

End to end Legislative Process

Different actors in process
have different interests

EXECUTIVE

- Ministers
- Officials

DEPUTIES

- As a whole
- Those who unwaveringly support the Executive
- Those who sometimes support the Executive
- Those who normally oppose the Executive
- Those who invariably oppose the Executive
- Independent Deputies
- Deputies who represent constituencies
- List Deputies

OTHERS

- VRU officials
- Judiciary
- Civil Society Organizations
- Businesses
- Citizens/ voters

Draft for discussion

LAW IMPLEMENTATION

+ IDEAL PROCESS

- Law is brought into force when
 - Affected people understand its implications
 - Resources are in place to ensure it is effective
- Objectives achieved/Law regarded as success

- WHAT CAN GO WRONG

- Brought into force
 - Too soon
 - Too late
 - Not at all
- Inadequate funding/resourcing
- Objectives not achieved
- Problems with delegated/secondary legislation

POST-LEGISLATIVE SCRUTINY

- Has the Law achieved its objectives?
- Good practice lessons important
- Recommendations for improvement
 - Different administrative practices
 - Is new amending legislation necessary?
- Lessons for future post-legislative scrutiny
- Lessons for the way future legislation is presented

- WHAT CAN GO WRONG

- Insufficient or badly-used time
- Time-wasted on legislation that will go nowhere
 - BUT minority have right to be heard/make proposals
- Bill amended in way incompatible with Constitution, Rules of Procedure etc
- Constitutional hurdles too high for legislation to pass Rules of Procedure at variance with Constitution

+ IDEAL PLENARY CONSIDERATION IN VRU

- Proper debate on principle
- Opportunity for amendments to be discussed
 - Amendments must be within scope of Bill and otherwise orderly
- Opportunity for reference back to Committee
- Final approval opportunity
- High quality advice to Speaker – and advice accepted
- High quality advice to Deputies generally
- Parliamentary officials trusted by Deputies

PLENARY CONSIDERATION IN VRU

- WHAT CAN GO WRONG

- Insufficient or badly-used time
- Poor quality Deputies
- No cross-factional working
- Poor quality advice
- Good quality advice ignored
- Amendments made that are irrational or unconstitutional

+ IDEAL VRU COMMITTEE PROCESS

- Committees with clear responsibilities, aligned to Ministries
 - Clear procedures for dealing with overlaps
- Main Committee supported by Committees for Opinion
- Bill comes out of Committee(s) in better form than it entered Committee
- Committees act largely consensually
- Committees are participatory
- Committees act on evidence base
- Ministers are willing witnesses
- Committees have necessary resources – time, personnel (Deputies, staff and advisers)

VRU COMMITTEE PROCESS

- ✓ CONCEPTION STAGE
- ✓ CONSULTATION STAGE
- ✓ DRAFTING PROCESS
- ✓ INTRODUCTION TO VRU
- ✓ PROCESS FOR LAWS TO IMPLEMENT AA/ACQUIS
- ✓ VRU COMMITTEE PROCESS
- ✓ PLENARY CONSIDERATION IN VRU
- ✓ LAW IMPLEMENTATION
- ✓ POST-LEGISLATIVE SCRUTINY

SOURCES FOR LEGISLATION

+ GOOD SOURCES FOR LEGISLATION

- Manifesto implementation/coherent political work programme
- European acquis
- Bright ideas
- Copying good practice elsewhere
- Recognition that things need mending
- Court decisions
- Well thought through recommendations from –
 - Post-legislative scrutiny [end-to-end = virtuous circle]
 - Committee hearings/reports
 - Stakeholder groups
 - Experts
 - Auditors
 - Citizen pressure and petitions
 - Municipalities

- POOR SOURCES FOR LEGISLATION

- Grandstanding
- Trouble-making
- Knee-jerk reaction

CONCEPTION STAGE

+ IDEAL CONCEPTION STAGE

- Problem properly identified
- Legislation is only or best solution
- Legislation in the area is a priority
- Funding and other resources are available for effective implementation

- WHAT CAN GO WRONG

- Poor idea
- Poor motivation
- Inadequate response to source/problem
- Failure to prioritise/have a coherent work programme
- Failure to look ahead to implementation

- WHAT CAN GO WRONG

- Insufficient coordination inside government
- Inadequate legal knowledge
- Draft does not address problem
- Unclear or contradictory drafting instructions

+ IDEAL DRAFTING PROCESS

- Clear instructions
- Proper understanding of existing law and compatibility with it
- Lawyers with specialist drafting skills
- Beginning of efficient digitised legislative workflow

DRAFTING PROCESS

- WHAT CAN GO WRONG

- Insufficient time allowed or accessibility flawed
- Wrong people asked
- Wrong questions asked (eg leading questions)
- Right people unwilling to engage
- No willingness to respond to legitimate criticism
- No proper process to take on comments made
- No consultation at all

+ IDEAL CONSULTATION STAGE

- Genuine willingness to consult and to take on comments
- Right people/organisations consulted and given enough time to respond
- Process accessible

CONSULTATION STAGE

INTRODUCTION TO VRU

+ IDEAL PROCESS FOR INTRODUCTION TO VRU

- Efficient, firm and rapid legality/compliance check
- Rationing of opportunities to avoid log-jams
- Executive has achievable and rational legislative plan
- Restrictions on free-for-all for ordinary Deputies

- WHAT CAN GO WRONG

- No limit on numbers
- Technical requirements not met
 - Sense
 - Compatibility (Constitution; European acquis etc)
 - Rules of Procedure

PROCESS FOR LAWS TO IMPLEMENT AA/ACQUIS

+ IDEAL PROCESS FOR LAWS TO IMPLEMENT AA/AC

- Clear alignment with acquis
- Rational prioritisation
- Coordinated working between European Integration Office/CMU/Committee
 - But recognition of different roles
- Hurdle of compliance before draft Laws introduced is rigorously enforced
- Well supported and expert European Integration Committee
- Coordination between EIC and other Committees

- PROBLEMS FOR LAWS TO IMPLEMENT AA/ACQUIS

- Heavy lifting not done inside Government – poor drafts appear in VRU
- Ordinary Deputies' ignorance of acquis
- Lack of prioritisation inside European Integration Committee
- Too much nugatory activity