

Better Regulation practices in national parliaments

STUDY

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Study

Ex-ante impact assessment and ex-post evaluation are regulatory policy tools that help inform the policy-making process with evidence-based analysis. Both tools are geared towards raising the quality of policies and legislation. While Better Regulation is widely deemed a prerogative of the executive branch, increasingly, parliaments are also emerging as actors.

This study sheds light on the parliamentary dimension of Better Regulation. Based on a survey, it maps the capacities and experiences of the national parliaments of all 27 European Union (EU) Member States and of 11 further Council of Europe countries in the field of ex-ante impact assessment and ex-post evaluation. The study reveals that roughly half of the surveyed parliaments engage in regulatory policy beyond classical parliamentary scrutiny mechanisms. Overall, these parliaments show a very diverse pattern in terms of drivers, types and depth of engagement. There is no 'one size fits all' approach.

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Executive summary

Ex-ante impact assessment and ex-post evaluation are regulatory policy tools that help inform the policy-making process with evidence-based analysis. Geared towards rationalising policy-making, these tools aim at raising the quality of policies and legislation. The use of impact assessment and evaluation is wide-spread across Europe, as virtually all countries have developed frameworks for regulatory governance. This development is somewhat due to the European Union (EU) and the Organisation for Economic Co-operation and Development (OECD), two actors that have strongly inspired and shaped regulatory policy reform across Europe. However, national Better Regulation agendas are largely government-driven, often leaving parliaments marginalised in the process. Notwithstanding, both the EU and the OECD acknowledge that Better Regulation is a shared responsibility between the executive and the legislative branch. The aim of this study is to shed light on the parliamentary dimension of Better Regulation, by capturing the practices of 38 national parliaments.

The **first chapter** contextualises the role of parliaments in Better Regulation and reflects on concrete areas for parliaments to join in the process. There is considerable potential for parliamentary involvement at both ends of the policy cycle – impact assessment and evaluation. While such engagement can take multiple forms (spanning from passive scrutiny to an active use of the tools), it relates to two parliamentary core functions: law-making and oversight.

The regulatory policy potential of parliaments is exemplified by the case of the European Parliament (EP), where the use of impact assessment and evaluation has, a mere ten years after their instigation, encountered a high degree of institutionalisation. The systematic use of these regulatory policy tools strengthens EP committees' position in law-making, and in holding the executive to account. Overall, it facilitates effective scrutiny of European Commission action and leads to better informed policy-making.

Based on survey data from 37 national parliaments across Europe plus the Canadian Parliament, **chapters 2 and 3** analyse the level, types, processes, particularities as well as, to the extent possible, the impact of individual parliaments' engagement in impact assessment and evaluation of those parliaments that choose to get involved. Many do not (or not yet) take an active role: the survey revealed that roughly half of the surveyed parliaments do not engage beyond classical parliamentary scrutiny mechanisms within the general framework of parliamentary control. Non-engagement can have multiple reasons; some survey respondents pointed explicitly at the distinct roles and/or the strict separation of power of the executive and the legislative, while others said they simply do not have the necessary capacities.

Among the EU-27, seven national parliaments (Bulgaria, Estonia, Finland, Hungary, Ireland, Poland and Sweden) engage systematically in their own **ex-ante impact assessment work**, albeit in fundamentally different ways. The broadest spectrum of impact assessment activities appears to be assumed by the Polish Parliament. An additional seven parliaments carry out smaller-scale impact assessment work (Austria, France, Germany, Italy, Lithuania, Portugal and Spain). Moreover, the Latvian *Saeima* avails of impact assessment capacities, but has not yet tested them. Out of the 11 surveyed parliaments outside the EU, only Canada engages actively, by informing the law-making process with budgetary impact assessments.

With regard to **ex-post evaluation**, six EU-27 parliaments have developed structures for substantial involvement (Belgium, France, Italy, Netherlands, Poland and Sweden). Moreover, the research services of the Bulgarian and Latvian parliaments carry out ad hoc evaluations upon request, albeit in low numbers. Four further EU-27 parliaments engage in evaluation activities at a smaller scale, mainly by scrutinising government evaluations in-depth or by performing ex-post budgetary scrutiny (Austria, Ireland, Portugal and Spain).

From amongst the non-EU countries, Switzerland and the United Kingdom (UK) stand out with their policy evaluation mechanisms. The Canadian Parliament has a long heritage of performing post-enactment reviews, as opposed to the parliament of Moldova, which has only set up evaluation capacities with the support of an external capacity-building programme in recent years. Finally, the Albanian and Montenegrin parliaments have lately amended their rules of procedure to allow for policy evaluation. The latter three are examples of countries that have implemented Better Regulation systems in the context of their enlargement or association process with the EU.

Data show that only a few parliaments have a long-standing tradition in **regulatory policy activities**, and notably in evaluation (e.g. France, Sweden; Switzerland, Canada). Interestingly, some of the most mature evaluation systems can be found in parliaments whose evaluation mandate is constitutionally anchored; this applies to France, Sweden and Switzerland. Constitutional recognition appears to be conducive to the institutionalisation of parliamentary evaluation. Most other parliaments have only recently begun to engage in evaluation. In comparison, parliamentary impact assessment ventures appear more recent (with the notable exception of Sweden).

In general, regulatory policy activities by parliaments are mainly related to oversight and the objective to hold the government to account. Only a few parliaments have taken this further and also embedded impact assessment work into their legislative function. In this respect, they conduct their own impact assessments, either related to legislative initiatives or amendments tabled by parliament, or, more rarely, related to government initiatives.

From a comparative perspective, parliaments engaging in one way or another in regulatory policy show highly diverse patterns. This can be explained by the fact that ambition and type of engagement are determined by a number of external factors, including parliaments' capacities, political will, the approach of the respective country's government to Better Regulation and not least the function of the parliament in the constitutional/legal/political system of the country. One conclusion to draw from this study is that parliaments show great diversity in terms of drivers, depth and types of engagement. There is no 'one size fits all' approach.

Chapter 4 of this study seeks to capture, from a comparative perspective, some patterns in the regulatory policy activities of the parliaments surveyed. This concerns mainly parliaments' level of engagement and some reflection on where these impact assessment and evaluation capacities are located in parliaments' organisation.

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List of acronyms

BR	Better Regulation
CEC	Comité d'évaluation et de contrôle politiques publiques (France)
DG IPOL	Directorate-General of Internal Policies (European Parliament)
ECPRD	European Centre for Parliamentary Research and Documentation
EP	European Parliament
EPRS	European Parliamentary Research Service
EU	European Union
EVAL	Ex-post Evaluation Unit (European Parliament)
IA	impact assessment
IAO	Impact Assessment Office (Italy)
IIA-BLM	Interinstitutional Agreement on Better Law-Making
IMPA	Ex-ante Impact Assessment Unit (European Parliament)
MEC	Mission d'évaluation et du contrôle (France)
MEP	Member of the European Parliament
OECD	Organisation of Economic Co-operation and Development
OJ	Official Journal (EU)
OPBO	Office of the Parliamentary Budget Officer (Canada)
PBO	Parliamentary Budget Office (Austria)
PCA	Parliamentary Control of the Administration (Switzerland)
PLS	post-legislative scrutiny
PMO	Federal Performance Management Office (Austria)
REGS	Standing Joint Committee for the Scrutiny of Regulations (Canada)
RIA	Regulatory impact analysis
RPC	Regulatory Policy Committee (UK)
TFEU	Treaty on the Functioning of the European Union
UK	United Kingdom
UNDP	United Nations Development Programme
WFD	Westminster Foundation for Democracy

Methodological note

This study draws on a survey EPRS conducted among European national parliaments. The survey aimed at mapping parliaments' capacities and practices in the field of ex-ante impact assessment and ex-post evaluation. It was launched in July 2019, via the **European Centre for Parliamentary Research and Documentation (ECPRD)**, which is the network of parliamentary research services of all EU and Council of Europe member states.

The questionnaire was designed to yield detailed, yet comparable data. Respondents were asked to select applicable pre-defined answers, and to complement them with free-text comments. Bicameral parliaments – 12 exist in the EU-27 alone – were requested to provide a separate answer for each chamber.[1]

By the end of August 2019, 22 out of the then 28 EU national parliaments had replied to the survey. Such a high response rate suggested a genuine interest in the topic on the side of national parliaments, prompting EPRS to further endeavour to complete the picture across the EU. By November 2019, parliaments of all EU Member States had returned the questionnaire, although two bicameral parliaments replied for one chamber only.[2] Additional responses were received from the national parliaments of the following Council of Europe countries: Albania, Canada,[3] Iceland, Montenegro, Moldova, North Macedonia, Norway, San Marino, Switzerland and Turkey.

Substantial further desk research was undertaken to complement and triangulate the information obtained through the survey. This applies in particular to chapters 2 and 3 of this study, which describe the level, processes and particularities of individual parliaments' engagement in ex-ante impact assessment and ex-post evaluation. Overall, these country chapters vary greatly in length and depth, depending on parliaments' engagement on the one hand, and the availability of publicly available primary and secondary information on the other.

Towards the end of the drafting process, survey respondents from national parliaments were invited to comment on their respective country sections (chapters 2 and 3). The fact that nearly all respondents made use of this review opportunity increases the accuracy of this paper. This study was peer-reviewed internally by colleagues from EPRS.

In analysing the regulatory policy practices of such a high number of national parliaments in a comparative manner, this study explores somewhat unchartered territory. However, it has clear limitations.

- Firstly, the study relies heavily on self-reported data. This could be only to some extent (and not for all countries) objectivised and tested through desk research, depending on the wealth of data provided on parliaments' websites and the availability of further information and research sources.
- Secondly, the study is limited to describing and analysing parliamentary practices in place. Although parliaments were requested to provide samples of their work – and samples received were mostly looked at, language permitting – it would go beyond the scope of this study to systematically assess the methodology parliaments use for their regulatory policy work and the quality of parliaments' impact assessment and evaluation output. This would require further research work.

[1] The following EU-27 parliaments have two chambers: Austria, Belgium, Czechia, France, Germany, Ireland, Italy, Netherlands, Poland, Romania, Slovenia and Spain. In addition, from the countries surveyed outside the EU, Canada, Switzerland and the UK have bicameral parliamentary systems.

[2] No responses were received from the Dutch and the Romanian Senate.

[3] Canada holds observer status with the Council of Europe.

- Thirdly, while the effect of parliaments' own ex-ante impact assessment work is of direct relevance for legislative deliberation, the impact of parliamentary ex-post evaluations is far less tangible. Therefore, this study tells us little about the use, usefulness and impact of parliamentary evaluations, even if two survey questions touched upon effectiveness:
  1. whether parliaments formally transmit their evaluation results to the executive; and
  2. whether the government is required to follow-up.

Note on the timing of the study

In the course of writing this study, the UK left the EU (Brexit). Thus, in the light of the political reality of spring 2020, the study places the UK Parliament among third-countries, even though it was still part of the EU-28 when it participated in the survey.

Finally, after the background research for this study was carried out and national parliaments had submitted their information, the development of the coronavirus disease (Covid-19) into a pandemic may have led to temporary adjustments in parliamentary rules and routines. Such temporary adjustments are not reflected in this study.

1. The role of parliaments in regulatory policy

1.1. Better Regulation in Europe: only a government matter?

Regulatory policy covers the methods and processes for preparing, implementing and reviewing laws and regulations. It aims to ensure that regulation achieves its intended policy objectives at minimum cost. Regulatory policy – or 'Better Regulation' or 'Better Law-Making', as it is commonly referred to at the EU level and in some EU Member States – sets out a number of key principles, in particular that law and policy-making are:

- open and transparent;
- backed by the comprehensive involvement of stakeholders;
- and informed by a sound evidence base.[4]

The sound evidence base is the most important factor in the context of this study, and in particular the set of tools that helps inform the policy-making process with evidence and analysis. Three tools mainly render Better Regulation 'the means to deliver evidence-based policy-making',[5] namely:

- ex-ante impact assessment (also referred to as RIA in some countries);
- ex-post evaluation;
- and involvement of the public and stakeholders through consultation.

The focus of this study lies clearly on impact assessment and evaluation; stakeholder involvement is touched upon only marginally.

1.1.1. Shaping Better Regulation in Europe: the European Commission

The European Commission's Better Regulation policy has emerged since the early 2000s and gradually evolved into its current format. It was particularly high on the agenda in the Juncker Commission (2014-2019), which is symbolised by the fact that the first Vice-President – who even bore Better Regulation in his job title – was in charge of driving the Better Regulation reform agenda.[6] Today, the EU's Better Regulation framework is said to rank among the best performing in Europe,[7] and it continues to be a central feature of EU policy-making under the new Commission President Ursula von der Leyen.[8]

Further to applying Better Regulation principles and processes in its own law- and policy-making, the Commission encourages also the other EU institutions and the EU Member States to do likewise.[9] Already in 2005, the Commission recommended that Member States establish their own national Better Regulation strategies and, in particular, that they roll out impact assessment that would in scope resemble the European Commission's.[10] In a similar vein, academic research argues that, for Better Regulation to be successful in the EU's multi-level governance system, the EU's Better

[4] European Commission, Better regulation guidelines, update 2017, SWD (2017) 350, p. 4.

[5] Ben Smulders and Jean-Eric Paquet, 'The European Commission and its Better Regulation Agenda', in Sacha Garben and Inge Govaere (eds.), The EU Better *Regulation Agenda: A critical assessment*, Hart 2018, p. 102.

[6] First Vice-President Frans Timmermans was in charge of 'Better Regulation, inter-institutional relations, the rule of law and the Charter of Fundamental Rights'.

[7] OECD, Regulatory policy outlook 2018.

[8] European Commission, Commission work programme 2020: A Union that strives for more, COM(2020) 37, p. 9.

[9] European Commission, Better regulation for better results - An EU agenda, 2015, COM(2015) 215, p. 4.

[10] European Commission, Better Regulation for Growth and Jobs in the European Union, 2005, COM(2005) 97, p. 8.

Regulation system 'should be complemented with comparable BR policies at the national level.'[11] This would make it easier 'to deliver input in assessments and evaluations if countries can deliver comparable data'.[12] As EU legislation is so closely interwoven with Member States' domestic legislation, the EU's Better Regulation approach resonates inevitably in Member States' law-making systems. After all, it remains for the Member States to transpose, apply and enforce EU law.

Some EU countries have a long-standing regulatory policy and governance track record[13] (and they even influenced the early stages of the European Commission's Better Regulation agenda), while others have only recently begun to step up their regulatory policy efforts. The latter development was prompted by the EU's Better Regulation agenda on the one hand, as sketched out above, and the OECD on the other.

1.1.2. Shaping Better Regulation in Europe: the OECD

Indeed, many countries' regulatory governance reforms have been further stimulated by the OECD, an important proponent of regulatory policy in Europe (and the industrialised world in general). The OECD has, as part of its public governance work and in dialogue with its member and partner countries and the European Commission, fostered Better Regulation practices internationally and across Europe.

The OECD has channelled efforts to promote the virtue and potential of regulatory policy among its members through methodological guidelines, systematic reviews of countries' regulatory systems and recommendations since the mid-1990s. Although these recommendations are not binding, countries generally tend to respond to them.[14] Thus, the OECD has considerably contributed to shaping regulatory reform across Europe. The 2012 **OECD Recommendation of the Council on Regulatory Policy and Governance**[15] – an international instrument to address regulatory policy – constitutes a milestone in this process, as it provides a first 'normative framework to measure regulatory performance in member countries'.[16] Since its adoption, the OECD has systematically tracked countries' progress in implementing good regulatory practice, as advocated in the 2012 recommendation. Specific indicators were developed, facilitating the measurement of countries' reform progress through surveys.[17] Based on these data, the OECD provides a detailed account of the regulatory reforms countries have undertaken in the areas of ex-ante impact assessment/RIA, ex-post evaluation, stakeholder consultation and regulatory oversight via its triennial OECD 'Regulatory policy outlook', published twice to date, in 2015 and 2018.

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[11] Adriaan Schout and Christian Schwieter, Two decades of Better Regulation in the EU Commission: Towards evidence-based policymaking?, Clingendael, 2018, p. 3.

[12] Ibid, p. 3.

[13] This is the case for instance in the Netherlands, Germany, and in Nordic countries like Sweden, Denmark and Finland. In this context the UK should also be mentioned, even if no longer an EU country.

[14] The EU's and OECD's trigger and guidance function with regard to reforming national regulatory policy strategies are described for instance in:

- Jan de Mulder, 'The Member States and the Better Regulation Agenda: The case of Belgium/Flanders', *in* Sacha Garben and Inge Govaere (eds.), *The EU Better Regulation Agenda: A critical assessment*, Hart 2018, pp. 137-184.
- Victor Chimienti, 'The new regulation covering AIR, VIR and consultation: A further step forward towards 'Better Regulation' in Italy', *European journal of law reform*, vol. 21(4), 2019, pp. 427-496.

[15] OECD Recommendation of the Council on Regulatory Policy and Governance, 2012.

[16] OECD, Better Regulation practices across the European Union, 2019, p. 18.

[17] Rebecca Schultz, et al., 'Better indicators for better regulation: The OECD iREG experience', *La Mejora de la Regulación*, March-April 2019, no 907, pp. 51-67.

To bridge the gap between EU and OECD memberships,[18] the European Commission requested a comparative OECD report similar to the' Outlook', but covering the EU-28. This led to the publication of the 'Better Regulation practices across the European Union' in 2019. The Outlook publications and the EU-28 report demonstrate that the concept of regulatory policy is widespread throughout Europe and that EU institutions, EU Member States and OECD countries are together strongly committed.[19] They have all put regulatory policy frameworks in place that promote regulatory reform, although these frameworks vary greatly in terms of comprehensiveness, robustness, focus and practical operation. Overall, the OECD finds ex-ante impact assessment policies across EU countries better developed than ex-post evaluation, where a lack of systematic approach and sound methodology still prevails in many EU Member States.

1.1.3. What about the legislature?

The aforementioned OECD reports provide insight into countries' Better Regulation practices. However, since the OECD's natural partners are national governments, these reports place the main focus on the executive branch. Other actors, such as parliaments or national courts of auditors, are only cursorily touched upon. This is unsurprising, because regulatory policy is generally speaking a government-oriented approach. Consequently, it is predominantly associated with the **executive** rather than the **legislative branch**, in spite of the key role parliaments assume in law-making, throughout the entire policy cycle (i.e. in the pre-legislative, legislative and post-legislative stages):

- parliaments can initiate legislation (even if in most European countries the bulk of legislative proposals comes from the executive branch);[20]
- they can amend legislative proposals;
- they adopt legislation;
- and they oversee the executive on the implementation of legislation.

Thus, while the OECD – alongside other organisations and think tanks such as the World Bank[21] and the Bertelsmann Stiftung Foundation[22] – sheds some light on the Better Regulation practices of the executive branch, relatively little is currently known about parliamentary capacities and practices in this field.

Recently, increasing attention has been paid to parliamentary post-legislative scrutiny (PLS), e.g. by the **Westminster Foundation for Democracy (WFD)**, a UK public body that supports parliamentary capacity-building around the world, inter alia in the area of PLS. In this context, WFD elaborated common principles and hands-on guidance for PLS in parliaments.[23] In contrast, parliamentary ex-ante impact activities have not yet been much researched, and even less so from a comparative perspective. In this respect, the present study covers new ground.

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[18] To date, five EU Member States are not part of the OECD: Bulgaria, Croatia, Cyprus, Malta and Romania. The latest EU countries to join the OECD were Latvia (2016) and Lithuania (2018).

[19] To be noted, regulatory reform in Europe is not limited to the EU/OECD area. Instead, it has, often supported by capacity-building programmes, also become a constant feature in the EU's Eastern neighbourhood and the Western Balkans countries' respective EU association and accession processes. For the Western Balkans see Branko Radulović and Genc Alimehmeti, Better Regulation in Western Balkans, Regional School of Public Administration, 2018.

[20] For the share of parliamentary initiatives in the legislation of the EU-28 see: OECD, Better Regulation practices across the European Union, p. 183.

[21] e.g. World Bank Group, Worldwide governance indicators, http://info.worldbank.org/governance/wgi/.

[22] Bertelsmann Stiftung, Sustainable Governance Indicators 2019, Evidence-based instruments report: RIA application, quality of RIA process, sustainability check, quality of ex post evaluation, 2019. This report examines the ex-ante impact assessment and ex-post evaluation practices of 41 OECD/EU countries.

[23] Franklin De Vrieze, Post-legislative scrutiny: Guide for parliaments, Westminster Foundation for Democracy, 2017; Franklin De Vrieze, Principles of post-legislative scrutiny by parliaments, WFD, 2018.

1.2. The scope for parliaments in Better Regulation

1.2.1. Better Regulation: a shared responsibility between governments and parliaments

As outlined above, regulatory policy is primarily government-oriented. Accordingly, there is very little mention of parliaments in the 2012 OECD Recommendation on regulatory policy. The recommendation however advocates for an integrated approach to regulatory policy that includes 'the role of the legislature in ensuring the quality of laws'. In this respect, the quality of law-making is considered to be a shared responsibility of governments and parliaments.

In spite of their predominant focus on the executive, the aforementioned OECD reports sporadically mention parliaments' role and potential in regulatory policy, albeit without entering into much detail. One of the issues the OECD addresses for instance is legislation initiated by parliaments.[24] In most countries, parliamentary initiatives are not subject to impact assessment; cases where a parliament itself or national law has put in place specific requirements remain an exception (e.g. Bulgaria, Poland; Canada).

Overall, the OECD argues that parliaments would be 'predisposed to carry out oversight of the application of better regulation principles for new and amended laws'. However, the OECD finds that in practice, 'contrary to their eminent place in the legislative process, parliaments are not very involved in regulatory oversight across the EU'.[25] The OECD deems this an 'untapped potential' and encourages parliaments 'to set up their own procedures to guarantee the quality of legislation'.[26]

With respect to parliamentary ex-post evaluation, the 'International Atlas of Evaluation' (update 2015),[27] confirms the reserved OECD assessment, arguing that parliaments show a generally low degree of institutionalisation in the field of policy evaluation, especially in comparison with governments. The Swiss Parliament is singled out in the Atlas as the only exception, scoring the maximum number of points (followed at some distance by the Dutch and Swedish parliaments).

1.2.2. The spectrum of Better Regulation tasks for parliaments

What exactly then is this untapped potential in parliaments? How can parliaments fulfil their share in the **shared responsibility** of Better Regulation? The lists below suggest possible courses of action for parliaments at both ends of the policy cycle – impact assessment and evaluation – through which they could contribute to Better Regulation and ultimately help raise the quality of legislation. Figure 1 shows their place in the policy cycle. It is important to note that these actions relate to the two parliamentary core functions, namely **law-making** and **oversight.**

With regard to **ex-ante impact assessment**, parliaments may engage in a wide range of activities, e.g.:

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[24] OECD, Regulatory policy outlook 2015, p. 45.

[25] OECD, Better Regulation practices across the European Union, p. 34.

[26] OECD, Regulatory policy outlook 2015, p. 40.

[27] Steve Jacob, Sandra Speer and Jan-Eric Furubo, 'The institutionalization of evaluation matters: Updating the International Atlas of Evaluation 10 years later', *Evaluation,* Vol. 21(1), 2015, pp. 6-31. The atlas covers 19 OECD countries, 10 of which are EU Member States. It assesses parliaments' active and passive involvement in evaluation, on the basis of the following criteria: 1. Permanent institutional arrangements for conducting evaluations and disseminating them to decision-makers; 2. Ad hoc ex-post evaluations (incl. commissioning to the executive); 3. Introduction of evaluation clauses into draft laws at the law-making stage; and 4. Use of ex-post evaluation results (produced by others) in the parliamentary debate. Most of the countries examined scored low, compared with government evaluation; only Switzerland received the maximum points.

- scrutinise the impact assessment forward planning of the government, together with its legislative planning;
- scrutinise in a formal manner the impact assessment attached to a government draft law (compliance check if the impact assessment is complete, or missing altogether);
- check whether governments have taken evaluation results into account before amending legislation ('evaluate-first principle');
- appraise the substance and the methodology used of a government impact assessment in depth, when examining draft bills in committees; such quality checks are particularly useful if no national oversight body fulfils this function;
- counter (in French '*contre-expertiser*')[28] a government impact assessment;
- verify only specific elements of government proposals (e.g. quantifications of budgetary impacts; costs/benefits; models used);
- carry out a substitute impact assessment if the government failed to submit one;
- carry out impact assessments for legislation initiated by parliament;
- carry out impact assessments for major amendments tabled in parliament, especially if the adopted text deviates substantially from the original impact assessment;
- prepare own estimates of the budgetary and economic impact of draft legislation (this may include the use of macroeconomic modelling and microsimulation methods);
- prepare assessments of specific impacts other than budgetary/economic (e.g. gender equality);
- review a country's overall impact assessment framework;
- engage in stakeholder consultation.

With regard to **ex-post evaluation**, parliaments can either focus on **formal** scrutiny in the sense of post-enactment scrutiny,[29] or instead on the **substance**, in the sense of ex-post impact assessment. Again, parliaments may carry out a broad range of actions, including:

- request ex-post evaluations from the executive on an ad hoc basis (e.g. by means of parliamentary questions or resolutions);
- request ex-post evaluations from the executive through evaluation/review clauses embedded into legislation (which is a very effective mechanism, as legally binding); review clauses (or other 'failsafe mechanisms' such as sunset clauses) are deemed particularly relevant for innovative legislation, legislation with uncertain effects and legislation adopted under emergency procedures;
- verify if the government fulfils its evaluation obligations (either default requirements, e.g. three to five years after a law's entry into force; or requirement for individual pieces of legislation, e.g. review/sunset clauses/specific thresholds);
- keep track of the government's evaluation forward planning (annual, multi-annual);
- scrutinise the monitoring framework contained in a draft bill for its appropriateness;
- conduct (within parliament itself) post-enactment or post-implementation reviews, to verify if an act has been implemented as intended (legal compliance check or regular monitoring);
- synthesise existing evaluations and ex-post review reports for parliamentary needs (Members and committees), thereby functioning as a knowledge broker;[30]
- scrutinise ex-post evaluations prepared by governments in substance;

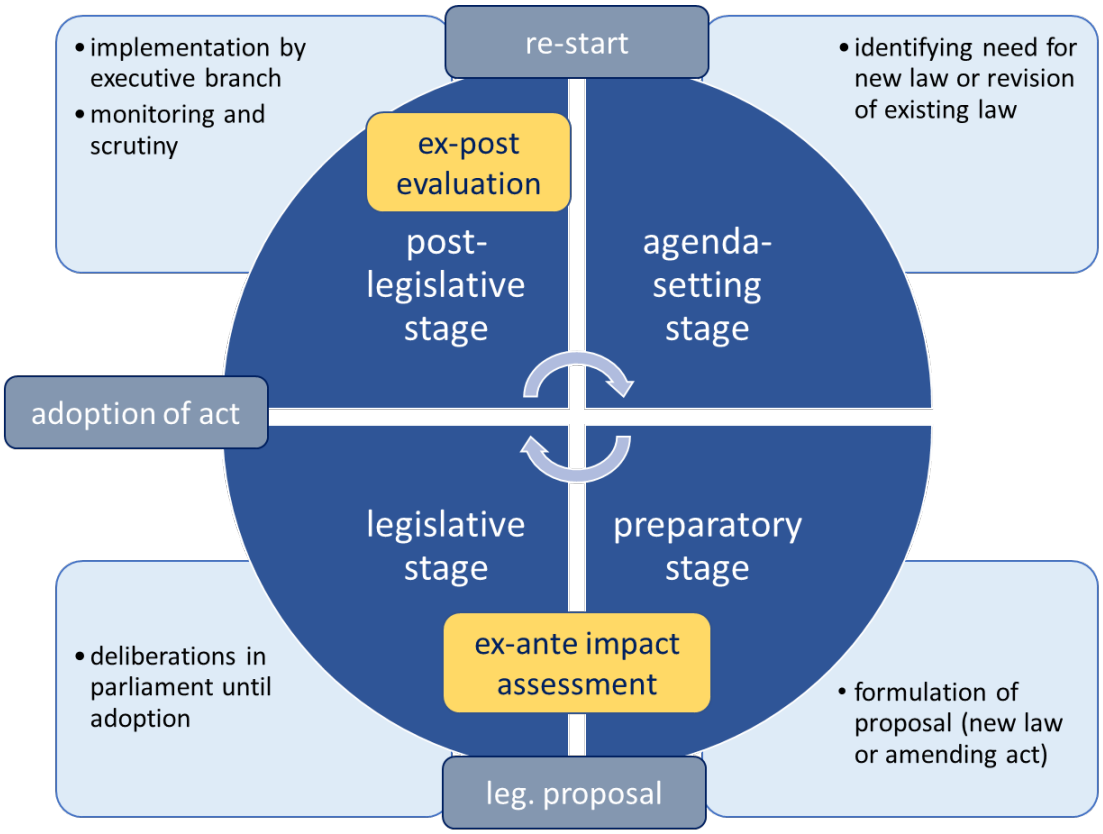
[28] *Assemblée nationale* (France), *Rapport d'information sur l'évaluation des dispositifs d'évaluation des politiques publiques*, 2018. (Rapporteurs: Pierre Morel à l'Huissier and Valérie Petit).

[29] Post-enactment scrutiny has a narrower scope than ex-post evaluation; it verifies from a legalistic perspective whether the different provisions of an act have been brought into force and whether all associated delegated regulations have been issued. In this study, post-enactment scrutiny is discussed in chapters 3.3.2 (Ireland) and 3.5.2 (Canada).

[30] Jacob, Speer and Furubo, p. 21.

- carry out own ex-post evaluations (covering only specific provisions in a law; or an entire act; or a whole set of topically related laws, which allows assessment of the cumulative effects of legislation);
- review a country's overall evaluation framework;
- engage in stakeholder consultation to gather primary data.

Figure 1 – Parliamentary impact assessment and evaluation work in the policy cycle



Source: EPRS.

Even though the above lists of possible activities are long and detailed, they are not meant to be exhaustive; their purpose is simply to demonstrate that there is a wide spectrum of possibilities for parliaments to engage in Better Regulation work. The lists also show that there is no blueprint for parliamentary involvement, instead parliaments will choose activities that work best for them in their specific national context. Obviously, a parliament's ambition and choice of instruments will always be determined by a number of factors, including:

- the wider country-specific context: all parliaments have their traditions and cultures, are uni- or bicameral, and their functions within the national constitutional, legal and political system may also differ;
- the approach of the respective country's government to Better Regulation;
- political will;
- parliaments' capacities: smaller parliaments will more likely tend to limit their engagement to scrutiny of government action, rather than actively carrying out their own impact assessments or evaluations.

Chapters 2 and 3 of this paper show that there is indeed a great variety in the forms and level of parliamentary engagement with Better Regulatory practices.

1.2.3. Caveats

Both, ex-ante impact assessment and ex-post evaluation are demanding, complex and time-consuming tasks. Even parliaments with an advanced level of regulatory policy work will need to choose between quality and depth of the analysis on one side, and quantity of output on the other.

Typically, even parliaments known for their high-quality evaluations do not produce evaluations on a large scale. For instance the Swiss Parliament conducts, on average, three in-depth evaluations per year, the Swedish *Riksdag,* four to five, the European Parliament some 15, and the Italian Senate roughly 20. In comparison with the evaluation output of the executive branch these figures are low. For example, the European Commission produces an annual average of 50-60 fully-fledged evaluations,[31] four times as many as the European Parliament. This illustrates that the executive remains in charge of the bulk of policy evaluations. When engaging in evaluation, the aim of parliaments is not to substitute government evaluations, but to complement them, thereby putting the emphasis primarily on accountability (next to policy learning).

It is worthwhile mentioning that evaluations by parliaments may differ substantially in methodology and scope, compared with those by the executive. Speaking from experience, for instance, evaluations by the European Parliament do often not cover the entirety of a law but may instead examine only certain provisions or aspects, depending on the request from the competent parliamentary committee.

One important aspect in the context of parliamentary evaluation is the asymmetry between parliaments and the executive in terms of capacities, i.e. the staffing, policy expertise/specialisation, detailed knowledge of a given file and methodological skills for conducting impact analysis. Even if some parliaments have special units in place to carry out regulatory policy work, their staffing level rarely exceeds a handful or a dozen analysts. As a result, many parliaments avail of a budget allowing them to commission external expertise via procurement procedures. However, in practice, even well-resourced parliaments need to be selective in the files to cover.

Moreover, time constraints also pose challenges. Parliaments may not unduly delay the legislative process when assessing the impacts of government bills and amendments. This often leaves parliaments little margin for manoeuvre for a quality ex-ante impact assessment. For instance, in the French Senate, committees have merely six weeks to examine a draft bill, which is a very tight timeframe for any kind of complementary impact assessment work, even if narrowly defined in scope. Similarly, the European Parliament's rules for committee evaluation reports envisage a time bracket of 12 months; for the research service this translates into roughly six months to draw up the underlying factual evaluation study if the research findings are to inform the committee report.

Another caveat is the information asymmetry parliaments face vis-à-vis the executive branch. When parliaments scrutinise government evaluations/impact assessments, or when they conduct their own assessments, they depend to a large extent on information and data gathered by the executive branch. However, governments do not always fully share data (or underlying evidence). A case in point in this context is the Swiss Parliament, whose wide-reaching rights to information are granted by law. According to the Secretary-General of the Swiss Parliament, the extensive right of access to executive information is a decisive success factor for parliament's evaluations, as it helps mitigate the information asymmetry between the parliament and the government.[32]

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[31] European Commission, Taking stock of the Commission's Better Regulation agenda, SWD, 2019, p. 11. This report indicates a total of 259 Commission evaluations completed in 2014-2018.

[32] Christophe Bättig and Philippe Schwab, 'La place de l'évaluation dans le cadre du contrôle parlementaire', *in* Katia Horber-Papazian, et al., *Regards croisés sur l'évaluation en Suisse*, Presses polytechniques et universitaires romandes, 2015, p. 17.

In terms of access to information, the Head of the Dutch parliamentary information department sees parliaments generally 'at a disadvantage relative to the government it is expected to scrutinise', arguing that there is an 'imbalance in the information position between the government under supervision and the Parliament as "controller". The information that Parliament needs to be able to scrutinise the work of the government largely depends upon information provided by the very same government it scrutinises.'[33]

Some parliaments take a comprehensive approach to impact assessment and evaluation and go beyond information/data provided by government. They build up their own information base by analysing a wide range of secondary sources, including for example academic research, case-law, independent documentation and reports by NGOs, contributions by stakeholders and views from citizens (expressed for instance through petitions). Some parliaments go even further in their efforts and collect new primary data through public or targeted consultations (e.g. surveys, interviews with stakeholders). From the work on this study it appears however that such cases are rare.

1.3. The case of the European Parliament

The European Parliament can be taken as an example of a parliament that is implementing regulatory policy principles in a comprehensive manner, across the different stages of the policy cycle. Like national parliaments, the European Parliament has legislative powers, and scrutiny powers to oversee the executive. The latter are primarily directed towards the European Commission as the EU institution formally initiating and implementing EU law. However, in the EU's multilevel-governance system, the Commission is not the only body implementing EU law; a major role therein is also assumed by the EU Member States.

In accordance with the OECD recommendation, at EU level, Better Regulation is considered a 'shared commitment'[34] and a 'joint responsibility' between the executive and the legislative branch, as stated in the 2016 Interinstitutional Agreement on Better Law-Making (IIA-BLM).[35] This agreement, legally speaking 'a sort of soft constitutional law',[36] constitutes the EU's regulatory policy framework. In particular, it defines the respective roles of the European Commission, the European Parliament and the Council of the European Union in the regulatory process with regard to programming on the one hand, and the use of the Better Regulation tools ex-ante impact assessment, ex-post evaluation and stakeholder involvement on the other.

Even if the EU's Better Regulation agenda is predominantly driven by the European Commission, the European Parliament has also gradually institutionalised a regulatory policy culture. The game changer was an own-initiative report[37] endorsed in plenary in June 2011, which called for the establishment of an autonomous impact assessment facility within Parliament's administration. Subsequently, a dedicated **Directorate for Impact Assessment and European Added Value** was set up. This step was a rather innovative move, since apparently no comparable impact assessment system had been tested before in any other parliament.[38] The aforementioned structure – today part

[33] Karin Zaal, 'Policy analysis in the Dutch Parliament', in Frans Van Nispen and Peter Scholten (eds.), *Policy analysis in the Netherlands,* Bristol University Press, 2014, p. 174.

[34] European Commission, Better regulation for better results - An EU agenda, 2015, COM(2015) 215, p. 6.

[35] Interinstitutional Agreement on Better Law-Making, 13 April 2016, OJ L 123, 12.5.2016, recital 2. This agreement supersedes the one from 2003, as well as the *Common Approach to Impact Assessment* of 2006.

[36] María José Martínez Iglesias, 'The European Parliament and the Better Law-Making Agenda', *in* Sacha Garben and Inge Govaere (eds.), *The EU Better Regulation Agenda: a critical assessment*, Hart 2018, p. 117.

[37] European Parliament resolution of 8 June 2011 on guaranteeing independent impact assessments, P7_TA(2011)0259, rapporteur: MEP Angelika Niebler.

[38] Andrea Renda, Best practices in legislative and regulatory processes in a constitutional perspective: The case of the European Union, DG IPOL, European Parliament, 2015, p. 14.

of Parliament's research service (EPRS) – encompasses capacities for agenda-setting, the legislative stage and ex-post scrutiny in support of parliamentary committees' regulatory policy work. Political oversight is ensured by the Conference of Committee Chairs.

Today, impact assessment and evaluation are deeply entrenched in the legislative and scrutiny work Parliament performs in the successive stages of the policy cycle. In addition, it should also be noted that the European Parliament contributes actively to the EU's legislative programming.

1.3.1. Ex-ante impact assessment activities

Ex-ante impact assessment work linked to Commission proposals

The European Parliament's Ex-ante Impact Assessment Unit (IMPA) systematically scrutinises all impact assessments the European Commission prepares to underpin legislative proposals. IMPA provides a quality assessment of each individual impact assessment – which takes the form of a succinct published briefing – to support the deliberations at committee stage. Parliament's critical appraisals are said to have contributed to improve the quality of Commission impact assessments, as they 'exert pressure on the European Commission to produce better IA documents'.[39] Reportedly, Members find the briefings useful, stressing that the 'translation of the Commission's lengthy impact assessments into easy accessible summaries helped the involved actors from the EP to keep an overview about the issues at stake'.[40] Empirical evidence suggests that Parliament's initial appraisals of impact assessments contribute in a constructive manner to the consideration of the legislative proposal at committee stage.[41] Recently, IMPA issued a cumulative review of the quality of Commission impact assessments,[42] thereby drawing conclusions from a sample of 132 appraisals drawn up during the legislative term 2014-2019.

In addition to the routine appraisals of Commission impact assessments, the IMPA unit is also in charge of carrying out Parliament's own ex-ante impact assessments, which committees can request ad hoc, in accordance with house-internal rules. This category comprises:

- complementary impact assessments, covering aspects the Commission impact assessment may not have adequately addressed;
- substitute impact assessments for cases where the Commission did not, despite its commitment, present an impact assessment;
- and, of increasing importance, impact assessments of substantial amendments tabled at committee stage.

The possibility to carry out impact assessments of substantial amendments is set out in the IIA-BLM, whereby the definition of 'substantial' is left to the discretion of the respective institution. Considering the extensive number of amendments tabled in Parliament and the limited resources to carry out such impact assessments, the political agreement on the selection of the most relevant 'substantial' amendments is essential. Assessing amendments introduced by Parliament is generally deemed a challenging task, due to staff capacities, and also due to time constraints, because the rules state that an impact assessment must not excessively delay or obstruct the legislative procedure. Notwithstanding these challenges, impact assessments of amendments are felt to be useful, in particular at two stages of the procedure:

[39] Renda, p. 14.

[40] Alexander Bürgin, 'The implications of the better regulation agenda for the European Parliament's inter- and intra-institutional power relations', *Journal of European integration*, vol. 41, no 2, 2019, pp. 196.

[41] Wolfgang Hiller, Impact Assessment and European Added Value work during the eighth legislative term, 2014-2019, EPRS, European Parliament, 2019, p. 3.

[42] European Parliament, EPRS, Ex-ante Impact Assessment Unit, Appraising the quality of the European Commission's impact assessments: Trends and developments from 2015 to 2018, 2019.

- in committee deliberations, where impact assessments of amendments may facilitate compromises;
- and in trilogues, where they can strengthen Parliament's arguments in the negotiations.[43]

Even if deemed useful, for the above-mentioned reasons, in practice impact assessments of substantial amendments are not frequently carried out, although the Commission would like to see Parliament (and likewise the Council) be more active in this respect.[44] Researchers argue that impact assessments of substantial amendments are much needed, since the adopted legislative text is, following the changes brought forward by the co-legislators, not backed by an updated impact assessment.[45] Subsequently, this impact assessment gap may pose an issue for Member States in the transposition stage, and again much later, when the implementation of the act is evaluated retrospectively, since ideally the starting point for an ex-post evaluation is the initial impact assessment.

Ex-ante impact assessment work regarding potential gaps in EU legislation ('European Added Value' and 'Cost of non-Europe' reports)

Unlike national parliaments across Europe, the European Parliament has no direct right of initiative. Proposing legislation is the quasi-monopoly of the European Commission. Parliament may however, under Article 225 TFEU, request the Commission to submit a proposal. This is done in form of a parliamentary report of the **legislative own-initiative report** subcategory. Each such report is substantiated by a background study drawn up by EPRS' European Added Value Unit, which evaluates the potential impacts of the initiative as well as its costs and benefits. Strictly speaking, this analysis is not a proper impact assessment in the sense of the Better Regulation Guidelines, but in its approach and rationale comes close to an ex-ante impact assessment.

Furthermore, this unit provides wider topical studies that analyse entire policy areas in order to identify gaps in EU legislation, or flag areas where action at EU level could generate efficiencies. These studies are known as **Cost of non-Europe reports**.[46] They are carried out upon a request from committees, although not directly linked to a committee report. Both study types provide the European Parliament with an opportunity to influence agenda-setting.

Scrutiny of the executive's legislative planning through continuous monitoring

Strictly speaking not related to impact assessment, but nonetheless worth mentioning is the 'Legislative Train Schedule',[47] an application the European Parliamentary Research Service introduced in 2015 to check delivery on the European Commission against its promises. This innovative tool allows for scrutiny of the Commission's legislative planning throughout its entire term of office. It was originally developed to monitor the initiatives linked to the political priorities of the Juncker Commission (2014-2019) and has been adapted to cover the new priorities of the von der Leyen Commission, in office since December 2019. Updated on a monthly basis, this application tracks the progress of EU legislation across all policy areas almost in real time. It provides a comprehensive and detailed state-of-play on upcoming initiatives, legislative proposals, ongoing and completed procedures including blocked and withdrawn files. The Legislative Train Schedule

[43] Renda, p. 15 and Bürgin, p. 196.

[44] European Commission, Taking stock of the Commission's Better Regulation agenda, SWD, 2019.

[45] e.g. Renda, p. 24.

[46] By way of example, some of the more recent EPRS *Cost of non-Europe reports* covered the areas of robotics and artificial intelligence; geographical indications (GIs) for non-agricultural products; legal migration; asylum policy; the fight against terrorism; the fight against racism and xenophobia. For a brief description of EPRS' European Added Value output, see Hiller, pp. 5-8.

[47] European Parliament, Legislative train schedule.

website is an example of how a parliament can rigorously scrutinise the executive's legislative planning through continuous monitoring.

1.3.2. Ex-post evaluation

In recent years, the European Parliament has also begun to assume an increasingly important role at the other end of the policy cycle: ex-post evaluation. The creation of a dedicated Ex-post Evaluation Unit (EVAL) within the research service in 2014, aims at enhancing Parliament's own capacity in this domain and, as a result, to hold the European Commission to account. In particular, it strengthens committees' oversight capacities regarding the implementation of EU law and policies. The unit's main task is to prepare a detailed technical background study every time a committee chooses to carry out an evaluation. Such committee evaluation takes the form of a specific own-initiative parliamentary report, known as an **implementation report**. In principle and as a starting point, the evaluation study draws on publicly available data and information but, if needed, Parliament may complement existing data with primary data gathered through targeted consultations, interviews and any kind of research work.

The committee may use the study findings to inform its report, but has no obligation to do so. Taken together, the strictly impartial, fact-oriented study and the political report constitute the European Parliament's dual evaluation mechanism. This evaluation architecture serves as an example for evidence-based policy-making.

In accordance with Parliament's transparency policy, both the report and the underpinning study are published. Once the report is voted in plenary, the ensuing resolution forms Parliament's official position on the matter. The political function of the implementation report is two-fold: first, to hold the Commission to account, and second, to give impetus to the review (or revision) process of the EU policy/legislation at stake.[48] The resolution usually addresses shortcomings related to the implementation or enforcement of the act in question. The European Commission is required to consider the issues addressed and to inform Parliament within a three-month window on how (and if) it intends to follow-up on the report. Although Parliament's evaluation findings do not automatically feed into the EU policy cycle, there is empirical evidence that in a number of cases the Commission has indeed taken them into account. For instance, some Commission proposals amending existing legislation refer to Parliament's evaluations as providing input for the proposal.[49]

Committees may also task the Ex-post Evaluation Unit with evaluation studies independently of any implementation report. Apart from standing committees, temporary committees (i.e. special committees or committees of inquiry) also make use of this option. During the last legislative term, roughly half of such requests came from the latter group.

Overall output figures demonstrate that ex-post evaluation has become a routine activity in the European Parliament: between 2014 and July 2019, EVAL delivered 67 evaluation studies.

Aside from in-depth studies, the Ex-post Evaluation Unit also automatically produces (i.e. no committee request is needed in this case) shorter briefings ('implementation appraisals') for committees, analysing the state of implementation of legislation in force that is up for amendment – mostly concerning EU directives and regulations. These succinct briefings are prepared, as a rule, right before the Commission issues its amending proposal, and published at the latest before the parliamentary committee starts its work on the proposal. Drawing on a variety of publicly available sources, these notes are meant to provide an outline of the implementation, application and effectiveness of the legislation at stake in a nutshell and to flag any shortcomings, so that the

[48] José Luis Rufas Quintana and Irmgard Anglmayer, 'Retrospective policy evaluation at the European Parliament', *European journal of law reform*, vol. 21(2), 2019, p. 203.

[49] Rufas Quintana and Anglmayer, p. 206.

committee can easily check in the new proposal whether the problematic issues have been addressed. Roughly 100 such implementation appraisals were prepared for committees within the past five years.

To conclude, since 2012, impact assessment and evaluation have encountered a high degree of institutionalisation in the European Parliament. These tools have become an integral part of the parliamentary decision-making process, although Parliament has stressed on many occasions that they are only a technical support, and not a substitute for political decision-making.

2. Ex-ante impact assessment in surveyed parliaments

Key findings

Ex-ante impact assessment can make an important contribution to evidence-based policy-making, as its purpose is to inform law-making through evidence. At the same time, an impact assessment increases the legitimacy of an initiative, since it justifies and substantiates the rationale for action, explores different options for the course of action, and it provides reflection on who will be affected and in what way. All EU Member States perform impact assessment to underpin their legislative initiatives, albeit to varying degrees and with great differences in focus (e.g. simplification and burden reduction; cost-benefit only; integrated impact assessment etc.) International indices suggest that many EU countries have not yet reached their full potential with regard to ex-ante impact assessment (in particular: OECD, Better Regulation practices across the EU; Bertelsmann Stiftung, Sustainable Governance Indicators 2019).

Some parliaments across the EU have stepped up their efforts to scrutinise their respective government's impact assessment work in recent years, when deliberating at committee stage on legislative proposals prepared by the government. A few parliaments have taken this further and also embedded impact assessment work into their legislative function. In this respect, they conduct their own impact assessments, either related to legislative initiatives tabled by parliament or amendments, or, in a few cases, related to government initiatives, to inform the legislative process in the sense of evidence-based policy-making. Therefore, parliamentary impact assessment touches upon the two core powers of parliaments: scrutiny and legislation.

Out of the 38 surveyed parliaments, 16 (15 EU-27 parliaments and 1 third-country parliament) engage in some form of ex-ante impact assessment work, albeit in very different ways and to greatly varying extent.

Out of these 16 parliaments, 8 actively conduct their own impact assessments. These are:

- 7 EU-27 parliaments: Bulgaria, Estonia, Finland, Hungary, Ireland, Poland and Sweden;
- and 1 third-country parliament: Canada (budget estimates of proposals).

In addition, seven further parliaments carry out smaller-scale impact assessment work, e.g. in-depth scrutiny of government impact assessment (Austria, France, Germany, Italy, Lithuania, Portugal and Spain). Finally, the Latvian Parliament avails of impact assessment capacities, but has not yet tested them.

A total of **12 parliaments across the EU-27 and 10 of the surveyed third-country parliaments indicated they do not engage in any specific ex-ante impact assessment** work beyond classical parliamentary scrutiny of the impact assessments accompanying government proposals.

2.1. Level of engagement in parliamentary impact assessment

Table 1 – EU-27 parliaments and the European Parliament: level of engagement in ex-ante IA

COUNTRY	no IA work beyond classical committee scrutiny	smaller-scale IA work (e.g. in-depth scrutiny)	parliaments' own IA work
Austria		■	
Belgium	■		
Bulgaria			■
Croatia	■		
Cyprus	■		
Czechia	■		
Denmark	■		
Estonia			■
Finland			■
France		■	
Germany		■	
Greece	■		
Hungary			■
Ireland			■
Italy		■	
Latvia		■	
Lithuania		■	
Luxemburg	■		
Malta	■		
Netherlands	■		
Poland			■
Portugal		■	
Romania	■		
Slovakia	■		
Slovenia	■		
Spain		■	
Sweden			■
European Parliament			■

Table 2 – Third-country parliaments: level of engagement in ex-ante IA

COUNTRY	no IA beyond classical committee scrutiny	smaller-scale IA work (e.g. in-depth scrutiny)	own IA work
Albania			
Canada			
Iceland			
Moldova			
Montenegro			
North Macedonia			
Norway			
San Marino			
Switzerland			
Turkey			
UK			

2.2. EU parliaments not engaging in specific ex-ante impact assessment work

In roughly half of the EU Member States, ex-ante impact assessment is considered to be an exclusive responsibility of the executive branch. For this reason, the engagement of many parliaments in this field is largely limited to classical consideration of the government impact assessment together with the proposed initiative, by means of committee debates, hearings and questions to the executive.

Based on survey data, the following parliaments reported that they do not carry out any further ex-ante impact assessment work to substantiate new legislation, such as appraising the government impact assessment in more depth or conducting own impact assessments:

- Belgium
- Croatia
- Cyprus
- Czechia
- Denmark
- Greece
- Luxemburg
- Malta
- Netherlands
- Romania
- Slovakia
- Slovenia

For some of these parliaments, further details were provided in response to the survey. Additional literature was used where appropriate.

In **Czechia**, impact assessment is mandatory for all draft legislation prepared by the government. These assessments undergo a formal quality check by the RIA Unit at the Office of the Government and subsequently in-depth scrutiny by the independent Czech regulatory oversight body (RIA

Board). In contrast, no impact assessment is required for legislative initiatives from within the Czech Parliament.[50] In its response to the survey, the Czech Parliament noted an impact assessment pilot project that the Parliamentary Institute *(Parlamentní Institut)* – Parliament's in-house research service – conducted in 2015. The Committee on Constitutional and Legal Affairs, which had raised doubts as to the quality of the government's ex-ante impact assessments and the explanatory notes accompanying draft laws, with the support of the President of the Chamber of Deputies, requested a scrutiny exercise regarding one particular bill (Amendment to the Act on Criminal Liability of Legal Entities). The Parliamentary Institute reportedly identified a number of shortcomings in its appraisal. Notwithstanding, this pilot remained an isolated experience and has not led to any systematic in-depth scrutiny of government impact assessments by Parliament.

The law-making process in **The Netherlands** is traditionally characterised by a rather rigorous impact assessment process, which comprises scrutiny by a regulatory oversight body.[51] Under Dutch law,[52] legislative (and other) proposals need to include a number of elements explaining, in particular:

- the objectives, the effectiveness and the efficiency that are being pursued;
- the policy instruments that are used;
- the financial consequences for the government;
- and, where possible, the financial consequences for social sectors.

Like most parliaments, the Dutch Parliament does not conduct any systematic ex-ante impact assessment work, apart from classical committee scrutiny during the legislative phase. However, a recent report[53] of the House of Representatives *(Tweede Kamer)* recommends that the Dutch Parliament pay closer attention to government impact assessments substantiating legislative proposals. This report – drawn up by two Members of Parliament with the support of Parliament's in-house Analysis and Research Department – critically assessed the quality of five government impact assessments from a range of policy areas. It concludes that while the Lower Chamber addresses issues relating to the effectiveness of a proposal sufficiently, more attention should be paid to questions pertaining to the efficiency of the chosen instrument and to the monitoring and evaluation framework. The latter is key for any future assessment of whether the legislation works as intended.

The **Greek** Parliament *(Βουλή των Ελλήνων)* noted a recent amendment of its Standing Orders, adopted in April 2020, which is set to facilitate Parliament's exercise of ex-ante and ex-post control. The new provision specifies the mandatory elements of the document ('Analysis of Regulation Consequences document') accompanying draft bills and amendments put forward by the government. Some of the requirements also apply to draft bills tabled by Members of Parliament, notably a list of amended or repealed provisions and an explanatory report which should include a problem definition, objectives, and a justification. Whether the Scientific Service of the Hellenic Parliament could provide support to this process is under exploration.

Slovenia's regulatory policy framework emerged in the wake of the country's membership of the EU on the one hand and the OECD on the other.[54] Ex-ante impact assessment rules are set out in the (non-binding) Resolution on Legislative Regulation, adopted by the National Assembly in

[50] Interestingly, the share of parliamentary initiatives is rather high in Czechia: 40 % of adopted primary legislation originates from within Parliament. See OECD, Better regulation practices across the European Union, 2019, p. 136.

[51] *Adviescollege Toetsing Regeldruk (ATR)*, set up in 2017, succeeding *ACTAL*.

[52] Article 3.1 Comptabiliteitswet (Government Accounts Act) 2016.

[53] Dutch Parliament, *Tweede Kamer*, Report Onderbouwing van beleid Het belang van artikel 3.1 van de Comptabiliteitswet 2016 om de regering te controleren, September 2019.

[54] Plonca Kovač, 'Between theoretical principles and practice in Slovene regulatory impact assessment procedures', *Review of Central and Eastern European law*, 42(2017), pp. 215-250; OECD, Regulatory policy in Slovenia: Oversight matters, 2018.

November 2009, as well as in Parliament's and Government's rules of procedures. By nature, the aforementioned resolution primarily targets the government sector, while Parliament plays a minor role therein. However, Parliament assumes a watchdog function with regard to draft bills introduced by the government: it performs a systematic ex-ante verification regarding the formal integrity of the bill, before consideration of the bill in substance at committee level. If Parliament finds that a draft bill lacks one or more mandatory elements – which would include for instance the impact assessment – the President of the National Assembly is entitled to ask the government to supplement the missing element within a 15-day frame. Failing submission of the missing part, the proposal lapses.[55]

2.3. EU parliaments engaging in smaller-scale impact assessment work

The parliaments of Austria, France, Germany, Italy, Portugal and Spain engage, at a smaller scale and mostly scrutiny-related, in impact assessment work. The array of activities encompasses:

- in-depth appraisal of government impact assessment (France, *Assemblée Nationale*);
- scrutiny of government impact assessments, with a thematic focus on budgetary matters (Austria, Portugal and Spain);
- possibility to obtain impact assessment related support from advisory bodies (Germany);
- specific impact assessment scrutiny services within the administration (Italy).

Finally, the Latvian *Saeima* and the Lithuanian *Seimas* were also grouped in this category. Latvia's parliamentary research service reported that it is equipped in principle to deliver impact assessment analysis, but has not yet received any specific request to test its capacity. In comparison, the Lithuanian *Seimas* is required to draw up impact assessments for parliamentary initiatives in principle, but faces challenges to comply with regulatory requirements.

2.3.1. Austria

In Austria, impact assessment requirements apply to all draft legislation (primary and subordinate) put forward by the executive branch, whereby the depth of the impact assessment should be proportional to the assumed macroeconomic effects. Impact assessments are quality-checked by the Federal Performance Management Office *(Ressortübergreifende Wirkungscontrollingstelle des Bundes),* the executive's regulatory oversight body.[56]

The Austrian Parliament itself also engages to a certain extent in ex-ante impact assessment work, through its Parliamentary Budget Office *(Budgetdienst; PBO),* which is part of the legal, legislative and research services. This entity produces briefings and smaller studies that scrutinise selected government impact assessments underpinning legislative initiatives. Along with its natural focus on financial and budgetary matters, the PBO also looks into other aspects, in particular economic, social and environmental impacts. Such scrutiny work is however carried out at a relatively small scale: for 2017, eight such cases were reported; four in 2018, and three in 2019.

Notwithstanding, the core function of the PBO is to support Parliament's budget committee in discussion, decision-making and control regarding the federal budget and its implementation. In addition, it conducts analytical work in response to requests by individual Members of the budget

[55] Parliament of Slovenia, Rules of Procedure, Art. 115a: 'If the proposer fails to supplement the draft law within 15 days from being called upon to do so by the President of the National Assembly, it is deemed that the draft law has not been tabled.'

[56] Roland Schneider, RIA in Austria: Some notes on assessing economic effects [presentation], 2015.

committee. PBO analyses are in general not transmitted to the government and therefore do not entail any formal follow-up process. However, in line with Parliament's approach to transparency, all PBO analyses are published.[57]

As opposed to draft bills originating from the executive branch, impact assessment is not mandatory for legislation initiated by Parliament. This concerns roughly one fifth of newly adopted legislation.[58] However, pursuant to Parliament's rules of procedure, motions tabled by Members or committees that entail financial burdens for the federal government should include a proposal on how the excess expenditure is to be covered. This process, which is clearly lighter than a proper impact assessment, is also supported by the aforementioned Parliamentary Budget Office.

With regard to EU legislation, in its response to the EPRS survey the Austrian Parliament indicated that it also occasionally scrutinises impact assessments prepared by the European Commission. This occurs mainly at the stage of transposing EU law.

2.3.2. France

In the French law-making process, impact assessment requirements were enhanced in the wake of the constitutional reform of 2008. In particular, the new Constitution provided for a separate organic law setting out the conditions for draft legislation. This organic law,[59] adopted the following year, made impact assessment mandatory for all draft bills put forward by the government.[60] Moreover, it entitled Parliament to reject bills if the impact assessment was deemed inadequate or missing altogether.

In both chambers, the *Assemblée Nationale* and the *Sénat*, the competent standing committees examine the government impact assessment in depth, together with the draft bill. Their appraisals are included in the parliamentary reports and hence available to the public. The performance of the French parliamentary committees in this respect is recognised as exemplary by the Bertelsmann Stiftung, which argues that they 'often do an excellent job of regulatory assessment'.[61]

The committees of the *Assemblée Nationale* receive support in this respect by the Commission for the Assessment and Monitoring of Public Policies (*Comité d'évaluation et de contrôle politiques publiques,* (CEC)), a political body composed of Members that primarily ensures ex-post evaluation. Committee chairpersons may request the CEC to provide an opinion on impact assessments accompanying draft bills tabled by the government.

A recent report[62] proposing to reform the evaluation system of the French Parliament altogether, by establishing an independent evaluation agency within the French Parliament, also includes suggestions pertaining to ex-ante impact assessment. These suggestions include appraising ex-ante impact assessments accompanying draft laws and assessing the impact of substantial amendments.

With a view to EU legislation, the French *Assemblée Nationale* is one of just a few EU national chambers/parliaments that, according to the indications given in the survey, also scrutinise the European Commission's impact assessments. It does so upon a request from a committee or a

[57] PBO analyses are published, either on the Austrian Parliament's website for legislative initiatives (https://www.parlament.gv.at/PAKT/BUDG/GESETZESVORLAGEN/) or Parliament's website for inquiries addressed to the PBO (https://www.parlament.gv.at/PAKT/BUDG/ANFRAGEN/).

[58] OECD, Better regulation practices across the European Union, 2019, pp. 34 and 183.

[59] Loi organique n° 2009-403 du 15 avril 2009 relative à l'application des articles 34-1, 39 et 44 de la Constitution.

[60] In contrast, Parliament initiated draft legislation is not subject to impact assessment requirements.

[61] Bertelsmann Stiftung, p. 19.

[62] *Assemblée nationale*, Rapport d'information sur l'évaluation des dispositifs d'évaluation des politiques publiques, 2018, (Rapporteurs: Pierre Morel à l'Huissier and Valérie Petit).

Member and usually takes EPRS' systematic appraisals of European Commission impact assessments into account.

In its response to the EPRS survey the French *Sénat* indicated that it is currently not engaging in pro-active impact assessment work, but may do so in future, albeit on a small scale. To this end, it earmarked a part of the call for tender it had launched in 2019, regarding external expertise in the area of legislative evaluation for ex-ante impact assessment. However, some caveats and reservations were voiced regarding the scope of this endeavour, given that committees have on average a period of merely six weeks to examine a bill, which appears very tight to obtain a substantive and meaningful analysis from external consultants. It would have to be restricted to very specific and well-defined measures in the draft bill.

2.3.3. Germany

In Germany, as in most other EU countries, regulatory impact assessment lies within the jurisdiction of the executive branch and is required for all draft legislation prepared by the federal government. All impact assessments are subject to scrutiny by an independent oversight body, the National Regulatory Control Council *(Normenkontrollrat)*, which pays particularly close attention to the government's estimates of regulatory burdens.

The German Parliament, overall, does not play a very active role in regulatory governance, although both chambers – the German *Bundestag* and the *Bundesrat* (representing the *Länder*) – are actively scrutinising the government's impact assessment work, thereby considering the opinion of the Regulatory Control Council. In this respect, *Bundestag* committees are, for instance, entitled to hear experts and the minister responsible, including on matters relating to impact assessment. Furthermore, the *Bundestag* can use its right to ask questions of the government relating to impact assessment throughout the entire legislative procedure. The *Bundesrat* is involved twice during the legislative process: first, it comments on the government draft law (including the underlying impact assessment), before it is introduced into the *Bundestag;* and second, it votes on the law adopted by the *Bundestag*.

A peculiarity of the German system is that both chambers can resort to the Regulatory Control Council for advice and recommendations regarding the budgetary implications and regulatory compliance costs an act would entail. Thus, the National Regulatory Control Council may, in an advisory capacity, inform parliamentary decision-making.[63] It appears however that in practice, the German Parliament rarely makes use of this opportunity.[64]

Despite its fairly limited role in impact assessment, the *Bundestag* has three support bodies at hand, which provide advice on issues related to impact assessment among other things. These are:

- the Research Services *(Wissenschaftliche Dienste);*
- the Office of Technology Assessment *(Büro für Technikfolgenabschätzung beim Deutschen Bundestag);* and
- the Parliamentary Advisory Council on Sustainable Development *(Parlamentarischer Beirat für nachhaltige Entwicklung)*.

While the Research Service provides general research support, the Office of Technology Assessment is an independent science institution that advises the *Bundestag* on issues relating to research, science and technological change. This may include the assessment of draft legislation. Reportedly,

[63] Martin Morlok, Utz Schliessky and Dieter Wiefelspütz (eds.), *Parlamentsrecht: Handbuch*, Nomos, 2016, pp. 1256-1257.

[64] For documented appearances of the National Regulatory Control Council in committee hearings, see its annual reports, https://www.normenkontrollrat.bund.de/nkr-de/service/publikationen/jahresberichte

this office conducts 'much – and, according to the subject-matter, at times very difficult'[65] – impact assessment work.

Conversely, the Parliamentary Advisory Council on Sustainable Development is a political body composed of Members. Established in 2004, it is tasked with assessing draft legislation against a set of sustainable development principles, to ensure that 'life today is not at the expense of tomorrow'.[66] Under its recently enhanced mandate, this advisory council systematically appraises all 'sustainability impact assessments' of government initiatives. Its findings feed into the report of the lead committee, in the form of an expert opinion.[67] Nonetheless, this advisory council is said to be not very well integrated into the German impact assessment system, and its political influence is deemed to be 'moderate'.[68]

In the German Parliament, most draft legislation comes from the executive. Only one sixth of legislative initiatives originate from within the *Bundestag*.[69] Unlike government draft bills, *Bundestag* initiatives are not subject to mandatory impact assessment. For this reason, the *Bundestag* has not set up any impact assessment capacity within its administration.[70] Interestingly, the government is in principle required to assist with the drafting of a bill initiated by the *Bundestag*, but it has no obligation in relation to impact assessment.

The *Bundesrat* also has a right of legislative initiative. Explanatory memoranda of *Bundesrat* draft bills usually contain quantitative data regarding the financial and administrative impact. These data are drawn up by the respective ministries of the German states *(Länder)*; the *Bundestag* administration plays no role in this process.[71]

Finally, the aforementioned advisory function of the National Control Council also applies to Parliament's own legislative initiatives: both chambers are entitled to call on the National Control Council to obtain support in examining quantifications or for an assessment of compliance costs.

2.3.4. Italy

In Italy, ex-ante impact assessment remains largely reliant on the Italian government. For example, the Italian Chamber of Deputies *(Camera dei deputati)* indicated in its survey response that it does not have recourse to any dedicated ex-ante impact assessment body.

Notwithstanding, some restricted ex-ante impact assessment activities can be observed in both chambers. At a general level, the research services of both chambers provide some degree of legal research on proposed legislation.[72] Beyond this, the administrations of both chambers have structures in place that allow for scrutiny of impact assessments provided by the government. Italy

[65] Ulrich Karpen, 'Regulatory impact assessment: Current situation and prospects in the German Parliament', *Amicus curiae*, issue 101, 2015, p. 17.

[66] *Deutscher Bundestag*, leaflet The Parliamentary Advisory Council on Sustainable Development, 2019.

[67] *Deutscher Bundestag*, Parliamentary Advisory Council on Sustainable Development, Rules of Procedure for the parliamentary appraisal of the sustainability impact assessment in the framework of regulatory impact assessment, 2019.

[68] Bertelsmann Stiftung, pp. 47-48.

[69] Between 1949 and 2017, 74 % of legislation was initiated by the federal government, 15 % by the Bundestag and 11 % by the Bundesrat. See https://www.bundesrat.de/DE/dokumente/statistik/statistik-node.html. In recent years, it seems the government share rose to 90 %, (2014-2016), see OECD, Better regulation practices across the European Union, 2019, p. 183.

[70] *Bundestag* answer to a previous EPRS survey on parliamentary practice and organisation regarding impact assessment and evaluation. ECPRD request #2832, 2015.

[71] *Deutscher Bundestag, Wissenschaftlicher Dienst, Sachstand, Fragebogen Gesetzesfolgenabschätzung*, 2018. [The purpose of this questionnaire is not indicated].

[72] Giovanni Piccirilli and Paolo Zuddas, 'Assisting Italian MPs in pre-legislative scrutiny: the role played by chambers' counsellors and legislative advisors in enhancing the knowledge and skills development of Italian MPs: the assistance offered to an autonomous collection of information', *Parliamentary Affairs,* (2012) 65, pp. 678-679.

was one of the first OECD countries to require the executive branch to submit impact assessments accompanying regulatory measures to Parliament by law. However, until 2017 this provision was reportedly not fully implemented.[73] Today, parliamentary scrutiny of impact assessment is a regular activity in both chambers.

For instance, both chambers have a Budget Service *(Servizio del Bilancio)* at hand, which engages, based on the government impact assessment, in verifying the quantification of financial implications of proposed legislation. According to the rules governing the services of the lower house, the Budget Service is also responsible for quantifying the financial impact of amendments.[74]

In the Chamber of Deputies, the Legislation Committee *(Comitato per la legislazione)* plays a central role in monitoring and examining government impact assessments. It routinely comments on the quality and substance of impact assessments.[75]

Compared with the Chamber of Deputies, the Italian Senate (*Senato della Repubblica*) appears to be slightly more active in the field of ex-ante impact assessment. The Senate's Service for the Quality of Regulations *(Servizio per la qualità degli atti normativi)* – a documentation service, rather than an analytical research service, in existence since 2010 – supports committees across the policy cycle. With regard to ex-ante impact assessment, it systematically monitors the government's impact assessment obligations and examines certain legal aspects.[76]

Similarly, the Senate's Impact Assessment Office (IAO; *Ufficio Valutazione Impatto*) operates at both ends of the policy cycle and its publications thus contain some ex-ante elements. In this respect, ex-post evaluation studies usually include a prospective section providing a policy outlook, thereby linking the ex-post with the ex-ante impact assessment.

Particularly noteworthy is the fact that the Senate began to involve citizens in the process of scrutinising proposed legislation as a means to inform committee deliberations. To this end, it adopted specific guidelines on public consultations in 2017.[77] Compared with other national parliaments EU-wide, this appears to be a unique feature.

2.3.5. Latvia

The Latvian *Saeima* does not avail of a dedicated impact assessment service. As in other EU parliaments, committees may choose to thoroughly examine the government's impact assessment together with the related legislative proposal, for instance through the involvement of experts in hearings. In addition to this standard level of scrutiny, the *Saeima's* Analytical Service, which provides different levels of documentation and research work, may also conduct – upon request – analysis related to ex-ante and ex-post impact assessment. This administrative entity reports directly to the Presidium of the *Saeima*, the highest political body, headed by the Speaker of Parliament. While committees and political groups are entitled to lodge research requests for ex-ante impact assessment or ex-post evaluations, it is up to the Presidium, together with the Council of Political Groups, to decide on priorities. Consequently, the Analytical Service's research assignments are

[73] Victor Chimienti, 'The new regulation covering AIR, VIR and consultation: A further step forward towards 'Better Regulation' in Italy', *European journal of law reform*, vol. 21(4), 2019, p. 465.

[74] *Camera dei Deputati, Regolamento dei Servizi e del Personale*, Art. 21; see also: Piccirilli and Zuddas, p. 676.

[75] Chimienti, p. 467.

[76] Piccirilli and Zuddas, p. 679 and Chimienti, p. 467.

[77] *Senato della Repubblica* (Italy), Ufficio Valutazione Impatto, 2017-2018. One year of assessments at the Italian Senate, pp. 1 and 16. These guidelines govern the Senate's public consultations with regard to ex-ante impact assessment and ex-post evaluation.

characterised by broad political backing. Prioritisation of resource-intensive research work is necessary, as the staffing level of the research service is relatively low.[78]

Studies are in principle drafted in-house, but there is also a small budget line available to commission expertise from external contractors. Any externalisation is subject to approval by the Presidium.

The focus of the *Saeima's* ex-ante impact assessment work is to support draft bills initiated by Parliament, at least in theory.[79] In practice however, the *Seima's* research service reported that no ex-ante impact assessment was carried out between 2017 and June 2019, because it had not yet received any request. Thus, despite the fact that certain capacities are in place, the Latvian Parliament has to date not yet had an opportunity to test its ability to conduct impact assessment studies.

2.3.6. Lithuania

In Lithuania, ex-ante impact assessment is required by law[80] for all legislative initiatives that either introduce new legislation or substantially amend existing legislation. Draft laws introduced into the *Seimas* must be accompanied by an explanatory note that, inter alia, identifies the overall impacts and specifically considers the impact on the national and regional budgets, business environment and corruption. In procedural terms, all draft laws submitted to the *Seimas* are first registered with the Secretariat of the *Seimas* sittings; already at this stage, the accompanying note (including an impact assessment, among other things), needs to be attached.

Impact assessment requirements, as set out by the Law on Legislative Framework, apply to all draft legislation, regardless as to whether the initiative originates from the government or the Parliament. Therefore, in theory, parliamentary initiatives are also subject to an impact assessment. Given that roughly one third of Lithuanian (primary) legislation is based on initiatives from within the *Seimas*,[81] this poses questions regarding capacity.

In this respect, a recent performance audit report by the Lithuanian National Audit Office concerning legislative drafting practices deemed the 'overabundance of legal acts' to be a real issue.[82] In practice, the quantity of draft laws appears to make it challenging for both government and Parliament to comply with regulatory governance standards. The Audit Office found major gaps regarding the implementation of impact assessment requirements, arguing that impact assessments were often limited to 'only formal assessment', or missing altogether.[83]

Concerning Parliament's role in scrutinising government impact assessments, the *Seimas'* legal department is in charge of verifying legal compliance with Lithuanian law-making requirements and the overall coherence with related existing legislation.[84] A more in-depth check of the substance is then up to the committees. However, in this area also, the aforementioned audit report identified shortcomings in the sense that an 'excessive application of emergency procedures' would prevent the *Seimas* committees from considering draft bills in greater depth.

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[78] According to survey data, the Analytical Service employs three researchers.

[79] Their share amounts to 30 %, according to OECD data. See OECD, Better regulation practices across the European Union, 2019, p. 183.

[80] Article 15 of the Law on Legislative Framework.

[81] OECD, Better regulation practices across the European Union, 2019, p. 183. Data confirmed by the *Seimas* administration, email exchange of 19 February 2020.

[82] The Lithuanian National Audit Office suggests that around 700 draft bills are introduced into the *Seimas* on an annual average. See Executive summary of the public audit report on legislative drafting, 16 March 2018.

[83] Ibid., p. 5.

[84] OECD, Regulatory policy outlook 2018, p. 210.

2.3.7. Portugal

The Portuguese Parliament *(Assembleia da República)* indicated that it does not have any dedicated impact assessment structures in place. However, the Technical Budgetary Support *Unit (Unidade Técnica de Apoio Orçameneta)*, which assists the standing committee on budgetary and financial matters, by drafting studies and technical working papers, occasionally carries out a specific type of ex-ante impact assessment – 'technical studies on the budgetary impact of legislative initiatives'.[85] It does so upon the request of the President of the Assembly.

Furthermore, the Assembly's rules of procedure set out that Parliament's administration prepare a 'technical note' within 15 days of a draft bill's admission, which is annexed to the competent committee's formal opinion. These notes should contain an assessment specifying in particular the bill's consequences and the costs of implementation. In addition, since 2018, a gender impact assessment report is required.[86]

Reportedly, this poses challenges with regard to procedural time constraints, as well as resources (staffing level in general, and in-house expert knowledge in particular, plus high costs for buying-in external expertise). A training programme enhancing the service's technical impact assessment capacities is currently ongoing, involving government experts, consultancy and international peers.

2.3.8. Spain

In the Spanish Congress (*Congreso de los Diputados*), two units provide, amongst other tasks, services related to ex-ante impact assessment. First, the research department's Public Finances and Economic Research Section examines governmental impact assessments and notably the economic and budget-related data provided therein, in the form of briefings. And second, the (bicameral) Budget Office – a support body for Parliament's budget control function – conducts analyses of the impacts of parliamentary initiatives, thereby placing an emphasis on budgetary aspects. In its reply to the 2015 survey, the Spanish Parliament pointed also to the possibility to commission external expertise via public procurement procedures. However, it did not provide any data to what extent this possibility is effectively used for impact assessments.

2.4. EU parliaments conducting own ex-ante impact assessments

The survey results suggest that there are seven national parliaments in the EU that make considerable efforts in their parliaments' own independent impact assessment: Bulgaria, Estonia, Finland, Hungary, Ireland, Poland and Sweden. The scope and approach to impact assessment in these parliaments nevertheless vary greatly.

- Three of these parliaments draw up their own impact assessments for legislative initiatives originating from within parliament (Bulgaria and Poland, two countries where a large proportion of legislation stems from within parliament; and Ireland, which has seen a rise in private Members' bills in recent years);
- In two cases, parliamentary research services have specialist teams to perform economic and budgetary impact assessment, largely relying on micro-simulation modelling and prioritising political groups over other requesters (Finland and Sweden);
- One parliament assesses the impact of parliamentary amendments (Estonia);

[85] See website of the Technical Budget Support Unit, http://www.en.parlamento.pt/StateBudgetPublicAccounts/UTAO.htm.

[86] The requirement to produce a gender impact assessment was introduced by Law 4/2018 of 9 February 2018, concerning the legal framework for gender impact assessment of normative acts. Article 2(1) of this act stipulates: 'Projects of normative acts prepared by the central and regional administration are subject to prior gender impact assessment, as well as bills and proposals submitted to the Assembly of the Republic.'

- And one parliament is entitled to obtain budget-related impact assessment work from an independent fiscal institution (Hungary).

2.4.1. Bulgaria

The Bulgarian National Assembly (*Народно събрание*) is one of the few EU national parliaments that prepare their own impact assessments for draft bills initiated by parliament.

The Bulgarian law-making framework underwent major reform in 2016 and now includes impact assessment requirements.[87] Article 19(1) of the Law of Normative Acts stipulates that 'the authorities proposing drafts of normative acts shall carry out impact assessment'. As a consequence, the ministries are required to prepare impact assessments for draft bills initiated by the executive, and the Members of the Bulgarian Parliament are required to provide ex-ante impact assessments for all draft legislation initiated by them.[88] This requirement is particularly noteworthy, as Bulgaria has – according to OECD data – the highest share of (adopted) laws initiated by parliament in the EU, at almost 60 %.[89]

Correspondingly, the Members of the Bulgarian Parliament prepare ex-ante impact assessments at a fairly large scale: according to EPRS survey data, close to 100 per year in 2017 and 2018, and 77 during the first half of 2019 alone. However, the impact assessment requirements for these initiatives are 'relatively less stringent than those for laws made by the executive', as the OECD puts it.[90]

The Bulgarian Parliament's rules of organisation and procedure set out methodological guidelines for impact assessments of bills initiated by Members.[91] In particular, they provide for the following mandatory elements: the rationale of the legislative initiative; consideration of stakeholders; a cost-benefit analysis; an analysis of the administrative burdens and structural changes; and finally, the impact on other laws.[92] In practice however, judging from the four samples examined for this present study,[93] the quality of these impact assessment statements appears to be rather unambitious.

This impression is confirmed by the Bertelsmann Stiftung which argues that '[a]ssessments for legislative proposals sponsored by individual Members of Parliament continue to be of poor quality.'[94] This might be due to a structural issue, as it is hard to imagine how Members proposing bills could systematically conduct meaningful impact assessments, which is a technically demanding, complex and time-consuming task.

2.4.2. Estonia

When draft legislation is submitted to the Estonian Parliament *(Riigikogu)*, it has already undergone an impact assessment process by the government. Parliamentary committees may pay special attention to the impact assessment in their deliberations on the initiative in questions.

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[87] Law of Normative Acts (2016), Art. 19–21 (chapter 2: regulatory impact assessment).

[88] Constitution of the Republic of Bulgaria, Art. 87 (1): 'Any Member of the National Assembly or the Council of Ministers shall have the right to introduce a bill.'

[89] OECD, Better regulation practices across the European Union, 2019, pp. 34 and 183.

[90] OECD, Better regulation practices across the European Union, 2019, p. 130.

[91] As provided for in the Law of Normative Acts (2016), Art. 19(3): 'The National Assembly adopts methodology for impact assessment regarding drafts of laws and codes proposed by Members of Parliament.'

[92] There is no requirement for considering different options for solving the problem, which appears as a methodological shortcoming.

[93] All impact assessments prepared by the Bulgarian Parliament are accessible on the website of the National Assembly.

[94] Bertelsmann Stiftung, p. 19.

One particularity was reported in the Estonian response to the EPRS survey: amendments brought forward by the competent committee are subject to an explanatory memorandum, which also contains (to the extent possible) an assessment of the impact of the amendment. Assessing the potential impact of the amendments is part of the committee deliberations on the draft law. For this particular task, the parliamentary committee may obtain support from its own Legal and Research Department, or directly from the line ministry.

On a more general note, however possibly referring rather to the executive than the legislative branch, an Estonian government official observed that the 'institutionalisation of better regulation concepts into the relatively small Estonian governance system has been successful'.[95]

2.4.3. Finland

As in other EU countries, in Finland ex-ante impact assessments for draft bills are also prepared by the responsible ministries. To improve the overall quality of regulatory impact assessments, the Council of Regulatory Impact Analysis was established at the Prime Minister's Office in December 2015, as an autonomous and independent oversight body. It scrutinises (a selection of) draft government proposals whereby special emphasis is placed on the impact assessment, and it subsequently issues its assessment ('statement'). Parliamentary committees may invite the Council of Regulatory Impact Analysis for expert hearings when they consider government proposals, but this remains an exception.

Even if it does not scrutinise individual government impact assessments in depth, the Finnish Parliament *(Eduskunta)* has a manifest interest in their quality. Only recently, its Audit Committee commissioned a study from the University of Eastern Finland regarding the quality of legislation and impact assessments of draft bills. This study is set to be completed in 2021.[96]

Furthermore, the Finnish Parliament has set up an ex-ante impact assessment capacity within its administration. The Economic Analysis Team is located within the Parliamentary Research Service and conducts, as its name suggests, economic analysis. A noteworthy feature of this service is that it was not conceived to support parliamentary committees in the first place, but rather the political groups. This includes opposition parties in particular, whose requests are given priority at peak times. For example, with regard to the annual budget cycle, the service usually makes considerable efforts in autumn in support of opposition parties' calculation of alternative budgets.

Typically, the Economic Analysis Team's ex-ante impact assessment work concentrates on assessing the economic impacts of policy changes in the areas of direct and indirect taxation, social security reforms, and other economic issues, such as trade or public sector income and expenditure.[97] In terms of methodology, it bases its quantifications on economic methods. In particular, it makes use of a micro-simulation model developed by Statistics Finland, which allows assessment of changes in taxation and social security legislation.[98] This modelling tool is also used in governmental departments and agencies, and therefore allows for comparative analysis between the executive and the legislative branch.

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[95] Aare Kasemets, 'Institutionalisation of better regulation principles in Estonian draft legislation: The rules of law-making, procedural democracy and political accountability between norms and facts', *The theory and practice of legislation*, 6:1, 2018, pp. 75-111.

[96] Information obtained from the Finnish Parliament by email, 25 February 2020.

[97] Information taken from the Finnish Parliament's leaflet on the Parliamentary Economic Research Services, which the service provided as an annex to its response to the survey.

[98] A description of the SISU microsimulation model can be found on the website of Statistics Finland, https://www.stat.fi/tup/mikrosimulointi/index_en.html .

All analyses are drafted in-house. They usually contain a description of the method applied in the impact assessment. As a matter of principle, individual analyses are not published. However, the methodological guidelines for assessing the economic effects of the alternative budgets of opposition parties are published on *Eduskunta's* intranet. The output of this dedicated research service appears very regular; according to self-reported data, it produced 200 analyses in 2018, and 70 in the first half of 2019.

A similar approach to economic impact assessment that primarily strengthens the opposition exists in the Swedish Parliament. This is not a coincidence, as the Finnish Parliament confirms; it was indeed inspired by the long-standing impact assessment practice of the Swedish *Riksdag*.[99] A first pilot project was conducted in the Finnish Parliament in 2011, in close exchange with the Swedish Economic Analysis Service.[100]

2.4.4. Hungary

The Hungarian Parliament *(Országgyülés)* indicated that it carries out budget-related impact assessment activities through the Hungarian Fiscal Council, an independent body providing macroeconomic fiscal advice. This body is composed of the Chairman of the Fiscal Council, the Governor of the Central Bank and the President of the national Audit Office, and can therefore rely on the technical capacities of all three institutions for its impact assessment work.

Mandated by Article 44 of the Hungarian Fundamental Law, the Fiscal Council[101] supports, amongst its other tasks, the legislative activity of the Hungarian Parliament by examining the feasibility of the central budget. Its main task is to examine the compliance of the provisions of the draft central budget bill with the state debt rules,[102] and to deliver an opinion on the acceptability of the finalised version of the central budget before the final vote in the Parliament. Given that the final vote on the Budget Bill requires the final consent of the Fiscal Council,[103] technically the Fiscal Council exerts a veto right in the country's central budget procedure.

The Fiscal Council forms an opinion on the planning and execution of the budget, the use of public funds and the state of public finances. Moreover, it comments as needed, but at least on a half-yearly basis on any related issues.

By fulfilling its mission, the Fiscal Council prepares macro-economic forecasts, budget analyses, 'estimates, both following submission to Parliament and before the final vote, concerning the fiscal effects of the budget bills and supplementary budget bills as well as any other bills discussed by Parliament that may have an impact on the development of mandatory items'.[104]

In its response to the EPRS survey, the Hungarian Parliament indicated that four such impact assessment cases are carried out annually. The opinions of the Fiscal Council are formally transmitted to the Hungarian government. In case of an unfavourable Fiscal Council position, follow-up action by the government is required.

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[99] See also Sami Grönberg, et al., 'Eduskunnan sisäinen tietopalvelu - riippumatonta vaikutusarviointia poliittisen päätöksenteon tueksi', *Kansantaloudellinen aikakauskirja*, vol. 112. no 4, 2016, pp. 450-455.

[100] See chapter 2.4.7.

[101] The Hungarian Fiscal Council was created by the Act LXXV of 2008 on Cost-efficient State Management and Fiscal Responsibility; its current mandate is stipulated by the Act CXCIV of 2011 on the Economic Stability of Hungary.

[102] In accordance with Article 36 of the Hungarian Fundamental Law.

[103] Section 96 of the Resolution 10/2014. (II. 24.) OGY on certain provisions of the Rules of Procedure, Section 25 and Section 25/A of the Act CXCIV of 2011 on the Economic Stability of Hungary.

[104] Árpád Kovács, 'The Fiscal Council in the Hungarian Fundamental Law: Sketch on the Development of the Institution and the European Union Practice', *Public Finance Quarterly*, 2016/3, pp. 312-330.

2.4.5. Ireland

The Irish Parliament *(Oireachtas)* has developed some impact assessment activities in recent years to improve the evidence base of the decision-making process. This impact assessment work is however not a stand-alone activity; instead, it is an integral part of the policy briefings the research service of the *Oireachtas* prepares on (selected) legislative proposals. On the one hand, the research service examines government bills introduced into Parliament, and subsequently draws up policy briefings in support of the deliberations in committee. These policy briefings include an appraisal of the ex-ante impact assessment prepared by the government.

On the other hand, the research service also prepares policy analysis in relation to private Members' bills. It may intervene either at a very early stage, upon an initial proposal, to inform the drafting of the bill, or later in the process, when the Member's private bill has already been accepted in Parliament.

In the wake of parliamentary reform, the Irish Parliament has seen a sharp rise in the number of bills submitted by Members since 2011, amounting to an annual average of almost one hundred bills that have passed the second reading stage today (compared to ca. 30 before the reform). According to Parliament's rules of procedure ('Standing Orders'), these bills need to undergo detailed scrutiny 'from a policy, legal and financial perspective'.[105]

The steep increase of private Members' bills entailed a need for a more systematic approach to scrutiny. To this end, the research service and committees jointly developed a strategic framework for pre-legislative scrutiny of parliamentary draft bills. The policy analysis conducted within the scrutiny framework looks into a number of elements, in particular economic, social, environmental and legal implications; alternative solutions; and unintended consequences. In addition, it should contain an assessment of enforcement or compliance costs.

These briefing notes are now routinely prepared, although they do not seem to cover all proposals and their focus remains on policy analysis rather than impact assessment. According to the figures provided by the Irish parliamentary research service, it has drawn up 40 policy analysis papers for tabled private Members' bills since 2017, and roughly the same amount of early-stage pre-legislative scrutiny papers.[106] These figures suggest that the assessment of private Members' bills is gaining traction in the Irish Parliament, although the analysis of government proposals still prevails.

With regard to cost assessments, committees receive also analytical support from the Parliamentary Budget Office – an independent expert service set up in 2017 – following an OECD recommendation. Within its mission to provide committees with fiscal and economic analysis and advice, one of its main tasks is to advise the Houses of the *Oireachtas* on the 'financial implications of proposals affecting the public finances'.[107] In general, the Budget Office conducts ex-ante scrutiny of all budgetary matters.[108]

The *Oireachtas'* impact assessment work is not submitted to the government. However, as under the Irish Constitution all Members of Government are also Members of Parliament, all ministers receive the briefing notes automatically.

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[105] *Dáil Éireann*, Standing Orders relative to public business, Order 178. The methods of the detailed scrutiny have been specified through a recent amendment (in 2020).

[106] Analyses of the former category are published, as opposed to analyses of the latter category.

[107] Houses of the Oireachtas (Ireland), Parliamentary Budget Office, The role and functions of Ireland's Parliamentary Budget Office, 2019.

[108] Parliamentary Budget Office (Ireland), Initial Objectives & Services, 2017.

2.4.6. Poland

In the Polish Parliament, both chambers have set up impact assessment capacities. The Bureau of Research (*Biuro Analiz Sejmowych)* is the research arm within the chancellery of the Polish *Sejm*. Its main task is to provide research and scientific advice to the legislative process, in particular in support of the Legislative Committee and all other parliamentary committees. In this capacity, it is inter alia in charge of the *Sejm*'s ex-ante impact assessment work, a responsibility that is directly correlated with Parliament's role as legislator (rather than scrutiniser).

Judging from the service's considerable output and its broad spectrum of impact assessment work, the Polish *Sejm* appears to have the most comprehensive parliamentary ex-ante impact assessment capacity in place of all EU national parliaments. The Bureau of Research systematically prepares impact assessments for legislative initiatives tabled by the *Sejm*, and these seem to be quite numerous.[109] In addition, this service conducts impact assessments for selected draft bills prepared by the executive branch, in complement to the government's impact assessments. Mid-term, according to the survey response, the *Sejm* aims to cover the entirety of draft bills with its own impact assessments at the beginning of the legislative procedure, regardless of whether they are government or *Sejm* initiatives.

Furthermore, with regard to EU legislation, the *Sejm* is one of just a few EU parliaments that indicated that it occasionally also scrutinises impact assessments prepared by the European Commission. It does so at an early stage in the process, when the government forms its position on EU proposals, and then again after adoption of the EU act, when it comes to transposing EU law into national legislation. Typically, the *Sejm* engages in scrutiny of EU impact assessments only in cases where the *Sejm* suspects proportionality or subsidiarity issues, or when it can be assumed that EU legislation will significantly alter domestic law.

The *Sejm*'s impact assessment team was set-up in 2015. Since its creation, output statistics have steadily risen, from 50 analyses in 2017 to 102 in the first half of 2019 alone. This trend reflects a high degree of institutionalisation. Also from a methodological point of view, the description of Parliament's ex-ante impact assessments appears rather comprehensive. Analysed impacts include legal, economic, social and political impacts as a standard and include a cost assessment. Depending on the nature of the topic, other impacts may also be considered, for instance international effects or consequences related to benefits or threats posed by new technologies.

The *Sejm*'s impact assessments are not formally transmitted to the executive, and no governmental follow-up is envisaged.

The Polish *Senat* introduced an ex-ante impact assessment function in 2016, to inform and substantiate draft bills tabled by the Senate. To this end, a dedicated expert capacity, the Regulatory Impact Assessment Team *(Zespół ds. Oceny Skutków Regulacji),* was set up within the Legislative Office as part of the Senate's administration (chancellery).

Impact assessments are routinely provided for legislative initiatives from within the Senate, in compliance with the Senate's rules of procedure. These require consideration of the 'anticipated social, economic, financial and legal consequences of the legislative action' as a mandatory element of a justification to a draft bill. In addition, at a request from the Senate committees, senators or the Senate's highest representatives (the Marshal and the Head of the Chancellery), the RIA team also conducts impact assessments on an ad hoc basis for legislative amendments proposed by the Senate.

[109] According to OECD data, in Poland 40 % of draft bills (for primary legislation) originate from within Parliament, albeit this figure does not distinguish between the *Sejm* and the Senate. See OECD, Better regulation practices across the European Union, 2019, pp. 34 and 183.

From a methodological point of view, according to the Senate's response to the EPRS survey, the Senate applies the same impact assessment guidelines as the Polish government, in order to make them entirely compatible – both, in form and substance – with impact assessments prepared by the government. This appears rather ambitious with regard to staffing and output levels: according to self-reported data, the RIA team conducted an annual average of 30 impact assessments in the past few years, with a staffing of just two full-time equivalents.

2.4.7. Sweden

Compared to the outstanding ex-post evaluation mechanism of the Swedish Parliament *(Riksdag)*, its engagement in ex-ante impact assessment activities appears more limited.

In the Swedish law-making process, impact assessment is a constitutional requirement and deemed a core competence of the government, which by the way initiates the entirety of draft legislation *de facto*.[110] However, constitutional law provides for review and preparation[111] of any legislative proposal by a parliamentary committee.[112] At committee stage, typically, an impact assessment is not examined in isolation, but rather as an integral part of the proposal. This scrutiny process may – in limited cases – entail hearings or written requests to the ministry responsible. If a proposal has major implications for public revenue and expenditure, the Finance Committee may also get involved, and its opinion would feed into the report drawn up by the specialised committee.

Additionally, the *Riksdag* conducts its own ex-ante impact assessment work. It does so through its research service, a non-partisan entity within the parliamentary administration, and mainly for individual Members and political groups from the opposition.

Of the research service's three policy sections (legal and political affairs; social and welfare issues; economics), the economic section in particular plays a key role in the context of impact assessment. It provides objective quantitative analysis on financial effects in the following three areas:

- macro-analysis relating to the socio-economic effects of various budget alternatives;
- analysis of public finances to examine the effects of changes to regulatory frameworks on public finances, for instance in the area of taxation;
- distribution analysis quantifying the consequences for individuals and households.

The service uses the same computational models as the government, to ensure comparability of results.

Conceptual similarities between the economic ex-ante impact assessment work of the Swedish and Finnish parliaments are apparent. And indeed, the Finnish economic analysis service was modelled upon the Swedish experience. Both were primarily conceived to strengthen the opposition by providing economic analysis that is not only impartial, but also comparable with government data.[113] While the Finnish service was set up more recently, the Swedish economic analysis service dates back to the late 1990s, its creation reportedly being triggered by ever more detailed requests from opposition parties relating to the financial impact of their (counter-)proposals.

[110] The Swedish Parliament also has the right of legislative initiative, although it rarely makes use of it. According to OECD figures, no acts of primary legislation were introduced by Parliament in 2014-2016. See OECD, Better regulation practices across the European Union, 2019, p. 183.

[111] The Swedish word is '*beredning*'; it is not intended as fully-fledged scrutiny, but rather as a quick review and preparation of the different proposals – i.e. the government's proposal and the amendment proposals put forward by opposition parties – before the vote in the Chamber.

[112] Instrument of Government, Ch. 4, Art. 5.

[113] Grönberg, et al., pp. 450-455.

2.5. Ex-ante impact assessment in third-country parliaments

As stated above, eleven Council of Europe countries that are not EU members participated in the EPRS survey: Albania, Canada, Iceland, Moldova, Montenegro, North Macedonia, Norway, San Marino, Switzerland, Turkey and the United Kingdom.

According to the survey information provided by the parliaments of these countries, none of them engages in impact assessment beyond common scrutiny at committee level. Some parliaments explicitly stated that in their respective jurisdiction, carrying out regulatory impact assessments is deemed a government responsibility. Only the Canadian Parliament takes an active role.

According to **Canada**'s response to the EPRS survey, there is no dedicated body in charge of ex-ante impact assessment in the Canadian Parliament. Pursuant to their respective mandates, parliamentary committees in both chambers – the House of Commons and the Senate – are however empowered to study and report on subject matters before and after the tabling and enactment of legislation before Parliament. Even if not explicitly mentioned in the survey response, the Office of the Parliamentary Budget Officer (OPBO) performs some ex-ante impact assessment work. Its mandate is enshrined in great detail in the Parliament of Canada Act (sections 79.01-79.501). Its function bears some similarities with the United States Congressional Budget Office: it is tasked with providing independent, non-partisan and authoritative economic and financial analysis to both chambers; to analyse the budget and estimates of the government; and, upon the request of Members or committees, to estimate the financial cost of any proposal that lies within Parliament's jurisdiction.[114] Similar to its United States counterpart, it enjoys wide-reaching rights to access government information and makes its work available to the public.[115] In 2017, the mandate of the OPBO was expanded for the pre-election period. This new mandate requires the OPBO to estimate the financial cost of specific election campaign proposals, upon a request from political parties.

In **Moldova**, impact assessment is mandatory for draft laws tabled by the government; such analysis is carried out by the State Chancellery. For all government initiatives introduced into Parliament, the impact assessment reports are an integral component of the compulsory annexes to draft bills. By contrast, there are no impact assessment requirements with regard to legislative initiatives from within the Parliament, i.e. proposed by Members.

Norway has a long experience with regulatory impact assessment. As early as 1985, it began to attach impact assessments to legislative proposals. The Parliament *(Stortinget)* has the right to send back a proposal if it deems the underpinning impact assessment to be unsatisfactory. This has reportedly occurred in a number of cases.[116]

In **Switzerland**, the Parliament reported that the Federal Assembly's evaluation mandate[117] is, in legal terms, meant to encompass both ex-ante and ex-post evaluation. In practice however, Parliament has not engaged in ex-ante evaluation other than in some rare cases when it has taken account of ex-ante impact assessments prepared by the government.

In **Turkey**, impact assessment is mandatory for all new legislation, but this requirement is reportedly not respected consistently. The Bertelsmann Stiftung voiced criticism regarding the quality and lack

[114] Canadian Parliament, 2018-19 Report on the Activities of the Office of the Parliamentary Budget Officer, 2019, p. 2.

[115] Ibid., p. 7.

[116] Bertelsmann Stiftung, p. 11.

[117] Article 170 of the Swiss Constitution and Article 27 of the Parliament Act.

of transparency of Turkey's impact assessments: 'Regulatory impact assessments are a formal exercise, but are neither sent to Parliament nor published.'[118]

The **United Kingdom** has a well-established framework for ex-ante impact assessment (RIA) for draft legislation, the origins of which go back to the 1980s.[119] In the UK law-making process, it is the responsibility of the Regulatory Policy Committee (RPC) – the UK's independent regulatory oversight body – to scrutinise a government impact assessment for quality, before a bill is introduced into Parliament. In addition to the RPC, the OECD also attributes the British Parliament with an oversight role in the UK better regulation framework, alongside with the National Audit Office.[120]

In Parliament, draft bills and other policy initiatives are examined either by select committees in the House of Commons or the House of Lords, or by a joint committee of both Houses. The scrutiny process also includes the impact assessment and the opinion of the RPC. Next to the 'policy' committees, both Houses have also set up dedicated committees to oversee regulatory reform and delegated regulation.[121] Within Parliament's administration, a specific Scrutiny Unit supports Commons committees in scrutinising draft bills, and in the analysis of impact assessments. This analytical work relating to impact assessment appears to be of smaller scale, however. One particular feature of the British system is noteworthy: the law-making guidelines require that the ministerial department that drafted the bill update the impact assessment 'during parliamentary passage to reflect any amendments made to the bill'.[122] It is, however, not clear how much this is followed in practice.

[118] Bertelsmann Stiftung, p. 24.

[119] OECD, Improving regulatory governance: Trends, practices and the way forward, 2017, pp. 172 ff.

[120] Ibid., p. 179.

[121] E.g. House of Commons: Regulatory Reform Committee; House of Lords: Delegated Powers and Regulatory Reform Committee; Secondary Legislation Scrutiny Committee; Joint Statutory Instruments Committee.

[122] UK Cabinet Office, Guide to making legislation, July 2017, paragraph 14.16.

3. Ex-post evaluation in surveyed parliaments

Key findings

Ex-post evaluation examines how policies and legislation are implemented and whether the initial policy objectives have been achieved. The evaluation process generates knowledge that helps policy-makers decide whether and in what way the policies/legislation should be revised. Ideally, the design of the amending initiative takes the evaluation findings into account and thus closes the policy cycle.

Policy learning is an important function of evaluations in general – this applies equally for the executive and the legislative branch. If a parliament takes evaluation findings further and initiates (or aims to trigger) a policy revision, the parliamentary evaluation relates to parliaments' legislative function (see Griglio, p. 118, and Bättig/Schwab, pp. 3 ff.)

Another important motivation for parliaments to engage in ex-post evaluation is to hold the executive accountable for the implementation of policies and legislation. In this respect, parliamentary ex-post evaluation falls in the remit of the oversight that parliaments exercise over the executive. Accountability is at least as important for parliaments as policy learning.

The spectrum of activities parliaments undertake in evaluation work encompasses active and passive types of scrutiny. They range from in-depth scrutiny of government evaluations to the undertaking of parliaments' own evaluation reports (or studies). Overall, parliaments are 'not big producers of evaluations' (Jacob/Speer/Furubo, p. 19).

Of the 38 surveyed parliaments, 17 (12 EU-27 parliaments and 5 third-country parliaments) engage in ex-post evaluation beyond classical parliamentary scrutiny, albeit in different ways and to greatly varying extent.

Of these 17 parliaments, 12 actively conduct their own ex-post evaluations or reviews:

- 8 EU-27 parliaments: Belgium, Bulgaria, France, Italy, Latvia, Netherlands, Poland and Sweden;
- and 4 third-country parliaments: Canada, Moldova, Switzerland and the UK; in the three latter cases government follow-up is mandatory.

In some of these twelve parliaments, evaluations have generated a certain degree of institutionalisation, while others perform them sparingly and ad hoc. A few have set up dedicated evaluation capacities (within the administration or at the political level), whereas others rely on parliamentary research services, entrust evaluation activities to standing committees or control committees, or use a combination of political bodies and administrative services.

In addition, the parliaments of Austria, Portugal and Spain have mechanisms in place to carry out evaluation analysis relating mainly to budgetary and economic matters, while Ireland has developed a framework for in-depth post-enactment scrutiny. Finally, the Albanian and Montenegrin parliaments have paved the way for evaluations through amendments to their rules of procedure.

A total of **15 parliaments across the EU-27 and 6 of the surveyed third-country parliaments indicated that they do not engage in any specific ex-post evaluation** work beyond classical parliamentary scrutiny in the framework of exercising parliamentary control over the executive.

3.1. Level of engagement in parliamentary ex-post evaluation

Table 3 – EU-27 parliaments and the European Parliament: level of engagement in ex-post evaluation

COUNTRY	no evaluation beyond classical committee scrutiny	smaller-scale evaluation work (e.g. in-depth scrutiny)	parliaments' own evaluation work
Austria		■	
Belgium			■
Bulgaria			■
Croatia	■		
Cyprus	■		
Czechia	■		
Denmark	■		
Estonia	■		
Finland	■		
France			■
Germany	■		
Greece	■		
Hungary	■		
Ireland		■	
Italy			■
Latvia			■
Lithuania	■		
Luxemburg	■		
Malta	■		
Netherlands			■
Poland			■
Portugal		■	
Romania	■		
Slovakia	■		
Slovenia	■		
Spain		■	
Sweden			■
European Parliament			■

Table 4 – Third-country parliaments: level of engagement in ex-post evaluation

COUNTRY	no evaluation beyond classical committee scrutiny	smaller-scale evaluation work (e.g. in-depth scrutiny)	parliaments' own evaluation work
Albania			
Canada			
Iceland			
Moldova			
Montenegro			
North Macedonia			
Norway			
San Marino			
Switzerland			
Turkey			
United Kingdom			

3.2. EU parliaments not engaging in specific evaluation work

The survey revealed that in 15 national parliaments across the EU (i.e. more than half of them), post-legislative scrutiny does not go beyond classical parliamentary scrutiny tools at the level of committees, such as debates, public hearings with government representatives or experts, the examination of petitions, the request of reports and data from ministries; and by parliaments as a whole, e.g. through mechanisms of parliamentary questions or interpellations and plenary debates. Some respondents stated explicitly that in their national context, ex-post evaluation is a government task, and although parliament exercises scrutiny in the framework of parliamentary control, no specific procedures or bodies would be established.

This appears to be the case in the following parliaments:

- Croatia
- Cyprus
- Czechia
- Denmark
- Estonia
- Finland
- Germany
- Greece
- Hungary
- Lithuania
- Luxemburg
- Malta
- Romania
- Slovakia
- Slovenia

For some of these parliaments, further details were provided in response to the survey. An additional literature search was made where appropriate.

The **Czech** Parliament responded that it has no procedures in place to scrutinise government evaluations. Ex-post evaluations lie within the competence of the executive branch, however, as a general rule, they are not made public. This process is currently under review: an interdepartmental working group, set up in 2019, is drafting new formal guidelines that would enhance the transparency of the entire evaluation process and, in particular, make the findings of evaluations public.[123]

The **Danish** Parliament *(Folketinget)* reported it does not avail of any in-house capacities for evaluation. However, in its response to the 2015 EPRS survey, it indicated that Members of Parliament are entitled to ask the executive to initiate an ex-post impact assessment. It remains unclear however whether such request entails mandatory government action.

The **Finnish** Parliament *(Eduskunta)* has no procedures in place to systematically scrutinise evaluations put forward by the government. Notwithstanding, committees have in general far-reaching rights to obtain information from the executive branch and may apply these rights also with regard to evaluations.

In the **German** Parliament, evaluation is not organised as an institutionalised parliamentary process. Consequently, there is no dedicated body in charge of ex-post evaluation. The *Bundestag* can, however, request evaluations from the government. It can do so either ad hoc, by motion, in which case the government is however not legally bound to respond, or by embedding evaluation and other review clauses in legislative acts. Moreover, as the *Bundesrat* argued in its response to the 2015 EPRS survey, the *Länder* are often at the forefront of identifying issues relating to the implementation of legislation. They can, in addition to the federal government, also carry out evaluations. Furthermore, the *Länder* can, via the *Bundesrat*, adopt resolutions to call on the federal government to take legislative action for remedying issues or propose draft bills on their own, which are then submitted to the *Bundestag*. Academic research confirms that ex-post evaluation of legislation plays no significant role in the German Parliament.[124] Some scholars argue that the *Bundestag* should set up resources that advise on the effects and impacts of laws enacted by the *Bundestag*. For that purpose, it was suggested to expand the *Bundestag* Research Service or to establish a dedicated evaluation office similar to the Office of Technology Assessment *(Büro für Technikfolgenabschätzung beim Deutschen Bundestag)*.[125]

The **Greek** Parliament *(Βουλή των Ελλήνων)* does not avail of a dedicated service or procedure to carry out ex-post evaluation of existing legislation or policies. Ex-post control and evaluation procedures, as provided for in Parliament's standing orders, are generally effectuated by the committees (standing and special committees). In addition, Parliament's scientific service includes some evaluative elements into the reports it drafts on bills. However, in its reply to the 2015 EPRS survey, it mentioned the specific role of the Parliamentary Budget Office. This body is responsible for monitoring the implementation of the state budget and prepares, among other things, compliance reports for parliamentary committees.

In the **Hungarian** Parliament, post-legislative scrutiny does not transcend the level of traditional parliamentary post-legislative scrutiny instruments, with the exception of budgetary matters. One of the tasks attributed to Parliament's Fiscal Council, an independent body whose role is primarily linked to ex-ante assessment of the budget, is to regularly monitor the execution of the budget.

[123] See website RIA in Czechia, https://ria.vlada.cz/ria-in-czechia/ .

[124] See Morlok, *Parlamentsrecht*, p. 1639. Most recently also: Adam Baïz and Pierre-Henri Bono, L'évaluation des politiques publiques en Allemagne, France Stratégie, December 2019, p. 3.

[125] For a summary of the discussion see Morlok, *Parlamentsrecht*, pp. 1639-1640.

3.3. EU parliaments engaging in smaller-scale evaluation work

Again, there is some variety in parliaments' evaluation activities, for instance:

- The parliaments of Austria, Portugal and Spain perform passive evaluation work limited mainly to budgetary matters;
- while in the Irish Parliament, a recent reform provides for parliamentary scrutiny of the post-enactment reviews conducted by the government.

3.3.1. Austria

In Austria, it is the responsibility of the federal government to conduct ex-post evaluations, typically within five years following enactment of a bill. For the (rare) cases where a fully-fledged impact assessment was required in the law-making phase, the ex-post review is rather demanding, comprising inter alia a comparison of the predicted impacts – as assumed in the preparatory stage in the impact assessment – with the actual impacts.[126]

In general, evaluations drawn up by the government are subject to a quality assessment by Austria's regulatory oversight body, the Federal Performance Management Office (*Ressortübergreifende Wirkungscontrollingstelle des Bundes;* (PMO)). The PMO consolidates the line ministries' evaluation results in one annual report.

This report is transmitted to the National Council *(Nationalrat)*, where it figures on the agenda of the budget committee and its permanent subcommittee. Even if both examine it, procedural differences apply: in the subcommittee, a smaller number of Members of Parliament discuss the results for each line ministry in more depth, their questions being answered directly by civil servants from the line ministry, while the minister only attends budget committee meetings in person.

Assisting the budget committees in this scrutiny process is part of the mandate of the Parliamentary Budget Office *(Budgetdienst)*. The latter analyses the PMO report and prepares a comprehensive analysis for the Budget Committee. In addition, the Budget Office also prepares analysis of selected line ministries evaluations of impact assessments for the subcommittee meetings. These reports are for parliamentary use and published on the website of the Parliament. The government is not required to give a formal follow-up.

3.3.2. Ireland

The Irish Parliament *(Houses of the Oireachtas)* does not engage in ex-post evaluation in the sense of impact evaluation. It has instead developed a framework for post-enactment scrutiny in recent years.

This move was influenced by a wider political reform agenda, which inter alia instigated a formalised process of post-enactment scrutiny for all legislation passed by Parliament. Under Parliament's rules of procedure, the government is required to present a review report on the functioning of an act to Parliament, twelve months after a bill's enactment.[127] The sectoral committees of the Irish *Oireachtas* then scrutinise these governmental post-enactment reviews, and may subsequently require a minister (or a minister of state) to appear before the committee.

This scrutiny process was first introduced into Parliament's rules of procedure in 2013 and was reaffirmed in 2016 and 2020.[128] The Irish parliamentary Library and Research Service is meant to support committees' post-enactment scrutiny process with policy analysis, and has even set out a

[126] OECD, Better regulation practices across the European Union, 2019, p. 126.

[127] *Dáil Éireann* (Ireland), Standing Orders relative to public business, Order 197.

[128] *Dáil* Standing Order 164A and *Seanad* Standing Order 168 (2016).

methodology for this. However, for the time being, the endeavour has been placed on hold, mainly owing to a lack of capacity. Even at committee level, post-enactment scrutiny is in practice 'not yet conducted on a regular basis'.[129]

In the context of ex-post scrutiny, the recently established Parliamentary Budget Office also deserves a mention, as it undertakes retrospective expenditure analyses (even if its main focus lies with ex-ante scrutiny of budgetary issues). Tasked with strengthening both Parliament's legislative and scrutiny function on budgetary matters, it provides advice on budgetary issues, including the management of public finances.[130]

Prior to the aforementioned reform agenda, the *Oireachtas*' role in post-legislative scrutiny was largely limited to sunset legislation. The fact that some – actually very few – Irish legal acts have an embedded sunset clause requires Parliament to explicitly re-authorise the legislation in question, failing this, the act would expire on a particular date. It is not clear from the literature how much scrutiny efforts this parliamentary reaffirmation process entails in practice.

3.3.3. Portugal

In its response to the 2015 survey, the Portuguese Parliament *(Assembleia da República)* elucidated some reform ambitions in the context of Better Law-Making. For this purpose, a high-level working group was set up, chaired by the Speaker of the House and constituted by one member of each parliamentary group. It looked into various issues, including into ways 'to implement ex-post impact assessment'. The fact that this endeavour was no longer mentioned in the response to the 2019 survey suggests that there was no follow-up.

However, the Parliament's Technical Budget Support Unit *(Unidade Técnica de Apoio Orçameneta)* engages in ex-post budgetary scrutiny on a regular basis. This administrative unit provides technical support to the Committee on Budget, Finance and Public Administration. In this capacity, it prepares inter alia technical analyses pertaining to the monitoring of budget execution and revisions of the stability and growth programme.

3.3.4. Spain

In Spain, the performance of ex-post evaluation of existing legislation and policies is a government function. An annual normative evaluation report[131] identifies the pieces of legislation that are subject to ex-post evaluation, taking into account criteria such as costs or savings for the General State Administration, the impact of the economy as a whole or specific sectors.

The Spanish Parliament *(Cortes Generales)* plays a minor role in evaluation. However, two administrative entities may, amongst other things, also perform work related to ex-post evaluation. These are the (bicameral) Budget Office and the Department on Public Finances and Economic Research within the *Congreso de los Diputados*' research service. The former provides general support to Parliament's budgetary control function and may in this capacity also deal with the follow-up of legislative activity, at least within its purview. The latter provides any type of parliamentary research work, including on issues related to the implementation of legislation. The aforementioned ex-post evaluation work is conducted for internal Parliament purposes, and its access is therefore restricted through an intranet-only policy.

[129] *Oireachtas* Library and Research Service (Ireland), Post-enactment scrutiny (PeS) by Parliament, 2017, p. 15.

[130] Houses of the *Oireachtas* (Ireland), Parliamentary Budget Office, The role and functions of Ireland's Parliamentary Budget Office, 2019.

[131] In accordance with Royal Decree 286/2017.

3.4. EU parliaments conducting own ex-post evaluations

The scope and depth of parliamentary involvement varies.

- The parliaments of Belgium, France, Italy, the Netherlands, Poland and Sweden have developed structures and processes for substantial involvement in policy evaluation, even though evaluation work has been stalled in the Belgian Parliament in recent years;
- the research services of the Bulgarian and Latvian parliaments carry out ad hoc evaluations upon request, albeit in low numbers.

3.4.1. Belgium

In the Belgian Federal Parliament, a joint political body is in charge of post-legislative scrutiny: the *Comité parlementaire chargé du suivi législatif / Parlementair Comité belast met de wetsevaluatie*. It is comprised of Members of both chambers, the House of Representatives and the Senate (11 members each). This body was set up by federal law in 2007,[132] and is mandated to carry out Parliament's own ex-post evaluations of federal legislation.

Requests for scrutiny can be introduced by Members of Parliament and, in addition, by any public authority in charge of implementing or enforcing law, as well as citizens (natural and legal persons) suggesting deficiencies in the implementation of laws. The joint committee examines alleged implementation deficiencies or inadequacies of laws, provided that the law has been in force since a minimum of three years.

The joint committee does not have the power to directly modify existing legislation, but it can propose a review or revision in its reports. The committee's reports are submitted to both parliamentary chambers and to the corresponding minister.

Since 2014, the joint committee has been dormant altogether, as a direct result of the Belgian federal reform of the same year, which curtailed the powers and status of the Senate. This entailed debates about the respective roles of the chambers in the Belgian Parliament. Legislative initiatives in the lower house aimed at a reform, proposing to replace the joint (bicameral) committee with a unicameral body in the House of Representatives.[133] However, due to the 2019 elections, the reform of the evaluation committee remains incomplete.

After the 2019 elections, a new legislative initiative with the same goal was tabled in the Senate. At the time of writing this study, it is not yet clear in what format the evaluation committee of the Belgian Parliament will be revived, if at all. Nonetheless, despite the unclear status of the *Comité du suivi législatif* in the Federal Parliament, Belgium's regional parliaments have recently begun adopting post-legislative scrutiny mechanisms.[134]

3.4.2. Bulgaria

Following the 2016 reform of the Bulgarian law-making framework (the Law on Normative Acts), which tightened the rules for regulatory governance, the National Assembly *(Народно събрание)* amended and supplemented its Rules of Organisation and Procedure. With regard to ex-post evaluation, a new provision was inserted, setting out that the standing committees may assign to the National Centre for Parliamentary Research *(Национален център за парламентарни*

[132] *Loi instaurant un Comité parlementaire chargé du suivi législatif*. Federal Law of 25 April 2007.

[133] Camille Courtois, 'Le Comité parlementaire chargé du suivi législatif', *Courrier hebdomadaire du CRISP*, 2018/10, no 2375, in particular pp. 36-40.

[134] Jonathan Murphy and Svetlana Mishura, 'Post-Legislative Scrutiny in a Non-Westminster Parliament', *European journal of law reform*, vol. 21(2), 2019, p. 113.

изследвания) 'the performance of ex-post impact assessment of the laws aimed to establish their effectiveness and the degree of achievement of the objectives'.[135]

This research service either drafts requested studies in-house or externalises them to experts. According to information obtained directly from the research service, it has to date received only one evaluation assignment from a committee. The request was brought forward by the Committee on the fight against corruption, conflict of interest and parliamentary ethics, and related to the implementation of the Bulgarian Anti-corruption and Forfeiture of Assets Act, which had entered into force in January 2018. The ensuing evaluation study was published in 2019.

Compared to the qualitatively unambitious ex-ante impact assessments, which are drawn up in the Bulgarian Parliament in high numbers to substantiate legislative initiatives by Members of Parliament, this sole ex-post study meets high quality standards. It was drafted largely in-house, based on desk research on the one hand and a qualitative survey on the other; involving five staff from the parliamentary research service and one researcher from the University of Sofia. From a methodological point of view the researchers broadly followed the European Commission's Better Regulation guidelines and toolbox.

The study recognised that the ex-post assessment was conducted too soon after entry into force of the legislation, which limited the overall potential and outcome of the scrutiny process. Part of the study's scope was to provide recommendations as to whether the legal act would need to be revised. In this context, the study was very critical with regard to the quality of the original ex-ante impact assessment, which had been drawn up by the executive branch.[136]

It remains to be seen whether this sampled evaluation study remains an exception in the Bulgarian Parliament or whether future committee demand will turn ex-post evaluation into a routine activity.

3.4.3. France

The French Parliament has a long tradition of monitoring and overseeing government action. It is one of most active parliaments in ex-post policy evaluation across Europe; one where policy evaluation has reached a high degree of institutionalisation. This holds true for the *Assemblée nationale* and equally for the *Sénat,* both of which have, since the 1990s, adopted separate ex-post evaluation mechanisms. However, despite the systematic and extensive evaluation activities in both chambers, reform discussions are underway in the *Assemblée nationale*. These solely address coordination issues and do not question Parliament's evaluation function as such (see below).

From a historical perspective, evaluation in the French Parliament was considerably scaled up through the constitutional reform of 2008. A new provision in the Constitution – article 24 – conferred upon Parliament the power to evaluate public policy: 'Parliament shall pass statutes. It shall monitor the action of the Government. It shall assess public policies'. A further constitutional amendment introduced the instrument of dedicated sitting weeks to both chambers, which explicitly prioritise the monitoring of government action and the assessment of public policies.[137]

In the *Assemblée nationale*, the evaluation provision of the Constitution's article 24 was implemented through the establishment of the Commission for the Assessment and Monitoring of Public Policies (*Comité d'évaluation et de contrôle politiques publiques, (CEC)*).[138] This is a political

[135] Article 28(2).

[136] The study particularly criticised that Better Regulation standards were not respected, for instance the impact assessment was lacking a clear problem definition; it was also lacking indicators that would allow measurement of the effect of the intervention; and furthermore, instead of informing the draft law, it had reportedly only been prepared once the draft law was ready for submission to Parliament.

[137] Article 48-4 of the French Constitution.

[138] The mandate of the CEC is detailed in articles 146-2 to 146-7 of the Rules of procedure of the *Assemblée nationale*.

body, composed of 37 Members from across the political spectrum, including the President of the *Assemblée nationale* as chairperson. The CEC ensures the evaluation of public policies through evaluation reports – on average six per year – upon the request of standing committees and sometimes also proactively. The CEC may commission its evaluation reports from external bodies, such as the French Court of Audit and *France Stratégie*, a government think tank. Typically, evaluation findings are presented in plenary during a dedicated policy assessment week. CEC reports are debated, but no vote is envisaged.

Besides the CEC, the National Assembly's standing committees are at the heart of ex-post evaluation and monitoring. Committees can organise hearings and fact-finding missions on any public policy, and they actively monitor the implementation of laws. In particular, six month after the entry into force of a basic act requiring the adoption of delegated acts (i.e. regulations), committees perform a regulatory compliance check by means of an 'implementation report'. This bipartisan report, drawn up by two Members, examines the secondary legislation (in particular regulations and decrees) adopted to implement the basic act, and it notes the provisions that have yet to be implemented.

Furthermore, the chamber's internal rules stipulate that every adopted act is evaluated three years following its entry into force, a responsibility ensured by the standing committees.

The wide array of monitoring and evaluation mechanisms in place described above[139] should not distract from the fact that for a long time the *Assemblée nationale*'s ex-post evaluation was centred around budgetary matters. In 1999, the Assessment and Monitoring Mission (*Mission d'évaluation et du contrôle, (MEC)*) was set up within the chamber's Finance Committee, with its mandate linked to the execution of the budget. The MEC has been renewed every year since then, becoming a permanent structure. It closely associates the French Court of Audit in its work. A similar monitoring mission dedicated to social security financing, exists in the Social Affairs Committee (MECSS). Furthermore, to boost an evaluation culture in the *Assemblée nationale*, 2018 saw the launch of the henceforth annual *Printemps de l'évaluation,* a discussion forum under the aegis of the Finance Committee, related to policy evaluation in the budgetary field.

As outlined above, a plethora of ex-post monitoring and evaluation mechanisms in place in the *Assemblée nationale* devote their attention to retrospective policy analysis. Recent reflections emerged regarding reforming the current evaluation set-up in the French *Assemblée nationale*. To this end, a dedicated working group proposed the establishment of an independent evaluation agency directly attached to Parliament.[140] The rapporteurs argue that such agency would benefit the professionalisation and overall quality of evaluations. This agency should have wide-reaching rights of access to government information (including macro-economic modelling) and should also involve stakeholders through consultation mechanisms. This agency would carry out ex-post evaluations on the basis of an annual evaluation programme, endorsed at a high political level. Resource-wise, the proposal saw the agency equipped with a staff of some 30 evaluation experts and a budget line allowing outsourcing of parts of the work to external experts.[141] However, according to most recent information obtained from the *Assemblée Nationale*, the agency plans were dropped, mainly for budgetary reasons.[142]

[139] For a comprehensive description of their rationale and functions see: *Assemblée nationale*, The National Assembly in the French institutions, 2013, in particular fiches 48-54, pp. 325-367.

[140] *Assemblée nationale*, *Rapport d'information sur l'évaluation des dispositifs d'évaluation des politiques publiques*, 2018. (Rapporteurs: Pierre Morel à l'Huissier and Valérie Petit).

[141] Rozenn Desplatz and Clément Lacouette-Fougère, *L'évaluation des politiques publiques en France*, *France Stratégie*, 2019, p. 28.

[142] Email exchange of 4 May 2020.

Also in the French *Sénat*, it is regular practice to conduct ex-post evaluation, in accordance with the French Parliament's constitutional mandate of assessing public policies. As set out in the Senate's rules of procedure,[143] evaluation is entirely decentralised, primarily to the standing committees. The most active Senate committee in this field is the Finance Committee, which may resort to the National Court of Audit for assistance. The evaluation reports are comprehensive, assessing effectiveness, efficiency, costs and benefits and the correct implementation of domestic law.[144] Typically, ex-post evaluation reports by the Senate take a broader approach: they are not dedicated to a single piece of legislation but rather on a public policy encompassing a set of laws and regulations. Committees may also undertake fact-finding missions *(missions d'information)*.

The Senate committees also maintain a specific law enforcement function. In this capacity, they monitor the correct implementation of law. Additionally, a horizontal annual report on law implementation is issued by the Senate Bureau. Most recently, in May 2019, the Senate's rules of procedure were amended to formally grant the rapporteur of a bill the capacity to monitor the implementation of the final act.

With regard to EU legislation, the correct transposition of EU law is not the main concern of the Senate. Instead, Senate committees rather focus on gold-plating (i.e. transposed legislation exceeding the requirements set by EU law) and the burden this poses on business.[145]

Between 2011 and 2014 the French Senate experimented with a special committee for monitoring the implementations of laws *(commission pour le contrôle de l'application des lois)*. It conducted bipartisan reports on selected pieces of legislation.

Besides the standing committees, delegations and fact-finding missions also carry out ex-post evaluation work. Senate delegations are permanent information and control bodies composed of individual senators and specialising in cross-cutting issues. At present, there are five such delegations in place: business, local bodies, women's rights and gender equality, overseas, and foresight.

3.4.4. Italy

The Italian Parliament is a bicameral legislature. Both chambers – the Chamber of Deputies *(Camera dei Deputati)* and the Senate *(Senato)* – enjoy the same legislative powers,[146] but are entirely independent of each other in terms of organisational structure and administration.

In 2016, a constitutional reform bill, proposed by the government and highly controversial, was passed in both Houses, aiming amongst other things at redefining the *Senato*'s competences. In particular, it sought to curtail the Senate's legislative powers, to transform it into a territorial chamber and to endow the Upper Chamber with a mandate to evaluate public policies instead.[147] In a spirit of anticipatory compliance with this new function, in January 2015, the Senate began to build up administrative capacities for evaluation and impact assessment. These efforts continued even when the popular referendum of December 2016 rejected the reform plans, thus leaving the

[143] *Sénat, Règlement du Sénat et instruction du Bureau, chapter VIII : Rôle d'évaluation et de contrôle des commissions*, last updated January 2020.

[144] Elena Griglio, 'Post-legislative scrutiny as a form of executive oversight: Tools and practices in Europe', *European Journal of law reform*, vol. 21(2), 2019, pp. 118-136.

[145] *Sénat français, La surtransposition du droit européen en droit français* : un frein pour la compétitivité des entreprises, rapport d'information), 2018. (Rapporteur: René Danesi).

[146] In literature, this is referred to as 'perfect bicameralism', see e.g. Anna Gamper, 'Legislative functions of second chambers in federal systems', *Perspectives on Federalism*, vol. 10(2), 2018, pp. 117-134.

[147] Bernardo Giorgio Mattarella, The ongoing constitutional and administrative reforms in Italy, September 2016; Brunetta Baldi, 'Second Chamber reform in Italy: Federalism left behind', *South European Society and Politics*, vol. 23(3), 2018, p. 395.

Senate's powers untouched. Noteworthy, the Senate's approach to public policy analysis and evaluation is broad range: it does not strictly distinguish between ex-ante and ex-post evaluation.

A dedicated department, the Impact Assessment Office (IAO; *Ufficio Valutazione Impatto*) was set up within the Senate's administration. It is headed by a high-ranking official (either the Secretary-General or a Deputy Secretary-General). A link to the political level is ensured through the IAO's Steering Council, chaired by the President of the Senate. The IAO was meant to complement the work of the pre-existing Service for the Quality of Regulations *(Servizio per la qualità degli atti normativi)*, whose ex-post activities[148] are largely limited to legalistic scrutiny of the enactment of legislation[149] and the monitoring of the executive branch's reporting duties.

Compared with the Service for the Quality of Regulations, the IAO is tasked with assessing existing policies and legislation in substance, in the sense of proper impact evaluation. To this end, the Italian Senate appears to have undertaken major efforts to build evaluation capacities and to promote an evaluation culture. In a first step, it invested in targeted training for staff in the field of public policy analysis and assessment.[150] In a second step, it developed a post-graduate Master's programme in public policy analysis and evaluation in cooperation with the renowned Ca' Foscari University of Venice, which generates some 25 evaluation experts per year.[151]

Impartial by definition, the IAO conducts applied studies which analyse and assess the performance of public policies, mainly in terms of effectiveness and efficiency. This includes the assessment of risks, costs, benefits and efficacy. Judging from the range of studies published on the IAO website since June 2017, the IAO takes a broad approach to evaluation, examining the implementation of policies or salient policy issues, rather than isolated legislative acts. Studies are either authored in-house or commissioned from external researchers from amongst a network of experts.

The IAO's evaluation studies appear methodologically and academically sound. Notwithstanding, evaluation activities seem to be dwindling recently. While the IAO used to produce an annual average of nearly 20 evaluations, none were drawn up in 2019. This might portend a shift of priorities within the Senate.

One issue addressed in research is the weak link between Senate evaluations and the political decision-making process. The House's Rules of Procedure do not provide for any specific procedural follow-up, but leave it instead up to Members to pick up on evaluation outcomes.[152] Generally, it seems, evaluations do not enter the political discussions in the Parliament nor do they trigger legislative activity.

In the case of the Italian Chamber of Deputies *(Camera dei Deputati)*, the EPRS survey response indicated a lack of ex-post evaluation bodies. Nonetheless, the Service for Parliamentary Oversight *(Servizio per il Controllo parlamentare)* does perform post-legislative scrutiny in a narrow sense. According to House-internal rules, the technical verification of the implementation of legislation, based on data provided by the government, and the verification of the government's compliance with legal obligations towards Parliament, are part of this service's portfolio.[153] The findings feed into an annual report on parliamentary oversight, which however does not necessarily entail any

[148] To be noted, the Service for the Quality of Regulations covers the entire policy cycle. Its remit in the area of ex-ante impact assessment is touched upon in chapter 2.3.4.

[149] This comprises, for instance, monitoring of the adoption of implementing acts, if provided for in primary legislation.

[150] *Senato della Repubblica* (Italy), *Ufficio Valutazione Impatto*, 2017-2018. One year of assessments at the Italian Senate, p. 1.

[151] Ibid., p. 3. This Master's programme is currently in its third cycle and it is not clear whether it will be continued after 2020. At the time of writing, no action has been taken to continue, according to information obtained from the Senate (telephone conversation, 7 February 2020).

[152] Griglio, p. 128.

[153] *Camera dei Deputati, Regolamento dei Servizi e del Personale*, Art. 25. See also Griglio, p. 127.

follow-up in the political debate.[154] Overall, the ex-post capacity in the Chamber of Deputies is much more limited than that in the Senate.

3.4.5. Latvia

According to Latvia's survey response, there is no dedicated ex-post evaluation entity in place in the *Saeima*, however, its Analytical Service also conducts evaluations. This impartial parliamentary research service supports the *Saeima* in fulfilling its legislative and oversight functions and reports directly to the Presidium of the *Saeima*.

The procedure is the same as described in the chapter on Latvia's ex-ante impact assessment: the Analytical Service accepts research requests from committees and political groups, although it is up to the Presidium to prioritise and approve requests for evaluation studies. The service drafts evaluation studies in-house, mostly upon committee request, albeit in very small numbers. According to survey data, it conducted one evaluation in the first half of 2019, and none in the previous year. For 2020, one ex-post study is planned, following a proposal by a standing committee.

Once completed, the research work is usually presented to the standing committees and political groups. If deemed appropriate and necessary, the groups may decide on further action to be taken. Even if *Saeima* evaluations are typically not transmitted to the executive, government representatives usually participate in committee meetings and may comment on the spot upon evaluation findings.

3.4.1. Netherlands

In the Dutch executive branch, policy evaluation has reached a high degree of institutionalisation. The Netherlands is one of a few EU Member States where ex-post evaluation of all primary laws (i.e. acts passed by Parliament as opposed to delegated legislation) is mandatory.[155] As a rule, evaluations drawn up by the executive branch are submitted to Parliament's standing committees, where they are scrutinised. The Members look particularly into effectiveness, efficiency, cost and benefits of legislation. In this task, committees are supported by Parliament's in-house research service. The Dutch Parliament has long been active in examining government evaluations; already in the early 2000s, it was described as 'a crucial user of the results of evaluation'.[156]

The Dutch Parliament routinely requests the executive branch to conduct evaluations either ad hoc or via provisions in the legislation, in particular sunset and review clauses.[157] A recent parliamentary report recommends that Parliament pays even closer attention to the monitoring and evaluation clauses contained in new legislation, because an appropriate monitoring framework facilitates future assessment of how legislation is operating on the ground.[158]

Also, the Dutch Parliament itself has the possibility to examine implementation issues in-depth. To this end, it may conduct a parliamentary research or a parliamentary inquiry. The latter is constitutionally anchored,[159] takes the form of a temporary ad hoc committee and is equipped with

[154] Griglio, pp. 127-128.

[155] OECD, Better regulation practices across the European Union, 2019, p. 106. According to this report, in the EU, only Hungary and the United Kingdom have similarly large ex-post review requirements for laws enacted by parliament.

[156] Jan-Eric Furubo, et al. (eds.), *International Atlas of Evaluation*, Transaction Publishers, 2002, p. 107.

[157] Furubo, p. 107.

[158] Dutch Parliament, *Tweede Kamer*, Report Onderbouwing van beleid Het belang van artikel 3.1 van de Comptabiliteitswet 2016 om de regering te controleren, September 2019. (Rapporteurs: Joost Sneller and Bart Snels), p. 5 and 31.

[159] Dutch constitution, Article 71: 'Both chambers, both individually and in a united meeting, have the right of investigation (enquete), to be regulated by law.'

far-reaching powers. Its format appears similar to the instrument of inquiry committee known in most other European parliaments.

Notably, committees in the *Tweede Kamer* seem to have a manifest interest in ex-post evaluations. Committees and rapporteurs can task the independent Analysis and Research Department *(Dienst Analyse en Onderzoek)*[160] with any kind of research support, including matters of effectiveness and efficiency of public policies. Such research work is drafted either in-house or contracted out to third parties (e.g. advisory bodies, the Court of Auditors or research institutes). Analytical memoranda compiled by the research service are not made public, but feed into the committee report.[161] Parliamentary evaluations are not transmitted to the government as a matter of routine, however, Parliament has the option of requesting a formal follow-up from the executive.

3.4.2. Poland

Ex-post evaluation is also carried out in the Polish *Sejm*, however, seemingly to a much lesser extent and less systematically than ex-ante impact assessment. Evaluations are mainly reserved for cases where a law has sparked political controversy – this was for example the case in the law limiting Sunday opening for retailers; when a new law is gradually implemented; or when existing legislation is to be amended. As a matter of principle, the main bulk of ex-post evaluations are carried out in the executive branch.

Notwithstanding, two entities in the Polish *Sejm* take care of evaluations, among a wide range of other tasks. These are, at the political level, the Legislative Committee and, on the administrative side, the Bureau of Research – located within the Chancellery of the *Sejm*. The latter analyses the effects of adopted laws, in particular their legal, economic, social and political dimensions. This service draws up the *Sejm's* own evaluations in the form of studies, either in-house or based on commissioned external expertise. Self-reported data suggest that there were 18 such cases in 2017, 4 in 2018 and 2 in the first half of 2019. In addition, the *Sejm* also subjects government evaluations to in-depth scrutiny, but these cases are reportedly fairly rare.

The Bureau of Research undertakes evaluation work mostly upon request by parliamentary committees. Other triggers may include requests by the Chairman of the chamber or by the head of the Chancellery of the *Sejm*. Evaluations of the *Sejm* pay particular attention to the correct transposition of EU law into national legislation; and to the effectiveness, efficiency, and costs and benefits criteria. It also considers the effect of the law on stakeholders. The evaluation results are often discussed in committees. Some evaluations drawn up by the Bureau of Research are published on the website of the *Sejm*. Reportedly, evaluation analyses by the Bureau of Research are sometimes commented in the media, in particular when they relate to controversial laws. A formal follow-up to these evaluations by the government is not envisaged.

The Polish Senate does not currently engage in evaluation work. However, there are plans that the Regulatory Impact Assessment Team *(Zespół ds. Oceny Skutków Regulacji)* will in future also evaluate, years after its enactment, selected legislation that had been put forward by the Senate. In principle, such evaluation would take the Senate's ex-ante impact assessment as a starting point. With a view to the fact that the RIA team was only set up in 2016, and considering the length of the policy cycle, as of yet, no ex-post evaluation based on the ex-ante impact assessment of the same file has been conducted.

[160] The *Dienst Analyse en Onderzoek* recently replaced the previously existing *Bureau Onderzoek en Rijksuitgaven* (Parliamentary Bureau for Research and Public Expenditure) service, which had been in place since 2008.

[161] Karin Zaal, 'Policy analysis in the Dutch Parliament', in Frans Van Nispen and Peter Scholten (eds.), *Policy analysis in the Netherlands,* Bristol University Press, 2014, pp. 171-185.

3.4.3. Sweden

In Sweden, as in Switzerland and France, Parliament has a constitutional duty to conduct ex-post evaluation of legislation. The provision (Instrument of Government, chapter 4, article 8), which is in the rank of constitutional law, stipulates that '[e]ach committee follows up and evaluates decisions of the *Riksdag* within the committee's subject area.'[162]

From a historical perspective, the formalised obligation on committees to carry out evaluation dates back to 2001: it was initially set out in Parliament's rules of procedure (*Riksdag* Act) and became a constitutional norm in 2011. However, the tradition of evaluation and follow up is embedded in the constitutional practices of state affairs. Already as early as 1972, a constitutional investigation declared that '…the policy-based organisation of committees is well suited for a continuous scrutiny of the results of state reform activities'.[163] This makes the Swedish *Riksdag* a true frontrunner of parliamentary evaluation.

Overall, Sweden has a strong and long-standing evaluation culture, and the Swedish Parliament – at the level of committees – is just one actor in the Swedish evaluation arena, next to the government (which also has a constitutional mandate), executive agencies and the National Audit Office. The latter is an 'independent organisation under the Riksdag',[164] contributing to evaluation through performance audits.

Riksdag committees undertake two different forms of ex-post scrutiny, namely 'follow up' and 'evaluation':[165] 'follow up' is the continuous and systematic monitoring of the implementation of all adopted acts within the realm of a specific committee, whereas 'evaluation' is a comprehensive in-depth assessment of an act's performance. Here, the main focus lies on effectiveness: the committee is mostly interested in knowing whether the intentions of a parliamentary decision or reform have been met. This may include questions about the transposition of EU laws into Swedish legislation, or the adequacy of resources.

Due to reasons of capacity, *Riksdag* committees are highly selective in choosing dossiers for in-depth assessment and would typically prioritise acts of broader interest where implementation problems can be assumed. According to the response to the EPRS survey, on an annual average, Parliament presents four to five evaluations, each of which takes between 6 and 18 months to be completed. The parliamentary committees do most of the heavy lifting of ex-post scrutiny in the Swedish *Riksdag*. To pool the technical knowledge concerning evaluation, most committees have set up dedicated evaluation groups consisting of Members from across the political spectrum.[166] These groups formulate and propose evaluation projects to the broader committee (which formally decides), conduct evaluations and submit their reports to the broader committee.

In this task, committees are assisted by their respective secretariats as well as by the dedicated horizontal 'Evaluation and Research Secretariat', an administrative entity attached to the *Riksdag's* Committee Services Division. This unit, which exists since 2002 and is currently staffed with nine analysts and research officers, has sound evaluation experience.[167] It 'helps the committees to

[162] Swedish Riksdag, The Constitution of Sweden: The Fundamental Laws and the Riksdag Act, 2016.

[163] SOU 1972:15, p. 116.

[164] See Website About the Swedish National Audit Office.

[165] Sveriges Riksdag, leaflet 'Follow-up and evaluation by the *Riksdag*'s committees: A constitutional obligation, 2011 [obtained from the Riksdag in the context of the EPRS survey].

[166] Christer Åström, *Évaluation et qualité de la législation: Quel rôle pour les parlements*?, *Sveriges Riksdag*, 2013.

[167] Sandra Debu, *L'évaluation des politiques publiques en Suède*, *France Stratégie*, December 2019, p. 6.

prepare, implement and conclude follow-up and evaluations projects', providing in particular support in the area of methodology, survey design and data research.[168]

It notably puts together the empirical evidence-base in a strictly unbiased manner – with the possibility to commission expertise (e.g. studies or shorter reports) from external contractors, if needed – while the Members of the evaluation groups make an assessment of the facts and draw political conclusions in their evaluation report. This evaluation report is then considered in committee. In full transparency, the evaluation results are made public on the *Riksdag's* website. The process envisages formal transmission of the *Riksdag's* evaluation reports to all concerned public authorities and ministries. However, the committee's ex-post evaluation reports and their recommendations are not legally binding on the government, although it is common practice that the Government reverts back to the *Riksdag* to present how it has proceeded with the issues at stake.

The Swedish model appears to be unique in the way it bundles competence and expertise in evaluation methodology on the side of the administration with an evaluation interest amongst Members (in the form of the aforementioned 'evaluation groups' that exist in most committees). The former – the civil servants – ensure the quality of the evaluations, while the latter – the Members – value the virtue of evaluation and promote the use and understanding of evaluation results.[169]

3.5. Ex-post evaluation in third-country parliaments

As stated above, 11 Council of Europe countries that are not simultaneously EU Member States, contributed to the EPRS survey: Albania, Canada, Iceland, Moldova, Montenegro, North Macedonia, Norway, San Marino, Switzerland, Turkey and the UK.

According to the information provided by the parliaments of these countries in response to the survey, only Canada, Moldova, Switzerland and the UK engage in ex-post evaluation beyond common scrutiny tools at the level of committees or the chamber:

- Switzerland and the UK stand out with their policy evaluation mechanisms;
- Canada has a long-standing tradition of performing post-enactment reviews;
- furthermore, Moldova has set up evaluation capacities in recent years with the support of an external capacity-building programme.

It is also worth mentioning that the Albanian and Montenegrin parliaments have recently amended their rules of procedure to allow for policy evaluation. Some of the remaining responding parliaments explicitly stated that, in their respective jurisdiction, conducting evaluations is the responsibility of the government. None of these parliaments answered in the affirmative to the survey question asking whether they intended to set up an ex-post evaluation capacity in the near future.

3.5.1. Albania

The Albanian Parliament *(Kuvendi)* reported that its rules of procedure were amended in July 2019, henceforth providing for 'ex-post scrutiny of the legislation approximated with EU legislation'.[170] According to these rules, the Committee on European Integration assumes a coordinating role. It selects, in cooperation with the standing committees, approximated legislation for scrutiny and establishes annual scrutiny plans. These plans are passed on to the government, which is set to provide memoranda on the degree of implementation of the approximated legislation in question.

[168] *Sveriges Riksdag*, leaflet 'Evaluation and Research Secretariat', 2014, p. 4.

[169] Åström.

[170] Rules of procedure of the Parliament of Albania, art. 103/3.

On basis of such government memorandum, the competent standing committee draws up its own PLS report. To this end, it may conduct public consultations or hearings and take account of any kind of publicly available information. This report is discussed in a joint meeting of the standing committee and the Committee on European Integration prior to its submission to the plenary session. In principle, all ex-post evaluation reports are set to be published on Parliament's website.

Given that the procedural rules are so recent, it is not clear whether the Albanian Parliament has already started this new task of scrutinising the implementation of legislation aligned with the EU *acquis*.

3.5.2. Canada

Law-making in Canada is fundamentally different to EU law-making, resembling the system in the USA instead.[171] In a nutshell, the Canadian Parliament adopts legislation ('acts') through which it delegates to the executive branch of government, the power to make regulations. Regulations are made by the executive branch (departments, boards or agencies); which must conform strictly to the framework and limits established by the authorising act. Parliament has the power to scrutinise and review such delegated legislation, as set out in the Statutory Instruments Act (section 19).[172]

In Canada, evaluations are mandatory for regulations deemed major (high-impact); these must include from the outset a 'performance measurement and evaluation plan'. However, the onus of assessing whether regulations deliver as expected is on the responsible ministerial departments, boards and agencies.[173] Thus, ex-post evaluation lies entirely on the side of the executive, whereas the Canadian Parliament is not actively involved. Nonetheless, given that the executive is accountable to Parliament, the latter acts as addressee of government evaluations and may choose to scrutinise them at any time.

With regard to primary legislation adopted by the Canadian Parliament, a noteworthy feature is the frequent use of review and notably sunset clauses in Canadian legislation. These are used when an act or a section of the act is meant to be temporary from the outset or when Parliament wants to ensure that legislation is reviewed at a certain moment after its entry into force, for instance when the effects of new legislation 'are not entirely predictable'.[174]

Notwithstanding its subordinated role in ex-post impact evaluation that targets the substance and effectiveness of a legal act, the Canadian Parliament has a particularly long tradition of formal post-enactment scrutiny, which goes back to the 1970s. This kind of post-legislative scrutiny has a narrow scope, which is limited to a legal conformity check on delegated regulations.

To perform post-enactment scrutiny, the Canadian Parliament has established a joint committee – thus a political body – composed by Members of both chambers (the House of Commons and the Senate), called the Standing Joint Committee for the Scrutiny of Regulations (REGS). This committee routinely reviews delegated legislation, thus regulations made by the executive branch 'by virtue of the power conferred on them by some Act of Parliament'.[175] The committee is assisted by legal counsel, who are employees of the Parliamentary Information and Research Service of the Library of

[171] A fundamental difference to be noted between the USA and the Canadian law-making systems – for primary legislation, and therefore acts – is that in Canada, legislative proposals are introduced from within the government, while in the USA these originate from within the Congress.

[172] Statutory Instruments Act, R.S.C., 1985, c. S-22.

[173] Prognos, Expert report on the implementation of ex-post evaluations: Good practice and experience in other countries, Berlin 2013, pp. 17-24.

[174] Franklin De Vrieze and Victoria Hasson, Post-legislative scrutiny: Comparative study of practices of post-legislative scrutiny in selected parliaments and the rationale for its place in democracy assistance, Westminster Foundation for Democracy, 2017, p. 23.

[175] Canadian House of Commons, Glossary of Parliamentary Procedure, lemma delegated legislation.

Parliament. These individuals are non-partisan and serve all Members of the committee and representatives of all parties equally. Counsel provide independent legal advice and exercise their duties and functions at the direction of the Joint Chairs. This review takes place after the regulations have been published in the official journal of the Canadian government, the *'Canada Gazette'*.

The scope of this review is to set out in house-internal rules: the Committee 'reviews only matters of legality and the procedural aspects of regulations—their merits and the policies they reflect are disregarded'.[176] REGS conducts hundreds of reviews per year, thereby assessing the regulation in question against a set of 13 scrutiny criteria,[177] upon which the Senate and the House of Commons have jointly agreed.

If the Committee observes issues in the course of its review, it has several courses of action:[178]

- It may address the observed issues directly with the regulation-making authority and suggest solutions, or ask for further explanations.
- It may invite officials from the regulatory authority to appear before it to answer questions.
- It may draft a report to draw the issue to the attention of the House and the Senate.
- In severe cases, failing an agreement with the authority that drafted the regulation, the committee may recommend that the delegated legislation be revoked by Parliament in a process called 'disallowance'.

3.5.3. Moldova

Ex-post evaluation was only recently introduced in the Moldovan Parliament as part of a wider capacity-building project led by the UNDP, under funding from the Swedish government. This project entitled 'Strengthening Parliamentary Governance in Moldova' is being carried out between 2016 and 2020, to strengthen Parliament's law-making, oversight and representation functions, in light of the association process with the EU on the one hand and the UN Sustainable Development Goals on the other. One of the seven project objectives' targets is 'enhancing the capacities of parliamentary committees to effectively oversee implementation of laws and policies'.[179]

According to the UNDP project description, evaluation-related achievements include the development and implementation of an evaluation methodology and, at a more general level, of procedures for parliamentary oversight. Moreover, as part of the European association process, a system of indicators for monitoring and evaluation was designed to track progress on the implementation of legal reforms.

In its response to the EPRS survey in summer 2019, the Moldovan Parliament reported that its evaluation structures were operational, specifying that the first ex-post evaluation of an approved legislative act had been finalised in September 2018, by the Committee on Social Protection, Health and Family. Three further evaluations have since been carried out, according to information obtained from the Moldovan Parliament.[180]

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[176] Canadian House of Commons, Procedure and Practice, chapter 17: delegated legislation, 3rd ed. 2017.

[177] The scrutiny criteria are listed on the website of the Standing Committee for the Scrutiny of Regulations, see https://www.ourcommons.ca/About/ProcedureAndPractice3rdEdition/ch_17_2-e.html#17-2-4 .

[178] For a detailed description of the review process see Cynthia Kirkby, The Standing Joint Committee for the Scrutiny of Regulations, Parliament of Canada, Library of Parliament, 2 April 2014. See also Peter Bernhardt and Michael Dewing, Parliamentary Committee Review of Regulations, Parliament of Canada, Library of Parliament, 4 May 2015.

[179] A detailed programme description is available on the UNDP website https://www.md.undp.org/content/moldova/en/home/projects/strengthening-parliamentary-governance-in-moldova.html .

[180] At the time of writing, two evaluations were listed on the dedicated website, with a publication date of December 2019: one relating to youth policy, and the other one relating to cinematography.

The Moldovan evaluation system provides for two types of ex-post evaluation: legal and impact evaluation. The former is a post-enactment review: one year following its entry into force every legal act is, subject to a legal assessment by Parliament's legal department, which transmits a report with its findings to the competent committee. This has become a routine activity: according to self-reported data, 67 such reviews were conducted in 2018-2019.

In comparison, impact evaluation is within the remit of the standing parliamentary committees. In line with international practice, in principle, it starts no earlier than three years after an act's entry into force, unless earlier action is duly justified (e.g. when the legislation in question generated unexpected negative effects). The evaluation process in the Moldovan Parliament is in general characterised by the involvement of civic organisations; committees may also resort to targeted consultations. In addition, Parliament's research service is required to draw up background studies in support of committee evaluations. Typically, the committee has four months for drafting a report, which contains, apart from findings, also conclusions and recommendations.

The procedure includes a mandatory follow-up by the government, which has two months to respond. For reasons of transparency, both the report and the government reaction are made available on Parliament's website. The committee then keeps track of how the recommendations are implemented. To facilitate planning of forthcoming evaluations, committees are required to prepare evaluation plans at the beginning of the parliamentary session, which are subject to Bureau approval.

While the Moldovan Parliament's rules of procedure set out the modalities of how Parliament exercises its right of control, a specific Bureau decision lays down the methodological and procedural framework for parliamentary evaluation. Accordingly, Moldovan Parliament evaluations assess in particular the economic, financial, social and administrative impacts of legislation.

The Moldovan Parliament may draft evaluations in-house and has also a possibility to commission studies externally. The selection of legislative acts for ex-post evaluation is determined by political priorities, deriving from legislative and government programmes and not least from the EU-Moldova Association Agreement (signed in 2014 and in full effect since June 2016). Especially the implementation of the association agreement entails a process of reviewing and approximating the existing stock of Moldovan legislation to the EU *acquis*.[181] Attention is thereby paid not only to revision and adoption of legislation, but also to proper implementation of legislation.

As well as carrying out its own evaluations, the Moldovan Parliament also undertakes scrutiny of evaluations prepared by the executive.

3.5.4. Montenegro

The Montenegrin Parliament *(Skupština)* changed its rules of procedure in 2012, to allow committees to monitor and evaluate the approximation of laws with the EU *acquis*. The new provision concerns only those committees directly affected by EU legislation; it sets out that, within their competences, the committees 'shall monitor and assess harmonization of the laws of Montenegro with the Acquis Communautaire, and, based on the Government reports, monitor and assess the implementation of the adopted laws, especially those which establish the obligations complied with the Acquis Communautaire'.[182]

The ex-post assessment process typically happens at committee stage in the form of 'consultative hearings', on the presence of government representatives. Committee secretariats provide support

[181] Iurie Pîntea and Peter Vanhoutte, Post-legislative scrutiny: practices, experiences and recommendations, Chisinau, January 2017, p. 7.

[182] Parliament of Montenegro, Rules of procedure; Amendments to the Rules of Procedure of the Parliament of Montenegro ('Official Gazette of Montenegro', No 25/12 as of 11 May 2012).

for these hearings through topical briefing papers. This reform was prompted by the EU enlargement process, where one of the preconditions for opening accession negotiations was precisely that the legislative and oversight roles of the Montenegrin Parliament were strengthened.[183]

3.5.5. Norway

The Norwegian *Storting* outlined that, although the government in Norway is responsible for conducting ex-post evaluations, the *Storting* has nonetheless a role to play: it may instruct the government to carry out an evaluation, either in the legislative stage, through embedded review clauses, or anytime in the post-legislative stage, when Parliament deems it necessary. It is up to the Standing Committee on Scrutiny and Constitutional Affairs,[184] which is responsible for the Norwegian Parliament's supervisory authority, to make recommendations to the *Storting* whether to initiate an evaluation. Parliament indeed makes use of its right to task the executive branch with ad hoc evaluations.[185] Furthermore, Parliament has the possibility to ask the Office of the Auditor General of Norway to undertake investigations.

3.5.6. Switzerland

Among all the parliaments examined in this study, the Swiss Federal Assembly stands out in post-legislative evaluation, and this for several reasons. First, Switzerland is the European country with the longest experience of parliamentary evaluation; second, parliamentary evaluation is constitutionally mandated in Switzerland; and third, it is a very powerful scrutiny instrument vis-à-vis the federal government, with wide-reaching rights to obtain information, and a mandatory follow-up by the executive.

This pre-eminent position is confirmed by the International Atlas of Evaluation (update 2015), which attributed to the Swiss Parliament – and solely to the Swiss – the maximum score for its degree of institutionalisation of parliamentary evaluation.[186]

Establishing a system of strong parliamentary control over the federal administration was the direct effect of a surveillance scandal ('*Fichenaffäre*') that shook Switzerland in the late 1980s. This affair led not only to the reorganisation of state security agencies, but also to enhanced parliamentary oversight over the executive.[187] It is in this context that a specialised evaluation unit – termed Parliamentary Control of the Administration (PCA) – was set up in the Swiss Parliament in 1991. This unit conducts studies on behalf of the Control Committees of both chambers[188] on the legality, expediency and effectiveness of the activities of the federal authorities, and is as such an example

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[183] De Vrieze and Hasson, p. 29.

[184] Description of the role of the Standing Committee on Scrutiny and Constitutional Affairs: https://www.stortinget.no/en/In-English/Standing-Commitees/The-Standing-Committee-on-Scrutiny-and-Constitutional-Affairs/Scrutiny-and-Constitunional-affairs-Responsibilities/

[185] OECD, Regulatory policy outlook, 2018, p. 220.

[186] Jacob, Speer and Furubo, pp. 13 and 19.

[187] Simone Ledermann, Felix Strebel, '*Evaluation als Kontrollinstrument des Parlaments*', *Die Volkswirtschaft* 10/2019, p. 14.

[188] According to the website of the Swiss Federal Assembly, the Control Committees (CC) 'are divided into permanent sub-committees which are allotted the seven federal departments (ministries), the Federal Chancellery and the Federal Courts. In general, it is the sub-committees that conduct inquiries on behalf of the CCs, for example examining witnesses. They report to the full Committee, which is empowered to take decisions. In particular, it is the responsibility of the full Committee to approve the reports and recommendations to the authorities.' See https://www.parlament.ch/en/organe/committees/supervisory-committees/control-committees-cc/sub-committees-cc.

of an administrative entity conducting evaluations on behalf of a political body. Since 2003, the evaluation unit's mandate has been expanded, allowing all parliamentary committees to request evaluations. In practice however, most of the work carried out is still commissioned by the two Control Committees.

The Swiss Parliament's evaluation mandate is enshrined in the Federal Constitution.[189] Under the heading 'evaluation of effectiveness', Article 170 sets out that the 'Federal Assembly shall ensure that federal measures are evaluated with regard to their effectiveness.' The Parliamentary Act[190] specifies the rights of the Federal Assembly therein. Accordingly, it may:

- request the government carry out evaluations;
- scrutinise government evaluations;
- and carry out evaluations itself.

While the first two points are dealt with by the parliamentary committees themselves, the third provides the legal basis for the evaluation work of the Parliamentary Control of the Administration unit (PCA). This unit, albeit small in size,[191] has wide-reaching rights to information,[192] and may request information and documents from all federal authorities. In this context, it is noteworthy that official secrecy does not apply. The evaluation output is not massive in quantity, but considerable in quality and level of depth. As in other countries, the bulk of evaluations are carried out by the executive branch. Parliament produces an annual average of three fully-fledged evaluations, on issues determined at the political level. These evaluations are impartial and, from a methodological point of view, guided by the standards of the Swiss Evaluation Society. While the PCA in principle drafts all evaluations in-house – thereby using desk research, interviews, surveys and statistical analyses – it also has a budget for commissioning supporting expert studies externally through public procurement procedures.

As the scientific evaluation study is strictly impartial, the Swiss evaluation system represents good practice in evidence-based policy-making. The PCA receives its evaluation mandate from a political body (one of the assembly's Control Committees), but is completely independent in the evaluation's design, the analysis and drafting process, and in the choice of methods applied.[193] The draft report is presented to the federal entities concerned for comment. The final evaluation study does not contain any recommendations. It is submitted to the Control Committees, which are bound to take the evaluation findings into account[194] and take decision on the political course of action to be taken. Typically, the Control Committees present their conclusions in a separate (political) report, which does contain recommendations to the executive. The federal government replies to the report and recommendations with a reasoned opinion. The last stage in the Swiss parliamentary evaluation system is a review of the follow-up, which the Control Committees routinely undertake

[189] The current Swiss federal Constitution entered into force on 1 January 2000.

[190] *Loi sur l'Assemblée fédérale du 13 décembre 2002*, art. 27.

[191] For 2019, a staff of five full-time equivalents is reported. See Ledermann, Strebel, p. 14.

[192] Strictly speaking, these substantial rights to information are conferred upon the Control Committees in the first place. As the PCA acts on the mandate of the CCs, these rights are delegated to the administrative unit. See Art. 10 of the Parliamentary Administration Ordinance in combination with Article 67, 153 and 156 of the Parliament Act.

[193] The independence of the PCA is even enshrined in Parliament's rules of procedure (art. 10(5)).

[194] Art. 44(f) of the Parliamentary Act stipulates that parliamentary committees 'take the results of evaluations of effectiveness into account'. The procedures to be followed in this respect are laid down in a handbook for Members of the Control Committees ('vademecum'), according to the Swiss response to the EPRS survey.

two years after the closure of the file. In general, it appears that in some cases recommendations emanating from parliamentary evaluations have triggered substantial changes on the side of the Swiss executive.[195]

3.5.7. United Kingdom

The British Parliament replied to the EPRS survey that it does not have a dedicated body or entity in charge of ex-post evaluation. However, the response refers to a book chapter[196] that depicts how the British Parliament engages in post-legislative scrutiny (PLS), the term commonly used in the British context.

In the UK, the government is required to systematically conduct a post-enactment review three to five years after enactment of a bill (i.e. primary legislation). The main findings are spelled out in a 'memorandum' that the government presents to the select committee of the House of Commons in charge of the file.[197] The memorandum includes different elements, inter alia a 'preliminary assessment of how the Act has worked out in practice, relative to the objectives and benchmarks identified at the time of the passage of the Bill'.[198]

The committee examines the memorandum and decides whether fuller post-legislative scrutiny of the Act is appropriate, if it has doubts that the legislation in question has achieved the intended objectives. A committee inquiry could encompass for example a request for further information from the government.[199]

This system of government memoranda has been in place since 2008 and covers all acts passed since 2005, a few of which brought about parliamentary evaluation work. However, government memoranda are just one possible trigger for parliamentary PLS work. Parliament can also engage in PLS independently of a memorandum, and has effectively done so on several occasions.

PLS emerged in the British Parliament roughly a decade ago. To date, both chambers actively scrutinise the effects of legislation after enactment, although with fundamental differences.[200] In general, the PLS process is 'committee-driven' in the House of Commons, and more 'chamber-driven' in the House of Lords.[201] The committees' focus is on depth rather than breadth in the Upper Chamber, and vice versa in the Lower Chamber.[202]

In the House of Commons, PLS is explicitly listed as one of the core tasks of departmental select committees. It is defined as to '[e]xamine the implementation of legislation and scrutinise the department's post-legislative assessments'.[203] It is up to the committees to decide which acts are to be subjected to retrospective scrutiny. However, given that PLS work competes with other routine committee work, the time that the House of Commons committees can dedicate to evaluations is

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[195] For concrete examples of cases, see Ledermann, Strebel, pp. 16-17.

[196] 'Post-legislative scrutiny of primary legislation in the United Kingdom', in Franklin De Vrieze and Victoria Hasson, *Post-legislative scrutiny: Comparative study of practices of Post-Legislative Scrutiny in selected parliaments and the rationale for its place in democracy assistance*, Westminster Foundation for Democracy, 2017, pp. 14-20.

[197] As opposed to legislative committees, select committees focus on examining the work of government departments. They exist in both chambers, though with slightly different roles.

[198] De Vrieze and Hasson, p. 15.

[199] See also UK Cabinet Office, Guide to making legislation, July 2017, chapter 14 (impact assessment).

[200] See Tom Caygill, 'A tale of two houses? Post-legislative scrutiny in the UK Parliament', *European journal of law reform*, vol. 21(2), 2019, pp. 87-101.

[201] Philip Norton, 'Post-legislative scrutiny in the UK Parliament: Adding value', *Journal of legislative studies*, 25:3, 2019, pp. 342.

[202] Caygill, p. 90.

[203] See Parliament's website describing the core tasks of departmental select committees.

limited. Issues are addressed through the committee's report, together with recommendations for action, to which the government is required to provide a response. In this context, the PLS inquiry on the Freedom of Information Act conducted by the House of Commons Justice Committee in 2012 is sometimes cited as a best practice case.[204]

The House of Commons avails of a dedicated Scrutiny Unit, whose role is to maintain, and advise on, guidance for Commons select committees on post-legislative scrutiny. According to EPRS survey data, the role of this unit is in practice rather limited.

The House of Lords' approach is different. Consistent with its self-conception as 'a chamber of legislative scrutiny',[205] since the 2012-2013 session, it has developed the custom of appointing a dedicated ad hoc committee to engage in a specific PLS file every year. To date, a total of eight House of Lords post-legislative scrutiny committees have reported, and this work is deemed to be 'well-established'.[206]

This ad hoc committee has 9-12 months to complete its inquiry mandate. Unlike a Commons committee, it can dedicate its entire time to this task, consequently, the PLS inquiry in the House of Lords can go into much more depth. As a result, the Upper chamber's PLS report typically contains more recommendations to the executive than a comparable PLS report in the Lower House.

The follow-up process to a PLS inquiry with the government is deemed a weakness of the House of Lords' PLS system, since the ad hoc scrutiny committee dissolves with the publication of the final report.[207] This hampers an effective follow-up with the government, as the committee formally no longer exists when the government response arrives. Instead, a Liaison Committee enters into a dialogue with the government, which however lacks detailed knowledge of the file.

A recent Liaison Committee report that examined the performance of investigative and scrutiny committees in the House of Lords affirmed the success of Lords PLS committees and recommended 'that the Lords should in future play a more systematic role in post-legislative scrutiny, working in partnership with Commons committees'.[208]

Despite the existence of PLS mechanisms in both chambers, the ex-post evaluation instrument is not that frequently used in the British Parliament. Research suggests that since 2008, only 20 acts have been the subject of formal post-legislative scrutiny inquiries in the British Parliament, and a further 42 acts have been reviewed by committees, as part of a wider enquiry'.[209]

It is worthwhile mentioning that in the UK, secondary legislation is also subject to parliamentary scrutiny. For this purpose, the Joint Committee on Statutory Instruments examines statutory instruments adopted in the exercise of powers that were granted to the executive branch by an Act of Parliament. This scrutiny process is a technical exercise to verify whether the regulation is correctly drafted from a legal point of view and whether it remains within the conferred powers. Parliament can either approve or reject the regulation, but it does not have the right to amend.

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[204] De Vrieze and Hasson, p. 16-17; Caygill, p. 93.

[205] Norton, p. 348.

[206] Review of House of Lords Investigative and Scrutiny Committees: towards a new thematic committee structure, 2019, HL Paper 398; chapter 5: legislative scrutiny, point 98.

[207] Norton, p. 350 and Caygill, p. 98.

[208] Review of House of Lords Investigative and Scrutiny Committees: towards a new thematic committee structure, 2019, HL Paper 398; chapter 5: legislative scrutiny, point 103.

[209] Norton, p. 346.

4. Some comparative patterns in the Better Regulation practices of national parliaments

4.1. Cumulative overview of parliaments engaging in regulatory policy work

From the information provided in chapters 2 and 3 it appears that 17 national parliaments within the EU-27 engage, to a lesser or greater extent, in specific ex-ante impact assessment and/or ex-post evaluation work. Seven of them take an active role in either impact assessment or evaluation (Belgium, Estonia, Finland, Germany, Hungary, Lithuania and the Netherlands), while ten parliaments cover both activities: Austria, Bulgaria, France, Ireland, Italy, Latvia, Poland, Portugal, Spain and Sweden.

Table 5 – EU-27 parliaments and the European Parliament – Level of engagement in ex-ante IA and ex-post evaluation

PARLIAMENT	smaller-scale regulatory policy work		own regulatory policy work	
	IA	eval.	IA	eval.
Austria	■	■		
Belgium				■
Bulgaria			■	■
Estonia			■	
Finland			■	
France	■			■
Germany	■			
Hungary			■	
Ireland		■	■	
Italy	■			■
Latvia	■			■
Lithuania	■			
Netherlands				■
Poland			■	■
Portugal	■	■		
Spain	■	■		
Sweden			■	■
European Parliament			■	■

In addition, 4 of the 11 surveyed third-country parliaments actively perform ex-post evaluation: Canada, Moldova, Switzerland and the UK. Only the Canadian Parliament has procedures in place for ex-ante impact assessment.

Table 6 – Third-countries – Level of engagement in ex-ante IA and ex-post evaluation

PARLIAMENT	smaller-scale regulatory policy work		own regulatory policy work	
	IA	eval.	IA	eval.
Canada				
Moldova				
Switzerland				
UK				

4.2. Ex-ante impact assessment

As outlined in chapter 2, there is great variation in the scope, focus and level of depth of parliaments' ex-ante impact assessment work. The two following tables provide a rough categorisation based on the identification of common features; first in terms of level of engagement, and second in terms of positioning of impact assessment capacities within parliaments' organisational structures. To facilitate a comprehensive perspective, all surveyed parliaments are covered in the same table (EU-27, non-EU and the European Parliament).

4.2.1. Level of engagement in parliaments' ex-ante impact assessment work

The engagement of the surveyed parliaments in ex-ante impact assessment activities ranges from passive scrutiny of government impact assessment (either formal or in substance), to the active conduct of parliaments' own impact assessments. The information provided in the table below is an approximation based on the portraits of parliaments given in chapter 2. It is possible that it is not 100 % complete, in the sense that it may perhaps not cover all aspects of a given parliament.

Table 7 – Detailed levels of engagement in parliamentary ex-ante impact assessment

LEVEL OF ENGAGEMENT		TYPE OF SCRUTINY
1.	Parliament performs formal verification of government impact assessment	passive
	Italy, Lithuania, Slovenia European Parliament[210]	
2.	Parliament performs in-depth scrutiny of government impact assessment	
	France, Germany, Ireland, Spain European Parliament	
3.	Parliament performs in-depth scrutiny of government impact assessment, with particular focus on budgetary matters	
	Austria, Italy, Portugal, Spain, Sweden	
4.	Parliament performs in-depth scrutiny of European Commission IA	
	Austria, France, Poland	
5.	Parliament conducts its own impact assessments for legislation initiated by parliament	active

[210] In the case of the European Parliament, it is the scrutiny of the European Commission's impact assessments.

	Bulgaria, Ireland, Latvia, Lithuania, Poland, Spain European Parliament[211]	
6.	Parliament conducts its own impact assessments for legislation initiated by the government	
	Finland, Poland, Sweden European Parliament	
7.	Parliament assesses the impact of its own (major) amendments	
	Estonia, Italy, Poland European Parliament	
8.	Parliamentary own impact assessment work is limited to budgetary/economic matters	
	Finland, Hungary, Sweden Canada	

4.2.2. Positioning of ex-ante impact assessment capacities within parliaments' organisational structures

Patterns can be rather varied in terms of which services or political bodies are in charge of parliaments' impact assessment activities, depending also on the nature of impact assessment work carried out. In most parliaments, the impact assessment function is assumed by administrative services, while it is entrusted to political bodies in just a few parliaments.

Administration

In light of the complex nature of substantial impact assessment work, it is unsurprising that many parliaments find the parliamentary research services an appropriate service to carry out impact assessment work. Some parliaments have established a dedicated entity within their research service. Parliaments paying special attention to budgetary aspects of impact assessment tend to leave the impact assessment function with their parliamentary budget office (or a similar budget service).

Political bodies

In very few parliaments, some ex-ante impact assessment work is assumed by political bodies (Bulgaria, France and Germany). These may be standing parliamentary committees or dedicated parliamentary control committees. It appears that only one parliament leaves it up to Members of Parliament to prepare the impact assessment underpinning the bills they sponsor.

Table 8 – Typology of parliamentary ex-ante impact assessment capacities

LOCATION OF EX-ANTE IMPACT ASSESSMENT CAPACITIES		
1.	Function within general parliamentary research service	administrative entity
	Estonia, Ireland, Latvia, Poland	
2.	Dedicated ex-ante impact assessment entity, either within the research service or elsewhere in the administration	

[211] The European Parliament has no formal right of legislative initiative. It may however suggest initiatives to the European Commission (Art.225 TFEU), by means of an own-initiative report that is supported by a technical background study, which comes close to an impact assessment. For details, see chapter 1.3.1 of this study.

	Finland, Germany, Italy, Poland, Sweden, Spain European Parliament	
3	Parliamentary Budget Office or other budget service	
	Austria, Hungary, Ireland, Italy, Portugal, Spain Canada	
4.	Individual Members (sponsoring draft legislation)	political body
	Bulgaria	
5.	Standing parliamentary committees	
	France, Germany European Parliament	
6.	Dedicated permanent control committee	
	France, Germany	

4.3. Ex-post evaluation

Similar to what has been said with regard to ex-ante impact assessment, parliaments' ex-post evaluation work also shows very diverse patterns. As described in chapter 3, a wide array of activities regard the scope, focus and level of depth of parliaments' evaluation work. The following tables provide a rough categorisation based on the identification of common features; first in terms of level of engagement, and second, in terms of positioning of evaluation capacities within parliaments' organisational structures. To facilitate a comprehensive perspective, all surveyed parliaments are covered in the same table (EU-27, non-EU and the European Parliament).

4.3.1. Level of engagement in parliaments' ex-post evaluation work

The engagement of the surveyed parliaments in ex-post evaluation activities ranges from passive scrutiny of government evaluations (either formal or in substance) to the active performance of parliaments' own post-legislative scrutiny work, either in the form of post-enactment reviews or ex-post evaluations. The categorisation in the table below is derived from the descriptions of parliaments in chapter 3.

Table 9 – Detailed levels of engagement in parliamentary ex-post evaluation

LEVEL OF ENGAGEMENT		TYPE OF SCRUTINY
1.	Parliament can request evaluations from the government	passive
	Denmark, Germany, Netherlands Norway, Switzerland European Parliament	
2.	Parliament checks whether the executive fulfils its evaluation obligations	
	European Parliament	
3.	Parliament scrutinises government evaluations in depth	
	Austria, Netherlands Switzerland, UK	
4.	Parliament performs legalistic post-enactment scrutiny	active

	Ireland, Italy Canada, Moldova	
5.	Parliament conducts its own evaluations	
	Belgium, Bulgaria, Italy, Latvia, Netherlands, Poland, Sweden Moldova, Switzerland, UK European Parliament	

4.3.2. Positioning of evaluation capacities within parliaments' organisational structures

Looking at chapter 3, it becomes apparent that there is no uniform model in the organisation of parliamentary evaluation work. This applies to both parliaments' passive in-depth scrutiny of government evaluations and active engagement in own evaluation work. With regard to the latter, some parliaments place their evaluation function within the administration, while others opt for the political level. Both approaches have their strong points, although the most powerful set-up appears to be a combination of both.

Administrative entities

In general, evaluation is an analytical task. Therefore, it is not surprising to see that in a number of parliaments the evaluation function is attached to parliaments' research services or similar structures. Their impartiality could be considered as another strong point of research services.

Some parliaments have dedicated evaluation services in place that conduct (or externalise) evaluation studies, either as part of the parliamentary research service/library or independently of them. The establishment of a dedicated administrative capacity reflects a strong and longer-term institutional commitment to ex-post evaluation. Such entities are usually small in size, but staffed with experts who have specific methodological skills. However, their direct impact may be weak, as their reports/studies are typically not transmitted to the government, and the government has no obligation to consider them.

A further administrative entity can be identified: in parliaments where budgetary aspects are the main focus of interest, evaluation activities are usually assumed by a parliamentary budget office (or a similar budget service).

Political bodies

A number of parliaments choose to have their evaluations carried out by political bodies, typically at committee level. This can have clear advantages: such evaluations may have more political clout vis-à-vis the executive, so that the policy recommendations contained therein are more likely to be heard by the government than those spelled out in a study drawn up by an administrative entity. Depending on the national system, some countries have procedures in place which oblige the government to follow up on the evaluation.

As the table below shows, the term 'political body' can have different meanings in different parliaments: standing parliamentary committees; dedicated evaluation groups within standing committees; ad hoc committees that are composed solely for the purpose of an ex-post evaluation (similar to committees of inquiry); and finally dedicated permanent control committees.

A standing committee appears to be generally well placed to integrate ex-post evaluation in the overall policy work on the issue in question, including proper follow-up to the evaluation outcome. However, a standing committee has a wide array of responsibilities, evaluation being just one of them.

In comparison, the advantage of a dedicated evaluation or control committee is that it is not diverted to competing responsibilities, which allows for a greater focus on the evaluation itself. Consequently, it may go into more depth, and may additionally acquire sound methodological expertise. However, if the dedicated committee is of an ad hoc nature, formed solely for the evaluation (as is the case for instance in the British House of Lords), the follow-up may constitute a weak point, as the committee dissolves with the adoption of the report.

A combination of both

As stated above, both approaches have their strong points. Four parliaments: Sweden, Canada, Switzerland and the European Parliament, have opted for a mix of both. Notably the evaluation architecture of the Swiss Federal Assembly and the European Parliament bear striking similarities: in both parliaments, the political conclusions and recommendations (drawn up by committees) are informed by detailed factual evidence gathered in the supporting study (compiled by a dedicated service within the secretariat). In both cases, the executive branch is required to follow-up on the political report, although the Swiss Parliament has clearly greater powers.

Table 10 – Typology of parliamentary evaluation capacities

LOCATION OF EVALUATION CAPACITIES		
1.	Function assumed by general parliamentary research service	administrative entity
	Bulgaria, Ireland, Latvia, Netherlands Moldova	
2.	Dedicated evaluation entity within the research service or other parts of the administration	
	Italy, Poland, Sweden, Spain Canada, Switzerland, UK European Parliament	
3	Parliamentary Budget Office	
	Austria, Ireland, Portugal, Spain	
4.	Standing parliamentary committee	political body
	France, Ireland, Netherlands, Sweden Moldova, UK European Parliament	
5.	Dedicated evaluation group within standing committee	
	Sweden, France	
6.	Ad hoc parliamentary committee	
	Netherlands UK	
7.	Dedicated permanent control committee	
	Belgium, France Canada, Switzerland	
8.	Combination of political body and administrative entity	mix
	Sweden Canada, Switzerland European Parliament	

4.3.3. Constitutional mandate

The legal foundations of national parliaments' evaluation activities are rather heterogeneous, encompassing constitutional law, national law and parliamentary law. Interestingly, highly mature evaluation systems can be found in parliaments whose evaluation function is constitutionally mandated. This applies to France, Sweden and Switzerland. It appears that constitutional recognition facilitates the institutionalisation of parliamentary evaluation. The following table lists the specific constitutional provisions that confer the right to evaluate public policies and legislation upon the French, Swedish and Swiss parliaments.

Table 11 – Constitutional evaluation mandates

COUNTRY	REFERENCE	CONSTITUTIONAL PROVISION
France	French Constitution, Article 24	Parliament shall pass statutes. It shall monitor the action of the Government. It shall assess public policies.
Sweden	Instrument of Government, chapter 4, art. 8 (in the rank of constitutional law)	**Follow-up and evaluation** Each committee follows up and evaluates decisions of the Riksdag within the committee's subject area.
Switzerland	Federal Constitution, Article 170	**Evaluation of effectiveness** The Federal Assembly shall ensure that federal measures are evaluated with regard to their effectiveness.

4.3.4. Government follow-up action

Most parliaments reported that their evaluation system does not envisage any mandatory government action. This is particularly true for parliamentary evaluations conducted by administrative bodies (such as research services), if they are not linked to any committee report. It appears that evaluations sponsored by political bodies of parliaments have a higher chance of triggering government reaction. Mandatory follow-up by government – which may encompass simple explanations – was reported for evaluations of the parliaments of Belgium, France (*Assemblée Nationale*), Hungary, Sweden; Moldova and Switzerland, and the UK House of Commons. Similarly, the evaluations of the European Parliament, if voted in plenary, require a response from the European Commission, as do all other European Parliament resolutions.[212]

[212] See Rufas Quintana and Anglmayer, p. 203.

5. Conclusions and outlook

Better Regulation is commonly regarded a government matter. However, as central actors in the law-making process, parliaments are also increasingly involved. While international indices that compare and rank governments' performance in regulatory policy exist, little is currently known about parliaments' role therein, and even less from a comparative perspective.

This study aims at filling this gap by shedding some light on parliamentary experiences in ex-ante impact assessment and ex-post evaluation. Its core is a survey-based analysis of individual parliaments' engagement at both ends of the policy cycle, exploring the what, the how and the who of regulatory policy action. As expected, there is great variation in type and level of engagement, spanning from passive scrutiny of government action to active impact assessment and evaluation work. The country sections illustrate that there is no standard model for parliamentary involvement, but instead, parliaments design their regulatory policy activities according to what works best in their specific context. Parliaments therefore complement rather than substituting government action. One thing all parliaments have in common is that their level of resources (in every respect) cannot compare with governments. Therefore, parliamentary processes and outputs relating to impact assessment and evaluation may be quite distinctive from governmental Better Regulation activities.

The added value of this study is the broad sample of parliaments it covers: 38. Thanks to the ECPRD network and not least to the readiness of so many national parliaments to share their insights and experience, this publication is able to provide an overview of the state of play of national parliaments' Better Regulation practices. It covers all parliaments of the EU-27, and a further 11 parliaments of Council of Europe countries that chose to participate in the EPRS survey.

According to survey data, roughly half of the surveyed parliaments currently do not take any active role in impact assessment or evaluation work (beyond traditional scrutiny mechanisms). For the other half, the rationale for their Better Regulation activities is primarily related to scrutiny and accountability, and is thus a variant of parliaments' power to exercise oversight over the executive. Beyond that, a few parliaments also use Better Regulation tools as part of their legislative function.

Among those parliaments that assume an active role in impact assessment and/or evaluation, the spectrum of activities could not be broader: there are those with a high degree of institutionalisation and those that have just begun. There are those with a systematic approach, a long heritage, extensive rights of access to information, mandatory government follow-up and even evaluation duties which are anchored in the national constitution. At the other end of the spectrum, there are parliaments that have recently amended their rules of procedure to allow for policy evaluation and those that have run a first pilot. And naturally, the majority of parliaments are in between.

The findings in figures demonstrate that: 17 national parliaments within the EU-27 engage, to a greater or lesser extent, in specific ex-ante impact assessment and/or ex-post evaluation work, in addition to the parliaments of four Council of Europe countries. Ten EU-27 parliaments cover both activities: Austria, Bulgaria, France, Ireland, Italy, Latvia, Poland, Portugal, Spain and Sweden; as does the Canadian Parliament. This study depicts and reflects upon the variety of their approaches, tools and processes.

In addition, this study has an idealistic purpose: it aims at bringing parliaments together, by giving impetus to the forming of something like a community of practice. Mutual learning through exchange of best practices may contribute to the fostering of a Better Regulation culture among parliaments, so that they make fuller use of the potential Better Regulation offers. EPRS is certainly interested in forming part of such community of practice.

Annex 1 – Dedicated bodies/entities in charge of regulatory policy

This annex lists all dedicated administrative services and political bodies of surveyed national parliaments that engage in ex-ante impact assessment and/or ex-post evaluation. In the case of bicameral parliaments, the table indicates if the service/body relates to one chamber or both. Hyperlinks to websites and contact details are provided when available.

Table 12 – Dedicated bodies in charge of ex-ante impact assessment and evaluation in the national parliaments of the EU-27

COUNTRY	CHAMBER	NAME OF BODY	ADM/ POL	IA	EVAL
Austria	*Nationalrat* and *Bundesrat*	**Parliamentary Budget Office** *DE Budgetdienst* website Budgetdienst@parlament.gv.at	admin	●	●
Belgium	*Chambre des Représentants* and *Sénat*	**Parliamentary Committee for Post-Legislative Scrutiny** *FR Comité parlementaire chargé du suivi législatif* NL *Parlementair Comité belast met de wetsevaluatie* website info@comitesuivilegislatif.be	political		●
Bulgaria		**National Centre for Parliamentary Research** *BG Национален център за парламентарни изследвания* ncpi@parliament.bg	admin		●
Finland		**Economic Analysis Team of the Parliamentary Research Service** *FI Sisäisen tietopalvelun Taloudelliset laskelmat – tiimi*	admin	●	
France	*Assemblée Nationale*	**Commission for Assessment and Monitoring** *FR Comité d'évaluation et de contrôle des politiques publiques* website cec@assemblee-nationale.fr	political	●	●
Germany	*Bundestag*	**Parliamentary Advisory Council on Sustainable Deveopment** *DE Parlamentarischer Beirat für nachhaltige Entwicklung* website nachhaltigkeitsbeirat@bundestag.de	political	●	
Hungary		**Fiscal Council** *HU Költségvetési Tanács* koltsegvetesitanacs@parlament.hu	admin	●	●
Italy	*Camera dei deputati*	**Budget Service** *IT Servizio del Bilancio* website	admin	●	

	Senato	**Impact Assessment Office (IAO)** *IT Ufficio Valutazione Impatto (UVI)* website uvi@senato.it	admin	●	●
		Service for the Quality of Regulations *IT Servizio per la qualità degli atti normativi* website	admin	●	●
Poland	*Sejm*	**Bureau of Research, Chancellery of the Sejm** *PL Biuro Analiz Sejmowych* website punkt_konsultacyjny@sejm.gov.pl	admin	●	●
	Senat	**Regulatory Impact Assessment Team** *PL Zespół ds. Oceny Skutków Regulacji*	admin	●	
Portugal		**Technical Budgetary Support Unit** *PT Unidade Técnica de Apoio Orçamenetal* website	admin	●	
Sweden		**Evaluation and Research Secretariat**	admin		●

Table 13 – Dedicated bodies in charge of ex-ante impact assessment and evaluation in third-countries' parliaments

COUNTRY	CHAMBER	NAME OF BODY	ADM/ POL	IA	EVAL
Canada	House of Commons and Senate	**Office of the Parliamentary Budget Officer** website pbo-dpb@parl.gc.ca	admin	●	
		Standing Joint Committee for the Scrutiny of Regulations (REGS) website REGS@parl.gc.ca	political		●
Switzerland	*Nationalrat* and *Ständerat*	**Parliamentary Control of the Administration (PCA)** *FR Le Contrôle Parlementaire de l'Administration (CPA)* *DE Parlamentarische Verwaltungs-kontrolle (PVK)* website pvk.cpa@parl.admin.ch	admin		●
UK	House of Commons	**Scrutiny Unit** website	admin	●	●

Annex 2 – Names of surveyed parliaments and chambers

This annex provides the names of all surveyed parliaments and their chambers in the original language and in English translation.

Table 14 – Names of surveyed parliaments and chambers - EU-27

COUNTRY	PARLIAMENT	BICAMERAL	LOWER CHAMBER	UPPER CHAMBER
Austria	Parlament	•	Nationalrat *National Council*	Bundesrat *Federal Council*
Belgium	Parlement fédéral / Federaal Parlement	•	Chambre des Représentants / De Kamer *House of Representatives*	Sénat / Senaat
Bulgaria	Народно събрание / Narodno sabranie *National Assembly*			
Croatia	Hrvatski Sabor *Croatian Parliament*			
Cyprus	Βουλή των Αντιπροσώπων / Vouli Antiprosopon *House of Representatives*			
Czechia	Parlament	•	Poslanecká sněmovna *Chamber of Deputies*	Senát
Denmark	Folketinget *Folketing*			
Estonia	Riigikogu *Riigikogu*			
Finland	Eduskunta *Eduskunta*			
France	Parlement	•	Assemblée nationale *National Assembly*	Sénat
Germany		•	Bundestag *German Bundestag*	Bundesrat *Federal Council*
Greece	Βουλή των Ελλήνων / Voulí ton Ellínon *Hellenic Parliament*			
Hungary	Országgyülés *National Assembly*			
Ireland	Oireachtas *Parliament*	•	Dáil Éireann *House of Representatives*	Seanad Éireann
Italy	Parlamento	•	Camera dei Deputati *Chamber of Deputies*	Senato della Repubblica *Senate*
Latvia	Saeima *Saeima*			
Lithuania	Seimas *Seimas*			
Luxembourg	Chambre des Députés *Chamber of Deputies*			
Malta	Il-Kamra Tad-Deputati *House of Representatives*			

Netherlands	Staten-Generaal *States General*	•	Tweede Kamer *House of Representatives*	Eerste Kamer *Senate*
Poland		•	Sejm *Sejm*	Senat
Portugal	Assembleia da República *Assembly of the Republic*			
Romania	Parlamentul României *Parliament of Romania*	•	Camera Deputatilor *Chamber of Deputies*	Senatul
Slovakia	Národná rada *National Council*			
Slovenia	Slovenski parlament *Slovenian Parliament*	•	Državni zbor *National Assembly*	Državni svet *National Council*
Spain	Las Cortes Generales *The Cortes*	•	Congreso de los Diputados *Congress of Deputies*	Senado
Sweden	Riksdagen *Riksdag*			

Table 15 – Names of surveyed parliaments and chambers - third countries

COUNTRY	PARLIAMENT	BICAMERAL	LOWER CHAMBER	UPPER CHAMBER
Albania	Kuvendi i Shqipërisë *Parliament*			
Canada	Parliament of Canada	•	House of Commons	Senate
Iceland	Alþingi *Althingi*			
Moldova	Parlament			
Montenegro	Skupština *Parliament*			
North Macedonia	Собрание Sobranie *Assembly*			
Norway	Stortinget *Storting*			
San Marino	Consiglio grande e generale *Great and General Council*			
Switzerland	Bundesversammlung / Assemblée fédérale / Assemblea federale *Federal Assembly*	•	Nationalrat / Conseil national / Consiglio nazionale *National Council*	Ständerat / Conseil des États / Consiglio degli Stati *Council of States*
Turkey	Türkiye Büyük Millet Meclisi (T.B.M.M.) *Grand National Assembly of Turkey*			
United Kingdom	UK Parliament	•	House of Commons	House of Lords

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Ex-ante impact assessment and ex-post evaluation are regulatory policy tools that help inform the policy-making process with evidence-based analysis. Both tools are geared towards raising the quality of policies and legislation. While Better Regulation is widely deemed a prerogative of the executive branch, increasingly, parliaments are also emerging as actors.

This study sheds light on the parliamentary dimension of Better Regulation. Based on a survey, it maps the capacities and experiences of the national parliaments of all 27 European Union (EU) Member States and of 11 further Council of Europe countries in the field of ex-ante impact assessment and ex-post evaluation. The study reveals that roughly half of the surveyed parliaments engage in regulatory policy beyond classical parliamentary scrutiny mechanisms. Overall, these parliaments show a very diverse pattern in terms of drivers, types and depth of engagement. There is no 'one size fits all' approach.

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