

Chapter 4

Transparency, consultation and communication in Lithuania

This chapter examines how Lithuania secures transparency in the regulatory environment, both through public consultation in the process of rule making and public communication on regulatory requirements.

Public consultation on regulations

Formal requirements

The 2012 Law on the Basics of Legislation sets general requirements for transparency of the legal framework and for public consultation in the law-making process. Openness and transparency is one of the legislative principles set out by the Law on the Basics of Legislation, whose Article 3 specifies the need for legislation to be public, for the public to be informed about the preparation of new or amended texts, including regulatory impact assessment, and to be given the possibility to provide comments.

Article 7 of the law spells out three main principles for public consultation, which are: appropriate timing, proportionality, and efficiency. The law also requires that information about the results be provided to parliament, or to government in case of a government resolution. The body which initiates the draft law has the right to decide whether the consultation is necessary in view of the scope of the project. It also has the right to decide on the extent of consultation, under the general requirement of efficiency. This means that consultation should focus on substantive issues. In case of labour-related legislation, the Tripartite Council, which gathers trade unions, business representatives, the executive and the parliament, must be consulted.

The law does not provide detailed requirements on the consultation process and leaves it to the initiating body to define how consultation should be conducted. There is no standard process for consultation, with respect to planning, choice of methodology, analysis and evaluation. The only specific requirement is that the results of consultation should be attached to the draft text when it is sent to Parliament in case of a law and government in case of a government resolution. Each ministry or other initiating body defines the process under its own standards.

There are no formal or informal central guidelines on consultation. The government has not published any document spelling out the process, its duration and the methodology on how to engage with stakeholders. It has not either set control or quality check on consultation procedures. The methodology on impact assessment states that public consultation can be conducted at different stages of the assessment, when defining the problem, formulating the objectives, defining alternatives to regulation. However it does not provide specific requirements or methodology. OECD countries like the United Kingdom have developed consultation guidelines that provide guidance and support to departments in undertaking consultations (Box 4.1).

Box 4.1. Consultation guidelines: the case of the United Kingdom

Increasing the level of transparency and increasing engagement with interested parties improves the quality of policy making by bringing to bear expertise and alternative perspectives, and identifying unintended effects and practical problems.

Prior to replacing it with the much shorter “Consultation Principles” in 2012 (updated in 2013), the United Kingdom had a detailed “Code of Practice on Consultation”, which aimed to “help improve the transparency, responsiveness and accessibility of consultations, and help in reducing the burden of engaging in government policy development.”

Box 4.1. Consultation guidelines: the case of the United Kingdom (cont.)

Although not legally binding and only applying to formal, written consultations, the Code of Practice constitutes a good example of how a government can provide its civil servants with a powerful tool to improve the consultation process. The 2012-13 Consultation Principles highlighted the need to pay specific attention to proportionality (adjusting the type and scale of consultation to the potential impacts of the proposals or decision being taken) and to achieve real engagement rather than merely following a bureaucratic process.

The 16-page Code of Practice issued in 2008 was divided into seven criteria, which were to be reproduced as shown below in every consultation.

- *Criterion 1: When to consult.* Formal consultation should take place at a stage when there is scope to influence the policy outcome.
- *Criterion 2: Duration of consultation exercises.* Consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible.
- *Criterion 3: Clarity of scope and impact.* Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals.
- *Criterion 4: Accessibility of consultation exercises.* Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach.
- *Criterion 5: The burden of consultation.* Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained.
- *Criterion 6: Responsiveness of consultation exercises.* Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.
- *Criterion 7: Capacity to consult.* Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.

An example of a UK government response to consultation can be found at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/181637/dla-reform-response.pdf.

Source: www.bis.gov.uk/files/file47158.pdf for the 2008 Code of Practice on Consultation and www.gov.uk/government/uploads/system/uploads/attachment_data/file/255180/Consultation-Principles-Oct-2013.pdf for the updated Consultation Principles, which replaced the 2008 Code of Practice.

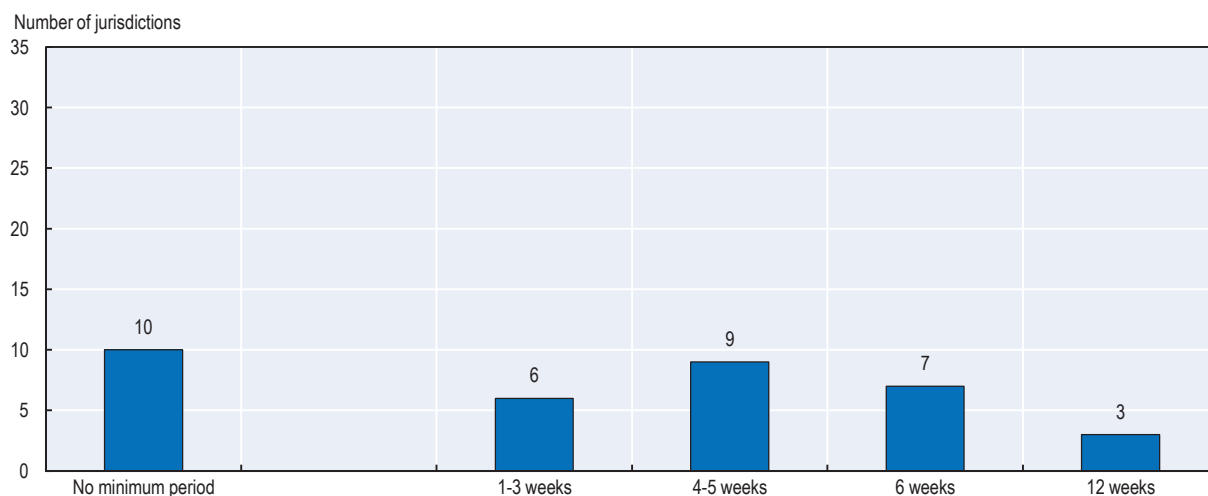
Implementation

As the consultation process is not formalised, each line ministry has developed its own practices. Ministries have a network of stakeholders to whom they send draft laws at the same time when the draft is sent out for inter-ministerial consultation. In some cases, ministries set up advisory councils to consult stakeholders. For example the Small and Medium Business Council is regularly consulted by the Ministry of Economy and other ministries, such as the Ministry of Social Security and Labour. Another example is the area of administrative simplification, where the government has established a so-called

Sunrise commission for consultation with stakeholders. Initially set up in 2009, this commission was transformed into the “Better Regulation Supervisory Commission” in 2014. It is composed of representatives of business associations, think-tanks, the Association of Lithuanian Municipalities, and government officials. It is charged with submitting proposals on administrative burden reduction for businesses (see Chapter 6 on the management and rationalisation of existing regulation).

Active participation in regulatory policy demands a significant amount of time. Not everyone has or is willing to invest the time in these processes. This may present a problem when trying to attract those who are not used to actively participate in public decision-making. At least, governments should allow sufficient time for those consulted to submit their comments. Some OECD governments have set up a minimum consultation period. In 16 countries this period ranges between 4 and 6 weeks (Figure 4.1).

Figure 4.1. **Minimum periods for consultations with the public**



Note: Based on data from 34 OECD countries and the European Commission.

Source: OECD (2015), *Regulatory Policy Outlook*, forthcoming.

In Lithuania, when sending the text for comment to stakeholders, ministries are required to give a standard time of 10 working days for feedback. It is extended to 15 working days for draft laws that are over 10 pages, and it is reduced to 5 working days in the case of emergency legislation. In some cases consultation with stakeholders takes place at an earlier stage of the draft development. As required by law, feedback received by ministries is attached to draft laws. Comments by other ministries that are not taken into account by the drafting authority are presented as a table in the explanatory note of the draft, with the reason for their rejection. There is also a possibility of general consultation when the draft law is published on the central register and made open to comments.

In addition to consultation on specific draft laws, the government has organised public consultations on policy issues since 2010. For example the Government Office organised six public consultations:

- “How would you propose to curb smuggling and trafficking of illegal goods?”

- “What means could be implemented to reduce unemployment and create new jobs?”
- Public consultation on the Lithuanian progress Strategy “Lithuanian 2030”
- “What additional means would you propose on how to reduce youth unemployment?”
- “In which areas, in your opinion, corruption is the most widespread? Your proposals on how to eradicate the reasons for corruption.”
- “Suggestions on the National Action Plan of the Open Government Partnership”.

Public communication on regulations

All legal acts and draft legal acts are published in the Legal Act Register, which is an electronic register, held and managed by the Office of the *Seimas*. Publication in the Legal Act Register is set by the above-mentioned Article 3 of the Law on the Basics of Legislation, which states that law-making must be public. On 1 January 2014, the Legal Act Register entirely replaced the printed Official Gazette, which used to be published twice a week by the Publishing House of the *Seimas*. The Legal Act Register is accessible to all for free through its dedicated site (www.e-tar.lt) and through the portal of *Seimas* (www.lrs.lt). The Register gives access to the consolidated version of legal texts.

The publication of an act in the Legal Act Register is considered as an official publication. Normative legal acts come into force the day after publication, unless another date is stated in the act. The requirement for publication in the Legal Act Register extends to all kind of legal texts: the constitution and constitution laws, laws, presidential decrees and ordinances, government decisions and resolutions, international treaties, regulatory legal acts of ministers and heads of government agencies, other public institutions and agencies, statute and resolutions of the *Seimas*, rules of the constitutional court and municipal normative acts.

The Legal Act Register provides for a unified and easy access to legal texts, including in their consolidated version. However it in no way gives businesses or others time to understand the new law and make appropriate changes to be ready for the date it comes into force. An area for improvement is to include a notification system to be updated on selected topics and the publication of new laws sufficiently in advance before the entry into force to allow businesses and citizens to understand and prepare for the entry into force of new requirements. The review found that ministries seem unequally proactive in communicating and informing stakeholders on upcoming initiatives and legislation. In addition to the publication on the Legal Act Register, ministries and other public institutions usually publish information on main amendments on their official website, and provide newsfeed subscriptions. Some ministries also make an extended use of other media sources, including Facebook, web portals, radio, television and newspapers. OECD countries have developed interactive dedicated portals to facilitate transparency and access to information (Box 4.2).

Box 4.2. Consultation portal: The case of Denmark's *Høringsportalen*

In 2005, the Danish administration set up a dedicated portal to ensure greater transparency in the consultation process when preparing new regulations. The Consultation Portal (*Høringsportalen*) is hosted on the citizens' portal "borger.dk", which has a specific page on law making (www.borger.dk/forside/lovgivning/hoeringsportalen).

The Consultation Portal collects consultation documents, dating back to mid-2005, relating to the preparation of regulation by all ministries and agencies. Publication is mandatory for all draft bills and executive orders. Other documents are also published for consultation. They include policy or strategy papers, European Commission's draft regulations, draft technical standards, and guidelines.

Documentation includes the draft, the call for consultation (which specifies the deadline) and the list of institutions and people, which have been called for hearing. Once the consultation period is over, the government also publishes the written comments, which have been received. Comments to draft law must be published no later than when the bill is forwarded to the parliament.

Draft regulations can be searched by category of document, date, authority, as well as key words. The portal also includes the possibility to receive regular updates, electronic notices and a newsletter on consultation.

Denmark's Consultation Portal can now be found at <https://hoeringsportalen.dk>

Source: OECD (2010a), *Better Regulation in Europe: Denmark 2010*, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264084551-en>.

Bibliography

- OECD (2015), *Regulatory Policy Outlook*, forthcoming.
- OECD (2012), “Recommendation of the Council on Regulatory Policy and Governance”, www.oecd.org/gov/regulatory-policy/2012recommendation.htm.
- OECD (2010a), *Better Regulation in Europe: Denmark 2010*, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264084551-en>.
- OECD (2010b), *Better Regulation in Europe: United Kingdom 2010*, OECD Publishing, Paris. <http://dx.doi.org/10.1787/9789264084490-en>.
- UK Department for Work and Pensions (2011), “Government’s response to the consultation on Disability Living Allowance reform”, Presented to Parliament by the Secretary of State for Work and Pensions by Command of Her Majesty, April 2011, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/181637/dla-reform-response.pdf.
- UK Government (2008), “Code of Practice on Consultation”, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/100807/file47158.pdf.



From:
Regulatory Policy in Lithuania
Focusing on the Delivery Side

Access the complete publication at:
<https://doi.org/10.1787/9789264239340-en>

Please cite this chapter as:

OECD (2015), "Transparency, consultation and communication in Lithuania", in *Regulatory Policy in Lithuania: Focusing on the Delivery Side*, OECD Publishing, Paris.

DOI: <https://doi.org/10.1787/9789264239340-9-en>

This work is published under the responsibility of the Secretary-General of the OECD. The opinions expressed and arguments employed herein do not necessarily reflect the official views of OECD member countries.

This document and any map included herein are without prejudice to the status of or sovereignty over any territory, to the delimitation of international frontiers and boundaries and to the name of any territory, city or area.

You can copy, download or print OECD content for your own use, and you can include excerpts from OECD publications, databases and multimedia products in your own documents, presentations, blogs, websites and teaching materials, provided that suitable acknowledgment of OECD as source and copyright owner is given. All requests for public or commercial use and translation rights should be submitted to rights@oecd.org. Requests for permission to photocopy portions of this material for public or commercial use shall be addressed directly to the Copyright Clearance Center (CCC) at info@copyright.com or the Centre français d'exploitation du droit de copie (CFC) at contact@cfcopies.com.