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This report corresponds to the deliverable “Report 1.2.2. on the proposed new legal and institutional RIA system for Romania; capacity building needs; guidance on financial, budget, and economic analysis for RIA and necessary draft templates; as well a recommendations for improvement” in the Advisory Services Agreement on “Providing Support to Strengthening the Regulatory Impact Assessment Framework in Romania”.

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EXECUTIVE SUMMARY

I. **The use of tools for better regulation, such as Regulatory Impact Assessment (RIA), has been on the political agenda of the Government of Romania (GoR) for several years.** The legal basis for the use of impact assessment as an integral part of the policy making process was established through the Government Decision No. 755 of 2005 (which sets the regulatory framework for the elaboration, monitoring, and evaluation of public policies at the central government level), Government Decision No. 1361 of 2006 (establishing the regulations for the presentation and justification of public policy documents presented to the government for approval)¹, and Law 24/2000 (enacting the regulations for the elaboration of normative acts)².

II. **However, the use of RIA has never become fully integrated in the decision-making process due to insufficient technical capacities at the institutional level, lack of adequate data, and limited political leverage within the central government.** RIA is not yet used on a consistent basis as an instrument for improving the quality of regulations in Romania. Since 2006, only a limited number of draft regulations have been accompanied by a sound analysis that could help support the logic behind the intervention, even if substantiation notes are required. This situation stems from a number of factors. First, institutions responsible for preparing and reviewing regulations lack the technical capacities needed to undertake sound evidence-based analysis. In cases where technical skills do exist, the high turnover rate within the Romanian administration jeopardizes their sustainability. In addition, political decisions often override technical decisions, which limit the scope of such tools. Second, the inputs required to conduct evidence-based analysis are weak. Lack of data and information generally results in a shortage of inputs for regulatory decisions. Consultation mechanisms, which could help mitigate the scarcity of information, tend to be also fragile. Finally, the center of government does not have sufficient capacity to ensure that draft regulations meet their intended objectives, as it lacks the political leverage to question the need, relevance, and effectiveness of draft regulations.

III. **As a result, Romania suffers from regulatory inflation and in many cases regulations have negative effects on businesses and the society in general.** In previous years there has been a rapid increase in the production of regulatory instruments, in particular as a result of emergency ordinances, a common procedure used by Ministries through which, in certain defined circumstances, the ordinances override the parliamentary process and enact measures that are not subject to the full legislative process. Sample data showed that emergency ordinances were used 228 and 111 times in 2008 and 2009 respectively. In 2009, the Government accounted almost 210,000 normative acts adopted in the country: 205,650 were adopted by local administrations and 4,201 by the central administration. More recently, 7208 legislative acts were adopted in 2010, 6727 in 2011, 6470 in 2012, and 6212 in 2013 (at the level fo the central administration). Based on discussions with the government³ in the last

¹ According to the findings of the project on “Evaluation of the public policy process at the level of central public administration”, co-financed through the Social European Fund, “The *Government Decision 775/2005* did not differentiate between different levels or types of public policy proposals or indicate the respective depth of research required for issues of varying complexity. However, *Government Decision 1361/2006* introduced a second type of policy document, the substantiation note. The primary distinctions between the two documents involved length (the substantiation note was much shorter) and sequence (public policy proposals preceded draft normative acts whereas substantiation notes accompanied them). In practice, substantiation notes replaced public policy proposals as the primary vehicle for presenting the policy implications of draft normative acts.”

² Republished in 2010

³ Specifically with the Department for the Coordination of Policies and Programs (DCPP).

few years around 2,000 regulatory instruments were adopted each year.⁴ This situation affects all policy fields, but has a particularly negative impact on the competitiveness of the Romanian private sector, as regulations tend to impose unnecessary burdens on businesses and, when not properly designed and implemented, they can increase opacity, unpredictability, and legal insecurity.

IV. Against this backdrop, the current project “Strengthening the Regulatory Impact Assessment Framework in Romania” seeks to support the GoR to streamline the institutional and legal system in Romania by revising the RIA system within the country’s administration, creating technical capacity, and raising awareness at the political level regarding the relevance of RIA for evidence-based decision making. This initiative will also support the government in its efforts to align its regulatory interventions to key principles, practices and instruments of the Smart Regulation Agenda of the European Union.

V. The project is structured around three main components. All the activities are tightly linked and are carried out in parallel in a strongly coordinated manner, to help reinforce the goals of creating technical capacity, streamlining the RIA system, and raising awareness at the political level regarding the relevance of RIA.

“Strengthening the Regulatory Impact Assessment Framework in Romania”: project structure

Component 1 (“*Improvement of the Impact Assessment System in Romania*”) aims to review the existing set of legal documents on the RIA system and streamline them, and to support the necessary institutional changes and legal amendments. The revised RIA system will be subsequently tested through selected pilot projects (see Component 3).

Component 2 (“*Capacity Building and Raising Political Awareness*”) aims to develop a RIA technical assistance program devoted to different target groups, such as technical and legal staff responsible for drafting regulations, the central government, as well as policy makers and stakeholders, in order to create capacities to use this tool and to create demand for the use of RIA. The activities planned under this component will also seek to raise political awareness regarding the benefits of using evidence-based assessments for regulatory decisions. Moreover, these activities will support the development of pilot projects by enhancing specific technical expertise in key selected ministries (see Component 3).

Component 3 (“*Pilot Projects*”) aims to develop pilot projects within the Ministry of Labor, Family, Social Protection and the Elderly, the Ministry of Regional Development and Public Administration, and the Ministry of Agriculture and Rural Development in order to support the creation of technical capacities, test the new RIA system, and learn from practical experience. The list of all planned deliverables is presented in Annex I.1.

VI. The current report consolidates the first three deliverables under this project. The main objectives are threefold: i) to identify the challenges in the organization and performance of the existing RIA framework; ii) assess the development gaps in the skills set required to perform RIA tasks; and iii) to outline a set of reform priorities and recommendations. The current report draws on the following deliverables: "Report on the Current Gaps of the RIA System" (deliverable 1.1.1) "Report on Recommendations for a New Institutional and Legal System for RIA" (deliverable 1.2.1), and "Report on Capacity Building Needs" (deliverable 2.1.1).⁵ This consolidated report aims to provide

⁴ World Bank (2011), *Review of the Ministry, Energy Sector and Business Environment*, Washington

⁵ This report corresponds to deliverable 1.2.2, which results from the consolidation of deliverables 1.1.1, 1.2.1 and 2.1.1.

recommendations in order to address the challenges identified in the existing RIA framework and to help close the skill gaps required to perform RIA tasks.

VII. The report (Chapter II) begins with a diagnosis exercise in relation to the organization and performance of the current framework for RIA within the Romanian administration. The evaluation had three main objectives. First, to provide a brief overview of the design and functioning of the current RIA system. Second, to review the main legal base underpinning the system. Third, to identify the main weaknesses and areas for improvement, notably with regard to legal, organizational, procedural, and capacity-related considerations.

VIII. Evidence suggested that although RIA has been promoted in Romania, it has not yet become a tool to support evidence-based regulatory drafting. Nevertheless, fundamental positive features of an evidence-based approach to decision-making are present and should not be overlooked. Among them are the basic understanding of the importance of evidence-based decision-making; the existence of a network unit for potential coordination and guidance at ministerial level; elements of formalized inter-ministerial coordination; and the attempt to systematize the flow of Government (regulatory) decisions through the introduction in 2014 of the Government Annual Work Plan ⁶.

IX. A number of shortcomings were also identified by the analysis. These encompass both structural and analytical challenges. Structural challenges are related to the organization of the SN process, while analytical challenges pertain to the way analyses are carried out.

X. In terms of structural challenges, these include the lack of systematization, the personalization of decisions, and insufficient traction within the regulatory process as the general negative features of the organization and functioning of the SN system in Romania. Specific challenges include:

- *Regulatory bias:* Both the political elite and the public administration are embedded in a normative interventionist culture;
- *Legal base:* The existing legal base concerning evidence-based justification of Government decisions in general, and the SN system in particular, lends itself to ambiguity or possible contradiction;
- *Scope of application and planning:* The current SN system does not seem to be sufficiently supported by a systematic, consistent and strategic approach to planning the initiatives; and the scope of application is indiscriminately broad;
- *Internal coordination:* While the general principle of inter-ministerial consultation is established, not all ministries and State bodies are equally rigorous in systematically sharing information and data; pooling expertise and knowledge; and circulating draft analyses;
- *Steering, oversight and synthesis function:* These tasks do not enjoy explicit legal recognition and have suffered from disrupting institutional and political turbulence both centrally and in the line ministries;
- *Transparency and consultation:* The SNs are not used by the Government as a means to make the interface with the public more porous and interactive; and

⁶ Plan Anual de Lucru al Guvernului (PALG).

- *Reporting and institutional learning*: Also because of the lack in demand for RIA, the system has not been designed to self-diagnose gaps and, on the other hand, build on recognized good practices.

XI. In terms of analytical challenges, these pertain to: the lack of skilled human resources across the administration; the incapacity to establish factual causal relationships, objectives, and potential policy options; difficulties in data collection and validation; the lack of a multi-sectoral perspective, and the inadequate definition of action plans. Specific challenges include:

- A general lack of skilled human resources across the administration that can deploy the know-how and skills necessary to apply the minimum RIA analytical steps and implement the related methodologies;
- A wide-spread incapacity to establish factual causal relationships between clearly established and prioritized causes, the set objectives and targets, and the possible policy options;
- The (objective) difficulty to collect and the incapacity to validate relevant data in support of the analyses leads to deficiencies in identifying and characterizing the problem and in presenting qualitatively sound and quantified estimates of the likely impacts;
- The generally limited awareness among the drafters of SNs of the need to “think-outside-the-box” and to embrace a multi-sectoral perspective;
- The problematic definition of measures (action plans) designed to frame the implementation of the regulatory proposal, and the inadequate identification of performance indicators allowing the measurement of future implementation results.

XII. Following up on the diagnosis of the weaknesses and gaps of the current system for RIA within the GoR, a set of recommendations on how to streamline and improve the RIA framework are provided (in Chapter III).

XIII. In this regard, while the report outlines a number of innovative elements that are expected to enhance the overall performance of the system in the future, the recommendations build and aim to capitalize on the existing organization and procedural framework. The recommendations build upon two main assumptions. The first one is that RIA is a multi-faceted process. The notion of RIA should be understood more widely as an integral part of the regulatory reform program, embracing an institutional, organizational and procedural dimension. The second assumption is that radical interventions are not necessarily a panacea when it comes to regulatory and administrative reform. In this regard, in the framework of this project especially, there is clear merit in considering a longer term perspective that also builds on existing positive features. A system of evidence-based decision-making is already in place within the Romanian Government, with routinized procedural practices whose dismantlement and substitution would probably be more costly than engaging in targeted incremental improvement. That said, the recommendations formulated in this report seek moreover to capitalize on past initiatives and to increase the scope of synergies and economies of scale.

XIV. Against this backdrop, the recommendations contain elements which should help construct a framework that the GoR may consider when designing a comprehensive reform strategy for enhanced SN practices. The overarching goal of such a reform strategy should be to enhance predictability; transparency and accountability; consistency and rationalization; as well as effectiveness and proportionality.

XV. Two specific lines of action are presented. The first (and most important) one is the revision of the current organization and the process that underpins and governs the production of the SNs. The recommended changes follow a five-fold objective:

- *To bring the evidence-based reasoning back to the center of Government action;*
- *To make the SN process feasible and manageable* by introducing a proportionate scope of application;
- *To enhance public consultation and publication practices* to ensure richer evidence collection and validation and incentivize continued quality improvements;
- *To reinforce the central steering and oversight function on SNs;* and
- *Mainstreaming internal coordination and consultation*, notably in cases of “high impact” proposals so as to create ownership within government for relevant decisions.

XVI. Accordingly, the GoR may consider structuring the new SN system along the following stages:

- *Grounding SN to the Government Annual Work Plan (GAWP)*, to increase the use of a systematic approach, predictability and rational allocation of resources;
- *Applying exclusion and exemption criteria to first filter Government initiatives*, which will not be subject to an impact analysis. The exclusion criteria should be exhaustively specified in relevant legal bases, while the decision to exempt an initiative from a SN should pertain to the Prime Minister upon proposal of the responsible line minister;
- *Determining the magnitude of the impacts by applying the “triage” mechanism.* As a result, items will be classified into “low impact”, “medium impact” and “high impact” initiatives. The responsibility for carrying out the triage lies with the ministry(-ies) responsible for the initiative, following established, public criteria. In all cases, an impact analysis must be produced in accordance to the guidelines and the template established by the new legal base.

XVII. A new process of producing the analysis, differentiating three approaches according to the magnitude of impacts is outlined. Following the principle of proportionality, the administrative procedures and requirements are lighter for lower impact and more complex for high impact initiatives. The main differences include:

- *SN study.* A more comprehensive SN study (instead of merely filling the SN template) will have to be produced for high impact initiatives;
- *SN Working Group.* This shall be convened by the SN initiator for those high impact initiatives, which the Inter-Ministerial Committee for coordination of elaboration and implementation of GAWP determines as having cross-portfolio implications;
- *Internal and public consultation on the SN.* Unlike in the case of low impact initiatives, the initiating line ministry must organize both internal consultation and a public consultation exclusively focused on the draft SN; and
- *The central quality appraisal also varies.* While no specific new feature is introduced for low impact initiatives, a procedural and a substantial screening by DCPD is required for medium and high impact initiatives, respectively. After having performed the central scrutiny, DCPD will issue an opinion addressed to the department drafting the analysis for revision.

XVIII. In the case of medium and high impact initiatives, ministries start drafting the acts to be submitted to Government for formal adoption only after considering the opinion on the SN or SN study issued by the DCP. This will ensure that proportionality is better applied and quality control can properly be exerted. Irrespective of the type of initiatives under preparation, once the draft legal act is produced, the process basically follows the same requirements and stages, as it is currently the case. In the new system, publication will include keeping record of the SN process in a single portal administered by DCP. The report also identifies a number of amendments to existing legal provisions that appear to be necessary, should the proposed innovative elements be applied. The amendments are summarized in Table III.1

XIX. The second line of action in the reform strategy for improved SN pertains to increase the quality of the analyses produced. To this end, the report envisages three levels of intervention: simplification of the SN template, revision of the SN guidelines, and the development of a capacity building program. The recommended changes are as follows:

- *The simplification of the SN template:* For high impact initiatives, as resulted from applying the triage filter, the SN Template will constitute the Executive Summary to be attached to the more comprehensive SN Study. The current model is not wrong *per se*, but it may not be the most instrumental tool to assist the SN drafter.
- *The review of the underlying a SN Guidelines:* At present, several guidance documents exist that pertain to the preparation of SN in the decision-making process. However, the legal and operational nature of each individual guidance document is not clear. It is therefore recommended that all stakeholders make use of the same set of guidelines. The Guidelines provided in Annex III.3 are specifically meant to assist SN drafter to fill in the SN Template.
- *The development of a systemic capacity-building program:* Capacity building through training is a necessary element of the reform. The capacity building program would go beyond training classes and also encompass awareness campaigns addressed to policy-makers as well an intensified dialogue with the business community and stakeholders.

XX. Following on the second line of action in the reform strategy for improved SN processes, Chapter IV of this report presents an assessment of the existing skills and technical capacities required to conduct RIA processes undertaken for a selected set of government institutions. The analysis of the RIA capacity needs was carried out in the following institutions and relevant departments: the DCP within the General Secretariat of the Government (GSG), as well as legal, technical, and Public Policy Unit (PPU) staff in the Ministry of Regional Development and Public Administration, the Ministry of Labor, Family, Social Protection, and the Elderly, and the Ministry of Agriculture and Rural Development, which were selected for the implementation of RIA pilot exercises.

XXI. The assessment of the RIA capacity building needs was conducted in two steps. First it identifies the specific roles played by public administration staff. Second, it analyses the human resource base for conducting RIA in the selected institutions. Five key roles were identified as playing a part in the RIA process: (i) staff in charge of quality control of regulatory proposals and substantiation notes; (ii) team leader for RIA tasks, (iii) contributing team member, (iv) supervisor of technical staff, and (v) legal staff in charge of drafting or contributing to the elaboration of the regulatory draft. While the quality control process is primary fulfilled by DCP, the four remaining roles are fulfilled by staff in line

ministries⁷. Against this backdrop, the main methodology employed for the analysis of the human resource base for conducting RIA was the Competency Architect Tool.

XXII. The evaluation identified a number of development gaps in the skill set necessary to perform RIA tasks effectively in DCPD and in line ministries. They include competencies of three types: technical; management and coordination; and interpersonal and intrapersonal. *Technical competencies* comprise ‘evidence-based decision maker’, ‘solving problems’, ‘economic and business analysis’, ‘sector and industry-specific knowledge’, ‘risk analysis’, ‘social science acumen’, ‘knowledge of regulatory theory’, ‘interpretation of data’, and ‘perspective’. *Management and coordination:* competencies include ‘customer focus’ and ‘strive for quality’ ‘managing and measuring work’, ‘organizing’, ‘priority setting’, ‘building effective teams’, and, ‘developing people’, ‘motivating’. *Interpersonal and intrapersonal competencies* comprises an ‘informing’ and ‘political savvy’, and ‘influencing others’ ‘time management’, ‘handling change’, ‘drive for results’, and ‘patience’.

XXIII. Specialized training and development courses need to be organized in order to close the development gaps identified for the essential RIA-relevant technical, management and coordination, interpersonal, and intrapersonal competencies. The *first type of training* should aim to improve capacity to conduct evidence-based analysis in order to substantiate regulatory proposals. The *second type of training* should aim to help public officials to design substantive and evidence-based regulatory proposals according to the principles of good regulation. The *third type of training* should aim to help staff in managerial roles and staff coordinating a RIA team to effectively lead and manage the RIA teams. The *fourth type of training* should aim to help the line ministry and DCPD staff with various potential RIA roles to effectively manage change and increase personal contribution to team performance.

XXIV. Apart from skill gaps, the assessment reveals that specific cooperation channels between participating institutions as well as other key resources such as IT tools, effective incentive systems or people management frameworks, are scarcely available or lack completely. Data (and interoperability of databases) for drafting analysis pertaining to the SN process is scarcely available. Moreover, also lacking is the use of individual and team performance evaluations based on the quality of the produced SN followed by reward and recognition as incentives for high quality contributions to the RIA tasks. These mechanisms and resources, including essential human resources management tools, are recognized by the DCPD and ministry staff as highly relevant enablers for employee development and for RIA capacity building.

XXV. Other types of resources and mechanisms can also enable a robust and effective RIA process over time, if properly implemented. These resources can include: (i) study tours and workshops to help share experience between stakeholder Romanian institutions and other European counterparts; (ii) awareness-raising activities regarding the importance of the RIA process; (iii) information sessions for all institutions with legislative and impact assessment roles regarding new RIA processes or changes to the existing system; (iv) the introduction of a more flexible way of working in teams across units; (v) coaching programs for new RIA staff; (vi) the redesign of formal job descriptions in order to include RIA-related responsibilities and tasks, as well as introducing RIA-related performance indicators, and (vii) on-the-job training through RIA developmental

⁷ Line ministries are one of the main originators of regulatory proposals in Romania.

assignments. These measures could constitute substantial improvements that can help to increase staff productivity and performance quality.

XXVI. Overall, the current report provides an assessment of the framework for RIA in Romania and outlines a set of recommendations for policy action that can help the Government to streamline the RIA system, anchor this tool in the policy process, and address the existing capacity gaps. The analysis of the current gaps in the RIA system in Romania and of the capacity building needs for conducting RIA within the administration, constitute the foundation for a comprehensive process of streamlining the regulatory impact assessment system in the country. Based on these findings, the report outlines for consideration a set of policy actions which could help to effectively revise the institutional and legal framework for RIA and to address the existing skills gap. In a subsequent phase, the recommendations for an updated RIA system will be tested through the implementation of pilot projects in selected line ministries. Thus, building on the revised theoretical foundations for RIA, the project can further support the regulatory and legislative process in Romania by increasing the administrative capacity required to undertake evidence –based policy making, as outlined by the current assessment.

I. INTRODUCTION

1. **The current report consolidates the first three deliverables under this project. The main objectives are threefold: i) to identify the challenges in the organization and performance of the existing RIA framework; ii) assess the development gaps in the skills set required to perform RIA tasks; and iii) to outline a set of reform priorities and recommendations.** The report draws on the following deliverables: "Report on the Current Gaps of the RIA System" (deliverable 1.1.1) "Report on Recommendations for a New Institutional and Legal System for RIA" (deliverable 1.2.1), and "Report on Capacity Building Needs" (deliverable 2.1.1). This consolidated report aims to provide recommendations in order to address the challenges identified in the existing RIA framework and to help close the skill gaps required to perform RIA tasks.

2. **It is organized in four main chapters as follows. Chapter II draws on the first deliverable "Report on the Current Gaps of the RIA System" and outlines the result of the diagnosis exercise carried out by the World Bank team in relation to the organisation and performance of the current framework for RIA within the Romanian administration.** The chapter has three main objectives. First, it provides a brief overview of the design and functioning of the current RIA system. Second, it recapitulates the main legal base underpinning the system. Third, it identifies the main weaknesses and areas for improvement, notably with regard to legal, organizational, procedural, and capacity-related considerations.

3. **Following up on the diagnosis of the weaknesses and gaps of the current system for RIA within the GoR, Chapter III draws on the deliverable "Report on Recommendations for a New Institutional and Legal System for RIA" and presents a set of recommendations on how to streamline and improve the RIA framework.** While it outlines a number of innovative elements that are expected to enhance the overall performance of the system in the future, the proposal builds and aims to capitalize on the existing organization and procedural framework.

4. **Chapter IV draws on the report "Report on Capacity Building Needs" and an assessment of the existing skills and technical capacities required to conduct RIA processes for a selected set of government institutions.** The chapter also presents recommendations to help address the current human resource gaps and capacity-building needs.

5. **Chapter V concludes and summarizes the main recommendations.**

II. CURRENT GAPS OF THE RIA SYSTEM IN ROMANIA

6. **This chapter outlines the result of the diagnosis exercise carried out by the World Bank (WB) team in relation to the organization and performance of the current RIA system in the GoR.** As such, the chapter constitutes the *basis* for the formulation of recommendations that will be presented in Chapter III.

7. **To that end, this chapter has three main objectives.** First, it briefly provides an overview of the current design and functioning of the current RIA system. Second, it recapitulates the main legal base underpinning the system. Third, it identifies the main weaknesses and areas for improvement, notably with regard to legal, organizational, procedural and capacity-related considerations.

8. **The chapter expressly focuses on the set of legal initiatives launched by the central administration and other parties, which require a formal adoption by the GoR.** These are the initiatives that are currently regulated by Government Decision (GD) 1361/2006,⁸ for which a Substantiation Note (SN) is required), GD 561/2009,⁹ GD 775/2005,¹⁰ and GD 870/2006.¹¹ Discussion will be made also on the provisions of the Law 24/2000¹² and Law 62/2014.¹³

9. **The findings included in this chapter result from two distinct but inter-connected fact-finding activities. First, information and data collection relied on an interview program designed and conducted by the WB team.** Targeted discussions were carried out with various stakeholders intervening at different stages and in various capacities in the decision-making system. A fact-finding mission was organized between 5 and 16 May, 2014 in Bucharest, which included meetings with representatives of different institutions of the GoR.¹⁴ The objective of the discussions was to collect experiences and perspective from various typologies of actors – in relation to function; seniority; role and responsibility in the RIA system. Annex II.1 presents a list of institutions interviewed during the fact-finding mission.

10. **Second, the WB Team has also collected and reviewed relevant documentation.** Documents considered by the Team are of three types: i) legal acts regulating the internal

⁸ Governmental Decision no.1361/27.09.2006 on the content of the instruments for presentation and motivation pertaining to legal drafts pending for Government approval, published in the Official Gazette of Romania no.843/12.10.2006, as modified. The last amendment taken in the consideration by the chapter was made by the Government Decision no.219/24.03.2010, published in the Official Gazette of Romania no.227/12.04.2010.

⁹ Government Decision No. 561 of 10 May 2009 approving the Regulation on the procedures, at Government level, for elaboration, endorsement and presentation of draft public policy documents, of draft legislative acts, as well as other documents, for adoption/approval, published in the Official Gazette of Romania no.319/14.05.2009.

¹⁰ Governmental Decision no.775/14.07.2005 approving the Regulation on the procedures of elaboration, monitoring and evaluation of public policies at central level, published in the Official Gazette of Romania no.685/29.07.2005, as rectified and amended.

¹¹ GD no. 870/2006 that approves the Strategy for improving the development, coordination and planning of public policies at central government level, published in the Official Gazette of Romania no.637/24.07.2006.

¹² Law no. 24 of 27 March 2000 on the legislative technique norms for drawing up legislative acts, published in the Official Gazette of Romania no.139/31.03.2000, as modified.

¹³ Law no. 62/2014 amending the Law on the stimulation of SMEs, published in the Official Gazette of Romania no.328/06.05.2014 (which introduced the SMEs Test).

¹⁴ The statements and arguments provided by those participating in the meetings are reflected in this chapter but are not directly attributable. None of the persons interviewed is to be considered responsible for the analysis contained in this chapter. The responsibility of the analysis lies with the authors only.

administrative procedures for the formulation of public policies and normative acts; ii) past analyses and recommendations produced by services within the Government and by Romania's international partners, including studies resulting from past projects; iii) recent position papers as well as academic contributions and commentaries pertaining to public administration reform and regulatory reform in Romania.

11. The chapter has benefitted from regular dialogue with the Department for Coordination of Policies and Programs (DCPP) of the Chancellery. The initial findings from the diagnosis and the subsequent recommended plans for action were discussed with the DCPP on a mission to Bucharest on 10-12 June 2014. This interaction has allowed for both general feedback and punctual clarifications and, at the same time, for the calibration of the envisaged recommendations to the specific challenges, needs and expectations faced by the Romanian Government.

12. The WB team did not review (samples of) impact analyses produced by the Romanian Government in the past. Neither did the team make statistical considerations on the assessment reports on the basis of quality criteria. A number of reasons explain the team's decision to concentrate on the governance dimension of the current system (i.e. to review the relevant legal bases and guidance documents): the explicit interest of the DCPP; the difficulty to collect a representative sample of SNs over the past few years; and the relatively limited time at disposal for the diagnostic analysis. The WB team is on the other hand convinced that the anecdotal evidence collected together with the rich discussions during the fact-finding mission largely compensate for the missing scorecard review.

13. The remainder of this chapter is structured as follows. Section II.1 provides an overview of the RIA system in Romania, while Section II.2 presents a diagnostic of the main gaps in the system. Section II.3 concludes.

II.1. IMPACT ASSESSMENT IN ROMANIA: AN OVERVIEW

14. References to impact assessment in Romania date from early 2000 and were firstly included in the framework of the elaboration of legal acts (Law 24/2000).¹⁵ At the time, drafters were compelled to base their legal proposals on the results of preliminary documentation regarding the social, economic and historical realities and compliance with foreign legislation (article 20, Law 24/2000). A demand was made to also complement the final draft with a Substantiation Note (SN) (see Box 1), whose content included:

- 1) *Problem definition* was actually a section meant to include the reasons which led the drafters to consider the legal intervention;
- 2) The *impact* covered the socio-economic, financial and legal areas;
- 3) *Consultations* made possible the identification of different interests in stakeholders;
- 4) Ensuring the *public access* to the act and its implementation was also considered;
- 5) The *action plan* included institutional and functional measures to be taken at central and local level; and finally,

¹⁵ Law no. 24/27.03.2000, published in the Official Gazette of Romania no.139/31.03.2000, as modified. The last amendment considered by this chapter was made by Law no.29/11.03.2011, published in the Official Gazette of Romania no.182/15.03.2011.

- 6) The Legislative Council provided *endorsements*, and where applicable, so did the Supreme Council for State Defense, the Court of Auditors and the Economic and Social Council.

Box II.1 – Substantiation Note (SN)

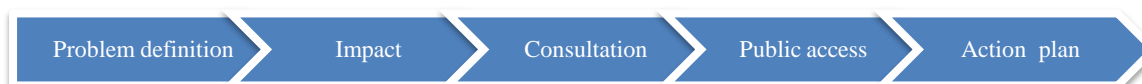
According to Law 24/2000, *substantiation* refers to “instruments of presentation and substantiation” and is a umbrella concept for (Article 30.1):

- Reason note: accompanying legal drafts and legislative proposals;
- Substantiation note, in the case of government decisions and ordinances;
- Approval report, for all other legal acts;
- Impact study, supporting legal drafts of “high importance and complexity”.

Although various in name, all the documents above share a fairly identical content and one single difference: they accompany acts of distinct nature. Deriving for this, and for the scope of this Chapter, a unitary concept will be used to address the issue of substantiation: SN. The need of simplifying the terminology applicable to RIA will be explored further in the *Recommendations for a new Institutional and Legal System* the team has elaborated for the purpose of this Project.

15. A similar structure (see Figure II.1) was reinforced by the Government Decision 1361/2006. This required legal acts pending for Governmental approval to include the impact on competition, state aid and, if applicable, on environment and references to the consultation of the associations of local governments¹⁶ and inter-ministerial committees.¹⁷

Figure II.1: Structure of a SN for a legal draft (Law 24/2000 and GD 1361/2006)



16. **Currently, SN still accompanies legal drafts, but impact assessment seems superfluous.** This is a major problem, as SNs only justify the decision-making process because they are conducted late in the process and they do not reflect specific discussions on possible options to solve a problem.

17. **Despite the fact that SNs are prepared using a single template that includes the requirement to assess impacts, current practices show that limited quantification is conducted in Romania.** Even if the WB mission team was not able to review the quality of the SNs thoroughly, discussions with DCPD reflected on the fact that current SNs are commonly descriptive, lack information and data, and do not offer sufficient information to provide a serious basis for decision-making.

¹⁶ As provided by Government Decision no.521/9.06.2005 on the consultation of associative structures of local governments, published in the Official Gazette of Romania no.529/22.06.2005, as modified. The last amendment taken in the consideration by the chapter was made by the Government Decision no.925/27.11.2013, published in the Official Gazette of Romania no.749/03.12.2013.

¹⁷ Government Decision no.750/14.07.2005 on inter-ministerial committees, published in the Official Gazette of Romania no.676/28.07.2005, as rectified and modified. The last amendment taken in the consideration by the chapter was made by the Government Decision no.6/07.01.2014, published in the Official Gazette of Romania no.23/13.01.2014.

18. **By 2005, the public policy proposal (PPP) was introduced.**¹⁸ It was used to describe the document that resulted out of the substantiation activity and was generated by technical departments under the coordination of the Public Policy Units (PPUs) (article 10, GD 775/2005). The structure of the PPP is to some extent similar to that of a SN, but includes clear references to alternative solutions and selection of the optimal one, while establishing that impact is to be assessed socially, economically and environmentally (Article 4.7, GD 775/2005, see Figure II.2).

Figure II.2: Structure of a PPP (GD 775/2005)



19. **However, the PPP in the form presented above could only have suggested a legal intervention (article 2, GD 775/2005).** In other words, in order for drafters of a PPP to comply with GD 775/2005, they should have known beforehand that the optimal solution to their problem would be drafting a legal text (article 2).

20. **Current provisions generate an ever changing maze, confusing regulatory with normative interventions, while failing to offer a pertinent RIA framework.** To provide one example: in 2006, the Strategy on improving the system of elaboration, coordination and planning of public policies at central level (GD 870/2006)¹⁹ argues for the need to differentiate public policy documents from other types of acts, introduces strategies and plans as public policy documents, but fails to clearly distinguish between a PPP and a SN. Be it as it may, this Strategy led to the modification of GD 775/2005 (in 2007), a modification annulled two years later (by GD 561/2009 on the Governmental procedures for elaboration, endorsement and presentation of PPP, legal and other acts pending for approval or adoption). However, GD 870/2006 was left intact and is currently still advocating for changes that never took place.

21. **The complexity of the current RIA system is described in Annex II.2.**²⁰ **Graphics 1 and 2 in the Annex offer an overview of the current RIA system in Romania and they point to the actors involved.**

II.2. A DIAGNOSIS OF THE MAIN GAPS

22. **Fundamental positive features of an evidence-based approach to decision-making are present in Romania and should not be overlooked.** Weaknesses and challenges of the current system are at the core of this report. That reflects the main thrust the chapter is set to provide, as a building block for the formulation of possible ways forward in

¹⁸ Governmental Decision no.775/14.07.2005, published in the Official Gazette of Romania no.685/29.07.2005, as rectified and amended. The last amendment taken in the consideration by the chapter was made by the Government Decision no.561/10.05.2009, published in the Official Gazette of Romania no.319/14.05.2009 and Law no.62/30.04.2014, published in the Official Gazette of Romania no.328/06.05.2014 (which introduced the SMEs Test).

¹⁹ Government Decision no.870/28.06.2006, published in the Official Gazette of Romania no.637/24.07.2006.

²⁰ The team adapted the graphics in this Annex after the flow chart presented by A. Suci, during the fact-finding mission in May 2014.

making evidence-based decision-making in Romania more pervasive, accountable and transparent. However, this should not distract the analyst from a series of valuable features and virtuous practices characterizing the policy formulation process. Such features and practices are already at play and should not be overlooked (see Box 2). On the contrary, there is merit in building upon them when elaborating improved solutions.

Box II.2 – Evidence-based decision-making in Romania – A good basis to build a strong SN system

The Romanian Government acknowledges the importance and value of grounding decisions on evidence, based on the best data and information available. As Section II above illustrates, since the early 2000s the Government has issued a number of procedural rules and launched several administrative practices that are geared towards achieving high quality standards for decision-making justifications.

A good basis therefore already exists upon which to build the reform of the SN system. Among others, the main positive elements include:

- the notion of evidence-based approach and policy integration enshrined in the law;
- elements of formalized inter-ministerial coordination, which includes the possible establishment of inter-disciplinary internal working groups as well as the final) endorsement procedure;
- the creation over time of network of units within the line ministries, which can potentially be instrumental for coordination and guidance at ministerial level); and
- the attempt at systematizing the flow of Government (regulatory) decisions by introducing the Annual Work Plan (AWPG) in 2014.

23. RIA has to be conceived as both a process and a tool. Successful reform strategies start with an assessment of the organization, functioning and performance the current system governing RIA in Romania. The WB team approached this diagnostic exercise by differentiating aspects of the RIA system that pertain to the “process” underling RIA from aspects strictly related to the “regulatory tool” as such. In the first case, the analysis addresses the question “who does what, when and how” when SNs are planned and produced in regulatory decision-making. In the second case, by contrast, attention is put on the type of analyses normally carried out in Romania and the underlying capacities available within Government. The remaining parts of the chapter reflect this dual investigative line and are structured accordingly.

II.2.1. Challenges related to the RIA organization and process

24. Lack of systematization, personalization of decisions and insufficient traction within the regulatory process are the general negative features of the organization and functioning of the current SN system in Romania. As often is the case, no individual factor can be singled out as the primary root of the relatively weak performance of the system. Rather, it is a constellation of factors that, taken together, are responsible for that – covering a wide array of domains. On the one hand, they reflect cultural and traditional paradigms in Romania about the place and role of the State and public administration in society, affecting also the interface between the political sphere and the bureaucratic (civil service) sphere. On the other hand, factors are the result of deliberate design choices made over time by the GoR in its attempt at building an evidence-based system for public policy and normative interventions. Among the underlying factors, the following general can be highlighted.

25. There is a regulatory bias, as both the political elite and the public administration are embedded in a normative interventionist culture. Drafting legal acts

is generally considered the starting point of decision-making. The acts are seen as the result of bureaucratic procedures centered on the refinement of legal texts rather than of policy analysis. The related SNs take place mainly at the end of the process in order to justify decisions already taken. The lack of an evidence-based and results-oriented approach in public policy leads to considering the SN as a burden, an imposed additional procedural requirement. The SN is not used to curb the regulatory inflation, which brings the Government to adopt more than 1300 legal acts annually.

26. The existing legal base concerning evidence-based justification of Government decisions in general, and the SN system in particular, lends itself to ambiguity or possible contradiction. This does not help counter the above-mentioned regulatory bias.

27. A number of considerations support this standpoint. First, the GD 775/2005 broadly regulates public policy decisions while not differentiating them from legislative and regulatory decisions. While GD 775/2005 concerns the fundamental activities of design and evaluation (requiring the assessment of social, economic and environmental impacts), it broadly regulates “public policy” decisions and does not differentiate them from legislative and regulatory decisions. Many public policy decisions (such as strategies or programmatic policy documents) are adopted in the form of legal acts.

28. Second, the confusion resulting from applying the “Public Policy Proposal” model also to the normative activity of the Government is only partly addressed by GD 1361/2006 introducing the SN system. The latter only establishes that SNs must be presented together with the draft legal text. The silence of the Regulation as to when the drafting of the SN shall start does not create legal and procedural requirements for reversing the “draft the bill first” instinct.

29. What more, the very fact that the legal base mentions the obligation to produce a SN when a draft legal text is proposed, only, implies that the decision to undertake an impact assessment in the form of a SN is informed by the assumption that the resulting analysis is going, by default, to find translation into a legal proposal. The legal base, in other words, as currently stated justifies the above-mentioned regulatory bias and is one of the main reasons why SNs are carried out as an *ex post* justification of decisions already taken (and for the busy desk officer hence as a burdensome tick-box exercise).

30. Finally, none of the legal bases regulating the regulatory process of the Government explicitly anchors the SN within the various stages of the decision-making cycle, i.e. strategic planning, public consultation, ex post evaluation.

31. The current SN system does not seem to be sufficiently supported by a systematic, consistent and strategic approach to planning the initiatives; and the scope of application is indiscriminately broad. Annual (legislative) work plans clearly constitute an important step in the right direction but they were introduced very recently only. Ministries and State bodies have not internalized and mainstreamed that tool in their modus operandi. Practice so far has been characterized by a general weak capacity both at the central and the ministerial level to design normative interventions strategically. Insufficient importance seems to have been attributed on allocating resources for policy formulation efficiently.

32. Work agendas are often disrupted by initiatives launched under permanent urgency or for emergency that challenge established calendars, deadlines and priorities. As a result, not only are human resources not deployed optimally but administrators must work under excessive time pressure, to the detriment of sound analyses. The reactive nature

of their work affects their capacity to maintain the necessary autonomy from the political decision-makers which is a pre-condition for better informing decision through evidence.

33. On the other hand, the generalized requirement set out in the legal base to carry out a SN on all items included in the agenda for Government adoption – irrespective of their type and likely impacts – appears to disregard the proportionality trade-off. Not only is it very difficult to ensure proper regulatory impact analysis across the board of Government action, but is actually also not desirable since, besides being disproportionality costly, it creates fatigue and distorts incentives. If sloppy, such generalized approach favors bureaucratic slack and inertia; if implemented to the letter, it ends up with the infamous “paralysis by analysis” scenario. In any event, efforts to enhance evidence-based decision-making would produce the opposite of what they strive towards.

34. While the general principle of inter-ministerial consultation is established, not all ministries and State bodies are equally rigorous in systematically sharing information and data; pooling expertise and knowledge; and circulating draft analyses. The regulatory process does not appear yet to be geared towards a pro-active, regular and structured inter-ministerial and intra-departmental coordination and collaboration. Procedural arrangements in this respect are poorly designed and most “horizontal” activities are left up to individual initiatives and to personal or fiduciary relationships. Coordination appears to be an issue also with regard to the interface between the center and the periphery of the Government. The network of Public Policy Units (PPUs), for instance, is relatively loose and also the DCP is not fully in control of “who is who and does what.” Data collection challenges (for instance because of poor statistical systems and the partial inter-operability of the existing public databases) are both a result and an aggravating cause of the deficient coordination. When it takes place, internal coordination tends to seek comments on and constructive inputs to the draft legal text directly, whereas the SN (and the analysis underpinning it) is rarely given adequate attention.

35. The tasks in relation of steering, oversight and the synthesis function do not enjoy explicit legal recognition and have suffered from disrupting institutional and political turbulence both centrally and in the line ministries. Over the years, no responsibility was clearly allocated to ensure the systematic enforcement of the procedures and the quality of the analyses produced. The stringency and rigor in enforcing procedural requirements is rather weak across the Government (it is reported that to date only two ministries regularly produce evidential reports on policy impacts). By the same token, there does not seem to be oversight of the quality of the analyses produced.

36. At the ministerial level, the oversight function is attributed on an irregular, if not discretionary basis. As it is the case of the DCP centrally, the role and responsibility of the ministerial PPUs are not grounded in the law. The PPUs were originally conceived to consolidate public policy (planning and evaluation) tasks within a ministry and coordinate horizontally across the government. Over time, these tasks have progressively blurred and the actual involvement of PPUs in the policy formulation process varies significantly from a ministry to the other. Uniformity is not ensured also in other relevant respects, such as the relative place of the PPU in the ministry’s organogram; the status and role of the PPU’s head; and the staffing and expertise. When it comes to the regulatory process, the role of the PPUs appears to be even patchier and ad hoc. They have no specific, clearly defined mandate and powers.

37. At the stage of the final endorsement, sector specific screening is carried out by the Ministry of Finance, the Competition Council and, in future, the Ministry of National Economy in relation to the SME Test. However, reported practice suggests that

such bodies compensate the absence of enforced clear coordination mechanisms through either soft power (e.g. through persuasion; by offering help desk service; and by leveraging on the credibility of the support provided); or through bilateral protocols and memoranda of understanding with individual ministries. The deadlines set for such quality checks are moreover reported to be often prohibitively short (especially if the respective impact analyses were originally not carried out by the proposing departments and calculations have to be made anew). Such screening is moreover narrow and partial by nature and it is not clear where and on which ground the necessary gauging of the cost and the benefits takes place so as to ensure that Government regulatory decisions maximize net societal welfare.

38. The DCPD should be the central body naturally charged with these tasks. Nonetheless, its mandate and powers in this respect are not spelled out in the relevant legal base. The DCPD has moreover no expert human resources explicitly and uniquely dedicated to the screening the SN system and the resulting reports. The recent split of the organization and portfolio between the Chancellery and the General Secretariat of the Government has not contributed to clarifying its competences and has not provided enhanced political leverage. The Chancellery, moreover, does not enjoy autonomous legal status and own budget. Despite these difficulties, the DCPD has carried out procedural screening of SNs in the past.

39. As a result, SN drafters have de facto quite different understanding of what “RIA” is and how the procedure should unfold government-wide with the related roles and responsibilities. There is flexible interpretation of both the extent to which available guidance material is to be followed and the expected quality standards to be met. The instructions on how to do a SN (contained in GD 1361/2006) are not actively mainstreamed and explained widely across the government.

40. In terms of transparency and consultation, the SNs are not used by the Government as a means to make the interface with the public more porous and interactive. There is broad awareness that the dialogue with stakeholders external to the public administration enriches decision-making by allowing a better understanding of existing problems; by providing more comprehensive and relevant evidence; and by involving those actors that are then requested to implement the regulatory decisions. However, in the current framework of SN such dialogue does not fully meet standards for transparency and accountability. The interface with representatives of the private sector such as business associations and individual corporations, as well as of other forms of organized interests such as trade unions, consumer associations and NGOs, remains limited and to a certain extent also sporadic and selective.²¹

41. While required by law, public consultations mainly take the form of univocal information (through online notification) whereas the actual period in which the public can actively input comments is relatively short (10 days). It is questionable whether, in the light of the digital divide in the country, all categories of stakeholders *de facto* face equal opportunity to organize, prepare and provide their contributions adequately – especially if there is little possibility for them to know sufficiently in advance the flow of regulatory decisions about to be finalized at a given moment.

²¹ Section 5 of the Guidelines annexed to this report addresses the data collection and public consultation dimension in more detail. The considerations made here imply reciprocity. External stakeholders should also make the necessary step to responsibly and constructively contribute to the dialogue with the regulator. The WB project includes activities aimed at raising the awareness of the relevance of RIA among stakeholders.

42. **At the same time, practice of inviting stakeholders to preparatory workshops and hearings is informal and rather voluntary.** Above all, it is not subject to scrutiny, reporting requirements, and checks and balances. Without insinuating at all that this is the natural corollary, the system as it currently is does not seem to minimize the risk of regulatory capture or risk of corruptive practices.

43. **In relation to reporting and institutional learning, and also because of the lack in demand for RIA, the system has not been designed to self-diagnose gaps and, on the other hand, build on recognized good practices.** The DCPD is not in a position to keep regular track and it does not report on the flow of the SNs received and screened. Neither is it systematically aware of the impact of its opinions upon the proposing department and, more generally, the course of the regulatory process. No indicators are in place to monitor the evolution of the quality of the SNs produced over time, and it is not possible to methodically identify (and hence correct) underlying causes of under-performance – or success factors to foster and mainstream.

44. **One of the reasons is because, as mentioned above, nowhere in the legal and procedural rules is such requirement stated.** Another reason is the objective shortage of staff within DCPD. Yet a further important cause is the lack of demand from both the Government and the stakeholders (civil society and the private sector alike) for evidence of the performance of the system in producing better and better analyses. Any initiative in this respect has relied on the commitment of dedicated individuals. The Government has not been consistent in requiring that SNs of agreed quality standards must be integral part of the file accompanying any project (draft legal act) submitted for deliberation. External stakeholders do not seem to have grasped fully the importance of a well-functioning and dynamic SN system as a means to enhance accountability; legal predictability; proportionality; and participation in Romania.

45. **These elements, together with the poor general understanding of the tool (see the remarks in Section III.2. below), fail to instill in all actors involved the necessary incentives and willingness to engage in making the system work.** There is, on the other hand, no particular sanction for formalistic and partial compliance.

II.2.2 Challenges related to the RIA tool and analysis

46. **Weak points related to the second dimension (RIA as a “tool”) encompass five main issues.**

47. **First, general expertise.** There appears to be a general lack of skilled human resources across the Government’s administration that can deploy the know-how and skills necessary to apply the minimum RIA analytical steps and implement the related methodologies required to meet good quality standards. Pockets of such expertise certainly exist in the ministries, but they are reported to be relatively small and not to be actively and systematically involved the regulatory process.

48. **Second, causal linkages. In particular, there is a widespread incapacity to establish objective, factual causal relationships between clearly established and prioritized causes, the set objectives and targets, and the possible policy options.** This is a direct consequence of the mentioned “draft the bill first” approach, which in practices renders such unfolding of logical and analytical steps irrelevant; but it is also due to the weak penetration of adequate guidance material and the ineffective and uncoordinated training and capacity-building program.

49. **Third, quantification. The (objective) difficulty to collect and the incapacity to validate relevant data in support of the analyses leads to deficiencies in identifying and characterizing the problem and in presenting qualitatively sound and quantified estimates of the likely impacts of proposed public policy choices.** The figures and amounts reported in the SN template are often not accompanied by any underlying analysis, so that it is difficult for reviewers to check the validity of the assumptions; the adequacy of the models; and the pertinence of the data presented.

50. **Fourth, policy integration. There generally is little awareness among the drafters of SNs of the need to “think-outside-the-box” and to embrace a multi-sectoral perspective.** Such conditions are on the other hand the more important nowadays, when governments are called upon to address issues that need to be tackled from various dimensions (for instance, energy sustainability and defense security; human health safety and product innovation; economic growth and social equity, etc.). To date, the Romanian SN system is not yet used for that purpose

51. **Fifth, policy implementation. Problems appear to arise also with the definition of measures (action plans) designed to frame the implementation of the regulatory proposal, and with the identification of performance indicators allowing the measurement of future implementation results.** The use of ex-post monitoring and reporting and the use of feedback decision-making remain exceptional.

II. 3. CONCLUDING REMARKS

52. **From what has just been outlined and what concluded previously in relation to the organization and process, it appears clear that there is no specific order or priority of these causes that lead to a current weak RIA system in Romania.** Rather, each one of them is the result and, at the same time, the origin of the other ones. More generally, SN-related problems appear to be closely correlated to the type of relations the Romanian civil service has with the political leaders, and the overall accountability of the administrative procedures within the executive.

53. **Therefore, it is necessary to address the whole system currently in place and design a wide-ranging reform.** This will be the purpose of the following chapter on the recommendation for a new legal and institutional RIA system in Romania, which will provide guidance on its implementation as well.

III. RECOMMENDATIONS FOR A NEW INSTITUTIONAL AND LEGAL SYSTEM OF RIA IN ROMANIA

54. **This chapter follows up with the diagnosis of the weaknesses and gaps of the current system for regulatory impacts in the GoR,** as identified in Chapter II. While it outlines a number of innovative elements that are expected to enhance the overall performance of the system in the future, the current chapter is deliberately rooted in the existing organization and procedural contexts.

55. **Copernican revolutions or a change in paradigm are not necessarily a panacea when it comes to regulatory and administrative reform.** Profound crises may justify such shock and radical interventions. However, the WB Team believes, that is not the current scenario in Romania.

56. **A number of considerations justify this standpoint. First, it is important to acknowledge the longer-term perspective.** Achieving a credible, well-performing RIA system is a long-lasting process that inevitably requires adjustments, “learning-by-doing” and “try-and-error” iterations along all three axes of the reform: the politics-bureaucracy interface; the dynamics within the public administration; and the relation between the regulator and the external stakeholders and the public.

57. **Second, it is key to build on existing positive features.** An evidence-based approach to decision-making has been already introduced in the mid-2006 and over the years it has contributed to (incomplete but still significant) changes in the modus operandi of relevant parts of the public administration. Above all, a system is already in place of routinized procedural practices, whose dismantlement and substitution would probably be more costly than proceeding to targeted improvement. Ministries are for instance already aware of the obligation to produce a Substantiation Note (SN)²² and attach it to their regulatory proposals. It is important that this logic of submitting justifying evidence to government intervention be preserved, however embryonic it may be at present. Moreover, the role played by the Department for Coordination of Public Policies (DCPP) of the Chancellery of the Prime Minister in screening SNs is non-formalized, but in principle accepted. A public consultation phase and an internal endorsement process are foreseen by the government rules of procedure. Finally, it is worth mentioning the role played by the Ministry of Finance and the Competition Council in reviewing parts of the SNs.

58. **Third, it is important to capitalize on past reform inputs.** Over the past years, the GoR has benefitted from several projects aimed at boosting evidence-based decision-making. Own initiatives as well as international partners have contributed to designing such reforms both from a comprehensive and more targeted perspective. Projects by the World Bank Group,²³ in particular, have regularly provided refined inputs to the reform. All these contributions constitute an invaluable asset upon which the Government should capitalize both in terms of ideas and good international practices; and, indirectly, as know-how and experience mainstreamed across the public administration.

59. **Fourth, it is key to seek for synergies and economies of scale.** On-going at the very moment of drafting this report are further prominent initiatives that clearly impact on – and

²² This chapter will use the term “Substantiation Note”. It designs the tool used for regulatory impact assessment currently in use in the Romanian Government, which is the most closely related to the international notion and practice of RIA. The Project recommends maintaining the same terminology in order to avoid confusion among the future users of the new system and their impression it is an additional bureaucratic requirement.

²³ For instance, Functional Reviews of the Center of the Government and of the Ministry of Economy, Commerce and Business Environment, published in 2011, have provided input about the RIA system.

can in turn be informed by – this Project. First to mind comes the elaboration of the new “Better Regulation Strategy: 2014-2020”. Another key project in this regard is the one aimed at re-engineering government procedures and introducing ICT tools - software and interfaces for decision-making (including rule-making). There is, moreover, the recently introduced Government Annual Work Plan (GAWP) tool. This is a potentially very powerful instrument to rationalize the flow of new Government decisions on the basis of strategic prioritization against budgetary constraints. 2014 has been the first year of implementation of the GAWP and it appears both logical and desirable to link the introduction of the new SN system to the refinement of the GAWP procedures. These are but three paramount illustrations of the fundamental need to work jointly towards a synergetic strategic vision of the Government’s regulatory function in the next few years. To achieve such vision, no single initiative or project should result in disjointed “Copernican revolutions”, if individual recommendations are to be not only meaningful and desirable but also workable.

60. Far from signaling lack of ambition in the desired outcomes, starting from what is currently in place is therefore a pre-condition for maximizing the likely impacts of the recommended reforms. As a result, the proposed recommendations for change seek to ensure the smoothest and incremental reform possible by critically elaborating on the current system, instead of disrupting it fully.

61. By the same token, the envisaged new SN system will apply only to those initiatives that are going to be adopted by Government. Excluded from the system are hence ministerial decrees and other decisions that are not included in the agenda of Government meetings or do not require a formal endorsement at Government level. Government will on the other hand be entitled to require the production of a SN for such initiatives at its discretion.

62. On the basis of this assumption, this chapter contains elements that should help design a framework that the GoR may consider when designing a comprehensive reform strategy for enhanced SN practices.

63. The strategy should be set to achieve a number of overarching goals, including *predictability, transparency and accountability; consistency and rationalization; and, effectiveness and proportionality*

- ***Predictability.*** Public decision-making in general, and normative interventions in particular, must guarantee not only full legal clarity and the complete respect of administrative procedures, but also a degree of legitimate predictability for all public and private stakeholders about the resulting policy decisions. This is for instance essential for business to (re-)allocate current resources and planning future investments in a timely and efficient manner. In this respect, predictability refers not only to the legal aspects but also to the capacity by decision-makers to identify and estimate with a reasonable degree of certainty – and, in any case, in a transparent manner – the likely impacts of the decisions.
- ***Transparency and accountability.*** Decision-making must be grounded on the principle of transparency and accountability of the underlying processes, so as to avoid arbitrariness and capture; and to ensure equity and proportionality.
- ***Consistency and rationalization.*** Public policy decisions must respect fundamental principles and freedoms (as enshrined in the Constitution and in major international agreements). They also must be consistent with each other, avoiding duplications, overlap, legal vacuum and contradictions. Decision-making must strive to

rationalizing the production of new regulation; avoiding regulatory inflation, and reducing unnecessary administrative and regulatory costs.

- ***Effectiveness and proportionality.*** Decisions must be aimed at maximizing societal welfare by meeting the needs and expectations of citizens, economic operators and stakeholders in the most cost-effective manner, while keeping the impact of unexpected and/or unintended consequences to an accepted minimum.

64. By setting these general goals for the coming years, the GoR could significantly strengthen its commitment to promote sustained inclusive economic growth in line with the EU 2020 targets and the conditions of the new EU Cohesion Policy. A well-designed and functioning SN system can assist the Government's efforts to reach all the goals mentioned above.

65. This chapter is accordingly structured along two specific "lines of action": the revision of the organization and process for SN in the central public administration; and upgrading the analytical capacity for SN. After outlining the main rationale for introducing RIA as a tool for modern decision-making (Section III.1), Section III.2 will thus discuss the possible revision of the scope of application of the future SN system and the actors, roles and responsibilities at play. It will also include indications of possible revisions of the legal base affecting SN. Section III.3 by contrast will cover instruments such as guidelines, templates and capacity-building schemes. Section III.4 concludes.

66. In addition, a series of Annexes provide direct inputs that can support the future SN system implementation. Among them, a new set of methodological guidelines and checklists; a revised SN template; and suggestions for functional requirements of the future IT system are incorporated in the reform package.

III.1 THE NATURE OF RIA IN MODERN DECISION-MAKING

III.1.1. The notion of evidence-based decision-making

67. Governments are responsible for making decisions to improve the quality of life of individuals and society; and to create the framework conditions to ensure prosperity, inclusive economic growth and sustainability. High quality public policy interventions (including regulatory actions) are increasingly needed at a time of economic crisis where public authorities are subject to tight fiscal constraints, and where governments are called upon to respond to pressing demands for action while enjoying low levels of public trust. High quality government decisions are likely to result from institutional and procedural regimes that apply the core principles of necessity, proportionality, subsidiarity, transparency, accountability, accessibility and simplicity.

68. Evidence-based decision-making is an integral part of the approaches to enhance predictability, improve effectiveness, minimize unintended consequences and, ultimately, increase legitimacy. It refers to an approach for making decisions that ideally is grounded in the best available research and informed by experimental data evidence from the field and relevant contextual evidence. When evidence is not used as a basis for decision-making, or the evidence that is used is poor, partial and incomplete, the risks of regulatory failures increase because of potential unjustified political and administrative discretion; capture; value judgments and biases.

69. If implemented well, evidence-based decision-making is likely to yield a number of benefits. These include:

- ensuring that policies are responding to the real needs of the community, which in turn, can lead to better outcomes for the population in the long term;
- highlighting the urgency of an issue or problem which requires immediate attention;
- enabling information sharing amongst other members of the public sector, in regard to what policies have or have not worked;
- reducing government expenditure which may otherwise be directed into ineffective policies or programs which could be costly and time consuming;
- producing an acceptable return on the financial investment that is allocated toward public programs by improving service delivery and outcomes; and
- ensuring that decisions are made in a way that is consistent with democratic and political processes in respect of the transparency and accountability principles.

III.1.2. Towards a definition of Regulatory Impact Assessment

70. **Since the mid of the 1990s Regulatory Impact Analysis (RIA) has become the most widely diffused tool to implement efforts to improve evidence-based decision-making.** Admittedly, its diffusion across both developed and developing countries conceals a variety of interpretations – not everything labeled RIA defines the same thing everywhere and different actors may well call the same things in different way. It is hence necessary to define what this project understands with RIA, and what principles should be retained when developing the future SN system in Romania. One way of doing so is to rely on the approach taken by the Organization for the Economic Cooperation and Development (OECD) over the past 25 years.

71. **The 2012 OECD Recommendation on Regulatory Policy and Governance²⁴ calls on countries to:**

- “integrate [RIA] into the early stages of the policy process for the formulation of new regulatory proposals”;
- “clearly identify policy goals, and evaluate if regulation is necessary and how it can be most effective and efficient in achieving those goals”; and
- “consider means other than regulation and identify the trade-offs of the different approaches analyzed to identify the best approach.”

72. **RIA has a double nature: while it finds expression in an analytical report that supports decision-makers, the notion of RIA should be understood more widely as an integral part of the regulatory reform program, embracing an institutional, organizational and procedural dimension.** RIA is very much a process of evidence-based decision-making. Hence,

“RIA aims to be both a tool and a decision process for informing political decision makers on whether and how to regulate to achieve public policy

²⁴ See <http://www.oecd.org/gov/regulatory-policy/2012recommendation.htm>, p.4. The OECD has been recommending the use of RIA since 1995 with a *Council Recommendation on Improving the Quality of Government Regulation* (OECD, 1995). The 1997 *OECD Report on Regulatory Impact Analysis: Best Practice in OECD Countries* (OECD, 1997) set out a first list of lessons to be drawn from international positive experiences with RIA. The 2005 *Guiding Principles for Regulatory Quality and Performance* (OECD, 2005) reiterated the essential requirement that regulations should be systematically assessed to ensure that they meet their intended objectives efficiently and effectively in a changing and complex world.

goals. As a tool supporting decision making, RIA systematically examines the potential impacts of government actions by asking questions about the costs and benefits; how effective will the action be achieving its policy goals and; whether there are superior alternative approaches available to governments. As a decision process, RIA is integrated with systems for consultation, policy development and rule making within government in order to communicate information *ex ante* about the expected effects of regulatory proposals at a time and in a form that can be used by decision makers, and also *ex post* to assist governments to evaluate existing regulations.”²⁵

73. The European Commission’s definition follows the same approach:

*“Impact assessment is a set of logical steps to be followed when you prepare policy proposals. It is a process that prepares evidence for political decision-makers on the advantages and disadvantages of possible policy options by assessing their potential impacts. The results of this process are summarized and presented in the IA report.”*²⁶

74. The worldwide use of RIA may be related to the acknowledgment by governments that well designed and implemented RIA processes help improve the overall quality of decision-making. The benefits from using RIA can be summarized as follows:

- *RIA requires decisions to be taken with much stronger rigor and through a more accountable and transparent process.* The systematic process of questioning at the beginning of the policy cycle facilitates reflection on how to structure the policy-making process; identify cause-effect links and likely impacts; select and compare policy options; and consider unintended consequences. This helps reducing the risk of regulatory failures.
- *RIA allows for an outward-looking, client-oriented decision-making process.* If properly integrated with public consultation and if published in a timely and systematic way, RIAs empower economic operators and citizens and respond to their right to know the reasons for policy and regulatory choices. This contributes to minimize regulatory capture. Three immediate consequences flow from this: a more stable recognition and generalized acceptance of the performance of policy-makers; greater trust in public authorities; and higher compliance rates with regulation.
- *RIA helps shift from a legalistic to a more evidence-based approach to decision-making.* RIA facilitates co-ordination between different public policies, with an aim of highlighting trade-offs and identifying synergies. This helps achieve greater policy coherence; break down sectoral approaches; and promote “horizontal” thinking – contributing thereby to limit regulatory inflation.

75. RIA is meant to assist policy-makers and therefore it does not substitute their decisions. The completion of a RIA report is the result of a rational policy process that should follow a number of stages forming a closed “policy-cycle” (see Box III.1).

²⁵ OECD (2009), *Regulatory Impact Analysis. A tool for policy coherence*, OECD Publishing, Paris, p.12.

²⁶ European Commission, *Impact Assessment Guidelines*, SEC(2009) 92 of 15 January 2009, at p.4.

Box III.1: RIA's typical analytical steps

Typically, fully-fledged RIA analyses should unfold as follows:

- Identification and definition of the problem;
- Spelling out of the desired objective(s);
- Elaboration of the different regulatory and non-regulatory options (including the “no action” option);
- Open and public consultation with external stakeholders and experts;
- Assessment of the likely costs, benefits and distributional effects (wherever possible in quantitative terms);
- Recommendation of the preferred option; and
- Indications on the monitoring, evaluation and reporting requirements.

As a principle, the costs of regulations should not exceed their benefits – or at least be justified by the latter. The assessment may use various methodologies, such as benefit/cost analysis, cost/effectiveness analysis, business impact analysis etc.

76. It is against this background that the Project envisages reforming the current practices for evidence-based decision-making within the Romanian Government. The recommendations formulated in this chapter take into consideration international good practices, adapted to the realities and capacities of the Romanian administration.

III.2 DESIGNING A NEW SUBSTANTIATION NOTE SYSTEM IN ROMANIA

77. The first main line of action proposed by this chapter refers to the revision of the current organization and the process that underpins and governs the production of the SNs. This is likely to have direct impact on the structural challenges highlighted in Section II.2.1 of Chapter II. Before describing the various stages of a possible revised system, the following section will briefly illustrate the main rationale for the recommended changes.

78. SNs are today the closest instrument to RIA in Romania. Despite the current existence of different instruments to accompany policy and regulatory proposals, Government officials, who have become familiar to their use, commonly prepare SNs. A review of the current SNs system, irrespectively of the type of document to finally be approved, will serve as a basis for improving the preparation of initiatives prepared by the GoR.

III.2.1. Exploring the rationale for change

79. In its broadest terms, the recommended revised system seeks to bring the evidence-based reasoning back to the center of government action and reformed SNs will have to be the element around which the regulatory process pivots. This implies also that the “regulatory bias” is reversed and the first instinct by the regulators is no longer producing a draft legal text *ex novo*. Rather, the regulator will operate in the context of procedures and methodologies that allow for the opportune unfolding of the logical analytical steps constituting SN analyses. Accordingly, the recommended revised system will be based on the following success factors.

80. Introducing a proportionate scope of application will make the process feasible and manageable. The current scope of application is general and indiscriminate. In order for a SN to be carried out properly at the earliest possible stages of the regulatory process, it is

paramount that time and resources are allocated efficiently to the exercise. The underlying idea should be that more resources and time should be devoted to proposals that are likely to have greater economic, social and environmental impacts, or that are of particular political salience. Given resource constraints, it will be more effective to carry out a few “in-depth” analyses where it matters more, than performing relatively superficial SNs across the board. Accordingly,

- ***The GAWP-SN interface.*** Government has just introduced the Government Annual Work Plan (GAWP) to consolidate all initiatives it expects to adopt; reinforce the ministries’ responsibility towards the Government’s priorities; ensure higher predictability; streamline and prioritize decision-making; and improve strategic planning and budgetary allocation.²⁷ Over time, GAWP is expected to become the principal document regulating all policy and regulatory initiatives. It forces ministries to identify and list their planned initiatives for the following year, providing a short description of the rationale for action (problem definition), the envisaged intervention instrument, etc. This activity is very valuable and in its core it constitutes the very same reasoning at the basis of the SN triage, which would be subsequently triggered. In addition, a number of institutional actors are called upon to coordinate the compilation of GAWP: the Chancellery of the Prime Minister, the General Secretariat of the Government (GSG), the Ministry of Public Finance, the Ministry of Foreign Affairs and the Department for Relationship with the Parliament. The GAWP system in other words already embodies the idea of co-operative steering and control across the executive – a feature that the SN oversight functions requires at various stages of the SN process (triage check; central quality control). Besides these “technical” considerations, there are “strategic” considerations that speak in favor of closely linking the new SN system to the GAWP. The GAWP system has already been agreed upon and is reportedly positively considered by Government. Grounding SN in a system for which a “reform battle” was already fought – and won – grants the SN reform legitimacy and higher chances for success.²⁸
- ***Accurate and workable selection criteria.*** Specific criteria should be drawn up that clearly define the cases of exclusion and of exemption from carrying out SNs. In the first category (exclusion) will fall all decision items included in the Government agenda for which adoption will by default require no impact assessment of any sort. The second category (exemption) will refer to the cases in which the adoption of an act by Government should in principle be informed by an impact assessment, but reasons of urgency or emergency recommend skipping such requirement. In such cases, a mechanism should be in place to ensure that the impact assessment is carried out within a set deadline after entering into force, failing of which the act will automatically cease effects (review and sunset clauses).
- ***Detailed “triage” system.*** In addition, the proportionate scope of application implies that the intensity of each analysis must be considered carefully depending on the

²⁷ GWAP was generated by the Decision of the Prime Minister no.414/1.10.2013 on the creation of the Inter-Ministerial Committee for coordination of elaboration and implementation of GAWP, published in the Official Gazette of Romania no.612/2.10.2013. Earlier recommendations for the existence of a strategic plan of the Government were also included in: the Government Decision no.750/14.07.2005 on inter-ministerial committees, published in the Official Gazette of Romania no.676/28.07.2005, as rectified and modified, and the Government Decision no.870/28.06.2006, published in the Official Gazette of Romania no.637/24.07.2006.

²⁸ There is also scope for seeking synergies between the GAWP and the Legislative Program of the Government (http://www.drp.gov.ro/index.php?prezentare_program), if such as a reform leads to improved planning practices underpinning the SN process.

content of the *matter* covered by the decision. It shall be noted here that the intensity of the matter should not be correlated automatically to the type of the envisaged legal act, since different types of acts (e.g. laws, Government decisions, Government ordinances, methodological norms, etc.) may well govern matters of very different importance. International experience shows that countries have approached this selection in different ways – by using quantitative thresholds (like the US); by applying the principle of proportionate analysis (like the European Commission); or by proceeding to a prioritization filter (the so-call “trriage system” developed by Canada and Mexico). Through the triage, Government priorities can be better targeted, accurate quantitative assessments may be difficult to obtain, it can offer a flexible approach to profiling that adapts to Romania’s context.

81. The future system shall not only include the development of guidance for the regulator on when and how to apply clear distinguishing criteria to differentiate between minimum and more comprehensive SNs. The current thinking is to envisage three possible types of analysis, corresponding to decision with likely “low impacts”; likely “medium impacts”; and likely “high impacts”. The system shall also foresee distinct procedural patterns and requirements for each of those types of analyses (see chart below).

82. Strengthening public consultation practices also for draft SNs is therefore essential in this new process. The obligation to open so-called “public consultations” is already provided for by law.²⁹ However, this in practice results in keeping the consulted documents on the website for passive information, while the actual period open for stakeholders’ inputs is generally limited to 10 days. There are moreover unsystematic efforts by the public administration to reach out to specific groups and categories that, while being directly affected by the regulatory decision under preparation, do not necessarily have easy access to the Internet. The changes recommended here seek to fill these gaps and bring the draft SN / SN study to the core of the public consultation phase. Thus, there shall be a first consultation round entirely and solely devoted to the draft SN / SN study, before the latter is submitted to the DCPD for quality screening.

83. The rationale for such change is threefold. First, richer evidence collection and data validation. Consulting on the draft SN / SN study allows to further check the appropriateness of the initial analyses; seek additional evidence and new data; and inform the potentially affected stakeholders of forthcoming Government initiatives and their likely implications, thereby increasing the chances for smoother implementation.

84. Second, stronger accountability. In addition, from the transparency and accountability perspective, the publicity given to the draft SN / SN study compensates for the opacity of the initial analytical work within the line ministries, as it is reported that current data gathering relies heavily on informal contacts and personal initiatives and, as a result, not all stakeholders may be given equal opportunity to input the SN analyses.

85. Third, stronger incentives to continuous improvement. Finally, international experience suggests that pressure from external stakeholders is a powerful leverage to implement procedural reforms and enhance the quality of SN analyses. By publishing draft SN / SN study and asking for feedback, the ministries and State bodies engage in a more or

²⁹ Law no.52/21.01.2003, on transparent decision-making in public administration, republished in the Official Gazette of Romania no.749/3.12.2013; Government Decision no.521/9.06.2005 on the consultation procedure for associative structures of local administration in the drafting of normative acts, published in the Official Gazette of Romania no.529/22.06.2005 (with amendments); Law no.62/10.05.2011 on social dialogue, republished in the Official Gazette of Romania no.625/31.08.2012 (with amendments).

less explicit benchmarking exercise and they will have to present SNs of increasingly better quality.

86. In addition, a second public consultation round shall take place before the final endorsement, as it is current practice already, and include the draft legal act, the accompanying SN or SN study as well as the opinion issued by the DCPD on the initial draft SN. Both consultation rounds (i.e. the one dedicated solely to the draft SN as well as the latter) must be subject to the same minimum procedural standards.³⁰

87. Reinforcing the central steering and oversight function on SNs is also fundamental for the success of the new system. In the future, it will be fundamental to clarify and strengthen the responsibilities and powers of the body tasked with steering, coordinating and controlling the performance of both the SN system as a whole and the quality of individual analyses. This reflects international good practices. The DCPD appears to be currently best placed institutionally to take over such functions – provided that it is equipped with adequate resources. At an initial stage of the system reform, it is neither practicable nor desirable to confer so-called “veto power” to the DCPD – i.e., the authority to require ministries and State bodies to re-submit to its scrutiny any draft SN deemed of insufficient quality until final clearance. That would in fact turn DCPD into a gatekeeper to the agenda of Government able to block decision-making. The DCPD is not ripe and the system is politically not ready for such a change. Hence, this Project recommends that the ministries and the State bodies continue being free to include DCPD’s recommendations in their draft SNs or not. Nonetheless, mechanisms granting some leverage to the DCPD’s opinions will be designed to guarantee that the quality review is taken seriously. Such mechanisms will particularly relate to the principle of publicity and public scrutiny.

88. Mainstreaming internal coordination and consultation, notably in cases of “high impact” proposals will be an integral part of the efforts to create ownership within government for relevant decisions. Inter-departmental and inter-ministerial consultation is a pre-requisite for richer analyses underpinning the justification of Government interventions and for an overall better informed and responsible decision-making. Consequently, rounds of internal consultations shall take place at the same time when public consultations are organized – this applies to both the final pre-endorsement consultation but also, in case of medium- and high-impact proposals, to the public consultation on the draft SN.

89. This success factor includes two distinct but intertwined additional elements. First, the network of Impact Assessment units in line ministries. International experience suggests that making one single body only responsible for the performance and quality of the whole impact assessment system is not necessarily an efficient solution. The establishment of a network of (small) units in the main ministries and State bodies is likely to provide first-hand and sector-specific assistance to the RIA drafters; contribute to enhancing capacity-building; and possibly provide initial quality screening of the draft RIA reports. Such network, whose member units should benefit from a systematic coordination with the DCPD, would also be extremely instrumental in the implementation and communication of the Better Regulation Strategy, ICT and SN reform. Impact Assessment Units shall be granted uniform status within each ministry; enjoy a clearly defined mandate; and be adequately equipped. At this stage, it is relatively premature to delineate whether ministries will need to create fully-fledged new administrative structures or modify the mandate, role and / or staffing of existing Public Policy Units. Further discussion with and within the Government at both political and operational level is necessary. Broadly speaking, however, it is recommended that the

³⁰ For practical guidance, see Section 5 of the Guidelines annexed to this report.

Government and individual line ministries address the issue of how to “populate” the Impact Assessment Unit network by focusing on the type of profiles of the experts composing such units so as to best match the tasks attached to them. With regard to the latter, Impact Assessment Units could be conferred tasks related to capacity-building and help-desk support for technical departments when these carry out the various SN analytical steps, including the application of the triage mechanism. These units could also serve as first quality oversight filter of the draft SN. Other functions fulfilled by Impact Assessment Units could encompass actively contributing to drafting the SN report in the case of high impact initiatives and coordinating the SN Working Groups. According to the mandate, the Impact Assessment Unit should show competence over multi-disciplinary fields (with expertise notably on economic analysis, evaluation and statistics, coupled with sectoral and technical know-how). The cumulated, aggregated expertise of the members matters rather than the expertise of each individual members. Drawing from the experience and the expertise of current ministerial Public Policy Units could prove instrumental, but this decision should be taken on a case-by-case basis.

90. Second, SN Working Groups. To ensure the highest possible degree of policy integration when designing new Government decision (i.e. identifying synergies, trade-offs and duplications across various policy domains), the new system shall require the establishment of a dedicated SN Working Group responsible for the impact analysis, whenever the triage filter categorizes the proposal as having likely “high impacts”. At present, the setting up of similar inter-ministerial groups and, more generally, recourse to inter-ministerial collaboration is left up to individual initiatives and no specific rules of procedures govern this important aspect of policy formulation. The new system seeks to reduce the variation and discretion in current practices and stimulate holistic approaches at an early stage. For the sake of rationally and proportionally allocating the necessary time and resources, it is recommended that such Working Groups be established only for the most important SNs. However, the new Working Groups should not become a potential platform for non-transparent regulatory capture or corruptive practices. Clear and government-wide terms of references shall therefore be issued.

91. Ensuring greater accountability and publicity of the SN needs to be strengthened. In this regard, quality check functions are best fulfilled if they are structured along an internal and an external component.

92. The DCPD screening and the inter-ministerial consultation and endorsement outlined above account for the *internal* scrutiny. The certification of SNs and SN studies is a further internal mechanism that helps increase the importance and visibility of SN both in the preparatory phases of decision-making and during the deliberation by Government. Ministerial certification shall continue to be required for all SNs / SN studies, failing which the related initiative cannot be put on the agenda of the Government meeting.

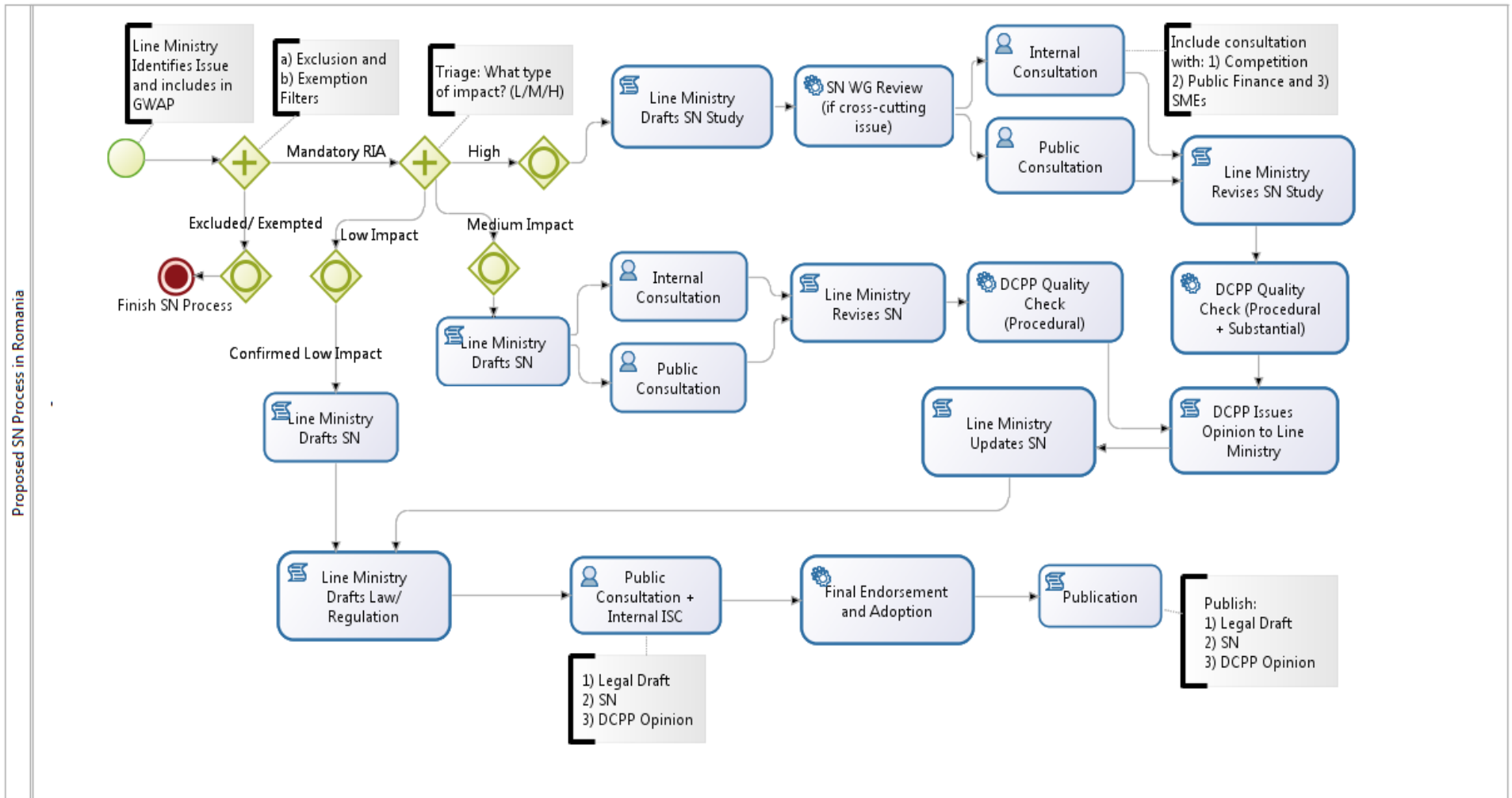
93. The *external* quality accountability mechanism consists of “going public”. This implies that, upon adoption of the act, Government makes publicly available the final legal act together with the final SN / SN study by the ministry or State body responsible for the project, as well as the related opinion of DCPD. These documents should preferably be published on a single website (which would serve as a single access point to information on rational for and impacts of Government decisions). As hinted already, the systematic publication of the SN / SN study and of the DCPD opinion has two main purposes: first, it would inevitably force the responsible ministry or State body to pay more attention to the issued opinion, since discrepancies between this and the final SN / SN study will eventually go under public scrutiny; and second, the mechanisms would put pressure also onto the

DCPP itself, because the quality of its opinions would be closely considered. This publication arrangement would therefore enhance the central quality control powers, but also ensure that the latter maintains high working standards for its own credibility and reputation.

III.2.2 Outlining the new SN system

94. **This section describes in more details the recommended new system for SN.** Based on the process flow chart below, the section outlines the main features responding to the question “who does what and when” throughout the various stages of the preparation of the SN / SN study (see Figure III.1). For presentational purposes, the section divides the flow into three phases and ten procedural stages.

Figure III.1. Proposed SN process in Romania



PHASE 1 – Consolidating and filtering Government action

95. **This phase is about organizing the annual work program of each ministry in terms of SN production.** To that end, Stage 1 relies on the main instrument available to the ministries that allows to have both a comprehensive overview of the planned initiatives and to structure them according to more or less strategic justifications. Such an instrument is the Government Annual Work Plan (GAWP). The process must then filter and differentiate among the various initiatives on the basis of pre-determined criteria excluding and decision exempting from the obligation to produce a SN (Stage 2). Subsequently, categorizing the initiatives that are subject to SN according to the magnitude of their likely impacts (Stage 3).

Stage 1. Grounding SN to the GAWP

96. **The SN system will be basically grounded in the items listed in the GAWP.** For the time being, the institutional and procedural governance regulating the compilation of the GAWP shall be broadly preserved,³¹ with the exception of the filtering criteria.

97. **The GAWP is the primary the basis for the GSG to organize the agenda of Government meetings.** All items listed in the GAWP must undergo the SN filtering Stages 2. and 3 described below. If a ministry launches an initiative for which Government adoption is required without including it in the GAWP,³² the ministry shall proceed to the same stages. Failing to do so will prevent the initiative from being tabled to Government meetings for adoption.

Stage 2. Excluding and exempting ministries from carrying out a SN

98. **The GAWP will be the primary document upon which the SN exclusion criteria (first) and the SN exemption decisions (then) are applied.** Whenever line ministries and State bodies plan to launch an initiative that may require Government adoption, they will have to notify DCPD and apply the exclusion and exemption filter. Two sets of criteria should regulate the two cases (see Box III.2).

Box III.2. Exclusion and exemption from SN

Exclusion from carrying out a SN is granted to initiatives falling under one of the following cases:

1. Those provided for by art. 6 of GD 561/2009, i.e.:
 - a) acts of individual type that are exclusively aimed at
 - appointments and discharges;
 - establishing some dates;
 - approving technical-economic investment indicators;
 - approving the incomes and expenses budgets of undertakings and of public institutions, the rectification thereof, as well as the expense limits, for the cases provided by law;
 - granting financial and emergency aids;
 - allocating funds from the state budget, from the Budget Reserve Fund available to the Government, from the Intervention Fund available to the Government, as well as from the National Development Fund;
 - approving the finance of projects and actions from the funds for promoting Romania's image abroad;
 - approving the emblems for counties, cities, towns and communes;
 - changing the legal status of some buildings;
 - attesting the public domains of administrative-territorial units;
 - real estate transfers;

³¹ Following the Guidelines for Elaborating and Implementing the Government's Annual Work Plan.

³² For instance, if the initiative is launched in the course of the year, after the adoption of the GAWP.

- classifying some roads or road sections in the functional category of county roads; and
 - putting some real estates into free use.
- b) special laws entitling the Government to issue ordinances in areas that are not within the scope of organic laws;
 - c) legislative acts transposing EU legislation or creating the legal framework necessary for the application thereof;
 - d) legislative acts initiated as a result of approval by the Government of the early theses elaborated under art. 26 of Law No. 24/2000, republished, as subsequently amended;
 - e) the legislative acts ratifying, approving, adhering to or accepting an international treaty, in accordance with Law No. 590/2003 on treaties; and
 - f) legislative acts approving the methodological norms provided by law.
2. Financial operations regarding recurrent expenditures under the threshold of 1 million Lei;
 3. New projects for national or foreign public investments under the threshold of 30 million Lei from Law No. 500/2002 updated;
 4. Legislative acts regarding the ratification of international treaties; (records shall be required though for Memorandums approving treaties at state level);
 5. The State budget law and the State social security budget law; and
 6. Notes or other informative documents.

Exemption from carrying out a SN may be granted in instances of urgency and emergency, determined only and directly by the Prime Minister upon proposal by the responsible minister, or in accordance with Art. 115 of the Romanian Constitution. In such cases, the adopted act can have legal force only for a standard limited period of time determined by law (INDICATIVE PROPOSAL: “in any case, not after six months upon the entry into force of the emergency ordinance”). The responsible ministry shall carry out a SN of the same act in accordance with such deadline and justify the continued validity of the act (or a revision thereof), abiding with the general rules for adoption of Government decisions.

99. Responsible for determining whether an item is exempted from SN is the Prime Minister upon proposal by the line minister in charge of the initiative. Justification for the decision shall be given. The decision as to whether to exclude or exempt an item from SN shall be included in the GAWP information whenever possible. DCPD is tasked with checking the appropriateness of the exclusion decision.

100. **If an initiative to be adopted by the Government is set to be excluded or exempted from a SN, it falls outside the scope of the rest of the process.** The responsible ministries are required to proceed to the subsequent Stage 3 (triage) for all other Government initiatives falling in their portfolio.

Stage 3. Determining the magnitude of the impacts: the “triage” mechanism

101. **Initiatives for Government adoption launched by a line ministry or State body, which are not excluded or exempted from a SN, must undergo the “triage” mechanism.** Not all initiatives produce the same impacts. Accordingly, not all of them should be impact assessed the same way. This is the rationale for the triage mechanism, which is expected to differentiate initiatives into three categories – low, medium and high impact.

102. **The categorization resulting from the triage determines the SN process to be followed (see Stage 4. below).** Different routes can be taken, depending on the type of impact (low, medium or high).

103. **The responsibility for carrying out the triage lies with the ministry(-ies) responsible for the initiative, following established criteria of classifying low, medium and high impact.** Ideally, the technical departments responsible for a particular initiative should directly answer the triage questions. Departments might seek support from the ministerial Impact Assessment Units. The triage questionnaire is a publicly available list of questions designed and managed by DCPD. It should be included in the Guidelines for the production of a SN / SN study. Appendix III.1 provides a first indicative list of questions.

104. **The validity of the triage exercise is checked by the institutional actors responsible for the SN oversight function – i.e. DCPD in the State Chancellery, the Ministry of Public Finance, the Competition Council and the Department for SMEs policy in the Ministry of Economy.** This ensures that discretion is reduced to a minimum during the triage exercise and there is compliance with the procedure.

PHASE 2 – Organizing and producing SNs

105. **This phase kicks in once ministries have been cleared as to the type of analysis they are expected to carry out in relation to a given initiative.** Reflecting the results of the triage mechanism, this phase distinguishes three possible administrative patterns:

- producing SNs for low impact initiatives (Stage 4);
- producing SNs for medium impact initiatives (Stage 5); and
- producing SNs for high impact initiatives (Stage 6).

106. **In all cases, the SN or a SN study (for high impact initiatives) must be produced in accordance to the guidelines and the template established by the new legal base.** Annex III. 2 proposes a new template for the preparation of SNs.

Stage 4. Preparing SNs for low impact initiatives

107. **If the triage categorizes the initiative as likely to have low impacts and this has been cleared, the responsible line ministry prepares the SN in support to the related act to be adopted by the Government (see Stage 7 below).** The process in this case would substantially not be dissimilar to what is current practice at present.

Stage 5. Preparing SNs for medium impact initiatives

108. **If the triage categorizes the initiative as likely to have medium impacts and this has been cleared, the responsible line ministry:**

- prepares a draft SN;
- organizes both internal consultation and a public consultation exclusively focused on the draft SN; and
- revises the draft SN accordingly, as appropriate.

1. **The line ministry thus submits the revised draft SN to DCPD for central quality appraisal.** In the case of SN for medium impact initiatives, DCPD will perform only a procedural scrutiny at this stage – i.e. the scrutiny will specifically geared towards

ascertaining that all parts of the SN templates are appropriately completed (and if not, that adequate justification is provided).³³

2. After having performed its scrutiny, DCPD must issue an opinion addressed to the department drafting the SN. The opinion is mandatory but not binding upon the initiator / co-initiators of the initiative.

3. On the basis of that opinion, the ministry may undertake revisions of the draft SN taking into account the DCPD recommendations fully or in part. It may also decide to revert to DCPD if this is deemed opportune. It will use the resulting SN as the basis to start producing the act to be adopted by the Government (Stage 7).

Stage 6. Preparing SN studies for high impact initiatives

109. **From the point of view of the ministry(-ies) responsible for the initiative, two fundamental differences distinguish the high from the medium impact procedures.** If the triage categorizes the initiative as likely to have high impacts and this has been cleared, the responsible line ministry in principle proceeds like for medium impact initiatives – i.e. it prepares and revises the draft analysis further to the internal and public consultation. With however two major substantial and procedural differences:

- **SN study.** The SN submitted to DCPD and made public can no longer be the complete template as provided for by the SN Guidelines. For high impact initiatives, the responsible ministry will be required to issue a fully-fledged SN study which, while following the same analytical steps foreseen in the template, outlines in details the assumptions made, the methodologies used for data collection, validation and processing, etc. (see Guidelines in Annex III.4 for more details).
- **SN Working Group.** In order to fully exploit the expertise available in all relevant ministries and State bodies and to ensure adequate policy integration, the SN initiator shall convene and coordinate a SN Working Group, if the Inter-Ministerial Committee for coordination of elaboration and implementation of GAWP (hereinafter the GAWP Committee) determines that the initiative is not only of likely high impact but that it is also cross-portfolio implications.³⁴ The membership of the Group is recommended by the GAWP Committee, while DCPD can provide further non-binding advice. DCPD may participate in (part of) the work of the Group upon invitation. Responsibility for the SN study nonetheless remains with the initiator / co-initiators of the initiative.

110. **The central quality appraisal also varies in the case of high impact initiatives both with regard to the type and the actors performing the scrutiny.** After possible revisions further to the inputs of the SN Working Group, the internal and the public consultation rounds, the SN initiator submits the draft SN study to DCPD for central quality check. This is characterized as follows:

- **Multi-actor scrutiny.** As it is also already the case with regard to the final endorsement of draft legal acts to be adopted by Government, a number of institutional actors will be required to provide an in-depth opinion on the quality of the draft SN study. The actors involved *de officio* are the DCPD (for general appraisal); the Ministry of Public Finance (for fiscal and budgetary impacts); the Competition Council (for impacts on competition and State aid); and the Department

³³ Procedural screening is what DCPD generally does at present whenever it considers SNs.

³⁴ Existing inter-ministerial groups can be used as SN Working Groups, if appropriate.

for SMEs Policy (in charge of the SME Test).³⁵ The DCPD will be tasked with dispatching the draft SN study and collect the respective opinions into a single opinion.

- ***Procedural and substantial scrutiny.*** Unlike the case of medium impact initiatives, the SN study will have to be reviewed both procedurally and substantially. Each actor intervening in the oversight function will have to rely on own evaluation guidelines to perform this task.

111. **After having performed the central scrutiny, DCPD must issue an opinion addressed to the department drafting the SN study.** Also in this case, the DCPD opinion is mandatory but not binding upon the initiator / co-initiators of the initiative.

112. **On the basis of that opinion, the ministry may undertake revisions of the draft SN study taking into account the DCPD recommendations fully or in part.** It may also decide to revert to DCPD if this is deemed opportune. In any event, it must consult the SN Working Group. The resulting revised SN study will then be used as the basis to start producing the act to be adopted by the Government (Stage 7).

PHASE 3 – Preparing acts for Government decisions

113. **Only at this stage of the decision-making process do ministries start drafting the acts to be submitted to Government for formal adoption.** This part of the process basically leaves the current rules of procedures of the Government unchanged, although amendments are recommended notably in relation to the organization of the internal and public consultation minimum standards as well as the publication requirements. Accordingly, the phase is divided along the following stages:

- drafting of the Government act (Stage 7);
- internal and public consultation (Stage 8);
- final endorsement and adoption (Stage 9); and
- promulgation and publication (Stage 10).

114. **These stages will have to be undertaken by the ministries, irrespective of whether the triage mechanism classified the initiative as being likely to have low, medium or high impacts.** The main innovation in this Phase is the recommendation to increase the days the draft legal proposal is available for consultation with the public, e.g. during 30 days.

Stage 7. Drafting the Government act

115. **Presently, initiators of Government acts may be: ministries and other bodies of the central administration, subordinated to the Government as well as autonomous ones, specialized bodies subordinated to the ministries** Prefects, county councils, and the General Council of the Bucharest Municipality may be initiators of

³⁵ Law no.346/14.07.2004 on stimulating the creation and development of SMEs, published in the Official Gazette of Romania no.681/29.07.2004 (as modified). The last amendment taken into consideration by this chapter was provided by Law no.62/30.04.2014, published in the Official Gazette of Romania no.328/6.05.2014. The Methodology for the elaboration and application of the SMEs test was approved by Order of the Ministry of Economy no.698/4.06.2014, published in the Official Gazette of Romania no.438/16.06.2014.

Governmental acts only by using as intermediary agent the Ministry for Regional Development and Public Administration. The initiator needs to reflect upon the existent national and international legislation and alternative solutions for better formulation.

116. **Specialized units of the initiator may use specific norms of legislative techniques³⁶ in order to produce a legal draft.** In doing so, they may demand the assistance of the Legislative Council, or search for the jurisprudence of the Romanian Constitutional Court or that of the European Court on Human Rights.

117. **At this stage, the DCPD and the GSG may only serve as possible counterparts in the drafting of the act or as informal consultants on the solutions in hand.** No additional impact on the existent legislation is foreseen, as this stage aims at consolidating current practices and clarifying the terminological confusion between regulatory and normative actions.

Stage 8. Internal and public consultation

118. **According to provisions currently in force, the initiator is responsible for sending two copies of the finalized initial draft to the GSG (in electronic and written format) in view of registration and publication on the Government website.** Concomitantly, it ensures the publication of the draft on its own webpage and sets up the framework for internal and public consultation. The novelty to be introduced here is that aside the draft act, the initiator will be responsible for the publication of the SN draft / study as well. That will strengthen the predictability of the RIA process and increase public awareness. Increasing the number of days for consultation of the draft legal instrument, e.g. 30 days in the website to receive feedback and comments, is also a suggestion that intends to bring consultation practices in Romania up to international standards.

119. **At this stage, the Direction for Relations with the Parliament, Ministry of Justice, Ministry of Public Finance need to provide an opinion on the act only if considered necessary.**

Stage 9. Final adoption and endorsement

120. **All documentation pertaining to the new SN system will be circulated between different endorsers (Legislative Council, Direction for Relations with the Parliament, Ministry of Justice, Ministry of Public Finance, Competition Council, Supreme Council for State Defense, Social and Economic Council, Court of Auditors, Supreme Council of Magistrates and the Group for Evaluating the Economic impact on SMEs).** There could be three types of reactions from opinion drafters: 1) favorable opinion; 2) favorable opinion with objections or proposals; and 3) negative opinion. The Initiator could only motivate its responses in the cases of: favorable opinions with objections and negative opinions.

Stage 10. Signature and publication

121. **Upon reaching the final stage, the act receives the signature of the Prime Minister and that of the initiator and is subject to publication by the GSG.** In the new

³⁶ Law no. 24/27.03.2000, published in the Official Gazette of Romania no.139/31.03.2000, as modified. The last amendment considered by this chapter was made by Law no.29/11.03.2011, published in the Official Gazette of Romania no.182/15.03.2011.

system, publication will include keeping record of the SN process in a single portal administered by DCPD.

III.2.3. Identifying necessary amendments

122. **On the basis of the features of the new SN system envisaged above, a number of amendments to the current legal base are likely to be required.** The following table schematically outlines the main provisions that require consideration for possible amendment by Government in relation to each of the innovative elements brought about by the new system.

Table III.1: Recommended amendments to current legal bases

Phase of the new system	Stage of the new system	Current legal base potentially to be changed	Article(s) proposed for revision	Scope of revision (specific innovative element)
1 - Consolidating and filtering Government action	1. Grounding SN to the GAWP	Decision of the Prime Minister no.414/2013	article 2.2 - establishing the coordination role of the Committee over the SN, and linking it to GAWP; new article: introducing GAWP Guidelines for triage	Linking SN to GAWP
		Government Decision no.750/2005	article 2 - establishing the coordination role for SN	Introducing SN to inter-ministerial committees
		Government Decision no.561/2009	articles 27, 32 - presenting the rules of agenda setting for Government meeting; Chapter VII - on the statute, composition, organization and meetings of the Government preparatory meetings, articles 34, 35, 37 and 38	Correlation with GAWP and the DCPD role's of coordination
		Law no.24/2000	Articles 6 and 7, and Section 4 (Articles 30-34) on the motivation of legal drafts	Linking SN to the legal draft, explaining the rationale of the new SN system and clearing the misinterpretations on normative versus regulatory
		Government Decision no.1361/2006 (as revised in 2010)	Articles 1-3 and Annex – presenting the rationale of SN	Introducing the new SN system and clearing the misinterpretations on normative versus regulatory
		Government Decision no.775/2005	all articles	Introducing the SN and the new SN system
	2. Excluding and exempting ministries from carrying out a SN	Government Decision no.561/2009	article 6 - on the cases of exclusion	Reframing it to accommodate exclusions and exemption from SN
		Government Decision no.1361/2006 (as revised in 2010)	Articles 2-3 – on exclusions and exemption from SN	Reframing it to accommodate exclusions and exemption from SN
	3. Determining the magnitude of the impacts: the “triage” mechanism	Government Decision no.561/2009	new article(s)	Introducing the triage mechanism
	2 - Organising and producing SNs	4. Preparing SNs for low impact initiatives	Government Decision no.561/2009	reformulation of articles (Chapter III, IV, and V)
Law no.346/2004 (as revised in 2014) and Methodological norms			reframing of the SME Test	Correlating the SME Test with the SN (so to be included in the templates)

Phase of the new system	Stage of the new system	Current legal base potentially to be changed	Article(s) proposed for revision	Scope of revision (specific innovative element)	
	5. Preparing SNs for medium impact initiatives	Government Decision no.561/2009	reformulation of articles (Chapter III, IV, and V)	Clarifying the scope and applicability of SN and the new flow chart for SN	
		Government Decision no.1361/2006 (as revised in 2010)	new Annex	Introducing the new SN template	
		Government Decision no.775/2005	new Annex	Introducing the new SN template	
	6. Preparing SN studies for high impact initiatives	Government Decision no.775/2005	new Annex	Introducing the new SN study	
		Government Decision no.1361/2006 (as revised in 2010)	new Annex	Introducing the new SN study	
		Government Decision no.561/2009	reformulation of articles (Chapter III, IV, and V)	Clarifying the scope and applicability of SN and the new flow chart for SN	
		Decision of the Prime Minister no.414/2013	new article: introducing the WG on SN	Creating a SN Working Group	
		Government Decision no.561/2009	new article: correlating the role of the WG on SN, with the rest of the actors	Consolidating the SN Working Group	
	Law no.346/2004 and Order of the Ministry of Economy no.698/4.06.2014	new article: to correlate the new SN system with the SME Test	Correlation of the SME Test with the new SN process		
	3 - Preparing acts for Government decisions	7. Drafting the Government act	Government Decision no.561/2009	clarification of articles 1-14	Clarifying the terminological confusion between regulatory and normative acts
			Government Decision no.1361/2006 (as revised in 2010)	Clarification of articles 1-3 and Annex	Clarifying the scope of the SN process
		8. Internal and public consultation	Government Decision no.561/2009	Chapter IV and article 17.2 on the template of the notification address	Introducing the SN draft for public consultation
Government Decision no.1361/2006 (as revised in 2010)			New Annex	Introducing the SN draft for public consultation	
Law no.52/2003			Article 2 on general principles; Article 3.j; Article 7	Introducing SN in the list of documents open to public consultation and the new timeline for consultation (e.g. 30 days for consultation)	
Law 62/2011			Articles 68, 83, 121 on the scope of consultation	Introducing SN in the list of documents open to public consultation and correlation to the new provisions on the schedule of consultation	
Government Decision no.521/2005			Article 2 et seq.	Introducing SN in the list of documents	

Phase of the new system	Stage of the new system	Current legal base potentially to be changed	Article(s) proposed for revision	Scope of revision (specific innovative element)
				open to public consultation and correlation to the new provisions on the schedule of consultation
	9. Final adoption and endorsement	Government Decision no.561/2009	Articles 23-30	Making the new SN system compatible with the existent framework
		Government Decision no.1361/2006 (as revised in 2010)	New Annex	Correlating the new SN system to the existent framework
	10. Promulgation and publication	Government Decision no.561/2009	Articles 23-30	Making the new SN system compatible with the existent framework
		Government Decision no.1361/2006 (as revised in 2010)	New Annex	Correlating the new SN system to the existent framework

III.3. ENHANCING THE QUALITY OF THE ANALYSES

123. **The second line of action in the reform strategy for improved SN pertains to increase the quality of the analyses produced.** The diagnosis carried out in the framework of this project has revealed that officials intervening in the SN process are generally insufficiently prepared to master the analytical steps and methodologies. This is partly due to the lack or the inefficient allocation of expertise in the line ministries; to problems related to collecting, validating and processing relevant and comparable data; to silos approaches and missed cross-fertilization of information and experiences; and to the failure to consider the whole policy cycle when designing Government decisions.

124. **To overcome these challenges, it is recommended to operate along three levels of intervention:**

- the simplification of the SN template;
- the rationalization and upgrade of the underlying a SN Guidelines; and
- the development of a systemic capacity-building program.

III.3.1 A simple SN template

125. **The current model provided for by Government Decision 1361/2006 is not wrong per se, but it may not be the most instrumental tool to assist the SN drafter.** It combines both elements typical of a template (i.e. standardized format) that obliges SN drafters to fill all required fields with elements that should rather pertain to more comprehensive guidance documentation. The model appears moreover to put uneven balance on the various sections for analysis.

126. **For these reasons, it is recommended to streamline the current model.** The SN Template is the document that needs to be filled when preparing any initiative that is expected to be adopted by Government (except in cases of exclusion or exemption). Annex III.2 provides a possible example of such SN Template.

127. **For high impact initiatives, as resulted from applying the triage filter, the SN Template will constitute the Executive Summary to be attached to the more comprehensive SN Study.** The format of the SN Study is not strict. However, it must include all sections provided for in the Template.

III.3.2 Upgraded SN Guidelines

128. **At present, several guidance documents exist that pertain to the preparation of SN in the decision-making process.** Some are manuals adopted and endorsed centrally by the GSG, some other are ministerial documents. In addition, some guidance is provided directly by Government Decision 1361/2006.

129. **The legal and operational nature of each individual guidance document is not clear. Ministries have de facto relative discretion in considering whether and when to use one source of support as opposed to others.** Because the manuals have not been checked against their consistency and appropriateness, the risk is to have different understanding of what the process should be when tackling a SN analysis. Quality standards might also differ significantly.

130. **It is therefore recommended that everybody be on the same page, taking account of both the new SN system and the new SN Template.** The Guidelines reported in Annex III.4 are specifically meant to assist SN drafter when they have to fill the SN Template. They are conceived jointly with the template and should support the filling of each one of the sections and steps. The Guidelines also indicate when a step is to be filled in, in relation to the result from the filtering mechanism (triage).

III.3.3 Elements for a centralized capacity-building program

131. **A third level of intervention to upgrade the analytical capacity to carry out SNs consists of designing and running a structured, consistent training program.** This is complementary to the introduction of the new Guidelines.

132. **Capacity building through training is a necessary element of the reform. Training should address the rationale for RIA; the main analytical steps; and the various relevant methodologies.** It should be as tailored as possible to the background, skills and needs of the participants, and it should be practical, providing examples and case study exercises. The training strategy of the Government should be designed over a few years and it should not consist of one-off courses. Over time, the RIA Unit staff should be closely involved in the training activities.

133. **There is a wide tank of resources that need to be capitalized upon.** A number of training courses have taken place over the past years under the aegis of various parts of the Government and involving the EU and international partners. Little oversight has nonetheless been applied on the consistency and quality of the inputs provided. There is also unsystematic record on who participated in what type of training. One strand of action planned in this very project, moreover, includes active tailored training modules with a number of officials from selected ministries. Together with the planned pilot projects, this constitutes a further important source for capacity building, as it directly seeks to apply the recommended new system.

134. **A capacity-building program, however, goes beyond training classes. It also relies on awareness campaigns addressed to policy-makers.** The latter are the ones making use of the information provided in SNs. They need therefore to be aware of the role that evidence should play in informing their decisions, and the consequences that political decisions may have upon the economy, society and the environment. By the same token, policy-makers need to understand the procedural requirements regulating a sound SN process so that a climate of trust and respect can emerge between the political and the administrative realm.

135. **Capacity building also encompasses an intensified dialogue with business and stakeholders.** A culture of dialogue should progressively emerge between the public administration and the private sector that avoids confrontational attitudes and minimizes the risks of regulatory capture and corruptive practices. A well-designed SN system is the pivotal element in the reform of public decision-making that can contribute to establishing such culture. Actors external to the Government need also to understand their new roles and bear responsibility in the overall governance of evidence-based decision-making.

136. **As the main reference body managing the new SN system, DCPD appears to be best placed to take over the organization of the capacity-building initiatives aimed at strengthening the in-house expertise; raising awareness among policy-makers; and making the interface with external actors porous and constructive.** The evolution of

capacities within DCPD should also be considered, as they will have a prominent role in ensuring that good regulatory practices are disseminated within the Romanian administration.

III.3.4 Monitoring the new RIA system

137. **Monitoring the way the new RIA system is being implemented is fundamental to learn about possible gaps and/or report on its success.** The development of some basic indicators can help DCPD with this task, both in conducting its oversight function of the Substantiation Notes, but also to monitor the new RIA system in place.

138. **Monitoring should be done timely, in order to report regularly, e.g. yearly, on results.** This helps make the system accountable and it is also likely to support the work of DCPD. It would be advisable DCPD prepares a yearly publication that might trigger external support by stakeholders of a well-performing RIA system as a whole, as well as by naming and shaming services lagging behind in applying the new standards.

139. **One initial way of monitoring the system is to establish criteria to develop the oversight function of DCPD, which should clearly be improved over time as capacities are developed.** DCPD will need to review the Substantiation Notes prepared by ministries and other regulatory institutions, and this might require the set-up of criteria and indicators to be reviewed against what regulators present to DCPD. Annex III.3 offers some ideas of what is meant by “oversight function” and what issues DCPD should carefully look at when reviewing the Substantiation Notes.

140. **Another mechanism to monitor the implementation of the RIA system is to develop indicators for the RIA system as a whole.** Some initial ideas for output and outcome indicators are presented in Table III. 2. They could however be reviewed once the system is put in place.

Table III.2. Possible monitoring indicators of the RIA system

Type of indicator	Indicator	What is measured
Output indicators	# of Substantiation Notes	Number of Substantiation Notes prepared per year
	# of Substantiation Notes with quantification of costs and benefits	Number of Substantiation Notes that have quantitative information on costs and benefits, both for government, businesses and consumers
	# of Substantiation Notes by institution	Number of Substantiation Notes prepared by institution per year
	# of Substantiation Notes by level of impact	Number of Substantiation Notes by level of impact (low, medium, high) per year
	# of regulations adopted in the Government meetings	Number of regulations adopted in the Government meetings
	# of regulations adopted in the Government meetings with Substantiation Notes	Number of regulations adopted in the Government meetings with Substantiation Notes
	Percentage of regulations adopted with Substantiation Note	Number of regulations adopted with Substantiation notes/ Total of Regulations adopted
	# of cases where the Substantiation Note recommends non-regulatory interventions or policy-mixes	Number of interventions where regulation is not the final way of intervention

Outcome indicators	Administrative burdens imposed by regulation	Quantification of administrative burdens imposed to businesses and consumers by regulations per year
	Costs of regulations	Quantification of costs of regulations per year
	Benefits of regulations	Quantification of benefits of regulations per year

141. **In addition, DCPD might want to make public some observations on its own comments on Substantiation Notes.** The development of additional indicators on the oversight function of DCPD could help this administrative body to learn from experience and identify further gaps that might be tackled through training and specific capacity-building activities. For instance, the number of rejections (and reasons behind them) as well as the type of comments prepared might provide useful information to further support the oversight role of DCPD.

III.4.CONCLUDING REMARKS

142. **This chapter presented the main features of a new, fully-fledged system for evidence-based (regulatory) decision-making, grounded on the pivotal role of the Substantiation Note.** It is based on a preliminary structured review of the weaknesses and gaps of the current system for regulatory impacts in the Romanian Government,³⁷ and it is specifically designed to assist the DCPD in the Chancellery with the elaboration of the necessary tools implementing the reform.

143. **Like any other plan for comprehensive reform, the envisaged areas of intervention cover several dimensions which, taken together, form a consistent strategy plan.**

144. **First, these primarily include *the re-organization of the SN process*,** which answers the questions throughout the SN process “Who does what? When? Why?”. Among the innovative components proposed by this chapter is the correlation between the GAWP cycle and the SN process; the introduction of an initial filtering mechanism (triage system): the requirement to carry out public consultations on draft SN for medium and high impact initiatives; and the systematization of the central quality appraisal oversight.

145. **Second, *the rationalization and upgrading of the guidance material supporting SN drafters*,** which answers the question “How shall the SN report be produced?”. Accordingly, this chapter presented a revised SN Template and a new set of SN Guidelines. The two documents are to be considered jointly, as the latter underpins the preparation of the former.

146. **Third, the chapter sketched the elements for an implementation strategy** that includes a centralized capacity-building program as well as a communication campaign addressed to both decision-makers and external stakeholders.

147. **Expectations need to be managed, though.** The suggested changes draw from the double assumption that there is already valuable basic elements of evidence-based decision-making practices within the Romanian Government and that reforms are likely to be more successful if conceived incremental progress. Nonetheless, it is important that all actors involved in the renewal of the SN process and affected by it acknowledge that the necessary

³⁷ As presented by Chapter II.

time horizon is likely to stretch over years and that the introduction of new (legal) instruments is not by itself conducive to immediate positive change. Resistances to the changes will emerge, and institutional learning needs to kick in both within the public administration and among political leaders and stakeholders.

148. **What is outlined in this chapter is therefore to be considered as the initial, a necessary but insufficient input to a wider reform endeavor, which will be further consolidated by the other constitutive parts of the project.**

IV. CAPACITY BUILDING NEEDS OF THE RIA SYSTEM IN ROMANIA

149. **The current chapter complements the assessment of the current RIA framework in Romania and aims to provide an assessment of the existing skills and technical capacities required to conduct RIA for a selected set of government institutions. The chapter also provides recommendations to help address the existing human resource gaps and capacity-building needs.** The current chapter complements the assessment and recommendations regarding the current RIA framework in Romania presented in Chapter II and Chapter III. While the previous two chapters focused on the overall framework of the RIA system in Romania, the current chapters focus on the specific capacity building needs required to sustain the implementation of RIA. The analysis of the RIA capacity requirements presented here has been undertaken in the following institutions and relevant departments: the DCPD within the Chancellery of the Prime Minister, as well as the legal, technical, and Public Policy Unit staff in the three line ministries selected for the implementation of the RIA pilot projects planned as part of the current task.

150. **Specifically, the evaluation seeks to assess the capacity-building needs in terms of essential technical and soft skills and competencies needed to fulfill various RIA tasks. In this context, the assessment is centered on the process of elaborating the regulatory proposal and the substantiation note.** In effect, the research undertaken as part of this task focused on the staff capacities to draft and review regulations, as well as the skills required to oversee and coordinate the RIA process. The evaluation is centered on the process of preparing the regulatory proposal and the ‘substantiation note’ - the main instrument for regulatory impact assessment. Against this background and based on the results of the analysis, the report proposes development priorities for the staff as well as the infrastructure needed to facilitate the achievement of these priorities.

151. **The assessment of the RIA capacity building needs was conducted in two phases: (1) identification of specific roles played by public administration staff and (2) analysis of the human resource base for conducting RIA in the selected institutions.** Five key roles were identified as playing a part in the RIA process: (i) *staff in charge of quality control of regulatory proposals and substantiation notes* (a function primarily fulfilled by DCPD); (ii) *team leader for RIA tasks*, (iii) *contributing team member*, (iv) *supervisor of technical staff*, and (v) *legal staff in charge of drafting or contributing to the elaboration of the regulatory draft*. Apart from the function of quality control, the four remaining roles are fulfilled by staff in line ministries³⁸.

152. **The main methodology employed for the analysis of the human resource base for conducting RIA is the Competency Architect Tool.** The Competency Architect Tool (CAT) is a methodology used for human resource evaluation which is based on the concept of ‘competency’ defined as the triad ‘knowledge-skill-attitude’. CAT has been adapted for the purpose of the current evaluation and encompasses 40 competencies considered relevant for employment in public administration. Out of these 40 skills, a sub-set of 13 competencies were identified as *essential skills* for each of the five RIA roles defined. As part of the assessment, each participating staff member from the target institutions engaged in a self-evaluation by prioritizing the entire set of CAT competencies as highly, moderately, and less developed. The competency development status reported by participants was then compared against the required *essential skills* for each specific RIA

³⁸ Line ministries are one of the main originators of regulatory proposals in Romania.

role, highlighting in this way the critical RIA competencies which are currently under-developed for a significant majority (more than two thirds of staff) within the participating institutions.

153. **The remainder of this chapter is structured as follows.** Section IV.1 provides a description of the methodology used to conduct the evaluation of capacity building needs, while Section IV.2 presents the results by type of institution and RIA role. Section IV.3 concludes.

IV.1. METHODOLOGY

154. **The research on the RIA capacity building needs has aimed to map and analyze the existing human resource base for conducting RIA in the selected institutions, including strengths, gaps, and constraints.** The following RIA-related roles have been identified:

The Department for the Coordination of Public Policies:

- i) Staff with the potential to fulfill a quality control role within the RIA process.

Line Ministries:

- ii) Team leader for the preparation of the regulatory proposals and substantiation notes³⁹;
- iii) Team member contributing to the regulatory proposals and substantiation note preparation;
- iv) Supervisor of technical staff (both team leader and team member) in charge of the preparation of the regulatory proposals and substantiation note;
- v) Legal staff in charge of drafting or contributing to the elaboration of the regulatory draft.

155. **Through this evaluation, the evaluation has sought to assess the capacity-building needs in terms of essential technical and soft skills and competencies needed to fulfill a RIA role.** Specifically, the research undertaken focused on the staff capacities to draft and review regulations, as well as the skills required to oversee and coordinate the RIA process. In this context and based on the results of the analysis, the assessment proposes development priorities for the staff as well as the infrastructure needed to facilitate the achievement of these goals.

156. **The primary data sources for the current assessment are the self-evaluation exercises and questionnaire-based interviews with staff and managers in the selected institutions.** In addition to consultations with key institutional stakeholders, the analysis made use of additional sources of information, including the review of relevant labor and RIA legislation and internal documents of target institutions.

157. **The main methodology employed for the evaluation of staff competencies was the Competency Architect Tool (CAT).** The Competency Architect Tool (CAT) is a

³⁹ The substantiation note is the main instrument for ex-ante regulatory impact assessment of legislative instruments in Romania. According to existing legislation, in Romania regulatory drafts have to be accompanied by instruments of presentation and substantiation, generally called 'substantiation notes'. The most important function of the substantiation note is to explain the problem definition, i.e. the reasons which led the drafters (public sector institutions, members of parliament, etc.) to consider the legal intervention, and to assess the socio-economic, financial and legal impact of the proposed policy or legislative act.

tool used for human resources evaluation, which is based on the concept of ‘*Competency*’ defined as the triad ‘*Knowledge-Skill-Attitude*’. The concept employs the assumption that staff is ‘*competent*’ in a specific role, by possessing, using and displaying the three competency facets listed above. In certain cases, employees possess broad knowledge and are highly skilled in specific domains but show unsatisfactory performance as a result of a neutral or negative attitude. In other situations, employees are interested and motivated to carry-out and successfully accomplish specific tasks, but lack either the necessary knowledge, structure, information, or face difficulties in onset of new activities. When combined, such drawbacks can offset the positive effects of their enthusiasm, leading to a mediocre performance at best.

158. The CAT instrument was calibrated to encompass 40 public administration-relevant competencies. Out of these, a sub-set of 13 competencies was identified as essential for each of the RIA roles listed above. For the purposes of this assessment, a set of 40 public administration-relevant competencies that personnel need to carry out their job tasks and responsibilities in the public administration sector, including for RIA roles were included in the evaluation framework (Annex IV.1). In addition, a sub-set of 13 competencies were identified as essential to undertake each of the RIA roles listed above. This selection was based on the best practices for undertaking RIA and European Commission principles and guidance on RIA (Annex IV.2). The RIA-essential competencies are encompassed in one of four categories: technical competencies, management and coordination competencies, interpersonal competencies, intrapersonal competencies.

159. Each staff or public management employee who participated in the assessment engaged in a process of self-evaluation by prioritizing all 40 competencies included in the CAT framework. Selected staff members were asked to rank the forty public administration-relevant competencies included in the evaluation instrument according to perceived level of personal development. The prioritization was done using three level-categories: thirteen ‘highly-developed’, fourteen ‘medium-developed’, and thirteen ‘low development’ competencies. On their individual form, the participants were asked to provide additional background and personal information, such as position and grade, gender, education, work experience, perceived RIA role, and recommended improvements to the RIA process (Annex IV.3).

160. The competency development status reported by participants was compared against the required level of ‘highly-developed’ skills for RIA roles. The assessment benchmarked the personal development level listed by participants in a specific RIA role against the list of 13 competencies considered as essential for that particular role, hence highlighting the essential RIA competencies that are not perceived as ‘highly developed’. This benchmarking was conducted in order to identify relevant gaps and constraints, and to inform the elaboration of recommendations which, once implemented, can support improvements in the RIA process. If at least one third of the participants signaled a low or medium development for a specific RIA essential competency, then the competency development initiatives will necessarily entail all people with a potential RIA role in the targeted institutions.

161. A summary of the main methodological steps of the assessment is provided in Box IV.1.

Box IV.1 – RIA Capacity Building Needs Evaluation Procedures: Main Steps

Step 1 - Identification of specific RIA roles played by public administration staff

- i) *staff in charge of quality control* (primarily in DCPD)
- ii) *team leader for RIA tasks*
- iii) *contributing team member*
- iv) *supervisor of technical staff*
- v) *legal staff*

Step 2 – Use of customized Competency Architect Tool to evaluate staff competency level

- A set of 40 competencies included in the CAT as relevant for employment in public administration (technical/ managerial/ interpersonal/ intrapersonal competencies)
- Out of these 40 skills, a sub-set of 13 competencies were identified as *essential skills* for each of the five RIA roles
- Each staff member engaged in a self-evaluation by prioritizing the entire set of CAT competencies according to three main developmental stages: highly developed (13 competencies), moderately developed (14 competencies), and less developed (13 competencies)
- Competency development status reported by participants was compared against the required *essential skills* for each specific RIA role

Mapping and assessment of essential RIA competencies which are currently under-developed for a significant majority (more than two thirds of staff) in the case of each RIA role (the major capacity gaps)

IV.2. RESULTS BY TYPE OF INSTITUTION AND RIA ROLE

IV.2.1. Department for the Coordination of Public Policies

IV.2.1.1. RIA role of Quality Control

162. **The DCPD is currently the institution that is best suited to oversee the quality control of regulatory proposals and substantiation notes, as it is tasked with supporting the presentation of legislative proposals for submission to Government decision meetings.** The DCPD is the main technical counterpart for the current project. As highlighted in Chapter II, the DCPD has carried out procedural screening of substantiation notes in the past and is considered, based on the current analysis, to be the central administrative body that can be charged with overseeing the RIA process.⁴⁰

Employee background information and staff planning for RIA tasks within DCPD

163. **The recruitment and selection policies within the DCPD follow the Romanian labor legislation applicable for the public administration sector.** Typically, the announcements for job openings include the job title, grade, and minimum requirements for education, work experience and behavioral standards in the public sector. The openings are posted on the GSG website and posted on announcement boards, at headquarters. No details regarding the specific job responsibilities and activities are provided in the job advertisements. The recruitment and selection procedure encompasses three steps: (i) analysis of the candidate credentials against minimum requirements; (ii) testing of knowledge and skills related to the job content, including analytical skills; (iii) interview to observe

⁴⁰ Nonetheless, its mandate and powers in this respect are not currently spelled out in the relevant legal base.

communication skills, analytical skills, management and leadership skills (for management positions), motivation and reaction in crisis situations.

164. **A sub-set of 27 DCP staff members (out of a total of forty employees), or 65 percent, participated in the CAT exercise⁴¹.** More than half of participants held the position of Counselor at the time of the assessment, while 30 percent were employed as Experts. The job descriptions for the two roles, ‘Counselor’ and ‘Expert’, are highly similar, while the employment status might be a civil servant or a contractual employee depending on the choice made in the staff planning performed in GSG budget exercise one year before. Approximately 15 percent of the staff sample analyzed held the position of Public Manager. The vast majority of respondents (90 percent) have a total work experience of 10-15 years or more.

165. **The majority of DCP staff holds degrees in social and political sciences.** The largest share (52 percent) of DCP staff participating in the evaluation holds a degree in social and political science. Other educational profiles include economics (30 percent), law (9 percent) and engineering (4%) (Figure IV.1). Most of the respondents (55 percent) have a Bachelor’s diploma, whereas the rest (45%) have obtained a Master’s degree (Figure IV.2).

Figure IV.1: Educational Profile – DCP

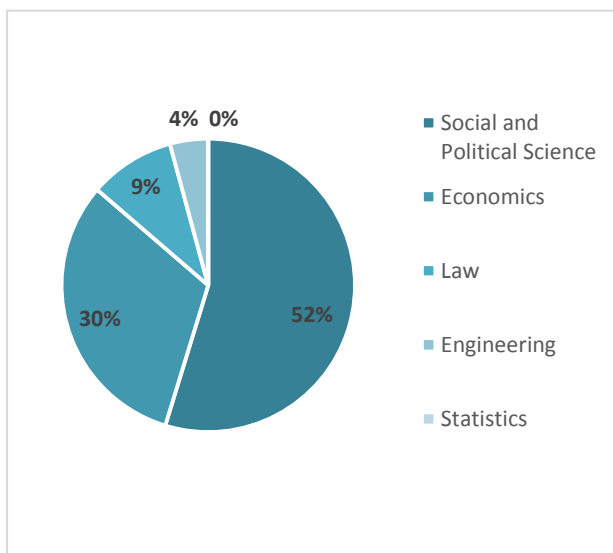
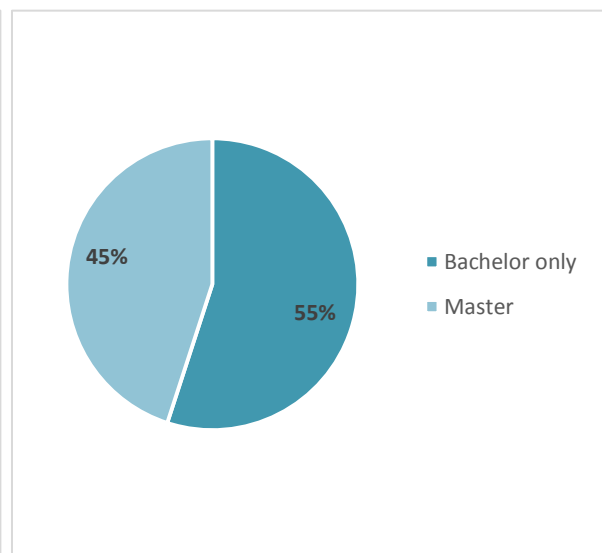


Figure IV.2: Educational Attainment: DCP

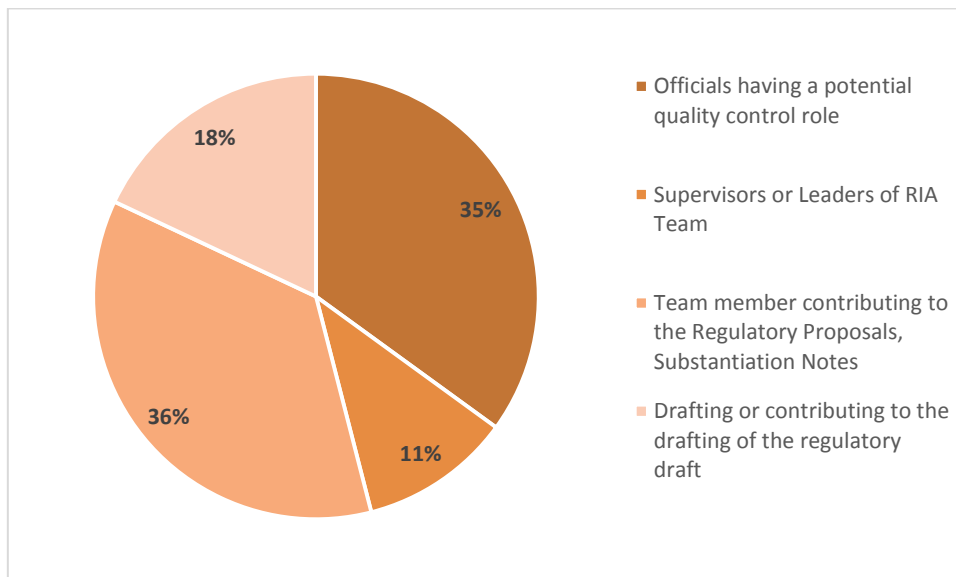


Source: Author’s elaborations based on data gathered through interviews with representatives of DCP (based on a sample of 27 staff interviewed) (2014)

166. **Based on feedback received from DCP staff the quality control of regulatory proposals and substantiation notes has not been undertaken on a consistent basis within the last 3-5 years.** The majority (67 percent) of DCP staff who participated in the RIA capacity building analysis reported they possess between 2 and 14 years of experience in performing impact assessments of legislative, regulatory, and policy proposals. This experience has generally been acquired prior to their employment within DCP, in other public institutions or in private organizations, where they undertook various impact assessment-related tasks, as presented in Figure IV.3. The largest share of respondents (36

percent) were team members contributing to the preparation of impact analysis, regulatory proposals and substantiation notes. The second largest segment (35 percent) is composed of staff that can have a potential quality control role in the RIA process but are not at the moment involved in this type of activity. In addition some of the respondents acted as supervisors or leaders of impact analysis teams (11 percent) or were involved in drafting or contributing to the elaboration of the regulatory draft (18 percent).

Figure IV.3 – Roles in the RIA Process – DCCP staff



Source: Author’s elaborations based on data gathered through interviews with representatives of the line DCCP (2014). The distribution of RIA-specific roles is based on staff self-evaluation. Respondents were allowed to make multiple choice of RIA roles achieved over time even though they did not perform them constantly in the last 5 years. The distribution by RIA roles was calculated based on weighted average frequency of each RIA role as reported by respondents.

167. **The DCCP has recently begun to organize a RIA dedicated team within the department.** A number of twelve RIA-experienced staff as well as six employees with no previous RIA-relevant experience have reported their involvement as part of the DCCP’s informal RIA team, which has the goal of organizing and implementing a systematic RIA quality control process in within the DCCP and the General Secretariat of the Government.

Coordination with other institutions, information resources, and internal HR procedures relevant for RIA in DCCP

168. **According to DCCP staff the current coordination with other units/departments or ministries in respect to regulatory proposals is highly relevant and supportive in exercising a true and enhanced RIA-related processes and capacity improvement in DCCP,** as the organization with a leading role of RIA quality control. This communication and coordination allow the sharing good regulatory practices and knowledge and speed-up the process of regulation approval in Government decisional meeting.

169. **Although RIA-related activities are not undertaken on a consistent basis, sufficient time is allocated for this type of task when needed. RIA-relevant documentation is available to the staff.** When RIA tasks, albeit sporadically, are

initiated, staff are provided with sufficient time to complete the activities and meet. Documentation on RIA processes including handbooks, guides, and other materials exists on the DCPD premises which staff can consult in physical and electronic format.

170. **Apart from the organizational structures discussed above, no additional RIA-enabling organizational methods and tools have been identified within the DCPD framework.** DCPD staff have identified and recognized the importance in developing additional RIA-relevant resources such as data availability and interoperability of databases and high quality ICT hardware and software which can significantly facilitate the oversight of the RIA process. Moreover staff respondents were aware of the key role of training and development activities as well with regard to the importance of coaching including by the direct manager. Outsourcing RIA analysis to take advantage of outside talent at a fair cost was also considered an option. Options related to enhancing individual and team performance include the opportunity for staff to contribute to the development of complex regulations, the opportunity to present publicly and defend substantiation notes as well as the use of individual and team performance evaluations based on quality of impact analysis followed by reward and recognition incentives for high quality contributions to the RIA tasks.

Essential competencies to perform an effective ‘RIA Quality Control’ role in DCPD

171. **The essential *technical* competencies that a staff member needs in order to exercise an effective role in the RIA quality control process have been synthesized by a team of RIA and human resource experts. These include: ‘economic and business analysis’, ‘sector and industry-specific knowledge’, ‘risk analysis’, ‘social science acumen’, ‘solving problems’, ‘evidence-based decision maker’, ‘knowledge of regulatory theory’, ‘interpretation of data’, and ‘written communication’** (see Table IV.1) The exact definition of these technical competencies was presented to the staff as part of the exercise. These skills encompass essential capacities such as the ability to apply the principles of good regulation such as to achieve clearly defined and measurable policy objectives and the capacity to make effective decisions based upon a combination of sound evidence, analysis, experience and judgment. In order to provide effective RIA quality oversight, a public administration official must also be a good problem solver, from the first stage of problem definition to the elaboration of recommendations aiming to identify the most effective solution. Specifically, the staff member should possess the knowledge and the ability to check that regulatory proposals which are submitted to the DCPD are relevantly substantiated, through the use of models and quantitative methods of economic and financial analysis, sectoral and social assessment, and be familiar with methodologies for risk analysis. Moreover, good writing skills are essential for checking quality of regulatory proposals and substantiation notes received to ensure a format best fitted for submission to Government approval.

172. **The *management and coordination* competencies which have been selected as essential in order to fulfill an effective RIA quality control role are ‘customer focus’ and ‘strive for quality’, whereas the key *interpersonal* competencies are ‘informing’ and ‘political savvy’.** The management and coordination competencies refer to the capacity of RIA quality controllers to strive to meet expectations and requirements, and to deliver the highest quality performance through continuously improved processes. The interpersonal competencies chosen in this case refer to the capacity of RIA quality controllers to provide needed information in a timely manner to relevant staff and stakeholders in order to support effective decision-making as well as to the ability to understand, effectively communication

across formal and informal networks and function successfully within the organizational culture of their institution.

Table IV.1 – Status of essential competencies to develop for the RIA Quality Control role

		Essential CAT competencies to exercise an effective RIA Quality Control role:	Capacity development needs among DCPD staff respondents*
1.	Technical	Economic and Business Analysis	99% to develop
2.		Sector and Industry-Specific Knowledge	99% to develop
3.		Risk Analysis	99% to develop
4.		Social Science Acumen	75% to develop
5.		Solving Problems	25% to develop
6.		Evidence-Based Decision Maker	50% to develop
7.		Knowledge of Regulatory Theory	75% to develop
8.		Interpretation of Data	75% to develop
9.		Written Communications	30% to develop
10.	Management and coordination	Customer Focus	75% to develop
11.		Strive for Quality	40% to develop
12.	Interpersonal	Informing	50% to develop
13.		Political Savvy	75% to develop

* A share of 30 percent or less indicates that the competency is well-developed

Well-developed RIA competencies currently in DCPD

173. **The results of the assessment indicate a number of ‘core strengths’ among the essential RIA competencies which appear well-developed within the DCPD - ‘solving problems’ and ‘written communications’ (technical competencies)** (see Table IV.1). The strengths of the DCPD staff that are highly relevant for the fulfillment of an effective quality control role in the RIA processes are, primarily, the ability to engage in effective problem solving as well as the capacity to communicate effectively in writing.

174. **Other well-developed competencies of DCPD staff, while not identified as critical for the RIA, could help support the implementation of a revised RIA processes within the DCPD. These are: - ‘collaborative relationships’ and ‘listening’ (interpersonal competencies); ‘drive for results’, ‘integrity and trust’, ‘perseverance’, and ‘self-development’ (intrapersonal competencies)** (Annex IV.4). Based on the results of the assessments, DCPD staff appears to possess solid capacities to build collaborative relationships and can work as part of a team. The evaluation suggests that staff members are perceived as trustworthy, have motivation to achieve high-performance, and are personally committed and actively work to continuously improve personal capacities. These personal strengths are expected to support future individual and group learning initiatives organized and the successful implementation of a revised RIA quality control process by the DCPD.

Existing development gaps in RIA Quality Control capacities in DCP

175. **The evaluation identified a number of critical gaps in the skill set required to perform DCP's role on RIA quality oversight. First, DCP staff needs to further develop the vast majority of RIA-relevant technical competencies (Gap 1).** These include “economic and business analysis”, “sector and industry-specific knowledge”, “risk analysis”, “social science acumen”, “evidence-based decision maker”, “knowledge of regulatory theory”, and “interpretation of data”. A significant share of the staff (between 50 to 99 percent) needs to close the capacity gap for most of the RIA technical competencies (Table IV.1). In addition, the limited number of advanced degrees and the educational focus in the area of social and political science may contribute to the lack of skill diversity (Paragraph 15). Therefore, a robust training and education program is needed to equip DCP staff involved in RIA-related activities with the skills and capacity, required to ensure a thorough quality control of regulatory proposals and substantiation notes before their submission for approval in government decisional meetings. Capacity building initiatives should address the fundamentals of an evidence-based decision making process to adopt regulations, and provide staff with knowledge of analytical models, as well as the capacity to use simulation and forecast methods.

176. **Secondly, specific essential RIA management and coordination competencies including ‘customer focus’ and ‘strive for quality’, also require further development (Gap 2).** A high share of the DCP staff participating in the assessment (75 percent) reported a low or average personal level regarding the capacity to identify and meet beneficiary expectations (Table IV.1). While less than half of the staff identified a personal development gap for the ‘strive for quality’ competency, this is still considered a significant issue to be addressed, since quality control represents the core content of the DCP role in RIA.

177. **The third gap identified refers to essential RIA interpersonal competencies such as “informing” and “political savvy” (Gap 3).** These two competencies have to be further developed (Table IV.1), as they enhance the capacities of the DCP staff to fulfill their quality control role within the RIA process through information sharing and effective communication across formal and informal networks.

178. **In addition, improving ‘legal framework acumen’ competency although considered not essential but desirable for DCP staff involved in RIA should be carefully considered, as it may enhance staff capacity to perform their quality supervisory function (Gap 4).** The quality control role that the DCP performs in regard to regulatory proposals and substantiation notes means that the department serves as a last filter before the legal drafts are sent for consideration by the Government. Approximately 90 percent of DCP staff reported not possessing a formal education degree in Law (Paragraph 15), hence no training and competency in this area (Annex IV.4). Therefore, acquiring knowledge on relevant legislation, both European and Romanian, may be of significant importance to perform the RIA quality control.

179. **Finally, the scarcity or lack of key enabling organizational methods and tools, within the DCP, requires immediate attention (Gap 5).** These mechanisms and resources, including ICT databases and systems as well as human resources management initiatives such as opportunities to achieve more complex and challenging tasks as well as recognition for contribution by an effective incentive system are recognized by DCP staff as

highly relevant enablers for employee development in general, and for RIA capacity building in particular.

IV.2.2. RIA roles within the Line Ministries

180. **Four key RIA roles were identified within the Line Ministries in regard to the preparation of regulatory proposals and the substantiation notes: team leader; team member contributing to the preparation; supervisor of technical staff; and staff working on the elaboration of the regulatory legal draft.** The specific role of each staff member involved in the RIA process within any Line Ministry is determined by the function fulfilled with respect to the initiation, development and promotion of a regulatory draft and the associated substantiation note. Three line ministries participated in the analysis: Ministry of Regional Development and Public Administration (MDRAP), Ministry of Agricultural and Rural Development (MADR) and Ministry of Labor, Family, Social Protection and the Elderly (MLFSPE).

Employee background information and staff planning for RIA tasks in the line ministries

181. **Based on assessment results, line ministry staff appears to hold substantial public administration experience.** A number of 71 public employees from the three line ministries participated in the CAT exercise, out of which 25 percent male and 75 percent female. Two thirds are employed as Counselors, while the remaining respondents held the position of Public Manager. Of the total 37 percent have an overall work experience of more than 15 years, while 25 percent have less than 10 year work experience.

182. **The majority of line ministry staff holds degrees in Engineering and Economics at the undergraduate level.** The largest share (34 percent) of line ministry staff participating in the evaluation holds a degree in engineering, most of them working within the Ministry of Agriculture and the Ministry of Regional Development. Other educational profiles include economics (27 percent) – the majority of which working within the Ministry of Regional Development and the Ministry of Labor, law (22 percent), social and political science (15 percent), and statistics (2 percent) (Figure IV.4). The majority of respondents (54 percent) has a Bachelor’s diploma, whereas the others (46 percent) also hold a Master’s degree or a Doctorate (Figure IV.5) (see Annex IV. 6 for information on educational profile by line ministry).

Figure IV.4: Educational Profile – line ministries

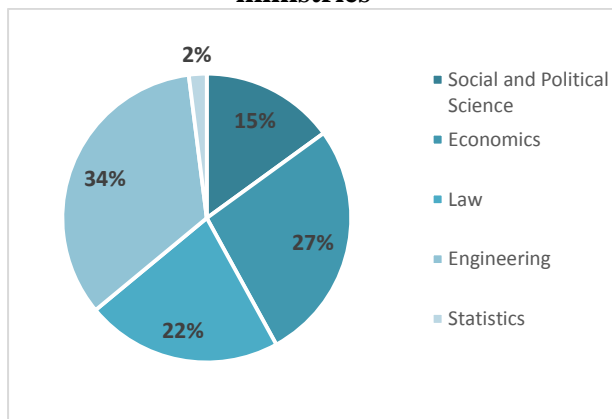
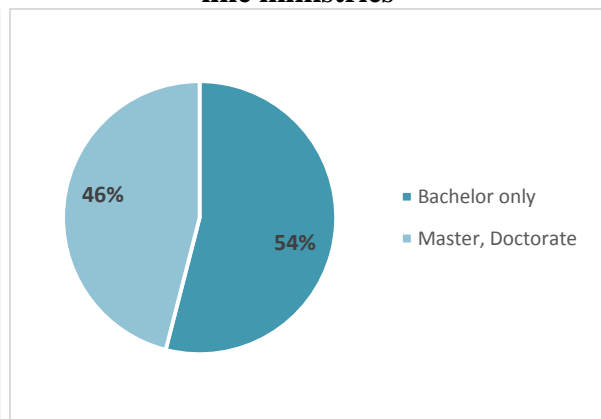


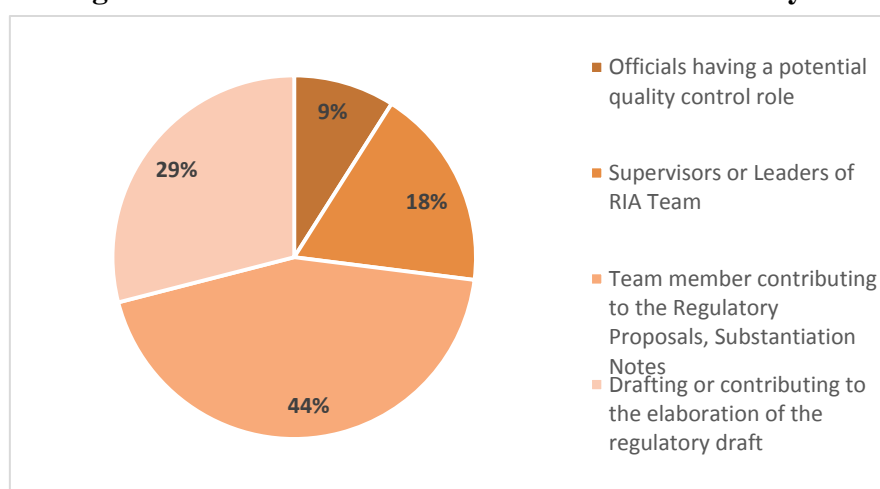
Figure IV.5: Educational Attainment – line ministries



Source: Author's elaborations based on data gathered from a sample of 71 line ministry staff interviewed (2014)

183. **An important work responsibility for ministry staff and public managers is to assume and fulfill tasks related to the preparation of regulatory proposals and substantiation notes.** Of those interviewed, the largest share (44 percent) identified themselves as team members contributing to regulatory proposals and impact assessment, whereas 18 percent held the role of supervisors or leaders within a RIA team, and 29 percent had the task of drafting contributing to the elaboration of the regulatory draft (Figure IV.6). Approximately 40 percent of the line ministry staff participating in the analysis reported that they possess at least five years of experience in a RIA role, acquired by working in the line ministry. Interviewed staff considered RIA tasks to constitute developmental assignments and an important potential source of professional satisfaction.

Figure IV.6 – Roles in the RIA Process - Line ministry staff



Source: Author's elaborations based on data gathered through interviews with representatives of the line DCP (2014). The distribution of RIA-specific roles is based on staff self-evaluation. Respondents were allowed to make multiple choice of RIA roles achieved over time even though they did not perform them constantly in the last 5 years. The distribution by RIA roles was calculated based on weighted average frequency of each RIA role as reported by respondents.

Coordination with other institutions, information resources, and internal HR procedures relevant for RIA in the line ministries

184. **A rich documentation on RIA processes including handbooks, guides, and other support materials are available within the line ministries in physical and electronic format.**

185. **The current coordination with other Line Ministry units/departments or GSG-DCPP in exercising the RIA roles is perceived by the line ministry staff as relevant and supportive for the RIA-related processes and capacities improvement.** This communication and coordination allow the sharing of good regulatory practices and knowledge and speed-up the process of regulation development.

186. **Apart from the infrastructure, tools and incentive systems, presented in Paragraphs 34-35, no additional RIA-enabling organizational methods and tools appear to be in place within line ministries.** Line ministry staff identified and recognized the importance of developing RIA-related competencies through the use of other organizational tools and methods such as data availability and interoperability of databases, quality of ICT

hardware and software, as well as effective time management, and training and development activities. In addition, staff displayed interest in coaching including by the direct manager and considered outsourcing RIA analysis to take advantage of outside talent as a potential alternative. Moreover, respondents showed interest in other types of developmental tools including opportunities to present and defend the substantiation notes in public, the introduction of individual and team performance evaluations based on the quality of impact analysis performed and reward and recognition for high-quality contributions to the RIA process. It also noteworthy that all staff, including Public Managers can enhance their individual competency level, including management and leadership capacities, in the process of implementing these organizational methods and tools.

IV.2.2.1. RIA Role of Team Leader

187. **The role of Team Leader for the preparation of regulatory proposals and substantiation notes has been assumed in recent years by a limited number of Public Managers in the line ministries.** In the most recent five to seven years, the Public Managers acting as RIA Team Leaders, along with other responsibilities, represent only a 10 percent of total staff participating in the current CAT evaluation (Figure IV.6). Moreover, only a limited number of public employees, (8 percent of line ministry staff), have served as leaders for RIA teams in line ministries. In this context, information collected from the line ministries participating in the current assessment suggests the need to enhance current capacities of the staff in order to empower them to assume coordination roles within the RIA team in the future.

Essential competencies to perform an effective ‘RIA Team Leader’ role

188. **The essential technical competencies that a public employee needs to use in order to exercise an effective role as a Team Leader in a RIA team are: ‘solving problems’, ‘evidence-based decision maker’, and ‘knowledge of regulatory theory’** (see Table IV.2). These skills refer to the ability to apply the principles of good regulation in order to achieve clearly defined and measurable policy objectives, the capacity to adopt good decisions based upon a mixture of evidence, analysis, experience and judgment, and their abilities as good problem solvers, from the stage of problem definition to the elaboration of recommendations aiming to identify the best solution.

189. **The essential management and coordination competencies necessary to act as an effective RIA Team Leader are: ‘building effective teams’, ‘delegation’, ‘priority setting’, and ‘planning’.** This set of competencies encompasses the capacity to create and contribute personally to a strong team morale, the ability to create and maintain focus by identifying priorities and setting milestones; clearly delegating to the RIA team members both routine and important tasks and decisions, while sharing both responsibility and accountability, and the ability to adjust the course of action in a timely and effective manner in order to mitigate problems and overcome roadblocks.

190. **The essential interpersonal competencies required to exercise an effective RIA Team Leader role are ‘informing’, ‘collaborative relationships’, ‘influencing others’, and ‘political savvy’.** These interpersonal skills reflect, among other, the capacity to provide information to staff in a timely manner to help them fulfill their tasks and make accurate decisions; the ability to build collaborative and constructive relationships and to communicate effectively with the team members, as well as the capacity to get things

done both through formal as well as informal channels and to easily adapt to the ministry’s organizational culture.

191. **The essential intrapersonal competencies needed to exercise an effective RIA Team Leader role are ‘handling change’ and ‘patience’.** These qualities encompass the capacity to cope with change effectively and to weigh carefully the benefits to the efficiency and effectiveness of delivery against potential risks and uncertainty. Moreover, as leaders, staff members have to gain a detailed understanding of data and team dynamics before making judgments and acting, while being sensitive to due process and proper pacing and deadlines.

Well-developed RIA competencies for the role of ‘RIA Team Leader’ in the line ministries

192. **The evaluation identified a number of essential RIA competencies specific to Team Leaders that are well-developed within the line ministries. These include: ‘collaborative relationships’ (interpersonal competency) and ‘patience’ (intrapersonal competency).** The strengths of line ministry staff in relation to assuming an effective RIA Team Leader role lay, if exercised, in the capacity to build collaborative relationships and work in teams, as well as in the ability to follow the established process with patience and proper pacing.

193. **Other well-developed skills of line-ministry staff, while not identified as critical for RIA tasks are – ‘strive for quality’ (management and coordination competency); ‘creativity’, ‘integrity and trust’, ‘perseverance’, and ‘standing alone’ (intrapersonal competencies). These skills can help leverage the implementation of improved RIA processes in the line ministries (Annex IV.4).** Line ministry staff appears to possess the capacity to identify original and creative solutions to succeed in completing the required task. In addition self-reported information indicate that staff members are able to engage in collaborative relationships and team work; and do not avoid assuming personal responsibility or taking charge of a complex assignment. These personal strengths are expected to support the successful implementation of revisions in the RIA process.

Table IV.2 – Status of essential competencies to be developed for RIA Team Leader role

		Essential CAT competencies to exercise an effective RIA Team Leader role:	Capacity development needs among line ministry staff respondents*
1.	Technical	Solving Problems	40% to develop
2.		Evidence-Based Decision Maker	50% to develop
3.		Knowledge of Regulatory Theory	75% to develop
4.	Management and coordination	Building Effective Teams	60% to develop
5.		Delegation	80% to develop
6.		Planning	60% to develop
7.		Priority Setting	60% to develop
8.	Interpersonal	Informing	50% to develop
9.		Collaborative Relationships	25% to develop

10.		Influencing Others	50% to develop
11.		Political Savvy	75% to develop
12.	Intrapersonal	Handling Change	60% to develop
13.		Patience	25% to develop

* A share of 30 percent or less indicates that the competency is well-developed

Existing development gaps in ‘RIA Team Leader’ capacities in the line ministries

194. **The assessment identified a number of gaps in the skill-set needed to act a RIA Team Leader in an effective manner. First line ministry staff needs to further develop a number of key RIA technical competencies including: ‘problem solving’, ‘evidence-based decision maker’, and ‘knowledge of regulatory theory’ (Gap 1).** A significant share of respondent staff (between 50 and 75 percent) needs to close the capacity gap for an important subset of RIA technical competencies needed in order to act as a Team Leader role (Table IV.2). Yet, based on the large number of staff in the line ministries holding a degree in engineering and economics, this capacity gap could potentially be managed through robust training and education programs. This type of training initiatives can help to equip the staff with the knowledge, ability and motivation to perform effectively in the role of RIA Team Leader. The training should encompass the fundamental principles of evidence-based decision making when adopting regulations, and should provide essential knowledge on regulatory theory. In addition capacity building should educate staff on problem solving mechanisms, including the analytical methods for impact assessment.

195. **Second, a number of essential RIA management and coordination competencies such as ‘building effective teams’, ‘delegation’, ‘priority setting”, and ‘planning’, also need further development (Gap 2).** Between 50 and 80 percent of line ministry staff reported a low or average personal level for the capacities needed to lead teams effectively and to foster a strong team spirit. Staff also reported the need for further development when it comes to the ability to create and maintain focus and to adequately plan and delegate tasks among team members (Table IV.2).

196. **Third, a number of essential RIA interpersonal competencies defined as ‘informing’, ‘influencing others’ and ‘political savvy’ should be enhanced (Gap 3) ,** as they help staff to fulfill their coordination role within the RIA processes through information sharing, compelling communication and effective professional relationships across formal and informal communication networks (Table IV.2).

197. **Lastly, the essential RIA intrapersonal competency of ‘handling change’ needs attention (Gap 4).** Approximately 60 percent of line ministry staff appears not open or inadequately prepared to handle change when taking the lead of a RIA team to prepare a regulatory proposal and the associated substantiation note (Table IV.2).

IV.2.2.2. RIA role of Team Member contributing to the regulatory proposals and substantiation note preparation

198. **The largest share of respondents from the line ministries identified themselves as team members contributing to the preparation of regulatory proposals and substantiation notes.** About 44 percent of staff members interviewed reported that they contributed to the preparation of regulatory proposals, participating in the development of the corresponding substantiation notes (Figure IV.6). About 7 percent reported that while not

holding a law degree and preparation, they contributed also to the drafting of the regulatory proposal.

Essential competencies to perform an effective ‘RIA Team Member’ role

199. **The essential technical competencies that a staff member would need to employ in order to act as an effective Team Member for the preparation of regulatory proposals and substantiation notes are: ‘economic and business analysis’, ‘sector and industry-specific knowledge’, ‘risk analysis’, ‘social science acumen’, ‘solving problems’, ‘evidence-based decision maker’, ‘knowledge of regulatory theory’, ‘interpretation of data’, and ‘perspective’** (Table IV.3). These encompass the ability to apply the principles of good regulation in order to achieve clearly defined and measurable policy objectives; to adopt effective decisions based on evidence, analysis, and experience, and the ability to anticipate implications and trends; problem-solving abilities; the knowledge and ability to verify whether regulatory proposals are relevantly substantiated, by employing models and methods of business and financial analysis, as well as sectoral, social sciences, and risk analysis, and the ability to interpreting the results of impact assessments.

200. **The interpersonal competency of ‘informing’ is essential in order to exercise an effective role as a RIA Team Member** (Table IV.3). This specific competency refers to the ability to share information in a timely manner with the other team members involved in the preparation of regulatory proposals and substantiation notes in order to support effective decision making.

201. **The essential intrapersonal competencies needed for RIA Team Member are: ‘drive for results’, ‘handling change’, and ‘time management’** (Table IV.3). These skills refer to the capacity to cope with change in an effective manner and successfully mitigate potential risks and uncertainty. In addition, it is essential that team members possess the motivation to achieve high-performance and that they use time effectively by concentrating efforts on the most important priorities.

Table IV.3 – Status of essential competencies to develop for the RIA Team Member role

		Essential CAT competencies to exercise an effective RIA Team Member role:	Capacity development needs among line ministry staff respondents*
1.	Technical	Economic and Business Analysis	75% to develop
2.		Sector and Industry-Specific Knowledge	75% to develop
3.		Risk Analysis	75% to develop
4.		Social Science Acumen	75% to develop
5.		Solving Problems	50% to develop
6.		Evidence-Based Decision Maker	50% to develop
7.		Knowledge of Regulatory Theory	75% to develop
8.		Interpretation of Data	60% to develop
9.		Perspective	40% to develop
10.	Interpersonal	Informing	40% to develop
11.	Intrapersonal	Drive for Results	40% to develop

12.		Handling Change	60% to develop
13.		Time Management	60% to develop

* A share of 30 percent or less indicates that the competency is well-developed

Well-developed RIA competencies for the role of ‘Team Member’

202. **One of the RIA competencies identified as essential for a Team Member in charge of the preparation of regulatory proposals and substantiation note are well-developed in the line ministries** (Table IV.3). The results of the assessment show that ministry staff which fulfill the role of team members in RIA assignments need further development on the eight technical skills considered essential for this specific RIA role, including ‘economic and business analysis’, ‘sector and industry-specific knowledge’, ‘risk analysis’, ‘social science acumen’, ‘solving problems’, ‘evidence-based decision maker’, ‘knowledge of regulatory theory’, ‘interpretation of data’, and ‘perspective’.

203. **Well-developed competencies of line ministry staff, while not identified as critically related to RIA functions include: ‘strive for quality’ (management and coordination competency); ‘collaborative relationships’ (interpersonal competency); ‘creativity’, ‘integrity and trust’, ‘perseverance’, and ‘standing alone’ (intrapersonal competencies)** (see Annex IV.4). These skills can help leverage the implementation of revised RIA processes in the line ministries. Based on interview results, line ministry staff appears to possess the capacity of to identify original and creative solutions, engage in collaborative relationships, and willing to take on, challenging assignments. These strengths can be expected to support the successful implementation of revisions in the RIA system.

Existing development gaps in RIA Team Member capacities

204. **Line ministry staff needs to develop the entire set of RIA technical competencies including: ‘economic and business analysis’, ‘sector and industry-specific knowledge’, ‘risk analysis’, ‘social science acumen’, ‘evidence-based decision maker’, ‘knowledge of regulatory theory’, ‘interpretation of data’, and ‘perspective’ (Gap 1).** A significant share of ministry staff (between 40 and 75 percent) needs to close the capacity gap for each one of the essential RIA technical competencies (Table IV.3). Yet, this significant capacity gap can be addressed through intensive capacity building efforts which could capitalize on the significant engineering and economics background which exists within the line ministries that participated in the assessment. Therefore, an effective training and education program can succeed to equip the staff with the knowledge and skills required to make substantive contributions to the development of regulatory proposals and substantiation notes. Training programs should encompass key principles of drafting regulatory proposals as well as the key analytical models to analyze, and methodologies to simulate and forecast event evolution after the adoption and implementation of the regulatory proposals under scrutiny.

205. **Second, the essential interpersonal competency defined as ‘informing’ needs to be further developed (Gap 2),** as it enhances the capacities of the RIA staff to successfully bring their contribution role to the RIA process through effective information sharing and can foster close collaboration within the team (see Table IV.3).

206. **Third, essential intrapersonal competencies such as ‘drive for results’, ‘handling change’, and ‘time management’ need close attention (Gap 3).** At least 40 percent of line ministry staff interviewed appears to require development in the areas of handling change in an adequate manner; maintaining the motivation to achieve high-performance, and using time effectively, by concentrating efforts on key priorities (Table IV.3).

207. **The abilities related to ‘legal framework acumen’, although classified only useful, and hence not a first-tier priority for the role of RIA Team Member, still require further development (Gap 4)** since they can help equip RIA personnel in the development of regulatory proposals and the associated substantiation notes (Annex IV.4). About 80 percent of the line ministry staff reported that they do not possess a degree in Law, and hence highly limited training and competencies in this area (Paragraph 32). Therefore, acquiring knowledge regarding relevant legislation, both at the local and at the European level, might support their contribution to the RIA process.

IV.2.2.3. RIA role of Supervisor of the technical staff in charge with the preparation of regulatory proposals and substantiation notes

208. **Approximately 30 percent of participating line ministry staff held a public management position.⁴² One third of them only reported that they also exercised managerial responsibilities over RIA technical staff (either Team Leader or Team Member) involved in the preparation of regulatory proposals and substantiation notes in the last 5-7 years (Figure IV.6).** The information collected from the line ministry management participating in the CAT exercise can have significant implications for the planning of initiatives to enhance managerial and leadership capacities for Public Managers in order to increase the quality of the RIA process in the future.

Essential competencies to perform an effective RIA supervisory role

209. **The essential technical competencies that a staff member needs to employ in order to act as an effective Supervisor of the staff involved in the preparation of regulatory proposals and substantiation notes are: ‘evidence-based decision making’, ‘knowledge of regulatory theory’ and ‘perspective’ (Table IV.4).** These capacities refer to the ability to apply the principles of good regulation in order to achieve clearly defined and measurable policy objectives; the capacity to make decisions based on evidence, analysis, and experience, as well as the ability to consider multiple aspects of a specific issue and to anticipate consequences and trends.

210. **The essential management and coordination competencies needed to exercise an effective RIA supervisory role are: ‘managing and measuring work’, ‘organizing’ ‘priority setting’, ‘building effective teams’, ‘developing people’, and ‘motivating people’ (Table IV.4).** They refer to the capacities to create and maintain focus by identifying priorities and setting objectives and intermediate milestones and the

⁴² Five out of twenty public management staff interviewed held a leading position within a Ministry department (director, department coordinator, department head/sef serviciu), with the rest reporting a public manager position. All respondents identified as ‘Leaders’ reported a RIA supervisory role over technical staff in the last five years, along with other management responsibilities. The assessment does not discriminate between public managers and administrative managers as the analysis focused on RIA roles specifically in order to identify relevant capacities or lack thereof, regardless formal job.

ability to assign responsibility for tasks and decisions in a clear manner. In addition, supervisors should be able to effectively monitor processes, progress and results, to use resources efficiently to achieve the goals and to maintain strong team morale.

211. **The interpersonal competencies which have been deemed critical for the role of Supervisor of technical staff involved in RIA processes are ‘informing’, ‘influencing others’ and ‘political savvy’** (Table 4). These skills encompass the capacity to provide timely information in order to support accurate decisions; the ability to lead, direct, and mobilize people through effective and inspired communication; the capacity to communicate both through formal channels and informal networks, and to function within a specific organizational culture.

212. **‘Handling change’ is the essential intrapersonal competency required for the role of Supervisor of technical staff involved in RIA processes** (Table IV.4). This refers to the capacity to cope with change effectively, and to make sound decisions while coping with limited information in a manner that carefully weigh the benefits timely delivery against potential risks and uncertainty.

Table IV.4 – Status of essential competencies to be developed for RIA Supervisor role

		Essential CAT competencies to exercise an effective Supervisor of RIA technical staff :	Capacity development needs among line ministry staff respondents*
1.	Technical	Evidence-Based Decision Maker	60% to develop
2.		Knowledge of Regulatory Theory	75% to develop
3.		Perspective	40% to develop
4.	Management and coordination	Building Effective Teams	60% to develop
5.		Developing People	75% to develop
6.		Motivating People	75% to develop
7.		Managing and Measuring Work	75% to develop
8.		Organizing	60% to develop
9.		Priority Setting	50% to develop
10.	Interpersonal	Informing	50% to develop
11.		Influencing Others	75% to develop
12.		Political Savvy	90% to develop
13.	Intrapersonal	Handling Change	60% to develop

* A share of 30 percent or less indicates that the competency is well-developed

Well-developed RIA competencies for the role of ‘Supervisor’ in the line ministries

213. Assessment results show that **none of the RIA competencies identified as essential for a Supervisor of technical staff in charge with the preparation of regulatory proposals and substantiation note are well-developed in the line ministries** (see Table IV.4). The evaluation has revealed that ministry managerial staff which fulfill the role of supervisors for RIA staff need further development on the three technical skills considered

essential for this specific RIA role, including ‘evidence-based decision making’, ‘knowledge of regulatory theory’, and ‘perspective’.

214. **Well-developed competencies of line-ministry Public Managers leading people in charge of RIA-related tasks, while not identified as critical, can leverage the implementation of improved RIA processes in the line ministries. These include: ‘collaborative relationships’ (interpersonal competency); ‘creativity’, ‘integrity and trust’, ‘perseverance’, ‘standing alone’ and ‘self-development’ (intrapersonal competencies)** (see Annex IV.4). Public Managers within the target line ministries appear to possess the capacity to identify original and creative solutions and engage in collaborative relationships, and are willing to embark on challenging assignments. Moreover results suggest that managers are committed and work to improve personal capacities on an on-going basis. These strengths can be expected to support the successful implementation of revisions in the RIA system and to help ensure the effectiveness of individual and group RIA-related training.

Existing development gaps in RIA supervisory capacities

215. **Line Ministry staff has to further develop the RIA technical competency set for the supervisory role: - ‘evidence-based decision maker’, ‘knowledge of regulatory theory’, and ‘perspective’ (Gap 1).** A significant share of Public Managers (between 40 and 75 percent) needs to close the capacity gap for the RIA technical competencies that support the supervisory role (Table IV.4). Therefore, an effective training and education program will succeed in equipping Public Managers in the line ministries with the knowledge, ability, and motivation to effectively lead their teams and attain high performance in RIA-related tasks. This type of capacity building program must encompass the fundamental principles of evidence-based decision making and address existing gaps in process to adopt regulations, with knowledge of regulatory theory and problem solving methodologies, including the forecasting models.

216. **Central to the role of Public Managers within the line ministries is the development of the entire set of essential RIA management and coordination competencies including ‘managing and measuring work’, ‘organizing’, ‘priority setting’, ‘building effective teams’, ‘developing people’, and ‘motivating people’ (Gap 2).** About 75 percent of the Public Managers in line ministries reported a low or average personal level for the skills to manage work efficiently in order to deliver high quality results, for the ability to lead effective teams and create a strong team spirit, and when it comes to the capacity to motivate and guide the professional development of staff (Table IV.4). These competencies are a core part of any management role across all industries and sectors, including public administration.

217. **The RIA interpersonal competencies essential for the supervisory role i.e., ‘informing’, ‘influencing others’, and ‘political savvy’ also need to be further enhanced (Gap 3)** (Table IV.4). Building and upgrading of these capacities will also support the implementation of improved RIA processes through information sharing, compelling communications and effective relationships across formal and informal communication networks.

218. **The essential RIA intrapersonal competency defined as ‘handling change’ requires attention in the case of Public Managers supervising technical staff with a RIA role (Gap 4).** About 60 percent of line ministry Public Managers do not appear open to change or seem inadequately prepared to handle changes with respect to managing their

teams and processes, including those related to the preparation of regulatory proposals and substantiation notes (Table IV.4).

IV.2.2.4. RIA role of Legal Drafter in charge of preparing or contributing to the elaboration of the regulatory draft

219. **Line ministries are well equipped with legal skills and the capacity to handle the drafting of regulation.** Out of the total number of ministry staff members interviewed, 29 percent reported being in charge of legal drafting or contributing to the elaboration of the regulatory draft (Figure IV.6). In addition, about 25 percent of staff with potential RIA role has mentioned to have contributed to the drafting of regulatory proposals in the last 5-7 years.

Essential competencies to perform an effective 'RIA Legal Drafter' role

220. **The essential technical competencies that a staff member needs to have in order to exercise an effective role of Legal Drafter are: 'legal framework acumen', 'knowledge of regulatory theory', 'perspective', and 'written communications'** (Table IV.5). Legal drafters need to possess very good knowledge of relevant legislation, both European and Romanian, along to the ability to apply this expertise when preparing complex legislation. Legal staff must have the ability to apply the principles of good regulation in order to achieve clearly defined and measurable policy objectives as well as the capacity to weigh multiple aspects of an issue and anticipate future consequences and trends. In addition, good writing skills are critical for transposing ideas and analysis into adequate legal terms.

221. **The management and coordination competencies essential for the role of Legal Drafter are 'customer focus', 'negotiating', and 'strive for quality'** (Table IV.5). These abilities refer to the capacity of the legal staff member to clearly understand and meet the beneficiaries' expectations and requirements, and to deliver the highest quality services through continuously improved processes. When communicating with other RIA team members, legal staff should possess the ability to resolve differences both through the use of evidence-backed arguments as well as through diplomacy and collaboration, and thus successfully fulfill their mandate and assigned responsibilities.

222. **The essential interpersonal competencies needed to act as an effective Legal Drafter are 'informing', 'listening', and 'political savvy'** (Table IV.5). These skills encompass the capacity to provide timely information in order to support the preparation of regulatory proposals and substantiation notes, the ability to communicate both via formal channels and informal networks, and the capacity to listen efficiently and gather key information from a wide range of stakeholders.

223. **The intrapersonal competencies considered essential in order to exercise an effective role of Legal Drafter have been defined as 'patience', 'standing alone', and 'time management'** (Table IV.5). This skill set refers to the capacity to thoroughly evaluate the available information before reaching a decision and being aware of the pace of other team members while meeting deadlines. In addition, as in the case of other RIA team members, legal drafters must be willing to take on complex and challenging assignment and be able to manage time effectively by concentrating efforts on key priorities.

Table IV.5: Status of essential competencies to be developed for RIA Legal Drafter role

		Essential CAT competencies to exercise an effective RIA Legal Drafter role:	Capacity development needs among line ministry staff respondents*
1.	Technical	Legal Framework Acumen	30% to develop
2.		Knowledge of Regulatory Theory	75% to develop
3.		Perspective	75% to develop
4.		Written Communications	60% to develop
5.	Management and coordination	Customer Focus	75% to develop
6.		Negotiating	75% to develop
7.		Strive for Quality	60% to develop
8.	Interpersonal	Informing	60% to develop
9.		Listening	30% to develop
10.		Political Savvy	90% to develop
11.	Intrapersonal	Patience	50% to develop
12.		Standing Alone	30% to develop
13.		Time Management	30% to develop

* A share of 30 percent or less indicates that the competency is well-developed

Well-developed RIA competencies for the role of ‘Legal Drafter’ in the line ministries

224. **The essential RIA competencies for a Legal Drafter in the line ministries that currently appear as well-developed are: ‘legal framework acumen’ (technical competency), ‘listening’ (interpersonal competency), ‘standing alone’, and ‘time management’ (intrapersonal competencies) (Table IV.5).** Legal staff appears to possess very good knowledge of relevant legislation, both European and Romanian, to be receptive to the opinion of the team and other stakeholders, and be willing to take on challenging tasks. Moreover, they seem to have solid time management abilities.

225. **Other well-developed competencies of line-ministry staff assuming the role of Legal Drafter can leverage the implementation of improved RIA processes. These include: ‘solving problems’ (technical competency); ‘collaborative relationships’ (interpersonal competency); ‘drive for results’, ‘integrity and trust’, and ‘perseverance’ (intrapersonal competencies) (Annex IV.4).** Legal staff members appear to possess the ability to solve problems and identify effective solutions and the capacity to engage in productive collaborative relationships and team work. In addition they report being willing to assume complex task and persevering in front of obstacles and challenges. These individual strengths are expected to support the successful implementation of updated and improved RIA processes.

Existing development gaps in RIA Legal Drafter capacities

226. **The technical competencies which need to be developed by legal staff in the line ministries involved in the RIA process include: ‘knowledge of regulatory**

theory’, ‘perspective’ and ‘written communications’ (Gap 1). A significant staff segment (from 50 to 75 percent) needs to close capacity gaps for a number of essential skills such as knowledge of regulatory theory, the ability to discuss multiple aspects of a problem and to anticipate consequences and trends (Table IV.5). In addition, legal staff also needs to enhance writing skills, which are critical for an effective translation of RIA team work into adequate legal terms.

227. **The second skill set which has to be enhanced encompasses management and coordination competencies including: ‘customer focus’, ‘negotiating’ and ‘strive for quality’ (Gap 2).** A significant share of legal staff in line ministries involved in the RIA process (approximately 60 percent) reported a low or average personal level for the capacity to identify and meet beneficiaries’ expectations and to deliver a high quality performance in implementing their RIA role, by continuous collaboration and communication with the RIA team in finalizing a good regulatory draft (Table IV.5).

228. **Third, the essential RIA interpersonal competencies defined as ‘informing’ and ‘political savvy’ also have to be further developed (Table IV.5) (Gap 3).** The building and development of these capacities will support the implementation of efficient RIA processes through information sharing and effective relationships across formal and informal communication networks.

229. **Fourth, the essential RIA intrapersonal competency defined as ‘patience’ needs attention (Gap 4).** Approximately 50 percent of line ministry staff who fulfill the role of legal drafter appears to need development when it comes to the ability to take the time to identify and understand key facts before making judgments and acting, while retaining awareness regarding due process and proper pacing, and the necessity to follow established procedures (Table IV.5).

IV.3. CONCLUDING REMARKS

230. **This chapter proposes practical ways to address the gaps identified by the RIA capacity building assessment for all RIA roles identified.** Some of the recommended initiatives may target individual RIA competencies while other can aim to enhance the dynamics of specific teams or entire organizations in order to support the improvement of the RIA process. A sub-set of actions may require more complex changes, and therefore would imply the allocation of additional time and sustained effort, while other could be implemented within a short time frame and with a potentially significant impact on the professional development and performance related to RIA.

231. **To support an effective and enhanced RIA process within public institutions that initiate regulatory interventions and to ensure the closure of the skills gaps, a systematic approach to capacity building is recommended.** The participating institutions have to start building and constantly update specific RIA-related skills among staff, improve employee motivation to achieve high performance, and encourage collaboration and the sharing of best practices with respect to RIA. Against this background, the proposed recommendations aim to address common gaps identified with regard to RIA roles. The majority of these proposed actions can be implemented in the short and medium term.

232. **Closing the capacity gaps identified for each RIA-specific role and leveraging the well-developed RIA competencies within each institution are top priorities recognized by representatives of GSG and DCPP and by counterparts**

from the line ministries. Capacity-building initiatives that help address the RIA skills gaps include specialized training courses and workshops, especially when it comes to technical skills and management competencies. The development of RIA competencies will be also supported by the implementation of enhanced infrastructure, tools and incentive systems. These would include the redesign of specific job descriptions to formalize RIA roles, and to ensure appropriate people staffing and planning. Moreover, the introduction of RIA-related performance evaluation, reward and recognition, along to other on-the-job-training programs - such RIA-related developmental assignments, coaching, individual and group study, sharing of best practices, and participating in and leading RIA teams – would constitute substantial improvements that could increase staff productivity and performance quality.

233. Specialized training and development courses need to be organized in order to close the development gaps identified for the essential RIA-relevant technical, management and coordination, interpersonal, and intrapersonal competencies.

- *The first type of training should aim to improve capacity to conduct evidence-based analysis in order to substantiate regulatory proposals.* The program can focus on building and updating the RIA technical competencies required to prepare regulatory proposals and substantiation notes including ‘economic and business analysis’, ‘sector and industry-specific knowledge’, ‘risk analysis’, ‘social science acumen’, ‘solving problems’, ‘evidence-based decision maker’, ‘interpretation of data’, ‘written communications’ (Gap 1 for All RIA roles). The curricula would include methods and models for economic and business analysis; macroeconomics and sectoral analysis; econometric models, simulation and forecasting; risk analysis; environmental impact analysis, sociological and demographic analysis; problem solving and decision making processes, including problem definition; data interpretation and processing; writing skills. The design and delivery will be conducted in several modules to cover each main type of analysis. In addition, the course would make use of case studies to combine theoretical knowledge with practical examples and exercises, and employ relevant IT software. The curricula of each specific course would have to be adjusted according to the educational profile of the participants. The pedagogy of the course would allow all staff, including those without previous coursework in statistics economics, or business analysis, to accumulate knowledge and practice analytical skills. Specific modules of the course series could be taught by outside experts and senior analysts as well as by representatives from other governmental institutions.
- *The second type of training should aim to help public officials to design substantive and evidence-based regulatory proposals according to the principles of good regulation.* The program would achieve this goal by focusing on building and updating RIA technical and management competencies to draft and prepare regulatory proposals and substantiation notes including ‘knowledge of regulatory theory’, ‘written communications’, ‘legal framework acumen’, ‘customer focus’, ‘strive for quality’ (Gaps 1, 2, 3/All RIA roles; Gap 4/RIA Quality Control, Team Member). The curricula would include principles of good regulation; regulatory tools, policies and institutions; factors which influence regulatory proposals; principles of quality control and management; defining and achieving measurable policy objectives; best practices on key performance indicators dashboards to substantiate a regulatory proposal; best practices for promoting regulatory proposals; information on core relevant legislation, both European and Romanian, for sectors and industries which need

better regulation. The design and delivery can include lectures, individual and group study, case-studies, essays, substantiation notes preparation and writing.

- *The third type of training should aim to help Public Managers and staff coordinating a RIA team to effectively lead and manage the RIA teams.* The program would achieve this goal by focusing on creating and enhancing leadership and management competencies including ‘managing and measuring work’, ‘planning’, ‘organizing’, ‘priority setting’, ‘building effective teams’, ‘developing people’, ‘motivating people’, and ‘influencing others’ (Gaps 2, 3/Team Leader, Supervisor). The curricula would include management and leadership skills required to lead high-performance teams. The audience would be composed of Public Managers from the line ministries and GSG-DCPP as well as staff members who are currently coordinating RIA teams or who show high-potential to assume such a role in the next future. The design and delivery of the training can include case-studies, lectures, individual, and group study.
- *The fourth type of training should aim to help the line ministry and DCPP staff with various potential RIA roles to effectively manage change and increase personal contribution to team performance.* The program would achieve its goals by focusing on building and updating the RIA intrapersonal competencies – ‘time management’, ‘planning’, ‘delegation’, ‘organizing’, ‘priority setting’, ‘drive for results’, ‘patience’, ‘handling change’, ‘standing alone’ (Gap 3/RIA Quality Control, Team Member, Legal Drafter; Gap 4/Team Leader, Supervisor, Legal Drafter). The curricula would focus on time and personal management skills help staff to cope with change in an efficient manner. The design and delivery would include case-studies, lectures, individual and group study.

234. **The leadership of participant institutions, including GSG Officials, ministers and department directors within line ministries as well as Public Managers, represent the key stakeholders to support the implementation of enhanced infrastructure, tools, and incentive systems.** These resources and mechanisms can enable a robust and effective RIA process over time by addressing the developmental gaps identified in this area , as follows:

- *Study tours and workshops to share experience with stakeholder Romanian institutions and other European counterparts,* focusing on the following RIA competencies: ‘technical competencies’, ‘informing’, and ‘political savvy’ (interpersonal competencies) (Gaps 1, 3/All RIA roles). The topics should include, among other: methods and models employed to prepare effective substantiation notes and good regulatory proposals; knowledge regarding regulatory tools, policies and institutions, and the dynamics between them; best practices for the promotion of a regulatory proposal; effective approaches for the adaptation of European legislation to the country-context. In this case, knowledge delivery can include exchange of opinions and debates, presentations, case-studies.
- *Championing the importance of the RIA process within public institutions to maintain staff motivation, enthusiasm and drive,* focusing on RIA interpersonal and intrapersonal competencies required by all RIA roles (All Gaps/All RIA roles). The type of initiative is strongly recommended for an effective RIA quality control performed by DCPP staff, but is also advised for the line ministries where awareness regarding the importance of the RIA process is not sufficiently developed. A proposed course of action for the DCPP, for instance, would entail that GSG officials take turn every three or six months for the role of “RIA Champion” in charge of overseeing RIA

activities and raising awareness on the critical importance of impact assessment in the regulatory process. This role would also encompass the coordination of specific incentive programs to recognize staff high quality performance during specified time-frames. Similar framework could be followed in the line ministers with the departmental leaders taking turns in championing, promoting and reinforcing a high performance of functional RIA legislation initiatives.

- *Any new RIA process or changes to existing processes have to be well explained within all institutions with legislative and impact assessment roles (All gaps/All RIA roles).* Therefore, organizing in each institution workshops and information events for staff members involved in RIA should be a pre-requisite that provides the opportunity to discuss new RIA processes and staffing or training strategies, to understand and build commitment to the principles and values behind new processes, as well as to identify any needs to upgrade capacities in order to meet the requirements of the RIA focus and strategy.
- *Formally introduce a more flexible manner of working in teams across units, and coaching of new RIA staff (All gaps/All RIA roles).* While working in RIA teams is more advanced in the line ministers, this recommendation is especially applicable to the DCP, where multifunctional representation and complementary skills (macro- and microeconomics, social issues, etc.) in RIA quality control-dedicated teams could leverage people availability, skills and experience, career and personal development needs. To ensure sufficient knowledge within a RIA team and during peak activity times in the RIA oversight process, all institutions with legislative and impact assessment responsibilities need to secure the involvement of all RIA-experienced people. In addition, to facilitate smooth work processes within the RIA teams, it would be critical to assign an experienced RIA coach or supporter for new team members, either newly hired, or newly coopted. Coaching also represents a learning opportunity for the knowledge provider as it facilitates the continuous upgrade of their interpersonal and intrapersonal competencies.
- *To ensure effectiveness of RIA staff roles, it is necessary to redesign formal job descriptions to include RIA-related responsibilities and tasks, as well as RIA competencies (All gaps/All RIA roles).* The job descriptions should include also RIA-relevant education and skills requirements that enable the completion of impact assessment tasks. This would allow management to conduct assessments of individual competencies through background reviews and testing - either upon hiring, or when joining a specific RIA team. Particularly in DCP, the hiring process would need to ensure that new hires possess the necessary level of analytical skills in order to successfully perform RIA tasks. Onboarding programs can thus be designed to be more relevant and educate staff regarding RIA processes. Moreover, this approach may allow for more differentiation in jobs and subsequently in career path and pay level. For example in the case of DCP it could help delineate the differences between the 'Expert' and the 'Counselor' positions, by deciding upon the capacity and performance requirements with respect to impact analysis (substantiation notes) of regulatory proposals and RIA team coordination. However, this decision needs to be carefully planned according to the number of Counselors and Experts available for quality control within multifunctional RIA teams.
- *Include RIA-related Key Performance Indicators at individual and team levels as part of the annual performance evaluations (All gaps/All RIA roles).* The performance-

based evaluation system can thus mitigate the seniority-based approach prevalent within the Romanian as it pertains to pay-level and career advancement, and help incentivize staff to be productive, innovative, and interested to assume a RIA role, thus also helping to reduce turnover levels.

- *Working as part of RIA teams should foster an environment that allows staff to benefit from on-the-job training through RIA developmental assignments* such as assuming roles in the drafting of complex legislation and impact analysis, as well as in the quality control process for complex and/or high impact regulations (All gaps/All RIA roles). In addition qualified public employees should have the opportunity to take charge of delegated tasks, RIA-related job rotations, and coordinating a RIA team for a high impact regulatory proposal. Staff should also be able to participate in decisional meetings or within the RIA team in order to present and defend a specific regulatory proposal. This type of assignments may require additional time and resources. However, their benefits can far outweigh the costs as they can help to empower staff and serve as a source of professional satisfaction, skill enhancement, and career development, and thus contribute to continuous improvement in staff performance.

235. A summary of proposed actions and training according to type of RIA role is provided below (Table IV.6).

Table IV.6: Recommendations to close the capacity building gaps by RIA role

	Team Leader RIA Role	Team Member RIA Role	Supervisor of RIA Technical Staff	Legal Drafter RIA Role	Quality Control RIA Role
Training course on evidence-based analysis to substantiate regulatory proposals	✓	✓			✓
Training course on designing regulatory proposals according to the principles of good regulation	✓	✓	✓	✓	✓
Training course on leadership and management skills	✓		✓		
Training course on handling change, time and personal management	✓	✓	✓	✓	✓
Study tours and workshops to share RIA best practices	✓	✓	✓	✓	✓
RIA Championing by top leadership in public institutions	✓	✓	✓	✓	✓
Communicating the new and improved RIA processes to the staff in the public institutions	✓	✓	✓	✓	✓
Operate by working in RIA teams	✓	✓	✓	✓	✓

Redesign job descriptions to include RIA-related responsibilities, tasks and requirements	✓	✓	✓	✓	✓
Include RIA-related Key Performance Indicators to monitor and evaluate staff within annual performance evaluations	✓	✓	✓	✓	✓
On-the-job-training through developmental assignments	✓	✓	✓	✓	✓

V. CONCLUDING REMARKS AND ISSUES FOR POLICY CONSIDERATION

236. Although the legal basis for the use of regulatory impact assessment (RIA) within the policy making process was established through a series of government decisions and legislative acts, the use of RIA has never become fully integrated in the decision-making process.

237. Against this backdrop this report has three main objectives: i) to identify the challenges in the organization and performance of the existing RIA framework; ii) assess the development gaps in the skills set required to perform RIA tasks; and iii) to outline a set of reform priorities and recommendations.

Current gaps on the organization and performance of the Romanian RIA system and recommendations for improvement

238. The assessment regarding the organization and performance of the current framework for RIA within the Romanian administration has revealed a set of existing challenges, both structural and analytical. *Structural challenges* include: the existing regulatory bias, certain ambiguities and contradiction in the legal base for RIA, an indiscriminately broad scope of application for the SN, limited inter-institutional coordination, the lack of a clear framework for steering and oversight, insufficient levels of consultation and transparency, as well as inadequate mechanisms to support institutional learning. Secondly, *analytical challenges* pertain to the general lack of skilled human resources across the administration, a wide-spread incapacity to establish factual causal relationships, objectives, and potential policy options, difficulties in data collection and validation, the lack of a multi-sectoral perspective, and the inadequate definition of action plans.

239. The recommendations regarding the structural and analytical challenges in the existing RIA framework build upon two main assumptions. The first one is that RIA is a multi-faceted process. The second assumption is that radical interventions are not necessarily a panacea when it comes to regulatory and administrative reform. While it finds expression in an analytical report that supports decision-makers, the notion of RIA should be understood more widely as an integral part of the regulatory reform program, embracing an institutional, organizational and procedural dimension. The second key point underlying the current proposal is that, in the framework of this project especially, there is clear merit in considering a longer term perspective that also builds on existing positive features. A system of evidence-based decision-making is already in place within the Romanian Government, with routinized procedural practices whose dismantlement and substitution would probably be more costly than engaging in targeted incremental improvement. The recommendations formulated in this report seek moreover to capitalize on past initiatives and to increase the scope of synergies and economies of scale.

240. Against this backdrop, the recommendations contain elements which should help construct a framework that the GoR may consider when designing a comprehensive reform strategy for enhanced Substantiation Note practices. The overarching goal of such a reform strategy should be to enhance predictability; transparency and accountability; consistency and rationalization; as well as effectiveness and proportionality.

241. **Two specific lines of action are presented:** the revision of the organization and process for SN in the central public administration; and the upgrading the analytical capacity for SN.

242. **The revision of the current organization and the process that underpins and governs the production of the SNs is the first main line of action of the reform.** The recommended changes follow a five-fold objective:

- To bring the evidence-based reasoning back to the center of Government action;
- To make the SN process feasible and manageable by introducing a proportionate scope of application;
- To enhance public consultation and publication practices to ensure richer evidence collection and validation and incentivize continued quality improvements;
- To reinforce the central steering and oversight function on SNs; and
- Mainstreaming internal coordination and consultation, notably in cases of “high impact” proposals so as to create ownership within government for relevant decisions.

243. **Accordingly, the GoR may consider structuring the new SN system along the following stages:**

- *Grounding SN to the Government Annual Work Plan (GAWP)*, to increase the use of a systematic approach, predictability and rational allocation of resources;
- *Applying exclusion and exemption criteria to first filter Government initiatives*, which would not be subject to an impact analysis. The exclusion criteria should be exhaustively specified in relevant legal bases, while the decision to exempt an initiative from a SN should pertain to the Prime Minister upon proposal of the responsible line minister;
- *Determining the magnitude of the impacts by applying the “triage” mechanism*. As a result, items will be classified into “low impact”, “medium impact” and “high impact” initiatives. The responsibility for carrying out the triage lies with the ministry(-ies) responsible for the initiative, following established, public criteria. In all cases, an impact analysis must be produced in accordance to the guidelines and the template established by the new legal base.

244. **A new process of producing the analysis, differentiating three approaches according to the magnitude of impacts is outlined.** Following the principle of proportionality, the administrative procedures and requirements are lighter for lower impact and more complex for high impact initiatives. The main differences include:

- *SN study*: A more comprehensive SN study (instead of merely filling the SN template) will have to be produced for high impact initiatives;
- *SN Working Group*: This shall be convened by the SN initiator for those high impact initiatives, which the Inter-Ministerial Committee for coordination of elaboration and implementation of GAWP determines as having cross-portfolio implications;
- *Internal and public consultation on the SN*: Unlike in the case of low impact initiatives, the initiating line ministry must organize both internal consultation and a public consultation exclusively focused on the draft SN; and

- *The central quality appraisal varies:* While no specific new feature is introduced for low impact initiatives, a procedural and a substantial screening by the Department for the Coordination of Policies and Program (DCPP) is required for medium and high impact initiatives, respectively. After having performed the central scrutiny, DCPP will issue an opinion addressed to the department drafting the analysis for revision.

245. **In the case of medium and high impact initiatives, ministries would start drafting the regulatory acts to be submitted to Government for formal adoption only after considering the opinion on the SN or SN study issued by the DCPP.** This will ensure that proportionality is better applied and quality control can properly be exerted. Irrespective of the type of initiatives under preparation, once the draft legal act is produced, the process would follow the same general requirements and stages, as it is currently the case. In the new system, publication will include keeping record of the SN process in a single portal administered by DCPP. The report identifies a number of amendments to existing legal provisions that appear to be necessary, should the proposed innovative elements be applied. The amendments are summarized in Table III.1.

246. **The second line of action in the reform strategy for improved SN pertains to increase the quality of the analyses produced. To this end, the report envisages three levels of intervention: simplification of the SN template, revision of the SN guidelines, and the development of a capacity building program.**

- *The simplification of the SN template:* For high impact initiatives, as resulted from applying the triage filter, the SN Template will constitute the Executive Summary to be attached to the more comprehensive SN Study. The current model is not wrong *per se*, but it may not be the most instrumental tool to assist the SN drafter.
- *The review of the underlying a SN Guidelines:* At present, several guidance documents exist that pertain to the preparation of SN in the decision-making process. However, the legal and operational nature of each individual guidance document is not clear. It is therefore recommended that all stakeholders make use of the same set of guidelines. The Guidelines provided in Annex III.4 are specifically meant to assist SN drafter to fill in the SN Template.
- *The development of a systemic capacity-building program:* Capacity building through training is a necessary element of the reform. The capacity building program would go beyond training classes and also encompass awareness campaigns addressed to policy-makers as well an intensified dialogue with the business community and stakeholders.

Capacity building needs to perform RIA tasks and recommendations for improvement

247. **A number of development gaps in the skills set required to perform RIA tasks were identified in regard to technical, managerial, interpersonal and intrapersonal competencies.** They include competencies of three types: technical; management and coordination; and interpersonal and intrapersonal. *Technical competencies* comprise ‘evidence-based decision maker’, ‘solving problems’, ‘economic and business analysis’, ‘sector and industry-specific knowledge’, ‘risk analysis’, ‘social science acumen’, ‘knowledge of regulatory theory’, ‘interpretation of data’, and ‘perspective’. *Management and coordination:* competencies include ‘customer focus’ and ‘strive for quality’ ‘managing and measuring work’, ‘organizing’, ‘priority setting’, ‘building effective teams’, and, ‘developing people’, ‘motivating’. *Interpersonal and intrapersonal competencies* comprises an ‘informing’

and ‘political savvy’, and ‘influencing others’ ‘time management’, ‘handling change’, ‘drive for results’, and ‘patience’.

248. **Moreover, the assessment reveals that specific cooperation channels between participating institutions as well as other key resources such as IT tools, effective incentive systems or people management frameworks, are scarcely available or lack completely.** Data (and interoperability of databases) for drafting analysis pertaining to the SN process is scarcely available. Moreover, also lacking is the use of individual and team performance evaluations based on the quality of the produced SN followed by reward and recognition as incentives for high quality contributions to the RIA tasks. These mechanisms and resources, including essential human resources management tools, are recognized by the DCPD and ministry staff as highly relevant enablers for employee development and for RIA capacity building.

249. **A number of recommendations are provided to help address the current human resource gaps and capacity-building needs. First, specialized training and development courses need to be organized in order to close the development gaps identified for the essential RIA-relevant technical, management and coordination, interpersonal, and intrapersonal competencies.** The *first type of training* should aim to improve capacity to conduct evidence-based analysis in order to substantiate regulatory proposals. The curricula would include methods and models for economic and business analysis; macroeconomics and sectoral analysis; econometric models, simulation and forecasting; risk analysis; environmental impact analysis, sociological and demographic analysis; problem solving and decision making processes, including problem definition; data interpretation and processing; writing skills. The curricula would have to be adjusted according to the educational profile of the participants. The *second type of training* should aim to help public officials to design substantive and evidence-based regulatory proposals according to the principles of good regulation. The *third type of training* should aim to help staff in managerial roles and staff coordinating a RIA team to effectively lead and manage the RIA teams. The *fourth type of training* should aim to help the line ministry and DCPD staff with various potential RIA roles to effectively manage change and increase personal contribution to team performance.

250. **Other types of resources and mechanisms can also enable a robust and effective RIA process over time, if properly implemented.** These resources can include: (i) study tours and workshops to help share experience between stakeholder Romanian institutions and other European counterparts; (ii) awareness-raising activities regarding the importance of the RIA process; (iii) information sessions for all institutions with legislative and impact assessment roles regarding new RIA processes or changes to the existing system; (iv) the introduction of a more flexible way of working in teams across units; (v) coaching programs for new RIA staff; (vi) the redesign of formal job descriptions in order to include RIA-related responsibilities and tasks, as well as introducing RIA-related performance indicators, and (vii) on-the-job training through RIA developmental assignments. These measures could constitute substantial improvements that can help to increase staff productivity and performance quality.

251. **The policy actions outlined in this report can help to effectively revise the institutional and legal framework for RIA and to address the existing skills gap.** The analysis of the current gaps in the RIA system in Romania and of the capacity building needs for conducting RIA within the administration, constitute the foundation for a comprehensive process of streamlining the regulatory impact assessment system in the country. Based on these findings, the policy actions outlined in this report can help to effectively revise the

institutional and legal framework for RIA and to address the existing skills gap. In a subsequent phase, the proposed recommendations for an updated RIA system will be tested through the implementation of pilot projects in selected line ministries. Thus, building on the revised theoretical foundations for RIA, the project can further support the regulatory and legislative process in Romania by increasing the administrative capacity required to undertake evidence –based policy making.

ANNEX I.1 – LIST OF PLANNED DELIVERABLES

Components	Deliverables *
COMPONENT 1.	
<i>1.1.</i> Assessment of the current gaps of the RIA system in Romania.	Report 1.1.1 - Report on current gaps of the RIA system in Romania
<i>1.2.</i> Recommendations of a new institutional and legal system for RIA in Romania	<p>Report 1.2.1- Report containing:</p> <ul style="list-style-type: none"> • Legal basis for RIA: preparation of the new regulation and recommendations for improvement • Methodological guide to conduct financial, budget and economic analysis for RIA and required draft templates • Report on the revised institutional RIA system in Romania • Improvements in the consultation process for RIA in Romania <p>Report 1.2.2 – Consolidation report on the proposed new legal and institutional RIA system for Romania; capacity building needs; guidance on financial, budget, and economic analysis for RIA and required draft templates; as well as recommendations for improvement</p>
<i>1.3.</i> Review of recommendations	Report 1.3.1. - Final report reviewing the proposed legal and institutional RIA system for Romania, including guidance on financial, budget and economic analysis for RIA and required draft templates, and overall recommendations for improvement
COMPONENT 2.	
<i>2.1.</i> Assessment of the capacity building needs within the Romanian administration in relation to the preparation and review of regulations.	Report 2.1.1 Report on capacity building needs
<i>2.2.</i> Capacity building activities in the format of face-to-face peer events.	<p>Peer module 2.2.1. Peer events for technical and legal staff (a maximum of 7 events of 5 days)</p> <p>Peer module 2.2.2. Peer events for the center of government, Ministry of Finance and Ministry of Economy (for a maximum total of 24 days)</p> <p>Peer module 2.2.3. Peer events for stakeholders (2 events for a maximum total of 8 days)</p>
<i>2.3.</i> Advocacy and awareness raising activities that will include the preparation of technical workshops, study tours and awareness events	<p>2.3.1. Technical workshops (at least one workshop on impact assessment in European countries)</p> <p>2.3.2. 3 Study tours (for a maximum total of 19 days)</p> <p>2.3.3. Awareness events</p>

COMPONENT 3.	
<p>3.1. Recommendations on the design of the pilot projects and selection of cases.</p>	<p>Report 3.1.1. Report on the design of pilot projects and selected cases</p> <p>Report 3.1.2. Report on coordination regarding the correlation between sectorial policy making with funding and programming needs for EU non-reimbursable funds in selected ministries for pilot projects</p>
<p>3.2. Development of the pilot projects to implement the RIA system in Romania, which will include technical expertise, preparation of final reports and integration of results in the decision-making process.</p>	<p>Peer module 3.2.1. Peer events with the working groups in charge of the pilot projects (technical in-situ discussions and long distance support)</p> <p>Report 3.2.2. Pilot projects reports</p>
<p>3.3. Advocacy and awareness raising activities that will include the preparation of technical workshops and awareness events.</p>	<p>3.3.1. Awareness events</p> <p>3.3.2. Technical workshops for the center of government</p> <p>3.3.3. Final workshop to present the results of pilot projects and share experiences</p>

ANNEX II.1. INTERVIEW PROGRAMME

The following institutions participated in the interview program organized in May 2014:

- Competition Council
- General Secretariat of the Government
- Ministry of Agriculture and Rural Affairs
- Ministry of Economy
- Ministry of European Funds
- Ministry of Internal Affairs
- Ministry of Labor
- Ministry of Public Finance
- Ministry of Regional Development and Public Administration

ANNEX II.2. ACTORS AND PROCESS OF RIA IN ROMANIA

Figure A.II.1. Preparation of legal drafts

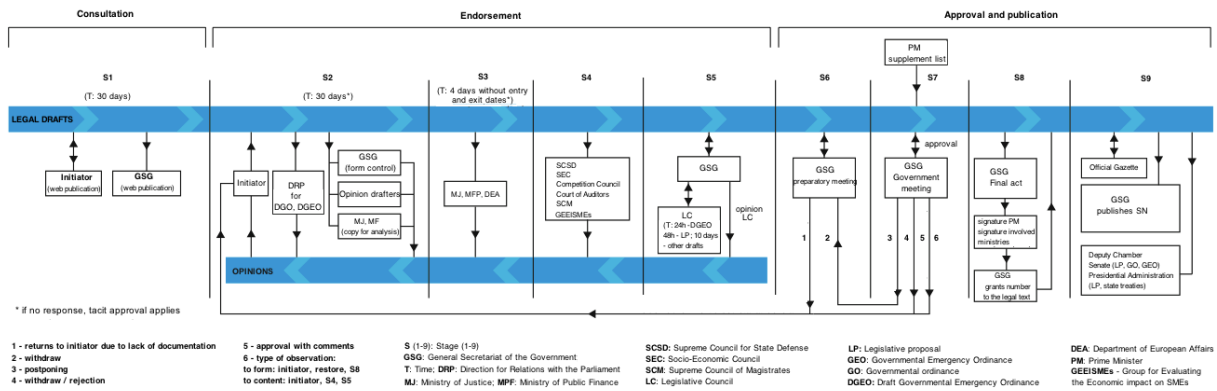
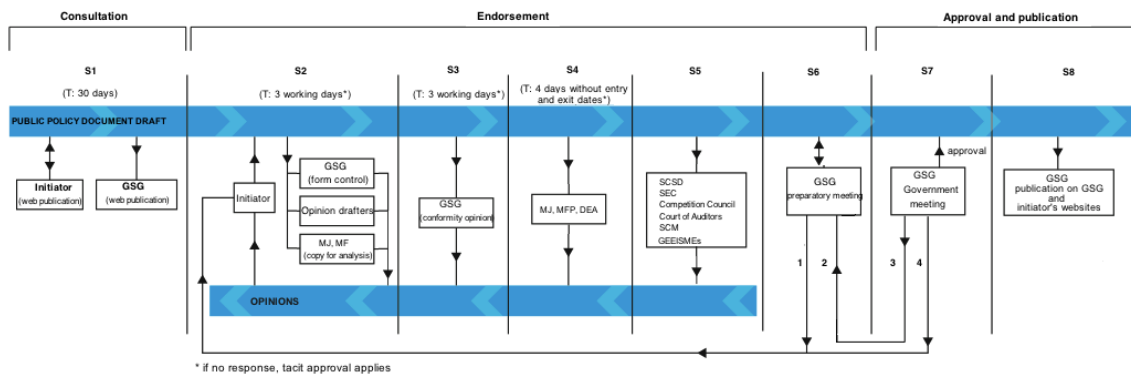


Figure A.II.2. Preparation of public policy documents



ANNEX III.1 – THE TRIAGE FILTER

INTRODUCTION

The purpose of applying a filter such as the triage mechanism is to assist the responsible of any Government initiative with establishing an effective and proportionate allocation of resources in developing the Substantiation Note.

As a result of the triage, initiatives are classified as likely to bear low, medium or high impacts. The SN Guidelines provide information on how to proceed with the completion of the SN Template, for each one of the three impact categories.

The triage mechanism is conceived primarily in conjunction with a supporting centralised IT system, which the Government of Romania is about to procure.

The underlying filter questions are presented below. Once adopted, the questions will have to be published online on the DCPD webpage.

FUNCTIONING OF THE TRIAGE MECHANISM

Initiators must answer all the questions included in the triage form.

- Only one answer is allowed per each question.
- When the IT system will be in place, initiators will have only one chance to submit the form. Once a question is answered, the answer cannot be changed.

There are four possible answers:

- High
- Medium
- Low
- No, or Not applicable (N/A)

If the answer to ONE OR MORE of the triage questions is Medium or High, the initiator has to follow the SN procedure for medium or high impact initiatives.

If all the answers to the questions are Low; or No or N/A, the initiator has to follow the SN procedure for low impact initiatives.

TRIAGE FORM

General information on the initiative				
Reference number				
Title of the initiative				
Responsible department(s)				
Contact person (email, phone nr.)				
Date				
Short problem definition				
Objective(s)				
Legal base				
Impacts	No; N/A	Low	Medium	High
1. Political salience ¹⁾	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Public interest or controversy ²⁾	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. Financial impacts on public authorities				
Periodical (additional annual change) <input type="checkbox"/> net expenditures <input type="checkbox"/> net savings	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	0 - 1m Lei	1m - 3m Lei	3m - 10m Lei	> 10m Lei
4. Economic impacts on businesses and consumers				
Nr. of businesses potentially affected	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	0 - 50,000	50,000 - 100,000	100,000 - 350,000	> 350,000
Potential economic impact ³⁾	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	0 - 10m Lei	10m - 25m Lei	25m - 50m Lei	> 50m Lei
Nr. of consumers / population potentially affected	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	0 - 1m	1 - 5m	5-10 m	> 10 m
5. Social and health impacts				
Social conditions of selected groups ⁴⁾	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Status of human or animal health and safety ⁵⁾	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. Environmental impacts				
Status of plant health, ecosystem quality and natural resources preservation ⁶⁾	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Notes

1) **Political salience** refers to the degree of political commitment underpinning the initiative or its strategic relevance in the Government program.

High - The Prime Minister or a member of the Government has made or is planning to make an important announcement in this regard, being deemed as one of the most important priorities of the Government.

Medium - The initiative was publicly announced, it is deemed as an important but not high-priority problem. There is important but not critical commitment within an approved strategy.

Low - The initiative is deemed as a minor part of an approved plan/ strategy.

2) **Public interest or controversy** refers to the extent to which the issue addresses societal interest as a whole, public security or whether positions of relevant stakeholders are particularly conflictual about the issue.

High - The initiative is expected to cause significant controversy, is opposed by most stakeholders, or faces large opposition.

Medium - The initiative is expected to cause some controversy or is opposed by some key stakeholders.

Low - The initiative is expected to cause minimal controversy but is generally supported by all key stakeholder groups, including lobby groups.

3) **Economic impacts** refer to various types of impacts on businesses and consumers, such as a) direct compliance costs (e.g. in adapting technical equipment or investing in safety measures); b) - administrative burdens; and/or c) macro-economic impacts (e.g. on number of jobs, trade flows). The following classification applies:

High - The initiative is expected to have significant impact on businesses and consumers, such as on costs associated to complying with regulations, significant changes in infrastructure or equipment or number of jobs created.

Medium - The initiative is expected to have some impact on businesses and consumers, such as moderate compliance costs, some administrative costs caused by new requirements or some improvement in trade flows.

Low - The initiative is expected to cause very minor impacts.

4) **Impacts on social conditions** include a number of issues, such as: a)- demographic change, e.g. size and composition of resident population, influx of temporary work force or new recreational users (disrupts the cohesion of a small, stable community); b) cultural impacts – on shared customs, obligations, values, language, religious belief and other elements which make a social or ethnic group distinct; c) lifestyle impacts – on the way people behave and relate to family, friends and cohorts on a day-to-day basis; and d) community impacts – on infrastructure, services, voluntary organizations, activity networks and cohesion.

High - The initiative is expected to have significant impacts on various social groups that might transform their behavior or see their traditional relations affected by possible government interventions.

Medium - The initiative is expected to have some impact on selected social groups that might not impose substantial social changes.

Low - The initiative is expected to cause very minor impacts.

⁵⁾ For this type of impacts, the following classification applies:

High - The initiative is expected to have a significant impact, such as mortality, human or animal health or safety.

Medium - The initiative is expected to have some impact, such as reducing the delay or the need for medical attention or hospitalization.

Low - The initiative is expected to cause very minor impacts.

⁶⁾ For this type of impacts, the following classification applies:

High - The initiative is expected to have a significant impact, such as damaging a sensitive ecosystem or protecting it from severe and irreversible harm or damage.

Medium - The initiative is expected to have some severe but reversible harm or damage on the environment.

Low - The initiative is expected to trigger marginal and temporary changes in the status of the ecosystem.

ANNEX III.2 – THE NEW SUBSTANTIATION NOTE TEMPLATE

Notes: ¹= qualitatively; ²= quantitatively; High impact SN require separate SN study. **Refer to the SN Guidelines for general guidance.**

Substantiation Note Template	Low	Medium	High
Section 1 – General information on the initiative			
Reference number			
1. Title of the initiative			
2. Responsible department(s)	•	•	•
3. Contact person (Email, phone nr.)			
4. Before / after consultation			
5. Date			
Section 2 – Rationale for launching the initiative			
6. Problem definition			
What problem / issues require Government action?	•	•	•
What are the causes of the problem?			
7. No-action option (baseline scenario)			
Is the problem likely to get better / worse or remain the same (without Government action)?	• ¹	• ²	• ²
What are the likely impacts of the problem (e.g. financial, economic, social /health, environmental)?			
8. Objectives			
State the goals the initiatives is set to achieve, with measurable indications and definite deadlines	•	•	•
9. Other relevant information (optional)			
Indicate any further relevant information.	•	•	•

Section 3 – Preferred option	
10. Description	
Briefly describe the option you recommend for Government to adopt – and the reasons therefor.	
11. Financial impacts on public authorities	
For the following year	For the next 5 years
12. Economic impacts on businesses and consumers	
Type of economic BENEFITS	Type of economic COSTS
Beneficiary group(s)	Affected group(s)
Metrics and qualitative / quantitative estimation	Metrics and qualitative / quantitative estimation
Administrative burden measurement (if applicable)	
Impact on competition / state aid (if applicable)	
SME Test results (if applicable)	
13. Social / Health impacts	
Type of social / health BENEFITS	Type of social / health COSTS
Beneficiary group(s)	Affected group(s)
Metrics and qualitative / quantitative estimation	Metrics and qualitative / quantitative estimation

•	•	•
• ¹	• ²	• ²
• ¹	• ²	• ²
• ¹	• ²	• ²

14. Environmental impacts	
Type of environmental BENEFITS	Type of environmental COSTS
Beneficiary group(s)	Affected group(s)
Metrics and qualitative / quantitative estimation	Metrics and qualitative / quantitative estimation
Section 4 – Alternative option	
15. Description	
Briefly describe the option you considered for a comparison with the recommend option, highlighting the differences with the latter.	
16. Financial impacts on public authorities	
For the following year	For the next 5 years
17. Economic impacts on public authorities	
Type of economic BENEFITS	Type of economic COSTS
Beneficiary group(s)	Affected group(s)
Metrics and qualitative / quantitative estimation	Metrics and qualitative / quantitative estimation
Administrative burdens measurement (if applicable)	
Impact on competition / state aid (if applicable)	
SME Test results (if applicable)	

● ¹	● ²	● ²
Section 4 – Alternative option		
	●	●
	● ¹	● ²
	● ¹	● ²

18. Social / Health impacts	
Type of social / health BENEFITS	Type of social / health COSTS
Beneficiary group(s)	Affected group(s)
Metrics and qualitative / quantitative estimation	Metrics and qualitative / quantitative estimation
19. Environmental impacts	
Type of environmental BENEFITS	Type of environmental COSTS
Beneficiary group(s)	Affected group(s)
Metrics and qualitative / quantitative estimation	Metrics and qualitative / quantitative estimation
Section 5 – Public consultation process (art. 7 of Law 52/2003)	
20. Substantiation Note BEFORE consultation	
Key questions asked to stakeholders and experts	
Envisaged stakeholders / experts to be consulted	
Envisaged public hearing; reason and date thereof	
21. Substantiation Note AFTER consultation	
Method of consultation (hearing, online, etc.) and date	
Participating stakeholders and experts	
Short summary	

	• ¹	• ²
	• ¹	• ²
Section 5 – Public consultation process (art. 7 of Law 52/2003)		
	•	•
	•	•

Section 6 – Post-adoption arrangements (for preferred option only)				
22. Implementation arrangements				
Arrangements / changes for existing public authorities				
Nature of related public funding				
Arrangements / changes for the private sector				
Implementation calendar				
Other information				
23. Monitoring and evaluation activities				
Performance indicators				
Data collection channels				
Actors				
Foreseen timing for monitoring				
Foreseen timing for evaluation				
Foreseen scope of the evaluation				
Section 7 – Information on final endorsement (if required)				
Legislative Council				
Supreme Council of National Defense				
Economic and Social Council				
Competition Council				
Court of Accounts				
Section 8 – Accreditation				
Date	Signature			

ANNEX III. 3 – THE NEW SUBSTANTIATION NOTE TEMPLATE with oversight criteria

Substantiation Note Template		Low	Medium	High
SECTION 1 – GENERAL INFORMATION ON THE INITIATIVE				
Reference number		Procedural check only.		
1. Title of the initiative				
2. Responsible department(s)				
3. Contact person (Email, phone nr.)				
4. Before / after consultation				
5. Date				
SECTION 2 – RATIONALE FOR LAUNCHING THE INITIATIVE				
6. Problem definition		The problem is clearly identified and its description substantiated with reliable sources. Causal relationships between problem factors and effects are outlined clearly and logically. A sense of prioritization and focus is provided both in terms of the nature of the causes; the magnitude of the effects; and the sub-population concerned.		
What problem / issues require Government action?				
What are the causes of the problem?		Likely trends of the problem evolution are spelled out on the basis of reviewed research, analytical and statistical evidence and / or international comparison. Effects are described as a function of their type and / or the affected groups. A diachronic perspective (short vs medium vs longer run) is provided. Quantified evidence is provided		
7. No-action option (baseline scenario)				
Is the problem likely to get better / worse or remain the same (without Government action)?				
What are the likely impacts of the problem (e.g. financial, economic, social /health, environmental)?				

8. Objectives		for medium and high impact initiatives.
State the goals the initiatives is set to achieve, with measurable indications and definite deadlines		
9. Other relevant information (optional)		Additional information might be provided and its relevance and accuracy should be proved.
Indicate any further relevant information.		

SECTION 3 – PREFERRED OPTION	
10. Description	
Briefly describe the option you recommend for Government to adopt – and the reasons therefor.	
11. Financial impacts on public authorities	
For the following year	For the next 5 years
12. Economic impacts on businesses and consumers	
Type of economic BENEFITS	Type of economic COSTS
Beneficiary group(s)	Affected group(s)
Metrics and qualitative / quantitative estimation	Metrics and qualitative / quantitative estimation
Administrative burden measurement (if applicable)	

The preferred option should be spelt out and the choice should indicate the reasons for that. This means a correlation with the problem definition and objective already set, as the preferred option should lead to solve the problem and achieve the objective.
If public authorities might be affected by the implementation of the preferred option, such as on the budget, information has to be presented. For medium and high impacts, the information should be quantitative.
Impacts on businesses or consumers have to be presented, particularly compliance costs, as well as the identification of the various groups that potentially might cover those costs and the beneficiaries. Quantitative information is required for medium and high impact measures, as well as information on SMEs test, if applicable.

Impact on competition / state aid (if applicable)	
SME Test results (if applicable)	
13. Social / Health impacts	
Type of social / health BENEFITS	Type of social / health COSTS
Beneficiary group(s)	Affected group(s)
Metrics and qualitative / quantitative estimation	Metrics and qualitative / quantitative estimation
14. Environmental impacts	
Type of environmental BENEFITS	Type of environmental COSTS
Beneficiary group(s)	Affected group(s)
Metrics and qualitative / quantitative estimation	Metrics and qualitative / quantitative estimation

<p>Social and health impacts have to be described in this section, if the proposal falls into this policy field. Impacts on the population or minority groups have to be identified. For medium and high impact, quantitative information is required.</p>
<p>Impacts on the environment have to be described, and quantified in case of medium and high impact measures.</p>

SECTION 4 – ALTERNATIVE OPTION	
15. Description	
Briefly describe the option you considered for a comparison with the recommend option, highlighting the differences with the latter.	
16. Financial impacts on public authorities	
For the following year	For the next 5 years
17. Economic impacts on businesses and consumers	
Type of economic BENEFITS	Type of economic COSTS

<p>Regulators have to present not only a preferred option, but other options that have been analyzed, which could include alternatives to regulation.</p>
<p>If public authorities might be affected by the implementation of the preferred option, such as on the budget, information has to be presented. For medium and high impacts, the information should be quantitative.</p>
<p>Impacts on businesses or consumers have to be presented,</p>

Beneficiary group(s)	Affected group(s)
Metrics and qualitative / quantitative estimation	Metrics and qualitative / quantitative estimation
Administrative burdens measurement (if applicable)	
Impact on competition / state aid (if applicable)	
SME Test results (if applicable)	

particularly compliance costs, as well as the identification of the various groups that potentially might cover those costs and the beneficiaries. Quantitative information is required for medium and high impact measures, as well as information on SMEs test, if applicable

SECTION 5 – PUBLIC CONSULTATION PROCESS (ART. 7 OF LAW 52/2003)	
20. Substantiation Note BEFORE consultation	
Key questions asked to stakeholders and experts	
Envisaged stakeholders / experts to be consulted	
Envisaged public hearing; reason and date thereof	
21. Substantiation Note AFTER consultation	
Method of consultation (hearing, online, etc.) and date	
Participating stakeholders and experts	
Short summary	

Consultations when analyzing the problem, looking for options and doing the analysis is essential in the RIA process and has to be encouraged. Regulators have to report on the efforts made to reach different groups before the official period of consultation.

Substantiation Notes have to report on the official period of consultation, naming the participants in the process and main comments expressed.

SECTION 6 – POST-ADOPTION ARRANGEMENTS (FOR PREFERRED OPTION ONLY)	
22. Implementation arrangements	
Arrangements / changes for existing public authorities	
Nature of related public funding	
Arrangements / changes for the private sector	

Implementation has to be described in order to ensure that regulators think ahead how the intervention might take place.

Implementation calendar		
Other information		
23. Monitoring and evaluation activities		
Performance indicators		Monitoring and evaluation mechanisms have to be spelt out, including how this is going to be developed, possible indicators, who will be responsible for conducting these activities and timing.
Data collection channels		
Actors		
Foreseen timing for monitoring		
Foreseen timing for evaluation		
Foreseen scope of the evaluation		
SECTION 7 – INFORMATION ON FINAL ENDORSEMENT (IF REQUIRED)		
Legislative Council		Information on the various institutions that have to endorse the proposal is relevant to prepare for the government meeting.
Supreme Council of National Defense		
Economic and Social Council		
Competition Council		
Court of Accounts		
SECTION 8 – ACCREDITATION		
Date	Signature	High level commitment for Substantiation Notes is important and this could be engaged through officially signing.

ANNEX III.4 – NEW GUIDELINES SUPPORTING THE SUBSTANTIATION NOTE ANALYSIS

INTRODUCTION

These Guidelines support officials in ministries and State bodies tasked with the preparation of Substantiation Notes (SNs) supporting Government decisions. They are designed so as to particularly assist with the compilation of the SN Template.

The SN Template is the document that needs to be filled when preparing any initiative that is expected to be adopted by Government (except in cases of exclusion or exemption). For HIGH impact initiatives, as resulted from applying the triage filter, the SN Template will constitute the Executive Summary to be attached to the more comprehensive SN Study.

Accordingly, the Guidelines are divided into six sections, which encompass the main analytical steps underpinning the SN exercise. The six sections are:

- (1) General information on the initiative;
- (2) Rationale for launching the initiative;
- (3) Preferred option;
- (4) Alternative option;
- (5) Public consultation process; and
- (6) Post-adoption monitoring and evaluation.

Each section explains the importance of the underlying issues within the whole SN preparation process; provides key definitions and outlines the main methodologies to perform the requested tasks; and indicates possible differences in implementation as a function of the triage results.

These Guidelines consolidate international guidance material and build on existing methodologies developed by the Government of Romania and individual ministries.

SECTION 1 – General information on the initiative

Steps 1-5: Administrative information

A) The importance of this Step

The SN is the result of a logical analytical process, which is unique for each initiative considered to be potentially adopted by the Government, in accordance to XY.⁴³ For this reason, it is important that accurate information is provided to decision-makers and the stakeholders so that they can situate the initiative at stake; and to identify the administrative office responsible for the production and quality of the SN.

⁴³ The new legal base for the SN system is to be mentioned here.

B) Filling the SN template

A Reference Number will be given by the system in place, which will allow to track the file and information related to it.

You must fill Steps 1–5 in the SN Template mandatorily – i.e. whether you are preparing a LOW impact, a MEDIUM impact or HIGH impact initiative. In particular,

- Step 1: you must indicate the title of the initiative, possibly as it appears in the GAWP;
- Step 2: you must indicate your institutional affiliation and any possible co-initiating body;
- Step 3: you must provide your contact details;
- Step 4: you must indicate whether the current version of the SN is drafted before or after the public consultation round; and
- Step 5: you must put the date of the day you transmit the SN.

SECTION 2 – Rationale for launching the initiative

Step 6: Problem definition

A) The importance of this Step

Problem definition is arguably the most important step in the process of preparing a SN. The problem must be characterized correctly if you are to solve it. The problem definition is the basis for everything that follows. If the problem is not clearly defined, it is very unlikely that you will develop the right solutions. No analysis – no matter how sophisticated – can compensate for a poor problem definition. It is therefore important that adequate time and resources are dedicated to this step.

B) What does problem definition mean?

It means answering the following questions:

- *What is the issue or mischief that may require Government action?*
- *What are the underlying drivers of the problem?*
- *Why is it a problem?*
- *Who is affected, in what ways, and to what extent?*

AVOID COMMON MISTAKES:

- **Contenting yourself with no definitions or big, vague concepts** (e.g. “*There is no infrastructure.*”) **INSTEAD BE PRECISE:** “*The route from A to B cannot bear heavy trucks.*”
- **Inferring solutions** (e.g. “*There is no funding, hence children do not go to school.*”) **INSTEAD SPELL OUT THE PROBLEM:** “*Children do not go to school.*” (the cause might be too high school fees, or other factors, not related to money, e.g. transport issues).
- **Looking for non-existing problems** (e.g. “*There are no NGOs.*”) **INSTEAD CONSIDER THE CONTEXT:** “*There is little knowledge of how to run an NGO.*”
- **Formulating value judgments** (e.g. “*Bureaucrats are lazy.*”) **INSTEAD BE OBJECTIVE:** “*The government licensing system is not efficient.*”
- **Confusing problem with possible solutions** (e.g. “*There is no law on heating systems.*”) Writing a law is never a problem, it is part of a possible *solution* to a given problem. There may be other solutions, such as better enforcement, higher sanctions, simplification of the existing legal framework, or education and information campaigns.

C) How to define a problem

The key for a good problem definition is to identify the drivers and establish how those specific particular factors lead to the problem. This helps you tackle the causes rather than the symptoms.

By doing so, you must always hail back to ever more definite causes and find objective causal relationships. The most direct way to achieve this is through the so-called “**problem tree approach**”. This approach helps you:

- differentiate between causes, symptoms and effects;
- investigate cause-effects relationships;
- identify affected groups;
- set a hierarchy of problems; and
- define scope and margins of intervention.

HOW TO BUILD A PROBLEM TREE:

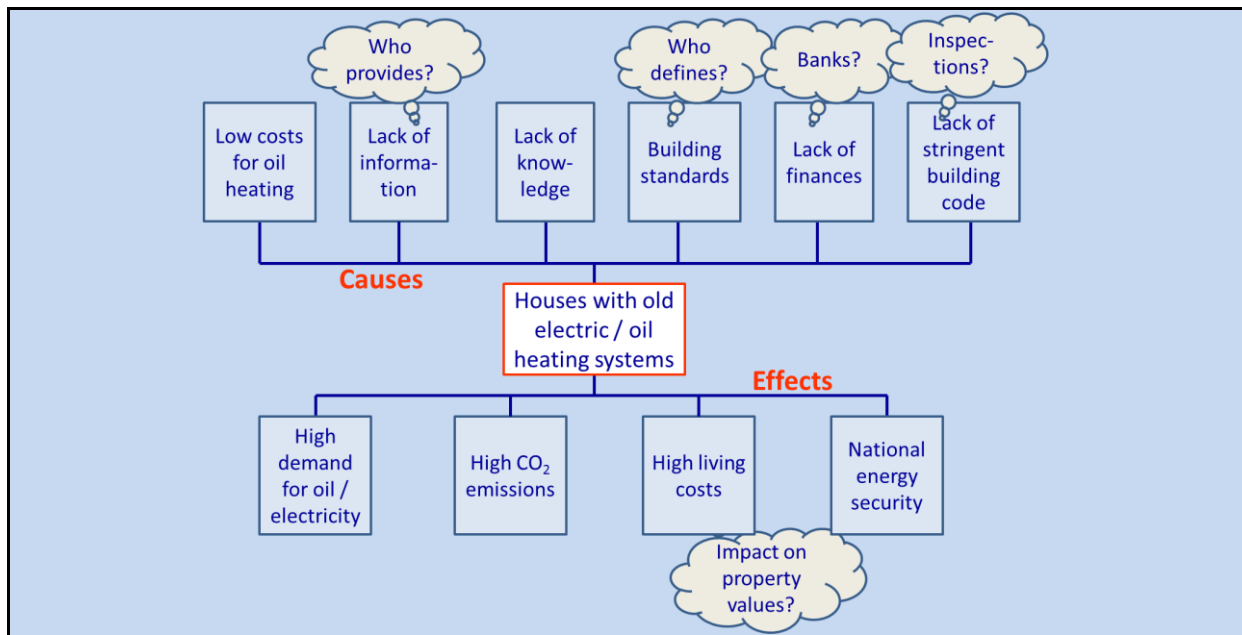
- Write your problem statement in the middle;
- Write all the causes in the compartments above;
- Write all the effects in the compartments below; and
- You can use balloons to add comments.

Your problem definition will have to focus on the upper part of the three (the “cause’s branches”). These can be as many as they are relevant, and as detailed as necessary. You may have primary and secondary causes. You will identify them by each time asking yourself the question “... and why is it so?”

Which cause(s) to tackle in your SN will depend on the priorities, competences and means at disposal.

Example:⁴⁴

⁴⁴ Adapted from <http://mechanisms.energychange.info>.



D) Filling the SN template

You must fill Step 6 in the SN Template mandatorily – i.e. whether you are preparing a LOW impact, a MEDIUM impact or HIGH impact initiative.

If you are working on a LOW impact initiative, a qualitative description of the problem is sufficient. For MEDIUM and HIGH impact initiatives, by contrast, you are required to provide quantified evidence.

In the SN study (HIGH impact initiative), you are also required to present the reasoning followed, including the assumptions made and specify the sources from which data was collected.

Step 7: No-action option (baseline scenario)

A) The importance of this step

Your SN is a comparative exercise appraising what will likely happen further to a Government intervention as opposed to what is going to happen if Government does not intervene. Logically, you will recommend Government to take any action only if there is sufficient evidence that that action leads to better scenarios than the *status quo*.

Through this step you collect information on what is specifically wrong with the current situation; and you gather knowledge and analytic capacity that you can later use to balance alternative options.

This step is fundamentally linked to the “Step 1: Problem definition”. Once you have ascertained the nature of the problem, you should clarify whether there is something wrong – or not, which requires Government intervention.

B) What does setting the baseline scenario mean?

The aim of the baseline scenario is to explain how the current situation would evolve without additional public intervention – it is the "no policy change" scenario. It answers the question: “*What would happen if nothing is done?*”.

C) How to set a baseline scenario

When it comes to characterizing the current situation, you need first to **consider the context**:

- NOTE that if there is no specific policy addressing the problem identified, the baseline means the continuation of "no policy". Where there is already a policy, the baseline is the continuation of the current policy without any change, i.e. without any new or additional intervention
- BEWARE that "no policy" includes the expected effects of legislation which has been adopted but not yet implemented;
- TAKE ACCOUNT of any EU or international policies already in place, not only national policies;
- TAKE ALSO ACCOUNT of any initiative launched by non-governmental actors, such as business or civil society associations; and
- CONSIDER relevant case law.

QUESTIONS THAT A BASELINE DESCRIPTION SHOULD ANSWER:

- How serious is the problem?
- Is it about to get solved? When? Why?
- To what extent will it by contrast become more serious? Why?
- What are the probabilities of these scenarios?
- Are there irreversible consequences?

In answering this questions, you need to clarify what assumptions you have made and what data you have used, and why.

A good baseline should have a strong factual basis and, as far as possible, be expressed as much as possible through **quantified evidence**. It should also be set for an **appropriate time horizon** (neither too long nor too short).

D) Filling the SN template

You must fill Step 7 in the SN Template mandatorily – i.e. whether you are preparing a LOW impact, a MEDIUM impact or HIGH impact initiative.

If you are working on a LOW impact initiative, a qualitative description of the current situation is sufficient. For MEDIUM and HIGH impact initiatives, by contrast, you are required to provide quantified evidence.

In the SN study (HIGH impact initiative), you are also required to present the reasoning followed, including the assumptions made and specify the sources from which data was collected.

Step 8: Objectives

A) The importance of this Step

Clearly identifying and defining goals is critical because drive the selection of solutions because they define the main benefits of action. Any intervention must have clear objectives which are directly related to solving the problems identified, because this:

- helps show policy coherence and consistence;
- helps identify prospective courses of action, and assist in comparing policy options;
- makes possible to monitor implementation of the policy and to evaluate achievement or not of desired effects; and
- helps define the performance indicators for assessing whether the major policy objectives are being achieved.

B) What does setting objectives correctly mean?

Potential solutions to the problem should be assessed against so-called **performance goals**. In other words, you should set the objectives to be achieved as measurable performance indicators for the envisaged action (or no action).

Objectives can moreover be **general, specific and operational**.⁴⁵ When you define such categorization, make sure you establish clear links both between

- the objectives and the problem and its root causes; and
- the objectives themselves, so that they do not contradict each other.

General objectives	<ul style="list-style-type: none"> • These are Treaty-based goals which the policy aims to contribute to. • They are the link with the existing policy setting. • They should induce policy-makers to take account of the full range of existing policies with the same or similar objectives. • They relate to impact indicators.
Specific objectives	<ul style="list-style-type: none"> • They take account of the envisaged specific domain and particular nature of the policy intervention under consideration. • Their definition is a crucial step in the appraisal as they set out what you want to achieve concretely with the policy intervention. • They correspond to result indicators.
Operational objectives	<ul style="list-style-type: none"> • These are the objectives defined in terms of the deliverables or objects of actions. • These objectives will vary considerably depending on the type of policy examined. • They need to have a close link with output indicators.

⁴⁵ The following table is taken from the European Commission Guidelines on Impact Assessment, 2009, p.26.

C) How to set objectives correctly

A useful rule-of-thumb when defining the objectives is to apply the SMART template – i.e., objectives should be:

- **SPECIFIC:** Objectives should be precise and concrete enough not to be open to varying interpretations. They must be understood by all.
- **MEASURABLE:** Objectives should define a desired future state in measurable terms, so that it is possible to verify whether the objective has been achieved or not. Such objectives are either quantified or based on a combination of description and scoring scales.
- **ACHIEVABLE:** If objectives and target levels are to influence behavior, those who are responsible for them must be able to achieve them.
- **RELEVANT:** Objectives and target levels should be ambitious – setting an objective that only reflects the current level of achievement is not useful – but they should also be realistic so that those responsible see them as meaningful.
- **TIME-DEPENDENT:** Objectives and target levels remain vague if they are not related to a fixed date or time period.

SETTING SMART OBJECTIVES: An example

Original policy goal statement: *“To support business start-up in Romania”*

Building the SMART components:

- **SPECIFIC:** *“The Ministry of Economy to fund and organize information sessions for young entrepreneurs...”*
- **MEASURABLE:** *“... three information sessions...”*
- **ACHIEVABLE:** *“...drawing from existing budget lines...”*
- **RELEVANT:** *“... with the target of involving at least 500 young entrepreneurs...”*
- **TIME-DEPENDENT:** *“...each year over the next biennium...”*

Final policy goal statement: *“The Ministry of Economy to fund and organize three information sessions each year over the next biennium, drawing from existing budget lines with the target of involving at least 500 young entrepreneurs.”*

When bridging the “Problem Definition” and “Setting the Objectives” stages, be aware of what you seek to impact. You may tackle **outputs** or **outcomes**, knowing that the extent to which you can control achievement narrows progressively.

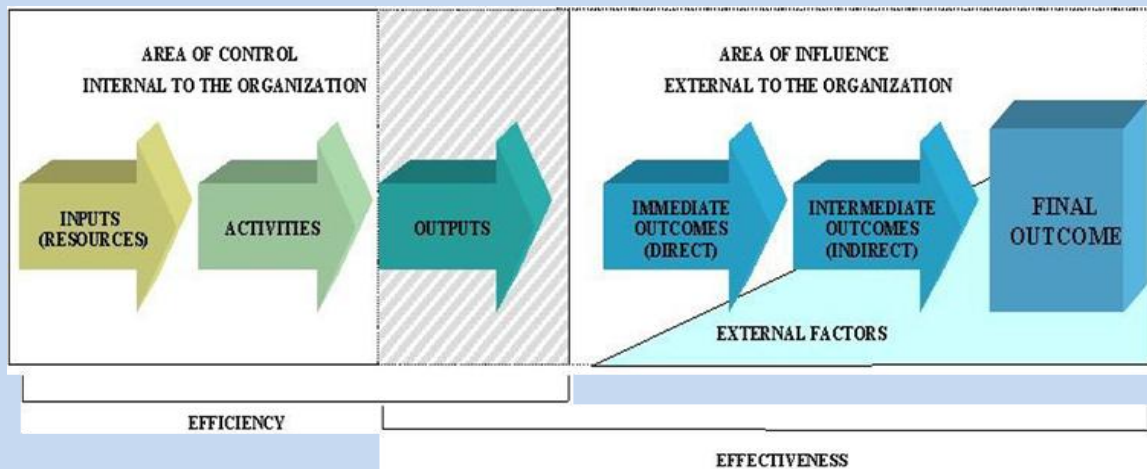
FRAMING THE SCOPE OF INTERVENTION⁴⁶

Government intervention must make a difference, and the SN you are producing must realistically show where and how that will be the case. To do so, it is opportune that you understand what your scope of reference is:

- **OUTPUTS** are actions taken in pursuance of policy decisions. They come first and are generally tangible, concrete results of processing resources (inputs).
Example: *the output of recruiting staff is newly appointed employees.*

⁴⁶ The picture below is adapted from Government of Canada sources.

- **OUTCOMES** focus on the policy's consequences after implementation. Related to either the process or the outputs, they in any case refer to the level of performance, or the achievement.
Example: *the newly appointed employees may be capable, or incapable of performing their role (Competence vs. Requirements); or too many / too few (Quantity)*



D) Filling the SN template

You must fill Step 8 in the SN Template mandatorily – i.e. whether you are preparing a LOW impact, a MEDIUM impact or HIGH impact initiative.

Step 9: Other relevant information

Filling the SN template

You may fill this Step in the SN Template as appropriate. The information provided is optional.

BE AWARE that it might be more appropriate that you provide additional information when preparing a determined LOW impact initiative than a HIGH impact one.

SECTION 3 – Preferred option

Step 10: Description

A) The importance of this Step

Once you have defined your objectives, you have to identify and explore which options and delivery mechanisms are most likely to achieve them. Reviewing a range of policy options provides greater transparency to the SN exercise. It also grants more robust justification for the chosen course of action, demonstrating to policy-makers and stakeholders that alternative options have been seriously considered but were not pursued for a series of reasons.

B) What may constitute a possible option?

The first thing you have to bear in mind is that any Government action is meant to change behavior of economic and social actors, so that problems are solved. Traditional regulation is but one possible way to change behavior.

POSSIBLE TYPES OF GOVERNMENT INTERVENTIONS

No single solution is correct *a priori*. The main types of options can be situated on a continuum from more intrusive to more respectful of markets and individual choice. They include:

- **COMMAND AND CONTROL REGULATION:** Although *prima facie* it may appear as the easiest and most promising solution (because clear, standardized and predictable), this type of regulation may lead to significant compliance costs; rigidities; opportunistic behaviors (moral hazard).
- **PERFORMANCE-BASED REGULATION:** This type of instrument set standards that specify the required performance of the target population. It does not detail the exact mechanisms by which compliance is obtained, but rather it specifies the criteria to be followed to achieve such compliance. Standards should be flexible allowing aggregation or offsetting between different plants or agents, even regionally or nationally provided this does not unacceptably affect the overall outcome.
- **CO-REGULATION:** This approach implies setting a regulatory framework in which the deadlines and mechanisms for implementation, the methods of monitoring the application of the legislation and any sanctions are set out. The legislative authority also determines to what extent defining and implementing the measures can be left to the concerned parties. The latter must be considered to be representative, organized and accountable. Co-regulation combines the advantages of the binding nature of legislation with a flexible self-regulatory approach to implementation that encourages innovation and draws on the experience of the parties concerned.
- **SELF-REGULATION:** This covers (sectoral) codes of conduct and voluntary agreements, which economic actors and / or civil society players set themselves to regulate and organize their activities. Self-regulation does not involve a legislative act. Self-regulation may provide greater speed, responsiveness and flexibility as it can be established and altered more quickly than legislation. It may therefore be preferable in markets that are changing rapidly. On the other hand, self-regulation techniques require a high degree of trust between government and stakeholders (as well as among the stakeholders). The consensus amongst the various players on the contents and the monitoring of enforcement is crucial for the success of self-regulatory regimes. In addition, self-regulation needs to be an open and transparent process as it may provide an opportunity for collusive arrangements amongst rivals (cartel). In that case, an unintended consequence of self-regulation might be reduced competition.
- **BETTER ENFORCEMENT AND IMPLEMENTATION:** This option should always be considered where legislation is already in place, for instance through improved implementation or inspection guidance.
- **DE-REGULATION AND SIMPLIFICATION:** It is often forgotten that one regulatory policy option is streamlining the stock of existing domestic regulation, at various levels of government.
- **INFORMATION, EDUCATION, CAPACITY-BUILDING CAMPAIGNS** (sponsored by public authorities): Especially if they exploit the self-interest of the target audience, educational instruments may effectively improve compliance and management practices. The government can also “nudge” the targeted group by educating and releasing information on the consequences of unchanged behavior. Apparently small alterations of the information set available to individuals may have large consequences for regulatory results.
- **ECONOMIC AND MARKET-BASED MECHANISMS:** Property rights, creation of new markets, liability provisions, etc. – all these instruments may influence the behavior of market players by providing (negative/positive) monetary incentives or by guaranteeing some basic rules of the game. Taxes, charges and fees are potentially useful policy instrument to influence private behavior towards public objectives. They provide flexibility and cost-effectiveness and can be used to ensure that users pay the social price of their production or consumption.

C) How to identify the options

Policy options must be demonstrably linked both to the **causes** of the problem and to the **objectives**. For each option, you should define the appropriate level of ambition in the light of constraints such as compliance costs or considerations of proportionality. There is also a need to identify appropriate policy instruments (legal acts of Romanian Government, legal acts of EU, self-regulation, co-regulation and economic incentives). These instruments can be combined, if necessary in a package, and/or coordinated with EU action.

NOTE that an option may be differentiated on the basis of **the content** of the intervention (substantial changes), or **the type** of the intervention (form of instrument chosen).

A guiding tool in the identification of the options is the **principle of proportionality**: Any Government action should not go beyond what is necessary to achieve satisfactorily the objectives which have been set. Accordingly, government action should be as simple as possible and leave as much scope for sub-national or private intervention as possible (subsidiarity principle).

STRIVE TO BE PROPORTIONATE⁴⁷

The following questions should be used to examine the proportionality of the options proposed in a SN. They are not designed to be answered on a yes/no basis but rather should be explained and supported with qualitative and quantitative evidence where possible. Examining the proportionality of a range of options will help you to establish a shortlist of feasible options to be analyzed in depth.

In relation to the content of the option:

- Does the option go beyond what is necessary to achieve the objective satisfactorily?
- Is the scope of action limited to those aspects that actors other than Government cannot achieve satisfactorily on their own, and where Government can do better? (boundary test)
- If the initiative creates negative impacts, are such costs minimized and commensurate with the objective(s) to be achieved?
- Will Government action leave as much scope for national decision as possible while achieving satisfactorily the objectives set?
- Is the option in accordance with established international, EU and domestic legal provisions?

In relation to the type of the option:

- Is the choice of instrument as simple as possible, and coherent with satisfactory achievement of the objective and effective enforcement?
- Is there a solid justification for the choice of instrument?

REMEMBER that a good way to make the process of identifying options more systematic is to use the **“problem tree approach”** developed in Step 6. Each “because” statement can lead to a potential solution. Just as a problem might have many drivers or causes, many solutions might be needed to resolve it effectively.

⁴⁷ Adapted from the European Commission IA Guidelines (2009), p.29.

D) Filling the SN template

You must fill Step 10 in the SN Template mandatorily – i.e. whether you are preparing a LOW impact, a MEDIUM impact or HIGH impact initiative.

EXCURSUS 1: What constitutes an impact?

In the following steps of this Section, you are asked to provide information on the **types**, **likelihood** and evidence of the **magnitude** of the impacts that the Government intervention is likely to produce. This serves as the basis for comparing them both against one other and against the baseline scenario developed in Step 7 above.

The identification and estimation of the impacts is not as difficult as it seems. You must proceed step by step, examining the likely results of each option, and identifying those results as negative (costs) or positive (benefits). You will start by describing them qualitatively, and then quantifying the most important impacts.

Any Government intervention produces both **benefits** and **costs**.

IDENTIFY THE IMPACTS

The **benefits** are the reasons for government action. Without clear benefits, the government should not act. Benefits of government action are any major positive outcome of the action, whether the outcome directly intended (as stated in the goals) or a secondary outcome that is also beneficial.

Benefits can take a variety of economic, social, and environmental forms. Common kinds of benefits presented in a SN include:⁴⁸

- Benefits to CONSUMERS: a reduction in pain and suffering; increased access to information; lower prices; improved safety of products, workplaces, services etc.;
- Benefits to BUSINESS: reduction in plant or property damage; a reduction in lost production time; reduced compliance costs; less anti-competitive behavior in the market or greater regulatory transparency, certainty and predictability;
- Benefits to GOVERNMENT: streamlined regulatory processes and requirements; reduced monitoring and enforcement costs; higher levels of compliance; and
- Benefits to the COMMUNITY: improved environmental outcomes; safer workplaces; greater access to services or opportunities; more economical use of resources and higher economic growth; and an increase in the standard of living and quality of life.

Whenever possible, and especially for economic benefits, benefits should be stated in monetized terms, such as RON/year. Potential social and environmental benefits may be more easily stated in a standard metric (a metric is simply a way to measure the benefits) so that options can be compared. If you only make general statements, such as “better safety and health” or “safer roads,” it will be impossible to know which option provides more protection. By contrast, try to use metrics such as number (or percentage) lives saved; of mortal accidents prevented; of elderly people rescued from poverty; etc.

Costs are any negative consequence of action or non-action. It is not acceptable to state that Government intervention has benefits, but no costs. Every government policy choice bears costs.

⁴⁸ Adapted from the Australian Government’s Guide for regulation (1998).

SNs typically consider **DIRECT COMPLIANCE COSTS TO BUSINESSES AND CITIZENS**. These are the direct additional costs to businesses of performing tasks to comply with government regulation. They can be divided into two categories:

- administrative and other operating costs; and
- capital costs such as buying new equipment.

Costs of government intervention are presented in parallel with the benefits, and are based on the same approach: presentation of major economic costs in RON/year, and presentation of major environmental and social costs in a measurable metric (e.g. tons of CO₂ emitted per year). When no metric is available, the impact should be described as precisely as possible.

In identifying impacts, you should keep the following points in mind:

- think both short-term and long-term – it is often easier to identify short-term impacts;
- make efforts to assess impacts that cannot readily be expressed in quantitative or monetary terms;
- recognize that various factors producing the impacts also interact with one another;
- remember that the impacts of the proposal may be affected by the implementation of other initiatives, particularly if the proposal is part of a ‘package’; and
- assess impacts in context of Romania’s Treaty obligations and the EU's overall policy goals, e.g. respect for Fundamental Rights, promoting sustainable development, achieving the goals of the Europe2020 Strategy,, etc.

ANNEX 1 to these Guidelines provides a list of possible economic, social and environmental impacts which helps you consider impacts systematically.

EXCURSUS 2: How can I collect data?

Once you know which impacts the option is likely to produce, it is fundamental that you substantiate as much as possible your arguments and reasoning. To that end, you need information and data that is relevant and reliable. This is an essential component of any SN, both for qualitative and quantitative assessments.

Data collection is probably the most time consuming activity in the preparation of a SN. This is particularly the case if you have to prepare a SN Study. Your efforts should therefore be proportionate to the importance of the initiative.

Sources of existing information

Information available at hand may include:

- monitoring or evaluation reports from previous or similar programs and initiatives;
- earlier analyses in your department and consultation documents;
- statistical data from the National Institute of Statistics, Eurostat,⁴⁹ and others;
- studies and research by governmental and EU agencies;
- stakeholders sources (e.g. from previous hearings, conferences, press statements);
- national agencies and research institutes, as well as SINAPSE⁵⁰ (for scientific evidence);

⁴⁹ <http://epp.eurostat.ec.europa.eu/portal/page/portal/eurostat/home/>

- examples and experiences in other EU Member States, third countries or international organizations (e.g. World Bank, OECD).

If you are not aware of any those, you should seek support as early as possible within your department, in the government, and from external experts.

Data collection methods

When designing the way you will collect data, you can chose among a range of methods. The options suggested below are not exclusive, and may be applied complementarily depending on your needs.

Typical QUANTITATIVE DATA COLLECTION METHODS are:

- Surveys: collects primary data using a questionnaire applied on a representative sample of subjects;
- Descriptive statistics:
 - measures of central tendency: mean, median and mode
 - measures of dispersion: standard deviation and variance
 - measures of association: correlation and regression
- Inferential statistics: go beyond data using samples and populations to test hypotheses

Common QUALITATIVE DATA COLLECTION METHODS include:

- Interviews (structured / unstructured): used in the inception stage of the process to gather information from relevant stakeholders when there is little information available on the wider policy context and issues to be addressed
- Brainstorming / expert methods / DELPHI: used both in defining the problem and the policy options, rely on selecting a group of either external or internal experts and professionals that can deliver in a structured way their opinions; while brainstorming is aimed at merely gathering ideas and criticism is not allowed, DELPHI method uses increasingly precise questionnaires in several rounds, which are statistically processed and significantly different views must be accounted for;
- Focus group: conducted on relatively large numbers of persons divided as per affected groups. It involves a questionnaire with no more that 4-6 questions for each group. Answers must be centralized in a final report highlighting both common and divergent opinions.
- Case study: used to describe the relevant area for the policy proposal, adequate when there is little time to collect quantitative data as it informs on particular issues related to the nature of issues to be addressed;
- SWOT analysis: used during brainstorming sessions for listing out of a wider list of potential strengths, weaknesses, opportunities and threats on a matrix the most important ones;

⁵⁰ Scientific INformAtion for Policy Support in Europe (SINAPSE) serves as a platform for e-community and as a e-library to promote a better use of expertise in EU policy making and governance. See <http://europa.eu/sinapse/>.

- Problem-tree method: identifying all major problems which are relevant for the policy area and causal relationships between them, to understand the context and potential impact of implementing a policy;
- Fish-bone diagram: a cause-effect based analysis, aimed at describing both the problems addressed by the policy and the objectives of the policy
- Documentary analysis / desk research; a structured way to collect relevant data using already available reports, studies and statistics.

When using different data collection methods, always keep these key criteria in mind that the data you collect and use after you process it must be:

- reliable (i.e. you get the same results if you repeat the data collection and process exercise); and
- valid (i.e. you are sure that the data reflects what it is supposed to measure).

DETERMINE UNKNOWN FIGURES⁵¹

What if I do not possess readily available data?

A number of strategies allows you to get or extrapolate measurement indicators for your impacts. They include

USING REFERENCE SOURCES

- Check the details of how the numbers were derived. Various sources may use different operational definitions.
- Use multiple sources, but ensure that your valuations are consistent.
- Avoid, if you can, sources that don't offer operational definitions.

USING SURVEYS

- Survey systematically interested parties.
- If there is not enough time / resources to conduct an ad hoc survey, look for national / local surveys done on a regular basis by well-known organizations (research centers, leading newspapers ...).

GUESSING

- Use rates that do not vary much from place to place to guess an absolute number (to guess the number of deaths, multiply death rates by a population – instead of compiling actual figures from population registries).
- Look if there are widely accepted rules of thumb.
- Use rates characterizing similar phenomena.
- Use a known variable to guess another when a relationship between the two is known (population growth as a function of time and previous growth rates).
- Set boundaries by reference to another variable (the maximum number of children using diapers cannot be larger than the population between the age of birth to four years).
- Employ triangulation, i.e. using several separate approaches / data sources to estimate a quantity and comparing the results.

USING EXPERTS

- Verify the credentials of the experts.

⁵¹ Adapted from the European Commission IA Guidelines (2009), ANNEX 11.3.

- Use methods for pooling their estimates and lowering their estimate margin of error (see Delphi method).

Step 11: Financial impacts

Are public authorities actually involved in or affected by the implementation of the option? This Step refers to the impacts on the general consolidated budget, both on the short term, for the current year, and on the long term (5 years).

A) Types of financial impacts

The Ministry of Public Finance requires information on the following indicators:

Indicators	In thousands of LEI					
	Current year	Next 4 years				5 year average
	2	3	4	5	6	7
1						
1. Changes of the budget incomes, plus/minus, of which: a) state budget, of which: (i) tax on profit (ii) tax on income b) local budgets: (i) tax on profit c) state social security budget: (i) social security contributions						
2. Changes of the budget expenses, plus/minus, of which: a) state budget, of which: (i) personnel expenses (ii) goods and services b) local budgets: (i) personnel expenses (ii) goods and services c) state social security budget: (i) personnel expenses (ii) goods and services						
3. Financial impact, plus/minus, of which: a) state budget b) local budgets						
4. Proposals for covering the increased budget expenses						
5. Proposals for compensating the decreased budget incomes						
6. Detailed calculations on substantiation of changes in the budget incomes and/or expenses						
7. Other information						

B) Filling the SN template

You must fill Step 11 in the SN Template mandatorily – i.e. whether you are preparing a LOW impact, a MEDIUM impact or HIGH impact initiative.

If you are working on a LOW impact initiative, a qualitative description of the problem is sufficient. For MEDIUM and HIGH impact initiatives, by contrast, you are required to provide quantified evidence.

In the SN study (HIGH impact initiative), you are also required to present the reasoning followed, including the assumptions made and specify the sources from which data was collected.

Step 12: Economic impacts

A) Determining direct compliance impacts

Direct compliance impacts refer to the sum of all changes associated to compliance process by businesses. Compliance costs are the costs that are incurred by businesses or other parties at whom regulation may be targeted in undertaking actions necessary to comply with the regulatory requirements, as well as the costs to government of regulatory administration and enforcement.

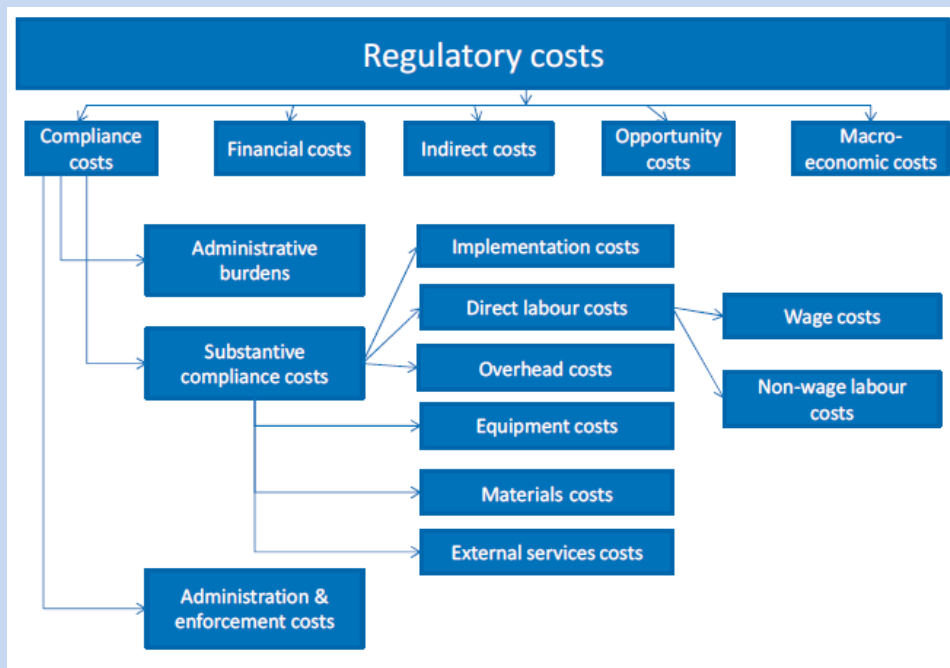
To calculate them:

- estimate cost per each component;
- calculate total compliance costs per business;
- estimate number of business affected; and
- multiply to get the grand total.

WHAT CONSTITUTES A COMPLIANCE COST COMPONENT?⁵²

Substantive compliance costs include only the direct costs borne by those upon whom the regulation imposes compliance obligations.

The following figure illustrates the various types of costs:



⁵² The figure below stems from the OECD Regulatory Compliance Cost Assessment Guidance, 2014, p.11.

The Australian Government issued an online **BUSINESS COST CALCULATOR**, which can be accessed at <http://www.dpmc.gov.au/deregulation/obpr/bcc/index.cfm>.

HOW TO ESTIMATE THE NUMBER OF AFFECTED FIRMS

Potential sources include:

- government statistical collections;
- industry associations;
- academic research;
- information from other government departments (e.g. where other existing regulations affect a similar group);
- licensing or registration data;
- information from regulators in other, comparable jurisdictions;
- insurance claims data; and
- surveys of potentially affected industry sectors (either existing survey-based data or the results of surveys undertaken as part of the compliance cost assessment process).

B) Measuring administrative burdens

EU conditionalities require you to provide details of the information obligations for businesses that are likely to be added or eliminated if the option were to be implemented. These kinds of costs are quantified because there is an accepted European strategy to reduce them. **Administrative burdens (AB)** are the costs of complying with information obligations stemming from government regulation. Examples of such obligations include:

- gathering information;
- processing information;
- submitting and filing reports;
- external control by accountants;
- general meetings.

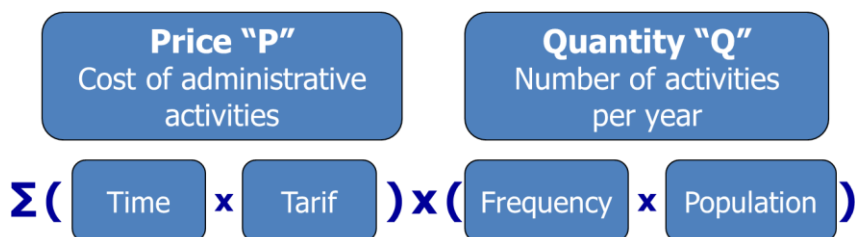
For policy options that entail new information obligations, you should indicate in the SN how this information contributes to the effectiveness of the option in achieving the objectives. You should always consider alternative options that do not lead to additional information obligations. It is important that the analysis of the impacts clarifies the trade-offs between information obligations and the principal objectives of the proposal.

The **Standard Cost Model (SCM)** is the most common formula to express administrative burdens in monetary terms. The SCM multiplies the costs of the activities that have to be carried out to meet information obligations (Price “P”) by the number of activities per year (Quantity “Q”):

- The costs of activities are calculated by multiplying the time spent by a tariff. The latter can be an internal tariff or the hourly cost for external service providers and time.
- The yearly number of activities is calculated by multiplying the frequency by the population.

The sum of all administrative costs of all activities ($\Sigma P*Q$) is the total administrative costs of a regulation (see Figure 1).

Figure 1: The Standard Cost Model formula



Note that more information on the AB measurement and SCM calculations is included in the manual issued by the Government Secretariat General (GSG) in 2010.⁵³

MEASURING ADMINISTRATIVE BURDENS: An example⁵⁴

If the option would increase the required frequency of reporting to a government agency from quarterly to monthly, the base case incorporates the cost of the currently required quarterly reporting. Thus, the incremental cost is that of preparing and lodging an additional 8 reports annually, rather than the total cost of the 12 reports required.

Thus, if 1 000 firms are affected and the cost per report averages RON 1,500:

Base case costing: RON 1,500 x 1,000 x 4 reports = RON 600,000 per annum

Cost of compliance with new requirement. RON 1,500 x 1 000 x 12 reports = RON 1,800,000 per annum

Incremental cost of the option. RON 1,800,000 – RON 600,000 = RON 1,200,000 per annum.

Thus, the compliance cost assessment should report that the incremental cost of the specific option is equal to RON 1,200,000 per annum

C) Determining impacts on the competition environment and on the state aid area

Because options may have an influence on competition, you should first ascertain whether they include explicit liberalization provisions or measures that are likely to raise or lower the barriers that firms face to enter or leave the market.

The Competition Council provides the following checklist:

- a) direct or indirect limitation of the number of providers in case the draft legislative act:
 - i. ensures a company's exclusive right to provide a product or service;
 - ii. establishes a license, a permit or an authorization as a requirement for carrying out the activity;
 - iii. limits some companies' capacity to participate in public procurements;
 - iv. leads to a significant increase of the market entry or exit costs

⁵³ Berenschot Business Development Group (2010), *Standard Cost Model Manual, Romanian Manual for measuring administrative costs for business*, available online at:

<http://www.sgg.ro/docs/File/UPP/doc/20100617-manual-en.pdf> (last access: 03.07.2014).

⁵⁴ Adapted from the OECD Regulatory Compliance Cost Assessment Guidance, 2014, p.41.

- v. creates a geographical barrier in relation to the companies' capacity to provide goods or services, to invest capital or to provide workforce
- b) limitation of providers' capacity to compete in case the draft legislative act:
 - i. controls or influences, in a substantial manner, at which price a good or a service is sold;
 - ii. limits the providers' freedom to advertise their own products (beyond the limitation determined by the compliance with copyrights and by the prevention of deceptive advertising);
 - iii. establishes product or service quality standards, which are significantly different from the current practices;
 - iv. leads to a significant increase of the production costs of some providers in relation to the others (especially by the different treatment to be applied to operators newly-entered in the market in relation to the existent ones);
 - c) reduction of the degree of stimulation of providers to effectively compete in case the draft legislative act:
 - i. establishes a self-regulation or co-regulation status;
 - ii. requires or fosters the publication of information on company's production, prices or costs;
 - iii. exonerates the activity in a certain area or a group of undertakings from the application of the rules of competition;
 - d) limits the options and information available to clients in case the draft legislative act:
 - i. limits the clients' options;
 - ii. reduces the clients' mobility against the providers of goods and services by explicitly or implicitly increasing the costs of changing such providers;
 - e) taking a state aid measure in case the draft legislative act establishes a support measure fulfilling the following conditions:
 - i. stems from public funds, regardless of the form (either cash in banks or credits with subsidized interest, or tax exemptions, deferrals or discounts etc.) or are granted by a public institution;
 - ii. is selective;
 - iii. can create an economic advantage for certain undertakings;
 - iv. distorts or can distort competition on the Single Market.

D) Determining the impact on small businesses (SMEs)

Due to their size and scarce resources, Small and Medium-sized Enterprises (SMEs) can be affected by the costs of regulations more than their bigger competitors. At the same time, the benefits of regulations tend to be more evenly distributed over companies of different sizes. SMEs may have limited scope for benefiting from economies of scale. SMEs in general find it more difficult to access capital and as a result the cost of capital for them is often higher than for larger businesses.

The European Commission requires carrying out a dedicated assessment to ensure the effective implementation of the EU Small Business Act and its Review (including the "Think

Small First” principle).⁵⁵ The Romanian Government adopted a procedure in this regard in May 2014.⁵⁶

For these reasons, you should consider performing a **SME-Test**. This consists of the following:

- **Establishing whether SMEs are among the affected population, and their characteristics:**
 - number of businesses and their size (micro, small, medium 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 ones)
 - links with other sectors and possible effect on subcontracting
- **Measuring the distribution of the potential benefits and costs, differentiating between micro- (0-10 employees); small- (11-50 employees); and medium (51-250 employees) firms.** Typical costs to consider are:
 - 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. re-sources to acquire or provide information)
- **Cost and impacts identified for SMEs should be compared with those of large enterprises.** For this purpose, you could for instance compare the overall costs identified to the number of persons employ to obtain the average cost per employee. Alternatively, you could compare the costs identified to the total overhead or turn-over of the company.
- **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 behavior 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.)
- **Assess alternative options and mitigating measures:** if the abovementioned cost/benefit analysis shows that SMEs are disproportionately affected (or disadvantaged compared to large companies), you consider using possible SME specific mitigating measures. A non-exhaustive list of measures to be considered includes:

⁵⁵ See http://ec.europa.eu/enterprise/policies/sme/small-business-act/index_en.htm.

⁵⁶ Law 62/2014, published in the Official Gazette of Romania no.328/06.05.2014. The Methodology for the elaboration of the SME Test was adopted by Ministerial Order no.698/04.06.2014, published in the Official Gazette of Romania no.438/16.06.2014.

- complete or partial size-related exemptions for SMEs or micro-businesses (Example: businesses below certain thresholds do not have to comply with certain specific obligations when this does not invalidate the original purpose of the legislation)
 - temporary reduction or exemptions (Example: transition periods during which SMEs are exempted or longer intervals for certain obligations)
 - tax reductions or direct financial aid to compensate costs incurred provided this is compatible with existing legislation (on competition or international trade).
 - reduced fees (Example: when these fees are particularly high and/or represent a fixed cost that would will be felt disproportionately by SMEs)
 - simplified reporting obligations for SMEs (Example: in the area of statistics, explore possible synergies with already existing reporting obligations)
 - specific information campaigns or user guides, training and dedicated help-desks/offices (Example: specific SME help-desks providing tailored information for small businesses)
 - systematically consider general simplification initiatives which can particularly benefit SMEs (Example: possibility to use on-line facilities, simplified inspections)
- When assessing possible mitigating measures for SMEs, you should include the costs that these could produce in your final assessment.

E) Filling the SN template

You must fill Step 12 in the SN Template mandatorily – i.e. whether you are preparing a LOW impact, a MEDIUM impact or HIGH impact initiative.

If you are working on a LOW impact initiative, a qualitative description of the problem is sufficient. For MEDIUM and HIGH impact initiatives, by contrast, you are required to provide quantified evidence.

In the SN study (HIGH impact initiative), you are also required to present the reasoning followed, including the assumptions made and specify the sources from which data was collected.

Step 13: Social and health impacts

A) The importance of this Step

Social impacts include all consequences to human populations, either restricted or taken as a whole. They relate to situations at work; in the education and culture; health; and living in general.

Assessing social impacts correctly is a precondition to ensure effectiveness and efficiency when striving to achieve many policy goals. However, it is also important to facilitate a smooth implementation of the preferred option, for instance by prevent or mitigate resistances by specific groups. Moreover, in the majority of cases, the costs of rectifying adverse social and health impacts are borne by the public sector, so there is a strong incentive to get it right from the outset.

B) Determining social and health impacts

The related table in Annex 1 to these Guidelines lists a number of possible social and health impacts that you should consider at this stage.

These Guidelines draw your attention specifically to three categories that are likely to be among the most relevant for your analysis:

- **DISTRIBUTIONAL IMPACTS:** When addressing different social and economic groups, you need to identify “winners and losers”. You need also to consider any impact on vulnerable groups (e.g. Roma minorities) that the option is likely to trigger. Government action may leave existing inequalities unchanged, aggravate them, or help to reduce them.

For instance, you need to envisage specific supporting action for elderly people as a result of measures introduced to foster electronic access to public services.

This is not a simple matter: for example, differences between male and female lifestyles (e.g. in nutrition habits) may mean that a proposal which appears at first sight to be neutral as regards gender equality will in practice have different impacts on men and women.

Geographical considerations are also relevant in this context – for example with regard to mountain or remote rural areas.

- **HEALTH IMPACTS:**

Often used metrics to express health impacts quantitatively relies on typical indicators such as:

- Healthy life expectancy at birth
- Proportion of population that is disabled or suffers from a given health problem
- Occupational morbidity

In other cases, you may follow the so-called “cost-of-illness approach”. It refers to an estimate of the costs associated to accessing medical treatment – for instance cost of a using a bed for a full day multiplied by the number of hospitalization days.

REFERENCE TO HEALTH IMPACT ASSESSMENT

NOTE that more information on the elaboration of health impact assessment is included in a dedicated manual issued by the Government Secretariat General (GSG) in 2009.⁵⁷

Guidance from the European Commission

For these types of impacts, you may also consider the guidance issued by the European Commission

DG Employment, has issued a useful guide on the matter, which you can download at <http://ec.europa.eu/social/main.jsp?catId=307&langId=en>.

On Health impact, specifically, you can consult the DG SANCO guide at http://ec.europa.eu/health/ph_projects/2001/monitoring/fp_monitoring_2001_a6_frep_11_en.pdf.

⁵⁷ Romanian version: “Manual și metodologie pentru studii de impact în domeniul sănătății”, accessible online at: <http://www.sgg.ro/docs/File/UPP/doc/manual-metodologie-pentru-studii-de-impact-in-domeniul-sanatatii.pdf> (last access: 03.07.2014).

C) Filling the SN Template

You are always required to provide information on the social and health dimension of your proposal.

For LOW impact initiative, such information may remain qualitative (but still objective), while you should provide quantified evidence for MEDIUM and HIGH impact initiatives.

In the SN study (HIGH impact initiative), you are also required to present the reasoning followed, including the assumptions made and specify the sources from which data was collected.

Step 14: Environmental impacts

A) The importance of this Step

Environmental impact assessment is necessary because many economic activities do have repercussions on the quality of the air, soil and waters, as well as on the flora and fauna. As a SN drafter, you can be in the following two situations:

- your initiative is primarily conceived to manage, mitigate or avoid an environmental risk or damage – In this case, your task is to mainly seek to ascertain the type and magnitude of possible environmental benefits from any given option. Alternatively,
- your initiative is not directly triggered by an explicit environmental policy objective – In this case, your task is to identify and assess any possible environmental costs associated to the options you are considering to achieve the set policy objective(s).

B) Determining environmental impacts

The related table in Annex 1 to these Guidelines lists a number of possible environmental impacts that you should consider at this stage. Broadly speaking, environmental impacts fall under the following categories:

- climate
- transport / energy
- air / waters / soil quality and resources
- bio-diversity
- land use
- renewable resources
- waste production / management / recycling
- animal welfare
- international env. impacts

As specified above, it is important that you express them AS CLEARLY AS POSSIBLE, possibly with quantified metrics or in monetized terms. This is essential if you want to COMPARE options on an objective basis.

NOTE that environmental impacts are generally easier to quantify than you might initially think. Examples of metrics are:

- tons of CO₂ emitted (or number of estimated trucks on a given road);
- concentration of substance XY in the water;
- value of human live saved; or
- size of population exposed to a given harm.
- Moreover, some costs associated to environmental interventions are usually direct compliance costs (e.g. number and costs of filters or other equipment to apply to factories; reporting costs, etc.).

REFER TO INTERNATIONAL EXPERIENCES AND STUDIES if you have difficulties in identify the appropriate way to express environmental impacts.

C) Filling the SN Template

You are always required to provide information on the environmental dimension of your proposal.

For LOW impact initiative, such information may remain qualitative (but still objective), while you should provide quantified evidence for MEDIUM and HIGH impact initiatives.

In the SN study (HIGH impact initiative), you are also required to present the reasoning followed, including the assumptions made and specify the sources from which data was collected.

SECTION 4 – ALTERNATIVE OPTION

Steps 15-19: Information on the alternative option

Filling the SN Template

You must explore at least a possible alternative option and fill this Section only if you are working on a MEDIUM or HIGH impact initiative. If you are working on a LOW impact initiative, you can skip this Section altogether.

To fill the template, follow the guidance provided for Steps 10–14 above. NOTE that for the MEDIUM impact initiative a qualitative analysis is sufficient. For HIGH impact initiatives, by contrast, you are required to provide quantified evidence.

In the SN study (HIGH impact initiative), you are also required to present the reasoning followed, including the assumptions made and specify the sources from which data was collected.

SECTION 5 – PUBLIC CONSULTATION PROCESS

Step 20: Substantiation Note BEFORE consultation

A) The importance of this Step

Public consultation is integral part and a fundamental component of the SN process. It directly reflects the principle of transparency, of participation and of legitimate expectations from public administration Government action.

The consultation process provides an excellent opportunity for the PPP analysts to collect information held by non-government sources, and at low cost. In particular, consultation serves the following functions:

- bridging the information gap between the regulator and the regulated;
- widening and deepening the empirical basis for decision-making;
- enhancing transparency and accountability;
- reducing the risk of regulatory capture, regulatory failure, and unintended consequences;
- improving implementation by spotting at an early stage what can go wrong with implementation.

REFER TO THE PUBLIC CONSULTATION LEGAL BASE⁵⁸

NOTE that public consultation is a mandatory activity forming integral part of the Government decision-making process. You must rely on the following legal bases:

- Law No. 52/2003 on transparent decision-making in public administration;
- Government Decision No. 521/2005 on the procedure for consulting the associative structures of the local public administration authorities in the elaboration of draft legislative acts; and
- Law no.62/2011 on social dialogue.

B) Key questions asked to the stakeholders

You can conceive to focus the consultation round on virtually all aspect of the SN analysis, covering all or only specific steps. The decision on how to craft the consultation document is yours, but you might want to find a balance between standard general questions and more tailor-made enquiries.

The following are possible examples of questions:

- **PROBLEM DEFINITION:** - Is the problem correctly defined and understood? Why not?
- Is the baseline option reasonably projected into the future? Why not?
- **PERFORMANCE GOALS:** - Are the performance goals appropriate for Romania? Why not?
- **OPTIONS:** - Are the identified options realistic and reasonable? Why not?

⁵⁸ Eventually the new Guidelines will have to refer to the new provisions (containing the suggested amendments).

- **COSTS AND BENEFITS:**
 - Should other options be considered? Which ones? Why?
 - Does the PPP identify all important costs and benefits of the options?
 - What other costs and benefits should be considered?
 - Can you submit data so as to be more precise about the magnitude of the costs and benefits, and the comparisons of the options?
- **OTHER IMPACTS:**
 - Should other impacts, such as distributional impacts, be added to the analysis?

You should always ask stakeholders to provide own data and justify their inputs.

C) Envisaged stakeholders to be consulted

You should identify the main stakeholders who should be involved. This should be broad rather than narrow. When envisaging the type of stakeholders you want to reach out to, you must consider two distinct but equally relevant rationales: first, the consultation exercise is a means for public participation in decision-making, hence it should never exclude anyone with valid interests. Second, the consultation must serve your purpose – i.e. verifying and strengthening your draft SN. Accordingly, you should also think in terms of your specific needs.

- A **GOOD** consultation process brings in the views of all stakeholders with significant interests, with relevant information, and with a role in implementation.
- A **POOR** consultation process allows access to only dominant, powerful, or well-connected stakeholders.

Broadly speaking, stakeholders are:

- individuals, groups, or organizations whose interests are affected by the issue or those whose activities strongly affect the issue. Stakeholders might include other levels of government and those from third countries;
- those who possess information, resources and expertise needed for the impact assessment, strategy formulation, and implementation; and
- those who control relevant implementation instruments.

PREPARE A CONSULTATION MATRIX

A consultation matrix is a complete list of stakeholders and their position on the problem or issue you are working on. It should show

- the interests of different stakeholders concerning the identified policy problem
- the resources at their disposal, esp. in relation to what can be brought into the debate on the specific issue
- their capacity to mobilize resources
- official / public position regarding the policy at stake

A possible matrix may look as follows:

Stakeholder	Interest /mission / representativity	Opinion / position	Capacity to mobilize resources
Stakeholder A			
Stakeholder B			
....			

D) Filling the SN Template

You must fill Step 20 in the SN Template mandatorily – i.e. whether you are preparing a LOW impact, a MEDIUM impact or HIGH impact initiative.

BEAR IN MIND that you have to undergo two rounds of consultations if you are preparing a MEDIUM impact or HIGH impact initiative: the first consultation round pertains only to the draft SN / SN study, while the second round includes also the draft legal act. You must therefore specify which stage of the process you are at when filling this Step.

Step 21: Substantiation Note AFTER consultation

A) The importance of this Step

This Step is based on the previous one and complements the information provided there with the outcomes of the consultation as it took place. It is important for the SN reader to understand how the channels provided for by law have been deployed to reach out stakeholders and experts, and who actually contributed what inputs.

B) Making use of consultation inputs

You are responsible for using the inputs received in an efficient and objective manner. This may not always be as simple as it seems. When carrying out the consultation and using the information it produces, you should be aware of a number of pitfalls that may introduce a bias into the results. In particular,

- **DISTINGUISH EVIDENCE FROM OPINIONS:** When you use a consultation to gather data, you should *verify* carefully that the method you use is correct and appropriate, and try to *validate* the robustness of the results. Peer-reviewing, benchmarking with other studies and sensitivity analysis can significantly enhance the quality of data. You should explore the risks and consequences related to interests groups positions regarding the issue at stake.
- **WEIGHT REPRESENTATIVE INPUTS:** Not all interest groups are equally able to take part in consultations or express their views with the same force. You may need, therefore, to make specific efforts to ensure that all relevant stakeholders are both aware of and able to contribute to the consultation. You should also be careful in drawing conclusions if there are only a small number of responses and they come from a narrow range of interests. At the same time, you should also give a response its due weight if it represents a large number of citizens or stakeholders.

C) Reporting on the consultation process

You must ensure that as a minimum the following is covered:

- which stakeholders and experts were consulted;
- the reason for having recourse to the chosen consultation channel (especially if it was geared to targeting specific stakeholders or experts); and
- a schematic but comprehensive summary of the main thrust of the comments received, especially those related to the questions asked. In doing so,
 - you must take account of all input received;
 - you should differentiate the arguments outlined, without necessarily naming the source of that position (however, you must keep a precise record of which stakeholder or expert recommended what);
 - very importantly, you must clarify what inputs you decided to retain and which ones you discarded – each time explain why you did so.

D) Filling the SN Template

You must fill Step 21 in the SN Template mandatorily – i.e. whether you are preparing a LOW impact, a MEDIUM impact or HIGH impact initiative.

SECTION 6 – POST-ADOPTION ARRANGEMENTS

Step 22: Implementation arrangements

A) The importance of this Step

Implementation of Government decisions may require substantial changes, the occurrence of which SN readers must be aware of. The costs associated to implementation arrangements must be calculated and taken into consideration when gauging the cost-effectiveness of an option. (As an elementary example, think of nuclear radioactive waste disposal. An environmentally friendly solution would be to store the waste on the moon – but the implementation costs clearly outweigh the benefits.)

B) Implementation arrangements to be considered

One of the primary areas of attention concerns the changes that are likely to occur in the **public sector**. Accordingly, you should indicate (each time by referring to the central and/or the local level):

- possibilities of obtaining the desired outcome by using the existent public institutions (if that is not possible, the reasons shall be specified);
- functions of the existent institutions to be changed (extended or down-sized) or transferred (and to whom);
- public institutions to be established, re-organized or terminated as a consequence of the implementation of the option;
- the nature of the funding associated to these changes, specifying

- where the funds stem from (e.g. national ordinary budget, extraordinary funds; EU funds, international donors aid, on a fee-for-service basis; etc.); and
- what the funds will cover (e.g. re-location plans, capacity-building or early retirement programs for affected civil servants, etc.).

Important implementation arrangements may affect the **private sector**, too. These may require specific financial assistance also from public entities.

You must also indicate an **implementation calendar** – i.e. whether the implementation of the Government decision can take place immediately after adoption or whether an additional period and a transition period is granted for implementation.

C) Filling the SN Template

You must provide information in Step 22 on the main arrangements necessary to implement the preferred option **ONLY** if you are working on a **MEDIUM** or **HIGH** impact initiative. If you are working on a **LOW** impact initiative, you can skip this Step.

Step 23: Monitoring and evaluation activities

A) The importance of this Step

To be effective, analysis has to include specific information of compliance, enforcement, and the responses of those who will be most likely be affected by the Government decision. Policy-makers need to have reliable indicators to check if implementation is “on track” and the extent to which the intervention is achieving its objectives. Information on arrangements for monitoring also allow for understanding why the measure is failing to be effective.

DEFINITIONS

“Monitoring” is not the same thing as “evaluation”:

- **MONITORING** is the continuous and systematic collection of data on specified indicators to provide management and main stakeholders of an ongoing development intervention with the indications of the extent of progress and achievement of objectives;
- **EVALUATION** is the periodic assessment of the relevance, performance, efficiency, and impact (both expected and unexpected) of an intervention, in relation to the stated objectives.

A detailed outline of the monitoring and evaluation (M&E) activities is normally best designed after the measure is formally adopted. It is obviously useless to provide detailed M&E information on policy options that will not be implemented. In this Step you are asked to sketch the indicators because:

- resources are limited and also M&E activities may be costly. It is important to compute a level of such resources (e.g. number of staff, (outsourced) research, public consultations, etc.) that is proportionate to the scope and potential impact of the proposed measure. As a general rule, collecting data should not be more costly than the value of the information they provide; and
- the Government decision is part of a policy cycle and it is important to set the bricks that bridge all phases of it – from ex-ante analysis to impact evaluation – so to best prepare the basis possible future interventions.

B) Planning for M&E

When thinking ahead to the M&E activities, you should ask yourself the following questions:

- **NATURE:** - How will this option be measured to see if it is working?
- What are the focus and purpose of M&E activities?
- To what extent do M&E structures already exist? Does new capacity need to be put in place? Is a specific legal basis necessary?
- **TIMING:** - When should findings be produced, and used?
- **DATA:** - Is the information I need to evaluate the policy readily available?
- Is there baseline information to allow for a before vs. after comparison?
- What and where are the data gaps? Can they be addressed now?
- How can I organize end-user feedback?
- **ACTORS:** - Who are the key actors in providing and using such information?
- What will be the roles of these actors? Who is responsible for what?
- **USE:** - How and to whom should the M&E findings be communicated?

C) Developing performance indicators

Performance indicators measure the extent to which the Government decision has been properly implemented and its objectives achieved. Another important factor in designing your indicators is the ease with which data can be collected.

To ensure that performance indicators are properly used, they should:

- be relevant, i.e. closely linked to the objectives;
- be objective, easy to interpret and robust against manipulation;
- be small in number and easy to monitor (data collection should be possible at low cost),
- be accepted (by staff as well as stakeholders); and
- have immediate impact (e.g., naming and shaming, administrative and financial sanctions).

It may be useful to distinguish between input (resources) – output – outcome (end result) – impact indicators. Possible issues covered by a monitoring system include:

- implementation at various levels of government;
- compliance of end-users (e.g. enterprises producing according to certain minimum standards; number of certificates issued, etc.), and their costs;
- number and type of inspections, their results and their costs (enforcement costs);
- number and type of sanctions / penalties;
- attainment of target levels or outcomes specified in the objectives;
- context / macro-economic variables;
- etc.

PERFORMANCE INDICATORS: Some examples

QUANTITATIVE

- number of deaths / road accidents
- percentage of children leaving school with science qualifications / foreign language etc.
- time taken to start-up a business
- percentage of business paying their taxes on time
- change in number of construction companies complying with health and safety legislation

QUALITATIVE

- Levels of satisfaction among citizens / business
- Perceived improvements to quality of life / ease of doing business with government
- Change in media coverage (from negative to positive coverage)

D) Filling the SN Template

You must fill Step 23 in the SN Template **ONLY REFERRED TO THE PREFERRED OPTION** outlined in Section 3 above, and **ONLY** if you are working on a **HIGH** impact initiative.

SECTION 7 – INFORMATION ON FINAL ENDORSEMENT

You are required by law to provide information on both the necessity to get formal endorsement of the draft legislative act and to report any significant objections or comment received which were not included in the finalization of the proposal. The relevant institutions are:

- Legislative Council;
- Supreme Council of National Defense;
- Economic and Social Council;
- Competition Council;
- Court of Accounts.

REFER TO THE FINAL ENDORSEMENT LEGAL BASE

Final endorsement is provided for by GD 561/2009.

Law No. 24/2000 on the legislative technique norms for elaboration of legislative acts, republished, and Government Decision No. 50/2005 approving the Regulation on procedures, at Government level, for the elaboration, endorsement and presentation of draft legislative acts for adoption, republished, as subsequently amended.

SECTION 8 – ACCREDITATION

Once your SN template is finalized, it must be dated and signed off by your Minister – or a person explicitly delegated by him / her - and, if and as appropriate, by the relevant authority in the institutions charged with endorsing the SN.

An unsigned SN template is not valid.

Appendix III.1 – Potential Economic, Social and Environmental Impacts

The tables below provide a list of possible impacts against which to screen your options.⁵⁹

Impacturi economice	Întrebări cheie
Funcționarea pieței și concurenței	<ul style="list-style-type: none"> • Ce impact (pozitiv sau negativ) are opțiunea asupra liberei circulații a bunurilor, serviciilor, capitalului și forței de muncă? • Opțiunea va duce la reducerea posibilității de alegere a consumatorilor sau la creșterea prețurilor prin scăderea concurenței, la crearea de bariere pentru noii furnizori, la facilitarea comportamentului anticompetitiv sau la apariția monopolurilor, segmentării pieței, etc.?
Competitivitate, fluxuri comerciale și investiționale	<ul style="list-style-type: none"> • Ce impact are opțiunea asupra poziției competitive a firmelor românești? Are vreun impact asupra productivității? • Ce impact are opțiunea asupra barierelor comerciale? • Are vreun efect asupra fluxurilor investiționale (inclusiv relocarea activităților economice)?
Costuri de funcționare și desfășurarea afacerilor (IMM-uri)	<ul style="list-style-type: none"> • Vor fi impuse costuri suplimentare de ajustare, conformitate sau tranzacție asupra companiilor? • Cum afectează opțiunea costul sau disponibilitatea resurselor esențiale (materie primă, echipamente, forță de muncă, energie, etc.)? • Afectează accesul la finanțare? • Afectează ciclul de investiții? • Presupune retragerea anumitor produse de pe piață? Este limitat sau interzis marketingul anumitor produse? • Sunt introduse reguli mai stricte pentru desfășurarea afacerilor în anumite domenii? • Duce la deschiderea sau închiderea anumitor companii? • Există produse sau companii care sunt tratate diferit de altele într-o situația comparabilă?
Sarcini administrative asupra mediului de afaceri	<ul style="list-style-type: none"> • Opțiunea afectează natura obligațiilor de informare impuse mediului de afaceri (de exemplu, tipul de date solicitate, frecvența de raportare, complexitatea procesului de transmitere a datelor, etc.)? • Care este impactul acestor sarcini asupra IMM-urilor în special?
Autorități publice	<ul style="list-style-type: none"> • Are opțiunea consecințe bugetare pentru autoritățile publice de la diferite niveluri administrative (național, regional, local), atât imediat cât și pe termen lung? • Introduce sarcini administrative suplimentare pentru instituțiile publice? • Este necesară crearea unor autorități noi sau restructurarea celor existente?
Drepturi de proprietate	<ul style="list-style-type: none"> • Sunt afectate drepturile de proprietate (bunuri imobile, bunuri mobile, bunuri tangibile/intangibile)? Este limitată achiziționarea, vânzarea sau utilizarea drepturilor de proprietate?

⁵⁹ Translated from the European Commission IA Guidelines (2009), ANNEX p.32-37.

	<ul style="list-style-type: none"> • Există posibilitatea desproprietăririi?
Inovare și cercetare	<ul style="list-style-type: none"> • Opțiunea stimulează sau împiedică cercetarea și dezvoltarea? • Facilitează introducerea și diseminarea noilor metode de producție, tehnologii sau produse? • Afectează drepturile de proprietate intelectuală (patente, mărci înregistrate, copyright, alte drepturi)? • Promovează sau limitează cercetarea academică sau industrială? • Promovează creșterea productivității sau utilizarea eficientă a resurselor?
Consumatori și gospodării	<ul style="list-style-type: none"> • Opțiunea afectează prețurile plătite de consumatori? • Are impact asupra calității și/sau disponibilității bunurilor/serviciilor sau asupra încrederii consumatorilor? • Afectează informarea și protecția consumatorilor? • Are consecințe semnificative pentru situația financiară a indivizilor/ gospodăriilor, imediat sau pe termen lung? • Afectează protecția economică a familiei și copilului?
Regiuni sau sectoare specifice	<ul style="list-style-type: none"> • Opțiunea are efecte semnificative asupra anumitor sectoare economice? • Va exista un impact specific asupra anumitor regiuni, de exemplu în ceea ce privește crearea sau pierderea de locuri de muncă? • Există o regiune sau un sector care va fi afectat în mod disproporționat?
Mediul macroeconomic	<ul style="list-style-type: none"> • Are opțiunea consecințe generale pentru creșterea economică și ocuparea forței de muncă? • Cum contribuie opțiunea la îmbunătățirea condițiilor pentru investiții și la buna funcționare a piețelor? • Există un impact direct asupra stabilității macroeconomice?

Impacturi sociale	Întrebări cheie
Ocuparea forței de muncă și piața muncii	<ul style="list-style-type: none"> • Opțiunea facilitează crearea de noi locuri de muncă? • Are efect direct sau indirect asupra pierderii de locuri de muncă? • Are consecințe negative specifice pentru anumite profesii, grupuri de angajați sau liber profesioniști (persoane fizice autorizate să desfășoare activități economice)? • Afectează anumite grupuri de vârstă? • Afectează cererea de forță de muncă? • Are impact asupra funcționării pieței muncii? • Are impact asupra echilibrului între viața privată, familie și viața profesională?
Standarde și drepturi referitoare la calitatea locurilor de muncă	<ul style="list-style-type: none"> • Opțiunea are impact asupra calității locurilor de muncă? • Afectează accesul angajaților sau șomerilor la formare profesională și vocațională? • Afectează sănătatea, siguranța sau demnitatea angajaților? • Există efecte directe sau indirecte asupra drepturilor și obligațiilor existente ale angajaților, în special în ceea ce privește informarea și consultarea și protecția împotriva concedierii? • Afectează protecția tinerilor la locul de muncă? • Afectează direct sau indirect drepturile și obligațiile angajatorilor? • Respectă standardele minime de muncă ale UE? • Opțiunea facilitează sau limitează restructurarea, adaptarea la schimbări și utilizarea inovațiilor tehnologice la locul de muncă?
Incluziunea socială și protecția grupurilor dezavantajate	<ul style="list-style-type: none"> • Opțiunea afectează accesul pe piața muncii sau ieșirea de pe piața muncii? • Conduce direct sau indirect la creșterea egalității sau inegalității? • Afectează accesul egal la bunuri și servicii? • Afectează accesul la servicii la plasare sau servicii de interes economic general? • Contribuie la informarea publicului în legătură cu o anumită problemă? • Are impact mai mare asupra anumitor grupuri sau persoane (de exemplu, persoanele cele mai vulnerabile sau cu risc crescut de sărăcie, copii, femei, bătrâni, persoane cu dizabilități, șomeri, minorități etnice sau religioase, azilanți), companii sau alte organizații (de exemplu biserici) sau localități mai mult decât asupra altora?
Egalitatea de șanse între femei și bărbați, echitate și nediscriminare	<ul style="list-style-type: none"> • Opțiunea afectează principiul nediscriminării, tratamentului și șanselor egale pentru toți? • Are opțiunea un impact diferit asupra femeilor decât asupra bărbaților? • Promovează creșterea egalității de șanse între femei și bărbați? • Implică direct orice diferență de tratament între grupuri sau persoane pe criterii de sex, origine rasială sau etnică, religie, dizabilitate, vârstă sau orientare sexuală? Poate duce la discriminare indirectă?

<p>Indivizi, viața privată și de familie, protecția datelor personale</p>	<ul style="list-style-type: none"> • Opțiunea impune cerințe administrative suplimentare asupra persoanelor sau creșterea complexității administrative? • Afectează intimitatea persoanelor (inclusiv locuința sau comunicațiile)? • Afectează dreptul la libertate al indivizilor? • Afectează viața de familie sau protecția legală, economică sau socială a familiei? • Afectează drepturile copilului? • Opțiunea implică procesarea datelor personale sau accesul persoanelor afectate la datele personale?
<p>Buna guvernare, participare, administrație publică, accesul la justiție, mass media și etică</p>	<ul style="list-style-type: none"> • Opțiunea are efect asupra implicării factorilor afectați în procesele decizionale la nivelul administrației publice? • Sunt toți actorii tratați egal, cu respectarea diversității acestora? Opțiunea are impact asupra diversității culturale sau lingvistice? • Afectează autonomia partenerilor sociali în domeniile de competență ale acestora? De exemplu, afectează dreptul la negociere colectivă sau dreptul de a iniția acțiuni colective? • Implementarea măsurii propuse afectează instituțiile și autoritățile publice, de exemplu prin sporirea responsabilităților acestora? • Afectează accesul persoanelor la justiție? • Prevede dreptul de contestație înainte de a ajunge în instanță? • Contribuie la informarea publicului în legătură cu un anumit aspect? Afectează accesul la informațiile de interes public? • Afectează partidele politice sau organizațiile nonguvernamentale? • Afectează mass media, pluralismul presei sau libertatea de exprimare? • Ridică probleme etice sau bio-etice (clonare, utilizarea corpului uman în scopuri patrimoniale, cercetare/testare genetică, etc.)?
<p>Sănătate și siguranță publică</p>	<ul style="list-style-type: none"> • Opțiunea afectează sănătatea și siguranța persoanelor sau grupurilor, inclusiv speranța de viață, mortalitatea și morbiditatea, prin impactul asupra mediului socio-economic (mediul de lucru, venituri, educație, ocupare, nutriție)? • Opțiunea crește sau reduce probabilitatea riscurilor mortale datorate substanțelor dăunătoare mediului înconjurător? • Afectează sănătatea datorită schimbărilor nivelului zgomotului, calității solului, aerului, apei sau solului? • Va afecta sănătatea datorită schimbărilor în consumul de energie sau în gestionarea deșeurilor? • Afectează factorii de sănătate legați de stilul de viață, cum ar fi dieta, activitatea fizică, fumatul, consumul de alcool sau droguri? • Există efecte specifice asupra unor grupuri de risc (determinate de vârstă, sex, dizabilități, mobilitate, regiune, etc.)?
<p>Infracționalitate, terorism și securitate</p>	<ul style="list-style-type: none"> • Opțiunea are un efect asupra securității, infracționalității, terorismului? • Afectează opțiunea șansele de depistare a infractorilor sau câștigurile potențiale ale acestora din infracțiuni? • Există posibilitatea ca opțiunea să ducă creșterea numărului de infracțiuni? • Afectează capacitatea de asigurare a ordinii și siguranței publice? • Are impact asupra intereselor de securitate? • Are impact asupra dreptului la libertate și siguranță, dreptului la un proces corect și dreptului la apărare? • Afectează drepturile victimelor și ale martorilor?

<p>Accesul și efectele asupra protecției sociale, sănătății și educației</p>	<ul style="list-style-type: none"> • Opțiunea are efecte asupra serviciilor din punct de vedere al calității și accesului egal? • Are efect asupra educației și mobilității lucrătorilor? • Afectează accesul persoanelor la educație publică/privată sau formare vocațională și profesională continuă? • Afectează furnizarea serviciilor transfrontaliere și cooperarea în zonele de frontieră? • Opțiunea are impact asupra finanțării, organizării sau accesului la servicii sociale, de sănătate și îngrijire? • Afectează universitățile și autonomia universitară?
<p>Cultură</p>	<ul style="list-style-type: none"> • Are opțiunea impact asupra conservării patrimoniului cultural? • Afectează diversitatea culturală? • Există efecte asupra participării cetățenilor la manifestări culturale sau asupra accesului lor la resurse culturale?

Impacturi ecologice	Întrebări cheie
Schimbări climatice	<ul style="list-style-type: none"> • Opțiunea afectează emisia în atmosferă a gazelor cu efect de seră (de exemplu dioxid de carbon, metan, etc.)? • Opțiunea afectează emisia de substanțe nocive pentru statul de ozon (CFC, HCFC, etc.)? • Există un impact asupra capacității umane de adaptare la schimbările climatice?
Transport și energie	<ul style="list-style-type: none"> • Opțiunea va determina creșterea/scăderea nevoii/consumului de energie și carburanți? • Afectează intensitatea energetică a activităților economice? • Afectează mixul actual de combustibili (între fosil, gaz, nuclear și regenerabil) utilizat în producția de energie? • Va duce la creșterea sau scăderea cererii pentru transport (de pasageri sau marfă) sau va influența repartizarea modală a transportului? • Generează creșterea sau scăderea emisiilor produse de vehicule?
Calitatea aerului	<ul style="list-style-type: none"> • Opțiunea are efect asupra emisiilor de poluanți acizi, eutrofici, fotochimici sau dăunători care pot afecta sănătatea umană, distruge recolte sau clădiri sau deteriorează mediul (solul, apele)?
Biodiversitate, flora, faună și peisaje	<ul style="list-style-type: none"> • Opțiunea reduce numărul de specii/varietăți/rase (reduce diversitatea biologică) sau crește numărul de specii (promovează conservarea)? • Afectează specii protejate sau amenințate sau habitatele acestora sau regiuni sensibile din punct de vedere ecologic? • Împarte peisajul în zone mai mici sau afectează în alt mod rutele de migrațiune, coridoarele ecologice sau zonele de conservare? • Afectează valoarea turistică a peisajelor protejate?
Calitatea apei și resursele de apă	<ul style="list-style-type: none"> • Opțiunea determină creșterea sau scăderea calității și cantității apei dulci și subterane? • Duce la creșterea sau scăderea calității apei în zonele litorale și marine (de exemplu, deversări de substanțe poluante)? • Afectează resursele de apă potabilă?
Calitatea solului și resursele de sol	<ul style="list-style-type: none"> • Opțiunea afectează acidificarea, contaminarea sau salinitatea solului și rata de eroziune a solului? • Contribuie la pierderea solului disponibil (de exemplu, prin lucrări de construcții) sau la extinderea solului utilizabil (de exemplu, prin decontaminare)?
Utilizarea terenurilor	<ul style="list-style-type: none"> • Opțiunea are efectul de a introduce terenuri noi în utilizare pentru prima dată? • Afectează în vreun mod terenurile desemnate sensibile din punct de vedere ecologic? Duce la vreo schimbare în utilizarea terenurilor (de exemplu, schimbarea împărțirii între rural și urban sau modificarea tipului de agricultură practică)?
Resurse regenerabile sau neregenerabile	<ul style="list-style-type: none"> • Opțiunea afectează utilizarea resurselor regenerabile (de ex, peștele) și conduce la o utilizare mai intensivă decât ritmul de regenerare ? • Reduce sau crește utilizarea resurselor neregenerabile (apă subterană, minerale, etc.)?
Consecințele ecologice ale mediului de afaceri și consumatorilor	<ul style="list-style-type: none"> • Opțiunea determină o producție și un consum mai sustenabil? • Opțiunea schimbă prețurile relative ale produselor ecologice și neecologice? • Promovează sau restricționează bunurile și serviciile ecologice/ neecologice prin schimbări ale regulilor referitoare la investițiile de capital, împrumuturi, asigurări etc.? • Întreprinderile sunt încurajate să devină mai poluante/mai puțin poluante prin schimbări în modul în care funcționează?

Generarea și reciclarea deșeurilor	<ul style="list-style-type: none"> • Opțiunea afectează producția de deșeuri (solide, urbane, agricole, industriale, miniere, radioactive sau toxice) sau modul de tratare, depozitare sau reciclare a deșeurilor?
Probabilitatea și dimensiunea riscurilor de mediu	<ul style="list-style-type: none"> • Opțiunea afectează probabilitatea prevenirii incendiilor, exploziilor, accidentelor sau emisiilor accidentale? • Afectează riscul diseminării neautorizate sau neintenționate de organisme modificate genetic sau străine?
Protecția animalelor	<ul style="list-style-type: none"> • Există un impact asupra sănătății animalelor? • Opțiunea afectează protecția animalelor (tratamentul uman al animalelor)? • Afectează siguranța alimentelor destinate animalelor?

ANNEX III. 5 – FUNCTIONALITY REQUIREMENTS FOR THE SN PROCESS IN ROMANIA

Introduction

This annex provides the basis of the technical requirements of the proposed Substantiation Note (SN) workflow system. The definitions below aim to build a process which would allow the creation of new SN initiatives, the interaction by multiple actors in a predetermined sequence, the monitoring and approval steps, the closing and archiving of initiatives, and the evaluation and accessing of closed initiatives. The design is built from an “active user” perspective, in particular the public administration staff and decision makers involved in the process either in preparing, monitoring or using SN for regulatory decision making.

This workflow system can be put in place manually (paper-based) or electronically (workflow software). Even though the electronic option is preferred, the automation of public administration operations is not always feasible in the short or medium term, and therefore a paper-based workflow is the only alternative to advance reforms and test processes before the automation is implemented.

Before the workflow is established, the technical requirements presented below will need to be consulted and refined with all relevant actors involved in the SN process (users of the workflow system). Additionally, before the process is automated further work will be needed, in particular by ICT developers, to translate the functionalities below into detailed technical requirements for software. The functionalities below were drafted based on brief discussions with key public officials mainly at the DCP, the Ministry of Public Finance and three other ministries.

The SN process is understood as part of a broader policy making and legislative process. The functionalities building up the SN workflow need to be therefore imbedded into the policy-making system. The Government of Romania plans to develop a software workflow system for legal drafting and policy making in 2015. This annex is prepared with the objective of contributing to that process by providing information on the SN functionalities, and could be included in the Terms of Reference for the system developers.

The sections below describe the actions available, the actors involved, the interphases for accessibility and a detailed workflow diagram to illustrate the process.

Actions in the Substantiation Note Process

The requirements for the workflow need to facilitate the deployment of the new SN described in section III.2 of this Report. In particular, the following actions will be required:

1. **Initiative creation:** The system will allow the creation of new initiatives, either using an empty initiative form, a previous initiative or some other defined acceptable input.
2. **Input by multiple actors:** Several actors will have access to the workflow system to allow them to perform their actions and input data in the SN process.
3. **Monitoring:** The workflow system should allow tracking of active initiatives at all times, access to data fields, dwell time and other information required by users.
4. **Approval:** The system should request approvals to allow technical, quality and management control.

5. **Initiative closing:** Once the process is completed, or if initiatives need to be dropped early in the process, the system should allow closing and archiving initiatives for future access and reference.
6. **Evaluation:** Once initiatives are closed, the system should allow random evaluation of initiatives based on pre-established parameters or request specific users to provide evaluation input. For instance, an evaluation using new evidence and data available would review how the preparation of an initiative helped address its objectives.
7. **Access to archive and data production:** Allow access to information of all initiatives, and easy extraction of statistics and data withheld by the workflow system.

Profiles, Data Fields and Levels of Access to the System

The workflow system should allow a variety of profiles with appropriate responsibilities. Key profiles to be included in the system are listed below in a table, which also includes specific actions that they should perform. The list will need to be finalized in consultation with the different institutions. All profiles should provide input to the process (action 2), be able to monitor initiatives status (action 3), provide input to the evaluation (action 6), and have access to archive and data production (action 7).

Institution	Profile	Main Role	Specific Actions
Line Ministry	Technical Officer	Initiate and complete information needed for SN	<ul style="list-style-type: none"> - Create new SN initiatives (1) - Close Initiatives (5)
Line Ministry	Legal Counsel	Prepare the regulatory text and participate in the SN preparation	<ul style="list-style-type: none"> - Input regulatory text and data fields (2)
Line Ministry	Impact Assessment units officer / Public Manager (PPU)	Link the policy making process to the regulatory making process and monitor quality checks of SN within Ministry	<ul style="list-style-type: none"> - Create new SN initiatives (1) - Monitor quality and technical SN checklist (4)
Line Ministry	Director	Supervise technical team involved in SN preparation	<ul style="list-style-type: none"> - Monitor quality and technical SN checklist (4) and submit to next level of authority
Line Ministry	Minister	Highest authority in line Ministry approves SNs	<ul style="list-style-type: none"> - Approve SN (4) and submit to DCPD and Cabinet
DCPD	Quality Control Official	Check technical quality of SNs	<ul style="list-style-type: none"> - Check quality of SNs (4) - Prepare comments/ feedback to team that prepared SN (2)
DCPD	State Secretary and Government Secretary General	Supervise quality control at DCPD	<ul style="list-style-type: none"> - Approve quality and technical control (4) to send SN back to Line Ministry with comments
Ministry of Public Finance	Ministry Staff	Check fiscal and budgetary impact prepared in SN	<ul style="list-style-type: none"> - Check fiscal and budgetary impact included in SN initiatives (4) - Prepare and input fiscal and budgetary impact in SN process (2)
Ministry of Economy	Ministry Staff	Check economic impact on SMEs prepared in SN	<ul style="list-style-type: none"> - Check economic benefit cost analysis included in SN initiatives (4) - Prepare and input economic analysis in SN process (2)
Competition Council	Competition Staff	Check impact of the regulatory measure on competition matters	<ul style="list-style-type: none"> - Prepare and input competition analysis in SN process (2)

SN Working Groups	Working Group Member	Check impact analysis for high impact initiatives	- Check High Level Impact SN (4)
Legislative Council	Legislative Counsel	Final Endorsement	- Final Endorsement (4)
Supreme Council of National Defense	Council Member	Final Endorsement	- Final Endorsement (4)
Economic and Social Council	Council Member	Final Endorsement	- Final Endorsement (4)
Court of Accounts	Counselor of Accounts	Final Endorsement	- Final Endorsement (4)
External Party	Stakeholder	Participate in Public Consultation	- Access SN initiatives and data open to consultation (3) - Submit feedback on SN initiatives (2) - Send messages to a focal point of contact in the system, for instance to propose new regulatory activity (2)

The workflow system should collect, process and present data fields included in the Triage Form and the Substantiation Note Template, as well as additional operational information. Each data field should have a restriction in number of characters, should allow prepopulated list of answers when needed, and should allow attaching or uploading documents. Additional data fields, which are not included in both predefined forms but need to be considered in the system, include:

- Assigned profiles for each initiative. For instance assigned Legal Drafter, DCPD Officer or other system profiles.
- Initiative Workflow Status.
- Key workflow dates.
- Dwell times.

If the Government considers that some data fields should require different levels of access due to confidentiality, particularly for external parties, each data field should be categorized by level of access. This annex considers that all data fields should be accessible by all stakeholders.

Workflow System Interphase

This workflow system could be implemented before automation. Such a paper-based system must apply the Government of Romania rules for government operations and transmission of files through approval process. The files being transmitted should allow registering profiles assigned to a particular initiative, workflow status, dates and a standard calculation of dwell time. Establishing this paper-based workflow before automation is achieved is recommended in order to fine tune and find ways of improving efficiency and closing information loops.

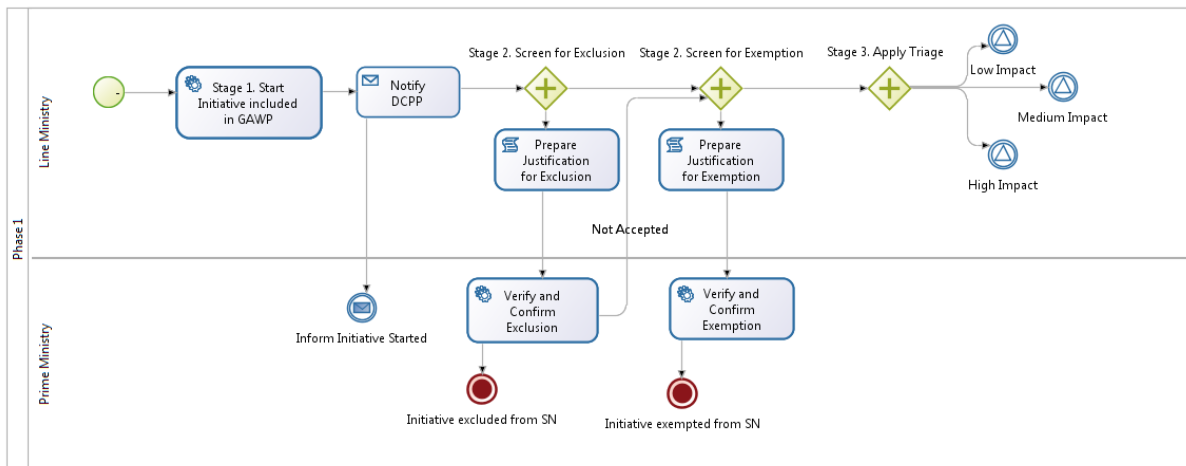
Ideally, the workflow system should be automated. When a software system is set up, it should provide an interphase adequately adapted to each profile for an efficient workflow process. The interphase design could benefit from interesting examples in other countries, such as the system in Canada or in Mexico.

Essential elements for the interphase should include:

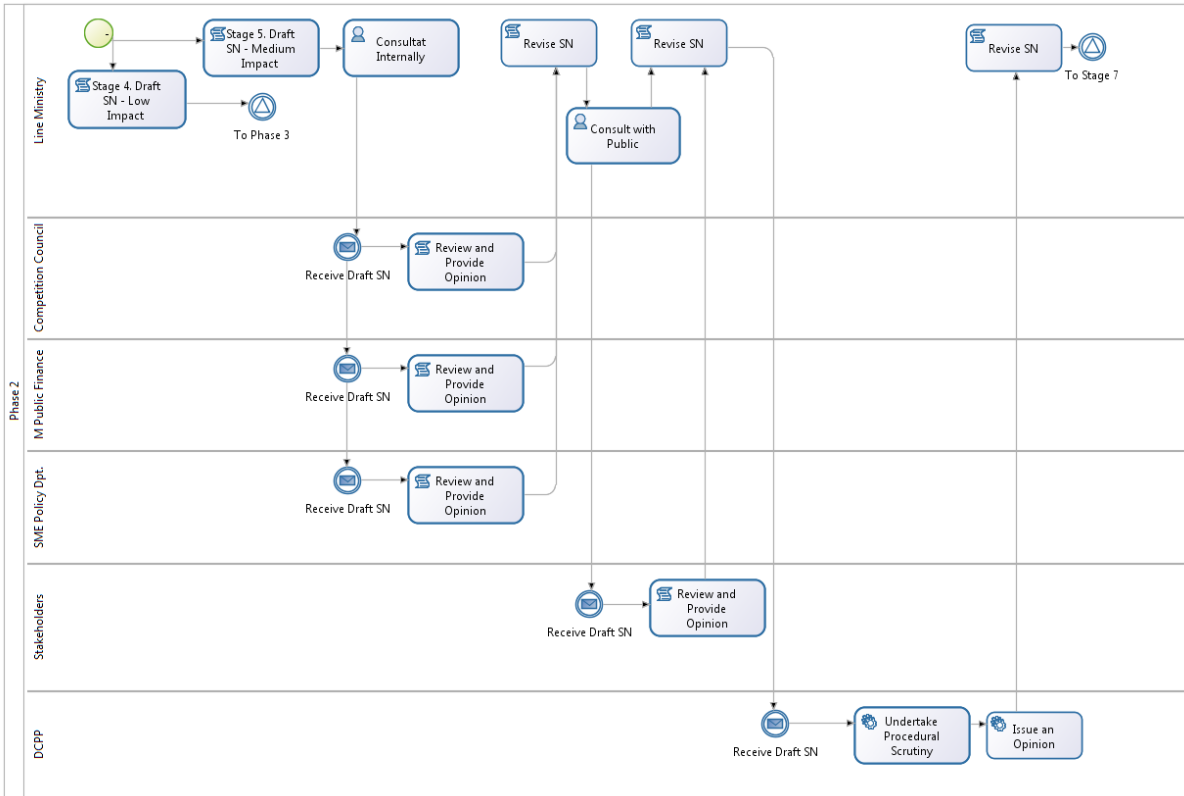
Interphase Elements		Definition
INTRANET	Home Page	Welcome message and access to a menu of options
	Menu Option 1	List of ongoing Initiatives pending action by registered user and allow to take action
	Menu Option 2	List of ongoing Initiatives pending action by other users and (when applicable) allow to close
	Menu Option 3	List of already completed Initiatives
	Menu Option 4	Create new Initiative (when applicable)
	Menu Option 5	System Statistics and Evaluation

A brief workflow process is presented in Figure 1 of this report. A more detailed workflow map for the SN system is provided below. As mentioned, this will need to be consulted in detail with all stakeholders involved and finalized.

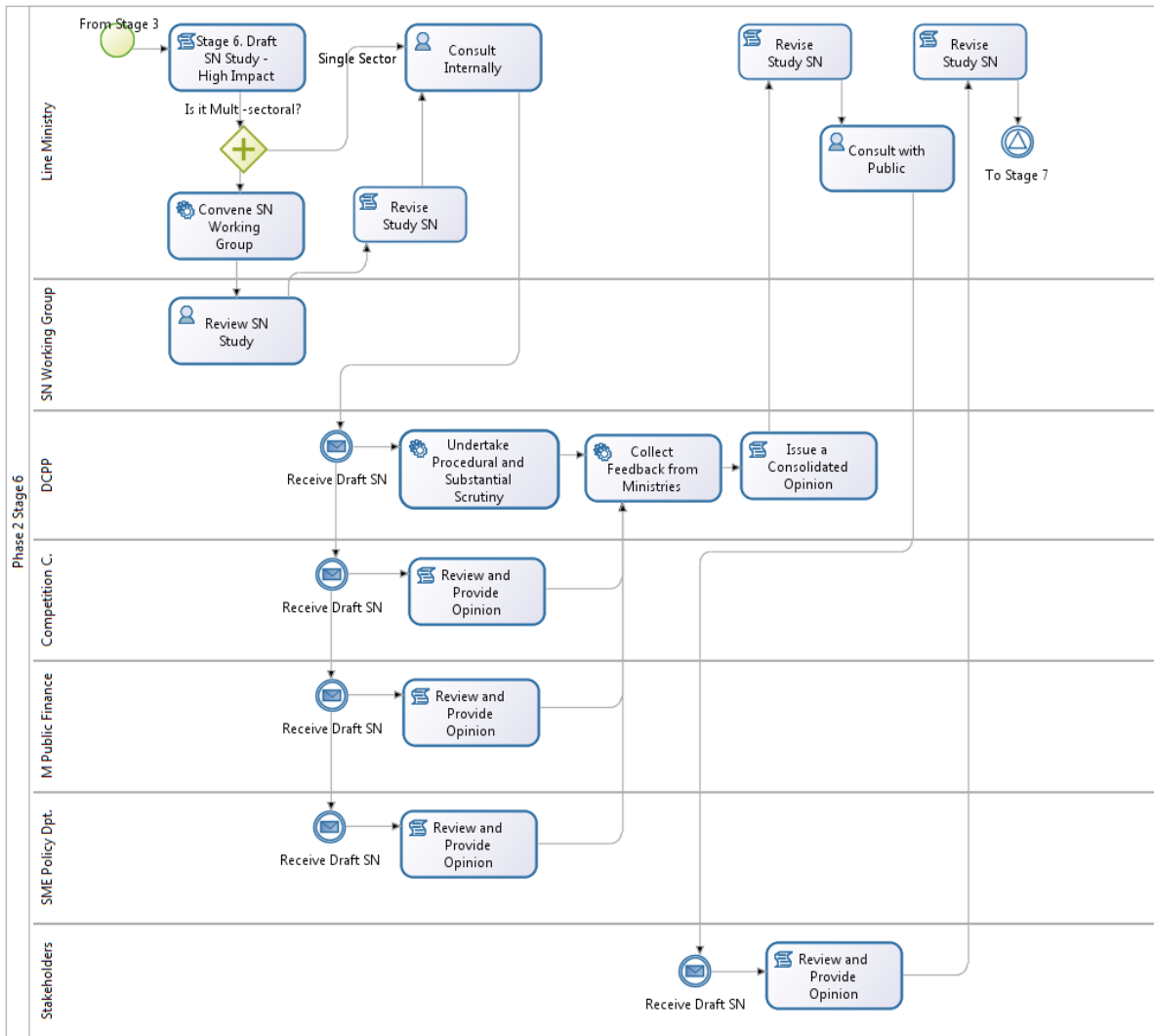
Phase 1. Stages 1, 2 and 3



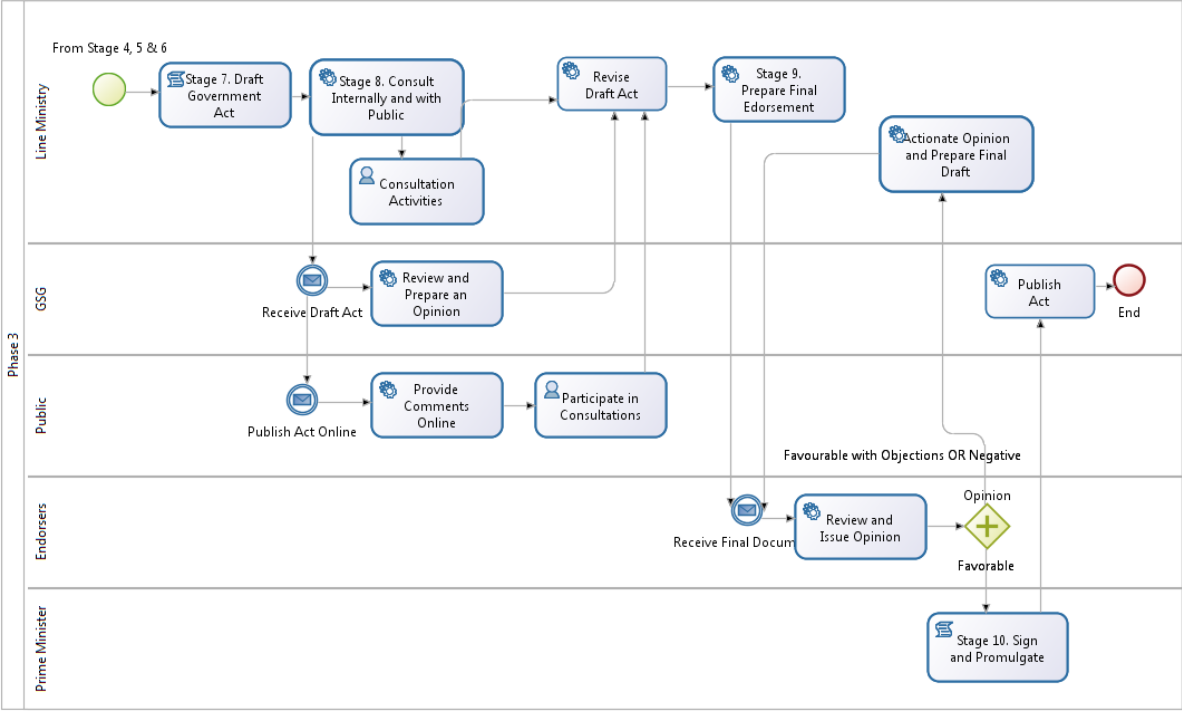
Phase 2. Stages 4 and 5



Phase 2. Stage 6. High Impact SN Study Preparation



Phase 3. Stages 7, 8, 9 and 10



ANNEX IV. 1. LIST OF PUBLIC ADMINISTRATION COMPETENCIES OF COMPETENCY ARCHITECT TOOL (CAT)

1. ECONOMIC AND BUSINESS ANALYSIS

Applies quantitative models and methods to predict outcomes of specific decisions, such as computable-generated equilibrium (CGE) models, micro-simulation models etc, and to assess, compare and contrast impact of alternatives identified; methods such as cost-benefit analysis, cost-effectiveness analysis, multi-criteria analysis, are part of his/her portfolio; understands and interprets financial reports for a company and is able to use financial mechanisms (e.g. calculating net present value through discounting – to evaluate in comparable terms current costs against future effects of a specific decision/solution; annualizing costs and benefits - to compare and contrast options with different time horizons etc); collects data and employs tools such as flow charts, Pareto charts, fishbone diagram etc to capture the forces, events, entities, and people that are affecting (or are being affected by) and to disclose meaningful patterns in the data and the situation at hand.

2. LEGAL FRAMEWORK ACUMEN

Has very good knowledge of relevant legislation, both European and Romanian; more important, exercises practical use of this knowledge, often in complex situations.

3. SECTOR AND INDUSTRY-SPECIFIC KNOWLEDGE

Understands the definition of relevant market/industries, knows the main players in the specific markets and industries; applies sectoral models after gathering the necessary information from various sources, including data related to the evolution of the specific sectors in similar countries; is able to quantify in monetary terms the impact on environment, health and the society in general.

4. RISK ANALYSIS

Knows and applies risk assessment methods to determine the best policy to deal with uncertain but potentially harmful consequences of a decision; where risks are not known precisely, the person applies a sensitivity analysis to test whether changes in the estimated parameters lead to significant changes in the outcomes; collects data and employs tools such as flow charts, Pareto charts, fishbone diagram etc to capture the forces, events, entities, and people that are affecting (or are being affected by) and to disclose meaningful patterns in the data and the situation at hand.

5. SOCIAL SCIENCE ACUMEN

Knows how various components of the society work and has acumen in the fundamentals of sociology and demography; knowledgeable in current and possible future policies, practices, trends, and information affecting his/her role, organization, marketplace and society.

6. SOLVING PROBLEMS

Approaches a market failure or situation by defining the regulatory problem or issue, identifying its causes and significance, breaking it down into its component parts and considering each part in detail; uses rigorous logics and methods to solve difficult problems with effective solutions; probes all fruitful sources for answers; can see hidden problems; looks beyond the obvious and doesn't stop at the first answers.

7. EVIDENCE-BASED DECISION MAKER

Makes good decisions based upon a mixture of evidence, analysis, wisdom, experience and judgment, by weighing the costs, benefits, risks, and chances for success; most of his/her solutions and suggestions turn out to be correct and accurate when judged over time; sought out by others for advice and solutions.

8. KNOWLEDGE OF REGULATORY THEORY

Understands and is able to apply the principles of good regulation to achieve clearly defined and measurable policy objectives; this includes the promotion of better regulation through the use of regulatory tools, policies and institutions in a flexible manner to adapt to unforeseen future events.

9. INTERPRETATION OF DATA

Reads and understands presentation of data analysis and summary of impact assessments; for instance is able to understand results of economic, financial, econometric, and other type of analysis, such as correlation tables; also, is able to present arguments to challenge sources of data, analysis results, and their presentation.

10. BUILDING EFFECTIVE TEAMS

Blends people into teams when needed; creates and contributes personally to a strong morale and spirit in his/her team; shares wins and successes; fosters open dialogue; lets people finish and be responsible for their work; creates a feeling of belonging in the team.

11. CREATIVITY

Comes up with new and unique ideas; easily makes connections among previously unrelated notions; tends to be seen as original and value-added in brainstorming and problem-solving settings.

12. CUSTOMER FOCUS

Is dedicated to meeting the internal and external beneficiary's expectations and requirements toward services rendered by his/her unit/organization; gets first-hand information and uses it for improvements in services; acts with customers and public in mind; establishes and maintains effective relationships with those and gains their trust and respect.

13. DELEGATION

Clearly and comfortably delegates both routine and important tasks and decisions; broadly shares both responsibility and accountability; tends to trust people to perform; lets direct reports and collaborators finish their own work.

14. DEVELOPING PEOPLE

Provides challenging and stretching tasks and assignments; holds frequent development discussions; is aware of each teammate's career goals; constructs compelling development plans and executes them; encourages others to accept developmental moves.

15. DRIVE FOR RESULTS

Can be counted on to exceed goals successfully; is constantly and consistently one of the top performers; steadfastly pushes self and others for results.

16. HANDLING CHANGE

Can effectively cope with change; can decide and act without having the total picture; takes actions in which the benefits to the efficiency and effectiveness of delivery are weighed against potential risks and uncertainty.

17. INFORMING

Provides the information people need to know to do their jobs and to make accurate decisions; is timely with the information.

18. INNOVATION MANAGEMENT

Is good at bringing the ideas of others to life; has a good judgment about which ideas and suggestions will work; can project how potential ideas may play out in the team, organization, marketplace and society; has a sense about supporting the creative process of others; can facilitate effective brainstorming.

19. INTEGRITY AND TRUST

Is widely trusted; is seen as a direct, truthful individual; can present the unvarnished truth in an appropriate and helpful manner; keeps confidences; admits mistakes; doesn't misrepresent him/herself for personal gain.

20. COLLABORATIVE RELATIONSHIPS

Relates well to all kinds of people, up, down and sideways, inside and outside the organization; builds collaborative, constructive and effective relationships and is a team player; uses diplomacy and tact and can diffuse high-tension situations comfortably.

21. LISTENING

Practices attentive and active listening; can accurately restate the opinions of others even when s/he disagrees.

22. MANAGING AND MEASURING WORK

Clearly assigns responsibility for tasks and decisions; set clear objectives and measures; monitors processes, progress and results; designs feedback loops into work.

23. INFLUENCING OTHERS

Communicates with inspiration, be it a vision, an outstanding solution or recommendations; talks about possibilities realistically; makes the vision or solution sharable by everyone; can inspire and motivate peers, direct reports or managers, entire organizations.

24. MOTIVATING PEOPLE

Creates a climate in which people want to do their best; can motivate many kinds of direct reports and team or project members; pushes tasks and decisions down; empowers others; invites input from each person and shares ownership and visibility.

25. NEGOTIATING

Can negotiate skillfully in conflict situations with both internal and external groups; can settle differences with minimum noise; can win concession without damaging relationships; can be both direct and forceful as well as diplomatic; gains trust quickly of other parties to the negotiations; has a good sense of timing.

26. ORGANIZING

Can marshal resources (people, funding, material, support) to get things done; can orchestrate multiple activities at once to accomplish a goal; uses resources effectively and efficiently; arranges information and files in an useful manner.

27. PATIENCE

Is tolerant with people and processes; listens and checks before acting; tries to understand the people and the data before making judgments and acting; waits for others to catch up before acting; sensitive to due process and proper pacing; follows established process.

28. PERSEVERANCE

Pursues everything with energy, drive and a need to finish; seldom gives up before finishing, especially in the face of resistance or setbacks.

29. PERSPECTIVE

Looks toward the broadest possible view of an issue or challenge; can anticipate the future consequences and trends accurately; can easily develop future scenarios; can think globally; can discuss multiple aspects and impacts of issues and project them into the future.

30. PLANNING

Accurately scopes out length and difficulty of tasks and projects; sets objectives and goals; develops schedules and task/people assignments for each process step; at specific milestones, measures performance against goals and adjusts course of action accordingly; anticipates and adjusts for problems and roadblocks.

31. POLITICAL SAVVY

Knows how to get things done both through formal channels and in the informal network and understands the cultures of organizations; is sensitive to how people and organizations function; anticipates where the land mines are and plans his/her approach accordingly; views organizational politics as a necessary part of life and works to adjust to that reality.

32. PRESENTATION SKILLS

Is effective in a variety of formal presentation settings: one-on-one, small and large groups, with collaborators, peers, direct reports and bosses; is effective both inside and outside the organization, on both cool data and hot and controversial topics; adjust presentation tactics midstream when something isn't working.

33. PRIORITY SETTING

Spends his/her time and the time of others on what's important; quickly closes the critical issues and puts the trivial matters aside; can quickly sense what will help or hinder accomplishing goal; eliminates roadblocks; creates focus.

34. PROCESS MANAGEMENT

Good at figuring out the processes necessary to get things done; knows how to organize people and activities; understands how to separate and combine tasks into efficient work flow; knows what to measure and how to measure it; can see opportunities for synergy and integration where others can't; can simplify complex processes; gets more out of fewer resources.

35. SELF-DEVELOPMENT

Is personally committed and actively works to continuously improve him/herself; understands that different situations and levels may require rapid learning of new skills and knowledge; seeks feedback; is sensitive to changing personal demands and changes accordingly; works to deploy strengths; works on compensating for weakness and limits.

36. STANDING ALONE

Will stand up and can be counted on when times are tough; doesn't avoid to assume personal responsibility; willing to be the champion for an idea or position; is comfortable even when working alone on a tough assignment.

37. STRIVE FOR QUALITY

Is dedicated to providing the highest quality services to meet the needs and requirements of internal and external customers; is committed to continuous improvement through empowering people and managing data; is willing to redesign processes from scratch; is open to suggestions and experimentation; creates a learning environment leading to the most efficient and effective work processes.

38. TIME MANAGEMENT

Uses his/her time effectively and efficiently; values time; concentrates his/her efforts on the more important priorities; gets more done in less time than others; can attend to a broader range of activities.

39. UNDERSTANDING GROUP BEHAVIORS

Understands why groups do what they do; picks up the sense of the group in terms of positions, intentions and needs, what they value and how to motivate them; can predict what groups will do across different situations.

40. WRITTEN COMMUNICATIONS

Is able to write clearly and succinctly in a variety of communication settings, languages and styles; his/her written messages determine the desired effect.

ANNEX IV.2. ESSENTIAL CAT COMPETENCIES BY RIA ROLE

Competency Architect Tool	RIA - Essential Competency	RIA - Technical Competency	RIA - Management Competency	RIA - Interpersonal Competency	RIA - Intrapersonal Competency
	-Line Ministry-				-DCPP-
- Competency - RIA-related Role:	Team Leader	Team Member contributor	Supervisor of technical staff (Team Leader or Member)	Legal Drafter	Quality Controller
(1) Economic and Business Analysis	Useful	Essential	Least	Least	Essential
(2) Legal Framework Acumen	Least	Least	Least	Essential	Useful
(3) Sector and Industry-Specific Knowledge	Useful	Essential	Least	Least	Essential
(4) Risk Analysis	Useful	Essential	Least	Useful	Essential
(5) Social Science Acumen	Least	Essential	Useful	Useful	Essential
(6) Solving Problems	Essential	Essential	Useful	Useful	Essential
(7) Evidence-Based Decision Maker	Essential	Essential	Essential	Useful	Essential
(8) Knowledge of Regulatory Theory	Essential	Essential	Essential	Essential	Essential
(9) Interpretation of Data	Useful	Essential	Least	Least	Essential
(10) Building Effective Teams	Essential	Least	Essential	Least	Least
(11) Creativity	Least	Useful	Least	Least	Least
(12) Customer Focus	Useful	Useful	Useful	Essential	Essential
(13) Delegation	Essential	Least	Useful	Least	Least
(14) Developing People	Least	Least	Essential	Least	Useful
(15) Drive for Results	Useful	Essential	Useful	Useful	Useful
(16) Handling Change	Essential	Essential	Essential	Useful	Useful
(17) Informing	Essential	Essential	Essential	Essential	Essential
(18) Innovation Management	Useful	Least	Useful	Least	Least
(19) Integrity and Trust	Useful	Useful	Useful	Useful	Useful
(20) Collaborative Relationships	Essential	Useful	Useful	Useful	Useful
(21) Listening	Least	Useful	Least	Essential	Least
(22) Managing and Measuring Work	Least	Least	Essential	Least	Least
(23) Influencing Others	Essential	Useful	Essential	Useful	Useful
(24) Motivating People	Least	Least	Essential	Least	Least
(25) Negotiating	Useful	Least	Useful	Essential	Useful
(26) Organizing	Useful	Least	Essential	Least	Useful
(27) Patience	Essential	Useful	Least	Essential	Least
(28) Perseverance	Least	Useful	Least	Useful	Least
(29) Perspective	Useful	Essential	Essential	Essential	Useful
(30) Planning	Essential	Least	Useful	Least	Useful
(31) Political Savvy	Essential	Least	Essential	Essential	Essential
(32) Presentation Skills	Useful	Useful	Useful	Least	Useful
(33) Priority Setting	Essential	Least	Essential	Useful	Useful
(34) Process Management	Least	Useful	Useful	Least	Least
(35) Self-Development	Least	Useful	Least	Useful	Least
(36) Standing Alone	Least	Useful	Least	Essential	Least
(37) Strive for Quality	Useful	Least	Least	Essential	Essential
(38) Time Management	Least	Essential	Least	Essential	Least
(39) Understanding Group Behaviors	Useful	Useful	Useful	Useful	Useful
(40) Written Communications	Least	Useful	Useful	Essential	Essential

ANNEX IV.3. INTERVIEW FORM

Public Institution/Ministry/Department: _____

I. Self-evaluation

Competency	1-low / 2-medium / 3-high
(1) Economic and Business Analysis	
(2) Legal Framework Acumen	
(3) Sector and Industry-Specific Knowledge	
(4) Risk Analysis	
(5) Social Science Acumen	
(6) Solving Problems	
(7) Evidence-Based Decision Maker	
(8) Knowledge of Regulatory Theory	
(9) Interpretation of Data	
(10) Building Teams	
(11) Creativity	
(12) Customer Focus	
(13) Delegation	
(14) Developing People	
(15) Drive for Results	
(16) Handling Change	
(17) Informing	
(18) Innovation Management	
(19) Integrity and Trust	
(20) Collaborative Relationships	
(21) Listening	
(22) Managing and Measuring Work	
(23) Influencing Others	
(24) Motivating People	
(25) Negotiation	
(26) Organizing	
(27) Patience	
(28) Perseverance	
(29) Perspective	
(30) Planning	
(31) Political Savvy	
(32) Presentation Skills	
(33) Priority Setting	
(34) Process management	
(35) Self-Development	
(36) Standing Alone	
(37) Strive for Quality	
(38) Time Management	
(39) Understanding Group Behaviors	
(40) Written Communications	

Please help by responding the following questions on your RIA role and contribution in respect to regulatory proposals and substantiation notes.

II. What are the roles and activities that you have fulfilled in the last 5 years?

- ◇ *Team leader coordinating a RIA team;*
- ◇ *Team member contributing to the development of regulatory proposals and substantiation notes; (economic and business analysis, econometric models, sectoral analysis, law and legislation, environmental impact analysis, sociological models, demographics, etc.)*
- ◇ *Supervisors for technical staff (both team leader and team member);*
- ◇ *Legal draughtsman drafting or contributing to the drafting of regulatory proposals;*
- ◇ *Quality control for the regulatory proposal and substantiation notes;*
- ◇ *Elaboration and checking of impact analysis of substantiation notes for a regulatory proposal;*
- ◇ *None of the above.*

III. Position: _____ **IV. Grade:** _____ **V. Gender:** ◇ F ◇ M

VI. Education and work experience:

	Bachelor*	Master*	Doctorate*	Work experience
Law				
Economics				
Social science				
Political science				
Exact sciences				
Others:				

*Alma mater

VII. What organizational means can facilitate your competency development in the process of regulatory impact assessment?

Grade **the availability** in your institution [from 1(total lack) to 5(fully applied)];

the importance to make use of your competencies [from 1(not relevant) to 5(very important)].

	Availability					Importance				
Data availability	1	2	3	4	5	1	2	3	4	5
Interoperability of databases	1	2	3	4	5	1	2	3	4	5
Coordination with other units/departments or ministries	1	2	3	4	5	1	2	3	4	5
ITC hardware	1	2	3	4	5	1	2	3	4	5
ITC software	1	2	3	4	5	1	2	3	4	5
Outsourcing analysis	1	2	3	4	5	1	2	3	4	5
Handbooks, guidance, support materials, legislation, etc.	1	2	3	4	5	1	2	3	4	5
Time	1	2	3	4	5	1	2	3	4	5
Training and development	1	2	3	4	5	1	2	3	4	5
Coaching, including by the direct manager	1	2	3	4	5	1	2	3	4	5
Participation in development of complex regulations	1	2	3	4	5	1	2	3	4	5
Delivering presentations on substantiation notes	1	2	3	4	5	1	2	3	4	5
Performance evaluation based on quality of impact analysis	1	2	3	4	5	1	2	3	4	5
Reward and recognition of quality RIA contributions	1	2	3	4	5	1	2	3	4	5

Others _____

Thank you for the contribution to the research undertaken by World Bank to strengthen the RIA framework in Romania!

ANNEX IV.4. CAPACITY DEVELOPMENT NEEDS ACCORDING TO CAT

% of people who need RIA capacity development:

Essential CAT competencies to exercise an effective RIA role	Team Leader	Team Member	Supervisor of RIA People	Legal Drafter	Quality Controller
Economic and Business Analysis		75%			99%
Legal Framework Acumen		80%		30%	90%
Sector and Industry-Specific Knowledge		75%			99%
Risk Analysis		75%			99%
Social Science Acumen		75%			75%
Solving Problems	40%	50%		30%	25%
Evidence-Based Decision Maker	50%	50%	60%		50%
Knowledge of Regulatory Theory	75%	75%	75%	75%	75%
Interpretation of Data		60%			75%
Perspective		40%	40%	75%	
Written Communications				60%	30%
Building Effective Teams	60%		60%		
Customer Focus				75%	75%
Delegation	80%				
Developing People			75%		
Managing and Measuring Work			75%		
Motivating People			75%		
Negotiating				75%	
Organizing			60%		
Planning	60%				
Priority Setting	60%		50%		
Strive for Quality	25%			60%	40%
Informing	50%	40%	50%	60%	50%
Collaborative Relationships	25%	25%	30%	30%	25%
Listening				30%	25%
Influencing Others	50%		75%		
Political Savvy	75%		90%	90%	75%
Drive for Results		40%		30%	10%
Handling Change	60%	60%	60%		
Patience	25%			50%	
Standing Alone		25%	30%	30%	
Time Management		50%		30%	
Other competencies:					
Creativity		25%	25%		
Integrity and Trust		Well-developed	10%	10%	Well-dvdpd
Perseverance		25%	30%	15%	10%
Self-Development			30%		15%

ANNEX IV.5. RECOMMENDATIONS TO CLOSE CAPACITY BUILDING GAPS BY RIA ROLE

	Team Leader RIA Role	Team Member RIA Role	Supervisor of RIA Technical Staff	Legal Drafter RIA Role	Quality Control RIA Role
Training course on evidence-based analysis to substantiate regulatory proposals	✓	✓			✓
Training course on designing regulatory proposals according to the principles of good regulation	✓	✓	✓	✓	✓
Training course on leadership and management skills	✓		✓		
Training course on handling change, time and personal management	✓	✓	✓	✓	✓
Study tours and workshops to share RIA best practices	✓	✓	✓	✓	✓
RIA Championing by top leadership in public institutions	✓	✓	✓	✓	✓
Communicating the new and improved RIA processes to the staff in the public institutions	✓	✓	✓	✓	✓
Operate by working in RIA teams	✓	✓	✓	✓	✓
Redesign job descriptions to include RIA-related responsibilities, tasks and requirements	✓	✓	✓	✓	✓
Include RIA-related Key Performance Indicators to monitor and evaluate staff within annual performance evaluations	✓	✓	✓	✓	✓
On-the-job-training through developmental assignments	✓	✓	✓	✓	✓

ANNEX IV.6. EDUCATIONAL PROFILE BY LINE MINISTRY

