes. EPSA focuses on recognition and dissemination of good practices by means of the awards, knowledge-transfer activities and publications. As a result of the three schemes run by EIPA, more than 800 fully structured and thoroughly assessed cases from 36 European countries and EU Institutions are now available in its database. The EPSA 2013 edition under the theme 'Weathering the Storm – Creative Solutions in a Time of Crisis' received 230 entries from 26 European countries and three European Institutions.

In 2012, the European Commission launched the [Prize for Innovation in Public Administrations \(PIPA\)](#). PIPA aims to highlight excellence and vision in public administrations. The prize gives visibility to the most innovative public administrations and their initiatives, which should serve as best practices to inspire other public administrations in Europe to innovate. Furthermore PIPA intends to challenge the negative stereotypes of public administration in the perception of the people. PIPA celebrates the most innovative, public initiatives which benefit citizens, firms, or the education and research sector. In 2013 there were 203 entries to the competition coming from all corners of the European Union. The nine winners were selected by an independent jury on the basis of four criteria: the economic impact of their initiative; its relevance to challenges facing society; how original and easy to replicate the idea is; and how they plan to use the prize money (EUR 100 000 each to scale up). Winning initiatives included integrated healthcare information accessible on a phone, a web-based platform for funding opportunities for firms, and a nationwide plagiarism detection system for higher education institutions.

Source: European Commission, Directorate-General for Research and Innovation (2013), Powering European Public Sector Innovation, Towards A New Architecture, Report of the Expert Group on Public Sector Innovation.

More recently, the European Commission has launched the [European Public Sector Innovation Scoreboard \(EPSIS\)](#) with a view to improving our ability to **benchmark** the innovation performance of the public sector in Europe.

European Public Sector Innovation Scoreboard

Following the Europe 2020 flagship initiative ‘Innovation Union’, the European Commission launched a pilot European Public Sector Innovation Scoreboard (EPSIS) with a view to improving our ability to benchmark the innovation performance of the public sector in Europe. The ultimate ambition is to capture and present public sector innovation in a similar way to countries’ innovation performance in the Innovation Union Scoreboard (IUS) and thereby encourage and facilitate innovation activity across the public sector. The 2013 pilot EPSIS is the first EU-wide attempt to better understand and to analyse innovation in the public sector. It was developed based on the experience of earlier national and regional projects, tested widely and discussed with a number of key relevant experts. The work will continue.

For EPSIS, the definition of public sector innovation follows that used in the Innobarometer 2010 (EC, 2010): An innovation is a new or significantly improved service, communication method, process or organisational method. Based on available data, the pilot EPSIS distinguishes seven innovation dimensions ranging from human resources to drivers and barriers to innovation, encompassing 22 indicators, with data taken from multiple sources including Eurostat, OECD, World Bank, World Economic Forum and the 2010 and 2011 Innobarometer surveys.

The general results demonstrate that public sector in Europe innovates but it faces a number of challenges. The first results show that the involvement of managers and employees makes it more likely that a public administration develops process innovations. The presence of internal barriers to innovation (e.g. lack of management support, staff resistance or risk-averse culture) not only has a negative effect on innovation but also on the government’s effectiveness in general. Government procurement can not only act as a driver of business performance by demanding innovative solutions, but procurement of innovations can also contribute to an increased efficiency of the government sector. However, there is a clear divide in the opinion of public administration officials and businesses as to the importance of innovation versus costs for winning procurement tenders with business having a much firmer belief in offering low costs. The results also show that the introduction of new and improved public services have a significant impact on business performance. E.g. by investing in advanced ICT infrastructure, governments have managed to considerably increase the online availability of public services for businesses.

The Innobarometer 2010 on innovation in public administrations shows that public administration is highly innovative with two out of three public administration organisations having introduced at least one service innovation. Most drivers are ‘structural’ with the single most important driver being the introduction of new laws and regulations. Barriers to innovation are probably as important as drivers: lack of human or financial resources, regulatory requirements and lack of management support and incentives for staff are the most important barriers to innovation in public administration. Ideas from staff, management and clients are the major sources of information used in developing innovations. Innovation in public administration has positive effects on improved user access to information, improved user satisfaction and faster delivery of services.

Results of the Innobarometer 2011 show the importance of public sector innovation for business performance. For example, companies that report benefits from using improved public administration procedures (e.g. online completion of government forms or access to online information on government services) are more likely to be an innovator and to have increasing sales. Public services innovations have a positive impact on the probability that a company will innovate. The results also confirm that government procurement has a positive impact on the probability that a company will innovate. These results suggest that in countries where governments manage to provide improved public services for innovation and create a more business-friendly environment, companies show improved economic and innovative performance. Innovative and high quality public services act as a driver of business performance.

The pilot EPSIS does not provide a ranking of countries’ performance, since the availability of data is still limited and does not fully capture all parts of the public sector or all aspects of innovation. However, it is sufficient to give a sense of the strengths and weaknesses across countries. In many countries, services of public sector are being delivered by many different types of organisations, and not just public administrations.

The feedback from public officials consulted as part of the “Trends and Challenges in Public Sector Innovation in Europe” study confirms that further efforts to develop the measurement and benchmarking of public sector innovation would be of interest to most if not all Member States and that this is an area where European policy should continue to show leadership.

Thus, further work is needed to capture the full spectrum of innovation in public sector. Very much more and better data is needed if EPSIS is going to continue and attain the coverage and robustness achieved with IUS. For this purpose, strong and coordinated efforts at the European and Member States level are needed.

1.4. Conclusions, key messages and inspiration for future action

The policy process is not composed of sequential stages, but inter-linked and inter-dependent elements. The impact of policy decisions should always be anticipated, but can never be perfectly predicted, hence feedback mechanisms are essential to allow corrections in direction to be made and new paths to be laid, if policy is straying too far from its goal. Furthermore, the parties that are most affected by policy decisions, particularly citizens and businesses, need to become active participants in the process: true stakeholders.

Governments and judiciaries operate in a rapidly changing world, in which ICT opens up new possibilities but also brings heightened expectations from ‘connected’ citizens and businesses. European administrations have always faced a stream of evolving and emerging policy challenges, but now also the added constraint of high public debt and growing liabilities from an ageing population. This context calls for different types of administrative capacity that are ready to respond and fit for purpose, as well as new forms of cooperation and partnership. It also requires officials to be inventive, a trait which has traditionally been associated with the private sector, but which is increasingly demanded of public servants facing complex scenarios, conflicting goals (‘more with less’) and tough choices.

- The first type to reinforce is **analytical capacity**: the resources to develop a robust evidence base, engage in innovative and forward thinking, and come up with fresh solutions to ingrained problems. This requirement is not confined to policy units in central government alone - it can apply to any level of government or official, depending on structures and responsibilities. However, some administrations may want to follow the lead of others, and establish specialist bodies (like the Dutch CPB, Denmark’s MindLab or UK’s Nudge Unit) which are tasked with original research or thinking ‘outside the box’, to advise on present problems and/or to engage in future scenario-building. Equally, administrations might want to take the taskforce approach, and assemble groups of officials from different institutions and disciplines for problem-solving, on a permanent, ad hoc or flexible basis (like Finland’s futures research, or the Netherlands Smarter Network). Whether this capacity is standalone or integrated into the system, administrations may wish to consider drawing on external insights from specialists (e.g. experts in specific fields), and/or from stakeholders to exploit the advantages of co-design.
- The second type that requires the right balance is **deliverable capacity**: the flexibility to develop and adapt implementation solutions to serve policy objectives, meet the needs of citizens and businesses, and maximise cost-effectiveness at the same time. Clearly, the public sector is a major provider of infrastructure and services in every economy. Compared with the private sector, which also faces the ‘make or buy’ decision (in-house or out-source), governments have other instruments in their armouries to achieve their goals, including information/persuasion, regulation and co-creation with ‘customers’. The careful choice of instrument to fit the circumstances - weighing up the pros, cons, costs and benefits - requires rigorous analytical capacity. Once the decision is taken, however, administrations face a continuous pressure to identify incremental or even radical improvements, in order to enhance service delivery (see [theme 4](#), to simplify administration and reduce the information burden on businesses and citizens (see also [theme 5](#)), and to find efficiency savings (see also [theme 7](#)). Again, co-responsibility in its various forms, including co-decision, co-budgeting and co-production, can enhance the quality of outcome.

- The third type that is often neglected is **critical capacity**: the expertise to scrutinise policy decisions and their delivery, and the authority to speak up and to question whether changes should be made, in the interests of continuous improvement. This form of capacity should be both integral to delivery (monitoring), but also independent from it (evaluation and performance audit). Stakeholders should be invited in to express their insights (co-evaluation), but just as important is to ensure a healthy external audience of independent media and civil society which can hold the administration to account and maintain its focus on the public interest (see also [theme 2](#)).

These three types of capacity do not co-exist in isolation from each other. They overlap substantially, even within individual officials who can be expected to analyse needs, organise implementation, and scrutinise performance using monitoring data, as a process of self-reflection. Equally, however, significant separation of roles is inevitable and desirable. Whatever the arrangements, administrations should carefully consider their strengths and weaknesses in all three domains, and look at their organisational and human resources management (e.g. incentives, appraisal, training and development) to ensure that the institutional focus and the best talent is not over-concentrated in one area (possibly, analysis) at the expense of the others (see also [theme 3](#)).

Theme 2: Embedding ethical and anti-corruption practices



The concept of serving the public interest, rather than narrow personal or political interests, is at the heart of good governance. High income countries rank highly on control of corruption, which is toxic for long-term prosperity, but a complex phenomenon. Ethical values have to be interpreted in often complicated real-time situations; faced with conflicts of interest, 'doing the right thing' is not always instantly obvious. This theme looks at how public administrations can put in place a comprehensive, balanced and tailored package of measures. It explores the range of instruments available to instil a culture of integrity, deter and detect unethical behaviour, take corrective action and build public trust: ethical codes, risk-based strategies, laws and regulations, integrity coordinators, anti-corruption agencies, open government, external scrutiny, HRM techniques, ethics and dilemma training, disclosure of income, assets and interests, administrative simplification, e-Government, control and audit, whistleblowing, investigation, prosecution and sanctions.

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The presumption should be that public officials always perform their duties to the highest ethical standards. However, there is the ever-present potential for position and power to be misused for personal or private gain. If corruption becomes endemic, it undermines development by destroying trust, misallocating resources, and depressing investment and growth.

This chapter:

- ✓ Outlines the economic and fiscal benefits of embedding ethics and combatting corruption;
- ✓ Sets out the risk factors that can allow corruption to take hold – environment, opportunity, lack of consequences and insufficient openness;
- ✓ Highlights the importance of political leadership, values, standards and corruption risk analysis;
- ✓ Explores the role of laws, regulation and institutions within the integrity policy framework;
- ✓ Emphasises the importance of transparency in building public trust and accountability;
- ✓ Examines preventative and performance-enhancing measures, including personnel policies, ethics training, disclosure techniques, administrative simplification, automation and controls
- ✓ Describes the actions taken to expose corruption when it does occur, especially whistle-blowing mechanisms, investigations and sanctions, with the aim to deter potential future perpetrators.

Ethics can be defined in several ways, but for the purpose of this Toolbox, can be understood as the set of values that guide the performance of public duties. Ethics is sometimes equated with ‘morality’, but in the context of public administration, it is not enough that choices about conduct are solely down to each official’s moral code, weighing up what is right and wrong. In order to be consistent in their actions, public administrations need a framework of standards to guide behaviour and decisions, which leads us to the concept of **integrity** for this Toolbox (see [principles and values of good governance](#)) - these values should apply to whole organisations and systems, and all the interactions within them⁽¹⁾. In practice, ‘ethics’ and ‘integrity’ are often used by organisations to mean the same thing: the values that shape conduct, whether individually or collectively.

At the heart of both individual ethical behaviour and the integrity of the whole system in public administration, whether government or judiciary, is the concept of **servicing the public interest**, rather than narrow personal interests or political interests. Defining ‘the public interest’ is not straightforward. For example, it is not just a matter of applying the law (adopted in parliament at the will of the people) which is a basic requirement of civil services and judiciaries, or doing only what is necessary to avoid getting into trouble. The public interest does, however, provide a reference point for weighing up different courses of action and identifying the right way forward: what will benefit the community being served, rather than personal, individual or group interests.

By contrast, **corruption** can be defined as the misuse of public position or power for personal or private gain.⁽²⁾ This abuse is said to take two main forms.⁽³⁾

- **Grand corruption** involves administration at the highest level. Examples include: businesses, individuals or organised crime buying and or exerting influence to shape the State’s policies and laws in their narrow interests (state capture⁽⁴⁾); channelling public funds into personal or party accounts;

⁽¹⁾ This conflates the two meanings of integrity, relating to wholeness and standards. See also Erhard, W., Jensen, M.C., and Zaffron, S., (2014), “Integrity: A Positive Model that Incorporates the Normative Phenomena of Morality, Ethics, and Legality”

⁽²⁾ See also OECD, Transparency International and World Bank definitions.

⁽³⁾ http://www.transparency.org/whoweare/organisation/faqs_on_corruption/2/. For the purposes of the Toolbox, ‘political corruption’ has been subsumed within grand corruption.

⁽⁴⁾ See, for example, the Transparency International briefing “State capture: an overview”.

and political parties in power rewarding apparatchiks with public positions, irrespective of relevant qualifications or experience (patronage).

- **Petty corruption** takes place at the level of institutions and individuals (administrators, doctors, police, border guards, judges, prosecutors, educators etc.). Examples include: bribery and extortion, in cash (including kick-backs) or kind (gifts and favours); preferential access to services or goods; influence on processes and their outcomes; or favouritism in awarding jobs, promotions or contracts, irrespective of merit. While often small-scale in each case, the sum effect can be substantial and invidious for the functioning of the economy and society.

Clearly, ethical and corrupt behaviour are not simple ‘black or white’ alternatives, nor are they the two ends of a spectrum, with selfless sacrifice to the public interest at one end and exploitation of every illegitimate or unethical opportunity for personal advancement at the other. Ethical values have to be interpreted in often complicated real-time situations on a daily basis, where sometimes the way forward – ‘doing the right thing’ – is not instantly obvious. Such scenarios can present real dilemmas to public officials. For this reason, the anticipation and resolution of potential **conflicts of interest** is a central concern in integrity policies. Nevertheless, there are lines beyond the ‘grey areas’ of integrity that clearly should not be crossed, and which are recognisably corrupt, including bribery, extortion, and fraud. The task for public administrations is to put the systems and structures in place to help officials make the optimal choices, especially when confronted with tricky ethical decisions, and to define unambiguously the threshold of (un-)acceptable activity.

The recent financial and economic crisis has made anti-corruption measures integral to economic adjustment programmes, the **European Semester** of economic policy coordination and many Country Specific Recommendations, as indebted Member States can ill-afford any misappropriation of public funds. In the context of the Europe 2020 goals of smart, sustainable and inclusive growth, the case for combatting corruption could not be clearer, given the economic and fiscal benefits. Corruption raises costs, distorts decisions, misallocates resources, and discourages enterprise and investment through its unpredictability. There is evidence that corruption is linked to over-spending, fiscal deficits, under-collection of taxes, under-absorption of EU funds⁽⁵⁾, inequality of women and minorities in access to positions of power, and ‘brain-drain’ from the economy.⁽⁶⁾

Every administration has to be vigilant towards the risk and reality of corruption and conflicts of interest in public life, given the corrosive effect on public trust in governance and detrimental economic impact. Following the **Communication on Fighting Corruption in the EU** in June 2011, two European Commission surveys in 2013 (see below), set alongside other international metrics⁽⁷⁾, demonstrate vividly the scale of this challenge.

⁽⁵⁾ Tackling irregularities, fraud and corruption in European Structural and Investment Funds is covered under [theme 7](#).

⁽⁶⁾ See, for example: Mauro P., (2004) “The Persistence of Corruption and Slow Economic Growth”, IMF Staff Paper, <http://www.imf.org/external/pubs/ft/staffp/2004/01/pdf/mauro.pdf>; Augusto López Claros (2013), “Removing Impediments to Sustainable Economic Development The Case of Corruption”, Policy Research Working Paper 6704, World Bank http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2013/11/15/000158349_20131115114115/Rendered/PDF/WPS6704.pdf; and Mungiu-Pippidi A., (ed), (2013) “Controlling Corruption in Europe”, prepared under the ongoing project ‘Anti-corruption Policies Revisited: Global Trends and European Responses to the Challenge of Corruption’, funded under the European Commission’s Seventh Framework Programme (2012-2017), http://anticorpp.eu/publication_type/deliverable/

⁽⁷⁾ Such as Transparency International’s Corruption Perception Index (CPI), the World Bank’s Governance Indicator on control of corruption, and the World Economic Forum’s Global Competitiveness Index.

Reported corruption in the EU

According to the ‘Special Eurobarometer’ face-to-face survey, which drew almost 28 000 responses, around one in twelve Europeans (8%) say they have experienced or witnessed a case of corruption in the past 12 months, and a quarter (26%) consider that they are personally affected by corruption in their daily lives. Just under a quarter (23%) agree that their Government’s efforts are effective in tackling corruption, and around a quarter (26%) think that there are enough successful prosecutions in their country to deter people from corrupt practices. Perceptions of corruption generally are higher still. Experience of corruption is not uniform across the EU. In the case of Denmark, Finland, Luxembourg, Sweden and United Kingdom, less than 1% of interviewees indicated they had been expected to pay a bribe. Similarly, the numbers in Belgium, Estonia, France, Germany, Italy, the Netherlands, Portugal, Slovenia and Spain having paid a bribe are relatively low (1-3%). In Bulgaria, Croatia, Czech Republic, Greece, Hungary, Lithuania, Poland, Romania and Slovak Republic, between 6% and 29% of respondents indicated that they were asked or expected to pay a bribe in the previous 12 months. Respondents are most likely to say they have experienced or witnessed corruption in Lithuania (25%), Slovak Republic (21%) and Poland (16%) and least likely to do so in Finland and Denmark (3% each), Malta and the United Kingdom (4% each). People are most likely to say they are personally affected by corruption in Spain and Greece (63% each), Cyprus and Romania (57% in each) and Croatia (55%), and least likely to do so in Denmark (3%), France and Germany (6% in each).

The phone-based “Flash Survey” of businesses across the EU-28 in manufacturing, construction, energy, telecommunications, healthcare and financial sectors, found that more than 4 out of 10 companies considered corruption, patronage and nepotism to be a problem for doing business. When asked specifically whether corruption is a problem for doing business, 50% of the construction sector and 33% of the telecoms/IT companies felt it was a problem to a serious extent. The smaller the company, the more often corruption and nepotism appears as a problem for doing business. Perceived levels of corruption are highest in Greece (99%) and lowest in Denmark (10%). Corruption is most likely to be considered a problem when doing business by companies in the Czech Republic (71%), Portugal (68%), Greece and Slovak Republic (both 66%).

This leads us to the distinction between systemic corruption (endemic in an institution, specific administrative sector, or the whole of society) and sporadic corruption (isolated incidents). Studies globally show that those states struggling to combat corruption tend to be low-middle income economies, while the countries with the best performance on governance and controls enjoy high per capita income. ⁽⁸⁾

- **Systemic:** Once it takes hold, corruption tends to feed itself. When it becomes endemic, any individual who is *not* corrupt places themselves at a clear disadvantage in terms of income, status or access to services. Its prevalence makes it harder for individuals to take a stand against corruption, especially if they have felt forced to participate in times of distress (such as medical emergencies) and become simultaneously perpetrator and victim. Once the majority or a substantial minority of transactions are corrupt, it appears to both sides, giver and taker, that corruption is routine or inescapable. ⁽⁹⁾
- **Sporadic:** By contrast, majority ethical behaviour not only brings economic benefits but tends to regulate itself, as any individual who wishes to seek or offer a bribe or favour risks drawing attention to themselves and facing consequences. Being the exception, the costs of identifying and punishing such individuals are low. Hence countries or sectors that are ‘cleaner’ tend to stay that way, the main risk being some traumatic exogenous event, such as war or natural disaster, which upsets the existing social order.

Where corruption is endemic, the policy challenge at an institutional, sectorial or societal level is to make the transition from systemic (‘if you are not corrupt, you lose out’) to sporadic corruption at worst (‘if you are corrupt, you stand out’), where integrity is the norm. As many studies have shown, corruption is a complex phenomenon, involving a range of societal, institutional, political and cultural factors.

⁽⁸⁾ See OECD (2013), “Issues Paper on Corruption and Economic Growth”, prepared for the G20 Summit, <http://www.oecd.org/g20/topics/anti-corruption/Issue-Paper-Corruption-and-Economic-Growth.pdf>

⁽⁹⁾ See Karlins, R., (2005), “The System Made Me Do it – Corruption in Post-Communist Societies”

While there is no single set of causes, the risk of corruption tends to be higher (without becoming in any way inevitable) under the following conditions: ⁽¹⁰⁾

- There is an **opportunity** for abuse of power, which can arise from officials having discretion over a decision and privileged access to public ‘resources’ that are desired or required by the other party (such as funds, state assets, jobs, laws, contracts, treatments, queue-jumping, or avoiding payments or penalties);
- The parties involved lack effective **constraints**, either normative (societal pressures, accepted rules, public opinion, external scrutiny) or legislative (enforced laws and regulations, including controls, audits, and sanctions).



In this light, this chapter looks at actions that public administrations and judiciaries can take both to embed ethics with all its nuances, and to deter, detect and correct corruption in its myriad forms. It focuses on the following questions, and sets out ways and tools to address them. ⁽¹¹⁾

Key questions	Ways and tools
How do public administrations set the framework for promoting integrity and combatting corruption?	<ul style="list-style-type: none"> • Clear statements of ethical values & standards • Risk-based strategies (risk assessment, risk maps) • Laws & regulations • Integrity coordinators • Anti-corruption agencies
What role can transparency and accountability play in (re)building trust among the public?	<ul style="list-style-type: none"> • Open government & access to information • External scrutiny
What preventative measures can administrations take to strengthen ethical performance and reduce the scope for corruption?	<ul style="list-style-type: none"> • Merit-based recruitment & other human resources management techniques • Ethics & dilemma training • Disclosure of interests, income & assets • Administrative simplification, controls & automation
What can administrations do to detect and act on corruption when it occurs?	<ul style="list-style-type: none"> • Whistle-blowing mechanisms • Investigation, prosecution & sanctions

⁽¹⁰⁾ Based on Alina Mungiu-Pippidi (2014), “Why control of corruption works – when it does”, The Anti-Corruption Frontline

⁽¹¹⁾ See also the OECD’s March 2014 ‘**Toolkit for Integrity**’, which contains useful tips and case studies.

2.1. Establishing the policy framework

Ethical behaviour in public life should be the norm, and typically goes unnoticed *because* it is unexceptional. From this perspective, integrity policies should seek to recognise and reward high standards among public officials and the judiciary, in order to shine a beacon on best practice as a searchlight for other officials to follow. Where it does occur, corruption is often down to individual acts in isolation, but these typically attract disproportionate attention and negative publicity, bringing the whole public service or institution into disrepute. Systemic corruption, however, represents something more fundamental: an absence of public service ethos, the disregard of formal rules, and a failure to identify or take corrective action, either because the causes are not understood, solutions are not apparent, or there is a resigned acceptance that corruption is integral and inevitable.



The challenge for public administrations is to construct a policy framework which is able simultaneously to incentivise integrity, to deter corrupt activities and, if present, to dismantle systemic corruption. The drive for higher ethical standards and practices invariably demands leadership: the willingness to seek long-term and widely-shared benefits, and in the case of systemic corruption, the courage to challenge vested interests.

Each EU Member State has its own framework for promoting ethics and addressing corruption, whether isolated or endemic: standards, strategies, regulations and institutions. There is no standard package of measures that can be applied in every circumstance: the most effective policy response depends on local conditions.⁽¹²⁾

2.1.1. Ethical values and standards

Ethical behaviour starts with attitudes and values at the top of the administration - maintaining the highest standards, including the avoidance of state capture, patronage, nepotism, bribery and seeking or offering favours. In the first instance, this is a matter for the government itself. The parties in power set the rules of the administration, subject to oversight (see [topic 2.2](#)) and can choose to shape the regulatory and procedural framework to serve the public interest – or political / private interests, which is a form of ‘legal corruption’⁽¹³⁾ that is that is unethical and contrary to the principles of good governance.



However, ethics in public life is not just the exercise of personal morality by public sector leaders. Integrity policies can be codified as standards for behaviour in public service for all officials. Increasingly, public administrations are turning to statements of universal values to govern the performance of public duties, flexible enough to apply to all policy domains, institutional environments and individual responsibilities.

Codes of ethics are now increasingly common across Europe⁽¹⁴⁾, to which all public officials are expected and obligated to commit. One of the first countries to codify such standards was the United Kingdom (UK) with the Seven Principles of Public Life (see below), first set out by Lord Nolan in 1995. Such ethical codes are sometimes overseen by **independent watchdogs**, such as the UK’s Committee on Standards in Public Life or the Standards in Public Office Commission in Ireland,

⁽¹²⁾ European Commission (2014), “Anti-Corruption Report” (ACR)

⁽¹³⁾ See Kaufmann, D. and Vicente, P.C. (2005) “[Legal Corruption](#)”, World Bank; and Kaufmann, D. & Vicente, P. C. (2011). “Legal Corruption”. *Economics & Politics* 23, 195-219

⁽¹⁴⁾ Utrecht School of Governance (2008), *op. cit.*

allowing them to be reviewed on an occasional basis to ensure their enduring relevance, and to consider how they are applied to different aspects of public life for operational purposes.

Inspiring example: Principles of Public Life and Committee on Standards (United Kingdom)

The UK's Seven Principles of Public Life are the basis of the ethical standards expected of public office holders. They are currently formulated as follows:

- **Selflessness:** Holders of public office should act solely in terms of the public interest.
- **Integrity:** Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.
- **Objectivity:** Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.
- **Accountability:** Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.
- **Openness:** Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.
- **Honesty:** Holders of public office should be truthful.
- **Leadership:** Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

The Committee on Standards in Public Life is an independent public body, established in 1994, which advises government on ethical issues and promotes high ethical standards across the whole of public life in the UK. The Committee was set up initially to deal with concerns about unethical conduct amongst MPs, including accepting financial incentives for tabling Parliamentary questions, and issues over procedures for appointment to public bodies. It now acts as an independent advisory body to the Government, monitoring, reporting and making recommendations on all issues relating to standards in public life, conducting broad inquiries and publishing reports, surveys and consultations in order to promote the seven principles of public life. The Committee amended the words describing the Principles following its review '*Standards matter – a review of best practice for promoting high standards in public life*'. The Principles apply to anyone who works as a public office-holder. This includes all those who are elected or appointed to public office, nationally and locally, and all people appointed to work in the civil service, local government, the police, courts and probation services, non-departmental public bodies, and in the health, education, social and care services. All public office-holders are both servants of the public and stewards of public resources. The principles also have application to all those in other sectors delivering public services. Although the membership has changed many times over the years, the Committee has a constant presence, because it is a "standing" committee, not linked to a specific inquiry or report.

For further information: <http://www.public-standards.gov.uk/>

Following the preparation of a [study of ethics in Member States](#), the Dutch Presidency of the European Union proposed the main features of an ethics framework for the public sector which was adopted by the Directors General responsible for Public Administration in the member states and the institutions of the European Union as a voluntary, non-legally binding European Code (below). The framework goes further than just defining values, by also setting out guidelines for putting these principles into practice as **codes of conduct** – rules on how to apply them, including sanctions for non-compliance).⁽¹⁵⁾ In practice, the two terms (ethics and conduct) are often used interchangeably.

⁽¹⁵⁾ A follow-up study captured the subsequent changes in practices across the EU. See Moilanen T, and Salminen A., (2007) "Comparative study on the public-service ethics of the EU Member States", Ministry of Finance, Finland. http://www.vm.fi/vm/en/04_publications_and_documents/01_publications/06_state_employers_office/20070226Compar/Comparative_Study_on_the_Public_Service_Ethics_netti.pdf

European Code of Conduct

The ethics framework comprises six (partly overlapping) **core values**:

- Principle of the rule of law
- Impartiality / objectivity
- Reliability / transparency
- Duty of care
- Courtesy, and willingness to help in a respectful manner
- Professionalism / accountability

It also outlines specific **standards of conduct** for particular issues as derivatives or more detailed specifications of the core values, regarding:

- Handling information / confidentiality / freedom of speech
- Acceptance of gifts or favours
- Avoiding conflicts of interest
- Use of public resources, equipment and property
- Use of email, intranet and Internet facilities
- Purchasing and contracting

For implementing, promoting and stimulating the integrity values and standards, it describes **provisions** to foster the culture that assists in promoting better standards of integrity within the organisation, covering:

- Recruitment
- Training
- Mobility
- Communication
- Leadership

Finally, it sets out guidelines for **methods and procedures** that civil servants can use when they encounter situations in which integrity play a role:

- Confidential integrity counsellor
- Reporting procedure for integrity breaches
- Sanctions

For more details: <http://www.eupan.eu/en/documents/show/&tid=48>

In some cases, this type of practical guidance on officials' behaviour is formulated as a **handbook for public officials**, such as [Finland's guidance for civil servants](#), which was published by the Ministry of Finance in 2005.

2.1.2. Risk-based strategies

While integrity strategies are relatively rare, many Member States have **anti-corruption strategies**. These can be especially beneficial when corruption is systemic and requires a clear, comprehensive and centrally coordinated package of measures. In line with the principles of policy-making (see [theme 1](#)), one of the key ingredients of a good strategy is a sound evidence base. The strategy should be founded on understanding the characteristics of corruption in the policy domain(s) under consideration, as a precursor to choosing the most appropriate instruments to tackle the problem at source.

In the case of Lithuania, the adoption of the first anti-corruption strategy in 2001 represented the culmination of a process of political ownership and preparatory steps throughout the 1990s that date back to Lithuania's restored independence in 11 years previously. A new National Anti-Corruption Programme⁽¹⁶⁾ is currently being prepared for 2015-2025.

Inspiring example: Development of Anti-Corruption Strategy (Lithuania)

Corruption prevention measures are part of Lithuania's anti-corruption strategy. The following steps were significant in its development, since the restoration of Lithuania's independence on 11 March 1990:

- In 1993, the President of the Republic established a **steering group** to combat organised crime and corruption, which was in charge of coordinating the activities of law enforcement agencies in the fight against organised crime. With some changes of name and functions, this working group continued operating until 27 February 1997.
- A **special unit of prosecutors** – the Department of Investigations of Organised Crime and Corruption – was established in 1993 – which was reorganised in 2001 into a separate department in the Prosecutor General's Office, including five regional offices.
- On 7 November 1995, the Parliament ("Seimas") established a **special committee** to investigate the facts of corruption.
- In 1996, the Government approved the **anti-corruption measures plan**, which provided for the following measures: coordination of the activities of authorities in the fight against corruption, assessment of real situation of crimes related to corruption, determining the causes of corruption, providing for the main directions of prevention, organising training for investigators, assessing legislation governing economic, commercial and financial activities in terms of anti-corruption, preparing draft legislation to revise liability for corruption-related crimes, and preparing the draft Law on Lobbying Activities.
- On 18 February 1997, the Government set up a **Special Investigation Service (STT)** under the Ministry of the Interior, entrusted with the fight against organised crime, corruption and crimes in civil service. On 1 June 2000, the Seimas adopted a decision establishing the Special Investigation Service (STT), the main task of which is *"to guard and protect individuals, society, and the State from corruption, and to conduct prevention and detection of corruption."*
- In 1999, the Government approved the **Programme for the Prevention of Organised Crime and Corruption**, which provided a greater focus on proper data collection, improvement of the legal framework, strengthening of corruption prevention, training and methodological recommendations.

Also in 1999, the Government established a working group for the preparation of the **Anti-Corruption Strategy**, which was approved in 2001. The main goal of the strategy was to reduce corruption in Lithuania, and thereby reduce the impact of corruption on the development of economy and democracy to the maximum possible extent, and to achieve social welfare. The strategy set out necessary provisions to limit political corruption and administrative corruption, to investigate crimes related to corruption better, to consistently implement public education and awareness, and to engage the public in the fight against corruption. A national scheme of subjects implementing the anti-corruption strategy was developed.

The Seimas adopted a resolution on the fight against corruption in 2001, which paid great attention to determining the conditions for the appearance of corruption, and planned for investigations of the level of corruption in

⁽¹⁶⁾ http://www3.lrs.lt/pls/inter2/dokpaieska.showdoc_l?p_id=491118 (in Lithuanian)

Lithuania to be performed. Referred to as **Corruption Maps***, these investigations were carried out in 2004, 2005, 2007, 2008, 2011 and 2014, and determine various corruption-related indicators, e.g. the most corrupt procedures.

In 2002, the Seimas adopted the **Law on Corruption Prevention****, which provides for the following measures to prevent corruption:

- Determining the probability of manifestation of corruption;
- Corruption risk analysis (see next green box);
- Anti-corruption programmes;
- Anti-corruption assessment of legal acts or their drafts;
- Provision of the information about a person seeking or holding office at a state or municipal agency;
- Provision of the information to the registers of public servants and legal entities;
- Education and awareness raising of the public; and
- Public disclosure of detected corruption cases.

The Seimas also approved the **National Anti-Corruption Programme***** in 2002, which is updated every four years and is one of the key sources of anti-corruption measures. The Programme was last updated and launched in 2011, with 95 anti-corruption measures that will be in force until 2014 that must be carried out by more than 70 state and municipal agencies within their competence.

In 2003, the Government established an **Interagency Committee for the Coordination of the Fight Against Corruption**, the main tasks of which are:

- Coordinating the development and implementation of the National Anti-Corruption Programme, control the implementation of its measures, as well as other activities of state and municipal authorities in the areas of corruption prevention and detection of corruption-related offenses;
- Discussing strategic issues of the fight against corruption;
- Improving the activities of state and municipal authorities in the areas of corruption prevention and detection of corruption-related offenses.

The new National Anti-Corruption Programme is currently being prepared for **2015-2025**. The main directions of the measures will be:

- Increasing publicity, openness, transparency, in the provision of public services and making decisions;
- Improving the quality of management;
- Increasing awareness and fairness of employee and society;
- Increasing opportunities for public scrutiny;
- Reducing the burden on business;
- Publicity income and expenditure;
- Reducing conflicts of interest;
- Anti-corruption education.

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(*) <http://www.stt.lt/lt/menu/sociologiniai-tyrimai/> (in Lithuanian)

(**) <http://www.stt.lt/en/menu/legal-information/laws/> (in English)

(***) <http://www.stt.lt/lt/nknp-2011-2014/> (in Lithuanian)

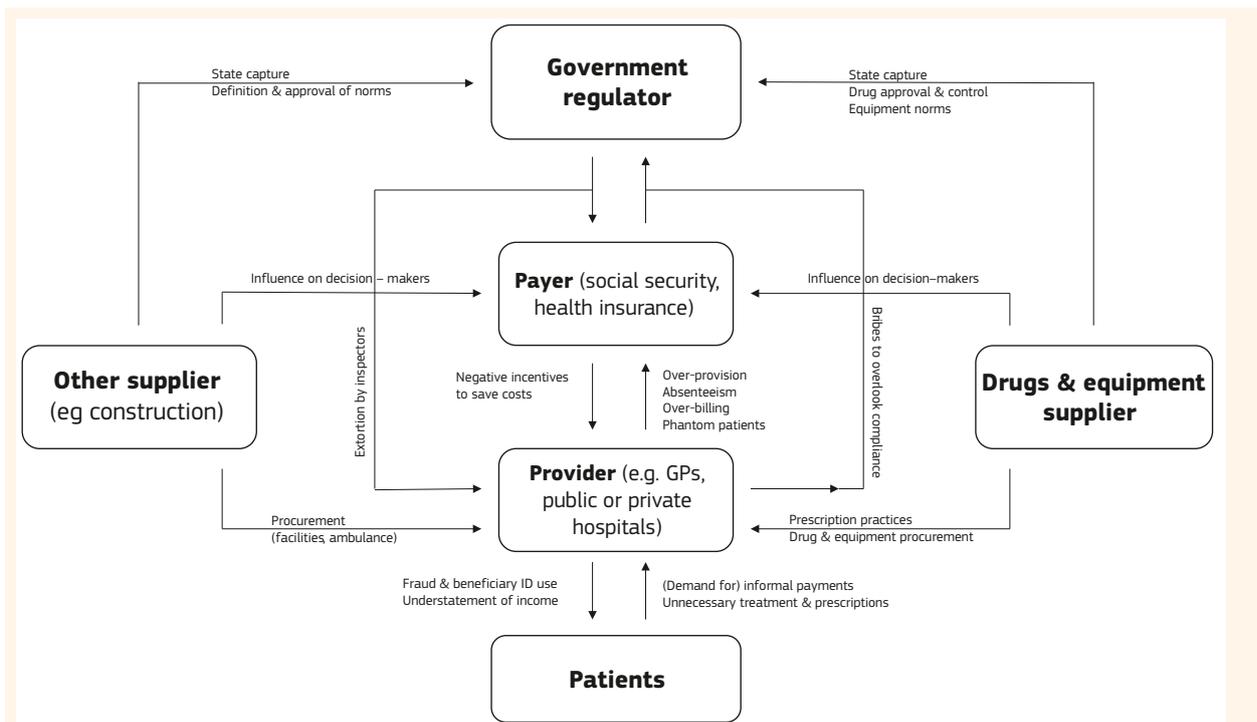
At its most effective, the underlying analysis and therefore action in strategies should be based on a **risk assessment** of where integrity concerns or corruption are most concentrated, but where there is also capacity for change. As a priority, tailored strategies should seek to target the points where both the probability and impact of unethical and corrupt behaviour are high.

The health sector provides a good illustration of this principle, as there are many potential entry points for corrupt practices and conflicts of interest (state capture, public procurement, over-billing, over-treatment, doctor-patient extortion to jump the treatment queue, links between medical professionals and the pharmaceuticals industry, etc.), which makes a strong case for a comprehensive and multi-faceted strategy. The European Commission has published [a study of corruption in the healthcare sector](#), to enable a better understanding of the extent, nature and impact of corrupt practices in the healthcare sector across the EU, and to assess the capacity of the Member States to prevent and control corruption within the health-care system and the effectiveness of these measures in practice.

Corruption sources in healthcare

Where it exists, corruption in public healthcare tends to be highly visible to the public, as most people have some contact with the public health system during each year. According to the Special Eurobarometer 2013 survey, around three-quarters of Europeans (77%) had visited a public healthcare practitioner or public healthcare institution in the past 12 months. Across the EU, one in 20 respondents (5%) who had visited a public healthcare practitioner or institution said that, in addition to official fees, they had given an extra payment or valuable gift to the practitioner, or had made a hospital donation. In some cases, this payment was requested, in others it was offered or felt to be expected, either before or after treatment. The countries with the highest responses were Romania (28%) and Lithuania (21%), followed by Greece (11%), Hungary (10%), Slovak Republic (9%), Germany and Bulgaria (both 8%) and Latvia (7%). All other countries have levels at or below the EU average of 5%, with Finland (0%) showing the lowest level, followed by Denmark, Sweden, Spain, the United Kingdom, the Netherlands and Luxembourg (all 1%).

There is evidence that structural problems in health provision incentivise the payment of bribes for medical staff. However, this is not the only source of potential unethical behaviour in the health sector. Health systems are particularly susceptible to corruption, because of the large number of actors (government regulators, insurance and other payers, health providers, drugs and equipment suppliers, patients), the information asymmetries, the individuality and unpredictability of health problems, inefficiencies within the system, and demand outstripping supply due to limited availability, actual monopoly, increased costs of technology, and ageing populations *inter alia*. The mix of public and private provision creates a 'grey space' for medical professionals to offer to switch publically-funded patients to their self-funded practice and blur the lines of corruption. The following diagram from a DFID 'How To' Note sets out the complex web of relationships between public and private sector agents, which provides many potential entry points for corrupt practices to emerge:



Source: adapted from Hussman, K. (2010), "Addressing corruption in the health sector: securing equitable access to health care for everyone", DFID Practice Paper. www.dfid.gov.uk/Documents/publications1/How-to-Note-corruption-health.pdf

Another example of analysis applied to a specific sector is border control, in which again the potential for corruption is multi-faceted, including possible links to organised crime, bribery and extortion, manipulations in public procurement, and nepotism in the workplace.

Corruption sources in border control

A Frontex-commissioned policy review and survey of representatives of border guards and internal affairs units in 23 Member States identified the special characteristics of corruption in this field. Corruption in border guard services can be classified in three main groups.

- Corruption related to organised crime includes selling information to criminal groups, facilitating passage of illegal goods / migrants, not reporting suspicious travel documents of migrants and obstructing investigations.
- Petty corruption might include activities such as providing a 'normal passage fee' to speed up border traffic (extortion) or waiving minor irregularities, inducing petty smugglers to pay small bribes to ensure problem-free passage, or seeking payment for allowing the passage of known or wanted individuals.
- Administrative/bureaucratic corruption is related to manipulation of public tenders, kickbacks from providers, nepotism-based recruitment and promotions.

Border guards may collude with customs, local police, criminal police, or private companies to carry out more complex corruption schemes, while intermediary bribe-payers in more complex corruption schemes may include lawyers, informants, former border guard officers and NGOs. The physical location of remote land borders and BCPs, coastal regions, as well as major sea or air ports may also present a higher risk of corruption. There are wide salary disparities among personnel working on the external borders of the EU, which fuel petty corruption and create an environment that allows officers to engage in more serious corruption schemes. Border guards who are entrusted with customs or investigative powers are usually at a higher risk of corruption.

Source: Center for the Study of Democracy (2012), "Study on anti-corruption measures in EU border control".

As an example of an (inter)national initiative, ‘Public Money and Corruption Risks’, financed by DG HOME’s Prevention of and Fight against Crime Programme and the Open Society Foundations, looks at the risks of systemic political corruption in the management of EU funds and state-owned enterprises in the Czech Republic, Slovak Republic and Poland.

One of the standard tools of risk assessment is **risk-mapping**. This can take various forms, but the underlying objective is always the same, to identify the highest risks of corruption. The basic techniques should be familiar to any internal and external auditor, as they apply to any form of risk:

- The **likelihood** of corruption is assessed on a rising scale. This can be low, medium or high, and even very high. An alternative method is use more descriptive terms (e.g. ‘unlikely’ to ‘almost certain’), or to focus on frequency (e.g. rare, regularly, constantly, etc.)
- The **impact** if the corruption does arise is similarly assessed on the low-medium-high scale, or again alternatively in a more descriptive way: insignificant, moderate, or major. To draw attention to the most serious incidences of corruption, a fourth ranking can be added: severe.

Using the simple low-medium-high formula as an example, the two-step risk assessment is applied to the institution or sector, by considering each potential aspect of corruption to produce a **risk matrix**. This starts with identifying all the potential risks, which means considering where there is an *opportunity* for corruption (see also [topic 2.3](#)). The approach will depend on the level of the risk assessment:

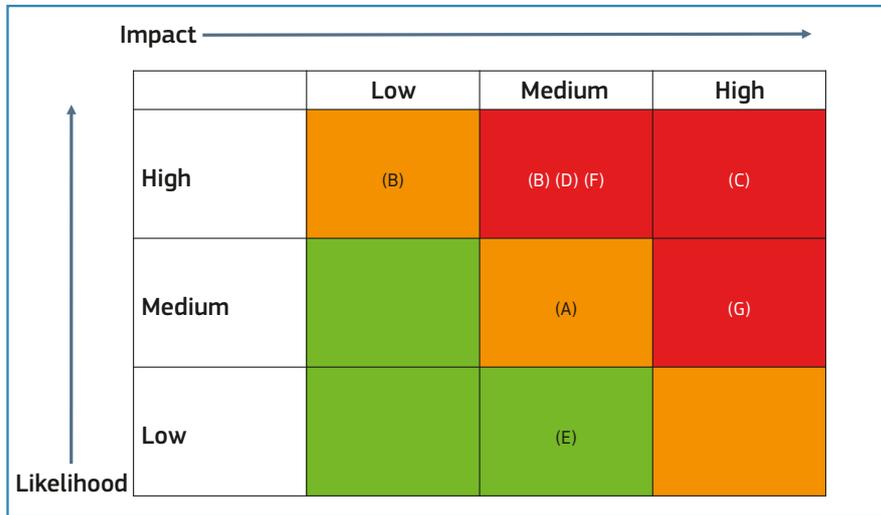
- For **sectors**, it will focus on strategic concerns, as exemplified by the analysis of the healthcare and border control sectors in the previous examples, which is valuable for preparation of strategies and their measures.
- For **institutions**, it will focus on managerial and operational concerns, which can then lead to specific plans and programmes for the institution under review.

The following example of part of an institutional risk assessment is illustrative only (in this case, receipt of gifts). Each risk assessment should be tailored to the situation in the specific sector or institution under review, and hence the ‘potential risk’ column should be formulated according to its circumstances.

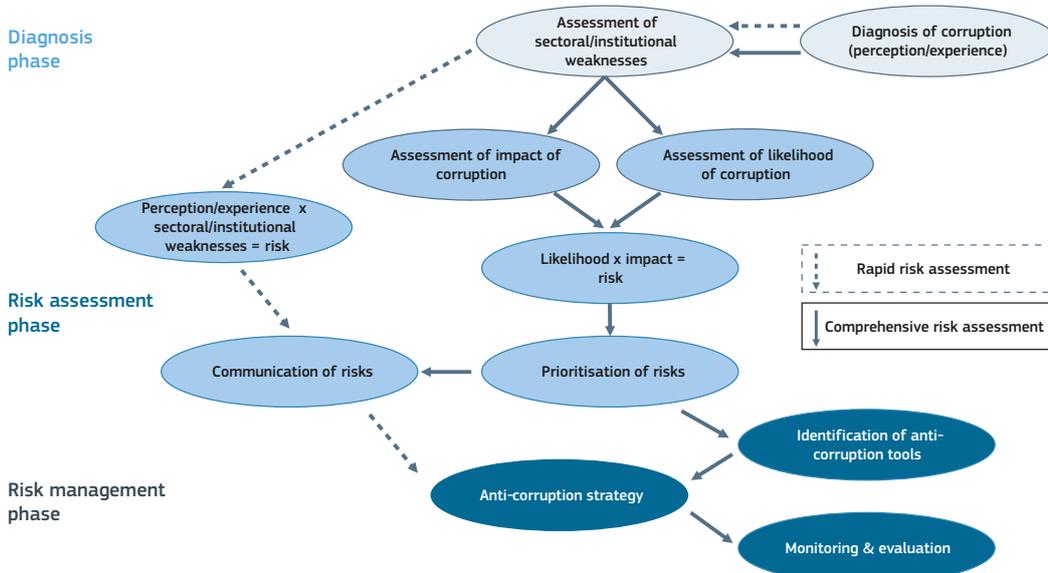
Potential risk: receipt of gifts	Likelihood	Impact
(A) There is no code of conduct for the ministry / agency / municipality	Low	Medium
(B) Official rulebook does not include provisions on receipt of gifts (maximum value, declaring receipt, etc.)	High	Medium
(C) Official rulebook does not include provisions on officials meeting with potential recipients of contracts or finance	High	High
(D) There is no register of gifts received (when, from whom, value)	High	Medium
(E) Not all officials have received ethics training	Low	Medium
(F) Not all officials in sensitive posts have received ethics training	High	Medium
(G) Officials in procurement have unsupervised meetings with potential tenderers or grant recipients	Medium	High
(H) Etc.

Whether sector or institutional, the analysis can be converted into a ‘**heat map**’, for greater visual impact (see below – which uses the potential risks A-G above for illustration). Each source of corruption risk is assigned to the corresponding square (e.g. low likelihood, high impact). The squares which are shaded in **red** present the

highest risk and hence the top priority for measures under the strategy or programme. Those in **orange** represent a moderate risk and hence a lower priority. The boxes shaded **green** are generally not prioritised for action. However, risk assessment is a dynamic process. It should be regularly reviewed, as circumstances may change. As mitigating measures are taken on the highest risks, their likelihood scores should fall, and the attention may switch to other factors over time that were previously considered lower priorities.



Transparency International (TI) has set out three main phases in producing a risk matrix (via a heat map, if used) – diagnosis, risk assessment and risk management - as the steps towards producing an anti-corruption strategy, containing anti-corruption tools, which is subject to monitoring and evaluation. As the diagram overleaf shows, it is possible to perform a rapid risk assessment, but the ideal scenario is to perform a comprehensive assessment to ensure the analysis has depth and the solutions are well considered.



Source: Based on Transparency International's Gateway Corruption Risk Assessment Toolbox.

In some Member States, the anti-corruption agencies have been tasked with performing corruption risk analysis. In the case of Slovenia, for example, the [Commission for the Prevention of Corruption](#) website includes a sample integrity plan and methodology that employs a risk management approach. In Lithuania, corruption risk analysis falls under the 2002 Law on Corruption Prevention and is conducted by the Special Investigation Service (STT) at the institutional level, with a particular

emphasis on officials and activity areas that are most vulnerable to corruption. The STT also performs [anti-corruption assessments of proposed legislation](#), which have covered legal acts in 15 policy fields in 2012-2014.

Inspiring example: Corruption risk analysis (Lithuania)

Every year, state and municipal authorities in Lithuania perform a growing number of studies of the probability of manifestation of corruption, on the basis of which they plan corruption prevention measures.

A 'probability of corruption manifestation' is an assumption that certain external and/or internal risk factors having an impact on the entity's operation will bring about corruption. Having assessed the areas with high probability of manifestation of corruption, ministers, management of entities accountable to the President, Parliament and Government and mayors are required to develop a grounded opinion on the detection of areas most prone to corruption and submit it to the Special Investigation Service (STT). On 13 May 2011, the STT director passed Order 2-170, whereby it approved the Recommendations on Detection of Areas of State and Municipal Activities Most Prone to Corruption (Official Gazette, 2011, No. 60-2877). The STT performs risk analyses, on the basis of which proposals for improving the situation are given. Most of the proposals are implemented.

According to the procedure, the risk analysis is performed at the level of state or municipal authorities, leading to an evidence-based report, proposals and recommendations regarding corruption prevention measures. The procedure identifies as **particularly prone to corruption**, first, officials (the heads of agencies and any structural sub-divisions and their staff authorised to carry out corruption prevention and control), and second, areas of activity that meet one or more of the following criteria:

- A corruption-related crime has already been committed in that area of activities.
- Its principal functions are control and oversight.
- There is no detailed regulation of the functions and tasks, as well as no operational and decision-making procedures of separate civil servants.
- The activities are related to issuing or restricting permits, concessions, privileges and other additional rights.
- Most of the decisions do not require approval by another state or municipal agency.
- There is access to information classified as a state or professional secret.
- Instances of improper conduct have been established by the previous analyses of corruption risk.

The risk analysis entails:

- Analysis of the activities of a state or municipal institution, in accordance with the procedure prescribed by the Government;
- Presentation of conclusions regarding the development of an anti-corruption programme and proposals about the content of the programme; and
- Recommendations concerning other corruption prevention measures for state and municipal institutions that are responsible for their implementation.

When performing a corruption risk analysis, the following is considered:

- Grounded opinion on the probability of corruption and related information;
- Findings of social surveys;
- Opportunity for one employee to make a decision with regard to public funds and other assets;
- Remoteness of employees and structural units from the headquarters;
- Independence and discretion of employees in making decisions;
- Level of monitoring over employees and structural units;

- Requirements to comply with the normal operational procedure;
- Level of staff rotation (cyclical change);
- Documentation requirements applied to operations and concluded transactions;
- External and internal auditing of state or municipal entities;
- Framework for adoption and assessment of legislation;
- Other information necessary to perform a corruption risk analysis.

Each year, the STT performs corruption risk analyses in about 16 state or municipal institutions, and reaches around 80 conclusions regarding the probability of manifestation of corruption.

The SIS has identified some problems with the performance of the probability assessment by state and municipal authorities. First, in some cases, the institutions do not perform studies at all. Second, some state entities perform their studies in an overly formalistic manner, e.g. one of the municipalities that carried out a study on determining the probability of manifestation of corruption in 2012 stated that there was no probability of manifestation of corruption, even though many complaints were received regarding the actions of public servants of that municipality and the corruption risk analysis performed in that municipality in 2008 revealed corruption risk factors. Institutions subject to the risk analysis are often reluctant to accept the defects of their activities determined in the process of corruption risk analysis and to implement the proposals for reducing the risk of corruption. However, at the same time, there are many **examples** of good practice, set out below.

Probability of manifestation of corruption

- In 2012, the **Ministry of the Interior** conducted a study on the potential manifestation of corruption and determined that one of the areas in which the probability of corruption is high is the activities of the Fire and Rescue Department related to the performance of its supervisory functions. It was found that having performed the inspection of a fire condition of an object, the inspecting officer independently adopts decisions regarding the compliance with fire safety requirements and deadlines for eliminating any violations. It was therefore concluded that there is possible risk of corruption in such situation, because the interested person may offer the inspecting officer an illegal remuneration for a favourable decision and the officer may agree to it, because the decisions are adopted independently. Having considered this fact, the Ministry of the Interior decided to review the established procedures and to take appropriate measures to ensure that the probability of manifestation of corruption is minimized to the largest possible extent.
- The **Ministry of Health** reported in 2012 that the probability of manifestation of corruption had been estimated in 41 healthcare facilities. In total 25 areas were examined: issuing clinical investigation certificates of medicinal products, procurement of goods, services and works, licensing of pharmaceutical activities, asset management, the use of representational funds, provision of medical and nursing services, provision of accommodation services to patients and accompanying persons. A high probability of manifestation of corruption was determined in 12 areas examined. The Ministry of Health intended to prepare a summary plan of corruption risk factors and measures for their elimination.
- In the area of waste management and administrative monitoring of Vilnius Region Environmental Department of the **Ministry of Environment**, STT discovered that the legal regulation of the activities of environmental agencies is not sufficient: the powers of monitoring exercised by inspectors are too wide, their actions with regard to inspections of persons or imposition of administrative fines are not adequately controlled; legal acts do not clearly regulate the time period during which mandatory instructions given by inspectors should be implemented. STT proposed to eliminate the aforementioned shortcomings as corruption risk factors.

Corruption risk analyses

- STT discovered that individual phases of purchasing hip and knee endoprosthesis by the **State Patients' Fund** are not performed fully transparently; the persons taking part in procurement have an opportunity to protect the interests of individual suppliers. STT proposed to develop specifications of joint endoprostheses purchased using the budgetary funds of the Mandatory Health Insurance Fund (MHIF); make a list of potential producers (suppliers); when drawing up a list of joint endoprostheses purchased with the MHIF funds lay down the qualification and reputation requirements; provide for a personal

liability of experts who do not perform their functions properly; make sure that when choosing the means for public procurement of joint endoprotheses from the MHIF, clear and transparent decision-making motives should be established; consider conducting public procurement through the Central Procurement Authority.

- The STT discovered that the activities of the **Vilnius city municipality** concerning the **administration of social housing** are insufficiently regulated as regards the lists of persons entitled to social housing; the procedure for informing persons about adopted decisions and transfer from one list to another is not comprehensive; there are no criteria established on the basis of which a person is entitled to a concrete housing; the procedure of priority allocation of housing is not comprehensive; the time periods for priority rent of housing have not been set; the control of provision of social housing rent has not been regulated; the procedure for crossing out persons from the list of qualified persons to obtain social housing rent has not been established. STT proposed to eliminate the aforementioned shortcomings as corruption risk factors.
- In the area of issuance of construction and other licences, as well as implementation of corruption prevention measures, in the Šakiai municipality region, STT discovered that the legal acts regulating the operation of the Architecture and Urbanistics Division do not clearly mark the limits of powers exercised by the division; employee functions are not clearly described in their job descriptions; internal rules regulating the operation of the Support Unit of the municipal administration contain corruption prone procedures for issuing licences and permits because according to them an employee of the same division develops the documents for a licensed activity, issues licences and performs oversight over compliance with rules of the licensed activity; some descriptions of the procedure for issuing licenses by the division are missing. STT proposed to eliminate the aforementioned shortcomings as corruption risk factors.

In each case, STT proposed to eliminate the aforementioned shortcomings as corruption risk factors.

For further information: Vidmantas Mečkauskas, Head of Corruption Risk Division, vidmantasm@stt.lt; see also <http://www.stt.lt/en/menu/corruption-prevention/corruption-risk-analysis/> and <http://www.stt.lt/en/menu/stt-annual-reports/> (performance reports in English)

Ultimately, even the best crafted strategies with the most robust evidence base and most comprehensive risk analysis are just paper exercises, unless they are accompanied by robust action plans that are followed through with actual implementation. Here, **EU co-financing** can support national authorities in preventing and combating corruption, fraud and any other illegal activities that affect the financial interests of the Union through the **HERCULES III programme**, managed by the European Anti-Fraud Office (OLAF). The programme came into force in March 2014 and helps to fund technical assistance (including equipment), training (including, judicial, legal, and digital forensic training), and the exchange of best practice through seminars and conferences, dedicated, for instance, to preventing corruption in procurement procedures.

Risk analysis is also being applied to EU funds through the use of the **risk scoring tool**, ARACHNE, which aims to provide Member State authorities involved in the management of Structural Funds with an operational tool to identify their most risky projects, regarding irregularities and fraud, and hence some forms of corruption. DG REGIO has also provided guidance on fraud risk assessment, and organised a 2013 conference on anti-corruption and anti-fraud measures in relation to the use of European Structural and Investment Funds. (Please see **theme 7** for further details).

2.1.3. Laws and regulations

Ethical principles are typically embedded in the legal base, outlawing bribery and other forms of domestic corruption through the adoption of primary laws and by-laws. The Treaty on the Functioning of the European Union recognises that corruption is a serious crime that often has implications across, and beyond, internal EU borders.⁽¹⁷⁾ Bribery and other forms of corruption, for example within the judiciary, can affect competition and investment flows. Multilateral organisations have played a catalytic role in the last few decades in establishing **international conventions and principles** that can be adopted by their members.⁽¹⁸⁾



The **Council of Europe** adopted its [twenty guiding principles for the fight against corruption](#) in 1997, which included promoting ethical behaviour, and which also led to the formation of the [Group of States against Corruption \(GRECO\)](#). With every EU country also holding membership of the Council of Europe (CoE), its 1999 conventions and can be very important in shaping national legislation, if ratified by Member States, the [Criminal Law Convention on Corruption](#) and the [Civil Law Convention on Corruption](#). The conventions define corruption in terms of bribery and undue advantage, and are complemented by the 2003 [Additional Protocol to the Criminal Law Convention on Corruption](#).

Similarly, given its global status, the **United Nations Convention against Corruption (UNCAC)** is another landmark and influential initiative, which entered into force in December 2005. UNCAC’s main objectives are to facilitate the prevention of corruption, assist countries in criminalising corrupt acts, provide a framework for international cooperation and facilitate the recovery of assets. UNCAC’s provision cover many of the tools in this chapter, including codes of conduct ([topic 2.1.1](#)), anti-corruption agencies ([topic 2.1.4](#)), open government ([topic 2.2.1](#)), external scrutiny ([topic 2.2.2](#)), human resources management ([topic 2.3.1](#)), administrative simplification ([topic 2.3.3](#)), whistle-blower protection ([topic 2.4.1](#)), and investigation, prosecution and sanctions ([topic 2.4.2](#)). It is also relevant to other chapters, including the judiciary ([theme 6](#)) and public procurement ([theme 7](#)). The EU acceded to UNCAC in 2008⁽¹⁹⁾, and the vast majority of EU Member States have ratified UNCAC.

Furthermore, the **OECD** adopted its “Convention on Combating Bribery of Foreign Public Officials in International Business Transactions” in 1997 and “Recommendation on Improving Ethical Conduct in the Public Service including Principles for Managing Ethics in the Public Service” in 1998, followed by its “Recommendation on Guidelines for Managing Conflict of Interest in the Public Service” in 2003, its “Recommendation on Enhancing Integrity in Public Procurement” in 2008, its “Recommendation for Further Combating Bribery of Foreign Public Officials in International Business Transactions” in 2009, and its “Recommendation on Principles for Transparency and Integrity in Lobbying” in 2010.

Each national system is specific to the country’s legal traditions and structures, but most Member States have criminal law which is aligned not only with EU legislation, but also UNCAC and Council of Europe standards. Some Member States recognise they have an obligation to outlaw bribery both at home and [abroad](#), such as the United Kingdom’s Bribery Act. This requires not only appropriate legislation, but just as importantly, rigorous enforcement in regard to prosecutions and penalties.

⁽¹⁷⁾ Article 83(1).

⁽¹⁸⁾ The World Bank has also been active in supporting countries through its [Governance and Anti-Corruption policy](#).

⁽¹⁹⁾ Council Decision 2008/801/EC (OJ L 287, 29.10.2008, p. 1).

Inspiring example: Outlawing domestic and foreign bribery (United Kingdom)

The Bribery Act 2010, which came into force on 1 July 2011, places the United Kingdom among the countries with the strongest anti-bribery rules in the world. It not only criminalises the payment and receipt of bribes and the bribing of a foreign official, but also extends criminal liability to commercial organisations that fail to prevent bribery committed on their behalf. Provisions on extra-territorial jurisdiction allow the Serious Fraud Office (SFO) to prosecute any company or associated person with a UK presence, even if the company is based overseas. Commercial organisations are exonerated from criminal liability if they had adequate procedures to prevent bribery. The accompanying Guidance to Commercial Organisations (GCO) by the SFO promotes awareness of the new legislative framework and guides businesses in a practical manner (including case studies) regarding their obligations under the Act to prevent or detect bribery. In line with a previous OECD recommendation, the GCO makes it clear that facilitation payments are considered illegal bribes and provides businesses with criteria to differentiate hospitality from disguised forms of bribery. The SFO has wide powers to investigate and prosecute serious and complex fraud, including corruption. In certain circumstances, the SFO can consider civil recovery orders and settlements in accordance with previous guidelines.

Source: European Commission’s Anti-Corruption Report, 2014

Some Member States have also legislated to regulate **conflicts of interest** in decision-making and allocation of public funds, including public procurement and European Structural and Investment Funds (see [theme 7](#)).

What are conflicts of interest?

The Council of Europe has defined conflict of interest as a situation “in which the public official has a private interest, which is such as to influence or appear to influence, the impartial and objective performance of his or her official duties”. Private interest is understood to mean “any advantage to himself or herself, to his or her family, close relatives, friends and persons or organisations with whom he or she has or has had business or political relations.” It includes also any liability, whether financial or civil, related thereto.

Conflicts can take many forms, including officials or their relatives that have outside business interests, such as a stake in a company that is applying or bidding for funding, or the expectation of future employment by a recipient of government contracts. The movement of people between the public and private sectors can never be outlawed, and is necessary for flexibility in an economy, especially at a time when public sector employment is being reduced and/or the private sector is expanding. There are advantages to both sectors from the transfer of know-how, but there are also risks to disclosure of privileged information, when public officials, whether elected or employed, move to private enterprises in their former field of responsibility. Part of the solution can be to impose restrictive covenants in officials’ employment contracts, which seek to stop or slow down the ‘revolving door’ of officials moving between public and private sectors in a related field (see [topic 2.3.1](#)).

Other relevant legal provisions include laws to **protect whistle-blowers** which is covered in more depth in [topic 2.4.1](#).

2.1.4. Coordinators and agencies



Some Member States have allocated resources at the centre of Government to manage their ethics policies through **integrity coordinators**, such as the Netherland’s Office for the Promotion of Public Sector Integrity (BIOS). BIOS was established by the Ministry of Interior and Kingdom Relations and is an independent institute that encourages and supports the public sector in designing and implementing integrity policies. Many Dutch cities and communities have local integrity policies as an

integral part of local governance.⁽²⁰⁾ The Flemish Government's integrity policy was in part triggered by the 2003 credit card scandal in the City of Antwerp. The public outcry, after a number of municipal (elected) officials were found to have used and abused municipal credit cards for personal expenses or excessive professional purchases, changed the political climate. The conclusion was that governance had to become more transparent and accountable, and governments must demonstrate that they deserve citizens' trust, resulting in the creation of the position of Coordinator of Integrity Care.

Inspiring example: Integrity coordination in the Flemish Government (Belgium)

In 2005, the Flemish Government decided to start working on an official integrity policy and to appoint an integrity officer to manage the process and coordinate the policy's integration across the entire administration (26 000 people in 78 entities in 2013). The integrity policy is built on three pillars:

- 1. Prevention:** This includes values and standard-setting (codes of conduct), training, communication, stimulating and sensitising staff, cultivating an open discussion about integrity as the culture.
- 2. Detection (and control):** This includes regulation, internal control, screening, monitoring, reporting and forensic audits.
- 3. Reaction (and sanctions):** This involves action after the finding of infringement and ensuring the appropriate penalty and follow-up.

Kristien Verbraeken, Integrity Coordinator from 2010 to 2014, explains: *"You need all three pillars in place. If you concentrate on one pillar only, there's a risk that it can actually have a negative impact"*.

In broad terms, policy implementation has evolved through several phases, described below. This progression was not orchestrated to a plan, but reflects the realities of how organisations operate, as well as the commitment, energy and ideas of the integrity office and officials across the administration:

- **Establishing the policy & structures (2005–2006):** Following the official decision in 2005, the first Integrity Coordinator was appointed in 2006, and the Internal Audit Division (IAVA) was formed. A new Code of Conduct was introduced, a circular with guidance on 'vulnerable functions' was distributed, regulations adopted for former employees who move to private companies, and protocols launched to implement the Government's whistle-blower protection act.
- **Designing policy tools in partnership (2006–2010):** Increasingly, colleagues from entities across the administration turned to the integrity officer for developing a range of instruments, including dilemma training, a manual for identifying 'vulnerable functions', guidelines for the implementation of an integrity policy for separate departments and divisions, the training of trusted intermediaries, and a strategy for crisis communication in case of integrity calamities.
- **Engaging fully with entities and officials (2010–2011):** When the original integrity officer moved to a new challenge in 2009, it left a gap of almost a year before her replacement was appointed and in post. The hiatus helped many in the administration to realise that promoting integrity was a "never-ending story", it could not stand still and there was fresh impetus to push on. More coordination was needed to embed integrity, and reach out to entities and officials. The code of conduct was updated with representatives of the 13 departments of the Flemish administration. Its launch was accompanied by a fully-fledged communications campaign, featuring posters in every administration building and 'fake film tickets' as flyers to draw attention to regulations on dealing with gifts and invitations as a civil servant. The integrity website was completely renewed with many cases, tips and of course the instruments themselves, with links to the services of the integrity partners at the Flemish government administration (well-being, internal control, HR, diversity, etc.). The campaign triggered many entities to start working on their own integrity policies and made the integrity website one of the most visited of the administration. IAVA also screened all entities for all processes, with a scoring system with integrity as one of the audit objectives and recommendations.
- **Integrating integrity into the administration (2011–2014):** The most recent phase has taken a multi-disciplinary approach, with three elements. First, a 'virtual integrity office' was formed compris-

⁽²⁰⁾ See European Commission's Anti-Corruption Report 2014, and the Utrecht School of Governance (2008), "Catalogue of promising practices in the field of integrity, anti-corruption and administrative measures against organized crime in the EU" http://www.integriteitoverheid.nl/fileadmin/BIOS/data/Publicaties/Downloads/EU_Catalogus.pdf

ing: a central group dealing with integrity cases; a six-member 2nd group representing cores partner in the Flemish administration to advise on measuring results, policy proposals, entity implementation, and common initiatives (e.g. communication); and a 3rd contact group of colleagues working in policy implementation in different departments as a sounding board on the 2nd group's proposals. Second, a unique complaints centres ('Spreekbuis'); employees can call a free number if they have questions or complaints concerning welfare, safety and integrity at work. Third, the 'integrity network group' gathers together all integrity contact persons of entities of the Flemish government to share knowledge and information, and keep the integrity officer informed on what is important for their entity. Other initiatives in 2012-2014 include the renewal of the ICT code of conduct, work group integrity risk analysis, integrity training for managers and benchmarking with other governments.

The Integrity Office's campaign - 'does work keep you awake at night?' (see below) - has been particularly creative in raising awareness (<http://www.bestuurszaken.be/spreekbuis>). The helpline number, Spreekbuis, which any official can approach in confidence, provides an outlet for staff to express their concerns about ethics at work, if they are frustrated or unhappy, and talk through their options. Spreekbuis had 93 cases in 2013, of which 13 were people looking for information only and 80 were substantive cases. This was more than double the 45 cases in 2012, in part due to an extensive publicity campaign that raised its profile.

As the integrity policy evolves, the integrity office is looking at a 4th pillar: **aftercare**. Integrity is not utopia and from time-to-time, crises happen. Is the administration ready for such times? When there has been a serious breach of integrity, the entity involved really needs support to get back on the right track: trust between employees, between employees and management is strained and employees are not motivated anymore to work for their organisation. With different experts, the entity can be helped to rebuild its mutual trust, its activities and reputation.

The integrity office is also working on ways to measure the policy's impact. Every two years, an anonymous staff survey is conducted that includes four questions on integrity, covering management, proper use of the budget, fair and proper treatment in evaluation of their work, and the prevalence of gossip in the office.

For further information: <http://governance-flanders.be/integrity> or <http://www.bestuurszaken.be/integriteit>

Key learning points from the Flemish experience include:

- The creation of a central office to lead and coordinate the integrity policy;
- The importance of having a network of 'antennae' right across the administration, who know best their own entities, act as ambassadors for the policy and bring their insights and ideas back to the centre;
- The emphasis on active and innovative promotion of the policy among officials, which links integrity to staff's well-being; and
- The detective role of internal audit in conducting screening and, if problems are raised, able to perform 'forensic' audits to get to the bottom of any corrupt behaviour.

The approach can be summed up in the phrase, used by the Integrity Coordinator, "*integrity is doing the right thing when no-one is watching*", which captures the essence of ethical behaviour that goes unnoticed most of the time.

Many Member States have established **anti-corruption agencies (ACAs)** to take forward and implement their policies, tasked with one or more functions including:

- Education and awareness-raising - providing information on corruption, including conducting research;
- Monitoring and coordination - acting as the central focal point for anti-corruption actions, and ensuring international cooperation;
- Prevention, investigation and prosecution - scrutinising asset declarations and verifying wealth (see [topic 2.4.2](#)), receiving and responding to complaints (see [topic 2.4.1](#)), gathering intelligence, conducting investigations, and presenting a case for (or against) the imposition of sanctions (see [topic 2.4.2](#)).

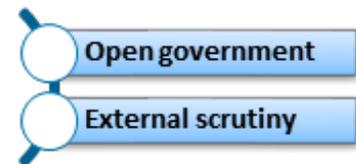
Examples of multi-purpose ACAs include [Lithuania's Special Investigation Service \(STT\)](#) and [Poland's Central Anti-corruption Bureau](#). According to the [OECD's analysis](#), the criteria for effective ACAs (in line with the UNCAC and Council of Europe Conventions) are challenging to implement, but include:

<i>Criteria for effective anti-corruption agencies</i>
• Genuine political will to fight corruption, embedded in a comprehensive anti-corruption strategy;
• Structural and operational autonomy, along with a clear legal basis and mandate, especially for law enforcement bodies;
• Transparent procedures for the director's appointment and removal, proper human resources management and internal controls to prevent undue interference;
• Matching independence with accountability, by submitting regular reports to executive and legislative bodies, and providing the public with information;
• Recognising that no single body can promote ethics and tackle corruption alone, and hence collaborating with other agencies, civil society and businesses;
• Employing specialised staff with specific skills, depending on the agency's remit;
• Ensuring adequate material and financial resources, including training;
• In the case of law enforcement, sufficient legal powers to conduct investigations and gather evidence, clear delineation of responsibilities with other public bodies in this field, and teamwork between investigators, prosecutors and other specialists (e.g. finance, audit, IT).

Given the sensitivities of their remit, ACAs run the risk of becoming the target of political control, and hence the first two factors are also the most important.

2.2. Building public trust through transparency & accountability

Corruption can fatally undermine public trust in public administration, and results from a failure of individuals to be accountable for their behaviour, which is compounded if the system fails to hold them to account. As corruption usually relies on secrecy (unless at worst, it is both endemic and explicit), the antidote is open government, enabling citizens to exercise their democratic right to oversee the executive and the judiciary, by ensuring they have access to information and enabling citizens' representatives to scrutinise performance through parliamentary bodies, civil society and investigative journalism. Transparency acts to deter and detect - providing a safeguard against potential abuses of power, and shining a light on transgressions if they arise.



"Our free and fearless press shines a light wherever it is needed, without fear or favour. Of course that can make life difficult – but it helps drive out the corruption that destroys so many countries. Our governments lose cases in court, because we don't control the courts. But that's why people invest in our countries because they have property rights, and they know that they can get redress from the rule of law and that we have judges who are honest and not on the make. It is no accident that the most successful countries in the world are those with the absence of conflict or corruption, and the presence of strong property rights and institutions".
David Cameron, British Prime Minister, Address to the Australian Parliament, 14 November 2014

2.2.1. Open government

Thanks in part to 24/7 news coverage and social media, there appears to be an unstoppable movement towards greater transparency in government and the judicial system (see [theme 6](#)). In the era of modern communications and social networks, the public sector is more open than ever in history, and many administrations have embraced that reality, by adopting legislation permitting freedom of information. ICT is both a driver and an enabler of this openness.



Digitisation now allows the public to monitor the extent to which public administrations meet their obligations on transparency. It is down to individual governments to decide how ambitious they wish to be when extending the boundaries on that openness. The [Public Sector Information Directive 2003/98/EC](#) applies to all Member States, but as well as open data, many administrations are also providing access to information on processes, performance, tendering procedures, use of public funds, different steps of a policy or decision-making, etc. All Member States are signatories to the [2009 Malmö Ministerial Declaration on e-Government](#), which includes strengthening transparency of administrative processes as one of its four objectives, and which was followed up the [e-Government Action Plan 2011-2015](#).

In Italy, for example, the Government has opened the window on its use of European Structural and Investment (ESI) Funds and national funds to policy-makers, citizens, businesses, media and civil society through its 'OpenCoesione' web portal. The administration has actively encouraged civic involvement in performance monitoring, through the independent 'monithon' platform, and invited media interest through its 'data journalism days', as well as ensuring open data through its licensing arrangement. Together, these actions are intended to engage with the public, incite participation and protect against corruption and misuse of public funds.

Inspiring example: "OpenCoesione" (Italy)

Launched in 2012, "OpenCoesione" is Italy's open government strategy on cohesion policy, aimed at more efficient and effective results thanks to public availability of data on all funded projects and greater public participation and collaboration on projects and policy themes. OpenCoesione centres around the national web portal (www.opencoesione.gov.it) on the implementation of investments using EU Structural Funds and national funds for cohesion programmed by national and regional administrations. Around EUR100 billion was allocated in Italy in the 2007-2013 period, of which EUR27 billion was co-financed by the EU, involving over 81 000 entities all over Italy, but mostly in the south. This funding was spread over many different policy sectors, with the aim of reducing disparities, attracting business, and enhancing opportunities and the quality of services.

Although EU Structural Fund regulations already have provisions on data publication, made stricter in the 2014-2020 period, until 2012 most of the information on the beneficiaries was dispersed, in Italy as well as in Europe, across a wide number of managing authorities, published mostly in PDF format, and contained only a very limited number of variables. OpenCoesione collects the information in a single place, "opens" the data and offers a much wider number of variables on single projects, the role of national portal envisaged by the EU regulations.

Availability of open data on public spending is the base to successfully increase accountability and overcome a long history of mistrust in many different development projects all around the world. The lack of transparency on how public money is spent is one of the main reasons for the slow pace in implementing development policies and in understanding whether investment projects actually respond to local demand. This is a particularly hot topic in Italy at present given the low absorption rate of EU Structural Funds and the debate all over Europe continues on the extent to which, after decades of subsidies, whether the European Regional Policy is effective or not. The OpenCoesione web portal enables citizens, researchers, journalists, administrators to monitor the use of cohesion policy resources, offering information, accessible to anyone, on what is funded, who is involved and where.

Users can either download raw data or surf through interactive diagrams itemised by expenditure categories, places and type of intervention, as well as have access to files on single projects and subjects involved. *Inter alia*, the web portal offers:

- Information on projects, including description, funding (amount and sources), location, thematic areas, subjects involved, and implementation timeframes;
- A list of top projects on the home page (most recently completed and largest financially);
- Interactive graphs showing the distribution of investment and number of projects by nature and policy theme;
- An interactive table on investment by nature and policy theme;
- Direct search of public authorities in charge of programming and other recipients of projects; and

- Direct access to locations through interactive maps and searches to discover the number of projects undertaken, the amount of overall investments in the place and the list of projects.

The OpenCoesione website addresses administrators and public servants, researchers and evaluators, citizens, entrepreneurs, organised sectors of civil society, and journalists and the media. In support of OpenCoesione, ‘data journalism days’ are organised as seminars for journalists, policy analysts, researchers and students interested in using information on investment projects funded by EU cohesion policy. They are aimed at understanding what kinds of data are available and at promoting mash-ups between OpenCoesione data and other sources in order to draft analyses, graphics and maps, and tell stories.

The national monitoring system of projects financed by cohesion policy, representing the main source of data published on the OpenCoesione web portal has a federate architecture (a system of systems), based on a data exchange protocol shared by all local systems. A technical group on data quality and transparency, established with all managing authorities in charge of cohesion policy programmes, operates in order to improve the quality and to promote dissemination and reuse of data and information on implemented projects. The group is composed of delegates directly involved in programme monitoring and communication.

In addition to data on the projects financed, the portal presents data on the territorial context in which they are developed, and offers also the visualization of a selection of territorial indicators on the social and economic context of each region for each policy theme. The idea is to invite the user to make connections between projects and the issues on which they should have an impact.

OpenCoesione publishes metadata and links to detailed information, with all contents available under an open license (the “Creative Commons licence 3.0 – BY-SA”) which allows re-use of data and information provided that the original source is acknowledged and the result is shared under the same conditions.

The openness of the Italian administration’s approach extends to inviting citizens to participate in the assessment of Structural Fund’s performance. Starting from data on OpenCoesione, citizens can map out the projects funded by cohesion policy in their town or area, then select a theme or another specific feature, go to see what the project is really about, and check on its realisation on-the-spot. The idea of a civic monitoring marathon, called “monithon”, was initially conceived within the administration, and now is supported by an independent web platform (www.monithon.it), where all evidence collected by citizen can be uploaded and published along with official data.

OpenCoesione-Monithon scored in 4th place at the Open Government Awards 2014, organised in the framework of the Open Government Partnership. Participating countries nominated initiatives that expand and sustain “citizen engagement” to improve government policies and services, and Italy ranked top on credibility of partnerships and evidence of results and rated well on depth of engagement and sustainability.

OpenCoesione is also raising civic awareness in new generations through involving high schools in the “OpenCoesione School”, an experimental civic monitoring project that mixes civic education, digital competencies and data journalism in order to understand and communicate with innovative methods how cohesion policy affects our neighbourhoods. “OpenCoesione School” includes project work with storytelling about interventions funded by cohesion policy and provides feedback on results to local government entities and stakeholders in a public event (www.ascuoladiopencoisione.it).

Ultimately, OpenCoesione represents an attempt to: first, improve policy effectiveness through better knowledge on which kind of investment projects are actually carried out in the territory; second, enhance coordination among the administrations responsible for implementing the projects; and third, provide more public scrutiny on who benefits from the resources, also with the aim to avoid corruption and fraud.

For further information: Carlo Amati, Simona De Luca, OpenCoesione Coordinators, Department for Cohesion Policy, opencoisione@dps.gov.it; www.opencoisione.gov.it

Centralised, top-down programmes to open up the administration lay the foundations for more tailored and targeted actions at regional and local levels. Many citizens and businesses rely on municipal government in particular for information, transactions and services (see also [theme 4](#)). In the case of the United Kingdom's Local Government Transparency Code, this openness has been formulated as an obligation on local authorities.

Inspiring example: Local Government Transparency Code (United Kingdom)

The Government believes that in principle all data held and managed by local authorities should be made available to local people unless there are specific sensitivities (e.g. protecting vulnerable people or commercial and operational considerations) to doing so. Transparency about how local authorities spend money and deliver services, and how decisions are made within authorities, gives local people the information they need to hold their local authority to account and participate in local democratic processes. The availability of data can also help secure more efficient and effective local services and open new markets for local business, the voluntary and community sectors, and social enterprises to run services or manage public assets.

The Local Government Transparency Code 2014 is a tool to embed transparency in local authorities and sets out the minimum data that local authorities should be publishing, the frequency it should be published and how it should be published. The code preserves the principles of transparency by asking councils to follow three key principles when publishing data:

- Respond to public demand;
- Release data in open formats available for re-use;*
- Release data in a timely way.

Source: <https://www.gov.uk/government/publications/local-government-transparency-code-2014>

(*) As a separate initiative, readers might also be interested in the open data certificates which are issued by the Open Data Institute: <https://certificates.theodi.org/>

2.2.2. External scrutiny



Transparency is an effective tool in deterring and detecting corruption when it is matched by external scrutiny and the public's active participation in the administration's decision-making processes. This requires strong institutions from outside the executive and judiciary that are capable of investigating behaviour and holding the administration to account, including:

- **Supreme Audit Institutions (SAIs)** that are fully independent from the executive and can report to Parliament and the public on misuse of funds;
- **Information Commissioners** or similar (if such exist) that enforce freedom of information legislation;
- **Ombudsmen** that provide recourse for the public to make complaints;
- An independent and vibrant **media** capable of asking tough questions, and
- Healthy and effective **non-governmental organisations (NGOs)** capable of representing societal interests and willing to tell 'truth to power'.

Public administrations can call on **civil society organisations (CSOs)**, as a bridge from the executive to the citizen, to encourage the public's active engagement and interest in monitoring the decision-making process and ensuring transparency. As was demonstrated by citizens' reactions to the 2003 credit card scandal in Antwerp municipality, and the 2009 MPs' expenses scandal in the UK Parliament that was first exposed by a newspaper (Daily Telegraph), the groundswell of public opinion can be a trigger for action by authorities.

“Next to a well-founded and implemented integrity policy, if there is one thing that can make a difference to integrity in public administration, it is investigative journalism and civic protest - things change when people have had enough. Ultimately, though, integrity comes down to institutions and individuals” (Kristien Verbraeken, Flemish Integrity Coordinator 2010-2014).

Research shows that *“control of corruption is significantly better in countries with a larger number of CSOs and with more citizens engaged in voluntary activities ... as long as the capacity for association and collective action exists a society is able to keep a check on public corruption. The association is so strong that its contrary must be just as well understood. In the absence of public oversight, it is quite impossible even by repressive or administrative means to build-in control of corruption”*.⁽²¹⁾

The [Open Government Partnership \(OGP\)](#) is an example of an international transparency initiative which provides a platform for *“domestic reformers committed to making their governments more open, accountable, and responsive to citizens... In all of these countries, government and civil society are working together to develop and implement ambitious open government reforms”*. Since its launch in 2011, the OGP has grown from eight to 65 participating countries.

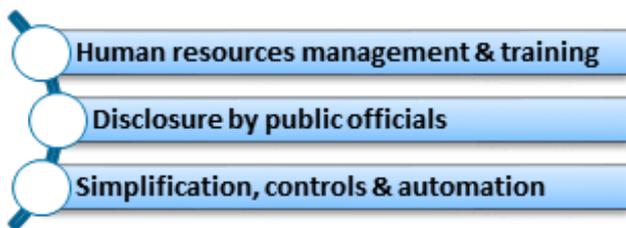
Transparency should also extend specifically to **lobbying**, in the context of consultation on public policy development and implementation (see [theme 1](#)). Employers, businesses, unions, associations, churches, NGOs and other interest groups seek to have their views heard on policy. These perspectives are sought by administrations to ensure that policy is framed in dialogue with all affected parties, including the general public. Faced by the risk of policy or regulatory capture by special interests, EU members have not sought to restrict lobbying and thereby lose the benefits of stakeholder dialogue, but to make these activities as visible as possible, by introducing registers of lobbyists, either mandatory or voluntary, and publishing details of lobbying activities. This is not straightforward, especially in defining who is and is not a lobbyist and what constitutes lobbying. In this context, the [EU Transparency Register](#) provides an interesting model, as registration is voluntary, but incentivised by controlled access to Parliament buildings and being alerted automatically regarding consultations of interest.

EU Transparency Register

The Register has been set up to provide citizens with “a direct and single access to information about who is engaged in activities aiming at influencing the EU decision making process, which interests are being pursued and what level of resources are invested in these activities. It offers a single code of conduct, binding all organisations and self-employed individuals which accept to “play by the rules” in full respect of ethical principles. A complaint and sanctions mechanism ensures the enforcement of the rules and to address suspected breaches of the code. In return for this transparency, lobbyists have an incentive to register, as they receive an alert each time the Commission publishes a new roadmap or launches a public consultation in the field where they have an interest, while badges offering long-term access to the European Parliament’s buildings will only be issued to individuals representing, or working for, organisations falling within the scope of the Transparency Register where those organisations or individuals have registered. However registration shall not confer an automatic entitlement to such a badge. The Transparency Register is operated by the European Parliament and the European Commission, and supported by the European Council.

⁽²¹⁾ Mungiu-Pippidi A., (ed), (2013) “Controlling Corruption in Europe: The Anticorruption Report” (op. cit.)

2.3. Promoting integrity and reducing the scope for corruption

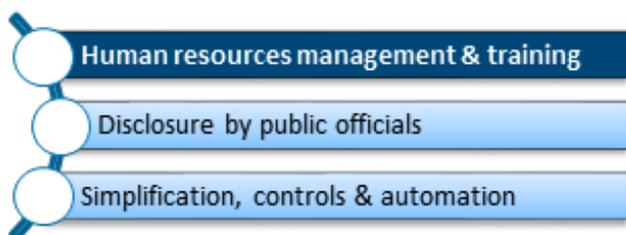


Public administrations are, in some respects, microcosms of society. In the same way that high performing economies are characterised by low reported corruption, officials that act in the best interests of their organisations are the foundation of well-functioning institutions (see [theme 3](#)). By itself, this should create sufficient incentive for public authorities to promote integrity in the workplace.

At the same time, it is also recognisably better to stop the cancer of corruption before it takes hold, rather than try to stop it spreading, which places the highest priority on prevention within the panoply of anti-corruption measures. This highlights the delicate balance that must be struck, simultaneously emphasising the importance of ethics while sending a signal that corruption will not be tolerated. Public authorities must tread carefully when introducing anti-corruption measures, as implied suspicion can create a poisonous climate – undermining relationships, individual performance and overall productivity. While the wider goal is to ensure that businesses and citizens can trust in public services, this trust must also be built within the administration itself.

This calls for a balanced approach: accentuating the positive benefits of ethical behaviour, while being alive to the potential for corrupt activities. For corruption to take place, there must be opportunity, although of course the former does not follow automatically from the latter. Where unethical practices occur, they typically start from the power relationship: the public official has leverage, something that the other party wants. This could be: access to public funds; power to avoid taxes, duties, fees or charges; decision over supply/service/works contracts, privatisations, concessions or public-private partnerships; access to justice or its avoidance; access to healthcare or education; etc. For the official to offer (or respond to) the potential for corrupt practices, they must have discretion over the decision-making process, and they must be able to mask the use of their discretion, in other words there is a degree of secrecy in the process. Automatic and transparent entitlement presents little scope for graft.

2.3.1. Human resources management and training



Conditions of employment have a bearing on the context for both ethical and corrupt behaviour. Poor rewards for performance (low salaries), contracts without security, politicisation and lack of professionalism all contribute to an environment which can encourage the pursuit of self-serving ends. Assuming the terms of employment are fair, the next step is to ensure that human resources

management (HRM) integrates ethical values into personnel policies, especially for higher risk positions, and provides clarity regarding workplace rules in the ‘grey areas’ of integrity (see also [topic 3.3](#)). HRM policies might include:

Potential HRM policies to promote ethical values and behaviour

- Merit-based recruitment as the antithesis of patronage, cronyism and nepotism;
- Competency frameworks with ethics as an integral feature (see [topic 3.3](#));
- Recruitment practices that screen candidates for ethical behaviour;
- Performance appraisals that consider not only technical and team factors, but also the track record against ethical standards;
- Ongoing professional development and career management that rewards ethics, including improvements in systems to prevent and control corruption;
- Unambiguous limits on acceptance of gifts;
- Restrictions on the ancillary activities and outside interests of staff (for example a tax officer cannot also become a tax consultant) and the accumulation of different positions which may present conflicts of interest (such as policy-maker and regulator);
- Restrictive covenants in employment contracts regarding future private sector jobs in related fields where they might be able to take advantage of privileged public information for personal gain, such as obliging the official to seek position from the public body or to observe a ‘cooling-off’ period (such as 6 or 12 months);
- Effective disciplinary policies, in the event of wrong-doing.

In particular, empirical evidence points to **meritocratic appointments** as one of the most powerful tools of good governance in promoting ethics and undermining corruption: *“the essence of a professional bureaucracy is not that merit-recruited employees are “better” compared with politically recruited, but simply that they are “different” from elected officials. When it comes to fighting corruption, it is very important, as the two different groups will monitor each other ... a recruitment process based on the skills of the candidates, which creates a professional bureaucracy, appears to be the most important bureaucratic feature for deterring corruption”*.⁽²²⁾

Even within merit-based systems, recruitment and appraisal techniques are among the most tricky to get right. Interviewees can be asked about their reaction to various ethical situations where there may be **conflicts of interest**, similar to the scenarios used in dilemma training (see [topic 2.3.2](#)), and also assessed for friendliness and conscientiousness, which are two traits which have been linked to integrity in behaviour. It is also easier to reach middle management with training and professional development than top management, who are essential to ‘setting the tone’ in the organisation, but are often seen as too busy and out of the reach of human resource departments. Rather than formal training courses for top officials, some administrations have looked to peer mentoring instead, in which it is easier to introduce integrity as a dimension of coaching.

Before putting together a portfolio of HRM practices, however, it is necessary to identify the source of the opportunity, which is likely to be **sector-specific** (e.g. infrastructure projects, justice, customs), and to tackle these risks, putting in place mitigating measures.

⁽²²⁾ Dahlström C., Lapuente V., and Toerell C., (2011), “The Merit of Meritocratization: Politics, Bureaucracy, and the Institutional Deterrents of Corruption”, *Political Research Quarterly*, <http://prq.sagepub.com/content/early/2011/05/17/1065912911408109>

Tackling corruption in EU border control

As a rule, most anti-corruption policies used by border guards in the EU are not devised with them specifically in mind. However, some Member States have adopted strategic plans and anti-corruption programmes that specifically target border control corruptions. Some of the key measures are:

- Vetting: Job applications for border guards are carefully examined, although the extent of background checks varies.
- Education: The initial education of border guards typically includes general anti-corruption topics, but few Member States include practical guidance in their on-going training.
- Integrity testing: Officers are put in situations that test their morality (without resorting to entrapment). This is commonly used in the UK (and US) and is being tested in other Member States.
- Electronic surveillance: The same systems that are designed to protect the security of staff can also act as a corruption-prevention tool.
- Rotation: Border guards are moved regularly to different locations, posts or positions, to reduce the likelihood of establishing entrenched corrupt relations and corrupt group behaviour.

Many Member States have dedicated internal affairs departments investigating police corruption, or even dedicated departments exclusively investigating border guard corruption. In most EU members, investigations into corrupt border guards are initiated in a reactive manner - usually in the course of other criminal investigations, or as a result of reports and complaints. Some use proactive approaches to generate leads for investigations based on risk analysis methods (data mining or data washing) or the use of informants. The use of undercover agents, informants or electronic surveillance may be used in more complex cases. Integrity testing is one alternative to the traditional internal affairs investigations approach.

Source: Center for the Study of Democracy (2012), op cit.

Integrity policies present their own dilemmas within the workplace. On the one hand, you want officials to be able to speak freely and raise concerns when they arise, but on the other hand, you also want to build team spirit and encourage loyalty. But loyalty can also divide: do you show loyalty to your colleagues or loyalty to the organisation? Are you accountable to your management, your elected politician, or the public? Freedom of speech also extends to communication outside of the workplace. In a time of social media, when people are using Facebook and Twitter on a daily basis in both their professional and personal lives, where do you draw the line in what information individuals put into their own networks? These are the type of issues that public administrations are increasingly addressing through **staff training**. In the case of the Slovenian police force, for example, the updating of their ethical code prompted an extensive training programme, to disseminate the agreed values and discuss how they could be put into practice.

Inspiring example: Implementing ethics and integrity (Slovenia)

In 2008, the Slovene Police took the decision to update their old Code of Ethics from 1992, which was felt to be too punitive in nature and not sufficiently inspirational. A working group was established to strengthen the integrity of the police, and the education and training of its members, and a new Code prepared with an emphasis on self-regulation and adopted on 9 October 2008. The Code is intended to raise police officers' awareness of the importance of respecting ethical principles and to strengthen ethical and moral conduct in practice. It determines both the relations between police officers and the relations between them and citizens, state authorities, non-governmental organisations and other institutions.

There are two general provisions:

- The Code of Police Ethics expresses the will and desire of all Slovenian police officers for lawful, professional, fair, polite and correct work as well as humane conduct.
- Police officers shall be committed to ensure the protection of, and respect for, human rights and fundamental freedoms. In a lawful interference with an individual's human rights and fundamental freedoms, they shall respect the person's personality and dignity. Police officers shall be obliged to protect a person's personality and dignity also by preventing any violence, inhumane treatment or other actions which are humiliating to people. Police officers shall perform their mission with the force of argument rather than the argument of force.

The main basic principles are as follows:

- **Respect for equality before the law:** Police officers, in their procedures, shall ensure that everyone is guaranteed equal human rights and fundamental freedoms, irrespective of ethnicity, race, gender, language, religion, political or other conviction, material standing, education, social status or any other personal circumstance.
- **Protection of reputation:** Police officers, in performing their work and in their private life, shall ensure the protection and promotion of their own reputation and the reputation of the police organisation. Police officers shall focus especially on strengthening the integrity of the police organisation. In their work, police officers shall adhere to principles; they shall be consistent, resolute, persistent, fair, professional, and in contacting people, state authorities, non-governmental organisations and other institutions, they shall be polite and correct.
- **Incorruptibility:** Police officers shall not require, for themselves or for any other person, any special privileges, and shall be unsusceptible to all forms of corruption.
- **Public nature of work:** Police officers shall earn sympathy, reputation and respect of the general public by performing their duties in a public, legal, professional, fair, polite and correct manner, and shall accept the public as a form of control over their work.
- **Professionalism and independence:** To achieve professionalism in their work, police officers shall be adequately trained and shall receive professional and advanced training, as well as broaden their general knowledge and develop specific knowledge and skills necessary to perform official duties. Police officers may associate in trade unions or professional and other similar associations in the country and abroad. Their professional conduct should not be based on political convictions and world-views.
- **Protection of professional secrecy:** Police officers shall protect professional secrecy and shall not use in an unauthorised manner or disclose data and information acquired in the performance of official duties. In the course of their work and in informing the public, they shall be appropriately discreet.
- **Mutual relations:** The relations between police officers shall be based on mutual respect, mutual assistance and the principles of solidarity, collegiality, tolerance and honesty, mutual trust and dignity, constructive criticism and good communication. Their relations shall not be characterised by the phenomena of false solidarity, humiliation, underestimation and discrimination.
- **Code compliance:** Police officers shall be obliged to comply with this code, and shall therefore be well acquainted with it. They shall be aware of the moral responsibility and moral consequences of any breach of the Code.

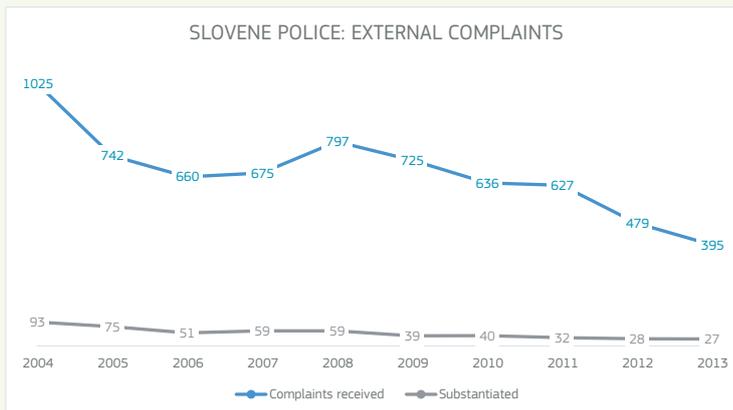
The Code also commits to its principles being observed in all security situations equally, and its provisions being included in police training programmes, as well as in professional and advanced training. The Code's annex contains a list of values and virtues expressing the mission of the Police.

In 2008, a working group was set up to implement the new Code of Police Ethics in the Slovene police through a programme named “*Strengthening the police ethics and integrity*” on three organisational levels. The approach was based on raising police officers’ awareness of the importance of ethics and morals in society, organisational and personal integrity, integrity in leadership, the social responsibility of the police and the Code itself, and the consequences of absence of leadership and a ‘code of silence’.

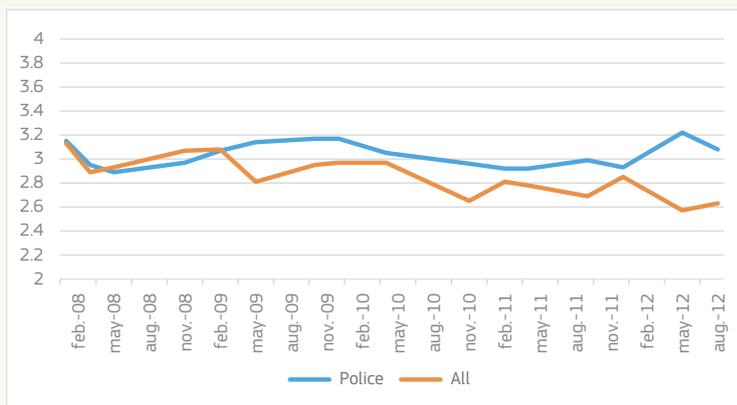
Every sworn police officer (more than 7 000) has attended the training, in which members of the working group gave the theoretical basis for the Code, after which there were workshops to put theory into practice in daily police work, and examples were discussed. Content of workshops included terms: ethics, integrity, code of silence, leadership, leading by example and absence of leadership. On completion, an evaluation survey was carried out. Integrity is the keystone of leadership and the foundation on which total quality management is implemented in the police force. Key findings from the evaluation are summarised below:

Benefits of training and importance of integrity in police work (1 = disagree; 5 = agree)

Statement	Mean	Standard deviation
Lecture was useful	4.67	0.614
Acquired knowledge I will use in my daily work	4.36	0.790
High level of integrity is necessary for the police officer’s work	4.60	0.667
High level of leader’s integrity is important	4.72	0.578
High level of integrity contributes to the successfulness and efficiency of police work	4.62	0.637
Integrity should be encouraged, nurtured and developed	4.73	0.532



Strategic needs, and the results of the survey, led the Slovene Police to set up an integrity and ethics committee in 2011, as an advisory body to the Director-General of the Police, whose task is to study systematically strategic proposals, new developments, questions and dilemmas regarding ethics and integrity, both organisational and personal. Its work covers areas of human rights, the organisational climate, inter-personal relations and conflict management, between police units and between police employees.



Slovene police officers apply the principles and values from their training in their daily work, through contacts with people inside and outside the organisation. The police service records external complaints in each year’s annual report, which shows a clear downward trend in both complaints received and complaints substantiated after investigation over the last 10 years (see chart, left).

The Code is written in the first person plural, thereby expressing a high level of belonging to the police organisation. It is intended to be inspirational, rather than regulatory. For the control of police work,

there are a few other acts that impose sanctions for violations of responsibility for proper conduct, backed up by internal control and supervision, including the [Integrity and Prevention of Corruption Act](#).

Between 2008 and 2012, the Public Opinion and Mass Communication Research Centre conducted [surveys of trust in the institutions of public life](#) - president, parliament, government, church, media, army, police, etc. The results show that the police have scored above the average for all institutions from June 2009 onwards (see chart, left).

The Code of Police Ethics is set within the broader [Code of Ethics for Civil Servants](#).

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In the case of the Slovenian police, every single officer has participated in this fundamental training, amounting to over 7000 attendees. Depending on the findings of the risk analysis (topic 2.1.2), institutions may wish to **customise their training programmes**, developing specific modules for higher risk units (e.g. procurement, contracting, front-line staff) or positions (e.g. supervisors).

One specific form of ethics training, which is relevant to fields where corruption risk is high, is **dilemma training**, whereby public servants are educated and tested to see their response to different scenarios. Given the complexities of public life, in which officials are often serving several ‘customers’ at once (immediate line managers, elected politicians, direct service users and/or the general public), such training can highlight ambiguities, where the right course of action is not always immediately apparent. The Integrity Coordinator has been organising dilemma training across the Flemish Government for several years, and has increasingly moved from general courses to more targeted ones for individual entities. The learning points from the Flemish experience are the methodology which centres on small discussion groups and the large collection of dilemma scenarios, meaning the selection can be tailored to specific audiences.

Inspiring example: Dilemma training in the Flemish Government (Belgium)

The purpose of the training is to explore various situations in which public officials might face an ethical choice, where the decision regarding the ‘right thing to do’ is not necessarily black or white. In this light, training is organised in small groups, led by a facilitator, whose role is to encourage and stimulate discussion, which enables different aspects of the dilemma to be explored.

In some sessions the facilitator uses a card system, but increasingly the training has focused on tailor-made dilemma cases and scenarios. Where cards are used, the facilitator explains the rules and gives every participant four ‘option cards’, each of which simply contains the numbers 1, 2, 3 and 4. Then ‘dilemma cards’ are placed on the table with the text facing upwards. There are up to 63 dilemma cards, each describing a different scenario. Two examples of the type of ethical situations that might arise:

- The photocopier in my department can be used for personal copying, as long as people write down on the ‘copy list’ what they have used and settle payment for copies at the end of the month. I’ve noticed several times that a colleague is making copies of the sports pages, but never writes it down, I know that sport is nothing to do with his job. What should I do?
 1. Nothing. That’s not my business and I want to avoid unnecessary discussions.
 2. I go to the colleague in question and rebuke him.
 3. I go to the boss and tell him what’s going on.
 4. I add my colleague’s name to the ‘copy list’ myself.
- I have just purchased six new PCs for my team. When I casually ask the vendor about private purchase of a colour printer, he offers me a 50% discount. What should I do?
 1. I accept the offer. It is an attractive offer, and no one is harmed by it.
 2. I buy the printer, but insist on paying the full price.
 3. I tell my Director about the attractive offer and follow her advice.
 4. I thank the seller for his offer, but decide to buy the printer from another vendor.

Other scenarios cover a range of dilemmas around the themes of ethics, leadership, loyalty, conflicts of interest, etc. For example:

- Your sister and brother-in-law want to buy a gas station. There have been rumours of development along the route, which will take months and cause serious disruption and loss of income to the station owners. You know that expropriation is planned and the work will start 6 months later, but this is privileged information. They ask you if you know the situation with the road. What do you do?

- You've signed up for a full day seminar and tell your manager you'll be out for the day, but when you arrive, the organisers announce that unfortunately some speakers have had to cancel, so the event will be finished by lunchtime. You have the afternoon free, what do you do?
- The training budget allocated for this financial year was EUR 75 000. Due to various circumstances – illness of trainer, urgent tasks leading to cancellation – the training could not proceed fully as planned, and there remains a balance of EUR 25 000. But I still need to run the courses and I've scheduled them for January and February, which would then have to come from next year's budget. The contractor is flexible about when he signs the invoice. What do I do?
- You go to inspect an institution following a complaint. You know who made the complaint, but that person wants to remain anonymous. You find the complaint appears to be partly justified and require some changes to be made. A couple of months later, you have to go to the same institution again for a follow-up, compliance inspection. The director invites you to join him for lunch. When you walk into the dining room with the director, you see the person who made the complaint in the previous inspection is also there. What should you do next?
- Your organisation consists of a large group of employees who are hired with a fixed-term contract. It has been decided that some contracts will be regularised. The Board of Directors agreed to wait to announce the news until the decision is formally approved, but due to various circumstances, the decision has been delayed a few times, which creates a lot of uncertainty and unrest. Your best performing employee belongs to the group that will be asked to regularise the contract. He has the chance to buy a house, but he can't get a loan from the bank because he has a fixed term contract. What are you able to do?
- The directors of six facilities have a partnership and organise training facilities. They asked me, as an inspector, to be a guest lecturer for several days on a training programme for their facility managers. I prepared my training the way the directors wanted and found it a fascinating experience. A few months later, I got the order to inspect the facility where one of the six directors is in charge. What should I do next?

The participant who goes first, picks up a dilemma card from the deck, reads out the text and the four choices (1-4). Every participant in the group decides what he or she would do and submits the corresponding option card 1, 2, 3 or 4. The participant who has read the dilemma, presents his or her choice of option, and sets out the reasons behind it. The other participants then take it in turns to make the reasoning known for their own choices. Participants then discuss about the various choices as a group (up to 5 minutes). The exercise proceeds with the next participant reading a new dilemma and the game restarts.

The facilitator receives guidelines, regarding remaining neutral, encouraging everyone to make a contribution, discouraging simple 'agree with person X' answers, focusing on the debate (not a decision) on the dilemma, ensuring a mix of various types of dilemma (for example, moving on to an alternative card if the theme is very similar to the previous one), and proposing different ways of looking at the dilemma (e.g. regarding sequence of events, boundaries or tipping points for unacceptable behaviour), etc.

When it was first introduced, the dilemma training was delivered across the administration, but it has become more targeted over time, towards specific groups or entities, and the scenarios selected according to their circumstances.

Source: <http://www.bestuurszaken.be/omgaan-met-integriteitsdilemmas> (Dutch)

Such approaches are equally relevant to the **judiciary** (see also [theme 6](#)), whose independence and performance are essential to the public's perceptions of integrity in society, as well as to the achievement of justice in corruption cases.

2.3.2. Disclosure by public officials

As a preventative measure that also provides a baseline for future investigations, many public administrations now oblige public officials to submit a signed declaration of their income, assets and business interests. This may apply to all elected and employed officials, or only those in sensitive and high risk posts, such as managing public tenders and awarding contracts (see [theme 7](#)). This enables investigators (and the general population, if published openly⁽²³⁾) to be able to assess any inexplicable changes in income or property ownership out of proportion to their pay or circumstances, such as inheritance, and to identify any conflicts between private interests and public duties.



The key to success is **verification**: thoroughness in checking compliance with disclosure rules, which can be resource intensive and which suggests a risk-based approach is the most cost-effective. Some Member States have assigned this responsibility to their ACAs. Examples include [Slovenia's Commission for Prevention of Corruption \(KPK\)](#), [Latvia's Corruption Prevention and Combatting Bureau \(KNAB\)](#) and [Poland's Central Anti-corruption Bureau](#).

The downside of disclosure is the danger of **unintended consequences**: the implied lack of trust in public servants creating a climate which suggests unethical behaviour is the standard against which officials are judged. As a tool, interest disclosure is unlikely to reveal petty corruption at a small-scale, but may deter or detect more substantial practices, as officials with large or multiple properties and sudden increases in income are likely to stand out. The extent of disclosure is an important factor, concerning how much information must be revealed and verified. The general trend among EU members is towards stricter requirements, and some have recently introduced or announced the introduction of such systems.

World Bank: Will financial disclosure by public officials mean less corruption?

'Public Office, Private Interests' from the Stolen Asset Recovery (StAR) Initiative, with data by the Public Accountability Mechanisms Initiative of the World Bank, provides a practical approach to addressing the challenges and requirements of effective disclosure administration. The overarching message is that effective disclosure is a balancing act. Yes, a disclosure system can make a meaningful contribution to corruption prevention and enforcement. But it cannot do so if expected to tackle and apply sanctions for all forms of graft and corruption in public administration.

Requiring that public officials submit a signed declaration of their income, assets and business interests is on the face of it an intuitively simple way of ensuring that they think twice about seeking to profit illicitly from their public duties, or of allowing private interests to influence, appear to influence, or otherwise conflict with their official responsibilities. Fear of detection is the motivating force; a reminder of ethical obligations, and assistance in fulfilling them, the encouragement. In practice, however, this deceptively straightforward idea is very challenging to implement. The sceptics out there will rightly affirm that a determined official will find ways of concealing illicit gains. That the disclosure agency may be hard pressed to verify the accuracy of declarations, whether because of banking or tax secrecy laws, the lack of property, business and other registries, limited public access, or their own limited resources. They might add that the enforcement of sanctions is bedevilled by delays in the courts or other factors borne of the local environment. Finally, they would caution that the agency charged with this task must also steer a course through the inhibiting political straits of anti-corruption enforcement.

⁽²³⁾ The public interest has to be balanced with the right to privacy, enshrined in data protection laws. Where publication is not permitted, access to detailed asset declarations is restricted to relevant authorities only.

The issue is partly a matter of scale; and largely a matter of context. As the StAR publication shows, a disclosure regime needs to be designed to suit the constraints and conditions of the local context. That means a mandate based on achievable objectives and backed up with commensurate resources. In practice this could result in a dispensation from disclosure for the state employees whose job presents little risk or opportunity for graft. It could also mean that the disclosure agency chooses not to treat all declarations as equally worthy of scrutiny. It could also mean that a new system, in a fragile environment, might require that only the most senior 100 officials submit a declaration, as a first step in an incremental roll-out of a disclosure law. These approaches – namely, risk-based disclosure requirements and targeted verification – make it easier to focus resources where they really count.

But that alone is rarely sufficient. Public access to disclosure information can exponentially enhance an agency's ability to provide credible scrutiny. Despite the squeamishness and debate that public access can generate, there are examples from around the world of workable approaches to providing public access to certain categories of information so as to address the perceived safety risks and privacy concerns of officials and yet leverage the benefits of public access. Moreover, providing access to compliance statistics and other related data sends a strong signal that an agency is serious about fulfilling its mandate, without typically engendering too much squeamishness. Delivering on the potential for disclosure systems to contribute to broader, international anti-corruption efforts requires that the basic ingredients of domestic implementation are in place. It also requires that policymakers and practitioners begin to view financial disclosure systems as part of an interconnected architecture of agencies and actors engaged in international financial investigations, asset-tracing and anti-money laundering. Initial research undertaken by StAR and the World Bank's Financial Market Integrity group provides recommendations on how to leverage these connections. A drawback of any safeguard mechanism is that it shines a spotlight on the behaviours it seeks to deter. The implication of a disclosure requirement is that, given the chance, public officials will be corrupt or prone to corruption.

A disclosure regime should at most aspire to make life difficult for officials seeking to engage in corrupt practices, and to make life easier for the vast majority who wish neither to defraud the public trust nor to fall foul of disclosure requirements or codes of conduct that may be complex or difficult to navigate. Part of the balancing act for a disclosure regime then is to enforce compliance while reassuring the public that compliance is but a formality. Educating filers and the public about the government's commitment to public ethics is an important step in communicating that message. Following through with the enforcement of sanctions for those caught breaking the rules is the other vital part of the equation.

Source: Extract from World Bank article

The conclusion is that disclosure is best targeted in the areas where it can be most effective. If all public officials are obliged to complete disclosure forms, there is likely to be information overload, which will make it harder to verify and monitor the most important data. There is a trade-off between coverage and impact: it is better to have fewer records which can be followed-up. Equally, the public interest is not served by entitlement to see the personal finances of every official, irrespective of position. Hence, a more **targeted approach** is merited: focusing disclosure on public officials in high risk (and possibly medium-risk) positions, and keeping this information secure, only used for checking and monitoring purposes (it can be archived in the event of later investigation), and in a format which is easy to analyse with ICT. In the case of elected officials, however, there is a greater case for full transparency and hence publication, to allow for public scrutiny by voters.

2.3.3. Simplification, controls and automation



Europe has seen a downward trend in reported bribery which suggests some success in tackling endemic corruption over the years. Where problems persist, they tend to be higher at regional and local levels where checks, balances and internal controls are weaker, and to be concentrated in a few sectors, such as healthcare, justice, police, procurement, licensing, tax, border control and

customs. This places the focus in combatting corruption on taking away the chance for graft, or what one evaluation of anti-corruption strategies describes as “changing the rules”: policy interventions that aim to change aspects of the government

system itself or the way that the government delivers services, so that there are fewer opportunities or reasons to engage in corruption.

Rule-changing strategies in their infancy

Examples of “anti-corruption strategies that change the rules” are relatively rare, according to a meta-analysis of almost 6,300 evaluation studies (NB the coverage is largely the world outside Europe). “Preliminary analysis suggests high potential for strategies to decrease corruption by eliminating the opportunities for engaging in corrupt activities through a change in process. Programmes that change the rules of the system can reduce the opportunities for engaging in corrupt behaviour and can be better at aligning the incentives of all stakeholders. Yet such strategies are also the least explored ... Empirical methods should analyse the effectiveness of existing rule-changing strategies, such as those that involve decentralisation and the replacement of corruptible elected or career government workers with automated programmes.”

Source: Hanna, R., Bishop, S., Nadel, S., Scheffler, G, Durlacher, K. (2011) “The effectiveness of anti-corruption policy: what has worked, what hasn’t, and what we don’t know – a systematic review”.

Rule-changing approaches aim to take the scope to misuse entrusted power out of the equation, by decreasing discretion and introducing controls through:

- Simplifying the administration;
- Introducing more staff and checks into the process;
- ‘Automating’ the process.

Analysis in the EU shows “a very strong association between red tape and corruption, as excessive regulation is the main instrument used to increase administrative discretion and through it corruption”. At the same time, “the more states offer their services electronically, the more corruption decreases”.⁽²⁴⁾

The more steps in the administration, the more activities for which officials have responsibility, the more opportunities arise for corrupt practices. For example, the risk is higher if an application to register a business or receive a passport is subject to 10 steps with five different institutions than if it involves three steps with a single institution. **Administrative simplification** is a path to reducing the opportunity for corruption (see also [theme 4](#)). This is particularly true for enhancing the business environment, in terms of both regulatory reform and administrative burden reduction: the less red tape, the lower the corruption risk (see [theme 5](#)). However, simplification needs to be addressed in the context of the policy field. If the process is relatively straightforward, and can be expressed as algorithms, there is a strong case for simplifying procedures. However, if qualitative judgements are a vital or beneficial element of decision-making (such as medical assessments, litigation, procuring services), then there are limits to how far discretion can or should be removed.

On face value, introducing more staff into the transaction appears a retrograde step for administrative simplification, but judiciously applied to individual steps can reduce the discretionary decision-making power of any one individual. An example is public procurement, where adding personnel to the tender appraisal process raises the cost of corruption and the risk of capture. This is usually accompanied by more rigorous use of **internal controls**, such as the ‘four eyes’ principle for procurement and awarding funds, supported by clear and published procedures with supporting guidance and training, to minimise discretion beyond that which is valuable (see also [theme 7](#)). Internal audit also has an important role to play in providing checks and balances, but must be managed carefully to ensure it retains impartiality in the face of peer pressure.

⁽²⁴⁾ Mungiu-Pippidi A., (ed), (2013) “Controlling Corruption in Europe: The Anticorruption Report” (op. cit.)

Inspiring example: Detecting health corruption in Calabria through ‘fraud audit’ (Italy)

In Calabria, countless investigations in healthcare have corruption as both a crime and a conspiracy, including mafia infiltration. In his report to the Italian Parliament on 27 February 2009, Renato Brunetta, then Minister of Public Administration and Innovation, showed that Calabria was in first place for corruption in healthcare. Still, much corruption remains hidden; despite the Laws on Checks and Controls, healthcare organisations previously lacked a comprehensive system of control of both administrative and economic performance.

Corruption in public administration is a very complex problem from many facets. In general, the employee, the manager or the general manager of a public body which deliberately violates the laws to reap illicit proceeds from the management of public funds, does not act alone. Corruption is based on the system of so-called complex networks at multiple levels. In order to unearth illegal activities and permit action to be taken, the Business Information Service (BIS) devised a methodology, implemented by the Provincial Health Authority of Catanzaro, which uses data management to locate administrative and accounting fraud in health companies. With a budget of around EUR 12 000 a year and 8 staff, the ‘fraud audit’ of Catanzaro employs internal controls and a set of IT-centred procedures and techniques to programme and subsequently monitor business operations in order to find clues to the possible mechanisms of corruption, in three areas:

- First, systematic analysis was made of accounting documents and supplier invoices to discover double-billing, invoices not due, and higher-than-contractual invoiced amounts. Special software developed by the BIS was employed to apply Benford’s Law (which compares the frequency with which numbers actually appear with expected patterns) to analyse the distribution of all the figures related to invoice number, date and amounts for each health company. Risk of corruption was identified in 0.1% of the 12 000 documents checked. Follow-up found invoices for two companies with the same number but different dates, an invoice for purchasing disposable razors with the purchase order priced at EUR 9.00 per piece rather than the contracted cost of EUR 0.084, and increases in the cost of supply for chemical analysis slides and electrolyte solution between award and supply of 50 times and 100 times respectively.
- Second, tenders for the supply of goods and services were evaluated where the number of participating companies was less than three, to discover contract awards at risk of illegitimacy. In 10 cases, tender awards had been made with the participation of a single company; in those cases where an offence was revealed, the matter was remitted to the competent authorities.
- Finally, monitoring of violations of the computer network through a special “sniffer” programme uncovered data theft and hacking by both internal and external sources. This exposed two healthcare services company that were bypassing the system of firewalls and proxies, and which was referred to the police for investigation.

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Where administrative simplification is achievable, and the human interface between public administration and citizen/business is not essential, the most effective solution to removing or reducing discretion is through **automation**. For many transactions between citizens or business and the public administration, there is huge scope for squeezing out individual decision-making, or at least making any malpractice transparent, through electronic interfaces (e-government, e-procurement, e-invoicing). It is considerably more difficult for a public official to step in, or to influence the outcome, if proper safeguards are in place regarding process and data security. The impact of online services on the scope for corrupt practices has been highlighted in the [World Bank’s 2015 Doing Business report](#). A better business environment helps to combat corruption by default.

Online services cut opportunities for corruption

Business start-up

Electronic registration and online services substantially reduce the opportunities for bribery and other forms of corruption. Where entrepreneurs have no need to interact directly with public officials, they are less likely to use informal payments or to face deliberate delays aimed at encouraging bribes. Analysis shows strong positive relationships between international measures of transparency or governance quality—including rankings on the rule of law by the World Justice Project and rankings on voice and accountability, control of corruption and regulatory quality as measured by the Worldwide Governance Indicators—and the use of online systems for company registration. Economies whose company registry uses online registration, allowing entrepreneurs to set up new businesses remotely, tend to score high on such measures.

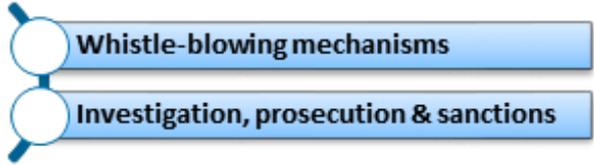
Contract enforcement

Globally, one of the most common features of reforms in contract enforcement in the past year was the introduction of electronic filing. These enable litigants to file initial complaints electronically - increasing transparency, expediting the filing and the service of process, limiting opportunities for corruption and preventing the loss, destruction or concealment of court records (see also [topic 6.3](#)).

Source: Quoted from 'Doing Business 2015' (see [theme 5](#))

2.4. Detecting and acting on corruption

Realistically, corruption will never be wholly eradicated, even by the best preventive systems. Comprehensive reform strategies may succeed in dismantling systemic corruption, but there will always be some incidences of malfeasance that undermine good governance. This means the regulatory and reporting framework must be in place, including systems for detection and prosecution, which must themselves be beyond reproach. In some policy fields, there is a professional obligation to report malpractice where it arises, such as supervising engineers on infrastructure projects and auditors spotting financial irregularities. This form of identification largely takes place outside the public administration, as private sub-contractors one step removed from the organisation responsible for the alleged malpractice. Where illegal or unethical activity is beyond the reach of internal audit and controls, whistle-blowing has been shown to be the most effective way of exposing wrong-doing, responsible for around half of fraud detection in the public sector, according to research.⁽²⁵⁾ As whistle-blower protection remains relatively weak across Europe, and the act itself still not fully ingrained in the administrative culture as a contribution to better governance, its potential is yet to be fully realised.

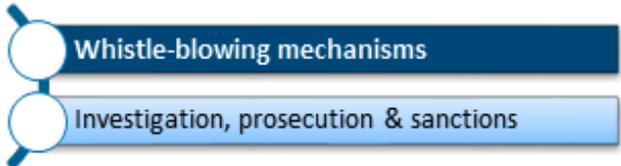


Whistle-blowing mechanisms

Investigation, prosecution & sanctions

2.4.1. Whistle-blowing mechanisms

A whistle-blower is someone who reports or discloses (makes public) information on a threat or harm to the public interest. In the context of good governance, an official in the public administration or judiciary might expose unlawful or unethical activity by reporting it internally within the organisation (for example, to a line manager or internal auditor) or externally to a third party (such as a regulator, external auditor, ombudsman, integrity coordinator, anti-corruption agency, the media, etc.)



Whistle-blowing mechanisms

Investigation, prosecution & sanctions

⁽²⁵⁾ PricewaterhouseCoopers's 2010 report "Fighting fraud in the public sector", based on replies from 170 government representatives in 35 countries, found that 31% of fraud was detected by internal tip-off, while 14% was uncovered by external tip-off, and 14% by accident; that just 5% was detected by formal internal whistle-blowing systems. PwC found that internal audit and risk management in the public sector were less effective in detecting fraud than in the private sector. See also Brown, A.J. (2008, ed). "Whistleblowing in the Australian Public Sector. Enhancing the Theory and Practice of Internal Witness Management in Public Sector Organisations" - a mass survey of public servants in 118 Australia agencies reported that employee whistle-blowing was seen as the most effective method of exposing wrongdoing by those holding ethics-related positions.

There are many examples of where whistle-blowing could have played a vital role in stopping scandals and potential harm at an early stage, before (more serious) damage is done, including instances where warnings were ignored. Research on whistle-blowing cases shows that in the majority of cases, nothing is done about the wrongdoing, and that too often it is the whistle-blower who suffers repercussions ('shooting the messenger'). Consequences include dismissal, demotion, disciplinary action, harassment or cold-shouldering by colleagues, or loss of career prospects.⁽²⁶⁾

It is manifestly in the interests of good governance that officials should feel safe to raise public interest concerns. Hence, whistle-blower protection for workers in both the public and private sectors is obligatory under the Council of Europe's Civil Law Corruption Convention (Article 9), and encouraged under UNCAC (Article 33). The Council of Europe published a [2012 report on whistle-blower protection within the workplace](#), which describes the state-of-play with national laws within the context of the European Convention on Human Rights. The Council of Europe's Committee of Ministers to Member States adopted [Recommendation CM/Rec \(2014\)7](#) on the protection of whistle-blowers on 30 April 2014, putting flesh on the bones of the international conventions, setting out 29 principles to guide Member States when reviewing their national laws, or when introducing legislation and regulations, or making amendments, in the context of their legal systems.

The United Kingdom's Public Interest Disclosure Act (PIDA) is one of the most comprehensive laws on workplace whistle-blower protection in the EU. It came into force in 1999, and has been amended to reflect changes in the UK regulatory framework, and to remove good faith and replace it with a public interest test, strengthen protection for disclosures to MPs (i.e. place disclosures to MPs on the same footing as regulatory disclosures), and clarify that protection from detriment includes harassment from colleagues⁽²⁷⁾. The independent NGO and not-for-profit legal advice centre, Public Concern at Work (PCaW), played a pioneering role in developing the law and supporting its implementation, and recently commissioned an [extensive independent review](#) in 2013 to examine the existing arrangements for whistle-blowing in the workplace. The Whistleblowing Commission Report recommended that the Government adopt a Code of Practice that sets out clear standards for organisations across all sectors.

⁽²⁶⁾ For example, Public Concern at Work and the University of Greenwich, "Whistleblowing: the inside story", based on research into 1 000 whistle-blowing cases <http://www.pcaw.org.uk/files/Whistleblowing%20-%20the%20inside%20story%20FINAL.pdf>

⁽²⁷⁾ Sections 17-20 of the Enterprise and Regulatory Reform Act 2013 introduced changes to the Public Interest Disclosure Act 1998: **Section 17** narrows the definition of 'protected disclosure' to those that are made in the 'public interest'; **Section 18** removes the requirement that a worker or employee must make a protected disclosure 'in good faith'. Instead, tribunals will have the power to reduce compensation by up to 25% for detriment or dismissal relating to a protected disclosure that was not made in good faith; **Section 19** introduces protection for whistle-blowers from bullying or harassment by co-workers; **Section 20** enables the Secretary of State to extend the meaning of 'worker' for the purpose of defining who comes within the remit of the whistle-blowing provisions. The Public Interest Disclosure (Prescribed Persons) (Amendment) Order 2014 No. 596 amended the list of "prescribed persons" to include Members of Parliament.

Inspiring example: Raising genuine workplace concerns about wrongdoing in the public interest (United Kingdom)

The Public Interest Disclosure Act (PIDA) sets out a clear and simple framework for raising and addressing genuine concerns about malpractice by guaranteeing full protection to workers who raise such issues in accordance with its provisions. The law's essential features are:

- A focus on protecting the public interest by protecting individuals in the workplace who make disclosures about wrongdoing (whether it is about environmental damage or a breach of a legal obligation);
- A step-by-step approach which encourages internal whistle-blowing where possible (or to the person legally responsible), facilitates disclosures to statutory regulators and, allows wider disclosures, such as to the press, when justified;
- Allow whistle-blowers who have suffered any detriment to go to a tribunal (the Employment Tribunal) which deals with cases more quickly than the court system;
- Removing the limit on compensation which may be ordered by the tribunal if a whistle-blower is dismissed;
- Making dismissal and victimisation for whistle-blowing automatically unfair.

The independent, self-funding charitable organisation, Public Concern at Work (PCaW) played a leading role in developing this first comprehensive whistle-blowing law in Europe along with the [Campaign for Freedom of Information](#). The law was passed with cross-party as well as union and business support. The focus on whistle-blowing and the work of PCaW started in the aftermath of a number of disasters, bank failures and political scandals in the UK in the 1980s and early 1990s. Many of the official inquiries set up to examine what went wrong and why found that workers were often aware of the danger but had been too scared to sound the alarm or had raised the matter with the wrong person or in the wrong way. PCaW was set up in 1993 to:

- Provide free confidential advice to people concerned about wrongdoing in the workplace who are unsure whether or how to raise their concern;
- Support organisations on their internal arrangements, policy and law of whistle-blowing;
- Campaign on public policy; and
- Promote whistle-blowing as a matter public interest and good governance.

In 1995, the work of PCaW was endorsed by the UK Committee on Standards in Public Life, which accepted that unless staff thought it safe and acceptable to raise concerns internally and to appropriate external bodies, they would see no alternative to silence or to leaking the information.

PCaW has advised over 17 000 individuals with a whistle-blowing concern. The organisation has the equivalent of 12 full-time staff, most staff are legally trained and are supervised by qualified lawyers and the work of the charity is also supported by volunteers and interns. Although the work of the charity was originally funded through charitable donations and funds and it still receives individual donations, the expertise and support it can provide employers on their whistle-blowing arrangements as well as its training and promotional work with other key stakeholders in making whistle-blowing work - including with regulators, lawyers, unions and professional bodies - has enabled it to become self-funding. The charity is also able to focus on specific projects for which it can work with other bodies and seek funding. For example, please see its most recent research with the University of Greenwich which examined a sample of case files from the Public Concern at Work advice line to explore the experience of whistle-blowers in the workplace. See [Inside Story](#).

Recent public surveys show that the work of Public Concern at Work and the legislation has had a positive effect, including a [2013 survey](#) commissioned by PCaW from the highly respected 'YouGov' polling organisation. In a two-year period (2012-2013), 1 in 10 workers said they had a concern about possible corruption, danger or serious malpractice at work that threatens them, their employer, colleagues or members of the public and two-thirds of these said they raised their concern with their employer. Eighty-three percent of those surveyed said that if they had a concern about possible corruption, danger or serious malpractice at work they would raise it with their employers, while 72% view the term whistle-blower as positive or neutral.

For further information about whistle-blowing in the UK and the work of PCaW: www.pcaw.org.uk

As a not-for-profit, non-governmental body which provides confidential advice to individuals and expert support to employers, and campaigns on whistle-blowing, PCaW provides an interesting model that might be transferable elsewhere in the EU. It is important to preserve the independence of advisory bodies under such arrangements.

Until recently, PIDA was the only example of a whistle-blowing law in the EU which extends across both public and private sectors. Its effect has been to encourage employers to develop internal whistle-blowing systems that can promote accountability and effective risk management. Japan and South Africa have adopted laws based on the UK model, showing that it can be useful in very different circumstances. In 2014, the Irish Parliament adopted the Protected Disclosures Act, which sets a new benchmark with a series of innovations in scope (definitions of worker and wrongdoings), so-called “stepped disclosure” (from internal to external reporting, including the media), retrospective application, and the safeguarding of the whistle-blower including strong confidentiality protections.

Inspiring example: Protected Disclosures Act 2014 (Ireland)

The Protected Disclosures Act 2014 will, for the first time, offer legal protections for workers who report concerns about wrongdoing in the public, private and non-profit sectors. Public sector bodies must now put in place whistle-blowing policies which meet the requirements of the Act.

The legislation meets the commitment included in the Programme for Government to introduce comprehensive legislation on whistle-blower protection. Minister for Public Expenditure and Reform Brendan Howlin said the new legislation means those who report wrongdoing will suffer no adverse consequences. Speaking on RTÉ’s Morning Ireland, Mr Howlin said there had previously been “*bitty sectoral law*” that protected some workers in some circumstances, but that the Protected Disclosures Act was overarching and all-encompassing. He said: “*You can’t have adverse consequences for it [whistle-blowing]. You will have redress, you can’t be disadvantaged, you can’t be held back in terms of promotion and if you feel you are, you can have that tested in the Labour Court. You also have recourse to the normal courts in terms of the law of tort if you feel you are at a financial disadvantage for making that disclosure.*”

The law includes a number of innovations:

- It defines the **concept of “worker”** broadly, including employees (public and private sector), contractors, trainees, agency staff, former employees and job seekers.
- It sets out an exhaustive list of **“relevant wrongdoings”**, namely the commission of an offence, a miscarriage of justice, non-compliance with a legal obligation, health and safety threats, misuse of public monies, mismanagement by a public official, damage to the environment, and concealment or destruction of information relating to any of the foregoing.
- It prohibits the penalising of workers who make **“protected disclosures”** meaning the disclosure of relevant information, which in the reasonable belief of the worker tends to show one or more relevant wrongdoings and came to the attention of the worker in connection with their employment.
- It introduces the concept of **“stepped disclosure”**. Workers are encouraged to make their disclosures to the employer in the first instance (or to the person who is legally responsible for the wrongdoing), but other options are available where this is inappropriate or impossible, namely to: “prescribed persons” (e.g. a regulatory body) as determined by the Minister for Public Expenditure and Reform; a minister; a legal advisor; or into the public domain (e.g. the media) under certain circumstances and conditions.
- It has **retrospective application**, meaning that a worker who made a protected disclosure before the date of the Act may, depending on the circumstances of the case, be entitled to protection under the legislation.

The safeguards afforded by the law include protection from dismissal for having made a protected disclosure; protection from penalisation by the employer; civil immunity from action for damages and a qualified privilege under defamation law; a right of action in tort (civil law) where a whistle-blower or a member of his family experiences coercion, intimidation, harassment or discrimination at the hands of a third party; and protection of identity (subject to certain exceptions set out in the law). The motivation for making the disclosure is irrelevant,

but compensation may be reduced by up to 25%, if investigation of the relevant wrongdoing was not the only or main motivation for the worker making the disclosure.

Transparency International Ireland said it offers a safety net to workers in all sectors of the Irish economy for the first time. TI Ireland Chief Executive John Devitt said the law “draws on best practice guidelines and takes a more comprehensive approach similar to that adopted in the UK, New Zealand and South Africa”. It said key provisions include a prohibition on penalising workers who make protected disclosures and a wide definition of “worker”. It said it also includes a broad range of “relevant wrongdoings” that can be reported including criminal offences, breaches of legal obligations, threats to health and safety or the environment, miscarriages of justice, improper use of public funds or any attempt to conceal information in relation to such wrongdoings. TI Ireland, a non-profit organisation, has lobbied for blanket legislation on the issue since 2007.

Quotes from <http://www.rte.ie/news/2014/0715/630799-whistleblowers-legislation/>

For further information: William Beausang, Assistant Secretary, Department of Public Expenditure and Reform, William.Beausang@per.gov.ie; or Noel Tallon, Government Reform Unit, Department of Public Expenditure and Reform, Noel.Tallon@per.gov.ie

Research suggests that reporting suspected wrongdoing to a regulator or to the media (external whistle-blowing) is more effective than reporting the suspected wrongdoing to one’s employer (internal whistle-blowing)⁽²⁸⁾. Where laws do exist across the EU, they tend to provide compensation or redress in the event of victimisation, which only indirectly encourages whistle-blowing. More positively, public administrations across the EU can lead the way by establishing internal whistle-blowing procedures, but also ingraining a strong culture of integrity in their organisations whereby whistle-blowers are seen as making a contribution, not a complaint. Every case should then be subject to rigorous follow-up to ensure that justice is done, and seen to be so, with full legal protection of the whistle-blower from victimisation. Indeed, safeguards should move beyond passive protection to actively rewarding whistle-blowers, as part of a culture of continuous improvement (see [theme 1](#)).

The Flemish Government’s Integrity Coordinator has highlighted the ‘whistle-blower paradox’: the pre-conditions for a successful internal whistle-blower system include a positive and open culture and trust in management, but organisations that meet these conditions tend not to need a whistle-blower procedure.⁽²⁹⁾ An integrity policy should encourage staff to discuss matters openly within their departments and entities, as openness is a safeguard against unethical behaviour. However, if an official sees more serious malpractice, it might serve their self-interest better to bring the problem to attention through confidential routes, such as an anonymous helpline. If the problem persists, officials often ‘vote with their feet’, and leave the administration rather than have to deal with the potential risks of whistle-blowing (cold-shouldered by colleagues, overlooked for promotion, etc.). This leaves the wrong-doing hidden and unresolved, and loses an ethical staff member: a ‘lose-lose’. This response can sometimes be revealed through confidential exit interviews with someone outside of their department, such as a personnel or integrity officer, which gives the official an opportunity to put their concerns into the system, while avoiding possibly being interviewed by a direct supervisor who might be the source of the malpractice.

⁽²⁸⁾ See Rothschild, J., & Miethe, T. D. (1999). “Whistle-Blower Disclosures and Management Retaliation”. *Work and Occupations*, 26(1); the study shows that 44% of external whistle-blowers thought that their organisation had changed its practices as a result of reporting the matter outside their organisation, but just 27% of internal whistle-blowers reached the same conclusion from their internal reporting. See also Dworkin, T. M., & Baucus, M. S. (1998), “Internal vs. External Whistleblowers: A Comparison of Whistleblowing Processes”, *Journal of Business Ethics*, 17(12), which suggests that external whistleblowing is more effective than internal, because the former often sparked investigations or other remedial actions by the organisation.

⁽²⁹⁾ <http://www.surrey.ac.uk/sbs/files/Five%20Paradoxes%20in%20Managing%20Whistle-blowing.pdf>

2.4.2. Investigation, prosecution and sanctions

Whistle-blowing mechanisms

Investigation, prosecution & sanctions

Achieving the transition from regular to rare corruption in any field or institution means a common understanding, widely shared, that the chances of being caught and the probability of being penalised for corrupt behaviour are both high. If enforcement of disincentives and sanctions is poor, and the like-

lihood and costs of detection to the perpetrator are too low, the deterrence effect is fatally undermined. Shining a light in dark corners and designing punitive sanctions are essential steps to stamping down on corruption, but unless it leads to action, is likely to generate cynicism. Subject to the fair and efficient application of the law in line with fundamental human rights, citizens expect to see investigations that lead to prosecutions and, in turn, to convictions.

Specialist institutions in Member States include **anti-corruption agencies** that are tasked with law enforcement and responsible for detection, investigation and often prosecution too, frequently with a high level of independence and visibility. Recent research⁽³⁰⁾ has found that countries can be at least equally effective in dealing with corruption through their normal legal system - prosecution and courts - as long as the judiciary is independent. The deterrent effect also comes down to the quality and efficiency of the judicial system, with the whole end-to-end process of investigation, prosecution and decision satisfying the criteria of rigour, timely proceedings and justice seen to be done.

In the interests of maximum deterrence, a high probability of being caught should be matched by punitive sanctions, which requires effective disciplinary policies and procedures within organisations (see [topic 2.3.1](#)), leading to penalties (including fines, loss of employment, and criminal charges) and possibly restitutions (holding officials liable for compensation). For example, common responses to corruption among border guards include demotions, dismissals or transfers to different units and locations, as well as prosecutions, while some Member States have used disciplinary briefings of the entire unit after corruption has been exposed, so that other officers are warned against corrupt behaviour.⁽³¹⁾ Investigation and enforcement of sanctions serve not only as a deterrent to public officials, but also highlight to the public that public officials are truly held accountable.

2.5. Conclusions, key messages and inspiration for future action

An ethical public administration is essential to good governance and therefore economic performance. The flipside is that corruption, especially systemic corruption, hinders investment and holds back development. Corruption has a range of causes and effects in different countries, and there is no 'silver bullet', but there are many **tried and tested techniques** that Member States can turn to, which can be built upon further as experience suggests. It is realistic to expect that, with comprehensive reforms, corrupt behaviour can become the rare exception rather than the rule in any EU country.

Where they are felt to be useful in tackling endemic corruption, integrity policies and anti-corruption **strategies** should be tailored to national circumstances. To promote integrity and tackle corruption in specific sectors or institutions, it is unlikely that individual instruments will be effective in isolation. To be successful, strategies typically contain a package of complementary measures that are mutually reinforcing, under an integrity policy based on **stated values**.

⁽³⁰⁾ Mungiu-Pippidi A., (op.cit)

⁽³¹⁾ Center for the Study of Democracy (2012), op. cit.

Initiatives should be targeted in particular, on levels of government, sectors and institutions where **corruption risk** is highest in both probability and impact. The context and opportunities for corruption are particular to each field (e.g. healthcare, customs, procurement, police, licensing).

Leadership is a prerequisite for successful anti-corruption strategies. Leading from the front means ensuring the scope for grand corruption is suppressed, to set the scene for combatting petty corruption, which tends by nature to be more fragmented across public administrations and services, and hence can be harder to address.

Research indicates that transparency, administrative simplification, e-Government, high quality audit, effective judiciary, independent media and active civil society organisations rate among the most effective antidotes to corruption, by detecting and deterring unethical acts.⁽³²⁾ The prize in higher levels of economic prosperity for countries that tackle corruption can be seen in those older Member States with high GDP per person, which were also the ‘first generation achievers’ that put in place good governance systems before 1900, such as merit-based civil service systems.⁽³³⁾

Solutions that might work to deter isolated incidents (such as codes of conduct and ethics training) will be insufficient where corruption is endemic. Systemic corruption demands ‘**rule-changing**’ strategies to cross the ‘tipping point’ from largely corrupt to largely clean. Controls are necessary, but a dense regulatory environment only creates greater opportunities to bend the rules and to extort bribes, gifts and favours. As well as being an element of reform strategies (see TO11 ex ante conditionality), administrative simplification and cutting red tape is a recurring theme throughout the Toolbox (see [themes 1, 4, 5 and 6](#)). Reducing the number of administrative steps and interaction with public servants is desirable, unless the decision-making process is unavoidably sophisticated and necessary for the best policy outcomes.

In designing measures, **balances** must also be struck between the benefits and the costs, which can be financial (systems for monitoring and enforcements), but also expressed in terms of policy and personal outcomes. For example:

- Should the public have the right to information at the expense of the individual’s right to privacy?
- Is lobbying a legitimate reflection of the need for consultation or the potential source of conflicts of interest?
- Does removing discretion and hence opportunity for corruption jeopardise the exercise of judgment?

A pro-integrity, anti-corruption culture is built around **trust** - across society, institutions and individuals - which means incentives as well as sanctions. Repressive measures (such as asset disclosure, integrity tests, compliance checks, restrictive contracts) must be offset by positive messages (such as fair pay, better working conditions, rewards for whistle-blowing). The pros and cons of proposed initiatives should be weighed to ensure that suspicion does not become a self-fulfilling prophecy, and unintended consequences are avoided. The goal should be to shift the emphasis over time from focusing on compliance to facilitating integrity.

⁽³²⁾ “Controlling Corruption in Europe”, http://anticorrrp.eu/publication_type/deliverable/

⁽³³⁾ See Mungiu-Pippidi, A., “Transformative Power of Europe” (2014) and “Becoming Denmark: Historical Paths to Control of Corruption” (2013)

Two frameworks for integrity management

	Compliance approach	Integrity approach
Goal	Prevent unethical behaviour	Stimulate ethical behaviour
Controls	External controls	Internal controls
Instruments	Legislation	Training and development
	Codes of conduct	Codes of ethics
	Well-defined procedures	Integrity counsellors

Source: Timo Moilanen, Office for the Government as Employer, Government of Finland

Trust cannot be regulated, so while laws and contracts provide the foundations of anti-corruption strategies, the ultimate aim should be to reach the point where values are internalised, rules are implicit, and recourse to enforcement is the last resort. Good governance is synonymous with ethical administration.

Theme 3: Professional and well-functioning institutions



Institutions are vital to long-term economic development; studies show they have a positive, direct impact on growth. Every public body is confronted by external 'shocks' from time to time: events that change the operating environment. Institutions that excel already are often more robust and better equipped to manage change. This theme examines how organisations engage in results-based management through mission, vision and strategy development, and performance assessment for learning and accountability purposes; build effective leadership, including the senior civil service; modernise their human resources management (HRM), equipping each individual to maximise their potential; and create a quality culture, using quality management techniques to look both inwards and outwards at ways to continuously improve, gain the recognition the organisation deserves, and build public trust.

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Good governance is strongly dependent on professional and well-functioning public sector organisations. The wider discussion on public administration reform and administrative capacity building is focusing on how to strengthen organisations to become more efficient, effective, resilient and better run. This chapter:

- ✓ Sets out the essence of results-orientation and managing for results, by defining a strategy, monitoring its implementation and reporting on the achievements;
- ✓ Underlines the crucial role that professional, well-selected and competent leaders play in managing and shaping public sector organisations;
- ✓ Describes the ways in which modern and well-functioning public sector organisations deal with their most precious asset, by examining how human “resources” are managed in a strategic, sustainable and future-oriented way;
- ✓ Explores how organisations are installing a culture of continuous improvement with the help of total quality management (TQM) instruments and tools.

The critical importance of well-performing public institutions to good governance has come to the forefront in the last two decades. Just as it was increasingly recognised in the 1980s that individual investment projects are less likely to succeed in a distorted policy environment, so it became obvious in the 1990s that neither good policies nor good investments are likely to emerge and be sustainable in an environment with poor governance, characterised by dysfunctional institutions.

Institutions are vital to the long-term economic development of any society⁽¹⁾. The OECD’s overview of research analysing the impact of institutions on development outcomes demonstrates that institutions matter and have a direct impact on growth⁽²⁾, or in the words of one study, the “*estimated direct effect of institutions on incomes is positive and large*”.⁽³⁾ Well-run institutions can lead to better policies, increased investment, and an increase in the social capital stock of a community. By contrast, the impact of inefficient and ineffective governance is ultimately demonstrated through an adverse business climate, labour market problems, and weaknesses in the judicial system, *inter alia*.

At the same time, it is also clear that reforming public institutions is a complex and difficult task, both technically and politically, typically involving fundamental changes in the ‘rules of the game’ for a large number of civil servants, and also private citizens.⁽⁴⁾ These reforms take place within a wider policy, economic and financial context, which continues to produce profound changes in the landscape of government across the EU, through decentralisation, outsourcing, pooled resources, shared services, etc. (see [topic 1.2.3](#)).

Against this ever-evolving backdrop, building or developing the capacity of public sector institutions is likely to require long-term high-level commitment, in-depth knowledge, and extensive support and assistance. Capacity building (also termed ‘capacity strengthening’ and ‘capacity development’) emerged as a concept in the 1980s⁽⁵⁾, but is still relevant today. An often used definition of capacity building comes from the OECD⁽⁶⁾:

(1) See Douglass North, “Institutions, Institutional Change and Economic Performance”, Cambridge University Press, 1990.

(2) Jütting, J., “Institutions and Development: A Critical Review”, OECD Development Centre, Working Paper No. 210, July 2003.

(3) Rodrik, D., Subramanian, A., and Trebbi, F. (2002), “Institutions Rule: The Primacy of Institutions over Integration and Geography in Economic Development”, IMF Working Paper, WP/02/189, International Monetary Fund, p.11

(4) World Bank (2000), “Reforming public institutions and strengthening governance”

(5) Morgan, P. (1999), “Some observations and lessons on Capacity Building”, in Maconick, R. and Morgan, P., Capacity-Building Supported by the United Nations: Some Evaluation and Some Lessons, United Nations.

(6) OECD (2006), “The challenge of capacity development. Working towards good practice”.

What do we mean by ‘capacity building’?

Capacity building is the process by which individuals, groups, organisations, institutions and societies increase their abilities to perform functions, solve problems and achieve objectives, and to understand and deal with their development in a broader context and in a sustainable manner.

To be comprehensive and coherent, capacity development has three main dimensions:

1. **The societal level:** Good governance does not depend solely on the decisions of individuals, even the most effective public sector leaders, nor on the outstanding performance of stand-out organisations, operating in isolation. It relies on a working web of connections between public sector bodies at different levels (see [topic 1.2.3](#) on multi-level governance), and more fundamentally, a complete network of institutions which serve society’s needs as a whole. Hence, institutional development entails ensuring that all the functions of government are fulfilled (ensuring national security and rule of law, stimulating the economy, providing education and social protection, etc.). It also means enabling democratic accountability through checks and balances in the system, and mechanisms to raise concerns and seek redress, through parliament, ombudsmen, independent regulatory agencies, civil society, free and social media, etc.
2. **The organisational level:** It is well recognised that organisations are not just collections of people serving a common purpose, each one has its own internal dynamics, as many studies of organisational behaviour will testify. At this level, all dimensions of capacity should be examined, including the interaction of individual institutions with others in the system, and with other entities (private and civil sector), stakeholders and clients. Capacity at organisational level has many dimensions, including mission and strategy, culture and competencies, human resources planning and management, technical and managerial processes, external relations, resources and infrastructure.
3. **The individual level:** The most widely recognised aspect of capacity building happens at the level of people themselves, either as individuals or groups, and their need to function efficiently and effectively, within the specific organisational environment, but also within the broader system. One could speak of human resources development (HRD) as assessing the needs and addressing the gaps through adequate measures, including the design of educational programmes and training courses to meet identified skills requirements, including training of trainers and ensuring there are sufficient qualified staff to operate the organisation’s systems.

The establishment, strengthening and maintaining of administrative capacity has its own particularities at each of the three levels, as briefly highlighted in the table below.

	Establishing	Strengthening	Maintaining
Societal	Establishment of adequate institutions, laws and regulations	Enforcement of laws and regulations for good governance	Regular adaptation of institutions, laws and regulations
Organisational	Establishment of efficient structures, processes and procedures	Integration of structure, processes and procedures in the daily workflows	Regular adaptation of structures, processes and procedures
Individual	Development of adequate skills, knowledge, competencies and attitudes	Application of skills, knowledge, competencies in the workplace	Reduction of staff turnover, facilitation of skills and knowledge transfer within organisations

This chapter will focus on the **organisational and individual levels of capacity development**, with particular attention to the elements that make public sector organisations function and perform well. The High Performance Organisation Centre distinguishes five factors (and 35 characteristics) that create high performance organisations:⁽⁷⁾

1. **Quality of management:** Management is trusted by organisational members, shows integrity, provides a role model for organisational members, applies fast decision-making and action-taking, focuses on achieving results, etc.
2. **Openness and action orientation:** Management frequently engages in a dialogue with employees, much time is spent on communication, knowledge exchange and learning, staff is always involved in important processes, management welcomes change, etc.
3. **Long term orientation:** The organisation develops good and long-term relationships with all stakeholders, servicing the users as best as possible, etc.
4. **Continuous improvement:** Processes are continuously improved. Processes are continuously simplified, processes are continuously aligned. Both financial and non-financial information is reported to organisational members.
5. **Quality of the workforce:** Management always holds organisational members responsible for their results, and inspires organisational members to accomplish extraordinary results. Organisational members are trained to be resilient and flexible. The organisation has a diverse and complementary workforce.

Many of these factors and characteristics will be dealt with in this chapter, by looking at managing for results (long term and action orientation), professional leadership (quality of management), all the aspects of a modern HR policy and management (a quality workforce) and the use of total quality management instruments (a culture of continuous improvement). The chapter focuses on the following questions, and sets out ways and tools to address them.

Key questions	Ways and tools
Do we know what we do, why we are doing it and how we do it?	<ul style="list-style-type: none"> • Mission, vision and strategy development • Monitoring, evaluation and learning • Accountability and communication
How do we assure good and strong public sector leadership ?	<ul style="list-style-type: none"> • Creation of a Senior Civil Service • Training and development • Managing change
How do we strengthen a modern human resources (HR) policy and management?	<ul style="list-style-type: none"> • Managing competencies • Recruitment and selection • Learning and development • Appraisal, promotion and career development • Equality, positive discrimination and active aging
How do we integrate quality management and continuous improvement into the culture of public administration?	<ul style="list-style-type: none"> • Using quality management models • Stimulating a quality management culture

(7) de Waal A. (2008), "The Secret of High Performance Organizations", Management Online Review, April, p.2.

3.1. Managing for results



Given the fiscal environment, and the expectations from public services (see [theme 4](#)), performance management has never been more critical in the public sector than it is today – and will continue to play a significant part in future reform trends, according to both academics and practitioners.⁽⁸⁾ Governments around the world now take performance management extremely seriously;

many have introduced legislation and frameworks for this specific purpose in the organisations that report to them.⁽⁹⁾

The first steps in this direction date back to the mid-1990s. Some exemplary cases that have set the scene were:

- In the US, for example, successive presidents have made Strategic Performance Management part of their management agenda. Back in 1993, the US passed the Government Performance and Results Act which forces the head of each government agency to submit to the Office of Management and Congress a strategic plan detailing the strategic aims and performance indicators. The key performance results are then aggregated into an executive branch management scorecard, which is published for everybody to see.
- In Canada, the Government introduced a management framework for departments and agencies that includes a commitment to measurable improvements in client satisfaction.
- In Australia, all government departments, agencies and business enterprises that deal with the public are required to develop customer service charters.
- In the United Kingdom, the Government created a set of 90 so-called Best Value Performance Indicators to measure local authority performance, assessed annually by the UK's Audit Commission at that time. This system has since been replaced by a Comprehensive Area Assessment with 198 National Targets at its core.

There are similar initiatives in Sweden, the Netherlands, as well as other performance measurement initiatives focusing more specifically on the police forces, health services, schools, universities, cities, etc.

Public sector performance has a potentially broad reach. It includes micro, meso, and macro levels.⁽¹⁰⁾ *Macro-performance* typically concerns a country's sustainable socio-economic development, but it also encompasses performance at the supra-national level (e.g. tackling climate change globally, reducing disparities across the EU, stimulating growth in the Eurozone), as well as regionally and locally. *Micro-performance* is defined at the level of an individual public sector organisation and its interface with citizens, businesses and other institutions in the delivery of public services. In between macro and micro, *meso-performance* refers to either the performance of a policy sector (e.g. education), the governance of a chain of events (e.g. the food chain, in the context of a policy objective such as food safety, for example) or networks (e.g. an urban development project). This section will deal with issues around micro-performance measurement and management.

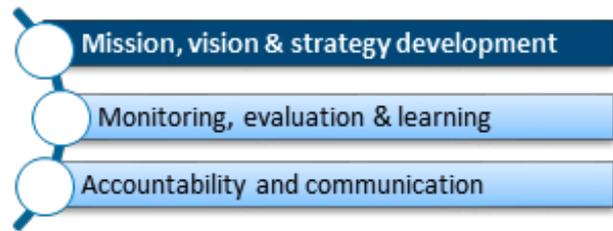
⁽⁸⁾ COCOPS (2014), "The future of public administration: public sector reform in Europe", Policy Brief, June 2014

⁽⁹⁾ Pollitt, C., & Bouckaert, G., (2011), "Public Management Reform"

⁽¹⁰⁾ Bouckaert, G. and Halligan, J. (2008), "Managing Performance: International Comparisons".

3.1.1. Mission, vision and strategy development

In a system of representative democracy, elected politicians make the strategic choices and define the goals they want to achieve in different policy areas. The leadership of public sector organisations assists political authorities in formulating public policies, by giving advice based on its expertise in the field. It is also responsible for the implementation and realisation of these policies. Modern public management makes a clear distinction between the roles of political leadership and organisational leadership/management, whilst emphasising the importance of good collaboration between both sets of actors in order to achieve the desired policy results.



Theme 1 of this Toolbox distinguishes between the concepts of policy and strategy. The direction set out in the policy might be elaborated in a strategy, describing how resources are marshalled to achieve the government's objectives. Policy-making is deciding on a definite 'path' to be pursued, the strategy is the 'road map' for getting there. Public policies need to be translated into organisational strategy (objectives and desired outcomes). Public sector managers need to dispose of the mandate (autonomy) and the capacity (skills) to do this.

Setting the strategic framework – mission, vision, values

If an organisation wants to reach its goals, it must first know what those goals are. If the overarching strategy is clear, everyone will be able to pull in the same direction and will be more likely to focus on what matters the most, to produce real results. Sadly, the public sector has a reputation for sometimes lacking this clarity. This is perhaps because of the multiple, often conflicting agendas that arise in political and multi-stakeholder environments – which distinguishes the public from the private sector. In addition, they often struggle to differentiate between their immediate operational goals (e.g. getting more police officers onto the street) and the targeted outcomes (e.g. reduced crime levels). A holistic picture of a strategy clearly outlines the overall aims, outcomes, outputs, as well as the enablers of performance.

Often, organisations avoid trying to clarify the strategy (perhaps because this is easiest in a political environment), deliberately fostering ambiguity about the direction of the organisation and the necessary steps to improved performance. At the same time, they may pay too much attention to specifying outputs, rather than outcomes and enablers. (For example, decision-makers might want to see more police on the street in response to public pressure for a visible police presence, but this might not be the optimal solution to reduce street crime, which might be better achieved, for instance, through more targeted interventions focused on 'hotspots'). To achieve the desired end results, organisations need to stay focused on the ultimate goals, and take into account essential enablers such as the knowledge and skills of employees, the image and reputation of the organisation, the information it holds, the relationships with key stakeholders, the technology infrastructure, as well as the management processes (see also the [Self-Help Guide for Practitioners](#) from the [New Synthesis \(NS\) Initiative](#) referenced in [topic 1.1](#)).

Leadership is ensuring that the organisation is driven by a clear mission, vision and core values. This means that develop the mission (*why do we exist? what is our mandate?*), the vision (*where do we want to go? what is our ambition?*) and the values (*what steers our behaviour?*) required for the organisation's long-term success, communicating them and ensuring their realisation.

Every public organisation needs values that build the framework for all activities of the organisation – values in line with its mission and vision (efficiency, user-oriented, easily accessible, etc.). Particular attention has to be paid to the values which are of special importance in a public sector organisation (see [principles and values of good governance](#)). Even more so than private companies which depend on the rules of the market economy, public sector organisations actively have to uphold values such as democracy, rule of law, citizen focus, diversity and gender equality, fair working environment, embedded corruption prevention, social responsibility and anti-discrimination: values that at the same time provide a role model for the whole of society. Leadership creates the conditions to embody these values. In the example of the Lithuanian ESF Agency, it is interesting to notice the driving role of leaders, setting the context, involving staff and communicate as a first step to make mission, vision and certainly values a “living thing” in the organisation.

Inspiring example: Leadership in the European Social Fund Agency (Lithuania)

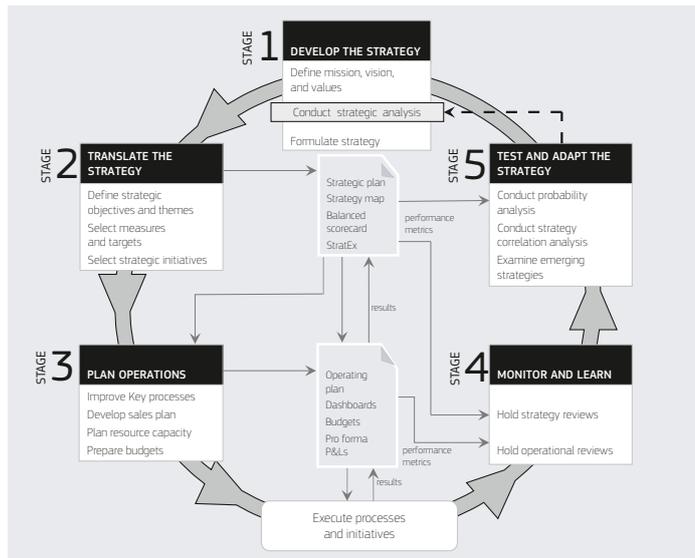
At the beginning of 2008, the Agency had a formal **mission**, however, it was not widely known, and the employees were not involved in the mission formulation. By that time, the **vision** of the Agency was not formulated at all. The **values** were described in the Code of Ethics prepared by the lawyer of the Agency, but they were not well known amongst all the employees. The link between the values of the Agency and its mission was also deficient. From that moment on, an action plan was prepared and implemented in order to formulate the Agency’s vision, update its mission and communicate to the employees, and update the Agency’s values.

- Special seminars were organised for all employees to discuss what values are the most important to the Agency, its stakeholders and employees, why values are so important in the life of any institution. Information about values was included into Agency’s calendars, website and intranet. A decision was taken every quarter to elect employees whose behaviour correspond to the Agency’s values the best. A model of competences was prepared and thus the Agency’s values integrated into the whole system of employees’ evaluation process.
- The Agency’s leaders started involving employees from all levels into the decision making, by organising different working groups: a group of volunteers was organised to work out employees’ motivation plan; a group of volunteers was organised for the improvement of internal communication; a group of top managers worked out the new organisational structure, and the same group together with an outside expert prepared the strategic plan of the Agency, several groups worked to simplify core processes.

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Defining the strategy

Organisational strategies start from mission and vision development, define strategic objectives, and cascade them down into operational goals and actions that can be monitored and measured. The EU-funded Community of Practice on Results Based Management has translated the full cycle diagrammatically (below).



Implementing the mission and vision of a public organisation means making choices about the ‘way forward’, in the content of the policy framework, available resources, and beneficiaries’ needs and expectations. Based on the mission, vision and values, organisational strategies start with robust analysis, defining strategic objectives, and cascading them down into measures and operational plans that can be executed, which may require the upgrading of processes and capacity (see [theme 4](#)). The diagram (above) from the EU-funded Community of Practice on Results Based Management shows the cycle in full.⁽¹¹⁾ Monitoring and learning should be part of the planning, as well as being attentive to the need for modernisation and innovation, which supports organisation in improving their functioning. Critically assessing the implementation of the strategy and operations should lead to updating and adapting them, as necessary (see [topic 3.1.2](#)).

This cycle and the integration (cascading-down) of different plans towards different levels is well illustrated in the case of the Office of the State Government of Upper Austria.

Inspiring example: Strategy development in the Office of the State Government of Upper Austria

Long-term planning (Regulations, Concepts)	12 years	WOV-Governance-Code Sub-concepts (e.g. finance, personnel, controlling...)	
		↓	
		Department Business Plans	← state govt
		↓	
		Division Business Plans	← districts
		↓	
Strategic planning	6 years	Strategic Planning Product Program	← state govt ← districts
		↓	
	2-3	Milestones	→ to districts
		↓	
Short-term planning	1 year	Annual Planning + Budget Target agreements	

The State of Upper Austria offers around 2 600 services, from health and youth care to traffic infrastructure etc. Since the early 1990s, it has been adjusting its services with emphasis on organisational changes, and from the mid-2000s, has introduced a new public management system called “Wirkungsorientierte Verwaltung (WOV)”, (“outcome oriented administration”), which allows the State to measure the effectiveness of the actions. The system can be described as a control cycle starting from public requirements and leading to results and evaluation.

A strict hierarchy of planning and controlling instruments guides from long-term general concepts, of which the WOV-Governance Code is one, to strategic plans, milestones and detailed one-year goals and target

⁽¹¹⁾ COP RBM, “Sourcebook on Results based Management in the European Structural Funds”, p.76. The architecture in the diagram is based on Kaplan, R.S., and Norton, D.P., (2008) “Mastering the management system”, Harvard Business Review

agreements. The basis of the outcome-oriented control procedures is the definition of long-term socio-political goals for the population which are the starting point for planning and controlling within the Upper Austrian administration. Through a standardised process, long-term goals are broken down into mid-term milestones, followed by annual planning.

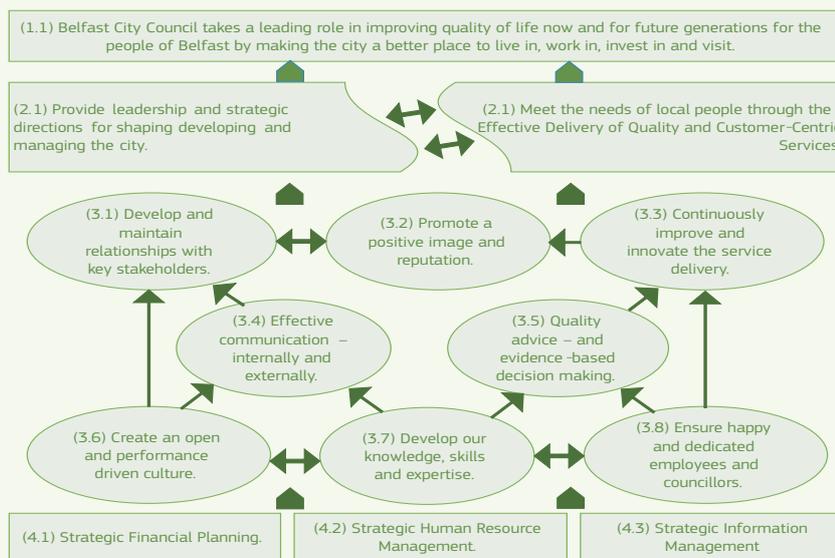
All employees are integrated in the process through annual target agreements. The concept includes various instruments like quality management, customer feedback, complaints management, knowledge management, standards for various procedures and lump-sum budgets. The implementation has reached a mature standard and has been continued also after a political change of the government.

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In order to keep the momentum and ensure the overall picture is not clouded with detail, many organisations are moving away from lengthy, onerous documents, and supplementing or even replacing them with highly visual plans, or ‘value creation maps’ (such as the example of Belfast City Council), which depict the strategy with all its components on a single piece of paper. These immediately provide focus and direction. Even if strategy maps are not used explicitly, business plans should contain clear cause-and-effect linkages that show how tomorrow’s outcomes will be impacted upon by today’s outputs, processes and inputs. Using a strategy map in conjunction with a more conventional business plan can help to check the assumptions made in the plan, while the map itself is a readily understandable way of communicating the strategy.

Inspiring example: Value creation map for Belfast City Council (United Kingdom)

Belfast City Council is the largest local authority in Northern Ireland. Belfast City Council provides local political leadership and a range of services such as refuse collection and disposal, tourism and economic development and employs more than 2 800 people serving a city population of about 269 000. The strategic management exercise resulting in a value creation map dates back to 2005. Throughout a process of consultation and strategic reflection, the leaders of the organisation clarified and agreed on the corporate strategy, mapped this strategy into a corporate ‘value creation map’, designed appropriate performance indicators and cascaded the framework into all of its departments and service units. The value creation map provides a single image of an organisation’s overall purpose, the key competencies it needs to have to deliver its purpose and the key resources it needs to support these competencies. The original map for Belfast City Council was designed in 2006 and was based on the input of elected Councillors and senior officers, as well as a review of existing strategy and planning related documents. Since then, the map (and according strategy) was regularly revised and updated.



Source: Marr, B. (2009), “Strategic performance management in government and public sector organisations”, Advanced Performance Institute

Getting employees to buy into and follow a strategy means engaging them in the process. If everyone knows what they are aiming for, and why, they are much more likely to get there. Yet it is surprising how many organisations choose not to share

this information with their workforce! Clearly, top-level buy-in is essential, if an effective performance management strategy is to be designed and implemented. Buy-in from middle managers and front-line staff is essential too, though – to make performance management an integral part of the organisation’s daily routines. If middle managers and front-line staff are not provided with meaningful performance feedback, and instead feel treated like robots that just have to perform prescribed tasks or collect and report seemingly meaningless data, they are unlikely to ever fully subscribe to the performance management approach.

3.1.2. Monitoring, evaluation and learning

In order to make sure objectives are achieved, public sector organisations need to monitor and evaluate if, to what extent and how these aims are met. This topic takes the generic principles set out in [topic 1.3.1](#) and applies them to the specific context of organisations. Traditionally, public bodies have paid most attention to efficiency: using as few resources as possible to achieve expected outputs. In times of austerity, the priority for many organisations is, more simply, economy: reducing inputs in line with budgetary constraints. To fulfil their mandates, public sector organisations need to also take care of the strategic aspects of their performance: their effectiveness, impact and the sustainability of outcomes. This demands results-based management in both the organisational culture and the use of techniques and instruments.



How can performance information be used in public sector organisations? In other words, why do it? For the sake of clarity, the reasons can be clustered into three groups:

	1. To learn	2. To steer & control	3. To give account
Key question	How to improve policy or management?	How to influence and shape activities?	How to communicate performance?
Focus	Internal	Internal	External
Orientation	Change/future	Control/present	Justify/past
Examples of instruments	Strategic planning, benchmarking, risk analysis, business process reengineering	Monitors and management scorecards, performance appraisals, performance budgeting	League tables, citizen charters and annual reporting, performance contracts

First, performance information may be collected in order to find out what works and why (or if not, why not). The main function here is **learning**. The key question is how policy or management can be improved. Lessons from organisational performance might feed into the overall policy, both design and implementation (see [theme 1](#), especially [topic 1.2.3](#)), and managers of public sector organisations use this information to re-focus their operations. Strategic planning and evaluation, business process re-engineering (see [topic 4.2](#)) and benchmarking are examples of management tools based on gathering information with primarily a learning orientation. Performance information can be used for process evaluation and outcome evaluation which envisages, respectively, service improvement and policy improvement.

Second, the **steering & control** function of performance information is about motivating and (if necessary) sanctioning institutions or public servants, and can include allocating resources. Typical applications are management scorecards that monitor the performance of the organisation, or various tools of performance-related financing. These systems mainly have a control orientation and are occupied with the present rather than future or past performance. The use of performance information for management tools, such as performance budgeting (see [topic 7.1](#)),

performance mandates (see [topic 3.2](#)) and performance appraisals (see [topic 3.3](#)), fall into this category.

The third purpose is **accountability**. The key question is how to communicate with the outside world about performance. In recent decades, accountability mechanisms have shifted from a focus on legality (spending resources lawfully) to a focus on results (demonstrating what is coming out of the organisation). It was assumed that accountability for results would put external pressure on public organisations. In this sense, the orientation is not so much learning or control, but change. Performance measurement in this case is mainly about explaining past performance. By requiring an organisation or programme to give account, pressure is exerted. The underlying mechanisms are twofold.

- First, pressure can be created by showing results to the *general public*. In case of a public sector monopoly, the potential criticism of the public (and the media) is expected to wield enough pressure for change. Typical examples are citizen's charters (see [topic 4.5](#)) and upgraded annual reporting. In case of (quasi-) markets, for instance in education and healthcare, where citizens have some leeway to switch providers, including sourcing services from the private sector, market pressures are provoked by publicising performance, and in some cases, rankings.
- Second, pressure can be instituted by the political system. Performance contracts with agencies are a good example. These contracts give autonomy to agencies within a pre-set budgetary framework, provided that the agency commits itself to output or outcome targets.

The Flemish Department of Public Governance's 'goal management' system is an example of placing performance measurement at the heart of both policy development and organisational management.

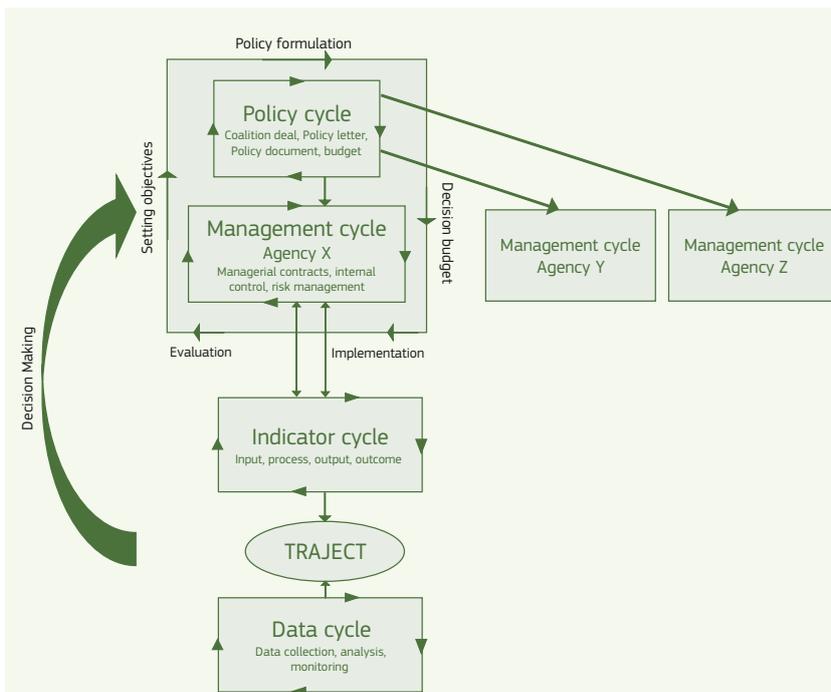
Inspiring example: Goal management and performance measurement at the Flemish Government (Belgium)

In 2014 the Flemish administration launched an organisation-wide project on '**goal management**' that aims to implement an integrated goal cascade across the various levels of the organisation, and efficient and effective monitoring and reporting. Goal management refers to a set of linked processes and tools that the organisation and its departments and agencies use to develop the strategy, translate it into operational actions, and monitor and improve the effectiveness of both. The project consists of several substantive parts that are, however, strongly connected.

On the one hand, there is the **conceptual design of a management system**, to better integrate the policy, management and financial cycle. First, a taxonomy of 'goal management' was developed (with definitions, a model that visualises the relations and a set of principles), which provides a sound foundation for a standard an integrated approach within the whole administration. The project also involves the adoption of this conceptual framework in the formal guidelines for the strategic planning process for all the entities.

On the other hand, **instruments and methods** are necessary to realise a goal-based learning and improvement process and to support an ongoing performance conversation throughout the organisation. The conceptual structure has to be translated into a user-friendly and high-performing measurement instrument that facilitates the monitoring process starting from setting objectives to collecting the appropriate data, and creating customised dashboard reports for different users, that are effectively used in the steering process.

The political level determines a first 'source' of objectives for the Flemish public entities. On the basis of policy documents (coalition agreement, policy papers, policy letters, budget), the policy and financial cycle stipulates which specific policy themes are to be focused on in terms of content and spending. The administrative level will then translate the policy objectives from the political documents into strategic and operational organisational targets in the management



cycle. Organisations maintain a certain degree of autonomy in the development of this management cycle. Apart from the imposed policy goals, each entity can autonomously define objectives and targets with regard to its own internal operation and organizational control.

The indicator cycle guarantees that the set of goals is further put into practice. The linkages between science and policy and between indicators and policy development must be forged at the very early stages of this process, which is fundamentally collaborative and dynamic, and must develop over time. To adequately meet the various requirements, a performance measurement instrument should be developed in a dynamic feedback process involving policy-makers,

indicator specialists, and the stakeholders who would be affected by the policies in question.

During 2014, a supporting IT-system for monitoring and reporting was selected and an organisation-wide configuration was deployed, based on the specific needs of the agencies of the Flemish administration. 'TRAJECT' will be released at the beginning of 2015, so that all entities can start monitoring their strategic and operational goals from the start of a new government period. The monitoring tool starts from different basic objects (plan – goal – project – process – programme – indicator) which can be created and assigned to the responsible person in the organisation. This owner will report on the status of the objects, on a periodic basis. In a second step, different objects can be hierarchically linked to construct goal cascades (or 'views'), each with a specific structure corresponding to a planning document (e.g. policy letter, managerial contract, etc.). Each object (goal, project, etc.) is created as a unique item in a list, and exists only once in the tool, but can be part of several plans/views/cascades. In this way, the status information of each item is updated at one spot, but the information can be re-used for other monitoring and reporting purposes. For the implementation of the tool and the accompanying methodology, an extended support offering for the agencies and their workforce was developed.

The 'goal management' project contributes to:

- Tackling the compartmentalisation that has become inherent to the Flemish administration and that complicates the coordination and integration of horizontal and wicked policy issues, and the realisation of system innovations;
- Reducing the internal administrative burdens through the maximum re-use of status information;
- Rationalising the existing IT applications for monitoring and reporting;
- Evolving to a more data-driven government, through a focus on indicators (output and outcome);
- Taking steps towards a performance-based budgeting (see [topic 7.1](#))

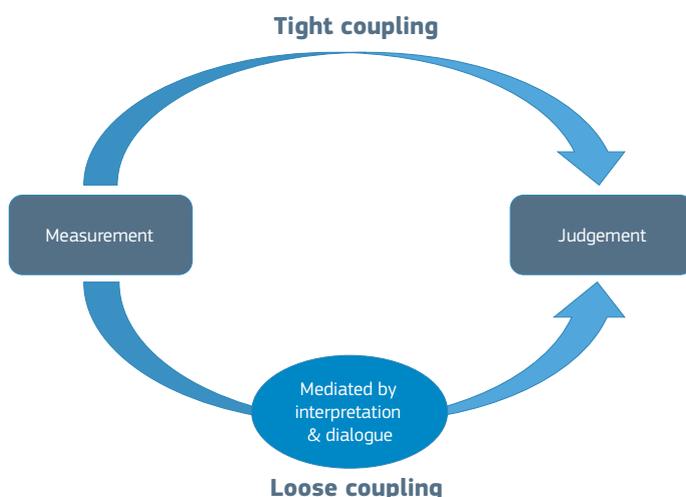
From the start of the project, there was some resistance towards this new kind of thinking. Therefore a new organisation-wide participative approach was developed (discussion tables, round table conferences, feedback loops, etc.) to ensure a bottom-up approach and a maximal use of internal experience and knowledge. As a result, consultancy cost was reduced to zero and the support for the project grew. Within the year, 11 of the 13 departments voluntarily decided to co-finance the setup cost for the tool.

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After deciding *what and why* to measure, one needs to determine *how* to measure. The selection of indicators largely depends on the specialised expertise in organisations or policy domains (for detailed information on the types of indicators, see [topic 1.3.1](#)). Obviously, performance indicators will differ in, say, a cultural organisation, a fiscal administration, or an environmental agency. Key performance indicators (KPIs) help organisations understand how well they are performing in relation to their mandate and goals. In the broadest sense, a KPI provides the most important performance information that enables organisations or their stakeholders to understand whether the organisation is on track or not. KPIs serve to reduce the complex nature of organisational performance to a small number of key indicators, in order to make it more digestible for managers, employees, policy-makers and the public, especially to take corrective action.

This is the same approach we use in our daily lives. For example, when you go to your doctor, he or she might measure blood pressure, cholesterol levels, heart rate and your body mass index as key indicators of your health. With KPIs, we are trying to do the same in our organisations. Like any ‘health check’, the analysis of organisational health does not stop when the test results come in. If the indicators confirm the signs that performance is worse than it should be (below the expected range), they should trigger further assessments to understand better the underlying causes and the best course of action. Performance measurement is a management tool. The ‘symptoms’ are usually already apparent to the organisation itself, but the indicators provide evidence of actual performance, as the basis for diagnosis, which can lead to prognosis (projections if things continue as they are) and hence treatment if needed.

KPIs should be clearly linked to the strategy, i.e. the things that matter the most. Once you have agreed, defined and mapped your strategic objectives, you can design KPIs to track progress and gain relevant insights to help manage and improve performance. KPIs have to provide you with answers to your most important questions. It is also important to stress that strategic measures are different from those required to monitor operational performance. Too many performance frameworks and scorecards confuse the two. While with operational measures, it is desirable to get closer and closer to ‘real time’ measurement, this is not required for strategic measurement. Strategic measures are rarely monitored day-by-day. Strategic measures are more about monitoring progress toward achieving a new and different envisioned destination (as opposed to just doing things better), and they don’t change that often.



A crucial decision is whether performance information will be used in a ‘hard’ or a ‘soft’ way. The first consideration is how tightly coupled are performance information and judgement. Hard use presupposes a tight coupling between performance information and judgement, while soft use leaves more room, as dialogue and interpretation mediate final decision making.⁽¹²⁾ It is the difference between formula-based use and interpretative use. An example of hard use is performance contracts that stipulate sanctions for agencies or senior officials that do not reach their performance targets, regardless of external factors from the wider operating environment. By contrast,

an example of soft use would be a benchmarking exercise that requires some performance information to feed into discussions on how to do things differently, or use of organisational or unit performance to inform individual appraisals and identification of objectives and training needs.

⁽¹²⁾ Moynihan D., (2008), “The dynamics of performance management: constructing information and reform”.

Performance information is applied in Poland's Social Insurance Institution (ZUS) in the context of management by objectives, using indicators of indicators of efficiency, quality and financial performance. These are presented in a balanced scorecard, but this hard data is also qualified by the application of additional analysis, in order to learn lessons and strengthen ZUS's future strategy.

Inspiring example: Management by objectives in the social security administration (Poland)

The Social Insurance Institution (ZUS) is one of the largest public institutions in Poland. Each month, ZUS collects social insurance contributions for approximately 15.6 million people, and pays pension benefits to 7.4 million people. Total number of employees in ZUS – 46 thousand persons. ZUS operates in the following number of locations: headquarters (1 400 persons employed) and branch units (44 600 persons employed). There are 43 branches, 212 inspectorates and 70 local offices.

In order to provide high standards of customer service, and thus customer satisfaction, ZUS has been implementing the model of management by objectives (MBO). The ongoing implementation of the management by objectives system in ZUS since 2010 resulted in ZUS's transformation into a modern institution focused on the achievement of objectives identified as priorities. In practice, the idea of this approach entails initiatives aimed at increasing customers' satisfaction on both strategic and operational levels.

On the **strategic level**, ZUS realised its *Strategy of ZUS transformation for the years 2010-2012*, the ultimate goal of which was to increase customer satisfaction by:

- Digitisation of delivered services;
- Introduction of process management;
- Reorganisation towards achievement of a front/back office model;
- Supervision of resources allocation and funds' management.

These four overall objectives were cascaded to specific goals within eight area policies (functional strategies). Both overall and specific objectives were aimed to improve the efficiency, quality and financial performance of services provided by ZUS, so as to achieve customer contentment and improve ZUS's image as a partner in the community.

The management by objective system also covers **operational activities**. To ensure the smooth implementation of the Strategy at the operational level, the comprehensive evaluation system of ZUS branches was used as a result-oriented mechanism. The evaluation is carried out on a quarterly basis and covers indicators grouped into three levels of importance from the customer service point of view, i.e.: efficiency, quality and financial performance:

- Efficiency indicators focus on timeliness of claims/applications' handling and percentage of handled cases.
- Quality indicators include error's scale and claims/applications' lead time.
- The financial performance sphere includes labour productivity indicators and unit costs' indicators.

In the process of formulating ZUS Strategy (both for 2010-2012 and 2013-2015), the **Balanced Scorecard (BSC)** structure was adopted. The Balanced Scorecard was designed for the use of business, where the hierarchy of perspectives emphasises the importance of finance as a guarantor of success. The classical model of the Balanced Scorecard has been adjusted to ZUS's specifics by underlying the role of the customer rather than the financial perspective. For each of the Balanced Scorecard perspectives, the ultimate objective has been split into overall objectives, to which specific objectives were assigned in the cascading process.

The quarterly branches' evaluation system has proven a useful management tool allowing ZUS to identify areas which needed to be looked into, in order to improve work efficiency and set high standards of customer service.

The presented practice has proven to be an effective tool for improving ZUS's operation and building customer satisfaction. Six-monthly monitoring of ZUS's Strategy implementation has been a source of information about projects and initiatives undertaken within the Strategy. These reports were subjected to analyses. The results were included in the consequent ZUS Strategy, in order to maintain positive transformation of the organisation.

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Various tools and guidelines exist to guide public sector organisations to find inspiration in designing good performance management systems, and finding or creating suitable indicators. The UNDP user’s guide provides a nice overview.

Users’ Guide to Measuring Public Administration Performance

This guide responds to a growing demand for more operational and nationally-owned measurement tools for public administration. It critically reviews the existing assessment tools and information sources which are readily accessible online. It provides practical guidance drawing on scenarios, and provides an exhaustive inventory of existing assessment tools and methodologies. The guide introduces 18 measurement tools that can be used to design specific indicators:

1. Quantitative Service Delivery Surveys (QSDSs)
2. Citizen Report Cards
3. Common Assessment Framework (CAF)
4. Country Governance Assessment (CGA)
5. Capability Reviews
6. Public Expenditure Tracking Surveys (PETSs)
7. Self-Assessment Tool for Customer Service Excellence
8. Performance Measurement Framework (Public Expenditure and Financial Accountability - PEFA)
9. Public Officials’ Survey
10. Country Assessment in Accountability and Transparency (CONTACT)
11. Evaluation Matrix of Civil Service Human Resource Management in the European Union
12. Control and Management System Baselines
13. Human Resources Self-Assessment Guide
14. Human Resource Management (HRM) Assessment Instrument
15. Analytical Framework for Institutional Assessment of Civil Service Systems
16. Engendering Budgets: A Practitioners’ Guide Understanding and Implementing Gender-Responsive Budgets
17. National Integrity Systems (NIS)
18. Diagnostic Framework for Revenue Administration

Source: UNDP (2009), “Users’ Guide to Measuring Public Administration Performance”

3.1.3. Accountability and communication



In an era of heightened expectations of public service delivery (see [theme 4](#)), widely accessible information and social media, the performance of public administrations and especially their results need to be demonstrated to a range of audiences. Public sector organisations have to report to their (political) authorities, users and other interested

stakeholders. Performance reporting demands a tailor-made approach towards different target groups. Online ‘dashboards’ and ‘scoreboards’ are useful tools for both the administrations and the public as they have the potential to increase transparency, accountability and trust, if the information is well-presented and explained (see [topic 7.1.2](#)).

In the context of the three potential uses of organisational performance information (learning, steering & control, and accountability), it is clear that the various user audiences have different interests in interpreting and applying performance measures and indicators:⁽¹³⁾

User	Use
Managers	Public sector managers will want to use performance data mainly for learning purposes and, to a lesser extent, for steering and control. Senior managers tend to be more interested in strategic data for learning purposes (leading to strategic planning, benchmarking, risk analysis, business process reengineering), while middle managers and supervisors might also use data for steering / controlling operational performance (such as performance appraisals, delivering performance-based contracts etc.).
Ministers	For executive politicians, accountability is most important (with the expectation it leads to learning and steering), especially in those countries which publish indicators and/or targets for government agencies, education and health bodies, etc. Accountability becomes steering and control when performance indicators are used to align the work of agencies with the policies of ministers, and especially when codified in performance contracts with the minister. Ministers should also use performance information as inputs to developing new or more focused policy programmes. If monitoring data is only generated sporadically instead of continuously, and evaluations are backward-looking rather than ongoing, then time pressure can inhibit a careful use of performance information in outlining policy choices.
Members of Parliament	The OECD found from a survey of 27 out of 30 of its member countries that 24 countries provide outcome information to parliament. However, MPs use outcome data for decision making in only five countries, while budget committees use the information to allocate resources in only two countries.* An important issue with parliaments internationally is how increased information is used. There is then a question about information overload confronting parliaments and how they can make effective use of their own reports, as well as those of public organisations.** Several reasons can be found why performance information is not used: public performance reports lack credibility, time constraints, and/or performance reports follow the agency's or department's logic, and not the needs of MPs to scrutinise performance and explain it to the public.
Citizens	Government performance information can be a very important tool for communication with citizens. Without any doubt, the public is keen to hold public sector organisations to account. Yet, when it comes to the actual use of performance reports, less enthusiasm is observed. A British attempt to make accessible (in supermarkets) a results-based annual report, for example, attracted scant interest.*** The ownership of performance management initiatives usually lies within the administration. However, administrators repeatedly complain about the lack of interest of the public in performance information – until things go wrong. This leads to frustration because there is a supply of performance information, but no demand. An appealing approach to alleviate the problem is to make performance measurement more demand oriented, which implies the stronger involvement of citizens in the definition of performance. Performance information might also address the citizen in his or her capacity as customer of public services.
Media	The media is a significant user of performance information in several forms including league tables, trends on service levels. Media do pick up bits of performance information, but it is very difficult to predict which pieces of performance information will be taken out of the performance report, and possibly out of context. Timely, unexpected, sudden, negative, unambiguous, personal, and conflict-prone events are more likely to be picked up in the media, to name a few criteria. If performance information has to figure in the media, it needs to be adapted to increase the news value. Performance information can for instance be personalised by also showing a case or a witness. The release of performance information should fit the news cycle of the print and broadcast media. There has to be a consistent storyline behind the numbers and focus should be on the unexpected results.

(¹) Van Dooren W., Bouckaert G. & Halligan, J., (2010), "Performance management in the public sector", p121.

(²) Halligan, J., Miller, R., and Power, J. (2007), "Parliament in the 21st century: Institutional reform and emerging roles".

(³) Pollitt (2006), "Performance Information for Democracy: The Missing Link", op. cit.

The case of Castilla y León in Spain is an interesting example of a regional government that has taken a pro-active stance to accountability and communication by reaching out to stakeholders within and outside the administration, especially citizens and business, in the whole strategic cycle (planning, implementation and continuous reporting).

⁽¹³⁾ Pollitt (2006), "Performance Information for Democracy: The Missing Link?" Evaluation: the International Journal of Theory, Research and Practice, 12, 39-56.

Inspiring example: Everyone's administration - the strategic plan for modernising Castilla y León's public administration (Spain)

The Government of Castilla y León has pledged its commitment to the modernisation and quality of regional services. This is the reason why, almost four years ago, it led the devising and execution of the Strategic Plan for modernising Castilla y León's public administration. The aim of this plan was to improve the governance, find the excellence in management and change the public administration's culture.

In order to achieve these goals, participation and cooperation channels were established between the institutions and its customers groups, reinforcing its democratic character and public service function, and promoting efficiency and transparency in results-based management within a culture of evaluation and continuous improvement. Six strategies were designed, one for each customer group identified: citizens, enterprises, government, civil servants, society and local administrations. In turn, these strategies were developed through 20 programmes that needed more than 60 working teams, which accomplished their objectives in a coordinated way.

This devising and execution process is a value in itself, as an important group of more than 400 people has reflected on the purpose of our public administration, its strengths and weaknesses, strategic areas and objectives to reach, and has established the project management methodology for its execution. This has meant a clear benefit for our public administration due to the reflection, contrast of opinions and team working and has allowed us to:

- Involve civil servants thanks to having common goals to achieve with joint effort;
- Maintain an intense communication because of being a plan that implies everyone;
- Be cross-cutting, transparent and coordinated in its actions.

This plan has allowed the public administration to move forward towards an Excellence Model that has made the relationship with citizens easier, increasing their level of satisfaction with public services and improving their quality of life and well-being.

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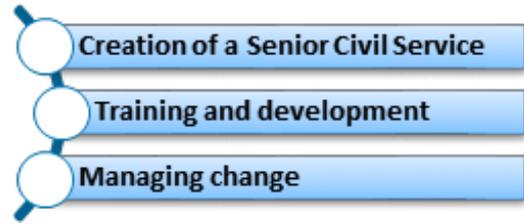
In principle, performance information is indispensable: to ministers for guidance, control and evaluation; to MPs to authorise expenditure and to oversee implementation and performance; to civil servants to take responsibility and be accountable; for citizens to the extent that they have an interest in economic, efficient and effective service delivery and policies. However, this obvious win/win/win for ministers, MPs, civil servants, and citizens does not always materialise in practice. A range of studies report communication disconnects and 'missing links'.⁽¹⁴⁾

What is the right format? Different formats for reporting performance information exist. Annual reporting, for instance, will be a good instrument for reporting to stakeholders and interest groups, but for specialists; it is unlikely that they have a direct impact on the public in general. Oral communications will be suitable for reporting to the middle and top management, together with scorecards. News flashes and publicity are instruments to reach the general public through the mass media.

⁽¹⁴⁾ Van Dooren and Van de Walle (2008), "Performance information in the Public Sector: How it is used".

3.2. Professional leadership

Effective direction from top management is essential to achieving organisational objectives and outcomes (the opposite, weak leadership, has evident effects in rudderless institutions). Political decision-making is integral to policy-making (see [theme 1](#)). Once policy goals have been established, their operational achievement requires management that is competent and chosen on merit, with the powers and autonomy to operate (freedom to manage), and the ability to adapt to ever-changing environments. Organisational management should be assigned to the most competent leaders, rather than those appointed on the basis of political affiliation, subject to interference in day-to-day decisions, and prone to change whenever there is a change of party or minister. The de-politicisation of top management of ministries, municipalities, agencies and state-owned enterprises is increasingly recognised across the EU (and aspiring members) as a necessary pre-condition for good governance of organisations. It is also a critical factor in improving the ethical performance of public administrations and reducing corruption (see [theme 2](#)).



Different strategies can be used to create and ensure a highly competent and professional senior management cadre. One aspect is attracting the “right people” into leading positions (by creating a special level, by opening-up recruitment, by working with mandate systems, etc.). The second scenario is to strengthen the competency and professionalism of the public sector leaders by investing in tailor-made training and development. Professional leadership is demonstrated in the day-to-day management of public sector organisations. Besides that it is even more needed in periods of “change” (new mission and tasks, re-orientation, down-sizing, outsourcing, introduction of new/other ways of working, etc.). Leadership is identified as being crucial in managing change.

3.2.1. Creation of a Senior Civil Service

In general, a tendency can be seen in most of the Member States to pay special attention to their group of senior civil servants. “A *Senior Civil Service* is a structured and recognised system of personnel for the higher non-political positions in government. It is a career civil service providing people to be competitively appointed to functions that cover policy advice, operational delivery or corporate service delivery. The service is centrally managed through appropriate institutions and procedures, in order to provide stability and professionalism of the core group of senior civil servants, but also allowing the necessary flexibility to match changes in the composition of Government by using appropriate due processes”.⁽¹⁵⁾



⁽¹⁵⁾ OECD (2008), “The Senior Civil Service in National Governments of OECD Countries”, p.17-18 (GOV/PGC/PEM (2008) 2)

EU Member States fall into five categories in their approaches to the Senior Civil Service (SCS), depending on whether they recognise this group of civil servants with a formal status, and/or whether they apply special conditions, such as recruitment and remuneration, as summarised in the table below:

Grouping of Member States by typology of SCS models		
Special conditions for SCS	Formal SCS status	No formal SCS status
Yes	(A) With central SCS office: NL, UK (B) BE, IT, MT, PL, PT, RO	(D) AT, DE, EL, ES, FR, LU, IE, DK, FI, SE, SI, EE, LV, SK
No	(C) BG, CY	(E) CZ, HU, LT

Source: Kuperus, H., & Rode, A. (2008), "Top Public Managers in Europe. Management and Working Conditions of the Senior Civil Servants in European Union Member States", EIPA, Study commissioned by the French EU-Presidency

- Group (A) have centralised SCS organisations. This model formally defines the SCS in a national law or regulation as a separate and special group of civil servants. Furthermore, this particular group is managed by a central office created for the support and administration of senior civil servants, and special conditions apply, with the office providing a support service and administering SCS recruitment, management, remuneration, evaluation and promotion. Such a centralised office makes it possible to pay special attention to the SCS, to establish an 'esprit de corps' or corporate culture in the context of autonomous organisations, to increase mobility between several ministries through a centrally-guided recruitment procedure and to organise specific support and development activities. Only two Member States fall into this category (the Netherlands and the United Kingdom).

Inspiring examples: The Dutch ABD and the United Kingdom SCS

The central office for SCS in **the Netherlands**, Algemene BestuursDienst (ABD) has existed since 1995 to create more synergy, mobility and a common responsibility for the whole of government policy, through central support of the autonomous Ministries. Since 2006, the Minister of the Interior has been the official employer of, and legally responsible for the working conditions of, the Top Management Group (TMG) which includes the 65 Secretaries-General and Directors-General of all Ministries. They are working for a specific Ministry in a position for 5-7 years. The whole group of 780 SCS includes also the Directors of all Ministries. The tasks of the ABD are to organise the appointment process for top management positions, to offer career counselling to senior civil servants, and to carry out training and management development. The ABD also performs a number of specific tasks for the Top Management Group in terms of their legal status, remuneration and terms of employment both at the moment of their appointment and resignation.

In the **United Kingdom**, the creation of the SCS provided an opportunity to launch some initiatives specifically geared towards them. Although individual members of the SCS still work for a specific ministry, and human resources are generally managed by the ministry, their pay and conditions are covered by a single set of service-wide arrangements. The Civil Service Capability Group (CSCG) in the Cabinet Office is responsible for the leadership of the Civil Service and the management of SCS. Besides the Cabinet Office, the Civil Service Commissioners play an important role in the management of the system as an independent body. These Commissioners are appointed by the Crown under royal prerogative, are not civil servants and are independent from ministers. They report to the Queen through annual public reports. The Commissioners take part directly in the selection procedure of the top approximately 160 positions at the highest two levels, and ensure that the rest of the appointments made at the departmental level happen according to fair and open competition and selection by merit.

Furthermore, both the Netherlands and the UK have created an inner group within the broader senior civil service for different purposes. In the Netherlands, the Top Management Group (TMG), or the "top sixty" as they are labelled, was created with a separate legal status within the SCS in July 2000. TMG was set up with more flexible employment conditions: pay is linked to performance targets, temporary appointments increase the sense of commitment of senior civil servants to the civil service in general as opposed to a department and makes it easier to deal with underperformers in a specific post.

The United Kingdom has recently created the Cross Leadership Group, or the "top 200" as they are nicknamed by some. This group includes permanent secretaries, director generals and equivalent posts. This is a very important tool to create common values and principles among senior civil servants. These inner groups could be successful in creating a corporate ethos and enhancing operational coordination of specific problems.

Sources: OECD (2008), *op cit*.

- Group B have a formalised SCS status with special conditions like type (A), but senior civil servants are usually administered by the same office(s) as that which administers the civil service in general. Furthermore, this model implies the existence of special conditions for senior civil servants which distinguish them from other civil servants.
- Group (C) is distinguished by a system of formalised SCS status without special conditions. Although senior civil servants are defined in the national legislation as a special group, they do not enjoy any special conditions in comparison with the general civil service in this type. The only difference between senior civil servants and civil servants in general is the status.
- Group (D) is the opposite. Senior civil servants are not formally defined in any piece of national law or regulation, but their positions are considered as exceptional and have a special social status. This particular group also enjoys special conditions in relation to their recruitment, appointment, support and benefits.
- Group (E) senior civil servants' positions are basically considered as an equal part of the general civil service and the same conditions and benefits must therefore apply as for the general civil service. So no formal SCS and no special conditions apply.

The creation of a separate SCS helps to break down the monolithic structure of the civil service.⁽¹⁶⁾ By creating a hierarchy of status within the civil service, it reinforces the boundaries between civil servants and politicians, by defining the top tier of recruited (not elected) officials as professional and highly qualified advisers. One of the reasons to invest in a SCS is the creation of a homogeneous group whose corporate values are shared across departments. The sharing of values has implications for the relationships between the SCS and other relevant stakeholder groups in the provision of public services. The creation of a separate SCS does not bring about, by itself, a corporate culture for its members. Other factors like small size, opportunities to network and the ability to exchange ideas, and internal mobility of senior civil servants are relevant as well. These factors enhance the success of creating a cross-departmental and cross-sectoral perspective.

The need for flexibility in recruitment and employment conditions for the SCS is often mentioned as another important reason. In recruitment, the goal is to attract the best and the brightest, irrespective of whether they come from the private or the public sector. Direct lateral entry of outsiders should be possible and seniority (in the sense of years of service) in a particular department should not be required. In addition, external members of the SCS may bring different sets of skills. Flexibility of employment conditions, especially pay and contract arrangements, may be used as a reason for the creation of SCS in three different ways:

- Payment, and tenure or renewal of fixed-term contracts, can be made dependent on results achieved by senior civil servants.
- Political responsiveness can be enhanced if roles and functions of senior civil servants are clarified in the contract, and failing to comply with specified terms has implications for the senior executive.
- The pay structure of senior executives should differ from other employees in order to retain talent.

In general, there are two types of employment systems in the SCS:

- The **career-based system** is based on general civil servants having the opportunity to 'climb the ladder' and gain promotion to the SCS on merit. It

⁽¹⁶⁾ Pollitt, C., and Bouckaert, G. (2004), "Public Management Reform", p.76

aims at building a coherent civil service with top executives who share the same culture, which makes working together and communication across government organisations easier, and favours internal mobility.

- The **position-based system** is based on appointment to the SCS, making it open to both internal and external candidates, based on their suitability for the job. It aims to provide a wider choice of candidates, including those with specialist skills, which promotes competition, cultural renewal, and adaptation in the civil service. This system enables decentralisation, and makes it easier to: adapt recruitment to specific competence needs in different activities; differentiate pay and other employment conditions in accordance with the market situation and; achieve a strong performance orientation.

Meanwhile, an increasing number of Member States are starting to combine elements of both these systems. They can be considered as mixed or **hybrid systems**, because the configuration of the senior civil services of some Member States shows a mix between the two types of system, such as the examples of Belgium and the Netherlands.

Inspiring examples: Hybrid appointments (Belgium and the Netherlands)

In Belgium, the procedure differs for the first three senior civil service levels as it involves the Office of the Federal Administration (SELOR) for the first level and the management board of the agency for the levels underneath. In both cases, the pre-selection is based on competitive criteria involving not only the analysis of the curriculum but also exams and interviews. After the pre-selection phase, the minister takes part in the final decision. For appointing the chairman of the board, candidates are graded from A to D (very capable to non-capable). The minister will normally choose one short-listed candidate from grade A after having had an interview with the person. In levels below 3 (directors), the Management Board will secretly vote for the suitable candidate among different applications. If there is unanimous vote for a candidate, the minister, who has the final word, will accept the decision.

The Netherlands also illustrates the hybrid model with a much more centralised system than Belgium for filling the vacancies of secretary general and director general. The SCS director general and a committee, short-list between two to four candidates. The committee, chaired by an outsider from the civil service, includes two secretary generals. As in Belgium, the secretary general of the ministry in which a director general is going to work will take part in the selection process as a member of the committee. The committee monitors the selection process (for instance, that internal candidates are not unfairly overlooked) and assists the SCS director-general (responsible for the system) in the process of reaching a decision. External candidates suggested by the Minister in which the position is going to be filled might be included in the pool of candidates. The appointment decision lies with the Minister of Interior and Kingdom Relations, which the line minister in which the position is vacant has the right to veto. If problems arise, the Prime Minister can be involved in the process.

Sources: OECD (2008), op. cit.

As already noted, in all formally separate SCS systems, there is a central unit in charge of all or part of SCS management. This unit is responsible either for the recruitment process itself or the supervision of it, ensuring that it is done fully competitively, without interference from politics. The central units report to different authorities in different countries: to Parliament, President or Prime Minister, a particular minister or each minister. It seems that the degree of independence from political interference in recruitment of those units is largely the same in these four instances (reporting to Parliament, to the Head of State, to the President or Prime Minister or to a particular minister), as long as the system accepts those units as independent.

As mentioned above, there are variants of the recruitment process of senior civil servants. The career-based type leaves the whole procedure in the hands of the central unit in charge of the process. In other systems, a hybrid variant is in place: the political executive has some leverage to pick from a short-list or could reject unwanted appointments for some levels of the SCS, once an independent commission has ranked and screened applicants. Finally, other countries like France provide a fully transparent merit-based competition for entry into wide SCS groups.

Some countries, like France, recruit in groups widely considered as the SCS very early on in careers, even in some cases right after university. After entry level positions, the vast majority of posts are only open to civil servants that are part of those groups. In almost all countries interdepartmental mobility is considered an important issue because it fosters a more corporate ethos at the top. More and more countries have developed strategies to encourage mobility. In addition, appointments on a fixed-term basis should also encourage mobility, but experience with fixed-term contracts is still not very developed.

Inspiring examples: Mandate system/performance agreements for top civil servants

	Belgium	Netherlands
Is a position specific agreement/contract obligatory?	Yes	Yes
Who is the contract/agreement between?	Between Minister and most senior official ("president"), between the "president" and immediate subordinates ("level N-1"), and similarly for some levels down	Between Minister and most senior official (Secretary General/SG), between the SG and immediate subordinates (Director Generals/DGs)
Duration of the contract/agreement	Duration of the "mandate" (6 years)	1 year
Content of the contract/agreement	Strategic and operational management objectives	Policy and management objectives; collaboration; and personal contribution
Reporting on performance	Approximately yearly	Approximately twice a year
Timing of performance appraisal	Every two/three years	Yearly
Evaluator	External and internal evaluation	Minister and SG; SG and DG
Link with other performance based arrangements	Link with policy letter of minister and budget	Possible link with organisational plans and budget

Sources: Hondeghem, A. – presentation at the OECD Expert Meeting on Performance-based Arrangements hosted by the Government of the Netherlands on 15-16 September 2006 in The Hague; Ketelaar, A., Manning, N., and Turkisch, E. (2007), "Performance-based Arrangements for Senior Civil Servants OECD and other Country Experiences", OECD Working Papers on Public Governance, 2007/5; Hondeghem, A. and Van Dorpe, K. (2013), "Performance management systems for senior civil servants: how strong is the managerial public service bargain?", International Review of Administrative Sciences, 79: 9

The politicised environment is frequently mentioned in studies as the result of past (often, in the case of newer Member States, pre-1990) problems, but also the potential cause of future problems. Aspects include the continual political intrusion into administrative domains, the political domination of senior administrative appointments and the overall lack of importance given to policy as opposed to politics. These problems are clearly multi-layered and complex, and causality and effect are not always straightforward. Furthermore, they are by definition difficult to measure and can be considered as the 'elephant in the room'. Nevertheless, numerous country reports hint at an alarming trend in *the politicisation of high-level civil service* that has seen the return of political appointments through the reversal of key pre-accession measures aimed at ensuring formalisation of civil service. There is thus an urgent need for a common understanding among politicians that a well-functioning civil service is a public good, rather than an extension of party politics.⁽¹⁷⁾

⁽¹⁷⁾ Matheson, A. et al. (2007), "Study on the Political Involvement in Senior Staffing and on the Delineation of Responsibilities Between Ministers and Senior Civil Servants", OECD Working Papers on Public Governance, 2007/6

3.2.2. Recruitment, training and development



There are many routes to ensuring a highly competent senior management cadre, and that the right calibre of people are attracted into leadership positions. The preceding section dealt with two scenarios: promotion through merit to a distinct 'senior civil service' as an administrative layer that operates across Government; and a mandate system which encourages well-qualified candidates from outside the

mainstream civil service (e.g. business) that can bring fresh thinking and expertise to enter at a senior level for a fixed term. This section includes creating: a highly developed graduate education system to ensure strong entry-level skills; a self-assessment tool for leadership which enables further development; and the provision of leadership programmes to enhance skills. ICT skills are increasingly important, due to the digital transformation of government. This section will specifically highlight the components of leadership development and leadership training as elements of strengthening the level of professionalisation of public sector leaders.

The focus on leaders in business, social movements, and political positions such as Prime Ministers and Presidents is understandable to be sure, but administrative leaders are extraordinarily important, too. *"In most developed countries they manage between 20 to 30% of the workforce, and a quarter to half of the economy. They manage the parameters of society, from social engineering to business regulation to the supervision of the economic system to inter-country relations. They not only carry out all public policy, but frequently recommend it, as well as articulate lower-level policy through administratively enacted rules and regulations that typify much legislation today."*⁽¹⁸⁾ Although this study was performed in 2008, with the public sector now accounting for almost half the EU economy and its employment constituting to a substantive part of the EU's workforce, its findings are still as pertinent today.

Leadership varies by situation and context, and no context is more important than cultural differences. The main question is: to what extent is administrative leadership different according to **administrative culture**? Administrative culture is shaped by four factors - historic, political, economic, and societal⁽¹⁹⁾ - alongside training institutions for top civil servants. Important explorative work was done by Pollitt & Op de Beeck, who compared the training of top civil servants in seven countries: Australia, France, Germany, the Netherlands, New Zealand, the United Kingdom and the USA. One of the findings in their study was that generic management teaching was much more prominent in Anglophone countries than in continental Europe.⁽²⁰⁾

Public sector leaders should have certain competencies and skills in order to deliver effective leadership and organisational management. Today, public sector leaders are expected to be more performance-oriented and less process-compliant than in the general civil service. They should have a managerial focus, leadership skills, and an innovation and communication focus, as well as professional competence. These competencies are a prerequisite for productive senior civil servants. The traditional values, such as hierarchy of control, conformity and authority through position, are slowly being transformed by new cultural values within public administration, such as openness, transparency, efficiency, effectiveness, and authority through leadership and managerial culture⁽²¹⁾ (see also [principles and values of good governance](#)). Today, managerial authority is conveyed by 'what you do', not simply 'who you are'.

⁽¹⁸⁾ Abramson, M.A., Breul, J.D., and Kamensky, J.M. (2006) "Six Trends Transforming Government", IBM Center for Business of Government.

⁽¹⁹⁾ Bouckaert, G. (2010) "New public leadership for public service reform" in Pierre J. and Ingraham P. (eds.) "Comparative Administrative Change and Reform: Lessons Learned", p51-67.

⁽²⁰⁾ Pollitt, C., and Op de Beeck, L. (2010), "Training Top Civil Servants: A Comparative Analysis", Instituut voor de Overheid

⁽²¹⁾ Op de Beeck, S., & Hondeghe, A. (2010) "Managing Competencies in Government: State of the Art Practices and Issues at Stake for the Future", OECD, Public Employment and Management Working Party

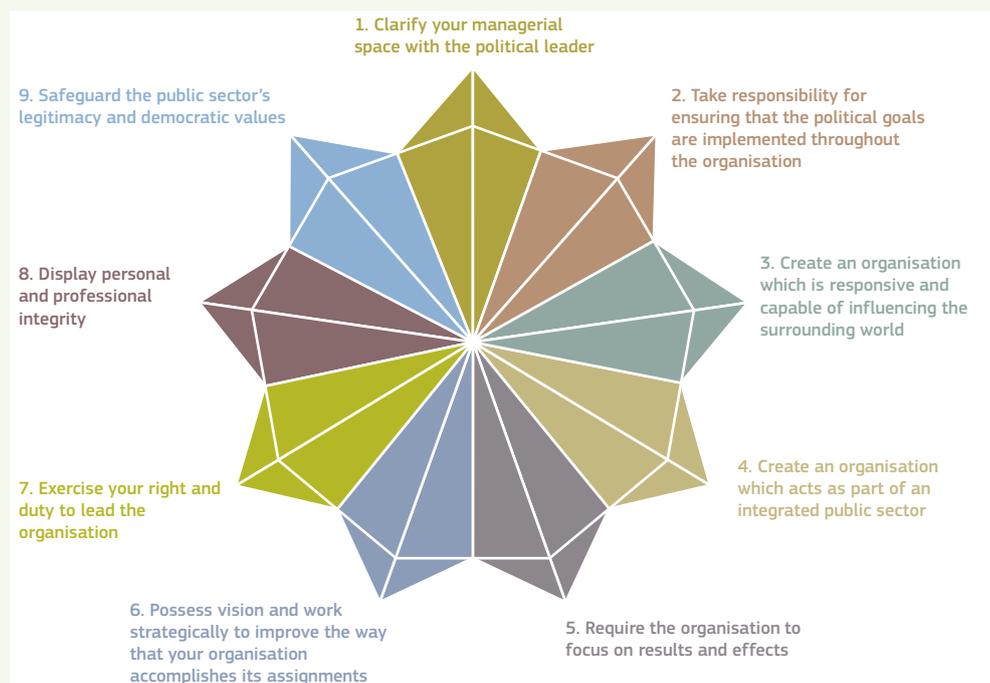
There are several ways of ensuring public sector leaders have the requisite know-how and skills. Not all competencies can be developed, and hence competence profiles should be used in the recruitment process to define the requirements for specific vacancies or for a group of positions at a specific level. When recruiting future managers, this has to be taken into account at a very early stage of the career.

Half the Member States have a central competence profile for the senior civil servants. Of the remainder, some have decentralised competence profiles, while others have none. In those countries that do have a competence profile, either it includes certain leadership elements or it is planned that they be included in the future, at least for the highest level. However, many Member States mention people skills, but very few mention innovation, emotional intelligence and self-control, and none of them mention multicultural skills. The European dimension is also absent from most of the competence profiles for senior civil servants. Only a very few Member States have elements in their competence profiles regarding languages and knowledge of European affairs.⁽²²⁾

In the case of Denmark, the heads of administration at all levels of government created a common code of excellence in the mid-2000s that they could use for self-evaluation and self-improvement.

Inspiring example: The Code for chief executive excellence (Denmark)

From 2003 to 2005, the 450 heads of the Danish state, county and local administrations set themselves a common goal: under the title of Public Governance, they would develop a code for chief executive excellence which would apply across the entire Danish public sector. The background for this project was widespread recognition of the fact that excellence in senior management is a pre-requisite for meeting the current and future challenges faced by the public sector. The level of ambition was high: they wished to develop a code that would apply to the most important tasks of senior civil servants, but which at the same time would be specific enough to inspire individual top executives to reflect on and develop their managerial behaviour in their daily work. The nine recommendations for excellence in public sector executive management (set out in the following figure) comprise the backbone of the code. These recommendations are intended to function as a common set of norms defining the characteristics of a good public sector senior civil servant. For the individual chief executives, a self-evaluation method has been developed which is intended to function as a “code-mirror”. The aim of this method is to give individual chief executives a chance to reflect on their own management practice



Source: http://www.publicgovernance.dk/?siteid=778&menu_start=778

⁽²²⁾ Kuperus H. & A Rode (2008), “Top Public Managers in Europe. Management and Working Conditions of the Senior Civil Servants in European Union Member States”, EIPA study commissioned by the French EU Presidency

As another interesting example, the Estonian administration has established an E-Competence Centre to assess managers against the SCS competency profile using ICT.

Inspiring example: Senior Civil Servants E-Competence Centre (Estonia)

In Estonia, a special electronic environment called the E-Competence Centre has been created in order to provide flexible and comfortable access to the management of the new assessment system. The E-Competence Centre makes it possible to determine the Senior Civil Servant's competency profile. The competence profile allows both the assessment of the competencies and to keep a record of planned and completed development activities. The Competency Framework is a list of Senior Civil Service competencies that are described by 2-4 activity indicators on the scale of extraordinary ("5"), good ("3") and poor ("1"). When describing the highest level, it is expected that the Senior Civil Servant masters everything described at the lower levels. The competencies profile for SCS includes five main competencies: credibility, having a vision, innovation, leadership, and achievement orientation.

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Certainly, in all employment systems, knowledge of effective ways of developing competences is very important for introducing training and development activities aimed at the SCS. Most of the Member States train their SCS on (elements of) leadership skills and different types of management skills. Some other interesting topics are:

- Ethics and corruption prevention (Bulgaria)
- Transparency in public administration (Poland)
- Cooperation with politicians (Lithuania)
- Policy innovation programme (Estonia)
- Quality, innovation and modernisation (Portugal)
- Media training or communication with the mass media (Germany, Lithuania)
- EU rules and regulations (Poland)
- European business management and implications of European integration (Romania)
- Preparing for the EU Presidency (Slovenia)
- European competence and international cooperation (Germany)
- Internationalisation (Portugal).

Approaches towards the training of civil servants differ between career-based and position-based employment systems.

- In a **career-based system**, usually a common training system is built for all civil servants. However, the training is mostly done to become a civil servant and relates to the entry-level staff, as everyone starting to work for the civil service has to have the same level of knowledge and skills on general matters. Substantial generalist training is needed to achieve high standards wherever the possibility for advancement to the next appointment would be. A disadvantage of induction training is that ideas, skills and knowledge are not kept up-to-date so uniformly, as it relies more on the initiative and willingness of individuals to ensure they train themselves.
- In a **position-based system**, candidates are selected largely on the basis of their expertise prior to taking the job, and as such, in-service training is unlikely to be offered, except at the very start of the service where special

knowledge, skills or regulations have to be imparted to the individual. In-service training systems traditionally take less notice of the original specialisation of individuals' prior training and education. To persist in this direction, however, would be to ignore the advantages of recruiting people who have taken courses in public administration to degree level.

In reality, nowadays very often a mixture of possibilities are available for senior civil servants to follow in-service training or to register for external training, whether as individuals or within a specific group, to receive individual coaching or mentoring, or for specific tasks or exchanges with other organisations. Not only are "traditional" forms of training used, but also workshops, conferences, experience-sharing, group or individual feedback sessions.

A topical example is the recently created leadership development programme of the Irish Senior Civil Service, whose objective is to develop skills of adaptive leadership to better deal with resistance to change in turbulent times. Important questions dealt with by the course are: *How can real transformation and cultural change be achieved? How can new approaches be devised for engaging citizens and stakeholders in the development and delivery of public services? How can high levels of performance be achieved and maintained where financial resources are limited?*⁽²³⁾ According to a European survey⁽²⁴⁾, EU Member States consider the following methods and tools as being – besides formal training programmes – important for the development and empowerment of top managers:

- Mentoring & coaching - these are often popular and effective tools allowing for active transfer of knowledge from more experienced top public managers (TPMs);
- Participation in Networks and Leaders' Forums - TPMs can use these opportunities to discuss current issues and challenges in public administrations, as well as share good practices and engage in creative thinking and problem solving;
- Mobility and diversified career path (job transfer, fellowships) which can be a means to transfer good practices and experience from one sector to another while accumulating new knowledge, experience and competencies;
- Individual development plans – provide short or medium term strategies for the professional development of TPMs and are the tools for scheduling various types of personal development activities based on pre-set goals and with elements of evaluation of previously achieved goals;
- Management agreements between the TPM and organisational unit/ministry used as tools for target setting and assessment – they also enhance performance-oriented management and the accountability of TPMs;
- Strengthening mutual communication between TPMs and leveraging on opportunities for informal learning;
- Establishing and using effective performance assessment tools (e.g. 360 degree evaluation) which can provide TPMs with reliable feedback so that potential areas of improvement could be identified;
- Forming "support service" for TPMs in their everyday work, taking into account their stressful working environment;
- Identifying and promoting talent and leadership potential at an early stage with the use of talent management and future leaders programmes.

⁽²³⁾ Ireland's Institute of Public Administration (2014), "The leadership challenge", p.2.

⁽²⁴⁾ EUPAN, Top executives development, Cypriot Presidency of EUPAN, July-December 2012.

Inspiring examples: The Forum of the Senior Civil Servants & Future Leaders Programme (Finland)

The central government works more and more in networks. One network, founded by the Ministry of Finance in 2008, is the “**forum for the senior civil servants**”. The goal of the forum is to both strengthen the common goals of the central government and support the senior civil servants in their leadership duties. The forum meets twice a year in one or half a day seminars and, furthermore, several times a year in one hour informal meetings called “morning coffees”. Some members of the forum have gathered in small discussion groups facilitated by the Ministry of Finance. The purpose of the groups is to increase free and confidential interaction between senior managers and thus support their leadership duties and own development.

The Ministry of Finance has organised a special programme called “**Future Leaders**”, which is meant for the potential future senior civil servants and those managers who have recently been assigned to senior civil service posts. The programme lasts three weeks and has five modules. The main themes of the programme are future anticipation and leadership. The participants are selected by the Ministry of Finance in cooperation with the ministries. Since 2008, more than 150 managers have participated in the course. According to the feedback, the main benefits for the participants are increased understanding of the whole-of-government aspect and a possibility to create wider networks.

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The organisational structures and statuses of the various training and development institutions (TDIs) differ considerably, one from another. In some countries the main provision comes from universities or free-standing institutes. In others there are public agencies at ‘arms-length’ from the central ministries and departments. In others still there is a national school with close ties to the centre of government. Some of these TDIs operate on market principles, in the sense that they receive no baseline funding and have to survive by persuading civil servants to pay substantial fees to take their programmes. Others are partly or largely subsidised by baseline funding from the relevant public authorities, and/or have guaranteed allocations of course members. A number have changed the basis of their funding during the past decade, not always in the same direction.⁽²⁵⁾ In the past, the United Kingdom’s National School of Government was an inspiring example for many EU (and abroad) governments with regard to different kinds of training programmes for senior civil servants.

⁽²⁵⁾ Pollitt, C., and op de Beeck, L. (2010), “Training Top Civil Servants: A Comparative Analysis”, Instituut voor de Overheid

Inspiring example: The National School of Government (United Kingdom)

The National School of Government (NSG) began as a division within the Treasury during the 1960s and evolved into the Civil Service College (1968), then later became an autonomous agency, then part of the Cabinet Office (absorbed within a new Centre for Policy and Management Studies- CPMS). It eventually became the NSG in 2005. In 2007 NSG was separated from the Cabinet Office and became a non-ministerial department. In 2011, the NSG was closed down.

The NSG provided a wide diversity in training programmes. However only a handful of these are intended for the top management, plus fast stream high-fliers.

The **Core Learning Programme** (CLP) was developed at the initiative of the civil service leadership, and specifically designed for senior civil servants who have a cross-governmental role. The programme was open for all departments (and their agencies), they made a financial contribution annually and their participation was guaranteed. The overall aim of this initiative was to accelerate the transformation of the public services by providing a means for public sector executives and leaders to broaden their skills and acquire the knowledge necessary for a better public sector. The CLP was structured around six strands, representing those aspects of knowledge, learning and development that are considered to be essential to the civil service in general: leadership, talent development, achieving policy outcomes, implementing government priorities, core knowledge, and professionals in government.

Besides the CLP, NSG also provided **open learning programmes**. These open learning programmes were short-term training sessions or workshops. The Top Management Programme (TMP) was a leadership development programme for the most senior civil servants with a specific focus on the individual participant. It was the oldest NSG programme, having originally been developed in 1984, when Prime Minister Thatcher wanted to improve civil service management skills. Participants were given the opportunity to gain an insight in their own roles as leaders and in those aspects that could be improved. In order to identify their own behaviour as a leader, the workshop would help them to enhance their self-knowledge by exploring their own motives. The programme would not only focus on the specific needs and requirements of the organisation, but took also a cross-organisational perspective. This enabled the participants to look at leadership in a different context and reflect on their own leadership style.

The CLP helped prepare lower tier SCS participants for a top management position in the SCS Service through the Developing Top Management Programme (DTMP), which was similarly aimed at increasing the participant's awareness of their personal leadership style and impact on others. It aimed to enhance the participants' ability to think and act strategically, as well as lead change effectively.

One of the most recent, interesting examples is the Estonian Top Civil Service Excellence Centre (TCSEC), which was inspired in part by experience from the United Kingdom.

Inspiring example: The Estonian Top Civil Service Excellence Centre (TCSEC)

Until 2004, the development of top civil servants was addressed in a highly decentralised way by individual public-sector organisations. However, at the end of 2003 the Government Office, led by the apolitical secretary of state, started to work on the development of top civil-service competencies leading to the adoption of a top civil-service competency model by 2005. Based on the competency model, a variety of development activities have been launched for the target group (e.g. specially designed training and development programmes, individual coaching and mentoring, development of future leaders). Since 2005, the top civil servants' competency model has been used as the basis for the assessment of top civil servants both in the selection and development processes. The aim of these activities has been declared as supporting the development of competent top civil-service executives who contribute to achieving the strategic goals of the state (in the earlier years) and who are critical in fostering the whole-of-government approach (since 2012).

During the preparation of the EU programming period for 2007-2013, a special programme was planned for the top civil-service development under the priority area "Increasing administrative capacity". By that decision, the plans were guaranteed funding. Preparatory work had already been completed – the competency model and the appraisal system had been developed, and necessary support staff at the Government Office was in place. In 2008, a special programme document (related to EU funding),

“Development of the Top Civil Service”, was signed by the secretary of state. The programme document set goals and targets for top civil-service development, and it has been renewed every two years.

In 2010, a separate unit with direct subordination to the secretary of state was established at the Government Office – the Top Civil Service Excellence Centre (TCSEC). The top civil service programme makes use of a number of instruments:

- First and foremost, the **competency model** for the top civil service was developed as a single framework for all top civil servants. With this tool, a common ground to describe the strategic requirements for top civil servants together with a central co-ordination system of their selection, assessment and development was founded. It was aimed at contributing to the evaluation of top executives' development needs and thereby supporting their self-development. After testing the original model for some years, the new improved version of the competency model was developed in 2010.
- The second important instrument is the **competency assessment system**. An assessment of competencies is conducted annually during annual reviews. The assessment is individual, based on a 270 degrees' evaluation method: a competency profile is formed from the top executive's self-assessment, his/her immediate superior's assessment and comments of subordinates. The Government Office offers top officials support in discussing assessment results and planning development activities for the next period. A special electronic environment called e-Competence Centre has been created allowing both assessing the competencies and keeping a record on planned and completed development activities.
- The third set of tools includes various **development activities** – individual coaching and mentoring, specially designed development programmes, individual and group training. The TCSEC also runs the leadership offspring programme called Newton, which aims to prepare civil-service executives for the future. The Newton programme is an extensive training course for about 20 competitively selected mid-level managers, advisors or top specialists from the central government institutions (ministries and agencies).

For further information: Ms Eve Limbach-Pirn, Director of the Centre, eve.limbach-pirn@riigikantselei.ee, tippjuhid@riigikantselei.ee. See also: Annika Uudelepp, Tiina Randma-Liiv and Külli Sarapuu (2013), *Development of the Estonian Top civil Service, FP7 COCOPS Work Package 5: The Governance of Social Cohesion: Innovative Coordination Practices in Public Management*; Limbach-Pirn, E. and K. Toomet-Björck. 2011. “Competencies for Effective Strategic Leadership: The Case of Estonian Civil Service.” Paper presented to EGPA Annual Conference 2011, Bucharest, Romania.

3.2.3. Managing change



At present, managing change is one of the major challenges confronting not only organisations, but also officials. On the one hand, employees have to stay in stride with their organisations as they undergo their process of change. On the other hand, many are actually in charge of enabling change, by implementing and coordinating processes and innovations within these organisational structures. Changes might involve reassigning

responsibilities *across* organisations, resulting in reorganisation or sometimes outsourcing (see [topic 1.2.3](#)). They might be linked to *internal* reorganisation or re-orientation e.g. re-engineering the service delivery process (see [topic 4.2](#)). Pressures to managing change also occur when management systems, such as management by objectives (see [topic 3.1](#)), or renewal of HR practices in the organisation (see [topic 3.3](#)) are introduced. At some point, it becomes necessary to develop and systemise the concept of change management, and to consider what prerequisites are necessary in order to introduce a change management system to an organisation.

Obviously, change management is not an isolated concept that appears out of thin air, nor is it the mere result of a simple decision taken at the top hierarchical levels. To introduce and implement a process of change, organisations need to fulfil some basic pre-conditions, such as a management policy which fosters communication and dialogue and a certain hierarchical structure. Ultimately, however, transformation cannot be enforced successfully from the top level down, but needs to be understood and adapted by all involved in order to maximise buy-

in and minimise resistance. We must not forget that, to the individual, change may represent more than a transition and can pose a threat to his/her current status or even to his/her means of income, if it results in the loss of jobs. Above all, although the needs and the pressure might be urgent, changes are quite often slow processes.

Every process of change tends to undergo different phases linked directly to the reactions of the organisation's members. This is a process during which we slowly begin to readjust our perception and our behaviour to the new situation and to the changed reality with which we are confronted. Below is a description of the seven emotional or psychological phases that people tend to go through:

Phase	Meaning	Response
1. Shock	A huge discrepancy between our own expectations and outside expectations plus the new situation.	People tend to feel threatened by the perceived changes. They may be resistant to changes because their expectations strongly differ from the expectations posed by those promoting the changes.
2. Denial	A false sense of safety and security, exaggerated perception of the procedures and behavioural competencies.	During this phase, people overestimate their capability to deal with the new situation.
3. Realisation	Realising the need for new procedures and approaches.	At this point, the idea of taking some risks becomes more bearable; people begin to explore pros & cons of the changes at hand.
4. Acceptance	Accepting the new situation: rejecting the procedures and approaches from the previous phase.	Entering into the phase of acceptance requires the rejection of the old situation and the ability to recognise the present requirements
5. Experimentation	Searching for new procedures and approaches. Success – failure, problems – frustration.	During this phase, the institution can prove its ability to explore change.
6. Understanding	Understanding why certain procedures and approaches are successful and why others fail.	People understand that the quality standards serve as an indicator for the institution's, as well as for the individual's success
7. Integration	Integrating the successful new procedures and approaches into the regular routines.	Ultimately, the integration phase signifies that the process has been completed. This is a creative phase during which past and present procedures merge. Depending on the extent to which integration is consolidated, the application of the required procedures and approaches does not originate in the outside of the organisation but derives from the personal contributions of each individual who adopts them and turns them into his or her own.

There are a multitude of models and methodologies which can be applied, but generally speaking, most initiatives to introduce change should develop along the lines of several basic phases.

Phase 1: Defining the objectives. This phase is aimed at setting up the objectives that are to be achieved via the implementation of a strategy for change. The following aspects must be established for each objective in order to ensure that it is clearly defined:

- Priority: Define the objective's level of importance.
- Measurement criteria: Established objectives, both quantitative and qualitative, must always be measurable.

- Level of success: Define the desired results to be achieved by setting up a number of standards or levels that benchmark the level of success achieved or, simply, if expectations were met or not.

Phase 2: Developing a strategy aimed at innovation and change. Generally speaking, strategies can be divided in two groups according to their main focus. A “top down” approach has the organisation’s top management levels setting up the goals for employees at the lower levels. The “bottom up” approach proceeds in opposite order to the above-mentioned approach, in which case the representatives of the lower levels have a strong impact on the goals, approach and process of the change(s) occurring.

Phase 3: Engineering organisational change. Implementing an initiative for change will probably not be successful if the organisation and its members are not prepared for change. Change most severely affects the people involved; consequently, it is necessary to develop human aspects, which help people to adapt to change. In order to mobilise an institution and to obtain a successful implementation, each and every person in the organisation must be (individually) motivated. This means that the organisation has to encourage a culture based on feedback, meaning that sufficient information concerning the results which are to be achieved through the applied strategies is made available to the organisation’s employees. In this context, it is also crucial that a change agent, a person responsible for coordinating the changes, is involved in the process. There are a number of measures which can help to facilitate the implementation phase, such as workshops, courses and tools such as intranet services, information leaflets, etc.

Phase 4: Upholding and strengthening the process of change. Once the desired changes have been achieved, it is important to ensure that they are permanent and to consolidate them. This is achieved by strengthening the positive aspects in order to reach more and improved changes.

Leadership plays a crucial role in the design, implementation, monitoring and maintaining change processes. In the public sector context, leadership is mostly regarded as an exclusive activity of the head of the agency. It is striking that little attention is given to different types of leadership in public sector organisational change processes, such as distributed, shared or team leadership. The table below presents the different steps/phases in change processes, and the role leaders could/should play for the change process to be successful and effective.

Determinants of successful implementation of organisational change in the public sector

Proposition	Sub-propositions
1. Ensure the need. Managerial leaders must verify and persuasively communicate the need for change.	<ul style="list-style-type: none"> • Convince organisational members of the need and desirability for change. • Craft a compelling vision of change. • Employ written and oral communication and forms of active participation to communicate and disseminate the need for change.
2. Provide a plan. Managerial leaders must develop a course of action or strategy for implementing change.	<ul style="list-style-type: none"> • Devise a strategy for reaching the desired end state, with milestones and a plan for achieving each one of them. • The strategy should be clear and specific; avoid ambiguity and inconsistencies in the plan. • The strategy should rest on sound “activity-result” logic, for achieving the desired end state.

Proposition	Sub-propositions
<p>3. Build internal support and overcome resistance. Managerial leaders must build internal support and reduce resistance to change through widespread participation in the change process and other means.</p>	<ul style="list-style-type: none"> • Encourage participation and open discussion to reduce resistance to change. • Avoid criticism, threats, and coercion aimed at reducing resistance to change. • Commit sufficient time, effort, and resources to manage participation effectively.
<p>4. Ensure top management support and commitment. An individual or group within the organisation should champion the cause for change.</p>	<ul style="list-style-type: none"> • An “idea champion” or guiding coalition should advocate for and lead the transformation process. • Individuals championing the change should have the skill and acumen to marshal resources and support for change, to maintain momentum, and to overcome obstacles to change. • Political appointees & top civil servants should support the change.
<p>5. Build external support. Managerial leaders must develop and ensure support from political overseers and key external stakeholders.</p>	<ul style="list-style-type: none"> • Build support for and commitment to change among political overseers. • Build support for and commitment to change among interest groups with a stake in the organisation.
<p>6. Provide resources. Successful change usually requires adequate resources to support the change process.</p>	<ul style="list-style-type: none"> • Provide adequate amounts of financial, human, and technological resources to implement change. • Avoid overtaxing organisational members. • Capitalise on synergies in resources when implementing multiple changes simultaneously.
<p>7. Institutionalise change. Managers and employees must effectively institutionalise changes.</p>	<ul style="list-style-type: none"> • Employ a variety of measures to displace old patterns of behaviour and institutionalise new ones. • Monitor the implementation of change. • Institutionalise change before shifts in political leadership cause commitment to and support for change to diminish.
<p>8. Pursue comprehensive change. Managerial leaders must develop an integrative, comprehensive approach to change that achieves subsystem congruence.</p>	<ul style="list-style-type: none"> • Adopt and implement a comprehensive, consistent set of changes to the various sub-systems of the organisation. • Analyse and understand the interconnections between organisational subsystems before pursuing subsystem congruence.

Source: Fernandez, S. & Rainey, H. (2006), “Managing Successful Organisational Change in the Public Sector: An Agenda for Research and Practice, *Public Administration Review*”, 66/2

The Change² project in the German city of Mannheim is a prime example of an inclusive initiative, with strong employee participation. An impending fiscal crisis was the trigger for looking anew at the ways in which the city authority managed its resources, with the Mayor opening up dialogue with employees, introducing seven strategic targets, breaking down internal administrative silos, and developing a partnership culture with the participation of citizens, businesses and universities.

Inspiring example: Change² - achieving more together (Germany)

In the immediate response to the fiscal effect of the financial and economic crisis of 2008/2009 and facing a budget shortfall of EUR 350 million in fiscal years 2010–2013, the City of Mannheim embarked on a five-year multi-dimensional reform project under the name of 'Change²'. A focus on impact and results, together with dedicated fiscal management are the key objectives. 'Change²' aims to improve the delivery of public services via outcome targets and to develop a better model of shaping the city by improving democracy in the City Council, promoting participatory approaches with citizens, and developing the city in partnership with universities and businesses.

The programme comprises two main action areas: (i) strategy, targets and outcome-orientation, and (ii) sustainable finances through fiscal management and strategy-based budgeting. 'Gemeinsam mehr bewirken' (achieving more together) is the theme for the process. Impact orientation (achieving) and cooperation (together) are the key threads underlying all aspects of the process. Cooperation between administrative units with joint targets (breaking the silos) is key. The seven strategic targets include achieving educational equity, attracting talent, fostering tolerance and growing jobs through investment and entrepreneurs. Operational targets have been set for all administrative and service units of the city, introducing a new culture of results. The 2010/11 budget framework followed the prioritisation of the seven strategic city targets (e.g. focus on educational equity). A new 'traffic light' budget monitoring tool was put into place, covering a set of approximately EUR 36 million in projected revenue increases and savings. The 2012/13 budget was explicitly based on strategic and operational targets (i.e. linking targets to resources).

'Change²' included more than 30 projects, ranging from restructuring of departments, mainstreaming international/EU perspectives to all policy areas and drafting guidelines on leadership and communication for city employees. They address cross-unit issues and promote the culture of collaboration. The process also requires a new culture in leadership and operations within the city administration. The main instruments for this culture change are new dialogue formats between leaders and employees. The mayor introduced leadership circles and meets a randomly selected group of employees every quarter for an open discussion and other trans-hierarchical and interactive dialogue formats have also been created. Strategic and operational targets were presented and discussed with all city employees in more than 45 events. The dialogue is supported by an annual opinion survey among employees and a quarterly measurement of the compliance with the city guidelines for 'Leadership, Communication and Cooperation'. A guarantee of no compulsory redundancies for the life of the budget cycle has been given to secure employee engagement in return for acceptance of flexibility in tasks, processes and location of employment. The process was driven by a central steering unit of 10 staff reporting to the mayor. In parallel to this dedicated unit, a number of organisational changes and new processes were defined across the municipality, such as a new 'Bureau for International and European Affairs' and a core 'Strategic Steering' unit at the Mayor's Office.

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3.3. Modern human resources policy and management



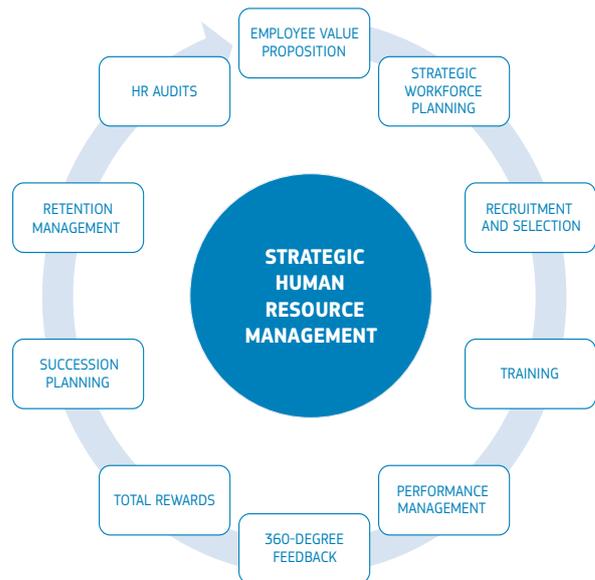
Financial constraints put pressure on civil services to make effective use of scarce resources, to improve workforce planning, and to set up human resources (HR) systems that promote learning and career development opportunities. Moreover, professional HR strategies are also key for attracting the most competent staff on the labour market for public administration roles, and delivering the good governance that is essential for

economic prosperity. This includes non-pay solutions, such as challenging assignments and flexible working conditions (flexible hours, teleworking, distance working, etc.).

One of the basic conditions for a public sector HR policy is the development, implementation and safeguarding of a civil service act or code (depending on the legal system) that lays down the basic rights and values of an independent, well-functioning public administration. Nearly all EU countries have adopted civil service legislation, but practices differ regarding the implementation (not only on paper) and safeguarding of rights.⁽²⁶⁾

⁽²⁶⁾ Meyer-Sahling, J., (2009) "Sustainability of Civil Service Reforms in Central and Eastern Europe five years after EU Accession", in Sigma papers, No 44, OECD.

Public administrations across the EU face questions on a strategic and operational level, such as: How is recruitment and selection organised? How popular is the public sector as an employer? How do we attract and develop people for specialist (highly skilled) profiles? HR management has seen a switch from a *legalistic, status-based approach*, characterised by recruitment and promotion according to level of diploma and time served, towards a *competency-based approach*, which selects and promotes staff according to know-how, skills and attitudes, and aims at a maximum use of human potential. In knowledge-based societies, the continuous investment in people's skills at all levels becomes a prerequisite for maintaining and raising productivity. As such and if well designed, HR policy contributes to achieving the organisation's goals and objectives, as well as to realise a more integrated HRM approach, in which training is well connected with the appraisal and promotion system, career development and progression. Special attention in the development and the implementation of HR policy should be given to horizontal topics (diversity, gender equality, non-discrimination, positive discrimination and active ageing).



3.3.1. Managing competencies

The development and implementation of HR strategies requires an effective HR function with skilled staff, the development of a professional management of staff's performance and development, and a strategic and results-oriented HR approach. Traditionally, 'personnel management' in the civil service was a stand-alone activity, purely legalistic and input-oriented in its approach and not at all linked to the organisational strategy. Since the 1990s, more and more European countries have introduced competency frameworks at the central or decentralised levels, describing those skills, attitudes, behaviours and abilities that are key for achieving organisational goals.



In a general way, competencies define a coherent set of skills, attitudes and knowledge that are expressed in observable behaviour and have predictive value for the effective performance of a function or a specific role (Personnel & Organisation, Federal Public Service in Belgium).⁽²⁷⁾

⁽²⁷⁾ op de Beek, S., and Hondeghem, A. (2010) "Competency Management in the Belgian Federal Government", p.2.

Why manage the competencies of public service staff?

1. It transforms recruitment and selection procedures: examinations and competitive examinations become less important than the instruments used to assess competencies.
2. It is a lever of change. Competency management is considered a means to convert a traditional bureaucracy into a modern and flexible organisation with a common understanding of the behaviour required to achieve the organisations objectives.
3. It considers human competencies as being the main asset of an organisation.

Source: Institut de gestion publique, Public Management Outlook, Managing competencies, April 2008, P.12.

There is currently hardly any European country that has not yet started to manage its staff with a more competency-based approach. This HR concept was first introduced in countries such as the United Kingdom, Sweden and the Netherlands, which have mostly been influenced by New Public Management (NPM) ideas for their public service reform.⁽²⁸⁾ At an individual level, this approach aims towards a more professional and result-oriented management of staff's performance and development through the setting of clear objectives. According to this HR concept, more strategic workforce planning becomes crucial: its aim is first and foremost that the right number of people with the right competencies is in place to deliver the organisational strategies. Focusing on competencies alters both mind-sets and methodologies, as the table below indicates.

In many countries such as Ireland, Belgium and the United Kingdom, competency management (CM) has been introduced as a useful tool to strengthen performance and strategic management. Important tools such as a mission statement and organisational objectives should be in place, before key organisational competencies can be identified. Competency management can contribute to enhance organisational performance in many respects, such as through a more horizontally integrated HRM approach by linking selection, evaluation, training and development, as well as a stronger vertical integration or alignment of people's competencies with the organisational mission and vision.

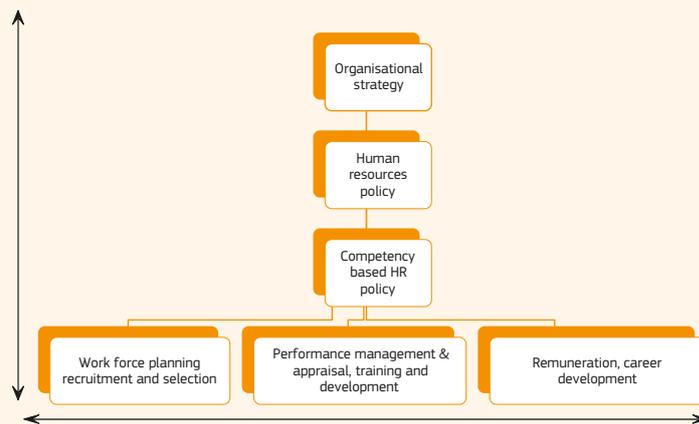
⁽²⁸⁾ op de Beek, S., and Honddeghem, A., (2010), "Competency management in the public sector: Three dimensions of integration", Paper for the IRSPM Conference 2010, p. 4ff.; OECD, Public servants as partners of growth, op.cit., p. 124ff.

Differences between functional and competency-based approaches to HRM

Functional approach	Competency approach
Job description <ul style="list-style-type: none"> • What is done? • Cluster of core tasks and functional requirements (knowledge, skills, responsibility) 	Competency profile <ul style="list-style-type: none"> • What is done, why and how? • Cluster of core tasks and competency requirements (knowledge, skills, personality, attitude, values and norms, incentives)
Selection <ul style="list-style-type: none"> • How is the person? • Selection in order to realise a fit between the function and the individual • Selection in order to fill a vacancy • Selection criteria based on the current function • Selection criteria focusing on knowledge, personality, and attitude 	Selection <ul style="list-style-type: none"> • How does the person function? • Selection in order to realise a fit between the individual and the organisation • Selection with a view of growth and development of an organisation in the long term • Selection criteria based on the future • Selection criteria: knowledge, personality, and attitude, but also skills, values, and behaviour
Development <ul style="list-style-type: none"> • Development of knowledge • Aimed at hierarchical promotion • With a view of raising job skills 	Development <ul style="list-style-type: none"> • Development of knowledge, ability, and willing • Aimed at horizontal mobility • Aimed at the maximum use of human potential • With a view of developing skills and behaviour
Appraisal <ul style="list-style-type: none"> • Focus on functioning in the job • Focus on dedication 	Appraisal <ul style="list-style-type: none"> • Focus on functioning in the job, performance, results, and potential • Focus on behaviour
Reward <ul style="list-style-type: none"> • Pay according to the job • The relative weight of the function determines the wage • Focus on responsibility, knowledge and seniority 	Reward <ul style="list-style-type: none"> • Pay according to work • The required competencies for an organisation determine the wage • Focus on output

Source: op de Beeck, S. & Honddeghem, A. (2010) "Managing competencies in government: state of the art practices and issues at stake for the future". OECD, GOV / PGC / PEM (2010) 1, 119p.

Vertical and horizontal integration



Source: Van Beirendonck, 2009

A broader objective of establishing competency frameworks is to create a common understanding about which competencies matter to achieve organisational goals and missions, as well as about the meaning of the different competencies, and to use these competencies for defining job descriptions and job roles.

Often a distinction is made between **generic competencies** which all staff members are expected to demonstrate and whose objective it is to integrate staff around core values, and **technical, job-related competencies**. In the United Kingdom for instance, the central competency framework “puts the values of honesty, integrity, impartiality and objectivity at the heart of everything what is done and it aligns them to the three high level leadership behaviours that every civil servant needs to model: set direction, engage people and deliver results”.⁽²⁹⁾ Hence these generic competencies are at the core of the UK’s competency framework and they underpin all other competencies.

The added value of competency-based job profiles is that they promote a common vocabulary, they foster transparency and they enhance the visibility of career opportunities. The example of the competency framework for the customs profession, which is EU wide, illustrates the role of core values alongside defining different types of competency (professional, operational and managerial).

The EU competency framework for the customs profession

Since the EU is one of the largest trading spaces in the world with a population of around 500 million, this brings some challenges with the regards to the EU customs environment including 28 EU Customs Administrations, one Community Customs Code, 12 440 km of external land borders (and over 3 000 offices), 2.8 million registered traders, 2.2 billion tonnes of goods, a customs value of EUR 3 300 billion and 300 million customs declarations (of which over 90% are electronic).

All of this requires a most consistent application of EU legislation & practices, and a high quality performance of all Customs staff throughout the EU in order to achieve equivalent & high level results. For that purpose, an EU competency framework for the customs profession has been developed.

1. **Harmonisation of skills** – A clear common view on the different levels of skills and knowledge, required to undertake customs role
2. **Raising standards** – Through a common view of the levels of attainment required and providing the foundation for organisations to assess and ensure their staff meet those standards
3. **Adaptability** – The Competency Framework will be adaptable for use by individual Member States and Trade in the area of training, recruitment and performance management.

⁽²⁹⁾ United Kingdom Cabinet Office (2014), “Civil Service Competency Framework 2012-2017”.

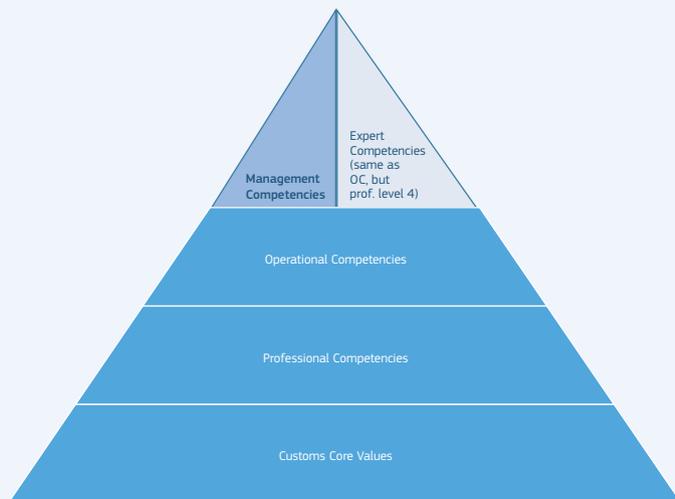
It will also serve as a tool for HRM providing a foundation from which job profiles can be developed, workforce skills reviewed and individual performance examined.

The customs core values are the values that underpin the goals and beliefs of the European Customs Administrations, and the behaviours of customs professionals, and match their personal beliefs, thereby making them their own.

Professional competencies are intended to be competencies that are of use in a more general, broader professional context, and therefore do not necessarily apply to customs only.

Operational competencies are intended to be competencies that are of specific use to the world of customs and cover the operational/technical job/role specific competencies that are required for someone to, successfully perform that job/role.

Management competencies are intended to be competencies that are of specific use for people with a management function. Some are customs specific, others are not. Naturally there are many different levels of management ranging from line management to strategic management. The management competencies in this Competency Framework may apply to all levels depending on the specific contexts within Member States.



Source: European Commission, DG TAXUD/Unit R3 - EU Training & Performance Development, Birgit REISER

The use of CM varies in the EU Member States. Frameworks can be applied to some or all HR processes; the same framework can apply to all public employees of the central public administration or there can exist different frameworks for senior civil servants, lower level staff etc. As regards the integration of competencies in the various HR processes, there is a general trend that HR processes such as selection and employee development have already a strong competency-basis.

Sweden and Belgium are two very good examples of how differently CM can be used in practice. In the centralised and legalistic Federal Belgian public service, there exists one competency model and one centralised job catalogue across the whole central public administration which applies to all public employees. In Sweden, which is characterised by a long tradition of independent agencies and a decentralised HRM, there exists no centralised, statutory regulation of competency models. Each agency can decide about its application and thus the content and scope of its competency frameworks, which can vary to a large extent in the different organisations. As these two examples illustrate, a successful implementation of CM depends first of all on establishing a model that fits the needs of the legal and administrative culture and system.

A key strength of competencies is that they enable the government to work more systematically and in a more goal-oriented way on investments in human resources and in more effective workforce planning (see French example below). Its aim is first of all that the right number of people with the right competencies is in place to deliver organisational strategies. This is especially valuable in times of budgetary cuts and demographic change⁽³⁰⁾, higher rates of retirement, less recruitment and an ageing workforce - but also in times where because of cuts, reallocation, reshuffling of tasks and structures, merger of organisations, etc., the public administration is confronted with a pool of staff that are 'redundant' or they have to reassign. In these cases, strategic workforce planning linked to competency management and training (see [topic 3.3.3](#)) is essential.

⁽³⁰⁾ OECD (2011), "Public servants as partners for growth", p.128.

Inspiring example: The forward workforce planning approach (France)

Some time ago, the French government introduced a new HRM planning instrument, which aims to maintain HR and organisational capacities in a public sector with more limited resources. The Government set up an ambitious unit in the Ministry of Civil Service, which is charged to analyse on a regular basis the public sector employment situation in view of forecasting personnel needs. Its objective is to make sure that the pool of existing staff and competencies in the civil service matches the needs of future demands and that skill shortages, which put at risk economic growth, are prevented.

One of the main tasks of the government-wide unit and strategy is to support ministries in their efforts to set up their forward planning HRM approach in alignment with the state budget and organisational missions. The tasks of the Gestion prévisionnelle des emplois et des compétences (GPEEC) are a regular follow-up of numbers, of competencies of posts and of careers. Of particular importance are the anticipation of retirements and the definition of recruitment needs, while taking into account governmental missions and growth objectives. The objective of the GPEEC is also to be more proactive to the changing demands in civil services by an ageing population and to anticipate the changing policy priorities and needs of internal re-structuring.

A recent evaluation of this tool has shown that the alignment of staff with organisational missions has improved in all ministries.

Source: Danielle Bossaert in cooperation with Christoph Demmke and Timo Moilanen, "The impact of demographic change and its challenges for the workforce in the European public sectors", EIPA, Maastricht 2012, p. 47ff.

Competency management can become a useful tool to identify future leadership potential. Succession planning will become a burning issue in the context of an ageing workforce and high numbers of retirements. Hence, a growing number of organisations are identifying competencies for vacant leadership positions, which are then used to rank candidates for each position. Finally, competencies are also used to identify gaps between current and desired competency levels during appraisals and to implement development plans.

Inspiring example: French inter-ministerial register of professions (Répertoire interministériel des métiers de l'État)

A further inspiring example of how competencies can be used to improve HR processes is the French inter-ministerial register of professions (*Répertoire interministériel des métiers de l'État*) which provides a catalogue of competencies, which are used by all departments and whose aim is to facilitate cross-departmental mobility. This catalogue promotes a stronger link between job functions and competency needs. Each of the 261 professions contains the following elements:

1. Synthetic definition;
2. Main activities;
3. Know-how;
4. Knowledge;
5. Particular characteristics;
6. Development trends.

Source: Ministère du budget, des comptes publics, de la fonction publique et de la Réforme de l'État, Répertoire interministériel des métiers de l'État, deuxième édition, Paris 2010.

CM is particularly 'popular' in those Member States that have engaged in a far-reaching change process or public service reform. In this same context, the launch of competency management has been encouraged to change the traditional personnel administration into a more strategic HRM.⁽³¹⁾ Major lessons so far show that factors such as the commitment of political and administrative leadership, the involvement of stakeholders, a regular monitoring and review of the system, and also a holistic approach on the longer term, are key for an effective and successful

⁽³¹⁾ op der Beek, S., and Hondeghem, A., op.cit., p. 29ff.

implementation of competency management. The OECD has identified seven success factors for CM implementation⁽³²⁾.

Success factors for implementing competency management
<ul style="list-style-type: none"> • Organisational readiness and the need for a broader cultural and organisational reform; • Commitment and participation of stakeholders; • Integration of values specific to the public sector such as integrity and loyalty; • Adaptability to needs at agency level particularly as regards the technical competencies; • Comply with the three dimensions of integrated competency management (alignment with the strategy and integration of different HR processes and implementation); • Planning for future competencies; • Review and continued interest.

3.3.2. Recruitment and selection

The establishment of a fair, transparent, impartial and open recruitment and selection system is key for a professional public service. Vacant posts should only be allocated according to objective criteria (e.g. merit, qualification, competencies) and according to a formalised procedure. In this sense, citizens should not be exposed to public officials, who are given jobs only because of personal reasons, family ties or tradition, and who lack the necessary competence and qualification for the post.⁽³³⁾ Member States use different systems according to their legal, cultural and administrative traditions, which basically distinguish fall into two broad categories.



In traditional **career-based systems** such as France, Germany, Greece, Spain, Belgium, civil servants are recruited for a clearly defined career path. Most often, public employees enter the public service at the lowest level of the career after having finished school or graduated from university, and pass their whole career in the same organisation. As mentioned in [topic 3.2.1](#), various countries have created special conditions for a selected group of senior civil servants. In the past, mid-career access to civil service positions was hardly possible, as was also the selection of professionals from the private sector. This is changing in most of the career-based systems, however, in the context of demand for more specific competences (e.g. IT, commercial or managerial skills). Otherwise, career systems are characterised by specific and very often rather formalised recruitment procedures, whose aim is to ensure rule-orientation, objectivity and equal access. The open competition (*concours*) is still the most often used procedure in most of these systems. Its strength is that the same rules of opportunity apply to all candidates in the same way, with regard to time, level of difficulty, general conditions etc. All central and eastern European Member States (except the Czech Republic) have introduced compulsory open competition, such as the example of Lithuania. The strength of this recruitment system is that, compared to other systems, it reaches more potential applicants for civil service jobs and thus potentially better applicants.⁽³⁴⁾

⁽³²⁾ OECD, "Public servants as partners of growth", op.cit., p.151ff.

⁽³³⁾ Michael Walzer, *Sphären der Gerechtigkeit, Ein Plädoyer für Pluralität und Gleichheit*, Frankfurt/New York 2006, p. 198.

⁽³⁴⁾ Meyer-Sahling, J. (2009), "op. cit."

Inspiring example: The Lithuanian system of open competition and examination

In Lithuania, written exams are compulsory for all applicants. The exam has multiple-choice format and consists of two parts. Half of the questions tests general and legal knowledge; this part is set centrally by the Civil Service Department. The other half is job-specific and is set by the ministry seeking to recruit a new civil servant. Candidates' results are scored and ranked before they are interviewed by a selection commission.

Source: Meyer-Sahling, J. (2009), "Sustainability of Civil Service Reforms in Central and Eastern Europe Five Years After EU Accession", Sigma Papers, No. 44, OECD Publishing, p. 28.

As compared to career-based systems, civil servants in **position-based systems** are not recruited and selected for a career, but for a specific post. Such as is the case in the private sector, candidates apply for a clearly defined 'job', while they have to take care themselves of career progression. In position-based systems, the interview technique is often used to select the most successful candidate. As interviews are more vulnerable to subjectivity and the risk of favouritism, it is important for reasons of fairness and equal treatment that clear rules for the conduct of interviews are laid down in government regulations. As compared to career-based systems, the position-based systems have opened up their organisations much more to candidates from outside the public service at all hierarchical levels⁽³⁵⁾; recruitment and selection in career-based systems is still more limited to entry-level positions.

EU Member States also vary as regards the organisation of the **recruitment and selection system**, which follows either a centralised, decentralised or mixed model, with a clear trend towards mixed or decentralised. In a centralised system, a central ministry or agency is responsible for the whole process of recruitment and selection (publication of vacancies, screening of CVs, and selection procedure), while in a decentralised model, the major responsibility for the process is delegated to the recruiting organisation in which there is a vacancy. In mixed models, most often a central agency is responsible for the methodology and the planning, while the recruiting agency is responsible for defining job profiles and the selection of the most appropriate candidate for the vacancy. According to a recent EUPAN survey, 46% of the interviewed EU Member States apply a mixed system, while also 46% apply a decentralised model and just 7% a centralised model.⁽³⁶⁾

Decentralised recruitment model	Mixed model	Centralised model
Bulgaria	Austria	Belgium
Denmark	Croatia	Cyprus
Estonia	EU institutions	
Finland	France	
Germany	Hungary	
Greece	Ireland	
Iceland	Lithuania	
Italy	Luxembourg	
Latvia	Malta	
Netherlands	Portugal	
Poland	Romania	
Slovak Republic	Slovenia	
Sweden	Spain	

⁽³⁵⁾ Demmke, C., and Moilanen, T. (2010), "Civil services in the EU of 27", Peter Lang, Berlin 2010, p. 288.

⁽³⁶⁾ EUPAN, Thematic paper series, Lithuanian Presidency of EUPAN, June 2013-2014, p.12.

Although in many countries, line ministries or agencies are responsible for most of the HR functions including recruitment, there is however also a trend that ministries of decentralised states are more and more supported by so-called **shared offices or services** in their organisational efforts. Their major task is to enhance efficiency and quality, and to relieve ministries from too much work load.⁽³⁷⁾ Decentralised systems have the advantage that they display a high degree of adaptability to the special recruitment needs of the different ministries and that their selection processes are characterised by a great variation of methods – depending on the needs. However, a prerequisite for effective decentralised recruitment and selection are highly professionalised HR departments, which possess the necessary know-how and expertise in the field of selection methods and HR tools in general, in order to guarantee a fair and merit-based process.

Both models – career-based and position-based systems – have undergone far-reaching reforms during the last decade. Major challenges in this context are, on the one hand, demographic changes⁽³⁸⁾, related skills shortages and competition with the private sector to attract the most competent staff, and on the other hand, budgetary savings, the need ‘to do better with less’ and the challenge to identify the right people for the right job – which matters even more when employment levels are frozen or cut. In the first instance, the key question is how to reach and attract the ‘right’ people to the civil service by, for instance, improving the image of the public service and by making **vacancies** as broadly known as possible.

Useful tools to attract the ‘right’ people

- Develop an attractive job profile based on competency, and ensure there is sufficient information with regard to job content;
- Publish all vacancies in the most important print media, and also social media and central websites of governments, with the aim of reaching all relevant target groups;
- Invest in image campaigns, career fairs, marketing campaigns, image campaigns;
- Collaborate with job agencies to publish vacancies to reach as many job seekers as possible;
- Check the advertising campaign reaches out to all sections of society, irrespective of age, gender, ethnicity and physical ability;
- Make sure recruitment procedures are not too lengthy (especially compared with the private sector);
- Emphasise interesting career perspectives, a challenging job content, promote working for the public good and a good work-life balance.

In an increasingly diverse society, the attraction of candidates from all groups of society and irrespective of age, gender, ethnicity etc. also becomes more important (see [topic 3.3.5](#)). As regards, for instance, the recruitment of disabled persons, there is an enhanced trend in the EU’s Member States to introduce a quota system. Some countries have even introduced some kind of sanctions in case of non-respect of the quota. In Belgium, a special commission at governmental level is responsible for supervising the situation of disabled citizens in the entire civil service and for delivering each year a report on this issue. In case of non-respect of the 3% quota and of insufficient efforts in this field, a sanctioning procedure may end with the refusal of planned recruitments.

The most important recent reforms in the EU Member States touch upon the assessment/selection methods, including the trend towards **competency-based recruitment and selection**. Although diploma requirements and qualifications remain important, the assessment of competencies during open competitions and interviews gains in significance. As the inspiring example of the Federal Belgian civil

⁽³⁷⁾ For example, the Federal Administration Office in Germany and the Expertise Centre ‘Arbeidsmarktcommunicatie Rijk’ (EC AMC) in the Netherlands.

⁽³⁸⁾ Falling birth rates on the one hand, and the ageing workforce and ageing societies on the other hand.

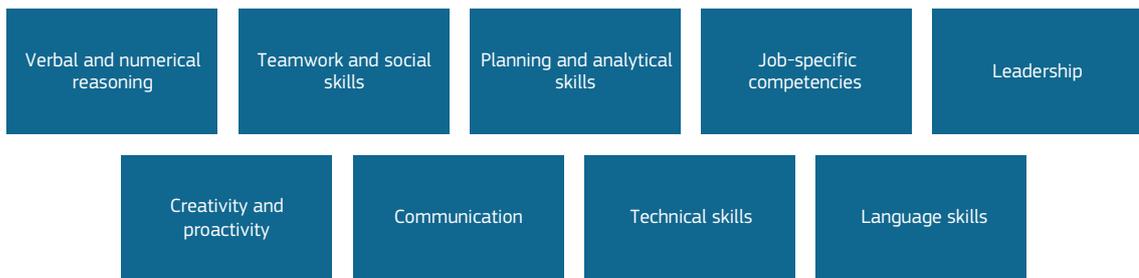
service in the text box very well illustrates, a perfect match between a candidate’s competencies and the competencies described in a job vacancy can even become more important than fulfilling the diploma requirements. This procedure can become particularly relevant in the context of a tight labour market and skills shortages.

Inspiring example: Competency-based recruitment in the Federal Belgian public service

Since recently, an important step has been made to replace the educational qualification requirements (diplomas) with competency requirements. Even if candidates don’t have the required diploma, they can be selected for specific functions if they can demonstrate the necessary competencies. In that case, the Minister for Civil Service can decide to overrule the obligation of having a diploma or certificate necessary to perform or even to apply for those specific jobs. SELOR, the specific federal selection and recruitment agency, then assesses whether the competencies (both generic and specific) that correspond to the required qualification level, but were acquired outside the system, have been mastered. This procedure can however only be applied if specific qualifications are not in place on the labour market.

Source: OECD (2011), “Public servants as partners for growth”, p.137.

According to the EPSO Benchmarking Survey, 28% of Member States apply competency-based recruitment and selection, while 11% practice knowledge-based selection and a majority of 61% uses a combination of both.⁽³⁹⁾ According to EUPAN research, the most often tested competencies in the EU Member States are shown below.⁽⁴⁰⁾



The introduction of competency-based management has become in many countries an important HR tool to enhance performance management. ‘Soft’ skills and behaviours such as motivation, drive towards results, stress resistance, resilience, assertiveness, interpersonal skills, communication skills etc. are increasingly considered by HR departments as being particularly essential for improving public service performance. In a general way, competency-based selection has proved to be quite effective for providing evidence about past performance and because its aim is to assess job-related skills and not the person. Its major aim is to test the person’s know-how and skills in the search for of a perfect match with organisational needs. The differences between a functional and competency-based selection were described in an OECD paper, as follows:⁽⁴¹⁾

Functional-based selection	Competency-based selection
<ul style="list-style-type: none"> • How is the person? 	<ul style="list-style-type: none"> • How does the person function?
<ul style="list-style-type: none"> • Selection in order to realise a fit between the function and the individual 	<ul style="list-style-type: none"> • Selection in order to realise a fit between the individual and the organisation
<ul style="list-style-type: none"> • Selection in order to fill a vacancy 	<ul style="list-style-type: none"> • Selection with a view to the growth and development of an organisation in the long term
<ul style="list-style-type: none"> • Selection criteria based on the current function 	<ul style="list-style-type: none"> • Selection criteria based on the future
<ul style="list-style-type: none"> • Selection criteria focusing on knowledge, personality and attitude 	<ul style="list-style-type: none"> • Selection criteria: knowledge, personality and attitude, but also skills, values and behaviour

Competency-based selection is also more and more used for the recruitment

⁽³⁹⁾ EUPAN, Lithuanian Presidency, p.13.

⁽⁴⁰⁾ EUPAN, Thematic paper series, Lithuanian Presidency of EUPAN, June 2013-2014, p.13.

⁽⁴¹⁾ OECD (2011), “Public servants as partners for growth”, p. 124.

of top managers such as is the case in the Netherlands, Belgium, and Estonia (see [topic 3.2](#)). In more and more countries, specific competency frameworks are designed for this specific group of civil servants. Key competencies and behaviours in this context are strategic thinking, managerial and HRM skills, decision-making power, collaboration, result-orientation, networking ability, political awareness etc. Very often, these competency frameworks are also used to promote a more integrated HRM policy by better linking selection to performance evaluation, training and staff development.

Another important reform trend is the differentiation of selection procedures for different groups of staff. Although there are no fixed rules with regard to the use of selection methodologies, some general trends can be observed:

- **Assessment Centres** are used to evaluate how candidates operate in a current position and are mostly used for senior, managerial and leadership positions.
- **Multiple choice tests and more practical tests** are mostly used for lower levels.
- **Competency-based tests**, based on frameworks characterised by competencies such as strategic thinking, result-orientation, communication skills etc., are of high relevance for the selection of senior civil servants.
- **Personality tests** are only used as an additional tool for high level positions or for specific professions, such as police officers, or officers of the security services (see also [theme 2](#) on tackling corruption and enhancing ethical behaviour, which elaborates on testing for ethical competences). Personality tests as a sole selection tool are highly controversial, because it is questionable whether traits such as honesty, friendliness etc. are decisive for good performance. Empirical evidence also shows, however, that personality traits highly matter in certain professions which precisely require the mastering of those traits.
- **Psychological tests** are rarely used and, where they are, this is always in combination with other tests. They are used for instance for the selection of judicial magistrates.
- **Computer-based tests** may also be used for different levels; their advantage is that it is easy to process the results.
- **Interviews** are a good selection tool for testing oral presentation skills, or communication and interpersonal skills. They are also often used in the context of the selection for specific positions (e.g. health sector, research).

Other selection methods include case studies, written exercises, oral presentations, etc. As compared to the 1990s, recruitment and selection has been professionalised in more and more countries. In some Member States such as Belgium, selection boards are submitted to stricter rules as regards their expertise, composition and tasks. Against this background, it is possible to identify some useful minimum standards as regards the assessment process and the organisation and functioning of selection committees.

Guidelines for selection boards

- Assessments should at least be carried out by two assessors in order to better prove that the selection process was fair and impartial in case of a court case.
- Existence of criteria (e.g. qualification, expertise, independence) for the selection of assessors.
- Comprehensive and transparent decision-making process including all the assessors for identifying the most successful candidate(s).
- Existence of eligibility list with a ranking order of the candidates in order to ensure merit orientation.
- Selection decisions should be open for appeal.
- Objective assessment of candidates against the requirements laid down in the job specification/profile.
- Consistent and fair application of selection methods to all candidates.
- Respect of the same opportunity level for all the candidates
- Reporting of the assessment process

Source: Gourmelon A., Personalauswahl unter Beachtung des Allgemeinen Gleichbehandlungsgesetzes, in: Gourmelon A., p. 101.

In the Member States of central and eastern Europe, selection boards usually comprise between three and seven members. Most often, they consist of a head of department, the relevant head of unit and an officer from the personnel department. In Lithuania, for example, the selection board is composed by seven members. These members then also include senior officials, such as deputy state secretaries, representatives of the central civil service departments, as well as external experts and trade union representatives.⁽⁴²⁾

3.3.3. Learning and development



In knowledge-based societies, the continuous investment in people's skills at all levels during the whole career becomes an important prerequisite for maintaining and raising productivity. Moreover, life-long training and learning opportunities prevent skills obsolescence and skills mismatch, and promote staff's employability and workability until career end and thus individual and organisational capacity.

In the past, learning and development was considered in most Member States as a stand-alone activity, primarily aimed at hierarchical promotion while focused on the transfer of knowledge. Its significance has evolved considerably since then in the European public services. Training is nowadays seen as an important element of a more strategic HR management and a tool to achieve organisational objectives, and increasingly linked to professional profiles and job descriptions.

Recently there has been an enhanced trend in national public services towards a more need- and demand-oriented training and staff development, as well as towards a stronger focus on day-to-day work practices. Hence, as is the case with other policies, effective training also needs to be carefully planned and coordinated, while a distinction should be made between different processes: the definition of training needs; the design and planning of training; the delivery of training; and the

⁽⁴²⁾ Meyer-Sahling, J. (2009), "Sustainability of Civil Service Reforms in Central and Eastern Europe Five Years after EU Accession", Sigma Papers, No. 44, OECD Publishing, p. 31.

evaluation of training outputs and outcomes. In such a way, training has an objective and all learning actions have a final target. All learning and training activities should be motivated by a training needs analysis. The case study of the Spanish Public Administration National Institute points out very well the significance of a well-coordinated **training needs analysis** and a broad involvement of all relevant actors concerned.

Inspiring example: An effective and participative method to identify training needs (Spain)

The Public Administration National Institute of Spain considered the evaluation of questionnaires and face-to-face-checking as useful, but as insufficient to establish its training strategy. It thus introduced the following new instruments in this regard:

- The authorities of the National Institute introduced regular meetings with those public officials who are in charge of continuous training in the departmental HRM units. The aim of these meetings is twofold: firstly, it was essential to know the continuous training offer of each ministry in order not to duplicate it. It was secondly quite interesting to receive proposals of needs from the ministries, given that the Institute could provide a further training that departmental units are not able to do.
- In the specialisation course of human resources management, a lesson was devoted to the detection of training needs among the trainees, through the 'nominal group technique'. The objective of nominal group technique is to find a balance between effective decision-making and the involvement of everyone's opinion. This was of major importance, because the trainees of this course were intermediate level officials in charge of HRM in different units and centres throughout the national territory. Thus, their appraisal of the situation resulted in a wide enough, plural and serious assessment to secure added value to the planning of the Institute.
- The training plans offered by other public organisations – autonomous communities training institutes, universities training units, trade union training units and by private enterprises and business schools – were revised.
- All the information derived from these various sources was analysed by teamwork integrating all the members of the training department of the Institute. They held several meetings, in which different techniques were used: brainstorming, group discussion, and information summarising. The result of these meetings was a detailed list of training needs, which formed the starting point for the following planning year.

Source: Pablo Saavedra and Antonio Sanchez, Spain: Continuous improvement focusing on professional profiles, in: Danielle Bossaert (ed.), op.cit., p. 33.

In the majority of Member States, training needs are regularly identified during the yearly staff evaluations. Hence, learning and staff development becomes a continuous process, which is often fuelled by the development of long-term **individual training plans**.

Inspiring example: Continuous learning and development through development circles (Belgium)

At the level of the Federal public service, Belgium introduced 'development circles' for its staff focused on building competencies in order to achieve personal and organisational objectives. A crucial element in the development circles is the individual training plan made for each public servant. The development circle consists of four phases: function discussion, planning discussion, performance review, and assessment interview. The last phase is followed by another planning discussion, which is the beginning of a new development circle. In theory, these development circles should be based on defined competency profiles. In practice, however, only some organisations use the profiles. Furthermore, certified training has become one of the main competency management tools in the Belgian Federal Government. The goal of certified training is to develop the competencies of public servants in order to meet the needs of the organisation.

Source: OECD (2011), "Public servants as partners for growth", p.138

In the context of a competency-based HRM approach, the aim of learning and development is not only to strengthen knowledge, but also to develop know-how, attitudes, behaviours and abilities through innovative training methods. This

trend is based on the assumption that it is not only facts and qualifications that foster performance, but it is also attitudes, abilities and behaviours that are key to coping with economic and social challenges. Hence, the development of training programmes in the Member States illustrates a **widening of the scope of topics**. Courses not only focus on the transfer of specific knowledge, but increasingly on general transversal competencies, such as analytical skills, social skills, networking and intercultural skills, communication skills, European and international competencies, leadership skills, strategic thinking, goal achievement, project and personnel management, and IT skills.⁽⁴³⁾

In line with the life-long learning concept, according to which all different kinds of formal and informal learning are valued, more and more European public sectors are considering the development of systems that allow for a more **formal, certified recognition of all different forms of learning** including former professional experience. For instance, the Belgian government gives more weight to the recognition of competencies which have been formerly acquired. By introducing these certified tests (or *access cards* to higher career levels), the government aims to better value different kinds of learning and professional experiences acquired by candidates. Certification is used in a number of other countries, such as France, to recognise learning and development. The European Commission also uses certification training to ease career advancement in passing from one functional group to another. Hence training, together with passing suitable tests, is a key element in moving to a higher career level.⁽⁴⁴⁾

In more and more EU Member States, learning and development is promoted through a multitude of different tools, instruments and innovative **methods**. As compared to former decades, staff development takes place under different forms. It is no longer limited to the transfer of knowledge in a classroom situation using a traditional top-down approach, but it is characterised by the fact that it can occur in different situations in very different ways. For example, it can take place in front of the computer with an e-learning programme and through coaching or mentoring during working time. Hence, it is to be considered as a permanent and career accompanying activity which isn't finalised at a certain age. In times of demographic change and an ageing workforce, learning tools which encourage knowledge transfers between older and younger employees will become more significant, including both the more traditional mentoring and the new wave of intergenerational exchange (IE).

Tools promoting learning and development through knowledge transfer and mentorship

Intergenerational exchange	Mentorship
<p>Intergenerational exchange follows the idea that the creation of age heterogenic teams can benefit task implementation: While younger employees bring in new ideas and new knowledge (e.g. high-tech knowledge), older employees contribute through their experience and process knowledge to solution-finding, the second aspect being of slightly higher importance. In such a training platform, trainers and trainees should aim to learn from each other in an equal way. Intergenerational exchange can be a useful tool in public sector organisations with a high amount of older employees, in order to prevent knowledge loss after their retirements. IE should not only start a few months before retirement.</p>	<p>As compared to intergenerational knowledge exchange, the mentor model aims at a predetermined knowledge transfer which takes place from old to young. The mentor, a public employee with leadership experience prepares the younger employee for specific functions, while the goal of this exercise is qualification improvement through the transfer of professional competencies through a continuous support, which can be time bound or also extend to a longer period. At the end, the mentee should possess more know-how, more clarity of his professional goals and opportunities and be introduced to relevant networks. Mentoring programmes often show positive effects for management functions.</p>

⁽⁴³⁾ Bossaert, D., Demmke, C., Moilanen, T. (2011) "The demographic change and its impact on HRM in the European public sectors", study realised for the Luxembourg Ministry of Civil Service and of Administrative Reform, EIPA, p. 57.

⁽⁴⁴⁾ José López Calvo (2008), "The European Commission: Strategic training in the context of HRM reform", in Bossaert D. (ed.), Training and human resource development in the European Union Member States, EIPA, p.50.

Some EU Member States have already started to implement these tools. For example, the Belgian Ministry of Civil Service has put in place a user-friendly tool in 2010 to transfer knowledge between seniors and juniors in a planned, structured and systematised way. Its aim is to safeguard important and scarce knowledge. It is particularly aimed at seniors, who hold key positions and are preparing their retirement in a mid-term perspective.

Inspiring practice: Knowledge transfer between senior and junior civil servants (Belgium)

The knowledge transfer is characterised by three tools, whereas each of the three tools describes the role and tasks to be played by the three major actors: the senior, the junior and head of unit. The most crucial criteria for launching a knowledge transfer process is the identification of organisational fields of expertise as being of high relevance for the organisation. The methodology comprises the following steps:

- Identification of risky knowledge which might be 'lost' after the retirement of the senior
- Preparation of the project and first meeting between the senior and the junior
- Definition of the portfolio of knowledge to be transferred
- Start of the knowledge transfer
- Evaluation of the process and its results

The process of knowledge sharing is organised in the following way:

- In a first step, the senior *identifies his tasks and sub-tasks* (3-10 tasks) in a concrete and specific way. Thereby, he selects and prioritises the most critical fields of knowledge which run the risk of being lost after the retirement of the senior and which are essential for the fulfilment of the mission of the service. The head of unit is associated to this step as well as to the subsequent steps.
- In a second step, the senior establishes with the support of the junior an *action plan* for a structured and coherent transfer of knowledge of those tasks which have been identified as being crucial for the continuation of the service. The action plan comprises a step-by-step implementation plan with a detailed planning, calendar and division of responsibilities as well as the decisions that have been adopted by the major actors. It constitutes the reference document for the senior, the junior and the head of unit. The action plan distinguishes between four methods of knowledge transfer: 1. learning through observation; 2. learning through oral or written explanation; 3. learning through simulation (*mise en situation*). The junior executes the task or part of it which the senior has accomplished so far; and 4. learning through analysis and through identification of successful strategies of solution-finding.
- In a third step, the action plan as developed in the second step is implemented. One of the tools used in this step is the survival kit. The senior gathers all the relevant knowledge for his successor in a survival kit. This tool is especially important, if the junior is not yet in place before the senior leaves. It contains first of all the indispensable organisational knowledge to be transferred and the knowledge which is only kept by the senior. This knowledge is defined in agreement with the head of unit. The seniors are supported in this task by operating guidelines which have been developed by the Ministry of the Civil Service.
- In a fourth step the plan is followed-up and where necessary adapted. Finally the whole trajectory is evaluated.

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www.fedweb.belgium.be > Toolbox SENIORS-JUNIORS

Learning through knowledge sharing should not be limited to younger employees, it should become part of the administrative culture. However the practice of learning through knowledge sharing is linked to certain cultural pre-conditions⁽⁴⁵⁾, such as a transparent culture characterised by open and clear communication, and the existence of IT tools which facilitate knowledge sharing.

⁽⁴⁵⁾ CEN/ISSS Knowledge Management Workshop, Europäischer Leitfaden zur erfolgreichen Praxis im Wissensmanagement, Brüssel, Frühjahr 2004, p.7.

Besides training and the above mentioned learning tools, other important HR tools to promote learning and staff development are the following:

- Intra- and interdepartmental mobility;
- Job enrichment;
- Job enlargement;
- Zig-zag careers (a path which is characterised by both vertical and horizontal mobility);
- Staff exchange programmes;
- Vertical and horizontal career progression;
- Intergenerational learning;
- On-the-job training;
- Coaching;
- Career development and training opportunities until career end;
- Varied end career paths (for longer working lives)

Learning and development should not only be targeted at different professional groups, but also at different and at all age groups. Research evidence⁽⁴⁶⁾ shows that different age groups are learning differently and that nowadays employees of 45+ participate to a much lesser extent in learning and training activities. However, the stimulation of learning skills up to a high age becomes particularly important in the context of an ageing workforce. The age expert, Juhani Ilmarinen⁽⁴⁷⁾, mentioned the inclusion of older workers in the following training activities as being essential for the reinforcement of their competencies:

- Computer related skills;
- Information management and processing skills;
- Language skills;
- Capability to learn and absorb new things;
- Tolerance to change;
- Teamwork skills;
- International skills.

Against this background, EU Member States become increasingly aware that ageing employees are by nature not less receptive to training, but that learning at a later stage takes place through other approaches and methods than is the case for younger employees and that it should be linked to career perspectives (see also [topic 3.3.5](#)). It is thus important to consider that all age groups have needs for development and training during their career, otherwise the learning abilities deteriorate and consequently work performance decreases.⁽⁴⁸⁾

⁽⁴⁶⁾ Bossaert, D., Demmke, C., and Moilanen, T. (2012), "The impact of demographic change and its challenges for the workforce in the European public sectors", EIPA Working paper, 2012/W/01 p.32ff.

⁽⁴⁷⁾ Ilmarinen, J. (2005), "Towards a longer worklife", p.217.

⁽⁴⁸⁾ Ebd. p.224.

3.3.4. Appraisal, promotion and career development

Traditionally, performance appraisals were often considered as being unimportant and an additional yearly administrative burden, especially in systems that were characterised by a more or less automatic progression in salary and grades. The appraisal was perceived by both manager and staff member as being of little added value and there was a high risk of box-ticking.⁽⁴⁹⁾ Managers were often reluctant to attribute bad rates and to deal effectively with under-performance. The major reasons for this negative attitude were systemic: performance appraisals took place in a standardised HRM system, in which everybody was treated alike and in which a bad appraisal had no effect on pay, personal improvement, career development or other working conditions.



Since the introduction of public service reforms in the 1980s, appraisal systems have been substantially remodelled in most of the EU Member States. Appraisals are now at the core of HR management and their role has become key to strengthening performance, result-orientation and motivation. However, Member States apply very different systems, according to their **administrative systems and culture**.

⁽⁵⁰⁾

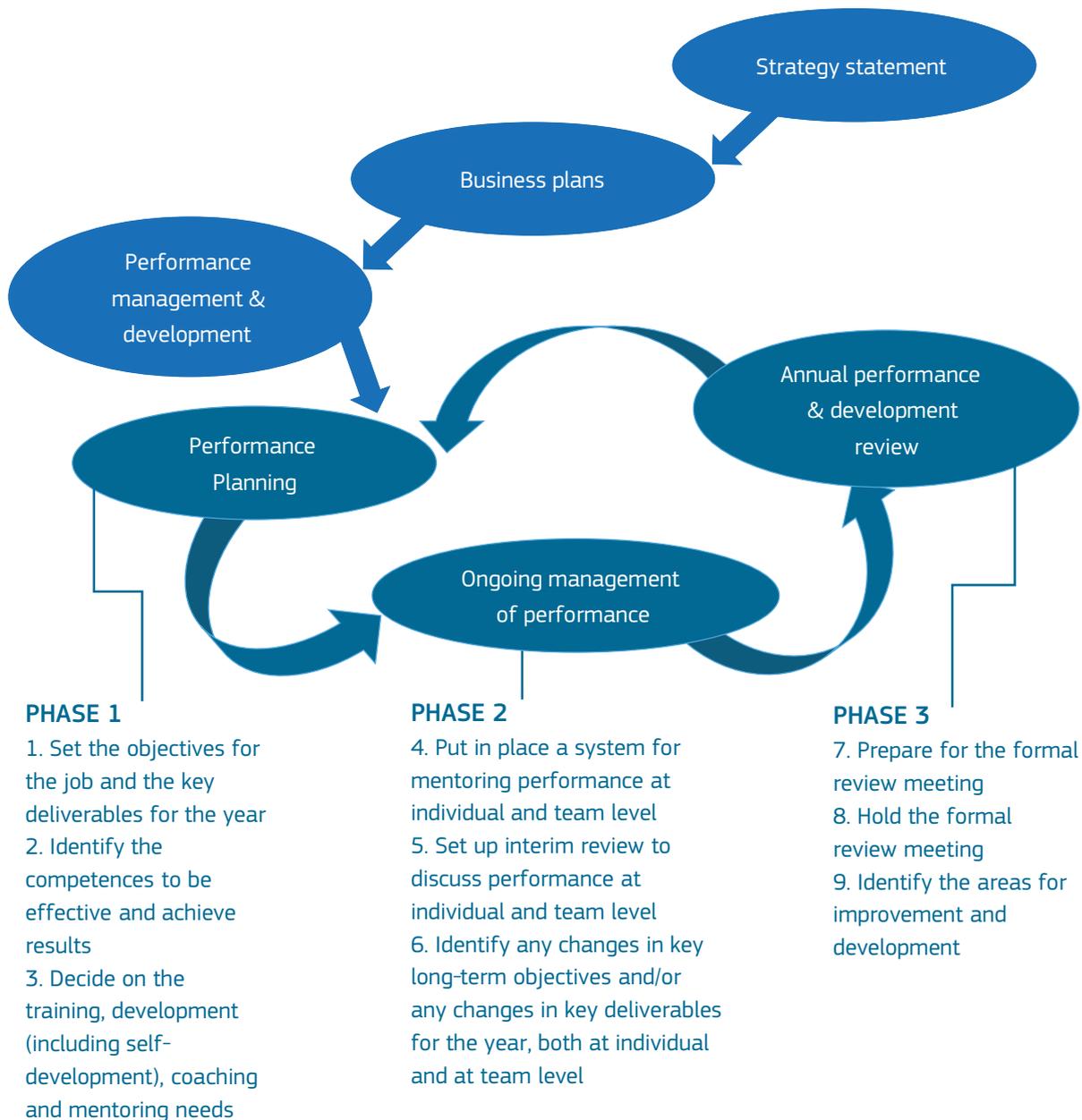
Examples of instruments used in different national contexts

- Staff interviews ('Mitarbeitergespräch') which are aimed at motivation, communication and the agreement on 'soft' targets (Austria)
- Performance agreements which are often linked with performance oriented pay (Finland)
- Team evaluations
- 360 degree feedback (United Kingdom)
- Professional development circles with a strong focus on competency development, professional development and feedback (Belgium)
- Self-assessment.

⁽⁴⁹⁾ Demmke, C. (2007) "Performance Assessment in the Public Services of the EU Member States", EIPA, p.2.

⁽⁵⁰⁾ OECD (2011), "Government at a glance", p. 128.

The positioning of appraisal within strategic HR management systems is illustrated by the example of Ireland (overleaf).



Source: Tony Bass, "Performance Assessment – Irish case study", Seminar on designing and implementing effective performance appraisal systems, EIPA, 13-14 September 2010.

We can basically distinguish between two systems of assessing **individual performance**. In the first system, performance is measured and rated on the basis of a set of criteria and indicators. Different rating systems are used in the different countries and they vary between 3, 4 (excellent, good, fair, poor), 5 or even more marks. This type corresponds to the traditional appraisal system. On the other hand, evaluations are more and more used to agree upon targets to be achieved in the following year by staff members. In such a system, the employee is evaluated on the basis of individual targets. In many countries, both systems are mixed.

Example of a classical performance appraisal and a yearly target agreement

Classical performance appraisal

I. Tasks and/or requirement profile of the employees

Task 1: Requirement

Task 2: Requirement

II. Appraisal of the performance

Appraisal levels: Very good or excellent (performance level 4), Good or exceeds the requirements (performance level 3), Satisfactory or completely meets the requirements (performance level 2) Unsatisfactory; largely does not meet the requirements (performance level 1)

	4	3	2	1
Work methods and expertise				
Communication and teamwork				
Motivation				
Task 1				
Task 2				

Yearly target agreement

Name & position of official	
Name and position of direct superior	
Evaluation period	
Date of performance appraisal interview	
1. Evaluation of performance of an official (including evaluation of the achievement of targets in the evaluation period, personal competencies)	
2. Performance targets for the next period	
3. Evaluation of the probationary period (when relevant)	
4. Agreement on remuneration for the next period	
5. Evaluation of training and development needs and objectives for the next period	

Source: Demmke C. op cit, p.32ff

Major new development trends of evaluation systems since the 1980s can be summarised as follows:

- A trend towards simplification and the introduction of shorter appraisal forms;
- A stronger alignment of individual targets with organisational goals;
- More dialogue-based, participative employee interviews and target agreements;
- Promoting staff's professional development and identifying training needs as a major aim of appraisal systems in many EU Member States;
- A risk of more bureaucracy and a higher workload

Increasingly, **senior managers** in EU Member States are subjected to different evaluation systems than the rest of civil servants. They are increasingly evaluated regarding the achievement of strategic organisational goals and regarding their managerial and leadership skills. In some cases, low performance can even lead to the termination of the employment contract, such as is the case in France or the top leaders in the Federal Belgian Public Service, who have a mandate of six years.

Since the beginning of this century, the introduction of **performance-related pay (PRP)** in the public service has become widespread. During the last decade, PRP has been introduced in many EU Member States with the aim of improving performance and increasing motivation. Its positive impact in reality, however, should not be overestimated. First, pay is not the only element which stimulates work motivation; other factors such as job content, task responsibility, flexibility, empowerment, working environment and cooperation matter as well. Second, PRP can also undermine team work, trust and engender jealousy, conflicts and less cooperation, if it is not applied in a professional way and if there are no clear rules and evaluation criteria, explanatory guidelines and training of managers, given the many forms in which bias risk can materialise.

Performance-related pay in senior civil service systems

France	Can reach 20% of remuneration
Italy	Can reach 10% of remuneration
Netherlands	No performance-related pay for over 90% of Senior Staff. Only highest level staff eligible. Annual bonus equivalent to one month salary (8.3% of remuneration).
United Kingdom	Performance bonus, on average, 8.5% of pay in 2010. Amount defined by each institution. Only top two performance groups out of four can obtain some kind of bonus (in 2009, 73% of senior officials did, in 2010 only 58%).

Source: Lafuente, M., Manning, N., Watkins, J. "International Experiences with Senior Executive Service Cadres", in GET Note, International Experiences with SES Cadres, April 2012

In many of the EU Member States, the carrying out of yearly evaluations remains a challenging task for managers and this all the more so if they are linked to pay and job security. As compared to the past, they have also become more demanding and time intensive. The setting, communication and measurement of goals, the achievement of objectivity and fairness, the management of under-performance – which can no longer be ignored – as well as the more dialogue-based style, require a whole set of competencies from managers, including for example interpersonal and social skills, conflict management, assertiveness and listening skills.

3.3.5. Equality, positive discrimination and active ageing

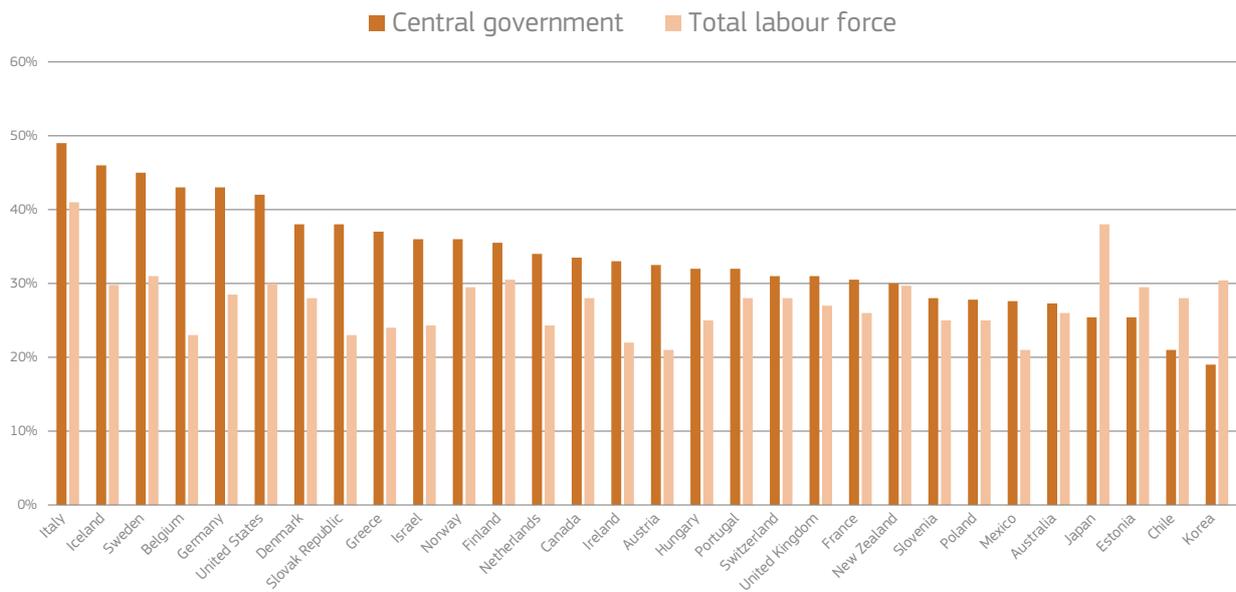


Like the whole economy, public administrations must respond to demographic changes. One of the major future employment trends of the national European public services is a substantially changed composition of their workforce. Due to the effects of demographic change and budgetary constraints, public organisations have to cope with fewer and older employees. In the great majority of EU Member States, the average age of public servants will go up. This figure however

varies across Europe. While the percentage of central government employees aged 50+ in the OECD's study presented below is almost 50% in Italy, it is below 30% in the Estonian civil service.⁽⁵¹⁾ Workforce ageing is also more pronounced in the public service than in the private sector.

⁽⁵¹⁾ OECD (2011), "Public servants as partners for growth", p.106.

Percentage of employees aged 50 years or older in central government and total labour force (2009 or latest available year)



Source: 2010 OECD Survey on Strategic Resources Management in Central/Federal Governments and OECD Labour Force Statistics.

Demographic change and an ageing society lead to a high dependency rate and the need to work longer. Since the last decade, EU Member States promote measures and tools which specifically encourage the employability and workability of an ageing workforce, with the aim to prolong their active working lives. An important point in this regard is the prevention of discrimination.

Inspiring example: Examination of laws according to age discriminating formulations in City of Hamburg (Germany)

In the context of gender mainstreaming, it has become important to remove sex-discriminating formulations in laws and replace them by sex-neutral formulations. The City of Hamburg is going one step further and asked a former employee to check all existing laws and regulations as to their effects on age-discrimination. In the framework of this legal 'age mainstreaming', an emphasis was placed on recruitment and career management policies. For example, it was checked whether rules were acceptable which allowed that older employees should not be required to use new IT procedures, and whether job appraisals which are not obligatory for employees above the age of 55 were potentially discriminatory. The results of this evaluation led to a number of changes which should help to build up an age management policy in the city of Hamburg.

Source: Robert Bosch Foundation, *Demographieorientierte Personalpolitik in der öffentlichen Verwaltung, Stuttgart 2009, p.64.*

Other important age management measures stimulating a productive and active ageing in the public service⁽⁵²⁾ include the following:

- Age sensitive HRM during the whole career;
- Varied career paths and interesting jobs;
- Career development until career end;
- Life-long learning and participation in training at all ages;
- Autonomy and responsibility;
- Combination of private life and work;

⁽⁵²⁾ Bossaert, D., Demmke C., and Moilanen, T., (2012) "The challenge of demographic change and an ageing workforce in the public sectors of the EU Member States", EIPA

- Flexibility in working time (flexi-time);
- Mobility;
- Age conscious leadership;
- Good working atmosphere.

A further important trend is the growing number of women employed in the public services, as well as the tendency to recruit people with disabilities – with however huge differences in the different states.

Employment trends in national public services in European countries

OECD data show a steady increase in the proportion of women employed in the core public service, and the continuing focus on reducing obstacles to employment for people with disabilities.

Regarding women's representation at the national level of government, the situation differs widely across countries – more than 50% of the public sector workforce are women in countries including Portugal, Ireland, but this proportion is less than 30% in Switzerland. In Ireland and Italy, women are better represented than men in the national civil services, even more specifically at senior level (75% of senior employees in Finland but in contrast less than 10% in Switzerland). Women are usually more represented at lower levels or in administrative posts (82% of the proportion of women in Portugal, 72% in Ireland, 62% in the United Kingdom) and paid less (due to career breaks or to some decentralised pay setting without strong guarantees for equity in pay). Regarding the integration of people with disabilities, a large proportion of OECD member countries have introduced policy measures including quotas (Luxembourg, Norway or Portugal), the opening of specific posts only for persons with disability (Austria) and adjustments to working conditions (Ireland, Netherlands, Portugal). In France, a law was passed some time ago establishing quotas for the disabled at 6% of the civil service. In countries, where comparison can be built with the private sector, employees with disabilities are more represented in government than in the private sector.

Source: OECD (2007), Belgium, OECD Reviews of HRM in Government, p.78.

EU Member States more and more adopt a strategic approach towards diversity, while establishing concrete action plans and targets.

Inspiring example: Diversity policy in the Belgian public services

The Federal Government Action Plan contains more than 80 concrete actions, targeted at persons of non-Belgian origin, women and disabled. The Action Plan includes the publication of a special chart, the establishment of units in all Ministries in charge of diversity, statistical analysis regarding diversity in personnel plans, information dissemination by SELOR, preparation of potential candidates for the tests, mixed juries etc.

In the Flemish Government, a special Emancipation Office co-ordinates the diversity policy and identifies targets for representation. All units are required to devise a diversity plan including actions on ethnic minorities. Women are under-represented in senior management (10%) and in political cabinets (16%). The goal adopted by the government is to have women fill 33% of senior posts by 2015. Ethnic minorities are also under-represented. At the end of 2005, there were 278 persons employed in the central Flemish Administration within a programme for first-time employment (normally for the duration of one year) for targeted diversity staff. 60% of these employees have a low-level of education.

Source: OECD, Belgium, op.cit. p.76.

In the United Kingdom, diversity is part of the public service vision, as codified in the 'Talent Action Plan'.

Inspiring measures taken from the Talent Action Plan: removing the barriers to success (United Kingdom)

The recently published 'Talent Action Plan: Removing the barriers to success' foresees a clear strategy and an action plan to improve diversity and inclusion at all career levels. Important actions include the following:

- Identify and champion senior civil servant's role models from diverse backgrounds;
- Make diversity and inclusion learning part of any formal induction process for all civil servants;
- Increase opportunities for networking that can help talented people from under-represented groups to reach their potential;
- A review of recruitment practices that can act as barriers to some groups;
- A better use of cultural data;
- Valorisation of skills and experience gained outside the civil service;
- People who join or return to the civil service from outside will be more supported;
- Flexible working will be more promoted.

Source: Cabinet Office, Talent Action Plan: Removing the barriers to success, London, September 2014.

In the EU Member States, a diverse workforce is progressively seen as a valuable resource to improve public service delivery in more diverse societies. The aim is a more representative workforce of the public service which better mirrors the composition of societies with respect to age, gender, disabilities, ethnic origin, and cultural backgrounds. It is expected that this development results in a mixture of skills, competencies, perspectives and experiences that increases governments' efficiency and effectiveness through innovative ways of working and at the same time, strengthens governments' capacities to cope with skills shortages.

3.4. Total quality management

The quality of the public administration is important for economic competitiveness and societal well-being. In the context of increasing demands and diminishing resources, public sector organisations need to become more effective and efficient. Total quality management (TQM) is about the permanent mobilisation of all the resources to improve - in a continuous way - all the aspects of an organisation, the quality of goods and services delivered, the satisfaction of its stakeholders and its integration into the environment. In this respect, quality management has become synonymous with organisational development.



3.4.1. Using quality management models

The 'quality era' started initially in the private sector. The earliest quality management systems (QMSs) were 'quality inspection' and 'statistical quality control'. Both systems had a purely technical function and were focused on the final product. 'Quality' was mainly defined as the conformance to previously established specifications. Both were followed with the introduction of 'system-oriented quality assurance'. This QMS shifted the focus from the final product to the production process and it relied on the approach of 'fitness for use'. With the change of the external environment, quality evolved from a technical



function to a strategic business goal, and there is when ‘company-wide quality control’ was introduced. Comprehensive QM concepts like company-wide quality control try to combine as concepts the old producer-oriented quality control with the newer customer-oriented quality assurance, so that the idea of customer orientation is also introduced into the production process.⁽⁵³⁾

The latest QMS is total quality management (TQM). Company-wide quality control and TQM are often seen as essentially the same, being based on the approach of “fulfilling or exceeding customer’s expectations based on customer psychology”. Nevertheless, even though their approaches and emphases are similar, there are important differences. In particular, TQM percolated from manufacturing (production) to commercial services and eventually to public services. In the early eighties, the ‘total quality’ concept of the private sector was transferred to the public sector in North America and Western Europe, making customer satisfaction or even customer delight the point of reference for the degree of quality achieved.

What is Total Quality Management?

TQM is a comprehensive and structured approach to organisational management that seeks to improve the quality of products and services through ongoing refinements in response to continuous feedback. TQM is based on quality management from the customer’s point of view. The focus is on continuous improvement, the recognition of everyone’s role in the organisation and the emphasis on teamwork.

The principle of continuous improvement is operationalised in the **PDCA cycle** (plan, do, check, and act):

- In the **planning** phase, people define the problem to be addressed, collect relevant data, and ascertain the problem’s root cause.
- In the **doing** phase, people develop and implement a solution, and decide upon a measurement to gauge its effectiveness.
- In the **checking** phase, people confirm the results through before-and-after data comparison.
- In the **acting** phase, people document their results, inform others about process changes, and make recommendations for the problem to be addressed in the next PDCA cycle.

There is a wide variety of techniques from which organisations can choose to assess and improve the quality of their service delivery (we elaborate some of these in detail in [theme 4](#), e.g. process improvement and multi-channel delivery). Using these techniques, the organisation can be analysed/evaluated on several characteristics (e.g. leadership style, partnerships, strategy and planning), and action plans can then be generated to improve the organisational aspects on which the organisation did not score well, thereby resulting in better service delivery.

TQM requirements can be defined for a particular organisation or may be in adherence to established standards, such as the International Organisation for Standardisation’s ISO 9000 series. TQM originated in the manufacturing sector and has since been adapted for use in almost every type of organisation imaginable. The European Foundation for Quality Management (EFQM) model became widespread in the private sector from the end of the 1980s, leading to the launch of the Common Assessment Framework (CAF), a TQM-adapted model for the public sector. ISO and CAF are now the most commonly used TQM instruments in the European public administration context. The main features and practicalities are highlighted below.

⁽⁵³⁾ Bouckaert, 1995

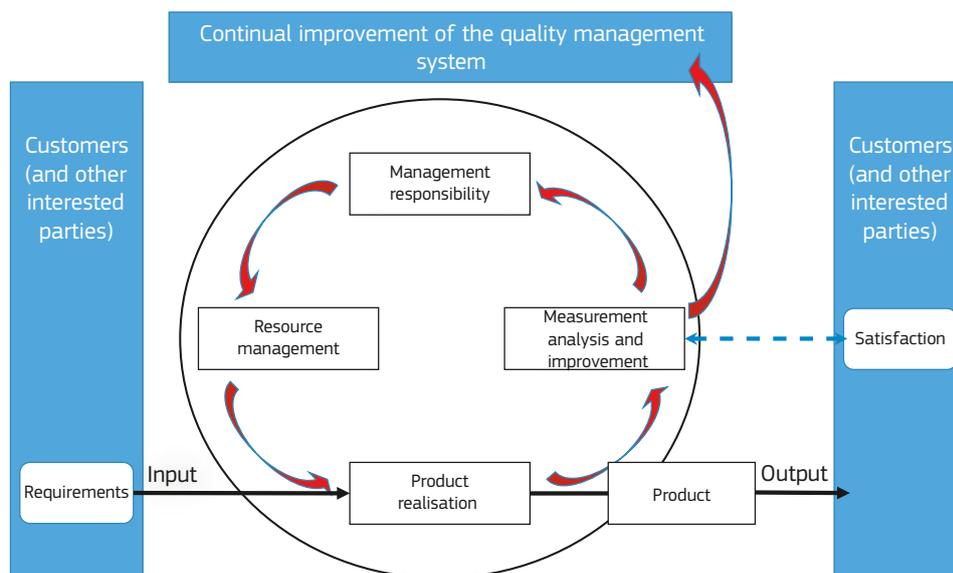
The ISO 9000 Series and Third Party Certification

The ISO 9000 series is an internationally recognised standard for quality assurance, under the [International Organisation for Standardisation \(ISO\)](#), which is a federation of national standards bodies responsible for developing and publishing international standards. The ISO 9000 family of international quality management standards and guidelines has earned a global reputation as a basis for establishing effective and efficient quality management systems in both private and public sectors. This means that it is capable of being applied across the globe – regardless of the culture of different countries or for that matter the culture of different organisations. It is generic and applies to all sectors.

ISO 9001 specifies the basic requirements for a quality management system (QMS) that an organisation must fulfil to demonstrate its ability to consistently provide products (which include services) that enhance customer satisfaction and meet applicable statutory and regulatory requirements. The model of ISO 9001:2008 is presented in the figure below and it serves as a framework of how an organisation should work in regard to quality and more specifically, what the organisation requires to do.⁽⁵⁴⁾ The model shows five principal elements, each of which specifies a set of requirements, actions and processes that need to be considered for the system's implementation.⁽⁵⁵⁾

- Overall requirements for the quality management system and documentation;
- Management responsibility, focus, policy, planning and objectives;
- Resource management and allocation;
- Product realisation and process management; and
- Measurement, monitoring, analysis and continuous improvement.

The first element includes general requirements of a quality management system and documentation requirements. In this element organisations are expected to “*establish, document, implement and maintain a quality management system and continually improve its effectiveness in accordance with the requirements of this international standard*”.⁽⁵⁶⁾



⁽⁵⁴⁾ Dale, B. G., van der Wiele, T., van Iwaarden, J. (2007), "Managing Quality", 5th edition

⁽⁵⁵⁾ Selection and use of the ISO 9000 family of standards (2009) International Organization for Standardization. Switzerland [Online] Available at: http://www.iso.org/iso/iso_9000_selection_and_use-2009.pdf [Accessed on April 13, 2014].

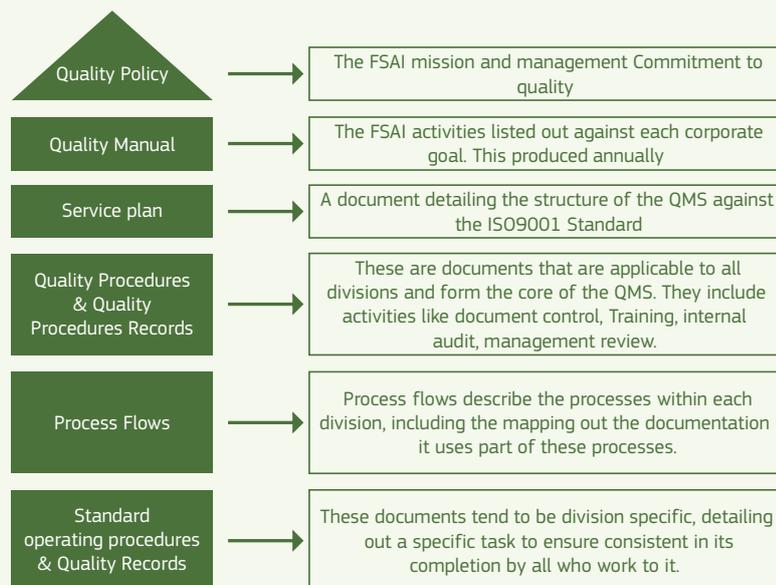
⁽⁵⁶⁾ EN ISO 9001, 2008

The second element is ‘management responsibility’ and covers the demanded level of management commitment, customer focus, quality policy, planning, responsibility, authority and communication, whereas the third element of the ISO 9001 framework is ‘resource management’ and includes provision of resources, human resources, infrastructure, and work environment.

The fourth element is ‘product realisation’ and covers the planning of product realisation, customer-related processes, design and development, purchasing, production and service provision, and control of monitoring and measuring devices. The fifth and last element of the framework is ‘measurement, analysis and improvement’. This element suggests that organisations should “plan and implement the monitoring, measurement, analysis and improvement processes needed: (a) to demonstrate conformity of the product; (b) to ensure conformity of the quality management system and (c) to continually improve the effectiveness of the quality management system” (EN ISO 9001, 2008).

Inspiring example: ISO in the Irish Food Safety Authority

The development of the QMS in the Irish Food Safety Authority (FSAI) started in 2001, with the aim of helping FSAI achieve the goals in its mission statement and to assist staff in carrying out their functions. Over the years, a QMS based upon the ISO:9001 guidelines has been implemented. The QMS is built with the close involvement of staff and can count on a strong leadership commitment. All related information, documents, reports, process descriptions, etc. is available for all staff on the FSAI intranet. The overall structure of the QMS sets of documents can be summarised as follows.



In weekly updates the Management Committee safeguards the overall QMS, supported by a steering committee including staff from all parts of the organisation and all levels. The internal Audit Team is in charge of ongoing audits according to an agreed schedule.

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A process approach is a powerful way of organising and managing activities to create value for the citizens/customer and other stakeholders. Organisations are often structured into a hierarchy of functional units. Organisations are usually managed vertically, with responsibility for the intended outputs being divided among functional units. The end user or other stakeholders are not always visible to all involved. Consequently, problems that occur at the interface boundaries are often given less priority than the short-term goals of the units. This leads to little or no improvement to the interested party, as actions are usually focused on the functions, rather than on the intended output.

The process approach introduces horizontal management, crossing the barriers between different functional units and unifying their focus to the main goals of the organisation. The performance of an organisation can be improved through the use of the process approach. The processes are managed as a system defined by the network of the processes and their interactions, thus creating a better understanding of added value.

ISO 9001:2008 allows an organisation flexibility in the way it chooses to document its QMS. ISO Guidelines recommend few step sequences as only one method which is not intended to be prescriptive. Some steps may be carried out simultaneously⁽⁵⁷⁾.

Recommended phases for successful ISO 9001 based QMS implementation
<p>Phase 1: Full engagement of top management in defining:</p> <ul style="list-style-type: none"> • Why implement ISO 9001 based QMS • Mission, vision, and values of the organisation • Organisation’s stakeholders: customers, suppliers, stockholders, employees, society, etc. • Quality policy, and • Organisational objectives and related product/service quality objectives
<p>Phase 2: Identification of key processes and the interactions needed to meet quality objectives</p> <ul style="list-style-type: none"> • Identification of the processes of the organisation • Planning the process • Implementation and measurement of the process • Analysis of the process • Corrective action and improvement of the process
<p>Phase 3: Implementation and management of the QMS and its processes</p>
<p>Phase 4: Building ISO 9001-based QMS</p>
<p>Phase 5: Managing the ISO 9001-based QMS</p> <ul style="list-style-type: none"> • Focus on customer satisfaction • Monitor and measure the operation of your QMS • Strive for continual improvement • Consider implementing business excellence models in the company operations
<p>Phase 6: If necessary, seeking third party certification/registration of the QMS</p>

It is stressed that ISO 9001 requires (and always has required) a “documented quality management system”, and not a “system of documents”.⁽⁵⁸⁾ This enables each individual organisation to develop the minimum amount of documentation needed in order to demonstrate the effective planning, operation and control of its processes and the implementation and continual improvement of the effectiveness of its QMS. The conventional ISO saying is the organisation should:

- Document what it does (“Say what it does”),
- Establish a process for the service;
- Perform to the documentation (“Do what it says”);

⁽⁵⁷⁾ Implementation Guideline for ISO 9001:2008. Document: ISO/TC 176/SC 2/N 836 International Organization for Standardisation [Online] Available at: http://www.iso.org/iso/06_implementation_guidance.pdf [Accessed on April 13, 2014]

⁽⁵⁸⁾ Document: ISO/TC 176/SC 2/N 525R2 Guidance on the Documentation Requirements of ISO 9001:2008

- Provide the service based on the process;
- Record the results of your work (“Record information”);
- Appropriately maintain all recorded information;
- Audit the documentation for effectiveness (“Audit effectiveness”);
- Audit using the process approach.

Excellence models

Most quality excellence models have first been developed for the private sector and have been transferred to the public sector as a result of a paradigm shift taking place in the public administration in Western countries. In Europe, they clearly cluster around two core models - the 1999 version of the European Excellence Model (previously known as the Business Excellence Model) and the 1998 version of the Speyer Quality Award for German-speaking countries. A detailed comparison identifies the following organisational and managerial key criteria, which are also found in most Western European national quality awards that involve public service organisations:

- Leadership;
- Policy and strategy;
- People;
- Resources;
- Processes;
- Different categories of “objective” and “subjective” results

Naturally, the weightings given to these different components and the sub-criteria used within them differ between the award schemes.

Quality excellence models may be used for self-assessment or as the basis of external assessment. In particular, the [Excellence Model](#) has become a widely used self-assessment instrument in various Western European countries. Also the [Common Assessment Framework \(CAF\)](#) which was specifically designed for public administration starts to become a more and more common self-assessment instrument for public agencies. In contrast to the European Excellence Model, it is less demanding and therefore suitable for organisations starting with the implementation of TQM, but also less systematic.

CAF users – 3,711 in 53 countries (November 2014)

Italy - 879	Slovenia - 71	Bulgaria - 11
Germany - 357	Greece - 63	Iceland, Turkey, FYROM* - 9
Poland - 351	Slovak Republic - 58	Latvia - 8
Belgium - 335	Romania, Spain - 49	The Netherlands, United Kingdom - 7
Hungary - 316	Switzerland - 29	Ireland, Malta - 6
Denmark - 248	Lithuania - 28	Sweden, Croatia - 5
Portugal - 189	France - 26	Russia - 4
Finland - 126	Cyprus - 19	Ecuador, Cape Verde - 3
Austria - 95	Estonia - 18	China, Namibia, Tunisia, Serbia, Montenegro - 2
Dominican Republic - 87	Bosnia and Herzegovina - 18	Kosovo**, Morocco, Peru, Ukraine, Egypt - 1
Norway - 87	Luxembourg - 13	Brazil, Chile, Ivory Coast, South Africa - 1
Czech Republic - 74	EU Institutions and EC - 12	

Source: European CAF Resource Centre (EIPA), www.eipa.eu/CAF

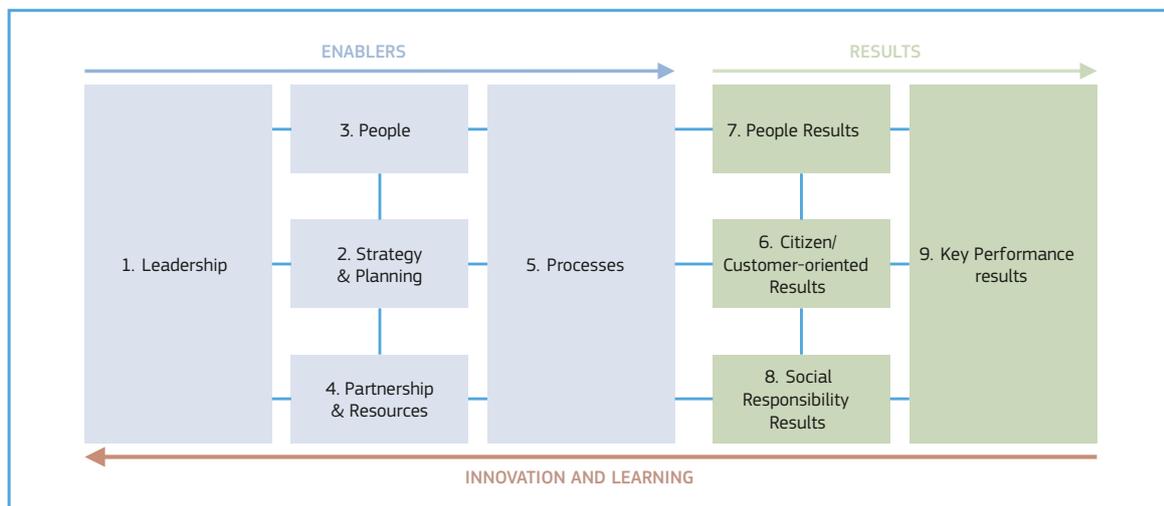
(*) Former Yugoslav Republic of Macedonia.

(**) This designation is without prejudice to positions on status, and is in line with UNSCR 1244 and the ICJ opinion on the Kosovo declaration of independence

The CAF was created in 2001 within the [European Public Administration Network \(EUPAN\)](#). The CAF dynamic on a European level is supported by the [European CAF Resource Centre](#), based at the European Institute of Public Administration (EIPA). The CAF is a total quality management tool developed by the public sector for the public sector, inspired by the Excellence Model EFQM. It is based on the premise that excellent results in organisational performance, citizens/customers, people and society are achieved through leadership driving strategy and planning, people, partnerships, resources and processes. It looks at the organisation from different angles at the same time: the holistic approach to organisation performance analysis.

The CAF is available in the public domain, is offered as an easy-to-use tool to assist public sector organisations across Europe in using quality management techniques to improve performance. The CAF has been designed for use in all parts of the public sector, and is applicable to public organisations at the national/federal, regional and local levels.

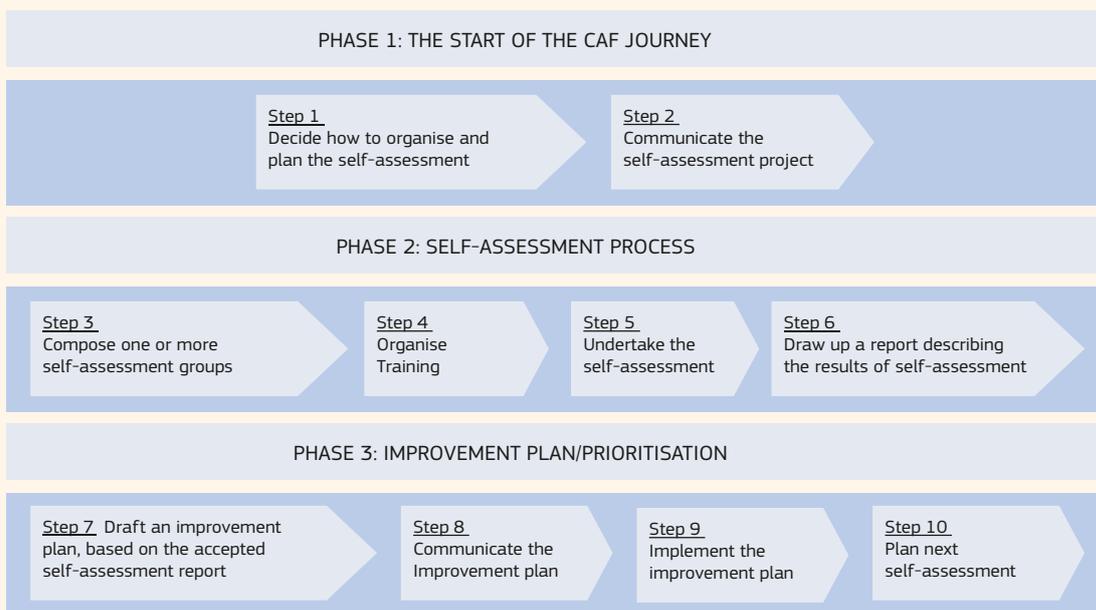
The CAF Model



In the past 15 years, the CAF itself (and its use) also became more mature. In this maturity process three different phases can be distinguished. A first phase focusing on the self-assessment, where the emphasis was put on the introduction of TQM principles and values in the public sector by using the CAF as a self-assessment tool. Public sector organisations were not used to look at themselves, certainly not by involving their own people. A lot had to be learned and most of the energy was put in spreading a sound methodology of self-assessment.⁽⁵⁹⁾ A second phase having more attention for the improvements after the self-assessment that were the result of the discovery of many areas of improvement during the self-assessment. A third phase drawing attention to the mature culture of excellence in an organisation. The awareness grew in a third phase (revision CAF 2013) that it was necessary to develop further the concept of excellence that had been at the basis of CAF, but was not explicitly enough formulated for the public sector. If further developed, these principles could become the leading principles for building up the organisation towards the level of excellence on the basis of a sound self-assessment and an effective improvement plan. This work was done in the context of the discussions on the new Procedure for External Feedback.⁽⁶⁰⁾

How to use the CAF Model

Organisations are free to adapt the implementation of the model to their specific needs and contextual circumstances; however, the structure of the model, with the 9 criteria and the 28 sub-criteria, as well as the use of one of the assessment panels is strongly recommended as it is to implement the process following the given guidelines. Using the CAF Model is a learning process for each organisation. However, the lessons learned over several years of implementation can profit every new user. A 10-step implementation plan was therefore developed to help organisations use it in the most efficient and effective way.



Source: European CAF Resource Centre, EIPA, www.eipa.eu/CAF

More and more public sector organisations are working with TQM instruments. By doing this, they improve the functioning of their organisations step-by-step and can demonstrate that they gradually improved their results over the years, in terms of efficiency and quality.

⁽⁵⁹⁾ Staes, P., & Thijs, N. (2005), "Quality Management on the European Agenda", Eipascope, 2005/1, pp.33-41.

⁽⁶⁰⁾ Thijs, N. & Staes, P. (2010), "From self-assessment to external feedback", Eipascope 2001/1, p.9-14

Inspiring examples from Germany, Austria, Belgium and Norway

The Austrian Ministry of Finance has been using CAF since 2006 as one quality management instrument alongside others: internal audits, benchmarking, quality and service standards, complaints management. The ministry is composed of 40 tax offices (with 80 locations), nine customs offices (with 103 locations) and one large trader audit unit (with 8 locations) spread over the whole country (9 provinces) with approximately 11,500 employees. The very good and practicable results of four CAF pilot exercises brought the ministry to the strategic decision to implement the CAF throughout the whole administration.

In the ministry the performance targets of the different units and offices is managed by management-by-objectives. Every year the implementation of CAF is a target for 10 tax or customs offices. By using CAF, managers/leaders and employees are able to discuss their daily work in connection with the vision/strategy and with the values. The changed cultural/working approach of the Austrian Finance Administration (caused by the biggest reorganisation process that ever happened in the administration – from 2002 till 2007) is supported by the different criteria of the CAF model. Continuous improvement is self-evident in the organisation; therefore – as a result of CAF experiences – the ministry has implemented new tools in the field of knowledge management, process management, etc. The ideas for these new measurements came from stakeholders – mostly from the staff, customers and citizens.

With CAF the ministry also intensified and enlarged the relationships with external partners (e.g. Tax Consultants, representatives of local government bodies, trade unions). Every year a special one-day CAF activity for top management is organised. During this event the actual CAF results are discussed and if necessary, strategic decisions will be made. For improving (e.g. reviewing strategies and planning), the CAF results are evaluated annually together with the heads of the units who have implemented the CAF.

The “**Landratsamt Ebersberg (Germany)**” is both a lower public authority and a local autonomous body. As a public authority it performs supervisory tasks, such as planning permission procedures and interventions under nature protection law as well as issuing residence permits, vehicle licences and driving licences. As a local authority, the administrative district of Ebersberg is mainly concerned with social issues such as social and youth welfare, educational matters, in which field it is responsible for expenditure on materials, as well as local public transport. The following areas of improvement were identified and dealt with by CAF:

- *Improvement in leadership:* The self-assessment showed improvement in the process of agreeing objectives and in the instructions given to staff. With the introduction of mandatory coaching at management level, managers were assisted on a more individual basis.
- *Improvement in the continuous optimisation of citizen orientation:* CAF gave an additional boost to the service offensive. Since then, service guarantees have been introduced in several offices within the Landratsamt, e.g. anyone who has to wait longer than 10 minutes for their vehicle licence receives a free car wash. Another citizen survey was conducted to maintain and implement further optimisation initiatives on a continuous basis.
- *Comparison with other administrations (benchmarking)*

CAF highlighted clear weaknesses in the inter-authority performance table, most of which have now been tackled, e.g. through a benchmarking group which has been in place in the foreigners office for three years, participation in a nationwide benchmarking group on high schools and a group of Bavarian youth welfare offices.

The **local social welfare service (OCMW) of the municipality of Grobbendonk (Belgium)**, a social welfare service organised by the local authorities with 90 full-time equivalent employees, was installed by law in 1976 in every municipality in Belgium. The OCMW is an independent local authority with a well-developed social service system: the core business of the organisation is to deliver proper social services to all citizens. Besides this legal task, the OCMW puts the emphasis on two pillars: home care and residential care for the elderly.

In 2004, the OCMW applied the CAF for the first time. Several points of improvement, e.g. role model of the leadership and developing and aligning the leaders’ attitudes with the mission statement were mentioned by the self-assessment group and were listed among the top ten priorities. After this first CAF assessment, a reorganisation took place *on three management levels: direction (top management), middle management and operational management.*

- At the direction level, a management team was installed in 2005 in order to orientate the management in a more horizontal way near to the elected board (the political level) and closer to the personnel. The

management team – since 2009 obligated by a decree – is responsible for advising the elected board and prepares the organisation's policy and budget.

- A second team that was installed after the first CAF implementation was a permanent quality group. This team is smaller than the management team and has a more operational approach. They make sure that all activities in the organisation match with the mission statement and vision of the organisation. This quality group links all the objectives and monitors the follow up in a new and easy to use instrument with the names of the responsible persons, the deadlines (start and end) and possible links with the processes in the organisation e.g. guidelines, forms, etc.
- On the operational management level, a permanent 'Train the Trainer' programme was started which brought together on a regular basis all the persons dealing with personnel matters in the organisation. The main objective is to align the overall vision on leadership and to increase the expertise as well as the effectiveness.

Afterwards, the employee satisfaction was measured on these different changes in the organisation and good results were obtained.

With strong political support, the Common Assessment Framework was applied in the **educational sector in Nord-Trøndelag County (Norway)** since 2005. After having delivered since then the Annual Quality Reports, the County Council now seems to be handling the quality results in quite an adequate way. The CAF assessment results from the sector, both average and individual for the different schools, are now used as the main evidence for setting targets and objectives. These targets and objectives are set both for long and short term, and are meant as solutions for the areas of improvement for the educational sector as a whole, but also for the individual organisations.

The annual measurement of quality in the entire sector, the handling and target-setting of the areas of improvement, and following up the results, has led to measurable development in this period. Considerable progress in several areas of improvement from one year to another can be detected. The annual Quality Report presents the average results from the CAF assessment, the CAF assessment results from each organisation/school and important background data from the areas of citizen results, people results and key results. These data contain results from sources such as student-, teacher- and people surveys, and target achievement in areas such as student grades, absence and drop-out rates.

In this way, the work with following up evidence or assessment results is handled at three levels. First of all this will be the most important action during the year in each school. Through the 17 tools of the local quality development system, the schools analyse and carefully prioritise the most important areas of improvement, setting up a plan of corrections and planning the different prioritised actions. These steps are surveyed by the sector level, the Chief Education Officer, and are followed up in the dialogue of steering and during site visits to schools. Then, the most important challenges of each school are used in the further detailed results-oriented steering of the school. This will be the working targets for the school director and in the quality chart of the school. The quality chart is derived from the Balanced Scorecard, and based upon the principles of Excellence. The third level is the annual discussion in the County Council on the results from the Quality Report and the following target setting.

The connection between quality management, quality development, CAF and the work with setting targets and strategic objectives at all levels have become closer the last four years, and at last, can be seen as a whole. Making a huge effort of following up assessments and results from the schools leads to constancy of purpose and a sustainable quality throughout the entire educational sector.

Source: www.ejpa.eu/CAF

Although all of the various TQM instruments and tools have grown towards each other content-wise in the past decade, some clear particular characteristic exist. The following table provides a brief comparative overview of different instruments. What is even more important is the cultural shift in public sector organisations that TQM is striving for. This cultural shift goes beyond the 'bureaucratic' use of any instrument.

Comparison between ISO, EFQM Excellence Model and Common Assessment Framework (CAF)

Method	Approach	Advantages	Potential risks	Improvement / Innovation potential
ISO	<ul style="list-style-type: none"> • Identification of key processes • Description & documentation of key processes • External audit against the standards and certification • Follow up internal and external audits 	<ul style="list-style-type: none"> • Process management • Transparency and responsible persons linked to processes • Knowledge management • International standard • Possibility for labeling and external validation 	<ul style="list-style-type: none"> • Strict and rigid system • Risk of high level of bureaucracy • Exercise on paper, documenting the existing situation • Only aim is the label • Expensive • Ownership only with quality team 	<ul style="list-style-type: none"> • Strong focus on compliance and control, less on creativity and innovation • Improvement possibilities if errors, malfunctions are noticed • In the reflection and description of processes there is room for creativity and innovation, certainly when LEAN thinking is integrated.
EFQM	<ul style="list-style-type: none"> • Starting point is assessment with the aim of setting up concrete improvement actions afterwards • Possibility to participate in recognition schema and award programme 	<ul style="list-style-type: none"> • Holistic approach (organisational enablers and results) • Continuous improvement, dynamic • European awards and prizes 	<ul style="list-style-type: none"> • Focus on more 'experienced' organisations • Expensive (membership) • Should not be the end, risk is no improvement actions afterwards 	<ul style="list-style-type: none"> • Starting point is assessment with the aim of setting up concrete improvement actions afterwards • Innovative actions need to come from inside (positive, but challenging)
CAF	<ul style="list-style-type: none"> • Starting point is assessment with the aim of setting up concrete improvement actions afterwards • Possibility to receive external feedback 	<ul style="list-style-type: none"> • Public sector translation • Holistic approach (organisational enablers and results) • Continuous improvement, dynamic • Strong involvement of staff • Low level, easy to use 	<ul style="list-style-type: none"> • Self-assessment (recently with possibility of external feedback) should not be the end, risk is no improvement actions afterwards 	<ul style="list-style-type: none"> • Idem as EFQM

3.4.2. Stimulating a quality management culture

Using quality management models

Stimulating a quality management culture

In the private sector, some industrial customers in some sectors make it a condition that their suppliers have QMS in place, but it remains relatively rare for public sector organisations to have adherence to quality management principles explicitly within their mandate from governments.

There is every reason for administrations to add it to their mission, however, as it has the potential not just to raise the standards of service quality and delivery, but also improve motivation and morale, and increase innovation. In the absence of external stimulus, TQM needs to be encouraged and enabled in public administration.

The first step is **raising awareness** of its importance and added value among different target groups. The use of TQM can be triggered by introducing and integrating it into the policy framework, as part of strategic and operational planning documents. Central government can also create initiatives to stimulate quality management in regional and local government.

Inspiring example: Quality management in strategic policy documents (Poland)

The subsequent strategic documents developed by the Polish authorities in the recent 10 years have always underlined the importance of quality in the public service delivery. The improvement of the quality of the services and improvement of their efficiency is still a burning issue and this find its reflection explicitly in strategic, medium-long term goals and priorities like:

- The National Cohesion Strategy 2007-2013 (adopted in 2007),
- The Long-term National Development Strategy 2030 (adopted in 2011),
- The Medium-Term National Development Strategy 2020 (adopted in 2012),
- The Efficient State 2020 Strategy (adopted in 2013).

These strategies supported by operational programmes and action plans provide mandate for implementing projects which take advantage of the TQM approach.

The Operational Programme Human Capital, supporting the execution of the National Cohesion Strategy 2007-2013, was prepared by the Ministry of Regional Development in cooperation with the Prime Ministers' Chancellery, Ministry of Interior and Administration, and the Ministry of Labour and Social Policy and was adopted on 18 September 2007. These institutions carry out QM projects in the field of modernisation of management systems in governmental and local administration (such as analysis of the present situation, strategy development, implementation of selected QM tools, training and consultancy activities) and increasing human resources capabilities. Last projects will have finished by the end of 2015.

Since 2007, the Civil Service Department of Chancellery of the Prime Minister has implemented 16 projects that contributed to better management in the governmental administration. These projects have already resulted and will result among others in implementation of ISO and CAF standards in over 120 organisations as well as hundreds of civil servants trained on different aspects of TQM. Some projects focused on particular areas of TQM like customer satisfaction management and on supporting implementation of tailored made solutions or individual ideas like introduction of EMAS in the Ministry of Environment.

Local government receives support from the Ministry of Administration and Digitisation (formerly Ministry of Interior and Administration). As an example can serve the project "Arrangement of local governments for the implementation of Common Assessment Framework in the course of measuring of the potential and achievements through the training of civil servants and advisory aid", which was carried out from 2009 to 2011. The project focused mainly on local governments from rural areas. Within the project CAF was implemented (disseminated) in over 300 local governments. Due to the Ministry's activities CAF has been implemented in over 443 local governments and ISO has been implemented in 327 local governments. By the end of 2014, activities concerning QM tools will have been performed by 960 local governments in total, which accounts for a third of all Polish local governments. Nowadays within our projects, CAF External Feedback is being promoted according to the peer-review principle.

For further information: Governmental administration: www.dsc.kprm.gov.pl; Local Government: Pawel.Wnuk@mac.gov.pl and <https://mac.gov.pl>

Besides triggering awareness, various EU Member States have invested in **supporting** public sector organisations in using TQM instruments. This has been done by, for example: publications, manuals and guidelines on quality management; creating capacities by training the trainers and technical assistance; setting up a supporting and coordination structure; and networking with the private sector and academic world.

Inspiring example: CAF strategy 2012-2015 in the sector of education and training (Italy)

The project “CAF for MIUR” has been planned in the context of the 2007-2013 EU Programming and the National Operational Programme “Competencies for the Development”, related to the initiative to improve Administrative Capacity Building in education institutions. It has been sponsored by the European structural funds, managed by the Ministry of Education, University and Research (MIUR) and is being realised by the Department of Public Administration (DPA), in collaboration with FormezPA acting as national CAF resource centre.

The main goals are:

- 1) The introduction of self-assessment and continuous learning processes based on the CAF (the adapted model for the education sector);
- 2) To create the conditions to spread more and more the knowledge for using the CAF via school networking and the implementation of a CAF Hub to activate a multi-actors supporting system.

The project is targeted to the Education and Training Institutions of four Italian regions - Campania, Calabria, Puglia and Sicilia. This area counts over 3 900 schools, with different concentration across the Regions (Campania and Sicilia host about 2 500 schools) and a dominant focus on primary education (over 70% are primary schools).

All participant schools have to realise in a defined time scheduled (a) a CAF self-assessment resulting in a self-assessment report and (b) develop and implement the related improvement plan with the support of the project team. Main goals to be reached: a high level of impact in terms both of the number of schools to be actively involved and the delivery of the expected outputs by a significant percentage of the supported ones (over 70% as a minimum).

The keyword in order to define the supporting strategy has been “people empowerment” taking into account the roles and knowledge on quality issues already spread in the Education sector even in the south Regions of Italy. So, initially information and data on the pre-existing people knowledge, the maturity levels of the organisation and the ICT facilities were gathered. The first year started with a mixed approach – including online support for more advanced schools and onsite technical assistance for the less advanced – and then evolving towards a stronger at a distance supporting strategy. On the basis of the obtained results – comprising the progress in the demand of participation, the compliance with the expected outputs and the customer satisfaction results - every year the project reviewed its strategy and upgraded the tools.

Many different means of support have been put in place and implemented in the first two years of activity, involving mainly but not only the people directly in charge of the self assessment process.

- **Regional seminars:** to launch annually the project initiatives and present the results. *21 seminars organised with about 1900 schools and more than 3300 participants as an audience.*
- **Webinars:** interactive seminars conducted via web consisting in real time live presentations dealing with the CAF model, the Self-assessment process and the Improvement planning. *13 webinars were realised and 2044 persons participated.*
- **Achievement self-tests:** related to webinar main contents - a quick way to detect and recover knowledge gaps. *10 tests are available concerning the model itself and the CAF implementation process.*
- **Virtual classes:** interactive classes, based on simulations and case studies, aimed at filling the knowledge gaps observed by the analysis of the achievement tests fulfilled by schools after the webinars. The main focus is on the collection and analysis of data, the self-assessment report and the improvement plans content. The users can participate through chatting, video-chatting, file-sharing or asking questions with a microphone. *6 virtual class cycles were realised and 1500 persons participated.*
- **CAF Video Clips:** amusing way to learn about CAF, based on well-known TV formats (like camera café or the big brother thinking room, etc.) set in the school context. The main themes of the clips are

Leadership, Strategy, Empowerment, the self-assessment report and the Improvement plan content. *To date, 7 video clips have been created.*

- **CAF territorial meetings:** they are conceived as an interactive experience that motivates and engages the participants. The meetings realised at regional level focus on the CAF model, the self-assessment process and the improvement planning. Role playing, motivational games (like the body percussion) and practical team activities are the main tool used. *84 meetings organised with 1400 participants.*

Tool kit: a kit collecting all the materials and tools to support the use of CAF model available in digital format.

During 2014, a new initiative has been launched. *F@CILE CAF* (meaning e@syCAF) offers to the schools the possibility to implement the use of CAF by themselves in an autonomous way, using all the above means of support accessible from an *ad hoc* online platform for CAF implementation.

Well trained “CAF facilitators”, coming from the schools that have previously implemented CAF in the same territories, inform, help and motivate them mainly at a distance through the platform itself (via webinar and virtual desk). The goal of *F@CILE CAF* is to take advantage from the competencies developed by the previous CAF expert users and to use this know-how together with all the tools realised by the project, adapting them to a new supporting scheme, in order to stimulate territorial partnerships. This phase of the project is now being implemented.

To activate a multi-actors supporting system to be based on the territorial actors, sustained in future at a distance by the National CAF resource Centre, the project has in fact invested a lot in specific training activities involving:

- The Regional School Offices, to create CAF team inside them;
- The CAF expert users, people coming from the schools who successfully self-assessed in 2012 and 2013 in the frame of the project trained to act as “facilitators”.

The latter are the heart of the so called “Competency CAF HUBS” created to ensure continuity of support actions in the Regions after the end of the project to help spread the model through a self-supporting network.

At now in the framework of the overall project 541 schools have been actively involved, 382 self-assessment reports were drafted and 323 improvement plans were defined. 107 schools are now in the CAF implementation process going to deliver the SA report. These schools are using the “F@CILE CAF” platform, with different degree of support being delivered by the CAF Facilitators and/or the CAF Resource Centre help desk. The project will be over at the end of next June and by its closure the network of the CAF expert schools will be formally set up and, after a final evaluation, the platform with all related tools will be finalised to become accessible for many other public organisation assisted at a distance by the National CAF resource centre of Italy.

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The exchange of knowledge gained in **benchmarking** public services can help speed up the learning process, but is not a simple matter. Comparing the performance of public organisations can be very complicated, because their objectives, being social, are often difficult to measure. We also have to take account of both the political and administrative cultures of operations in public organisations.

Inspiring examples: Benchmarking local government performance (United Kingdom and The Netherlands)

Within the United Kingdom, 32 Scottish local authorities are participating together in the **Local Government Benchmarking Framework**. This Framework brings together performance indicators covering information about a wide range of key services including education, housing, social work, and leisure, as well as service costs and customer satisfaction results. Using the same indicators across all local authorities allows comparing performance, identifying best practice, learning from each other, and improving. Local governments, as other interested stakeholders (citizens, politicians, NGOs, media, etc.) can see how one local government compares to the best and worst performance, as well as the Scottish average, for each indicator. It is important to consider the many differences between local authorities that contribute to variations in performance, including population, geography, social and economic factors, and the needs and priorities of local communities. All of these need to be taken into account when comparing performance with other councils.

The Dutch initiative “**waarstaatjegemeente**” (the state of play of your local government) has the same aim and functionality. The performance of local government is monitored according to different policy clusters; e.g. safety, health, well-being, local economy, direct service delivery, relation government/citizen, etc. Monitoring these indicators has an accountability focus, but also a learning and improvement perspective. Local governments can position themselves against better performing ones. Via learning cycles, municipalities can get a better insight in the reasons why and how others are better performing.

Sources: <http://www.improvementservice.org.uk/benchmarking> and <http://www.waarstaatjegemeente.nl>

Ways can also be foreseen to encourage the pursuit of quality management by **recognising and rewarding** the results achieved. This can be done through certificates, labels, awards, selecting good and best practices, and presentations at conferences. In many cases, quality awards are based on quality excellence models. Quality awards are introduced as surrogates of market competition in the public sector where a market does not exist. The competition among the participants of an awards programme is intended to motivate public agencies to increase organisational quality. In case they win the award they are likely to act as a model for other organisations; in case they do not win the award, they hopefully learn how to become better in the future. Public sector quality awards also have the function to help public authorities to improve their organisational quality by learning from each other. Quality awards identify excellent public agencies and their success factors are made visible to other organisations. This means that there is also a cooperative element in quality competition awards which is perhaps the most important function of quality awards if they are to be an instrument in fostering innovations and quality in the public sector.

Inspiring example: Estonian Public Sector Quality Award

A pilot project of the Estonian Quality Award was run in 2000–2001 as a joint initiative of the Ministry of Economic Affairs, Enterprise Estonia and the Estonian Association for Quality (EAQ), and continued by annual quality award competitions starting 2002. The competition was renamed Estonian Excellence Award (Estonian Management Quality Award (EMQA)) in 2004, as the word quality is often perceived as only related to products and/or control, not the performance of the whole organisation. In 2006, the scheme was fully aligned with the EFQM Excellence model and the EFQM 2005+ process, in order to give more international weight to the recognition and allow comparability with other recognition schemes in Europe. Both private and public sector organisations could participate in this award.

At the end of 2010, the Ministry of Finance started the Estonian Public Sector Quality Award, based on the CAF model. A pilot of this award had been conducted in 2003 already, but it took until 2010 to re-launch the initiative. The idea is to focus on learning and the exchange of best practices among public sector organisations. There has been a high level of interest from agencies in the Award; 15 public sector organisations participated in the whole process. During the process, agencies conduct a self-evaluation, followed by the external feedback from the assessors. The agencies and assessors receive thorough training to maintain the high quality of the process.

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3.5. Conclusions, key messages and inspiration for future action

The challenge for institutional performance in a modern EU context is three-fold:

- Ensuring the institutional system as a whole is complete and coherent, inter-woven by governance relationships across organisations, whether formally part of the administration or performing functions on its behalf;
- Enabling each organisation to perform at the highest level, by putting in place effective leadership, management, structures, staff and processes that are fully fit for purpose, and continuously evolving with the environment and the expectations of citizens and businesses; and
- Encouraging and equipping each individual within these organisations to optimise his or her contribution to achieving their objectives and aspirations.

The institutional structure of every country is the product of political choices: decisions about the right constellation of organisations to achieve the government's policy goals. Certain functions of government will always be carried out (such as defence, policing, tax collection, etc.), others are discretionary. Today, many functions are performed by private or non-profit providers on the administration's behalf. Few institutions remain untouched by change over time, and as [topic 1.2.3](#) showed, this is especially true of the current era of tight finances, as roles are reassigned across bodies, service delivery is contracted out, and savings are sought wherever they might be found.

In this climate, there is extra pressure on public sector organisations to prove their worth – to politicians, the public and service users, both businesses and citizens. This starts by demonstrating that the organisation embodies and applies the values that these audiences expect from them (see [‘principles and values of good governance’](#)). This involves setting out a clear direction (mission, vision, strategy) that is founded on the chosen values and shared with staff, so it is ingrained in the administrative culture. It also means measuring performance and promoting it when it's strong, correcting it when it's poor.

Every public organisation is confronted by external ‘shocks’ from time to time: events that might be regulatory, financial, technological or demographic in nature, that change the operating environment and put pressure on management to respond. Institutions that excel already are often more robust and better equipped to manage change. Some of the ‘tools’ set out here can build that solid foundation, such as competence-based recruitment and development, an elite and mobile senior civil service, investing in developing leaders, strong internal dialogue with staff, performance feedback and innovative learning techniques (see also [topic 2.3](#) on ethical human resources management).

Moreover, all institutions can benefit from building a quality culture, and using quality management techniques to look both inwards and outwards at ways to continuously improve, gain the recognition they deserve, and build public trust.

Theme 4: Improving service delivery



Public services encompass not just the high visibility ones (health, education, welfare, etc.), but also every instance in which some form of exchange of information or finance takes place: registering, licensing, applying, paying, borrowing, making an enquiry, etc. How are services processed, packaged and delivered? At the same time as administration search for more cost-effective ways of working, the digital society, 24/7 media and social networks have raised awareness of what is achievable. Citizens and businesses increasingly demand public services that are better, faster, cheaper, and often prefer to be online, not in-line. This theme explores how administrations can better understand needs and expectations, improve processes and simplify administration, ease access to services through one-stop shops or multi-channel delivery, exploit the advantages of e-Government, interoperability, 'once-only' data registration and move towards 'digital by default' and 'open by default', commit to service standards and measure satisfaction.

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Public services encompass all the interactions between citizens and businesses and their governments, at all levels. This interface is the front-line of good governance and public sector innovation, with the scope to enable enterprises to do business more easily, markets to operate effectively and economic goals to be attained, by ensuring services are delivered efficiently, creatively and in line with users' expectations. This chapter:

- ✓ Describes how to better understand user' needs and demands from public;
- ✓ Outlines methodologies for process improvement and administrative simplification to reduce the burden on service users;
- ✓ Reviews the alternative modalities for converting these demands into the most suitable services or ways of delivery (channels);
- ✓ Reveals online channels that are helping make services better, faster and cheaper, and reducing the administrative burden through the 'once only' principle and moving to 'digital by default' and 'open by default';
- ✓ Describes the role of 'service charters' in committing to certain standards and the tools used to evaluate whether administrations are achieving the goal of satisfied citizens and other users.

Public services can be understood as all the interactions between government and citizens, businesses and other service users⁽¹⁾, whether directly or by proxy through an intermediary. In other words, they encompass not just the well-recognised services provided by the state, such as health, education, police, fire service, welfare, social services, etc. They also include every instance in which citizens, businesses and others come into contact with the administration and some form of exchange of information or finance takes place: registering, licensing, applying, paying, borrowing, making an enquiry, etc. Public 'services' are mostly intangible, but they also can involve construction works, or the supply of equipment or items.

This interface is a daily reality for enterprises and citizens. Some public services enable revenue and statistical collection for the overall public good. Other services are necessary to comply with regulatory obligations, satisfy minimum standards and enforce essential safeguards. Still others make product and labour markets work more effectively, addressing information and other failures. This chapter is concerned less with the services themselves, and more how on they are processed, packaged and delivered. The quality of service delivery is intertwined with the ease of doing business (see [theme 5](#)), and hence each country's ability to meet the economic goals articulated in [Europe 2020](#)'s drive for growth and jobs.

The motivation for improving service delivery can be manifold – whether in response to demands from citizens and businesses for higher quality or greater accessibility, or due to an internal search for more cost-effective ways of working and better organisation. As Europe's administrations are obliged to 'do better with less' in the current financial climate, the 2014 [Annual Growth Survey](#) highlights the efficiency gains that can accrue from modernising service delivery, not just to governments and judiciaries, but also to the economy.

The rise of the 'digital society' has heightened expectations from e-service delivery among citizens and businesses. Globalisation, the digital society, 24/7 media and social networks have opened the eyes of citizens and businesses to what is possible. Learning from their experiences with the commercial sector, they want services which are better, faster, cheaper, and in many cases, they want more from their public administrations. It is no longer the case that technology is simply employed to automate back office functions and improve public sector productivity, a worthwhile goal in itself. ICT has now assumed a transformative role in public service design and delivery.

⁽¹⁾ Throughout this chapter, we use the term 'citizen-user', to bring together the broader concept of a 'citizen' (who has the rights and duties of a member of society) with the narrower notion of a 'user' (who has the rights and expectations of a customer or consumer of a service). Similarly, this chapter also refers to business-user, as the other main beneficiary of public services. Public and non-profit bodies are also service users and covered by 'others'.

“We are going to radically change the relationship between public administration and citizens. We want public administration to move at the same pace and speak the same language as its users. The approach of many administrations still focuses too much on obligations and procedures and too little on improving citizens’ quality of life.” Marianna Madia, Italian Minister of Public Administration and Simplification, European Commission conference, 1 October 2014

Every country organises its public services in its own way, in accordance with its institutions, culture, traditions, and its choices regarding the boundaries between public and private provision, and state, community and individual. This chapter is not concerned with structures, but it is about channels: how does a modern public administration interact with service users, including other authorities? It focuses on the following questions, and sets out ways and tools to address them.

Key questions	Ways & tools to strengthen capacity
Do we know what citizens / users expect from our organisation in terms of services and their delivery?	<ul style="list-style-type: none"> • Direct contact (surveys, panels, and focus groups) • Indirect feedback and representation • Mystery shopping • ‘Life events’ analysis & customer journey mapping
How do we improve our processes in order to optimise service delivery?	<ul style="list-style-type: none"> • Process re-engineering • Administrative simplification
Are user demands met through the ‘front office’ interface with the administration?	<ul style="list-style-type: none"> • One stop shops • Multi-channel service delivery
Given all of the above, do we make best use of e-Government in delivering these services through online channels?	<ul style="list-style-type: none"> • Interoperability • Online life events • Key enablers (e-ID, single sign-on, etc.) • ‘Once only’ registration • ‘Digital by default’ • ‘Open by default’ & ‘clouds of public services’
Do we know how satisfied users are with our services and how we deliver them?	<ul style="list-style-type: none"> • Users’ service charters • Satisfaction measurement and management

4.1. Understanding users' needs and expectations

In designing and delivering services, public administrations should not only rely on their own expertise and insights. Public service users have to be involved in expressing their needs and expectations, and already are more and more. Where traditional relationships with citizen-users were bureaucratic and hierarchical, the new relationships are instead more pluralistic and user-centric.⁽²⁾ This demands an approach from public administrations in order to get citizens and businesses involved, with the aim of gaining an insight into their perceptions, expectations and commitment through active participation.



Growing demands on public services

The citizen-user has a different relationship with public services than with the private sector: by and large, the public are more ambivalent about government services, not giving them much thought at best, and at worst wanting to have as little to do with them as possible. Nevertheless, the public sector has come under growing pressure to match rising private sector standards. What has been achieved by leading commercial providers shows what is possible: *I only need to tell my bank once that I've moved, so why do I have to tell the 'government' so many times?* The media also encourages citizens to become more vocal and demanding.

With government now more open than ever, and awareness at its highest due to round-the-clock press coverage and social media, it should be in every administration's interests to follow the aspirations of citizen-users and business-users and how these translate into better services. Driven by global competition, advances in technology and the offerings of leading commercial players have raised the standard of what constitutes an acceptable level of service. If we want our services to be used and our interventions to succeed, we need to meet the public and enterprises on their terms, and manage needs and expectations more clearly along the way, seeing the results in higher satisfaction levels.

Expectations have a central role in influencing satisfaction with services, shaped by a very wide range of factors. It is arguable that the range of influences is even wider for public services than private ones. Before (re)designing and delivering services, the needs and expectations of users need to be captured. Different ways and means⁽³⁾ can be used with service users - the choice depends on the situation faced by the service provider:

The administration	Potential tools
... Has the time and resources to initiate original customer research, and hence make direct contact with actual and potential service users.	<ul style="list-style-type: none"> ✓ Performing user surveys to ask citizens and businesses directly about their preferences and experience ✓ Setting up focus groups for more qualitative research ✓ Creating citizen/user panels for qualitative dialogue and continuity
.... Makes the most of more readily available sources of information, to get indirect feedback from existing service users and their representatives	<ul style="list-style-type: none"> ✓ Seeking insights from front-line staff (feedback they receive from users indicating needs) ✓ Performing analysis of comments and complaints made by existing service users ✓ Making formal and informal contact with representative bodies

⁽²⁾ OECD (2001), "Engaging Citizens in Policy-making: information, consultation and public participation". PUMA Policy Brief, No.10, July 2001.

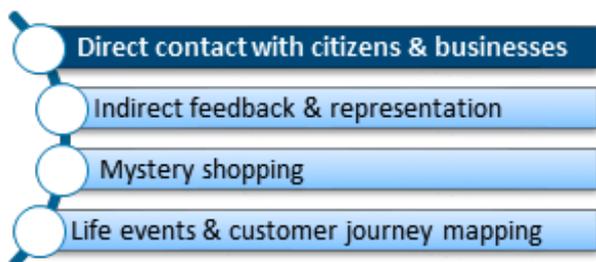
⁽³⁾ For a more detailed description on tools and examples see Thijs N., and Staes P., (2008), "European primer on customer satisfaction management", EUPAN.

The administration	Potential tools
... Invests in objective testing of the suitability and strength of service delivery, simultaneously taking the users' point of view.	<ul style="list-style-type: none"> ✓ Using 'mystery shoppers' to independently evaluate the service experience ✓ Performing 'customer journey mapping', usually based on 'life events', to <i>walk</i> the path that users have to follow to receive the service

In fact, these options are complimentary, not mutually exclusive. All of these tools provide their own insights into customer wants, behaviours and motivations. They allow administrations to understand what is valued by service users, how this varies between different types of people or organisation, and thus where action can be taken to generate new services, try out new delivery channels, or make incremental changes.

The assessment of needs and expectations can take place using these techniques at different stages in the lifetime of a service, depending on whether it is newly-conceived or well-established: at concept stage; during piloting; through implementation; and even when considering phase-out if a service is no longer felt to be required. Indeed, consultation should be seen as a continuum that starts with identifying initial needs and expectations, and later monitors and evaluates satisfaction that these preferences are being met during delivery or have evolved (see [topic 4.6](#)).

4.1.1. Direct contact with citizens and businesses



Current and potential clients can be approached directly for their views and insights. The main strength of **user surveys** is they allow for mass collection of information, and hence are especially useful in building up a comprehensive picture using quantitative data. If done correctly, this information should be representative of the population as a whole (whether citizen-users or business-users). Four types of user surveys are possible, within two main categories:

- Surveys which are led by a **competent interviewer** - the choice is face-to-face or telephone-based;
- Surveys which require **self-completion** of questionnaires by the respondent - the choice is postal or internet-based.

Some advantages and disadvantages of these four types are set out below.⁽⁴⁾

Survey type	Pros and cons
<i>Face-to-face</i>	<ul style="list-style-type: none"> ☑ Surveys conducted face-to-face are able to collect fuller, more complex data. ☑ The use of an interviewer gives more control over who is approached and therefore who actually answers the questions. This is important with strict statistically representative sampling designs. ☑ Designed with care and administered well, they will generally have better response rates than other types of survey.
	<ul style="list-style-type: none"> ☒ Face-to-face interviews are labour and time intensive, and are likely to be more expensive than other options.
<i>Telephone</i>	<ul style="list-style-type: none"> ☑ This format can be very cost-effective, if the survey is relatively short and straightforward. ☑ Appropriate for service-specific surveys where there is a contact number for each person from which to draw a sample (a pre-condition).
	<ul style="list-style-type: none"> ☒ Some categories of people will be systematically under-represented, especially those who are hard-to-reach.
<i>Postal</i>	<ul style="list-style-type: none"> ☑ Like telephone interviews, these need to be shorter than face-to-face surveys and use mainly simple, 'tick box' types of questions to achieve a reasonable response rate. ☑ They can be very cost effective (cheap to set up) and provide anonymity which may prompt a better response rate for more sensitive topics.
	<ul style="list-style-type: none"> ☒ They offer very limited scope to ask qualitative questions, even less than telephone surveys. ☒ Response rates tend to be low, for example only 10-20% of questionnaire being returned. This has to be planned into the survey design. ☒ There is a high risk that some citizen groups will be over or under-represented, such as those with language, literacy difficulties or with support needs.
<i>Internet</i>	<ul style="list-style-type: none"> ☑ Electronic surveys can be very cost-effective with a high response rate for users which are easy to target through the internet, for example, professionals, public bodies, even businesses.
	<ul style="list-style-type: none"> ☒ At present, web-based or email surveys are of limited value in customer research in public service contexts, because the distribution of access to the web is not evenly spread across all sections of the population.

The choice of survey format should be tailored to the purpose and the audience, by analysing the total population of users in advance.

The main drawback of surveys in general is that there are limitations on getting qualitative impressions from users, even with face-to-face interviews. While surveys don't have to be limited to closed questions (such as 'yes/no/don't know', 'how many times' or 'rank on a scale'), and can include open-ended questions with responses either captured verbatim or coded into types/groups later, it takes a skilled interviewer and a semi-structured questionnaire to engage in dialogue with a service user. This technique can capture new insights through several rounds and layers of questions, but at the cost of fewer topics and a smaller sample group than quantitative surveys would allow.

A more appropriate device for in-depth qualitative research is either the **focus group** (bringing together a small but diverse group of actual or potential users for a one-off discussion) or the **user panel** (sometimes also referred to as 'user group').

⁽⁴⁾ Communities Scotland (2006), "How to gather views on service quality", Scottish Executive, p.72.

Merits of a user panel

A panel is essentially a group of service users who have consented to be part of a pool of people that will be used to select samples to take part in periodic research and consultation exercises. They are chosen to be broadly representative of the whole population of real or desired service users. The main advantage of user panels is their continuity, which allows a dialogue to develop and different scenarios to be tested over time.

A variety of methods may be used to collect data from panels. For example, panels can be used as a basis for sampling for a survey or as a source of people to recruit to focus groups or other qualitative approaches. Set-up represents the bulk of the costs, but panels also need to be actively monitored and refreshed to maintain the desired level of ‘representativeness’, and are not immune from all the common problems of research fatigue that are evident in other approaches.

In the private sector, the boundaries tend to be well-defined – the business supplies and the customer buys – and the contribution of the user group to improving products and processes is similarly clear-cut. In the public sector, where the citizens choose their elected representatives and hence have a stake in the administration, there is scope for more participatory relations. At the local level, there is scope for citizen-user panels to become more than just ‘sounding boards’, if the municipality chooses to give them a formal advisory role, or even decision-making powers on grants and initiatives, as a form of co-decision (see [topic 1.4](#)).

Whichever direct techniques are employed, they should be ‘fit for purpose’. When Liverpool City Council wanted to make their website more user-centric, they brought in an expert on customer-centric websites to conduct research that had the actual needs of the beneficiary in mind, rather than with what the institution thought the needs were. Analysis showed that the more important a task was to a customer, the less content was being published on it, and vice versa. By looking at what users were *actually* doing when they clicked on the site, the City Council was able to turn that relationship around.

Liverpool City Council’s task-focused website (United Kingdom)

“The new [Liverpool City Council website](#) is one of the best examples of a top task focused website I have come across. One of the hallmarks of a truly excellent website is that you can start doing the top task on the homepage. So, ten years ago you went to a hotel website and you saw a picture of a room on the homepage. Now, you can start booking the room. If you go to a hotel website today and you can’t do that, what’s your impulse? Most people will want to hit the Back button. If you go to the Liverpool City Council website homepage, you can immediately start selecting a leisure facility. You can also very easily find a library, find out when your bins are being collected and report a fault.

In 2010, we did a top task analysis for Liverpool. Customers were asked to vote on 84 tasks. The top 6 tasks got as much of the vote as the bottom 49 tiny tasks. A great website makes its top tasks really easy to complete. To do this is makes sure they dominate the design and that they are continuously improved. It is possible to continuously improve 6 tasks, but it is impossible to continuously improve 84. To make a top task easier to complete, you will almost always have to make tiny tasks more difficult to complete. This is hard to do. The tiny tasks know they’re tiny and will fight hard to get more prominence on the website. All tiny tasks dream of growing up to be top tasks and taking their rightful place on the homepage.

Liverpool took a ‘facts not opinion’ approach to developing their website. Once the top tasks were established, they were tested with real customers. To achieve excellence in web management, you must make decisions based on what your customers actually do on your website. Not what you would like them do. Not even what they tell you they would like to do. What they actually do when given a task.

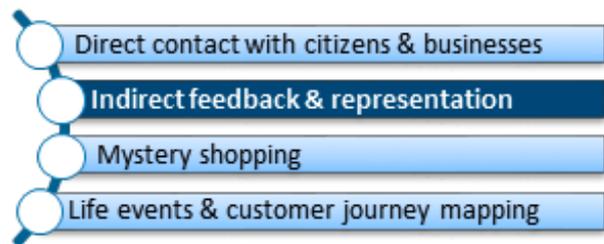
By embracing evidence-based decision making, Liverpool City has achieved a level of clarity and simplicity that is rare for a government website. Another council website that has also done an excellent job with top tasks is Lancashire. In Lancashire we found that the top 5 tasks got as much of the vote as the bottom 55 tiny tasks. Despite the fact that Liverpool is a city, and Lancashire is more rural, there is a lot of similarity between their top tasks. Customers are interested in roads, bin collection, jobs. We have found that the same type of top tasks emerge again and again.

Government takes two things from us: our money and our time. By having a great website, Liverpool City gives back to its citizens services in double quick time. Governments should embrace the concept of citizen productivity. A mark of a great government website is that it allows us to complete top tasks really quickly.”

Source: <http://www.gerrymcgovern.com/new-thinking/top-tasks-and-council-websites>

4.1.2. Indirect feedback and representation

Trust in public services starts with openness, which means willingness to accept feedback even when it is critical, and to learn from it. **Comments, suggestions and complaints schemes** are valuable sources of information for public administrations on service relevance and quality. Such schemes often tend to record formal complaints in which the service user is seeking explicit redress. It is vital to regularly monitor and act expediently on such concerns, as the Complaint Front Office in Milan demonstrates using several channels (contact centre, website, post and fax) to generate an impressive track record in quickly responding to citizen concerns on service quality.



Inspiring example: 'Complaint Front Office' for service quality (Italy)

The 'Complaint Front Office' aims to bring the public administration and the citizens closer together. The administration's contact points are the website, the contact centre and the multi-functional front office. The website offers online services and exhaustive information about the sectors in which the body operates. The contact centre and the front office are the two indirect ways of communicating, thanks to an operator and/or facilitator.

The Complaint Front Office records and manages the dissatisfaction with the public services provided to Milan's two million inhabitants. Before the creation of this service, there was no institutionalised front office able to record and manage all incoming complaints. The complaint management procedure is an integral part of the Quality Management System implemented by the City of Milan according to the UNI EN ISO 9001:2000. This certificate guarantees the quality of the administration's services and allows the users access in many different ways. The Customer Care Service manages the procedure for recording and sorting out the complaints that the office receives. Moreover, the Customer Care Service identifies the internal or external responsibilities as far as the complaints are concerned and verifies that the citizens' demands are satisfied properly and in time (within 30 days). It is possible to lodge a claim by filling in the specific form via one of these channels:

- Website: The claimant fills in the form on the web and sends it directly to the back office computer;
- Front Office: The operator receives the specific form and scans it directly to the back office computer;
- Contact Centre: The operator explains to the claimants the different ways in which they can make a complaint and provides them with the contacts;
- Fax: The claimant fills in the specific form, which is available in every municipal office, and sends it by fax to a leased number;
- Post: The claimant fills in the specific form that is available in every municipal office, and sends it by post to the back office address.

Milan Complaint Front Office has been recognised as one of the best systems for listening to citizens' needs in force in one of Italy's big cities. The journal 'Altroconsumo' assigned the Milan Complaint Front Office the highest score in terms of its skills, courtesy and timely replies. From February 2007 to February 2009, the Complaint Front Office handled approximately 12 000 complaints and solved 92.9% of the complaints within an average time of eight days.

For further information: Dr Paolo Poggi, Direttore Settore Pianificazione e Controlli, Paolo.Poggi@comune.milano.it; Morena Montagna, Mariamorena.Montagna@comune.milano.it

As another example, the Netherlands introduced a cross-government policy on complaints handling and conflicts resolution. This starts from the recognition that the procedure for complaining, objecting and appealing decisions carries high costs for both the administration and the citizen / business, and that the best way to raise satisfaction levels is for officials to take the initiative and make quick and direct contact with the complainant.

Inspiring example: The Informal Pro-active Approach Model (the Netherlands)

In the Netherlands, the Ministry of the Interior and Kingdom Relations initiates, stimulates and supports an Informal Pro-active Approach Model (IPAM) for all government organisations. The model provides a fundamental change for complaint handling and conflict resolution in public administration. From a traditional, formal, judicial, procedural and written approach towards an informal, pro-active and personal approach.

Both the private sector (citizens and businesses) and government spend millions in hours and euros every year on complaint, objection and appeal procedures against government decisions. Of the total amount of administrative burdens (red tape) for citizens in the Netherlands, 11 % is caused by complaint, objection and appeal procedures.

The government is a bureaucratic system and operates according to rules and regulations. Government organisations are responsible for decisions on whether for example an individual can be granted a building permit, is entitled to receive income support, has to pay taxes or is entitled to receive a refund or a subsidy. When citizens do not agree with such a government decision, discover mistakes, or do not understand a decision taken, traditionally their only possibility to address this is through a formalistic, legalistic and written complaint, objection or appeal procedure.

The new pro-active, personal and solution driven approach consists of two interventions:

- Upon receiving an objection against a government decision, a public servant ensures quick and direct personal contact with the citizen concerned (telephone call or informal meeting); the public servant uses communication skills such as listening, summarising and questioning from an open, unbiased approach, and certain conflict management techniques that can lead to de-escalation and conflict resolution.
- During the preliminary phase in decision making, a public servant contacts the citizen to test that the information on which the decision will be based is correct and complete, and in order to explain why a certain decision is about to be made and to explore possible alternative solutions with the citizen.

Research into the effects of a pro-active solution-driven approach to complaint, objection and appeal procedures shows a reduction in the number procedures, saving the authorities time and money (20%-30% cost reduction) and increasing citizen satisfaction by 40% and improving job satisfaction for government employees by 20%. In 40%- 60% of the cases where the informal approach was used, a solution was found and the objection procedure was cancelled. It also showed a positive effect on the processing time of objection cases (37% reduction of processing time).

For further information: Lynn van der Velden, Project Leader, Ministry of the Interior and Kingdom Relations, lynn.velden@minbzk.nl

Many informal suggestions may go unrecorded in comments and complaints schemes, but can also provide valuable insights into service users' views. They can be utilised alongside other data collection techniques to assess performance and highlight areas of good practice. Tips for consideration to make best use of both formal complaints and informal comments include:

- Contemplate all the possible avenues by which feedback can be gathered, not just the traditional face-to-face and hand-written complaints, and look to the experience of the private sector which is increasingly using **social media** as the main channel (setting up dedicated Twitter accounts and Facebook pages) – but which also requires systems in place to deal rapidly with the potential volume;
- **Train staff** to spot informal 'complaints', see them as valued, and record them consistently;
- Consider **definitions** - what is actually meant by a complaint; for example, if service users actually request information, but these requests can only be recorded as 'complaints', statistics may be misleading;
- Review the complaints systems to ensure **clarity and consistency** in recording (including informal ones), classifying across the organisation, and analysis by management, but also ensure that this does not become too bureaucratic or burdensome for staff;

- Be ready to **provide an instant response**, especially to complaints through social media where both the comment and the response are highly visible, but equally allow time to **investigate the substance** of a complaint (beyond the immediate obligation to establish if redress is warranted), in order to understand what happened and to draw out the wider lessons; and
- Collect detailed information to help **identify patterns or causes** of complaints in relation to geographical areas or service user characteristics.

In some cases, administrations may wish to focus their research on specific target groups that face a higher risk of being excluded from accessing public services, if their particular circumstances are not taken into account sufficiently. The case of people with disabilities using Łódź–Bałuty tax office demonstrates the merit of reaching out to **representative bodies** in identifying improvements in both communication and physical access.

Inspiring example: Improving access to the Łódź–Bałuty tax office (Poland)

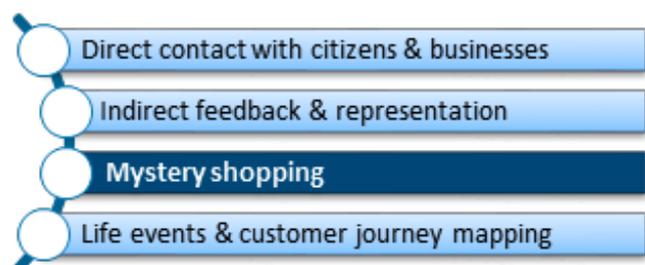
Since 2006, the Polish Tax Office Łódź–Bałuty (Drugi Urząd Skarbowy Łódź–Bałuty) has made special efforts to improve their service to citizens with disabilities. By establishing cooperation with organisations representing and associating with disabled persons, the Head of the Office hoped to obtain valuable insight into their needs, in order to enhance their social functions, and, in particular, to facilitate the process of fulfilling their fiscal duties. The Head of the Office organised a number of meetings with representatives of the aforementioned organisations, and consulted with them directly about the accommodation in the office, with the aim of improving the conditions in which disabled people are served. He also asked for their opinions on manuals in which guidelines were set out for providing services to the disabled.

During the meetings, emphasis was placed on modern, safe and costless way of accounting for the tax office electronically. The participants were informed about the possibility of deduction of income tax from individuals, in particular, relief rehabilitation. Organisations of persons with disabilities are informed regularly (every quarter) in electronic form on the planned training courses organised at the headquarters of the local office, including its scope including, among other things, changes in tax law. This resulted in a number of effective actions: an instruction manual and training in sign language and communicating with the blind for the employees, and architectural improvements (room admissions for people with disabilities, an access ramp for wheelchairs, bright colours and contrast in materials displayed in wall-mounted display cases, etc.). The headquarters office is in contact with the local tax office to provide access to the services of an interpreter of sign language into Polish and from Polish into sign language, using wideotłumacza. The film promoting the above method of communication can be found at http://youtu.be/RLuK_xrEgV4, which may also be accessed through the website office: www.2usbaluty.lodz.pl. In addition, the office has implemented a system that allows the transfer of information and communications to customers via SMS / e-mail related to the fulfillment of tax obligations. For example, customers with disabilities are sent information about relief rehabilitation.

For further information: Ms Agata Kościak, QMS Officer, Łódź–Bałuty tax office, agata.kosciak@ld.mofnet.gov.pl

4.1.3. Mystery shopping

Sometimes, the best way to understand service delivery from the user's perspective, and to spot the opportunities for improvement, is to send a representative out into the field to see for themselves. 'Mystery shopping' is a well-established technique in the private sector that has transferred to public services: the use of individuals trained to observe, experience and measure any customer service process, by acting as service users or customers and reporting back on their findings in a detailed and objective way. This procedure can be used over the telephone, in face-to-face situations or by email. The idea is to test out the actual customer experience of services. It might be used as a free-standing exercise, to follow up an issue identified through



other methods such as a user survey, or after analysing recent complaints. Telephone-based mystery shopping may be well suited to covering any large, dispersed population. There may be scope to undertake this kind of approach on an on-going basis to get more regular feedback.

The exercise involves deciding on suitable scenarios – typical situations or issues that service users may present, rather like ‘frequently asked questions’. The quality and value of the mystery shopping process depends on the **design and execution of the scenarios** used to test service delivery:

- Don’t be too ambitious – **planned but simple approaches** are likely to be the most effective;
- Be careful to ensure **ethical behaviour and not entrapment** – it is important that staff and other appropriate parties such as trade unions know that mystery shopping is planned, although they should not be told exactly when and where it is to happen as this would undermine the process;
- Emphasise **learning lessons not allocating blame**, as (like the use of complaints as feedback), the critical issue is the culture of the organisation, meaning that the identity of the parties involved is not really the point; and
- Provide **feedback to staff** on the findings and the intended follow-up actions, so that they see the value of the whole process from beginning to end.

The value of mystery shopping was illustrated by the Belgian social welfare service, which examined how easy it was to contact the federal office and get a consistent and timely response, leading to the ‘Front Desk’ initiative.

Inspiring example: Mystery shopping for social welfare (Belgium)

The Belgian Federal Service for Social Integration (POD MI) helps 589 local public centres for social welfare by giving them financial aid and support for various groups of people (e.g. refugees and people without any means of support). A mystery shopper project in 2007 revealed that:

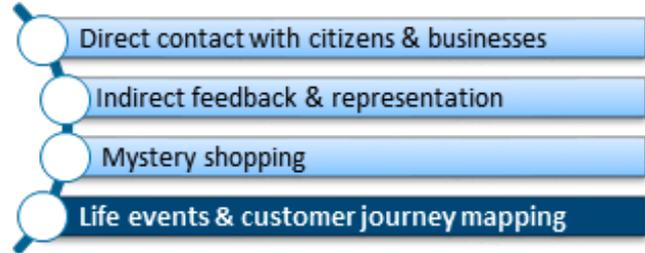
- It was not always easy to contact the POD MI. Our clients were able to reach the POD MI in only 60% of cases. Sometimes the telephone was not answered and sometimes e-mails were not dealt with quickly enough.
- If the same question was asked of two different departments, clients did not always receive the same answer.
- The time spent by experts on responding to standard questions was too great.

That is why we decided to install a Front Desk to receive, deal with and distribute all incoming calls and e-mails. The Front Desk receives and deals with all incoming calls, e-mails, faxes and letters. The Front Desk tries to answer questions by using a large database of FAQs. If the Front Desk is unable to answer a question, the back office is contacted. Via the Trinicom Web Self Service Module, the database of FAQs is also available to our clients on our website.

For further information: Julien Van Geertsom, Chairman of the Management Committee, julien.vangeertsom@mi-is.be

4.1.4. Life events and customer journey mapping

While individual services can be assessed at specific points in their life cycle, a more dynamic analytical approach is to evaluate users' experiences of **'life events'** – common, crucial moments or stages in the lives of citizens or the lifespan of a business. For the user, accessing the service that they want – or are entitled or obliged to receive, in the case of registrations, permits, taxes, charges and duties – typically involves multiple contacts with more than one administration. Often, individual elements of the 'life event' service are fragmented across units within one organisation or across several different institutions, according to the competences assigned by the executive. The 'life event' approach is both a tool of analysis, and the basis for organising public services, especially electronic services online that can exploit the processing and networking power of ICT (see [topic 4.4](#)).



There is no universally agreed definition or directory of 'life events', but the following are typical examples:

Citizen-users	Business-users*
<ul style="list-style-type: none"> • Having a baby (including registering the birth) • Attending hospital • Arranging for childcare • Studying (enrolling in higher education & applying for finance) • Using a public library • Looking for a job • Starting a job • Paying income taxes and social contributions • Becoming unemployed • Marrying • Changing marital status • Buying, building, renting or renovating a property • Travelling to another country • Moving within one country • Moving to another country • Applying for a driver's licence (including renewal) • Owning a car • Reporting a crime • Starting a small claims procedure • Applying for a disability allowance • Retiring • Dealing with the death of a close relative 	<ul style="list-style-type: none"> • Starting and registering a business • Applying for licenses and permits • Building, buying, renting or renovating a property • Hiring an employee • Running a business • Paying tax and social security contributions • Trading across borders • Closing a business (including insolvency proceedings)

(*) Business events are explored further under [topic 5.2](#).

The essence of ‘life events’ analysis as a technique is two-fold:

- Understanding all the **individual steps** involved in achieving the desired outcome; and
- Identifying all the **institutions** and their units or agencies that are involved along the way

The transferable element of ‘life event’ measurement is the **perspective**: it has a clear added value above other methodologies for (re)designing services and their delivery, by offering both a user-centric and government-wide picture, revealing where services are both more and less appreciated. The aim is not simply to assess the service performance of each individual organisation in isolation. The fundamental point is to understand each event as a whole, as the citizen or business sees it. This technique evaluates the experience of the *whole* service coming from multiple organisations.

In some cases, there will be **links between individual ‘life events’**, especially with cross-border services. For example, moving to another country may be preceded by applying for a job or arranging to study in that country, and once it happens will include arranging property, registration, changing the address of a driving licence, updating information in the country of origin on tax, pension, social insurance etc.

As an analytical tool, ‘life event’ analysis is most useful for a coordinating ministry. Increasingly, it is also the basis for designing e-Services (see [topic 4.4](#)). Picturing the ‘life event’ is not enough on its own, if the goal is to achieve better performance. In order to design a service that is truly fit-for-purpose, this means also conducting an **in-depth investigation of bottlenecks** in the process. It can be said that every process has bottlenecks⁽⁵⁾, the question is not how to eradicate them entirely, but rather where are they, and how can they be managed to create the optimal path and most satisfying experience for the user.

This is where additional methodologies come in, like **customer journey mapping**, to translate the analysis of ‘life events’ into action to improve them. Even with the best specialists being recruited, trained and nurtured in a public institution (see [theme 3](#)), the real expert in relations with the administrative authorities is the user, who is often the only person, whether citizen or business manager, with a whole view of the administrative journey taken to benefit from a service. This journey often does not involve one simple action alone, but rather a series of interactions with a number of government agencies - documents to be provided, case files to be opened, timings to meet, deadlines to be complied with, etc. Some of these tasks follow on from each other and some may be completed at the same time.

Mapping the customer’s journey

A customer journey map is a way to describe the experiences of a customer during their interaction with a service or set of services and the emotional responses these provoke - from their first consideration of a related need, to receiving the service outcome. When exactly do users feel dissatisfied and why? To answer this question, it is essential to understand very precisely the steps that users have to go through.

⁽⁵⁾ This is well articulated in: Goldratt, E.M.; Cox, J., “The Goal: A Process of Ongoing Improvement”.

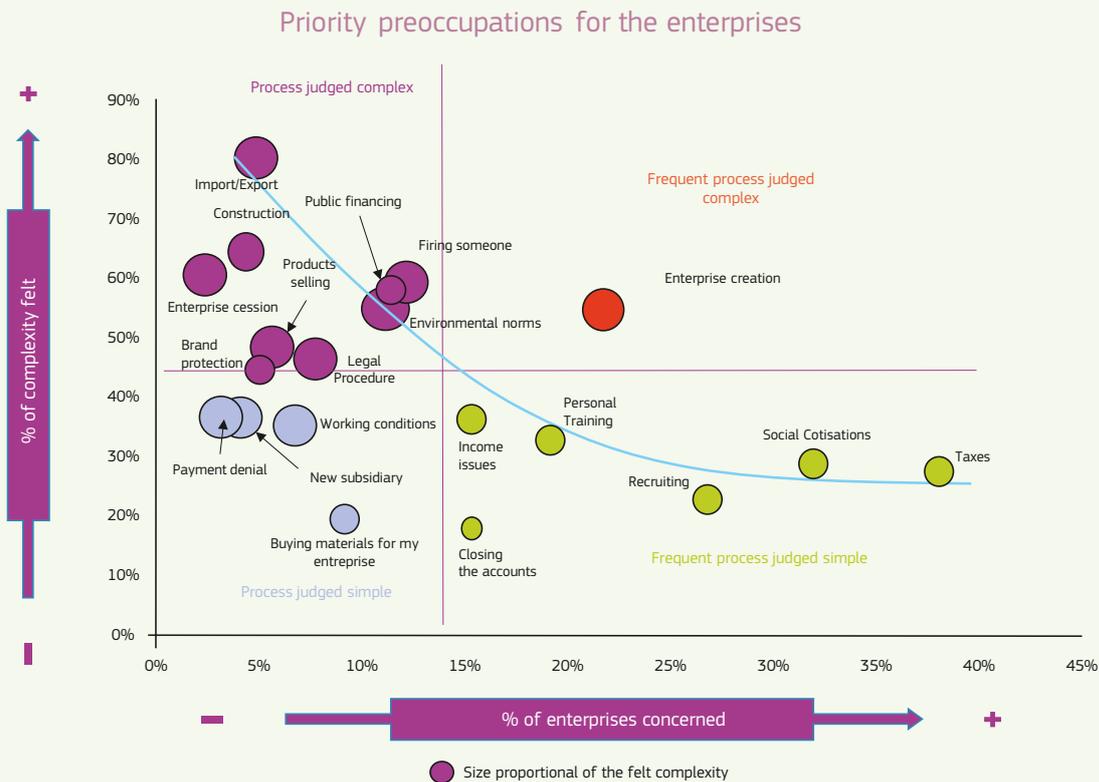
Customer journey mapping typically starts with separate interviews with a sample of individual users, each of whom is asked to comment on each of the steps and to describe the reasons why they are satisfied or dissatisfied. The main ‘hot spots’ that are found again and again can be identified by putting the mapping and the comments together. As well as identifying users’ expectations and dissatisfactions as they go through the necessary procedures, this mapping allows us to identify all the different types of dissatisfaction, some of which relate to poor quality of reception at the counter or other entry point, lack of information, a process that is too complex to complete a procedure, inconsistency between different services within the government agency, etc. In general, three different techniques can be applied:

- **‘Buddy up’**: The assessor accompanies a customer and front-line staff member going through the same process or system, experiences things exactly as they do, notes down the steps taken and levels of satisfaction from both perspectives, and compares internal and external experiences.
- **‘Walk the walk’**: Like mystery shopping, the assessor steps into the shoes of their users, takes time to walk personally through the entire system/customer journey step-by-step, takes detailed notes focusing on time taken, duplication, points of high and low efficiency, and compares thoughts with colleagues.
- **‘Steal with pride’**: The assessor identifies agencies/companies/service providers who have systems similar to the one being mapped, from both public and private sectors, and asks the following questions: What do they do differently? Which parts of the system are better/worse? What can you learn and use in your own system?

The main ‘hot spots’ can be identified by putting mapping and comments together (e.g. poor quality of reception at the entry point, lack of information, procedures too complex to complete, inconsistencies, etc.). In government, customer journeys are often complex, with multiple interactions taking place over extended timeframes. Customer journey mapping is a particularly useful tool to help describe the user’s experience of a series of individual services, their thought processes and reactions. It can help to ensure a consistently good overall service experience, optimising outcomes for all customer groups, increasing efficiency, and ensuring the individual services are designed correctly.

Inspiring example: From measuring complexity with life events to mapping the journey with businesses (France)

The Modernisation State Department in France (*Secrétariat général pour la modernisation de l'action publique*) carries out a large scale survey amongst user groups (individuals, businesses, local authorities and associations) in its **bi-annual complexity barometer**. The initial survey in 2008 was based upon 6 000 telephone interviews split between 3 015 individuals, 1 029 businesses, 804 local authorities and 805 associations. A quota sampling method was used to ensure that each sample was representative. The study was organised around life events for citizen-users (buying a house, getting children, etc.) and business-users (recruiting staff, paying taxes, etc.). The perceived complexity is measured for all these events, as illustrated in the following graph for businesses.



One of the events perceived as the most complex and frequent was the “creation of an enterprise”. Over 300 000 businesses are set up every year, an administrative procedure characterized from the outset by its length. In order to analyse in detail the exact sources of dissatisfaction with concrete moments of interaction with the public administration, and to identify opportunities for improvement, **customer journey mapping** is used a qualitative technique.

Of all the administrative procedures studied, **setting up a business** is one of the longest and most complex in terms of the number of steps and the number of documents to be obtained. Customer journey mapping, or recording the event from the user’s point of view, allowed to see these two realities in a new light, revealing, for example, that administrative pressure grew, reaching its peak during the first few months the business is operating, just when the entrepreneur needs to devote all of his or her energy to helping it grow. It also, of course, identified a number of administrative inconsistencies. A business that has been formed in legal terms still has to obtain an operating license (covering equipment, receiving the public, etc.) in order to start up its activity (this is true of at least a hundred types of activity). In concrete terms, this sometimes means waiting several months before actually being able to launch operations. This finding is very important in focusing improvement efforts since the users’ progress clearly shows that, even though some problems remain, the effort made to improve the “legal” company formation phase has improved the situation, by setting up one-stop shops in the Business Registration Centres (CFE). By contrast, issuing operating licenses has not so far been covered by the streamlining initiatives, in particular the paperless process.

This second phase in setting up a business, **from legal formation to operational activity**, is a difficult and, by its nature, very dissatisfying period for entrepreneurs, who thought or hoped they would be able to launch their activity but find themselves confronted with new government agencies, new contacts, etc. This is the second major lesson from the study. While entrepreneurs feel that they have plenty of support upstream, where it is simply

a question of developing their project, as soon as the company has been formed in legal terms, they are subject to multiple obligations, repeated declarations and all sorts of red tape. Faced with these difficulties, they find that the government, as a partner, also becomes the source of all the irritation. Having to comply for the first time with requirements they didn't know existed, entrepreneurs find themselves drawn away from the heart of their activity and, either alone or with their accountant, rapidly have to take on this new management role. It is therefore necessary to allow commercial activity to start up more quickly and, as far as possible, to give the project founder the means to respond to government requirements, which must be clarified and rationalised. Some very tangible improvements have been realised:

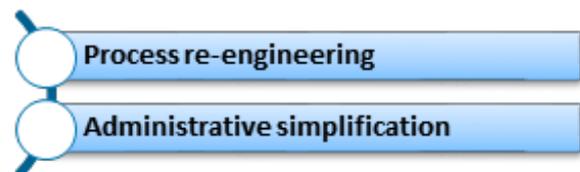
- ✓ Ensuring applications are complete when filed with the Business Registration Centre and guarantee formation times (48 hours for CFE + registry, i.e. 48 hours to obtain Kbis).
- ✓ Allowing activity to start up quickly by also guaranteeing the time required to obtain all operating licences.
- ✓ Abolishing requests for unnecessary documents that act as stumbling blocks. Example: evidence of lease, which can only be obtained once the Kbis has been issued!
- ✓ Offering a completely paperless process right to the very end (legal notice), with a single online payment.
- ✓ When the business is launched, abolishing all duplicate requests for information by making the business registration file available. The corollary of this streamlining is: abolishing the need to register the articles of association with the tax authorities, abolishing start-up declarations, self-employed status (RSI) requests, etc.
- ✓ Offering a different form of administrative treatment to entrepreneurs and promoting access to public markets for young VSEs (very small enterprises).
- ✓ Harmonising the guidance offered to young entrepreneurs and making guidance generally available during the first year's activity.

For further information: <http://www.modernisation.gouv.fr/en/mapping-users-journey-improve-service-public>

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4.2. Improving processes to benefit public service users

Administrative burdens are the costs to businesses and citizens of complying with the information obligations that arise from laws and regulations (see [theme 1](#)). In the words of OECD, they “refer to regulatory costs in the form of asking for permits, filling out forms, and reporting and notification requirements for the government.” In delivering 21st century public services that meet user expectations, one of the main policy drivers has been the desire to achieve **administrative burden reduction (ABR)**, usually known as ‘cutting red tape’.⁽⁶⁾



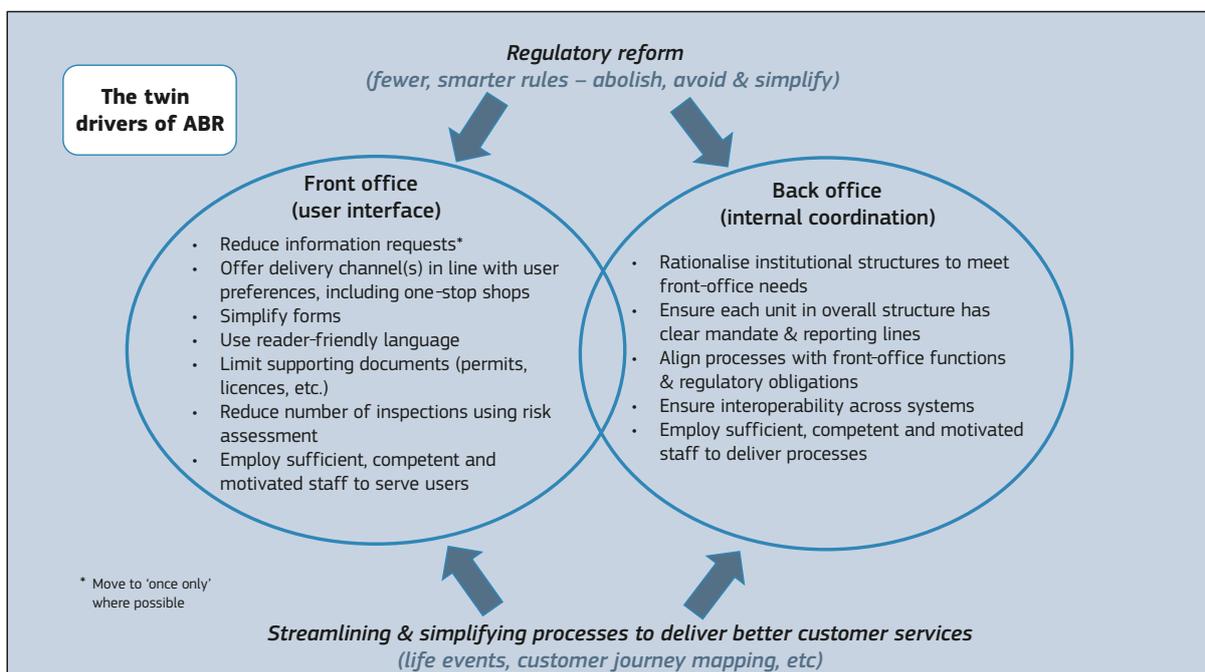
ABR typically starts from **regulatory reform** – abolishing unnecessary laws and regulations (or avoiding creating them) and simplifying essential ones as far as possible – following a process of review and impact assessment (see [theme 1](#)). This is an especially hot topic for business ABR (see [theme 5](#)). Regulations determine what documents are required, what checks are made, what follow-up is needed. Where a regulation is amended or abolished, this can remove the need for an entire function or unit within an administration, or it can fundamentally change its *modus operandi* (e.g. regarding permits or inspection). Minimising the regulatory burden has a direct impact on service delivery, as it affects both *what* institutions do and *how* they do it (including when, where and in some cases, how much they charge).

Regulatory reform generates some administrative simplification of itself and creates the right climate for more. But it is not the whole story.

⁽⁶⁾ OECD (2010), “Cutting Red Tape. Why Is Administrative Simplification So Complicated? Looking beyond 2010”.

- Regulations are often open to interpretation by administrations, in respect to how they are implemented. Public administrations have **choices** about how information requests, inspections and other processes are applied - the way in which requests are made, the number of steps and time taken, the checklists used, the procedures applied, the format of documents requested. In some cases, administrations apply charges for performing these tasks, which add to the costs to the service user, on top of their time. Sometimes these charges were not envisaged when the regulation was first designed.
- Public administrations also have **decisions** to make anyway about the organisation of services, the location of facilities, the delivery channels offered to users, the number of staff that are recruited, trained and incentivised, and the IT and other resources that are utilised.
- Public administrations often have **discretion** when considering applications from citizens and businesses, within the framework of the rules. This can be a positive factor if the decision requires expert input or judgement, produces value for money in using limited resources and/or ensures that circumstances are taken into account, instead of being constrained by overly rigid rules. However, this discretion can be negative, if the process is not well managed, or if it is abused by officials for personal gain and a source of unethical behaviour (see [theme 2](#)).

All these factors affect the user’s experience of the service. Even without regulatory change, public administrations have the ability to **streamline and simplify processes** to reduce the burden on citizens and businesses. In many cases, it is in the administration’s own interests to do so, to free up resources and realise savings.



In meeting user needs and expectations, the challenge for governments is to balance, on the one side, the necessity of administrative procedures as a source of user information and a tool for implementing public policies, and on the other side, the compliance costs to citizens, businesses, NGOs and public authorities that arise from these requirements. In order to organise themselves in the optimal way to reach this balance, administrations need to understand, manage and improve both their internal working processes (back office) and the interface with the user (front office), keeping in mind their policy objectives. This is where ‘customer journey mapping’ (as illustrated in [topic 4.1.4](#)) can be the inspiration for streamlining and simplifying processes, centred on a dialogue with the service user.

The example of the Austrian Government's programme illustrates clearly the cost for citizens in time and money of administrative compliance. Their chosen solution is a combination of back office and front office reforms, and making optimum use of e-government (see [topic 4.4](#)).

Inspiring example: Reduction of administrative burdens for citizens (Austria)

In April 2009, the Council of Ministers decided on a comprehensive programme to reduce administrative burdens for citizens and improve the quality of governmental services. The aims were two-fold:

- ✓ Cutting time and costs spent on **information obligations** - reducing official channels by fostering the use of e-government solutions, enhancing intra-governmental cooperation, providing one-stop-shop solutions; and
- ✓ Improve **service quality** - making questionnaires and forms more comprehensible and easier to access, providing information in a barrier-free way at a central point of interest, and developing interactive procedures.

After the first quantitative and qualitative research, the 100 most burdensome activities were identified and workshops were organized to discuss potential mitigating solutions. Participants of the workshops were drawn from: legal experts from the ministries; civil servants from enforcement agencies; and stakeholders. Around 4 000 interviews were conducted by opinion-pollsters in order to estimate the burden and to identify starting points for reforms. It was calculated that these most burdensome information obligations for citizens cause 22 million requests, solicitations, petitions and declarations per year. This equals 32.3 million hours total burden for all Austrian citizens, consisting of: 4 million hours for obtaining information, 18.8 million hours for processing, 9.5 million hours for arriving at the local authority, and EUR 113 million out-of-pocket-expenses (copies, fare, etc.).

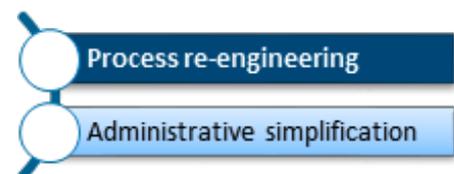
About 140 measures have been planned and partly implemented by line ministries. Simplification measures already implemented contribute to a time reduction for citizens of 7 million hours. Key measures are setting up an electronic register for the civil status of citizens, the simplification of free public transport for pupils and trainees and the introduction of the Mobile Phone Signature ("mobile citizen card") in administrative procedures. The latest report on the measures can be found in an annex to the budget:

https://service.bmf.gv.at/BUDGET/Budgets/2014_2015/beilagen/Better_Regulation_2014_2015.pdf.

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4.2.1. Process re-engineering

Processes are what make institutions function. They are the set of activities that turn inputs (people, information, money, etc.) into outputs (services delivered, actions fulfilled, etc.) with the aim of meeting policy and operational objectives. They are often complex, especially when they run across more than one organisation, or even different functions within the same organisation.



While the user has a high level objective ('get a job'), the practical steps mean they have to engage in a sequence of individual interactions with the public administration and achieve a series of intermediate goals first. Each 'life event' (e.g. finding a job) is a composite of *individual public services* (e.g. help with searching for job vacancies), each of which is usually made up of several *processes* (e.g. registering interest with employment services), and each process in turn comprises a number of *operations* (e.g. finding the local employment office, meeting an advisor, completing a form with personal details and aspirations, etc.).

This decomposition of life events is implicit in customer journey mapping, and presents the reality of acquiring public services from the user's viewpoint; the citizen or business has to break down the life event into its constituent parts. The citizen or business performs a series of operations and processes, which are formulated

and ‘consumed’ as individual services, which might be presented as a life event. From the administration’s perspective, the challenge for each unit responsible for a process is:

- How effective and efficient (in time and money) can we make our operations?
- How do we bring all these operations together into a process that is easy for the user to access as a service, within the whole life event?

This involves both back office and front office considerations, in which ICT now plays a vital role.

Optimising process flows is a precursor for major advances in front-end service delivery, such as creating one-stop shops (see [topic 4.3](#)) and online delivery (see [topic 4.4](#)). In this regard, public administrations can learn from successful practices to improve process flows in the private sector. Some Member States, for example, are borrowing techniques of ‘**lean thinking**’ from the auto industry, that originated in the Toyota production system for car assembly. Also known as ‘just-in-time’, lean production was designed to improve efficiency, minimise costs and improve quality: each car would be made to order (triggering demand for the individual inputs to reduce the ‘waste’ of spare parts being unused); the steps in the production process would be carefully sequenced; each step would be performed by a well-trained team (not individuals who can be under- or over-loaded); progress to the next step would only happen when the process was free of defects (ensuring quality); and performance monitoring was driven by continuous improvement in a blame-free culture. These techniques enabled Toyota (and other Japanese carmakers) to enjoy rapid and profitable growth in the late 20th century and become global market leaders.

Process re-engineering also entails looking at how the interface with the administration is experienced from the end-user’s perspective and tailoring the ‘back-office’ processes to make service delivery as user-friendly as possible. The Danish Business Authority (DBA) launched a project to improve the functioning of their online services (see also [topic 4.4](#)) in two areas: the process of selecting industry codes when business start-ups register online with the DBA; and the mandatory reporting of pesticide use by farmers. Through a process of ‘**co-creation**’ – working with end-users to develop new or better solutions and cooperating across administrations – the DBA was able to realise time savings for both the authorities and the businesses themselves.

Inspiring example: Using co-creation to develop user-friendly digital services (Denmark)

The Danish Business Authority (DBA) works actively to ensure that companies experience their interaction with public authorities as being easy and efficient. When businesses save time and costs on public reporting and registrations, they can instead spend their time creating growth within their business and in society. Efficient public services also mean that the public authorities use far fewer resources on enquiries and correcting errors. The DBA has used co-creation as a way of developing new solutions that can achieve this goal. Co-creation happens when public authorities involve the end-users in developing new or better solutions to the challenges businesses face in relation to public administration. The end-users can be both the companies themselves and the case workers in the public administration. Co-creation does not mean that the power to make decisions about the initiatives to be implemented is delegated to the users, rather that they take part in a cooperation with a cross-disciplinary team representing resources from different disciplines, such as service design, quantitative methods and qualitative methods.

Public services in many Member States are undergoing profound changes these years, increasingly transformed into self-service digital solutions (see [topic 4.4](#)). This also counts in the area of regulating businesses. However, new problems can arise as the digitisation process progresses. Both time and wage costs can be saved by digitising reports and registrations, but when the helpful contact person disappears, companies also lose the opportunity for specific and personal assistance. This is costly for both companies and public authorities, as many self-service solutions today do not invite companies to serve themselves. Ultimately, this can cause a range of

problems: companies must use multiple channels simultaneously to solve their problem, they make errors, or they are simply unable to comply with regulation even if they want to. An end-user perspective is therefore necessary to create a self-service solution that can efficiently replace the competent voice on the phone.

In 2011, the Danish Business Authority conducted a project designed to explore and create a more efficient and user-friendly digital service. One of the concepts developed in the project was a digital solution for companies to select an industry code (also known as a NACE code) when registering their business online during start up. NACE is the acronym used to designate the various statistical classifications of economic activities developed since 1970 in the European Union. NACE provides the framework for collecting and presenting a large range of statistical data according to economic activity in the fields of economic statistics (e.g. production, employment, national accounts, in other statistical domains. Statistics produced on the basis of NACE are comparable at European and, in general, at world level. The use of NACE is mandatory within the European statistical system. It is thus obligatory to select a NACE or industry code when starting up business in Denmark.

Another digital service which involved end users and co creation methods, was the development of a digital service called the 'spray journal', which is a mandatory digital tool for reporting farmers' use of pesticides on their fields to the Danish AgriFish Agency. The project involved end users in developing a digital service which was easy and user-friendly, and causing as few administrative burdens as possible. The project made use of methods such as ethnographic interviews with farmers, agricultural consultants mapping their needs and challenges with using the spray journal and testing an early prototype. The results were used to improve the final construction of the digital service, the "spray journal", and to improve the administration connected with it.

The lessons from these two projects showed that good digital service often means that public authorities need to cooperate across silos, in order to provide digital solutions that are efficient for companies and public authorities alike. Four goals for the digitisation of public services were identified in the project:

Goal number one 1: The purpose of the electronic self-service solution must be communicated clearly.

"Do you have any idea what they will use it for? Is it some kind of 'Big Brother is watching you' and they are waiting at the ready to pounce on you?" (Farmer, commenting on a new digital service that farmers should use to report the use of pesticides).

Business owners' uncertainty is often compounded by digitised contact, because nobody is available to explain the purpose of the regulations to citizens and companies. When the purpose is unclear, companies fear making mistakes with unknown consequences. Therefore, it is important that all public self-service solutions begin by communicating the purpose of the solution clearly and simply. Clear communication regarding requirements, inspections and penalties will make business owners more secure about using digital self-service solutions.

Goal number 2: The digital system, not the end user, should handle the complexity of the digital self-service solution.

"I think it was that industry code, because it was under building and construction activities, which requires specialisation. But there was also a code called 'other building completion'. If I mark that industry code, then I'm not sure if it's right or not. It was pretty much a guess." (Carpenter, on searching for the correct industry code).

Many public digital self-service solutions have chosen to place responsibility for correct reporting on companies, instead of reducing the complexity of the solution. Designing a system that takes greater responsibility for ensuring users submit registrations and reports correctly requires a change of attitude among public authorities, which often assume that users understand the administrative language, or are at least willing to learn it. What is needed is solutions that users can use without any real expertise in relation to the system. If this approach is not taken, users will stop serving themselves and contact the public authorities – or they will simply make mistakes. This is not only costly and time consuming for business owners, it is also a significant waste of resources for the public authorities, which must spend time and personnel resources on serving those who encountered difficulties with the digital solution.

Goal number 3: The digital service must be based on the end-users' reality and needs.

"It sure is complicated. It is not made for those with multiple fields. This simply takes too long. Especially when it is only something I have to do because I must report it. I can't use it for anything." (Farmer, on using the digital self-service solution in reporting his use of pesticides).

Legal documents, terminology and expert knowledge permeate many of the public self-service solutions. As they are developed by the public authorities themselves, they are often based on that authority's own language and knowledge. However, a successful digital self-service solution should be based on the user's needs and knowledge about the area, as this will make it both easier and more attractive to use the site.

Goal number 4: The public authorities involved need to cooperate in developing digital solutions.

“If the Danish Commerce and Companies Agency is in doubt, then they refer the companies to Statistics Denmark. We do not have any cross-organisational cooperation. That would be quite interesting. If nothing else, it would be interesting for the agency to see how we work. Sometimes I think: ‘How big of a difference can there really be in the way we work and the way they work?’ We’re working with the same material!” (Employee at Statistics Denmark).

Companies and citizens do not distinguish between the various bodies when contacting the public authorities. They often expect that the authorities cooperate on the digital self-service solutions and that they only have to send information to a single recipient. Designing a user-friendly self-service solution therefore requires extensive cooperation between the various public authorities. By taking joint responsibility and cooperating, authorities can reduce costs and time consumed in forwarding companies to other authorities, answering e-mails and calls. Furthermore, cooperation should be based on companies’ actual experiences and processes. Insight into companies’ actual problems with public regulation makes it clear to authorities why cooperation is necessary and how to design self-service solutions in the most efficient way for all parties.

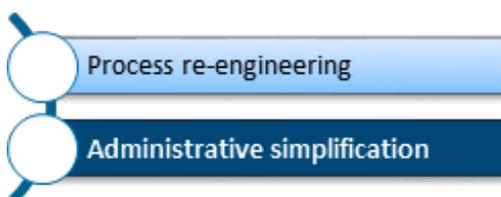
Through co-creation, we unfolded how businesses and citizens do not distinguish between the various bodies when contacting the public authorities. They often expect that the authorities cooperate on the digital self-service solutions and that they only have to send information to a single recipient. Designing a user-friendly self-service solution therefore requires extensive cooperation between the various public authorities. The cooperation should be based on businesses’ actual experiences and processes. Insight into businesses’ actual problems with public regulation makes it clear to authorities why cooperation is necessary when designing self-service solutions in the most efficient way for all parties. An organisation can benefit from basing its development project on co-creation if the organisation is about to implement a previously-decided initiative to reduce bureaucracy. Here, user-centric innovation and co-creation can contribute to making better informed decisions about the many detailed questions concerning the practical design, work processes, required guidelines and desires connected with the initiative.

As a result of the project, the Danish Business Authority has co-created a new digital platform between businesses and public authorities to support registration of industry codes. The project has given us thorough insights into users’ challenges and has made clear how public authorities can work together to provide effective solutions that are efficient for companies and public authorities alike. A business case was developed, showing that a new self-service site for industry codes will save companies time equivalent to DKK 25 million over a four-year period (equivalent to almost EUR 3.4 million). At the same time, the solution will also reduce the expenses of the Danish Commerce and Companies Agency and Statistics Denmark by DKK 930 000 (equivalent to around EUR 125 000).

For the spray journal, the involvement of farmers and agricultural consultants made it possible for the Danish Agrifish Authority to aim at reducing administrative burdens followed by the mandatory digital reporting of pesticides and developing a digital service which fitted the reality and needs of end users.

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4.2.2. Administrative simplification



Administrative simplification is designed to reduce regulatory complexity and uncertainty, and reduce unnecessary burdens created by bureaucracy and paperwork, either on an *ad hoc basis* focused in a sector, or on a comprehensive and long-term perspective. There are different routes to simplification; there is not one single model that can be applied everywhere. Administrative simplification for business

is covered extensively in [theme 5](#). There is also an increasing attention on ABR for citizens across Europe, often as part of a broader programme to reduce burdens on businesses, administration, civil servants, professionals or the tax payer.

Through its work, the OECD has set out **success factors** to overcome five strategic⁽⁷⁾ and seven technical⁽⁸⁾ barriers to administrative simplification.⁽⁹⁾ The following tips draw in large part from this guidance:

- **Establish a comprehensive programme with broad policy priorities.** Administrative simplification should be systematically adopted, rather than relying exclusively on *ad hoc* measures, to ensure continuity, the creation of synergies and the sustainability of reforms. Ensure the programme covers data collection and management: many administrative burdens arise from the information flows from citizens and businesses to government. The administration needs to avoid excessive requests and to collect, store, use and re-use data efficiently (see [topic 4.4](#)).
- **Take a “whole-of-government” approach.** Simplification should include all levels of government, territories and agencies. Administrative simplification is rarely embedded in the mandate of government institutions, it needs to be pushed forward. Establishing administrative simplification units inside government, and taskforces, can help with co-ordination and keeping up the path of reforms. Effective coordination is critical to oversee the programme and ensure a comprehensive and coherent approach.
- **Get powerful support from a highly visible political figure.** A strong declaration of commitment should be followed by concrete action, including signing off on the comprehensive and realisable strategy, and assigning responsibilities across government for its implementation. High level commitment and leadership helps to overcome resistance to change at other levels in the administration. ‘Refreshing’ this commitment regularly over time can maintain the momentum.
- **Ensure administrative simplification is independent from the electoral cycle.** While high level political commitment is necessary, simplification should be (and usually is) seen as politically neutral or enjoying cross-party support. To ensure reforms are enduring, use the sanctioning power of the Finance Ministry to drive reforms forward, and keep the focus on technical solutions, including the contribution of ICT and e-government.
- **Prioritise based on evidence.** Quantify the costs and benefits, so that objectives can be established and tasks can be prioritised and sequenced. However, be careful that the benefit of some improvements may be hard to ‘monetise’ (express in financial values) while still being highly valued from the user’s perspective. For example, some processes that are considered ‘burdensome’ by businesses and citizens are not the most time-consuming or expensive, but the most ‘irritating’, simply because the user cannot see the point of them. Focusing on burdensome processes that are widely used and/or create much irritation captures the public’s attention.
- **Make institutions accountable.** Define expected outcomes so they can be checked later, and ensure responsibilities are clearly assigned and understood. Consider setting up a ‘watchdog’ at the centre of government to assess impact and hold ministries, municipalities and others to account. Monitor and evaluate by developing performance indicators as benchmarks. Create awards to recognise success in the administration.

⁽⁷⁾ Lack of high political support, lack of co-ordination, resistance to change, lack of a comprehensive administrative simplification strategy, and limited resource availability

⁽⁸⁾ Legal complexity, lack of human skills and capacities, lack of understanding of the use of administrative simplification, lack of information and data, digital divide, lack of standardisation of procedures, lack of measurement & evaluation mechanisms

⁽⁹⁾ Derived from OECD (2009) “Overcoming barriers to administrative simplification strategies: guidance for policy makers” Other relevant publication include OECD (2006), “Cutting Red Tape: National Strategies for Administrative Simplification”, Paris; OECD (2010) “Cutting Red Tape. Why Is Administrative Simplification So Complicated? Looking beyond 2010”, p.141

- **Use success stories and ‘early wins’.** Present the efficiency gains as they emerge, use numbers and stories to persuade, obtain ongoing political support, and to fight against any resistance to change.
- **Take a ‘user-focused’ approach.** Government needs to build a constituency for administrative simplification. The public and business community should be consulted and become active partners in the policy (see [theme 1](#)). Collect complaints from citizens and businesses regarding burdensome and irritating administrative procedures (see [topic 4.1](#)), and identify affected groups. Develop guidelines for civil servants on user-friendly delivery services and award civil servants that improve and simplify the treatment of service users.
- **Promote a ‘reform and innovation’ mentality.** Administrative simplification is about challenging the *status quo*, being analytical, assertive and creative. Officials should be asking the question: What are the alternatives to the current way of doing things, which will achieve the same results without any material increase in risk? The OECD uses the example of *ex post* notification procedures, instead of *ex ante* approval mechanisms, to obtain licences and permits for low risk activities, meaning the applicant can make a start before actually obtaining the document itself. Officials can be encouraged and trained to take on board this type of thinking through guidance, workshops, incentives, performance appraisals, career development, etc. (see [theme 3](#)).
- **Adopt a multi-disciplinary approach.** Different specialists each bring their own expertise to bear on a bureaucratic problem, the strength lies in the blend. Legal complexity in drafting and applying regulations, for example, is not best solved by lawyers alone, but by other perspectives – political scientists, economists, engineers, sociologists, psychologists etc. This should be considered particularly for central services that provide technical assistance or ‘hand-holding’ for other departments.
- **Develop guidelines and offer help-desk assistance.** Many countries adopt standardised guidance, for example on drafting regulations, assessing the impact of rules and procedures, etc., so that the whole administrative system is coherent and consistent. These guidelines should be reader-friendly, tailored to the audience, and supported by the core simplification team or a ‘help-desk’. They should be reviewed regularly, and updated in response to facts on the ground and new innovations, taking input from both officials and service users.
- **Find simplification ‘champions’ to act as ambassadors for the programme.** Individual officials in high profile positions, particularly those that operate across the administration, can be vocal champions for administrative simplification, inspiring and motivating others. External stakeholders, for example, service users themselves from the business community, can also be effective in selling the merits of the programme, if they have an active stake in it.
- **Build ownership and momentum with users.** As the OECD states: “*If work on administrative simplification goes unnoticed, it is highly probable that support will diminish. Moreover, sound communication contributes to cultural change and to building a sense of ownership*”. Businesses and citizens should be kept up-to-date on the transformation, especially as they are directly affected by changes.
- **Internalise the benefits of ABR to citizens and businesses within the administration.** Administrative simplification saves time and money, but these savings are not typically collected and made directly available to

governments so that they can invest somewhere else. ABR is an expression of efficiency gains, freeing up time and resources for more productive activities, which is the ultimate goal for both administration and service user.

As an example of **leadership** in overcoming both strategic and technical obstacles, the Netherlands took a decision at the top of Government and found the greatest administrative burden on citizens the delivery of social assistance. A particularly interesting dimension of the Dutch programme was the 'seduce and support' approach, whereby municipalities were pushed on by each other's successes ('seduce'), while in parallel, regional advisors on cutting red tape were hand to provide practical assistance ('support').

Inspiring example: Bureaucratic simplification of social assistance (The Netherlands)

In 2007, the 4th Cabinet under Prime Minister Balkenende committed itself to a real, noticeable reduction of administrative burden to citizens by resolving the 10 major bottlenecks experienced by citizens in their contacts with the government, one of the most prominent being the process of applying and accounting for social assistance benefits. At municipal level, this process accounted for roughly 40% of the total administrative burden placed on citizens.

Four themes were identified that were crucial in improving the social assistance delivery:

- Less burden of proof of eligibility;
- Speeding up procedures;
- Legality;
- Control and accountability.

Emphasis was placed on the 'noticeability' of improvements: not only would a reduction of total minutes spent by the public be judged a success, but a marked change in the experience of the individual claimant would also have to be realised. A project to bring about these changes was set up by the Ministry of the Interior and Kingdom Relations, in cooperation with a large number of municipalities, which have responsibility for social assistance, all over the Netherlands. The objectives of the project were manifold: noticeably improving the quality of social assistance services by municipalities, reducing administrative burden for citizens applying for and receiving social assistance benefits, but also bringing about a change in the culture in which social assistance applications were assessed. This involved moving from a system of suspicion and control, in which every claimant was viewed as potentially fraudulent, to a system of so-called 'high trust', where applications are viewed as principally legitimate. One notable specific objective was the abolishment of the monthly entitlement form.

The ministry adopted a 'seduce and support' approach, whereby municipalities were persuaded to implement improvements by showing them the advantages and the progress made in other municipalities. This was done at a number of workshops and conferences, and through widely disseminated brochures detailing best practices throughout the country. Regional Red Tape Ambassadors were deployed to assist municipalities in the implementation.

All the while, the project was part of a much wider effort to reduce administrative burden on citizens, professionals and administrations. In terms of measuring results, the main quantitative indicator used was the Standard Cost Model for citizens – a tool which enables the quantification of administrative burden on citizens in both time and monetary costs. Results of the project were substantial on an individual, local and national (aggregate) level. For individual social assistance claimants, administrative burden was reduced by as much as 40% in time and 20% in out-of-pocket expenses. For the total administrative burden placed on citizens in the Netherlands, this translates to a reduction of about 3 500 000 hours. At municipal level, yearly savings of between EUR 100 000 and EUR 1 000 000 can or have been realised, depending on the size of the municipality and the degree of implementation. More than 60% of municipalities now no longer require the monthly entitlement form. The ministry continues to monitor administrative burden placed on citizens by municipalities, and many municipalities are conducting follow-up projects to the ones described here.

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ABR can be organised at **any territorial level** of public administration and in any field. Portugal's Simplex programme of administrative simplification, which was organised at the national level under the responsibility of the Minister of the Presi-

gency of the Council of Ministers from 2006 to 2009 (see [theme 1](#)), was extended to municipalities as a partnership with central government in 2008. Along with Porto and seven smaller municipalities, the municipality of Lisbon launched the ‘Simplis’ simplification programme. Their citizen survey identified the priorities as being multi-channel service delivery and Internet access, as well as cutting decision times. The programme was not a one-off, but has grown over the years.

Inspiring example: ‘Simplis’, the Lisbon simplification programme (Portugal)

Back in July 2008, Lisbon Municipality launched its simplification programme ‘Simplis’, a new impulse for the city, and with that, a new age of delivering efficient services to the citizens began. This is a yearly programme, built with the participation of several levels of the organisation, from the elected to road menders, and all levels of civil society, from structural organisations to individual citizens.

More than 100 measures and actions were taken, crossing many branches, such as service delivery, internal improvement and citizens’ engagement. A couple of them clearly stand out from the others in terms of the level of improvement in the way services are delivered and the recognition of it by the citizens, as well as knowing that this was achieved with a low (or no) budget.

Within this simplification programme, with a strong link between services, the municipality managed to increase citizen satisfaction levels. Citizens stated that measures that allow access to services via the web, create multiple points of entrance, or decrease the number of days between instruction and decision, simplified their life, thus allowing them faster services, more information and lower costs. To respond to this call, the approach was focused on the following measures:

- Na Minha Rua (Fix My Street);
- Plantas de Localização (Location Plans);
- Horários de Funcionamento (Business Schedule Map);
- Atendimento Personalizado Online (Personalised Chat);
- Licenciamento Aberto (Open Licensing);
- Balcão Único e Descentralização do Balcão Único (One-Stop-Shop Start and Grow);
- Serviços na Hora – Certidão/Reprodução (Just in Time Services – Certified Copies and Plans);
- Gestor do Município (Citizen Manager); and
- Filmar Lisboa (Filming in Lisbon).

The choice of these measures was not random. They were the result of a survey taken at the beginning of 2013 among Lisbon’s citizens, and were the measures quoted by citizens and those which they use the most. They represent 70% of the overall measures.

Nowadays, the Municipality of Lisbon is preparing the sixth edition of the programme, in which the main focus will be a macro programme of the virtualisation and the dematerialisation of information and requests, aiming to achieve even higher satisfaction levels from citizens, as well as internally gaining data storage space, and promoting in the near future an electronic data interchange (EDI) within similar organisations, so as to store documentation as metadata.

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In an example from Italy, the focus of administrative simplification in Milan was registration and housing of immigrants. The solutions were found in a blend of organisational reforms, within and beyond the municipality, and simplifying information requirements.

Inspiring example: Process re-engineering in the Municipality of Milan (Italy)

'Municipal Processes Re-engineering to Improve Performance' is an experimental project launched by the Municipality of Milan in September 2007, as part of an innovation programme promoted by the Ministry for Public Administration and Innovation. This is an administrative simplification initiative that involves the procedures for legal registration of foreign citizens and the suitability of their housing, encouraging the use of self-certification. In a European metropolis like Milan, immigration is a priority area for the attention of the municipal authorities because of its important economic and social implications. Effective absorption of immigrants and the rational management of the related administrative paperwork can on the one hand represent an economic opportunity for the local area; on the other hand it can help mitigate the negative consequences of poor integration of immigrants.

The methodology used has always encouraged discussions with the stakeholders as the measure and inspiration of change. In particular, constant interaction between the central level, the local level and the institutional level led to a particularly productive atmosphere in which concrete, effective measures could be adopted for the user. The aim of the Municipality of Milan was to define a process methodology that would be valid over a broad range of issues involving the management of the paperwork for immigrants. Administrative simplification was split into four main areas:

- **Simplification of information**, meaning the quality, quantity and availability of information necessary for the correct functioning of the offices and better relations with users;
- **Creation of better interfaces** between users and the public administration whether in face-to-face contact or in the back office;
- **Internal organisational change**, relating to the efficiency and effectiveness of the processes and the alignment of the municipality's structural setup in the field;
- **Enhancement of inter-institutional dialogue**, meaning the formal and informal relationships between the municipality and the other institutional stakeholders.

A key element of the experimentation was to improve the quality of the applications. By intervening on the demand for the service (i.e. making sure that the users presenting themselves are well informed with regard to the process, with pre-compiled forms), it is possible to make significant improvements in the service, because less time is needed to complete each case and the citizen's overall satisfaction with the public service is increased in terms of the time taken and the level of information available. Furthermore, constant interaction with the demand side makes it possible to evaluate carefully the results of changes by measuring divergences from the initial objectives and, in the final analysis, allows the services to be redesigned as a function for the end-users.

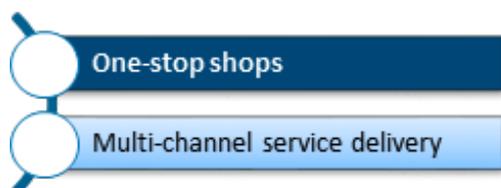
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4.3. Meeting user expectations of easy access to services

Accessibility is a crucial aspect of service delivery and can be both physical and virtual. This raises a plethora of delivery concerns, like quality of texts, physical access for people with disabilities, internet access & literacy, use of social media, etc. Again, the underlying principle here is aligning with users' expectations, even if this means an adjustment in the administration's approach, subject to affordability and available resources. Two hot topics will be dealt with here. The first one is the preference among many citizens and businesses for a single 'shop-front', to be able to access all the relevant services ideally through one portal, which has led to the creation of one-stop shops (OSSs). Perhaps paradoxically, the second topic is offering multi-channel service delivery, to reflect the diversity of users' preferences for interfaces with the public administration.



4.3.1. The one-stop shop



A one-stop shop (OSS) is essentially a single channel (office or webpage) where multiple services are offered and hence the customer can find the information they need and typically conduct transactions (including applications, registrations, payments, etc.) in one place.⁽¹⁰⁾ The OSS is usually described as bringing many services ‘under one roof’.

This scenario is popular among municipalities in many countries, for example, for representing a range of functions or departments in a single location, as an alternative to the town hall.

In regard to target customers, OSSs are most typically aimed exclusively at businesses, and many have a statutory underpinning under the Services Directive 2006/123 EC; the role of OSS in developing a business-centric administration, including Points of Single Contact (PSCs) is elaborated further in [theme 5](#). Other OSSs are designed for a mix of citizen- and business-users, or specifically for citizens. Below, three different types of OSS are illustrated:

- OSSs are sometimes created with the aim of serving users in **remote (as well as urban) locations** (the network of Citizens Services Centres in Cyprus), including the establishment of a **mobile** OSS (the Bürgerbüro in the Austrian district of Reutte).
- OSSs can deliver **cross-border benefits** in rural border regions (such as the Public Services Relay in the Ardennes, France-Belgium).
- OSSs can be created for **specific services**, such as taxes (as exemplified by the ‘Exclusive Office’ in Romania), or buying and selling a property (in the case of the ‘On the Spot House’ in Portugal).

One-stop shops at the service of citizens (Cyprus)

The need for more efficient, effective and qualitative provision of services to citizens is nowadays of utmost importance in all modern States. The inability of the traditional, bureaucratic public administration to effectively meet citizens’ needs, has led to the necessity to search for new methods with regards to the structure and operation of the public sector.

In view of this, Citizen Service Centres (CSCs) have been established all over Cyprus, based on a strategy plan, with the aim to provide multiple services from one point of contact/location, thereby offering citizens the convenience of having all their requirements met in one stop. The ultimate goal is to have a citizen-centric public administration which does not engage its citizens in long-winded, time-consuming and frustrating procedures, but is in a position to effectively meet citizens’ needs in a timely manner. Acting as an alternative channel for dealing with public agencies/ organisations, CSCs offer more than 90 different services from a number of governmental organisations, such as issuing of birth certificates, identity cards, driving licenses, road tax licenses, social insurance contributions records etc. In addition, CSCs receive applications for the issuing of passports and refugee identity cards, for registration in the electoral register, for grants, allowances, benefits and pensions. The on-the-spot provision of services and information to citizens from a single point of contact is rendered possible, by fully utilising modern Information and Communications Technology. The network currently comprises seven CSCs in total (five operating in urban areas and two in rural areas).

The competent authority for the CSC, the Public Administration and Personnel Department (PAPD) of the Ministry of Finance, manages the project relating to the establishment of CSCs and the organisation, staffing, supervision and coordination of their operation, with a view to ensuring their efficiency and effectiveness. An important stakeholder in the whole project is the Department of Information Technology Services, which is in charge of the installation and support of the IT systems/equipment.

Despite the small geographic distribution of the island, the impact on citizens has been remarkable. It is noteworthy, that, over a nine year period from the establishment of the first CSC, the seven CSCs have provided a total

⁽¹⁰⁾ Please note: ‘One stop’ is not the same as ‘once only’ (see [topic 4.4.2](#)). The OSS is a mechanism to access multiple services, but does not necessarily mean that user information will be shared across administrative units and never again requested. While *some* OSSs do also offer ‘once only’ data registration, this is not a definitive characteristic of an OSS.

of 4 895 500 services to citizens who have visited them, whilst 1 893 000 citizens received information over the phone (data as of end of November 2014).

At present, the seven CSCs operating on the island act as an alternative channel for citizens to deal with the public administration. The PAPD is committed to continuing the improvement of the relationship between public administration and citizens, by establishing new CSCs and by constantly upgrading and improving the effectiveness of the already established CSCs. To this end, the PAPD is currently in the process of implementing a quality management system according to ISO 9001:2008 in the Citizen Service Centres.

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The plan in Cyprus to establish a mobile OSS to reach residents in **remote locations**, who might otherwise be excluded, is echoed in the case of the Bürgerbüro in the Austrian district of Reutte, which is far from the regional capital of Innsbruck.

Inspiring example: All in one – Bürgerbüro in the Tyrolean district of Reutte (Austria)

The district of Reutte covers an area of 1 250 km² with only a small number of inhabitants (about 32 000) in the north-west of the Tyrol and can only be reached by car or by train (2.5 hours travel) from the capital Innsbruck. The distances to the district capital of Reutte are long, some of the 37 municipalities are more than 60 kilometres away from the local administration. The Bezirkshauptmannschaft Reutte is the office of the local administration and security board. Until 2007, there were separate offices for passport issues, vehicle licensing and for driving licenses and these offices were spread over three levels. So for example, if you needed a driving license, you had to go to the license office at level 2, where you received an invoice. You then had to go to level 1 to pay the taxes and then go back up again to the level 2 license office to file the application. After that, you had to wait for one or two days before receiving the license. The building was not easily accessible for people with disabilities and there were no lifts. Since the administration was going to move into a new building, there was also an opportunity to tackle changes in the administrative organisation.

The 'Bürgerbüro' opened in 2007 in the new Bezirkshauptmannschaft Reutte, with brightly lit and transparent rooms, quite near to the main entrance of the office. Three offices had to be closed and 20 employees had a new type of work to deal with. The team in the 'Bürgerbüro' works open hours and does a lot of job-sharing. Everyone in the team is able to carry out all duties; they organise their own holiday replacement, they make a weekly plan of which hours everybody will work and they share a collective guidance in their group. The new office is now open for the citizens from 07:30 until 16:00 with no break at midday. The 'Bürgerbüro' now also collects the taxes, so that everyone really gets what they needs all in one ("one-stop shopping"). The new 'Bürgerbüro' has already appeared several times in the newspapers, on radio and local television.

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Similarly, the Public Service Relay in the Ardennes is a prime example of a national initiative targeted at a rural region of France, but in this case, also has **potential cross-border benefits** as the prefecture neighbours, Belgium.

Inspiring example: Public Services Relay Ardennais (France)

The French State introduced the 'Public Services Relay' label in 2006 because the prefecture and public services based in the Ardennes wanted to reinforce the presence of public services in rural zones, particularly in the cross-border area. Two-thirds of the Ardennes population live along the border between France and Belgium. The improvement of the quality of public services in rural and cross-border areas is at the heart of the implementation of a national initiative to a local cross-border one.

Co-piloted by the General Directorate for State Modernisation (GDSM)* and the Inter-ministerial Delegation for Competitiveness of Territories (IDCT), the plan was to facilitate the access to public services, allowing the state to be more involved, improving the quality of its public services especially in rural zones, and introducing an officer to guide the users in their administrative procedures. Thus, it is now possible to see one person in one place, when gathering information and carrying out administrative procedures coming under several public organisations.

The project has invested considerably in its human and technological resources. One big change is the collaboration of people from different services who, in a 'win-win' partnership, are now able to work more efficiently together, thereby giving the users of public services a higher quality service, particularly in the cross-border context. The establishment of this partnership was possible due to an improved organisation between the back office (partners of public services), the front office (local authorities) and the middle office in charge of the coordination (prefecture). Each authority still retains its areas of competence when it comes to managing and treating cases with Public Services Ardennes. In addition, each 'Public Services Relay' puts at least one officer at the point of information, who is trained by the partners to welcome and help the users in their administrative procedures, and is responsible for each 'Public Services Relay'. The back office makes a referent available for each Relay, the middle office is in charge of managing and leading the network of 'Public Services Relay', and the front office completes the 'Public Services Relay'. In addition, each 'Public Services Relay' is equipped with a computer connected to the internet and a telephone at the disposal of the users for their administrative procedures. In the future, the network will be equipped with video counters.

This sort of partnership can easily be applied to other situations and can be transposed in other European cross-border areas. Today, this public service label works in French territory, but tomorrow it could easily become a European cross-border label and ultimately it could work throughout Europe. Although the project was only launched in 2008, the results are already significant: 2000 people used the 'Public Services Relay' in 2008. In 2012, 10 000 administrative procedures were performed in the 'Public Services Relay', some of which were cross-border especially in the field of job search.

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(*) Currently by the Commissariat Général à l'Égalité du Territoire (CGET)

Sometimes, OSS are set up in **specialised fields**, such as tax administration, as exemplified by the 'Exclusive Office' in Romania.

Inspiring example: Exclusive office (Romania)

From 2001 to 2011, the public administration in Constanta developed payment types such as cash payment at the counter, POS payment at the counter, payment order, online payment with credit card; it also increased the number of counters for collection by another 16 in the Romanian Post and five at Guarantee Bank; and, more importantly, it also set up 32 exclusive offices where tax inspectors were trained to guide, collect and record tax returns for both individuals and legal entities.

This project 'Exclusive Office' presents the evolution of tax inspectors from an office with split-off operation divided into individual entities, legal entities, payment and record of tax returns, to exclusive offices that provide all these services.

Basically from 2011, any citizen can go to any of the 32 counters (exclusive offices) of The Public Service of Local Taxes, Fees and Other Revenue in Constanta, where any issue related to local taxes can be solved on the spot at the exclusive office without going to other counters. This project contributed to reducing the citizen's waiting time at the counter and to standardising the work processes. The Public Service of Local Taxes, Fees and Other Revenue offers to citizens 32 exclusive offices, 50 offices where local taxes can be paid, and more importantly an online office, SPIT (<https://etax.spit-ct.ro>).

This project was developed over time through training of tax inspectors, through software modification and by informing citizens of the facilities that the system offers.

Also the need was felt to focus the work when the Romanian government decided in 2010 that public sector employees should be dismissed, including SPIT. The main objective of this project implemented since 2011 is to increase citizen satisfaction by decreasing the number of claims or complaints. Increasing the number of counters and payment methods should also lead to an increase of revenues from taxes and local taxes. The overall objective is to ease the necessary procedure for recording, tracking and collecting local taxes. This project Exclusive Office will continue to grow by simplifying work procedures and also by introducing an online declaration system for local taxes and fees. Statements of changes in data can be submitted online with username and password of the account, without the need for tax payers to go to the agencies.

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The 'On the Spot House' in Portugal was also an initiative that arose out of the national Simplex administrative simplification programme (see [theme 1](#) and [topic 4.2.2](#)), and caters exclusively for the 'life events' of buying and selling a property.

Inspiring example: 'On the Spot House' (Portugal)

'On the Spot House' (or in Portuguese, *Casa Pronta*) is a public service which allows all the necessary formalities to be performed for the purchase and sale of homes (buildings), with or without a mortgage, the transfer of a bank loans to purchase a house and other housing contracts, in a single window service.

Before the implementation of the 'On the Spot House project', to perform legal transactions on immovable properties, such as the purchase and sale or simple loan with mortgage, citizens and companies had to contact several public entities, such as: tax authorities; notaries; land register office; municipal services; entities responsible for the management of the historical and cultural patrimony; commercial Register Office and Civil Register Office. For a simple purchase and sale of a property it was necessary, for example, to obtain several certificates from the Land register office, the Commercial Register Office or the Municipal Council. In addition, a property's tax document from the Revenue Office was also required. It was also necessary to conclude a deed in the notary office and to request and wait for the registries and the availability of the certificates, since the registries are carried out immediately and the certificates delivered to the interested parties.

Business in an immovable property implied, in short, frequent and repeated visits to several public services to request and later on to obtain documents, to schedule acts and later on to materialise them, and so on, which had high costs. This situation represented a major weakness within the Portuguese real estate market and, consequently, within the economic activity in general.

This project was based on the analysis of the then existing situation, evaluating the need of each formality associated with businesses in immovable properties, in order to eliminate useless steps and to concentrate the ones which were necessary into a single place, thus avoiding repeated dislocations, saving time and money. There is a Simplification Commission in the Ministry of Justice, essentially for representatives of all civil society areas, including employees' and employers' associations, legal practitioners and representatives of several economic activities. This commission identified excessive bureaucracy associated with businesses in immovable properties as an important barrier to the economic activity, with costs to citizens and companies. Once the problem was identified, a work group was created within the Portuguese Ministry of Justice, which included registrars from the land registry and other experts from the Portuguese Institute of Registries and Notary. It became the entity responsible for rethinking the process within the land register offices and proceeding to the respective re-engineering, as well as, as a result, preparing the necessary legislative amendments. At the implementation stage, this work group was also integrated by ITIJ technicians, for the design of technological solutions supporting the project. This service became available on 24 July 2007, at seven land register offices, five Portuguese municipalities, covering only purchase and sale, simple loan and any other credit and financing contracts concluded by credit institutions, mortgage and transfer of credits.

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There is no template for designing an OSS. Usually, the OSS is a type of cooperation, working within and across organisations, which does not require the merger of individual agencies or wholesale restructuring. The form of an OSS generally follows its function. Broadly speaking, OSS fall into three categories, although individual OSS in practice can mix elements from each one:

- **‘Reception’:** This model is effectively a signposting role only, with the front desk to the administration providing information, and pointing the user towards the individual agencies and services they require, possibly making appointments for them. This is the most limited form of OSS, and runs the risk of being just *‘one more stop’*, rather than a *‘one stop shop’*.
- **‘Surgery’:** In this model, the OSS is like a general practitioner, able to provide a diagnosis, feedback and to deal with common conditions, but referring to specialists when more complex cases need to be treated.
- **‘Multi-clinic’:** This model is full service, able to manage the case end-to-end, from initial consultation to completion, with all specialist inputs provided along the way.

Most OSSs can be categorised as falling into the surgery or multi-clinic models, or some combination of the two in specific fields. Where an OSS deals in one policy area only, such as tax administration or housing in the previous examples, it is more likely to offer the full service role. OSSs that cater for all citizen and/or business services tend towards the more generalist ‘surgery’ model.

Two elements are of particular importance in the early stages of the development of the one-stop shop: planning and managing OSS projects; and linking the OSS to administrative simplification and process mapping. When contemplating an OSS project or implementing an existing one, whether physical or virtual, here are some **questions to consider:**

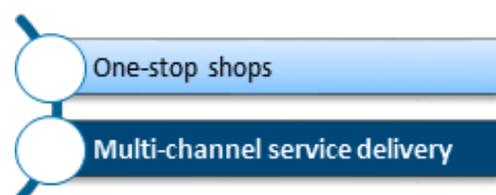
Question	Considerations
Are there any legal barriers to establishing the OSS?	Legislation that assigns responsibilities to specific levels of government or territories (e.g. regions, provinces) can limit the development of OSS’ as a national network whereby citizens can access services anywhere in the country. In planning the OSS, time should be allowed to develop and adopt solutions in the legislative programme of the government.
Is the OSS just a ‘window’ into the administration or does it involve a more substantial relocation or reorganisation of resources?	In the case of a physical OSS, the office will need to be staffed. If the ‘receptionist’ model is foreseen then staffing levels may be minimal, if the surgery or multi-clinic model is planned, the OSS will require a management and staff structure which mirrors the organisation(s) it represents. The more staff that are transferred to the OSS, the more important it will be that they play a full role in its development and buy-in to the concept.
Does the OSS have the authority to make decisions?	If the intention is to follow the ‘receptionist’ model, then no decision-making powers are necessary, but if the OSS is to move beyond diagnosis and referral, it must have delegated authority from the parent organisation(s) to decide on individual cases. This means appointing or assigning staff with enough seniority and experience of staff, in the case of a physical OSS.
Is the OSS in effect a new and additional agency?	There are arguments for creating physical OSS as separate legal entities within or outside the administration, but risks too. The parent or partner organisations may be reluctant to make qualified staff available (their ‘best people’), and/or resent the transfer of powers and resources to the new body. Some OSS have failed in the past because of ‘turf wars’, which makes the initial planning and internal negotiations over the OSS especially critical to its success.

Question	Considerations
If the OSS is a physical location, it is accessible and visible?	To be effective, the OSS must have 'presence'. In other words, it must be actively promoted to its target group, and easy and low cost to access if a physical OSS, including by public transport if aimed at citizens.
Are staff competent to handle the OSS role?	This is not just a matter of technical knowledge and experience, but also inter-personal and analytical skills for customer service. These should be assessed before appointment / assignment to the OSS, and coached if there are gaps.
Has the OSS been properly costed and its benefits evaluated, to justify the spending and upheaval, and is it sustainable?	In principle, single portals represent a step-up in access to public services for the citizen or business. But like any organisational change, an OSS requires upfront investment, including staff movement and training, and on-costs. Many of the financial benefits will accrue to the user, rather than the administration.
Has the OSS been accompanied by administrative simplification?	If the OSS is essentially a professional interface with the citizen or business, then it is simply acting as a guide to navigate the service through the labyrinth of the administration's bureaucracy. This is a vital role in itself, but the real benefits (and economies) come from marrying the single portal to the seamless process, which is essential in the case of the virtual OSS online.

Once they are in place, OSS can also provide valuable feedback on further possibilities for administrative simplification, helping identify the most cumbersome procedures.

4.3.2. Multi-channel service delivery

During the last decade, users have become accustomed to new means of service delivery in the private sector. Nowadays, service users expect the same level of variety from the public sector: they want their interactions to be convenient, and they prefer to be online rather than in line. To meet this expectation, administrations need to deploy a variety of channels for their service delivery – channels that allow users to consume their services anytime, anywhere and anyhow.



An administration's user population is not homogeneous, nor should it be treated as such. To be able to deliver quality services, services should be tailored to the needs of individual users, as far as this is possible. Although fully-customised service provision may be a thing of the future, user segmentation is a valuable step in the right direction. Segmentation means that the user population, ideally per service or group of related services, is subdivided into subsets of users who share an interest in the service(s), based on one or more characteristics. Common criteria are:

- **Demographic:** age, gender, urban or rural based, region, etc.;
- **Socio-economic:** income, socio-economic category, level of education, sector, number of employees, volume of business, etc.;
- **Psychographic:** life style, values, sensitivity to new trends, etc.;
- **Physical and psychological:** abilities, attitude, loyalty, etc.

The segments are then 'targeted' in the most suitable way over the most appropriate channels, based on their needs. Generally, users want services to be flexible, accessible, complete, easy and secure. A user's channel preferences are influenced by circumstances such as the nature of the service required, or his/her need for direct, person-to-person interaction. New developments in ICT allow the public sector to meet these preferences by adapting their front and back offices: allowing new ways

of interaction through a variety of channels, restructured services that accommodate their users' needs, and re-organised business processes within and between separate administrative bodies. This is often a challenge for public sector services, which are typically built as 'silos'. Scenarios range from traditional channels, such as the counter and telephone, to e-channels such as internet, e-mail, SMS-messaging, interactive voice response systems and digital television. Each has its case, as indicated by an earlier European Commission study (overleaf).⁽¹¹⁾

Overview of channels with potential advantages and disadvantages	
Call centre	<ul style="list-style-type: none"> <input checked="" type="checkbox"/> Can handle voice contacts (e.g. telephone), internet contacts (e.g., chat, e-mail), written contacts (e.g. faxes, regular mail) <input checked="" type="checkbox"/> Can deliver services ranging from simple general information requests (e.g. self-service through IVR systems) to complex transaction services (e.g. in direct contact with a human agent) <input checked="" type="checkbox"/> The use of computer telephony integration (CTI) enables it to be a one-stop shop <input checked="" type="checkbox"/> Cheaper to operate than traditional channels <input checked="" type="checkbox"/> Can be used as an add-on channel for other channels
Counter	<ul style="list-style-type: none"> <input checked="" type="checkbox"/> Provides direct and personal contact <input checked="" type="checkbox"/> Suitable for complex services that cannot be provided over self-service channels expensive to operate <input checked="" type="checkbox"/> Physical distance and limited opening hours may be a barrier
E-mail	<ul style="list-style-type: none"> <input checked="" type="checkbox"/> If organised around automated response: suitable for simple services that don't require personal contact, and available on a 24*7 basis <input checked="" type="checkbox"/> If organised around manual response: suitable for complex information and communication services that require personal contact <input checked="" type="checkbox"/> Less formal than regular mail <input checked="" type="checkbox"/> Expensive to operate
Instant messaging	<ul style="list-style-type: none"> <input checked="" type="checkbox"/> Suitable for asking brief questions and for obtaining a prompt answer <input checked="" type="checkbox"/> Faster than e-mail <input checked="" type="checkbox"/> Danger of misunderstanding due to brevity of messages
Interactive Digital TV	<ul style="list-style-type: none"> <input checked="" type="checkbox"/> High potential for including until now excluded social groups <input checked="" type="checkbox"/> Seen by many users as an entertainment device <input checked="" type="checkbox"/> No single technical standard yet <input checked="" type="checkbox"/> Low penetration rate
Interactive Voice Response (IVR) systems	<ul style="list-style-type: none"> <input checked="" type="checkbox"/> Accessed over a phone line <input checked="" type="checkbox"/> Suitable for simple services <input checked="" type="checkbox"/> Available on a 24*7 basis <input checked="" type="checkbox"/> Seen by many as user-unfriendly (phones with visual readouts may remedy this)
Mobile devices	<ul style="list-style-type: none"> <input checked="" type="checkbox"/> Enable users to access services irrespective of location <input checked="" type="checkbox"/> Offer functions such as SMS, e-mail, access to the internet (depending on the model), in addition to telephony <input checked="" type="checkbox"/> Raise inclusion in areas with poorly established fixed telephone line system by offering telephone, SMS and internet (m-services) <input checked="" type="checkbox"/> Size of screen is a limiting factor to providing services <input checked="" type="checkbox"/> Functionality of different devices is converging (e.g. PDAs and mobile phones)

⁽¹¹⁾ Based upon: European Commission, DG Enterprise, Interchange of Data between Administrations Programme (2004), "Multi-channel delivery of eGovernment services", p.77

Overview of channels with potential advantages and disadvantages	
Personal computers	<input checked="" type="checkbox"/> Widely used device to access the Internet (home, work, school, public access points)
	<input checked="" type="checkbox"/> Internet connection needed: modem over standard telephone line, ISDN line or ADSL connection
Public Internet Access Points (PIAP)	<input checked="" type="checkbox"/> Intended for users who have no access to the internet at home
Access Points (PIAP)	<input checked="" type="checkbox"/> Usually located in public places with dedicated staff available to assist users
	<input checked="" type="checkbox"/> Physical distance may be a barrier
SMS	<input checked="" type="checkbox"/> Offered by the GSM network
	<input checked="" type="checkbox"/> Send short (max. 160 characters) messages to and from mobile phones
	<input checked="" type="checkbox"/> Suitable for notification services
	<input checked="" type="checkbox"/> Can be combined with other channels (websites, e-mail boxes)
	<input checked="" type="checkbox"/> Technology becoming available that allows messages to be sent via the fixed line telephone system
Telephone	<input checked="" type="checkbox"/> Very high penetration rate
	<input checked="" type="checkbox"/> Type of services, "opening hours" and costs dependent on the receiving
	<input checked="" type="checkbox"/> End of the line (an administration's employee, a call centre agent, an IVR system or an answering machine)
	<input checked="" type="checkbox"/> Preferred by many users (instead of e-channels)
	<input checked="" type="checkbox"/> Speech / auditory impaired may be helped by text phones & communication assistants
	<input checked="" type="checkbox"/> May be used to access websites
Websites	<input checked="" type="checkbox"/> Can contain very large volumes of information
	<input checked="" type="checkbox"/> Suitable for services that are not too complex
	<input checked="" type="checkbox"/> Available on a 24*7 basis
	<input checked="" type="checkbox"/> Parallel or add-on channels such as a call centre can make websites appear more direct: a call centre agent guides the user through his web session
	<input checked="" type="checkbox"/> Devices are needed to access websites (overall internet penetration rate in EU is still below 50%)
	<input checked="" type="checkbox"/> The nature of the accessing device (PC, mobile phone) determines viewing and thus services (e-services vs. m-services)

An administration's first step in defining a multi-channel strategy consists of determining its objectives: why does it want to offer a variety of channels? Only if it has a clear vision can it make properly motivated choices, in terms of which channels it should implement and how it can redesign its services to reap the optimal benefit. A multi-channel strategy can address two objectives faced by today's public bodies: improving the services provided to the user community and/or reducing the costs of providing its services. Because success in service delivery depends on a vast range of parameters, there is no single formula or solution that fits all situations. Instead, each administration wishing to implement a multi-channel strategy must make its own investigations and choices. This is exemplified by the case of customer service reforms in the City of Linz in Austria, which has put in place a multi-channel offer of personal, telephone-based and online citizen services, including the OSS approach.

Inspiring example: Three channels in the City of Linz (Austria)

In the administrations of municipalities (communities), which are the smallest units in the structure of the federal state, the administration and the citizens interact on a virtually equal footing. As a result of this close and direct contact, the municipalities are compelled to constantly scrutinise and improve the way in which they deal with their citizens. In 2001, the municipal authorities of Linz launched a service offensive with the aim of giving their citizens much better access to the individual services. Based on their customers' need for information, communication and interaction, which had undergone some changes, new forms of organisation were created for the three most important access routes:

- **Personal:** Services for which there is a great demand, which can be dealt with quickly and do not require any special knowledge (which can therefore be standardised) were bundled together. These so-called quick services were offered at 'single points of contact' which were easy for the customers to get to (Citizens' Service Centres, decentralised libraries). In addition, services that were in great demand but for which special knowledge was required were spatially and organisationally brought together in so-called specialised centres (e.g. Construction Service Centre, Fee Service). Since 2008, services for special target groups have been offered within the framework of the 'mobile citizens' services' at locations which can be flexibly arranged and are convenient for the customers (e.g. at the start of the semester, students can register places of residence and get active passes at the University of Linz; before the travelling season, travel documents can be obtained in larger firms in Linz).
- **Internet:** The platform 'service A-Z' under www.linz.at offers citizens access to comprehensive information and many online services. There is also a special portal for entrepreneurs (www.linz.at/wirtschaft) to ensure the best possible service to this target group around the clock.
- **Telephone:** With the establishment of the Teleservice Centre (TSC) in 2006 and the continuous expansion of the services it offers in recent years, it has been possible to optimise the means of access to the municipal administration that is most frequently utilised by citizens. The TSC thereby completes the comprehensive service concept from which both the citizens of Linz and the municipal administration benefit: the citizens enjoy an improved quality of services and the administration is able to deploy its resources more efficiently. The value of this approach has been confirmed by the excellent results obtained in the surveys of customers and the 'mystery actions', both of which are carried out at regular intervals, as well as by contacts with customers (both direct and by phone).

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Each administration should find out the preferences of their user segments in relation to the services and the types of transactions required. The smaller, or the more uniform, an administration's sphere of activity, the less channel preferences will vary. Bearing in mind differences between individual users, preferences vary considerably depending on:

- **Demographic and socio-economic factors:** These might include gender, location (urban or rural based, region) and health.
- **Phase in the service delivery process:** For example, whether orientation, information, consultation or transaction.
- **Complexity:** Research has shown that the channel over which users seek information is often also the channel they prefer in the following service steps. But the more complicated an interaction with an administration, the less the user wants to do it over indirect channels like the internet. In that case, telephones remain the overwhelmingly favourite way to communicate.⁽¹²⁾
- **Personal or impersonal:** Users who have a preference for personal contact when seeking general information are not usually inclined to use the telephone or the internet in the following process steps. Users who use the telephone to obtain information are more inclined to switch to the

⁽¹²⁾ Boutamine, L. (2013), "The ethnographic approach: an aid in understanding the behaviour of users of public services. An example from the tax area", presentation made at the 7th European Quality Management Conference; Klootwijk & Maatje (2001), "Channel Preferences in Europe. Multi-Channel Strategies and the Customer Activity Cycle", Woerden, Beerens Business Press, pp. 45 and R.A. Malatest & Associates Ltd. (2002), "Clients Speak. A Report on Single-Window Government Services in Canada", the Institute of Public Administration of Canada, pp. 13.

internet channel, a possible explanation may be that they are less afraid of non-visual contact.⁽¹³⁾

- **Type of service:** The type of service may change the overall picture of channel preferences. For example, although overall the percentage of women using the internet is lower than the percentage for men, in both the EU and US females are more likely to use the internet to search for health-related information.⁽¹⁴⁾

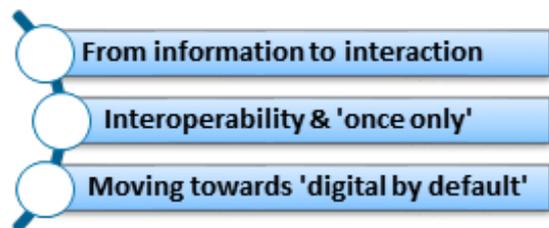
Customer preferences are not set in stone, however, and technology does not stand still. Service providers must always be diligent in responding to users' requirements in the immediate term, but should also be looking to innovative solutions in the medium-term, in dialogue with service users.

4.4. Using e-Government to access faster, cheaper, better services

Performance gains in the public sector are among the key drivers of the productivity that generates economic growth. As a labour-intensive sector, public administration has been constrained in the past by the limits of technology. No longer. ICT's blend of processing power, flexibility and networking capabilities has unleashed untapped potential for better, faster and cheaper service delivery. This entails more than technological innovation.

It reflects and requires a radical shift in thinking about back office functions, as well as the interface between administration and user, whether citizen, business or other administrators.

Digitisation of public administration is not an end in itself, but a means to improve efficiency, to increase user-friendliness and accessibility, and to promote ethical practices and reduce opportunities for corruption (see [theme 2](#)). This transformation has interoperability at its core – the ability of institutions to work together, and systems to talk to each other. Many Member States are moving towards 'once only' registration of personal data by citizens and businesses, where desired and permitted by law, and towards online channels being the default option for accessing public services ('digital by default'). In this context, it is important that no citizens are left behind by technological change. Within the context of [Europe 2020](#) and its flagship initiative, the [Digital Agenda for Europe \(DAE\)](#), the goal of the [e-Government Action Plan](#) is that, by 2015, 50% of EU citizens and 80% of EU businesses should be using e-Government services, including cross-border services.



⁽¹³⁾ Ibidem

⁽¹⁴⁾ Work Research Centre (2003), "Benchmarking Social Inclusion in the Information Society in Europe and the US", SIBIS project and European Communities, p. 27

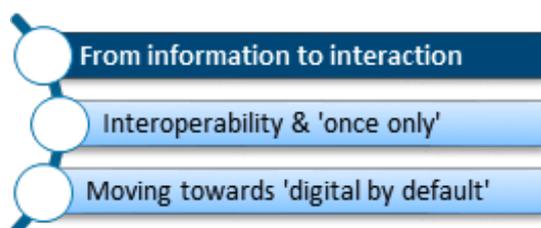
e-Government Action Plan 2011-2015

The Action Plan, launched in December 2010, identifies four political priorities, with 40 specific actions under 14 priority areas:

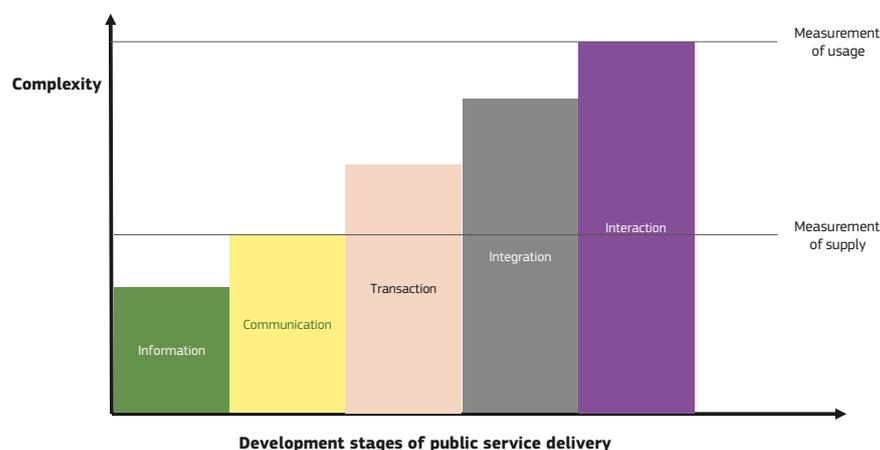
1. **Empower citizens and businesses:** services designed around users' needs and inclusive services; collaborative production of services; re-use of public sector information; improvement of transparency; involvement of citizens and businesses in policy (14 actions);
2. **Reinforce mobility within the Single Market:** seamless services for businesses; personal mobility; EU-wide implementation of cross-border services and new services (10 actions);
3. **Enable efficiency and effectiveness:** improving organisational processes; reduction of administrative burdens; green government (7 actions);
4. **Create the necessary key enablers and pre-conditions to make things happen:** open specifications and interoperability; key enablers; innovative e-Government (9 actions).

The Action Plan contributes to achieving the goals of the Europe 2020 strategy, building a knowledge-based, sustainable and inclusive economy, and supports and complements the Digital Agenda for Europe.

4.4.1. Information to interaction



Increasingly, public administrations and the judiciary are using the Internet to bring services to citizens and businesses. This evolved quickly from the passive (one-way access to basic public information) to the interactive (two-way engagement, allowing sophisticated transactions to take place). DG CNECT's [2014 e-Government benchmarking study](#) describes the five stages of e-Government development in public service delivery:



Breaking down these stages:

1. The most basic level of e-government is the provision of useful **information** to citizens and business users on public services online, which can also help to promote transparency and accountability (see [theme 2](#)).
2. This evolved into more sophisticated **communication**, whereby the administration moves beyond setting out basic information (such as opening hours of public facilities, citizens' rights and entitlements to services, etc.), and opens up a dialogue with service users, allowing information sources to be interrogated (such as real-time availability of public transport), ask questions, make comments and complaints etc.

3. Opening up the communication channels leads logically to **transactions**: enabling citizens, businesses and public authorities to access and use public services online, for example in submitting applications, registering births or business start-ups, making payments or purchasing certificates (as illustrated by the example of Ireland's www.certificates.ie below).
4. Dealing with individual administrations on individual steps in the transaction process is hugely inefficient, especially for the citizen or business. The big leap forward in the productivity and quality of the user's experience comes from **integration**: the bundling of services across several administrations, so that the interface between them is seamless and the connections between the various 'back offices' becomes effectively invisible to the consumer. This puts the onus on the administration to deliver the right package of information and accessibility, rather than on the user to find it.
5. This leads logically to full **interaction** with the user, whereby the citizen or business is able to engage directly - and if desired, exclusively - with the administration online, providing data and managing its updating and usage. The citizen or business can monitor in real-time what is happening with their services and their personal data, in the same way they can track delivery of a parcel on a private sector website. The power of the Internet permits a whole new paradigm in service delivery and democratic governance.

Inspiring example: Purchasing public certificates online worldwide (Ireland)

The website www.certificates.ie was developed in a tight economic climate as a smart way to enable clients to purchase certificates of life events (i.e. birth, adoption, marriage, death and still-birth, and more recently civil partnerships) online from any internet connection in Ireland or abroad. It was a new and innovative way of providing the service, resulting in real savings, both by using an online solution, and also taking the opportunity to re-evaluate the current business model, designing and implementing re-engineered processes which increase efficiency, which was the main goal of this project.

The adopted joined-up government approach was led by the Civil Registration Service – Eastern Registration Area (CRS-ERA), on behalf of the Civil Registration Service (CRS) nationally and the General Register Office (GRO) utilising internal ICT resources. The national CRS generates significant income – during 2008 around EUR 7.7 million was generated, over 591 000 certificates issued, and over 128 000 life events registered. The website was launched in November 2009 and by the end of 2010, approximately 5% of all certificates were issued from online applications, and turnaround time had reduced to less than 5 working days in 92% of 'customer-not-present' applications (online, by telephone or postal). Previously, to purchase a certificate, a person had to attend in person, post a detailed description/ completed downloadable application form with a cheque/postal order, or in more recent times could apply by telephone using a credit/debit card. Within the CRS, a government-approved Modernisation Programme had clearly set out the value of online services and the REACH project had also developed a detailed proposal in this regard. However with many legislative and other large-scale initiatives ongoing, including development of online registers of birth, death and marriage, this project had not been progressed further. Prior to the development of this site, the take-up on telephone applications demonstrated that clients welcome 'customer-not-present' approaches for purchasing certificates.

Going online delivers savings for the state through reduced staff intervention as clients now input details, and reduced cash-handling by using a secure financial system that reduces administrative overheads e.g. cash counting/balancing. With little available external resources, an innovative approach was necessary to keep costs to an absolute minimum and a partnership approach saw this site being developed locally by an in-house project team comprising of a partnership between ICT and staff from the CRS service. For CRS-ERA, key advantages include: improved customer experience – empowering the citizen; enabling customers to order certificates of birth, adoption, marriage death or still-birth from the comfort of their own home or any location with web access at any time; more effective use of staff resources – ability to manage workloads better, diminished need for public space at some offices, facilitating better customer experiences. This has been a joined-up partnership approach with other government agencies to benefit both the state and the citizen through exploiting online technology and its application. A review of 2013 figures shows a marked increase in on line users with 25% of orders placed for certificates in the Dublin office coming through the website, which was accessed from 72 distinct countries.

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With Governments across Europe looking to increase further the availability of online services, the question for public administrations is: how best to generate demand among businesses and citizens by ensuring the highest quality user experience, both nationally and across borders? The answer brings us back to **citizen and business ‘life events’** (topic 4.1). To recap, ‘life events’ package public services that are usually provided by multiple government agencies around a subject that makes sense to the citizen. The challenge then is for the IT systems of the participating agencies to cooperate (or ‘interoperate’) for the seamless delivery of the e-service.⁽¹⁵⁾

A life event captures the user’s journey irrespective of government domains and tiers ... Life events cut across the silos of public administrations, underlining the need for collaboration between different administrations to satisfy the users’ needs.⁽¹⁶⁾

The most basic point about ‘life events’ is that they rarely involve just one interaction with one public authority. They are almost always the composite of many individual services. Each main life event can be broken down into a set of individual public services, which can be as many as 10–20 or more. For example, the Commission’s e-Government study identifies 15 public services under ‘losing and finding a job’ and seven for ‘small claims procedures’:

Examples of individual services linked to a life event

Losing and finding a job	Starting a small claims procedures
1. Register as unemployed and apply for benefits	1. Obtain information on how to start small claims procedure
2. Get assistance from public officer	2. Obtain information on related legislation and rights
3. Ensure continuity of medical insurance	3. Start a small claims procedure
4. Ensure continuity of pension payments	4. Share evidence/ supporting documents
5. Obtain guidance related to housing	5. Obtain information on case handling
6. Access debt counselling	6. Retrieve judgement
7. Access health promotion programs	7. Appeal against court decision
8. Obtain guidance in case of sickness/injury	
9. Access social welfare appeals	
10. Receiving benefits that apply to you	
11. Orientation on labour market	
12. Search job vacancy data base	
13. Receive job alerts and set up job profiles	
14. Subscribe to training & education programmes	
15. Subscribe to vocational career advice	

So, what is the **state-of-play with life event e-Services** across Europe? The European Commission’s 2014 benchmarking study shows almost three-quarters of national public services are available online, but well below half of cross-border services.

⁽¹⁵⁾ <http://ec.europa.eu/idabc/en/document/1644/5848.html>

⁽¹⁶⁾ DG CNECT (2014), “Delivering on the European Advantage? How European governments can and should benefit from innovative public services”, Final Insight Report.

Benchmarking e-Government in Europe

The EU's e-Government Report 2014 shows that Governments are increasingly aware of the importance of making their online services user-friendly, but the focus is still mostly on making services available, leaving ample room for improvement in areas such as speed and ease of use. The report contains the first complete measurement of online public services, according to the new Benchmark Framework 2012-2015, using 'mystery shopping' techniques to recreate the journey through government websites and services for seven life events - five for citizens (studying, losing & finding a job, moving, owning & driving a car, and starting a small claims procedure), and two for businesses (starting a business & early trading operations, and regular business operations).

The study found that, on average, 72% of public services under the life events are **available online** in the EU, through either a portal or standalone channels. With regard to the overall user experience, usability features (support, help and feedback functionalities) are widely present on government websites (78%), but ease and speed of use come out 20 percentage points lower (58%). Transparency was also measured, in relation to governments' openness about their own responsibilities and performance, the service delivery process, and the personal data involved. Here, the overall EU score was only 48%, which is mainly due to insufficient information provided to users during delivery of e-Government services, such as whether an application has been received, where it stands in the entire process, or what are the different steps in the process.

The report shows that there is still a long way to go in giving businesses and citizens seamless access to online public services when they are away from their home country. Availability of **cross-border** public services to nationals of a different EU country stands at just 42%, 30 percentage points behind availability of public services for country nationals. Services involving an electronic transaction between the user and the public administration are possible only in a very few cases, causing unnecessary burdens for citizens and businesses that want to move, work or start up in another EU country.

Source: European Commission (2014), "Delivering on the European Advantage? How European Governments can and should benefit from innovative public services"

For further information: <https://ec.europa.eu/digital-agenda/en/news/eu-egovernment-report-2014-shows-usability-online-public-services-improving-not-fast>

At present, **life event journeys are rarely completed end-to-end without interruptions**. Despite a majority of services being online, the e-Government benchmarking study found from its mystery shopping that citizens and businesses were typically not able to finish their entire journey online. Interrupted journeys imply incomplete availability of online services. The study revealed that portals tend to function less well in countries where fewer e-Services are available. France's www.service-public.fr is a good example of a country with a comprehensive online offer through a one-stop shop portal.

Inspiring example: Access to government entities through a single national page (France)

In addition to the national portal, the Government has also developed an official website for the French civil service, www.service-public.fr, available to private citizens, businesses and professionals. All administrative information is presented clearly and simply in three sections:

- First, on citizen's rights and procedures, there are about 200 folders, 2 500 data sheets and answers to FAQs and several thousand links to useful resources, including forms, online procedures, reference texts, public websites, etc.
- Second, there are practical services to help with administrative procedures, such as online services, calculation modules, downloadable forms, standard letters, call and contact centres and a message service;
- Third, a civil service directory includes 11 000 national services, 70 000 local civil services and accesses to the main portals of the States in the European Union, European institutions and international organisations. The official civil service website facilitates and simplifies access to administrative information by selecting the various resources available on the public network and organizing them to meet citizens' needs. For each topic, service-public.fr collects all the relevant information and makes it instantly available.

Source: United Nations e-Government Survey 2014

In approaching service delivery from a ‘life event’ perspective, public administrations need to take account of the following factors:

- **Users know their own needs best.** Every citizen or business wants a package of services that corresponds to their individual circumstances. For example, someone who is about to start a job may need to de-register from welfare benefits, move home, buy a car or register in a new town. They might need to complete all of these tasks, some or none of them. The job of life event portals is to help them to find, assemble and process the set of public services that they require as seamlessly and efficiently as possible.
- **Life events overlap.** When a citizen is planning to relocate, example, this can mean for the citizen any combination of ‘starting a job’ or ‘studying’, ‘moving’, ‘buying, renting or renovating a property’, etc. When a business is planning to start new operations in another locality, this might involve ‘registering a new company’, ‘employing staff’, ‘buying, renting or renovating a property’, etc. Some individual services appear under more than one life event, which has consequences for how they are packaged and presented to the user.
- **Users achieve their life event goals with a mix of public and private services.** In most cases, the user will look to private service providers, not just the public administration, to fulfil their full package of needs. A citizen who is considering travelling abroad will deal with the public administration for their passport application or renewal, and applying for a visa if needed, but private providers for flights, insurance, etc. A potential entrepreneur that wants to start a new business will deal with the public administration for registering the company, applying for licenses and permits, registering for VAT etc., but will approach the private sector to establish a bank account, and could be accessing finance and renting a business unit from either public or private providers. For the user, the life event journey is not finished until they have completed all the steps.
- There is evidence indicating that **users take an ‘atomised’ approach to handling their life event.** Rather than following a systematic end-to-end plan, research for a European Commission study⁽¹⁷⁾ found that citizens approach life events by focusing on a series of discrete activities. “*The individuals involved in the experiment tended to segregate the separate actions, tasks, and information they needed related to the life event and approached the issue at hand in a ‘disaggregated’ way.*” The study also showed that a significant proportion who started with government portals found they were not effective in meeting their needs, and so exited them and used search engines instead. “*Users found their questions answered significantly faster by searching on private sector sites and Wikipedia rather than on government sites.*”

The implication for public administrations is that **user interfaces should be personalised**, whether for the individual citizen or the specific business. Online access needs to cater for users that like to move in and out of government sites as they assemble their own bundles of public services to deal with life events, while helping them with orientation (*what do I need?*) and navigation (*where do I find it?*).

The headline challenge for public administrations is to design **packages of online services** to be fully user-centric, with two objectives in mind. They are:

- **Comprehensive enough**, so that every eventuality is covered;
- **Flexible enough**, so that users can choose the route that reflects their situation.

⁽¹⁷⁾ Deloitte (2010), “User expectations of a life events approach for designing e-Government services”, SMART 2009

This leads to three challenges for public administrations:

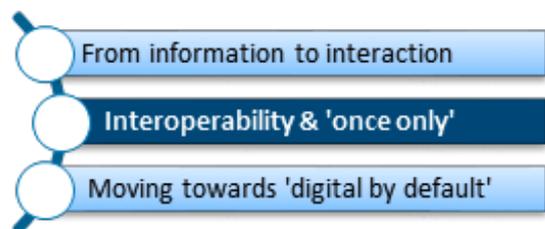
Challenge	Answer
1. Making sure the user does not have to 'break' their journey because they find themselves at a dead-end.	Ensure each individual service that could come within the scope of a 'life event' is online, accessible and covers all the small steps necessary regarding orientation, information, documentation, transactions, etc.
2. Helping the user to take the path that suits them best, irrespective of their starting point.	Package services loosely enough, so that there is not a single A to Z, but instead the customer can start at C, or meander from F to B and back to N, miss out L, jump to P, if this works best for them.
3. Ensuring the user does not get lost along the way	As some services are relevant to more than one life event, users need a 'map', but more essentially signposts to potentially linked services (and hints on which paths they should consider), with information to varying degrees and depths at different stages to make the journey more pleasant.

This tailor-made approach to life events implies that the portal is able to navigate the user through the potential maze of online services and help them to put together their customised package, including links to private websites. This links to the growing trend for collaborative e-services involving governments and citizens, NGOs, private companies or even individual civil servants, which is the subject of an [EU-funded study](#) (see also [theme 1](#) on co-production). Each individual public service needs clear parameters (a consistent set of rules, information requirements, and sequence of processes) that are both reader-friendly and administratively straightforward to access. This also means using terminology that translates the public sector's legal and administrative jargon into language that is familiar to citizens and businesses. This takes us back to the benefits of administrative simplification ([topic 4.2](#)).

In some cases, the reason for the gaps in online services might be service complexity. Those which are relatively straightforward by nature (such as the service 'notifying change of address', within the life event 'moving') are easier to standardise and remain usually unaffected by changes in policy or legislation. By contrast, services that are case-specific demand more agility from the public administration and its back office processes, and a high degree of interoperability.

4.4.2. Interoperability and the 'once only' principle

The changing relationship between administration and service user through e-Government can only happen with a parallel revolution in the way that administrations operate. While the first wave of digitisation saw individual institutions put their individual services on the Internet, the real benefits started to materialise when institutions began to link these islands to meet the user's needs. This can only occur if institutions are willing and able to work together – within countries, but also across EU borders. This is all about interoperability.



What do we mean by 'interoperability'?

Different parts of the public administration are often responsible for different elements of a public service, whether in the same country or across borders. In the context of e-Government, interoperability is the ability of systems to work together – within or across organisational boundaries – in order to exchange, interpret, use and re-use information. Interoperability is relevant to every policy field where data is shared, whether health, trade, tax, justice, etc.

The advent of the Internet in the 1980s was the take-off point for interoperability, as it allowed a global system of networks to connect computer devices across the world and to communicate with each other using standardised protocols (TCP/IP). If two or more systems are able to exchange information, this means there is **syntactic interoperability**. This requires data to be formatted to a common standard (e.g. all alphabetical characters are expressed in ASCII or Unicode format) and codified using an agreed set of rules (a grammar or schema) in a language that is both human-readable and machine-readable. This capability to share data is the most basic level of interoperability, and is an essential precondition for the next level. Today, we take it for granted.

In order to interpret and apply this information, however, systems must also have **semantic interoperability**. Crudely, this means that what is sent by one system is *understood* by the other system (not just received through agreed data formats and protocols). This can only happen if both systems share a common and unambiguous reference framework for information exchange. There are all sorts of real and potential obstacles to achieving semantic interoperability, with regard to language, meaning and presentation. As an example, the address of a citizen or business in any country might have: the street name before the building number or vice versa; a post code or a zip code with a mix of letters and numbers in various orders; and alphabetical characters with or without accents. Accepting and interpreting received information is not an automatic process, especially across borders where meanings vary according to cultural and linguistic factors.

Governments can lay the foundations for interoperability and wider innovation by [opening up non-sensitive public data](#) as part of the open government approach (see ‘[principle and values](#)’), and in line with the [PSI Directive](#). In order to achieve interoperability, especially across borders, an administration should base the development and delivery of its online public services on **open standards**, as well as describing services in a consistent and commonly agreed way, so that relationships can be formed between datasets. In this way, data can be linked, not locked-in.

What are ‘open standards’?

An open standard is one that is publically available and accessible, without restrictions in ownership, with the right to use and re-use without constraints. In other words, it has been adopted and published, any intellectual property (patents) is licensed to be available without payment of royalties, and documentation on its specification is available either free to copy, distribute and use, or for a nominal fee only. The standard itself may be subject to further development (extension), which happens through a consensual decision-making procedure open to all interested parties. This openness creates a level playing field for developers, lowers the cost of innovation, and stimulates creativity in the standard’s application. Well-known examples of open standards are the Internet protocols (TCP/IP), the architecture of the world-wide web, file formats such as HTML and PDF, and the standards used by USBs and CD-ROMs. Open standards are not only important for interoperability. They also prevent ‘lock-in’ of individual suppliers in procurement of ICT (theme 7).

In the context of service design and delivery, information exchange and use also requires the administration(s) to address the technical, legal and organisational layers of interoperability, as well as the semantic layer.⁽¹⁸⁾ In each case, the issues that arise can be resolved through agreements between the involved parties, as described below.

Layer	Issue	Solutions
Technical	Agreeing specifications for linking systems and establishing services	Interface, security and messaging specifications, communication protocols, data formats, dynamic registration and service discovery specifications.
Semantic	Ensuring that precise meaning of exchanged information is preserved and understood by all parties	Reference taxonomies, code lists, data dictionaries, sector-based libraries, etc.
Legal	Ensuring incompatible legislation is not a barrier	Enact legislation, including transposing European directives into national legislation, adopting bilateral and multilateral agreements
Organisational	Ensuring services are easily identifiable, accessible and meet user requirements by aligning businesses processes, streamlining administrative relationships and managing this transition effectively	Memorandum of understanding (MoUs) or service-level agreements (SLAs) that specify obligations of participants in processes and define expected levels of service, support / escalation procedures, contact details, etc.

As well as facilitating interoperability, Governments are also taking action to put in place the **key enablers**, prioritised in the e-Government Action Plan, that enable public administrations to offer secure and seamless electronic services to citizens and businesses. The Commission's 2014 e-Government benchmark study (*op. cit.*) identifies five key enablers: electronic identification, single sign on, electronic documents, authentic sources (base registries) and electronic safes.

What it is	What it does
Electronic identification (e-ID)	Issued by the Government, e-ID verifies that the user is who he or she claims to be. This protects the citizen or business from the misuse of personal or corporate information and the effects of identity theft, and builds trust in the user through the reassurance of secure log-ins. In addition to e-ID covers a range of electronic trust services (e-TS) namely e-Signatures, electronic seals, time stamp, electronic delivery service and website authentication.
Single Sign-On (SSO)	SSO is a functionality that allows users to get access to multiple websites without the need to log in multiple times.
Electronic documents (e-Documents)	These are authenticated documents, recognised by the public administration, which allows users to send and receive 'paperwork' online.
Authentic sources	Base registries used by governments to automatically validate or fetch data relating to citizens or businesses, allowing online forms to be pre-filled, so that they are received by the user either partly or fully completed for checking, amending if necessary, and adding information as required.
Electronic safe (e-Safe)	The e-Safe is a virtual and secure repository for storing, administering and sharing personal electronic data and documents.

⁽¹⁸⁾ European Interoperability Framework

The most mature enabler is **e-ID**, which was available for 62 % of life events on average.⁽¹⁹⁾ Countries are increasingly developing national solutions, so that citizens and businesses don't have to keep track of multiple requirements for electronic authentication. DigiD in the Netherlands is a good example of a solution growing into widespread usage through its open availability, practical simplicity, and the momentum that is generated by mass take-up.

Inspiring example: DigiD (The Netherlands)

DigiD is the Dutch government's authentication system for citizens. Although not obligatory by law, DigiD has become the standard. More than 600 government organisations or private organisations performing public tasks are connected to the DigiD service, which is managed by Logius. When someone logs on to a government website using his DigiD, DigiD will feed the Citizens Service Number (unique identifying number) back to the respective organisation. Using this number, the organisation is able to find out from its own administration or personal records base register whom it is dealing with and which information already is available. DigiD is available at two different levels: basic (user name and password: DigiD) and middle (DigiD + SMS-authentication) representing STORK QAA level 2/31.

DigiD was developed by large executive agencies as a common solution, creating a broad usage among citizens – and among others, by obligatory use for digital tax filing – and then made available to other government organisations. The solution is easy to acquire, free of costs for citizens, and students need it, get used to it, and keep it. More than 117 million DigiD transactions were conducted in 2013. For the 11 million citizens who have activated their account, DigiD is the key to a wide range of public e-services, such as:

- The pre-filled income tax form offered by the Tax Agency, which citizens only need to check, accept or modify;
- The e-services of the Social Employee Agency, which unemployed people need to use when they register as job seeker or apply for unemployment benefits; or
- The digital certificate request or notification of change of address at the municipality.

DigiD is a push factor for new digital services, both for smaller organisations and more work processes.

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To facilitate cross-border online services, a [new European regulation for e-ID and e-TS](#) (electronic trust services) in the digital single market was adopted in July 2014. The regulation proposes a predictable regulatory environment. This will benefit not only public services, but also e-Business in all its forms across the EU, by ensuring that people and businesses can use their own national e-ID schemes to access public services in other EU countries where e-IDs are available, and creating a European internal market for e-TS by ensuring that they will work across borders and have the same legal status as traditional paper-based processes.

However, the e-Government research shows there is much still to be done to put all key enablers in place across the EU. Overall, key enablers were implemented in just 49% of the cases of life events where they could be used.

- **e-ID, SSO and e-Documents** are important to enhance the functionality and quality of the user's experience and are the most widely implemented in the EU.

⁽¹⁹⁾ 2014 e-Benchmarking study (op. cit.)

- **Authentic sources (base registries) and e-Safe**, as back-office tools which link data systems securely, are vital to more advanced stages of on-line service delivery, allowing fully integrated packages of information and transactions to be offered to businesses and citizens seamlessly.

The more advanced the e-Government development, the greater the reduction of administrative burdens on businesses and citizens. Going back to the five stages of development, this means moving towards full interaction, which inevitably requires interoperability and the key enablers:

Development stage	Description
Transactions	This is the first stage in which the public administration has scope for significant ABR, as it allows businesses and citizens to interact with public authorities at a time and place of their convenience, 24/7. The benefits are much greater if accessibility is matched by simplification.
Integration	This stage is all about linking data across different public administration systems, so interoperability is essential. The development and application of the key enablers of e-Government (electronic identity, common base registries, single sign-on, etc.) are an advantage, but not a precondition.
Full interaction	At this most advanced stage, the key enablers should be in place, and the public administration moving towards or achieving full interoperability (semantic, technical, legal and organisational).

Interoperability, base registries and system security are the integral elements of delivering composite services for life events from individual services, as envisaged under the European Interoperability Framework (EIF).

Conceptual model for online public services

Composite services

A number of basic services are grouped to appear as a single service to users. Behind the scenes, transactions may be implemented across borders, sectors and administrative levels, via mechanisms tailored to specific requirements.

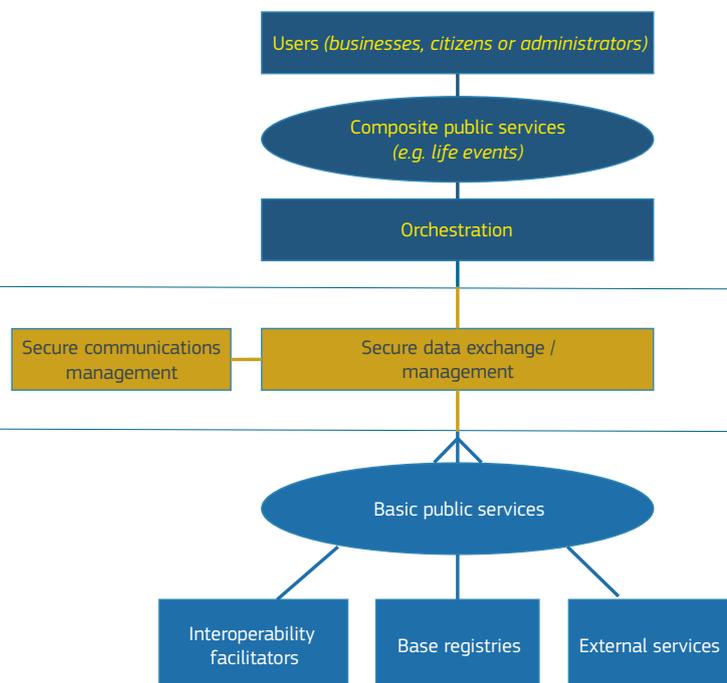
Secure data exchange

Access to all basic public services passes through it. Official information should go through a secure, harmonised and controlled layer (security is potentially a barrier to interoperability if not applied in a harmonised way among organisations). Secure data exchange requires several management functions, including service management, registration and logging.

Individual public services

European public services online are built up from three basic components:

- Base registries – reliable sources of basic information (personal, corporate, vehicles, licenses, etc.), under the legal control of public administrations and maintained by them, but made available for reuse with appropriate security & privacy measures
- Interoperability facilitators – providing services such as translation between protocols, formats & languages or acting as information brokers
- External services – eg payment services provided by financial institutions, or connectivity services by telecommunications providers.



The prospective benefits to citizens and businesses materialise at both national and especially European levels. The Commission's 2014 e-Government Report shows that there is still a long way to go in making **cross-border** public services available to nationals of a different EU country. Services involving an electronic transaction between the user and the administration are possible in very few cases, causing unnecessary burdens for citizens and businesses that want to move, work or start up in another EU country. To move things forward, the Commission has supported Large Scale Pilot (LSP) projects to devise and test practical solutions in real operating environments across Europe:

Breaking down digital borders

Many public services are now online in individual countries, but this is not always the case across borders where interoperability is a greater challenge. Seven Large Scale Pilots (LSPs) have been selected as projects for funding under the Competitiveness and Innovation Framework Programme (CIP), run largely by and/or with Member State administrations:

- **e-ID:** STORK (Secure idenTity acrOss boRders linKed), launched in 2008, aims to enable citizens and government employees to use their national eIDs securely in any Member State. STORK delivered a common set of specifications and a common platform for interoperability of eIDs, including a Europe-wide Quality Authentication Assurance Scheme, and was demonstrated through six operational pilots. A follow-up LSP, STORK 2.0, was launched in 2012 to extend the authentication to legal persons (private sector), with a special focus on SMEs, and four new pilots: eLearning and academic qualifications; eBanking, public Services for Business, and eHealth (www.eid-stork2.eu/).
- **e-Procurement:** Pan-European Public Procurement On Line (PEPPOL) aimed at making public procurement easier and more efficient by improving electronic communication between companies and government bodies, thereby reducing costs and increasing competition (see also [theme 7](#)). Completed in 2012, the sustainability of this LSP is assisted by the non-profit international association OpenPEPPOL (www.peppol.eu).
- **e-Business:** Simple Procedures Online for Cross-Border Services (SPOCS) aimed to build the next generation of electronic Points of Single Contact (PSCs) as one-stop shops, operating as the intermediaries between national public administrations and private service providers, disseminating information and helping them to complete administrative procedures online (see also [theme 5](#)). SPOCS was completed in 2012. The results can be downloaded as a starter kit (www.eu-spocs-starterkit.eu).
- **e-Health:** Launched in 2008, European Patients Smart Open Services (epSOS) aimed to improve the medical treatment of citizens while abroad, by providing health professionals with patient data in a secure electronic format. epSOS sought to achieve technical and semantic interoperability across different European healthcare systems, with the initial focus on solutions relating to patient summaries, emergency data and medication records (www.epsos.eu).
- **e-Justice:** Launched in 2010, e-CODEX aimed to improve cross-border access by citizens and businesses to the judicial systems of other countries and to link them to the European eJustice Portal (see also [theme 6](#)). E-CODEX mainly builds on existing national solutions by adding a pan-European interoperability layer between judicial authorities, and reusing the building blocks from other LSPs. By connecting existing systems, the exchange of legal information is possible through common technical standards in the fields of eID, e-Signatures, e-Payment and e-Filing (www.ecodex.eu).
- **eXtending LSP solutions:** Since 2013, Electronic Simple European Networked Services (e-SENS) has been launched to build on the achievements of preceding LSPs and extend their potential to more and different domains. By providing a set of Basic Cross Sector Services in key areas such as health, public procurement, business mobility and justice, ready for reuse, e-SENS lays the ground for the CEF Digital Services Infrastructure (www.esens.eu).

For further information on the LSPs: <https://ec.europa.eu/digital-agenda/en/egovernment>

Both key enablers and cross-border interoperability will be pushed forward in 2014-2020, with support from the Connecting Europe Facility (CEF) and the [Digital Agenda for Europe \(DAE\)](#). CEF is designed to support the establishment of transport, energy and digital infrastructure, with a total budget of EUR 33 billion in 2014-2020. CEF Digital has been allocated EUR 1.14 billion, out of which EUR 170 million has been assigned to broadband infrastructure and EUR 970 million is dedicated

to Digital Service Infrastructures delivering networked cross-border services for citizens, business and public administrations.

Two types of CEF Digital Service Infrastructures (DSIs)

Building block DSIs are intended for re-use in other digital services:

- e-ID and e-Signature: Services enabling cross-border recognition and validation of e-Identification and e-Signature.
- e-Delivery: Services for the secured, traceable cross-border transmission of electronic documents.
- Automated translation: Services allowing pan-European digital services to operate in a multilingual environment.
- Cybersecurity: Services to enhance the EU-wide capability for preparedness, information sharing, coordination and response to cyber threats.
- e-Invoicing: Services enabling secure electronic exchange of invoices.

Sector-specific DSIs deliver more complex trans-European online services for citizens, businesses and public administrations within specific policy areas:

- e-Procurement: Services enabling EU companies to respond to public procurement procedures from contracting entities in any Member State.
- e-Health: Services enabling cross-border interactions between citizens and health care providers as well as between the health care providers.
- Other interoperable cross border online services such as e-Justice, Online Dispute Resolution (ODR), Electronic Exchange of Social Security Information (EESSI).
- Business registry: Services to interconnect business registers in all Member States to enable the exchange of information.
- Business mobility: Services to enable the handling of all administrative procedures for setting up and running a business in another EU country electronically through Points of Single Contact.
- Open data: Services providing facilitated and harmonised access to data sets created and managed by public bodies across the EU.
- Europeana: Services providing access to European cultural heritage.
- Safer Internet for Children: Services ensuring that children, parents and teachers have access to the right tools and information for a safe use of the internet and new technologies.

For further information: <http://ec.europa.eu/digital-agenda/en/news/connecting-europe-facility-cef-digital-service-infrastructures>; cnect-egovernment@ec.europa.eu

Base registries, combined with interoperability, allow network benefits to be unleashed, including implementing the **'once only' registration principle**, which aims to ease the administrative burden on businesses and citizen, and is increasingly being applied across the EU. 'Once only' is rarely a standalone initiative, but instead typically fits within a wider e-Government agenda. Given the scale of its impact and the timescales of its implementation and requires a long-term policy framework and resourcing.

Let the data do the work, not the user

The principle of 'once only' registration is that citizens and businesses should not have to provide the same basic information (e.g. address, ID number) to the public administration multiple times. After it has been registered once by one authority, it will not be requested again. The implication is that all the relevant authorities must cooperate, take action to store and share this data securely, and put the user first.

While ‘once only’ registration is easy to conceive in principle, however, it is harder to realise in practice. The public administration faces legal, institutional and technological obstacles, and important considerations of data protection and privacy. The European experience of benefits and barriers has been explored through research by Ernst and Young (EY) and Danish Technological Institute (DTI) for DG CNECT.⁽²⁰⁾

For administrations contemplating introducing the ‘once only’ principle, the following **factors** should be taken into consideration:

- **A robust legal framework is essential.** ‘Once only’ should be underpinned by appropriate legislation, which defines *inter alia* which entities and officials can use which data. The definition of data protection within the law is critical, as too narrow an interpretation could conflict with applying ‘once only’. Some countries are restricted from sharing citizens’ data by law. One option might be to allow citizens to ‘opt-in’ to allowing information to be used by other named agencies, so that agreement is fully consensual.
- **Citizens and businesses ultimately own their data.** Trust in the administration and its systems is critical to the success of ‘once only’. For businesses and citizens to feel they have control over their data implies three conditions: the data is safe in the administration’s hands; individual citizens and businesses can determine who has access to it; they can take corrective action, if the data is felt to be incorrect or insecure. Citizens and businesses should be able to view their data, amend errors and improve quality (a legal right for citizens in Estonia, for example). Citizens and businesses should also be able to monitor which entities have used their data (the United Kingdom, for example, places data in a ‘personal safe box’ and enables citizens or business to decide which entities can see and use it).
- **Data protection means authentication.** Allowing people and businesses to manage their own data (track and control) means e-ID must be in place to confirm the user’s authenticity. In countries without a national ID system, alternatives are available (‘identity assurance’ in the United Kingdom uses an industry-agreed set of protocols, standards and certification through which organisations can collaborate to allow citizens to use assets they own to validate and verify their identity).
- **‘Once only’ requires back office cooperation, not an internal market for data.** Some governments have centralised their data collection. However, this may not be viable or desirable, depending on governance arrangements, for example in federal or decentralised systems, in which case a high level of interoperability will be. As a principle, it should be clear which authority is accountable for which dataset or base registry, and that they are clearly responsible for maintaining data quality and security, and avoiding data loss (back-ups). A central body within government should be designated to issue instructions to each authority, so there are common standards and methods for using and re-using data, based on agreed definitions and taxonomies. They might introduce sanctions, if individual units fail to share data effectively, but inter-agency fees for data exchange should not be levied, as they undermine cooperation and the spirit of open government.
- **Good technology is not enough, cultural change is critical.** Obviously, all relevant units of the administration involved in ‘once only’ must be technically capable of collecting data and/or storing it securely in databases or base registries, according to their roles. Similarly, technical and semantic interoperability must be assured, before the system goes fully live. Above all, ‘once only’ means adjusting working practices and administrative cul-

⁽²⁰⁾ EY & DTI (2014) “Study on e-Government and the Reduction of Administrative Burden, Final Report: A study prepared for the European Commission, Directorate-General of Communications Networks, Content & Technology”

tures, ensuring effective communication across government, and overcoming caution to adjust to a new model of collaboration across ‘silos’ in the administration.

The institutional coordination and system interoperability required for ‘once only’ opens the door for administrations to move beyond reaction and become pro-active in their service delivery. Very few Europeans receive services without having requested them; just 3% of services on average are provided automatically, meaning that the user does not have to do anything to receive them.⁽²¹⁾

In some countries, ‘once only’ has transcended the status of *opportunity* for citizens, and become established as a *right*, enshrined in law and hence an obligation for the administration. In these cases, governments have a choice:

- Put the infrastructure in place first, before converting ‘once only’ into an entitlement, on the assumption that the system created is robust enough to handle an upsurge in demand; or
- Make the policy decision to lead with ‘once only’ registration as a right, and thereby create the pressure on the administration to respond.

Several administrations have followed this second route, including Estonia and Spain, and have succeeded in generating the impetus to find organisational and technical solutions. The X-Road data exchange layer in Estonia is a prime example of a solution borne out of necessity, and which has become the backbone of public service delivery to citizens and businesses, because of its openness, simplicity, flexibility, scalability and security. It requires minimal investment by service providers (just a secure service and a software adapter server), and allows citizens and businesses to control the quality of their data and access by officials.

Inspiring example: The X-Road (Estonia)

The genesis of the X-Road goes back to the late 1990s, when Estonia had many separate information systems and a lot of projects to connect them. The reality then was very little paperwork in the back office, but plenty demanded of citizens and businesses, shifting the burden from the administration to the service user. Instead of trying to create a centralised database or channel all information through a central server, which would have created a single point of failure (SPOF), the Estonian administration built “the X-Road” as its interoperability solution: a **secure, internet-based, platform-independent data exchange layer**. The X-road infrastructure consists of software, hardware, and organisational methods for standardised usage of national databases.

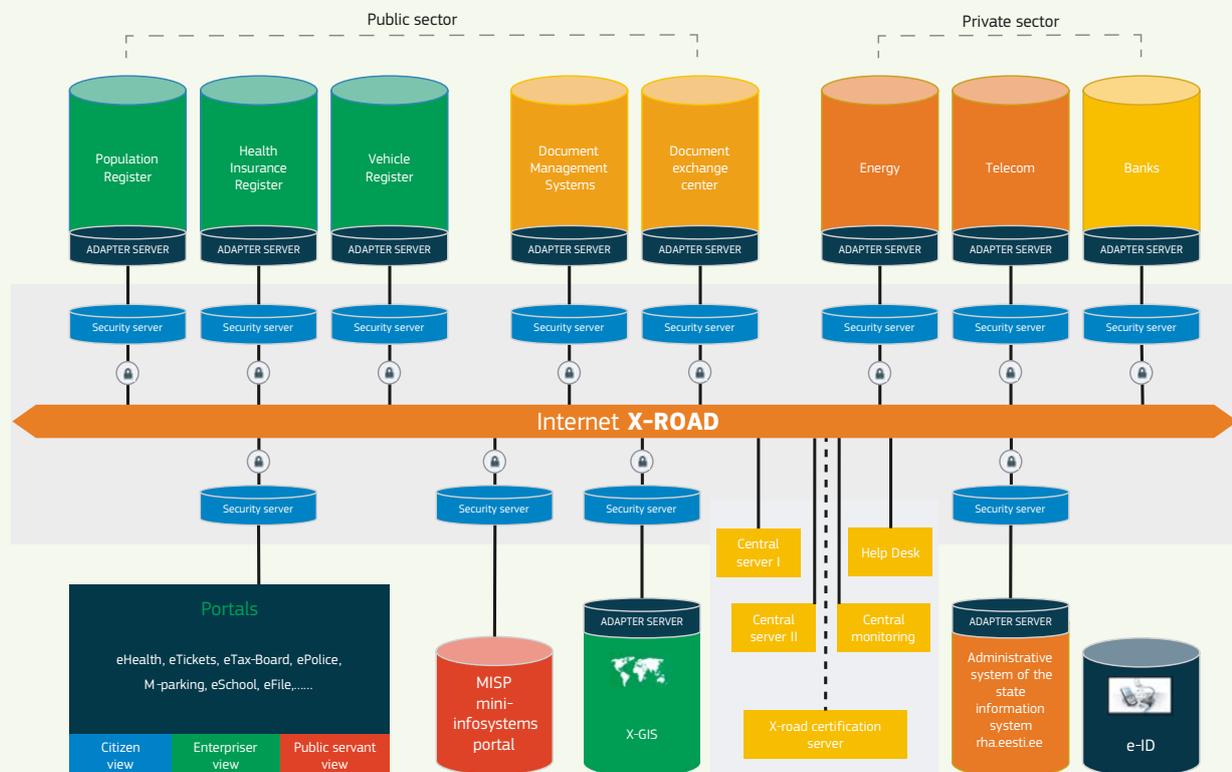
Launched in 2000 and available since 17.12.2001, the X-Road is a technical and organisational environment that provides the interface between portals (for citizens, businesses and administrators), base registries (population, health insurance, social insurance, vehicle, tax and customs databases etc.) and the state’s information systems, enabling ‘once only’ data registration and a comprehensive and flexible package of online services to be made available. Originally, X-Road was a system for making queries to the different databases. Now in its 5th version (soon to be 6th), it has developed into a powerful ecosystem that enables performing searches across several databases, transmitting large data sets, and writing to multiple databases. The private sector also participates, with banks, energy and telecommunications companies now connected to X-Road, extending the benefits to citizens and businesses still further. X-Road is particularly suitable for queries involving **multiple agencies and information sources**, and hence for processing ‘life events’.

The major strengths of the X-Road platform are its **openness and simplicity**. X-Road is developed from free-ware components, uses XML, and exchanges data through the public Internet, encrypted through SSL (no virtual private network is required). Each IS remains under the control of the responsible institution. It uses a common protocol, so that information systems based on different platforms can interface with the X-Road’s secure servers and successfully communicate with each other simultaneously, unhindered by their individual characteristics – they do not have to change their FURPS setting levels*. The X-Road liberates public authorities to focus on designing and implementing new services, adding them incrementally when they are ready, knowing they can rely on the existing infrastructure.

(*) **F**unctionality, **U**sability, **R**eliability, **P**erformance and **S**upportability

⁽²¹⁾ “Delivering the European Advantage” (*op. cit.*) Countries that show the best results in this area are Portugal (13%), Austria (10%) and Belgium (10%) of services delivered automatically.

X-Road is also **scalable**, as additional systems can be added at low cost. It is easy to install, as it just requires a secure server (with software that includes a local monitoring system) and a software adapter server on any development platform. The prospective service provider then creates services in their adapter server that it can start offering to others over X-Road via the secure server. The service user is able to connect the service provider's open web services to their own information system. The Mini Information System Portal (MISP) software can also be adopted for using the service, as a simple user interface that has mechanisms for user authentication and authorisation.



X-Road is the solution that ensures the state does not ask twice for basic data. The **'once only'** principle has been a citizen's right and the administration's mandate since 1997, well before X-Road was conceived, and was a major push factor in its development. The X-Road also enables the public to have oversight and control over their personal information as by law people own their data. People are seen as the 'donors' of their data to the administration, and can decide, for example, whether a new doctor sees their e-Health record or not.

The **security** of X-Road is guaranteed by its architecture together with regulatory, organisational and technical measures. In order to access online services, citizens must first authenticate themselves with an ID card or via an Internet bank, while entrepreneurs are authenticated on the basis of data from the Commercial Register. X-Road uses a versatile security that employs multi-level authorisation, a high-level log processing system, and encrypted and time-stamped data traffic. In the X-Road environment, encrypted data are directly transferred through secure servers from one information system to another. Data does not pass through the X-Road centre and cannot be viewed there; the centre only has statistical information about data transfer. The X-Road central server issues certificates to secure servers and provides a list of trusted certificates to systems connected to the X-Road. Additionally, the central server accepts log hashes from secure servers so that if needed, a chain of service usage can be constructed later.

X-Road enables a wide range of otherwise complex services to be offered **quickly, conveniently and safely**. For example:

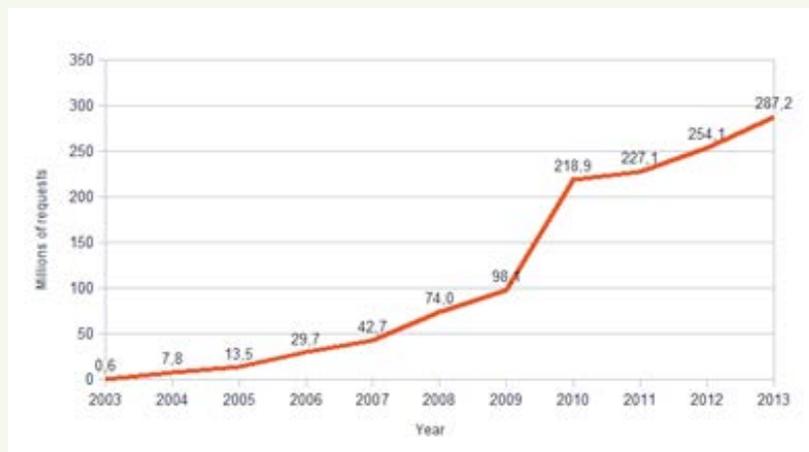
- Presenting a registration of residence electronically;
- Checking personal data (address registration, exam results, health insurance, etc.) on national databases;
- Declaring taxes electronically;
- Checking the validity of your driving license and vehicles registered to your name;
- New-born children receiving health insurance automatically.

Now, 95% of working-age people file their taxes electronically, which typically takes less than 5 minutes, as the forms are already pre-filled with data from various systems and just need to be reviewed.

Officials can use the services intended for them (for instance, the document exchange centre) in the information systems of their own institutions. This avoids the labour-consuming processing of paper documents, large-scale data entry and data verification. Communication with other officials, entrepreneurs and citizens is faster and more accurate. Checking a vehicle's data, for example, has become quicker for the Police and Border Guard Board. Before X-Road, it took three police officers and 20 minutes to conduct one background check on a car; now it takes one police officer just two seconds – by him/herself in the police vehicle or with a handheld device on the street.

Over 170 databases now offer their services over the X-Road in Estonia, providing over 2 000 services. Over 900 organisations use the X-Road daily in Estonia, and more than 50% of inhabitants through the information portal 'eesti.ee'. The **rapid growth in service requests** through X-Road in the last 10+ years is testament of its success.

Growth in X-Road service usage since 2003

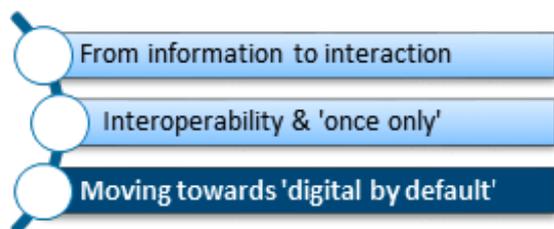


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While much of the EU is at different stages in taking-up 'once only', the scope is already clear for **cross-EU benefits** for citizens and businesses that operate or move across borders and wish their data to follow them, although there are also obstacles. Estonia's X-Road is a mature innovation, but continues to be updated and upgraded. An important development is so-called X-Road Europe, as citizens and businesses demand that their data follows them wherever they work and live. So the next version of X-Road will enable the federation of national data exchange layers or integration platforms to enable cross-border data exchange (e.g. between public administrations). One of the first major steps is cooperation with Finland, which has been granted rights to the X-Road solution. "Palveluväylä" is the Finnish version of X-Road and is being tested during 2014, with cross-border data exchange and joint e-service pilots between the two countries to follow in 2015.

On its own, 'once only' can involve a net increase in public spending, as the benefits largely accrue to businesses and citizens, while the upfront costs are borne by the administration. This is why it is typically part of a much broader e-Government programme, especially when it is a stepping stone to 'digital by default', where the net savings from ABR are enjoyed by all parties.

4.4.3. Moving towards digital by default



'Digital by default' means that the e-Service is so widely available and accessible that the user is expected to choose the online channel over other delivery options (face-to-face, telephone, postal), unless there are compelling reasons to do otherwise. To put the emphasis on 'pull' rather than 'push' factors, the digital service should be more appealing than the alternatives, so that that

it becomes the preferred channel. As well as benefits to users, 'digital by default' typically presents cost savings to the administration, in comparison to other service delivery channels. ⁽²²⁾

To reach the point of readiness, the public administration already needs to have an engrained approach to 'thinking digital' and have attained a high degree of **maturity in online service delivery**. 'Once only' data supply is likely to be in place, although this is not a pre-condition. Public services have been through a transformation: a process of administrative simplification, to reach the point where they are cheaper, faster, better. Portfolios of services are packaged under life events, for maximum ease of access to citizens and businesses. For this reason, digital by default is either established or well advanced in just a few EU members, principally Denmark, Estonia, Finland, the Netherlands and the United Kingdom.

Given the intention is that all service delivery (or as close to 100% as possible) is online, this will generate a huge **upsurge of digital service demand** that will need to be matched by server capacity and system maintenance. It will also test the quality of these channels, their capacity to meet users' needs, and the back office support to customer enquiries. User-centricity will need to keep pace with demand.

Not all public services need to move to 'digital by default' at the same time. Most countries take a **phased approach**, starting with the most advanced e-services where online take-up is already high, or the services with the greatest reach (number of users). The preparation of a business case and implementation plan should precede the careful selection and sequencing of services, which takes account of where and how services are used, the processes involved, the maturity of online delivery, the readiness of the client group, the alternative channels and/or support required to prevent digital exclusion, etc. Some governments look to 'quick wins', by targeting services with the largest number of transactions to maximise net savings. This allows the administration to sell the early achievements to any sceptics. Momentum is also valuable. Users that become experienced with some e-services will find it easier to switch to online delivery of others: a natural progression. Strategies for rapid roll-out are likely to have the greatest impact, as 'digital by default' creates its own inevitability.

Initiatives that drive 'digital by default' share many of the characteristics of administrative simplification programmes (see [topic 4.2](#)). Member State experience suggests many of the **success factors** are the same, but even more vital given the scale of transformation envisaged in service delivery: build the business case around costs and benefits; get a political mandate; align (with) the law; invest in forward planning with a realistic timetable; involve all affected entities from very early in the process; ensure effective coordination; and take the users with you. This last point is particularly critical. The administration should consult with citizens and businesses from the outset, and communicate intentions and expected timetables, including the target date when the service(s) move to 'digital by default'. Users must be ready and willing to accept the shift to e-Services as the dominant delivery mode. Put another way, 'digital by default' will fail, if the customers do not see the attraction of online services. The public must be partners in change.

⁽²²⁾ The following analysis draws on the EY and Danish Technological Institute research for DG CNECT (op. cit.)

These various elements of an effective approach are well illustrated by the United Kingdom's Digital Strategy and its 'Digital by Default Service Standard', which emphasises user research, open standards, data security, simple and intuitive services, and rigorous testing, iterative development and feedback from prototype onwards.

Inspiring example: "Digital services so good that people prefer to use them" (United Kingdom)

The United Kingdom's Digital Strategy, published in November 2012 and updated in December 2013, sets out how the Government will make its digital services so straightforward and convenient that all those who *can* use them will *prefer* to do so. This is expected to result in savings of £1.7 to £1.8 billion each year. The strategy was developed collaboratively across the government, as part of the Civil Service Reform Plan, and was accompanied by 'departmental digital strategies' for each ministry, published in December 2012. Progress reporting takes place on a quarterly basis, with departmental progress summaries and cross-government progress summaries, action by action. Implementation is supported by a cross-government approach to assisted digital provision.

The Digital Strategy committed the Government to redesigning and rebuilding 25 significant 'exemplar' services, making them simpler, clearer and faster to use. All these are to meet the Digital By Default Service Standard by April 2014 and be completed by March 2015. Citizens and businesses can track the progress on the following site: <https://www.gov.uk/transformation>.

Each service is assessed against this standard and must continue to meet it after launch. The Service Standard has 22 criteria, all but one of which (the final one) is accompanied by its own guides:

1. **Understand user needs.** Research to develop a deep knowledge of who the service users are and what that means for digital and assisted digital service design.
2. Put in place a **sustainable multidisciplinary team** that can design, build and operate the service, led by a suitably skilled and senior service manager with decision-making responsibility.
3. Evaluate what **user data and information** the service will be providing or storing, and address the security level, legal responsibilities, and risks associated with the service (consulting with experts where appropriate).
4. Evaluate the **privacy risks** to make sure that personal data collection requirements are appropriate.
5. Evaluate what **tools and systems** will be used to build, host, operate and measure the service, and how to procure them.
6. Build the service using the **agile, iterative and user-centred methods** set out in the manual.
7. Establish **performance benchmarks**, in consultation with GDS, using the 4 key performance indicators (KPIs) defined in the manual, against which the service will be measured.
8. Analyse the **prototype service's** success, and translate user feedback into features and tasks for the next phase of development.
9. Create a service that is **simple and intuitive** enough that users succeed first time, unaided.
10. Put appropriate **assisted digital support** in place that's aimed towards those who genuinely need it.
11. Plan (with GDS) for the **phasing out** of any existing alternative channels, where appropriate.
12. Integrate the service with any **non-digital** sections required for legal reasons.
13. Build a service consistent with the user experience of the rest of GOV.UK by using the **design patterns**.
14. Make sure that you have the **capacity and technical flexibility** to update and improve the service on a very frequent basis.
15. Make all new **source code open** and reusable, and publish it under appropriate licences (or give a convincing explanation as to why this can't be done for specific subsets of the source code).
16. Use **open standards** and common government platforms (e.g. identity assurance) where available.

17. Be able to **test the end-to-end service** in an environment identical to that of the live version on all common browsers and devices. Use dummy accounts and a representative sample of users.
18. Use **analytics tools** that collect performance data.
19. Build a service that can be **iterated on a frequent basis** and make sure resources are in place to do so.
20. Put a plan in place for **ongoing user research and usability testing** to continuously seek feedback from users.
21. Establish a benchmark for **user satisfaction** across the digital and assisted digital service, and report performance data on the Performance Platform.
22. Establish a benchmark for **completion rates** across the digital and assisted digital service and report performance data on the Performance Platform.

No service can pass unless it offers appropriate assisted digital support for those people who cannot use online government services independently.

For further information: <https://www.gov.uk/service-manual/digital-by-default>

The success of ‘digital by default’ relies on both **willingness and ability to access online services**. In an ideal world, take-up would be universal (100%), but this is an unrealistic ambition for any country at present. One-fifth (20%) of all Europeans had *never* used the Internet in 2013. This ratio is falling steadily each year, but shows a wide variance across the EU, from less than 5% non-use to over 40%.⁽²³⁾ Even with seasoned surfers, the EU’s mass citizen survey illustrates the scale of the challenge. The EU’s e-Government online survey found that convenience is the principal driver for using online public services.

Take-up across the EU

The e-Benchmark study surveyed online 28 000 citizens in 2012 across the then EU-27 members plus other countries, exploring 27 questions and 19 typical user events. This provides a picture with 95% confidence (relevance) of the views of 600 million European citizens.

Based on citizens’ preference for traditional or electronic channels, the study defined four typologies of attitudes towards online public services:

- ‘Believers’ (33%): citizens who had used online public services, and will continue to do so;
- ‘Drop-outs’ (13%): those who had used online public services, but do not intend to return;
- ‘High potentials’ (16%): citizens who had not used online public services, but want to do so next time;
- ‘Non-believers’ (38%): those who had not used online public services, and will not do so next time.

Not surprisingly, those countries who struggle to provide user-centric services also have more ‘non-believers’. Citizens also rated their satisfaction on average higher with commercial services (7 out of 10) than public services (6 out of 10). More concerning, there appears to be an inverse relationship between interaction and satisfaction with public services: the more interaction with government is required, the lower the satisfaction. This also results in lower usage of these services.

The survey found the dominant reasons for using online services were: saving time (80%), flexibility in time and place (76%), and saving money (62%). Other factors were: simplified and more transparent process of service delivery and better control over it, increased trust in the public administration, and better quality of service. In a few countries (Estonia, Norway, Sweden and the United Kingdom) simplification was a particularly prominent factor. In a handful of countries, saving money emerged more prominently (Croatia, Cyprus, Czech Republic, Estonia and Poland).

Source: European Commission (2014) “*Delivering on the European Advantage?*”, *op cit*.

⁽²³⁾ <https://ec.europa.eu/digital-agenda/en/pillar-6-enhancing-digital-literacy-skills-and-inclusion>

This suggests that more than half of EU citizens are ‘non-believers’ or ‘drop-outs’, unable or unwilling to take-up online public services. A high percentage are daily Internet users. What influences their behaviour? What are the obstacles preventing or dissuading them from using e-Government portals? Assuming public services are online and hence available, public administrations face five main potential barriers as the basis for designing policy solutions:

Barrier	Key question
Accessibility	Do citizens and businesses have internet access, and if not, how can coverage be ensured?
Awareness	Are businesses and (especially) citizens sufficiently aware of online channels as an option for accessing the administration?
Ability	Are there any physical obstacles to using online services, such as sight, other physical handicaps, mental ability, and if so, how can prospective users be helped with access?
Aptitude	Do potential users have the comprehension and competences to interact with online channels, and if not, how can these best be provided or circumvented?
Attitude	Are users resistant to using online services, and if so, what are the reasons?

Accessibility is the most fundamental obstacle. Broadband infrastructure is increasingly well-established across the EU, and yet 24% in 2012 did not have Internet access at home, with higher figures in the south and east of Europe.⁽²⁴⁾ There remain sections of society which face disadvantages. Rural and other remote communities are often not reached by broadband infrastructure, or only at low bandwidths and speeds. Poorer households may not be able to afford internet services. Mobile technologies also offer a way to bridge the digital divide, overcoming under-developed landline infrastructure, especially in countries with high smartphone ownership.

According to the e-Benchmark study, 21% of the respondents were not aware of online services. Perhaps surprisingly, lack of **awareness** was found to be highest among young people. Based on the data, the study finds that Austria, Bulgaria, Croatia, Greece, Ireland, Italy and Poland would most benefit from awareness-raising campaigns. Under the Commission initiative ‘**Digital Champions**’, Member States have appointed ambassadors for the Digital Agenda - creative and motivated people who lead innovative projects in ICT education, digital inclusion, access and e-government. Many actively promote the development of digital skills and entrepreneurship by young people, helping tackle youth unemployment by sharing innovative ideas which have worked in their own country.

Once the physical and informational obstacles are overcome, citizens and businesses still need the **aptitudes** to utilise e-Government. Almost half the EU population (47%) having either “no” or “low” digital skills. The proportion rises to almost two-thirds (64%) among citizens with one or more of the following characteristics: unemployed, retired or inactive, low educated or low income. To function effectively in the digital society one needs at least medium level or “basic” skills.⁽²⁵⁾

⁽²⁴⁾ <https://ec.europa.eu/digital-agenda/sites/digital-agenda/files/DAE%20SCOREBOARD%202013%20-%203-INTERNET%20USE%20AND%20SKILLS.pdf>

⁽²⁵⁾ European Commission (2014) “Measuring Digital Skills across the EU: EU wide indicators of Digital Competence”.

What is digital competence?

“Digital competence involves the confident and critical use of information society technology (IST) for work, leisure, learning and communication. It is underpinned by basic skills in ICT: the use of computers to retrieve, access, store, produce, present and exchange information, and to communicate and participate in collaborative networks via the Internet.” *Recommendation of the European Parliament and of the Council of 18 December 2006 on key competences for lifelong learning (2006/962/EC)**

(*) <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:394:0010:0018:en:PDF> The European Commission (IPTS/DG EAC) launched a project (DIGCOMP) in 2011 to develop a Digital Competence Framework. The purpose of the project was to produce a framework for digital competence with digital competence descriptors for all levels of learners.

While the competence gap can be closed through education and adult training, it also implies that a ‘safety net’ will be needed to ensure that citizens with limited Internet skills are not left behind and to provide a bridge to digital competence by helping them to learn and become self-sufficient. For example, some administrations have introduced telephone helpline services, or ‘drop-in’ centres (at colleges, libraries, community facilities, etc.) with computer terminals and supportive staff who can guide users through the process. This also applies to citizens who are willing but unable to use electronic channels due to physical or mental **ability**, and who must not be excluded from accessing services in the transition to digital by default.

As the EU’s 2012 user survey indicated, **attitudes** can be the most rigid barrier. From the e-Government benchmarking survey, 80% stated they were not willing to use online services. They either preferred personal contact, expected to have things done more easily by using other channels, believed that personal visits or paper submission were required anyway or did not expect to save time. Furthermore, 11% stated they did not trust the service, because of concerns about protection and security of personal data. Given these groups are drawn from a survey of regular Internet users, this is a cause for concern. Two-thirds of non-users of online services stated they preferred to have face-to-face contact with officials in the administration. The benchmarking study found that this is partly because their expectations are coloured by their experience with private service providers, such as internet banking, while by contrast public e-services do not always reach the same standards. The answer lies in building confidence among these active non-users that have taken an informed decision, as well as the ‘hidden’ non-users who will utilise online services in the future. This could entail one or more of the following measures:

- Increase generally the **transparency** of the public administration;
- Provide the required level of **data security** (e-ID with secure authentication);
- Recognise the **diversity** of customer segments among citizens (by age, employment, education, ability) and businesses (by age/phase, size, sector), and customise both promotional messages and actual services accordingly;
- Make **service reliability** a prime concern;
- Provide **supportive customer services** to assist the user in navigating problems when they arise, such as helplines, discussion forums and live chat (as well as more conventional contact details and FAQs), and take on board user feedback.

Some administrations are taking steps to actively reassure citizens and businesses on the security of their data, as illustrated by Italy’s privacy policy and the creation of a privacy office.

Inspiring example: Privacy & data protection to orient public administration to citizens (Italy)

Public administration offices must ensure that EU directives are implemented, in addition to those concerning privacy, access, transparency and personal data protection. This is particularly true in the case of healthcare public administration. Nowadays, technology offers a wide range of tools allowing sensitive data to be handled automatically. In addition, it is important to connect healthcare databases to ensure effectively the best healthcare assistance.

To achieve this objective the administration, already committed to digitising its activity to comply with the EU e-Government Action Plan for 2011-2015 (which carries the slogan '*use information communication technology to promote a sustainable, intelligent and innovative administration*'), must review its internal procedures, which are often disinclined to offer citizens digital services. This organisation solved this problem by implementing a novel system that ensures that sensitive data is handled, while guaranteeing the privacy of the citizens. A new model has been developed and a privacy policy has been drafted. A 'privacy office' has been instituted, with a risk management system for dealing with the critical issues to be solved with regard to processing personal data. This model allows the following:

- The privacy company quality system to be equipped with a management incentive system linked to the internal quality control, giving annual targets to ensure privacy which, when not met, affect the subdivision of remuneration of economic result;
- A network of employees to be created, ensuring that privacy procedures are respected in every section of the organisation, in conjunction with the Central Privacy Office, by reviewing internal data management processes;
- Increased knowledge among operators, improving their skills and attitudes towards customer care and protection;
- An innovative communication campaign to be launched requiring customer participation, thus ensuring maximum results from the measures already adopted, increasing the empowerment and the relationship between citizens and administration, involving the citizens to give suggestions on how to improve the services on offer;
- Managing every new data processing project through a preliminary privacy assessment impact, together with doctors and computer technicians, to ensure the utmost respect of citizens' data;
- A custom made front desk to be created, both online and on-site, in order to offer citizens a quick and dedicated communication channel and solutions to their problems; and
- Measuring periodically the stakeholders' satisfaction.

The improvement plan involves the entire company and its corporate management executives and operators, and has clear potential to be used in other complex administrations. Therefore it shows that, with an integrated and systemic approach to a complex discipline, it is possible to obtain an improvement in the following matters: quality performance, participation and acknowledge of operators, fulfilment of customers' requests and needs; and good relations and cooperation between public administration and customers.

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The example of Viladecans in Spain is a municipal initiative under the title "W!Ladecans. Digital City Viladecans. Smart City", designed to tackle multiple barriers to digitisation at the same time. Not only is the town targeting 100% connectivity to high speed broadband by 2020, it is also backing up accessibility with education, training and applications, ensuring that citizens and business have a reason to be online.

Digital city – smart city (Spain)

Viladecans is a town of around 68 000 people in Catalonia. Under the auspices of the project “W!Ladecans. Viladecans Smart City”, the administration began a scanning process that took in all aspects: territory, citizenship, services and applications, and are now pursuing their goals in three complementary areas:

- **Infrastructure:** with the name of W!FI, W!CABLE, W!HOME and W!ESCOLA, the administration started several projects in the short or medium term to provide telecommunication infrastructures in Viladecans that allow the connectivity demands of enterprises, households and schools to be met. W!FI is a project that provides free wireless connectivity for all citizens of Viladecans in public facilities, parks, beach and green areas of the city. ‘W!CABLE’ is a network project open to all telecommunication operators to send fibres to the home (FTTH). In a first stage, completed in February 2011, it provided fibre connections to 100 Mbps symmetrical; in successive stages, the objective is to reach the 23 000 dwellings in the municipality. At this moment, the service reaches 2 662 homes and the connectivity can reach 1Gbps. W!HOME is a project aimed at fighting against the digital divide by providing wireless connectivity to homes in those neighbourhoods of Viladecans, where there is a great risk of social isolation or no access to technology. The first phase completed in March 2011, has provided coverage to 2 300 homes and by the end of 2011, the project will reach 6 000 homes. W!ESCOLA is another network project aiming at providing fibre to all schools with the goal to start innovative educational projects. By 2020, all houses in the city will be connected by a FTTH network; the wireless public space access will be mainly dedicated to the provision of public services, typical of a smart city (internet of things, M2M); and free access to all citizens in public facilities.
- **Training and education:** XPLAI, which means ‘network of public internet access’, is the entity entrusted with training and awareness-raising of internet use. It is specially aimed at those who have more difficulty accessing the internet and that are subject to an increased risk of digital divide, either due to social, economic or generational reasons. Viladecans has launched e-Government projects with the implementation of the public folder administrative formalities online. The municipality has started work on e-Education (W!ESCOLA) with the digitisation of all schools in the city (incorporating digital whiteboards, computers and wifi connectivity), developing collaborative applications to support teaching.
- **Applications and services:** An e-Health project is being promoted from the Viladecans’ Hospital and the CAP (Primary Care Centres) and the City Council is streamlining the institutional structure of the city by setting up social networks for collaborative work of all entities. Beyond the goal of ‘Smart City’, Viladecans wants to become a ‘Living Lab’ in which the municipality is a test where products and services can be developed based on a new telecom infrastructure. Viladecans has all the elements to develop innovation and development projects using the methodology ‘Living Lab’: it hosts a Campus of the Polytechnic University of Catalonia (UPC); it has research centres in the country (Agropolis, I2Cat), a very active business community with two local business organisations (Viladecans Business Association, Viladecans Entrepreneurs Club).

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In the short-medium term at least, there will be a sizeable proportion of the population that is not able or willing to take up online services, even if the intention is to make ‘digital by default’ mandatory (estimated as 20% in Denmark, for example). To **avoid digital exclusion**, this percentage should be estimated in the original planning (including the cost-benefit analysis), and arrangements made to ensure either alternative channels or ‘hand-holding’ assistance is available (see previous text on ‘aptitudes’ and ‘ability’), so that they are not denied their rights to public services. Contingencies should also be prepared, in case the projected number turns out to be too low.

Ultimately, citizens and businesses will be willing to utilise public services online when they are user-friendly, intuitive, easy to understand, free-to-use, fast, efficient, and above all, accessible. Once this reputation is established, spread by word-of-mouth and social media, digital can become the **consensus channel** for service delivery.

Interoperability and increasing connectivity also pave the way to realising the potential of ‘**open by default**’. This is a concept that builds on the foundations of ‘open data’ (see [theme 1](#)) in that government-collected data is *presumed* to be available to all - in free, accessible and machine-readable formats - unless there

is a compelling reason to keep it confidential, such as privacy or security reasons. The effect is to increase transparency and accountability. Already, for example, governments across the EU (such as Denmark, the Netherlands, Portugal and Slovak Republic) are adopting open formats for their documents, so they can be read and exchanged by anyone, generating momentum towards more ambitious applications of the principle.

Moving to open by default raises the prospect of extending the principle further, by automatically offering both public datasets and online services for widespread re-use. This would enable third parties (other administrations, enterprises and individuals) to combine modular services as building blocks into new, personalised, user-friendly, and innovative e-services, characterised by an EU-funded study⁽²⁶⁾ as the '**cloud of public services**'. This would be based on open data and interoperable services, open source software and easy-in-easy-out contracts for ICT and cloud services. This could ultimately achieve the aspiration of citizens and businesses being able to assemble their own, fully customised, service solutions to meet their individual 'life event' needs at a time and location of their choice, using an online application offered by the public administration or a third party (see [topic 4.4.1](#)).

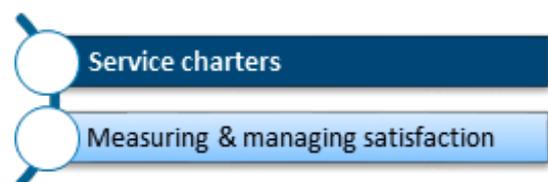
4.5. Committing to service standards and measuring satisfaction

Ultimately, the test of good service delivery is whether it has lived up to the needs and expectations of the customer. This brings us full circle back to the first step – understanding what users want ([topic 4.1](#)). Administrations have two potential instruments to define and check performance. The first is to codify user expectations in the form of service charters: committing to a set of standards against which services can be judged. The second is to engage in measuring customer satisfaction to ensure performance levels are being reached, and ideally exceeded. In both cases, these tools can be a catalyst for action and further innovation.



4.5.1. Service charters

A citizen or user charter is a unilateral declaration by a public service provider - within the framework of its mandate and tasks stipulated by legislation and regulations - whereby the provider defines a number of standards for its services and subsequently publishes these standards. This allows members of the public to address the service in question as directly as possible.



The essence of a user charter is the promise of expected quality from the service, which can be summed up by the 3Cs:

- **C**lient-oriented standards,
- **C**ommunication and
- **C**ommitment.

⁽²⁶⁾ European Commission (2011), "A study on cloud and service oriented architectures for e-Government", Framework Contract no: DI/06691-00, Deloitte.

What is the purpose of a service charter?

The radical idea behind the user charter is to give rights to the clients of public services. These rights are not statutory, but the ‘pressure’ of the promise is such that the organisation will do a great deal to fulfil the commitments it has made. With this approach, the user charter helps the client switch from a relatively passive role of waiting for what the organisation has in mind for him or her. The offered rights stimulate the idea that the organisation treats them with respect. This gives the client a certain dignity. It also helps to build trust in the administration.

The service standards indicate what the client can expect – the client can then determine whether or not the standards are met:

- The charter can comprise a **‘soft’ standard**, such as: *“We will treat you with friendliness and respect”*. But soft standards alone are not enough.
- The most important standards are **‘hard’ – concrete and measurable**. Therefore: *“you will be helped within 15 minutes”* and not *“ready while you wait”*, which is not sufficiently specific.
- A standard is formulated from the **individual client’s perspective**. Therefore, for example, *“you can expect to receive an answer from us within two weeks”*, rather than *“95 percent of the letters are processed within two weeks”*.
- The standards can concern the **entire spectrum of service**. They can say something about: the service/product in itself (e.g. *“the street lighting will be repaired within two working days”*); the process (e.g. *“you will receive a digital report confirmation”*); and the content (e.g. *“on your request, we will speak with you in a closed consultation room”*).

This focus on the whole service can bring user charters closer to the **‘life event’ and ‘customer journey’ approaches**, as illustrated by healthcare charters in The Netherlands and the United Kingdom, where the commitment to certain standards starts from the doctor’s initial consultation all the way through to referral and hospital treatment (if necessary), and follow-up aftercare.

Inspiring example: User charters in health care (The Netherlands and the United Kingdom)

The concept of the service charter was originally developed in commercial organizations and was then adopted by public services and healthcare. In the United Kingdom, the concept has been used in all National Health Service hospitals since 1991 in the form of the Patient's Charter. Healthcare organizations in Italy, the USA and the Netherlands have also adopted the concept. In several Dutch healthcare services, the multi-attribute specific service charter is used. This consists of a number of promises covering the patient's journey from general practitioner referral through to discharge from the hospital and follow-up arrangements. The specific goals in implementing service charters are:

- Increasing the responsiveness of healthcare services to the wishes of patients;
- Making healthcare services more accountable;
- Ensuring patients know what to expect so that they can become more equal partners in the healthcare process;
- Being used as a listening mechanism;
- Increasing feedback from patients; and
- Improving patient satisfaction.

In the Netherlands, an integrated regional stroke service involving five organisations has developed and implemented a single service charter. Based on the concept of integrated care, regional stroke services have been established in the Netherlands. Integrated care is an organizational coordination process that seeks to achieve seamless and continuous care that is tailored to the patient's needs and based on a holistic view of the patient. Three phases of the integrated stroke service can be distinguished: acute care involving the emergency department and stroke unit of the regional hospital, rehabilitation involving rehabilitation centres, specialized nursing homes and home care and, finally, long-term support. Delivering optimal care with this range of providers requires a complex mix of collaboration on operational and individual levels involving streamlining information flows and the transfer of acute patients. On a tactical level, this can involve performance indicators on the care-chain level and, on the strategic level, financial and logistical agreements. These interventions aim to improve patient care and medical outcomes, objectives that fit into the general goals of care integration: enhancing patient satisfaction and quality of life, efficiency and outcomes.

Based on: Thomassen, Ahaus and Van de Walle (2014), "Developing and implementing a service charter for an integrated regional stroke service: an exploratory case study" in BMC Health Services Research 2014, 14:141

The user charter is suitable for **all organisational elements with client contacts**. Clients include citizens, entrepreneurs, students, patients and non-governmental organisations. The most important users of the charter are of course the *clients who apply to your service*. With the charter, they will have more insight into your service and will attune their expectations on the basis of the service standards that are included in the charter. Together with the *clients, the employees of the front office* are an important user group of the citizen charter. If all goes well, having a charter leads to a change of attitude, working method and performance. And last, but not least, improving the methods and performance cannot be achieved without the involvement and commitment of the management.

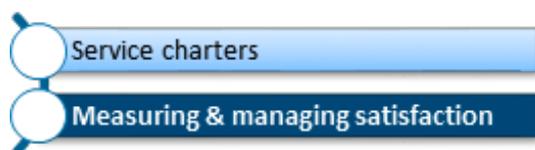
Benefits of service charters

- ✓ Help public agencies to manage the expectations of service users;
- ✓ Provide a framework for consultations with service users;
- ✓ Encourage public agencies to measure and assess performance;
- ✓ Make public agencies more transparent by telling the public about the standards they can expect and how agencies have performed against those standards;
- ✓ Push public agencies to improve performance where promised standards have not been achieved;
- ✓ Increase satisfaction of service users

The whole idea behind a charter is that the organisation is committed to realising the standards and clearly indicate the **consequences** if a promise is not kept. The possible actions differ per country. It could be solved internally within the organisation. In practice there are countries that do not provide some kind of exchange, while others do. In the latter case, options are letters of apology to clients, or small compensations. The latter are primarily symbolic, but since they have a financial component, the signal to the budget makers will be clear. Providing some kind of exchange (a letter of apology or compensation) convinces clients that the organisation takes them seriously. This gives the formerly 'powerless' client a convenient tool to seek immediate rectification from the organisation. Providing a kind of exchange also stimulates the organisation. It impresses the gravity of the situation upon every employee and manager. So if, for example, a compensation is awarded too often, this will act as a catalyst for improving (or guaranteeing) the quality of the service. Of course, the goal of standards with some kind of exchange is to rarely need to give it.

In this way, the charter encourages the user to hold the administration to account and demand corrective action, if the service falls short of the published standards. In this way, the charter could be said to set a benchmark for assessing performance.

4.5.2. Measuring and managing satisfaction



In terms of service transformation, measuring and managing satisfaction is a key strategic tool: sophisticated approaches to modelling customer satisfaction allow an organisation to identify the 'drivers' of satisfaction or dissatisfaction – the factors that determine whether the user is happy or not. This information supports the analysis of trade-offs between alternative resource investment within a service. It gives organisations an understanding of the 'drivers' that they can actually shape (as compared to issues around perception and the media, over which they have little control), and allows them to monitor performance and service evolution over time.

Users' experiences of services can be explored in various ways:

- **Qualitative** research techniques can be used to better understand a service through the customers' eyes, and to explore in depth their experiences and expectations.
- **Quantitative** research can provide numerical measures of customer satisfaction and statistically representative findings to assess the performance of a service and provide information to drive improved service quality.

The tools set out in [topic 4.1](#) – especially surveys, panels, complaints handling and mystery shopping – are all applicable here. Thinking well in advance about what the organisation wants to achieve with satisfaction measurement is important in deciding which measurement tools and techniques to apply to which user groups:

Important questions in setting up satisfaction measurement

- What do you want to know?
- Why do you want to know this?
- Should the customers be segmented (e.g. by sector, location, regularity of contact) and different measures or techniques applied to different groups?
- Are there baselines for comparing performance and progress over time?
- Are there benchmarks which the measures should be aiming to achieve (e.g. service charters)?
- What is the motivation for measuring satisfaction (reporting, reforming) and how does this affect how you collect and capture information?
- Will the measurement itself and the choice of tools) act to strengthen relations with your users?

Using the right instrument for the right needs of the organisation – as far as citizen/user satisfaction management in all its aspects is concerned – can provide a great deal of input for organisational improvement and better service delivery. The example of Ghent City Administration shows the value of using multiple methods – in this case, face-to-face and telephone surveys, and ‘mystery shopping’ – to feed into refining or re-designing services, in line with citizen-user responses.

Inspiring example: Quality of service of the Ghent City Administration (Belgium)

The City Service Centres of the City of Ghent are the places to be for citizens who want to apply for a construction licence, who want to register their child or who are in need of a new ID. But how happy are Ghent’s citizens with the quality of service provided by the Ghent City Administration?

The city wanted to know the answer and requested an investigation into the quality of service provided by its administration by means of phone calls, mystery shopping and interviews with approximately 1 000 citizens who had just been visiting one of the City Service Centres. Four different locations were investigated: the central Administrative Centre, the decentralised City Service Centres of Sint-Amandsberg and Wondelgem, and the information desk at City Hall.

The results of the investigation were very flattering. The citizens rewarded the service provided by the City Administration with an average score of 8/10. Most of the visitors to the City Service Centres were served within a few minutes. In the Administrative Centre, 78% of the visitors were served within 10 minutes and in the City Service Centres, 90% of the visitors were served within five minutes. The citizens of Ghent were very pleased with the service-orientation of the civil servants and had no complaints.

The investigation also produced some recommendations. Uniform signposts were suggested, with large letters in bright colours, and visitors expressed the need for reading material in the waiting room. There was a notable difference between older and younger visitors: older visitors were even more pleased with the quality of service than younger ones. Young adults in particular wanted everything to be done more quickly. The introduction of ‘quick desks’ in the City Service Centres and the further development of e-government will be able to meet the expectations of the next generations.

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Dissatisfied with using mean average scores to track satisfaction with public services over time, the Dutch Government has turned to private sector practice, and is now using the ‘Net Promoter Score’ to reveal the difference between those citizens and businesses that rate the public service highly (‘promoters’), and those that give it a score below acceptable levels (‘detractors’).

The Net Promoter Score for the Public Sector (the Netherlands)

The Net Promoter Score (NPS) is a customer research tool. It produces a clear and easily interpretable customer score, which can be monitored over time. The method used is simple and is not too demanding for clients. It produces qualitative control information that can be used to improve service delivery. There is an increasing awareness that public organisations can only achieve greater efficiency and effectiveness if they are aware of the user's perspective. That includes giving priority to the wishes and needs of members of the public/business people/users (also referred to as clients) when designing service processes.

In the business community, the traditional measurements of client satisfaction were found to be poor predictors of profitable growth. An excessive averaging effect between dissatisfied and satisfied clients often generated scores of between seven and eight. Many large companies nowadays use NPS as a customer feedback tool. A pilot study in the Netherlands by N3Wstrategy found that - with some modifications - the NPS method could be made suitable for use in the public sector. NPS in the public sector means:

- Better insight into customer needs through a mainly qualitative approach
- Less administrative pressure on members of the public (filling in forms)
- Greater staff involvement
- Greater focus on specific measures

The NPS distinguishes three categories of individuals - Promoters, Detractors and Passives - and reports the difference between the percentages of Promoters and Detractors.

- Promoters = respondents awarding a score of 9 or 10;
- Passives = respondents awarding a score of 7 or 8;
- Detractors = respondents awarding a score of 0 to 6.

Gemeente Rotterdam

‘Employment Service would be grateful for your views concerning your dealings with the Service Centre for Employers’

Our aim is to continuously improve public service delivery for you.

1. On a scale of 0 (definitely will not) to 10 (definitely will), indicate how likely you would be, in conversations with colleagues, family members or friends, to be complimentary about a service you have recently used.

Please tick the box that indicates your score

0 1 2 3 4 5 6 7 8 9 10

2. Why did you award this particular score?

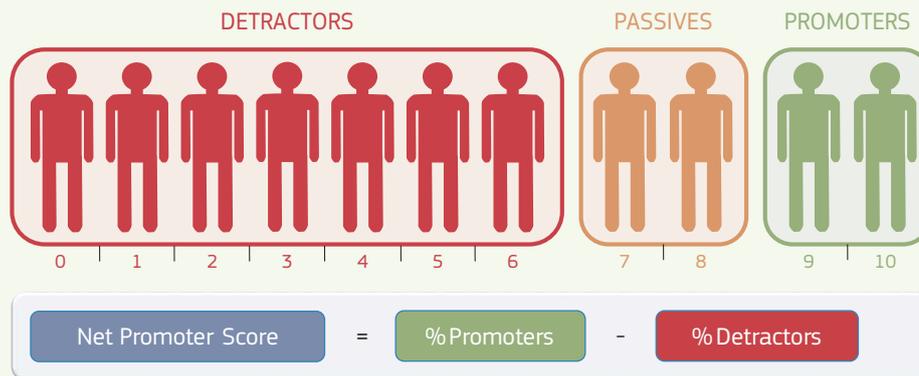
3. What could be done better?

We may want to contact you to seek further clarification of your response, would this be acceptable to you? YES NO

If so, please write your name here: _____

And your phone number here (this will only be used for the purposes of this survey) _____

Thank you for your cooperation!



An absolute score is not particularly meaningful. More useful information is gathered when tracking the evolution of the NPS over time. The most important aspect of the NPS is the generation of qualitative information about the needs of customers and about opportunities to improve public services (especially their operational processes). This information is easy to understand for all employees and provides the input that managers can use to direct the organisation. In addition to a wealth of improvement points, direct contact with clients can generate a great deal of energy, when compliments are given.

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While good research can be used for performance management and/or to meet statutory requirements to collect monitoring data, the most successful programmes are motivated by the desire to put customer focus at the heart of an organisation. Customer-focused organisations view satisfaction measurement as a means rather than an end, as part of a cycle of continuous improvement in service delivery, and as part of a wider toolkit of customer insight techniques. This is well-illustrated by the example of citizens' pivotal role in evaluating local services in Southern Italy, which goes well beyond simple surveys to active participation in designing solutions.

Inspiring example: Citizens evaluating local services and facilities (Italy)

In Southern Italy, the cooperation between the Italian Department for Public Administration and the non-profit organisation *Cittadinanzattiva* resulted in a new citizen participation initiative related to service quality. Citizens were given the opportunity to evaluate local services and facilities – not just through citizen surveys, but as civic evaluators who provide information to local councils about the state of public services and infrastructure and who contribute to prioritising improvements. In particular, it focused on issues of the maintenance of green space and roads, street lighting, public transport, garbage collection, cultural and social events.

The first phase of the project, funded under the ESF 2007-2013, started in November 2009. A focus group at national level discussed the elements, dimensions and indicators of urban quality. The focus group consisted of public managers, citizens, members of citizen associations and technical and professional experts who were considered to be “issue experts”. As a next step, one or several quality dimensions for each of these issues were defined. For example, on the issue of public safety, the dimensions are physical safety of people and safety of public infrastructure. Last but not least, the quality indicators were defined in order to operationalize the quality dimensions, for example, for the dimension “safety of public infrastructure” two indicators were defined:

- 1) Number of houses declared unfit for use (this information needs to be provided by the local authority concerned);
- 2) Number of threats to safety on the selected road (this information has to be provided directly through the monitoring by citizens – e.g. by counting potholes on the road surface, broken pavements, wrecked steps, inclining poles).

The working group then worked with representatives of *Cittadinanzattiva* to prepare the tools for the civic evaluation, including an operational manual and monitoring grids. Afterwards, the challenge was to get citizens engaged. The local authorities and the local representatives of *Cittadinanzattiva* marketed the project. Not surprisingly, the take-up was particularly positive in those local authorities which were able to embed the evaluation project in other participation initiatives and which already had a strong network of associations at local level and thus much social capital.

Interested citizens were then invited to a joint one-day seminar where they learned about the overall purpose of the project and were trained practically in how to use the monitoring grid. After the training, the citizens involved together with the local representatives of *Cittadinanzattiva*, decided collectively that those zones that were seen as particularly significant for the city should be monitored (for example because they contained important public buildings, a train station and so on). The citizen monitoring then started, either involving the observation of specific aspects of public services or infrastructure (e.g. indicator 2) or simply requesting public agencies to provide data which they already collected (e.g. indicator 1).

After the participating citizens had filled out the monitoring grid, they met together to agree their overall assessment of the quality of the public services and infrastructure and to prioritise improvement actions. This was all included in a report shared with the local administration. Both citizens and local authorities considered the contribution of civic associations as positively helpful to the management of the local activities during the experimentation. The public managers appreciated the participation of citizens not only as an opportunity of learning new way of managing public services but, moreover, as a way of developing social capital and a feeling of civic belonging.

For further information: Laura Massoli, Coordinator of the Project for the Department for Public Administration, L.massoli@governo.it

When an organisation is able to understand how satisfied (or not) its customers are, and why, it can focus its time and resources more effectively. This equally applies to the use of European funds, where the case of Lithuania's European Social Fund Agency shows the potential for engaging with the ‘customers’ who prepare

and implement ESF-financed projects. This is important in the context that project performance is vital to the success of European Structural and Investment Funds (ESIF), and this type of feedback can help the managing authority and intermediate bodies to better build capacity among beneficiaries (see also [theme 7](#)).

Inspiring example: Measuring customer satisfaction in the European Social Fund (Lithuania)

The European Social Fund Agency in Lithuania prepares and performs surveys on the quality of services it provides. The first measurement of customer satisfaction was performed in 2006. The main aim of the survey was to receive customers' feedback on trainings and seminars organised by the Agency. The first survey to evaluate the quality of all the services provided by the Agency was performed in the beginning of 2008, and then again at the end of each year. The Agency uses a combination of several tools for measuring customers' satisfaction:

- Once a year, the Agency distributes an e-mail satisfaction survey on the quality of services provided, including the following aspects: quality of the services provided, professionalism, communication and perfection.
- Self-completion surveys are distributed after each training and seminar, including the following aspects: is the aim of the training clear; does the information provided during the training correspond to the level of knowledge of the participants; the quality of the presentations, slides, hand-outs; the competence of speakers; overall organization of the event, etc.
- Surveys on the web are performed, e.g. in 2014, so called 'a question of the month' - a short question on the most relevant subject at the time - were placed in the Agency's web page.
- Net Promoter Score (NPS) is used to gauge the loyalty of the Agency's customers' relationships.
- Customer panels are organised; during these events, project promoters (representatives) gather together and share their positive and bad practices while implementing projects and working with the Agency.
- Group interviews/meetings with the ministries (the Managing Authority and Intermediate Bodies) are organised in order to receive feedback on the quality of the Agency's work and to agree upon the best ways of collaboration. Several meetings have been organised so far.

The mix of instruments allow the evaluation of the Agency's performance from different time perspectives (e.g. annual surveys and surveys after each training) as well as from different stakeholder perspectives (ministries and project promoters). In addition, the different forms of customer satisfaction measurement (e.g. e-mail survey and customer panels) complement each other:

- E-mail surveys enable the Agency to reach a large number of project promoters with their enquiry;
- Customer panels enable to discuss particular questions in detail and often to take certain decisions during the session together with the customers.

Based on the results of the evaluations, appropriate actions are foreseen in order to improve particular areas. Improvements related to the evaluation of the seminars are for example: changing/coaching the trainers, choosing more appropriate places for the subsequent venues, improving the quality of the slides. Actions of higher significance are included in the Agency's action plan.

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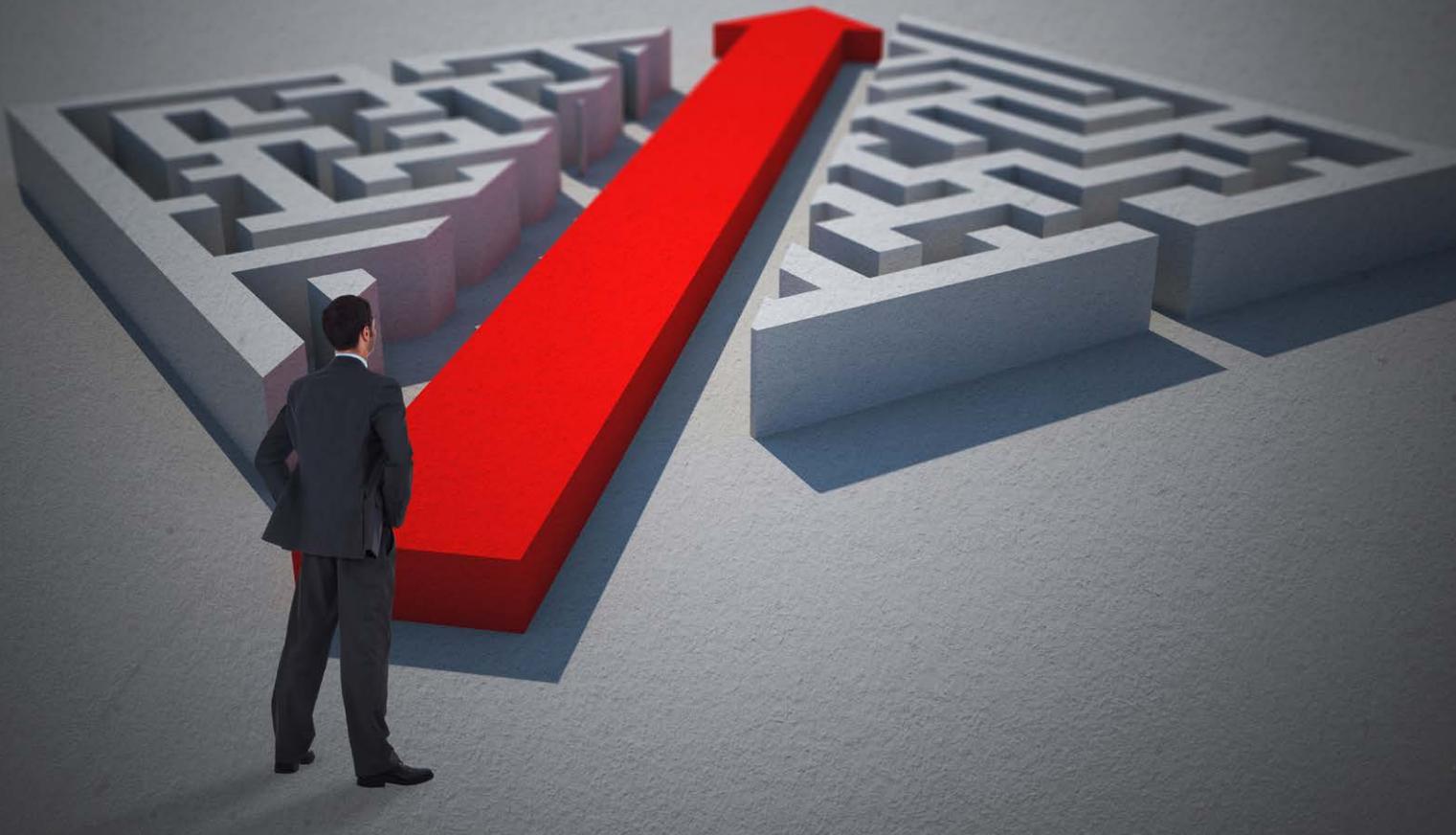
4.6. Conclusions, key messages and inspiration for future action

The main thread running through this theme has been how to make user-centricity a reality in public service delivery. Many of the techniques used by administrations apply across the full range of policy fields, as [theme 5](#) (business environment) and [theme 6](#) (justice) will also demonstrate:

- Gathering information on needs and expectations, in order to fine-tune services and the channels that deliver them, through surveys, panels, comments, complaints, mystery shoppers and representative bodies;
- Interpreting ‘customer intelligence’ in the context of life events and journey maps, based on the steps that citizens and businesses *actually* take, not what the administration thinks they do (including complementary contacts with non-public services), and identifying bottlenecks, dead-ends, detours, repeat requests for information, and missing links along the way;
- Acknowledging users’ growing preference to be online not in-line, and to minimise their contacts with administrations (ideally one portal for all needs), but also their diverse circumstances and the varying complexity of their interactions, so that ‘once only’ and digital can be the default scenarios, but personal contact and hand-holding assistance should remain on offer;
- Ensuring a complete and comprehensive digital service offer, so that each citizen and business can assemble the fully-customised and cloud-based package that fits their individual situations, backed up by support services as needed;
- Enabling this radical transformation in the relations between public authorities and service users to happen by re-engineering back office and front office functions, ensuring interoperability between systems, and achieving a seamless user interface; and
- Committing to service standards that correspond to customer satisfaction, according to user feedback.

This ambitious agenda represents a daunting challenge, to stay in step and up to speed with the expectations of citizens and businesses in the digital age, but the experience of Member States shows that public administrations are increasingly rising to it.

Theme 5: Enhancing the business environment



Governments have a duty to regulate where necessary, but facilitate wherever possible, removing potential impediments to business initiative, investment and innovation. Small and medium-sized enterprises (SMEs) receive special attention as they make up the vast majority of businesses and contribute new jobs and ideas to the economy, but lack the scale and assets enjoyed by large firms, including to navigate bureaucracies. This theme deals with various aspects of the administration's interaction with the business base: making compliance with essential 'red tape' as painless as possible; ensuring easy, fast and cheap access to public services at all stages of the business life cycle; encouraging aspiring entrepreneurs by reducing the cost, time and steps to start up in business; supporting established businesses to operate, employ, and expand if desired; making trade beyond the EU's borders as seamless for business as possible; and protecting the interests of all parties faced with insolvency, while creating the conditions for new or re-modelled businesses to emerge and giving honest entrepreneurs a second chance.

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Public administrations have a profound influence on national productivity and competitiveness, as they can either help or hinder business development. This chapter:

- ✓ Explores how administrations make compliance with essential ‘red tape’ as painless as possible;
- ✓ Outlines how governments are ensuring that enterprises have easy, fast and inexpensive access to better public services;
- ✓ Examines what public administrations are doing to encourage and enable aspiring entrepreneurs to launch start-ups;
- ✓ Describes how administrations can support established businesses to survive and thrive;
- ✓ Reviews how public authorities are aiding businesses to trade beyond the EU’s borders;
- ✓ Investigates how administrations are increasingly focused on the viability of firms threatened with closure, and enabling new and remodelled businesses to emerge.

Good governance creates a conducive climate for business development: giving confidence to aspiring entrepreneurs to risk time and money to form new firms, forging favourable conditions for businesses to flourish, and directing resources into public services that the market cannot provide effectively or at all, like basic research, education and infrastructure. Governments have a duty to safeguard public interests (such as product safety, environmental protection and employee rights) and to ensure robust and fair competition among all enterprises, but also to remove potential impediments to business initiative, investment and innovation. Successful economies have strong public institutions that regulate where necessary and facilitate wherever possible.

The [2014 European Competitiveness Report “Helping Firms Grow”](#) proves empirically the potentially positive impact of an efficient public administration and the quality of institutions on the growth and competitiveness of firms. At the same time, it finds tax administration deficiencies, corruption (see [theme 2](#)) and ineffective justice systems (see [theme 6](#)) to be most detrimental to firms’ growth.

The Commission has also published the [Public Administration Scoreboard](#) as part of the [Member States’ Competitiveness Report 2014](#), as the first EU-wide exercise to analyse the fitness for purpose of public administrations in promoting growth and competitiveness. The Scoreboard takes a holistic approach that looks at a great number of features important for competitiveness. This in turn should encourage continuous improvement by governments and public administrations in the context of the European Semester.

Small and medium-sized enterprises (SMEs)⁽¹⁾ receive special attention in public policy, because of the contribution they make to the economy and the circumstances they face. SMEs comprise the overwhelming majority of the business community, generate the bulk of net new employment, ensure a flow of new ideas into the economy, and enable large businesses to succeed as suppliers, service providers and sub-contractors, as well as partners in collaborative ventures. But they also generally lack the scale economies and management assets enjoyed by larger enterprises that bring readier access to information and capital markets and the resources to research, innovate and train.⁽²⁾

In this context, the Council of Ministers adopted the [Small Business Act \(SBA\)](#) in 2008 as a comprehensive policy agenda around ten principles that promote entrepreneurship, enable businesses to flourish, and anchor the ‘Think Small First’ philosophy in policy-making, in order to strengthen SMEs’ competitiveness and growth.

⁽¹⁾ SMEs are defined as businesses with fewer than 250 employees, up to EUR 50m turnover, or up to EUR 43m total balance sheet, http://ec.europa.eu/enterprise/policies/sme/facts-figures-analysis/sme-definition/index_en.htm

⁽²⁾ With regard to improving SMEs’ access to markets for goods and services within the public sector, please see [theme 7](#) on public procurement.

The pioneering SBA stands on four pillars: promoting entrepreneurship; access to finance; access to markets; and, the core concern of this Toolbox, reducing administrative burdens. Following the [review of the SBA](#) that was launched in 2011, a new Small Business Act will be adopted in 2015. The underlying messages and key principles remain as relevant as ever. To strengthen the foundations, the existing four pillars will be reinforced by adding a fifth that reflects the challenges facing SMEs today: tackling skills shortages.

Guiding principles

The 10 principles of the Small Business Act aim to guide the conception and implementation of policies both at EU and Member State level, as follows:

- I. Create an environment in which entrepreneurs and family businesses can thrive and entrepreneurship is rewarded;
- II. Ensure that honest entrepreneurs who have faced bankruptcy quickly get a second chance;
- III. Design rules according to the “Think Small First” principle;
- IV. Make public administrations responsive to SMEs’ needs;
- V. Adapt public policy tools to SME needs: facilitate SMEs’ participation in public procurement and better use State Aid possibilities for SMEs;
- VI. Facilitate SMEs’ access to finance and develop a legal and business environment supportive to timely payments in commercial transactions;
- VII. Help SMEs to benefit more from the opportunities offered by the Single Market;
- VIII. Promote the upgrading of skills in SMEs and all forms of innovation;
- IX. Enable SMEs to turn environmental challenges into opportunities;
- X. Encourage and support SMEs to benefit from the growth of markets.

This chapter deals with various aspects of the public administration’s interaction with the business base, especially SMEs, to facilitate business start-ups, stimulate growth, and organise the orderly closure of those enterprises that exit the economy. It focuses on the following questions, and sets out ways and tools to address them.

Key questions	Ways and tools
How can we make compliance with essential ‘red tape’ as painless as possible for all businesses?	<ul style="list-style-type: none"> • Administrative simplification programmes • Mitigating measures to reduce burdens (<i>exemptions, transition periods, simplified implementation & enforcement, etc.</i>) • Awareness-raising and clarification of essential rules • Certification of good public services
How can public administrations ensure easy, fast and cheap access to public services to help enterprises at all stages of the life cycle?	<ul style="list-style-type: none"> • ‘Indivisible’ government • Single Points of Contact & other One-Stop Shops (OSS) • e-Government for business (G2B)
What can administrations do to encourage aspiring entrepreneurs , by reducing the cost, time and steps to start up in business?	<ul style="list-style-type: none"> • Removing minimum capital requirements • Simplifying registration through inter-agency cooperation, e-Services & removing process steps • Reducing the statistical burden on new start-ups

<p>How can administrations best support established businesses to operate, employ, and expand if desired?</p>	<ul style="list-style-type: none"> • Unifying corporate data provision (fiscal & statistical) • Easier empowerment of intermediaries • Less frequent tax & social contribution declarations • E-filing and e-payment of business taxes • Risk-based tax inspections • Simpler & on-line employer reporting • Interactive online tools and standard templates for meeting employment and health & safety duties • Streamlining permit applications • Simplifying & automating property registration • Cutting the incidence of late payment
<p>How do authorities make trade, especially beyond the EU's borders, as seamless for business as possible?</p>	<ul style="list-style-type: none"> • Reducing reporting thresholds for intra-EU trade • Simplifying import, export & transit procedures • Introducing certification systems to fast-track trade • Risk-based goods inspections • Investing in e-Customs • Establishing the 'Single Window' in all Member States
<p>Faced with insolvency and business closure, what is the best way to protect the interests of all parties and create the conditions for new or re-modelled businesses to emerge?</p>	<ul style="list-style-type: none"> • Promoting rescue and restructuring in insolvency law • Making available mediators to assist negotiations and reorganisation of insolvent enterprises (see theme 6) • Ensuring a second chance for honest bankrupts • Improving efficiency & transparency in insolvency proceedings.

As well as the [European Public Sector Award \(EPSA\)](#), this chapter draws upon the [SBA database of good practice](#) and the best practice examples identified by the [High Level Group of Independent Stakeholders on Administrative Burdens \(HLGAB\)](#), the expert advisory group to the European Commission on tackling business burdens from legislation. These examples include a 2009 compendium ("[Better Regulation: Presentation of practical exercise on sharing good examples](#)"), assembled under the Swedish Presidency of the European Union.

5.1. Putting business first

The EU's future economic success will be built on the foundations of a dynamic business base, delivering products and services that meet customer needs and capable of competing in world markets. 'Think small first' has spurred governments towards fewer and smarter regulations, setting the framework for lightening the administrative load on businesses. There is still much to be done to reduce the burden, by abolishing unnecessary laws and curbing the excesses of existing legislation ('regulatory stock') and by avoiding the imposition of non-essential roles in the future ('regulatory flow'). Fundamentally, this is a matter of mind-set: changing attitudes so that every actual and potential interaction is seen from the business viewpoint, considering the



consequences of rules and regulations for SMEs especially. As small firms lack the time and resources to navigate bureaucracies, relative to their larger counterparts, the principle of thinking small first is timeless.

5.1.1. Streamlining and simplifying ‘red tape’



Excessive ‘red tape’ is a distraction for businesses and a drain on resources that could be deployed more productively. Public administrations across Europe have set targets to reduce the burden on business. Impact assessments of laws and regulations, with competitiveness proofing and the SME test, and the application of ‘fitness

checks’, aim to slim down the statute book by removing non-essential legislation or ensuring it is not passed in the first place, and codifying / recasting necessary laws (see [theme 1](#)). Across the EU, governments at all levels are engaged in a concerted push to streamline the regulatory framework, especially with respect to SMEs.

In many cases, Member States have embarked on **administrative simplification programmes**, which involve a stock-take of the existing burdens on businesses, in consultation with enterprises and experts from industry and government, and identifying a plan of action for systematically cutting non-essential red tape.

In Denmark, for example, the Government has established a national Business Forum to advise it on the most burdensome rules and propose measures to simplify them, meeting three times a year and supported by a Secretariat in the Ministry of Business and Growth.

Inspiring example: Business Forum for Better Regulation (Denmark)

The Danish Business Forum for Better Regulation was established in 2012 to contribute to burden reduction and simplification for businesses in close dialogue with the business community. The Business Forum is an advisory body to the Government. It has the task of identifying the areas that businesses perceive as the most burdensome and proposing simplification measures. Simplification measures can, for example, imply changed rules, better communication, new processes, or less time spent on case work by public authorities. The most essential is that efforts are focused on the areas where businesses express a need for changes. In the Government’s Growth Package of June 2014, the mandate of the forum was expanded to include a broader range of regulatory costs – not just administrative costs, but also certain economic costs (changes in tax rates are not included in the mandate). For the time being the mandate applies until the end of 2015.

The Business Forum has 21 members representing businesses, business organisations, trade unions, and experts with knowledge of simplification. The chairman of the forum, Michael Ring, is the managing director of the Danish design company, Stelton. The Ministry of Business and Growth (including the Danish Business Authority) provides a project team, which operates as the Secretariat for the Business Forum, preparing and following up on the Forum’s meetings. Furthermore, it has the responsibility of managing the communication between the Business Forum and the public authorities.

The Business Forum meets three times a year, addressing a number of regulatory “themes” at each one. Prior to the meetings, working groups consisting of members of the Business Forum and the project team prepare each theme and outline a number of simplification proposals to be discussed at the meeting. The proposals agreed upon by the Business Forum are subsequently sent to Government. The regulatory themes addressed so far include reuse of data, implementation of EU-regulation, digitalisation, statistics, and accounting & taxation. In addition, a number of so called “fast track” proposals are also addressed at each meeting, which are not included in a specific theme and are often sent in through the “mailbox” at www.enklerleger.dk where businesses and others can send in ideas and proposals for simplification. At the website, the status of the initiatives can also be followed.

The proposals made by the Business Forum are covered by a “comply or explain” principle. This principle means that the Government is obliged to either pursue the proposed initiatives or to explain why these are not pursued. The Government’s responses to the proposed initiatives are made publicly available at www.enklerleger.dk (in

Danish). As of December 2014, the Business Forum has sent 422 proposals to Government. The Government has replied according to the 'comply or explain' principle on 348 proposals:

- 140 proposals are complied with;
- 142 proposals are partly complied with;
- 66 proposals are not complied with (explained);
- 74 proposals are awaiting response.

Of the 282 proposals that are fully or partly complied with, 60 proposals have been implemented. The Government will provide an updated status on implementation of the proposals in a report to Parliament in March 2015.

For further information: The Secretariat, enklereregler@erst.dk

A prime example is the French inter-ministerial committee which has developed a programme with more than 200 measures, and in its early months, 50 specific proposals.

Inspiring example: Administrative simplification committee (France)

CIMAP, the French inter-ministerial committee for modernising public action, at its meeting of 17 July 2013, adopted a simplification programme comprising over 200 measures. More than half are already being tested or have been introduced. To speed up implementation, the government has decided to set up a special organisation devoted to making things simpler for businesses. An innovative method has been introduced to ensure that the simplification measures, from design to implementation, focus on the needs of businesses. This new organisation came into existence on 9 January 2014. In each ministry, project leaders appointed by the Prime Minister are carrying out simplification projects in conjunction with the government bodies involved, with businesses and with industry organisations. An inter-ministerial team devoted to simplification will guide and support ministries in implementing the simplification programme. Independent senior figures attending simplification committee meetings will be responsible for maintaining a dialogue with the business community, for monitoring the programme's achievements, for contributing to making the results known and for making any further simplification proposals.

The Committee has identified ten review targets corresponding to key events in the life of businesses. Each review target will lead to several structural and practical simplification projects being implemented. From the design of the review targets, through to their implementation and project evaluation, the business community, politicians, associations and experts will be involved in the working groups. Particular attention will be paid to SMEs and micro businesses, which are crucial players in simplification. The method has been designed to meet three objectives: collecting businesses' recommendations on simplification; designing simplification measures with businesses, especially SMEs and micro businesses; informing the greatest number of people possible of the measures decided upon.

A consultation with the general public and with businesses was engaged via the portal www.faire-simple.gouv.fr to receive proposals to make the simplification programme as wide-ranging as possible. Several campaigns have been organised for the whole of 2014. At the same time, working groups were set up with stakeholders: businesses, politicians, central and local government bodies, industry bodies and industry representation organisations, experts and others. The proposals and recommendations made by businesses will broaden the simplification programme and be used to refine projects and to help decide how they should be implemented. A specific website has been set up so that the general public can follow the committee's work, along with the progress being made with the programme and the business simplification measures. After only three months of work, the Committee has already identified some 50 proposals to put before the President of France. These can be grouped and classified under three main categories:

1. Giving businesses greater certainty through an environment that is easier to understand and more predictable

- Guarantee "zero additional cost" for all new measures;
- Easier access to the law;
- Greater use to be made by the tax authorities of "guaranteed answers" (binding agreements on tax treatment);

- Apply a principle of non-retroactive application for business taxes;
- Publish tax authority interpretations at fixed dates;
- Appoint project facilitators at the local level;
- Simplify the workings of local government agency committees to cut processing times.

2. Practical ways to make it simpler to run a business

- Reduce the number of business structures for single owner businesses;
- Reduce the number of authorisations needed prior to setting up a business;
- Setting up your business with one single document in one single place;
- Reduce the minimum number of shareholders for unquoted “Sociétés Anonymes” [public limited companies] from 7 to 2, and consequently the minimum number of directors;
- Apply the principle of presumption of good faith in tax matters, by abolishing the requirement to make certain returns;
- Improve access to public procurement contracts, by reducing the administrative information to be provided to public bodies (reduced to simply notifying the SIRET establishment registration number);
- Abolish the two-step system of paying VAT on import under the “procédure de dédouanement domicilié unique” (PDU) single window customs clearance procedure;
- Make it easier to build and alter buildings.

3. Making it easier to take on employees and train them

- Devise a true “job cheque” to simplify the hiring process for micro businesses;
- Simplify the payslip;
- Standardise the definition of a “day” for social security purposes.

The simplification process will run until 2017. Some of the above measures were implemented immediately, and most of the rest scheduled for implementation by 1 January 2015.

For further information: Luisa Oliveira, Bureau de la coordination des politiques européennes, Direction générale des Entreprises, Ministère de l'économie, de l'industrie et du numérique, luisa.oliveira@finances.gouv.fr

In **decentralised systems**, authorities below the national level are responsible for much of the interaction with businesses in their territories. In this light, there is scope for regional and local initiatives to simplify administration, such as ‘Simple Lombardy’ which is the far-reaching agenda of Italy’s largest regional government, which covers both business and citizen services.

Inspiring example: ‘Simple Lombardy’ (Italy)

Lombardy is one of 20 Italian regions established in 1970, with almost 10 million inhabitants and its regional capital in Milan. It has over 824 000 enterprises, of which 94% are SMEs, making a ratio of businesses to population ratio of 8.4%, compared with the European average of 4.3%. On 23 April 2010, a new regional minister was appointed to manage simplification and ICT policy, reporting directly to the President of the Lombardy Regional Government. The newly created ministry was fully empowered to implement the overall reform of government at the regional level, with the following scope:

- Simplification - enhancing the simplification and the quality of regulation (smart regulation), while re-engineering administrative processes;
- Digitisation and ICT - supporting modernisation through a new model boasting open and advanced ICT applications;
- Enhanced quality of public services - developing listening skills, improving accessibility to public services, and promoting consumer and user protection;
- Local government reform - re-engineering administrative processes at the sub-regional level.

The ministry was looking to build on the achievements of the previous 2005-2010 legislature, including: regulatory simplification (governance by just 60 regional laws in 10 ‘sector coordinated texts’, following the abrogation of 1 700 laws since 1970); administrative simplification under Regional Law 1/2007 and 8/2007 (reducing administrative burdens, boosting enterprise competitiveness, and shifting from *ex ante* controls to *ex post* controls); and digitisation of administrative processes (investing in digital infrastructure and disseminating ICT at the local level).

The “Simple Lombardy” Agenda (*Lombardia Semplice*) is a **strategic long-term programme, bipartisan and non-ideological**, which establishes the main simplification policy goals, defines the roles of the various players involved, presents ways of achieving the goals, and monitors progress, measures results and evaluates policies. The multi-annual work plan was launched on 22 December 2010 with the adoption of the regional executive resolution no 1036: “Approval of the 2011-2015 government agenda to simplify and modernise Lombardy’s system”. The implementation process aims to be user-centric, without preconceptions - not starting from legal parameters or technical possibilities, but instead trusting the viewpoint of beneficiaries, understanding the actual situation with regulatory processes, and rethinking them in organisational and technological terms.

An early initiative involved introducing a **one-stop shop for enterprises** (SUAP), starting with technical cooperation with ANCI and Unioncamere Lombardia in July 2010, followed by a series of steps culminating in the publication of Presidential Decree no. 160 on the SUAP in September 2010.

“Simple Lombardy” was characterised from the outset by **wide-ranging consultation and inclusion** of business associations, professional intermediaries such as accountants and lawyers, chambers of commerce, universities, and local institutions. In the preparation phase, the “Zero Bureaucracy” Task Force (*Zero Burocrazia*) was set up on 21 April 2010 as part of the preparation phase to formalise dialogue. All citizens, enterprises, entities and associations have been able to submit their own input since 1 December 2010, making proposals to simplify regulations and procedures, flag up red tape, and propose good practice worth spreading undertaken by other government bodies via the *Semplific@ con noi* (“Simplify together with us”) portal, via the website: www.semplificazione.regione.lombardia.it. The creation of this “listening hub” e-tool draws from the best international experience (starting from the United Kingdom, Belgium, France and the EU itself). Reports of red tape, poor service and complaints are sent to the “Communication with Citizens” service, and then forwarded to the relevant government departments. Proposals for simplification and positive experiences are received by the Directorate-General for Simplification and Digitisation and examined in partnership with the relevant departments. Select examples of input received:

- Simplification of procedures to grant a permit for woodland thinning;
- Reconciliation of the General Urban Subsurface Plan with the Territorial Management Plan;
- Review of regulation 2/2006 regarding concessions for diverting surface or underground water.

Two directions have been explored to **re-design regulatory and administrative processes**: working to limit the legislative and administrative flows in order to “prevent” the adoption of new bureaucratic barriers and look at each new document as a chance to re-think the existing framework; and organising and simplifying the existing body of rules, practices and procedures through gradual and systematic work that makes optimal use of all the available leeway.

A “**checklist for ex ante evaluation**” was adopted to avoid new administrative burdens on users and the public authorities themselves. It is a simple and effective self-assessment tool for officials that are drafting resolutions and decrees, a schematic flow chart of the procedure and ten simple questions subdivided into four thematic areas:

- Compliance analysis (subject, users and conciseness);
- Time savings;
- Cost savings (related to information, finance, compliance and changes required for implementation);
- Proportionality of requirements with respect to the most disadvantaged users (e.g. micro-enterprises or differently-abled people).

The Agenda also looks to simplify the existing situation through a range of actions at multiple levels of governance (from European to local), including “**sector simplification plans**” under the supervision of Directorate General, covering: agriculture; environment (with special care on noise and air pollution, wastewater and garbage); territorial governance, town planning and strategic environmental assessment; landmarks; health and safety in the workplace; social and non-profit organisations; craft business and SMEs; and public residential building.

Senior and middle management have benefitted from a “Simplifying for Action” training course, to promote cultural change. Moreover, an **incentive system** was introduced for managers in their contracts, with results-related bonuses comprising 60% for achieving individual targets and 40% when the simplification goals of operating programmes are achieved (according to performance evaluation. Additional amounts are allocated selectively by an independent evaluation body with regard to the intensity/significance of individual targets, on top of the results-related bonus.

Finally, the simplification of processes through digitisation is being taken forward under the **Lombard Digital Agenda**, which has a much wider remit to maximise the socio-economic benefits resulting from the use of ICT and develop the Internet economy, in close collaboration with the Digital Agenda for Europe, the National Reform Plan, and national e-Government plans.

Source: HLGAB (op. cit.)

Businesses operating in Member States with decentralised systems can face very **fragmented regulatory environments at the national, regional and local levels**, which raises the complexity and cost of compliance, especially when laws and regulations vary from region to region. Some Member States are seeking to rationalise and harmonise this framework, such as the example of Spain’s Law on the Guarantee of Market Unity,⁽³⁾ which came into force on December 2013 and aims to eliminate duplications, simplify burdens, reinforce coordination among competent authorities and introduce a mechanism to rapidly solve problems faced by economic operators. The new law’s full impact is still to be assessed, including whether further legislation is required.

In some cases, public administrations can end up reducing burdens as a by-product of a **change in policy direction** that has had beneficial effects for businesses, either by design or default. For example, the new [European Transparency Directive](#) abolishes the obligation to publish quarterly financial information, which should encourage more SMEs to seeking access to regulated capital markets, discourage the culture of short-termism in investment finance, and relieve an information burden that is felt disproportionately by small businesses. In another example, some Member States are making it easier to start-up a business and compete in a regulated profession (such as accountancy, engineering, law and architecture), in line with the EU’s Services Directive and Professional Qualifications Directive, as noted in a [2014 DG ECFIN study of the economic impact of professional services liberalisation](#).

In most cases, however, the underlying policy objective is pre-cooked and the challenge for the public administration is to ensure that the compliance costs are minimised, especially for new and small businesses. This often allows a ‘lighter touch’ to

⁽³⁾ Further information is contained in Spain’s 2013 National Reform Programme: http://ec.europa.eu/europe2020/pdf/nd/nrp2013_spain_en.pdf

be applied to micro-enterprises or SMEs, where justified by the impact assessment. Public administrations should consider a **risk-based approach**, targeting legislative provisions on those operators that constitute the highest risk, in terms of both probability of outcome and impact if the risk materialises. In many cases, this will result in excluding sectors and size bands, reducing the overall net administrative burden. Note, the use of size-related criteria should be approached with care: if the threshold effect is *too* large, the benefits to small firms may be outweighed by the disincentive to move into a higher size bracket, and act as an impediment to business growth.

Based on experience from both the European Commission and Member States, public administrations can draw upon **nine types of mitigating measures** to relieve the administrative burden on businesses, especially micro-enterprises (fewer than 10 employees) or all SMEs. These can be inserted into the legal text itself during drafting or re-casting, or applied in its practical implementation and enforcement, depending on the judicial and administrative culture.

Potential measure	Description
Tailored legislation	The legislation is (re)drafted, so that it makes specific provisions for different size categories of business.
Permanent exemptions (complete or partial)	The law specifies that businesses below certain size thresholds (e.g. micro-enterprises or SMEs) would not have to comply with specific obligations, as long as this does not invalidate the original purpose of the legislation and there is no danger of market distortion. These exemptions could apply to the whole legislation or only part of it.
Temporary exemptions	Businesses are allowed transition periods during which they are exempted from the provisions of the law to give them time to adapt (again, subject to the same caveats as permanent exemptions). This provision could be restricted to businesses below certain size thresholds (micro-enterprises or SMEs).
Extended transition periods	This is similar to temporary exemptions, except that it applies to the proposed transition periods for all affected parties and extends them further in the case of businesses below certain size thresholds, to provide even more time to adapt.
'De minimis' rules	Exemptions are applied below a specified threshold, which is not related specifically to the size of the business, but tends to favour micro-enterprises and some SMEs (for example, state aid rules, which do not apply below EUR 200 000 of aid in most cases).
Simplified implementation	The new or recast legislation makes compliance less onerous and costly by easing the reporting obligations on some or all businesses through, for example: reducing reporting frequency to the bare minimum necessary to meet the substantive objectives of the legislation; aligning reporting frequency across related pieces of legislation, where possible; requiring records to be held for a shorter time; or introducing the mandatory / voluntary use of faster, cheaper online channels for information exchange to reduce cost; use sampling for data collection, rather than require every business to submit reporting statistics.
Simplified enforcement	The new or recast legislation makes enforcement less onerous and costly by reducing the frequency of inspections and audits, and/or simplifying the process, by applying risk management techniques, for example.
Financial compensation	In order for the proposal to be 'cost-neutral' for affected businesses, the legislation could include provisions to redress certain affected businesses (e.g. SMEs) financially in relation to the regulatory costs incurred, provided this is compatible with existing legislation (e.g. state aid), by reducing fees and charges.
Voluntary arrangements	The law seeks to achieve its policy objective through voluntary means, either for all enterprises or just businesses below a certain size threshold (micros or SMEs).

A non-exhaustive list of examples is set out overleaf, drawn from both EU and Member States.

**Examples of mitigating measures to relieve regulatory burdens
in EU and Member State legislation**

Measures	Examples
Tailored legislation	<ul style="list-style-type: none"> • Legislation on accounting law clearly distinguishes the obligations for each category of businesses – micro, small, medium-sized, and large (EU). • A new legal form of incorporated legal persons – the small partnership – has been created exclusively for micro-enterprises. A small partnership allows the ability to set up a company of fewer than 10 persons, with a simple and flexible management structure, the possibility to register online in under three working days, no capital requirement, and registration costs of under EUR 100 (Lithuania).
Permanent exemptions	<ul style="list-style-type: none"> • Micro-enterprises are exempted from having to install tachographs in lorries that travel within a limited radian (EU). • The income tax law was changed to introduce the flat rate expense (FRE) for up to three motor vehicles for business activities as a tax deductible cost, removing the need to keep the “evidence of journeys” (register of journeys, logbook) for the purpose of the income tax and saving mainly SMEs over EUR 33 million (Czech Republic). • SMEs with annual turnover of less than EUR 150 000 per year in the catering and hotel industry are exempted from monthly reporting requirements in the context of public commerce statistics (previously EUR 50 000), benefiting an estimated 2 700 SMEs (Germany). • Since 2011, under the Simplification Regulation for SMEs no. 227/2011, 1.5 million business activities that produce little noise (retailers, hairdressers, gyms, etc.) are exempted from the obligation to prepare the document of acoustic impact (Ireland) • All SMEs are exempted from the requirement to give employees time off to train, according to the Employment Rights Act 1996 (UK).
Temporary exemptions	<ul style="list-style-type: none"> • Micro-enterprises are exempted for a limited period from certain legislative provisions, such as temporarily exempting self-employed persons performing mobile road transport activities which were exempted from working time directives until March 2009 (EU) • Domestic measures which will come into force before 31 March 2014 must provide a legislative exemption for micro-enterprises and start-ups (UK) • Under the Pensions (Automatic Enrolment) Regulations 2009, businesses with fewer than 50 employees will not need to comply with the requirement for businesses to automatically enrol their employees in a pension scheme until June 2015 (UK).
Extended transition periods	<ul style="list-style-type: none"> • SMEs in the construction sector have a transition period of two years to adapt to the legislation on the use of work equipment (EU). • Self-employed drivers benefitted from a longer lead-in time before rules on the organisation of their working time (Directive 2002/15) came into effect in 2009 (EU). • Some small employers who pay employees weekly, or more frequently, but only process their payroll monthly may need longer to adapt to reporting PAYE information in real time. Therefore until 5 October 2013, employers with fewer than 50 employees, who find it difficult to report every payment to employees at the time of payment, may send information to the tax authority (HMRC) by the date of their regular payroll run but no later than the end of the tax month (UK).

Measures	Examples
'De minimis' rules	<ul style="list-style-type: none"> Fishing vessels below 15 meters in length which operate exclusively in the territorial waters may be exempted from the obligation to be fitted with a vessel monitoring system (EU) Small shops selling electrical and electronic devices do not need to reserve extra space to meet take-back obligations under the new Directive on Electrical and Electronic Waste. The take-back obligation only applies to retail shops larger than 400 m² (EU). Guarantees are not required for activities in the excise warehouses if they are carried out only by small breweries, and the goods produced or held there only belong to the small breweries (Lithuania). All shops with a selling area under 280 m² are exempt from the restrictions on opening hours which normally apply on a Sunday (UK).
Simplified implementation	<ul style="list-style-type: none"> Micro-enterprises can now choose simpler ways of showing that any one-off construction products they put on the market meet applicable product standards, according to Regulation 305/2011 (EU). The archive period for book-keeping files has been lowered from 10 to 7 years (Belgium). Electronic remuneration records (ELENA) have been introduced replacing the employer's obligation to issue monthly written certificates on income data to a central database for social security benefits, saving companies over EUR 85 million per year on documentation relating to unemployment benefits, federal parental and housing benefits (Germany). The Department of Transport has simplified and streamlined the application process for a haulage operator's licence by moving from a process requiring three affidavits and supporting documents to a self-declaration model. The application form has been reduced from 11 pages to four and is now considerably easier to complete. Over half of all licence holders are SMEs (Ireland). An integrated form has been established, consolidating documents from three authorities, to prove that a supplier meets certain requirements of public procurement procedures (Lithuania). Since July 2010, a single environmental permit has replaced 25 different permits and exemptions from national and local government, reducing administrative burdens to business by EUR 85 million due to 200 000 fewer permits issued each year, also saving citizens EUR 11 million and 15 000 hours (The Netherlands). The Board of Agriculture has created a central holding register for keepers of bovine animals to reduce administrative burdens on farmers. Animal keepers now only need to make one set of notifications to the central database (Sweden).
Simplified enforcement	<ul style="list-style-type: none"> Businesses benefit from simplified fire safety inspections, where the first planned inspection of fire prevention and safety is a consultation on fire safety issues, with sanctions only applied in exceptional cases. Owners can declare their own conformity to fire prevention and safety requirements, and discovered breaches will be dealt with through consultation on how to properly make a declaration and or fire prevention issues. Sanctions are only applied where the breaches could cause fire, an explosion, or damage to surrounding buildings (Lithuania). The frequency of official inspections of on-farm dairy hygiene have been reduced by recognising the results of audits carried out by Assured Dairy Farms, leading to an estimated reduction in the number of inspection in England from 10 000 to 2 000 per year (UK).

Measures	Examples
Financial compensation	<ul style="list-style-type: none"> SMEs who are inspected by the European Medicines Agency, or use their scientific advice or services, benefit from fee reductions of 90% (EU) The New Companies Promotion Act (NeuFög) saves costs for start-up businesses and successor companies by exempting them from court and stamp fees, federal administration fees, land transfer tax, capital duty and stock exchange turnover tax. They also do not have to pay the employer's contribution to the Family Burdens Equalisation Fund (4.5%), the contribution to housing subsidies (0.5%), the second chamber contribution (i.e. the surcharge on the employer's contribution, which varies according to Land) and the industrial accident insurance contribution. To qualify, the new business owner must not have been self-employed in the same business segment within the past 15 years, and he or she must have attended a start-up counselling session with their respective interest group. (Austria).
Voluntary arrangements	<ul style="list-style-type: none"> SMEs are encouraged, but not obliged, to carry out an energy audit according to the new Energy Efficiency Directive 2012/27/EU. Member States may set up support schemes for SMEs, including if they have concluded voluntary agreements, to cover costs both of an energy audit and of the implementation of the highly cost-effective audit recommendations (EU).

Sources: EC Communication on Smart Regulation (2013), <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2013:0122:FIN:EN:PDF>; HLGAB (2013), "Adapting legislation to minimise regulatory burdens for SMEs: best practice examples" (op. cit.); EU Swedish Presidency (2009) "Better Regulation: Presentation of practical exercise on sharing good examples" (op. cit).

Many Member States have also taken advantage of derogations in EU legislation to ease the requirements on their SMEs, to tailor their own legislation accordingly, and simplify implementation or enforcement.

Inspiring examples: Use of EU derogations by Member States

Audited accounts

In the Companies (Amendment) (No. 2) Act 1999 and 2012 amendment, an EU derogation was exercised to exempt small companies from the requirement to audit their annual accounts. The exemption applies to companies with a balance sheet under EUR 4.4 million, a net turnover under EUR 8.8 million, and on average fewer than 50 employees (Ireland). Small businesses are exempted from some of the requirements of the Companies Act 2006. Most businesses do not need to publish annual audited accounts, if they meet two of the following three criteria: fewer than 50 employees on average; annual turnover under GBP 6.5 million; total assets under GBP 3.26 million (United Kingdom).

Trade statistics

Intrastat is the system for collecting data and producing statistics on the trade in goods between Member States. Following the EU's decision to lower the minimum coverage of the intra-EU trade statistics, Germany has exempted almost 17 000 of a total of 70 000 businesses from their Intrastat information obligation through raising the reporting thresholds from 300 000 to EUR 500 000 value of traded goods per year and direction of flow. This led to a reduction of EUR 19 million per year in administrative burdens by 2012 (Germany).

Sources: HLGAB (2013), "Adapting legislation to minimise regulatory burdens for SMEs: best practice examples"

Once an essential regulation is adopted, the administration can make life easier for enterprises by **raising awareness of the rules and providing clarifications**, using business-friendly language and communication tools. Public administrations should spell out the implications, especially in the case of complex pieces of legislation that require explanation or legal expertise. This can include guidelines, especially those directed at SMEs, such as the Europe-wide campaign of the [European Agency for Safety and Health at Work and the Online interactive Risk Assessment \(OiRA\)](#), to carry out risk assessments required by law in a simple and less time-consuming way.

Governments can also encourage public bodies to enhance their services to business by providing **certification to public administrations that achieve certain standards** that are agreed with business representatives. A leading example is the Dutch 'Mark of Good Services', which has been offered to municipalities and other authorities since 2009, accompanied by a financial incentive programme which meets part of the costs of external assistance. To date, over 150 municipalities and other authorities have been awarded certificates, based on analysis of service performance and an improvement plan to achieve concrete results within two years.

Inspiring example: 'The Mark of Good Services' (The Netherlands)



The Mark of Good Services is an instrument to improve public services to businesses in the Netherlands, as a reference framework for measuring and improving service quality across all municipalities, provinces, regional water authorities and the most important government organisations to businesses.

The Mark is based on the 'System of Standards for Businesses', which was developed by The Royal Dutch Association of Small and Medium-sized Enterprises and the Confederation of Netherlands Industry and Employers, following a mapping exercise of the most important ex-

pectations of entrepreneurs from public services, in consultation with municipalities. It comprises ten criteria (see above) in four thematic groupings. To achieve the Mark's standards, public services need to be timely, professional, reliable and client-oriented. The award of the Mark implies that public authorities, especially municipalities, intervene only when it is really necessary, diminish the supervisory burden, and focus their activities on enabling businesses to develop. It is not only a survey, but also a baseline for improving services in dialogue with the local business community, and the basis for quality charters for business services (see also [theme 4](#)).

The Mark forms part of a broader national programme 'better and more concrete - good rules, focused service' to reduce regulatory burdens, and represents a collaboration of the Ministry of the Interior and Kingdom Relations, the Ministry of Economic Affairs, and VNG, the Dutch local government association. The process for achieving the Mark of Good Services comprises the following steps:

1. The public authority selects the ten most important services for entrepreneurs.
2. Each service is audited and assessed against the ten standards (a manual and measurement model are available), to determine what procedures could be improved. The results are discussed with local entrepreneurs.
3. Based on the results, a plan for improvement is set out and implemented, with targeted actions to improve services. This is not just "another" plan: it structures and incorporates all existing initiatives to improve public services.
4. After a positive assessment of the results and improvement plan, a certificate is issued by the Regulatory Reform Group of the Ministry of Economic Affairs, Agriculture and Innovation, which summarises the results and the main areas for improvement.

Until 2013, the Mark of Good Services was supported by a Financial Incentive Programme. The Ministry of Economic Affairs, Agriculture and Innovation made available a voucher scheme, with a maximum of EUR 15 000 per voucher for external support by consultants, to meet part of the costs of the preparation process, investigation of selected services, and development and implementation of the improvement plan.

Possessing a Mark of Good Services enhances the public image of a municipality. Between 2009 and 2014, 157 municipalities have been certificated, as well as other public authorities, including most recently, the following municipalities during 2013-2014: Brielle, Cranendonck, Delft, Den Helder, Dongen, Gorinchem, Heeze-Leende, het Bildt, Heumen, Hof van Twente, Hoorn, Meppel, Nieuwkoop, Noordoostpolder, Rijswijk, Schiedam, 's Hertogenbosch, Súdwest Fryslân, and Valkenswaard. The Certificate of Good Public Services is a realistic declaration of in-

tent of governments to improve their public service delivery to businesses. The period of validity of the certificate is 2 years, which is the time period for the improvement plan to achieve concrete results.

For further information: Aisia Okma, *Project Entrepreneurs Survey and Mark of Good Services*, info@kinggemeenten.nl, <https://www.kinggemeenten.nl/secties/bewijs-van-goede-dienst/bewijs-van-goede-dienst> (in Dutch only)

5.1.2. Business-centric administration



As the Dutch 'Mark of Good Services' demonstrates, creating a business-friendly climate is not just a matter of regulatory reform, but also improving the responsiveness of the administration, which is about attitudes and structures. While specific ministries and their executive agencies

are tasked with industrial and SME policy, exports, inward investment etc., there are public bodies at all levels that deal with businesses on a daily basis. 'Think Small First' (TSF) is an ethos for the whole of government, at all levels, with public administrations offering seamless public services that improve rather than impede business performance.

For the business client of public administrations, **government should be 'indivisible'**: they should be able to expect the same high quality and customer-oriented service whichever office they are dealing with. This principle was embraced by the Swedish Municipality of Hultsfred when it launched the LOTS project to create contact points throughout the municipality for companies looking to establish themselves locally, rather than rely on a single department as the interface with business. By developing their business ambassadors, Hultsfred has since seen its 'business-friendliness' rating climb 58 positions in Sweden and the LOTS model become an official standard which has since been taken up by other municipalities.

Inspiring example: The Municipality of Hultsfred 'LOTS' project (Sweden)

When a company or an entrepreneur has an errand to run at the municipality, they expect a high level of service. They also expect that this high level of service should be equal in all municipalities, since companies do not operate according to municipal borders. The problem is that many municipalities have one or two officials who are responsible for answering and handling all the questions from every company. In short, there is only one way into the municipality and every company has to take the same route.

The Municipality of Hultsfred wanted to change this perspective and create many contacts for the private sector to use, and hence the LOTS project was launched in 2010. The model is to spread responsibility and knowledge throughout the organisation, to create lots of positive ways for companies to get help, support and guidance from the municipality. This means that officials have to have a wider knowledge of the different areas covered by the municipality, as well as about the conditions of running a company. The LOTS Group currently comprises about 23 persons from different departments. Each official, who has other main tasks outside of LOTS, can be the first point of contact for a new business that wants to establish itself in Hultsfred, and they can all answer the most common questions from the private sector. The biggest cost of the LOTS project has been the time and effort spent by all of the persons involved in it, otherwise only minor investments have been made. The success is based on dedication – not budget.

Since the project was first launched, Hultsfred has climbed 58 positions on the rankings of the most corporation-friendly municipalities in Sweden. Moreover, the LOTS model has become a new Swedish standard regarding how municipalities can work when it comes to company contacts, certified by the Swedish Standards Institute, which major cities such as Stockholm, Gothenburg and Helsingborg have begun to adopt.

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In line with the user-centric approach to service delivery (see [theme 4](#)), many Member States have sought to enhance the front-office experience by creating **one-stop shops (OSSs) for business** to improve the public-private interface. In many cases, this became a priority in the late 2000s as a result of Services Directive 2006/123 EC, which obliged Member States to simplify all procedures involved in

starting and carrying out a service activity by the end of 2009. Companies providing services must now be able to complete all necessary formalities, such as authorisations, notifications, applying for environmental licenses, etc. through **Points of Single Contact (PSCs)** with the public administration, from a distance and by electronic means.⁽⁴⁾ The PSCs are also supported by IT tools through the EU-funded **SPOCS project**.

Other diverse forms of OSS for business exist in different Member States, varying in terms of scope, portfolio and degree of interconnection with PSC and e-Government structures.

The priority is increasingly to offer **online Government-to-Business (G2B) services** (see also [theme 4](#)). As Internet usage is more widespread among the business community than the general population, the shift to better, faster, cheaper e-Services is benefitting SMEs in particular. Specific e-Business portals are now widespread across Europe based on 'life events' in the business cycle (start-up, employment, export-import, closure etc.), which are explored further in [topic 5.2](#). In the ideal situation, there is only a 'single portal' to access all the services that enterprises require, as illustrated by Austria's Business Service Portal.

Inspiring example: The Business Service Portal (Austria)

The Business Service Portal ('Unternehmensserviceportal') is the flagship project of the Austrian Federal Government's initiative to cut red tape. It is jointly coordinated by the Federal Ministry of Finance (BMF) and the Federal Chancellery (BKA).

The portal serves as a single entry point to Government for businesses. By offering information and transaction services, it enables businesses to meet their reporting obligations to the authorities as simply and efficiently as possible. This single gateway to government information and transaction services will significantly increase the attractiveness of doing business in Austria. Businesses can use this portal to find relevant information, submit data to meet their information requirements and use online procedures to interact with the authorities. A single access point is offered for previously existing applications, such as 'FinanzOnline' (virtual tax office), the electronic data exchange with Austrian social security institutions (ELDA), and the Data Processing Register (DVR). Furthermore, information on reporting and information requirements will be combined and offered in one platform.

The project submitted is Phase 1 of the BSP, in particular the implementation of the information part and single sign-on (SSO) functionality, including central administration of roles and rights in the transaction part and business register. In 2010, a fully-fledged information portal was set up, and since 2012 the BSP provides SSO services to the most important e-Government applications, such as taxes, insurance and environmental reporting. Both new and already existing applications will be integrated into the BSP.

Phase 2, which started in 2013, focuses on the support of processes for enterprises, with special emphasis on streamlining administrative procedures and avoiding multiple reporting of the same information. For example, an online start-up process and the possibility to receive digital mail from administrative bodies are currently designed. Regional and local e-Government applications will also be integrated. The added value for enterprises at a glance:

- Register once to use various e-Government applications: previously businesses had to register separately for each application and manage numerous passwords and user IDs;
- Deal with all administrative issues online and resolve them faster;
- Central user management for various procedures;
- 24/7 information around the clock provided by government offices; and
- Maximum security standards.

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⁽⁴⁾ The performance of PSCs against four criteria (quality and availability of information, online completion of procedures, accessibility for users from other countries, and usability) is considered in the [EU Single Market Scoreboard](#).

Virtual OSSs are not solely the domain of national government. Online portals are also being offered at the local level, within decentralised systems. As described under [theme 4](#), streamlining the front-office is commonly complemented by back-office reforms to improve professionalism and responsiveness to SME needs.

Enterprises will always wish to minimise their contact with administrations on purely mundane matters, and hence **'once only'** data entry is a winning formula for business-friendly public services. The principle is that businesses should not have to provide basic information to the public administration more than once. After it has been registered by one authority, it is available to all and will not be requested again. This places the responsibility on public bodies to ensure full interoperability of their ICT systems (see [topic 4.4](#)). This innovation is being increasingly applied across the EU for the benefit of businesses.

For the difference between one-stop shops and once-only data registration, please see [theme 4](#). One-stop (see [topic 4.3.1](#)) is not the same as 'once only' (see [topic 4.4.2](#)). The OSS is a mechanism to access multiple services, but does not necessarily mean that user information will be shared across administrative units and never again requested. However, some OSSs do also offer 'once only' data registration services. The Crossroads Bank for Enterprises (CBE) brings together several registries for business, trade, VAT and social security within a linked database, so that the company only has to register once as a new or established business, and its unique identifier enables all government bodies at all levels to access its basic data. In this case, the front office for the CBE is the network of Business One-Stop Shops that operate across the country under various non-profit providers.

Inspiring example: Crossroads Bank for Enterprises (Belgium)

Within the framework of administrative simplification, an Act of 16 January 2003 provided for the creation of the Crossroads Bank for Enterprises ("*Kruispuntbank voor Ondernemingen*") and Business One-Stop Shops (BOSSs). The Crossroads Bank for Enterprises (CBE) is a database containing basic information on all enterprises established in Belgium and their individual locations, combining data from the former national register of legal entities, the former trade register, the VAT register, and the Social Security Administration. For new businesses, the authorised BOSSs enter the company data into the CBE after examining whether they meet the legal conditions (prior authorisations). They also provide access to CBE data. For these two tasks, they charge a fixed amount of money laid down by the authorities, who pay the BOSSs for providing these services. The BOSSs can also provide other services or play the role of an intermediary at a price freely set by them. Once the company is registered at the CBE, it receives a unique corporate registration number that has to be mentioned on the enterprise's correspondence, documents and invoices. This new procedure replaces the "old" registration procedure of a company at the commercial registry.

The aim of the CBE and the introduction of a single business number is to simplify the administrative obligations imposed on companies and to improve public services' efficiency. Once its data have been entered into the CBE, a company is no longer required to communicate the information to other public services. After an enterprise has been allocated its unique identification number, this is all that is needed to allow public service departments to request the information from the CBE. All federal, regional, provincial and municipal authorities use the CBE as the single database. The combined data also improves statistics reliability as it allows more control and comparison. Through the "private search" system, a company can consult its own data in the CBE and through the "public search" system anybody can consult the public data of any company. The BOSSs enter companies' data into the CBE, which drastically reduces business start-up time. They have been, and will be, given other tasks to perform by the federal and regional authorities. The BOSSs will eventually become the single point of contact for both the self-employed and companies. Notaries will very soon be able to enter the data of a new legal person into the CBE immediately after drawing up the articles of association, thus putting an end to the existing commercial court procedure.

Some categories of self-employed are currently excluded from the scheme: the professions and the foreign companies having no registered office in Belgium. These categories will nonetheless be involved in the scheme later on. The regional authorities must be encouraged to hand over some of their tasks or devolve some of their powers to the BOSSs or at least to call on them as intermediaries. The BOSSs can also assist foreigners who wish to work as self-employed in Belgium. Through their daily dealings with self-employed, the BOSSs can tell which regulations cause concerns and which therefore need to be assessed and amended. This again can lead to administrative simplification and to increasing the number of self-employed.

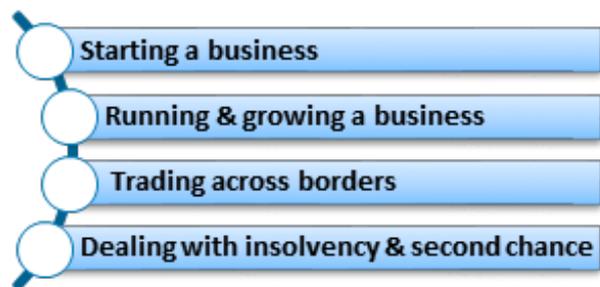
National professional and inter-professional organisations participated both officially and unofficially in the development of the CBE and the BOSSs, regarding the legal and technical aspects. At present, there are ten registered BOSSs, which together operate 250 offices spread all over the country. All BOSSs are non-profit associations, founded by one or more of the following bodies: employers' organisations; organisations representing the self-employed; registered social insurance funds for the self-employed; and Chambers of the Belgian Federation of Chambers of Commerce and Industry. The scheme is therefore supported by the organisations and federations of the self-employed. Each BOSSs can as result provide evidence of the implementation of the measure via one of its members-partners. The BOSSs have taken over the job of the various bodies previously dealing with entrepreneurs. They can also play the role of an intermediary for several non-compulsory procedures. At present, ten notary offices – and their number is growing – are able to enter the data of a new legal person directly into the CBE. The BOSSs register online the companies meeting the legal requirements. Business start-up time has been reduced dramatically, for instance in the retail sector. However, for some other sectors such as the construction sector, something still needs to be done. The notary project will certainly improve the situation. Less red tape can lead to more people choosing to become self-employed.

In terms of lessons learned, the system now operates quite smoothly, after a difficult start owing to technical problems. The merging of the various databases having led to data losses and inconsistencies, and hence the system would have benefited from a transition period. A Universal Message Engine links the various databases, and hence a problem with a particular database has consequences for the whole system. After three years of operation, the system needs to be assessed in order to improve its quality, accessibility and user-friendliness. The BOSSs perform the tasks of the various bodies to which entrepreneurs had to apply before July 2003. The quality of service provision still varies a lot, though the majority of BOSSs work well. Some BO Shops have founding members that are very different from each other, there is therefore a need for better cooperation and management. The quality of service provision within the same BOSS can vary from office to office. The BOSSs do not always succeed in communicating information quickly and correctly to all their offices. As far as the BOSSs are concerned, it appears that it is important to have a global view of the organisation: how many offices and how many staff members are necessary. Staff should be trained well in advance, and clear and possibly homogeneous working methods should be introduced, which requires sufficient preparation. Nevertheless, the administrative simplification that has resulted from the CBE has certainly contributed to reducing business start-up time and increasing the number of self-employed.

Source: SBA database (op. cit.)

5.2. Streamlining administration for businesses

For public administrations, reducing the burden on business is not only a matter of the number and nature of regulations, but also how the public-private interface is managed at each stage in the business life cycle. Some interactions will always be necessary, when setting up, running and closing a business to comply with company and employment law, tax and social security rules, building and environmental regulations, etc. For businesses that wish to trade and invest across borders, there are customs regulations to consider, but also the prospect of dealing with different administrative cultures.



There is huge variation across the EU in the number of steps, involved institutions, time taken and cost of these essential processes. These metrics are regularly tracked and compared globally, especially by the World Bank's annual Doing Business reports, the two most recent of which surveyed 189 economies and are widely cited here.⁽⁵⁾ The main innovation in Doing Business 2015 is that it considers quality, as well as efficiency, of regulatory frameworks (for example, whether it is quick, easy and inexpensive to transfer property, but also whether the registry contains reliable information).

The following sections take each 'life event' in the business life cycle and present ways in which Member States have taken actions to make processes more efficient and effective, and simplify the experience of enterprises in their essential dealings

⁽⁵⁾ "Doing Business 2014: Understanding Regulations for Small and Medium-Size Enterprises" and "Doing Business 2015: Going Beyond Efficiency".

with public administrations. In practice, of course, many such reforms are planned and implemented in parallel, often as a package, as illustrated by the example of Latvia's annual Action Plan to Improve the Business Environment.

Inspiring example: Improvement of business environment (Latvia)

Quality of the business environment is one of the key priorities of Latvian government to enhance business activity and competitiveness.

The World Bank's international survey, 'Doing Business', as well as the 'Study of Administrative Procedure Impact upon Business Environment' are important tools for evaluating the business environment in Latvia. They help to find out the opinion of entrepreneurs about the factors hindering their activity and to prepare a list of tasks within the annual Action Plan to Improve the Business Environment.

Measures to improve the business environment in Latvia have been implemented since 1999 when the Ministry of Economics prepared the first Action Plan to Improve the Business Environment. Every year, the Plan is updated, together with a wide range of organisations representing entrepreneurs, such as the National Economic Council, the Foreign Investors Council in Latvia, the Latvian Chamber of Commerce and Industry, and the Employers' Confederation of Latvia, and approved by the Government.

The aim of the Plan is "simple and high quality services in business: more e-services", and it includes actions to be taken to overcome burdensome requirements identified by entrepreneurs in all business cycle areas. Around 520 actions have been introduced to date within the framework of the Plan. As a result, Latvia has:

- Made starting a business easier - by introducing on-line business registration, reducing the minimum capital required and providing a one-stop-shop for company and tax registration;
- Simplified the construction process - by approving the Construction Law and amending subordinated construction regulations (within 2012-2014), the time period for coordination of construction projects decreased from 152 to 149 days, the number of procedures was reduced from 18 to 12, and the cost of the process fell from 15.4% to 0.3% of income per capita*;
- Made tax and accounting more business friendly - by implementing an electronic declaration system at the State Revenue Service and a simplified declaration filling process (the system generates the SRS available information at enterprise declarations; an electronic payroll tax book is introduced);
- Enhanced insolvency regulation - by introducing a new Insolvency Law in 2010 and amending regulation in 2014 that adjust procedures on creditor claim satisfaction, the insolvency process decreased from 3 years to 1.5 years, and the cost of the process has fallen from 13% to 10% of real estate value**;
- Made enforcing contracts more equitable - by improving the framework for mediation and arbitration, as well as introducing special legal procedures on business disputes-related matters (within 2013-2014).

To assess the impact of the performed reforms, the 'Study of Administrative Procedure Impact upon Business Environment' has been carried out every second year since 2001. Its main objective is to assess the opinions of Latvia's business leaders about various administrative procedures at both state and municipal level, about 7000 entrepreneurs participates in the survey and evaluates the procedures in such areas as registering a business, obtaining licenses, registering real estate, obtaining a construction permit, regulating labour relations, paying taxes, closing a business, dealing with inspections, applying for state aid, getting credit, etc.

The results of the Business Survey for 2014 show that entrepreneurs spend 13% on average of their working time dealing with issues related to administrative requirements (compared to 37% on average in 2005). All of the studies of instruments included in regulatory areas, administrative procedures, and possible barriers to business this year were judged less likely to hinder business development than in previous studies (since 2001).

Doing Business 2015 has ranked Latvia 23rd among 189 countries and 9th among the EU Member States for the ease of doing business. The World Bank has recognised Latvia to be one of the Top 30 leaders that have implemented major reforms to improve the business environment in more than three areas over the past two years.

For further information: Ilze Beinare, Ministry of Economics, ilze.beinare@em.gov.lv; Ilze Lore, Ministry of Economics, ilze.lore@em.gov.lv

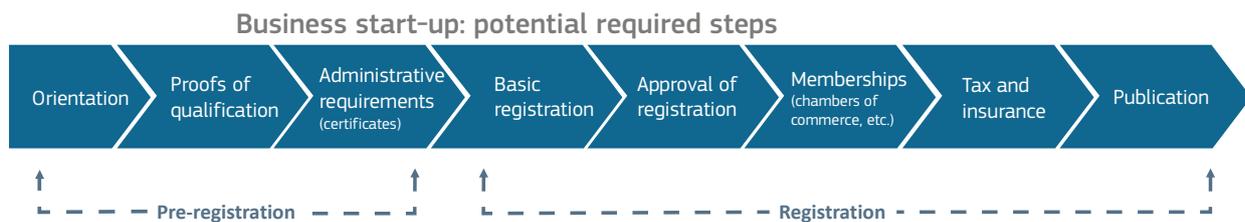
(*) Doing Business 2015 data

5.2.1. Starting a business

Start-ups create jobs and inject new investment, ideas and initiative into the economy. They also put pressure on established firms to innovate, to improve product and service quality, and to raise their productivity. The ease in which aspiring entrepreneurs can launch a new business is a test of a country's readiness for economic renewal. The decision to set up a company is rarely taken lightly. It involves financial commitment, personal risk to the owner(s), and an uncertain future. As *Doing Business 2014* states: "*Starting a new business involves multiple unavoidable obstacles, but excessive bureaucracy should not be one of them*".⁽⁶⁾



There are **potentially many steps** to take before crossing the threshold of incorporation: as a minimum, registering the business and dealing with the tax authorities. Depending on the prevailing laws, regulations and circumstances, it may require the prospective owner to: check the proposed company name does not already exist, draft and notarise statutes; establish a bank account with a minimum capital requirement; submit all information to the business registry; apply for a business licence; register for VAT; and obtain a company seal. DG CNECT's *2012 e-Government benchmarking study* identified up to 23 possible steps before and during registration, which the diagram below clusters into eight groupings. Depending on the proposed activity, the situation of the owner(s), and the business plan, it may also mean obtaining environmental or construction permits, registering property, accessing credit and employing staff⁽⁷⁾.



Source: European Commission, 2014 *eGovernment Benchmark report*

Clearly, raising the rate of new firm formation in any economy is not just about lowering regulatory hurdles and removing administrative obstacles. Apart from quick and cheap procedures, prospective entrepreneurs need a **supportive ecosystem for start-ups**. The 'orientation' phase in the above schematic includes preparing a business plan and exploring sources of finance, including access to credit. Entrepreneurs contemplate setting up in business either out of desire (an enthusiasm to bring a product or service to the market) or out of necessity (for example, because self-employment is the industry norm, or because of lack of employment opportunities). In either case, the starting point is awareness of business start-up as an option, and the knowledge, skills and financing to bring the business concept to fruition. Education and training play critical roles, alongside signposting and ensuring ready access to funds and other support services (business incubators, advice on business planning, coaching and mentoring).

A good example of such a supportive approach is the "*BarcelonaActiva*" *Entrepreneurship Centre*, the winner of the Commission's 2011 Enterprise Europe Awards. The 'alumni' companies of this support programme survive on the market at an impressive 83% rate over the initial three years, compared to the average European closure rate of 50% over the first five years.

Another example is StartUpGreece, which supports new starts and established entrepreneurs by combining a digital platform and outreach through social media with offline support from field experts in the public administration. The StartUpGreece community has more than 6 000 members, of which 10% are outside Greece.

⁽⁶⁾ <http://www.doingbusiness.org/research/starting-a-business>

⁽⁷⁾ As these are more discretionary and also apply to running any business, they are considered under the next topic.

Inspiring example: StartUpGreece

StartUpGreece is an information, networking and collaboration initiative of the Ministry of Development and Competitiveness, aimed at creating a new generation of entrepreneurs in Greece. It is a policy instrument for the implementation of European and national policies for SMEs, and especially the Small Business Act for Europe.

As a communication vehicle, StartUpGreece combines tools and actions that are both online and offline:

- **Online:** The digital platform www.startupgreece.gov.gr, created in 2011 with EU and national funds, combines an online community of entrepreneurs - structured to promote collaboration among the members - with an integrated knowledge-information database. The database is based on crowd-sourcing and orchestrates all the critical content relevant to entrepreneurship in one single point. It contains first-level information about procedures, laws and regulations, concerning company establishment, licensing of activities, and other critical matters, as well as available public and private funding opportunities at national and European level. It also communicates events, competitions, and public consultations, provides useful guides, data and research studies from the National Observatory for SMEs and other specific European and national sources, and shares success & failure stories. StartUpGreece also participates actively in social media - Facebook, Twitter, YouTube, and targeted blogs.
- **Offline:** The online experience is enriched by intensive offline actions and initiatives. StartUpGreece capitalises on its horizontal team of field experts in the public administration and provides first-level information to citizens' requests. The StartUpGreece Team members participate actively in events and actions that promote entrepreneurship, give lectures in secondary schools and universities, develop the StartUpGreece-network engaging relevant public authorities and representatives of young entrepreneurs, and promote entrepreneurship-relevant information to mass media.

The StartUpGreece initiative aims to change the relationship that entrepreneurs have with public authorities, putting the entrepreneurs' needs in the centre of public concern and talking to young entrepreneurs in their own language.

The StartUpGreece community has more than 6 000 members, of which 10% are abroad, 7 500 likes on Facebook, and 8 900 followers on Twitter, while the StartUpGreece Team have answered more than 800 individualised citizens' requests, concerning matters such as company establishment and licensing procedures, funding opportunities, export procedures, foreign investments, and intellectual capital.

The StartUpGreece operation is coordinated by the SME Envoy for Greece and two colleagues from the General Secretariat for Industry, and is supported by 37 public officials working at the Ministry of Development and Competitiveness, other Ministries competent for entrepreneurship, public authorities, and universities.

For further information: Zacharias Mavroukas, SME Envoy for Greece and Director General, Directorate General for Industrial & Entrepreneurship Policy, Ministry of Development & Competitiveness, Mavroukas_Z@ggb.gr. See also: www.facebook.com/StartupGreece; www.twitter.com/StartupGreece; <http://www.youtube.com/user/StartupGreece>

Irrespective of the eco-system, there is an **overwhelming case for reform** in business start-up procedures. Econometric studies have shown a strong correlation between new firm formation and sustained increases in productivity, employment and growth. In countries with a substantial 'grey economy', making it easier and less expensive to register and run businesses legitimately makes informal business owners more willing to 'come in from the cold'. Globally, the 2014 Doing Business survey finds the average time to start a business in 2013 was 25 days, involving an average of 7 procedures and 32% of the average per capita income in fees. Best-in-class was New Zealand (also in the 2015 survey), where it takes just 1 procedure, half a day, less than 1% of income per capita, and no minimum capital requirement. This sets the ultimate benchmark for performance (or 'frontier'). Over the last decade, more attention has been paid worldwide to removing barriers to business start-ups than any other area of administrative reform for the private sector – and the EU is no exception. The European Commission has played an active role in simplifying and speeding up the business start-up process, and reducing the financial burden on businesses, so that Europe can unleash its full entrepreneurial potential.

Commission initiatives to simplify start-ups

In 2000, the **European Charter for Small Enterprises** included “cheaper and faster start-up” as one of its ten action lines. The Charter not only asked Member States to take action in this area, but also provided a forum for information and good practices to be exchanged between all participating countries.

In 2002, an EU-commissioned study was published **benchmarking** the then 15 Member States, presenting the state-of-play, proposing measures and presenting good examples to simplify and speed up business registration procedures. According to the study, the average time to start-up a company in 2001 in the EU-15 was 22 days and the cost was EUR 827.

Based on all the collected evidence, the **European Council** in Spring 2006 provided the main political impulse and asked Member States to take concrete steps to facilitate start-ups. The conclusions of that Council state that: *“The Member States should establish, by 2007, a one-stop-shop, or arrangements with equivalent effect, for setting up a company in a quick and simple way. Member States should take adequate measures to considerably reduce the average time for setting up a business, especially an SME, with the objective of being able to do this within one week anywhere in the EU by the end of 2007. Start-up fees should be as low as possible and the recruitment of a first employee should not involve more than one public administration point.”* In order to monitor progress, the Commission asked all countries to appoint a representative to act as National Start-up Co-ordinator to liaise with the Commission. It also developed a document providing greater specificity on how compliance would be measured.*

Measuring progress in times, cost and one-stop-shops for start-ups was fully embedded in the 2007 **Lisbon Strategy for Growth and Jobs**. Progress was assessed on the basis of the information from regular meetings with the National Start-up Co-ordinators and the yearly National Progress Reports on implementation of the Lisbon Strategy.

The **Small Business Act** confirmed these commitments and again asked Member States to speed up and reduce the costs of starting a company. In December 2008, the Competitiveness Council adopted “The Council’s Action Plan for a Small Business Act for Europe” which included a number of concrete measures to support SMEs. Among these, it asked Member States to bring down start-up times to three working days.

Since the SBA was adopted, start-up times and costs have been reduced in many Member States, and most countries have established a one-stop-shop or equivalent arrangement. However, there are still vast differences across the EU in the number, cost and length of procedures required. Through the conclusions of the May 2011 **Competitiveness Council**, Member States signed up to a target of three days and EUR 100 cost to start-up a private limited company, which should be achievable through a one-stop shop.

Administrative simplification for new firm formation remains high on the EU’s political agenda, and the Commission continues to **track the progress** of all EU countries in simplifying and reducing the times and costs to start-up a business.**

(*) Commission Staff Working Document, “Assessing Business Start-up Procedures in the context of the renewed Lisbon strategy for growth and jobs”, SEC(2007) 129 http://ec.europa.eu/enterprise/policies/sme/files/support_measures/start-ups/sec_2007_129_en.pdf

(**) http://ec.europa.eu/enterprise/policies/sme/business-environment/start-up-procedures/index_en.htm

There has been much progress in recent years. By 2013, the average time to start a business in the EU had fallen to 4.2 days, the average cost had fallen to EUR 315, and 20 Member States were operating OSSs. But there is still some way to go: just five countries are fully compliant with all three EU-wide targets: Denmark, Latvia, Romania, Slovenia and the United Kingdom. The cost target is perhaps the most elusive, as it requires that procedures are sufficiently simplified that lawyers and notaries are no longer necessary to the process. Slovenia is the only country in the EU where the cost of setting up a private limited company is zero EUR.

One of the most common reforms in recent years has been to reduce, or in some cases remove, the **statutory minimum capital requirement** for establishing a limited liability company. During 2012-2013 alone, the Netherlands has abolished the minimum capital obligation, while Lithuania have introduced a new form of incorporation that has no minimum requirement, as has Greece with the ‘IKE’ (see below). In conjunction with its One-Stop Shops for business start-ups, the IKE helped the Hellenic Republic to jump 111 places to 36th in the World Bank’s Doing Business 2014 for ‘starting a business’ compared with the previous

year, by radically cutting the time and cost required for setting up a limited liability company.⁽⁸⁾

Inspiring example: Introducing a simpler form of incorporation for start-ups (Greece)

Following the introduction to the Greek commercial law of a new legal form of 'private company', *Idiotiki Kefalaiochiki Etairia* (IKE) in 2012, business start-up statistics have drastically improved in both time required and cost.

IKE was introduced under the law L.4072/2012 and is an incorporated legal entity, which is similar but an alternative to the limited liability company (EPE). It is separate from, and independent of, owners or shareholders, liable to creditors to the extent of its assets (while shareholders/owners are liable to the amount of capital contributed and subscribed for) and unable to raise any form of capital through 'public' subscription or to be listed on a public capital market and set up to trade actively. IKEs are formed solely through One-Stop Shops (OSS) in a period of less than two days and with a total cost of EUR 115.80, as compared to five days and EUR 909.80 for the previously existing EPE.

The reduction of the number of days required for the incorporation of an IKE, as compared to an EPE, is due to:

- The abolition of the requirement for the founders to have no outstanding debts concerning social security; and
- The abolition of the exception from the OSS procedure for IKEs with activities with sanitary concerns (OSSs provide IKE with both a registry number and a tax number, thus allowing it to be fully operational, even if its activity involves sanitary issues).

The reduction of the cost for setting up a IKE, as compared to an EPE, is due to:

- The abolition of the obligatory notarial deed for the articles of association;
- The minimum capital required for an IKE is EUR 0;
- The abolition of Capital Tax payments at start-up (which came a year later through another piece of legislation); and
- The abolition of the obligatory registration of company founders to the appropriate social security fund at start-up and the related payment of social security contributions.

Furthermore, there is no need for founders to bring forward an outstanding social security certificate, or present official company seat documentation, to the OSS.

As a result, IKE is currently the prevailing form of a private limited company in Greece. According to official statistics from the Hellenic Business Registry (<http://www.businessportal.gr>), IKE has already replaced EPE as the preferred legal form in new incorporations. In 2013, there were twice as many new IKEs created than new EPEs (2 821 against 1 276). For the first 10 months of 2014, the number of new IKES was more than five times the number of new EPEs (3 193 against 591), with IKEs comprising around 38% of all new company start-ups.

The introduction of the IKE, alongside the contribution of One-Stop Shops, has improved dramatically Greece's position in the 'starting a business' category of the World Bank's Doing Business Report 2014 by 111 places (from 147 to 36). In the words of the report: "Globally, Greek entrepreneurs experienced the biggest improvement in the ease of starting a business in the past year".

For further information: Stefanos Komninou, Secretary General for Commerce, Ministry of Development & Competitiveness, gge@gge.gr. See also <http://www.startupgreece.gov.gr/content/private-company-tips-how-start> (information on setting up an IKE); <http://www.et.gr/index.php/2013-01-28-14-06-23/search-laws> (L.4072/2012, Part Two, Article 43-120 on IKE, L.3853/2010 on OSS, L.3419/2005 on GEMI and Chambers of Commerce, and L.2081/1992 on Chambers of Commerce); and http://www.businessportal.gr/search_1.php (company start-up statistics).

⁽⁸⁾ Greece has since moved to 52nd position on 'starting a business' in Doing Business 2015, despite improving its performance on time (days) and cost (as a % of per capita income), and with a 'distance to frontier' (DTF) ratio of over 90% (in essence, performance compared with best-in-class). This illustrates well how changes in relative rankings should be treated with some care, as gains in one country can be over-shadowed by others' stellar improvements, a point made in the report itself. It is productive to focus on DTF and 'the story behind the story' – what explains a country's performance and what can be learned from others – to search for ways to make things better for business.

Many Member States have made significant progress in **simplifying registration** and hence stimulating business starts in the recent past. Specific reforms relate to better inter-agency cooperation and/or abolishing specific steps⁽⁹⁾, such as:

- Being able to file applications for company and VAT registration simultaneously at the commercial registry (Latvia);
- Removing the need to register the new business at national labour and sanitary inspectorates (Poland);
- Transferring responsibility for issuing the headquarters clearance certificate from the fiscal administration office to the trade registry (Romania);
- Eliminating the requirement to obtain a municipal license before starting operations (Spain);
- Lowering registration fees (Bulgaria);
- Reducing the time needed to register with the district court, and eliminating the need (and hence the fee) for a notary to verify signatures (Slovak Republic);
- Introducing an electronic system linking several public agencies (Spain); and
- Speeding up tax registration (United Kingdom).

The ‘On-the-Spot Firm’ service, which blends **one-stop shops and the availability of ‘off-the-shelf’ model statutes** for new entrepreneurs, and crucially the introduction of e-Services, has helped Portugal to reduce the time required to just one hour on the internet and EUR 120. Research has shown that Portugal’s reforms have opened the door to many new entrepreneurs, by increasing the number of registered enterprises by around 17 %, especially smaller, women-owned businesses.⁽¹⁰⁾

Inspiring example: ‘On-the-spot firm’ (Portugal)

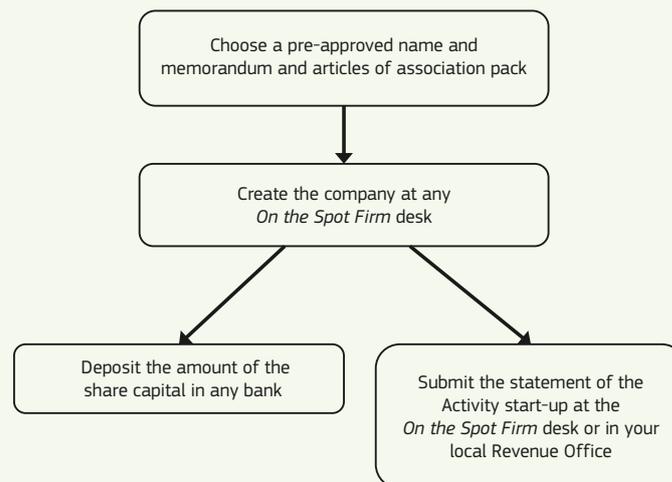
The initiative, ‘On-the-Spot Firm’ (in Portuguese, *Empresa na Hora*), makes it possible to create sole trader, private limited and public limited companies on the spot, in just one office (**paper registration**) or online (**e-registration**), and in a single hour. Previously, the process took about two months, and the parties were obliged to obtain, in advance, the registration of the name of the company (Certificate of Admissibility) from the National Registry of Companies, and to sign a public deed.

Now, there are just three steps if the entrepreneur chooses the paper registration option, which involves visiting one of the following **One-Stop Shops (OSSs)**: on-the-spot company help desks (*Loja da Empresa*); any Commercial Registry Office; or an Enterprise Formalities Centre (CFE). A list of available desks can be found in the contacts area of the website: <http://www.portaldaempresa.pt/cve/en/contacts/default>. (Please note, there are some companies that cannot be created at an Empresa na Hora desk. It is not possible to set up companies whose incorporation requires any prior authorisations, companies whose share capital is paid in by contributions in kind, European PLCs, groups of subsidiary firms, cooperatives and non-stock companies).

⁽⁹⁾ Doing Business 2014 and 2015 (op. cit.)

⁽¹⁰⁾ Doing Business 2014 (op. cit.) / Branstetter, L.G., Francisco L., Lowell J.T., and Venâncio A. (2013), “Do Entry Regulations Deter Entrepreneurship and Job Creation? Evidence from Recent Reforms in Portugal.” *The Economic Journal* (July 16). <http://onlinelibrary.wiley.com/doi/10.1111/eoj.12044/abstract>

Otherwise, the process is extremely simple and does not necessitate the intervention of lawyers or notaries:



The first step involves the owner(s) selecting a name from the pre-approved list, either at the website (www.empresanahora.pt) or at the OSS ('Empresa na hora desk'). The pre-approved names are made up of figurative expressions that do not indicate any particular activity, and so the parties concerned are free to add a descriptive phrase related to the object of their enterprise to complete the name. For instance, if the chosen name is 'ABCDE' and the company is going to be involved in the catering sector, the name can be changed to 'ABCDE-Catering'. The desired name can be tested in a simulator, in order to assess if there is any other already existing or similar ones. One downside with the desk-based registration, however, is that the selected company name is only confirmed at the Empresa na Hora desk, so the chosen name might not be available by the time the entrepreneur actually goes to register. Second, the owner can choose one of the pre-approved standard packs with Memorandum and Articles of Association, available in the offices or on the website: http://www.empresanahora.mj.pt/ENH/sections/EN_bylaws.

The members of the future company then go to an OSS to start the incorporation process (unless represented by a third party, who will need to produce all the relevant documents plus a power of attorney). If the members of the future company are private individuals, they will need to take with them their tax identification card, an identification document (identity card, passport or driving licence), and their social security card (optional). In the case of legal persons/corporations, they need to show the legal/corporate person tax identification or identity card; a current extract of the entry in the Commercial Registry; and the minutes of the general meeting granting powers of company incorporation. As far as foreign legal/corporate persons are concerned, the following documents, duly translated, are required: document proving the company's legal existence in the country of origin; memorandum and articles of association of the company; minute of the decision that the company may be involved in the incorporation of another; identification of the legal representatives of the company; and a legal/corporate person number, applied for in advance from the National Registry of Companies (RNPC) identifying the company in Portugal. There is no legal bar to foreign citizens participating in the setting up of companies in Portugal, but there is one prerequisite, which is the legal requirement to be in possession of a tax identification number at the time the company is incorporated. It is sometimes necessary for foreign residents in Portugal to seek advice from the Border and Foreigners Control Service (SEF) with a view to removing any obstacle to their participation as members of the company that is to be created.

The OSS carries out immediately the registration of the new company, and hands over documentary proof of the entry in the commercial register, the legal/corporate person identification card, and the articles of association. Registration for social insurance is also done automatically through the electronic transfer of data and the social security number of the company is issued. However, it is recommended to contact the Loja da Empresa Social Insurance Office, where the business owners can inform the officers of the date that the company will start its activity. At this office, the statutory body members may ask for the exemption of payment of contributions, if the owners have already paid them for another activity or if they don't receive any salary or compensation. For that purpose, they must present as evidence a declaration signed by the employer or, if they are retired, the pensioner card. The Registry Office will computerize the data needed to inform the Inspectorate-General of Labour (*Autarquia para as Condições do Trabalho*) about the start-up of activity, as well as the information required for the formal registration of the company with the Social Security and in the Commercial Register. As soon as the company is set up, one will be able to submit a Statement of Start-up of Activity at the help desk, for tax purposes, duly completed and signed by the Accountant. If one does not do this on-the-spot, it must be done within 15 days of the incorporation. Within no more than 5 working days of incorporation, the members must deposit the sum

of the share capital in any bank, in the name of the company. The initial capital required for the foundation of a private limited company amounts to at least EUR 1. The cost of the OSS registration service is EUR 360. This amount is payable at the time of incorporation, in cash or by cheque.

Since June 2006, it has been possible to start up commercial companies through the **internet**. This service may be used by lawyers, solicitors and notaries with a digital certificate. It is also available to any citizen, provided that they carry the Citizen Card (in this case, it is clarified that all members must be holders of a Citizen Card, so that they can digitally sign the pact) and it is not necessary to attach documents beyond the social pact. The interested parties must have a digital certificate and authenticate at the site. Through this service it is possible to anonymously create commercial and civil societies in the form of trade, the type of quota shares and individual ownership via the internet, without going to any public administration office. As before, the prospective owners choose a company name from the pre-approved list, or they can use instead a certificate of admissibility. A pre-approved standard memorandum and articles of association can be used, or one made by the interested parties which will be analysed at the register office. After entering and validating all the information about the company, an email and SMS is sent to the interested parties confirming the incorporation request and another one is sent once the incorporation is successfully completed. The social security number is immediately generated. The Permanent Certificate access code is sent by the commercial register office to the interested parties. The collective person's card is sent by post. Since September 2007, it has also been possible to obtain a trademark at the time of establishment of an online company. This service also allows the incorporation of companies following a merger or division.

An automatic domain name registration starts with the chosen company name, free of charge for one year. With this service it is cheaper to start-up companies: the formation of an 'online company' costs EUR 220, publication included (plus stamp duty) if you choose a model memorandum and articles of association. This service is available at the site: www.empresaonline.pt. Furthermore, entrepreneurs no longer need to communicate the set-up of the new company to other relevant public departments, e.g. tax, social security and labour departments, as all the required information is sent to them by electronic means, as soon as the registration process is finalised. The articles of association are registered and published immediately on the Ministry of Justice website or at www.mj.gov.pt/publicacoes with free public access, and the company is automatically allocated a registered web domain with the company's name on the internet. During 2013, almost 20 000 companies were created at OSS through paper registration, and a further 12 000 companies were created online through e-registration.

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Some Member States are exploiting the intrinsic advantages of interoperability and shared base registries, such as in the Netherlands, where entrepreneurs who register their company at the Companies Registration Office (part of the Chambers of Commerce) automatically receive their VAT numbers from the Tax Agency, without having to request them⁽¹¹⁾. Apart from the application of the **'once only' principle** of data entry, this example also reflects the benefits of automated, pro-active public services that are facilitated by ICT (see [theme 4](#)). Further exploration of the innovative potential for providing e-Services for business start-ups can be found in the EU-funded study of [cloud and service-oriented architectures for e-Government](#).

The conclusions of the May 2011 Competitiveness Council included a call on Member States to reduce the time to **obtain business licences** to a maximum of 90 days by 2013. Since May 2011, several EU Member States have adopted major reforms to simplify and streamline procedures for business creation and, at the same time, for business licence applications. A prominent example of simplification is Portugal's Zero Licensing initiative, which allows businesses to open immediately after providing local authorities with the necessary information, without having to wait for the licence to be formally issued. This is a good illustration of the principle of switching from ex ante approval, which delays the start-up, to ex post checks.

⁽¹¹⁾ E-benchmark Background Report (op. cit.)

Inspiring example: Zero Licensing initiative (Portugal)

In 2011, a new scheme - Zero Licensing (“*Licenciamento Zero*”) - was approved for the premises of new shops, restaurants, cafes and pubs and a few other services, to simplify and shorten licencing procedures across a number of sectors and to dematerialise procedures in order to reduce the costs and time associated with the delivery of business licenses. This also applies to secondary establishments (office, agency, branch or subsidiary) created in Portugal by a business legally established in another EU Member State. Zero Licensing replaces the old arrangement, which implied a prior visit to obtain the licensing of new premises, by possible inspections after the premises open, and higher fines for breaching the rules. Travel agencies have been given easier access to activity by abolishing the requirement for a licence before starting a new travel agency, and replacing it with a prior notice giving evidence that the new agency meets all the requirements. Hence, new travel agencies may start their activities without any formal authorisation by the public administration.

Source: European Commission SBA Factsheets for Portugal, 2012 and 2013

5.2.2. Running and growing a business



While not yet ‘mission accomplished’, relative success across the EU in reducing the cost, time and steps to start an enterprise has shifted the focus of attention from business flow to business stock. Given the multiple and multi-faceted interactions of public and private sectors, how do administrations make it easier for enterprises to operate on a daily basis? Once the enterprise is up and running, smooth interaction with the public sector is vital to keep the hidden costs of

business administration as low as possible, especially for new and young businesses which face the highest likelihood of failure during their first 1-3 years of operation.

The regulatory framework sets the **parameters** for every company’s interactions with public authorities, but also investors, creditors, suppliers, partners, customers, consumers and workers, as well as owner-manager relations and the natural environment. Legislation and its interpretation determines the conditions for each business to access development finance and working capital, invest in R&D, innovation, equipment and training, protect its intellectual property, ensure compliance with contractual arrangements, and compete in the marketplace on an equal basis with its counterparts at home and abroad. Creating the right regulatory climate presents a series of policy dilemmas in different policy domains: how best to balance potentially competing or conflicting interests, and to respond to market failures (information asymmetries, externalities, principal-agent problems, etc.). These specific questions of corporate governance, competition, employment, environmental, consumer, financial and SME policies are not the subject of this Toolbox, which is concerned solely with their management and administration; the exception is the policy towards payment terms, which affects suppliers to public and private clients equally, and is especially detrimental to the liquidity of SMEs (see [topic 5.2.4](#)).

Instead, we focus on the direct interface between private enterprise and public administration, which is about information, registration, application, and payment in both directions. In regard to ongoing business operations, this tends to cluster around five ‘**life events**’:⁽¹²⁾

- Reporting of corporate information (fiscal and statistical);
- Paying businesses taxes and social security contributions;

⁽¹²⁾ Some of the challenges faced by established businesses are also relevant to new ones: dealing with the tax administration; employing the first member(s) of staff; applying for permits and licenses (beyond business licences), and registering property and vehicles to allow operations to commence. These processes are considered here, but could equally be integrated into the start-up experience for many entrepreneurs, which is one of the reasons why the ‘life event’ concept should be treated flexibly (see [theme 4](#)).

- Applying for and complying with permits;
- Employing workers; and
- Registering property.

Taking the overview, the administrative side of running a business can be seen as a **discontinuous series of interactions** with public authorities over a wide spectrum of policy fields: corporate governance, taxation, employment, statistics, health and safety, environment, etc. Some of these relationships are regular, which can be monthly (e.g. VAT returns), quarterly (e.g. corporate tax), or annually (e.g. submitting audited accounts, paying corporate tax). Other dealings are irregular, for example, related to social welfare in the case of employee sickness. Ideally, all of the enterprise's relations with the public administration would be managed through one office or one portal, with each interaction at the maximum convenience and minimum cost to the business, involving the fewest steps possible (see [theme 4](#) and [topic 5.1.2](#)).

Businesses are required by law to **disclose corporate data** for a range of reasons: for statistical purposes, to enable effective economic analysis and public finance planning *inter alia*; for tax calculations, as a precursor to tax demands and payments; and for investor and creditor protection. Portugal is the pioneer of simplified corporate information, unifying the legal obligation to provide accounting, tax and statistical information to four different public bodies, once only and electronically, cheaply and quickly.

Inspiring example: Simplified corporate information (Portugal)

In 2007, Portugal created the Simplified Corporate Information project (or in Portuguese, Informação Empresarial Simplificada, IES) as a public service which allows, in a single act, fulfilment by companies of four legal obligations that were previously scattered. Until the entry into force of IES, companies were required to provide the same information on their annual accounts to various entities through various means. They had to:

- Make a deposit of annual accounts and registry, on paper, in the Commercial Registries.
- Make delivery of the annual accounting and tax information to the Ministry of Finance (Directorate General of Taxes);
- Submit annual accounting information on their annual accounts to Statistics Portugal (INE) for statistical purposes; and
- Submit annual statistical nature of information about their accounts to the Bank of Portugal.

Now, with the IES, all obligations are performed only once and submission of accounting information on companies is fully electronic.

The IES is a new form of fulfilment, exclusively through an electronic and totally intangible process, of these legal obligations. This measure has significant impact on businesses and the public administration departments responsible for collecting this information are now able to direct the available resources for purposes of added value thanks to the reduction of charges associated with the paperwork.

Forms are available at the following sites: www.ies.gov.pt and www.dgci.min-financas.pt. The only obligation which is integrated in the IES is paying the deposit accounts. After the electronic submission of IES, a reference is automatically generated that will allow payment upon registration of the ATM or through home banking, within five working days. The price that companies pay only for the registration of accountability is EUR 100 – cheaper than the price paid by the deposit of paper bills at the Commercial Registry Office.

As the process is exclusively electronic, there is no need for entrepreneurs to physically go to the various state agencies. Entities that are subject to checks and balances are: commercial companies and civil societies in commercial form; European stock corporations; public enterprises; companies with headquarters abroad and permanent representation in Portugal; and the establishment of limited liability. The Institute of Registries and Notaries, IP (which belongs to the Ministry of Justice) is responsible for the registration of accountability. As stated above, following this registration, no physical document is necessary. Models that are filled out and submitted in electronic form, condense information regarding the following documents: minutes of approval of the account of the exercise and application of results; balance sheet, income statement and balance sheet and attached to the income statement; statutory audit; the opinion of the supervisory board, if any.

IES is a good example of a model of proactive approach and an innovative project of a public institute that is recognised by those who are involved with it.

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The 'once only' principle (see [topic 4.4.2](#)) has been adopted by Bulgaria, which harmonised its fiscal and statistical reporting into a single entry point, halving the administrative burden on all businesses, from micro to large enterprises.

Inspiring example: Single Entry Point for fiscal and statistical information (Bulgaria)

Statistics is one of 13 priority areas for administrative burden reduction. As measured, the provision of statistics accounts for just 0.5% of the total administrative cost in EU (EUR 629 million), but is perceived as a greater burden, because of the so-called irritation factor.

The European Commission's Communication on the Reduction of Response Burden, Simplification and Priority Setting in the field of Community Statistics, 14.11.2006, sought to take action in line with the 9th principle of the European Statistics Code of Practice: "The reporting burden should be proportionate to the needs of users and should not be excessive for respondents. The statistical authority monitors the response burden and sets targets for its reduction over time."

At a Member State level, the possible avenues to reduce the statistical burden are five-fold:

- Simplifying legislation and reporting requirements;
- Simplifying and facilitating data reporting via e-questionnaires;
- Finding smarter and more efficient ways of data collection through more efficient use of administrative sources and linking micro-data from different sources;
- Developing an approach to data collection which is oriented to respondent types - SMEs and large enterprises;
- Improving co-operation across institutions and with the business community, especially to reduce the irritation burden.

Bulgaria has developed the Single Entry Point for reporting both fiscal and statistical information, enabling enterprises to submit their tax declarations and annual financial report at one single moment at any time (24 hours a day), via web-based application form or by paper, and to one common entry point of the National Statistical Institute (NSI) and the tax administration, the National Revenue Agency (NRA). Data can be submitted by chartered accountants duly authorised on behalf of the enterprise, which is especially important for SMEs. Once submitted, businesses can access their reports at any time. The process works as follows:

Enterprise data is submitted → it enters a validation process → if the result is positive, data is entered in the primary data store → data is edited by the NSI based on direct contact with enterprises → it is transferred to the data warehouse → it is used for multiple purposes by the NRA and NSI.

All requests for statistical information include a short, to-the-point explanation of why the information is important and include an option for enterprises to receive feedback on the result of the surveys. An attempt is made to introduce Customer Relationship Management (CRM) in relations with our respondents.

The steps to building the Single Entry Point were as follows:

- Define the scope and content of data that have to be submitted;
- Ensure that definitions and concepts used in the reports are identical for both NRA and NSI;
- Introduce amendments in the legal acts related to the fiscal and statistical obligations of business;
- Establish the concept of a Structural Business Statistic (SBS) data warehouse, ensuring the common use of data that fits the specific purposes of each institution;
- Build up the procedure of identifying the enterprise that is submitting data based on an electronic signature (see [theme 4](#));
- Develop a web-based application that uses free-of-charge standard web-browsers and programmes without the need for installation of any paid software by enterprises;
- Build up the necessary ICT infrastructure and quality of internet access that guarantees work under high pressure (many users in the same time enter the system);
- Safeguard data protection by encrypting the connection between the user's PC and the servers of the system;

- Ensure that the system can be upgraded and modified at any time when the data requirements are changed or simplified, and can be easily integrated with the existing IT systems in NSI and NRA;
- Organise a public awareness campaign and training sessions for accountants and business associations;
- Promote electronic data submission, instead of paper based.

The Single Entry Point saves the time and resources of enterprises, reducing the non-response rate, whilst also increases the quality and timeliness of statistical data: the time for SBS data production was reduced from t+11 months to t+7 months in 2011. In parallel, other measures were also put in place to reduce the administrative burden from statistical requirements, namely: lowering the covering rates for Intrastat and other reporting obligations; harmonising different measures and classifications used in certain statistics; provide statistical 'vacations' for SMEs; and most of all, better use of ICT.

The Single Entry Point has been well received and recognised by business as progress and successful. The Bulgarian authorities subsequently went on to work on integrating the Registry Agency with this Single Entry Point, to reduce burdens further.

Source: HLGAB (op. cit.)

Irrespective of the taxation system, structure and rates, the aim of the public administration should be to make it easy to **pay business taxes**, whether direct or indirect, at minimal cost and time. According to Doing Business 2014, the world-wide average for time taken to prepare, submit and pay the firm's annual taxes was up to 268 hours of its staff's time in 2013.⁽¹³⁾ The European Commission's Expert Group produced a study in 2007 with [good practices for simplifying and streamlining tax compliance procedures for SMEs](#).

One of the simplest reforms is to reduce the frequency with which companies have to file and pay taxes and contributions. In recent years, for example, both Ireland and Romania have reduced the number of times each year that payment must be made for different taxes (e.g., from monthly to quarterly, and from quarterly to six-monthly). This carries consequence for Government's revenue collection and hence the financing of government operations, creating a funding gap that must be filled from other sources, such as the money markets.

A more fundamental reform is to move to electronic systems for filing and paying taxes, which accelerates the process whatever the frequency, and also ensures that tax revenue reaches the exchequer more quickly. This should cover all forms of taxation and social insurance, including income, profit, capital gains and VAT. The system should also be sufficiently flexible to allow interrogation of tax records, to ensure errors can be corrected, and to refund any over-payments.

Using ICT to make tax compliance easier

Rolling out new information and communication technologies for filing and paying taxes and then educating taxpayers and tax officials in their use are not easy tasks for any government. But electronic tax systems, if implemented well and used by most taxpayers, benefit both tax authorities and firms. For tax authorities, electronic filing lightens workloads and reduces operational costs such as for processing, handling and storing tax returns. This allows administrative resources to be allocated to other tasks, such as auditing or providing customer services. Electronic filing is also more convenient for users. It reduces the time and cost required to comply with tax obligations and eliminates the need for taxpayers to wait in line at the tax office. It also allows faster refunds. And it can lead to a lower rate of errors. Electronic systems for filing and paying taxes have become more common worldwide. Of the 314 reforms making it easier or less costly to pay taxes that Doing Business has recorded since 2004, 88 included the introduction or enhancement of online filing and payment systems. These and other improvements to simplify tax compliance reduced the administrative burden to comply with tax obligations. By 2012, 76 economies had fully implemented electronic systems for filing and paying taxes as measured by Doing Business. OECD high-income economies have the largest representation in this group.

Source: Quoted from Doing Business 2015, op. cit.

⁽¹³⁾ Based on a standardised business in its second year of operation, and payment of three main categories of tax: profit taxes, consumption taxes, and labour taxes and mandatory contributions.

As an example, the Government of Malta moved to Inland Revenue Services On-Line in the late 2000s. For public administrations with mature e-government systems that are sufficiently advanced to apply the 'once only' principle to data entry, it also opens up the scope for pre-filled tax declarations (see [theme 4](#)).

Inspiring example: Inland Revenue Services On-line (Malta)

The aim of 'Inland Revenue (IR) Services On-line' is to enable businesses and authorised tax-related professionals to file income tax returns, affect payments of tax and social security contributions, and submit other IR forms on-line.

Before the introduction of IR Services On-line, many of the formalities had to be done manually. This resulted in businesses having to call personally to the IR Department to present their documentation and wait in a queue in order to affect payments. IR re-engineered the process through which high volume information is obtained (for example, income tax returns), thereby enabling on-line applications and thus reducing the cost of compliance faced by businesses. IR Services On-line is mainly targeted at three groups:

- **Corporate Taxpayers:** A fully electronic process connects the business's desk to the Inland Revenue's processing system. Businesses and tax-related professionals can now file income tax returns and financial statements, submit other tax forms, access accounts to confirm payments and tax statements, and find out the submission status of the tax return.
- **Employers:** Through this service, employers are now able to view payments made to the IR and submit end-of-year documents through their authenticated access.
- **Third party data providers (such as banks, homes, schools):** These are also using IR Services On-line to upload information on payments effected (e.g. interests) and payments received (e.g. fees for childcare) by taxpayers, rather than sending paper documents to the Inland Revenue.

Businesses can submit documentation to the IR Department at any time during the day and not only during the Department's opening hours. Documents received are immediately acknowledged. Data available at the IR Department is accessible for viewing by businesses. Through this system, businesses have the opportunity to receive immediate feedback on any possible errors in the documentation even before this is actually submitted to the IR Department. This feature allows businesses to make the necessary rectifications to ensure that the final submission is correct and thus avoid possible penalties for erroneous declarations. It reduces the instances when businesses are asked to provide clarifications on backdated information, and enables them to transact with the Inland Revenue in a secure manner.

The submission and processing of information on-line has enabled a faster turnaround for the back office processing of information at Inland Revenue. This has facilitated the implementation of a Tax Statement for taxpayers without the need for submitting a tax return. 75% of the individual taxpayer population are benefitting from this initiative launched in 2008.

The entire service is backed by freephone telephone support during office hours. Should a customer have a detailed enquiry, the workflow system can facilitate the scheduling of a meeting with the IR Department's staff. In addition, the IR Department provides guidance and information in a simplified manner on its website. New applications and enhancements are released on ongoing basis.

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Taxation will never be an entirely virtual system. In line with every government's fiduciary duty, administrations reserve the right to physically inspect the records and systems of corporate taxpayers. As with other fields of regulatory enforcement, executives have the option to apply risk assessment techniques, as exemplified by Austria's 'fair play' approach, which seeks to tailor the application of inspection requirements during the enterprise's first year of operation.

Inspiring example: Fair play project - first business year (Austria)

At present, at the outset of entrepreneurial activity, initial visits are carried out by the Tax Administration in some cases, mainly in non- or low-risk sectors. Up until the tax assessment is made, further measures are only carried out in isolated cases (special VAT audit, follow-up inspection, etc.). The idea is to support new entrepreneurs during the first business year to facilitate them in becoming fully compliant partners of the tax administration: support instead of inspection!

As part of the 'Fair Play' project of the Austrian tax and customs administration, the first business year will be rolled out across the Austrian Tax Administration in 2011. There are now 41 tax offices and 9 customs offices. This approach ensures that taxpayers fulfil their obligations as envisaged in the Fair Play principle on a permanent basis, as a result of special clarification and support provided at the outset of entrepreneurial activity. It also establishes a basis of confidence which facilitates cooperation and communication between entrepreneurs and the tax administration. In addition, taxpayers who are likely to be dishonest in tax matters and who have to be more closely supervised are identified by the tax administration in a timely manner.

Provision of support in the first business year does not normally coincide with the calendar year; support can continue for a longer period than up to the filing of the first tax return (tax authorities don't give support at filing tax returns), but also for a shorter period, depending on when the business in question started and when the tax returns are filed. A fundamental content check of the tax return is not feasible, since for tax returns not containing anything unusual there is no reason for this to be done. If there is anything unusual, the 'switch' from service to inspection will already have taken place during the provision of support; VAT and wage taxes should thus be covered in all cases.

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The majority of Europe's enterprises are sole traders that do not **employ staff**. In some cases, this arrangement suits the entrepreneur, as it fits the business model in their sector (for example, freelance journalists or self-employed building contractors). In many cases, however, it is a conscious choice to forego expansion. The potential benefits of taking on workers is outweighed in the entrepreneur's eyes by the extra burden of dealing with bureaucracy, such as withholding income taxes and social contributions to transfer to the tax administration, satisfying health and safety obligations, and meeting various reporting requirements regarding employment conditions (term of contract, working hours, paid leave, minimum wage, etc.), consultations and notifications (e.g. in relation to redundancies). A clear framework of rights and obligations in the workplace in every country is essential to the functioning of the single market, fair competition and sustainable economic growth. The important question is how labour regulations are implemented and enforced. The scope of labour law depends on the state-of-play with derogations at any moment in time (for example, exempting micro-enterprises or SMEs from certain provisions – see [topic 5.1](#)).

In accordance with the one-stop shop principle, and moving towards fully online channels of service delivery (see [theme 4](#)), Finland's Palkka.fi is able to facilitate small businesses and households (who employ staff irregularly) to fulfil all their employer obligations electronically and interactively. This e-Service generates all the required parameters for calculation and payment, and is backed up by a call centre if needed.

Inspiring example: Palkka.fi - facilitating fulfilment of employer obligations (Finland)

To guide and help small employers in fulfilling their employer obligations, www.palkka.fi is a free-of-charge, interactive Internet service offered to small employers (with 1–5 employees), including small enterprises and households, by the tax administration, pension insurance companies and the unemployment insurance fund. Via this service, small employers are able to calculate, pay and report salaries, taxes, social security contributions and other employers' obligations on a single user interface. The service has been fully available since 1 February 2006 (1 September 2005 for limited use).

Users of Palkka.fi are authenticated by a general authentication service (www.tunnistus.fi), also used for several other e-Services. For electronic payments, e-banking payment services are used. The service offers small companies the full set of correct, up-to-date parameters: percentages and amounts (such as tax rates and insurance premium rates), bank accounts and due dates for payments. Palkka.fi also creates the required statements for paid items and sends all of the necessary reports to stakeholders of this electronically, at the right time. In addition, Palkka.fi builds an electronic archive. Users can also electronically transfer salary records to book-keeping. Via Palkka.fi, small employers also have access to other related services e.g. in the area of VAT returns, accident insurance and healthcare cost refunds. A call service and an extensive information package are also available to users. A special version of the service is open to educational use (Opi.palkka.fi).

Palkka.fi reduces the administrative burdens related to the employer obligations of small enterprises and households, who often employ workforce irregularly and are not fully aware of the relevant, complex regulations. The target group comprises around 60 000 small enterprises and 200 000 households. The number of users is steadily increasing and is now over 100 000, of which around a third are small enterprises and two-thirds are households. At the level of individual employers, it is estimated that the use of Palkka.fi reduces the time spent on fulfilling employer duties by 2-4 hours per month. The total salary sum paid by this service was EUR 779 million in 2013, and the saved costs were at least EUR 5 million a year. The full potential is predicted to be double that amount.

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Not every enterprise needs to **apply for permits** to perform its business activities, but it can be a daunting and time-consuming process for those that do. In the case of *construction permits*, for example, building controls are necessary to safeguard public safety and strengthen property rights. However, excessive bureaucracy and delays can encourage illegitimate activity, as builders and their clients opt to proceed without permission. It can also incentivise unethical behaviour among the administration (seeking or accepting payments and favours to accelerate the decision process).

Options for construction permit reforms

- Ensuring building rules are consistent and comprehensible;
- Orientating the system to outcomes (performance requirements), rather than inputs;
- Streamlining the number of agencies involved in approval and inspection, including through a one-stop shop approach;
- Using risk-based systems, whereby simpler and less risky structures require fewer inspections than more complex or high-risk structures (such as hotels);
- Moving to passive approval for low-risk structures, only requiring notification that construction has commenced, rather than active approval-seeking in advance;
- Reducing the steps to obtain approvals, by eliminating requirements or by merging procedures, so that they are performed in parallel;
- Setting time limits for decision-making by the administration, and applying the principle that silence implies consent.

Another specialist area is the approval of *environmental permits*, and follow-up compliance and inspection obligations. Depending on the legislative framework and the specific environmental media, this can involve a complex and confusing web of agencies at the national and local levels. Austria's EDM Environment is a prime example of a cloud-based, e-Government solution to managing this multiplicity of authorities and processes.

Inspiring example: EDM Environment (Austria)

EDM is a cloud-based e-Government tool developed over many years by the Austrian Ministry of Agriculture, Forestry, Environment and Water Management in cooperation with the federal regions. It is one of the most extensive and complex e-Government tools in Europe and comprises a network of 22 applications from which reporting obligations (e.g. of emissions data), applications for permits and verification requirements are processed uniformly, in compliance with different environment-related laws. The objective of EDM is to create clarity and legal certainty for all stakeholders by supporting a uniform application of Austrian and European legislation in the environmental sector, thus majorly contributing to maintaining the high standard of Austrian environmental protection.

EDM enables the integration of authorities at different administrative levels and with different areas of competence (four federal ministries, all regions and district authorities) as often more than one authority is responsible for a specific permit or report. The clearly arranged, well-structured and in part menu-guided design of EDM makes even highly complex processes manageable. For instance, environmental inspections can be carried out efficiently by the authority with fewer personnel, and EDM applications can be used for the complete waste management process (e.g. generation, transportation, and treatment of waste).

EDM establishes a knowledge database as a single point of information concerning environmental data like waste generation, collection, treatment, and recycling data, as well as permit information, emission data to air and water, and information on radioactive sources.

EDM reduces the complexity of the specialist requirements for the users. As an example, the waste characterisation and acceptance procedure for landfilling, involving waste owners, experts, landfill operators and landfill supervisory bodies is made far simpler thanks to the IT support that encompasses the complete process. The assessment of the characterisation results against permit data of landfills (put into the system by the competent authority) is supported by defined check rules and the built in traffic light function. This reduces the time needed for proper control of the documents on arrival at the landfill and inspection by the supervisors of the landfill by around 90%.

Increased understanding of where additional regulations or changes of existing regulations are needed to successfully protect the environment and human health, and to ensure fair competition, supports the idea of "better regulation" and effective control of environmental regulations.

EDM is an extremely extensive Software as a Service (SaaS) application. It can be accessed online via standard protocols, is not bound to any specific terminals, and does not require any local installation. Provision of the service is automatic, needing no interaction with the EDM operator. All resources and data are freely available for several users in the form of a pool. The EDM services are mainly provided free of charge and without requiring a licence. Access and export of data are carried out in compliance with the strict requirements of Austrian data protection legislation. Highly automated processes can also be supported by EDM via a series of web service and XML interfaces available for import and export.

EDM is completely integrated into the Austrian e-Government environment – including data pertaining to companies in the Austrian business register – and is an integral part of the Austrian Portal Group. A key EDM principle provides that data are collected and managed only when they first arise. Afterwards, they are transmitted and processed exclusively without media discontinuity.

For further information: Franz Mochty, Project Manager, franz.mochty@bmlfuw.gv.at

Another example is Greece, which has moved to simplify and streamline its *licensing regime for manufacturing industry*, by shortening the procedure, reducing the cost, moving from ex ante to ex post checks, and putting the application process online.

Inspiring example: Licensing of manufacturing activities (Greece)

A new law adopted in 2011 has made it easier for manufacturers to obtain licenses (law 3982/2011), clarifying and accelerating the procedure, and cutting the cost.

For two types of activities defined by the level of 'nuisance' (activities up to 37 KW, and low nuisance activities above 37 KW), which represent 75%-80% of licensing in Greece, applications are replaced by a statutory declaration made by the entrepreneur. The declaration is accompanied by the necessary approvals and supporting documentation, issued by the competent public authorities within a strict timetable. Specific (and shorter) deadlines have been set within which the administration must respond to entrepreneurs who apply for a license (if the administration fails to meet a deadline, the proper sanctions are dictated by the general provisions of law 3528/2007). The medium time needed for legal operation through the statutory declaration procedure is seven days.

Of the 59 Prefecture's Development Directorates, the competent authorities for licensing procedure, 45 issued a total of 3 025 manufacturing licenses in 2013, of which 52.2% (1 581) followed the statutory declaration process, saving time and cost. The Technical Chamber of Greece as well as the Chambers of Commerce are given the possibility to act as the authority issuing the license, having the same powers with those of the Prefecture's Development Directorate as an equivalent mechanism.

The move to a statutory declaration has also enabled a switch from ex ante (prior) checks and inspections before the license is issued to an ex post "after check" in the licensing of new establishment. Inspections are conducted within a month of the premises opening.

Extra simplification has also been achieved on the low environmental impact activities (Class B – as it has been declared by the ministerial decision 9958/2012), by the standardisation and integration of environmental conditions in the context of the installation-operation license. The requirements involved in the licensing process are reduced for this type of activity, as no additional environmental license is required and the ultimate licensing cost is reduced.

An integrated IT system is being developed to offer e-services to entrepreneurs for the licensing process through a central portal (www.anaptyxi.gov.gr). This platform will be the digital link between licensing authorities meeting the goals of:

- Online applications and submission of documents;
- Forwarding applications between jointly competent departments and processing them;
- Keeping an overall database of licensing;
- Enhancing transparency; and
- Reducing administrative burdens for businesses.

This system will be interoperable with other systems in operation in Greece, such as GEMI business registry, TAX-ISNET and Selected Citizen Services Centers.

The validity of the 'Decision Approving Environmental Conditions' has also been extended to 10 years, or 12 years for companies that have an ISO 14001 environmental management system or equivalent, and 14 years for companies that hold an EMAS certification (Eco-Management and Audit Scheme), thus reducing the administrative cost and rewarding companies that invest in environmental protection.

For further information: Xarito Piperopoulou, Head of Development & Coordination Dept., General Secretariat for Industry, Ministry of Development & Competitiveness, PiperopoulouX@ggb.gr; see also <http://www.startupgreece.gov.gr/content/licensing-manufacturing-businesses>

For new or established businesses that purchase land or buildings, the ease of **registering property** is important to ensure the asset can be put into productive use as quickly as possible, and to secure future access to credit as collateral. Given the legal and procedural aspects, rapid registration requires an effective public administration to converge with an efficient and high quality judicial system (see [theme 6](#)). The 2014 Doing Business report has usefully defined the standard procedures that are pursued to complete the registration process.

Five sets of procedures for property registration

'Doing Business' records the full sequence of procedures needed for a business to purchase an immovable property from another business and formally transfer the property title to the buyer's name. The process starts with obtaining the required documents, such as a copy of the seller's title, and ends when the buyer is registered as the new property owner. Every procedure required by law or necessary in practice is included, whether it is the responsibility of the seller or the buyer and even if it must be completed by a third party on their behalf. The registering property indicators identify five main sets of procedures:

- Due diligence procedures to obtain the necessary guarantees on the security of the transaction;
- Legalisation procedures to make the sale agreement legally binding;
- Tax requirement procedures to comply with tax regulations related to the transfer of a property, including inspections or surveys of the property to determine its value and thus the taxes to be paid;
- Registration procedures to register the property in the name of the new owner and pay the associated transfer taxes; and
- Publication procedures to give public notice of the intention to transfer a property, so as to allow any interested third parties to object.

Economies that rank well on the ease of registering property tend to have simple procedures, effective administrative time limits, fixed registration fees, low transfer taxes and online registries.

Source: World Bank's Doing Business 2014

Member States can make it easier for businesses (and other service users) by reducing the steps in each procedure and the timescales for each one. Like permit applications, there is a case for setting legal limits on time taken. In common with other life events, there is scope for using one-stop shops to present a common 'front office', and rationalising back office processes by removing document requests and approval stages, combining steps, digitising and harmonising registries, and allowing online lodgement and transfer of documents.

The 2014 Doing Business report finds that, in the 45 economies worldwide that have computerised procedures over the past five years, the average time to transfer a property was cut in half, from 64 to 32 days. Electronic processing also strengthens title security, as it makes it easier to spot errors and overlapping titles. The experience of Denmark's digitisation and automation of property registration demonstrates that it can take several years of progressive adjustments to achieve wholesale change.

Inspiring example: Digitising and automating registration (Denmark)

Implementing a fully computerised system takes several years and requires a step-by-step approach. In the past, the Danish property registration system was time consuming, and government employees had to maintain an archive of 80 million paper documents. Information was kept by local district courts that were not connected. As a preliminary step, all the information stored in local courts had to be centralized in a single place. This is why a unified land registry was set up in the city of Hobro. In 2006, the Danish government began modernising its land registry by digitising and automating property registration. Processes had to be streamlined and reorganized. The centralized land registry initiated its computerisation and records were progressively digitised. Once digitisation was complete, the land registry introduced electronic lodgement of property transfers. By 2009, property transfer applications were only accepted online and the information technology system started screening applications in a fast and efficient way. As a result, over five years the time to transfer a property was slashed from 42 days to a couple of minutes. The Danish system was designed to respond to the needs of a variety of stakeholders, from citizens to financial institutions. With online access to a single source of land registry information, citizens and businesses could transfer property on their own with no third party and get information on any property. In addition, the Danish financial sector created a central hub for sharing land registration data between banks and the land registry - facilitating access to information and credit.

For further information: Danish Ministry of Justice, jm@jm.dk

Addressing **late payments** is high on the EU agenda, because of the detrimental impact on growth and jobs. Payment delays create liquidity problems that impede investment in expansion, but more fundamentally, endanger the existence of the business itself through insolvency, especially SMEs which are more vulnerable to cash-flow fluctuations than larger businesses (see [topic 5.2.4](#)). Late payment is an epidemic that affects both private and public sector debtors. In the private sector, delays in payment for supplies, services and works can have a domino effect, liquidity shortfalls being passed down the value chain, exacerbating the impact. Public authorities can have no excuse for late payment except for poor budgetary planning and execution, especially with regard to public procurement (see [theme 7](#)), and yet the problem is prevalent, leading to some enterprises shelving their employment plans to save funds and mitigate the threat of bankruptcy.

Findings of European Payment Index 2014

- The average length of payment in public sector has reduced from 61 to 58 days, but the public sector remains the slowest payer in the EU.
- About 69% of businesses do not feel that their government helps to protect them from the risk of late payment
- About 46% of businesses forecast payment risks will increase.
- About 51% of businesses blame administrative inefficiency for late payments, an increase compared to last year.
- About 55% of businesses expect a loss of income due to late payments.
- About 63% businesses expect a liquidity squeeze due to late payments.
- About 50% of businesses expect reduced growth perspectives due to late payments.

Source: <http://www.30max.eu/> and Intrum Justitia, EPI 2014

For further information: <http://www.intrum.com/Press-and-publications/European-Payment-Index/>

The EU's [Late Payment Directive 2011/7/EU](#)⁽¹⁴⁾ set a 30 day limit for all payments by public authorities to businesses for procured goods and services, or 60 days in very exceptional circumstances, with a deadline for integration into national law in all Member States by 16 March 2013. Businesses are automatically entitled to claim interest for late payment, at least 8 percentage points above the European Central Bank's reference rate, and are also able to obtain a minimum fixed amount of EUR 40 as a compensation for recovery costs.

⁽¹⁴⁾ Note: Enterprises have to pay their invoices within 60 days, unless they expressly agree otherwise and if it is not grossly unfair.

The [late payment information campaign](#) is running to December 2014 with events across the EU to highlight businesses' rights under the 2011 Directive, provide a forum for the exchange of best practices and help businesses to tackle late payment issues, with a special focus on SMEs. Some Member States have established [national websites on late payment](#), to give more prominence to the administration's obligations and business entitlements.

Moreover, several Member States have adopted specific measures to accelerate the **payment of arrears**, in order to alleviate the liquidity problem faced by businesses, especially SMEs. For instance, EUR 24.3 billion was allocated to debtor entities at central, regional and local levels in Italy for the repayment of arrears in March 2014, out of around EUR 47 billion earmarked for 2013 and 2014. Of these allocations, 96.7% were actually spent. In Spain, the Government created the Suppliers' Payment Scheme in 2012, which has provided EUR 41.8 billion of liquidity to enterprises to regularise the arrears of regional and local governments prior to January 2012. In Portugal, a strategy was adopted in 2012 for the settlement of arrears of more than 90 days, in particular in the health sector.

5.2.3. Trading across borders



Efficient trade facilitation at border crossing points is a critical factor in business performance in international markets. Businesses trading within the EU's Customs Union benefit from an internal market of almost 500 million people, and face very few additional administrative demands compared with trading within their national markets, the main exception being the collection of intra-community trade statistics, which can be simplified wherever possible (see example of Germany below).

Inspiring example: Raising reporting thresholds (Germany)

In accordance with Regulation (EC) No 638/2004, Member States must collect and provide Eurostat with statistics relating to the trading of goods between Member States (INTRASTAT). In 2008, Eurostat considered reducing the reporting requirements for compiling statistics on intra-EU trade by reducing the compulsory minimum coverage rates for arrivals and dispatches from 97% to 95%. In the end, the coverage rate was reduced for arrivals only, for quality reasons. Given the political need to further reduce the response burden, Eurostat decided in 2013 to reduce the coverage rate on the arrival side again – from 95% to 93%.

As a result of the Eurostat decision from 2008, German Foreign Trade Statistics was able to raise the exemption thresholds in 2009 from EUR 300 000 to EUR 400 000 per year and the direction of flow, benefiting 9,500 enterprises out of approximately 70 000 providers of statistical information (PSI), or 14% of all PSI businesses. Given the lower response burden, especially for SMEs, which is estimated to cut administrative costs by EUR 11 million per year, the corresponding reduction in statistical information (0.4% of dispatch value and 0.6% of arrivals value) seemed to be tolerable. Several other member states (e.g. Belgium) also raised the exemption thresholds for INTRASTAT.

As a result of the positive development of Germany's foreign trade in the years 2010-11, the coverage rate increased again. For this reason, Germany raised the exemption threshold from EUR 400 000 to EUR 500 000 in 2012, to the benefit of around 7 000 enterprises (11% of PSI). Administrative costs could be cut by EUR 8 million per year.

As a result of the Eurostat decision from 2013, Germany is preparing to raise the exemption threshold from EUR 500 000 to EUR 800 000 on the arrival side. About 7 700 enterprises (12% of PSI) would be able to cease reporting to Foreign Trade Statistics. The measure is estimated to cut administrative costs by EUR 9.5 million per year. In the final analysis, of all German enterprises engaged in intra-EU trade, about 83% on the dispatch side and about 93% on the arrival side would not need to provide statistical information for INTRASTAT. The corresponding additional reduction of statistical information is about 1.2% - however deplored by important users of Foreign Trade Statistics.

For further information: Klaus Geyer-Schäfer, Federal Statistical Office (FSO)-Destatis, gruppe-g3@destatis.de

The bigger picture is that **80% of world trade** happens within global value chains, coordinated by transnational corporations (TNCs) and often extending well beyond the EU's boundaries.⁽¹⁵⁾ In this light, excessive red tape and overly complex clearance procedures that drive up costs⁽¹⁶⁾ are not just inconvenient, but also an impediment to investment, as TNCs will choose to locate their operations and source their supplies elsewhere to ensure they remain competitive. For businesses engaged in the international transit, import and export of goods, it is imperative that extra-EU trade is highly efficient, and minimises the time and paperwork required for customs and other procedures. This is the logic behind the [World Trade Organisation's 2013 Trade Facilitation Agreement](#), which aims for faster customs and border management procedures globally.

The strong performance of many Member States in enabling trade to take place, through the **interaction of public and private services**, is demonstrated by the [World Bank's Logistic Performance Index \(LPI\)](#). The report "Connecting to Compete" presents the LPI, based on a global survey that assesses the efficiency of supply chains, encompassing "freight transportation, warehousing, border clearance, payment systems, and increasingly many other functions outsourced by producers and merchants to dedicated service providers". Out of 160 countries in the 2014 study, the top four performers were all EU countries: Germany, the Netherlands, Belgium and the United Kingdom. Indeed, Member States accounted for 11 of the top 20.⁽¹⁷⁾

In terms of individual components of the LPI, the EU also took 11 places in the top 20 rankings for 'efficiency of customs and border clearance', demonstrating the **critical role of public administration** in trade facilitation:

"Supply chains are the backbone of inter-national trade and commerce The importance of good logistics performance for economic growth, diversification, and poverty reduction is now firmly established. Although logistics is performed mainly by private operators, it has become a public policy concern of national governments and regional and international organizations. Supply chains are a complex sequence of coordinated activities. The performance of the whole depends on such government interventions as infrastructure, logistics services provision, and cross-border trade facilitation." (World Bank 2014, op. cit.).

Some Member States have sought to **speed up and simplify** cross-border trade by streamlining procedures and reducing the number of documents required for import-export and transit, or investing in the physical and IT infrastructure at the border crossing points. These reforms not only reduce preparation and waiting times for traders, but also lower the potential for unethical behaviour (see [theme 2](#)).

The calculation for policy-makers is how best to ensure the smooth flow of cross-border trade without sacrificing other policy interests, such as tackling organised crime, illegal migration, smuggling and human trafficking, protecting national security and preventing the spread of human, animal and plant diseases. The answer lies in integrated border management with **strong inter-agency cooperation** between border police, visa control, customs administration, and sanitary, phyto-sanitary, and veterinary inspections.

Within the context of its Customs Union with the EU, Turkey has sought to **streamline goods inspection** using risk management techniques through its risk-based trade control system (TAREKS). This enables more efficient use of customs resources by concentrating on "high-risk" movements of goods and making customs clearance more predictable.

⁽¹⁵⁾ Source: UNCTAD (2013), "World Investment Report, Global Value Chains: Investment And Trade For Development", <http://unctad.org/en/pages/PressRelease.aspx?OriginalVersionID=113>

⁽¹⁶⁾ This includes: time taken in dealing with the administration, extra documentation, storage fees, opportunity costs, loss of perishable goods, etc.

⁽¹⁷⁾ Sweden (6th), Luxembourg (8th), Ireland (11th), France (13th), Denmark (17th), Spain (18th) and Italy (20th)

Inspiring example: Risk-based trade control system (Turkey)

The Ministry of Economy is responsible for the conformity assessment of certain imported goods such as toys, medical devices, telecommunication products, personal protective equipment, machinery, electrical equipment, gas appliances, etc., and also some industrial raw materials and the quality control of some agricultural products at both export and import stages.

Inspecting 100% of goods at export and import stage used to result in a heavy burden on government and the private sector. Instead, the Ministry of Economy launched a tailor-made ‘Risk-Based Trade Control System’ (TAREKS), designed to carry out quality and safety checks electronically and on a risk basis. Rather than subjecting all export and import consignments to controls, TAREKS applies risk assessment procedures and focuses on high risk consignments. Thereby, the scarce inspection resources are concentrated on unsafe and poor quality products, this reducing the waiting period at customs and increasing the efficiency of inspections.

Upon the completion of the system’s software framework, a pilot implementation phase started in December 2010 with some selected agricultural products. Following successful results, the scope of the pilot was widened both in export and import. During this phase, firms started to apply for inspection and uploaded supporting data or documents via the 24/7 system, by means of electronic signature. In this way, firms are now able to follow their inspection applications and results. For this new type of service, all inspectors were equipped with notebook computers and wireless internet access.

Creating this project and involving all potential actors (customs authorities, designed inspection bodies, private companies) required institutional strengthening and capacity building. Tailored training programmes were organised in different regions and cities for companies, inspectors and other stakeholders. The scope has been expanded to include programmes in IT and legislation, case studies and exercises. Integrating all transactions into the system – a database comprising all applications and statistical data – has been established to determine the inspection policy and conduct the risk analysis.

Consequently, Turkey has acquired an advanced quality and safety inspection system that reduces bureaucratic procedures, replaces paper documentation by trustworthy and updated electronic data, and enables the efficient use of public resources. As of November 2014, there were 31 150 firms and 47 100 users registered. Through the system, users and firms follow the inspection procedure and they are informed about the result of the inspection process.

For further information: M. Murat Taşkin, Head of Department, Ministry of Economy, DG Product Safety and Inspection, taskinm@ekonomi.gov.tr

As a Customs Union, there is just one external border with the rest of the world, meaning that the EU’s 28 customs administrations must operate according to **common rules**. This puts the onus on public administrations to harmonise their processes with neighbouring countries and to ensure mutual recognition of standards in line with the *acquis*.

The solution to smoother administration and multi-agency collaboration is **e-Customs**, which is well advanced in many Member States, as illustrated by Luxembourg’s ‘*Paperless Douanes et Accises*’ system, which obliges declarations to be submitted in electronic form.

Inspiring example: Paperless Customs and Excise (Luxembourg)

The Customs Administration’s ‘*Paperless Douanes et Accises*’ (PLDA) system allows electronic transmission to the administration of all information concerning import, export and transit by enterprises. Since July 2009, it has been mandatory for all declarations concerning export and transit to be submitted electronically, either using compatible software or the free Internet client offered by the Customs Administrations. The procedure for import will be changed to electronic declarations in early 2010. The module “transit” was implemented in June 2008, the module “export” in July 2009, and the module “import” in February 2010.

For further information: Robert Scheueren, Administration des Douanes et Accises (Customs and Excise Administration), servicedesk@do.etat.lu

Within the context of the [Modernised Customs Code](#) and the [e-Customs decision](#), the [Multi-Annual Strategic Plan \(MASP\)](#) sets out the ways in which the Commission and the Member States will set up secure, integrated, interoperable and accessible

electronic customs systems for the exchange of data contained in customs declarations, accompanying documents and certificates, and other relevant information (see also [theme 4](#)). From the trader's perspective, the [ongoing developments](#) under the MASP offer six main advantages at a pan-European level:

- Better and readier access to information on import-export requirements in the EU through the EU Customs Information Portal;
- The opportunity for simplified procedures under the Authorised Economic Operator (AEO) system, supported by the Economic Operators' Registration and Identification (EORI) system and Single Authorisations for Simplified Procedures;
- The potential to receive preferential tariff rates as Registered Exporters;
- Avoiding duplication in import, export and transit operations in different Member States, due to electronic exchange of data among traders, customs and other governmental organisations across the EU under the Automated Import System, Automated Expert System and New Computerised Transit System (NCTS);
- The availability of an online one-stop shop for customs procedures through Single Electronic Access Points (SEAPs), which allow traders to lodge their electronic pre-arrival/pre-departure, summary and full customs declarations via one single interface of their choice connected to all Member States' customs systems; and
- Applying the once only principle of data registration (see [theme 4](#)) via the Single Window, which will enable economic operators to lodge all the information required by both customs and non-customs legislation for cross-border trade through a single portal, namely the SEAPs.

These front-office benefits are underpinned by behind-the-scenes developments which strengthen back-office functions. These include the Risk Management Framework and the Integrated Tariff Environment.

However, the full benefits for cross-border trade will only be felt when operators across the whole EU are able to enjoy 'once only' submission of *all* regulatory documentation (including customs declarations, applications for import/export permits, certificates of origin and trading invoices) which is then seamlessly transferred to *all* relevant agencies (customs, border police, statistics, insurance, ministries/agencies responsible for conformity assessment, health, environment, etc.). Assuming a positive response, the cargo is cleared for import, export or transit. This avoids the operator having to handle multiple visits to government agencies in multiple locations for the requisite permits and clearances. The EU's **Single Window** relies on action at the level of each member of the Customs Union, and will not be complete until every national single window is operational and interconnected.

As well as trade in goods, **cross-border online data flows** are increasingly vital to business operations, in the context of electronic retailing, multi-national corporations with offices and factories in multiple countries, global value chains connecting suppliers internationally, cloud services, use of 'big data' etc. This data can take the form of corporate, customer, merchant, technical or human resources information and is integral to the functioning of the European and world economies. As the 2014 Swedish Board of Trade study "[No Transfer, No Trade](#)" shows, public administrations are starting to become alert to the importance of international data flows and the potential impediments from local storage and 'forced localisation', as well as issues around data privacy and protection.

5.2.4. Dealing with insolvency & second chance for honest entrepreneurs



For a variety of reasons, enterprises go out of business all the time. In recent times, around 200 000 firms have become insolvent in the EU every year. The cause can be better competitors, economic downturns, shrinking markets, obsolete products, over-rapid expansion by the entrepreneur, problems accessing finance, or many other internal or external factors. Business failure is a fact of economic life, it will always be with us. This is especially the case with new

and young businesses: around half of enterprises survive less than five years. The question for policy-makers is the same as for business owners, creditors and investors: what happens next?

While technical insolvency means that liabilities exceed assets on the balance sheet, the trigger for business collapse is almost always when an enterprise is unable to meet its debts: it is cash-flow insolvent, lacking the liquidity to make payments against invoices in sufficient time. Some entrepreneurs foresee that situation before it arises, and seek to manage the business down before they default. Others face more immediate financial distress and have to deal with their creditors, either voluntarily or following legal action. Insolvency systems must be capable of coping with all eventualities.

All countries have **laws and institutions** to handle insolvency, which usually present a range of options for both creditor and debtors to take action. There are major differences across the EU, partly because of various civil and common law systems in place. Some favour debtors more than creditors or vice versa, some give preference to some classes of creditor over others (for examples, prioritising workers' salaries before other claims).

All systems seek to safeguard creditors in some form. Foreclosure allows secured creditors to seize control of assets held as collateral, in lieu of payment, while liquidation involves assets being sold on behalf of all creditors. Without **creditor protection**, all businesses would find it harder and more costly to access finance, supplies and services, as the price and availability would reflect the higher risk.

But it is also widely recognised that breaking up the company is the least efficient outcome for economy, society and the parties concerned. On average around the world, creditors recover no more than 35% of their initial loan in case of closure.⁽¹⁸⁾ It is typically in every party's interest – owners, investors, lenders and workers – that enterprises continue to operate as going concerns, if the business can be made viable again. Increasingly then, the focus of insolvency policy has shifted to saving the business, where possible. This puts the onus on **work-out, not wind-up**. This approach to insolvency proceedings places the priority on restructuring businesses in financial difficulties and restoring them to financial health. It shifts the emphasis towards restorative surgery on ailing businesses, rather than emergency treatments in intensive care which can end up killing the patient.

This early intervention approach has been encouraged by the European Commission in the context of updating the [2000 Council Regulation on Insolvency Proceedings](#)⁽¹⁹⁾ which established a common framework for insolvency proceedings in the EU. A quarter of the EU's insolvencies each year can be termed **cross-border insolvency**, whereby a debtor's assets or liabilities are located in more than one state, or the debtor is subject to the jurisdiction of courts from two or more states. The Regulation sought to avoid 'forum shopping' – the transfer of assets or judicial

⁽¹⁸⁾ Doing Business 2014 (op. cit.)

⁽¹⁹⁾ The regulation does not apply to Denmark.

proceedings by parties from Member State to another, in a competitive search for the most advantageous legal position – but this practice is still prevalent as parties are able to move their ‘centre of main interest’ around the EU’s internal market. Moreover, the Regulation does not harmonise insolvency law across the EU, and only serves to regulate the conflicts between different systems, leaving anomalies in place.⁽²⁰⁾ With more than 10 years’ experience, the Commission [proposed an updated regulation in 2012](#) which seeks to modernise the cross-border insolvency framework.

The **new approach** seeks to promote business rescue, a return to viability which will preserve competition and employment, and in the event of closure being inevitable, the rehabilitation of bankrupt business owners, except in the case of fraudulent behaviour.

New approach to business failure and insolvency

The Commission Recommendation will help to provide a coherent framework for national insolvency rules, asking Member States to:

- Facilitate the restructuring of businesses in financial difficulties at an early stage, before starting formal insolvency proceedings, and without lengthy or costly procedures to help limit recourse to liquidation;
- Allow debtors to restructure their business without needing to formally open court proceedings;
- Give businesses in financial difficulties the possibility to request a temporary stay of up to four months (renewable up to a maximum of 12 months) to adopt a restructuring plan before creditors can launch enforcement proceedings against them;
- Facilitate the process for adopting a restructuring plan, keeping in mind the interests of both debtors and creditors, with a view to increasing the chances of rescuing viable businesses;
- Reduce the negative effects of a bankruptcy on entrepreneurs’ future chances of launching a business, in particular by discharging their debts within a maximum of three years.

The Recommendation asks Member States to put in place appropriate measures within one year. The Commission will assess the state of play 18 months after adoption of the Recommendation, based on the yearly reports of the Member States to evaluate whether further measures to strengthen the horizontal approach on insolvency are needed.

Source: Commission Recommendation of 12.3.2014 on a new approach to business failure and insolvency (C(2014) 1500 final), http://ec.europa.eu/justice/civil/commercial/insolvency/index_en.htm

Some Member States already make provisions in their insolvency proceedings to **incentivise business rescue and reorganisation**.⁽²¹⁾ This is exemplified in the recent past by the examples of the Czech Republic, which was singled out by the 2014 Doing Business Report for its sustained and continuous reforms over the previous five years, and Italy, which has embedded in law the ‘stay period’ for enforcement actions to give the debtor time to reorganise the business.

⁽²⁰⁾ European Parliament library briefing “Cross-border insolvency law in the EU”

⁽²¹⁾ DG Justice published a [study in 2014](#) by INSOL Europe, the pan-European association of insolvency professionals, which provides a comparative overview of proceedings in the Member States aimed at rescuing companies and individuals in financial difficulties with an emphasis on early proceedings, as well as recommendations for minimum standards for proceedings in the pre-insolvency stage or early stage of insolvency.

Inspiring example: Bolstering reorganisation within the insolvency framework

The **Czech Republic** provides a good example of successful evolutionary reforms, achieving some of the biggest improvements in the past five years by continuously strengthening its insolvency framework. A new insolvency law went into effect in 2008 and declared reorganisation the preferred method of resolving insolvency. Liquidation and reorganisation proceedings were streamlined, and insolvency representatives became subject to educational and professional requirements as well as stricter government oversight. Application of the new regulations identified some inefficiencies that led to further reforms in 2009 and 2012. By 2011, reorganization was the most common insolvency procedure in the Czech Republic, and survival of distressed but viable companies was the prevailing outcome. By 2013, the time to complete insolvency proceedings had fallen by 4.4 years compared with 2008. The recovery rate of creditors in the Czech Republic more than tripled over the past six years, from 20.9 ‘cents on the dollar’ (2008) to 65.0 ‘cents on the dollar’ (2013). Examples like the Czech Republic, as well as many other economies, show that meaningful improvements to insolvency systems require sustained, continuous efforts. Foundational reforms can produce results, but they are often insufficient to facilitate the most economically efficient outcomes of insolvency proceedings – the reorganisation of businesses that are economically viable and the liquidation of businesses that are not.

More recently, **Italy** has made resolving insolvency easier through amendments to its bankruptcy code that introduce a stay period for enforcement actions while the debtor is preparing a restructuring plan, make it easier to convert from one type of restructuring proceeding to another, facilitate continued operation by the debtor during restructuring, and impose stricter requirements on auditors evaluating a restructuring plan.

Source: Doing Business 2014 (op. cit.)

The Recommendation envisages that debtors should be able to enter a process for restructuring their business, and should be able to keep control over the day-to-day operation of their businesses. To facilitate the preparation of restructuring plans, the judicial authorities should be able to appoint of a supervisor to oversee the activity of the debtor and creditors, or a **mediator** to assist in the successful running of negotiations with creditors (see [theme 6](#)).

The example of Denmark’s Early Warning System goes a step further in intervention by taking a **preventative** stance: better to step in early when the enterprise identifies it is facing difficulties, and help to steer it back to viability, or at least to close down in a managed way. Importantly, the service is free, confidential and voluntary. Performance data (see [topic 1.3.1](#)) shows the cost to the public purse has been more than offset by reductions in tax debt, as well as higher revenues / lower losses for assisted businesses than would have happened otherwise, compared to the control group.

Early Warning System (Denmark)

Early Warning is a unique and untraditional hybrid between a professional business-to-business service and an organisation of experienced volunteer professionals. Together these two groups complement one another’s skills and provide free, confidential and impartial assistance to businesses in crisis, assisting them either to regain economic viability or to close down in a way that does not paralyse the owners. Analysis has shown that the greatest barrier to entrepreneurship and growth of start-up companies is the entrepreneur’s fear of bankruptcy and financial collapse. To counter this fear, and thereby promote more start-up enterprises, the Early Warning System was implemented from 2007-2012, financed through Globalisation funds, which are intended to make Denmark one of the world’s most competitive societies. Seen in light of the fact that, as a rule, fewer start-up companies in difficulty have the means to pay for private advice, the establishment of a skilled network of experienced volunteer professionals was one of the concept’s most critical elements. The advice-led approach consisted mainly of the following:

- Specially trained consultants in the five regional Væksthus Development Centres undertake the initial screening of the businesses.
- This results in an overview of the situation and options available to the company and its owner(s), which determines whether the business can be saved or if the business should be closed/declare bankruptcy.
- If it is determined that the business can be saved, an experienced volunteer adviser is assigned with the specific skills needed for the revitalisation plan of the business.

- If survival is unclear, or if the business needs to be closed, a legal/economic review meeting is held with a bankruptcy lawyer. This determines how a closure could best be carried out, and whether there is any opportunity for carrying on all or some parts of the company's activities under new management.
- If after bankruptcy, it is unavoidable that the business owner is burdened with an unmanageable debt load, a volunteer adviser can be assigned during the difficult period from declaration of bankruptcy until the time an assistant from the bankruptcy court is assigned to manage debt relief.

The advice should help put the development of as many viable but troubled companies as possible back on track and then help them enter into a new period of growth. Non-viable companies must be assisted in expedient settlement and closure, for the benefit of the owner, creditors, and society as a whole. The initiative should also steer general attitudes towards business failure towards a slightly more American outlook (greater acceptance of "honourable closure").

Early Warning has shown its relevancy with a large influx of businesses facing real problems. In total, some 4 000 clients were helped from the start of the project until by the end of 2014. Since 2008, the number of new clients has annually been between 600 and 700. About 40% get a legal/financial review meeting with a bankruptcy lawyer. In terms of costs, the budget was approximately DKK 14.600 (1,960 Euro) per company helped.

In 2010 and 2013, an external evaluator conducted a measurement of effect of Early Warning. The two most specific conclusions from the latest measurement of effect were:

- The Danish tax authority had, in the years 2010 and 2011, reduced its loss on the bankrupt businesses' public debt, consisting of outstanding VAT and tax. The debt was reduced by 20% equalling DKK 21.5 million. Meanwhile the total expense on the entire Early Warning programme was DKK 14 million.
- Voluntary counselling do work. When experienced volunteer professionals are affiliated, businesses maintain revenue, exports, and workplaces to a greater extent.

The social effects of business owners and their families being helped through a severe crisis is not estimated in the measurement.

Some of the 2010 measurement conclusions were as follows:

- Businesses that received assistance from Early Warning experienced losses in revenue of 9% and a loss in value growth of 7.5% from 2009 to 2010, while the businesses in the control group (which did not receive assistance) lost 15% and 18% respectively.
- Early Warning businesses thus have a total additional revenue of DKK 164 million and additional value growth of DKK 99 million when compared to the control group.
- Statement of public debt is the best available indicator for the overall debt profile of the companies. Since 2008, Early Warning has helped businesses closing down, which reduced the average public debt by 20%, compared to companies that did not receive assistance.
- Early Warning has reduced company public debt by a total of approximately DKK 30 million.

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At the same time, policy-makers must recognise that not all businesses can be saved, so there must be a mechanism to enable their orderly closure, and this process - typically requiring a set of procedures that reflect a range of scenarios - should be as **efficient, transparent and comprehensible** to all parties. Given the costs, time and stress involved in litigation, it is preferable to seek out-of-court solutions, where possible. Some Member States have introduced reforms in recent years to speed up the process of insolvency, irrespective of the choice of instrument and ultimate outcome, to avoid tying up time in claim and counter-claim by creditors and debtors, and to free up business assets for more productive use.

This is exemplified by Latvia, which amended its Insolvency Law in 2008, while also introducing electronic transfer of insolvency verdicts from courts to the business registry and notaries, to accelerate communication (see also [theme 6](#)). Since this time, Latvia has introduced an entirely new Insolvency Law, which came into force

in 2010 and was amended in 2014, to make insolvency proceedings faster and more efficient. This includes the legal framework for ‘legal protection proceedings’ (LPP), which is a set of measures that is available to debtors that are facing financial difficulties or expect to do so, and are acting in good faith (that is, not using LPP to avoid insolvency proceedings maliciously). LPP protect the company from interventions by creditors and allow time to prepare and execute a plan to turn the business’ fortunes.

Inspiring example: Improvement of insolvency procedure (Latvia)

The provisions of the Insolvency Law in Latvia are applicable to legal persons, partnerships, sole traders and foreign-registered individuals carrying on standard business in Latvia, agricultural producers and natural persons. The court of general jurisdiction of the Republic of Latvia and the Insolvency Administration, which is a state agency, are directly involved in the insolvency process.

Creditors may apply to the court to initiate the insolvency procedure, if they are owed more than thresholds set by the Law, and after payment of a fee. A copy of the court order to commence the insolvency procedure is immediately sent to the Insolvency Administration, so that it may recommend a candidate receiver (administrator) and to the Commercial Register so that it may make the relevant entry in the insolvency register.

As regards legal persons, there are three ways to resolve insolvency: corporate rescue, settlement or bankruptcy, the final decision on which is taken at a creditors’ meeting.

- Settlement: Creditors agree with the debtor on reducing the amount of the claim, waiving the contract penalty, interest or late payment fees, and on their reduction, the extension of the settlement date or on offset.
- Bankruptcy proceedings: If efforts to reach agreement on the settlement procedure or corporate rescue with the creditors have been unsuccessful, bankruptcy proceedings are initiated and the deadline for their conclusion is not prescribed by law. A resolution to conclude the bankruptcy procedure shall be adopted by the final creditors’ meetings no later than one month after the bankruptcy procedure has been completed. A resolution on the conclusion of the bankruptcy procedure is considered to have been adopted if more than half of the creditors entitled to vote have voted in favour. The conclusion of insolvency proceedings shall be confirmed by the court.
- Corporate rescue: Debtors and creditors may agree on a corporate rescue by drawing up a corporate rescue plan to be approved by the creditors’ meeting and the court. Corporate rescue is a solution to a state of insolvency and takes the form of a body of financial, legal and organisational measures aimed at preventing a possible bankruptcy of the debtor and restoring the debtor’s solvency. Under the Civil Procedure Law, a corporate rescue is concluded when the court approves the resolution of the creditors’ meeting on implementation of the corporate rescue plan and the resolution of the creditors’ meeting on the completion of the corporate rescue and at the same time decides to conclude the insolvency procedure.

Legal protection proceedings (LPP) is a method of restoring a business’s full solvency. It applies to companies only and lasts no longer than two years from the date on which the relevant court order comes into force. The extra-judicial LPP is a procedure where the legal protection process is initiated and declared immediately.

The 2010 Insolvency Law was designed to respect the experience of European and other developed countries, and the EU legal framework, as well as experience gained in applying the previous law. The law recognises numerous innovations, the aim of which is to make the insolvency proceedings faster and more efficient. Different time-consuming procedures are simplified or abandoned at all. Thereby, merchants’ ability to function is encouraged and stimulated, as well as the business environment altogether. Changes were made in the legal framework for legal protection proceedings (LPP) to make the process more accessible and also to grant more rights to secured creditors and to reduce the possibility to use these proceedings to maliciously avoid insolvency. The new Insolvency Law was also made to ease solutions between viable performers of commercial activity and its creditors.

Recently, Latvia has finished amending the Insolvency Law, which comes into force on 1 January 2015. The amendments are aimed to resolve the practical issues related to the application of the law, make the regulation of insolvency procedure clearer, promote application of the procedures under the Insolvency Law according to their intended purpose, and strengthen protection of the rights of debtor and creditor. For example:

- The duties of the debtor are broadened within the framework of the LPP, with respect to submission of documents regarding validity of claims, confirmation regarding the transfer of the plan to all creditors, and the truth of provided information.
- Natural persons may be declared insolvent, if the person in question is unable to settle his or her debt liabilities. The amended Law has reduced the threshold of debt liabilities for triggering insolvency proceedings from EUR 7 114 to EUR 5 000 (is not able to pay), and from EUR 14 228 to EUR 10 000 (will not be able to pay).

The amended Law stipulates that administrators of the insolvency proceedings shall be comparable with the public officials for the activity. It also stipulates that the Latvian Association of Certified Administrators of Insolvency Proceedings shall develop and adopt the professional Code of Ethics of administrators, and *inter alia* regulates the fulfilment of an administrator's duties in the situation of a conflict of interest.

Further reform of the profession of the insolvency administrators is ongoing.

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It is important that laws incentivise good business practice and ensure that proper sanctions are in place to discourage dishonesty and recklessness. But policy-makers also have to ensure that insolvency proceedings are fair and do not discourage entrepreneurial flair. As well as the potential personal costs, there is a social stigma to bankruptcy, which combine to dissuade many potential entrepreneurs from embarking down the start-up or self-employment path. The European Commission's Expert Group completed a [study on the prevention and processing of bankruptcy cases](#) (covering out-of-court settlements and in-court procedures) and concluded *inter alia* that: "*It is fundamental to send a message that entrepreneurship may not end up as a "life sentence" in case things go wrong. Otherwise it acts as an effective deterrent to entrepreneurship*".

In a public survey in 2012, 43% of respondents from EU Member States said that the risk of going bankrupt would make them afraid of setting up a business, while 50% thought that one ought not to start a business if there is a risk it might fail. In the event of closure, honest entrepreneurs should be given a **second chance**: a prospect supported by 82% of EU respondents in the same survey.⁽²²⁾ This means a proportionate - not punitive - time period to discharge ex-owners from bankruptcy and allow them to start-up in business again. The Commission's proposed maximum period is three years. This can only be meaningful if it applies in practice, as well as in law, which means that credit scoring agencies are fully on board and do not block aspiring entrepreneurs from obtaining bank finance for their new businesses.

In December 2013, the European Commission launched a study to review progress in the policy area of "[Bankruptcy and second chance for honest bankrupt Entrepreneurs](#)" in Member States and CIP Participating Countries. The study provides an update and verifies to what extent EU Member States comply with the May 2011 Competitiveness Council recommendations on promoting a second chance for honest bankrupt entrepreneurs and limiting the discharge time and debt settlement for them after a bankruptcy to a maximum of three years by 2013.

⁽²²⁾ European Commission (2012), "Entrepreneurship in the EU and beyond" Flash Eurobarometer 354, http://ec.europa.eu/public_opinion/flash/fl_354_en.pdf. The EU-27 results are based on a telephone survey (fixed line and mobile) with 27 059 respondents in June 2012.

5.3. Conclusions, key messages and inspiration for future action

This chapter is dedicated to businesses, as the key partners of public administration in pursuing the economic goals of Europe 2020. But it constitutes just one piece of the jigsaw, alongside [theme 1](#) (regulatory reform), [theme 2](#) (combatting corruption), [theme 4](#) (better service delivery), and [theme 6](#) (an effective justice system, essential for contract enforcement, insolvency proceedings and in some jurisdictions, business registration). This wider framework provides the fuller context for the messages in this chapter.

Regulations have their rightful place among the policy instruments available to administrations in influencing business behaviour. They prevent and penalise cartels and other anti-competitive activities. They place the costs of pollution on the polluter, and set minimum environmental and safety standards backed up by the threat of sanctions. They aim to ensure the rewards from investment and innovation return to the source, to enforce contracts so that trade can take place with confidence, and to enable debts can be recovered so that creditors can take calculated risk. They create fair conditions for employment by establishing labour rights. But compliance often comes at a cost to business in information and other administrative obligations. Regulations should neither be created nor cut without considering the consequences.

However, it is also clear that – in the past – the crafting and management of legislation that affects business has not always been conducted with care for the implications for implementation: obsolete laws have been left on the statute book, failure to repeal them created conflicts with their replacements; new laws had been adopted without conducting thorough options appraisal and cost-benefit analysis; legal provisions have gone beyond what was desirable to deliver the policy's aims; necessary by-laws have not been passed. The performance of impact assessments (including competitiveness proofing and SME tests) on the regulatory flow, and fitness checks on the regulatory stock, should mitigate the risk of excessive rules on business (see [theme 2](#)).

Moreover, even necessary rules can become burdensome in their execution, if badly administered. Administrations face choices in interpreting and enforcing rules, with respect to the resources they dedicate and the systems they use. This is where a commitment to excellence in service delivery is key, simplifying implementation as far as possible, and choosing delivery channels that match the way that businesses operate (see [theme 4](#)).

More than anything, enterprises are looking for public authorities to be sympathetic to their cause. Business-centric administration is not about agreeing to anything that any enterprise asks for, and certainly not favouring one firm over another (which would fall foul of State aid rules), but instead adopting a pro-business perspective, as the Dutch 'Mark of Good Services' and the Hultsfred 'LOTS' initiative exemplifies.

This holistic approach to the business environment extends to a whole raft of support that public administrations provide. Increasingly, enterprises expect – and administrations deliver – public services through one-stop shops. This includes the EU-wide network of Points of Single Contact (PSCs) which are present in every Member State, but are yet to satisfy universally high standards, as indicated by the Single Market Scoreboard. As the vast majority of businesses are online, Member States should be able to make more rapid progress with once-only registration, digital by default, and clouds of public services than they might for citizens.

'Life event' analysis and service provision should also be easier to organise for enterprises than the public. The business life-cycle is well understood, and the interactions with public services are less diverse: starting up; dealing with tax and employment; acquiring land and property; satisfying licensing, permit and other standards; trading at home and abroad; enforcing contracts; managing insolvency; and potentially starting again. Like citizens, each business is unique. An enabling environment tailors services to the enterprise's circumstances, rather than the administration's convenience.

Theme 6: Strengthening the quality of judicial systems



An effective justice system is a fundamental right of citizens, as well as underpinning business confidence, job creation and economic growth. Enabling entrepreneurs to protect their rights, settle their contracts, and recover their debts is vital for enterprise, investment, innovation and fair competition. Across the EU, mutual understanding and trust in judicial administrations - their quality, independence and efficiency - is essential to the functioning of the internal market. This theme looks at how judiciaries assess their performance, quantitatively and qualitatively, to inform ongoing improvements and innovations. It also looks at ways in which access to justice is being enhanced at the point of entry, during the judicial process, and at its conclusion. It explores the modernisation of judicial administrations, including the role of e-Justice systems, better communication and consultation, user-centric processes, judicial training and continuing professional development.

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An effective justice system that interprets and applies the law fairly, impartially and without undue delay is fundamental to citizens' rights and a well-functioning economy. Every EU member has its own unique structures and traditions in civil, commercial and administrative justice, but also a common interest to ensure the highest quality and mutual trust among each other's systems, to incentivise businesses to develop and invest at national and cross-border levels. This chapter:

- ✓ Sets out the societal and economic case for judicial quality, independence and efficiency;
- ✓ Describes how quantitative techniques are being used to measure, monitor and manage the functioning of justice systems;
- ✓ Examines how judiciaries are increasingly engaging with citizens and other users to gain more qualitative insights, and to communicate better both before and after cases;
- ✓ Summarises the alternative dispute resolution methods that broaden the possibilities for citizens and businesses to have disputes solved;
- ✓ Highlights the modernisation of court systems and procedures through ICT and e-Justice;
- ✓ Identifies the implications for raising the competences of judges, prosecutors, court staff and others, through training and continuing professional development.

“Access to an effective justice system is an essential right which is at the foundation of European democracies, recognised by the constitutional traditions common to the Member States. For this reason, the right to an effective remedy before a tribunal is enshrined in the [Charter of Fundamental Rights of the European Union](#) (Article 47). Whenever a national court applies EU legislation, it acts as a ‘Union court’ and must provide effective judicial protection to everyone, citizens and businesses, whose rights guaranteed in EU law were violated. The effectiveness of justice systems is therefore crucial for the implementation of EU law and for the strengthening of mutual trust”.⁽¹⁾

Quality, independence and efficiency are the key components for an effective justice system, as a **fundamental right of citizens** enshrined in Article 6 of the [European Convention on Human Rights \(ECHR\)](#): *In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.*

A well-functioning judicial system also underpins **economic development**. Confidence in justice creates a climate of certainty and reliability that enables forward business planning and hence a thriving private sector (see [theme 5](#)). It encourages the innovation, investment, business creation and fair competition that are the ingredients of a high productivity economy, and hence long-term growth in line with [Europe 2020](#) priorities. The relationship between justice and the economy is most explicit in the areas of contract enforcement and settling disputes, protection of investors and intellectual property rights (IPR), land ownership and disputes, employment rights, labour market operations, and insolvency proceedings, as highlighted by the IMF's 2012 study “[Fostering Growth in Europe Now](#)”, the World Economic Forum's [Global Competitiveness Report 2013-2014](#), the World Bank's [Doing Business Report 2014](#), the OECD's studies of the economics of civil justice⁽²⁾, and the European Commission's September 2014 paper on “[The Economic Impact of Civil Justice Reforms](#)”.

The [EU Justice Agenda for Europe 2020 – Strengthening Trust, Mobility and Growth within the Union](#) highlights the contribution of EU justice policy to supporting economic recovery, growth and structural reforms. “*The EU has taken action to pro-*

⁽¹⁾ 2014 EU Justice Scoreboard, COM(2014) 155 final

⁽²⁾ “What makes civil justice effective?”, OECD Economics Department Policy Notes, No. 18 June 2013, and “The Economics of Civil Justice: New Cross-Country Data and Empirics”, OECD Economics Department Working Papers, No. 1060.

gressively build the trust necessary for businesses and consumers to enjoy a single market that truly works like a domestic market. Red tape and costs have been cut: a judgement given in one Member State can now be recognised and enforced in another Member State without intermediary procedures (the formality of ‘exequatur’⁽³⁾ has been progressively removed in both civil and commercial proceedings)”.

Each EU member state has its own legal tradition and unique judicial system to administer civil, criminal and administrative law. While these specificities will always remain, there is a shared interest across the **EU-28** that each justice system is of quality, independent and efficient. Businesses and citizens need to be assured that, as a final resort, they can seek redress from the courts in a reasonable timescale, to a consistent standard, and without outside interference in the process of judgement at home and throughout the EU. Actual recourse to the law is less important than potential recourse: the knowledge that these safeguards exist. Effective justice contributes to strengthening Member States’ **mutual understanding and trust** in each other’s judicial systems, which is also the aim of the [European Commission’s Justice Programme for 2014-2020](#).

Justice Programme 2014-2020

This programme shall contribute to the further development of a European area of justice based on mutual recognition and mutual trust. It promotes:

- Judicial cooperation in civil matters, including civil and commercial matters, insolvencies, family matters and successions, etc.
- Judicial cooperation in criminal matters
- Judicial training, including language training on legal terminology, with a view to fostering a common legal and judicial culture
- Effective access to justice in Europe, including rights of victims of crime and procedural rights in criminal proceedings
- Initiatives in the field of drugs policy (judicial cooperation and crime prevention aspects)

The Justice Programme is able to fund the following types of actions:

- Training activities (staff exchanges, workshops, development of training modules, etc.);
- Mutual learning, cooperation activities, exchange of good practices, peer reviews, development of ICT tools etc.;
- Awareness-raising activities, dissemination, conferences, etc.;
- Support for main actors (key European NGOs and networks, Member States’ authorities implementing Union law, etc.);
- Analytical activities (studies, data collection, development of common methodologies, indicators, surveys, preparation of guides, etc.).

All actions to be funded by the programme must produce results whose benefits go beyond one single Member State. The following elements should in particular be looked at:

- Does the project contribute to the effective, comprehensive and consistent implementation of Union law instruments and policies?
- Will it improve public awareness and knowledge about the rights, values and principles deriving from Union law?
- Will it improve the understanding of potential issues affecting these rights?

⁽³⁾ Exequatur, a concept specific to the private international law, refers to the requirement of a court decision authorising the enforcement in that country of a judgment or court settlement given abroad.

- Is it likely to develop mutual trust among Member States and to improve cross-border cooperation?
- What is its transnational impact?
- Does it contribute to the elaboration and dissemination of best practices?
- Will it create practical tools and solutions that address cross-border or Union-wide challenges?

The budget for 2014-2020 is EUR 378 million. All Member States are eligible except for Denmark and the United Kingdom.

Measuring the effectiveness of justice systems is not an easy exercise. Justice cannot just be measured in, for example, the number of court cases or judgements. Timeliness of outcome is a fundamental right for all parties which demands efficiency ('justice delayed is justice denied'), but too great an emphasis on the speed of the process can lead to miscarriages of justice ('justice hurried is justice buried'). An effective justice system thus requires to take into account three essential aspects, namely: the quality of the justice system, its independence, and the efficiency with which it operates. In recognition that these three factors are inseparable, and to provide an overarching perspective, the [EU's Justice Scoreboard](#) was first launched in 2013 as an information tool to achieve more effective justice by providing objective, reliable and comparable data on justice systems in all Member States.

The EU Justice Scoreboard

The Scoreboard contributes to identifying potential shortcomings, improvements and good practice, and aims to present trends on the functioning of the national justice systems over time, with a focus on litigious civil and commercial cases, as well as administrative cases. The metrics presented fall under the following headings:

- **Quality:** existence of monitoring and evaluation of court activities (including surveys) to shorten the length of proceedings, availability of ICT systems to help reduce the length of proceedings and facilitate access to justice, the availability of Alternative Dispute Resolution (ADR) methods to help reduce the workload on courts, the compulsory and continuous training of judges, and available resources;
- **Independence:** perceived judicial independence, plus five indicators from a first comparative overview, concerning safeguards on non-consensual transfer, dismissal of judges, allocation of incoming cases, withdrawal and recusal of judges, and procedures in case of threats to a judge's independence; and
- **Efficiency:** length of proceedings, clearance rates, number of pending cases and results of the pilot studies (average time needed for judicial review of competition authority decisions applying EU law and to resolve EU consumer law cases).

The preparation of the Scoreboard drew on a range of sources, including [The European Commission for the Efficiency of Justice \(CEPEJ\)](#), [Eurostat](#), [World Bank](#), [World Economic Forum](#) and the European judicial networks, as well as pilot field studies.

The context for the Scoreboard is the process of ongoing reform in many Member States to render their justice systems more effective for citizens and businesses, which has also been an integral part of Economic Adjustment Programmes since 2011. The improvement of the quality, independence and efficiency of judicial systems has also been a priority since 2012 for the [European Semester](#), the EU's annual cycle of economic policy coordination, as signalled in the Annual Growth Surveys⁽⁴⁾. The Scoreboard feeds the European Semester process by providing objective data concerning the functioning of the national judicial systems. This contributes to identifying issues that deserve particular attention to ensure implementation of reforms.

This chapter explores four aspects of stronger judicial systems - quality assessment & assurance; access to justice; modernisation; and judicial training & professional development. It focuses on the following questions, and sets out ways and tools to address them.

⁽⁴⁾ Communication from the Commission, Annual Growth Survey 2015, COM(2014) 902 final.

Key questions	Ways and tools to strengthen capacity
How can the performance of the judicial system be assessed and its quality and efficiency enhanced, drawing on intelligence from inside and outside the judiciary, to meet the expectations of citizens and other users?	<ul style="list-style-type: none"> • Performance monitoring & reporting • Performance evaluation • Quality groups • Satisfaction surveys & other consultation techniques • Quality management systems
How are judiciaries maximising access to justice under civil and commercial law, including Europe-wide case law?	<ul style="list-style-type: none"> • Information for court users • Media relations • Court coordinators & case law databases • Alternative dispute resolution (arbitration & mediation)
How are justice systems being modernised , so that the judicial process is better, faster and more cost-effective, especially across the European judicial space?	<ul style="list-style-type: none"> • Process re-design • e-Justice • e-CODEX • e-SENS
How can judges, prosecutors, court administrators and other legal professionals keep up-to-date with the latest legislative developments and changes in the operating environment through training and continuing professional development ?	<ul style="list-style-type: none"> • Training needs analysis • Curricula and training plans • Training methodologies • Training tools to apply EU law • Training assessment

6.1. Assessing and enhancing performance



Before you can strengthen the quality of any system, you need to understand its performance - its strengths, stress points and bottlenecks. In seeking to drive up standards, the starting point is to find out the current position and the factors behind it, to feed this information into forward planning, and to follow changes over time (see also [topic 1.3](#)).

All Member States are now engaged in some form of performance measurement and monitoring, using indicators - and increasingly ICT - to gather and analyse information on the effectiveness of the justice system. Increasingly, this assessment is going from the quantitative into the qualitative, based on internal and external dialogue with court users to answer the questions:

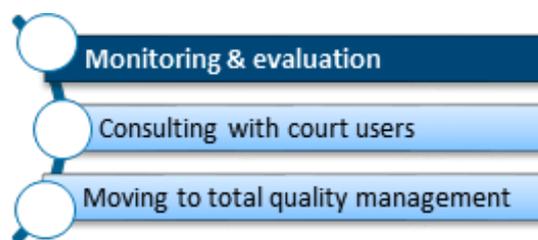
- Is the justice system performing to expectations, demonstrating efficiency and delivering quality outcomes?
- If not, what needs to change?

Raw data is important, but it needs interpretation. This has led judiciaries to employ techniques such as establishing quality groups from within the system (judges, prosecutors and court staff), to consult citizens and other court users (lawyers, notaries, expert witnesses, etc.) and to introduce quality management systems found

elsewhere in the public and private sectors, which emphasise an ongoing process of feedback, reflection and improvement.

6.1.1. Monitoring and evaluation

Member States are increasingly using performance data to assess and improve the efficiency of their justice systems. Regular **monitoring of daily court activity** is commonplace in all EU Member States, according to CEPEJ's 2014 Report on "European judicial systems: efficiency and quality of justice", which is based on 2012 survey data:



- Every Member State gathered data on the number of new cases and the number of decisions delivered.
- All but three tracked the length of proceedings.
- All but four monitored the number of postponed cases.
- Furthermore, 25 of the 28 EU Member States required their courts to prepare an annual report on activity.

For the vast majority of EU countries, this data and other information is used specifically for management purposes, by identifying **performance indicators**⁽⁵⁾ to assess the proper functioning of their courts, including some or all of the following:

- Number of incoming cases;
- Length of proceedings;
- Number of closed cases;
- Pending cases and backlogs; and
- Productivity of judges and court staff.

The efficiency of the court system can be assessed by calculating two **composite metrics** from the number of incoming, resolved and unresolved cases, namely clearance rates and disposition times.

To manage performance in real-time relies on ready access to reliable information. **Information and communication technology (ICT)** is revolutionising data collection, interrogation and dissemination (see [topic 4.4](#)). Instead of the old paper-based systems, completed by hand and posted to a central location for manual entry into a database, ICT allows each court to submit information directly and automatically, subject to statistical quality control. Data processing can be highly dynamic and flexible online, mined and manipulated to deliver analytical reports on demand (see also [topic 6.3](#) on moving to e-Justice).

"It is not only about statistical data analysis. It is also about a change of habits, work methods, and mentality of judges and other employees at the courts." Alenka Jelenc Puklavec, former Head of the Registry Department of the Supreme Court of Slovenia ⁽⁶⁾

⁽⁵⁾ CEPEJ is an authoritative expert source on performance indicators (www.coe.int/cepej). Other indicators relevant to civil law identified in the CEPEJ 2014 report that are less commonly used in justice systems across Europe, include: percentage of cases that are dealt with by a single judge (Netherlands); judicial quality and the quality of organisation of the courts (Cyprus); satisfaction of court users regarding the services delivered by the courts (Ireland, UK-Northern Ireland and UK-Scotland); costs of judicial proceedings (Slovenia); and employees' satisfaction (Ireland and UK-Scotland).

⁽⁶⁾ http://www.coe.int/t/dghl/cooperation/cepej/events/EDCJ/Cristal/2012/CSJ_presentation_GST_2210.pdf

For example, the court system in Slovenia is collecting and capturing performance information in its data warehouse, to improve planning, decision-making at all levels (including potential interventions by the Supreme Court), and human resources management. Apart from the instantaneous access to the latest data, the visualisation of key performance indicators (KPIs) through the Judicial Data Warehouse and Performance Dashboard project, part-financed by EU funds, increased transparency and secured the project a place as a finalist in the CEPEJ and European Commission “Crystal Scales of Justice Competition” in 2012. By monitoring the efficiency of court operations, the system has helped to raise productivity, and help to drive down the number of pending cases and disposition times.

Inspiring example: Judicial Data Warehouse and Presidents’ Dashboards Project (Slovenia)

The number of new cases submitted to Slovenian courts each year has almost tripled in the last 20 years. In the early 1990s, there were approximately 400 000 new cases per year. By 2011, there were more than 1.1 million. In 1994, the executive and legislative branch instituted a reform of the judiciary, which has considerably slowed down the performance of the courts. The reform significantly contributed to obstacles in judicial proceedings and to creation of judicial backlogs. Slovenia received multiple convictions at the European Court of Human Rights (ECtHR) for systemic reasons that lead to violations of the right to a trial in reasonable time under Article 6 of the European Convention. In response, Slovenia launched the so-called ‘Lukenda Project’ in 2005 (named after the ECtHR case that prompted it) with the goal of eliminating backlogs in the courts and Prosecutor’s Offices by 31 December 2010 on a national level. The Lukenda Project entailed a comprehensive package of 19 measures to improve efficiency, featuring *inter alia* simplifying legislation, standardising judicial proceedings, increasing staff levels, improving workplace conditions & remuneration, additional training of judges and prosecutors and introducing specialisation of judges, reorganisation and better management of courts. It also required:

- Complete computerisation of the courts;
- The establishment of a single statistical database for statistical monitoring of the courts’ work based on uniform criteria;
- The establishment of a coordinating body in charge of statistical monitoring of the courts’ work by the Ministry of justice, the Judicial Council and the Supreme Court; and
- Data from the single statistical database should be made available to all users: the Ministry of justice, the Judicial Council, the Supreme Court and all other courts, taking into account the legislation on protection of personal data.*

The Courts’ Act prescribes a number of reports and documents, which are to be prepared by court presidents and directors as part of their court management duties. They also carry the responsibility for the performance of their courts. Before 2008, court registers in Slovenia were managed for individual types of procedures, and not on the level of the court as a whole, and were filled manually every quarter (three months), with only basic data - new, solved and unresolved cases, and the start and end of the procedure. Data was submitted in the static form of statistical spreadsheets. Some data was collected only once a year, and delayed for even five to six months, making it less usable and transparent. The work of the courts was measured, but it did not determine causes, reasons for the situation, or improve operations.

To generate better quality and more reliable information, the Supreme Court of Slovenia developed and implemented a new approach to court management by combining business-intelligence technology with managerial know-how. Processes, technologies and tools needed to turn data into information, information into knowledge, and knowledge into plans that drive appropriate business actions. The result would be a paradigm shift from statistical reporting to strategic management

After first implementing electronic case management systems for individual judicial procedures, a data warehouse project and reporting system was initiated to allow information to be collected electronically, centrally and automatically (and hence up-to-date), to permit enquires against a range of metrics (such as disposition time, clearance rates, age of pending caseload), and to enable reports to be produced on demand and facts to be presented in a user-friendly format.

(*) For more information on the Lukenda project, see CEPEJ Studies No. 13, pp. 92-110, http://www.coe.int/t/dghl/cooperation/cepej/series/default_en.asp

Data warehousing is a process which turns raw data into potentially valuable information assets by: applying standards and consistency to the data; integrating the data; enforcing data consistency over time to provide meaningful history; organising the data into subject areas crossing business functional lines; acting as a stable and reliable source (not changing like operational systems databases); and providing easy accessibility.

The main goal of the Data Warehouse Project was to improve decision-making and productivity by: shortening the decision-making time and eliminating backlogs; gaining a better overview of the work of courts and allowing benchmarking between courts; enabling a more efficient resolution of old cases; allowing effective planning and equalisation of human resources in different courts; rationalising the costs; and removing the burdening from judges of preparing statistical analysis. Data was captured from a range of sources relating to civil, criminal, administrative and labour law, subject to ETL (extract-transform-load) and made available through the data warehouse and marts for analysis by end-users: the courts, the Supreme Court, the Judicial Council, and the Ministry of Justice.

In terms of sequencing, the Registry Department produced a prototype in 2008, started to build the data warehouse in 2009, and the business reporting system in 2010, as the logical succession. The first challenge was integration, how to get everything in one place, and get rid of unnecessary manual work. The second challenge was how to build a system that satisfies very different needs. The business reporting project must have a limited scope at the start, but meticulously specified, focused on management. Many data warehouses got stuck in ordinary reporting, limited by terribly long, prescribed lists of requirements which, at the end, had no added value. If the data warehouse and business reporting does not have the support of top leadership, it is doomed to fail, because it actually shows how the courts are operating and some might not necessarily like what they see. It ensures that legislative commitments to accountability and competence of court presidents are not only letters on a paper.

The main challenge was how to create a president-friendly, graphically-effective way to present the balance of a particular court, and at the same time, how to use this presentation to enable comparison of one court to other similar courts. In 2011, five dashboards were developed with the most important information as a data visualisation tool - the example (right) is 'judicial backlogs'. This President's Performance Dashboard Project was one of the four finalists of the CEPEJ and European Commission "Crystal Scales of Justice Competition" in 2012.

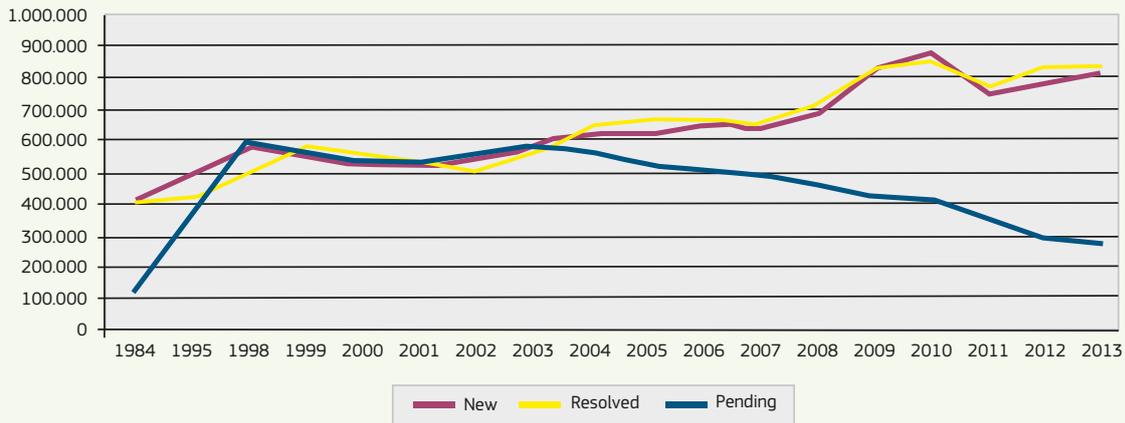
As the charts below show, the number of pending cases has been on a downward trend since 2002, despite the growing caseload, due to a range of reforms introduced since the early 2000s, including the following factors:

- The land registry, which falls under the competence of local courts, has been subject to a complete computerisation project since 2001, and has been very successful in reducing the number of unresolved cases and disposition times; the average time for solving land register cases has dropped from almost 18 months in 2001 to approximately two weeks in 2013.
- After the adoption of the Lukenda project in 2005, the number of judges has grown considerably which has contributed to the rise in the number of solved cases.
- The Registry Department of the Supreme Court introduced a new electronic way of solving enforcement cases, with the creation in 2008 of a centralised department for enforcement on the basis of authentic documents (COVL), such as bills, cheques and financial statements, which constituted the majority of unresolved cases and represented a real impediment to business operations and investments. COVL is based in the local court in Ljubljana and has succeeded in relieving other Slovenian courts of this responsibility, and accelerating the process by moving from paper to electronic formats and implementing an automated postal system. The COVL project was one of the three finalists of the CEPEJ and EU Commission Crystal Scales of Justice Competition in 2010.

Since 2000, all judicial case management systems in Slovenia have been completely centralised and have followed the ICT Strategy regarding standard system architecture. This laid the foundation for the Data Warehouse Project, which could be described as the "strawberry on the top of the cake" – unification of data from all case management systems to achieve efficient judicial and court management. In turn, the quality of data from "source" case management systems has also improved as a result of being used for judicial management and statistical reporting: a positive side effect.

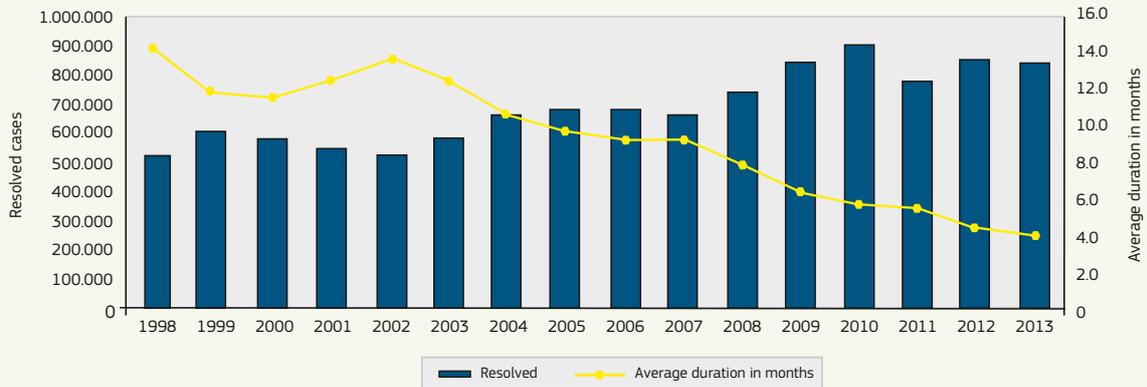
Between 2008 and 2013, the number of pending cases in Slovenia was reduced by 35%.

Movement in the number of court cases (without minor offences) – all courts 1984-2013



Similarly, over the same period, the average disposition time fell overall by almost four months - from 7.7 to 4.0 months.

Correlation of the average time for solving cases and the number of solved cases all cases without minor offences



The increase in transparency allows more accurate information to the general public and helps to improve public confidence in the judicial system.

“The results of this project are also a solid and a welcome basis for functional independence of the judiciary”, Alenka Jelenc Puklavc former Head of the Registry Department of the Supreme Court

With regard to key success factors, the leadership from the Supreme Court and some lower courts clearly articulated their needs for all levels of management. Communication and cooperation between the top leadership (regarding demands and expectations) and the technical team (regarding possible opportunities and challenges) was provided on a daily basis through different communication modes, including formal and informal meetings, meetings with core users, and brainstorming. Training is provided regularly for court management by core users.

Some very concrete strategic and management deliverables are now drawn from the system, including: “Slovene Judiciary in Europe 2020 – Strategy for the Sustainable Independent Judicial Branch of Power”, which defined a set of projects based on data warehouse information; management reports; annual plans and annual reports for individual courts. Comprehensive analyses are drafted with specific priorities and measures at the opening of the judicial year.

The President of the Supreme Court makes regular visits to get an overview of the courts’ work, and to review the distribution of human resources, levels of efficiency, the structure of unresolved cases, and the type of case solution. Since the data warehouse was established, the Supreme Court in 2013 prepared five priority areas for the Slovenian judiciary: clearing cases within prescribed timeframes; solving the oldest unresolved cases; monitoring judicial procedures; reducing the burden on judges; and levelling human resources (using information tools to assess the burden and productivity of judges and other personnel within different courts, and assign resources to avoid imbalances in relation to caseload).

The Data Warehouse and President’s Dashboards Projects have relieved judges and managers from complex administrative tasks and enabled them to focus on decision making in all 66 Slovenian courts of general and specialised competence.

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The key phrase in the Slovenian case study is ‘from statistical reporting to strategic management’. The value of performance indicators comes from their **interpretation**. Performance indicators can be used for snapshot comparisons (cross-sectional), or tracked over time to examine trends and the effects of changes (time series). Comparisons should be made with care and treated with caution, however. Headline metrics need evaluation to add meaning as they do not take account of the variety or complexity of individual cases, the legal instruments available (including simplified procedures) or wider contextual factors such as increases in criminality or a tendency to litigate, the introduction of new laws, etc. The success of the Slovenian data warehousing is part of a package of reforms (such as modernising the court system through computerisation and the introduction of COVL), which addressed the analysed shortcomings in the justice system, revealed in the early-mid 2000s as judicial backlogs.

The performance of the justice system goes beyond efficiency, of course. As highlighted in the introduction, justice is not just a case of timely judgements, but also robust ones. The experience of the Rovaniemi courts in Finland is illustrative in establishing a set of quality criteria as benchmarks for the court system, of which ‘promptness’ was only one aspect. The Quality Project set up **quality groups** to facilitate a discussion over critical performance issues within the judicial system – which can involve judges, court administrators, prosecutors and their staff – in a process of evaluation and improvement. The Quality Project won the “Crystal Scales of Justice” Award in 2005.

Inspiring example: ‘Quality Project’ in Rovaniemi courts (Finland)

In 1999, the Court of Appeal of Rovaniemi and the eight district courts within its jurisdiction launched a project for improving quality in adjudication, so that court proceedings meet the requirements of a fair trial, the decisions are well reasoned and correct, and the services of the courts are accessible, including with regard to cost. A major element of the Quality Project is the annual quality development targets, which are selected by the judges themselves and whose achievement is monitored.

Four Working Groups for Quality (WGQs) are set up each year, each of which is given the task of dealing with one of the development themes selected by the judges themselves. The WGQ maps out the problems relevant to the theme, looks into the practices adopted in the different district courts and makes proposals for the harmonisation of court practices, which are followed up by another working group, usually the following year. The membership consists of judges from each of the district courts, and members and clerks of the Court of Appeal, and may also include prosecutors, advocates, public legal aid attorneys and members of the police. The reports of the working groups are presented and discussed at the annual Quality Conference, and used to set quality objectives for the following year.

The Report on Quality, containing the reports in their final form, is distributed every year to the participants of the Quality Project, to all of the courts in Finland, and to the various stakeholder groups. Some of the quality objectives relating to civil matters concern the clarity of the application for a summons (the action) and the response, the substantive management of the case by the judge, the management of evidence, technical case management, and the drafting of reasons for the court’s findings on evidence. Progress towards the objectives is monitored in follow-up reports. The Development Committee of the Quality Project plays a steering role, with membership comprising the President of the Court of Appeal, four District Judges, two advocates and one prosecutor, and terms of three years, chaired by the Chief Judge of the largest district court in Rovaniemi. A Co-ordinator for Quality, selected from among the district judges for one year at a time, is given the task of supporting the WGQs, to implement the training, to maintain contacts with the various constituencies, and to edit the Report on Quality.

In 2003, a working group was established to look into designing a set of quality benchmarks. These were not intended as a monitoring system for individual judges, nor for the purposes of sanction, but as a tool for the constant improvement of court operations, and maintaining and developing the skills and competences through training and development, as a common frame of reference for the judiciary and the broader sphere of legal professionals. They also bring out the best practices of the judges in various situations and propagate their broader adaptation among the judiciary. The collection of benchmarking data was never intended to reveal any ‘absolute truths’ about the prevailing standard of quality in adjudication, but as an impulse for development work, internal discussions and education.

The guiding concept has been to evaluate quality primarily from the perspective of participants in court proceedings and their expectations, where justified, as well as the internal workings and workflow of the court from the viewpoint of court personnel. All benchmarking results are made anonymous and pertain to a court and not to a judge. There are many factors that shape the quality of adjudication, such as the scale and suitability of the resources available to the court (staff, premises, technical equipment), the skills and knowledge of the judges and the other court personnel, the question whether procedural rules are up to speed, the work of the attorneys and prosecutors, the organisation of adjudication in the different courts, and the management of the court. In the quality benchmarks, it has been a conscious choice to omit the adequacy of resources, the currency of the procedural rules and the work of the prosecutors and attorneys from the topics that are evaluated. Instead, the quality benchmarks consist of six aspects, which contain a total of 40 quality criteria: the process (9 criteria); the decision (7 criteria); treatment of the parties and the public (6 criteria); promptness of the proceedings (4 criteria); competence and professional skills of the judge (6 criteria); organisation and management of adjudication (8 criteria).

In the main, the quality criteria are analysed by means of a six-point scale (0-5) and a corresponding verbal assessment. There are five types of evaluation method depending on the quality benchmarks: self-evaluation; surveys; evaluation by a group of expert evaluators; statistics; and a statement by the court itself. In view of the nature of the work of the courts, it is necessary to employ a number of these methods, in order to gain a realistic and comprehensive view of the quality of the operations of the court. Self-evaluation, although largely subjective, is one of the most important methods proposed in these quality benchmarks. The other important evaluation method are surveys, either extensive (attorneys, prosecutors and parties), restricted (excluding parties as opinions may be coloured to a great extent by the outcome of the case) or designated (specific expert group comprising a judge, an attorney and a prosecutor, or in its fuller form, also a University professor and a communications and PR professional). The quality benchmarks can be applied in the evaluation of the adjudication of the courts, either in their entirety or by selecting an aspect for a separate evaluation exercise. The purpose is not to carry out any systematic annual evaluations of all courts in an appellate jurisdiction, but rather to do so at intervals of three to five years. That being said, the promptness of proceedings is a criterion that is monitored all the time in any event, which means that the relevant parts of the benchmarks should be applied every year.

The proposed benchmarks were circulated for comments to all courts, attorneys and prosecutors in Rovaniemi, as well as other Court of Appeal jurisdictions and the Ministry of Justice, prior to a pilot project in 2006-2007, in which all the courts participated, leading to the final form and ratification of the benchmarks. Most of the measurements required in the quality benchmarks were carried out with an Internet-based application, Webropol. In practice, everyone responding to a self-evaluation and quality survey was able to do so at their own workstation. Results were officially presented in the Quality Conference in November 2007. In the self-evaluation, 80% of judges assessed their own operations and court performance and found on average that the quality criteria were met well and that the overall level of achievement was good, without any major shortcomings in quality. Participation in the surveys of attorneys and prosecutors was surprisingly low at 15%, and only a few percent among parties in court proceedings who all received a questionnaire within a two-week period, with the option of completing the survey on the internet, which led to the conclusion that face-to-face interviews might be better, as had happened successfully in Sweden, for example. A full designated expert group assessed 32 judgements from all the courts within the Rovaniemi jurisdiction, and noted that the task was burdensome and it was difficult to apply a point scale (0 - 5) analysis.

The final reports of the Quality Project, which are published, promote greater consistency, as indicated by the follow-up reports, and make decision-making easier. There are also indications that the work on quality has reduced parties' propensity to appeal. The applications for a summons and the responses have improved in quality, the preparation of civil cases has also improved in other respects, the practical procedures relating to the trial have become more uniform and the management of evidence has improved. Self-evaluation by judges, and discussions among the judges and with other court staff and stakeholders, provide an impetus for them to reassess their own work and achieve personal development, without compromising the independence of the courts or the judiciary. The benefits of education and development are indeed more important than the benchmarking itself and the findings resulting from it. The Quality Project won the "Crystal Scales of Justice" Award in 2005.

The quality benchmarks are set out below:

Aspect	Quality criteria
The process	<ul style="list-style-type: none"> a) The proceedings have been open and transparent vis-à-vis the parties. b) The judge has acted independently and impartially. c) The proceedings have been organised in an expedient manner. d) Active measures have been taken to encourage parties to settle. e) The process has been managed effectively and actively (both procedurally and substantively). f) The proceedings have been arranged and carried out so that a minimum of expenses is incurred by the parties and others involved in the proceedings. g) The proceedings have been organised in a flexible manner; h) The proceedings are as open to the public as possible. i) The proceedings have been interactive.
The decision	<ul style="list-style-type: none"> a) The decision is just and lawful. b) The reasons for the decisions should convince the parties, legal professionals and legal scholars of the justness and lawfulness of the decision. c) The reasons are transparent. d) The reasons are detailed and systematic. e) The reasons of the decision are comprehensible. f) The decision should have a clear structure and be linguistically and typographically correct. g) Oral decision should be pronounced so that it can be, and is, understood.
Treatment of the parties and the public	<ul style="list-style-type: none"> a) The participants in the proceedings and the public must at all times be treated with respect to their human dignity. b) Appropriate advice is provided to the participants in the proceedings, while still maintaining the impartiality and equitability of the court. c) The advisory and other services to those coming to court begins as soon as they arrive at the venue; d) The participants in the proceedings are provided with all necessary information about the proceedings. e) The communications and public relations of the court are in order, where necessary. f) The lobby arrangements at the Court are in accordance with the particular needs of various customer groups.
Promptness of the proceedings	<ul style="list-style-type: none"> a) Cases should be dealt with within the optimum processing times established for the organisation of judicial work. b) The importance of the case to the parties and the duration of the proceedings at earlier stages have been taken into account when setting the case schedule. c) The parties also feel that the proceedings have been prompt; d) time limits that have been set or agreed are also adhered to.

Competence and professional skills of the judge	a) The judges take care of the maintenance of their skills and competence. b) The judges attend continued training sessions. c) The judges' participation in training is subject to agreement in the annual personal development talks. d) The court has specialised judges. e) The parties and the attorneys should get the impression that the judge has prepared for the case with care and understands it well. f) The judges participate regularly and actively in judges' meetings, in quality improvement conferences and also in other work of the Quality Working Groups.
Organisation and management of adjudication	a) The organisation and management of adjudication are taken care of with professionalism and they support the discharge of the judicial duties of the court. b) The assignment of new cases to the judges is methodical and carried out in a credible manner. c) The specialised competence of the judges is also utilised in the processing of cases. d) Adjudication has been organised so that the use of reinforced compositions is de facto possible. e) Personal development talks are held with every judge, every year. f) The court should have a methodical system for the active monitoring of case progress and for taking measures to speed up delayed cases. g) The security of the participants in the proceedings and of the court personnel is guaranteed. h) The responsibility of the management of the court for the judges and other staff not being overloaded with work.

Note: Each of the quality criteria have been described in more detail by listing some of their most salient characteristics. This listing is not exhaustive

In recent years, the focus has been on criminal proceedings (2012) and civil proceedings (2013). Each court has held monthly meetings over a one year period in which judges, prosecutors and advocates have been going through the whole area. For each review, every court produced a report, which were then put together in one consolidated report, in order to harmonise our proceedings in the appellate jurisdiction. In addition, the courts implemented a full-scale Quality Benchmark evaluation in autumn 2013. A report of the evaluation is on the agenda of the next Quality Conference on November 2014.

Source: Määtä J (2008), "Quality Work and Quality Benchmarks in Finnish Courts", taken from "Quality Development in the Field of Justice", EIPA. For further, more detailed information: http://www.oikeus.fi/hovioikeudet/rovaniemhoviaikeus/fi/index/laatuhankkeet-qualityproject_0/laatumittaristo.html

6.1.2. Consulting with court users



As a public service, the judiciary is ultimately **accountable to the citizenry**. In the words of the European Court of Human Rights (ECtHR), "*public confidence in the judicial system ... is clearly one of the essential components of a State based on the rule of law*". Among the factors identified by ECtHR that might undermine this crucial confidence are "*the persistence of conflicting judgments [which] can create a state of legal uncertainty*", "*the administration of justice in secret with no public scrutiny*", "*actual bias [or] any appearance of partiality*" and failure to incorporate safeguards of the independence and impartiality of the judiciary "*into everyday administrative attitudes and practices*"⁽⁷⁾.

Once the public loses faith in the judicial system, due to inconsistent decision-making (whether actual or perceived) or perceived corruption (especially systemic), it is hard to rebuild that trust. Increasingly, European judiciaries recognise the value of

(7) ECHR (2013), "Guide on Article 6 – right to a fair trial (civil limb)", www.echr.coe.int

dialogue in maintaining a consensus that justice is being delivered and is seen to be done. If legitimate concerns materialise, then remedial action can be taken in time. This requires courts to become outward-looking and to view the carriage of justice as a service to the public. This raises three questions:

- What do users expect from the justice system?
- What standards of service delivery should courts be setting?
- Does the service match those expectations and standards?

Across the EU and beyond, **satisfaction surveys** are increasingly commonplace - not with the outcome of judgements, of course, but with the system and the process (before, during and after). The CEPEJ 2014 study finds that 12 EU Member States conduct regular surveys and 11 Member States occasional surveys at the national level, while at the court level, there are nine Member States conducting regular surveys and 13 occasional surveys. CEPEJ has produced a [model survey and methodological guidance](#).

Such surveys can cover a wide range of court users, either directly or indirectly involved in the court proceedings often on a **targeted** basis: judges, court staff, public prosecutors, lawyers, parties, witnesses, jury members, relatives, interpreters, experts, representatives of government agencies, etc.

Usually starting with anonymised information to establish the respondent's role in the proceedings (including if plaintiff or defendant, whether the judgment found in their favour), examples of questions for **direct court users** might include:

Potential survey questions for direct court users

- How accessible was the court (access, signage, waiting conditions)?
- Were the proceedings clear?
- How satisfied were you with information on the court system and/or your rights?
- How quickly was the case dealt with (time lapse between summons and hearings, punctuality of proceedings, delivery of decision, etc.)?
- What was your experience of the judge, prosecutors and non-judicial court staff (attitudes, politeness, competence)?
- Whatever the outcome, was the court process impartial?
- Was the judgment and reasoning well-communicated?
- To what extent do you trust the justice system?
- Were you informed about how the judgment rendered will be enforced?

Some judiciaries are selecting from the much **wider menu of measures** employed by public administrations to assess the effectiveness, efficiency and user-centricity of their service delivery (see [topic 4.1](#)):

- User groups and panels;
- Mystery shopping;
- Comments and complaints procedures.

This is well illustrated by the Courts Service of Ireland (below), which has devised a Customer Service Strategy that combines complementary techniques to get a rounded picture of the user experience within the overall framework of guiding principles and transparent service standards.

Inspiring example: Implementing and evaluating service delivery in the courts (Ireland)

In 1998, the responsibility for court administration in Ireland was transferred from the Ministry of Justice to an independent agency, the Courts Service, with a statutory mandate to: manage the courts; provide support services for the judges; provide information on the courts system to the public; provide, manage and maintain court buildings; and provide facilities for users of the courts.

This represented: *“a fundamental shift in the ‘philosophy’ of the courts system, requiring it to take account of the concepts of quality, service and competitiveness more associated heretofore with the private sector... there can be no doubt of a move from ‘court system’ to ‘court service’”* - Byrne and McCutcheon, “The Irish legal System” (4th Ed., Butterworths, page 156).

As part of its Quality Customer Service (QCS) initiative, in 2000 the Irish Government established the **12 Guiding Principles for Quality Customer Service** to inform the customer service strategies of all public service organisations. These cover: quality service standards; equality/diversity; physical access; information; timeliness and courtesy; appeals; consultation and evaluation; choice; equality of access to services through both official languages (Irish and English); better co-ordination; recognition of the internal customer and comments/complaints procedures.

The **Courts Service’s Customer Service Strategy** rests on four main elements: the Customer Charter; the Customer Action Plan; court user groups; and feedback on service delivery using various techniques, viz. information from comment cards, court user and “internal customer” surveys, mystery shopping, and individual customer comments / formal complaints to the Quality Customer Service Officer.

The **Customer Charter** is a statement of the standards of service court users can expect from us, displayed in all court buildings and on our website. The Charter covers:

- Ethics and professionalism;
- Courtesy;
- Equality and diversity;
- Standards for visits to our offices;
- Responses to correspondence;
- Responses to telephone calls and messaging;
- Access to information;
- Service through the Irish language;
- Physical access;
- Complaints

Public service organisations are required to formulate **Customer Service Action Plans** to achieve progressive improvement in standards of service delivery and address development of improved customer service standards in their Strategy Statements and annual Business Plans. The Courts Service’s most recent Customer Action Plan contained a range of commitments, e.g. on providing consultation rooms for litigants in all court venues, increasing the number of court forms available on-line, and extending the range of information available in languages other than English.

Court user groups are a formal channel for feedback on customer service from regular court users, and a forum to obtain views of court user community on proposed changes e.g. new methods of service delivery and rationalisation of services. Membership of these groups comprises practitioners and other court/court office users, namely: legal practitioner professional bodies (solicitors, barristers, Family Lawyers’ Association etc.), prosecution, police, Prison Service, Probation and Welfare Service, Legal Aid Board, law agencies, victim support organisations, and advocacy groups (e.g. Women’s Aid). National user groups are based in Dublin and meet at least three times annually, namely: Criminal and Civil Cross-jurisdiction User Groups; Circuit Criminal Court and Central Criminal Court User Groups; Family Law Court User Group for the Circuit & High Courts; Dublin District Court User Groups (Children, Family, Criminal and Traffic Courts); Insolvency User Group; and Probate Office Group. Regional and local users groups have been formed in the 25 counties outside Dublin, and generally meet at least once annually and for specific local projects. The feedback from these user groups has been used to support specific improvements

in customer service, e.g. in: formulating the business case to develop online access to High Court case tracking system; promoting the introduction of postal and drop-box document filing; advising on comprehensive application forms for grants of probate; and obtaining staff agreement to increasing public office opening times for Supreme and High Court Offices.

Feedback on service delivery was initially sought through ‘**comments cards**’, made available at all court offices and juror assembly areas, and which have been most useful in identifying *individual* service failure incidents. For this reason, however, they don’t provide a representative picture of the *total* customer service experience.

Hence, a series of periodic **surveys** of court users and “internal customers” (staff, judges) has been conducted by the Courts Service since 2004. The first on-line survey was conducted in 2010, including free-text input. The most recent On-line Customer Service Satisfaction Survey 2012 was directed at the legal profession, visitors to court offices, court user group members and court staff. The survey was made available through a link on the Courts Service’s website for one month and publicised in advance by posters in offices, canvassing of legal professional bodies and user groups, article in Courts Service Newsletter etc. For court users, it sought ratings of service and facilities on a scale from 5 (highest level of satisfaction) to 1 (lowest) on:

- Court office opening hours;
- Facilities for paying court fees;
- Standards of service using different service channels;
- Time taken to obtain court orders after court decision;
- Whether published court calendar, website and on-line court forms met customer needs;
- Standards of facilities in courts and court buildings

The response rate in 2012 was much lower than the previous on-line survey (151 responses compared to 569 in 2010) but more than 80% were from external users. The findings were as follows:

- 82.7% of practitioners and 50% of other visitors responding to survey were satisfied with service on visit to court offices.
- 96% of practitioners and 85% of other court users were satisfied with service by post /document exchange.
- Most respondents were satisfied with: speed of issue of courts orders; the Courts Service’s “on-line” information (court calendar, forms, judgments database, and case search facility); facilities in court buildings; and the court user groups.
- Suggestions for improvement included: improved search facilities for material on the website; use of credit/debit card for payment of court fees; and reduction of the number of court forms prescribed by court rules.

As a result, several actions were instigated: staff rosters were revised; resourcing of public counters was prioritised; and in 2014 the number of civil court forms was significantly reduced.

“**Mystery shopping**” involves independent researchers pretending to be customers and visiting offices to experience and evaluate the quality of service delivered to them against pre-set criteria. In the exercise conducted for the Courts Service, mystery shopping visits were conducted among a range of court offices and buildings selected by researchers without advance notice. The purpose of the research was to evaluate both the environmental surroundings of the offices and the actual interaction that took place between the mystery shoppers and staff members. 100 “shops” were conducted in all, with 70 face-to face (that is, actually dealing with staff at offices), 15 by telephone and 15 by e-mail. The sample was constructed so as to allow the Courts Service to examine both larger and smaller offices, and provincial and Dublin-based offices. Researchers reported back on 26 items/questions covering:

- Ease of finding the building and the office;
- Information available on entering the office;
- Cleanliness of the facility;
- Information, notices and leaflets available in office;

- Number of staff available and personal service provided by staff;
- Listening ability of the staff member providing the service;
- Knowledge of the staff member providing the service;
- Speed of answering of telephone/e-mail inquiry;
- Accuracy of information provided in telephone/e-mail response.

In addition, persons wishing to make a **comment or formal complaint** regarding the service provided may write to / e-mail the Quality Customer Service (QCS) Officer. Persons with writing/literacy difficulties may make an oral complaint. The number and admissibility of complaints is reported annually by Courts Service in its Annual Report (19 complaints were received in 2013, of which four were deemed inadmissible). A dissatisfied complainant may have his or her complaint referred to the Chief Executive Officer of the Courts Service. Complaints regarding judicial / quasi-judicial decisions can only be addressed through the appropriate legal channels (i.e. by seeking formal review / appeal of the decision in the courts). Some conclusions may be drawn from the Courts Service’s experience in implementing customer service strategy.

Customer opinion research is only effective if it is part of a comprehensive customer service strategy and framework. When engaging with the court user, use should be made of the full range of “listening strategies”, of which customer satisfaction surveys (CSSs) are just one element.

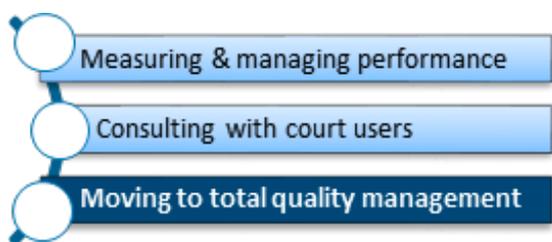
When choosing which customer feedback measure to use, it is important to be aware of the advantages and drawbacks of individual techniques. Self-administered CSSs are relatively inexpensive and less intrusive for respondents. However, the response rate they generate tends to be low and they may therefore not accurately reflect the average customer experience. Interviewer-assisted CSSs usually will generate a higher response rate and are therefore likely to be more representative. However, they are more expensive to administer and may be viewed by some customers as intrusive. “Mystery Shopping” enables a targeted and consistent evaluation of service between court offices, but its objectivity and effectiveness will depend on careful choice of the customer service measures used, and as it relies on external specialists it can be expensive to conduct.

Customer opinion research should be continuous, be reviewed and actioned as soon as practicable after results evaluated, and should inform the organisation’s policies, business plans, and business process design.

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As the example of Ireland demonstrates, there is also scope for judiciaries to sign up to pre-defined standards through ‘customer service charters’ (see [topic 4.5](#) for further information).

6.1.3. Moving to total quality management



Quality criteria, internal dialogue through quality groups, and external consultation on service performance are all building blocks for total quality management (TQM) within organisations (see [topic 3.4](#)). In common with many public administrations throughout Europe, EU judiciaries are turning to quality management systems (QMSs) to strengthen their service delivery and resource management.

As an example, the courts system of Lithuania (below) has drawn on several QMS models, including ISO 9001 (the international standard popular in both the private and public sectors), the Common Assessment Framework and the Customer Service Standard. The goal is not just to improve the quality of the work and services provided by the judicial system and the National Courts Administration, but also to enhance public trust in these institutions (except judicial activity while administering justice, which is solely in accordance with the law).

Inspiring example: Implementing and evaluating quality service delivery in courts (Lithuania)

The Lithuanian Government adopted its methodology for strategic planning on 6 June 2002 (No 827), according to which every budgetary institution has to have its strategic plan, including the courts, which was also approved by the Judicial Council. The goal is to execute justice and ensure the protection of constitutional values, as demonstrated by the increase of public trust in courts (measured annually on a percentage basis). The objective is to ensure the quality and effectiveness of the judicial activity, measured by service quality indicators on an annual basis.

Good practice was drawn from a range of sources: CEPEJ's reports, questionnaire on customer services, ENCJ's reports, practices and models; and *ad hoc* examples from special projects and private experience.

The implementation and maintenance of quality management models in Lithuanian courts and the National Courts Administration (NCA) was derived from the interaction of Quality Management Systems (QMS) which are certificated in accordance with international standard ISO 9001:2008, the application of the Common Assessment Framework (CAF) and the Customer Service Standard (CSS). Both the *ex ante* assessment and the *ex-post* evaluation under the quality management methodologies were conducted through a combination of surveys (QMS, CAF, CSS, national, institutional) and monitoring (QMS, CAF, CSS).

The QMS is based on five interlocking factors:

- There is a clear organisational structure.
- The rights and duties of the employees are clearly determined.
- The described activity processes of the organisation are manageable.
- The resources are used rationally.
- The means to analyse and manage problems and discrepancies that occur are determined in the organisation.

The CAF progresses through four stages: identify current status; determine, clarify and structure the processes within the organisation; increase the quality of process; and increase the quality of service. CSS defines clear customer service policy in courts and NCA. Evaluation is necessary to ensure the quality of the judiciary, customer service, and trust in the courts.

In 2010, the process of implementation of quality management systems, according standard ISO 9001:2008, commenced in five courts of different size and competence (Kaunas and Panevezys regional courts, Kaunas regional administrative court, and Panevezys and Pasvalys district courts) and was completed in 2011. After the international audits of the certification body in 2012, all five courts achieved certificates which demonstrated that the QMS satisfies requirements of international standard ISO 9001:2008 it means: the service for customer provided and organizational activity were managed and improved, training of courts personnel on quality was performed. In 2014, three more courts will join the group (the Supreme Court of Lithuania, the Supreme administrative court and Klaipeda city district court). QMS implementation is done and certification was achieved in October 2014. There is also an internal quality audit group, with representatives of courts & the NCA. Between 2012 and mid-2014, the group had performed 18 audits.

In 2013, CAF began to be implemented in the Supreme Court of Lithuania and NCA, to be completed at the end of 2014. At the same time, CSS is implemented in the eight courts and NCA. Below one may find an example of situation in courts before the implementation of CSS. The eight courts and the NCA performed a 'mystery customer' survey – it was the first step of CSS implementation. Based on the average scores out of five, the general level of customer service in courts was found to be high, whether provided directly or by telephone, and whether the criteria were objective or subjective.



For face-to-face services, the average score was consistently above four against all criteria: environment of service, place of service, working hours, employee's appearance, attention and respect, ensuring confidentiality, greeting / start of conversation, clearing up a requirement, satisfaction of a requirement, farewell / end of a conversation, and subjective evaluation of the service. For telephone services, the average score was above four for waiting time and attention & respect, and above three for greeting / start of conversation, clearing up a requirement, satisfaction of a requirement, farewell / end of a conversation, and subjective evaluation of the service. The recommendations fall into three categories.

- Continue enhancing service quality: present the survey to courts and discuss the results; implement the CSS in courts; implement the customer service monitoring system in courts and periodically carry out the external (mystery customer survey) and internal customer service monitoring;
- Training programme: draft the special training programme "providing service directly and via phone"; and train court personnel paying attention to clarifying inquiry and information providing skills;
- After CSS implementation: constantly remind all personnel to act according to the standard requirements.

After the CSS is implemented, the quality of service in court shall be measured periodically.

It should be noticed that surveys on the trust in courts and evidencing their quality are performed not only by the courts or NCA. National surveys ("Vilmorus", "Baltijos tyrimai") are carried out periodically (annually or monthly), and courts are evaluated among other institutions, e.g. parliament, prosecutors, police, church, etc. Institutional surveys (courts and the NCA) are also performed periodically (e.g. annually), due to projects or on an *ad hoc* basis. Under the QMS, CAF, institutional surveys are conducted every year (2012 and 2013 to date) and cover service quality in courts, while such surveys on the CSS are carried out every half year after its implementation, the first being in 2013 (presented before). Ad hoc / periodical surveys have also been performed by Vilnius University (2012), and the Ministry of Interior in 2013 and 2014).

The national Vilmorus survey found that trust in the courts among the general public has improved from 17% (2012) to 19% (2013) and currently stands at 20.9% (2014). The results of institutional surveys, which test the views of citizens who come into direct contact with the court system, show a better starting point in the annual survey by the Ministry of Interior and NCA, and a more dramatic recent rise in trust levels from 25% (2011) to 26% (2012) to 51% (2013). The discrepancies between different surveys can be explained in part by the nature of the questions asked (general v. detailed, short list v. long list), the questioning itself (fast v. comprehensive, personal v. phone-based), and the persons interviewed (mass surveys v. more selective, court user v. never been).

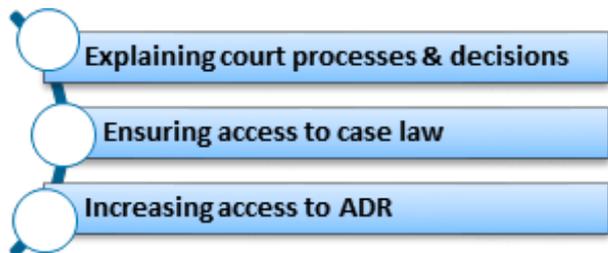
Upcoming surveys are planned by Vilnius University (a more comprehensive survey, aiming at wider population, which is currently in process), the Ministry of Interior (a survey on judicial self-esteem and possibilities to improve

it), and the Norwegian financial mechanism programme “Efficiency quality and transparency in Lithuanian courts” (strengthening the competence of representatives of judicial system, including judges, court staff and representatives of NCA through training). The aim is to improve the quality of the work of the NCA and enhance public trust in the judicial system through awareness of the current situation, possibility of measuring quantitative indicators, and evaluation of the qualitative change of the situation. Surveys will be carried out twice – at the beginning of the project (2014) and towards the end of the project (2016), when the majority of the project activities have been implemented. The survey objectives are: analysis and evaluation of the qualitative level of services provided in courts and NCA; elements that cause satisfaction or dissatisfaction of services provided and the importance of such elements; analysis of expectations for services; and conclusions and recommendations on possible aspects to help to achieve higher satisfaction levels on service quality.

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6.2. Improving access to justice

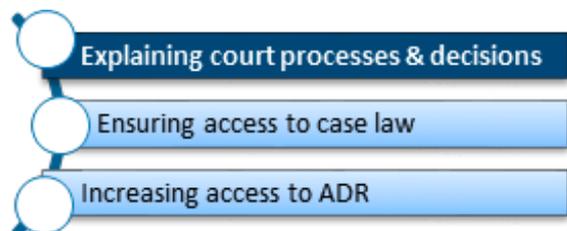
Access to an effective justice system is a fundamental human right under the EU Charter of Fundamental Rights and the ECHR, as well as the foundation of a functioning democracy and prospering economy. This accessibility is put at risk when court proceedings are too intimidating, too hard to understand, too expensive, or too time-consuming. It is undermined when the legal representatives of citizens and businesses are not able to get full and easy access to case law which allows them to perform as advocates. Good practice dictates that judiciaries search for ways to explain court processes and judgments in plain language, to inform lawyers on legal precedents, and to promote alternatives to court which are potentially faster, cheaper and more conciliatory in the service of justice.



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6.2.1. Explaining court processes and decisions

Courts are looking to move beyond just listening to the concerns of parties to the justice system (see [topic 6.1.2](#)), and are becoming more pro-active in developing and delivering communication policies with a mission to inform, explain and educate. Such policies concern relations with the public, the media and those involved directly in court proceedings, which was the subject of an [Opinion on Justice and Society](#), published by the Consultative Council of European Judges in 2005.



The quality of judgements is affected by a range of factors, not least the willing participation of citizens, who can find the judicial process to be a daunting prospect. An example of reaching out to the public to make justice more accessible is the User Services Office (USO) in Warsaw, which is also accompanied by a files reading room.

Inspiring example: User Services Office (Poland)

The User Services Office (USO) in the Regional Court of Warsaw was established by ordinance of the Court President. A files reading room was also created. The reading room is dedicated to parties to the trial and any other authorised persons or entities (it is possible to order case files in person, via telephone or e-mail). USO employees give extensive and appropriate information concerning court ongoing trials and other tasks and activities of the court. USO staff have broad professional knowledge concerning the particular characteristics of each court section, and know well the computer programmes at use. There is a standard reception service, which has rules on minimum time for answering phone calls and response time for e-mail and letters, and information on persons waiting. USO employees are identified and have uniforms to indicate their professional duty. Given the court environment can be intimidating, the staff is trained in stress management and assertiveness, communication and cooperation skills.

Satisfaction surveys, as well as the national audit exercise concerning USO, were conducted in the first half of 2014. Up to this time, USO has provided services for nearly 55 000 people (exact number is 54 682), 98% of which expressed that they are satisfied with the service. Experiences from the Regional Court of Warsaw, and other courts in Poland in which the USO is functional, have led to developing standards for the USO service in Poland. The Minister of Justice accepted the document and it will be the subject of implementation in 2015. Moreover on the basis of satisfaction surveys conducted in more than 80% of all courts in 2014, the Ministry of Justice prepared a standard survey which allows the opportunity to benchmark the perception of USOs nationwide.

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Increasingly, countries are finding ways to provide information to citizens on judicial proceedings in advance, with respect to relevant laws, the court process and legal procedures, including expected timeframes. The first step is to provide ready access to laws, procedures, forms and documents. As CEPEJ reports, all Member States have [websites](#) as reference points, with national legal texts, case law of higher courts, and enable users to download forms, free of charge. For example, the justice portal of Estonia supports the communication strategy of Estonian courts of being open, personal, and helping people to defend their rights.

Inspiring example: Justice portal (Estonia)

www.kohus.ee is the website for Estonian first and second instance courts, comprising the primary information about Estonia's court system, how to have recourse to the court, court proceedings and links to the different databases. The main target groups are people who want to have recourse to the court or are parties to a proceeding, lawyers, court officers, students, law-students and people who are searching for information about courts. After renewal in 2013, the portal has a new design complying with the brand design of Estonian courts, a more logical structure and more information about different court proceedings. Users can find all needed electronic standard formats of documents and a calculator for the state fee in civil proceedings. The information is in logical order helping the user through the process. For example: having recourse to the court > state fees > legal assistance > formalisation of documents > judicial proceedings > court decision. Users can easily find the information they search (including searching for court officers). The website has many links to different databases and other sites, where users can find more relevant information. The website also has also a link to the YouTube teaching video about civil proceedings. The website has one main administrator, but web administrators are in every court. Web administrators develop the website further and change the information with the main administrator. User feedback is crucial in this process.

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The experience of the Court of Appeal in Western Sweden shows the value of internal and external dialogue (described in [topic 6.2.1](#)) to improve information to court users, to help them to navigate the courts and understand better the court proceedings and the roles of its main actors.

Inspiring example: Dialogue to improve court performance in Western Sweden

The experience of the Court of Appeal of Western Sweden is that a critical factor in improving the functioning of the court is to have a broad dialogue between professionals on questions such as “what is working well” and “what needs to be improved”. Employing 110 staff and handling around 4000 cases a year, the Court embarked on an internal dialogue in autumn 2003 between the court leader and judges and other staff, leading to the first quality measures being implemented in early 2004.

More than half of the 36 **judges and other court staff** were interviewed individually by one of the junior judges, who had been briefly trained in interviewing technique. The result of the interviews was overwhelming: a wide range of proposals were given for goals to strive for, as well as practical ideas to reach them. After the interviews the president (court leader) decided that all judges and other staff should work in mixed groups of six to eight people (both judges and other staff) to discuss the results and agree on proposals for measures to try out in order to increase the courts performance. The president decided quickly to implement as many of the measures as possible, in order to encourage the court staff to engage in their delivery and to come up with further proposals. An action plan was put on the internet. Examples of actions taken included:

- Delegating tasks concerning the preparation of cases to secretaries of the court, who received education in these matters, setting up routines for handling these tasks and appointing a judge in each department responsible for answering questions from secretaries;
- Regular meetings every week for all staff within each department to discuss problems encountered in the work during the previous week and plans for the coming week;
- Better introduction for new judges and staff at the court;
- Systematic feedback from older judges to judges in training;
- Producing written examples of how sentences in criminal cases can be formulated for new judges.

At the end of the year, all judges and other court staff took part in an evaluation of the implemented measures and a discussion, which led to proposals for the following year. The weekly departmental meetings were considered the most successful, as an opportunity for judges and staff to learn more about each other’s work and generate new ideas on how to make the work more efficient. The task delegation to secretaries was estimated to save as much as an hour and a half each week for judges. The systematic feedback to younger judges was not as successful, as the older judges found it hard to give specific and constructive feedback.

During 2005, the dialogue was extended to external interested parties. Representatives of **lawyers and prosecutors** were invited to give their view of the functioning of the court of appeal and staff where there to listen to them. Mixed working groups were then formed to discuss the external views and to propose measures for improvement for the president to decide. For example, the lawyers believed that civil cases took too long to conclude and that the routines for handling these cases could become more efficient, which was agreed by a group of judges from the five departments of the court, proposed to the president, and implemented in all departments. Other examples were better service through the switchboard of the court, and better information and treatment of people called to court. At the end of the second year, prosecutors and lawyers were invited to a new meeting to evaluate measures taken. They gave very positive feedback regarding the improvements and the dialogue itself.

In 2006, this external dialogue went a step further to **users of the court**, based on suggestions from the administrative staff that users should be interviewed as to whether they had received enough information before coming to court proceedings, and on how they felt they were treated by judges and other staff at the court. It was decided to interview parties and witnesses, rather than sending out questionnaires, as experience has shown that the response rates for the latter tended to be very low. The interviews were held by two employees of the court (an administrative staff member and a judge), which gave them a direct insight, compared with using external contractors. Over a period of two weeks, 67 people were interviewed using a qualitative method where follow up questions could be asked and new ideas to improve information and treatment could be tested. The results of the interviews were reported back to all judges and other staff of the court, who were invited to discuss them in mixed working groups and come up with proposal for improvement. Examples of measures that was implemented to give the users better information are:

- Production of a paper with answers to **frequently asked questions** to be sent out together with a summons, such as: how to get to the Court of Appeal (a map showing the location of the court and how to get there), why they have to come to court and a direct telephone number to call if they want special care or protection by the court staff while waiting for the trial;

- Production of an **information leaflet** that tells them what happens during a court proceeding in both civil and criminal cases, handed out in the waiting room of the court;
- Photographs of **the interior of court rooms** outside the courtrooms in order for parties not used to coming to court to prepare for where they and others are going to sit during the trial;
- **Signs** in front of judges, laymen and secretaries of the court in the courtroom, pointing out who is who;
- Better and quicker information about **delays in court proceedings** for people waiting outside the courtrooms.

To improve the treatment of parties and witnesses, discussions were held among judges on how to treat people during court proceedings. Other employees discussed the treatment and service to people who call the court prior to the proceedings or come to the reception of the court. The president decided to check the results of the measures taken by new interviews with users at the end of 2008. Further measures were then taken to improve the quality of information to users, in order for them to better understand court proceedings and thus get a better possibility to voice their opinion during the proceedings.

During the first year of the work of improving the handling of civil cases, the time for handling and passing sentences in civil cases was cut from an average of 9.0 months in 2005 to an average of 7.7 months in 2006. The Court of Appeal of Western Sweden thus took the lead among the six courts of appeals in Sweden when it came to short turn-around times for civil cases. An even clearer improvement was seen in the measuring of job satisfaction. Judges and staff found that the possibility to influence their work had doubled during the first two years of internal dialogue. Answers from lawyers and prosecutors as well as parties and witnesses in qualitative interviews showed a significantly improved satisfaction with information and treatment during the first years after new measures had been implemented.

Since the start of the work in the Court of Appeal of Western Sweden in 2003, other Swedish courts have been inspired to use dialogue as a way to improve their courts. Ten courts have followed and developed the method of internal and external dialogue in order to improve their courts locally in different areas from increased efficiency to increased professional quality and treatment of parties and witnesses.

Even more courts have used the external dialogue as a method to find measures to improve information to and treatment of court users. A survey showed that, at the end of 2013, over two-thirds of the local courts had had meetings with lawyers and prosecutors to listen to them and their views of treatment and information of parties and witnesses. They had also interviewed users directly about how they perceived information and treatment from the courts. The external views have been discussed by judges and staff and they have suggested and implemented measures to improve information and treatment of parties and witnesses locally.

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One aspect of better communication is the court's relationship with the media as the conduit for connecting with the public, which is illustrated by the media relations in the courts of Baden-Württemberg, which see the rights of the press and other media to access information as a cornerstone of the judiciary's democratic accountability.

Inspiring example: Communication from the courts of Baden-Württemberg (Germany)

As early as 1975, the Government of Baden-Württemberg decided to introduce press spokespersons into all administrative bodies. In the case of the courts, the spokespersons are judges who have been provided with additional training. In 1988, directions were published on their role across the administration, stating that the spokespersons should not confine themselves to the position of contact person for the media, but also play an active role in the public relations. The decisions of the court are pronounced in the name of the people, and hence communicating with the press and public is important for democracy and strengthening to confidence in the functioning of the judiciary. In the case of individual cases, authority to deal with the media rests with the president of a court or the spokesperson, not the judge in charge of the trial.

The Basic Law (German Constitution), article 5, paragraph 1 guarantees the existence of a free and independent press and broadcast media, and reporting without censorship, but also the obligation of the authorities to give information to the media. This freedom is put in concrete terms by several other provisions, for example in the press and broadcast codes of the Länder and by the judiciary. The **freedom of the press and broadcast media** also includes the assessment of the importance to inform the public, meaning discretion as to whether informa-

tion is worth publishing resides with the press and broadcast media, not with the authorities. Every interference with this right has to be justified, which would include:

- Negative effects on pending judicial inquiries;
- Opposing secrecy requirements e.g. state secrets;
- Opposing private interests worth being protected; or
- If the inquiry leads to unacceptable effort for the court (only to be used in exceptional circumstances).

It is no justification for any public authority to withhold information from the media just because it has been criticized in former publications.

‘Opposing private interests’ is the most frequent reason to withhold information. Naturally there is no conflict between the freedom of the media and **the interests of an individual person** (whether defendant, relative, witness, etc.), if the person concerned has consented to the disclosure of the information. Another way of avoiding the potential conflict is to disclose the information without any reference to the person concerned, meaning that it is not possible to identify the individual from the press release. In this context, it may not be sufficient to exclude only the name. Difficulties arise if the disclosure of information cannot be made without any reference to the concerned person and is therefore interfering with his or her rights. The conflicting interests must be balanced.

The press spokesman has to **decide if and how information has to be given**. It is up to the spokesperson’s discretion whether information is given in writing or orally. There is no enforceable right to get a direct quote from the press spokesman for a broadcast. It is important that the person that it is concerned by the disclosed information is informed in advance, and that the principles of genuine truth and objectiveness are applied. If the person concerned belongs to a minority, this is not referenced to avoid abetting to stereotypes.

Entitlement to information does not generally include an entitlement to gain complete access to judicial files or specific documents. There is however a **right of access to the decisions of a court** without personal data. The Federal Administrative Court has held that all court decisions must be made accessible to the public, if there is or may be a public interest in the publication. The court derived this from the principles of the rule of law (including the right to have recourse to a court) and of democracy. It stated that court decisions put the law in concrete terms and therefore the publication of decisions is of comparable practical importance to citizens, as the publications of the law. In this respect the media must be treated equally, meaning that the information is sent to the various publishing houses at the same time. It is not allowed to distinguish between the different medias, meaning for example that all newspapers have the same rights.

In addition, **journalists can attend court hearings**. Court hearings basically are open to the public (with a few exceptions), and as such, open to the journalists as well. There are restrictions for television cameras and taping devices, which are allowed only until the hearing begins, but also an ongoing debate regarding whether these restrictions should be relaxed. The only exception to this rule is the Federal Constitutional Court; television cameras are allowed in the courtroom until the court has taken the names of the parties and counsels present and later on when the judgment is pronounced. In case of insufficient space in the courtroom, a “pool solution” is applied. This involves a certain number of journalists and two TV camera teams being admitted to the court room, with the obligation to share their documentary material with all the other televisions broadcasters and papers afterwards free of charge.

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http://www.coe.int/t/dghl/cooperation/ccje/textes/Travaux7_en.asp

The experience of Baden-Württemberg is by no means unique. In Poland, the District Court in Białystok established a Press Office back in 2009, and has found that the benefits for the judges and journalists work in both directions: communicating more effectively with the media and at the same, facilitating a better understanding of court functions.

Inspiring example: Court communication with the media and public (Poland)

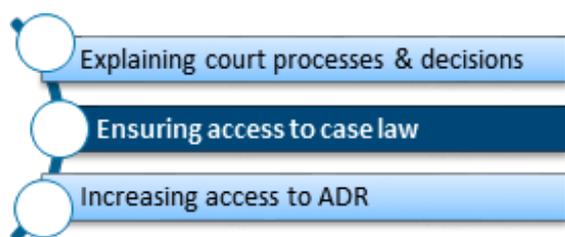
In order to ensure full access to media and information for the public including journalist reporting court trials, the District Court in Białystok established a Press Office in April 2009, led by a Press Office Coordinator. Initially the Press Office activity was limited to elaborating the best methods of communicating with the media through electronic sharing of information about ongoing trials, including those of special public and media interest, as well as dealing with information requests needed for court trials press coverage. Later actions included training sessions given by local journalists to the judges and administrative staff on basic media communication skills. Thanks to these meetings, the journalists also received additional knowledge on the functioning of the courts. In order to build up the court's image, it is important to stress that all persons in key positions, such as the court president and judges, must be motivated and dedicated, in order to deliver the information required by the media.

The project started in the Białystok District Court was an inspiration to start a nationwide debate on the various aspects of building public trust in courts. The Ministry of Justice conducted a series of workshops in the Appellate Courts, where Court Presidents and Spokespersons (in Poland only a Judge can be a spokesperson) agreed that there is a certain lack of knowledge in communication between courts and media. This led to establishing a working group (consisting of journalist, judges and management experts), which is currently preparing the *Standards for Court Communication with Media*. The document will become operational by the first half of 2015.

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Similarly, there should be a drive to explain judgements in more user-friendly language, to ensure that judicial decisions are well understood by all parties.

6.2.2. Ensuring access to case law



Justice is better served when legal representatives have all necessary information to present their cases fully and represent their clients' interests fairly, and judges are fully informed on relevant case law at the European level before making pronouncements. EU case law is transforming national law in the fields of administrative, labour, civil and commercial law.

Several Member States have introduced systems to collect and disseminate EU case law around their national court systems. The pioneer in this regard was the Netherlands' Eurinfra model, which was launched in the early 2000s. Others have followed the Dutch lead by establishing their own network of court coordinators to act as key reference points on EU Law (Belgium, Bulgaria, Czech Republic, Denmark, Italy, Romania and Spain). In many cases, like the Dutch example, this network is complemented by European judicial training (see [topic 6.4](#)) and/or underpinned by databases and dissemination of information.

Inspiring example: Eurinfra (The Netherlands)

It was in 1999 that Judge A.W.H. Meij at the Court of first instance at the European Court of Justice (ECJ) voiced his concern to a journalist about the Dutch judiciary's limited knowledge of European law, which led to questions in the Dutch Lower House, and the Minister of Justice was asked to respond. The steps the Minister subsequently formulated and the resources made available ultimately led to the launch of the Eurinfra project in late 2000. After the establishment of the Council for the Judiciary on 1 January 2002, the latter then took over, set up and executed the Eurinfra project, working closely with the Administrative High Court for Trade and Industry, given its extensive experience with the application of European law and its willingness to assume a pioneering role in this connection.

The Eurinfra Advisory Council was set up to advise on the structure and progress of the project and to give specific advice on the solutions chosen to achieve the objectives. The project was executed by the Administrative High Court for Trade and Industry, the Dutch judiciary's bureau for internet systems and applications (known as 'Bistro') and the Dutch training and study centre for the judiciary ('SSR'). After the strategy document had been adopted in 2001, a long-term budget was drafted to 2004. The activities proposed in the document to achieve the project's

objectives placed extra demands on the organisations concerned, so that additional finance was necessary.

The Action Plan which the Council drew up for this purpose identified three sub-projects, with the following objectives:

1. Improving the accessibility of European law information resources using web technology
2. Improving the knowledge of European law amongst the Dutch judiciary;
3. Setting up and maintaining a network of court co-ordinators for European law (CCEs).

The realisation of these objectives is interdependent: a better access to legal resources can be better utilised if the judiciary has a broader and more in-depth knowledge of European law. At the same time, an organisational basis is necessary. The network of CCEs is designed to put the knowledge of European law within the judiciary to better use by improving the co-operation between the members of the judiciary. To achieve this, the CCEs have been given the task of improving the information and internal co-ordination within their own courts, and maintaining contacts with other courts on the subject of European law.

Objective 1: Improving the accessibility of European law using web technology

Bistro, as part of the Council for the Judiciary, worked hard to create access to sources for judges and legal staff on the workplace and to create digital resources to disseminate the knowledge of European law. These developments were part of the attempt to broaden the digital accessibility of the information for legal professionals, the Porta Iuris portal* and a judiciary-wide intranet system (Intro). This focused on providing access to European legislation and the case law rendered by the ECJ. At the end of 2012, another part of the Council for the Judiciary was designated to fulfil these European tasks of Bistro: LOVS. LOVS has developed the European Knowledge Portal (Kennisportaal Europees recht) as to replace Porta Iuris and Intro. Judges and staff lawyers now have automatic online access to sources of EU law in a user-friendly and integrated format, covering:

Legislation and regulations (in force and consolidated)

- European conventions and treaties;
- European legislation;
- Netherlands implementation regulations;

Case law

- Decisions of the ECJ, of the General Court, and of the ECtHR;
- Cases pending before the ECJ (including references as for preliminary rulings);
- Texts and commentaries from the most well-known judicial Dutch magazines *inter alia*;
- Decisions of Netherlands Courts and Tribunals in cases in which Community Law has been applied or explained;
- A toolkit with checklists (e.g. concerning the reference for preliminary rulings, EC checklist), manuals and tutorials on the basis of handbooks and training material.

Objective 2: Improving the knowledge of European law within the Dutch judiciary

SSR has traditionally organised courses on various aspects of European law and on human rights conventions. Eurinfra has greatly increased the scope of – and given a strong impulse to – the SSR courses on European law. In close consultation with the courts, and also the Public Prosecutors' offices, SSR has thoroughly reviewed the courses in this field. A project plan providing for the following targets/ results was drafted:

- Organising introductory meetings and basic courses on European law;
- Developing and organising advanced courses on European law (e.g. aliens law, European law and social security (more specifically, medical tourism), European criminal law, civil law, sub-District courts and the procedure for preliminary rulings);

(*) Porta Iuris is an intranet site providing the judiciary with integrated access to sources, legal news and documents. Its object is to offer as many information resources as possible via this central intranet facility, not only saving on operational costs, but also creating the opportunity to monitor good version management. Porta Iuris was developed and is operated by the Dutch judiciary's bureau for internet systems and applications (Bistro). It provides information on legislation, rules, regulations, case law, professional news, documentation and literature

- Reviewing and adapting the existing SSR courses in terms of their European law content;
- To the extent that this supports the above targets, organising meetings with experts to develop courses on European law and keeping these up-to-date.

Objective 3: Setting up and maintaining a network of court co-ordinators for European law (CCEs)

The court boards appointed a network of 36 court co-ordinators for European law, with the Dutch Supreme Court and the Administrative Jurisdiction Division of the Council of State also participating. The president of the Administrative High Court for Trade and Industry acts as chair, and it also hosts the network's secretariat. Activities of the CCE-network are organised in close cooperation with SSR. The court co-ordinators meet three times a year, not only to attend presentations on new European law themes, but also to discuss the functioning of the network itself. They also have their own internal teamsite (GCE-teamsite) to inform each other about matters of European law. The court co-ordinators act as an internal focal point for European law issues for their court colleagues. They furthermore identify interesting European law developments and take the initiative for refresher courses. The court co-ordinators are being approached more and more frequently. This is also partly due to the increased awareness of their availability, of course, which in its turn is a result of the European law activities which have been developed as a result of the Eurinfra project. The advantages of a network of court co-ordinators over a European law help desk (which had been the original idea) are lower staff costs, the low threshold – a judge is after all more likely to pop in to see a colleague from within his own court than to call an anonymous help desk with a European law problem – and the fact that the court itself has become responsible for meeting the need for a European law orientation within its own organisation. The network has furthermore created a framework for a judiciary-wide co-ordination which the Minister of Justice had in mind for the long-term when the Eurinfra project was launched.

The Eurinfra project was completed in December 2004, but this does not mean that the activities undertaken within the framework of this project were also terminated as of that date. On the contrary, the three pillars of the project achieved a permanent status and have since been reinforced with new activities, including: opening up the judicial networks; setting up European exchange programmes with foreign courts; and secondments to European and international organisations. The Council for the Judiciary supports activities actively by providing financial means and by realising coordinating activities with the help of its contacts with European judiciaries via the European Network of Councils for the Judiciary.

For further information: Spencer Michael, Secretary to the Dutch CCE-network, s.michael@rechtspraak.nl; <http://www.rechtspraak.nl/English/Publications/Pages/General-information.aspx>

More recently, Romania established EuRoQuod in 2012 with a similar philosophy.⁽⁸⁾ The 49 members of the network are judges appointed on a voluntary basis, from all levels of jurisdiction (mostly from county courts and courts of appeal). EuRoQuod is an example of cooperation between judges in Romania, judges that manifest a special interest for the application of EU law and are willing to share their experience and knowledge with their colleagues. The main pillars of EuRoQuod are the network of judges, the website including a data base of preliminary references sent by the Romanian courts, and the training activities and meetings of the members of the network.

Inspiring example: EuRoQuod (Romania)

Only two weeks after Romania's accession to the EU in 2007, a county court was already referring to the Court of Justice a preliminary question on the regime of restrictions on the right to free movement of an EU citizen (Jipa). During the next five years, courts in Romania were to send almost 40 preliminary references, demonstrating their willingness to join the constant stream of dialogue carried out between the supranational courts of the EU and the national courts of its Member States by means of the preliminary references procedure. However, in a number of cases preliminary references sent by Romanian courts – no different than courts from more experienced Member States – were dismissed completely or in part as manifestly inadmissible or were suspended due to identical content. These occurrences drew attention to the necessity of making available to judges specific instruments able to assist them in their individual study of EU law. Such instruments had to be provided in order to help them distinguish purely internal cases from cases with EU law elements, learn to evaluate and interpret previous relevant judgments of the Court of Justice and, therefore, use the mechanism of preliminary references only when appropriate.

Judges cannot rely solely on information gathered from online forums and other informal media for a good administration of justice. More specifically, they need reliable information in order to find out if another court in the

⁽⁸⁾ Source: European Commission (2014), "Lot 1 – Study on best practices in training judges and prosecutors", https://e-justice.europa.eu/content_the_european_judicial_training_policy-121-en.do?clang=en

country has been or is being confronted with a similar problem of EU law in the process of deciding whether to act on the request of a party to send a preliminary reference.

The Network

The network has been established in 2012 by decision of the Superior Council of the Magistracy. As at November 2014, the network includes 49 judges countrywide, appointed on a voluntary basis, among judges that express a particular interest in this domain. They do not benefit from supplementary financial advantages nor relief from their duties in court. The four-tiered system of courts in Romania (local courts, county courts, courts of appeal and the High Court of Cassation and Justice) and their relatively high number makes it impractical to involve one judge per court in the project. In general, the aim is to have members from the higher courts (county and courts of appeal), who can keep in contact with colleagues from lower courts as well. No specialisations are required, because membership is based on personal interest and/or expertise in EU law of sitting judges, therefore all areas where EU law is applied in courts are naturally covered. A judge acting as a court coordinator has, in principle the following duties:

- To offer assistance to their colleagues within their own courts or in the jurisdiction of a court of appeal, on request, in order to distinguish among the cases where EU law is applicable or only the national law is incident;
- To assist their colleagues with bibliographical references on specific problems in EU law;
- To guide their colleagues on the rules of drafting a request for preliminary ruling;
- To keep in contact with the other court coordinators members of the National Network, and also of similar networks from other Member States of the EU;
- To keep in contact with the central coordinator of the Network, who is a full time trainer at NIM, specialised in EU law, and whose role is to assist the court coordinators in all their activities;
- To be updated on the case law of the EU Court of Justice and the relevant literature, to participate in training sessions and conferences and other similar events;
- To evaluate the actual training needs of their colleagues and to work with NIM with the objective of drafting realistic and efficient training programmes in the fields covered by EU law.

The website

Drawing on the experience from the Dutch 'Porta Iuris' EU Law Menu, the National Institute of Magistracy (NIM) had the initiative to begin a programme of publication on-line of all orders for reference sent by Romanian courts, as well as of other materials that are deemed useful for the study and application of EU law. It is important to underline that the success of this programme is not possible without the active participation of all courts that address questions to the Court of Justice, which consists of simply sending to NIM a copy of the orders for reference in electronic format. Access to a database of the orders for reference is essential to keep the judges updated in a prompt and uniform manner about the existence, the content and the stage of proceedings. Only so informed, judges are able to make a decision regarding the necessity of a new reference on the same subject and to follow the development of a case of interest and, last but not least, to be up-to-date with the jurisprudence of the Court of Justice in cases originating from Romania.

The first page displays a table in chronological order which offers basic information for a quick update, as follows:

- Case number;
- Name of the parties in the national dispute;
- Useful keywords;
- Case status - pending, removed from the register after withdrawal by the referring court, stay of proceedings, dismissed as manifestly inadmissible, closed by order, or closed by judgment.

From this table, one can access a case file for each reference, which contains, as information becomes available:

- Details about the order for reference: referring court, national and European provisions under discussion, date of referral, date of registration at the Court, and most importantly, the full text of the order for reference;

- Stage of proceedings before the Court, including whether PPA or PPU has been requested, the date of delivery of the Advocate General's Opinion or View, and other relevant data;
- The questions as they were addressed to the Court and also as they were reformulated by the Court, the comparison being useful for improving the drafting style for the future;
- A link to the official text of the ruling of the Court (posted on curia) and a summary of the ruling;
- Commentaries and articles on the case and/or references to articles in legal journals and other relevant resources.

The fact that the database is public helps raising awareness across the legal professions and for the benefit of the general public. Since 2013, the database was integrated in the newly created website of the Network (www.euroquod.ro), which is not so much a news platform as an online library organised around the most relevant EU law fields/issues in courts (e.g. consumers' protection, labour law, judicial cooperation etc.) The maintenance of the database is the responsibility of the central coordinator of the network (a full-time trainer in EU law at the NIM), and it is carried out with few resources. In order to make it more dynamic and facilitate the upload of material by all members of the Network, the software behind the website has been changed to dokuwiki since September 2014.

Training activities and meetings

Apart from participating in various training activities according to their own interest, the members of the Network meet on a regular basis, twice a year, at the premises of the NIM. The meetings represent an opportunity for the members of the Network to share their perspectives from the courts and to have debates on the current issues where EU law is applicable. Since the beginning, the Network has been benefitting from the constant support of the Romanian judge at the CJEU and of the Agent of the Romanian Government for the CJEU, who are both a constant presence at the conferences of the Network.

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The **European Case Law Identifier (ECLI)** has been developed to make it easier and quicker to search for judgments from European and national courts. In the past, if a Supreme Court ruling from one Member State was relevant for a specific legal debate, it might be registered in a variety of national and cross border databases, each with a different identifier. This made tracking down the ruling in the right format (summarised, translated or annotated) time-consuming and tricky, as all identifiers would have to be cited and all databases searched. To overcome these obstacles, the Council of the European Union invited Member States and EU institutions to introduce the ECLI and a minimum set of uniform metadata for case law to improve search facilities.

Main characteristics of ECLI

ECLI is a uniform identifier that has the same recognizable format for all Member States and EU courts. It is composed of five, mandatory, elements:

- ‘ECLI’ (to identify the identifier as being a European Case Law Identifier);
- Country code;
- Code of the court that rendered the judgment;
- Year the judgment was rendered;
- An ordinal number, up to 25 alphanumeric characters, in a format that is decided upon by each Member State. Dots are allowed, but not other punctuation marks.

The elements are separated by a colon. A (non-existent) example of an ECLI could be ‘ECLI:NL:HR:2009:384425’, which could be decision 384425 of the Supreme Court (‘HR’) of the Netherlands (‘NL’) from the year 2009.

To make it easier to understand and find case law, each document containing a judicial decision should have a set of metadata as described in this paragraph. These metadata should be described according to the standards set by the Dublin Core Metadata Initiative. The Council Conclusions on ECLI give a description of the metadata that can be used.

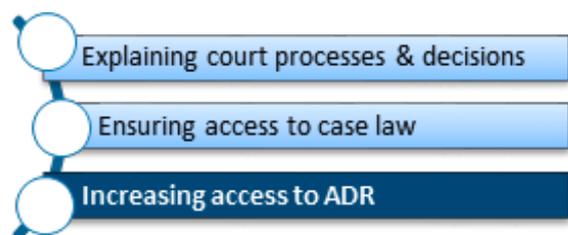
Every Member State using ECLI must appoint a governmental or judicial organisation as the national ECLI coordinator, responsible for establishing the list of codes for the participating courts, the publication of the way the ordinal number is made up, and all other information that is relevant for the functioning of the ECLI system. The ECLI co-ordinator for the EU is the Court of Justice of the European Union.

Source and further information: https://e-justice.europa.eu/content_european_case_law_identifier_ecli-175-en.do

Each Member State decides whether, and to what extent, it will use the ECLI system (for example, it might apply retroactively to historical records), including the number of participating courts (all courts, only supreme court level, etc.). The ECLI is a purely voluntary arrangement, but the benefits increase considerably with more participating Member States.

6.2.3. Increasing access to alternative dispute resolution

The use of alternative dispute resolution (ADR) is a question of justice policy that has important consequences for both the quality and efficiency of judicial outcomes, by providing an alternative to court proceedings to resolve cases. In principle, ADR methods have many advantages over litigation in civil, commercial or administrative cases. It usually reduces costs to the parties, offers greater flexibility in procedure, provides more privacy and control to the parties, results in typically speedier resolutions, and settles on solutions which should meet each side’s interests. For the judiciary, ADR frees up court time and saves costs.



Recourse to ADR is valuable in fields such as consumer protection or family matters (such as contesting wills or child visitation after divorce) where the prospect of formal court procedures can have a chilling effect on the public and dissuade action. In this way, the availability of ADR serves justice by enabling access to it. There is overwhelming demand for ADR among the public. A Commission-funded Flash Eurobarometer survey, “Justice in the EU”, in 2013 found that roughly nine out of ten people (89%) seeking a solution to a dispute with a business, public administration or another citizen would seek an agreement out of court, if that option was available. Over four out of ten people (43%) say that they would find an agreement with

the other party directly, while 46% say that they would find an agreement with the other party with the help of a non-judicial body that has a mediation role.

ADR takes various forms, including negotiations, tribunals, arbitration, mediation and conciliation. The main defining features of different types of ADR are: whether a third party is involved as an intermediary or not; whether the outcome is binding on the parties; and whether it is instigated by the parties before they proceed to court or once proceedings have commenced. The two types which are likely to have the most direct impact on the efficiency and quality of justice are arbitration and mediation, both of which are voluntary in nature and structured in method.

Two key forms of ADR

Under **arbitration**, the parties agree on an impartial third party ('arbitrator'), who acts in effect as a judge but outside the court system, listening to the arguments from both parties and proposing a settlement which is typically binding, but in exceptional cases may be advisory only. Arbitration is normally voluntary and arises in the context of a pre-agreed arrangement. The parties stipulate in a contract that they will resort to arbitration, not litigation, in the event of a dispute, and will comply with the arbitrator's decision. Arbitration is most typical in commercial cases and employment law, the classic example being collective bargaining agreements over wages and working conditions. Arbitration agreements rarely involve the right to appeal, and where they do, the complainant faces a high standard of proof to demonstrate that due process has not been followed.

By contrast, **mediation** involves an impartial third party ('mediator') acting as an intermediary between the parties to try and reach a consensual resolution. The mediator may put forward their own proposal for a settlement, but this is never imposed, it is the parties' prerogative to agree the way forward. Essentially, mediation is negotiation with the addition of a competent, neutral facilitator. Mediation is either proposed by the parties themselves, recommended or ordered by the court, or prescribed by law, as an alternative to litigation in a range of civil, commercial and administrative cases. Examples include contractual, partnership, business, employment and family disagreements. If the mediation is not successful, the parties reserve the right to litigate.

In principle, **arbitration** brings all the advantages of ADR, but in practice, the high stakes for both parties and the limited option to appeal, mean that arbitration can sometimes more closely resemble court processes in the extent of the testimony, evidence and expected disclosure sought by legal representatives on both sides, which can also draw out proceedings and add to costs, depending on the position adopted by the arbitrator. They can also be more complex than litigation in the case of multi-party disputes, for example in construction contracts. Arbitration is mainly used for large corporate cases, although there also examples in other domains, such as consumer disputes.

Mediation has more widespread application than arbitration and also presents opportunities and potential drawbacks. It assumes 'good faith' on all side, and hence is only an expedient option if all parties are genuine about their willingness to make concessions. If there is no prior desire to compromise, and the result is a court case anyway, then the costs of mediation are simply added to the costs of litigation. It is also dependent on the skills and neutrality of the mediator. The lack of publicity can also have its disadvantages, as public information can discourage the concerned party from repeating similar action in the future (for example, in a trade or labour dispute). More positively, however, mediation brings a number of advantages in reaching a just outcome, in addition to the general arguments for ADR, as it is non-confrontational, and seeks to get all sides to understand the perspective of other parties in reaching an agreed position. As well as confidentiality, it takes place in a less daunting environment than a courtroom.

Mediation can be especially expedient in **cross-border disputes**, such as family conflicts between residents in different EU countries or trade disputes over im-

port-exports, where an amicable settlement is preferable to a long drawn-out legal battle. Without ADR, such cases face a potential risk that litigants and their legal representatives become embroiled in costly court proceedings in contrasting legal systems, due to language differences, unfamiliarity, uncertainty of outcome, etc. In this context, the EU adopted the [Mediation Directive](#) for civil and commercial matters in 2008⁽⁹⁾, to be implemented by May 2011 and is now applied in the Member States.

The Mediation Directive

The Directive has the objective “to facilitate access to alternative dispute resolution and to promote the amicable settlement of disputes by encouraging the use of mediation and by ensuring a balanced relationship between mediation and judicial proceedings.” Cross-border disputes are defined as cases in which at least one of the parties is domiciled in a Member State other than that of any other party, on the date on which they agree to use mediation, mediation is ordered by a court, an obligation to use mediation arises under national law, or an invitation is made to the parties by a court to use mediation in order to settle the dispute.

The Directive is applicable to a wide range of cross-border disputes concerning all civil and commercial matters, except for conflicts related to rights and obligations which are not at the parties’ disposal under the relevant applicable law. The Directive does not apply especially to matters related to revenue, customs or administrative matters or to the liability of the state for acts or omissions in the exercise of state authority (“*acta iure imperii*”). It also does not apply to pre-contractual negotiations or to processes of an adjudicatory nature, such as certain judicial conciliation schemes, consumer complaint schemes, arbitration and expert determination or to processes administered by persons or bodies issuing a formal recommendation, whether or not it is legally binding as to the resolution of the dispute. The Directive includes definitions and sets out the obligations on the European Commission and Member States (excluding Denmark), for transposition into national law.

The Mediation Directive creates several obligations on Member States within its scope:

- It obliges each Member State to encourage the training of mediators, the development of voluntary codes of conduct, their adherence by mediators, and other effective quality control mechanisms.
- It encourages judges to invite the parties to a dispute to try mediation first, if considered an appropriate option given the circumstances of the case, including inviting parties to attend information sessions if available.
- It requires Member States to ensure that written agreements resulting from mediation are enforceable, if both parties so request and the agreement is not contrary to the law.
- It ensures that mediation takes place in an atmosphere of confidentiality; hence, the mediator cannot be compelled to give evidence in court or arbitration regarding information arising from the mediation, unless there is an overriding consideration (such as prevention of harm or protection of children), or disclosure is necessary to implement or enforce the agreement.
- It guarantees that the parties will not subsequently lose their right to go to court as a result of the time spent in mediation.
- It encourages Member States to publish information for the general public on how to contact mediators and organisations providing mediation services, including through the Internet.

There is a growing argument for re-framing ADR as “appropriate” dispute resolution, which encompasses *all* the relevant options for conflict resolution, and gives parity to litigation and to non-court methods. At present, however, the practical application of mediation across the EU remains very low. A European Parliament

⁽⁹⁾ Directive 2008/52/EC of the European Parliament and of the Council of 21st May 2008 on certain aspects of mediation in civil and commercial matters

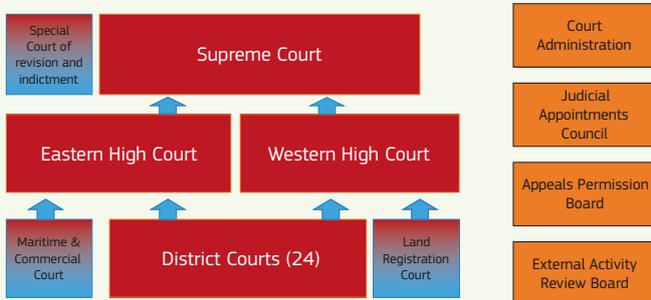
study⁽¹⁰⁾ found that mediation in civil and commercial matters is still used in less than 1 % of cases, despite the proven benefits.

EU averages	Time	Cost
Court litigation	566.0 days	EUR 9 179.00
Mediation then court litigation (with 50% mediation success rate)	326.0 days	EUR 7 960.50
Mediation then court litigation (with 70% mediation success rate)	212.8 days	EUR 6 124.70

One of the few Member States with long-standing experience in mediation is [Denmark](#), which introduced it as an option for civil cases in 2008. Even in Denmark, mediation constitutes just 2% of civil cases, but has proved a valuable instrument even when the two parties do not reach agreement, by clarifying facts and legal and personal issues that enable the court case to be closed quite rapidly after the mediation has ended.

Inspiring example: Mediation in Denmark

Courts of Denmark



The Danish courts system is a unified system with only two specialised courts in the first instance (the Land Registration Court and the Maritime and Commercial Court), and no specialisation in the second (or third) instance.

With a few exceptions, all civil and criminal court cases start in one of the 24 district courts and can be appealed to one of the two high courts. Only in cases where principles are at stake, a case can be referred to one of the high courts in

the first instance and thus also be brought to the Supreme Court. If a case has started in the district court and then been appealed to a high court, the parties need a permission from the Appeals Permission Board to be able to bring the case before the Supreme Court.

Mediation has been offered to parties within the civil jurisdiction in Denmark since 1 April 2008. Regulations on mediation within the civil jurisdiction can be found in the Administration of Justice Act, section 27. Mediation is offered in the district courts, the high courts and the Commercial and Maritime Court, but not in the Land Registration Court and the Supreme Court. Mediation is only offered in pending civil cases. It is not possible to submit a request for mediation, but the plaintiff can ask for mediation in the writ of summons or the defendant can ask for mediation in his or her defence. In practice, the question of mediation will be discussed during the preparatory hearing that is held by teleconference after the courts reception of the writ of summons and the defence. Before the preparatory hearing, the court will send a letter to the parties informing them about the hearing, the possibility of mediation and other issues that are going to be discussed during the preparatory hearing (e.g. planning of the final hearing, procurement of evidence, survey reports, etc.).

Mediation is only possible in cases where the subject matter of the case is at the parties' disposal. Thus, most cases and questions handled in the family jurisdiction cannot be mediated. However, it goes without saying that a lot of informal mediation is performed by judges, lawyers, and other professionals working within the family jurisdiction. Mediation is, for the most part, not possible in cases concerning administrative law.

It is at the courts' discretion to decide that a case should be mediated. Decision about mediation could be taken on the request of one or both parties. The court can also suggest mediation, but cannot decide that a case should be mediated against either party's will. Even if both parties request mediation, the court can refuse to mediate a case, for example if the subject matter of the case is not at the parties' disposal, or if the principle of equality of arms would be at risk in mediation (i.e. each party must have a reasonable opportunity to present his or her case without being placed at a substantial disadvantage with regards to the other party).

The court is responsible for the appointment of a mediator, but can ask the opinion of the parties before the appointment. Only judges and lawyers who are authorised as court mediators can be appointed. Authorisation is granted for a limited period of four years, but is renewable. It is only given to lawyers who have completed

⁽¹⁰⁾ De Palo G., D'Urso L., Trevor M., Branon B., Canessa R., Cawyer B., and Reagan Florence L., (2014), "Rebooting' the Mediation Directive: Assessing the limited impact of its implementation and proposing measures to increase the number of mediations in the EU", commissioned by the European Parliament

training and education as a mediator to a certain level, and can be withdrawn if the lawyer neglects his or her duties as a mediator, or if he or she stops practicing as a lawyer. A lawyer acting as mediator in a court case will be paid by the court. Ethical guidelines for court mediators have existed since 2008.

Mediation in court must end if any of the parties no longer wish to participate or if the mediator decides to end the mediation. In the latter case, the mediator must invite the parties to state their opinion on the ending of the mediation. The grounds for ending the mediation can be that the parties do not participate adequately, or that the mediator deems it impossible to reach an agreement. The mediator must also end the mediation, if it is necessary to prevent the parties from concluding an illegal agreement.

If an agreement is reached, the court case is closed. If an agreement is not reached, the case will continue as an ordinary civil case. A judge, who has acted as mediator in a case, cannot continue the handling of it as an ordinary civil case, and a lawyer, who has acted as mediator, cannot act as counsel of any of the parties. What has been discussed during the mediation is confidential and can, with a few exemptions, not be divulged without consent of the parties. An agreement reached by mediation can be entered in the court records and can thus serve as basis of execution or enforcement of the agreement.

Even though regulations on mediation have been in force for six years now, there is still a substantial reluctance to use mediation. In 2013, the courts received 48 565 civil cases in the first instance, of which just 924 civil cases were taken out for mediation and 452 civil cases were ended with an agreement reached by mediation. Even when an agreement is not reached, however, it is the experience in Denmark that mediation can be valuable and an important step in ending the case, given the fact that the mediation will often help clarify the facts, legal questions and sometimes even personal questions that must be dealt with to close the case. It is important also to note that under Danish law, a judge in a civil case in the first instance must explore the possibilities of a settlement before delivering a judgment. This means that there is also a number of cases where the judge is active in helping the parties to settle the case by means other than mediation, e.g. by encouraging negotiations between the parties or by clarifying rules on the burden of proof etc.

For further information: Ms. Marianne Ploug, Danish Court Administration, mapl@domstolsstyrelsen.dk

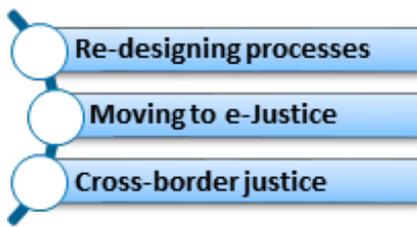
ADR across the EU will get a boost when [Directive 2013/11/EU on consumer ADR](#) is implemented (by 9 July 2015 in all Member States). The ADR Directive requires all Member States to ensure that 'ADR entities' (service providers) are available to provide ADR procedures (e.g. mediation, conciliation, ombudsman or arbitration procedures) to resolve consumers' disputes with businesses after the purchase of goods and services, offline or online, and across borders. Qualifying entities must meet certain minimum criteria, including independence, transparency, expertise, effectiveness and fairness, and their services must be easily accessible, available to consumers free of charge or at a nominal cost, and the procedure should be completed within 90 days (with the possibility of extension under certain circumstances). The Directive excludes disputes relating to services of general interest, health and further or higher education, and does not extend to procedures other than those concerning disputes submitted by consumers against traders (such as business-to-business, business-to-consumer, or family disputes). Nevertheless, its impact will be to strengthen the provision of ADR in both national and cross-border consumer protection, improve the functioning of the internal market, encourage trade and benefit businesses, especially those that are currently at a competitive disadvantage because ADR services are not available for resolving their disputes with consumers. Consumers will be able to shop at home, abroad and over the Internet with more confidence, knowing that they can access ADR providers that offer fast and fair dispute resolution at low cost, if something goes wrong. Neither businesses nor consumers will be obliged to use ADR under the Directive (while participation in ADR procedures might be mandatory for businesses by virtue of Member States' national laws), but each Member State must ensure ADR is available if both parties agree to use it, for disputes in any retail sector. This presents a challenge for Member States with currently no or minimal ADR systems in place.

As a complementary initiative, [Regulation 524/2013 on Online Dispute Resolution \(ODR\)](#) will take full effect in January 2016, mandating the Commission to establish an EU-wide online portal for disputes that arise from online transactions – an interactive website offering a single point of entry to consumers and traders. The

‘ODR platform’ will link all the national ADR entities and hence allow consumers to submit complaints against businesses established in another Member State. The ODR platform will provide general information regarding ADR for such disputes, and allow consumers and traders to submit their cases by filling in an electronic complaint form, available in all the EU’s official languages, and attach relevant documents. The ODR platform will channel disputes to a relevant ADR entity that is competent to deal with the dispute, and will offer a free-of-charge electronic case management tool to these ADR entities if they chose to use it.

A [European Commission business survey on ADR in 2010-2011](#) found that the vast majority of businesses that had used ADR were satisfied with their experience (73%), would use it again in the future (82%), and would prefer ADR than going to court to settle disputes (70%). The ADR procedure seemed to be successful for the majority of businesses in terms of cost, outcome and time: 83% stated that it is cheaper than court; 85% of the companies managed to settle the dispute with the consumer and 70% of the disputes were settled within three months. According to businesses, the main advantages of ADR are that disputes are settled quickly (55%) and that it allows them to maintain their reputation (25%).

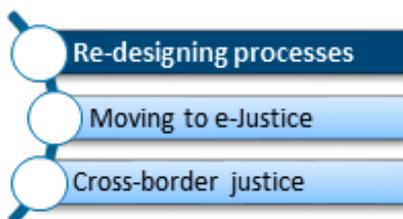
6.3. Modernising justice systems



Like public administrations (see [theme 4](#)), judiciaries are finding ways to simplify and speed up administration, to re-engineer their processes, and to take advantage of computing and networking power, in order to manage the judicial process better, faster and more cost-effectively. As with citizens who travel and work in other EU countries, and businesses that invest and trade, justice also cuts across administrative boundaries, and hence cross-border justice

is an integral and increasing element of modernising judicial systems. This topic should be read in conjunction with e-government ([topic 4.4](#)) in the chapter on improving service delivery.

6.3.1. Re-designing processes



Like their counterparts in government, judiciaries are increasingly looking to creative solutions to make their administrative processes more efficient, but also more ‘user-centric’. ICT plays a major and often central role in the modernisation story, but administrative simplification and process re-design is both an intermediate step to e-Justice and sometimes an end in itself that secures time and cost savings. Some judiciaries have used the results of performance

measurement (see [topic 6.1](#)) to initiate substantial changes in systems and procedures. Self-reflection can be the catalyst for sharing good practices across court systems within Member States, such as the example of the ESF-funded “Dissemination of Best Practices in Judicial Offices in Italy” project, which was utilised by the Court of Monza to instigate a modernisation drive, which re-designed operations, made the most of digitisation and forged a permanent partnership in the area of voluntary jurisdiction. The result is both greater efficiency and a service that is designed around the citizens’ interests, breaking down administrative boundaries.

Inspiring example: Organisational and process transformation in the Court of Monza (Italy)

In 2009, on the basis of positive results achieved by the reorganisation project run in Bolzano, the Minister of Public Administration and the Minister of Justice and the Regions agreed with the European Commission to launch an interregional project called “Dissemination of best practices in judicial offices in Italy” to be funded through the European Social Fund (ESF). More than 23 regional bids were prepared and 182 judicial offices participated in the project. The “Best Practices” project shows the possibility to activate pilot projects and disseminate solutions and change management methodologies throughout the entire system, and enable the members of the organization to rely on their own capabilities and eventually operate without the help of consultants. Nowadays, “Best Practices” is Italy’s widest organisational change management programme involving a single large public administration.

The reorganisation of Lombardy Judicial Offices was funded by the ESF through a bid launched by the Lombardy Region, named “InnovaGiustizia Project”, involving the judicial offices of Milano, Monza, Varese, Crema, Cremona, Brescia, and Lecco. A successful site project was developed in the Judicial Offices in Monza, including the Court and Prosecutor’s Offices. A Steering Committee including judges and administrative staff was set up to manage the project, led by the President of the Court and the Chief Prosecutor. Inter-professional work groups were constituted for running pilot projects performing a large variety of participatory analysis and redesign of key issues for the Judicial Offices. Fondazione Irso, an academic and consultancy professional team, took the responsibility both for project management of the entire InnovaGiustizia project and for supporting the reorganisation of Monza Judicial Offices.

The **voluntary jurisdiction project** is one of the pilot projects of the Court of Monza, and has the objective to preserve the rights of vulnerable members of society, such as elderly citizens and people with mental or physical disabilities. ‘Voluntary jurisdiction’ means the legal protective measures: the Court does not run trials in such cases, but rather acts in the interest of these citizens, called “beneficiaries”. Such measures are required by citizens themselves or by their relatives, in most cases without legal representation.

In the past, the protection of ‘unable’ persons (protection of interdicts) was limited to revoking their legal authority and to inhibiting potential harmful action from others. A January 2004 Law set a new approach. In addition to legal measures of protection, Tutelary Judges were entitled to manage the so-called ‘Administration of Support’: a citizen who takes care of another citizen, not only in case of ‘total inability’ but also in the so-called ‘partial incapacity’, both mental and physical. The new approach reinforced both legal, social and medical protection to these citizens. Voluntary jurisdiction typically occurs in critical occurrences in these citizens’ lives, as important economic transactions, administrative duties and fiscal declarations, but also sickness, travel, and events of the citizen’s social life. The Tutelary Judge (“Giudice Tutelare”) determines which actions can be performed by the ‘Administration of Support’ on behalf of the beneficiary person. The Judge gives guidance continually to the Administrator when needed. It appears from the above considerations that voluntary jurisdiction is a flexible system because the Judge guides the Administrator’s intervention in accordance with the needs of the person. It requires a careful and respectful dealing, high efficiency of the various work processes, full effectiveness of service and high quality in the relationship. The activities of the Judge do not end only with a legal provision, but are “long-lasting” according to the needs of the protected person during his/her life.

Many institutions participate in the process of caring for these citizens. The needs of beneficiaries included in voluntary jurisdiction are normally dealt by different bodies with little coordination:

- The court deals with the legal framework;
- The social services of the municipality manage the social welfare; and
- The so-called ‘third sector’ provides health services together with local health authorities.

The citizen was used to managing the overlaps and bureaucratic obstacles, and searching for the best way to solve his/her needs. The citizen was alone in facing his/her unique case, dealing with various uncoordinated relationships with different organisations. The court was handling a large number of cases and the other institutions take part without proper coordination among them. In Monza, there were more than 5 300 cases of voluntary jurisdiction in 2010.

In this context, the voluntary jurisdiction project was instigated with two pillars:

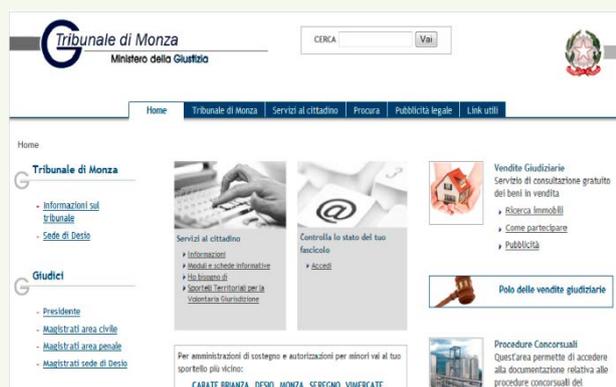
- A **complete reorganisation** of the court: This involves the reorganisation of services - activities, work processes, relationships between Judges and Chancellors, office layouts; and the reorganisation of both physical (front line office) and web access to services, thanks to a renovated Court website with a dedicated section (information, forms, procedures tracking);

- The institution of a **permanent cooperation** between the institutions of the Monza e Brianza area (municipalities under the jurisdiction of Monza Court, local health authorities, the Chamber of Commerce of Monza e Brianza, and the University of Milan Bicocca) and the associations of the “third sector”, in order to handle the needs of the beneficiaries.

The project centred on a complete reorganisation of the voluntary jurisdiction sector. A Steering Committee was established to decide the areas to redesign, and seven design teams were appointed to tackle the identified issues. A deep analysis of each type of work process was made, identifying for each of the 70 different types of proceedings: individual steps; necessary time for each step; role needed for each step; and whether each activity was performed in the back office or the front office. The analysis found two critical issues. First, the citizen has to access the court many times, for five main reasons: to request preliminary information; to submit papers; to request information on the state of his/her application; to request copies of the order; to collect copies. Second, it was difficult to track and check the state of each work process.



Hence, we developed a **barcode-based tracking system**, in order to reduce the need for the public to have physical access to the court. Each new paper file is marked with a barcode which contains also the name of employees who got the application. Each file has an identification number. Every time the file is moved and is processed and changes his state, the system records this movement by reading the barcode. So at every moment, the system knows where the paper file is and the status of the application. This information is available on the website, so that every user connecting to the website is able to know the state of his application. The system knows how much time every single step of the proceeding needs too. It controls every single step and if there is a delay in the proceeding, the system sends an e-mail automatically to the presiding judge and to the registrar, to react quickly and solve the problem.



A new dedicated section of the **Court’s website** was implemented on www.tribunale.monza.giustizia.it. The user can check the state of his proceeding from his/her home. In order to give preliminary information, we prepared one info-sheet for each type of proceeding, where the single steps of procedure are explained, as the cost, the required documents and so on. The texts in this web area were conceived to be easily understood by the private citizen and not intended to a law specialist. User can also download forms for the applications. We also rewrote all our forms in order to make them more **user-friendly**.

Moreover, if the citizen inputs his mobile phone number or his email address, we send him or her notice of **updates on case status by SMS or email**. This happens automatically, without the intervention of any operator.

In order to provide **physical front offices and help desks for citizens**, seven “Territorial Offices of Voluntary Jurisdiction” (*Sportelli Territoriali di Prossimità*) were established as help desks in the main municipalities. These front offices are based on the permanent cooperation arrangements. A “table of justice” was established in November 2010 between the institutions of the Monza e Brianza area and the associations of the ‘third sector’, which led to the signing of a series of protocols between the Court and:

- The seven municipalities to establish the Territorial Office and provide space and support;
- The Volunteers Associations to run the Territorial Offices.
- Local health authorities to create a list of accredited guardians;
- The Lawyers Professional Association to provide free expert advice in the Territorial Offices.

In every territorial front office citizens can find help with: preliminary information; filling in request forms; submission of the request; further information; collection of the Court Order; free legal aid by a lawyer about voluntary jurisdiction.

These developments were supported by various **training activities**:

- Training of 45 front-line operators (six hours each);
- 15 days of coaching for future front-line operators;

- Training during courses on ‘Administration of Support’ organized by the Province of Monza e Brianza (three specific training lessons).

A **permanent monitoring system** was established, divided in two levels. The justice board (‘table of justice’) oversees the system at the political and institutional level. The inter-institutional working group supervises performance and progress at the operational level, and is composed of: court judges; municipality representatives; health department representatives; local bar representatives; and volunteer organisations’ representatives. The working group meets every three months in order to: analyse and solve problems, gather and evaluate suggestions, and give answers to raised questions.

The **tangible results** of the voluntary jurisdiction project have been:

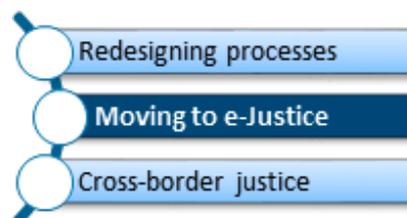
- The number of citizens needing to access the Chancellor’s office is 40% lower.
- The average time taken for the first deposit of application is down by 20%.
- The duration of court proceedings to nominate the “Administrator of Support” has fallen by 75%.
- 80% of received applications now use the barcode forms (100% of citizens use the new forms, but the overall percentage is lower because some professionals still use the so-called “print” version).
- 100% of received dossiers are managed by the online tracking system.
- From January to November 2014, more than 1,550 citizens have entered their e-mail address or their mobile phone number to receive automatic e-mail or SMS updates on their case status.
- There have been about 5,405 requests by citizens submitted to the territorial front offices in 2013, with a further 3 693 requests in the first half of 2014, representing a 24.5% increase compared with the same period last year.
- The dedicated section on voluntary jurisdiction in the website www.tribunale.monza.giustizia.it has been accessed about 218 000 times during 2014.

On top of all the above, the project has instilled a greater level of cooperation between judges and clerks to accelerate processes, and has instituted a permanent cooperation among the institutions of the Monza e Brianza area. There is an increased confidence that “*change may occur also without new laws or additional resources*”, and a new culture - the people we serve are at the centre.

For further information: Dr Claudio Miele, Court of Monza, claudio.miele@live.it

6.3.2. Moving to e-Justice

There is a strong trend within Europe to develop e-Justice and e-Courts. Overall, 3.3% of the court budget of European members on average was devoted to computerisation in 2012, according to CEPEJ’s 2014 report. This masks a large variation among individual EU Member States, from less than 0.1% of the budget allocated to the functioning of courts, to over 10% in the case of Malta.



As noted already, ICT is already making an important contribution to performance monitoring and management ([topic 6.1.1](#)) and communicating with the public ([topic 6.1.2](#)). The Ministry of Justice in Poland has combined the two functions with its Justice System Statistical Information, by publishing both comparative data and court rulings, while also opening a portal to details of ongoing proceedings for authorised persons.

Inspiring example: Access to information and court rulings (Poland)

Even before its Strategy for Modernising Justice Area in Poland 2014-2020 was approved, the Ministry of Justice had set up a new website, Justice System Statistical Information (www.isws.ms.gov.pl, Polish only), to publish data including international and national comparisons, as well as information on good practices ready to be implemented, which has been operational from May 2013. This website is now an open information source for the current level strategic measures in the area of Justice.

At the same time, three other IT tools are being continuously developed, in order to improve quality and increase accessibility of public service delivered by the justice system:

- The **Information Portal** aims to give authorised persons access by Internet to information concerning ongoing proceedings in which they participate.
- A **Court Portal** is planned to start in 2014. This project will unify different courts' websites and will create a justice system contact point for the citizens.
- The **Court Rulings Portal** will publish common courts' rulings on the Internet, and will be fully implemented in 2015. A limited version was already functional at the time when the strategy was being prepared.

For further information: Jakub Michalski, Head of Strategic Analysis Division, Ministry of Justice, Michalski@ms.gov.pl

The main applications of ICT within the European court system have been identified by CEPEJ in three distinct areas:

- **Computer equipment used to directly assist judges and court clerks**

This includes: word processing/office facilities whereby a judge or court staff member can draft his/her decisions or the preparation of a court case in an "electronic file"; various tools and applications for legal research (CD-ROMs, Intranet and Internet software) so a judge can gain access to statute law, appeal decisions, rules, court working methods, etc; office applications and tools for jurisprudence combined with "standard-decisions" models or templates that can be used by judges to reduce their workload when drafting a judgment; electronic databases of jurisprudence, e-mail facilities and internet connections.

- **Electronic systems for the registration and management of cases**

Computerised databases replace traditional court docket books and other registers and enable extra functionalities in managing cases, and generating data on performance and financial management of courts, case tracking, case planning and document management.

- **Electronic communication & information exchange between courts and their environment**

As well as websites (topic 6.2.1), this includes the use of technology in the courtroom to present cases, including for instance video conferencing, electronic evidence presentation software, overhead projectors, scanning and bar-coding devices, digital audio technology and real-time transcription.

The Spanish "Lexnet" system is a prime example of secure communication between courts and legal professionals, via a web application that is available 24/7 and enables substantial time and cost savings. Lexnet was a finalist for the 2012 Crystal Scales of Justice Award, and the application of the system in the autonomous region of Catalonia was recognised by EPAA in 2011.

Inspiring example: E-notification in Spain

The administration of justice has always been characterised as a great generator of paper and user of signatures and stamps. This is no truer than in the case of communicating judicial resolutions to the legal representatives of the parties to judgments, which has traditionally been done in hard copy, taking time, incurring costs (paper and people) and risking the integrity of the notification process, which should be simultaneous to all parties in the same lawsuit.

Spain has developed a module called Lexnet which opens up a secure electronic channel of information exchange between judicial offices and legal professionals, as it currently allows for notifications to be made to legal professionals instantly and simultaneously. Lexnet was successfully launched in 2004 and it has been progressively rolled out in the courts and tribunals of almost the entire territory of Spain, as the Ministry of Justice has made it available free of charge. Lexnet currently has more than 40 000 users, it is been used by more than 2 600 judicial bodies. Since 2009, almost 114 million notifications have been made by courts by telematic means, reducing paperwork, saving staff time and accelerating access to justice. The full implementation of a new version is foreseen in the national *Plan de Modernización de la Administración de Justicia 2009-2012*. The system is now being developed to allow for legal professionals to notify their pleadings electronically to courts too.

For further information: <https://www.administraciondejusticia.gob.es>

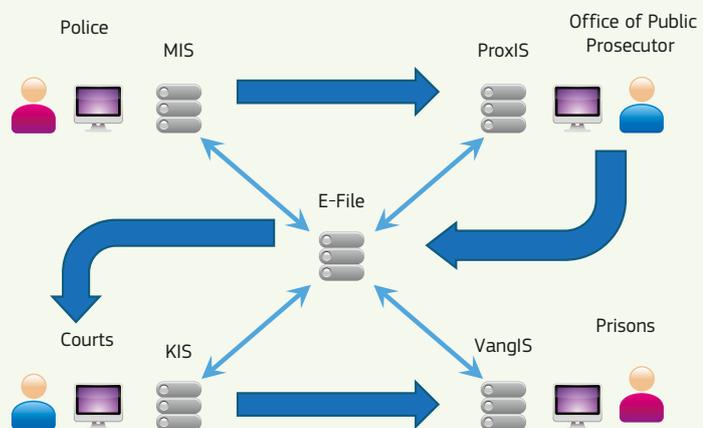
ICT is also a powerful tool for placing the management of justice in the wider framework of law enforcement. The caseload of the justice system is driven by the number and nature of public prosecutions arising from police work and other bodies with investigative powers (e.g. anti-corruption agencies). Similarly, occupancy levels in the prison system, including problems of capacity use and overcrowding, are overwhelmingly shaped by court judgments, in numbers and length, which affect in turn probation services, and in parallel the management of non-custodial sentences (e.g. community service). Some Member States have moved to connect up the information systems used in law enforcement.

Inspiring example: Everything goes through E-File (Estonia)

Recognising the need to break down information silos, the Ministries of Justice and Interior embarked on a plan to connect together existing information systems (IS) through a central case management information system containing all information on the status of legal proceedings, procedural acts and court adjudications whether criminal, civil, administrative or misdemeanours. The e-File enables to exchange information simultaneously between various parties to the proceeding. As a result, institutions no longer need to key in the same information more than once, each can change or add information when necessary. With the help of EU funds, Estonia engaged in developing E-File as a central database and case management system communicating with each of its client-systems, and providing access to justice through its Public E-File Portal (AET).

The first generation, E-File 1.0, started with the four client-systems of the police (MIS), the prosecutors' Criminal Case Management Register (KRMR), courts (KIS), and the Public E-File Portal (AET). Having successfully implemented that project in 2009, the authorities moved onto the next generation: E-File 2.0. The existing systems of MIS, KIS, KRMR, and AET are now connected to the Statistics Portal (ÕSA), the Punishment Register and IS of Penalties & Fees (KaRR), the Portal for Misdemeanour Procedures (VMP) and the Supreme Court (RKIS).

Every client-system connected to the E-File (KIS, KRMR, MIS VMP etc.) is a modern case management system that works as the search engine for procedural materials, as well as the tool for the registration of documents, judgements, court hearings, and other procedural data. Systems can also automatically allocate judges, prosecutors, and other officials to lead a case. Moreover, E-File provides the publication of court judgements on official websites and collection of metadata in the fastest and easiest way.



The advantages and benefits of the e-File are that:

- It minimises multiple data entries
- It enables central storage of files and metadata;
- It supports its client-systems;
- It allows for general and consolidated statistics;
- It provides faster and better access to data and justice;
- It improves data quality;
- It is securer and safer than paper systems;
- It cuts 'red-tape'.

The Court Information System, KIS, is a modern information management system for Estonian courts of the 1st and 2nd instance and Supreme Court offering one information system for all types of court cases. KIS enables the registration of court cases, hearings and judgments, automatic allocation of cases to judges, creation of summons, publication of judgments on the official website, and collection of metadata. The IS also has a search engine for court documents, judgements, hearings and cases. KIS is divided into parts accessible to the public and authorised users. Confidential data (cases) can only be seen by the judge of the case and court staff bound up with the case.

Great amount of data is generated by IS themselves, including KIS, according to set criteria ('classifiers'), for example, types of cases or documents. All procedural information is stored in E-File, making the latter the original source from which the ÕSA draws its statistics. The ÕSA itself is simply a statistical tool to analyse data and provide reports on request for governmental officials dealing with procedural statistics, it does not store or create new data itself, relying entirely on E-File. The main indicators generated by ÕSA include caseload (incoming and resolved cases), pending cases and cases lasting longer than three years, average length of proceedings, clearance rate, and measures of the workload of courts, Public Prosecutors' offices, and other officials. Statistics can be broken down by unit (e.g. court), by an official (e.g. judge) and by year.

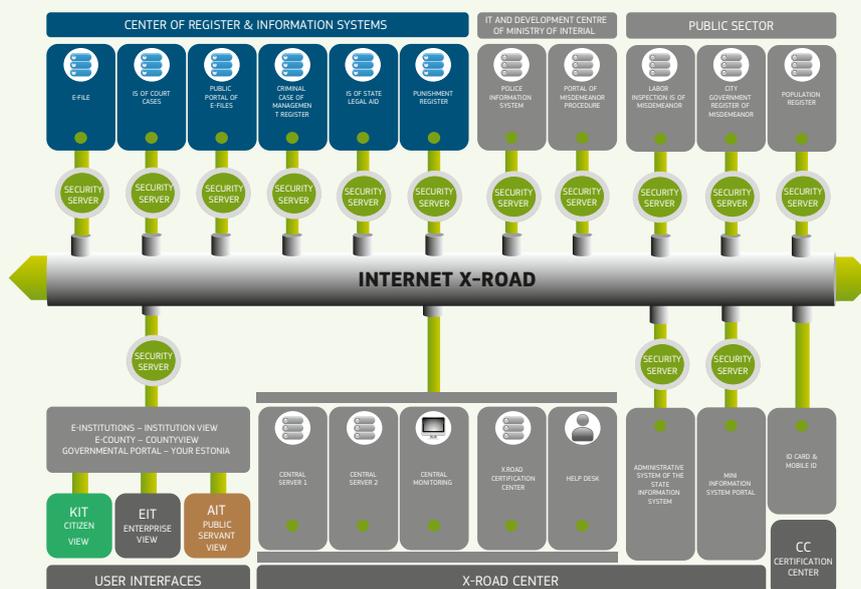
The latest generation, KIS2, includes new classifiers based on courts' needs, for example types of cases (e.g. litigious and non-litigious), categories of cases (e.g. bankruptcy) and subcategories (e.g. initiation of bankruptcy proceedings against legal persons). As a tool for judges, KIS2 represents a valuable evolution, with searches based on phases of proceedings (e.g. acceptance of a civil action, assignment of a case, pending response of the defendant), issuing of reminders, and monitoring of the length of time spent on each phase.

The advantages and benefits of KIS are that:

- It makes court proceedings faster;
- It enables more complex allocation of cases;
- It allows judges to manage their workload and to specialise;
- It enables transfer of data into templates;
- It means less time-consuming publication of judgments and court hearings;
- It enables documents to be generated: standard court orders, summonses etc.;
- It provides a better overview of cases and proceedings;
- It represents a single information system for the entire judiciary.

Connected to KIS and being part of e-File, the web-based information system Public e-File (AET) enables parties to proceedings and their representatives to submit proceedings' documents to the court electronically (both to initiate and during ongoing proceedings). Furthermore, Public e-File enables to monitor the progress of the related court proceedings, see judgments and receive summons for all types of proceedings. In common with the rest of the administration, X-Road is the electronic layer for data exchange and interoperability (see [theme 3](#)) between all the IS belonging to state agencies, including data control provided by the Population Register, Commercial Register etc., secured by the state. While KIS is accessible by judges, KRMR by public prosecutors, MIS by police officers etc., AET is available to the general public and legal representatives (for whom the use of AET will become compulsory in couple of years). The security of the proposed solutions are ensured by electronic identity (eID) and electronic signature using Public Key Infrastructure and since information is sent via X-Road. When a court

uploads a document to KIS which is then sent via the X-Road and the e-File to the Public e-File, the addressee receives a notification to the e-mail. After the addressee accesses the Public e-File with his/hers ID-card and opens the document, the document is considered as legally received. KIS then receives a notification that the document has been viewed by the addressee or her/his representative. If the document is not received in the AET during the concrete time-period, the court uses other methods of service.



The advantages and benefits of AET are that:

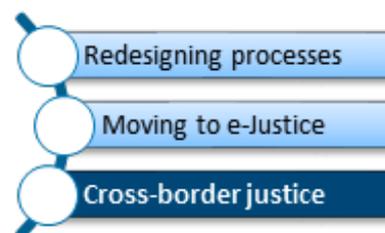
- All parts of a proceeding are equal because they possess the same information at the same time;
- It grants certainty to the public because a person can view the proceedings he/she is involved in through the computer/Internet;
- It saves time both for the public and state officials;
- It is easy to use

See also: <http://www.egov-estonia.eu/e-file> and <https://www.ria.ee/en/>

For further information: Kätlin Kattai, Head of International Relations, Centre of Registers and Information Systems (RIK), Katlin.Kattai@just.ee

6.3.3. Cross-border justice

The power of ICT extends beyond joined-up administration in one country. E-Justice also facilitates cross-border co-operation among EU judiciaries, to help citizens, businesses and governments overcome the barriers and bottlenecks to accessing justice in other jurisdictions. A large step in facilitating e-Justice was taken with the creation of a **European portal**: <https://e-Justice.europa.eu>. Owned jointly by the EC and every Member State, the portal is intended as the 'one-stop electronic shop', providing online tools for citizens, legal practitioners and legal authorities, such as information, guidelines, online forms and signposting. The next development in e-Justice across Europe is the **e-CODEX project**.



e-CODEX: Making access to justice easier across borders

About ten million EU citizens have already been involved in cross-border civil litigation. But seeking justice in another EU country is often intimidating for many people, especially where there are language differences and the legal system is unfamiliar, as well as the paperwork involved and the time it takes. The EU is committed to taking the stress and cost out of cross-border justice by finding an easy digital way for citizens, private businesses and public bodies to exchange information online, speed up the process, and use the internet to overcome the barriers of distance and language. A large scale pilot project, e-CODEX, was launched in 2011, co-financed by the EC's Competitiveness and Innovation Framework Programme, to achieve interoperability between national judicial systems.

“For example, if you lose your luggage while travelling from Berlin to Madrid, you can claim up to EUR 2000, but the airlines or airports involved may be in different countries to the traveller and so this is likely to become a small claims procedure” (Carsten Schmidt, e-CODEX Coordinator, MoJ, North Rhine-Westphalia). Previously, citizens could download a form from the European e-Justice Portal, but they still needed to print, sign and physically send it to the relevant authorities. The aim of e-CODEX is to complete the whole process online and in your own language, starting with pilots covering three procedures that are currently purely paper-based: small claims; the European Payment Order; and the European Arrest Warrant.

This doesn't only entail resolving technical ICT matters, such as electronic identification and signature, authentication, filing and semantics, but just as importantly, changing the way that administrations think and act, and allaying citizen's concerns about use of information. e-CODEX relies on the partnership with MS, who must be able to accept electronic files in courts, for example, but also raise awareness of the opportunities e-CODEX provides. The by-product is that national systems also become more efficient, a win-win for domestic users and cross-EU cooperation. So far, e-CODEX has attracted the partnership of 14 EU countries: Austria, Belgium, Czech Republic, Estonia, France, Germany, Greece, Hungary, Italy, Malta, the Netherlands, Portugal, Romania and Spain, with Turkey as an associate.

*Source: research*eu focus magazine, no 12*

An example of where e-CODEX could be used to make judicial processes more efficient is **small claims procedures**. Systems to support electronic processing of uncontested claims and small claims were available by 2012 in all courts in Austria, Czech Republic, Estonia, Finland, Latvia, Lithuania, Malta, Portugal and Sweden.⁽¹¹⁾ Cross-border claims up to EUR 2 000 have been simplified and accelerated by the European Small Claims Procedure, which includes an online option.⁽¹²⁾ A judgment given in the European Small Claims Procedure is recognised and enforceable in another Member State without the need for a declaration of enforceability and without any possibility of opposing its recognition.

Small claims procedures have been analysed as a 'life event' for citizens by the European Commission's e-Government Benchmarking Report for 2014 (see [theme 4](#)), which identified seven individual public services for 'small claims procedures' from orientation and initiation to retrieving verdict and appeal:

Starting a small claims procedures

1. Obtain information on how to start small claims procedure
2. Obtain information on related legislation and rights
3. Start a small claims procedure
4. Share evidence/ supporting documents
5. Obtain information on case handling
6. Retrieve judgement
7. Appeal against court decision

The report found that: "Few countries enable citizens to start this procedure online and safely exchange information with the judicial authorities during the course of the procedure. At the moment, there is the risk that citizens cannot properly find what they are looking for, nor understand it, in turn potentially

⁽¹¹⁾ The 2014 EU Justice Scoreboard, page 19

⁽¹²⁾ European Commission (2007), "Regulation (EC) No 861/2007 of the European Parliament and of the Council of 11 July 2007 establishing a European Small Claims Procedure, making it possible to use electronic methods for small claims", Brussels

decreasing citizens' trust in the justice system. Judicial procedures can be lengthy and complicated, making it even more important to manage the expectations of citizens starting such procedures and to guide them through the process. The citizen starts out online to find information on his/her rights and on how to issue a small claim. However, as soon as it comes to actually starting the procedure, face-to-face contact or paper transactions are needed. The same goes for the exchange of information back and forth during the course of the procedure (e.g. to share evidence and gain information on the case handling).” For steps 1, 2 and 6, services were fully provided through the service provider and/or a government portal in more than 55 % of surveyed countries, while steps 3, 4, 5 and 7 were available in less than 45 %.

However, the report also highlights e-CODEX's prospective role, as a secure and reliable “platform” to exchange documents and data between citizens, businesses, governments and judicial authorities on a cross-border level. A broad roll out of this e-Delivery solution will increase the level of integration of e-Documents and will help governments to provide the small claims procedure fully online on the national and cross-border level.

Since 2013, the Commission has launched [Electronic Simple European Networked Services \(e-SENS\)](#) to build on the achievements of preceding large-scale pilot projects, including e-CODEX, and extend their potential to more and different domains. By providing a set of Basic Cross Sector Services in justice and other key areas, ready for reuse, e-SENS lays the ground for the [Connecting Europe Facility's Digital Services Infrastructure](#) in 2014-2020 (see also [theme 4](#)).

6.4. Training and continuing professional development

The decisive factor in the quality of the justice system will always be the knowledge and competence of judges, prosecutors, court administrators and other legal professionals. Europe's judiciaries face an ever-evolving challenge to keep up-to-date with the latest developments in the body of law, whether their domestic legislation, or EU regulations, directives and jurisprudence. The same people must also administer or adjust to the radical changes in the operating environment that arise from managing performance, by ensuring timely procedures, explaining the law in an understandable manner both to the parties and to the public, establishing ADR, exploiting computerisation and enabling e-Justice across borders. In this climate, training at all levels and all stages, including continuing professional development (CPD), is a vital tool in the modernisation of the judiciary in the service of the public.



According to CEPEJ's 2014 report, initial training for judges is compulsory in 24 EU Member States⁽¹³⁾ such as attending a judicial school or a traineeship in the court, while it is obligatory for public prosecutors in 25 Member States. But mandatory in-service training is much less common, being offered more often on an optional basis. General in-service training for judges is compulsory in just 11 Member States, and for prosecutors in 12 Member States. In-service training for specialised judicial functions (such as economic or administrative issues) is required for judges and prosecutors in 10 countries each⁽¹⁴⁾. In-service training for court management functions for judges and prosecutors is obligatory in just five and six EU countries respectively, while training for use of computer facilities in the court was mandatory for judges in just four members, and for prosecutors in seven⁽¹⁵⁾. Less than 1% of court budgets

⁽¹³⁾ Within the UK, it is compulsory in England & Wales and Scotland, but only optional in Northern Ireland.

⁽¹⁴⁾ Within the UK, it is compulsory for judges in Scotland and Northern Ireland, but only optional in England & Wales.

⁽¹⁵⁾ Within the UK, only Scotland for judges in both cases, but also England & Wales in the case of prosecutors.

was spent on judicial training in Europe in 2012, which has not improved over the past periods studied by the CEPEJ.

The importance of judicial training to building mutual trust across Europe in each other's justice systems was recognised in the [2008 European Council Resolution](#) and most significantly, the [Lisbon Treaty](#), which gave the EU competence for the first time to support training of the judiciary and judicial staff in both civil and criminal law. This was followed by the [2010 Stockholm Programme](#), which established such training as a priority in the context of the Council's goal to develop Europe as a territory of freedom, security and justice. *“Priority should be given to mechanisms that facilitate access to justice, so that people can enforce their rights throughout the Union. Training of, and cooperation between, public professionals should also be improved, and resources should be mobilised to eliminate barriers to the recognition of legal decisions in other Member States.”*

The [European Commission's Communication of September 2011](#) reinforced this momentum to strengthen European judicial training, as well as peer-to-peer exchanges of experience and expert practice. Knowledge and understanding of EU law across Europe's judiciaries is crucial to create the confidence for businesses to operate across the EU, and for citizens to travel and live in other Member States. For economic growth, Europe's enterprises must be able to take investment and trading decisions, secure in the knowledge that their rights will be upheld in another jurisdiction.

The Communication set a target of at least 50% of legal practitioners being trained in EU law by 2020, or 700 000 people, in line with the objectives of the Stockholm Programme. The aim is that legal practitioners should benefit from at least one week's training in the EU *acquis* and legal instruments during the course of their career.

In taking forward this goal, the top priority should be the judges and prosecutors responsible for enforcing EU law. However, European judicial training is also essential for other practitioners, such as court staff, lawyers, solicitors, bailiffs, notaries and mediators. This commitment was reiterated in the [EU Justice Agenda for Europe 2020](#), which highlights judicial training as a key challenge for the coming years: *“The impact of EU law on the daily lives of European citizens and businesses is such that every national legal practitioner – from lawyers and bailiffs on the one hand, to judges and prosecutors on the other – should also be knowledgeable in EU law and capable of interpreting and effectively enforcing EU law, alongside his or her own domestic law ... the 2014-2020 Justice financial programme reflects the importance granted to training by the Commission. 35% of the programme's overall budget of EUR 378 million will support high-quality European training projects for all justice professions and help share best practices on subjects such as curricula or interactive training methodology”.*

The [European Commission's annual report on European judicial training for 2014](#) shows that at least 94 000 legal practitioners (judges, prosecutors, court staff, lawyers, bailiffs and notaries) took part in training activities on EU law or the national law of another Member State in 2013, after more than 130 000 had been trained in 2011 and 2012. The Commission is committed to increasing the funding available for European judicial training as a priority under the 2014-2020 financial framework, with a view to supporting the training of more than 20 000 legal practitioners per year by 2020. However by itself, this funding will clearly not achieve the goal of 700 000 trained practitioners. The target is reachable through the common efforts and shared responsibility of all stakeholders: Member States, Judicial Councils, European and national judicial training bodies, and the legal professions themselves at national and European level.

The Commission is also supporting high quality training projects with pan-European benefits, including e-learning.⁽¹⁶⁾

Initiatives to stimulate training and exchange knowledge

In April 2013, the European Commission organised a [conference](#) to stimulate European judicial training. The Commission has developed training modules on the implementation of specific European legislative instruments, which are available free of charge on the training section of the [European e-Justice Portal](#) and can be adapted to national contexts and different target groups by trainers running specialised training courses.

From 2013 onwards, the Commission is supporting AIAKOS, a [two-week exchange programme for new judges and prosecutors](#) managed by the European Judicial training Network (EJTN). It will also develop complementary measures, by promoting the supporting role of the European e-Justice Portal and drafting practical guidelines, e.g. on training methodologies and evaluation processes.

In 2013-2014, the Commission carried out a [pilot project](#), originally proposed by the European Parliament in 2012, to identify best practices in training legal practitioners in EU law and national legal systems and traditions. The project also aimed to find the most effective ways of delivering training at the local level and to promote the dialogue and coordination between EU judges and prosecutors; to encourage EU judicial training providers to share ideas on best practice and disseminate them across the EU; and to improve cooperation between the EJTN and national judicial training institutions. This involved training providers such as the [Academy of European Law \(ERA\)](#) and [EIPA's European Centre for Judges and Lawyers](#), and European-level professional organisations such as the [European Network of the Councils for the Judiciary](#), the [Network of the Presidents of the Supreme Judicial Courts](#), the [Association of the Councils of State and Supreme Administrative Jurisdictions](#), and the [Network of the General Prosecutors of the Supreme Judicial Courts of the EU](#).

The project has been organised in three parts. Lot 1 concerns training of judges and prosecutors, lot 2 covers training of lawyers, and lot 3 looks at training of court staff, to build up a complete picture of judicial training in the EU. In June 2014, the Commission organised a [workshop](#) titled "*Building upon good practices in European judicial training*" to disseminate the results of the pilot project, and enable trainers to share good practices and exchange ideas.

The pilot project on judges' and prosecutors' training invited submissions from judicial training institutions across the EU⁽¹⁷⁾, with factsheets that can be found on the [European Commission's e-Justice portal](#). An expert panel, overseen by internal and external steering committees, identified 62 initiatives that considered to be examples of 'best practice' (29), 'good practice' (16) or 'promising practice' (17). Best and good practices have elements which should be fully transferable to other national contexts within the EU, while promising practices by their nature are still at a developmental stage. These practices are classified below in five categories: training needs analysis; curricula and training plans; training methodology; training tools to apply EU law; and training assessment. Further factsheets can be found on the e-Justice portal on [national training of legal practitioners](#).

⁽¹⁶⁾ Information about EU financial support for European judicial training projects can be found on the websites of the Directorate General for Justice, the Directorate General for Competition, the Directorate General for Home Affairs, and the European Anti-Fraud Office (OLAF).

⁽¹⁷⁾ The judicial training institutions of all 28 EU Member States, plus three European training institutions: the Academy of European Law (ERA), the European Institute of Public Administration (EIPA) and the EJTN itself. Responses were received from 23 training institutions, and 157 practices put forward for consideration.

6.4.1. Training needs analysis



Training needs analysis (TNA) is the first phase of the training cycle, and is a structured and systematic process that can be applied to organisations, functions (e.g. civil judge, court president, mediator) and/or individuals. TNA evaluates skills requirements, by comparing the current competences against the desired state, and determining the gap in knowledge to be closed.

Many of the techniques used for assessing customer expectations of service delivery (see [theme 4](#)) or citizens' experience of the justice system (see [topic 6.1](#)) can be used for TNA: surveys (face-to-face, telephone, written, online), panels / focus groups, and feedback on previous training events. The analysis of individual responses from potential participants can be placed in a wider analytical context by talking to representative associations, studying 'live' professional practices in courts and administrative offices, and/or anticipating legal and technological developments (such as the rise in citizen engagement, communication and use of ICT) to stimulate new thinking on skills development.

The TNA should form the basis of designing customised training programmes, including objectives, content and format (duration, content, modality, etc.) and provide criteria for their evaluation. Over time, the TNA should be regularly reviewed to ensure the programme remains relevant or is updated.

Two best practice examples identified by the pilot project come from Europe-wide training institutions - the Academy of European Law (ERA) and the European Institute of Public Administration (EIPA). Both use pre-training questionnaires to identify needs, to customise the programme, and to perform mid-term evaluations of the training's impact.

Inspiring examples: TNA in Europe-wide training institutions

The **Academy of European Law (ERA)** has implemented an Evaluation and Impact Assessment system of training that was developed for the workshops implementing training modules in the area of EU family law for the European Commission. Two to three months before the implementation of each workshop, an initial needs assessment questionnaire and a registration form are sent to interested participants. By means of this short questionnaire, the applicants provide an overview of their professional background, their experience in the area of EU law and more concretely in the area of EU family law. The questionnaire also includes questions on why judges registered for the workshop and what they expect from their participation in the workshop. By evaluating this information, the training organisers are able to assess which applicants are in the training target group and whose training priorities best match the objectives of the programme. This preliminary TNA assessment has a dual effect on the efficiency of training: it leads to more precise selection of future applicants for training, while at the same time providing a stronger focus on their individual professional training needs. It also represents a good example of the inter-connection between TNA and training evaluation, since it is coupled with a two-fold process of immediate and mid-term evaluation of the effect of the training.

For further information: Academy of European Law (ERA), jrageade@era.intinfo@era.int, <http://www.era.int>

The **European Institute for Public Administration (EIPA)** has introduced an Individual Learning Needs Analysis system. Once a given topic is identified as a general training need, a training programme is designed to meet the need in question and finally the programme is opened for registration. Two to four weeks before the training, the registered participants are asked to complete a tailor-made questionnaire with a two-fold objective: a) to assess the participants' current level of knowledge and experience on the topic, and b) to inquire about specific issues of interest or concern. Currently, consideration is also being given to making the questionnaires available as online surveys. The practice increases the efficiency of training in many ways:

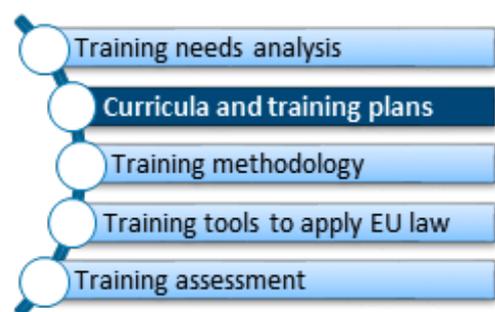
- ✓ The training is fine-tuned to the audience level.
- ✓ Practical information and knowledge of immediate interest to the participants is provided.
- ✓ Answers to pre-posed questions related to the everyday work of participants are given, and if necessary, the programme is adapted in order to meet specific and/or unforeseen individual needs.

It also presents a good example of the inter-connection between a TNA and an Evaluation of Training as it is coupled with a mid-term evaluation of the effect of the training through a web-based survey tool or telephone interviews.

For further information: European Institute for Public Administration (EIPA), info-lux@eipa.eu, <http://www.eipa.nl/en/antenna/Luxembourg>

6.4.2. Curricula and training plans

Having identified needs, the next phase of the training cycle is to convert them into content, including scope, structure and sequencing of activities, combining theory and practice, legal and non-legal aspects (including leadership and ICT skills). Increasingly, judicial training is drawing on **multi-disciplinary techniques** (taken from economics, medicine, psychology, etc.) to accentuate the core components of the programmes, and to provide a wider socio-economic and cultural context, in line with the Council of Europe's Recommendation 12 for judicial training, published in 2010. This is exemplified by initial training of judges in Italy, which also incorporates placements ('externships') in bodies with some role in the legislative process.



Inspiring example: Combining disciplines in the delivery of training (Italy)

In Italy, a training programme has been devised that seeks to extend the initial training of judges to include an in-depth analysis of the social, political and economic context in which the justice system operates. This practice aims to introduce into the initial training curriculum content that should make young judges and prosecutors better aware of the economic, social, political and cultural context in which their judicial activity will take place. The rationale for this approach, which has been incorporated directly into Italian guidelines for initial training, is that it is important to use training to develop economic, social, and cultural awareness amongst the judiciary in an epoch in which for a number of reasons (e.g. development of media and social media, multiculturalism and multi-ethnicity, economic crises, and rapid developments in biology and medicine), the application of the law cannot be separated from knowledge of social sciences and other related disciplines.

The training practice involves the preparation of materials and organisation of discussions between newly-recruited judges and prosecutors and experts (social scientists such as sociologists, statisticians, journalists and media experts, philosophers of the law). Topics covered include:

- The image and perception of justice and judges in society,
- The characteristics of social demands on the justice system,
- Political discussions about the reform of justice,
- The history of the judiciary,
- The position of disadvantaged groups in society,
- Judicial ethics.

In some sessions, discussions are triggered by showing a film dealing with aspects of justice, which is then analysed with the assistance of a cinema expert. The practice also includes the organisation of 'externships' for trainees in external agencies active in social areas linked to justice. Such agencies included penitentiaries, the Bank of Italy (i.e. the banking and financial intermediation supervising authority) and the State Attorney's offices (i.e. the agency responsible for representation of the State and some public entities in legal disputes, as well as for the provision of legal advice to such agencies). Externships have also been organised in the clerking and secretarial services of courts and prosecution offices, so that trainees can gain a grasp of justice from the perspective of those who work with judges and prosecutors.

Appraisal of the programme has been conducted by a combination of detailed feedback questionnaires within the School and some of the co-operating agencies (e.g. the Bank of Italy) have also carried out their own independent assessments. There was some initial resistance to the introduction of these practices. For example, there were objections to judges and prosecutors spending two weeks within the penitentiary circuit in case it encouraged too much subjectivity in their approach to justice. The programme has, however, received a generally positive response from both the expert trainers and the trainees, who particularly appreciate the fact that the exposure of initial trainees to the 'external world' is systematic rather than occasional. In this way, judges and prosecutors in the early stages of their training can acquire a deeper understanding of the realities of criminal sanctions; of the fiscal crisis, financial governance and banking supervision; of the 'deep' reasons for the inefficiencies of justice, and of the social consequences of multi-culturalism, of multi-ethnicity and of poverty.

Source: European Commission (2014), op. cit.

The training of assistant judges ('court secretaries') in Hungary is a good example of employing **role play and reconstructions** to simulate the 'real world' environment.

Inspiring example: Training of assistant judges (Hungary)

The Academy of Justice in Hungary provides an intensive, complex modular five-day training event for the training of court secretaries (assistant judges). Court secretaries have to practice in a court for at least one year to be eligible to apply for a judge's position; nevertheless, the minimum age of appointment is 30 years in Hungary. Usually court secretaries practise for three to five years before getting appointed. During this period of preliminary practice, they have to take part in obligatory training sessions that are organised by the Academy. The main training event is the four times one-week modular training programme, which consists of the following modules:

1. Ethics and judgecraft;
2. Civil law and procedure;
3. Criminal law and procedure; and
4. A mock trial session.

The five-day mock trial session - chosen by the court secretaries in criminal or civil procedure - takes place at the training rooms of the Hungarian Academy of Justice, where two training rooms are permanently furnished as courtrooms. The court secretaries work on the basis of a case study. What is probably unique about this mock trial training approach (in addition to its length) is that the participants play all the roles on a rotating basis (e.g. in the case of a criminal procedure the victim, the accused person, witnesses, the defence lawyer, the prosecutor and the judge (panel)). This is a true example of intensive 'learning by doing'. The mock trial sessions are video-recorded, played back to the participants and analysed with the help of the tutor judges and psychologists who are present with the group during the whole training. At the end of the training, each participant receives a DVD containing his or her 'first court trial'. Mock trial sessions have been regularly used in the past six years as part of the court secretaries' modular training. Over the past years the methodology has been refined. The feedback of junior judges who participated in such mock trials when they were court secretaries indicates that they found it a very good preparation tool to help them handle difficult situations in the courtroom. Within the specific context of the need to provide an intensive training course that rapidly exposes new trainees who have common training needs to the entire adjudicative process, the Academy of Justice's training provides an example of best practice.

For further information: National Office for the Judiciary (Hungarian Academy of Justice), obh@obh.birosag.hu; <http://www.birosag.hu/obh>

Member states have also sought creative approaches to **large-scale training**, for example when there has been a major legislative development which needs to be communicated quickly, effectively and efficiently. The case of Romania's retraining of the judiciary in four new legal codes is an example of making effective use of a combination of training modes.

Inspiring example: Large-scale structured training using multiple delivery modes (Romania)

A good example of this approach is to be found in Romania, where it has been necessary to retrain the entire judiciary in four new Codes: the Civil Code, the Civil Procedure Code, the Criminal Code and the Criminal Procedure Code. This approach began in 2011 with the creation by NIM of a continuous training strategy. This major training challenge had to be organised in such a way as to follow a logical order, via a structured training strategy with clear steps and stages. Bearing in mind the fact that the new provisions contained huge volumes of information that had to reach every judge and prosecutor, and also taking into consideration the importance of finding the right learning process, NIM drafted a unitary, centralised strategy.

The first step was to identify trainers who were able to deliver seminars on the new Codes. Once established, the network of trainers organised concentric circles of decentralised seminars that were continuously enlarged. The training curricula were continuously updated. In total, 23 national and international conferences were organised at the central level up to October 2014, with online broadcasts and video recordings (the number of people connected for each day of the conference being 6 428 – 8 415, with maximum 1 855 simultaneous users/each day of conference). Training materials were simultaneously developed and enlarged, based upon the lecturers' presentations and the debates that took place during the conferences. As at 30 October 2014, the video recordings posted on the NIM website had the following number of unique users for each page dedicated to the New Codes:

Webpage	Unique users
New Civil Code Conferences	57 443
New Civil Procedural Code Conferences	28 542
New Criminal Code Conferences	7 385
New Criminal Procedural Code Conferences	17 536

The debates were transcribed by NIM staff and included in handbooks that – with each lecturer's permission – were published on the NIM's website. The Handbook on New Civil Code was downloaded 8 036 times and the one on New Civil Procedural Code 10 376 times. The other two handbooks in Criminal Code will be made available in the next year. Four guides with procedural templates/documents were developed as well as two new guidelines on templates of the petitions, complains and judicial actions on civil, commercial, family and labour matters and also, in criminal matters. These guidelines will be made available online, free of charge for the general public. 30 E-Learning modules for the new Codes will be developed by the end of 2015. In addition, NIM also organised 'train the trainer' activities. These trainers were then used in over 350 seminars also organised by the NIM that resulted in more than 4 980 judges and prosecutors (73%) engaging in at least one training activity at decentralised level. Taking into account the results so far (the high number of judges and prosecutors familiarised with the new Codes, the training carried out by both judges and prosecutors and by other legal professionals) and the general availability of the information gathered in these programmes, the team were of the opinion that this represented a best practice example.

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As well as the ever-evolving legal base, judges and court administrators face a changing workplace environment, given the developments in performance monitoring, user consultation, quality management, more effective communication and the digitisation of court processes. This places a premium on **leadership skills and the management of change**. As with many other professions, technical proficiency in a position does not automatically translate into managerial ability. Excellence in court does not necessarily make a judge a natural manager of projects, people or finances. The progressive series of management training course for judges in France was deemed by the EJTN assessment to be an exceptional case of best practice.

Inspiring example: Leadership and management training (France)

Relatively few in number for the size of country, judges play a significant role in running and managing the court systems, and have seen their functions evolve significantly over the last 15 years. Prior to 2008, training modules were seen as disparate, poorly defined and lacking in any clear relationship to one another. The National School for the Magistracy (ENM) responded by overhauling the training offer, and creating a complete and comprehensive suite of training activities across a range of interrelated courses, aimed at ensuring that judges are equipped to carry out their management functions effectively.

Judges in France are expected to engage in five days of continuous training every year. They select their courses from the training prospectus published annually, covering eight general themes. One theme is the administration of justice, and includes such topics as:

- The tools of management (including running budgets);
- Change management;
- Human resources and risk management;
- Managing stress;
- Techniques of evaluation;
- Measurements of efficiency; and
- The interface between judicial and public policy.

Courses typically run for three days, although one course runs for 21 days, spread over seven modules. These courses are available to all French judges on a self-selecting basis. In addition the offers further programmes designed for specific managerial purposes. The first programme is a bespoke series of courses designed to assist judges appointed to a particular management post and includes management training for:

- New Secretary Generals;
- Judges as Departmental Heads within a Jurisdiction;
- New Heads of Jurisdiction;
- New Heads of Jurisdiction: One Year Later; and
- A Training Plan for Heads of Jurisdiction (addressed to judges with at least three years of seniority in their role as head of the jurisdiction).

Judges have responded with enthusiasm to the courses on offer. For example, in 2013, 928 judges were (voluntarily) enrolled on judicial management courses, which amounts to 11.5% of the country's serving judges.

Source: European Commission (2014), op. cit.

Management training is also delivered in some Member States through coaching and mentoring, which may suit better the style of some judges, prosecutors or administrators, as identified in the TNA. Other management training focuses on specific responsibilities or tasks, for example, project management, which is useful when planning complex ICT investments or the introduction of quality management systems.

6.4.3. Training methodology



Alongside training content, Member State judiciaries have the opportunity to be creative with training style and methodology when designing programmes. Many courses are deploying new styles of face-to-face training where personal contact is integral to the learning outcomes (for example, train-the-trainer, investigation, mediation, sentencing) and/or online and distance learning techniques (such as pod-casting, video-conferencing) that are cost-effective, flexible and can be tailor-made to suit the individual's training needs and circumstances. A best practice example of

the latter is Bulgaria's online e-Learning strategy, which has enjoyed a massive rise in take-up over the last six to seven years.

Inspiring example: Comprehensive online e-Learning strategy (Bulgaria)

Since 2009, Bulgaria's National Institute of Justice (NIJ) has been providing e-Learning through its Distance Learning Portal and Discussion Forum, in addition to its Extranet. The first pilot e-Learning course was delivered by NIJ in 2007 under a twinning project with the Judicial School of Spain, using the Distance Learning platform of the latter. The distance learning courses usually last three to four months. During that time the participants are in online contact with one another and with the trainers. They can access the information from any convenient location, allowing them to better manage the time they are willing to dedicate to training and exercise more control over the learning process. Courses usually contain reading materials, presentations, case studies and short video clips. Assignments and tests are given by the trainers and submitted by the participants exclusively online. The Discussion Forum is an integral part of the distance learning training and provides for discussion of topical questions referring to the subject matter of the course. Where necessary, the Forum may be used as the place for further discussion of the case studies and practical examples dealt with in the training modules.

Active participation in the Discussion Forum during the training is among the criteria for the award of the Certificate of Completion. The practice was initially combined with a meeting of the participants and the trainers at the beginning and end of the training, but this has been suspended for financial reasons. Cost-effectiveness is one of the main advantages of this practice and it is estimated that, once established, it costs three to four times less than face-to-face training. The Distance Learning Portal and Discussion Forum are both based on open-source free software (currently Moodle 2.6). Two full-time IT staff members are in charge of the adaptation, providing regular software upgrades and maintaining the whole system, including the Extranet. The only other costs are those incurred by the development and delivery of the training courses, which are comparable with those for face-to-face training sessions. The latter are in fact much more expensive because of the additional costs for transportation and accommodation of participants and trainers.

Distance learning is rapidly gaining popularity among Bulgarian judges and prosecutors and currently between 12% and 15% of their training is delivered online. The number of training courses and participants has been growing steadily over the years from one training with 25 participants in 2007 to a planned 25 trainings with 1000 participants in 2014.

One Bulgarian judge who has taken several such e-Learning courses reported as follows: *"I took part in e-Learning, once on the topic of Waste Management, and the next one was about Environment Impact Assessments. Both were very interesting and helpful. With each of them you can learn everything you need to know about the subject without leaving the office. This kind of learning saves time and efforts, and there is another very special benefit – you can directly ask the teacher questions on which you are especially interested and get the most useful answers which are possible in practice. So, in general it is a great idea. I know that many of my colleagues have used such training on various matters that are of interest to them."*

Another judge who has taken six such courses also reported positively: *"Some of the courses have online discussions which are used by judges to standardise practice through exchange of ideas. We appreciate the ease with which we can ask course tutors questions by e-mail. Judges outside the capital have found it useful as they do not have to travel to the National Institute of Justice in Sofia."*

Source: European Commission (2014), *op. cit.*

The Judicial College of England and Wales has developed the Snowball Technique, a highly innovative method to enable large groups to distil complex thinking or collaborate to identify a common set of options or ideas.

Inspiring example: The Snowball Technique (England and Wales)

A practice being used by the Judicial College in England and Wales is the Snowball. The method has been designed to enable groups to distil complex thinking or collaborate to identify a common set of options or ideas. The shape of the exercise and the time taken depends on the number of people involved: e.g. for a group of 24, one may start with four groups of six participants. The four groups discuss the topic and identify their thoughts on the subject and, after a period of time, dependent on the complexity of the subject (anything from 20 – 40 minutes), the groups of six join together to form two groups of 12, who will collaborate for 15 – 30 minutes to share their ideas and come up with a collective view. The final stage sees the two groups of 12 joining together, for up to 20 minutes, to identify the common themes and/or a collective set of ideas. The final set of ideas is then reviewed in plenary. All stages of the exercise take place in one large room. Initially, groups sit around tables or gather around flip charts. As the groups expand, the participants find their own ways of gathering together and collecting their ideas. They are facilitated by one or two people who act as timekeepers and manage the various stages of the exercise.

This method has been adopted to encourage creativity, shared learning and to produce high energy during the session. According to its designers the method has been successfully used as a means of consolidating learning and encouraging collaboration in the development of new ideas. (e.g. to enable a group of judicial tutors with senior judges to identify the relevant core skills and begin the process of design for a new, cross-jurisdictional training course). The main advantages of this method are that:

- ✓ It promotes a high level of shared analysis of a problem, including listening to the views of other participants and developing the capacity to summarise the views expressed to achieve a common vision.
- ✓ It asks participants to demonstrate creativity and imagination by creating a framework for dynamic discussion.
- ✓ It promotes a better recall of information due to the active participation that demands the attention of all participants.

The exercise is also very cost-effective, as the participants in the group do the work themselves, with the aid of one or two facilitators. A good facilitator will encourage the group to work collaboratively. The logistical requirements are small – a room large enough for the groups to work together and materials for them to capture their ideas (flip charts, white boards, paper and pens). This methodology is easily transferable, and may be applied to continuous or initial training alike.

For further information: Dr. Kay Evans, Education and Development Adviser, Judicial College, kay.evans@judiciary.gsi.gov.uk, <http://www.judiciary.gov.uk>

6.4.4. Training tools to apply EU law

It is widely accepted that national judges and prosecutors need to be knowledgeable about EU law within the European judicial space, and acknowledged as a major gap to be filled. Many Member States are now using networks of coordinators, and several have access to comprehensive databases, to ensure there are reference points on EU law, and ideally also the legislation of other Member States, that can be accessed across their countries' court systems (see [topic 6.2](#)). These daily mechanisms for disseminating information are best backed up by judicial training, to gain broader awareness and deeper understanding, as promoted by the European Commission and its 2020 target (50% of legal practitioners trained in EU law).



The pioneering Dutch Eurinfra model in the early 2000s is echoed in the practices of other countries. Inspired by The Netherlands' experience, the European Gaius system in Italy is built on a similar mix of coordinated network, judicial training

and databases through the website ‘e-G@ius’, to provide quick and easy access to training materials and European law sources.

Inspiring example: GAIUS (Italy)

Within the context of decentralised training, the Italian School for the Judiciary, as the successor to the Italian High Council for the Judiciary, uses a network of local trainers who are competent to address training needs in European law and to organise training activities in the several judicial districts. In each judicial district, one or two specialised contact points are appointed and integrated into the network of local trainers. They have the task of satisfying the training needs in European law (both EU and ECHR law) that cannot be addressed at central level. The system also provides databases, data collection and indexes of case law of the ECJ and ECHR. The European Gaius trainers also organise training activities in the various judicial districts that have the same training needs and ensure they integrate European law perspectives into all other training sessions. In embryo, this network is a subnet of the European training networks, of which the EJTN is the most important.

*“Our aim is to allow national judges to become true European judges”.**

The full European Gaius project of the Italian CSM aims to achieve three different types of results. The first is to increase the number of centralised and decentralised courses on European law; the second is to provide specific training for judges who exercise jurisdiction in areas connected with European law; and the third involves the creation (as part of the COSMAG website) of a web page (electronic Gaius) capable of providing quick and easy access to past and ongoing training courses, teaching materials and national and European legislation.

Source: European Commission (2014), op. cit.

(*) <http://www.rechtspraak.nl/Organisatie/CBb/AgendaRooster/Europe-Inter-connected/Presentations/PowerPoint-presentation-Italy.pdf>

Increasingly, EU law is not taught in isolation as a separate subject, but as an integral component of national law, cross-referring to EU directives and regulations. Various techniques have also been tried to integrate judicial training across borders, through joint programmes with neighbouring countries or regions, and to combine legal with language training, originating in Spain, to make it easier for judges, prosecutors and lawyers to understand other Member States’ laws and traditions.

6.4.5. Training assessment

The evaluation of beneficiaries’ experience of the training and/or the effect of the training activities completes the training cycle. It allows the trainer to check whether objectives have been met, competences improved and initial needs addressed, levels of satisfaction, what has worked well or not so well, and what could be done differently next time, including revealing new training needs. The ERA and EIPA examples of TNA include elements of follow-up and reflection on the findings. The pilot project cites the Kirkpatrick model, which classifies four levels of training evaluation, and particular tools and methods that are suitable to their application:

1. Reaction of trainees: what they thought and felt about the training
2. Learning: the resulting increase in knowledge or capability
3. Behaviour: the extent of improvement in behaviour and capability and its implementation/application
4. Results: the effects on the business or environment resulting from the trainee’s performance

Evaluation contributes to continuous improvement (see [theme 1](#)). The first step is to ensure feedback as represented by the example of the rapporteur in Belgian judicial training.

Inspiring example: The rapporteur (Belgium)

In Belgium, a rapporteur is appointed amongst the participants especially in long (several day) training sessions with several presenters/trainers and a large number of participants. The task of the rapporteur is to summarise participants' opinions on the content and quality of the training session and to prepare a draft report. At the end of the training session the draft report is submitted to the participants for approval and then sent to the Judicial Training Institute. The described method performs level 1 of the Kirkpatrick training evaluation model. It also enables the receipt of real time summarised feedback information from participants about the quality of the training, along with suggestions on how to improve it.

Source: European Commission (2014), op. cit.

Several Member States have devised innovative evaluation tools to test the behavioural change and actual impact of training, which again can feed into needs analysis for designing future training programmes. One such example is Estonia's Case Law Analysis (CPA) which is still being assessed, but has potential learning points for other EU judiciaries. The primary objective is to encourage uniform application of the law by providing judges with practically oriented and concise analysis of case law and decision-making.

Inspiring example: Case Law Analysis (Estonia)

Case Law Analysis (CLA) in Estonia is a process of studying court decisions (and if necessary, other court-related documents) in all their relevant aspects, in order to identify problems in the uniform application of the law by courts. In the course of such research, one or more analysts (staff members of the Supreme Court Administration) ascertain the scope of problems that may exist in the application of legal norms. It is focused primarily on the application of the law via judicial decision-making (both material and procedural), with very limited use of any statistical analysis and no analysis of court management or the administration of justice. It is performed by a small team of legal analysts who form a part of the Supreme Court administration. The results of this analysis, along with the conclusions drawn on how courts apply certain legal statements and how they construe them, is presented in a written document, which is published and disseminated to judges as an unbinding source of information or reference and are used as training materials.

The CLA is not used for individual evaluation of judges nor for their performance evaluation or any disciplinary procedure. The CLA is also used in TNA as an additional source of information to supplement the standard procedures (such as surveys, focus groups, formal and informal consultations with judges and stakeholders) and for cross-checking them. Based on the CLA results, it is decided which of any systemic problems identified could be addressed through training. The topics and training activities selected are subsequently included in the annual training plan. On average between 10-20% of the training topics in different years emerge via the CLA.

- A CLA on compensation for non-patrimonial damage was conducted and published in 2007. In the following two years three training sessions were delivered and one legal article was published on the topic. In 2009, a second CLA was conducted. It was found that in several decisions judges referred directly to the first 2007 CLA. It was concluded that the first analysis and the training conducted had had a direct impact on judges' performance and case law. A third CLA on the same topic is being researched in 2014.
- In 2014, the Supreme Court conducted a second CLA on violations of administrative procedure, following the first one conducted in 2013.

For further information: <http://www.nc.ee/?id=1438> (you will find there the methodology, development principles and abstracts of analyses) or contact Maarja Aavik (case law analyst): maarja.aavik@riigikohus.ee

6.5. Conclusions, key messages and inspiration for future action

Quality, independence and efficiency are the key components for an effective justice system. Well-functioning justice systems are important structural condition on which Member States base their sustainable growth and social stability policies. For these reasons, since 2011, national judicial reforms have become an integral part of the structural components in Member States subject to the Economic Adjustment Programmes. Since 2012, the improvement of the quality, independence and efficiency of judicial systems has also been a priority for the European Semester, the EU annual cycle of economic policy coordination, as signalled in the Annual Growth Survey 2014.⁽¹⁸⁾

At its most comprehensive, total quality management (TQM) takes the perspective of the ‘customer’, and strives for continuous improvement in the service provided. This involves a holistic approach to improving performance within organisations involving all people and processes, and a cycle of ‘plan-do-check-act’ (PCDA) that translates internal dialogue, and especially ongoing external feedback, into real changes in practices and outcomes (see [topic 3.3](#)).

Performance can only be improved if it is understood first. **Performance assessment** is now ingrained in the culture of the judiciary throughout the EU, by capturing data on court activity. The major differences between systems across Europe concern three aspects:

- A. **What is measured?** Experience across the EU and beyond shows there are many individual KPIs that judiciaries can draw upon, some of which can form composite metrics (clearance rates, productivity, etc).
- B. **How is it monitored?** Increasingly, judicial administrations (like Slovenia) are using their ICT investments to make performance metrics more accessible and meaningful.
- C. **How are the findings utilised?** Ready access to good quality information enables rapid intervention where there are bottlenecks in the service of justice.

In planning advances in performance monitoring, **the logic should flow from C**: decide how the information will be used, and design metrics and mechanisms accordingly, using the capabilities of ICT to ensure efficient collection and effective presentation.

Dynamic measures of court throughput (incoming cases, disposition times, etc.) rely on hard data, but they need ‘softening’ with more qualitative measures, which is where **quality criteria** can play an important part in TQM.

But quality is not just a matter of numbers and benchmarks, it is in the eyes of the beholder. For this reason, **regular consultation** is critical to enhancing performance, both within the judicial administration and with the system’s customers (legal professionals, parties and public), through techniques such as quality groups, surveys, panels and mystery shopping. Service charters can complete the feedback loop by setting out the standards that judiciaries will be measured against and held accountable for (see also [theme 4](#)).

All these inputs need an outlet, which should be an upgrade (where needed and appropriate) in capacity, capabilities and competences. This chapter has set out several components, which relate to different phases of users’ exposure to the justice system, and which could form initiatives for TO11 funding within a comprehensive strategic framework:

⁽¹⁸⁾ 2014 EU Justice Scoreboard, COM(2014) 155 final

- At the **point of entry** to the justice system, parties are entitled to clarity about how the system operates, including explanations in advance of how the court functions, and the roles, responsibilities, procedures and time-frames. They should also be able to expect user-friendly access to forms (documents) and facilities (including signage). In the wider sense of access to justice, they should have a choice of dispute resolution mechanisms (including mediation and other alternatives to trial), effective small claims procedures, and ideally their legal representatives should have the option of electronic communication and filing of cases.
- **During the judicial process**, judges, prosecutors and legal professionals should be fully cognisant with European law, making best use of ECLIs, databases and networks of court coordinators, complimented by training and development. Judges and court administrators should be supported by e-Justice systems that enable case registration and management, as well as performance monitoring.
- At the **case's conclusion**, courts should be capable of communicating judgements with court users in a language which is readily understandable, and to put decisions in the public domain by placing rulings online.

To achieve TQM, strengthening this 'cycle of justice' should be **underpinned** by ongoing media relations, user-centric processes, and continuing professional development, through the analysis of training needs, development of curricula, plans, methodologies and tools, and assessment of training benefits.

In seeking to improve the effectiveness of the justice system, the reader should also **consult** the conclusions on monitoring and evaluation (within [theme 1](#)), promoting ethics and tackling corruption ([theme 2](#)), organisational development ([theme 3](#)), and process re-engineering for service delivery ([theme 4](#)).

Theme 7: Managing public funds effectively



Every administration is under the spotlight over its stewardship of the economy and public finances, which account for almost half of Europe's GDP. Across the EU, 2 of every 5 euros is contracted out for supplies, services and works: a market worth over €2 trillion annually. ESIF may comprise just 4% of Member State GDP at most, but 100% of public investment in some policy fields. Maximising the effectiveness and efficiency of expenditure means securing the greatest value from these spending decisions and avoiding waste, errors, fraud and corruption. This theme considers how administrations apply the principles of good financial governance and prepare, plan, execute, monitor and control their spending. It makes the case for simplified and e-procurement, and using the leverage of purchasing power to achieve efficiencies and spur innovation. It examines the role of structures, staffing, systems and governance arrangements in successful ESIF management: disbursing available funds fully, correctly, and most important of all, strategically.

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In a time of 'doing better with less', administrations have even more of a duty than usual to make best use of public finances, including European Structural and Investment Funds (ESIF). This chapter:

- ✓ Describes how public administrations manage their budget preparation, including the pros and cons of input-based and performance-based budgeting, and the growing use of spending review and co-budgeting with citizens (also known as participatory budgeting);
- ✓ Explores the way in which administrations organise budget execution from expenditure authorisation to accounting and accountability;
- ✓ Outlines the implications of the new 2014 EU directives for public procurement, to ensure purchasing is efficient (tendered and contracted quickly and simply within the rules), effective (achieving the best outcomes), and innovative;
- ✓ Sets out the ways in which Member States can develop their structures, staffing, systems and governance arrangements to spend ESIF fully, correctly and strategically, particularly to achieve TO11 on administrative capacity-building.

Public spending accounts for almost half of GDP across the EU (49% in 2013)⁽¹⁾. Given the impact on the European economy, this places a huge responsibility on public administrations to carefully plan and execute government expenditure at all levels. The capacity of each Government to deliver its political programme, strengthen the economy, enable the private sector to flourish, generate higher incomes and living standards for its citizens, ensure security and the rule of law, and preserve social cohesion - all on a long-term, sustainable basis - depends not just on the resources at its disposal, but how they are used.

Spending public funds obliges the Government to make choices on priorities, through a regular budgetary cycle of planning, negotiation and implementation. Maximising the effectiveness and efficiency of public expenditure means securing the greatest value from these spending decisions, applying controls and avoiding waste, errors, fraud and corruption. Public sector organisations have a duty to citizens and businesses to ensure that each euro is managed prudently.⁽²⁾

Public funds are disbursed through four routes: by delivering public services through own staff and facilities; by gifting grants and subsidies to businesses and other organisations, in line with State aid rules; by making social transfers to qualifying citizens, such as welfare payments and pensions; and by buying goods, services and works (buildings and infrastructure) to supplement in-house resources or to pursue policy goals. Public procurement accounts for almost 40% of public expenditure, which highlights the importance of applying the principles laid down in the EU's procurement rules - treating economic operators equally and without discrimination, and acting in a transparent and proportionate manner. The 2014 directives give fresh impetus and a modern direction to public purchasing, with greater flexibility (more emphasis on negotiation to achieve the best outcomes), administrative simplification (which should benefit SMEs especially), moving towards end-to-end e-Procurement, making best use of the single European market with joint and cross-border procurement, and exploiting buying power to stimulate research, development and innovation that benefit businesses and citizens alike.

The largest components of public spending across the EU are health and social welfare, which have an indirect effect on economic performance. Other elements of consumption and capital spending offer more direct causality with economic development, short or longer term, especially education, scientific research, transport, communications and environmental infrastructure, and interventions in the economy to address market failures. The European Structural and Investment (ESI) Funds can represent as much as 4% of GDP, but can account for as much as 100%

⁽¹⁾ Eurostat

⁽²⁾ See also [theme 1](#) on the topics and tools for better policy-making and implementation, [theme 2](#) on ethics and anti-corruption, and [theme 3](#) regarding the strategic and operational translation of these policies by public sector organisations.

of public sector investment in some of these fields in many Member States. Many Member States have transformed their implementation structures for the new programming period, often quite radically, and need to manage quickly the transition to the 2014-2020 governance arrangements through their staff and systems. In all cases, Member States need to adjust to the demands of ESI Funds, and especially the focus on demonstrating results through the performance framework.

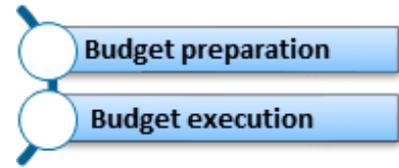
Within ESI Funds, almost EUR 4.75 billion has been assigned in 2014-2020 to achieving thematic objective 11: “*enhancing institutional capacity of public authorities and stakeholders and efficient public administration*”. Spread over 17 of the 28 Member States with a combined population of around 183 million, this represents a major contribution towards establishing good public governance, in the context of Europe 2020 and the European Semester of economic policy coordination.

In light of all of the above, this chapter focuses on the following questions, and sets out ways and tools to address them.

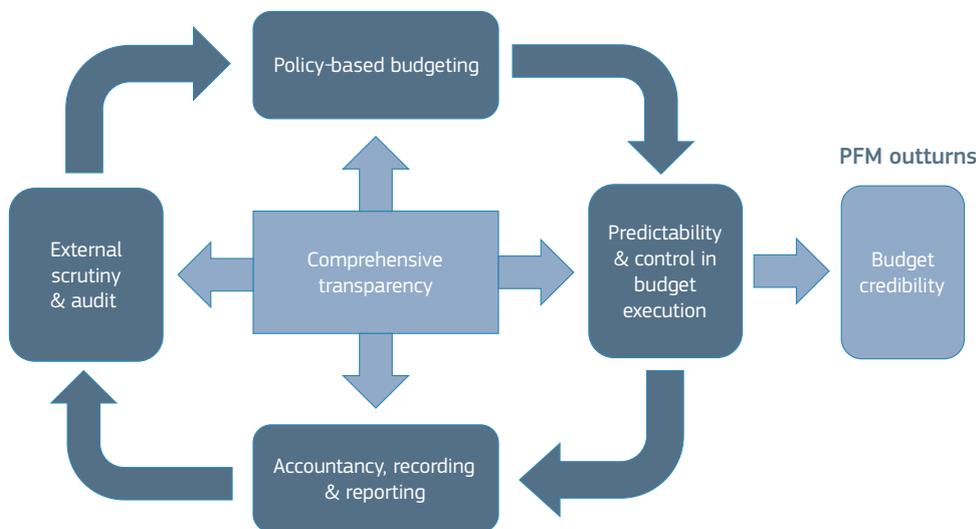
Key questions	Ways and tools to strengthen capacity
How do public administrations ensure that they fulfil the principles of fiscal governance when managing spending ?	<ul style="list-style-type: none"> • Input-based v performance-based budgeting • Spending reviews • Co-budgeting • Annual v multi-annual budgeting • Financial management & controls • Budget information systems • Public scrutiny, internal & external audit
Given public procurement 's high share of government expenditure, how can public administrations make it more efficient and accessible, especially to SMEs and across borders, and use its leverage to boost innovation?	<ul style="list-style-type: none"> • Simplified procedures • Cross-border procurement • End to end e-Procurement • Pre-Commercial Procurement (PCP), Public Procurement of Innovative solutions (PPI) & Innovation Partnerships
Given the principle of sound financial management, how best to strengthen administrative capacity to manage ESI Funds and modernise public administration?	<ul style="list-style-type: none"> • Streamlining, delegation, coordination & continuity • Managing human resources for ESIF • Project preparation & selection • Procurement tips and risk-scoring • Programme & project monitoring • ESIF governance

7.1. Public financial management

Public administrations have a responsibility towards citizens to exercise care in their use of public monies, whatever the source: taxes, customs duties, fees, charges, tariffs or other revenues. This fiduciary duty is brought into sharp relief in times of restricted fiscal envelopes, as governments face pressure to justify every euro of expenditure, to drive down deficits and to erode public debt. In this context, spending at every level – national, regional and local – must be both efficient and effective. To ensure that public finances are managed prudently, every civil and judicial administration in the EU has its own arrangements for budgetary planning, execution, monitoring, control and auditing. These processes of public financial management (PFM) vary from country to country, but should always be underpinned by principles of good financial governance. These principles should be commonly applicable, irrespective of the policy field or institution, and most importantly, ensure the integrity and effectiveness of the PFM system as a whole.



Established in 2001, the [Public Expenditure and Financial Accountability \(PEFA\) programme](#) is sponsored by a multi-agency partnership comprising the European Commission, the French Ministry of Foreign Affairs, the International Monetary Fund, the Royal Norwegian Ministry of Foreign Affairs, the Swiss State Secretariat for Economic Affairs, and the United Kingdom's Department for International Development and the World Bank. The **PEFA performance framework**, shown graphically below, has been developed under the PEFA programme, as a contribution to the collective efforts of many stakeholders to assess whether a country has the tools to deliver three main budgetary outcomes: aggregate fiscal discipline; strategic resource allocation; and efficient use of resources for service delivery.



The PEFA Framework

The PEFA programme is available to assess the condition of country public expenditure, procurement and financial accountability systems, and to develop a practical sequence for reform and capacity-building actions. The objectives of the PEFA Performance Management Framework are to:

- Provide reliable information on the performance of public financial management (PFM) systems, processes and institutions over time;
- Contribute to the government reform process by determining the extent to which reforms are yielding improved performance and by increasing the ability to identify and learn from reform success; and
- Facilitate harmonisation of the dialogue on PFM performance, reform needs and donor support between government and donors around a common PFM performance assessment and therefore contribute to reduce transaction costs for country governments.

By providing a common pool of information for measurement and monitoring of PFM performance progress, and a common platform for dialogue about PFM reform, it aims to contribute to the development of effective country-owned PFM systems.

The PEFA Framework was created as a high level analytical instrument which consists of a set of 31 indicators and a supporting PFM Performance Report, providing an overview of the performance of a country's PFM system. Drawing on the established international standards and codes, and other commonly recognised good practices in PFM, it forms part of the strengthened Approach to supporting PFM reform, which emphasises country-led reform, donor harmonisation and alignment around the country strategy, and a focus on monitoring results. This approach seeks to mainstream the PFM best practices that are already being applied in some countries.

Through repeat assessments in a country, it is capable of demonstrating performance changes over time. The Framework was launched in June 2005 and updated in January 2011, covers the entire financial management cycle focuses on the central government. However, the application of the Framework at sub-national government level has become widespread and guidelines were developed in 2008. The assessments conducted have produced the following benefits to country partners:

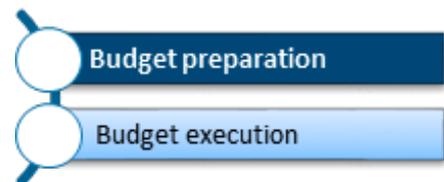
- Delivering a credible, comprehensive and evidence-based diagnostic that can be compared over time and serve as a basis to monitor the results of PFM reform efforts, through repeat assessments and/or by building PEFA indicators into a country's own Monitoring & Evaluation mechanism.
- Enabling country governments to lead PFM assessments or actively engaged in work led by external agencies, through a clear and specific assessment framework with objective rating criteria.
- Providing harmonisation and standardisation of the information requested by external agencies using a common assessment tool.
- Providing a common platform for stakeholder dialogue on PFM reforms by facilitating priority setting and defining key entry-points for PFM reform plans.
- Strengthening country capacities to promote alignment with and use of country systems (such as public financial management, procurement, statistics, monitoring and accountability systems).
- Promoting "capacity development" through peer-learning and regional PFM groupings.

Most finalised reports are publicly available and can be accessed via the assessment portal.

For further information: <http://www.pefa.org/en/content/pefa-framework>

7.1.1. Budget preparation

Each Member State has its domestic systems of public expenditure, revenue and debt management, according to its laws, traditions, priorities, administrative structures and budgetary timetables. All operate within the overall **European framework** of the **Stability and Growth Pact (SGP)**, the fiscal surveillance mechanism grounded in the EU Treaty and reinforced by the legislative ‘six-pack’, and in the case of the euro area, the ‘two-pack’. The SGP was established to safeguard sound public finances, based on the principle that economic policies are a matter of shared concern for all Member States.



Each European Semester, the European Commission analyses the fiscal and structural reform policies of every Member State, provides recommendations, and monitors their implementation. Beyond fiscal recommendations and decisions linked to the enforcement of EU fiscal rules (corrective surveillance), country-specific recommendations may also suggest structural improvements (preventive surveillance). These CSRs may, *inter alia*, address weaknesses in national ‘budgetary frameworks’, which are complementing the EU framework by facilitating the preparation, adoption and implementation of national budgets. From a conceptual perspective, national budgetary frameworks are usually composed of several building blocks that include:

- National fiscal rules with numerical targets for selected budgetary aggregates;
- Independent fiscal institutions;
- Procedures that cover the preparation, approval and implementation of budget plans; and
- Better coordination across the layers of government, particularly in highly decentralised systems.⁽³⁾

⁽³⁾ http://ec.europa.eu/economy_finance/db_indicators/fiscal_governance/index_en.htm

In particular, soundly-designed national fiscal rules are conducive to the conduct of fiscal policies that are firmly oriented towards fiscal sustainability, while preserving room for short-term fiscal stabilisation. The key elements of fiscal rules, which typically cover budget balance, debt, expenditure and/or revenue, have been identified by DG ECFIN (below).

Key elements in the design of fiscal rules

Statutory base: Ideally, any rule should be backed by strong legal provisions signalling the importance attached by the government to fiscal consolidation (e.g., a law of fiscal responsibility). The legal statutory base should clearly establish the requirements for amending the rule, in order to enhance credibility. It should also specify the monitoring mechanisms and the pre-established enforcement procedures in case of non-compliance.

Multi-annual character: Rules embedded into a medium term budgetary framework, as a part of a comprehensive fiscal strategy, may better adapt to economic and country specific circumstances, and may facilitate the internalisation of the budgetary effects of current policies over the medium term. A multi-annual timeframe may limit the potential circumvention of the rule by postponing the recording of expenditures or the implementation of structural adjustments.

Accounting system: The use of the ESA95 methodology is consistent with the EU fiscal surveillance framework. However, data are more readily available on a cash basis. The need for timely monitoring therefore suggests a dual approach: a rule could be defined in cash terms with translation into ESA95 done on a quarterly basis.

Monitoring: The effectiveness of monitoring relies on two elements. First, in order to monitor compliance with the rule in an effective manner, updated and reliable data must be available. Where they are not, compliance can only be assessed with considerable delays. Second, an independent monitoring body is more likely to result in necessary adjustments of budgetary trends being implemented once they have been identified.

Enforcement mechanisms: The design of corrective and enforcement mechanisms is an important feature to ensure the proper functioning of fiscal rules. The actions to be taken in case of non-compliance should always be defined ex-ante so as to make the rule credible and enforceable. Otherwise, the cost of non-compliance would be only reputational, which is insufficient in the presence of acute fiscal distress and weak budgetary institutions. The enforcement of corrective measures ought to be ensured by a non-partisan institution, legally endowed with the requisite competencies. Monitoring and enforcement could be carried out by the same independent body.

Sanctions: In the case of non-compliance with the rule, pre-established sanctions may supplement the enforcement mechanisms. They may adopt two different forms. In developed nations, non-compliance sanctions typically apply to institutions, comprising fines, automatic withholdings of transfers, restrictions on debt insurance, etc. In developing countries, personal sanctions prevail, including dismissal procedures, obligations to resign, fines, or lower wages.

Escape clauses: Well-defined escape clauses constitute a key feature of good fiscal rules. They specify the circumstances under which departures from the rule are admissible: usually these include natural disasters or acute economic slowdowns or recessions. Precise escape clauses may reinforce credibility, while vague and non-concrete clauses may render the rule ineffective. Overall, the definition of escape clauses requires particular attention: they should only allow for a limited number of circumstances.

Source: http://ec.europa.eu/economy_finance/db_indicators/fiscal_governance/documents/analysis_national_fiscal_frameworks_pfr_2010.pdf

The majority of Member States operate within **Medium-Term Budgetary Frameworks (MTBFs)**, in recognition of the fact that most fiscal measures have budgetary implications - commitments and liabilities - that go well beyond the usual annual budgetary cycle. MTBFs contain both expenditure and revenue projections at a fairly aggregated level for the budget year and beyond (usually two to four years after), as well as the resultant budget balances. As to the EU budgets, multi-annual programming is a core characteristic of ESI Funds, and hence even those countries that have traditionally functioned with annual fiscal programmes have introduced systems to plan and disburse EU funds over multiple years, especially under the N+ rule (see also [topic 7.1.2](#)).

In deciding how best to allocate scarce public resources, especially in times of fiscal consolidation, many Member States have turned to **three other instruments of budget planning** that may provide added value in comparison to the standard annual procedures used in the annual budget cycle, namely:

- Performance-based budgeting;
- Spending reviews; and
- Co-budgeting with citizens (participatory budgeting).

The attraction of **performance-based budgeting** (PBB), also known as ‘programme budgeting’, is that it suggests there is a clear relationship between policy objectives, public expenditure and policy outcomes. This contrast with input-based budgeting, where spending plans are prepared on an inputs basis (salaries, equipment, consumables, etc.) for each governmental institution (budget beneficiary) and its individual units. The relative merits are set out in the table overleaf, which provides an overview and a comparison in budget preparation, negotiation and re-allocation. A [basic model of performance-based budgeting](#) is provided in a technical note from the IMF’s Fiscal Affairs Department, including some brief case studies.

There is an ongoing debate over the **pros and cons**. The explicit link to policy should make it a more rational technique of budget planning: policy precedes re-sourcing proposals. In principle, it should enable better decision-making on alternative spending options, facilitate better informed negotiations with the finance ministry, and offer line ministries and other budget beneficiaries more freedom to manage their own expenditure, by giving them more flexibility to re-allocate resources during budget execution. Programme budgeting is not simply about changing the way a budget is presented, but about changing the way policy officials, the public and government staff think about governance, and how they plan, manage and monitor their performance. Nevertheless, there have been criticisms that performance budgeting does not live up to the hyperbole. For example:

- Programmes that cuts across more than one ministry or agency can lead to no single organisation being responsible for achieving objectives and outputs, which acts against transparency in linking policy with resources. The role and contribution of each party needs to be visible, in order to be **accountable**.
- The move to programme budgeting is often accompanied by an explosion of **monitoring** indicators to assess performance, some of which fall foul of quantification (counting what can be counted), and if articulated as targets, run the risk of creating perverse incentives (directing resources to hit the targets, rather than to deliver excellent programmes and services).

Operational costs are hidden behind the programme budget, and hence it is harder to assess whether the budget beneficiary is being **efficient** in its resource allocation. In particular, the beneficiary’s overheads might be disproportionately high, but if allocated across all its programmes, this masks the true scale. For maximum usefulness and openness, programme budgeting needs to reveal direct and indirect costs, link inputs with outcomes, and if necessary include a separate ring-fenced ‘administration’ programme.

Comparison of activity and performance budgeting

	Input-based budgeting	Performance-based budgeting
Overview	<p>Spending plans are prepared on an inputs basis (salaries, equipment, consumables, etc.) for each governmental institution (budget beneficiary) and its individual units. Input budgeting lacks transparency, as it is unclear how these inputs are being employed by the public administration to deliver government goals and priorities, except in broad institutional categories (for example, 'energy ministry'), and hence it undermines the accountability of the administration.</p>	<p>Resources are allocated to governmental programmes, under which all the activities lead to a common objective, which integrates current and capital expenditure. Programme budgeting aims to allow the administration to track and control spending by usage, relate resources to their results, and evaluate whether policy objectives have been met and value for money has been achieved. It should enable citizens, businesses and other interested parties to judge more easily how public monies are being utilised and to hold government to account.</p>
Preparation	<p>Input-based budgets are easier to assemble, as they are mainly an exercise in extrapolating from the previous period's expenditure and projecting how many staff, supplies, etc., are needed or desired to implement the administration's programme.</p>	<p>Performance budgeting requires a different set of calculations for budget beneficiaries, as they must evaluate the costs of implementing their programmes. This can demand much less detail, especially if there is continuity from previous periods which sets a baseline position, and allows factors to be applied to it, such as general increases in input costs (for example, construction materials), planned expansion or expected higher take-up etc. Programme budgeting is more problematic when new programmes are introduced, because of the absence of clear reference points.</p>
Negotiation	<p>The disconnection with actual policy makes it harder for the beneficiary to justify proposed budgets, especially any significant increases, during negotiations with the finance ministry. The policy disconnect also tends to leave budgets exposed to significant swings in allocation, year-on-year, dependent on the negotiating skills and relative strength of position within the government of individual ministers.</p>	<p>Negotiations over programme budgets cover policy objectives, indicators and targets, and their relationship to requested resources. Budget beneficiaries have the opportunity to make a case for higher (or lower) programme allocations, based on 'facts on the ground' and changing circumstances and priorities over the previous period. Ultimately, the overall fiscal envelope is likely to be the dominant factor in determining the allocations to individual institutions and their programmes, with mandatory spending (for example, relating to [pre-existing liabilities]) taking precedence over discretionary spending.</p>
Reallocation	<p>Control limits are usually applied to both individual budget beneficiaries (e.g. health ministry) and individual spending categories (salaries, etc.), with any reallocation subject to thresholds. This means that prior approvals must be sought before switching resources above these thresholds (for example, above 5% for beneficiaries and 15% for categories).</p>	<p>The means for achieving policy goals (inputs and activities) are less important than the results themselves, and hence it is normally easier to switch funds between budget lines within a programme, and even across programmes (unless programme budgets are ring-fenced), subject to overall control limits (total expenditure). Any controls depend partly on the fiscal rules, as some countries have historically made a distinction between current and capital expenditure, and have limited the scope to reallocate from capital to current budget lines, in order to ring-fence their investment plans.</p>

Sources: Various studies

Most of all, the review of past performance and future plans for programmes during budget negotiation relies on comprehensive and high quality information, which heightens the importance of **policy evaluation** (see [topic 1.3](#)), which is more rounded and qualitative than raw data in monitoring indicators.

Moreover, PBB should not be launched in isolation from a wider package of reforms towards **results-based management** to strengthen the effectiveness and efficiency of public spending, as the IMF technical note emphasises, including: civil service reforms to increase the motivation and incentives of officials; organisational restructuring to increase the focus on service delivery and improve coordination; and institutional and oversight changes to strengthen public accountability for performance (see [theme 3](#)).

The invisibility of programme costs is more of a concern at times of fiscal tightening, with risks in both directions: on the one hand, it is not easy to discern whether there is scope for savings; on the other hand, there is the chance that finance ministries will make blanket cuts which go beyond efficiency savings and undermine policy realisation, simply because it is not feasible to separate out direct and indirect inputs. In recognition of the validity of this critique, some experienced Member States have sought to change direction, as illustrated by the example of the Netherlands' **'accountable budgeting'** initiative which represented a major system overhaul, retaining the best elements of programme budgeting, while removing the opaqueness and improving the control.

Inspiring example: Reforms to Performance-Based Budgeting (Netherlands)

"An unknown person once noted that a cynical person is an idealist who, at some point, made the mistake of turning his ideals into his expectations. Looking at the increasing amount of critical studies on the impact of performance-based and program budgeting reforms, one could become a bit cynical towards this popular and ambitious type of budget reform. Not unlike the experience in other countries, the implementation of performance-based and program budgeting in the Netherlands over a decade ago has only partly lived up to its expectations.

There has not been much evidence that major reallocation of spending has taken place as a result of these reforms. In addition, the informational value of budgets and the administrative burden for line ministries have been continuous sources of debate. Nevertheless, the concept of linking funding to results has proven its usefulness in agency management and does help the Ministry of Finance differentiate between a powerful claim and a powerful claimant in the budget process. Neither is anyone inclined to give up the benefits of increased transparency and enhanced managerial flexibility that resulted from introducing a program budget. Instead of becoming cynical or glorifying the "good old days" of input budgeting, the Netherlands Ministry of Finance accepted the fact that it may have had some unrealistic expectations and that some of the criticism on performance budgeting as implemented actually made sense and demanded a solution. This resulted in a major overhaul of the budget presentation and program structure in recent years called "*Verantwoord Begroten*" (translated as *Accountable Budgeting*).

Following a decade of mixed results of the previous reforms, one of the lessons learned was that a political process such as budget allocation by Parliament will not be rationalised by only changing the budget structure. Secondly, it had to be acknowledged that a program budget can never live up to the expectation of being definitive, comprehensive policy document that contains all the policy information considered useful by every stakeholder. Finally, the shift to full program budgeting had left Parliament and line ministry financial managers with a significant loss of control over inputs that was dearly missed, especially in times of budget cuts.

The *Accountable Budgeting* reform was introduced in the 2013 budget documents and targeted some of the more persistent problems encountered with regard to performance based program budgeting. These included limited usefulness of budgets and annual reports for financial analysis and unclear accountability for results, especially with regard to policy outcomes. The changes introduced enable more detailed Parliamentary oversight of spending as well as enhance internal control by the Ministry of Finance and line ministries. To achieve this, more detailed financial information was presented following a uniform classification of financial policy instruments and categories of organisational expenses.

In addition the use of policy information (performance indicators and policy texts explaining policy objectives) was curtailed and had to meet stricter conditions concerning the precise role and responsibility of government. As a result, about 50% of all performance indicators disappeared from the budget documents. The reason for this shift was that performance information in the old budgets had become more aimed at legitimising funding and compliance purposes than at providing useful insights for improving policy efficiency and effectiveness. Use of performance information for the latter purpose is more likely to occur following multiyear ex-post evaluation than in a cyclical annual way. For this reason, lessons drawn from evaluation reports gained a more prominent place in budget documents.

Another consideration was the fact that an increasing amount of information on policy effectiveness is becoming available from a diversity of sources within and outside of government. The concept of a budget document as a portal that electronically discloses the various sources of financial and policy information may better serve the information needs of today's citizen and parliamentarians than reliance on a limited set of indicators that may be susceptible to selective presentation and framing. With the *Accountable Budgeting* reform, the Netherlands has taken a step towards meeting the demands of budget and results accountability in the information age while trying to meet more realistic expectations with regard to performance-based allocation through its budget documents.”

Source: IMF Public Financial Management Blog, <http://blog-pfm.imf.org/pfmblog/2013/01/recent-performance-based-budgeting-reforms-in-the-netherlands-another-lap-around-the-windmill.html#more>*

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(*) See also de Jong, M., van Beek, I., and Posthumus, R. (2013), "Introducing accountable budgeting: lessons from a decade of performance-based budgeting in the Netherlands", OECD Journal on Budgeting, Vol. 12/3, <http://dx.doi.org/10.1787/budget-12-5k455r12vs37>

Within the context of programme budgeting at central, regional or municipal levels that focuses on outcomes (as opposed to line budgeting that is limited to inputs), budgets can only be prepared and agreed effectively if they are well-informed by:

- **Robust financial data** on previous spending levels and forward commitments, including both actual liabilities (such as pension schemes) and contingent liabilities (that are only realised if called (such as export credit guarantees));
- Analysis of the current and future **policy context** for spending and revenue generation plans, in order to ensure budget preparation is evidence-based (see [topic 1.1](#) on policy design); and
- A **negotiating framework** between finance ministries / departments and line ministries / departments which is clear and coherent, involves a two-way dialogue over typically several iterations and enables officials to advise their politicians and set spending priorities on an informed and consistent basis.

In some countries, these three elements are brought together in **spending reviews**, which allow the public administration to evaluate whether expenditure is justified by policy objectives and outcomes. However, their history extends back to the 1980s and 1990s. During this time, extensive spending reviews were employed by countries that had experienced severe budgetary shocks (Canada, the Netherlands and Sweden). Such crises created a climate for conducting a comprehensive stock-take, as the springboard for re-establishing robust public finances, by putting all options on the table and considering funding choices with a fresh perspective. The classic spending review model is to go 'back to baselines', and oblige ministries and other spending bodies to justify every euro of their expenditure, as a bottom-up exercise. Every programme is put under the spotlight. This process leads to a re-prioritisation of public funding, and a renewed commitment to the selected public services.

Spending reviews can be either a one-off exercise, or the bedrock of the regular budgetary cycle – seeking evidence to validate whether established programmes should be rolled forward or phased out, and inviting fresh solutions to existing or emerging challenges. At least nine Member States have recently engaged in spending reviews in some form: Denmark, Finland, France, Ireland, Italy, the Netherlands, Spain, Sweden and the United Kingdom. In principle, they offer a more tailored and sustainable approach to managing public spending at a time of austerity, compared with across-the-board expenditure cuts, and allow the administration to discriminate in favour of activities that have a positive impact on economic growth and against actions with a negative impact on social welfare and cohesion. As [DG ECFIN's study](#) shows, there is no one-size-fits-all methodology but well-managed and implemented reviews are time- and resource-intensive, and the analytical, organisational and political hurdles should not be underestimated. Key success factors include political commitment, ownership by the administration, clear objectives and governance, integration in the budgetary process, anticipation of implementation, building of transformation capability and performance culture at all levels of public service.

In the spirit of co-decision (see [topic 1.1](#)), some Member States have also explored **co-budgeting with citizens** at the municipal level. For example, Lisbon City Council assigned 5% of its municipal budget to decision-making by the city's citizens. This is a fully participatory process, using offline and online tools, with the public both preparing proposals for how the resources are deployed and voting on projects. The initiative has evolved each year and its popularity has increased accordingly with a 10-fold rise in the number of participants.

Inspiring example: Collaborative budget 2.0 (Portugal)

As the crisis stuck hard around the world, Lisbon City Council tried to face new challenges with innovative solutions, by changing the paradigm with which they were working, breaking down hierarchical and inflexible structures, and calling civil society to play a part in the decision-making process. In Lisbon, civic participation and citizen collaboration are understood to be a strong pillar of democracy. Hence, they implemented an ambitious participation programme, aiming at higher citizen involvement in the management of the city. Connecting people and organisations within a strategic partnership is the goal, making citizens co-producers, instead of clients of municipal services. Lisbon aims at being a Smart City, a city of inclusion, innovation and improvement.

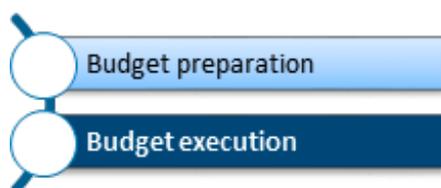
The most important feature of their participation programme is their 'Collaborative Budget 2.0' (CB). Lisbon was the first European capital to implement a participatory budget model (a programme highly praised by UN-Habitat), but with significant innovations that make it an important upgrade from the typical models. Currently heading into its fourth year of execution, the Lisbon CB gives effective initiative and decision-making power to the citizens, by allocating EUR 5 million of the yearly municipal budget to them, representing 5% of the city's investment budget. The citizens are active in every step of the process, from drafting the proposals to submitting them and voting on the projects. Unlike typical participatory budget models, there are no restrictions on certain areas of intervention (as long as they are in the city council's field of competence). Up until now, winning projects have shown a rich diversity in their nature and in the fields of intervention.

The Lisbon CB is also different in another important aspect: it is a qualified online-based process, strongly supported by ICT. Its use enhances cooperation and interaction between municipality and citizens – it is, thus, 2.0. The process, however, is also supported by offline tools (participation-based meetings, a thematic bus, information meetings), to ensure social and age dependent inclusion. Each year, both awareness of the programme and the number of people participating have been increasing, representing a ten-fold growth between its start in 2008 and 2010. It is an evolutionary process, constantly improving, thanks to its ability to adapt to citizen's needs, as predicted in CB Charter of Principles. They work according to a motto of flexibility, letting citizens' input and needs shape the programme. In Lisbon, they see the CB as an important tool for democracy, for which they have received very positive feedback from the citizens.

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Other studies have been conducted of participatory budgeting at the municipal level in England for the [United Kingdom's Department for Communities and Local Government](#), while there are also projects that are [tracking initiatives globally](#).

7.1.2. Budget execution



Once budgets have been approved, usually by act of parliament or assembly, the focus shifts to implementation, whether the ‘appropriations’ (voted budgets) are input-based or programme-based.⁽⁴⁾

Effective budget execution is about governments’ responsibility for the stewardship of taxpayers’ money. It has a direct impact on businesses, citizens and non-government organisations, as public service users (see [theme 4](#)), but also on the economy. Moreover, failure to manage the execution phase can have a detrimental, and sometimes devastating, effect on enterprises engaged in public procurement (see [topic 7.2](#)), if weak financial circuits lead to late payments and cash-flow insolvency (see [topic 5.2.4](#)). Contracted businesses, especially SMEs, should not become the informal source of working capital for public administrations, simply because there is insufficient revenue collection or inefficient budget disbursement.

As budget users can be found throughout the public sector, including arms-length institutions, good fiscal governance must permeate throughout the public administration, according to the scope of the budget law: departments of national, regional or local government, executive agencies, court administrations publicly-controlled enterprises, and potentially more.

Even as multi-year fiscal frameworks become increasingly the norm for budgetary planning (see [topic 7.1.1](#)), many Member States still operate **annual budgets**, and hence budget authorisations are made for a single year at a time. These budget systems typically recognise that liabilities can extend beyond budget years, as payments against earlier commitments can fall due in the next period. In particular, provisions have to be made for capital expenditure, such as infrastructure projects, which can extend over many years. However, most Member States – even those with MTBFs – draw the line at allowing unspent allocations (or ‘savings’) to be carried forward from one year into the next (‘carry over’ or ‘end of year flexibility’).

The exceptions are the Member States that operate **multi-annual budgets**, such as the United Kingdom and, of course, the EU itself for the European Structural and Investment Funds (see [topic 7.3](#)). Most recently, Ireland has extended its multi-annual budgeting from capital expenditure to current expenditure⁽⁵⁾. Multi-annual budgets are designed to avoid the end-of-year spending ‘splurges’, whereby budget users seek to disburse as much funding as possible, to demonstrate an artificial ‘demand’ for finance in the next budget round (known as ‘use it or lose it’). As finance ministries / departments often look to the previous year’s budget execution as the baseline to inform their negotiations with budget users, this creates an incentive to maximise spending, even if the expenditure is not strictly necessary (for example, stocking up with inventory) or poor value for money.

- The **advantage** of multi-annual budget cycles is that they encourage longer-term planning in the use of authorised expenditure, avoiding the rush-to-spend that wastes resource. They smooth the expenditure profile and reduce the peaks of spending just before the end of the budget year, which must be financed with higher receipts or borrowings. This can put added pressure on financial management at the budget year-end, as the finance ministry must match these commitments / payments with revenue generation and debt management (going to the money markets to raise funds).
- However, the **downside** of multi-annual budgeting is that it can disguise systemic under-spends, tying up funds in budget users that don’t actually need them, the mismatch between allocation and need only unravel-

⁽⁴⁾ If parliament or assembly has not approved the budget before the start of the budget year, it is often permitted under budget system law to permit budget users to engage in spending based on a temporary authorisation, subject to certain conditions and limitations.

⁽⁵⁾ See <http://circulars.gov.ie/pdf/circular/per/2013/15.pdf>

ling towards the end of the spending round (for example, in years 2 or 3), by which point it may be hard to re-assign the funds to more productive uses. Multi-annual budgeting can also be less predictable than the annual budgeting cycle, especially if early underspends lead to a surge of commitments and payments in the later years of the spending round; if this happens to coincide with an economic downturn (lower tax receipts, greater demands on welfare spending, reduced demand for bonds, etc.), the government can struggle to meet its commitments.

Hence, multi-annual budgeting tends to be more suitable for Member States with more robust public finances that can cope with fluctuations of incomings and outgoings over the economic cycle, and that exercise rigorous financial management and control, including planning and monitoring of budget execution.

Each country has its own methodologies and procedures for budget (classification systems⁽⁶⁾, approval circuits, etc.), which may provide interesting lessons for other Member States, but are not considered here. More important for good fiscal governance, linked to the SGP and European Semester, are the foundations on which these practices are constructed, and the rigour in which they are implemented and enforced. In order to ensure spending is tightly controlled, budget execution typically comprises six steps:



In broad terms, these steps can be broken down as follows (see also [IMF's guidelines](#) for public expenditure management on budget execution for a comparison of different global systems):

- **Expenditure authorisation:** In some countries, the adoption of the budget law automatically confers the requisite powers for budget users to engage in public spending. However, some systems involve the finance ministry releasing funds (as authority to spend, or transfers to budget users' accounts) in stages (e.g. monthly or quarterly), or delaying commitments to avoid or address cash flow difficulties. Some Member States require budget users to submit financing plans after their budgets are authorised, on monthly or longer term basis.
- **Commitment:** Budget execution is triggered when the budget user makes a commitment to pay at a future date, by signing a contract or making a purchase order. The budget execution system should keep a record of these future obligations, including projections of when the goods, services or works will be performed and payment will be due, in the interests of cash flow management.
- **Verification:** After the goods have been delivered, services performed or works completed, either fully or according to agreed stages, the budget user checks compliance with the contract or order technically (the product, service or works meets the specification), financially (the invoice corresponds with the agreed amount) and legally (the terms and conditions of the contract / order have been fulfilled).

⁽⁶⁾ For an overview of the importance, features, structures and pre-conditions for successful implementation of budget classification systems, please see the Technical Guidance Note of the IMF's Fiscal Affairs Department, <https://www.imf.org/external/pubs/ft/tnm/2009/tnm0906.pdf>. For guidance on programme classifications for performance-based budgeting, the World Bank's Independent Evaluation Group (IEG) has produced: http://ieg.worldbankgroup.org/Data/reports/performance_based_budgeting_bb.pdf

- **Payment authorisation:** Following verification, there is typically a process of authorising payment, which is often performed by a separate finance / accountancy team conducting compliance checks, triggered by a payment request from the spending unit. Depending on the system, this may result in a transfer of funds from the government's consolidated account held by the finance ministry or state treasury (normally in the central bank) to the budget user's account, either also at the central bank or a commercial bank.
- **Payment:** At this stage, the invoice is paid, possibly by cash or cheque, but more usually electronic transfer. Depending on the system, this is either centralised (payment is made directly from the finance ministry, department or treasury's consolidated account) or made by the budget user from their own account.
- **Accounting:** The transaction is recorded and reconciled in line with agreed government accounting practice, and will be later subject to audit.

The primary constraint on any budget user is the **'control total' (or 'control limit')**. This is the ceiling on authorised expenditure, which may be defined in gross terms, or net (taking account of fees, charges or other revenue that can be assigned to the budget line). Typically, budget users should be restricted by the budget execution system from breaching these limits ('over-spending'), if internal controls are working. Budget systems may define separate control totals for capital and current expenditure, and may distinguish between administrative and non-administrative costs within current expenditure. They might also distinguish between expenditure that users should be able to plan, and expenditure which is demand-led and hence cannot be reasonably forecast (for example, certain kinds of welfare payments).

Governments may need to make in-year adjustments to allocations in the light of unforeseen events, which increase either due to sudden budgetary pressures (for example, due to economic downturns or crises, such as natural disasters), or simply in order to manage allocations efficiently by switching resources from budget lines with persistent underspends. Hence, expenditure ceilings may be subject to re-allocations (**'virements'**) between budget lines or institutions. The authorisation and adjustment mechanism should be formalised and set out in advance, so the rules are clear to all budget users. The approval process typically depends on three factors:

- **The scale of virement:** For example, switches of more than, say, 5% or 10% of the original allocation may be subject to a more stringent process;
- **The type of expenditure:** For example, distinctions may be made between capital and current expenditure, or between administrative and operational;
- **The destination of the virement:** Budget systems often allow switches *within* programmes or institutions to be sanctioned by the budget user themselves (either unlimited or within a certain percentage), whereas *across* programmes or institutions may require a higher authority, for example, finance ministry authorisation, government decision or parliamentary approval, depending on system and/or scale.

In some cases, Member States may wish to impose 'ring-fences' on spending, which only allow re-allocations *into* the budget line, but not out of it. This mechanism serves to protect programmes which have a high priority or which would not be viable below certain funding levels. Ring-fenced expenditure does restrict the flexibility of budget users to manage their own resources, however.

The transition from expenditure authorisation to actual commitment is the **most crucial phase** of budget execution. Fiscal discipline is not just a matter of managing spending plans within control totals. Budget users also have a fiduciary responsibility to execute spending in line with three recognised principles of good fiscal governance:

- **Legality (also known as ‘regularity’)**: Every item of expenditure must be legitimate. In other words, spending should be both legally authorised (voted by parliament/assembly) and fully compatible with all relevant laws (for example, environmental, fundamental rights, state aid, planning, etc.). This principle overrides any consideration of political expediency, such as verbal or written directions from elected to appointed officials. Politicians cannot instruct public servants to violate laws, without the servants themselves also becoming party to law-breaking.
- **Propriety**: Good governance is not just about legal compliance - this is the minimum requirement. Public servants should also act ethically, in the public interest, which translates as ‘doing the right thing’. This is a more subjective judgement than the objective compliance with established law, and where ethics and dilemma training can be valuable tools in helping officials to avoid pursuing personal, private or political agendas, and becoming trapped by conflicts of interest (see [theme 2](#)).
- **Value for money**: Ethical standards show the right path to take, but budget users also need guidelines to ensure best use of made of finite public finances. Here, the aim is to extract the most added value from the available funding. This entails striking the right balance in pursuing policy objectives with public spending between achieving the maximum results (benefits) and securing the lowest cost (both financially and time taken). This is integral to the concept of most economically advantageous tender (MEAT) in the EU’s public procurement directives (see [topic 7.2](#)). It requires officials to focus simultaneously on the relevance, efficiency, effectiveness and impact of public spending, and the durability of outcomes that are being purchased with public money (sustainability).

To some extent, the principles of legality and propriety can be integrated into budget execution systems through internal checks and controls, verified and validated through internal and external audits⁽⁷⁾. But financial management and control (FMC) should not just be about the ‘C’ (control), it should start with the ‘M’ (management). All **public officials** with powers to propose, commit, verify and/or authorise spending should be thinking about these three principles - legality, propriety and value for money - in their daily work. This places demands on officials, and especially managers responsible for overseeing decisions, to exercise their judgement to ensure scarce public resources are used as prudently as possible.

⁽⁷⁾ See DG BUDGET’s Public Internal Control (PIC) Compendium for the state-of-play in Member States http://ec.europa.eu/budget/pic/compendium/index_en.cfm

Inspiring example: Public Spending Code (Ireland)

All Irish public bodies are obliged to treat public funds with care, and to ensure that the best possible value-for-money is obtained whenever public money is being spent or invested.

The Public Spending Code is the set of rules and procedures that apply to ensure that these standards are upheld across the Irish public service. The Code brings together in one place all of the elements of the value-for-money framework that has been in force up to now, updated and reformed in some respects. The Code is maintained on the website (<http://publicspendingcode.per.gov.ie/>) under the management of the Central Expenditure Evaluation Unit (CEEU) of the Department of Public Expenditure & Reform as a resource for the entire Irish public service. In September 2013, Departments and Offices were formally notified by circular that the Public Spending Code is in effect.

The Public Spending Code is structured as follows:

- The Introduction sets out the core principles of the Public Spending Code, including the new principle of consultation and participation. As a general working principle, amendments to the Public Spending Code will be subject to peer review by stakeholders. In keeping with this approach, some elements of the Public Spending Code are flagged as “consultative drafts”, and will not be formally in effect until the peer review process has been completed.
- Part A of the Code sets out general provisions, which apply in principle to all types of spending at different stages of the project life-cycle. Part A includes a map or overview of the entire Public Spending Code, and is a useful starting point for public service users wishing to know what elements of the Code apply to their work.
- Part B of the Code relates to the appraisal and planning of public projects, before expenditure is incurred.
- Part C concerns the ongoing management, control and ongoing review / evaluation of expenditure projects and programmes that are underway.
- Part D brings together user-friendly guidance material on the analytical techniques that are applied in appraisal of both capital and current expenditure. These elements of the Code deal with basic introductory material, through to more technical and advanced guidance on how the analytical techniques are applied.
- Part E is a technical reference section, showing the up-to-date standard parameter values for use in technical analytical techniques. This section also includes a useful glossary of technical terms used throughout the Public Spending Code.

Source: <http://publicspendingcode.per.gov.ie/>

The OECD Council has recently adopted recommendations for member countries comprising a set of **principles on effective public investment** to strengthen performance across all levels of government, both national and sub-national.

OECD principles on effective public investment

Effective public investment requires close co-ordination across levels of government to bridge information, policy or fiscal gaps which may occur. It also requires the capacity at different administrative levels to design and implement public investment projects. The principles, therefore, relate to how to coordinate public investment across levels of government, how to strengthen the capacity to carry it out and how to ensure a sound framework for planning it. Since public investment projects are rarely planned, financed and implemented by a single authority, different levels of government at various stages of the process are involved which accordingly need to work together. Public investment also tends to require involvement at local level even when carried out by central government since it is essential to take account of local needs, possible bottlenecks and particular territorial factors if it is to be effective. Accordingly, even if they have no funding or decision-making responsibilities, local authorities can increase (or reduce) its results and impact.

To help countries address these challenges, the OECD has developed a set of principles on effective public investment across levels of government. The goal is to help governments at all levels to assess the strengths and weaknesses of their public investment capacity and to set priorities for improvement. The Principles are combined into three groups, which represent systemic multi-level governance challenges for public investment:

- a) **Co-ordination challenges:** Cross-sector, cross-jurisdictional, and intergovernmental co-ordination is necessary but difficult in practice. The constellation of actors involved in public investment is large and their interests may need to be aligned.
- b) **Capacity challenges:** Where the capacity to design and implement investment strategy is weak, policies may fail to achieve their objectives. Evidence suggests that public investment and growth outcomes are correlated with the quality of government, including at the sub-national level.
- c) **Challenges in framework conditions:** Good practice in budgeting, procurement and regulation is integral to successful investment but is not always consistent across levels of government.

OECD member countries should take steps to ensure that national and sub-national levels of government use resources for public investment on territorial development effectively, in accordance with the principles set out below:

Coordinate public investment across levels of government and policies:

- Invest using an integrated strategy tailored to different places.
- Adopt effective means of coordination across national and sub-national governments.
- Co-ordinate among sub-national governments to invest at the relevant scale.

Strengthen capacity for public investment and promote policy learning across levels of government:

- Assess upfront the long-term effects and risks of public investment.
- Encourage stakeholder involvement throughout the investment cycle.
- Mobilise the private sector and financing institutions to diversify sources of funding and strengthen capacity.
- Reinforce the expertise of public officials and institutions throughout the investment cycle.
- Focus on results and promote learning.

Ensure sound framework conditions for public investment at all levels of government:

- Develop a fiscal framework adapted to the investment objectives pursued.
- Require sound, transparent financial management.
- Encourage transparency and strategic use of public procurement at all levels of government.
- Strive for quality and consistency in regulatory systems across levels of government.

Source: OECD

More information at: <http://www.oecd.org/gov/regional-policy/oecd-principles-on-effective-public-investment.htm> and <http://www.oecd.org/gov/regional-policy/recommendation-effective-public-investment-across-levels-of-government.htm>

Efficient budget execution requires that **financial circuits** are well-functioning, and ensure the timely transfer of authorised funds to meet commitments to staff, contractors, service users, welfare and grant recipients, and other beneficiaries of public spending. Weaknesses in budget execution can reveal themselves in poor policy delivery due to delayed financing of front-line services, and SMEs in financial distress arising from late payments.

This also implies high quality **information systems (IS)** enable budget users to track progress on spending, ideally in real-time, and monitor performance on utilising funds as a management tool, including cash flow planning. Budget IS, such as the example developed by Austria's Federal Ministry of Science, Research and Economy let managers know whether resources should be re-deployed by creating a feedback loop from budgeting to execution (and inspection) to budget amendments.

Inspiring example: Budget Information System (Austria)

Ineffective budgeting processes within the Federal Ministry of Science, Research and Economy (FMSRE) necessitated the implementation of the Budget Information System (BIS). Before the start of the project, demands for new ways of thinking, transparency, and democratisation of knowledge were identified. Five objectives were distinguished to enable a new work philosophy, which allows a high-quality outcome in one of the most sensitive areas of Austria's society, such as tertiary education and research:

- Introducing a transparent and standardised budgeting process to reach a higher planning quality;
- Introducing a business performance management system as a precondition for an efficient and transparent accounting;
- Introducing newly acquired knowledge;
- Introducing a basis for high quality budgeting and efficient budget planning; and
- Introducing a framework for the Austrian Federal Budget Reform.

This unprecedented system allows accurate and high-quality budgeting. The pioneering budget components bring about high transparency during the standardised budgeting process. This allows for a detailed representation of the ministry's budget and traceability as the history is documented in the course of the budget planning. Additionally, the high training efforts during project runtime allowed and supported intra-organisational learning. As the BIS system is based on a standard solution of an international vendor, this ground-breaking system is transferable not only within Austria's public sectors but also to public sectors of other European countries. The implementation excels due to its resource-saving functions as state-of-the-art technologies and methods were used to reduce expenditures during the project runtime. In-house knowledge was acquired to maintain and adapt the BIS for the future. This strengthens the autonomy of the ministry and helps to save resources in the long run.

The BIS represents a state-of-the-art solution, with unprecedented functionalities in the Austrian public sector. The most important innovation of the project is the re-design of the budget planning process that ensures enhanced quality, while simplifying and standardising procedures and saving time, due to fewer steps in the process. A kind of zero-base budgeting allows for an annual review of the services and contributes to efficient resource distribution. The standardised and consistent budgeting process makes the derivation of performance indicators possible which helps to reach the ministry's goals. The biggest achievement is the existence of a standardised process turning the previously complex budgeting process into a concise, decentralised and collaborative one. The budget components allow an innovative and detailed view on the budget and an outlining of gender-specific projects and their pecuniary resources. The budgets become understandable even for people unfamiliar with budget law. BIS makes an effective, efficient and outcome-oriented budget planning possible and leads to an increased self-management. By implementing a new culture of participation and an intra-organisational knowledge transfer, the self-responsibility in budgetary matters and the identification with the own pecuniary resources were established. The implementation of a cutting-edge Data Warehouse as a central storage point with a planning and reporting tool allows business performance management and makes a real-time fiscal surveillance possible. The BIS easily allows adaptations in order to meet future requirements without changing the developed standardised budget planning process.

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As the PEFA framework indicates, budget information systems deliver the data that enables governments to demonstrate the credibility of the budget, including the actual out-turn of expenditure against the original approximations voted on account. As the goals of France's AIFE suggest, the publication of public expenditure information also helps to improve **accountability** by allowing citizens and businesses to scrutinise how taxes and other revenue sources are deployed (see also [principles and values of good governance](#), regarding public participation and transparency).

Openness alone is not sufficient, however. Raw data on its own is not always helpful, especially if it lacks any reference framework that allows conclusions to be drawn. Simply knowing that EUR millions or billions has been spent on education, justice or industrial aid only serves to confuse: public spending data becomes just a set of large numbers. Readers need help in **understanding the data**, in a way which should be designed to avoid either biasing the audience's interpretation or presenting an over-simplified analysis in a complex policy field. The aim of providing spending and other data should be to provide a full and balanced picture, to avoid misleading both the public and policy-makers.

- **Provide reference points:** Data is more meaningful if it allows comparisons, whether this is change over time (trend data), or relative to other territories (countries, regions, cities, municipalities) or institutions (hospitals, courts, universities, etc.). Readers relate better to spending per person than whole numbers, or shares of total spending, so percentages or fractions are more easily comprehended.
- **Provide explanatory information:** However, crude comparisons can misrepresent the complexities of the situation 'on the ground'. For example, 'league tables' can be useful motivators if they encourage improvement, but they run the risk of implying that all the myriad factors affecting policy outcomes can be reduced to a single metric or a few indicators. This can distort decision-making, also by putting the emphasis on competition to improve rankings (which will always remain relative), if this is not the appropriate solution to the policy challenge. The presentation may benefit from an accompanying package of explanatory information to make sense of the data being presented in a particular domain (such as spending on primary schools) and to help the reader to qualify the analysis (for example, socio-economic background of the community, linguistic and physical abilities of the children, school funding levels over time and per pupil, performance by cohort, etc.).
- **Provide a narrative:** Moreover, data only takes you so far. People tend to relate better to real-life stories than pure numbers, and hence some 'typical' examples of how resources are being used and the range of outcomes that are being achieved, to accompany the facts and figures, can be illuminating.

Checks and balances are always needed to ensure that the principles and values of sound financial management are observed in practice. Budgetary credibility is also aided by the **rigorous scrutiny** of auditors, both internal and external to the public administration. This scrutiny should be risk-based, identifying the weak points in the budget system for auditing, particularly spending which is vulnerable to weak controls and corruption (see [theme 2](#)), with respect to payroll, procurement, transfer payments (e.g. welfare) and grant-giving.

Internal controls provide the most immediate scrutiny, including the role of **internal audit** in pursuing risk-based assessment of budget execution, including legality, reliability, efficiency, effectiveness of spending, integrity of operational information, and performance of required checks and controls. Internal audit units are part of the fabric of central government across the EU, but less well established in lower tiers of government. An innovative approach to internal audit among municipalities has been pioneered in Romania through a partnership arrangement.

Inspiring example: Partnership for internal audit in local administrations (Romania)

Since the implementation of the internal audit function in the Romanian public administration in 2003, significant progress has been achieved at the central level, but there is poor progress at the level of local public administration (functionality of only 27%), especially in rural areas.

Difficulties relate to recruiting qualified personnel as internal auditors, due to scarce human resources available in rural areas, the non-attractive salary level in local public administration, and the heavy financial burden for small public entities that have sometimes 10-15 staff. Institutions like rural town halls would have to make great financial efforts to sustain an internal audit unit, requiring at least two internal auditors by law. In view of other challenges at the local level, such as applying and implementing European funds, or introducing new working methods (managerial control and operational procedures), mayors lacked a tool offering them objective support to take appropriate decisions. This void was filled by the internal audit function. Hence, its proper implementation was of utmost importance.

The proposed solution – a partnership model between small public entities – came from national and European experience, implemented locally. The project's aim was to implement it nationally across all local public administrations in Romania. Some partnerships were already functioning in other areas of town halls, like civil safety (e.g. fire brigade) or waste management. This existing cooperation was a good basis for the start of the new internal audit function.

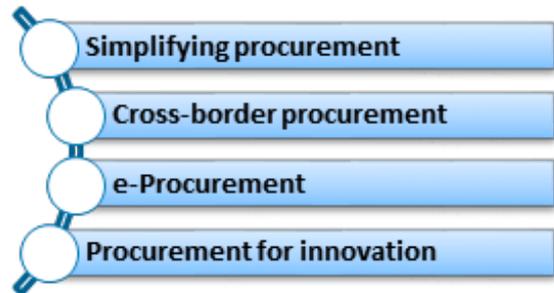
In 2009-2010, a twinning project with partnerships from Austria and France was carried out to identify good practices regarding the association process of small public entities for assuring the internal audit function. Eight partnerships were set up as pilot centres. At the end of the project, the Romanian partners continued disseminating the partnership model. Crucial support was received from the Association of Communes from Romania (ACoR) that later became an indispensable partner in assuring the sustainability and the dissemination of the association process throughout the country. It was crucial to get on board the mayors of communes as key actors of the internal audit model. The results of the joint efforts are signed partnership agreements. Based on the success of ACoR's achievements in implementing the internal audit function, other kinds of associative structures, like the Associations of Intercommunity Development, joined the path of cooperation and the process is expanding step by step. Now approximately 40% of the local public administration is covered by the internal audit function. There was also a mental blockage that this approach overcame, that the concept of "cooperation" that was blamed, being linked to the previous political regime in Romania, now shows its benefits and could act as a tool for further development.

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External scrutiny from outside the executive is provided by **supreme audit institutions (SAIs)** that are fully independent of government and report directly to parliament. Financial audits examine *inter alia* the legality and propriety of transactions, as well as the functioning of internal controls and the reliability of the financial statements that are available to the public. Where they are also part of the SAI's scope and work programme, performance audits explore the value for money of incurred expenditure (see [topic 1.3.1](#)). SAIs make a vital contribution by both identifying waste and ways in which public administrations can function better. Audit findings should be presented to parliament and made public, providing the necessary reassurance to citizens (see [topic 2.2.2](#)).

7.2. Public procurement

Almost 40% of total public spending in the EU is contracted out for supplies, services and works⁽⁸⁾, valued at over EUR 2 trillion. This makes procurement pivotal to the public administration's interaction with the business community, as well as an instrument for modernising public services. At the same time, purchasing power is a potential source of conflicts of interest and corruption. The effective governance of public procurement, maximising the benefits and minimising the burdens, can make a major contribution to attaining the Europe 2020 growth goals, and also on making best use of European Structural and Investment Funds (see [topic 7.3](#)).



Around one in every five euros spent on public procurement, worth EUR 425 billion, exceeds the thresholds in EU legislation.⁽⁹⁾ The [2004 directives](#) provide the main overarching framework for public purchasing currently.⁽¹⁰⁾ The main procedures governed by the 'classical directive' for awarding contracts for public works, supplies and services are summarised below:

Main procurement procedures under the 2004 classical directive⁽¹¹⁾

Type	Description	Conditions
Open procedure	Any interested economic operator may submit a tender.	Available for all procurements.
Restricted procedure	Any economic operator may request to participate, but only those economic operators invited by the contracting authority may submit a tender.	Available for all procurements.
Competitive dialogue	Any economic operator may request to participate and the contracting authority conducts a dialogue with the candidates admitted to that procedure, with the aim of developing one or more suitable alternatives capable of meeting its requirements, and on this basis, the candidates chosen are invited to tender.	Use of the open or restricted procedure would not enable the contract to be awarded, due to the complexities of the requirements - the contracting authorities are not objectively able to define the technical means capable of satisfying their needs or objectives, and/or are not objectively able to specify the legal and/or financial make-up of a project.

⁽⁸⁾ The public sector's share of GDP in the EU is 49%. According to the European Commission's 2013 Annual Public Procurement Implementation Review, expenditure by government and utilities comprised 19% of GDP in 2011, http://ec.europa.eu/internal_market/publicprocurement/docs/implementation/20140820-staff-working-document_en.pdf

⁽⁹⁾ European Commission (2014), "Annual Public Procurement Implementation Review 2013".

⁽¹⁰⁾ See also 'remedies directives': http://ec.europa.eu/internal_market/publicprocurement/infringements/remedies/index_en.htm and the 'defence procurement directive': http://ec.europa.eu/internal_market/publicprocurement/rules/defence_procurement/index_en.htm

⁽¹¹⁾ Also available as procurement options under the Directive are framework agreements, dynamic purchasing systems and electronic auctions. The Directive also covers the organisation of design contests.

Type	Description	Conditions
Negotiated procedure (after the publication of a contract notice)	The contracting authorities invite at least three economic operators of their choice, with whom it will negotiate the terms of the contract. This procedure can take place with or without prior publication. This procedure only applies in a limited number of cases.	<p>(a) In the event of irregular tenders or the submission of tenders which are unacceptable under national provisions (see directive), in response to an open or restricted procedure or a competitive dialogue insofar as the original terms of the contract are not substantially altered.</p> <p>(b) In exceptional cases, when the nature of the works, supplies, or services or the risks attaching thereto do not permit prior overall pricing.</p> <p>(c) In the case of services (see directive), their nature is such that contract specifications cannot be established with sufficient precision to permit the award of the contract by selection of the best tender according to the rules governing open or restricted procedures.</p> <p>(d) In respect of public works contracts performed solely for purposes of research, testing or development and not with the aim of ensuring profitability or recovering R&D costs.</p>
Negotiated procedure (without prior publication of a contract notice)		<p>(a) When no tenders or no suitable tenders or no applications have been submitted in response to an open procedure or a restricted procedure, provided that the initial conditions of contract are not substantially altered and on condition that a report is sent to the Commission if it so requests.</p> <p>(b) When, for technical or artistic reasons, or for reasons connected with the protection of exclusive rights, the contract may be awarded only to a particular economic operator.</p> <p>(c) Insofar as is strictly necessary when, for reasons of extreme urgency brought about by events unforeseeable by the contracting authorities in question, the time limit for the open, restricted or negotiated procedures with publication of a contract notice cannot be complied with (the circumstances must not be attributable to the contracting authority).</p> <p>Note: Various additional conditions apply specifically to public supply contracts, and public service contracts following a design contest, and public works and public service contracts (see Article 31 of the 2004 'Classical' Directive)</p>

Please note: 'Economic operator' refers to any natural or legal person, public entity, or group of such persons and/or bodies which offers on the market the execution of works, products or services.

In a **major overhaul** of the rules, both the '[classical directive](#)' and the '[sector directive](#)' for procurement in the water, energy, transport and postal services utilities were revised on 11 February 2014, based on a European Commission proposal from 2011. At the same time, a new directive was adopted on the [award of concession contracts](#)⁽¹²⁾. These new directives preserve every Member State's freedom to choose how public works or public services should be organised, whether they are performed in-house using the public administration's own staff and resources, or outsourcing them to external enterprises (see [theme 1](#) on institutional structures and reforms). It is only in the case of outsourcing that the rules on public contracts and concessions apply. They provide greater legal certainty, especially regarding cooperation between public authorities and the use of concessions, and contain two important shifts in approach to achieve better outcomes.

First, the new 'classical directive' clarifies the definition of **most economically advantageous tender** as the criterion for awarding contracts, and no longer presents lowest price as its direct alternative (although it remains an option). Public administrations will be able to place more emphasis on quality, innovation, social

⁽¹²⁾ Concessions are partnerships between the public sector and mostly private companies, where the latter exclusively operate, maintain and carry out the development of infrastructure (ports, water distribution, parking garages, toll roads) or provide services of general economic interest (for example, energy, water distribution and waste disposal). Concessions are the most common form of public-private partnership (PPP).

and environmental objectives⁽¹³⁾, alongside price or cost, which can be defined on a life-cycle basis (all the costs of goods, services and works from research to disposal, including carbon footprint and other externalities). Moreover, the new package incorporates tougher rules on ‘abnormally low bids’ due to non-compliance within EU social, labour and environmental protection legislation.

Second, Member States will have greater flexibility over their choice of procurement procedure. The open and restricted procedures remain the default options for tendering works, supplies and services, especially for off-the-shelf solutions where the marketplace contains many economic operators. However, more satisfactory and tailored outcomes can result from **negotiation with potential providers** over the terms of the contract. This is reflected in the strong growth in the use of the competitive dialogue procedure by value in recent years, which has been simplified and made more practicable in the new directive. Similarly, negotiated procedures with prior publication of contract notices under the 2004 directive has proved to have a high success rate with cross-border tenders; it has been replaced by the ‘competitive procedure with negotiation’ in the new directive, which is better structured to ensure fairness, transparency and efficiency. These options are especially valuable for services, works or supplies with a strong design or innovation element, such as non-standard buildings, intellectual services, or major ICT or transport projects, or where the financing arrangements are complex. Negotiation allows the contracting authority to test the market and customise solutions to best meet its needs, subject to safeguards to ensure equal treatment and transparency, including minimum requirements, award criteria and weightings that are specified and not to be negotiated.

The directives provide two approaches for situations when a public procurer needs an **innovation solution** that does not exist yet on the market. There is a new innovation partnership procedure that enables the purchase of R&D and resulting end-products in one and the same procedure. There is also the possibility that already exists today to purchase R&D and final end-products via two separate procurement procedures, for example via a pre-commercial procurement for the R&D and an open procedure or competitive dialogue for the public procurement of innovative solutions.

Given the volume of public funds assigned to it, procurement is particularly vulnerable to conflicts of interest, favouritism, bribery and other forms of **unethical behaviour and corruption**, especially where risk management and control mechanisms are inadequate. Serious loopholes in public procurement controls create a significant risk of diversion of public funds, including bribery and extortion with the intention of fraudulently awarding contracts irrespective of their merit or value for money. Corruption in public procurement in just five sectors in eight Member States⁽¹⁴⁾ is estimated to cost from EUR 1.4 billion to EUR 2.2 billion.⁽¹⁵⁾ The new directives include provisions concerning centralised data on corruption, fraud and conflicts of interest, stricter rules governing modification of contracts, broader exclusion criteria, and monitoring of concluded contracts.

⁽¹³⁾ For example, the employment of long-term unemployed or disadvantaged people or the use of environmentally-friendly materials could be a determining factor in the choice of contractor.

⁽¹⁴⁾ The sectors being road and rail, water and waste, urban/utility construction, training, and research and development, and the Member States being France, Italy, Hungary, Lithuania, Netherlands, Poland, Romania and Spain.

⁽¹⁵⁾ ‘PricewaterhouseCoopers and Ecorys (2013), “Identifying and Reducing Corruption in Public Procurement in the EU – Development of a methodology to estimate the direct costs of corruption and other elements for an EU-evaluation mechanism in the area of anti-corruption”.

Corruption in public procurement

The European Commission's phone-based "Flash Survey" of EU businesses in manufacturing, construction, energy, telecommunications, healthcare and financial sectors, conducted in 2013, found that more than 37% had participated in at least one public tender or public procurement procedure in the last three years, mostly on multiple occasions (29%), with public spending accounting for an average of 27% of their turnover. Construction companies are the most likely to have taken part in public tender or procurement procedures in the last three years (46%), followed by the ICT sector (35%). Micro enterprises (< 10 employees) are the least likely to have participated in a public tender or public procurement process (31% vs. 54%-56% for other size groups). The longer a company has been in operation, the more likely they are to have participated in at least one of these procedures: 22% of companies operating for less than one year have done so, compared to 40% of companies operating for 11 or more years.

Companies that say corruption in national public procurement is widespread are less likely to have participated in a public tender or procurement process (35%) than companies that say this corruption is rare (43%). Almost one third of companies that have participated in a public tender or procurement process in the last three years say that corruption prevented them from winning the contract (32%), while companies from the 12 Member States from the 2004 and 2007 enlargement rounds are much more likely to say that corruption prevented them from winning this kind of contract (47%) compared to companies in the previous EU-15 countries (28%). Companies with more than 250 employees are much less likely to say corruption prevented them from winning a public tender or procurement contract (12%) compared to smaller companies (30%-35%). Companies with a turnover of more than EUR 10 million are less likely to say corruption prevented them from winning such a contract (9%-11%) compared to companies with a smaller turnover (25%-45%).

Companies that have not participated in a public tender or procurement procedure in the past three years were asked if it was for one of a particular set of reasons. One in five (21%) say that the procedure seemed too bureaucratic or burdensome, while 16% say the criteria seemed tailor-made for certain participants. All companies were asked how widespread they thought a range of practices related to public procurement procedures were in their country. In each case, at least four out of 10 companies think the practice is widespread. Companies are most likely to say this about specifications tailor-made for particular companies (57%), conflict of interests in bid evaluation (54%), collusive bidding (52%) and unclear selection or evaluation criteria (51%). Companies are least likely to say that the practice of amending contract terms after the conclusion of a contract is widespread, but even so 44% say this.

Source: European Commission (2014) "Flash Eurobarometer 374: Businesses' attitudes towards corruption in the EU"

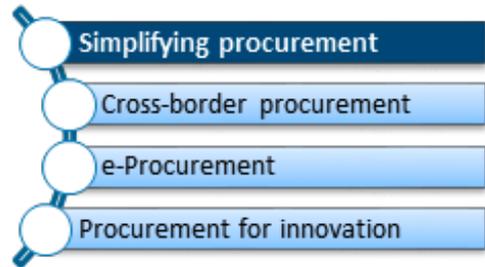
Irrespective of the choice of procedure, contracting authorities must ensure equal treatment of all tenderers, especially in providing information which must not discriminate or give some tenderers advantages over others. The new classical directive clearly defines **conflicts of interest** (see [theme 2](#)) for the first time as "*any situation where staff members of the contracting authority, or of a procurement service provider acting on behalf of the contracting authority, who are involved in the conduct of the procurement procedure or may influence the outcome of that procedure have, directly or indirectly, a financial, economic or other personal interest which might be perceived to compromise their impartiality and independence in the context of the procurement procedure*". *Inter alia*, the new rules require that contracting authorities take appropriate measures to prevent, identify and remedy any conflicts of interest that arise during the procurement process. By regulating concessions, the new rules also reduce the scope for contracts to be awarded without any transparency or competition, with the consequent risks of favouritism, fraud and corruption.

The [Single Market Scoreboard](#) provides a rating of Member States' performance under the 2004 directives, based on qualitative policy judgment on what constitutes good practice and recent data, using bidder participation, accessibility and procedural efficiency as metrics and a 'traffic light' presentation. The [new framework](#) and its provisions set the scene for **national and cross-border rule changes** to simplify procurement, make the process both fairer and more flexible, and reduce the scope for conflicts of interest and corruption - by cutting paperwork, shortening deadlines where justified, and using electronic means for information

exchange and transactions. The new regime will remove barriers to market access by SMEs which, alongside the greater emphasis on negotiation, quality and innovation, create opportunities that administrations across Europe can seize to deepen the economic and employment impact of public expenditure. Member States have until April 2016 to transpose the new rules into their national laws, except with regard to e-procurement, where the deadline is October 2018.

7.2.1. Simplifying procurement

Each Member State operates its own national public procurement system, in line with EU directives, but these often follow sophisticated rules that are sometimes unclear to the tenderer, and which are rarely aligned across the EU, increasing costs and reducing competition within the internal market. Reducing unnecessary complexity in procurement procedures is an integral part of the administrative burden reduction agenda (see [theme 1](#) on regulatory reform). As with other aspects of the public-private interface (see [theme 5](#)), purchasing should be ‘business-friendly’ within the limits of the law, especially towards SMEs that have tended to be under-represented in public awards. This means implementing procurement rules in a manner which ensures tendering, contracting and payment are transparent, fast and cost-effective for all parties, encourages fair competition and achieves high value outcomes.



The **new directives** introduce a number of simplified and standardised procedures, with less ‘red tape’, easier access to procurement markets, and modernisation through e-Procurement (see [topic 7.2.3](#)):

- Businesses will find it easier to bid for public tenders with **less paperwork**, by using the European Single Procurement Document (ESPD), which relies on self-declarations that the tenderer meets the eligibility criteria. Only the successful bidder will be asked to provide the full documentary evidence (original certificates and attestations), which the contracting authority can obtain directly from national databases if these are indicated in the ESPD. The Commission estimates that this should reduce the administrative burden on companies by over 80%.
- Contracting authorities are encouraged to split large contracts into **smaller lots**, through the “apply or explain” principle, to make it easier for smaller firms to bid.
- Contracting authorities should accept all bidders with an adequate financial status for the contract. In the past, smaller bidders were often excluded because the contracting authorities asked for high annual turnover figures as proof of financial capacity even for contracts of a low monetary value. In the future, the directives **cap the minimum turnover** required to take part in a public tender at a maximum of twice the estimated value of the contract, except in duly justified cases.
- Contracting authorities should be allowed to **shorten certain deadlines** applicable to open and restricted procedures and to competitive procedures with negotiation where the deadlines in question would be impracticable because of a state of urgency, which should be duly substantiated by the contracting authorities. This is additional to the ‘extreme urgency’ rule regarding extending deadlines for negotiated procedures without prior publication.

The sum effect is that it should be easier and less costly to participate, which should open up bidding opportunities, especially to **SMEs**.

The new framework also reduces the **burden on contracting authorities**, especially “sub-central contracting authorities” (regional and local authorities), which will be able to advertise their contracts via prior information notices, which involve less work than full EU-wide contract notices. Local authorities will also be able to benefit from the new simplified regime put in place for social, health, cultural and assimilated services.

The scale of the public procurement market contrasts with the **fragmentation of the procurement system**, estimated to comprise around 270 000 contracting authorities and entities across the EU.⁽¹⁶⁾ Given this fragmentation, public administrations can seek ways to improve the efficiency and economic impact of procurement through partnership arrangements. Coordinated procurement through a central purchasing body was allowed under the 2004 directives, as exemplified by Catalonia’s public corporation, CTTI, which procures ICT solutions on behalf of all of the region’s ministries and public enterprises.

Inspiring example: An innovative sourcing process through public-private collaboration (Spain)

CTTI is a public corporation assigned to the Department of Enterprise and Labour of the Generalitat de Catalunya to integrate all computer services, telecommunications infrastructure and their administration and management. The Generalitat de Catalunya is organised in 12 ministries or departments; CTTI serves all of them and their public companies regarding ICT.

Until 2011, the Catalan ICT model was organised in a decentralised way, with manifold contracts, suppliers and infrastructures that required excessive resources, thereby hindering investment, service improvement and innovation, whereas ICT had the potential to improve productivity. The challenge was on the table. CTTI’s working model needed to be transformed regarding service improvement at a lower cost, using public-private cooperation for new infrastructure, more effective procurement, and attracting investment to Catalonia, while transforming the Catalan ICT sector. CTTI decided to use competitive dialogue as the procurement formula, as designing and validating the model with suppliers enhanced the chances of getting the best solution in each case, and taking advantage of public-private partnerships allowed long-term contracts, creating interest in the bidding process and attracting investment. For the competitive dialogue, the CTTI was re-organised in three major teams: one focusing on the new ICT model (design, developing and bidding); another on guaranteeing service delivery; and the last one on designing the governance model.

The procurement process had three phases:

- Announcement of the project through a public presentation to the whole ICT sector;
- Competitive dialogue, which involved all the selected companies developing the most suitable solutions for each area in three dialogue rounds, so that the contracting authority could define the most appropriate solution in the end;
- Bidding and tender awarding.

During this process, the governance model was also discussed with the companies of the competitive dialogue and subsequently tendered for the machinery parts. A transformation office started to work preparing supplier changes, and a continuity plan was activated to assure services. The results of the project include: greater management efficiency from reducing 300 suppliers to 21; cost reduction of 28%, investment from companies worth EUR 2 808 million, 8 454 jobs created, empowerment of the ICT sector in Catalonia and a high capacity network available.

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At the local level, the ‘Localret’ shared system in Catalonia was established to purchase telecommunications services on behalf of over 800 Catalan municipalities.

⁽¹⁶⁾ European Commission (2014), Annual Public Procurement Implementation

Inspiring example: 'Localret' system for purchasing telecommunications services (Spain)

'Localret' is a local consortium of more than 800 municipalities (90% of the municipalities of Catalonia, 99% of population) set up to create services for the municipalities and turn these services into value, helping them to be adaptable and ready for changes of the information society.

With this aim, 'Localret' proposed to all local entities from Catalonia the necessity to join efforts to achieve a common shared system for purchasing telecommunications services provided at municipal level. 'Localret' is acting as 'central purchasing body' with two features: it concludes a framework agreement for services, and acquires such services on behalf of the municipalities. It should be noted that, since 1998, it became compulsory to purchase telecommunications services by means of a public tender, but usually each municipality decided to purchase according to its own procedure. Therefore 'Localret', aware of the costs of telecommunications services that municipalities must bear and the need to achieve economies of scale, promoted the achievement in 2006 of a Homologation Framework Agreement for telecommunications services providers. Thus, 'Localret' studied the needs of municipalities and established three batches:

1. Fixed telecommunications services.
2. Mobile telecommunications services.
3. Internet access and data transmission services.

To this effect, the homologation process took into account several aspects: technology, service quality, SLA's or penalty mechanism. After prequalifying providers through the homologation process, it is stated that the pre-selected providers of the corresponding batch hold a mini-competition, where they submit their bids for the particular call-off and the contract is awarded to the provider which has submitted the most economically advantageous tender on the basis of the award criteria. Therefore, all municipalities from Catalonia may use a single procedure to purchase their telecommunications services based on a Homologation Framework Agreement for telecom service providers, which is fully adaptable to their needs and features (territory, population, etc.). Nevertheless, the homologation was thought as a first step and, at a second stage, 'Localret' implemented the features of a central purchasing body in order to gather the telecommunications services needs of several municipalities and purchase them in a joint public procurement procedure.

As a result of this initiative to cut red tape, it is possible to quote better use of taxpayer's money by means of the incipient economies of scale, getting lower prices for the same or even better services. This joint public procurement system also has an important impact on local economic policies as it allows the savings to be invested in other actions. Nowadays, the solution of 'Localret' has become a one-stop-shop for the telecommunications services of municipalities and 'Localret' is successfully deploying a new version of the Homologation Framework with the consent of the service providers. This commitment to improve the efficiency and the cost-based results of the purchasing process was recognised last December in the Interconnèctes Forum held in Lyon (France) organised by the Réseau des Territoires innovants. Currently, 'Localret' has become a reference in Spain thanks to the wide usage of its service addressing the Digital Agenda and its model of public cooperation. Furthermore, 'Localret' has been entrusted by several public bodies in Spain to check adaptability and implementation of its model for purchasing telecommunications services.

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The 2014 framework ends any legal uncertainty regarding cooperation between public authorities making it easier for contracting authorities to bundle their purchases above EU thresholds by using joint procurement procedures or purchasing through a **central purchasing body**. This can be done on a national or a cross-border level - reaping the full benefit of the single market.

The new directives also cover cases where contracting authorities are concluding contracts among themselves without creating a 'controlled undertaking'. For example, several municipalities could decide to **pool their resources** in the field of waste management, with participating municipalities performing specific services for all members of the cooperation⁽¹⁷⁾ (see also [theme 1](#) on institutional structures and reforms).

⁽¹⁷⁾ http://ec.europa.eu/internal_market/publicprocurement/docs/modernising_rules/reform/fact-sheets/fact-sheet-05-public-public_en.pdf

Public administrations can also anticipate future procurements and prepare themselves by investing in **identifying and publishing standards**, as illustrated by Ökokauf Wien, which has produce around 100 product catalogues for supply, construction and other services regularly procured by the City of Vienna, to ensure the tender documents comply with environmental legislation and expert practice. By sharing this information with both public authorities and potential bidders, the city administration improves the quality of bids and saves time and costs for bidders. Such examples become even more relevant in the context of the new EU directive framework, which allows environmental and other considerations to be factored into the award criteria.

Inspiring example: Ökokauf Wien (Austria)

‘ÖkoKauf Wien’ is a cross-departmental programme attached to the Executive Group for Construction and Technology of the City of Vienna. The aim of the ‘ÖkoKauf Wien’ programme is to enhance the environmental compatibility of the city’s procurement system in line with the principles of climate protection and EU procurement regulations.

For this purpose, texts for invitations to tender, criteria catalogues and other guidelines that can be used in the field of procurement are being developed. By now, there are about 100 such product catalogues for supply, construction and other services regularly procured by the City of Vienna. An important factor for the success of the ‘ÖkoKauf Wien’ programme is its broad structure which involves more than 200 experts from all spheres of the Vienna City Administration, as well as a number of external experts.

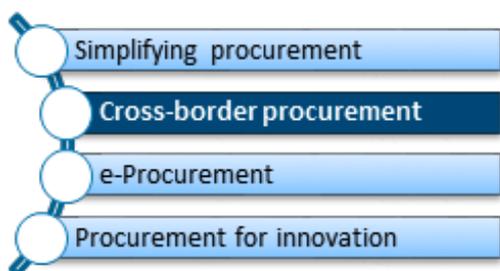
The programme is organised across different municipal departments and uses the existing structure and resources of the City of Vienna, thereby avoiding separate personnel expenses and related costs for offices, etc. Most of the staff members involved in the programme are employees of the City of Vienna and perform their programme tasks in addition to their actual functions. The programme is implemented at the administrative and organisational level by using the City of Vienna’s existing human and technical resources. The financial resources required for the award of external contracts to support work on the programme by, for example, studies, investigations or tests are primarily provided by the City of Vienna. Staff members’ motivation to participate in the programme is solely based on the opportunity to contribute their expert knowledge from their main fields of professional activity to the ‘ÖkoKauf Wien’ programme and, building on this knowledge, to develop generally applicable regulations, which can be used by all procurers in their everyday work, once they have been published.

The current 25 working groups develop, evaluate and update relevant ecological criteria in the fields of printing and paper, electrical and electronic appliances, construction and HVAC systems, vehicle fleet, food, disinfectants and cleaning agents, textiles, events etc. Advisory committees, supporting the working groups, have been established for public relations and legal issues. Intensive public relations work helps to make the results of ‘ÖkoKauf Wien’ available to all interested parties, such as public procurers, commercial enterprises and the citizens.

Before being published, the results of the ‘ÖkoKauf Wien’ programme are legally reviewed to ensure they can be applied without any problems. Cautious calculations of the outcome of ‘ÖkoKauf Wien’ revealed that by applying the results of the ‘ÖkoKauf Wien’ programme, the City of Vienna saves about EUR 17 million and 30 000 tonnes of CO₂ emissions each year.

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7.2.2. Cross-border procurement



Tendering within national systems is complicated enough, but is harder still when bidders wish to take advantage of the single market to apply for contracts in other EU countries, above or below the EU thresholds. It is in the mutual interest of all Member States to open up procurement to effective EU-wide competition, particularly within the context of tight public finances to achieve efficiency savings, but more importantly to widen access to the best quality solutions. Cross-border procurement takes two main forms:

- **Direct:** firms operating from their home market bid and win contracts for invitations to tender launched in another Member State;
- **Indirect:** firms bid for contracts through subsidiaries; domestic bidders include foreign subcontractors: foreign bidders submit offers in consortia with local firms in order to participate in competitive procurement; or a domestic firm imports goods in order to supply them to a contracting authority or entity.

Research in 2011 for the European Commission showed that 88% of all direct cross-border procurement in the EU and 60% of all indirect through affiliates was awarded to economic operators in another Member State in 2007-2009. SMEs won 47% of direct cross-border procurement contracts, while indirect cross-border procurement through affiliates was dominated by large enterprises. Nevertheless, these figures have to be seen in the light of **overall low levels** of cross-border procurement: just 1.6% of all awards involve direct cross-border procurement and 11.4% indirect through affiliates; by value of contracts, the numbers are not much higher, 3.5% and 13.4% respectively.

There are many factors shaping this situation. Some services are inherently 'non-tradable' (highly localised and hence less suitable for import-export), such as certain social, health and educational services, hotels and catering. In other cases, international trade only becomes viable with contract values that are **sufficiently large to overcome the transactions costs** (for example, emergency services and prison services).

These transaction costs include legal requirements leading to **market entry barriers** in the awarding country (e.g. special permits or procedures necessary for offering services abroad). These obligations were ranked 4th among surveyed businesses in the European Commission's study in a list of the most relevant obstacles (after lack of experience with doing business abroad, language barriers, and strong competition from national bidders). Such market entry barriers can be lowered by public administrations (see [theme 1](#) on regulatory reform and [theme 5](#) on the ease of doing business).

To achieve the economies of scale that would make cross-border tenders more attractive, Member States have the possibility of **joint public procurement**, either by purchasing from central purchasing bodies in other Member States or jointly awarding public contracts. This is theoretically possible under the 2004 framework, but faced legal and practical difficulties from conflicting national laws, and is specifically covered by the 2014 classical directive (article 39).⁽¹⁸⁾

Cross-border activity can also be better enabled by public administrations take-up of **e-Procurement** ([topic 7.2.3](#)), which is an obligation for purchases above EU thresholds in the new directives framework, and through the use of open standards in ICT procurement, for example.

⁽¹⁸⁾ Joint public procurement for Member States is a significant topic for the Horizon 2020 ICT8 call for proposals (see the note on "EU support for PCP and PPI" in [topic 7.2.4](#)).

7.2.3. E-Procurement

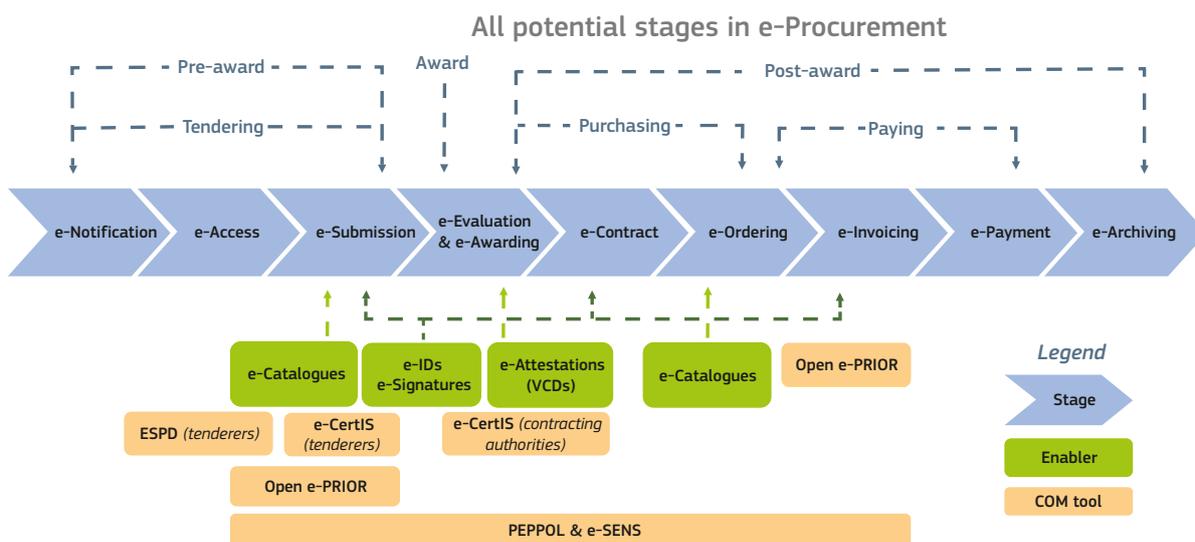


E-Procurement is the use of electronic communication by public sector organisations when buying supplies and services or tendering public works. The drive to digitisation of public administration provides a path to streamlining and speeding up national systems, through electronic tendering, invoicing and payment. E-Procurement has huge potential to achieve multiple goals in parallel, including:

- ✓ Achieving **efficiency savings** for both buyer and provider, through lower prices, transaction costs, duration times and error rates;
- ✓ Improving the **environmental impact** of procurement, by reducing paper and energy consumption and archiving space;
- ✓ Reduce the opportunities for illicit activity, by increasing **transparency** and by removing discretion where it is not necessary (see [theme 2](#));
- ✓ Opening up **competition** domestically and EU-wide, thereby strengthening the operation of the internal market;
- ✓ Increasing access to tender opportunities by **SMEs** (99% of which have access to the Internet⁽¹⁹⁾), as a contribution to the ‘Think Small First’ agenda (see [theme 5](#)); and
- ✓ Benefitting the implementation of **European Structural and Investment (ESI) Funds**, which is highly reliant on efficient procurement (see [topic 7.3](#)).

As noted in the [2014 Annual Growth Survey](#), increasing the use of ICT and further deployment of e-Government services in Europe, such as e-Procurement, can help to increase efficiency and reduce costs in the order of 15-20%.⁽²⁰⁾

Like the purchasing process itself, e-Procurement can be broken down into several phases. Electronic information exchange and transactions can be applied to **any stage of the procurement process** – before (pre-award), during and after (post-award) the contracting authority awards the contract for services, works or supplies.



E-Notification is the announcement of calls for tender (CfTs) through the publication of appropriate prior information notices (PINs) and contract notices in elec-

⁽¹⁹⁾ Eurostat

⁽²⁰⁾ Public Services Online, e-gov benchmark insight report for the European Commission

tronic format in the relevant official journal at the European and/or national levels, depending on the chosen procedure and contract value (above or below EU thresholds). This is illustrated by the example of Finland's HILMA, a centralised channel that also generates statistical data to meet regulatory requirements.

Inspiring example: HILMA – Centralised e-Channel for publishing contract notices (Finland)

Since 2007, all contract notices exceeding national thresholds and EU thresholds have been published on HILMA (www.hankintailmoitukset.fi), a single, centralised electronic channel maintained by the Ministry of Employment and the Economy. Via HILMA, notices are also forwarded to the Supplement to the Official Journal of the European Union (S series) and the TED database. Businesses can use HILMA free of charge, in order to acquire real-time information on procurement notices made, and prior information on future contracts. A total of 18915 notices were published in HILMA in 2013. HILMA is also used as a tool for collecting statistical information on public procurement notices, in accordance with Directive 2004/18/EC, reducing the administrative burdens on contracting authorities and entities involved in responding to data requests. In the utilities field (Directive 2004/17/EC), approximately 90% is collected via HILMA and 10% through responses to data requests.

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E-Access involves the contracting authority providing electronic access to all the information required by economic operators that enables them to prepare their bids without favouring any interest. This includes: publishing tender documents and specifications; providing supporting documents, such as the European Single Procurement Document (ESPD), e-Catalogues, and answers to frequently asked questions (FAQs); and responding to requests for clarification as they arise. It may also include information for the negotiation under Competitive Dialogue, Competitive Procedure with Negotiation, and Negotiated Procedure without Prior Publication.

E-Submission involves the economic operator submitting their offers in electronic format to the contracting authority, which is able to receive, accept and process it in compliance with legal requirements. This is the most critical phase for getting SMEs engaged with procurement, so it is critical that contracting authorities make e-Submission as painless as possible, and remove any barriers that might discourage new bidders. Following transposition of the 2014 directives, economic operators will be able to use the ESPD to simplify their submission, and hence only when the award takes place will they need to provide full and original documentation, which can also potentially be done electronically, by using e-Attestations. **E-Awarding** is the opening and evaluation of the electronic tenders received, and award of the contract to the best offer based on the selection and award criteria. As the submission and evaluation process may take place over several rounds (under the restricted, negotiated and competitive dialogue procedures and innovation partnerships), there is potentially an overlap and iterative process for these two stages.

Once the decision is taken to make the award, the **e-Contract** is the conclusion of an agreement between the contracting authority and the successful tenderer through electronic means to provide works, goods and/or services, which may be subject to amendment in the same manner. The monitoring of the e-Contract may also involve the contractor submitting performance data electronically, for checking by the contracting authority (possibly accompanied by an e-Invoice), although any site visits to check or audit compliance with the terms of the contract will continue to be conducted physically. In the case of purchase orders, these may be issued through **e-Orders**, including for example the acquisition of small quantities of supplies by the contracting authority.

Inspiring example: Public Administration e-Marketplace (Italy)

The Italian Public Administration e-Marketplace (MePA) was introduced in 2003. It is one of the several electronic procurement tools managed by Consip SpA on behalf of the Italian Ministry of Economy and Finance (MEF), a virtual market in which any Public Administration (PA) can buy goods and services offered by suppliers, for purchases with a value below the European threshold (circa EUR 200 000). It is open to qualified suppliers according to non-restrictive selection criteria. The entire process is digital, using digital signatures in order to ensure legal compliance and overall transparency of the process. It works just like a real market, as the same products are sold by different and several suppliers at different prices, terms and conditions. Suppliers may decide on the geographical area in which they wish to deliver their product/ services and can optimise their selling strategy, at any time, by improving the quality or the price conditions of their products or even by promoting new ones. Thus, the dynamic dimension of the e-Marketplace strongly enhances competition.

In the past, the Italian public procurement system was characterised by having no digital system to manage purchases below the EU threshold, with a consequent significant lack of transparency, market openness and competition. Each PA followed its internal rules when performing purchases below the EU threshold.

The rules that suppliers must observe in order to enrol and sell in the MePA are set in specific public notices published by Consip according to different product categories. The MePA connects thousands of public bodies and suppliers distributed all over the Italian territory, both at a central and local level. Registered purchasing administrations can use the two purchasing tools offered by the MePA:

1. The 'Direct Order' (DO), by means of which PAs buy directly from the e-catalogue a product or a service offered by the economic operator since the offer meets the needs of the administration. Once the product or service has been chosen, the PA agrees on the price and delivery conditions offered, fills in the purchasing order indicating the amounts needed, signs it digitally and sends it to the supplier. At this stage, the order represents a legally valid contract between the supplier and the buying administration.
2. The 'Request for Quotation' (RfQ) is used when the e-catalogue offer does not meet the needs of the PA. In fact, it allows the buyer to negotiate the price and service conditions issuing a RfQ through which a pool of qualified suppliers are invited to make a customised quotation responding to the needs expressed. Bidders provide both a price quotation and the details of technical/ quality improvements. Hence, more than one offer from various suppliers, stimulating strong competition and more favourable conditions than the ones offered in the e-catalogue DO, can be achieved. The role of Consip is to define supplier qualification requirements and terms of conditions, as well as to monitor that transactions are performed according to the MePA rules. Consip acts as a market maker and does not play any role during the transaction phase.

With the introduction of the MePA, the Italian public procurement system is populated by a growing number of PAs and suppliers using digital, transparent and tracked purchasing procedures. During its first 10 years of existence, the MePA has registered a constant growth. In fact, at the end of 2013, more than 28 000 public buyers were actively using the MePA for their purchases and circa 30 000 suppliers were selling and making business on the MePA, especially SMEs (98%) and micro-enterprises (68%). In 2013, almost 340 000 electronic orders were issued through the system representing a global transaction value of almost EUR 1 billion.

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Once the works, services or supply is underway, the focus shifts inevitably to implementation and payment arrangements. **E-Invoicing** is the preparation, transmission and receipt of billing and payment information between buyer and provider in a structured electronic format which allows for its automatic and electronic processing and leads to **e-Payment** for the ordered goods, services or works.⁽²¹⁾ The creation of the Single Euro Payment Area (SEPA) lays the foundations for pan-European e-Invoicing, with savings estimated at around EUR 64.5 billion per year for businesses.

E-Invoicing has moved on from simply e-mailing invoices in pdf format, by providing all data in digital format and transferring electronic files (e.g. flat files, xml, edi, etc.) that can be read by the buyer's system, with web-based solutions able to ensure rapid reconciliation. Such e-invoicing offers substantial benefits over paper-based

⁽²¹⁾ http://ec.europa.eu/internal_market/payments/einvoicing/index_en.htm

invoicing with better data quality, faster processing time, fewer errors, reduced printing and postage costs and, most importantly, fully integrated processing. The Commission estimates that implementation of e-Invoicing in public procurement across the EU could generate cost savings of up to EUR 2.3 billion a year. A number of Member States have already undertaken initiatives in the area of e-Invoicing, at significant cost and effort, some of which have even made it mandatory in public procurement (such as Denmark, Sweden and, since 2014, Austria for suppliers to the Federal Government).

E-Archiving is not strictly a stage of procurement process, but storing all documentation for possible compliance checks through external audits in the future is essential to the integrity of the whole procurement system. Archiving in a digitalised format saves space and improves accessibility so that data can be easily retrieved later.

As the diagram indicates, the move to e-Tendering, e-Purchasing and e-Invoicing, especially across EU borders, is underpinned by the development of **'key enablers'** (which are also explained further in [theme 4](#)), including electronic identification (e-ID) and electronic documents such as the European Single Procurement Document (ESPD), introduced in [topic 7.2.1](#). Other enablers which are specifically significant in the context of e-Procurement are:

- **E-Signature** is a form of electronic Trust Services (e-TS), alongside e-ID, and is basically data in electronic form which serves as a method of verifying the identity of the enterprise or individual, and enables e-Documents (such as the ESPD) to be authenticated. A [new regulation on e-ID and e-TS](#) was adopted on 23 July 2014, which is explained further in [theme 4](#).
- **E-Attestations** are the set of certificates and other documents in electronic format that tenderers are obliged to provide to the contracting authority to prove compliance with the selection and exclusion criteria of a procurement procedure. With the transposition of the 2014 directives, tenderers will no longer be required to submit attestations with their ESPD, and will only be asked to provide documentation if they are successful, typically in the form of a Virtual Company Dossier (VCD). With e-Attestations, the contracting authority itself can easily access this information, saving the business further time. The Commission's [e-CertIS database](#) is a free, online information tool which aims to help: businesses at the submission stage (especially first time bidders in their home countries or cross-border bidders) who need to find out which certificates issued in their country they need to include in tender files; contracting authorities who wish to establish at the evaluation stage which documents issued by a partner country are equivalent to the certificates which they require to confirm the eligibility of the tender. The information contained in the e-CertIS database covers the most frequently requested documents of the EU-28 (along with Iceland, Liechtenstein, Norway and Turkey), is provided by the national authorities themselves and is updated on a regular basis.
- **E-Catalogues** are electronic catalogues that provide details of approved suppliers, and their products, that are approved to. Such catalogues can be useful during the submission stage, as they inform the preparation of offers (e.g. by an engineering firm looking to tender for a public works and supply project), but is more crucial for e-Ordering (e.g. by a contracting order looking to purchase office materials).

The European Commission has been heavily involved in **facilitating e-Procurement** through both words and actions, in line with the [Digital Agenda for Europe](#) and the e-Government Action Plan 2011-2015 (see [theme 4](#)), including a [strategy for e-Procurement](#), action plans, modernising the legislative framework in line with the [2011 Single Market Act](#), a Communication on [end-to-end procurement](#),

and **leading by example**⁽²²⁾ with its own procurement practices, including **e-Tendering** and e-Invoicing. The Commission has established an **e-Tendering Expert Group (e-TEG)**, tasked with defining a ‘blueprint’ for pre-award e-procurement that provides a basis for the development of best-in-class solutions: recommendations targeted at contracting authorities, policy makers or software developers that aim at simplifying the way e-Procurement is conducted, particularly for SMEs and cross-border suppliers.

Consultants working on behalf of the Commission have also produced a **Golden Book of e-Procurement**, analysing around 30 electronic platforms in depth and presenting both good and bad practices. Furthermore, the Commission has organised three annual conferences on e-Procurement⁽²³⁾ over 2012–2014. The programmes and presentations are available online, including case study materials from Member States.

Under the 2014 procurement directives, e-Procurement will be **mandatory** for Member States purchasing above EU thresholds by September 2018. Member States play the key role in implementing end-to-end e-procurement, and will need to establish and implement actionable strategies to govern the transition and address operational issues. E-Procurement is currently used in only 5–10% of procurement procedures carried out across the EU.⁽²⁴⁾ Out of the 22 Member States which have established strategies for e-Procurement, just eight have set e-Procurement take-up targets.⁽²⁵⁾ At present, e-Procurement is mandatory only in Portugal.

⁽²²⁾ Thanks to the e-Prior project, e-Invoicing has been live at the Commission’s Directorate General for Informatics (DIGIT) since 2009, and since the start of 2012, e-Invoicing (and gradually other e-Procurement processes) has become mandatory for other Directorate-Generals of the Commission and European Agencies using DIGIT’s Framework Contracts.

⁽²³⁾ “Electronic Procurement, Challenges and Opportunities” (26 June 2012): http://ec.europa.eu/internal_market/conferences/2012/0626-electronic-procurement/index_en.htm, “Modernising public administration: the role of e-procurement and e-invoicing (18 September 2013): http://ec.europa.eu/internal_market/conferences/2013/0918-e-procurement-e-invoicing/index_en.htm, “Smart Public Procurement: Efficient Management through e-Procurement” (20 June 2014): http://ec.europa.eu/internal_market/conferences/2014/0620-smart-public-procurement/index_en.htm

⁽²⁴⁾ http://europa.eu/rapid/press-release_IP-12-389_en.htm

⁽²⁵⁾ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52013DC0453&from=EN>

Inspiring example: Portugal did IT

The public procurement reform of 2007 created a new paradigm in Portugal and affected all aspects of the system (legal, regulatory and economic). One of the most central and powerful elements of the reform was the adoption of e-Procurement, which led to impressive results in terms of savings, transparency and enhanced competition. Three new pillars supported the reform:

1. The new Public Procurement Law of 2008, the Code of Public Contracts (CPC) to transpose the EU Directives 2004/17 and 2004/18 and to consolidate, modernise and adapt the legal building for public procurement.
2. The creation of a Central Purchasing Body (CFB), Agência Nacional de Compras Públicas EPE (ANCP) in 2007 the entity in charge of managing the mandatory Portuguese public procurement system, Sistema Nacional de Compras Públicas (SNCP), for central administration and public institutions. In 2012 ANCP was merged with two other public entities, and became the Shared Services Entity for the Public Administration (eSPap), keeping its role as managing entity of the SNCP.
3. The introduction of mandatory e-Procurement for all public bodies for tendering and awarding all public procurement procedures above EUR 5 000 as of 01/11/2009.

The top-down approach, the substantial role of the CPB in connection with the SNCP and the usage of e-Procurement were essential for the broad consolidation of the Portuguese e-Procurement plan.

Being inspired by different European experiences, eSPap's key values, such as transparency, equal treatment, fair competition, promoting sustainability, etc., are aligned with EU and international standards. eSPap's main objectives concern economic goals, by increasing savings in public procurement (contributing to sound and better usage of taxpayers' money) and environmental goals (green public procurement) by gradually incorporating environmental requirements in the selection / qualification and awarding criteria in public tenders. At the same time, SNCP involved all major players in the reform.

SNCP is a hybrid system, based on a CPB (eSPap) which operates a network structure, with the Ministerial Purchasing Units (MPUs) – one in each ministry – acting as mini-CPBs and focal points between the eSPap and the contracting authorities from central administration and public institutions. The SNCP can also be used voluntarily by other public bodies establishing direct relations with eSPap, like municipalities, state owned companies, public associations and regional and local entities.

Since 2010 eSPap has awarded 29 framework agreements in 17 different categories of transversal goods and services, which included about 400 qualified suppliers. SNCP comprises currently 13 MPUs, about 1800 mandatory purchasing entities and over 575 voluntary contracting authorities. Between 2008 and 2013, the SNCP generated over EUR 200 million in savings. Since November 2009, eSPap makes available free of charge, for the whole SNCP, an e-platform where the contracting authorities must launch their call-offs under eSPap's framework agreements.

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Take-up is increasing elsewhere, but there is a **mixed picture** on progress with the various key stages of procurement:

- E-Notification and e-Access to procurement documents are generally available across the EU.
- E-Submission is voluntary in a majority of Member States and take-up levels are relatively low, a study carried out for the European Commission in 2013 estimated the level at about 10% in 2011, but growing (13% over the 2010 level). An essential task for the Commission's e-TEG is to define an effective model for e-Submission, as this is currently the main bottleneck for the wider implementation of e-Procurement.
- Take-up level on e-Invoicing indicates that there is still untapped potential in this area. According to [data from Eurostat](#), only 12% of enterprises use electronic means when sending or receiving invoices to public authorities.⁽²⁶⁾

⁽²⁶⁾ http://europa.eu/rapid/press-release_MEMO-13-614_en.htm?locale=en

The ultimate goal is **end-to-end e-Procurement**, with all stages from notification to payment being conducted online.⁽²⁷⁾ As with other aspects of e-Government (see [theme 4](#)), e-Procurement is not simply about IT solutions that just digitise the existing paper-based processes, it requires a fundamental re-think of the way that processes are organised. Some Member States are more advanced in moving towards this advanced status, as exemplified by Cyprus, which has a single, free-of-charge, e-Procurement system for all contracting authorities, which includes e-Registration for businesses wishing to tender, and gathers e-Statistics on procurement performance.

Inspiring example: e-Procurement total solution (Cyprus)

In Cyprus, there is currently only one e-Procurement system, serving all contracting authorities for free, for all types of competition and for all types of procedure. The system must be used for publishing procurement opportunities at least. This system was designed, developed and deployed by the Treasury of the Republic with the assistance of the Department of Information Technology Services. The spark for the introduction of e-Procurement was given by the EU Action Plan included in the Lisbon Strategy and the developments in e-Governance and Better Regulation. This system is easily accessible for free from interested economic operators all over the world, who can register and receive notifications every time a competition falling under their scope of operations is procured.

In forming the project implementation strategy, they have avoided any strict policy or decision-making actions being transferred to the system, in order to fit all contracting authority needs, allowing them to use the system in as much depth as they feel appropriate in order to work on change management. However, publication of notices is mandatory to secure at least the initial system utilisation and to concentrate all procurement opportunities in Cyprus in a single web page. In addition, the system functionalities were extended to include the e-Catalogues and e-Ordering modules, which are incorporated in the core e-Procurement System. This enabled the Treasury of the Republic to utilise the potentials, and currently there is an electronic shop where all contracting authorities in Cyprus (including local authorities and bodies governed by public law) can click and shop instantly for over 500 products of common needs. Promotion and change management activities were emphasised via a dedicated promotion contract.

The system functionalities cover all the procurement procedures covered by the EU's classical directive on public procurement (i.e. open, restricted, negotiated, etc.), as well as Cyprus-specific procedures for low value items (simplified procedures). It also covers repetitive procurement through Framework Agreements, with or without e-Catalogues' support. Furthermore, specific orders can be concluded either by direct ordering (through e-Catalogues or not) or by reopening competitions (through selecting specific products of supplier catalogues and requesting better prices). The system modules are as follows:

- **e-Registration:** Free registration of economic operators, which needs to be verified by the administrators; controlled registration of contracting authorities by the administrators;
- **e-Notification:** electronic preparation of CFTs and Notices, publication of tender documents and define tender structure in the OJEU and aOG,, questions and answers, clarifications, addenda, automated notifications; Upon Publication of a Tender, all EOs are notified if it is in their line of business;
- **e-Tendering:** electronic preparation and submission of tenders; online/offline tender preparation tools, tender verification with immediate EO feedback; tender encryption, tender time stamping; two-phased tender submission for large tenders;
- **e-Evaluation/e-Awarding:** secure electronic tender opening, automated evaluation using lowest price or MEAT, contract-awarding process handling and communications, support for lots;
- **e-Auction:** used as extension to the tender evaluation process; Support for three auction types, user's connection monitoring tool, chat-based communication for online support;
- **e-Catalogues / e-Ordering:** support under FAs or for below threshold procurements; UBL support, FA mini competitions (reopening), e-Auction on e-Catalogue products; and
- **e-Statistics:** statistical analysis and reporting; regulatory reporting on annual procurement activity, regulatory reporting per CFT and possibilities to extract specific customised information.

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⁽²⁷⁾ See also: Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, "End-to-end e-procurement to modernise public administration" COM(2013) 453 of 26 June 2013 <http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:52013DC0453>

The introduction of e-Procurement solutions inevitably incurs some up-front costs, but experience shows that these can be recouped in a relatively short period of time, and that investing in e-Procurement secures a strong **return on investment** in the medium term. Member States with experience of introducing e-Procurement have reported cost savings of 5%-20%. Given the size of the public procurement market, the potential benefits across the EU would be around EUR 100 billion annually for each 5% saving.⁽²⁸⁾

To achieve the full benefits of **e-Procurement across the single market**, effective administrative cooperation is necessary for the exchange of information when conducting award procedures in cross-border situations (for example, verifying the grounds for exclusion, applying quality and environmental standards, sharing lists of approved economic operators). The functioning of the internal market has been hindered by interface complexity: there are currently around 300 e-Procurement systems in Europe. Even though many exhibit excellent performance, reliability and security, some systems are not easily accessible to foreign users, who may need to use country-specific tools to access them, which increases transactions costs and deters usage. The proliferation of user interfaces makes it difficult for companies to respond to calls for tenders run on multiple platforms, which also lack the common “look-and-feel” that exists in many private sector e-commerce tools (e.g. airline booking websites).⁽²⁹⁾

As with other e-Government initiatives, the foundation of e-Procurement is **interoperability**, the ability of units within the public administration and their information systems to work together, and with the systems of tenderers and contractors (see [theme 4](#) for more details). This is particularly crucial for cross-border procurement. For example, most e-Invoicing systems where they exist use national standards which are almost always incompatible with each other. A [new directive on e-Invoicing](#) was adopted in April 2014, and does not replace national systems, but instead removes access barriers, thereby ensuring interoperability and the fuller functioning of the single market. The directive requires Member States to ensure their contracting authorities and entities are able to receive and process e-Invoices which comply with a new European standard on e-Invoicing. The standard should be available in early-mid 2017, and will set out the elements that an e-Invoice must contain, not its technical format. The idea behind the new Directive is that such national standards, if they exist, can continue to be used alongside the new European standard, as long as they do not conflict with each other – and any adaptation is expected to be relatively minor.

⁽²⁸⁾ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions (2012), “A strategy for e-procurement”, COM(2012) 179 final of 20 April 2012, <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52012DC0179&from=EN>

⁽²⁹⁾ http://ec.europa.eu/internal_market/publicprocurement/e-procurement/golden-book/index_en.htm

New e-Invoicing directive

Directive 2014/55/EU on e-invoicing in public procurement was adopted on 16 April 2014, and calls for the development of a new European e-invoicing standard, which will be developed by the European Committee for Standardisation (CEN) and is expected to take approximately three years.

Member States are required to adopt, publish and apply the provisions necessary to comply with the obligation that their contracting authorities and entities are able to receive and process e-Invoices that comply with the new standard, not later than 18 months after the publication of the standard's reference in the Official Journal of the European Union. However, Member States will have the possibility to postpone this deadline by a further 12 months for regional and local authorities, due to the special requirements of these bodies, such as their more limited resources and potentially less developed infrastructure. The deadline for transposing the directive is 27 November 2018.

The new Directive does not replace existing e-Invoicing standards, so if a national e-invoicing system is put in place before the new European standard is ready, nothing in principle prevents its continued use if a Member State wishes to do so. The new standard will consist of a list of elements which every e-Invoice must contain, without specifying the technical format in which those elements should be presented and define their meanings (it will be in the form of a so-called semantic data model). As such, any existing e-Invoicing system or platform can very easily be adapted to allow the reception of e-Invoices in the new standard. The new standard will be based to a large extent on already-existing specifications and on work which has already been undertaken by CEN. As such, it should not be radically different from most of the systems and standards already in use. Some of these systems may need to be adapted slightly, but this should not pose any significant technological problems.

E-invoicing is generally more advanced in the business-to-business sector than in business-to-government, and hence businesses are among the strongest proponents of e-Invoicing. By providing the market with a European e-invoicing standard and obliging all contracting authorities and entities to accept e-invoices sent in this standard, the EU initiative gives assurance to businesses that, provided that they make a single initial investment in the European e-invoicing standard, their e-invoices will be accepted by public authorities throughout the EU. The initiative will therefore facilitate participation in cross-border public procurement, creating potentially significant new business opportunities. However, the Directive does not in any way place an obligation on businesses to use the new standard, or even to send invoices electronically. Therefore, there are no additional costs or burdens on businesses – on the contrary, the Directive offers the possibility to benefit from potentially significant savings and simplification, but leaves it entirely at the discretion of the businesses themselves if and when they chose to take advantage of this by moving to e-invoicing. The Directive aims to facilitate the transition to e-invoicing for businesses – by giving them the guarantee that their e-invoices will be received by all contracting authorities and contracting entities in the EU if they are in the new European standard – while leaving them the freedom of taking this step at their own pace. However, if Member States wish to go further and mandate that only electronic invoices will be accepted in public procurement, there is nothing in the Directive which prevents them from doing so.

In support of end-to-end e-Procurement, both nationally and across borders, the Commission has been particularly active in producing **ICT tools** in partnership with Member States that can be adopted more widely:

- The **e-PRIOR** platform, which was developed under the [ISA programme](#), started life as an [in-house solution](#) for the European Commission, its Executive Agencies and their suppliers through its e-Request and e-Invoicing modules, and since 2014, also [e-Submission](#). This platform is now freely available to Member States in open source format, known as [Open e-PRIOR](#).
- The ePRIOR pilot paved the way for the use of these standards by the **Pan-European Public Procurement On-Line (PEPPOL)**, a Large Scale Pilot (LSP)⁽³⁰⁾ funded by the EU's Competitiveness and Innovation programme (CIP) and completed in 2012. PEPPOL project developed cross-border interoperability bridges between existing e-Procurement platforms, such as e-Catalogues, e-Ordering, and e-Invoices, the validation of e-Signatures and the reuse of company information required for bidding. This LSP involved authorities from 10 Member States plus Norway as participating partners, and is now being taken forward by the non-profit international association, OpenPEPPOL.

⁽³⁰⁾ The full range of LSPs are described under [theme 4](#) on service delivery and e-Government.

- Since 2013, the **Electronic Simple European Networked Services (e-SENS)** LSP has been building on the achievements of the preceding LSPs, including PEPPOL, and extending their potential by consolidating them into public service building blocks (e-ID, e-Sign, e-Delivery, e-Invoicing, etc.) that can be re-used by any policy domains. E-SENS partners include 20 participating Member States, as well as OpenPEPPOL.

E-SENS lays the ground for the **Connecting Europe Facility (CEF) Digital Services Infrastructure**. Its goal would be to support investment in the deployment of infrastructures required to enable the delivery of cross-border public services. The proposed budget for these infrastructures is around EUR 12 billion and e-Procurement would be one of the key services under consideration. It is currently estimated that projects funded under the CEF will come on-stream in 2014-2015. Moreover, the Commission will use Structural Funds under the proposed Common Strategic Framework (CSF) to complement investments made by the CEF and to support the use of e-Procurement across public administrations in Europe (see [topic 7.3](#)).

7.2.4. Procurement for innovation

Conventionally, public procurement has been seen as simply the end of a chain of events that starts with policy design (identifying needs, deciding on the way forward, selecting the optimal path), leads to implementation (in the case, spending public funds on the chosen solution), and finally moves on to the mundane but important matter of finding a contractor who can satisfy the required specification at the lowest cost or best value for money. From this perspective, procurement is simply a practical, rules-based mechanism, comprising a set of processes, some of which can be automated through e-Procurement to increase their efficiency and effectiveness.



Increasingly, however, public administrations are seizing on the potential leverage of **procurement as a policy instrument** in its own right: accounting for around one in every five euros spent in the European economy on goods, services and especially construction⁽³¹⁾. Many Member States are now exploiting their purchasing power to pursue wider socio-economic goals, especially fostering innovation, encouraged and enabled by EU initiatives and now the 2014 directives. The acquisition of innovative goods, works and services contributes to resolving society's challenges with tomorrow's technologies; it simultaneously stimulates the business base to be creative, according to the [European Public Sector Innovation Scoreboard](#).

Innovation procurement is about administrations addressing a **market failure**. There is no shortage of innovative ideas. But governments have traditionally tended to purchase mainly what is already on the marketplace, so the demand for new goods and services is weak. At the same time, potential suppliers often do not spend the time and resources in developing new concepts to the point that they are ready to sell to governments, because the uncertainty of future sales makes the risk of not getting a return on their investment is seen as too high. Unlike selling to households or to other businesses, the private sector is less able to 'create' new markets with new offerings - they are dependent on the purchasing decisions of public administrations. The planning of public purchases is often opaque, sending too few signals of future intentions to the private sector.

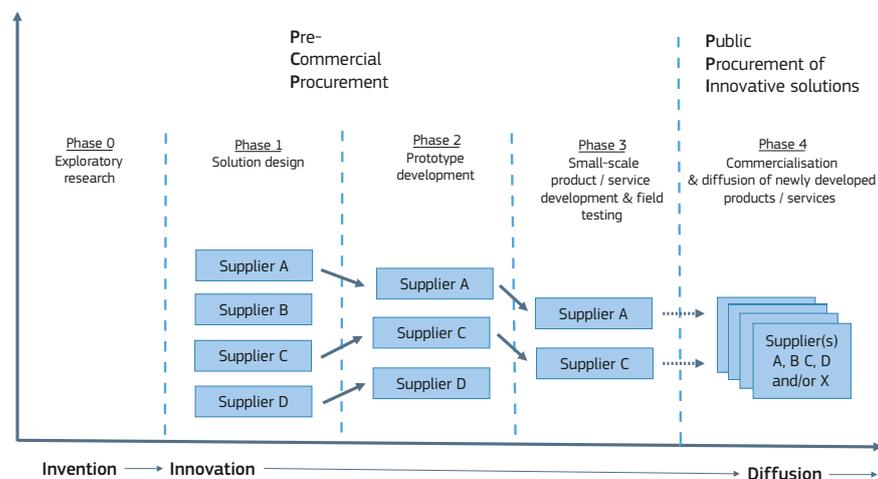
Governments are already acting to stimulate research and development (R&D) in the private sector, with grant aid, tax breaks, and partnerships with universities, *inter alia*. But when the public sector is the buyer, it can also draw **lessons from**

⁽³¹⁾ Public expenditure finances two out of every five euros spent on buildings and infrastructure in the EU.

private enterprise, which has learned the benefit of incentivising R&D in its supplier base. In many manufacturing industries, such as automotive, aerospace and ICT, buyers at the top of the value chain which are reliant on innovation for success (such as Airbus, Volkswagen, etc.) develop long-term relations with their selected suppliers and involves them in joint R&D programmes.

This has prompted a recognition of the government's role as '**lead market**' in goods, services, buildings and infrastructure in which public administrations are the major buyers. Although spending is often spread over many individual contracting authorities, the public sector has the leverage to stimulate research & development (R&D) and the launch of new products, processes and service offerings with wider economic and societal benefits, if the power of procurement is used creatively. This may mean setting aside dedicated budgets for procuring R&D and innovative solutions, or contracting authorities acting in partnership, through central purchasing bodies or joint entities.

Increasingly, public administrations in Member States have been pioneering or employing variants of two instruments, which are possible under EU directives: Pre-Commercial Procurement, which allows the procurement of R&D to trigger the development of new innovative solutions from the demand side, and Public Procurement of Innovative solutions, which focuses on the deployment of commercial volumes of end-solutions. These two instruments follow the classic model of **invention-innovation-diffusion** of new technologies, beginning with a new discovery or concept (invention), developing it into a commercial application that meets customer needs (innovation) and introducing it into the market place, leading hopefully to widespread dissemination and take-up (diffusion), as the following diagram shows:



With **Pre-Commercial Procurement (PCP)**, public procurement budgets are used to support the initial phases of R&D before a new product or service has been launched in the market place. PCP covers the invention and innovation phases: basic research, design, prototyping, and original development and testing of small volumes of new products and services that have the potential to be commercially viable. PCP is appropriate when there are no near-to-market solutions available to meet concrete public sector needs, and investment in R&D is needed. Through PCP, both the risks and the benefits are shared by the procurer and the developers (the potential suppliers of the products or services), within competitive conditions.⁽³²⁾

How does it work? The public administration buys R&D from several alternative suppliers at the same time, and then compares and evaluates the best value for money solutions at every phase of validation, reducing the number of participating suppliers each time. R&D services are exempted from the scope of EU procurement directives but the EU Treaty principles and competition rules still apply. Each na-

⁽³²⁾ For further information on PCPs: http://cordis.europa.eu/fp7/ict/pcp/home_en.html

tional approach has its own flavour, in terms of implementation approach, stages and timescales, but the phased R&D and multi-vendor competition remains the same:

- The public procurer buys R&D services to address an identified procurement need from several suppliers who design solutions to the PCP challenge (e.g. A, B, C and D in the diagram).
- The best suppliers with the most feasible designs continue to prototype development (e.g. A, C and D).
- The prototypes are assessed, and the most suitable go forward for original development and testing of the first products (e.g. A and C).

This allows the public administration to incentivise investment in R&D by private and other providers, thereby developing innovative solutions to the societal challenges of the future. As the first buyers of the R&D, PCP drives innovation from the demand side and creates opportunities for enterprises, acting as a “seal of approval” confirming the market potential of new emerging technological developments, thereby attracting new investors.

The first public procurers in Member States to adopt PCP in Europe were in Norway, Italy, Sweden, the Netherlands and the United Kingdom. The Lombardy Healthcare PCP is an example of a regional PCP implemented without EU funding.

Inspiring example: Lombardy Healthcare PCP (Italy)

The PCP conducted in collaboration by Niguarda hospital, Lombardy region and the regional purchasing agency (ARCA) addresses the problem of the long transport times and the high rate of accidents and functional limitations of socio-health workers tasked with moving, via manual pushing and pulling, the hospital beds. At the same time the PCP aims to reduce the cost of solutions by opening up the market to new innovative providers that were not able so far to enter this highly concentrated supplier segment. The PCP also encourages the development of more sustainable / environmentally friendly solutions by comparing alternative solutions based on their life-cycle-cost.

The PCP is challenging suppliers to develop the best possible new and cost-effective automated universal medical device for moving hospital beds (and possibly also gurneys), that is easy to use and to manoeuvre for a single operator, equipped with all anti-collision and safety systems, reduced in size, which does not need tracks or guide lines and which can also be used on non rectilinear routes and in all hospital spaces (rooms, lifts, corridors and diagnostic ward spaces), which result in a significant advance in terms of technology and performance and, at the same time, cost reduction.

The PCP works with six suppliers in phase 1, four in phase 2 and two in phase 3. The PCP is successfully enabling new innovative players (mainly SMEs) to become active in this market. Savings of at least 40% are expected through increased efficiency of hospital operations, reduction in accidents and lower cost, higher sustainability of the solutions. The multiplier effect of the impacts is considerable as there are roughly 40 000 hospital beds in Lombardy alone.

Source: extensive case description on INSPIRE project website (<http://inspirecampus.eu>)

http://www.ecoprocura.eu/fileadmin/editor_files/images/EcoProcura_2014_-_Sara_Bedin_TEH_Ambrosetti.pdf

http://www.arca.regione.lombardia.it/shared/ccurl/497/198/ARCA_2013_02_Disciplinare.pdf

More recently, procurers in other Member States have launched, piloted or planned **PCP initiatives** including Austria, Belgium, Finland, Spain and Sweden. An increasing number of countries and regions have set targets to allocate percentages of public procurement budgets to innovation procurement, and created competence centres that offer practical assistance and financial support to procurers to undertake PCPs and PPIs. Fourteen on-going EU funded PCP projects are also spreading the experience of undertaking joint cross-border PCP procurements with buyers groups made up of procurers from several European countries. A prime example of a joint cross-border PCP is CHARM, a partnership of road authorities from Belgium,

the Netherlands and the United Kingdom, seeking to improve traffic management through more advanced ICT solutions.

Inspiring example: CHARM PCP (United Kingdom, the Netherlands and Belgium)

CHARM is a cooperation between three road authority procurers: Highways Agency (United Kingdom), Rijkswaterstaat (the Netherlands), and the Department Mobility and Public Works (Belgium). The CHARM contracting authorities jointly procure R&D services via PCP to move towards a flexible, open, modular, high-level ICT architecture for traffic management centres by getting modules developed that will optimise network performance, increase road safety and reduce CO₂ emissions, by improving network management, incident prediction and prevention, and cooperative Intelligent Transport System (ITS) functions.

The move from proprietary solutions to a common architecture with open interfaces, defined together by the CHARM procurers, is expected to reduce the vendor lock-in in this market, reduce the cost of traffic management centres by 20%, and enable new innovative players to deliver new application modules to all road management authorities. The projects is cooperating with the Conference of European Directors of Roads (CEDR), and preparing the way for standardisation to make their solutions available also to other procurers.

The CHARM pre-commercial procurement started with 11 competing vendors/consortia in phase 1 of the PCP (solution design), eight of them moved to phase 2 of the PCP (prototyping) and around six vendors are expected in phase 3 of the PCP (pre-production testing). The PCP has successfully attracted new players (including SMEs) to become active in this market. The four-year project commenced in September 2012, with EUR 2.8 million of EU funding towards a total cost of EUR 4.1 million.

Source: http://rws.nl/en/about_us/business_opportunities/charm_pcp/index.aspx

In some cases, public sector challenges can be addressed by innovative solutions that are close to being launched on the market, or already available in small quantities, and don't need new R&D. This is when **Public Procurement of Innovative solutions (PPI)** can be used effectively. PPI covers the final stages of innovation (commercialisation), and leads into the initial stages of the diffusion phase by supporting early adoption of the new product, process or service.

In many ways, PPI draws on long-standing private sector experience in supply chain management. In manufacturing, businesses have seen the benefits of signalling their future procurement intentions to suppliers, enabling them to plan ahead with confidence and to innovate, secure in the knowledge that there is a willing buyer for the new technological development. In the case of PPI:

- The customer is one large buyer or a buyers group, which can be a combination of public and private procurers, which presents a critical mass in terms of purchasing volume that is sufficient to make mass production for suppliers viable.
- This 'critical mass' of demand triggers potential suppliers to make the necessary investments to adapt/scale up their activities (including organising their supply chains) by a specified date and thereby meet the performance and price requirements for mass market deployment.
- To allow time for adjustment, there is a gap between the early announcement of the intention to buy and the launch of the PPI tender.
- In this intervening period, the buyers group typically holds an 'open market consultation exercise', which can be accompanied with a test/certification/product labelling event to check that industry solutions have actually attained the procurers' standards and requirements.
- The PPI tender is then published, open to all suppliers on the market, and hence fully competitive.

Before becoming an EU-wide initiative, PPI was already being pioneered in several Member States, for example as the Forward Commitment Procurement (FCP) in the United Kingdom, and also in Sweden as Teknikupphandling.⁽³³⁾ In many cases, the genesis of new initiatives has been market failures in innovating for sustainable development. FCP was originally developed in recognition of two factors: the lack of ‘market pull’ for environmental innovations, and the Government’s role as a key player in the environmental market.

Inspiring example: Forward Commitment Procurement (United Kingdom)

Forward Commitment Procurement (FCP) is an early market engagement tool that creates the conditions needed to deliver innovative, cost effective products and services. Designed mainly for use by the public sector, the FCP approach was developed to be consistent with value for money policy and the legal framework that governs public sector procurement. FCP provides the supply chain with information of specific unmet needs and, most crucially, with the incentive of a forward commitment: a commitment to purchase a product or service that currently may not exist, at a specified future date, providing it can be delivered to agreed performance levels and costs. FCP provides the incentive, confidence and momentum for suppliers to invest and deliver innovative solutions. While the original aim was to address the particular market barriers faced by environmental innovations, the approach can also be applied to procuring innovative solutions in other markets.

The first completed FCP project was the procurement by Her Majesty’s Prison Service (HMPS) of a fully managed Zero Waste Mattress system. In a typical year, HMPS would purchase around 53 000 foam mattresses and 48 000 pillows, and would dispose in the order of 40 000 items due to soiling, misuse, and wear and tear. Each prison area handled their own arrangements for disposal through local contracts. The majority of ‘end of life’ mattresses were being sent to landfill, with the remainder classed as clinical or hazardous waste, which incurred high disposal costs. As such, the situation was environmentally unsustainable, and the combined cost of supply and disposal was estimated conservatively to be in the region of £2.8 million per year. As well as the financial cost of this disposal, individual prisons were finding it increasingly difficult to have the products taken away by contractors due to the increasing demands and restrictions on the use of landfill sites. This practice was not only uneconomical, but out of step with sustainable development policy, including the Sustainable Procurement Action Plan (SPAP). To compound matters, disposal costs were also set to rise as a result of regulatory drivers, such as the EU’s Landfill Directive and Waste Framework Directive. The situation required a radical rethink. FCP provided a way to do this.

To engage with the market, HMPS conducted a three stage process.

1. Publication of a Prior Information Notice.
2. Market Sounding “call for innovative ideas and information”
3. Concept Viability workshop

As a result of the market engagement an OJEU competition was launched for the supply of a ‘Fully Managed Service for Mattresses and Pillows’. The tender documents made it clear that they needed to be environmentally friendly, at the very least cost neutral, and achieve a Zero Waste solution by 2012. HMPS signed a supplier contract for a ‘Zero Waste Mattress and Pillow Solution’ in 2009. The outcome was a solution achieved sooner than expected, with significant cost savings estimated to be in the region of £5 million over the life of the contract. It is interesting to note that the new contract was awarded to the incumbent supplier.

For further information: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/32438/11-996-case-study-fcp-in-practice.pdf and https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/32446/11-1054-forward-commitment-procurement-buying-innovative-solutions.pdf

⁽³³⁾ Member States Initiatives page.

The experience of FCP comes with **four tips** which are useful guidance on how to perform PPI:

- **Give the supply chain time to innovate:**
 - ✓ Think ahead
 - ✓ Signal your long and medium term ‘direction of travel’ to the market
 - ✓ Communicate your forthcoming needs and procurement plans in advance
- **Allow room for innovation:**
 - ✓ Communicate your needs in outcome terms.
 - ✓ State what you want, not what you think is available or affordable.
 - ✓ Look for progressive improvements and future proofing.
- **Invite feedback from the supply chain:**
 - ✓ Market sounding and market consultation allow you to test out your requirements and iron out problems in advance of the invitation to tender.
- **Facilitate communication between suppliers:**
 - ✓ Consultation workshops, site visits and publishing a directory of companies that have expressed interest all help.

Other examples of PPI initiatives by Member States can be found here: <http://www.innovation-procurement.org/about-ppi/ppi-pcp-in-action/>. The HAPPI healthcare project is an example of joint cross-border PPI, involving healthcare purchasers from France, Belgium, Italy, Luxembourg and the United Kingdom.

Inspiring example: HAPPI (France, Belgium, Germany, Italy, Luxembourg and United Kingdom)

The HAPPI project (Healthy Ageing – Public Procurement of Innovation) is financed by the European Commission and aims at detecting innovative solutions which address the needs of an ageing society in order to disseminate them in hospitals and nursing homes across Europe.

10 European organizations from France, United Kingdom, Italy, Belgium, Luxembourg and Germany, including six healthcare Central Purchasing Bodies, form the consortium of the project and launched the first joint cross-border procurement in the healthcare sector on 30th September 2014.

Following a phase of identification of products and services via the HAPPI platform, expert committee meetings were held in London, Turin and Paris, gathering professionals such as geriatricians, biomedical engineers, hospital managers, etc. Five topics of interest were then selected by the project partners and composed the 5 lots of the HAPPI tender:

- Lot 1: Fall detection and alert system
- Lot 2: Treadmill for rehabilitation and analysis of walking disorders
- Lot 3: Walking course for preventing falls and maintaining independence
- Lot 4: Bed thermoregulation system
- Lot 5: Chair enabling users to maintain independence and reducing effort for aides

The deadline to bid for the tender was 1 December 2014. The French lead procurer RESAH will sign under French law (2015), on behalf of the whole group of procurers, contracts with the supplier selected for each lot. Through the Agreement Establishing the European Purchasing Group HAPPI, signed with RESAH, the Central Purchasing Bodies of the consortium will then be able to setup specific contracts under their own national legislation to purchase the solutions selected under the framework agreement.

For further information: Louis Potel, European Project Manager, RESAH, happi@resah-idf.com; <http://www.happi-project.eu/>; https://twitter.com/HAPPI_Project

The Europe 2020 flagship initiative [Innovation Union](#) underlines the importance of both PCP and PPI: *“From 2011, Member States and regions should set aside dedicated budgets for pre-commercial procurements and public procurements of innovative products and services. This should create procurement markets across the EU starting from at least EUR 10 billion a year for innovations that improve the efficiency and quality of public services, while addressing the major societal challenges. The aim should be to achieve innovative procurement markets equivalent to those in the US. The Commission will provide guidance and set up a (financial) support mechanism to help contracting authorities to implement these procurements in a non-discriminatory and open manner, to pool demand, to draw up common specifications, and to promote SME access.”*

The EU is supporting both PCP and PPI through its 2007-2013 FP7 and CIP research and innovation programmes and through its new 2014-2020 Horizon 2020 research and innovation programme.

EU support for PCP and PPI

Since 2009, the Commission has launched calls for proposals to support the establishment of networks of public procurers on PCP and PPI. These actions have raised awareness and helped share best practices. This has encouraged cooperation among public procurers from different Member States and has led to ideas for jointly implemented PCPs and PPIs. Since 2012, the Commission has co-financed pan-European consortia of public procurers that wish to undertake PCPs and PPIs together on topics of common European interest, through the **7th Framework Programme for Research and Technological Development (FP7)** and **Competitiveness and Innovation Framework Programme (CIP)**. Examples of networking projects on PCP and PPI and transnational PCPs and PPIs that are being co-financed by the EU can be found here: <http://ec.europa.eu/digital-agenda/en/eu-funded-projects>

This support is being extended through financial support in 2014-2020 under **Horizon 2020**. The EU will be providing incentives through the PCP and PPI Co-Fund actions for consortia of public procurers who implement joint PCP and joint PPI procurements within different domains of public interest defined under the different Horizon 2020 programmes. This can speed up the development of innovative solutions by encouraging cooperation between procurers from across Europe, either by supporting networks of procurers to prepare joint PCPs and PPIs or by co-funding the procurement cost and the related coordination and networking activities to manage the procurement: <http://ec.europa.eu/programmes/horizon2020/>. The specific requirements that Horizon 2020-financed consortia must meet are set out in Annex D and E of the Horizon 2020 work programme.

The Innovation Procurement Platform, supported by the European Commission, is an online hub that helps public authorities, procurers, policy makers, researchers and other stakeholders by providing information on upcoming calls, events, and a forum where international stakeholders can share and discuss ideas. <https://www.innovation-procurement.org/>. In 2014, the Commission awarded also the first EU PPI Award: http://ec.europa.eu/enterprise/policies/innovation/policy/public-procurement/index_en.htm

The Commission has also supported a series of annual conferences on innovation procurement since 2006. Further details and some presentations from the Commission and Member States, can be found here:

- Post-2014 events: <http://ec.europa.eu/digital-agenda/en/innovation-procurement>
- Pre-2014 events: http://cordis.europa.eu/fp7/ict/pcp/events_en.html

The Commission is currently appointing experts to provide training, promotion and local assistance on PCP and PPI (incl. legal assistance) to procurers across all EU Member States that intend to start concrete PCP and PPI procurements, based on a toolkit that will be developed on how to practically implement PCP and PPI. The target is to kick-start between 2015 and 2018 six new PCP and six new PPI procurements in the ICT domain. 12 events will be organised in different EU countries to provide information and training on PCP and PPI.

For further information: <https://ec.europa.eu/digital-agenda/en/news/eu-policy-initiatives-pcp-and-ppi>

The 2014 directives for public procurement retain the exemption for R&D services which enables Member States to continue to pursue PCP to procure R&D and a separate PPI procedure afterwards for deploying the final end-products. The new directives also contain a new procedure called the **innovation partnership** procedure that combines the purchase of R&D and resulting end-products in one and the same procedure.

Pre-commercial public procurement and innovation partnerships are two alternative approaches that correspond to different needs and/or situations:

- **Innovation partnership** covers both the procurement of R&D and commercial volumes of end-products into one procurement procedure that is subject to the public procurement directives. As stipulated in the directives, innovation partnership cannot be used in cases where it would prevent, restrict or distort competition. The 2014 State aid framework for R&D&I clarify that the Commission considers that there is no State aid awarded in procedures such as innovation partnerships that combine the purchase of R&D with commercial volumes of end-products into one procedure in the exceptional case of unique / specialised products (situation where there are no other potential providers on the market outside of the partnership) as

in other cases giving preferential treatment to participant providers for the supply of commercial volumes of end-products would cause foreclosing of competition and crowding out other R&D investments.

- **Pre-commercial procurement** covers only the procurement of R&D services and is exempted from the public procurement directives. The 2014 State aid framework for R&D&I reassures procurers that the Commission considers that no State aid is awarded when using pre-commercial procurement (PCP) and subsequently a separate procedure to procure innovative solutions resulting from the preceding R&D procurement (PPI) and reminds procurers of the conditions illustrated in more detail in the PCP communication to be kept in mind to ensure open, fair, transparent competition in doing so. As the approach of two separate PCP and PPI procedures for buying R&D and resulting end-products enables all vendors on the market to compete again for supplying final end-products, it can be used in all situations without involving State aid, not only for unique/specialised products.

In the innovation partnership procedure, public purchasers call for tenders to solve a specific problem without pre-empting the outcome, select partners on a competitive basis and have them develop an innovative solution tailored to their requirements. The innovation partnership model is based on the procedural rules that apply to the competitive procedure with negotiation. It aims to provide the necessary market pull for suppliers to develop innovations for unique/specialised products where the market would lack the incentives to bring such products to the market without upfront commitment to buy final end-products from one of the vendors in the innovation partnership. Innovation partnerships can comprise several distinct stages, in two main phases:

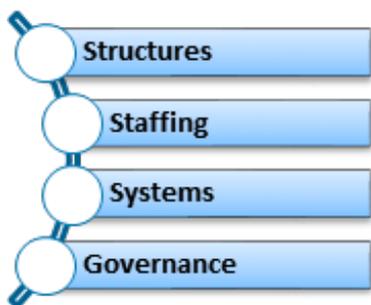
- **Tendering phase:** The contracting authority selects the most suitable partner(s) to develop an innovative solution tailored to the needs of the buyer, on the basis of their skills, abilities and price. The minimum time limit for economic operators to submit requests to participate is 30 days from the date of the contract notice. Contracts shall be awarded on the basis of the best price-quality ratio.
- **R&D and commercialisation phase:** The partner(s) will develop the new solution, as required, in collaboration with the contracting authority. This phase can be structured in successive stages, following the sequence of steps in the research and innovation process, which may include the manufacturing of the products, the provision of the services or the completion of the works. The innovation partnership shall set intermediate targets to be attained by the partners and provide for payment of the remuneration in appropriate instalments. Based on performance against those targets, the contracting authority may decide after each phase to terminate the innovation partnership or, in the case of an innovation partnership with several partners, to reduce the number of partners by terminating individual contracts (as set out in the procurement documents).

The innovation partnership model allows a degree of flexibility over timescales and costs. The classical directive requires only that *“the duration and value of the different phases reflect the degree of innovation of the proposed solution and the sequence of the research and innovation activities required for the development of an innovative solution not yet available on the market”*. Furthermore, *“the estimated value of supplies, services or works shall not be disproportionate in relation to the investment required for their development”*.

The classical directive also gives greater weight to innovation in all purchasing decisions, by allowing buyers to take account of total life cycle costs when evaluating tenders, which would include the R&D element. It also promotes innovation in social and health services through a more flexible, simplified system. Specific provisions

for cross-border joint procurement will also make it easier to share the risks associated with innovative projects, and make them more attractive to bidders by aggregating demand.

7.3. Managing ESI Funds



The European Structural and Investment Funds (ESIF) aim to strengthen national and regional economies, and aid transnational and cross-border cooperation, to promote convergence and competitiveness, to achieve the ESI thematic objectives, and to realise the Europe 2020 goals of smart, inclusive and sustainable growth. Within the overall framework of the Common Provisions Regulation (CPR), the five ESI Funds are governed by a set of EU **regulations**: the European Regional Development Fund (ERDF), the European Social Fund (ESF), the Cohesion Fund, the European Agricultural Fund for Rural Development (EAFRD), and the European Maritime and Fisheries Fund (EMFF).⁽³⁴⁾ These

regulations feature a number of innovations for 2014-2020, such as simplified reimbursement methods, which *inter alia* will significantly enhance the conditions for beneficiaries to access EU funds, as well as reducing the administrative burden on all parties.



ESI Funds are available to complement national spending, alongside loans from international financial institutions (IFIs) where appropriate, according to established principles. These include the principle of sound financial management, which obliges public administrations to ensure they have the most appropriate structures, staffing, systems and governance arrangements to make best use

of ESIF within their national contexts. To achieve success in ESI Funds management, Member States need to **organise their resources** to achieve three fundamental goals: to maximise the implementation rate (spending available funds fully); to minimise irregularities (spending them correctly); and most important of all, to maximise impact and sustainability (spending them strategically).

Striving towards each goal should not disrespect achieving the others. If too much weight is placed on rapid spending without proper attention to systems and safeguards, there is the risk of inefficiencies and errors; without a coherent and well-considered strategy for using the funds, the socio-economic benefits will be limited and unsustainable. Equally, an over-emphasis on controls and compliance mechanisms can hold back implementation and endanger impact; this is often the greatest threat facing inexperienced institutions. Finally, strategic objectives cannot be fully achieved if Member States fail to disburse funds, focus too much on financial progress, or have to recoup erroneous or fraudulent payments. A balance must be struck, but ultimately these goals should be **mutually reinforcing**.

The [Commission's Sixth Report on Economic, Social and Territorial Cohesion](#) sets out the challenge facing Member States, based on the **experience from 2007-2013**.

⁽³⁴⁾ For CPR, ERDF, ESF, Cohesion Fund & EAFRD: http://ec.europa.eu/regional_policy/index.cfm/en/information/legislation/regulations/
For EMFF: http://ec.europa.eu/fisheries/cfp/emff/index_en.htm

Poor governance limits the impact of Cohesion Policy

According to the latest data available (21 May 2014), Member States had absorbed (or spent) only 68% of the available EU funds on average*, ranging from Romania (46%), Slovak Republic, Bulgaria, Italy, Malta and the Czech Republic (less than 60%) to Finland, Estonia, Lithuania and Portugal (over 80%). The slow rates of absorption in the countries concerned could be due to a number of reasons, not least a lack of competence in Managing Authorities, or Governments more generally, or insufficient staff. Whatever the reason, it could mean that Member States are unable to spend the funding available to them in the time allowed and accordingly lose some of it (under the de-commitment, or 'n+2', rule) or spend the funding inefficiently in an attempt to spend it in time.

Many of the difficulties of managing Cohesion Policy programmes are of an administrative nature related to human resources, management systems, coordination between different bodies and the proper implementation of public procurement. Strategies developed to meet EU policy objectives are sometimes not adhered to because of political pressure. In some countries, particular efforts are needed to strengthen both project pipelines (selection criteria, project preparation and tendering) and implementation (contracting and project management). In a number of Member States, it has proved difficult to carry out major projects within the time limits set for expenditure to be eligible for co-financing. A common problem is that regional and local authorities have limited capacity to prepare and implement complex projects, so that efforts to build capacity need to be targeted at all administrative levels and not just the national.

Problems of coordination can occur between different national horizontal (i.e. sectoral) programmes, as well as between national and regional programmes. In addition, the delegation of tasks by Managing Authorities to intermediate bodies can become overly complex and dilute accountability.

Source: European Commission (2014), "Investment for jobs and growth: Promoting development and good governance in EU regions and cities".

(* In the sense of claiming and receiving payment for expenditure carried out under the Structural Fund and Cohesion Fund programmes. These figures include advance payments.

In supporting Member States in their ESIF activities, the Commission sets store by peer-to-peer sharing of experience and know-how. DG REGIO and DG EMPL have jointly commissioned the University of Strathclyde's European Policies Research Centre (EPRC) and the University of Warsaw to conduct a study of administrative capacity-building in Member States, which will report in spring 2015.

7.3.1. Structures

The 2014-2020 regulations set out a **new operating environment** for ESI Funds, to which Member States must quickly adapt to implement their OPs successfully. As with previous financial perspectives, the regulations afford public administrations flexibility to identify the most suitable constellation of managing authorities (MAs), intermediate bodies (IBs), certifying authorities (CAs) and audit authorities (AAs) to fit their national administrative systems (ministries, regions and municipalities), in agreement with the Commission under the principle of shared management.



These implementation arrangements are formalised and described in each ESIF programme. Among the **key factors** that influence this overall architecture are:

- The size and geography of the country;
- The programme structure in the case of ERDF and ESF, including whether all NUTS 2 regions are covered;
- The scale of each programme - volume of funds to manage; and
- The degree of (de)centralisation of mainstream public governance, including whether there are federal, regional or provincial levels of government.

In the new programming period, there will be an increase in the overall number of programmes, with strong regionalisation in some Member States. The greater differentiation can be found in the structure of programme management (MAs and IBs), where some Member States have a high number of administrations involved in ESIF implementation, with both upward and downward delegation between different central and regional government bodies. For the majority of Member States, the CA and AA roles remain centralised at national level, though a few have also distributed the certification and audit tasks across more bodies. Some Member States have a large number of IBs on a ‘cascaded’ or tiered basis, reaching up to 100+ bodies for some programmes.

Once programmes are approved, most of the underlying factors are largely fixed (country and programme size, etc). However, a political decision to move towards or away from the initial system of governance during the financial perspective – generally, or for ESIF specifically – can have implications for implementation structures. While stability of the management and control system is one of the key factors for successful implementation, the reality is that these **structures are not set in stone**, nor are the relationships between bodies. The administrative architecture described in programming documents often evolves over time for a variety of reasons:

- Sometimes, changes are driven by **political** factors, such as a Government set-up, or a change of Government following elections, leading to new ministries being assigned (see also [topic 1.2.3](#)). In these cases, the adjustments can be largely cosmetic, such as a change of ministry or departmental title, or the wholesale relocation of a specific unit to another public institution, without any functional or staffing changes that would affect responsibilities and relationships. In other cases, however, the shake-up can be used to overhaul ESIF management, by merging or abolishing units, and/or assigning functions to different or new institutions, including public bodies at a lower or higher tier of government.
- Other times, changes are driven by **performance** factors, usually as a result of reviews which suggest the current set-up is inefficient or insufficiently effective. This may arise from an interim evaluation, the implications of an annual implementation report, or the decisions of a monitoring committee. Equally, it may arise from an internal assessment by the MA, and put to the monitoring committee for its consideration.

There are myriad examples of both phenomena, including recent documented experiences⁽³⁵⁾. Hence, Member State administrations and ESIF monitoring committees must always be alive to both reacting to political decisions and activating performance improvements.

Various models have been tried and tested in Member States, especially regarding the **dynamics of MA-IB and MA-CA arrangements**, as well as the roles of **coordinating bodies**, where established. The experience of past financial perspectives has yielded lessons with four main messages:

- **Streamlining:** Generally, Member States should avoid over-complicated structures, which add excessive layers of administration and complex lines of communication. This does not imply a single managing-certifying authority with no IBs is the optimal model: the emphasis should be on fit-for-purpose structures that balance on the one side appropriately assigning competences with achieving maximum simplicity on the other.
- **Delegation:** Whatever the structure, it is most critical to define clearly the division and ownership of tasks between MAs and IBs, and between different

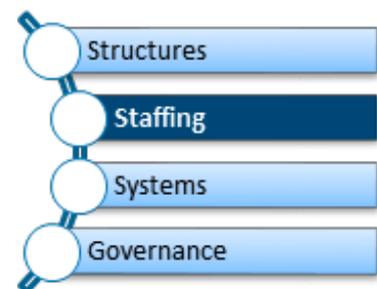
⁽³⁵⁾ See, for example, Michie, R., and Granqvist, K., (2012) “A balancing act: managing the programmes, closure and preparations for 2014-20, Review of programme implementation, Spring – Autumn 2012”, IQ-Net Review Paper, 31(1), European Policies Research Centre, University of Strathclyde; and Kah, S., (2012) “Planning for the future while maintaining focus on spending. Review of programme implementation: Winter 2011 – Spring 2012”, IQ-Net Review Paper, 30(1), European Policies Research Centre, University of Strathclyde. http://www.eprc.strath.ac.uk/eprc/publications_Y_links.php

levels of IB (first and second tier) if such an implementation model is being followed. The definitive principle is that MAs are responsible for managing the programmes: they may delegate specific functions and tasks to IBs, while avoiding repetition of work. Ultimately, accountability always remains with the MA.

- **Coordination:** In some Member States, each fund has a single MA which is also responsible for coordinating the actions of IBs (if they exist); in others, there are several MAs per fund. In either scenario, some Member States have also elected to designate an overarching coordinating body, typically in the centre of Government, which has a supervisory role across all MAs and/or all of ESIF. This body usually acts as the main policy interface with the European Commission, for example in discussions about legislative/policy developments, future programming rounds, etc. Where this model is followed, Member States need to ensure that the coordinating body has sufficient powers and capacity to take up that role. That body needs to stimulate an on-going exchange of experience and know-how with/between Managing Authorities and, on that basis, work for the simplification of the processes and any national regulations that may impede implementation.
- **Continuity:** Member States may need to alter their implementation structures if ‘facts on the ground’ change. If competences are re-assigned across the administration in the day-to-day activities of government, a specific institution suffers from serious under-performance, or a working relationship between two or more institutions is not working, then adjusting the architecture may be unavoidable. Otherwise, any fundamental re-allocation of responsibilities should be carefully contemplated: it is important to weigh up the costs and time against the expected benefits to ESIF management. These costs are not just financial, but potentially in productivity and effectiveness too. Any loss of institutional memory and/or individual expertise, which arise from the replacement of staff or introduction of new systems, can generate short-medium inefficiencies that might more than offset any longer term performance gains.

7.3.2. Staffing

The recruitment, retention and development of competent staff for ESIF programming, management and implementation is a complex issue, particularly within the context of the broader administration. Some 20-25 000 full-time equivalent staff were involved in managing just ERDF and Cohesion Fund in the 2007-2013 programming period, at a total administrative cost (including external services, consultants and overheads) estimated at around EUR 12.5 billion, 3-4% of total eligible expenditure.



To perform the wide range of ESIF management functions, Member States must ensure a **full complement of required personnel in place** in its MAs, IBs, CAs and AAs, capable among other things of:

- Preparing strategies and programmes within the EU regulatory framework;
- Planning and overseeing implementation to maximise draw-down of EU co-financing (avoiding de-commitment) and maximising impact of ESIF on objectives and results;
- Marketing ESIF to potential beneficiaries, communicating with the public, and ensuring visibility guidelines are followed;
- Developing and operating procedures to ensure compliance with EU regulations and national rules;

- Generating, appraising and selecting projects in the full range of policy fields covered by the five Funds;
- Checking and processing payment claims from beneficiaries and to the Commission;
- Monitoring project and programme performance;
- Supervising the conduct and use of ex ante and interim evaluations;
- Developing and using ICT tools in support of programme management and operations;
- Managing the performance and integrity of the entire ESI Funds system, and maintaining high ethical standards.

EU competency framework for the management and implementation of ERDF and the Cohesion Fund

DG REGIO has commissioned a study to be finalised in the autumn of 2015 which will produce a competency framework for efficient management and implementation of the European Regional Development Fund (ERDF) and the Cohesion Fund (CF). The global objective is to support further professionalisation of the management of these funds. The competency framework should help Member States and regions to structure their administrations in a more efficient way and identify gaps with regard to competencies and skills among their staff and thus define training and recruitment needs.

The study will define the key competencies required for effective management of the ERDF and Cohesion Fund in responsible ministries and coordinating bodies at national level, managing authorities, intermediate bodies, joint technical secretariats, certifying authorities and audit authorities. These competencies will be translated into different functions/job profiles which are required to fulfil the necessary tasks to manage the funds. The study will also include cross-comparison of different approaches and models for managing the funds and identify good practice examples in Member States/regions. It will also make recommendations on how competences can be enhanced, provide blueprints for short term training programmes and curricula for programmes at higher education/university level as well as provide an inventory of existing academic programmes for the management of the Structural Funds.

In delivering all the responsibilities of ESIF implementation, Member States must also develop the necessary competences to comply with the specific EU rules, such as financial management, State aid and environmental legislation. Taken as a whole, this demands well-developed **human resources management (HRM) for ESIF**, within the broader overall context of the public administration: leadership, recruitment, remuneration, staff training and development, etc. (see [theme 3](#) for more detail). The Commission's Sixth Cohesion Report sets out the challenges facing Member States in high staff turnover, and ensuring there are sufficient, appropriately qualified and experienced personnel, based on experience from the last programming round.

Performance in 2007-2013: human resources

Overall staff numbers vary widely between Managing Authorities, which differ too in the extent to which they rely on in-house as opposed to outside staff and whether there are dedicated or partially-dedicated personnel in particular roles (managing, certifying, auditing and implementing). Problems caused by simply not having enough appropriately qualified personnel can be long-term and systemic (as in Bulgaria or Romania, for example) or temporary (as in the case of auditing in Austria). High turnover of staff is a recurrent problem at all administrative levels, particularly in some EU-12 countries. In several countries, funding for technical assistance is used to pay salaries or even bonuses to strengthen particular functional areas (which has prompted the launching of a study by the Commission to clarify the situation).

Spending the funding available is a necessary but not sufficient step for achieving a strong impact of Cohesion Policy. This also depends on what the funding is spent on, whether the projects concerned deliver value for money and whether there is general confidence that they will be completed. The skill and intent of the politicians and the national and regional authorities responsible for managing the funds are important here. The lack of skills can be overcome by training and hiring more staff, so long as the need to do so is recognised.

Source: European Commission (2014), "Investment for jobs and growth: Promoting development and good governance in EU regions and cities".

Programmes that wish to invest more in innovation (see [topic 7.3.3](#)) may be at a disadvantage, as dealing with innovative actions requires a larger staff to spending ratio. As programmes become smaller due to more favourable socio-economic conditions, it also makes sense that they focus more on innovation. However, these conditions also mean that labour cost is generally higher. Programmes wanting to invest in innovation, hence needing to employ more and more expensive staff to manage the programme, to be paid from a decreased budget (due to technical assistance being a fixed percentage of a decreasing programme budget), should think carefully how to deal with this challenge. Extra funding from national sources may be required. Another option is to fund trusted intermediaries that can provide general innovation support, including to potential ESIF beneficiaries. An example of the latter would be to fund the setting up and running of an innovation lab such as Denmark's Mindlab (see [topic 1.1.1](#)), but then specifically dedicated to working with ESIF-financed projects.

High **staff turnover** can be especially toxic to ESIF management, as the specialist knowledge of relevant processes and procedures for EU funds implementation - which is built up on-the-job over time through 'learning by doing' - is lost, undermining institutional memory. Member States then have to incur costs and time to recruit and develop replacements, who may themselves leave within a short time. All Member States use EU technical assistance to co-finance salaries, many also funding top-ups and/or bonuses. In some cases, higher remuneration *inter alia* has helped to reduce staff turnover (for example, Poland has seen rates fall from 20-25% at the start of the programming period, to less than 5%).

As well as ensuring the required staff complement is in place, and not subject to rapid turnover, Member States also need to build up **sufficient capacity in key skillsets**, especially analytical and programming capacity to develop and deliver results-oriented programmes. Public administrations need to strengthen their internal capacity. In order to support Member States in building their administrative capacity, the Commission is developing a new peer-to-peer exchange tool, the REGIO PEER2PEER.

REGIO PEER2PEER – a pilot scheme for exchanges

It all started with a needs analysis. In the beginning of 2014 a survey and a series of in-depth interviews were carried out asking EU Member States about their capacity building needs related to the management of the European Structural and Cohesion Funds. The outcome of this demand analysis was unequivocal. Approximately half of the respondents confirmed the need for further capacity building and nearly all of the respondents (90%!) thought that a new EU-level instrument facilitating peer-to-peer exchanges would be a valuable complement to the existing capacity building measures (e.g. training and consultancy).

Furthermore, the study revealed that certain types of institutions – namely, regional or sectoral managing authorities as well as intermediate bodies – have a particular interest in exchanges of expertise as they have less access to professional networks as compared to audit authorities or coordinating bodies. Another interesting point which came up as a result of the analysis was that institutions in all Member States saw themselves as both potential beneficiaries and providers of expertise.

Taking into consideration the results of the demand analysis, the Directorate-General for Regional and Urban Policy will launch a pilot scheme 'REGIO PEER2PEER' that will finance up to 100 exchanges among public sector officials managing the ERDF and the CF in the EU Member States. The scheme will finance exchanges that are of a short-term nature, geared towards the transfer of hands-on expertise and good practice on concrete issues. Exchange can take form of a study visit, expert assignment or a workshop. Effort is made to set up a scheme that offers rapid assistance and spares the users the bureaucratic and logistic hassles. The new peer-to-peer exchange instrument will also have in-built arrangements for quality assurance and evaluation. It will make use of the infrastructure and build on the experience of TAIX (Technical Assistance and Information Exchange) which is a well-established instrument. All Member States will be eligible to apply. The request can come from any institution performing management and control functions in relation to the ERDF or CF.

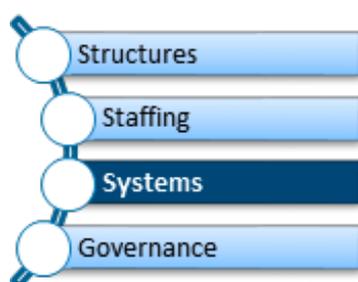
The pilot peer-to-peer exchange scheme will be launched in 2015 and will run for a period of two years.

At the end of the pilot phase, the results of this initiative will be carefully evaluated in order to determine the future of the instrument.

For further information: REGIO-E1-ADMINISTRATIVE-CAPACITY@ec.europa.eu

The initiative for the development of a **strategic training programme** on new regulations for managing, certifying and audit authorities run by REGIO or other COM Services has already started with a first training programme on the challenges of the new programming period.

7.3.3. Systems



As well as structures and staffing, public administrations must ensure that they have the systems, procedures and equipment to fulfil their ESIF management roles. They should make optimum use of e-Government and social media to reduce the administrative burden on beneficiaries and to share data and improve transparency. Administrative performance in ESIF management, and hence the demands on Member State systems, can be grouped into five broad categories which correspond with phases of the programme cycle: programming (and programme adjustments); project preparation and selection; financial management and control; monitoring and reporting; evaluation⁽³⁶⁾. Again, the Commission's Sixth Cohesion Report provides some perspective on Member State performance from 2007-2013.

⁽³⁶⁾ Bachtler, J., Mendez, C., & Oraže, H. (2013), "From Conditionality to Europeanization in Central and Eastern Europe: Administrative Performance and Capacity in Cohesion Policy", European Planning Studies Special Issue: Spatial Planning in the Baltic States: Impacts of European Policies, Volume 22, Issue 4, 2014, pages 735-757 <http://www.tandfonline.com/doi/abs/10.1080/09654313.2013.772744?ai=&ui=&af=&#;VD-UcGNHa-c>

Performance in 2007-2013: management systems

The adoption of modern management systems to provide incentives for good performance and to hold managers accountable for results is patchy. In some countries, systems to avoid conflicts of interest or prevent corrupt practices by public officials are weak. Computerised methods to improve efficiency and transparency in the use of EU funds are well developed in a number of countries, but almost non-existent in others. In general, financial monitoring and control systems function well, but those for monitoring outcomes and results work less well, though there are several examples of good practice which can be built on in the present programming period.

Systematic weaknesses in all aspects of public procurement are the single most common cause of the irregularities found during audit, resulting in suspension of payments and financial correction. Several Member States have demonstrated limited capacity to implement the Environmental Impact Assessment and Strategic Environmental Assessment Directives, as well as to apply State Aid rules correctly, with EU-12 countries usually requiring more support (which is also likely to be the case for Croatia in the new period). Frequent problems occur, in particular, in respect of railways, solid waste, wastewater, RTDI, ICT and financial instruments.

Source: European Commission (2014), "Investment for jobs and growth: Promoting development and good governance in EU regions and cities".

As the programming phase for 2014-2020 draws to a close, the focus will switch to **project preparation and selection**. MAs and their IBs must be able to attract and identify high quality project ideas in sufficient volumes to achieve the goals of disbursing ESIF monies and delivering results. With EUR billions in funding under their governance over the programme period, this is always a huge challenge for Member States' management. At the same time, there is no easy option of simply replacing existing domestic spending on existing priorities. Member States must demonstrate that ESIF are additional to planned levels of public or equivalent structural expenditure⁽³⁷⁾. In this light, ESIF projects can be said to fall into two main categories, based on practices identified by the Commission-financed Community of Practice on Results-Based Management (COP RBM)⁽³⁸⁾:

Type	Role	Novel techniques to explore
Enhancers	ESI Funds enable Member States to extend existing activities beyond the constraints of available funding, and make incremental improvements. Hence, Member States can build on both established and new solutions, and do more of what works and seek to do it better . In this way, ESI Funds co-financing is an injection of extra capital, giving fresh impetus to good practice.	Output-based aid (OBA)* is a form of payment by results, which can also be used flexibly to co-finance upfront investment, depending on how results are defined (see following example). The technique requires that results / outcomes are measurable, achievement is proportionate to the funding provided (value for money) and the model is appropriate to meeting the needs of the target group (so that providers are not using their discretion to simply 'cherry-pick' recipients to minimise cost).

(*) See also <http://www.gpoba.org/what-is-oba> for examples of OBA applied in a developing country context.

⁽³⁷⁾ See CPR Article 95 and Annex X regarding the principle of additionality and its application

⁽³⁸⁾ The Commission funds COP RBM for policy-makers and programme managers involved in the preparation, management, monitoring and evaluation of ESF programmes. A major output of the network is a source book on RBM to guide practitioners in developing their systems in this direction. For further information: Benedict Wauters, Coordinator, benedict.wauters@esf.vlaanderen.be

Type	Role	Novel techniques to explore
Innovators	Being additional to national and local public expenditure (both public and private), ESIF offers the opportunity to be creative and test out new solutions to the challenges of sustainable economic and social cohesion, stimulating growth, jobs and inclusion, and improving public governance. In this way, ESIF co-financing is a form of risk capital, within the framework of sound financial and results-based management. Innovation can be applied at the level of individual public services or whole systems.	For individual public service innovation, Member States can search for solutions that involve providing new services and/or catering for newly conceptualised needs and contexts. One mechanism is to invite providers to develop new solutions through public procurement of innovation. For ESF projects in the fields of employment, education, training, social inclusion and institutional capacity-building, the MA/IB could explore the techniques of human-centred design (HCD)*, which is a process that starts with the people for whom the intervention is designed and examines their needs, aspirations and behaviours, and then explores what is technically and organisationally feasible, and financially viable. Various approaches based on the “lean” philosophy described in theme 4 can be considered to be variations of HCD.
		For system innovation, Member States can search for solutions which are not focused on one aspect of a problem, but instead look at all facets which combine to create certain results. This may involve innovation in discrete services but it may also involve to make better and more coordinated use of existing services and resources. Techniques such as outcome mapping** explores at a more strategic level how to achieve ‘changes in state’ (such as alleviating poverty, increasing start-ups in less prosperous regions, providing wastewater systems in remote communities) by acting on the behaviour of relevant stakeholders, including citizens, and the relationships between them. Within the more strategic platform of actors established by using outcome mapping, Human Centred Design approaches can be used to work on specific aspects.

(*) See <http://www.ideo.com/work/human-centered-design-toolkit/>. For examples of HCD in the EU (United Kingdom), please see the Life Programme: <http://www.alifewewant.com/>

(**) See COP RBM Sourcebook, pages 179-182, and <http://www.outcomemapping.ca/>

Depending on which approach is most appropriate or favoured, Member States can experiment within the rules and employ new tools of project development and implementation, as the following example of applying output-based aid (OBA) in both theory and in practice (Czech Republic) illustrates.

However, it is of utmost importance to understand that project formulation, selection, management, monitoring and evaluation are radically different, depending on whether a programme seeks to enhance, to innovate in discrete services or to innovate systemically. This has consequences not only for the organisations that execute projects, but also within the programme management bodies, it is necessary to install different processes, organisation, culture, staff competences and systems. One cannot issue a call for systemic innovation in the same way that one calls for extra provision of existing services. One needs different skills and attitudes when supporting radical innovation, for example by involving NGOs and citizens in co-production, as compared to financing part of the regular services delivered by a public employment service. The COP RBM has described in detail in its sourcebook the difference between the operating models for programme management depending on whether a programme supports enhancing (enhancer role), discrete services innovation (innovator role) or systemic innovation (solutions management role).

Using output-based aid in ESIF projects

Hypothetical problem: The employment rate in region X is well below 50%. The data shows that this is partly due to a large, inactive, working-age population. Research suggests that one major factor contributing to inactivity is the significant number of parent with young children who would like to return to the workforce but are held back by insufficient or inadequate childcare provision close to their homes or potential employers. Lack of capacity in public kindergartens have resulted in long waiting lists, and typically only children older than 4-5 years have been able to get a place. At the same time, private childcare services are available but not affordable, as the price per child per month was higher than 50% of the net median wage, meaning it was not very economically rational for parents of young children to work (the affordable price for most parents being at the level of 20% of net median wage).

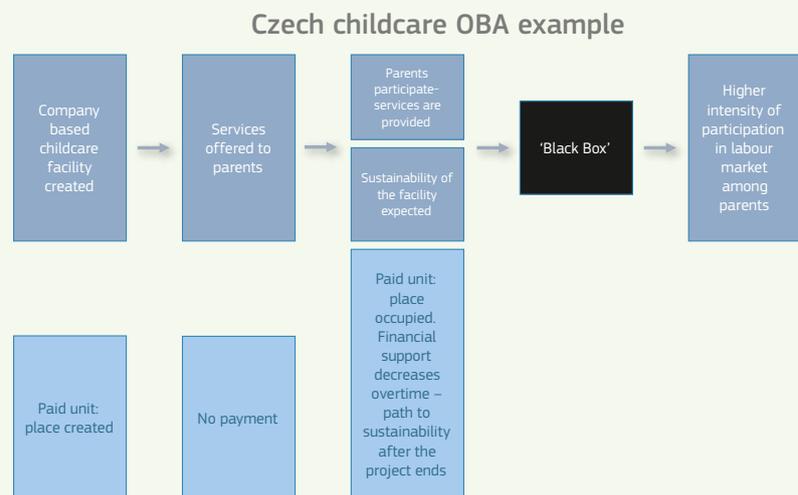
Possible scenario: As demand outstrips supply, the regional MA (or IB, if project generation is a delegated task) could look to enhance local provision under their ESF operational programme by paying for additional places within existing facilities and/or encouraging local providers to establish extra facilities in new locations closer to residents' homes or their workplaces. They could consider the option of output-based aid (OBA), using ESIF to finance payment by result for each additional place which is taken up, and could also co-finance the upfront investment (e.g. creating new or larger facilities), if appropriate. The application of OBA would, of course, have to comply with EU, national and local legislation, including ESIF regulations, but also state aid rules, environmental laws, etc., and be subject to monitoring and its performance capable of being verified / audited, as normal.

Inspiring example: ESF support for employer-based childcare was implemented in the **Czech Republic** using the OBA approach, with an initial payment linked to input (for each place created within four months of the start of the scheme), after which only occupied places were subsidised: by 100% for the first six months of the facility's operation, by 75% for the next six months, and by 50% for the last six months (after which the facility is assumed to be financially viable by a combination of charging users, newly introduced tax deduction and employer support). Verification will

focus on: quantity of attained units; compliance with the requirements for quality of the facility (e.g. the educational requirements for caregivers, eligibility of the target groups, etc.); and compliance with the rules for public procurement and the rules for state aid.

The figure shows that it is still unclear whether the provision of these services (if the OBA is a success) will actually lead to more participation in the labour market of the family of the children ('black box' in the figure). While evaluation will have to be done to research this further, the preliminary results indicate that one occupied place in the childcare creates 0.25 full-time equivalents (FTE) in higher intensity of parents' participation on the labour market.

Source: Based on COP RBM Sourcebook (op. cit.)



The ESIF regulations provide a permissive environment for creativity in generating innovative operations⁽³⁹⁾, within clear **parameters**. During OP implementation, all selected projects must fall within the scope of the ESI Fund concerned, and in particular, the priority and measure of the relevant programme, the financing plan, the time limit for execution, the minimum and/or maximum size of the project (if specified), and the eligibility criteria:

Parameters for eligible operations under ESIF

- **Time period:** there are limits on the period during which operations and expenditure can take place;
- **Scope of intervention:** there are restrictions on the types of activities that can be co-financed from the different ESI Funds;
- **Cost categories:** certain cost categories within eligible operations are excluded;
- **Geographical location of operations:** only certain areas are eligible for particular types of programmes or activities;
- **Durability of operations:** investments may have to be maintained for a minimum period after completion of the operation (does not apply to ESF);
- **Types of beneficiaries:** only certain enterprises, bodies or economic actors are eligible for support under given measures.

DG REGIO promotes good practices in regional development, and highlights **original and innovative projects** which could be attractive and inspiring to other regions, through the [RegioStars awards](#), which have been organised annually since 2008.

The importance and implications of good projects

Project development and evaluation are self-evidently the most critical phases of ESIF implementation, as they determine the extent to which the Member State is able to make full use of EU and national co-financing, achieve the strategic goals elaborated in their programme documents, and create the desired long-term results. Selecting well-designed projects with well-prepared beneficiaries also helps to reduce irregularities during contract implementation.

The value of selecting good projects is clear in all ESI Funds and under all thematic objectives. It is hard to generalise about project preparation and selection across the broad spectrum of ESI policy, covering operations as diverse as multi-million euro infrastructure projects, small grants to NGOs to deliver locally-based social services, university-enterprise R&D initiatives, the development of rural communities, functional analysis for administrative capacity-building, etc. But while the scope for imaginative solutions to the full breadth of policy challenges is limitless, the underlying process is common across all ESI Funds: it is the MA's responsibility to draw up and – after approval by the monitoring committee⁽⁴⁰⁾ – apply the appropriate **procedures for selecting operations**, in accordance with CPR Article 125. These selection procedures also provide the basis for guiding applicants, so that their proposed operations are well-crafted. MAs are able to assist beneficiaries through technical assistance (TA) under the relevant programme, if ESIF financing has been allocated for this purpose.

⁽³⁹⁾ According to CPR Article 2, 'operation' is defined as a project, contract, action or group of projects selected by the managing authorities of the programmes concerned, or under their responsibility, that contributes to the objectives of a priority or priorities; in the context of financial instruments, an operation is constituted by the financial contributions from a programme to financial instruments and the subsequent financial support provided by those financial instruments

⁽⁴⁰⁾ See CPR Article 110

The support can take the form of grants, prizes, repayable assistance and financial instruments, or a combination of these (Art. 66, CPR). Furthermore, the choice of **operation modalities** for converting ideas into operations under ESIF regulations⁽⁴¹⁾ for 2014-2020 is finite, namely:

- Supporting individual projects selected through **calls for proposals** or grant schemes⁽⁴²⁾, managed by intermediate bodies. The projects can be on a time-limited or rolling basis, with project applications being assessed against selection criteria on a competitive basis;
- Committing additional expenditure to **existing or new public programmes** by national authorities (in order to enhance provision or to innovate);
- Financing large infrastructure investments through **major projects**, as approved by the Commission, following selection by national authorities;⁽⁴³⁾
- Financing **integrated territorial investments**, as approved by the Commission and implemented by designated IBs;⁽⁴⁴⁾
- Financing **joint action plans**, as approved by the Commission and implemented by approved beneficiaries;⁽⁴⁵⁾
- Financing **community-led local development strategies**, as selected by a committee established by the Member State or MA, and implemented by approved local action groups;⁽⁴⁶⁾
- Contributing to **financial instruments** (repayable support for investment through loans, guarantees, equity and other risk-bearing instruments), including funds of funds;⁽⁴⁷⁾ and
- Financing **salary costs** under TA programmes and priorities.⁽⁴⁸⁾

In particular, the 2014-2020 regulatory framework contains several modalities which enable MAs, IBs and beneficiaries to pursue **integrated approaches** to territorial cohesion.

Integrated approaches to achieving ESI Funds programme objectives

Integrated territorial investment (ITI)

Actions may be carried out as an ITI where an urban development strategy or other territorial strategy, or a territorial pact under the ESF Regulation, requires an integrated approach involving investments from the ESF, ERDF or Cohesion Fund under more than one priority axis of one or more OPs. Actions carried out as an ITI may be complemented with financial support from the EAFRD or the EMFF. Whichever co-financing sources are used from one or more of the five ESI Funds to support the ITI, the relevant programmes shall describe the approach to the use of the ITI instrument (ERDF, ESF and Cohesion Fund) and the indicative financial allocation (all) in accordance with the Fund-specific rules. The Member State or MA may designate one or more IBs, including local authorities, regional development bodies or non-governmental organisations, to carry out the management and implementation of an ITI in accordance with the Fund-specific rules, and shall ensure that the programme monitoring system provides for the identification of operations and outputs of a priority contributing to an ITI.

⁽⁴¹⁾ Operations must conform with both the CPR and the relevant Fund-specific rules. *Inter alia*, all operations that are co-financed with ESIF must be eligible, in terms of activity, location, timescale and other criteria, fall under a specific priority and measure, and be subject to the relevant expenditure ceilings in the programme's financing plan.

⁽⁴²⁾ See CPR Article 123 (7)

⁽⁴³⁾ See CPR Articles 100-103

⁽⁴⁴⁾ CPR, Article 36; ERDF Regulation, Article 7; ESF Regulation, Article 12

⁽⁴⁵⁾ CPR, Articles 105-109

⁽⁴⁶⁾ CPR, Articles 32-35; ESF Regulation, Article 12; see also EAFDR Regulation, Articles 42-44 regarding LEADER; EMFF Regulation, Article 18

⁽⁴⁷⁾ CPR, Articles 37-46 and Annex IV

⁽⁴⁸⁾ See CPR Articles 58-59

Joint action plan (JAP)

A JAP is a project or group of projects to be carried out by a beneficiary, in order to contribute to the objectives of the OP, based on jointly agreed milestones, outputs and results. The Member State, MA or any designated public law body may submit a proposal to the Commission for approval of a JAP at the same time as, or subsequent to, the submission of the OPs concerned. A JAP should contain, *inter alia*:

- Analysis of the development needs and objectives justifying the JAP, taking into account the objectives of the OPs and, where applicable, the relevant country-specific recommendations;
- The framework describing the relationship between the JAP's objectives, milestones, and targets for outputs and results, and the projects or types of projects envisaged;
- Information on its geographic coverage, target groups, and expected implementation period;
- Implementing provisions, including the responsible beneficiary, with guarantees of its competence in the domain concerned, and its administrative and financial management capacity;
- Arrangements for steering, monitoring and evaluating the JAP;
- Its financial arrangements, including financing plan, the costs of achieving milestones, outputs & result targets, indicative schedule of payments to the beneficiary linked to these milestones & targets.

Provided that any observations have been adequately taken into account, the Commission shall adopt a decision, by means of an implementing act, approving the JAP. The Member State or MA shall set up a steering committee for the JAP, distinct from the monitoring committee of the relevant OPs. Requests for amendment of JAPs submitted by a Member State to the Commission shall be duly substantiated. Payments to the beneficiary of a joint action plan shall be treated as lump sums or standard scales of unit costs.

Community-led local development (CLLD)

CLLD is supported by the EAFRD, which shall be designated as LEADER local development, and may be supported by the ERDF, ESF or EMFF. It is a bottom-up approach which is:

- Focused on specific sub-regional areas (between 10 000 and 150 000 inhabitants);
- Led by local action groups composed of representatives of public and private local socio-economic interests;
- Carried out through integrated and multi-sectoral area-based local development strategies;
- Designed taking into consideration local needs and potential and shall include innovative features in the local context, networking and, where appropriate, cooperation.

A CLLD strategy must contain, *inter alia*, a hierarchy of objectives, a plan demonstrating how these objectives will be translated into actions, and measurable targets for outputs or results, expressed in quantitative or qualitative terms (see CPR Article 33 for further details). CLLD strategies are selected by a committee set up by the MA (or by authorities approved by the MA). The local action group is responsible for drawing up a non-discriminatory and transparent selection procedure and objective criteria for selecting operations that avoids conflicts of interest, and preparing and publishing calls for proposals or an ongoing project submission procedure, including defining selection criteria.

As the integrated approaches suggest, each of the modalities has its own rationale and rules⁽⁴⁹⁾. Irrespective of the modality's *modus operandi*, MAs / IBs should normally satisfy themselves on the operation's suitability against the following **eight sets of selection criteria**, some of which may not be applicable to specific modalities. For public procurement, for example, the process for 'proposed operations' (tenders) is governed by national procurement law, in accordance with EU directives.

Criteria	Key questions	Commentary
1. Correctness	<ul style="list-style-type: none"> Does the proposed operation satisfy all the requirements and conditions in the instructions to beneficiaries? Does it contain all necessary supporting documentation, accurately completed? 	If the proposed operation (whether proposal, tender, major project, JAP, etc.) has missing or materially incorrect information, it should be rejected, or at least returned to the beneficiary for re-work and re-submission, if allowed.
2. Eligibility	<ul style="list-style-type: none"> Does the proposed operation comply with all the mandatory criteria, regarding eligible location, activities and expenditure? Does the operation fall under state aid rules? 	If the operation fails to fulfil any of the eligibility criteria, or may breach state aid rules, it should be rejected, or at least returned to the beneficiary to see if a workable operation can be salvaged, if the underlying concept is sound (in the case of a possible state aid, this may involve notification, for example).
3. Relevance (strategic fit)	<ul style="list-style-type: none"> Is the proposed operation fully compatible with the programme's objectives at priority and measure levels? Does the operation contribute towards the promotion of gender equality, non-discrimination and sustainable development (or at least not breach these principles)? 	Every operation must be attributable to a 'category of intervention' (according to the CPR) or measure. If the proposal is not able to contribute to the agreed objectives in the programme document and/or the principles of CPR articles 7 and 8, it is not suitable for funding.
4. Quality	<ul style="list-style-type: none"> To what extent does the proposed operation expect to contribute to the objectives and results at measure level? Is there evidence that the operation will add more value than alternative operations? To what extent will the operation offer value for money, either by achieving the same results as an alternative operation but with fewer resources (funds, expertise, time etc.), or better results with the same resources? Is there evidence of ownership of the project, its proposed activities and expected results by the potential beneficiary and relevant stakeholders? Assuming the operation is completed and the objectives are attained, is there a realistic plan to ensure the benefits continue beyond the project's timespan? 	These questions are designed to assess the operation's quality, with performance against alternative uses of finite ESI co-financing, by examining effectiveness, efficiency, impact and sustainability. The appraisal of quality relies on robust information from the beneficiary. This means the MA / IB must provide clear and comprehensive instructions. The MA/IB might also wish to provide follow-up guidance and support, without compromising the integrity of the appraisal process (equal and fair treatment for all prospective beneficiaries). Once again, for more innovative projects, concepts like objectives and results, added value, value for money should be conceptualised appropriately. Obviously, solutions that have not yet been developed cannot be compared to existing alternatives. Nor can results be clearly defined yet. These parameters are meant to be established throughout the innovative project. At the start, only clear learning objectives can be established. It should also be clear that equal and fair treatment does not imply that no contacts should occur between applicants and programme managers. On the contrary, being able to see the team and discuss with them is crucial in determining whether or not to fund an innovative project.

⁽⁴⁹⁾ These rules are either explicit (specifically laid down for the modality in the CPR or specific Fund regulations, as indicated in the preceding footnotes), or implicit (based on the CPR's general rules for selecting and implementing operations, or other EU or national legislation, for example governing public procurement and state aid).

Criteria	Key questions	Commentary
5. Completeness	<ul style="list-style-type: none"> Are there any elements which are either missing or conditional on external factors outside the control of the beneficiary, which would prevent the operation from delivering its desired results? 	The mantra is that EU funds should not support 'half a bridge'. If the proposed operation is incomplete (e.g. a wastewater treatment plant not connected to sewage collection systems) or conditional (e.g. training activities that depend on constructing a training facility using other national or ESI funds), and the plan for complimentary elements is not convincing, then the proposal should be rejected or returned for resubmission. However, for innovative projects that have a developmental aspect - meaning that the whole idea is to find out exactly what is needed e.g. by rapid prototyping - completeness should be interpreted appropriately. It is sufficient to have the right highly motivated multi-disciplinary team in place and a plan where/how to start the search for better solutions. One should not ask what the solution will be before the project that intends to search for it has actually started.
6. Capacity	<ul style="list-style-type: none"> Does the beneficiary have the technical, financial and operational capacity, and if relevant, the legal authority to implement the operation within the budget and time-limit for execution? 	If the appraisal shows that the beneficiary lacks the resources or powers to implement the operation, then the operation should be rejected.
7. Risk	<ul style="list-style-type: none"> Is the plan, budget and timetable for implementing the operation realistic, and will it fall within the required timescale to avoid decommitment? Is there any evidence that the beneficiary has been involved in previous wrong-doing (corruption, fraud or other criminal acts)? What is the assessment of the probability the operation will attain the expected results? Is there a plan in place to reduce the likelihood of these risks occurring, and to mitigate their effects if they arise? 	The risk factors and any mitigating actions should be taken into account, in one of two ways. If they are sufficiently serious (critical risk), such as evidence of wrong-doing, the operation or individual project should be rejected. If the risks are rated as moderate or high (on probability and effect), they may be used to qualify the interpretation of the operation's quality. Once again, for innovative projects, risk in terms of probability of results and realistic plans, budgets and timetables should be viewed differently. Innovation is meant to be risky. This is however why close follow-up of innovation projects is required and an appropriate funding pattern, where smaller amounts are committed in the earlier stages, to be increased as a project progresses and learns more about what may (not) work. This process is itself a risk mitigation mechanism.
8. Financing	<ul style="list-style-type: none"> Is the necessary national contribution available (if applicable) to match the EU co-financing and meet 100% of costs? Is the operation 'additional' – meaning it would not have been financed otherwise? Is there any evidence of 'double-funding'? 	In making the case for the operation, the beneficiary needs to identify their co-financing (if this is required) and provide guarantees that the operation is not already being financed by other national, ESI or IFI sources, or in the case of operations which are financed out of domestic public expenditure, this is over and above previously planned levels.

The MA's **methodology** for project appraisal must be approved by the monitoring committee alongside the selection criteria. Typically, this will involve the MA / IB forming an appraisal committee with appropriate expertise (which may involve in-house and/or external staff) and written procedures. The application of the criteria tends to fall into two groups:

- Hurdles:** Criteria 1 and 2 require simple 'yes/no' decisions. If the operation gets over the 'yes' hurdle in each case, it can go forward to be assessed for its relevance, quality, etc. Depending on national policy, traditions and laws, and the specific circumstances around the criteria, the MA/IB may wish to refer rejected operations back to prospective beneficiaries and give them opportunities to correct or improve their proposals and to re-submit them in the current or subsequent rounds.

- **Thresholds:** Assuming operations are not pre-selected, such as public programmes or staff costs, criteria 3 onwards is typically applied using a scoring system. Every operation is awarded a score against each individual criteria in the methodology; the scores are added, sometimes with weights applied to individual criteria to give them extra significance; and the operations ranked in descending order. The top-rated projects are then selected first, going down the list until the total projected co-financing, based on summing the expected values of each operation, reaches the available budget threshold. The MA may also determine that the operation must pass a minimum quality threshold in order to be accepted for funding - either as an additional or alternative process to the scoring process - in which case it is possible that no operations are chosen. If the risks are found to be moderate, criteria 8 either could be built into the scoring system alongside quality criteria, or may be used as a qualifying factor to weight the total scores downwards.

The methodology for applying criteria can be organised in a **single process or over several rounds** to filter out ineligible or poor quality proposals to use limited ESI funding. For example, the MA / IB or its appraisal committee may perform administrative screening first against the hurdle criteria, followed by a scoring session later for the threshold criteria.

The **results-orientation** in the 2014-20 programme period will have an effect on project selection, as every priority will be judged by the aggregate achievement of performance indicators, expressed as targets, across all co-financed operations. It can be expected that potential beneficiaries will need to express how they plan to contribute towards achievement of measure-level targets with their proposed operations. The European Policies Research Centre (EPRC) at the University of Strathclyde has conducted research on results-oriented approaches with [IQ-Net](#), a network of 15 programme authorities from 13 Member States, summarised below. (Other IQ-Net research reports are available [here](#)).

Results-oriented approaches to generating & selecting projects

Some Member State authorities have started providing guidance on results-orientation, specifically with a view to inform those involved in generating and appraising projects. There are examples of programme authorities who fundamentally reviewed the approach taken to developing projects. While results-orientation may be easier to achieve for some types of projects than for others, there is a widespread view that more strategic and integrated interventions will promote the focus on results. Models for project generation and selection vary in terms of their selectivity and degree of targeting, their timing – with more or less flexibility to adapt in the course of the period – and the burden involved in preparing and managing them. Most leave it to applicants to justify the project's contribution to programme objectives, but it is also possible to predetermine calls in order to look for specific solutions or pre-defined outputs. Across the board, appraisal and selection procedures are being adapted to increase the focus on results and make them more selective. In addition, cost considerations receive greater attention to improve understanding of project deliverables.

Given the uncertainties surrounding the concept of results-orientation, it is very important to make sure that other bodies involved in programme delivery, as well as beneficiaries, are aware of what is required and are equipped for applying it in practice. The role of intermediate bodies and other responsible organisations is crucial, especially if they are in charge of identifying projects that contribute to integrated local/regional development strategies. In order to retain control at the level of the managing authority, some partners consider making funding conditional on anticipated or actual achievements.

Beneficiaries will see expectations increase in response to the results-orientation agenda with a greater focus on anticipated achievements from the application stage. Although in many cases requirements were already in place, it is expected that these will be more strictly enforced in 2014-20. A number of programmes require applicants to define causal chains and applications will need to be more detailed. The overall burden on beneficiaries is expected to rise with higher demands linked to an increase in the number and complexity of indicators, which will be particularly challenging for new applicants. Pressure on applicants may increase, further linked to plans by some IQ-Net partners to make greater use of sanctions based on payment by results, or by withdrawing funds or deselecting operations if initial commitments are not met. There is general awareness of support needs among applicants, and different types of guidance are provided by IQ-Net partners to support them during project application.

Source: Gross, F., and Polverari, L., (2014) "Project generation and selection in Cohesion policy in 2014-20: between results-orientation and micro-management", IQ-Net Thematic Paper 34(2), European Policies Research Centre

As with other aspects of public administration, MAs and IBs can look for ways to make it easier for potential beneficiaries to respond to **calls for proposals** by simplifying their information obligation. One such example concerns the fiscal certificates that legal entities applying for Structural Funds must submit in Romania.

Inspiring example: Modification of the template of the fiscal certificate (Romania)

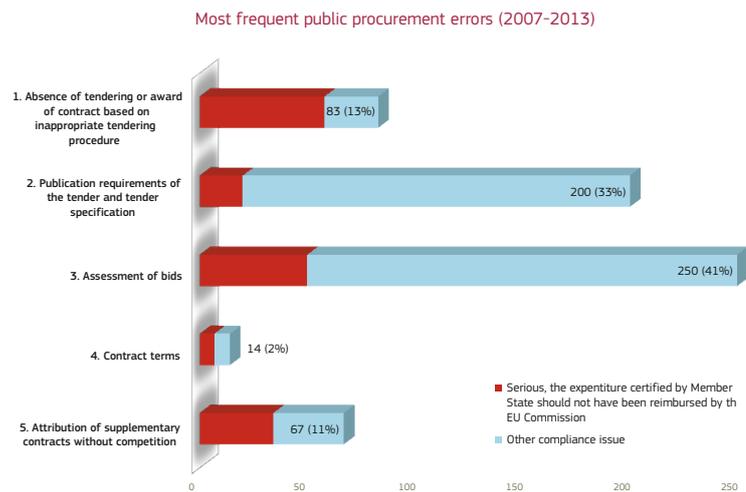
This initiative in 2009 simplified the conditions for legal entities to obtain the fiscal certificate for applying for EU Structural Funds. The new template specifies not only the amount of money a legal entity owes to the State but also the amount of money owed by the State to that particular legal entity. Thus, once the two amounts are compared, it is possible to certify whether the legal entity is *de facto* owing money or not. Previously, the template only mentioned the amount of money owed by the legal entity, without mentioning the amount of money it has to recuperate from the State. Therefore, there were many cases of legal entities appearing as owing money to the State *de jure*, although *de facto* this may not have been the case. This prevented them from obtaining the fiscal certificate needed in order to apply for EU Structural Funds. It is estimated it is now significantly easier for legal entities to obtain the fiscal certificate needed in order to apply for EU Structural Funds, since it is now possible to see whether they are really owing money to the State or not.

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With regard to the principle of sound financial management in the ESI regulations, every entity involved in managing EU funds is legally obliged to prevent **irregularities**⁽⁵⁰⁾ affecting the EU budget and to ensure that the budget is spent in conformity

⁽⁵⁰⁾ Council Regulation (EC) No 2988/95 defines irregularity as: "any infringement of a provision of Community law resulting from an act or omission by an economic operator, which has, or would have, the effect of prejudicing the general budget of the Communities or budgets managed by them, either by reducing or losing revenue accruing from own resources collected directly on behalf of the Communities, or by an unjustified item of expenditure".

with ESI Funds and other relevant legislation. Depending on the seriousness of the error, evidence of systemic irregularities can lead to financial corrections of up to 100% of the allocated EU co-financing, which can potentially create severe problems for domestic budgets that must make up the shortfall on incurred costs. More than half of the observed ERDF irregularities across the EU are related to public procurement (further broken down in the graph, according to data from the European Court of Auditors), the next most important sources being eligibility rules and State aid. The vast majority of these cases involve “irregularities of an administrative nature” that are normally detected in the course of management verifications.



For this reason, the Commission Services responsible for ESI Funds (namely, DG REGIO, DG EMPL, DG AGRI and DG MARE), along with DG GROW that has the lead competence in the context of the single market, have formed a joint Technical Working Group for **public procurement** with the EIB, and have agreed a Public Procurement Action Plan to improve policy effectiveness and reduce error rates. Under this framework, DG REGIO and DG GROW cooperate on country-specific Action Plans for Member States that are struggling most with implementing procurement rules and develop also Guidance for Public Procurement Practitioners on how to avoid the most common and serious irregularities, by capturing lessons from audits performed over many years that examined how procurement rules have been applied in practice. The guidance is designed to assist procurement practitioners in public administrations at national, regional and local levels and different levels of local and national public administrations or utilities running public tenders involving EU funds. It highlights where mistakes commonly occur and what can be done to avoid them, particularly the critical role of pre-procurement planning. The guidance should also be of assistance to ESI Fund Managing Authorities with front line responsibility for verifying that public procurement rules are complied with in all EU co-financed projects.

Many Member States **outsource tasks to external consultants**, especially evaluations, but also studies, programme preparation, help with project development, project appraisal, information and communication, ICT development and maintenance etc. Consultants can make a valuable contribution to ESI Funds management and implementation, especially when they fulfil one or more of the following roles:

- **Capacity:** Consultants can be useful as ‘extra hands’ to cope with fluctuations in workload, especially when it would not be appropriate or feasible to increase in-house staffing in the short term, during peaks of activity.
- **Expertise:** There are some fields of knowledge which are specialised and where it is not viable to maintain a permanent in-house presence. By accessing external advice, the administration can also capture the consultant’s exposure to comparable situations elsewhere.
- **Objectivity:** In some areas, it is beneficial or essential to delegate the task to an outside body with an independent perspective that has not been directly involved in any of the administrative operations or decisions - the prime example being evaluations and audits.

However, there are many incidences where MAs, IBs and other bodies have become over-reliant on consultants, including outsourcing core competences. The danger is that the benefits of capacity-building, especially learning-by-doing, accrue only to the consultancy, and are not felt by the public administration itself. The risk is that the MA or other body begins to build an unhealthy relationship of dependence on external consultants, which becomes increasingly hard to break, as the in-house knowledge and skills are under-cooked. The following **practical tips** on how to get the most from working with consultants are offered in this context:

- Make sure the consultant has an **unambiguous specification** (terms of reference), so that there is no confusion about the expectations from both parties, including a clear division of responsibilities (for example, decide whether all communications by the consultant with other bodies, such as other ministries, beneficiaries or media, should be channelled through the client, or bilateral contacts are acceptable and the client only kept informed).
- At the same time, leave some **flexibility** in the terms of reference (ToR) and hence contract for the consultant to bring in their own know-how and experience, especially as not every eventuality can be foreseen and discretion will need to be exercised (don't over-specify every single activity and output over the life of the contract). Take advantage of the consultant's distance from the administration's day-to-day functions (objectivity) and their insights into practices from elsewhere.
- Don't see consultancy as a 'black box', operating independently from the client and delivering outputs on completion. Work closely with the consultant, so that the public administration is not only a passive recipient of the outputs, but also an **active participant** in the development process. Clearly, the level of engagement will depend on the nature of the assignment, but even research studies, evaluations and ICT development can involve an element of learning in parallel with the activity itself (which should be specified in the ToR and contract).
- Before going out to tender, make sure you are ready for the assignment. By necessity, the bidding process focuses on the applicant's suitability, but equally important is that the client has **ownership** (the administration is fully committed to the assignment's success) and the **resources to 'absorb'** the consultancy - both the inputs (time needed to meet and work with the consultant) and the outputs.
- Don't lose sight of the **buyer-supplier relationship**. The consultant has been hired by the administration to provide a service. While it is important for the consultant to advise as to what is possible, and the client should be reasonable and of course ethical in their expectations from the consultant (within the scope and resources of the assignment), the client is ultimately in charge and decides what they are buying. Administrations should resist being 'sold' something that they didn't want in the first place, for example standardised solutions that might have worked well elsewhere but are not suitable for the present circumstances. Ensure consultants customise their solutions to the current conditions.

As already noted ([theme 2](#) and [topic 7.2](#)), public procurement is also prone to **conflicts of interest, corruption and fraud**, as is project selection and contract management - both implementation and verification of the operations, and certification and payment. While only a fraction of irregularities are intentional and hence related to corruption or fraud (the fraud rate in cohesion policy is estimated at around 0.4% of yearly payments), this is partly because fraud requires a greater burden of proof than erroneous behaviour (fraud being effectively 'irregularities

with intent'⁽⁵¹⁾). Even though the impact on the cohesion policy budget is relatively small, the reputational risk is far greater, and hence the Commission places a strong emphasis on MAs putting in place effective and proportionate anti-fraud measures, as the new framework makes clear⁽⁵²⁾. The AA must verify the MA's compliance.

To highlight and explore good practices from Member States in this field, in December 2013, DG REGIO together with DGs AGRI, EMPL, HOME, MARE and MARKT (now DG GROW), and the European Anti-Fraud Office (OLAF), in co-operation with Transparency International organised a [conference on anti-corruption and anti-fraud measures in relation to the use of ESI Funds](#). The conference has since been followed up with eight workshops in selected Member States during 2014. DG REGIO is also planning to explore the use of an Integrity Pact (IP) as a civil society control mechanism for safeguarding EU funds against fraud and corruption, and a tool to increase transparency and accountability. Member States can also benefit from the [HERCULES III programme](#), managed by OLAF, which helps to fund technical assistance (including equipment), training (including, judicial, legal, and digital forensic training), and the exchange of best practice in preventing and combating corruption, fraud and any other illegal activities that affect the financial interests of the Union.

The Commission recommends that MAs adopt a proactive, structured and targeted approach to managing the risk of fraud, which is both cost-effective and differentiated for each programme and situation. To this end, the Commission has developed a [Guidance Note on Fraud Risk Assessment and Effective & Proportionate Anti-fraud Measures](#), incorporating:

- A fraud risk self-assessment tool, together with detailed instructions, should be used to assess the impact and likelihood of common fraud risks occurring.
- A list of recommended mitigating controls which could help further reduce any remaining risks, not yet effectively addressed by current controls.
- A voluntary template for an anti-fraud policy statement.
- Guidance and checklists for the AA's verification of the MA's work in the context of the AA's systems audits.

Following systemic risk assessment and mitigating controls, MAs should address specific situations which may arise at the level of implementation of operations by further developing specific fraud indicators ('red flags') and by ensuring effective cooperation and coordination between the MA, AA and investigative bodies.

Preventative measures cannot provide absolute protection against fraud and so the MA also needs analytical techniques to detect fraudulent behaviour in a timely manner, such as data mining that highlights anomalies. In this light, DG EMPL has commissioned the ARACHNE risk scoring tool, which is available to Member States to strengthen their efforts by identifying the most risky projects, beneficiaries and contracts/contractors that are potentially vulnerable to errors and fraud, acting to both prevent and detect.

⁽⁵¹⁾ The Convention drawn up on the basis of Article K.3 of the Treaty on European Union on the protection of the European Communities' financial interests defines fraud, in respect of expenditure, as any intentional act or omission relating to: "the use or presentation of false, incorrect or incomplete statements or documents, which has as its effect the misappropriation or wrongful retention of funds from the general budget of the European Communities or budgets managed by, or on behalf of the European Communities; non-disclosure of information in violation of a specific obligation, with the same effect; the misapplication of such funds for purposes other than those for which they were originally granted."

⁽⁵²⁾ CPR Regulation, Article 125 (4)(c)

ARACHNE Risk scoring tool

Project ARACHNE aims at providing the Member State authorities involved in management of the Structural Funds with an operational tool to identify their most risky projects. The objectives are:

- To support the management and control systems of the OPs, to lower the error rate and strengthen fraud prevention and detection; and
- To facilitate the continuous monitoring / overview of the internal and external data regarding projects, beneficiaries and contracts/contractors.

ARACHNE is based on a set of risk indicators and alerts, customised to the nature of OP expenditures, and using some key (internal) data of the projects, enriched with publicly available information (external data). In view of limited resources and multiplicity of operations, key actors and systems, ARACHNE promotes the use of a risk-based approach in the verifications of the projects with the focus on the most risky, complements the risk assessment with regard to fraud alerts and irregularities, identifies possible irregular circumstances continuously on the basis of predefined risk criteria, and builds an overall better defence against fraud and errors. ARACHNE employs seven risk categories:

Risk category	Description
Procurement	Risk indicators on the procurement process
Contract management	Assessment of contract management aspects of the project and comparison to the peer group
Eligibility	Verification of the eligibility period and existence of contractors and subcontractors
Performance	Assessment of the coherence of activity sector ratios with the benchmark values
Concentration	Cross-project and cross-OP checks
Other checks	Basic checks on logicity and reasonability of project data
Reputational & fraud alerts	<ul style="list-style-type: none"> • Overall <u>financial</u> performance of beneficiaries, contractors / suppliers and sub-contractors, based on financial reporting data • Existence of <u>relationships</u> between beneficiaries and contractors / suppliers or sub-contractors and their respective personnel • Involvement in activities (such as bankruptcies) that could possibly result in <u>reputational</u> damages • Identification of beneficiaries, contractors/suppliers, subcontractors or their respective personnel, blacklisted or appearing in any type of <u>sanction</u> list • Any type of <u>changes</u> to the company structure

Examples of risk indicators and alerts include:

- Procurement: lead time between publication of the tender notice and contract signature; number of disqualified tender offers / number of tender offers received
- Contract management: contract addenda cost (total) for the project / project cost; number of consortium partners
- Eligibility: project costs outside eligibility period - before start date / after end date
- Performance: number of people trained / number of people to be trained; project total cost / length in km per project (per type of road)
- Concentration: beneficiaries involved in multiple projects; project partners involved in multiple projects; consortium members linked to multiple projects; sub-contractors linked to multiple projects
- Other checks: EC assistance / total project cost; fixed assets / project cost

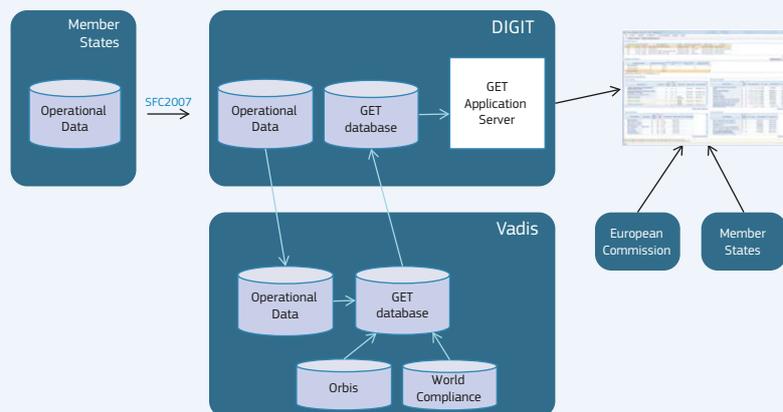
Examples of reputation and fraud alerts include:

- Financial: high or deteriorating propensity to bankruptcy

- Relationship: links between beneficiaries/project partners and contractors/suppliers
- Reputation: involvement of directors / shareholders with bankruptcies; involvement of directors / shareholders from sensitive regions
- Sanction alerts: involvement of individuals included in PEP list; involvement of individuals / entities included in sanction lists
- Change alerts: high rotation of directors; activity changes

Internal data is uploaded from Member States and enriched with external data from Orbis and World Compliance, in order to calculate a risk score:

- Orbis holds information on approximately 100 million companies worldwide (financial data, addresses, people (directors, contacts, etc.), and key indicators, such as credibility and bankruptcy) and a similar number of individuals (first name, last name, age, number of affinities, number of companies and role in company). The data is collected from publicly available information such as official annual reports or balance sheets submitted to regulatory bodies. The level of detail available in the database varies by country and company size.
- World Compliance collects, aggregates and centralises the following lists: 'politically exposed persons' (PEPs); sanctions (EU Terrorism List, ICE List, CBI List, etc.); enforcement (narcotic & human traffickers, money launderers, fraudsters and other criminals, etc.); and adverse media (company or person that have been linked to illicit activities by news sources). The data is received from regulatory and governmental authorities (except for the adverse media list). Information from World Compliance is only accessible through the Arachne alert details; in other words, it won't be possible for a user to explicitly retrieve this information for a given company or person.



The output from ARACHNE is visualised in dashboards of high risk beneficiaries, projects, contractors and contracts, with drill-down functionalities, visualisation of links between entities/individuals, and scenario analysis. There are various options to export data, the ability to manage cases and to feedback information.

For further information: EC-ARACHNE-INFO@ec.europa.eu

Regarding ESI Funds' **financial management and control (FMC)**, the 2014-2020 regulations feature simplified procedures to reduce the burden on beneficiaries and speed up reimbursement, including single reimbursement rate for all participants to a research project and a flat rate for indirect costs, and a shorter deadline for payments to beneficiaries (90 days). Member States can also take advantage of provisions that have been preserved from the previous regulations, such as the freedom to make advance payments to beneficiaries.

As payment claims represent a key element of performance data, FMC dovetails with **programme and project monitoring**. In order to improve the efficiency and quality of information transfer, the new ESI Fund regulations will introduce the electronic exchange of data between beneficiaries and MAs from 2016 in all Member States, which will enable beneficiaries to submit data only once and keep all documents in electronic form (e-Cohesion). Some Member States are already well

ahead in this field, as illustrated by the online ‘Clearing House’ portal operated by the United Kingdom’s Welsh European Funding Office (WEFO), which was a Regio-Stars Winner in 2008 and 2009, and follows the ‘once only’ principle outlined in [topic 4.4](#).

Inspiring example: The WEFO ‘Clearing House’ (United Kingdom)

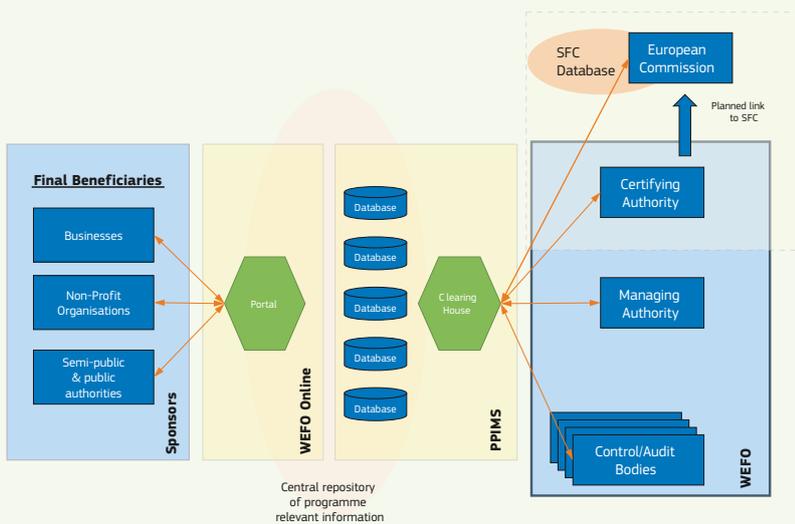
The ‘Clearing House’ concept was developed by the Welsh European Funding Office (WEFO) as an IT system for managing ESI Fund interventions and in particular for the exchange of data. It allows for storage and sharing of data, so that beneficiaries are asked to provide information only once, with the evident reduction of administrative burdens on them. The concept was recommended by the High Level Group of Independent Stakeholders (see [topic 1.2.2](#)) for reducing administrative burdens in Cohesion Policy.

WEFO manages four EU programmes with over EUR 300 million in EU grants each year. There are no other government authorities involved in the management and distribution of Structural Funds in Wales. Wales does not have any intermediate bodies, WEFO is both the managing authority and the certifying authority with internal safeguards to ensure separation of functions.

In 2005, the Welsh Assembly Government recognised that there was a need to improve WEFO’s administration and IT. Accordingly, a new business process has been implemented that offers a modern and interactive website to engage both staff and beneficiaries. For the beneficiaries, this implementation resulted in more transparency and faster pay-out. From a business perspective, WEFO wanted to attain greater effectiveness and efficiency, and improve the applicants’ and beneficiaries’ experience. The chosen solution contained three elements:

- The Programme and Project Information Management System (PPIMS) - an EC-compliant, browser-based application, supported by web-based technology and new business functions;
- A government gateway (WEFO Online) - a secure registration and authentication process providing a fully interactive beneficiary website;
- The implementation of a distributed solution to enable electronic capture and indexing of documents

This means that there is a real-time, online and paperless trail throughout the whole process which is client-driven and interactive, using relational databases. The PPIMS system entails all the features that are recommended in the Administrative Burden Reduction study on the ‘Clearing House’ concept.



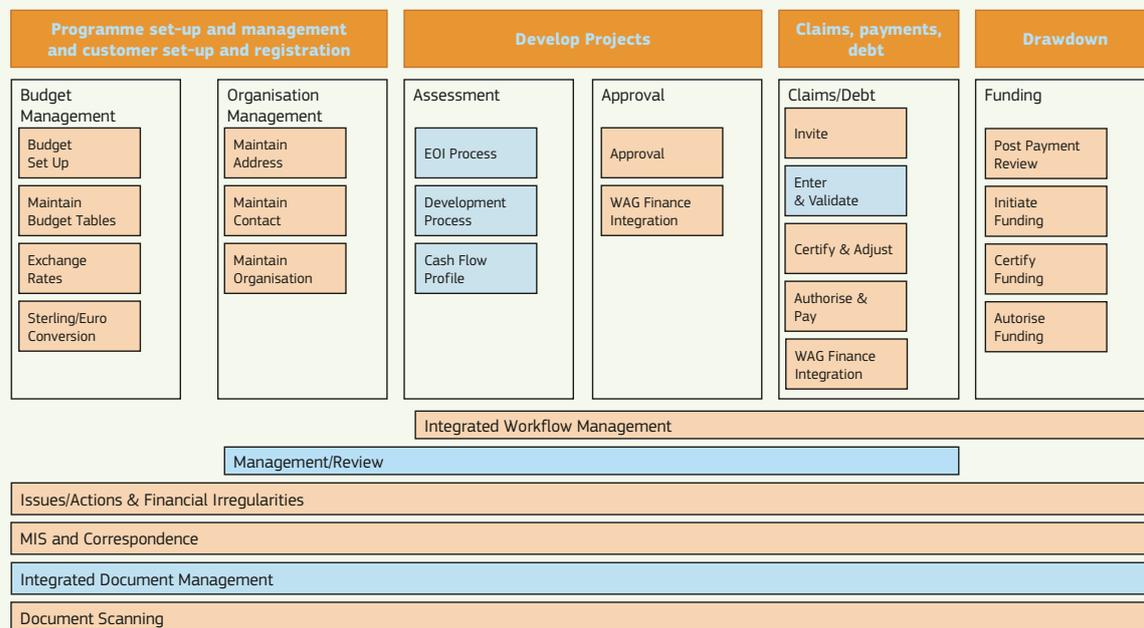
The system is accessible via internet and no extra software, aside from standard Microsoft Office tools and knowledge, is necessary to utilise the system. Once the user has accessed the system via a secure user-name, he or she can view the status of the project, complete interactive and/or prefilled forms, and submit or retrieve documents from WEFO. The beneficiaries are enabled to provide all data requested for compliance. This data is stored in a database system which all authorities and bodies can consult. Clear guidelines are available on the information requested and the level of detail that is

needed. On the WEFO portal, a list of invoices is asked from the sponsor and if the sponsor wants, he can upload a scanned version of the original invoices and proof of payment thereby allowing continued monitoring of the expenses by WEFO. There is a link provided within the system to the WEFO website, in order to address FAQs, online training and to access user guides.

Previously, all applications and claims were submitted on paper; now, electronic submission is mandatory. Prior to the current PPIMS system, WEFO had an internal IT system which recorded the details from the paper applications received. The system allowed staff to select from a scoring criteria and track the progress through until approval, finally generating an offer of grant letter. Following approval, the system would generate claim forms ‘pre-popu-

lated' with financial and beneficiary information including information on expenditure to date. These applications were sent via the postal system and tracked until their return. On receipt, the updated information was entered onto the system and an automatic calculation was performed. If a payment was deemed appropriate, the system would generate a payment letter and interface the payment details to the Welsh Assembly finance system for payment. The system was also supported by a comprehensive set of Management Information (MI) reports.

PPIMS is an integrated end-to-end system, as the following diagram illustrates.



For beneficiaries, this results in easier access and greater cost efficiency, as the administrative burden is reduced, claims are handled faster, leading to quicker payments, and there is a vast reduction in time spent on the application and follow-up. As the beneficiaries are able to check the progress of their application in real time, transparency is improved. By reducing errors and the ability to set a preferred language (English or Welsh), the clients' satisfaction is increased. Beneficiary benefits include:

- System available 22 hours per day (closed between 12am and 2am for backup);
- Input information once – use many times;
- Saving time due to a defined point of contact, improved information and better communications, including access to clear guidance and expert assistance to guide them through the process;
- System checks reduce keying errors;
- Far less re-work by beneficiaries (automatic validation) – in 2000–2006, approximately 30% of manual claims needed an element of re-work, this has been virtually eliminated;
- Reduced costs in printing, physical storage and postage >5%;
- Time and staff savings on routine repetitive work (i.e. preparing claims and submitting reports), reduces duplication and calls for extra information from the MA and AA estimated to save >10%;
- Real time information on status of the beneficiaries' project and records;
- Quicker turn-around of claims (96% within 15 days; KPI = 21 days 100% achieved);
- Greater certainty aids beneficiary cash flows – they know exactly what they will receive via a claim and also that they will be paid;
- Improved access to reports and information on the progress of the programmes.

The introduction of Clearing House has shifted the focus onto beneficiaries' preparing detailed business plans and cost benefit analyses, including detailed estimates of cash flows and delivery of outputs. This means more

effort at the appraisal stage has delivered more robust projects, and the beneficiaries projects are being better managed – problems spotted early and resolved saving them increased audit burden and financial penalties.

Management information was key to the design of the PPIMS system; Business Objects is used as the reporting tool to create a suite of reports. Drawdown information required for the Commission's SFC2007 is provided via reports and an electronic interface to the EC is being considered. The system also extracts information for reporting irregularities directly to OLAF's Irregularity Management System (IMS). Management Information collected from PPIMS is analysed, and sometimes put into statistical format to present information to stakeholders.

For the MA, CA and AA, Clearing House has resulted in better programme management. Improved MI had led to far better forecasting, automated reports, the ability to report data in new ways (geo-tagging/regional specific), improved compliance, reduced use of offline spreadsheets which improves the quality of data, better audit trails, and the ability to share information regarding projects. It has also lowered the administrative burden and cost on the authorities themselves. WEFO has reduced its payments team from 40 to 16 staff. The EC drawdown process is now more automated. It has reduced the number of legacy IT software systems and the hardware they operated on, and refocused staff from processing data to the scrutiny and review of projects.

Clearing House has also produced spin-off benefits for other parts of the public administration. While agriculture and rural development is managed separately, the IT system for parts of the agriculture programmes (payments to farmers) shares some of the infrastructure. Elements of PPIMS are re-used in other parts of the Welsh Assembly government. The service that provides secure system to system messaging (the Corporate Connector) was originally developed as part of the Structural Funds solution, but has now been made available as a service that can be used across the whole of the Welsh Government. The claims, document management, scanning and contact information was re-used in the development of the Child Trust Fund, a Welsh Government initiative to improve the prospects for children by providing a direct payment into the bank account of the parents.

Source: High Level Group of Independent Stakeholders on Administrative Burdens (HLGAB)

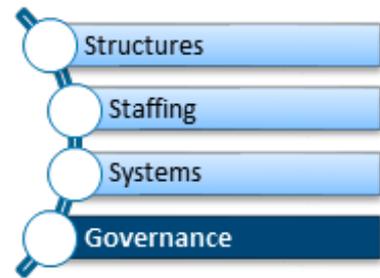
While ESIF regulations set out the specific requirements for Structural Funds and Cohesion Fund (including the role of the performance framework, monitoring committees, managing authorities, annual implementation reports and other elements), these arrangements should fall within the national system for monitoring and evaluating public policy performance, including governance (see [topic 1.3.1](#)), as an integral element. Like purely domestic programmes, the monitoring of ESIF can draw upon innovative techniques, such as Italy's OpenCoesione platform, which serves to increase participation and accountability, and engaging citizens in assessing performance through the 'monithon' (see [topic 2.2.1](#))

Evaluations can be instigated at every stage in a policy's life (see [topic 1.3.1](#)), and are mandatory for ESIF programmes.

Type	Brief description
Ex ante	These evaluations are performed during the preparation of the policy or programmes, and aim to improve their quality, by independently appraising the analysis (problems and potential for development), the goals to be achieved, the expected outcomes, the coherence and internal consistency of the proposed strategy, lessons from past experience, and the suitability of the planned implementation, monitoring, evaluation and management of resources. <i>Ex ante</i> evaluation is an interactive and iterative process, whereby recommendations regarding content are made by the external experts, and considered in re-designed policies and programmes, which are then subject to re-evaluation.
Interim	These evaluations are undertaken during the implementation of the programme, usually at the mid-point or other milestone stage, and can be linked to a decision on releasing or reducing funds. Interim evaluation addresses whether the programme: has achieved its objectives by the dates set out in the work plan; and is on track to achieve its objectives by the end of the programme, and is usually termed a 'formative' evaluation.
Ex post	These evaluations are scheduled to take place after the completion of the policy or programme with the aim of extracting learning points, and hence is sometimes referred to as a 'summative' evaluation. If the intervention was a pilot or prototype, the <i>ex post</i> evaluation can help to decide whether to 'mainstream' it, by rolling it out on a larger scale.

7.3.4. Governance

Like any other area of public administration, ESI Funds management should be subject to good governance, with managers held to account for programme performance: meeting programme objectives and achieving expected results; maximising synergies between national, ESI and other EU funds; working in partnership and engaging with civil society and other stakeholders; ensuring transparency and high ethical standards; preventing corruption, and avoiding undue political influence over staff appointments and project selection. Above all, Member States need to ensure coordination at the national and regional level to ensure consistency between funds and across programmes, in pursuit of Europe 2020 goals and European Semester country-specific recommendations, as well as to avoid both overlaps and gaps in expenditure. This is especially pertinent in view of the overall increase in the number of regional programmes in 2014-2020.



Financial support under ESI Funds can take the form of grants, prizes, repayable assistance and financial instruments. The choice of support depends on goals, rules and circumstances. To **maximise the leverage** from ESI Funds, Member States should seek out complementarities with other EU funds which share a common purpose. In doing so, Member States can refer to [guidance for policy-makers and implementing bodies](#) that the Commission has published in 2014 on synergies with Horizon 2020 and other research, innovation and competitiveness-related EU programmes, as well as a [checklist for accessing EU funds](#).

In some Member States, ESI funds management has evolved into a **parallel system**, often due to its origins in pre-accession funding (PHARE, ISPA, SAPARD, CARDS and/or IPA). These countries face the risk of inefficiencies (duplication of activities, loss of scale economies), but also that good practices in either national or ESI funds management are isolated from each other.

However, there is also scope for **transfer of good practices** between national spending and ESI Funds management systems - in both directions. The history of introducing EU funds management into new Member States has shown that, in some fields, national systems benefit from adjustments necessary to comply with EU regulations, such as introducing multi-annual budgetary planning and management (which may also be cross-sectorial and inter-institutional), internal audit, and specific controls against irregularities and fraud in financial management. As Member States, however, there is scope to take advantages of national innovations, such as e-Government and the 'once-only' principle (see [theme 4](#) on service delivery, and especially [topic 4.4](#) on e-Government).

The Commission will play a **facilitating role** for knowledge development and dissemination, as a conduit for sharing good practice, by modelling funds management (competency and organisation mapping) to help Member States drive up performance, and will launch an informal Exchange Platform for MAs and IBs, in coordination with other platforms, such as INTERACT and JASPERS.

7.4. Conclusions, key messages and inspiration for future action

Public administrations are custodians of public funds: the taxes, tariffs, fees, charges, duties and debt finance they are entrusted to manage on the citizens' behalf. Public expenditure, whether in-house on salaries, or outsourced for services, supplies and works, constitutes almost half the European economy and a key public policy instrument (see [theme 1](#)). This brings the importance of good governance and especially the **principles** of legality, integrity and value for money into sharp focus. Citizens can also be brought directly into the picture through participatory budgeting, so they feel the ownership, as well as the benefit, of spending decisions.

Public finance management is a **balancing act**. On the one hand, there is a tendency towards caution, to ensure the rules are followed and the right judgments are made. Checks are important for combatting corruption, including supervision, 'four eyes' before signing off decisions, and the intervention of internal audit, to ensure that risks are mitigated before they materialise. On the other, excessive and badly-administered controls can complicate budget execution, and delay the disbursement of funds with knock-on effects on beneficiaries. This can be especially devastating for SMEs, if it results in late payments (see [theme 5](#)). Managers should weigh up the pros and cons of interventions and aim to ensure appropriate controls without prolonging the process. IT can play a particularly valuable part in information systems, to track performance, spot the bottlenecks and speed up the process. It can also deliver the data that enables scrutiny, through transparency.

Efforts to promote ethical behaviour and remove the opportunity for corruption should focus especially on **procurement** using both national funds and ESIF, given the scale of spending and the frequency in which studies find irregularities in public purchasing, including bribery of officials by domestic firms in other countries (see also [theme 2](#)). Simplifying administration and moving towards full e-Procurement will help remove some discretion over decisions and hence the scope for misuse of monies.

Clearly, procurement can be a source of public funds diversion, but also a potential force for socio-economic development. **Innovation** is a key driver of national productivity, and hence any activity by administrations to stimulate creativity through purchasing power can have a multiplier effect on growth and jobs. Public authorities should explore the potential from PCP, PPI and innovation partnerships under the 2014 procurement directives. Member States face a timetable over the period to October 2018 to transpose in full and implement the various elements of the new directives, and make best use of the benefits therein.

ESIF may seem to be a special case, as they have their own regulations to govern their administration, but their management should be fully integrated into national systems. Above all, the ESIF principle of additionality demands that Structural and Cohesion Funds are not simply substitute for domestic spending, but add value instead. This objective can only be achieved if national and ESIF programmes are viewed as complementary, and the authorities see their ESI measures as offering the opportunity for enhancement or innovation. The fundamental goal of ESIF funds management – spend strategically – applies equally well to implementing the much larger budgets of central, regional and local governments, as the very specific context of TO11 (see '[some considerations on managing thematic objective 11](#)').

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Some Considerations on Managing Thematic Objective 11

The principles of good ESI Funds management, outlined in chapter 7, of course also apply to thematic objective 11 (TO11) on “*enhancing institutional capacity of public authorities and stakeholders and efficient public administration*”. At the same time, TO11 can be rather specific. The following tips for practitioners might be helpful for **delivering results** under TO11, and should be read in conjunction with the [Commission’s guidance fiche](#).⁽¹⁾

The problem with money

Money matters - always. Measures to support SMEs, train the unemployed, or build infrastructure can only be done with money. Equally, there is often a need for funding to improve the quality of administration – but this is less obvious. Better collaboration among institutional entities, optimisation of functions, and changing attitudes towards a stronger service ethos might require more of a change in thinking and culture, than (much) money. In fact, optimising public administration processes might actually save a lot of money. Think about all the ways and means you could improve as an individual, organisation or institutional system, if you didn’t have any EU funding. There would still be much that could be done and achieved.

The problem of thinking of EU funding, rather than the desired change, is the starting point: Don’t focus on who gets the money, but consider the strategic contribution of every project.

In practice, the supply of available funding, rather than a strong internal or external demand for change, often tends to drive the elaboration of reform strategies and programmes. This supply-driven approach tends to shift the emphasis onto **who** (*which institution?*) gets the money, and **how much** – and to blur the focus on **what** should be actually achieved. Equally, money tends to **drive activities** (*what are we going to buy?*), rather than motivating programme managers to focus on the **desired outcome**.

With a **supply-driven, activity-based approach**, there is the **danger of ‘back-to-front’** thinking, which goes like this: Start with the budget (*what can we spend it on?*). Decide on some activities (*are they eligible and do they use up the available budget?*). Choose some objectives that seem to justify the activities (*are they plausible?*). Construct your vision by merging the diverse objectives (*does it look convincing?*). Identify some indicators that appear to deliver this vision (*are these things we can measure and collect data on?*). The product is a long list of disconnected initiatives, without coherence, and likely to have limited impact.

Successful programmes tend to be those that start with a strong vision, and then work along the logic chain to consider options of creative and cost effective solutions to achieve this vision. Programmes that are mainly activity or resource driven tend to be less focused on the final outcome.

By contrast, a **demand-driven, strategic approach** has a different starting point: what needs to be done. It asks the following questions:

- What are the **societal outcomes** we want to achieve (e.g. more well-paid jobs, a more prosperous economy, higher living standards, better quality of life, less poverty, etc.)?

⁽¹⁾ Note: The fiche explains the distinction between the funding for administrative-capacity building under TO11 and funding for technical assistance in the management of ESIF, which is also the subject of a [TA guidance fiche](#).

- What **influence** do we have over these outcomes, both positive and negative? What behaviour and performance can we shape, and with which **levers & instruments** (e.g. information, regulation, services, infrastructure, subsidies, tariffs, co-responsibility, etc.)?
- Out of all the options on the table, after weighing them up for their pros and cons and making an **informed selection**, which instruments require additional spending and which require changes in practices or direction without extra cost? Furthermore, which changes will save resources, either immediately or after upfront investment?
- For the **selected instruments that require funding**, do they add up to the available programme budget (at measure level), or is there a shortfall in resources which must be found from elsewhere? Is there a budget surplus, and if so, could more be done with the selected options or would that represent poor value for money?

In the context of ESI Funds, the strategic logic has a further dimension: is the proposed spending under the ESI programme **additional** to what would be funded with national finances? Does it enhance or innovate (see [topic 7.3.3](#))?

Furthermore, the **ex ante conditionality** for TO11 requires that any operational programme which is all or partly concerned with TO11 is based on an underlying strategy for reform that has been developed and is in the process of implementation. The challenge is to fully align the programme with the strategy. In some country contexts, the OP is the only means of delivering the strategy. However, it might be that the strategy includes other measures (for example, non-monetary or political) that complement the programme.

Applying the demand-driven approach to the specific case of TO11, the options for funding instruments are actually quite limited compared with other ESI objectives, mainly falling into two categories:

- **Knowledge:** This basically means people: the use of experts/consultants the employment of (temporary) staff (if your system allows this) and/or training and other staff development activities. While purchasing additional people in form of contracted companies or temporary staff will likely be quite essential to design and deliver relevant change projects and/or training, you will still need to have the core capacity to provide the vision and leadership in order to deliver the systemic change you would like to achieve. (See also the section on ‘*working with consultants*’ under [topic 7.3](#)).
- **Equipment:** In most cases, this is likely related to ICT. You should resist the temptation to purchase systems, when they might be available for free in an open source environment (see for example: the interoperability tools freely available under open source on the Commission’s [Joinup](#)). Also, in order to avoid disappointment, it is important to first deal with organisational optimisation before installing an IT system, in order to enable the new or updated system to deliver the expected efficiency gains, instead of just digitising the bureaucracy (see [topic 4.4](#)). Applying again the “outcomes perspective”, this requires effective organisation and coordination of all concerned organisational entities, and a clear and strong coordination between thematic objective 2 (digital agenda) and TO11.

A helpful example from Poland, of how Member States can use ESF to introduce quality management systems into central and local government, is provided in [topic 3.4.2](#) The concluding ‘key messages’ section of each chapter suggests ways in which the policy guidance for each theme might be translated into TO11 interventions, as well as contributing to country-specific recommendations.

Managing the big picture

Putting TO11 programmes into practice successfully requires a number of ingredients to be in place, and actively managed throughout the programme period.

Focus on real results, not on pro forma changes. Reduce the implementation gap.

First, it is important to have a **vision** for public administration reform, articulated in your strategy, but the vision will only come to fruition if it is accompanied by leadership. In cases where there is a lack of genuine commitment to reforms proposed in the operational programme, there is again a risk of an activity-based approach. This means actions are organised, money is disbursed, but in the end, there is little tangible change to be observed in the performance of services. For change to happen, the drive from the top should be instilled throughout the administration, so that the **culture changes** as well as the systems and practices. For example, simply implementing a ‘quality system’, might not actually lead to improved quality of services as observed by citizens and businesses, if there is no shared underlying commitment to better services, and if civil servants don’t feel empowered to design and deliver services in close collaboration with users. There need to be clear intrinsic and extrinsic drivers to make change happen (see also [theme 3](#) on organisational development).

Second, reforms should not be piecemeal and disconnected. The sum should be bigger than the individual parts – how do you ensure **coherence**, so all the pieces (of individual measures) fit together to achieve the desired results? Day-to-day implementation is important, but it is critical to keep your sights high and the focus on the “big picture” (societal outcomes), and not get bogged down in the minutiae or small details of programme procedures. Successful programmes are always driven by strategic thinking.

Third, it is essential to **take people with you**. This means more than token consultation during programme or project preparation, but genuinely engaging on an ongoing basis and where appropriate. A regular strategic dialogue – and consensus – on the direction of the programme is required to include key stakeholders on the political level, the administrative leadership and relevant interest groups (trade unions, business and civil society organisations).

Finally, mind the gap! Ultimately, strategies and programmes mean nothing without implementation. Set a benchmark by openly communicating on expected results – by communicating what you want to achieve in an open and transparent manner, you can build up expectations and therefore pressure to push performance. Report to a wider interest group what you have done, what you have achieved, and the problems you are facing. Through this open form of reporting, and by ensuring that your actions are linked to your reform strategy, you will also contribute to reducing the **implementation gap** (the dilemma that strategies are often only partially implemented).

Strategic projects or call for proposals?

Most of the EU’s Structural and Investment Funds are disbursed via grants, based on calls for proposals. Other than building local communities, or supporting unemployed, a country’s public administration is an overall system, where most of its parts are interlinked. Administrations still tend towards operating ‘in silos’ from an individual organisational perspective (e.g. a ministry, an agency, a municipality), whereas citizens and businesses just expect to receive a service, irrespective of the organisational origin. The focus thus needs to shift to user-centricity. This is the basis for delivering more efficient and effective services – that are also ultimately more **sustainable**, as they get the customer’s appreciation and ‘vote’.

This also means that many services would be designed on the basis of inter-departmental and inter-organisational arrangements. Accordingly, the logic of providing funding to an individual organisation might not be appropriate any longer. Unfortunately, many programme managers tend to still think in terms of allocating funds to organisations. This might be useful to distributing and disbursing funds, but in a **service oriented and networked** world, this will increasingly not deliver the results we expect.

Strategic projects are likely to be more important to achieve systemic changes.

For example, if a country would like to develop an e-Justice system, it is unlikely that this will be achieved through a call for proposals, which allows local courts to buy IT equipment. Rather, this requires a strategic project to develop an integrated system, to which all courts get connected. A local grant element might still be relevant, but only according to common specifications that allow all courts to connect to the overall system.

What shall we do first? – prioritising and sequencing

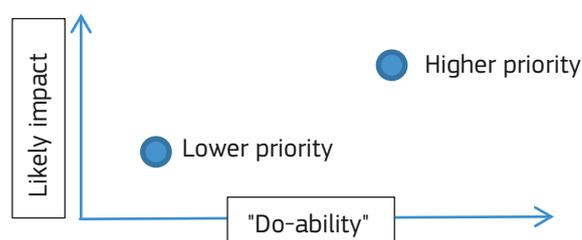
Many Member States with operational programmes related to TO11 have so many needs and envisaged types of activity that it is difficult to decide what to tackle first. At the same time, if there is no clear prioritisation and the managing authority tries to launch everything in parallel, the overload can lead to paralysis and hence slow or no implementation. So, deciding what should be done and in what order is essential.

Equally, however, it is easy to fall into the trap of going after the ‘low hanging fruit’ first, the outputs that are easiest to reach, because they are familiar and quick to organise, but will have minimal consequences for the ‘bigger picture’.

There are two techniques that can be useful here.

The first is to **rank measures** (and individual actions within them, if appropriate) according to both ‘do-ability’ - how easily can they be commenced and delivered - and their expected impact, and combine the two rankings. The matrix below plots the likely impact of a measure against the expected ease of achieving results. Measures or actions that are considered to deliver the highest impact and are also possible to achieve in the given context of the country should be prioritised and ranked accordingly.

The second consideration is **path dependency**: are some measures or actions conditional on others being in place first, or at least progressing in advance of them? In which case, the ranking of do-ability and impact is still valid, but the order in which measures are initiated might need to be adjusted. This is where the public administration reform strategy comes in, as this sequencing should be performed from a strategic perspective.



Taking the hypothetical example of anti-corruption initiatives: implementing an ethics training programme may be the easiest of the actions to perform, but in isolation – without other steps taken first or together – *might* achieve less impact than intended or desired. By contrast, if the staff workshops are timed and coordinated with other actions on standard-setting, risk assessment, prevention and detection, the audience for the training might be better primed for the messages being delivered and the benefits much greater.

Monitoring and evaluating reforms

As part of programming ESIF 2014-2020, your operational programme will include **results indicators**. These indicators are designed to capture the contribution of EU funding to the overall change achieved on a personal or systemic level. In order to be able to establish a clear link to funding, these indicators mainly focus on the “output level” (observable change in the supported entity).

However, we are especially interested in results that deliver actual impact that will be felt by citizens and business (in terms of better services, and so on). The expected impact should be captured by indicators in the corresponding public administration reform strategy (part of the ex ante conditionality for TO11). The challenge thus is to effectively link the ESIF monitoring system to the strategy. One especially important aspect is to capture the consistency of monitoring and evaluation of the OP on the one hand and the strategy delivery on the other. As indicators of ESIF operational programme mainly concern outputs and results that can be directly traced back to the funding, it is important that the strategy is clear and strong on results in terms of the actual outcomes and impacts to be achieved (evaluations will be able to trace thus the contribution/attribution of the ESIF funding to the achievement of the strategy results).

In the context of the above, it is thus not very useful to have separate monitoring & evaluation systems for the strategy (an ex ante conditionality requirement) and for the ESIF OP, but to achieve effective alignment (see also [topic 1.3](#) on monitoring and evaluation).

Continuous learning and knowledge development

The need for continuous learning and knowledge development might be an obvious point, but this tends to be problematic in practice. Experience shows that administrations are often plagued by high staff turnover, little institutional memory, and inadequate systems to capture experience.

ESIF and the international community have several networks that facilitate learning and exchange of know how. But the results focus of many networks tends to be underdeveloped. Rather than just exchanging views, networks should take on a perspective of mutually supportive change, for example, the network members could agree ways and means how they would apply what they have learned in the context of their administration, and then report back to the network on progress. Thus, networking, which develops and implements a series of mini-projects that are peer reviewed by the network and results discussed, is likely to add most value.

Many Member States, which will have OPs on TO11 for the 2014-2020 period, in fact already received ESF funding for administrative reform in 2007-13. However, while there is little evidence of the success of these programmes, there seems to be little attention on learning lessons of what went wrong and how things could be improved in the new period. While many programming and implementation teams think that it will be all new and different this time, it is likely that the dynamics of the new programmes remain stable. It is therefore necessary to develop strong knowledge management systems and to develop a culture of learning from mistakes. Programme managers need to constantly ask (and answer to) themselves and their team: **What will be better this time, and why?** A good monitoring and evaluation system will surely help with this, but a good IT based knowledge platform that captures also qualitative aspects (lessons learnt, success stories) will help in this regard.

Key acronyms

AA	Audit authority
ABR	Administrative burden reduction
ACA	Anti-corruption agency
ADR	Alternative dispute resolution
BCP	Border crossing point
CA	Certifying authority
CAF	Common Assessment Framework
CARDS	Community Assistance for Reconstruction, Development and Stabilisation
CBA	Cost-benefit analysis
CEPEJ	The European Commission for the Efficiency of Justice
CIP	Competitiveness and Innovation Framework Programme
COM	European Commission
COP RBM	Community of Practice on Results Based Management
CSO	Civil society organisation
CSR	Country-specific recommendation
CSS	Customer satisfaction survey
CV	Curriculum vitae
DG AGRI	Directorate-General for Agriculture and Rural Development
DG CNECT	Directorate-General for Communications Networks, Content and Technology
DG DIGIT	Directorate-General for Informatics
DG ECFIN	Directorate-General for Economic and Financial Affairs
DG EMPL	Directorate-General for Employment, Social Affairs and Inclusion
DG GROW	Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs
DG HOME	Directorate-General for Migration and Home Affairs
DG MARE	Directorate-General for Maritime Affairs and Fisheries
DG REGIO	Directorate-General for Regional and Urban Policy
DG RTD	Directorate-General for Research and Innovation
DG TAXUD	Directorate-General for Taxation and Customs Union
EBRD	European Bank for Reconstruction and Development
ECA	European Court of Auditors
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
ECJ	European Court of Justice
EFQM	European Foundation for Quality Management
EIPA	European Institute of Public Administration
EIU	Economist Intelligence Unit
EJTN	European Judicial Training Network
EPSA	European Public Sector Award
EPSO	European Personnel Selection Office
ERDF	European Regional Development Fund
ESF	European Social Fund
ESIF	European Structural and Investment Funds

ESPD	European Single Procurement Document
e-TEG	e-Tendering Expert Group
EU	European Union
EUPAN	European Public Administration Network
FAQ	Frequently asked question
G2B	Government-to-Business
GDP	Gross Domestic Product
HLGAB	High Level Group of Independent Stakeholders on Administrative Burdens
HR	Human resources
HRD	Human resources development
HRM	Human resources management
IA	Impact assessment
IB	Intermediate body
ICT	Information and communication technologies
ID	Identity
IFI	International financial institution
IMF	International Monetary Fund
INTOSAI	International Organisation of Supreme Audit Institutions
IPA	Instrument for Pre-accession Assistance
ISO	International Organisation for Standardisation
ISPA	Instrument for Structural Policies for Pre-Accession
IT	Information technology
JASPERS	Joint Assistance to Support Projects in European Regions
KPIs	Key performance indicators
KW	Kilowatt
MA	Managing authority
MEAT	Most Economically Advantageous Tender
NGO	Non-Governmental Organisation
OECD	Organisation for Economic Co-operation and Development
OLAF	European Anti-Fraud Office
OP	Operational programme
OPSI	Observatory of Public Sector Innovation
OSS	One-stop shop
PBB	Performance-based budgeting
PCP	Pre-Commercial Procurement
PEFA	Public Expenditure and Financial Accountability
PFM	Public financial management
PHARE	Poland and Hungary: Assistance for Restructuring their Economies
PPI	Public Procurement of Innovative solutions
PSI	Public sector information
QMS	Quality management system
R&D	Research and development
REFIT	Regulatory Fitness and Performance Programme
SAI	Supreme audit institution

SAPARD	Special Accession Programme for Agriculture and Rural Development
SBA	Small Business Act
SCM	Standard Cost Model
SCS	Senior Civil Service
SGP	Stability and Growth Pact
SME	Small and medium-sized enterprise
SSO	Single sign-on
TI	Transparency International
TNA	Training needs analysis
TO	Thematic objective
TQM	Total quality management
UN	United Nations
UNCAC	United Nations Convention against Corruption
UNDP	United Nations Development Programme
US	United States
VAT	Value added tax

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