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**ENBR**

**European Network for Better Regulation**

**Publishable Final Report**

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## Publishable Final Report

The main purpose of the European Network for Better Regulation (ENBR) is the development and dissemination of new knowledge on the quality and effectiveness of the regulatory process in EU member states and some non-EU countries (Israel, Moldova, Serbia, and Ukraine). This goal is being pursued through a number of different actions, which include: a) the creation of a Web site dedicated to better regulation and impact assessment, aimed at facilitating knowledge-sharing and lesson-drawing by national policymakers; b) the development of an unprecedented dynamic database on impact assessment development in European Member States (DIADEM); c) the creation of interdisciplinary Expert Groups covering all aspects of impact assessment, including methodology, regulatory process, quality indicators, regulatory context, the use of impact assessment in transition countries and the relevance of impact assessment for sustainability and competitiveness; d) the organisation of thematic workshops and large-scale conferences for the purpose of stimulating the debate on better regulation in all EU member states; e) the achievement of significant steps forward in the research on better regulation and impact assessment, with specific emphasis on the EU context; f) the formulation of policy suggestions aimed at improving the quality of regulation in EU member states and enabling both converging and subsidiarity-wise initiatives at national and sub-national level. ENBR planned activities were distributed over three years, from January 2006 until December 2008.

Twenty-one research institutes and universities from European member states, Israel, Moldova, Serbia, and Ukraine were involved in the project. The initial consortium comprised 18 organisations, and was enlarged to the three partners from Moldova, Serbia, and Ukraine in June 2007, following a successful application to extend the project to Targeted Third Countries.

A complete list of the ENBR participants is presented in the table below.

<b>Partic. n.</b>	<b>Participant name</b>	<b>Short name</b>
1	Center for European Policy Studies	CEPS
2	Institute for Advanced Studies	IHS
3	Libera Università Internazionale degli Studi Sociali Guido Carli	LUISS
4	Erasmus University Rotterdam	EUR
5	London School of Economics	LSE
6	University of Manchester – Impact Assessment Research Center	IARC
7	New University of Lisbon - Faculdade de Direito	LIS
8	Praxis Institute	PRAX
9	Polytechnical University of Milan	MIL
10	Jacobs and Associates	JAC
11	Haifa University	HAI
12	Slovak Governance Institute	SGI
13	University of Exeter	EXE
14	National and Kapodistrian University of Athens	ATH
15	Instituto de Empresa	IE

16	Warsaw School of Economics	WSE
17	University of Osnabrück	UO
18	Swedish Institute for European Policy Studies	SIEPS
19	Business Research Company	BRC
20	Balkan Center for Regulatory Reform	BCRR
21	Association Regulator Reforms Support Centre	ACSRR

During the first reporting period, the ENBR consortium set the foundation for the development of the Database on Impact Assessment Development in European Member states (DIADEM). This tool aims at creating an unprecedented knowledge-sharing system for practitioners, scholars and policymakers based in EU member states and world-wide. The DIADEM will contribute to raising awareness of the differing modes and degrees of implementation of assessment procedures in EU member states, and at the EU level. The DIADEM is not limited to a mere survey of impact assessment models adopted in EU member states, a type of information that the OECD Public Governance Committee normally provides with databases such as the so-called RIA inventory.<sup>1</sup> To the contrary, the DIADEM provides quantitative data and qualitative information on regulatory processes taking place in EU member states, the type of impact assessment procedure adopted in each member state, as well as information on the implementation of impact assessment in different economic sectors.

In January 2006, the ENBR Consortium appointed a dedicated High Level Group to develop the methodology for the DIADEM data collection. The High Level Group included some of the most renown experts in the field of regulatory process and impact assessment, namely Bruno Dente from the Polytechnic University of Milan, Scott Jacobs from Jacobs and Associates, Colin Kirkpatrick from the Impact Assessment Research Centre at the University of Manchester and Claudio Radaelli from the Centre for Regulatory Governance at the University of Exeter.

The High Level Group completed a Handbook on Methodology to guide the ENBR partners during the data collection for DIADEM. In particular, the ENBR methodology defines impact assessment as:

- 1) A systematic, mandatory, and consistent assessment of aspects of social, economic, or environmental impacts such as benefits and/or costs;
- 2) affecting interests external to the government;
- 3) of proposed regulations and other kinds of legal and policy instruments;
- 4) to i) inform policy decisions before a regulation, legal instrument, or policy is adopted; or ii) assess external impacts of regulatory and administrative practices; or iii) assess the accuracy of an earlier assessment.

As a result (ENBR Handbook on Methodology 2006:6) “an IA has four components:

- 1) A systematic, mandatory, and consistent assessment of aspects of social, economic, or environmental impacts such as benefits and/or costs: This means that an IA is part of a system of impact analysis based on clear scope and directions. The scope can be narrow or broad, but it is

<sup>1</sup> See OECD document JT00162171, *Regulatory Impact Analysis (RIA) inventory*, 15 April 2004, available online at [www.oilis.oecd.org/olis/2004doc.nsf/0/aaa3df75ef7aa7d0c1256e77003d4d9c/\\$FILE/JT00162171.PDF](http://www.oilis.oecd.org/olis/2004doc.nsf/0/aaa3df75ef7aa7d0c1256e77003d4d9c/$FILE/JT00162171.PDF).

clear that an IA is not an intermittent or voluntary effort to examine impacts. A single IA produced by a ministry without a general framework is not an IA for DIADEM. The exception is a limited or experimental IA pilot program that is meant to be expanded into a systematic, mandatory and consistent IA program.

2) Affecting interests external to the government. The purpose of IA is to expand the range of impacts relevant to decisions to external impacts. An assessment only of fiscal or government budget implications is an input into traditional fiscal policy, and is not IA in the modern sense.

3) Of proposed regulations and other kinds of legal and policy instruments. Governments use many policy instruments to implement policy, and *ex ante* assessment of impacts can be used for most or all of those instruments. IA for purposes of the DIADEM should be interpreted broadly to include *ex ante* assessment of policy decisions, not only policies implemented through regulations or other legal instruments.

4) To i) inform policy decisions before a regulation, legal instrument, or policy is adopted; or ii) assess external impacts of a group of laws or regulations to support reforms; or iii) assess the accuracy of an earlier IA. The timing of the impact assessment is important. DIADEM focuses on assessment done before a policy is adopted, that is, *ex ante* assessment. DIADEM does not include assessment done after policies are adopted except in two cases: 1) assessment of impacts of groups of laws or regulations that is intended to support regulatory or administrative reforms. This includes, for example, administrative burden assessments; and 2) assessments done specifically to determine if an earlier IA is accurate or to update an IA”.

In addition, the ENBR Consortium appointed a thematic Expert Group on Methodology, in charge of exploring possible improvements in the qualitative and quantitative techniques currently used in the *ex ante* impact assessment procedures at EU and member state level. Particular attention was paid to issues such as the quality and merit of cost-benefit analysis, the ideal structure of impact assessment procedures, the institutional setting in which impact assessment can be effectively implemented, the multi-valued nature of impact assessment, the development of policy indicators from the DIADEM and the role of proportionality criteria in reducing the burden of impact assessment for administrations. In December 2006, the Expert Group organised a Workshop on Methodology at the Erasmus University of Rotterdam (The Netherlands) to present its findings. All the papers and presentations from the Workshop are available on the project website [www.enbr.org](http://www.enbr.org).

In 2007 (second reporting period), the ENBR consortium worked on the data collection for the first official version of the Database on Impact Assessment Development in European Member states (DIADEM) to be posted on the project’s website ([www.enbr.org](http://www.enbr.org)) in the beginning of 2008. The DIADEM contains complete information on the institutional setting and main features of impact assessment for all the countries covered by the ENBR (EU25, plus Israel, Moldova, Serbia, and Ukraine) as well as a detailed summary of individual IAs carried out in those countries from 2004 onwards. The database was updated until the end of the project, in order to provide a complete picture of the impact assessment activities occurring in the selected countries. In addition to what initially foreseen in the ENBR work plan, the ENBR project partners decided to include in the DIADEM also the impact assessments carried out by the European Commission since 2006 for Directives, Regulations, and Decisions. The ENBR consortium believes that adding the EC impact assessments to the database will provide a more comprehensive picture of the state of the art in this field.

The first full data collection for DIADEM was completed by the end of 2007 (with the exception of data on Moldova, Serbia, Ukraine and the EC that were gathered also in 2008).

During the second reporting period, two ENBR thematic Experts Groups completed their activities on Regulatory Process and on Impact Assessment in Central and Eastern European (CEE) countries respectively. The first Expert Group focussed on the state-of-the-art and possible improvements in the choice of regulatory options (re-regulation, de-regulation, co-regulation, self-regulation, etc.) adopted at national and international level for the regulation of specific issues or economic sectors. These activities provided significant insights into specific national (e.g., Portugal, Austria, and Greece) or sectoral experiences (e.g., financial sector, banking) with the aim of highlighting the specificities of the contexts in which regulatory efforts take place. The Expert Group organised a thematic workshop to present its findings at the New University of Lisbon, Portugal, in July 2007 and published a series of papers on regulatory process that are freely available on the ENBR website. In order to perform their analyses, the members of the Expert Group also drew on the information already available on DIADEM and thus managed to test the potential of the database and suggested further improvements to the system.

The Expert Group on CEE countries reviewed the most relevant initiatives undertaken in Central and Eastern European countries in order to foster better regulation and the use of impact assessment. Thanks to the enlargement of the ENBR consortium, the three new partners from Moldova, Serbia and Ukraine contributed to the Expert Group by providing valuable insights on the development of impact assessment and better regulation tools in neighbouring non-EU countries and on the main challenges faced by potential accession states. The Expert Group completed its task with a Workshop on CEE Countries held in December 2007 in the premises of the European Commission in Bratislava, Slovakia. The papers presented during the Workshop are available free of charge on the ENBR website.

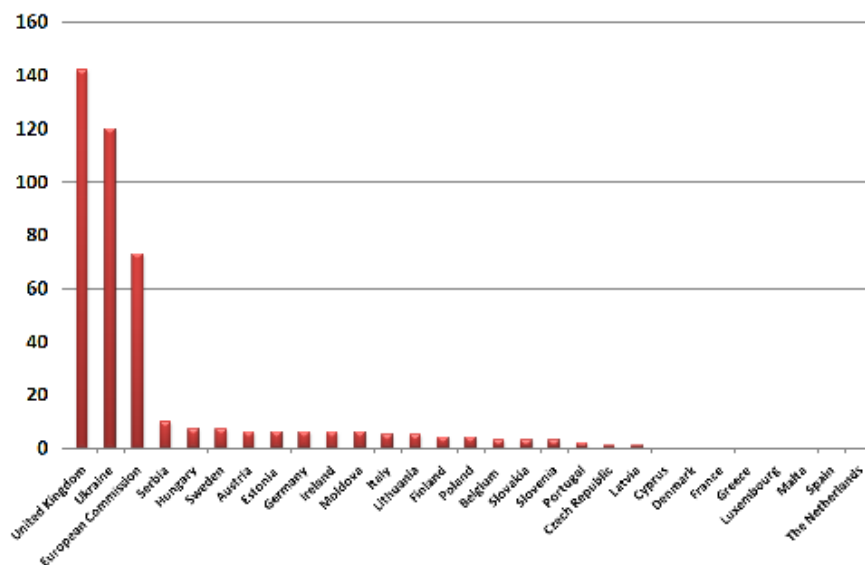
The third and last reporting period (2008) started with the official publication of the first version of the DIADEM database (DIADEM 1.0) on the project's website. This crucial milestone was followed by a series of activities aimed at improving DIADEM both in terms of content and access. The layout of the database, the search engines, and the presentation of results were considerably revised until the end of the project to facilitate the access by external users, and pave the way for the publication of DIADEM 2.0 at the end of the project.

The final version of DIADEM is a database covering 29 countries, including the European Commission, with a total of 427 impact assessment duly summarised and scored according to the methodology devised in 2006 by the ENBR High Level Group. In addition, a country fiche describing the features of the regulatory system of each country (excluding the special case of the EU) is also available in the database. ENBR partners have agreed to upload the original documents (whenever possible, according to each country's confidentiality restrictions) on the website in the coming months to increase the informative impact of DIADEM and allow more extensive comparisons between national impact assessment practices in the EU.

Three years of research by local partners in the surveyed countries have allowed for an in-depth understanding of different national approaches to better regulation and impact assessment in particular. Interesting examples of assessments not fully in compliance with the above definition were identified and the consortium decided to include them in the DIADEM database to give a more realistic picture of current practice at the national level. These cases are explicitly differentiated in the database, to prevent confusion.

As shown in the figure below, there appears to be a visible adoption-implementation gap in most member states as far as impact assessment is concerned. While all the countries covered by DIADEM have adopted a better regulation strategy, a closer look at the actual production of impact assessments highlights the existence of a clear gap between strong implementers (including newcomers) and other member states. This gap can be explained by the fact that the 29 countries surveyed have adopted different approaches to the ex-ante appraisal of legislation. While some have chosen to use a fully-fledged impact assessment system, others instead have concentrated on specific issues such as the weight of administrative burdens.

**Figure 1. DIADEM – Number of IAs per country**



Pioneer countries in the field such as the UK have been joined by the EU and by Ukraine in the production of a high number of impact assessments, while some other member states such as Ireland are increasingly experimenting with a fully fledged impact assessment system, whose results will be visible in the coming years. Other countries have instead chosen to focus on selected aspects, such as simplification initiatives and the reduction of administrative burdens for business. This confirms the trend observed in recent years, particularly as regards the diffusion of the Standard Cost Model developed in the Netherlands and adopted at the EU level in 2006. In any event, the 29 countries covered by the ENBR seem to share the desire to converge, in one form or the other, towards the common goal of adopting a “better regulation strategy” in order to boost competitiveness, and reduce red tape, while taking sustainable development goals into account.

During the third reporting period, two ENBR thematic Experts Groups completed their activities on Regulatory Quality and on Regulatory Context respectively. The first Expert Group included experts that have already performed research on quality indicators for the European Commission, and reviewed the state of the art and possible improvements in the *ex post* evaluation of the quality of adopted regulations. The Group also analyzed the potential quality-improving impact of introducing more refined procedures for the preliminary assessment of proposed regulations.

The Expert Group also organised a Workshop on Regulatory Quality, hosting presentations from other scholars involved in past and present EU-funded projects on the topic, as well as contributions from policymakers and practitioners. The Workshop was also an opportunity to review and discuss the first version of the database (*DIADEM 1.0*) and agree on possible strategies for improvement before the completion of the project. Presentation and papers from the event can be downloaded free of charge from [www.enbr.org](http://www.enbr.org).

The Expert Group on Regulatory Context drew on the output of *DIADEM 1.0* to disseminate knowledge on the relevance of regulatory context in the choice of the most appropriate set of tools to foster better regulation. As often acknowledged among scholars, chances of success are limited if impact assessment is implemented through de-contextualised benchmarking and transplant of international best practices. The Expert Group investigated the practice of context-aware lesson-drawing to develop a checklist for policymakers, aimed at ensuring that the selected policy-mix strikes the right balance for improving the overall quality of the regulatory environment. The initial selection of partners coupled with the involvement of three new partners from non-EU countries in the Expert Group allowed for a comprehensive review of the state of the art in impact assessment practices in different contexts as well as the production of targeted policy recommendations. The Expert Group held a dedicated workshop in Tallinn, in September 2008, hosting also contributions by local policy-makers.

Finally, the ENBR Consortium held its final conference on December 11, 2008 at the Centre for European Policy Studies in Brussels to present the final version of the *DIADEM* database (*DIADEM 2.0*) as well as the other deliverables of the project. The conference was open to the public and attracted a wide audience of academics, practitioners, and policy-makers from the national and European levels. It hosted a session on the role of socio-economic science and policy-makers and two round tables on the past achievements and future developments of better regulation in the EU27 and on regulatory reform from a global perspective.

The ENBR Coordination Action was not conceived to be carried out in isolation. To the contrary, for the whole duration of the project the ENBR consortium has sought constant cooperation with existing groups of experts and ongoing EU-funded projects in the same field. An example is the regular exchange of information with *EVIA*, a two-year Specific Targeted Research Project (STREP) launched in February 2006. Researchers from both projects have been in close contact especially as concerns the screening of national approaches to impact assessment. This cooperation was aimed at exploiting all possible synergies, avoiding duplication of efforts and ensuring the consistency of findings to effectively contribute to the knowledge and understanding of the state of the art of impact assessment in Europe. Cooperation was also sought and achieved with other projects and networks of experts on impact assessment. For example, the Workshop on Regulatory Quality and the ENBR Final Conference hosted contributions from researchers of the FP-6 funded project *Matisse*, representatives of the OECD, the World Bank and of the Mexican Government. Finally, the results of the project were presented and referred to by ENBR partners in several international and national events on better regulation and impact assessment.

More generally, the ENBR project is geared towards raising public participation:

- The ENBR website ([www.enbr.org](http://www.enbr.org)) is publicly accessible.
- Access to the *DIADEM* database is not restricted.
- Partners in charge of organising ENBR Workshops do not charge participation fees.

- The ENBR took action to solicit press coverage of foreseen events – in particular, the organised workshops and the Final Conference – by involving journalists active in the field and issuing short press releases on the main issues addressed in the upcoming events. All partners took action to promote public awareness of the main results of the coordination action.
- Research papers are downloadable free of charge from the ENBR website.
- Expert Groups delivered documents that may be used for training and educational purposes.
- All ENBR partners’ official websites posted a link to [www.enbr.org](http://www.enbr.org) in order to increase the visibility and accessibility of the ENBR project activities.
- The ENBR and EVIA websites are interlinked.

The activities performed by the ENBR Coordination Action will allow a further step forward in the crafting of efficient and effective impact assessment procedures at member state level, thus facilitating the achievement of the Lisbon goals and, more generally, higher levels of competitiveness for each individual member state. In light of the above, the Final Conference put specific emphasis on the following pending issues:

- i. Is impact assessment a useful tool to enhance cohesion between member states?
- ii. How can impact assessment contribute more effectively to the development of higher quality legal and regulatory regimes in EU countries?
- iii. Would harmonisation of impact assessment procedures foster competitiveness and sustainable development in Europe? Or, would a “zero option” or a mere coordination of assessment procedures be more suitable and effective for the achievement of the Lisbon goals?
- iv. What is the relevance of regulatory context for an effective implementation of impact assessment procedures?

By providing a comprehensive overview of the actual impact assessment processes and practice in 29 countries and at the EU level, the ENBR project has clarified the role of impact assessment within regulatory processes. These results should pave the way for a more targeted formulation of context-aware, subsidiarity-wise national policies, with the ultimate result of fostering societal welfare and competitiveness.

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